

Resolution No. 14/497/21
of the Supervisory Board of KDPW_CCP S.A.
dated 11 May 2021

Pursuant to Article 48 subpara. 15 of the Act of 29 July 2005 on Trading in Financial Instruments (consolidated text: Journal of Laws of 2021, item 328, as amended) and § 15 subpara. 2 point 13 of the Statute of KDPW_CCP S.A., the Supervisory Board of KDPW_CCP S.A. resolves as follows:

§ 1

The Rules of Transaction Clearing (organised trading) attached to Resolution No. 9/9/10 of the Supervisory Board of KDPW_CCP S.A. dated 29 November 2010 (as amended) shall be amended as follows:

1/ the current division of the Rules of Transaction Clearing (organised trading) shall be amended as follows:

a/ the current division into chapters and sections shall be replaced by a titles and sections, respectively,

b/ the division of the title into sections shall be made in accordance with this resolution;

2/ in § 1a subpara 3 words: „of 29 July 2005” shall be deleted;

3/ in § 2 words: „referred to in § 1 subpara 1,” shall be deleted;

4/ § 3 shall be replaced by the following:

„§ 3

Whenever reference is made herein to the following terms:

1/ settlement agent, this shall be understood to mean a participant of a settlement institution which:

a/ has consented, in connection with an agreement concluded with a participant holding the status of clearing member, for the use of its depository account or securities account managed in that settlement institution to perform transaction settlement, within the scope for which the participant holds the status of clearing member, and to adjust assets posted in securities as margins required of such participant and as its contributions to the clearing guarantee fund or the relevant guarantee fund, excluding assets which are securities referred to in § 47 subpara. 3 point 4, and

b/ according to regulations issued by the settlement institution, it is authorised for such transactions to be settled and for such assets to be adjusted using such account,

2/ collateral agent, this shall be understood to mean an entity which is a participant of the relevant depository system indicated by the Management Board of KDPW_CCP in a resolution, which has agreed for the relevant securities account managed for it in such system (on its account or on the account of a clearing member) to be used in order to adjust assets which are securities referred to in

§ 47 subpara. 3 point 4, posted as margins required of such clearing member and as its contributions to the clearing guarantee fund or the relevant guarantee and to adjust entitlements from such securities, provided that the Management Board of KDPW_CCP may define in a resolution the conditions to be fulfilled by such entity to be accepted by KDPW_CCP as a collateral agent of the clearing member, in particular specify that such function:

a/ may be performed by such entity exclusively for one clearing member, which has appointed it as its collateral agent, or

b/ may not be performed by an entity which is a clearing member and has indicated a securities account managed for it in the relevant depository system in order to contribute securities, referred to in § 47 subpara. 3 point 4, as margins or contributions to the clearing guarantee fund or the relevant guarantee fund,

3/ clearing bank, this shall be understood to mean a bank managing bank accounts used:

a/ by the relevant settlement institution to perform the cash leg of the settlement of transactions in a given currency, and

b/ to process cash flows arising from the settlement of transactions in derivatives and cash flows in the transaction clearing liquidity guarantee system,

provided that payments in EUR arising from participation in the clearing system are processed through bank accounts managed under agreements concluded by participants or their payment agents with central banks which manage payment systems in TARGET2,

4/ business day, this shall be understood to mean a day determined according to applicable regulations and the rules,

5/ additional buyer protection, this shall be understood to mean measures taken by KDPW_CCP in order to compensate a participant affected by default, in the amount and on the terms defined in the rules, for property benefits lost as a result of suspension of the settlement of a transaction in securities which such participant or its client would obtain by exercising, in direct connection with an event defined in the rules as an optional corporate action, a property right attached to such securities,

6/ clearing instruction, this shall be understood to mean a settlement order within the meaning of the Act of 24 August 2001 on Finality of Settlement in Payment Systems and Securities Settlement Systems and Supervision of Such Systems, which is respectively:

a/ a document containing the terms of a transaction concluded on the regulated market, in an alternative trading system or in the negotiated lending system,

b/ a document containing the terms of return of an on-demand loan concluded in the negotiated lending system,

c/ an instruction which confirms the conclusion of a transaction concluded, respectively, in an open market buy-in operation or an auction operation carried out by KDPW_CCP in accordance with the rules,

7/ derivatives, this shall be understood to mean derivatives admitted to organised trading, cleared by KDPW_CCP,

8/ settlement institution, this shall be understood to mean, respectively, the Central Securities Depository of Poland or another entity indicated in a resolution of the Management Board of KDPW_CCP authorised to perform transaction settlement under the authorisation referred to in Article

16 CSDR or a recognition decision referred to in Article 25 CSDR, including a central bank operating as a CSD within the meaning of Article 2(1)(1) CSDR,

9/ KDPW_CCP, this shall be understood to mean the company KDPW_CCP S.A.,

10/ clearing account, this shall be understood to mean a registration device operated by KDPW_CCP in the transaction clearing system for a participant in order to clear transactions to which it is a party or a clearing counterparty and to register the participant's positions,

11/ collateral account, this shall be understood to mean a registration device operated by KDPW_CCP in the transaction clearing system in order to calculate and register the initial margin,

12/ the Central Securities Depository of Poland, this shall be understood to mean the company known as "The Central Securities Depository of Poland (KDPW)" (in Polish: "Krajowy Depozyt Papierów Wartościowych S.A."),

13/ interest coupon, this shall be understood to mean the amount of interest for an interest period, calculated by KDPW_CCP, due for a security in a repo transaction,

14/ novation, this shall be understood to mean a way of clearing transactions consisting in novation of such transactions as defined in relevant provisions of the Law on trading in financial instruments,

15/ transaction settlement order cancellation, this shall be understood to mean also the cancellation of such order only to such extent that the settlement under such order is not made pursuant to the regulations of the relevant settlement institution to which KDPW_CCP sends such order due to the lack of necessary assets in the depository account, the bank account, the omnibus securities account, the securities account or the cash account,

16/ auction operation, this shall be understood to mean measures taken by KDPW_CCP in accordance with the rules in order to close out a position of a defaulting participant in connection with the termination of such participant's participation agreement effective immediately,

17/ securities, this shall be understood to mean securities as defined in Article 3 point 1a and b of the Law on trading in financial instruments,

18/ securities in a repo transaction, this shall be understood to mean securities as defined in Article 3 point 1a of the Law on trading in financial instruments which are Treasury bonds, registered in the securities depository operated by the Central Securities Depository of Poland or a subsidiary of the Central Securities Depository of Poland to which it has outsourced functions referred to in Article 48(1) point (1)-(6) of the Law on trading in financial instruments, other than indexed Treasury bonds, in a repo transaction,

19/ payment agent, this shall be understood to mean an entity which has consented for its bank account managed in the clearing bank or in TARGET2 to be used for processing a participant's cash debits and credits in a given currency arising from participation in the clearing system, where the participant's consent may be limited as determined by the participant according to § 15d,

20/ position, this shall be understood to mean, respectively, a credit or debit of a participant holding the status of clearing member arising from a transaction accepted to the transaction clearing system or a transaction concluded within the transaction clearing liquidity guarantee system operated by KDPW_CCP,

21/ open market buy-in, this shall be understood to mean measures taken by KDPW_CCP in accordance with the rules in order to eliminate suspension of the settlement of a transaction in securities,

22/ event of default, this shall be understood to mean a situation where a participant poses or where reasonable circumstances suggest that it may soon pose a reasonable risk to the safety of trading or proper operation of the clearing system, in particular in connection with:

a/ reliable information which suggests that bankruptcy of the participant has been declared, the participant has become insolvent or will soon be unable to timely perform obligations arising from the clearing of transactions, which occurs among others where:

- the participant has filed a motion for declaration of bankruptcy, or
- the competent regulatory authority has filed a motion for declaration of bankruptcy of the participant, or

b/ reliable information which suggests that:

- the participant is in liquidation, or
- the competent regulatory authority has decided to suspend the operation of the participant or to revoke the permission for its formation, or
- the competent regulatory authority has decided to impose compulsory administration on the participant, or
- the competent regulatory authority has been notified by the competent authority according to applicable law that the participant's assets are insufficient to meet its obligations, or
- the competent regulatory authority has decided to limit the scope of the participant's activity, as a result of which the participant will not be entitled to conclude or clear transactions, or
- another similar event has occurred and poses a risk to the safety of trading or the proper operation of the clearing system, or

c/ merger, split or take-over of the participant or acquisition of the core assets of the participant by another entity, including acquisition of the enterprise or its organised part, where as a result of such event the participant's obligations are not recognised or taken over by, respectively, the entity taking over, the entity formed through the merger, or the split entity, or

d/ or the participant's non-performance or undue performance of its obligations arising from transaction clearing, or

e/ failure to submit the information referred to in § 22 necessary to assess whether or not the participant meets the requirements of participation or events which may have a negative impact on its obligations arising from participation, or

f/ material breach of legal regulations by the participant, or
g/ or breach of the terms and conditions of participation referred to in § 9 subpara. 2 in a way which poses the risk that obligations arising from transaction clearing will not be performed in due time, in particular in connection with the occurrence of the circumstances referred to in § 9 subpara. 3 and 4, or

h/ the participant's non-performance or undue performance of other material obligations set out in the rules, which justifies the termination of its participation in the clearing system,

i/ identification by KDPW_CCP according to separate rules referred to in § 1 subpara. 5 of an event of default of the participant in another clearing system organised by KDPW_CCP where such event poses a risk that liabilities arising from the clearing of transactions in the clearing system will not be met timely by such participant or may pose a reasonable risk to the safety of trading,

23/ derivatives account, this shall be understood to mean the account used to register derivatives,

24/ clearing guarantee fund, this shall be understood to mean the clearing guarantee fund referred to in Article 65 subpara. 1 of the Law on trading in financial instruments, managed by KDPW_CCP according to the provisions of Article 65 subpara. 4 of the Law on trading in financial instruments,

25/ trade repository, this shall be understood to mean an entity designated by KDPW_CCP, which is authorised under EMIR or SFTR to collect and store, respectively, information concerning derivative instruments and concerning transactions in such instruments or information concerning securities financing transactions referred to in Article 3(11) SFTR,

26/ transaction report, this shall be understood to mean, respectively, information concerning transactions in derivative instruments accepted for clearing or information concerning securities financing transactions referred to in Article 3(11) SFTR accepted for clearing which are required to be reported to a trade repository, which are submitted, respectively:

a/ where KDPW_CCP is responsible for the submission of such information – by KDPW_CCP to a trade repository in the scope, within time limits, and in the form determined in the agreement concluded by KDPW_CCP with such trade repository or resulting from applicable legal regulations, or

b/ where a participant holding the status of clearing member ensures the submission of such information - by that participant or another entity to a trade repository designated according to the rules or another repository authorised under applicable legal regulations to collect and store information concerning derivative instruments and concerning transactions in such instruments,

27/ CRR, this shall be understood to mean Regulation of the European Parliament and of the Council (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Official Journal of the European Union L 176 from 2013, p. 1, as amended),

28/ CSDR, this shall be understood to mean Regulation of the European Parliament and of the Council (EU) No 909/2014 of 23 July 2014 on improving securities settlement in the European Union and on

central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (Official Journal of the European Union L 257 of 28 August 2014, as amended),

29/ EMIR, this shall be understood to mean Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (Official Journal of the European Union L 201 from 2012, p. 1, as amended),

30/ SFTR, this shall be understood to mean Regulation of the European Parliament and of the Council (EU) No 2015/2365 of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (Official Journal of the European Union L 337 of 23 December 2015, as amended),

31/ Implementing Regulation 2018/1229, this shall be understood to mean Commission Implementing Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline (Official Journal of the European Union L 230 of 13 September 2018, p. 1),

32/ derivatives market, this shall be understood to mean the market where transactions involving derivatives are executed, and are cleared by KDPW_CCP,

33/ transaction, this shall be understood to mean a legal relationship concerning financial instruments, respectively:

a/ arising from a transaction made in securities trading or on a derivative instruments market, or

b/ arising from novation of a transaction referred to in point a,

34/ affected transaction, this shall be understood to mean a transaction ("transaction A") originating from novation which cannot be executed when due in whole or in part due to the defaulting participant's failure to perform or its undue performance of an obligation arising from another transaction ("transaction B") also originating from novation,

35/ repo transaction, this shall be understood to mean a repo agreement concluded in organised trading which meets the standard conditions laid down in the Detailed Rules of Transaction Clearing (organised trading), determined on the basis of a clearing instruction, consisting of:

a/ an opening leg, which shall be understood to mean an operation where counterparty A transfers the ownership of specific securities in a repo transaction and counterparty B pays a price for such securities which is or may be determined ("front transaction")

and

b/ a closing leg, which shall be understood to mean an operation where counterparty B returns the ownership of equivalent securities in a repo transaction and counterparty A pays a price for such securities which is or may be determined ("end transaction"),

36/ a counterparty to transaction clearing, this shall be understood to mean a participant holding the status of clearing member for transactions for which that participant is a party, or represents a party, in transaction clearing performed by KDPW_CCP,

37/ account system, this shall be understood to mean all accounts managed by KDPW_CCP in the clearing system in order to perform transaction clearing, position registration, monitoring of risk arising from transactions accepted for clearing, and registration of collateral,

38/ clearing system, this shall be understood to mean the transaction clearing system referred to in § 1 subpara. 1 unless the rules provide otherwise,

39/ SWI, this shall be understood to mean the electronic communication system operating under an agreement with Krajowy Depozyt Papierów Wartościowych, under which information and declarations referred to in these rules, the Detailed Rules of Transaction Clearing (organised trading) and other resolutions adopted under these rules are delivered in electronic form by KDPW_CCP to a participant or participants of the clearing system or by a participant of the clearing system to KDPW_CCP with the intermediation of Krajowy Depozyt Papierów Wartościowych according to the agreement with Krajowy Depozyt Papierów Wartościowych,

40/ GUI, this shall be understood to mean an electronic communication system operating via the KDPW_CCP website under an agreement between a participant and KDPW_CCP whereby information and declarations referred to herein, in the Detailed Rules of Transaction Clearing (organised trading) and other resolutions issued under the rules are delivered in the system in electronic form from KDPW_CCP to the participant or participants of the clearing system or by the participant of the clearing system to KDPW_CCP according to the agreement,

41/ Detailed Rules of Transaction Clearing (organised trading), this shall be understood to mean the detailed rules of operation of the clearing system, defined in a resolution of the Management Board of KDPW_CCP,

42/ participation, or participant, this shall be understood to mean, respectively, participation in the clearing system, described in § 1 subpara. 1, or a participant of this system,^[...]_[SEP]

43/ a clearing member or a participant with the status of clearing member, this shall be understood to mean that a participant is responsible to KDPW_CCP for the proper performance of responsibilities arising from transaction clearing, including also responsibilities involving the creation and operation of a system for securing transaction clearing liquidity,

44/ a participant affected by default, this shall be understood to mean a clearing member who is KDPW_CCP's other counterparty to clearing of an affected transaction, who is due an obligation arising from such transaction which is not performed when due in connection with the defaulting participant's failure to perform or its undue performance of an obligation arising from another transaction originating from novation,

45/ a defaulting participant, this shall be understood to mean a clearing member who fails to perform or unduly performs its obligations arising from participation in the clearing system,

46/ the Law on trading in financial instruments, this shall be understood to mean the Law on trading in financial instruments of 29 July 2005 (consolidated text: Dziennik Ustaw – Journal of Laws of 2021, item 328, as amended),

47/relevant guarantee fund, this shall be understood to mean, respectively:

a/ the guarantee fund securing the clearing of transactions concluded in a given alternative trading system, operated by KDPW_CCP according to Article 68 subparas. 1-5 in conjunction with subpara. 6 of the Law on trading in financial instruments,

or

b/ the on-demand lending guarantee fund referred to in Appendix 3 to the Rules, operated by KDPW_CCP according to Article 68 subparas. 2, 3 and 7 of the Law on trading in financial instruments.

48/ KDPW_CCP capital requirement, this shall be understood to mean a defined amount of the capital of KDPW_CCP referred to in Article 16 subpara. 2 of EMIR calculated by KDPW_CCP according to the rules notified to the participants holding the status of clearing member according to § 58b subpara. 7 taking into account legal regulations applicable to KDPW_CCP and the safety of trading in a way ensuring protection of KDPW_CCP against the risk arising from the conducted activity and effective liquidation or restructuring of such activity,

49/ dedicated resources, this shall be understood to mean a defined amount of resources constituting own capital of KDPW_CCP calculated by KDPW_CCP according to § 58b subpara. 2, 3, 6 and 7 taking into account legal regulations applicable to KDPW_CCP and the safety of trading, dedicated to cover the loss in the event of default in respect of obligations arising from transactions cleared by KDPW_CCP prior to using the contributions to the clearing guarantee fund, or the relevant guarantee fund, excluding the contribution of the participant on whose part the event of default has occurred,

50/ transaction settlement suspension, this shall be understood to mean non-execution by the relevant settlement institution of a settlement instruction sent by KDPW_CCP to such institution for a transaction whose clearing counterparty is a participant holding the status of clearing member, covered by the transaction clearing liquidity guarantee system, to the extent of liabilities arising from such transaction and within the time limit that such liabilities should be met, as a result of which such institution has suspended, pursuant to Article 45f subpara. 1 of the Law on trading in financial instruments, the settlement of such transaction in whole or in part due to circumstances arising on part of such participant or its settlement agent or its payment agent.

51/ settlement order, this shall be understood to mean a settlement order within the meaning of the Act of 24 August 2001 on the Finality of Settlement in Payment Systems and Securities Settlement Systems and the Rules of Supervision over those Systems, which is respectively:

a/ an instruction to settle cleared transactions in securities, submitted by KDPW_CCP to the relevant settlement institution, or

b/ an instruction to pay cash entitlements resulting from the clearing of a transaction in derivatives and in respect of participation in the liquidity and transaction clearing guarantee system or the negotiated loan clearing guarantee system, submitted by KDPW_CCP to a clearing bank.”;

5/ § 4 shall be replaced by the following:

„§ 4

1. All declarations and information shall be provided by KDPW_CCP to a clearing member or by a clearing member to KDPW_CCP in electronic format via:

- 1/ SWI (the basic system which is mandatory for clearing members), or
 - 2/ GUI (an additional system which is optional for clearing members to the extent defined in the rules and in the Detailed Rules of Transaction Clearing (organised trading))
unless otherwise allowed under these rules or the Detailed Rules of Transaction Clearing (organised trading).
- 1a. All declarations and information shall be provided by KDPW_CCP to a participant holding the status of non-clearing member or by such participant to KDPW_CCP in electronic form via GUI to the extent defined in the rules and in the Detailed Rules of Transaction Clearing (organised trading) unless otherwise allowed under these rules or the Detailed Rules of Transaction Clearing (organised trading).
 2. KDPW_CCP represents that it accepts as effective declarations of will submitted and information sent by a participant in electronic format via SWI or via GUI.
 3. Unless otherwise provided for under these rules or the Detailed Rules of Transaction Clearing (organised trading):
 - 1/ any declarations and information sent by:
 - a/ participants, in accordance with the provisions of § 12 subpara. 1, § 13 and § 22-§ 31, as well as § 40 subpara. 2, or in connection with applications to extend, limit or cancel participation status, or as part of the update process of documents submitted by such participants in order to conclude or amend a participation agreement,
 - b/ entities applying for the status of participant,
 - c/ participants holding the status of non-clearing member for the matters described in § 14 subpara. 2, subject to subpara. 1 a and § 69b subpara. 11 and 12,
 - d/ KDPW_CCP in relations with the entities, described in point 2, and additionally in matters described in § 14 subpara. 2 – in relations with participants, described in point 3, while in matters described in point 1, and in matters relating to the imposition of disciplinary or orderly measures – in relations with other participants,
and
 - e/ participants or KDPW_CCP in matters relating to the complaints process, described in § 84a - § 84d, will require the delivery to the addressee of the original document containing the declaration or information, prepared at least in the ordinary form in writing or an appropriately certified copy, subject to the provisions of subpara. 5;
 - 2/ official documents shall be submitted in the original counterpart or an appropriately certified copy.
 4. The Management Board of KDPW_CCP may, by means of a resolution:
 - 1/ define instances where the submission of declarations or information should take place:
 - a/ in electronic format via SWI or via GUI,
 - b/ in writing;
 - 2/ allow participants or entities applying for the conclusion of a participation agreement to submit certain documents, including official documents, in an electronic copy (scan).
 5. In relations between KDPW_CCP and participants, documents containing a declaration, or information, described in subpara. 3 or 4 may be sent via electronic mail through the internet. However, until the moment when the document is received in the manner described in subpara. 3 or 4, only actions requiring an urgent response should be performed on the basis of the contents of a

message sent via electronic mail. No action should be performed when electronic mail transfer has been damaged in such a way as to render its contents impossible to determine.

6. If a declaration or information should be delivered in electronic format and cannot be delivered via GUI, it shall be delivered via SWI unless these rules or the Detailed Rules of Transaction Clearing (organised trading) provide otherwise. In special cases, in particular in the event of a contingency, a document containing a declaration or information may be sent in relations between KDPW_CCP and a participant, with their mutual consent, in a format other than required under the rules or the Detailed Rules of Transaction Clearing (organised trading).

7. An appropriately certified copy of a document shall mean:

1/ for official documents: a copy certified officially or notarised, stating it is true to the original, and for documents containing information from the National Court Register or other register if appropriate for a participant or entity applying for the conclusion of a participation agreement – also a computer print-out which meets the requirements to consider its effect to be equivalent to that of documents according to the applicable legislation,

2/ for private documents: a notarised copy stating it conforms to the original, while for documents containing personal declarations by the entity submitting the copy of the document, a copy certified as being true to the original according to the corporate representation rules of that entity will also be required.

8. Declarations and information in writing shall be sent by KDPW_CCP to the address indicated in the documents submitted by the participant. In the event that a declaration or information cannot be delivered to the participant at this address, this shall be understood to mean that on the day that KDPW_CCP has received information that such a delivery was not possible, all consequences pertaining to the delivery to the participant of the declaration or information by KDPW_CCP, have taken place.”;

6/ § 4a supara. 2 shall be replaced by the following:

„2. KDPW_CCP shall make available to participants model declarations referred to in the rules and resolutions adopted under the rules, as well as all other information it is obliged to deliver under those regulations, in the manner defined in subpara. 1 or by email over the Internet (at the addresses provided by the participants).”;

7/ § 8 shall be replaced by the following:

„§ 8

Unless the rules provide otherwise, in the event of the non-performance, or improper performance of its duties, KDPW_CCP shall not be obliged to provide compensation for damage or harm resulting in loss of any gains, which a party would have been able to obtain had the damage or harm been avoided, unless the damage or harm was intentional, or the result of negligence on the part of KDPW_CCP.”;

8/ § 8a subpara. 1 shall be replaced by the following:

„§ 8a

1. Obligations of KDPW_CCP arising from the take-over of rights and obligations of a counterparty to a transaction as a result of its novation shall only arise towards the transaction clearing counterparty

and shall be performed by making a clearing payment determined exclusively on the basis of a clearing instruction concerning the transaction.”;

9/ in § 9:

a/ subpara. 1 shall be replaced by the following:

„1. The following legal entities may become participants:

1/ investment firms,

2/ domestic banks,

3/ foreign investment firms,

4/ legal entities other than those referred to in point 1-3, provided that they are eligible to become participants under legal provisions applicable in the Republic of Poland, referred to in § 17 subpara. 2, and according to the provisions of the rules its participation is aimed at co-operation with KDPW_CCP to the extent of activities performed in the clearing system,

5/ entities authorised to provide CCP clearing services under Article 14 EMIR or recognised under Article 25 EMIR, subject to the provisions of § 16.”;

b/ subpara. 2 point 3 shall be replaced by the following:

„3/ referred to in subpara. 1 points 1-3, 5 or 6 and, in the case referred to in subpara. 1 point 4, provided that it is a credit institution or foreign bank within the meaning of the Banking Law – Act of 29 August 1997 (consolidated text: Dziennik Ustaw – Journal of Laws of 2019, item 2357, as amended), or a foreign legal person, referred to in Article 115(1) of the Act on Trading in Financial Instruments.”;

c/ subpara. 5 shall be added as follows:

„5. An entity referred to in subpara. 1 point 5 or 6 may become a participant provided that:

1/ it concludes a separate agreement with KDPW_CCP which defines the interaction between the clearing system and the system operated by such entity, and

2/ the agreement referred to in point 1 is approved by the supervisory authorities competent for KDPW_CCP and such entity.

In that case, these rules shall apply to the participation agreement, subject to the provisions of such agreement.”;

10/ in § 15 subpara. 1 point 5 shall be deleted;

11/ in § 15c subpara. 1 point 2 phrase: „§ 71 subpara. 2 point 1” shall be replaced by: „§ 50 subpara. 2 point 1”;

12/ § 15d subpara. 2 shall be replaced by the following:

„2. An entity which performs or intends to perform the function of payment agent for a participant holding the status of clearing member indicated by such entity may use the service provided that it is a participant of the clearing system or another transaction clearing system operated by KDPW_CCP referred to in § 1 subpara. 5.”;

13/ in § 17 subpara. 2 phrase: „§ 71 subpara. 2 point 1” shall be replaced by: „§ 50 subpara. 2 point 1”;

14/ in § 19 point 1 words: „described in § subpara. 1” shall be deleted;

15/ § 20 shall be replaced by the following:

„§ 20

1. The application for a participant agreement shall in addition include:

1/ a copy of the company statute, or articles of association and a valid copy or excerpts from the relevant company register,

2/ a copy of their brokerage licence or licences to conduct other activities related to trading in or registration of financial instruments, that entitle the performance of activities which the applicant intends to perform as part of participation, if such licences are required by the relevant legal regulations, while for foreign investment companies conducting brokerage activities on the territory of the Republic of Poland – an additional declaration showing that conditions have arisen to allow them to begin performing brokerage activities in the territory of the Republic of Poland, defined in Article 117(3), of the Law on trading in financial instruments, or a document from the Polish Financial Supervision Authority (KNF), or a department of the Polish Financial Supervision Authority, confirming that the Authority has received from the appropriate foreign supervisory body notification on the intention to begin performing brokerage activities in the Republic of Poland by that foreign investment company, indicating the date when this notification was received,

3/ cards with specimen signatures of the applicant’s authorised representatives, as well as copies of power of attorney documents in instances where the right to represent the applicant by those persons submitting a specimen signature on the specimen signature card does not derive from the documents specified in point 1,

4/ a declaration relating to the submission of disputes referred to in § 17 subpara. 1 to the jurisdiction of the common court of law with jurisdiction over the seat of KDPW_CCP,

5/ an information card containing the address for deliveries and, for an entity that seeks the participation type of non-clearing member, also the number of the bank account of the entity in the currency in which transaction clearing is performed, as well as a list of staff authorised by the applicant to contact KDPW_CCP that includes their positions, telephone numbers as well as email addresses,

5a/ if an entity that seeks the participation type of non-clearing member, a declaration where the clearing member representing such entity in clearing approves that entity’s access to the clearing member’s data in GUI in connection with such representation,

6/ a declaration concerning establishment or fixed establishment within the meaning of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (Official Journal of the European Union L 77 of 2011, p. 1, as amended) for which the participation agreement is to be concluded, where the applicant is a non-resident within the meaning of the Foreign Exchange Law of 27 July 2002 (consolidated text: Dziennik Ustaw – Journal of Laws of 2020, item 1708),

7/ a declaration confirming that the applicant takes special restricting measures under applicable regulations, in particular with respect to persons and entities on sanction lists relating to threats to

international peace and security caused by terrorist attacks, published under resolution of the United Nations Security Council, regulations of the Council of the European Union and other regulations applicable to the applicant and applicable in the United States of America and the United Kingdom,
8/ a declaration necessary to confirm whether any proceedings are pending against the applicant in connection with the provision of financial services which may impose administrative sanctions on the applicant for any breach of regulations applicable to the applicant or a decision has been issued imposing such administrative sanctions on the applicant.

2. Subject to subpara. 4, if the application relates to the type of participation related to the status of clearing member, the applicant shall in addition to the documents described in subpara. 1, also submit the following:

1/ a list of staff employed in posts involving transaction clearing, that includes their positions, telephone numbers as well as email addresses,

2/ if the applicant intends to participate in the clearing of transactions referred to in § 9 subpara. 2 point 1 item (a) or (b) or intends to post securities referred to in § 47 subpara. 3 points 1-2 as margins or contributions to the clearing fund or the relevant guarantee fund – a declaration providing the identifier of the applicant in the relevant settlement institution, or indicating an entity that will perform the role of settlement agent for the applicant and the identifier of that entity in the relevant settlement institution,

3/ a declaration indicating the number of the bank account of the applicant, managed in the relevant clearing bank in the given currency in which KDPW_CCP clears transactions and in which the applicant intends to participate in clearing, or indicating the entity that will perform the role of payment agent for the applicant and the number of the bank account managed for it in the clearing bank and where the applicant plans to participate in clearing in EUR - also the number of the cash account managed for the applicant in TARGET2 or indicating the entity that will perform the function of payment agent for the applicant and the number of the cash account maintained for it in this system,

4/ declarations by the entities indicated by the applicant, in accordance with the provisions of points 2 and 3, that intend to perform the functions of settlement agent, or payment agent, providing their consent to perform these functions for the applicant and their obligation to perform such functions whenever the systems in which such functions are to be performed are available,

5/ if the applicant submits the application:

a/ after the end of the period in which financial statements for a given period should be audited according to applicable legal regulations concerning the applicant – the audited financial statements for the period together with the auditor's opinion and report, and where such statements are not required to be audited according to the legal provisions applicable in the state of seat of the applicant or where a seat is not required to be established, then its head office – approved or authorised by the competent authority,

b/ on the lapse of six months after the end of the last six months of a financial year or the start of business – interim financial statements for the period.

6/ if the applicant intends to post securities referred to in § 47 subpara. 3 point 4 as margins or contributions to the clearing guarantee fund or the relevant guarantee fund:

a/ a declaration indicating, according to a resolution of the Management Board of KDPW_CCP, a relevant identifier of the applicant in the relevant depository system for such securities, indicated by

KDPW_CCP, or the number of the securities account managed for the applicant in such system and, where the securities account is to be managed for a collateral agent in such system, indicating an entity that will perform the function of collateral agent and, according to a resolution of the Management Board of KDPW_CCP, a relevant identifier of the agent or applicant in such system, or the number of the relevant securities account managed for the agent or applicant in such system,

b/ a declaration of the entity indicated by the applicant according to item (a) that will perform the function of collateral agent, wherein it agrees as referred to in § 3 point 13 item (a) in favour of the applicant, unless a separate agreement between KDPW_CCP and the entity or an entity operating the depository system for such securities confirms that it performs such function for the applicant,

7/ if according to the relevant legal provisions applicable in the state of seat of the applicant or where a seat is not required to be established, then its head office, CRR does not apply to its activity:

a/ a declaration of the applicant indicating the elements referred to in § 24 subpara. 3 and § 25 subpara. 2 and 3, which it considers eligible according to those provisions for the calculation of Tier I capital and funds considered equivalent to Tier I capital within the meaning of CRR, where such declaration should be authenticated by a person authorised as an auditor in a European Union Member State or a third country and subject to public supervision, disciplinary system and quality assurance system in such state, considered equivalent to the requirements laid down in the provisions referred to in § 17 subpara. 2,

b/ a list of financial information referred to in § 28 subpara. 3, to the extent defined according to subpara. 2, which the participant is required to provide to the competent authorities which supervise its operation and the time limits within which it is required to provide such information to such authorities and where there is no such requirement – a declaration to the effect that it is not required to provide specific data to such authorities according to the applicable legal provisions binding such participant.

3. If an applicant seeking the status of clearing member has provided the financial information referred to in § 28 subpara. 2 and 3 to the competent authorities which supervise its operation, according to the applicable regulations binding it, it shall also attach to the application such information prepared for the last period of activity preceding the date of submission of the application described in subpara. 2 point 5 item (a) or (b), respectively. Subject to subpara. 4, the applicant shall provide the financial information referred to in the preceding sentence prepared on a separate basis and where the relevant legal provisions applicable in the state of its seat or, where a seat is not required to be established, its head office require it to prepare and provide such information to the competent authorities which supervise its operation on a consolidated basis – then in addition it shall provide such information prepared on such basis.

4. If according to the applicable provisions of CRR the competent authorities which supervise the operation of the applicant have waived the precautionary requirements on an individual basis, and as a result it is not required to provide such authorities with the financial information referred to in § 28 subpara. 2 and 3 prepared on a separate basis, it shall attach to the application a copy of the official document which confirms that the precautionary requirements have been waived on such basis. In that case, the applicant shall attach financial information provided on a consolidated basis to the competent authorities which exercise consolidated supervision over the applicant unless the

applicable legal provisions do not require it to provide such information to such authorities, as confirmed by a copy of the official document attached by the applicant to the application.

5. [repealed]

6. If the applicant is a participant of another clearing system referred to in § 1 subpara. 5 and while seeking participation in such system it has provided the documents referred to in subpara. 1 point 1-3, subpara. 2 point 1-3, point 5, point 6 item (a), point 7 and subpara. 3-4, instead of such documents it may provide a declaration confirming their application to participation in the clearing system referred to in § 1 subpara. 1, unless they have been amended and KDPW_CCP has not yet been notified thereof.

7. Subject to § 15d, after conclusion of a participation agreement, the declarations referred to in subpara. 2 point 2, 3, 4 and 6 may be amended; however, such amendment shall become effective for KDPW_CCP no earlier than two days after the date of submission of the relevant declaration by the participant to KDPW_CCP, unless KDPW_CCP agrees to a shorter period.”;

16/ in § 23 subpara. 3 words: „as described in § 1 subpara. 1,” shall be deleted;

17/ after § 32a, §§ 32b and 32c shall be inserted as follows:

„§ 32b

Clearing members shall ensure, in an agreement with the entity providing the functions of payment agent or settlement agent to such clearing members, respectively, that such functions are performed in accordance with these rules, in particular that they are performed whenever the systems in which such functions are performed are available.

§ 32c

Each participant shall immediately notify KDPW_CCP of:

- 1/ any special restricting measures taken against it or its client for which it is a counterparty to clearing of transactions accepted in the clearing system under applicable regulations in connection with being put on any sanction list relating to threats to international peace and security caused by terrorist attacks, published under resolution of the United Nations Security Council, regulations of the Council of the European Union and other regulations applicable to the applicant and applicable in the United States of America and the United Kingdom,
- 2/ any proceedings opened against it in connection with the provision of financial services which may impose administrative sanctions on the applicant for any breach of regulations applicable to it or any issued decision imposing such administrative sanctions on it.;

18/ in § 33:

a/ point 4 shall be replaced by the following:

„4/ according to the results of the calculations described in subpara. 2, send settlement instructions,”;

b/ in point 8 word: „derivatives” shall be deleted;

19/ in § 34 subpara. 3 phrase: „§70 subpara. 1” shall be replaced by: „§46f subpara. 1”;

20/ in § 35 subpara. 5 point 2 word: „and subpara. 2a” shall be deleted;

21/ § 36 shall be replaced by the following:

„§ 36

1. The registration of the transaction made in the regulated market, or alternative trading system, in the clearing system shall take place at the instant of the introduction to this system of the clearing instruction relating to the transaction.
2. The registration of an on-demand loan concluded in the negotiated lending system in the clearing system shall take place at the instant of the introduction to this system of the clearing instruction relating to the conclusion of the loan. The loan shall be deregistered from the clearing system:
 - 1/ at the instant of receipt from the Central Securities Depository of Poland of information that the settlement of the granting of the loan was not made in due time owing to a shortage in the relevant account which prevented the execution of the settlement instruction sent by KDPW_CCP, or
 - 2/ at the instant of expiration of obligations arising from the concluded on-demand loan relating to the return of loaned securities and the return of the required collateral amount.
3. Clearing instructions shall be considered to have been introduced to the clearing system at the instant of their delivery to KDPW_CCP, in accordance with the requirements described in § 38, subparas. 2 and 3, subject to subpara. 4.
4. At the instant of the introduction to the system of a clearing instruction submitted by an entity which operates a regulated market or an alternative trading system, respectively, KDPW_CCP shall immediately verify the terms of the transaction concerned by such instruction. KDPW_CCP shall refuse to register the transaction and notify immediately the entity which operates the regulated market or the alternative trading system, respectively, if the contents of the clearing instruction do not comply with these rules or resolutions adopted under these rules or the transaction cannot be settled on time according to the terms of the transaction defined in such instruction.
5. KDPW_CCP shall register repo transactions in the clearing system provided that they can be cleared on an on-going basis according to the rules and the Detailed Rules of Transaction Clearing (organised trading).”;

22/ §§ 37a and 37b shall be replaced by the following:

„§ 37a

1. Subject to subpara. 2 and 3, non-cash debits and credits arising from transactions in securities executed in the regulated market or the alternative trading system through novation of such transactions shall be cleared, as elected by the participant holding the status of clearing member for such transaction in the manner defined in a resolution of the KDPW_CCP Management Board, by determining:
 - 1/ the clearing payment referred to in Article 45h subpara. 3 point 1 of the Law on Trading in financial instruments, separately for each transaction (gross non-cash clearing), or
 - 2/ the clearing payment referred to in Article 45h subpara. 3 point 1 of the Law on Trading in financial instruments in such a way that the non-cash debits and credits of the participant holding the status of

clearing member arising from the cleared transaction are summed up on its side with non-cash debits and credits of such participant arising from other transactions which are also cleared in such manner, separately where it acts as the buyer and separately where it acts as the seller (aggregate non-cash clearing), or

3/ the clearing payment referred to in Article 45h subpara. 3 point 2 or 3 of the Law on Trading in financial instruments respectively by recalculating the non-cash debits and credits as appropriate, to form a single net debit or a single net credit (non-cash netting).

2. If a participant fails to elect the manner of clearing non-cash debits and credits referred to in subpara. 1 to the extent of cleared transactions, KDPW_CCP shall perform gross non-cash clearing of such transactions.

3. To the extent of repo transactions, KDPW_CCP shall only perform gross non-cash clearing of such transactions.

§ 37b

1. Cash netting shall cover cash debits and credits of a participant holding the status of clearing member in a given currency of clearing, arising from all transactions accepted for clearing to be executed on the same date, subject to subpara. 1a.

1a. Cash credits arising from the settlement of an opening leg of a repo transaction shall not be included in cash netting if the settlement date of such transactions is set on the day when they are accepted for clearing in the clearing system according to the contents of clearing instructions.

2. Non-cash netting shall cover non-cash debits and credits of a participant holding the status of clearing member arising from transactions accepted for clearing referred to in § 37a subpara. 1 provided that:

1/ the participant demonstrates, in the manner referred to in § 37a subpara. 1, the application of non-cash netting to such transactions,

2/ such transactions are to be settled on the same date,

3/ the securities under such transactions are marked by the Central Securities Depository of Poland with the same identifier in the securities depository,

4/ they are not repo transactions.

3. Non-cash netting shall only be performed to the extent of cleared transactions registered in clearing accounts designated by the participant holding the status of clearing member for such transactions.

4. For participants described in § 11 subpara. 1 points 2 and 3, respectively, cash netting and non-cash netting shall be performed separately for debits and credits arising from transactions executed on the own account of those participants, and for debits and credits arising from transactions executed on account of their clients.^[L]_[SEP]

5. Entities which shall make a net payment and entities which shall receive a net payment shall be identified as a result of cash netting and non-cash netting, respectively.^[L]_[SEP]

6. Cash credits subject to cash netting and non-cash netting, respectively, in connection with the clearing of a transaction shall be cancelled, respectively:

- 1/ for transactions in securities - upon the settlement of the transaction performed in the relevant settlement institution on the basis of a settlement order provided by KDPW_CCP for the transaction up to the amount defined by such institution;
- 2/ for transactions in derivatives:
 - a/upon the bank account maintained by the clearing bank being debited or credited, respectively, on the basis of a settlement order provided to the relevant payment system or a transfer order provided to the clearing bank, or
 - b/if the outcome of netting does not require a settlement order or transfer order referred to in item (a) to be submitted – upon the registration in the clearing accounts of the status resulting from the clearing of such transactions performed by KDPW_CCP and a notification of records in such accounts given to participants holding the status of clearing member for which such accounts are maintained.
7. KDPW_CCP shall register the outcome of netting in clearing accounts immediately after netting.
8. Cash netting and non-cash netting performed by KDPW_CCP shall require no additional declarations of the transaction clearing counterparties.
9. In case of an event of default, the Management Board of KDPW_CCP may decide, by way of resolution, that particular transactions are excluded from the principle of non-cash netting. In such cases, the payment obligations shall be calculated separately for each excluded transaction.”;

23/ §§ 38, 39 and 39a shall be replaced by the following:

„§ 38

1. Debits and credits of participants who are parties to transaction clearing settlement shall be calculated on the basis of clearing instructions delivered to KDPW_CCP:
 - 1/ for transactions executed in the regulated market – by the respective regulated market operator,
 - 2/ for transactions executed in the alternative trading system – by the system organiser,
 - 3/ for on-demand loans concluded in the negotiated lending system – by the Central Securities Depository of Poland.
2. The structure and form of the clearing instructions, described in subpara. 1, points 1 and 2, as well as the terms and procedures for their delivery to KDPW_CCP, shall be defined by KDPW_CCP in consultation, respectively, with the relevant regulated market operator, or alternative trading system organiser.
3. The structure and form of the clearing instructions, described in subpara. 1, point 3, as well as the terms and procedures for their delivery to KDPW_CCP, shall be defined by KDPW_CCP in consultation with the Central Securities Depository of Poland.

§ 39

1. The clearing of a transaction shall take place on the date of its execution and, for an on-demand lending agreement concluded in the negotiated lending system – also on the date of its termination, on condition that the clearing instruction was delivered on that date to KDPW_CCP no later than the time determined in the Detailed Rules of Transaction Clearing (organised trading).
2. The KDPW_CCP Management Board shall decide the start time of transaction clearing by way of resolution.

§ 39a

1. A clearing instruction entered into the clearing system may be recalled from the system only by the entity referred to in § 38 subpara. 1 which has delivered the document, subject to § 43e subpara. 1.
2. A recall may be made:
 - 1/ if the clearing instruction being recalled concerns a transaction in securities – until KDPW_CCP has sent to the relevant settlement institution a settlement order for the transaction referred to in § 33 point 4 item (a),
 - 2/ if the clearing instruction being recalled concerns a transaction in derivatives – until KDPW_CCP has started the clearing of such transactions.”;

24/ in § 40 subpara. 2 phrase: „referred to in § 33 point 4” shall be deleted;

25/ § 41 shall be replaced by the following:

„§ 41

1. The settlement instructions for transactions in securities, shall be sent by KDPW_CCP to the relevant settlement institution within the proper deadline to enable the settlement processing of the transaction on the day on which the settlement should take place in accordance with the rules of such institution.
2. In instances where the relevant settlement institution is the Central Securities Depository of Poland, KDPW_CCP shall send the settlement instructions for transactions in securities:
 - 1/ in instances of the settlement of transactions executed in the regulated market or the alternative trading system, whose settlement date is set after the day when they are accepted for clearing in the clearing system according to the contents of clearing instructions, for settlement in the multibatch system, on the first settlement session on which on the day, described in subpara. 1, settlement is processed for transactions executed in the regulated market or the alternative trading system;
 - 1a/ in instances of the settlement of transactions other than repo transactions, executed in the regulated market or the alternative trading system, whose settlement date is set on the day when they are accepted for clearing in the clearing system according to the contents of clearing instructions, immediately for settlement in the multibatch system, on the settlement session on which on the day, described in subpara. 1, set in the clearing instruction, settlement is processed for such transactions;
 - 1b/ in instances of the settlement of repo transactions, executed in the regulated market or the alternative trading system, whose settlement date is set on the day when they are accepted for clearing in the clearing system according to the contents of clearing instructions, for settlement in the multibatch system, on the settlement session on which on the day, described in subpara. 1, set in the clearing instruction, settlement is processed for such transactions, on the date determined in the Detailed Rules of Transaction Clearing (organised trading);
 - 2/ in instances of the settlement of on-demand loans concluded in the negotiated lending system – immediately for settlement in the multibatch system, on the settlement session on which on the day, described in subpara. 1 in the clearing instruction, settlement is processed for such loans.
3. KDPW_CCP shall send settlement instructions, in such a way that the Central Securities Depository of Poland can settle such transactions on the side of KDPW_CCP (as a settlement counterparty):

1/ in the case of an opening leg of a repo transaction, without the option of partial settlement of such transaction by the settlement institution,

2/ in the case of other transactions in securities, with the option of partial settlement of such transaction by the settlement institution,

unless after a settlement fail of the transaction concerned by the submitted settlement instruction, a clearing member requests the option of partial settlement of the opening leg of a repo transaction according to the rules, KDPW_CCP decides otherwise in the instruction due to an event of default of the participant which is a clearing counterparty of the transaction concerned by the sent settlement instruction in connection with the rules of operation of the system managed by the settlement institution or for other reasons justified by proper operation of the clearing system.

4. Immediately upon the settlement of a transaction performed by the relevant settlement institution on the basis of a settlement instruction for transactions in securities, KDPW_CCP shall register the outcome of such settlement in the relevant clearing account on the basis of information received from that institution. In the event of settlement suspension of a transaction in securities by such institution, KDPW_CCP shall immediately register the outcome of such suspension in the relevant clearing account on the basis of information received from that institution.”;

26/ in § 41b subpara. 1 phrase: „referred to in § 33 point 4 item (b)” shall be deleted;

27/ § 42a subpara. 1 shall be replaced by the following:

„1. If KDPW_CCP is responsible for the submission of transaction reports to a trade repository, such reports shall be submitted without limitation as a result of the registration of positions in clearing accounts, as well as their deletion in such accounts. KDPW_CCP shall submit transaction reports within the scope arising from clearing instructions, actions taken in the clearing system, as well as information received from the participant, referred to in subpara. 2, taking into account the definition of accounts in the clearing system.”;

28/ §§ 43b, 43c, 43d, 43e shall be replaced by the following:

„§ 43b

1. Transactions referred to in § 43a subpara. 1 shall be accepted for clearing upon the registration of transactions in the clearing system referred to in § 36 subpara. 1 (time of novation).

2. A transaction shall be accepted for clearing on the condition precedent whereby the requirements set out in § 34 subpara. 1 points 1, 2 or 3 are met for the transaction and on the condition subsequent whereby a clearing instruction is not effectively recalled from the clearing system by the entity which has submitted it.

3. If KDPW_CCP accepts a repo transaction for clearing and securities in such transaction are repurchased before the repurchase date, KDPW_CCP may terminate the repo transaction early and, unless such transaction is terminated before the repurchase date of such securities, KDPW_CCP shall have a cash credit or debit, respectively, in exercise of rights attached to the securities in the repo transaction.

§ 43c

1. A clearing payment determined as a result of the clearing of a transaction referred to in § 43 subpara. 1 shall be made according to the contents of the transaction determined on the basis of the clearing instruction, including without limitation a one-off payment, periodic payments, or the payment of a difference, subject to § 43f.
2. Upon the novation of a transaction referred to in § 43a subpara. 1, KDPW_CCP shall have, respectively, credits or debits exclusively towards the other transaction clearing counterparty.
3. Upon novation, the transaction clearing counterparty shall have, respectively, credits or debits towards KDPW_CCP and if it represents another entity in clearing, then also towards that entity.

§ 43d

Novation of transactions referred to in § 43a subpara. 1 shall be performed separately for credits and debits arising from each transaction and according to its contents set out in the clearing instruction.

§ 43e

1. Where a clearing instruction is effectively recalled from the clearing system according to § 39, the novation of the transaction shall be cancelled by KDPW_CCP.
2. Upon effective recall of a clearing instruction, KDPW_CCP shall inform the clearing counterparties to the transaction concerned by the document that the novation of the transaction has been cancelled. Transaction clearing counterparties which represent in clearing other entities which are counterparties to the transaction shall immediately notify such entities that the novation of the transaction has been cancelled.
3. As a result of cancellation of the novation of a transaction:
 - 1/ the novation of the transaction shall be deemed null and void,
 - 2/ KDPW_CCP and the transaction clearing counterparties shall have no credits or debits as a result of the novation of the transaction.”;

29/ in § 43g subpara. 1 point 2 phrase: „referred to in § 33 subpara 4” shall be deleted;

30/ in § 43i phrase: „§ 70 subpara. 5-7” shall be replaced by: „§ 46e subpara. 5-7”;

31/ § 43j shall be replaced by the following:

„§ 43j

1. KDPW_CCP shall be authorised to perform obligations arising from a transaction to which novation applies as referred to in § 43a subpara. 1 by making a replacement payment, referred to in Article 45h(4) of the Act on Trading in Financial Instruments (replacement payment) in cases and on the terms set out in the rules.
2. A clearing member who represents another entity concluding transactions in clearing shall ensure that the right referred to in subpara. 1 may be effectively enforced for such entity.”;

32/ §43p shall be replaced by the following:

„§ 43p

1. Records in the account system shall only be made by KDPW_CCP.
2. KDPW_CCP shall record in clearing accounts positions arising from a transaction accepted to the clearing system upon the entry into the system of a clearing instruction.
3. When a repo transaction is recorded in repo accounts, KDPW_CCP shall record both the opening leg and the closing leg in such accounts.”;

33/ § 43s subpara. 3 shall be replaced by the following:

„3. Aggregate accounts shall not be used to perform actions in the account system on the basis of a clearing instruction.”;

34/ after phrase: „SECTION IV TRANSACTION CLEARING LIQUIDITY GUARANTEE SYSTEM” shall be added phrase: „PART 1 GENERAL”;

35/ § 44a shall be replaced by the following:

„§ 44a

1. Coverage of transactions referred to in § 44 subpara. 1 point 2 to which novation does not apply by the transaction clearing liquidity guarantee system organised by KDPW_CCP shall mean that KDPW_CCP undertakes to perform, at the expense of its own capital, the actions referred to in Part 9 “Actions taken with resources of the transaction clearing guarantee security system in the case of an identified default”, in cases referred to in the rules. The provisions of § 43b, § 43g subpara. 1, § 43i, § 43j and § 43l shall apply accordingly to such transactions.
2. For transactions other than transactions referred to in § 44 subpara. 1, KDPW_CCP shall only send settlement orders to the relevant settlement institution, subject to the provisions of Section V “Negotiated Lending Clearing Liquidity Guarantee System”.”;

36/ in § 45 subpara. 1 and 2 words: „Section” shall be replaced by: „Section”;

37/ §46 shall be replaced by the following:

„§ 46

1. As part of the transaction clearing liquidity guarantee system, KDPW_CCP:
 - 1/ collects and manages assets that form margins,
 - 2/ collects and manages assets that form the clearing guarantee fund or the relevant guarantee fund,
 - 3/ performs mark to market between parties to the transaction executed in the derivatives market,
 - 3a/ performs mark to market between parties to a repo transaction in order to pay an interest coupon,
 - 4/ together with the Central Securities Depository of Poland, organises an automatic securities lending and borrowing system and the negotiated lending system.”;

38/ in § 46b subpara. 1 and 2 phrase:”referred to in §1 subpara. 1” shall be deleted;

39/ §§ 46d, 46e, 46f, 46g i 46h shall be added after § 46c as follows:

„§ 46d

1. A participant with the participation type described in § 11 subpara. 1 point 2, used for activities described in § 11 subpara. 3 point 1, holding a depository account managed in the settlement institution that processes the settlement of transactions executed by that participant, shall be obliged to enable that settlement institution to transfer securities from that participant's proprietary account onto the account of the participant's clients to the extent necessary to perform obligations arising from the clearing of transactions executed by that participant on the order of the client.
2. The obligation, described in subpara. 1, shall arise on condition that the relevant settlement institution shall apply the measures described in subpara. 1.

§ 46e

1. Subject to subpara. 2, as part of the mark to market activities, described in § 46 point 3 and point 3a, KDPW_CCP shall determine the party to the transaction, which on a given day, in accordance with the conditions of this transaction, respectively, holds a financial advantage or interest coupon or is obliged to provide such advantage or interest coupon, as well as the value of this advantage.
2. KDPW_CCP shall perform the actions referred to in subpara. 1 to the extent of interest coupons provided that the record date of such coupon falls in the period starting on the settlement date of the opening leg of the repo transaction (inclusive) and the payment date of the coupon is set no later than the settlement date of the closing leg of the repo transaction set according to the terms of the transaction (exclusive).

§ 46f

1. If in a given market, in accordance with the law in force in the country in whose territory that market is operated and in accordance with the rules in force in that market, the entity performing the clearing of transactions executed in that market becomes the counterparty to these transactions, without the necessity to submit any form of declaration of the acceptance of the terms of each such transaction, or to express the intention to execute these transactions on the same terms that they are executed, KDPW_CCP may conclude an agreement with the entity organising this market to provide clearing services for transactions executed in this market, on condition that the rules in force in this market require all entities admitted to executing transactions there to conclude a prior participation agreement with KDPW_CCP, as the entity performing clearing on their behalf.
2. The requirement, described in subpara. 1, may be performed by acquiring participation related to the status of clearing member, or by acquiring the participation type of non-clearing member.
3. In instances of the conclusion of an agreement for the clearing of transactions in the market, described in subpara. 1, the terms and conditions of clearing services provided by KDPW_CCP for these transactions, the method used to guarantee the transaction clearing, the rules and methods used by KDPW_CCP to eliminate the suspension of transaction settlement, as well as the terms and conditions and scope of the liability of KDPW_CCP, shall all be exclusively regulated by these rules and the resolutions of the KDPW_CCP Management Board issued on the basis of these rules. The provisions of the preceding sections shall apply to these matters, subject to the provisions of subpara. 4-7.
4. In becoming a counterparty for transactions executed in the market, described in subpara. 1, KDPW_CCP shall assume the responsibility for making the related payment exclusively on behalf of a

participant holding the status of clearing member and representing the other party to the transaction in clearing performed by KDPW_CCP.

5. In instances where the settlement in a relevant settlement institution of a transaction (“transaction A”), executed in a market, described in subpara. 1, is suspended because KDPW_CCP did not execute the payment arising from this transaction, which was caused by an identical payment, as regards asset and amount, not being executed on behalf of KDPW_CCP by a defaulting participant as a result of another transaction (“transaction B”) executed in this market, whose settlement was also suspended, then the payment relating to transaction A shall be processed by KDPW_CCP on the date of the elimination of the suspension of settlement of transaction B, and in the event of cancellation by KDPW_CCP of the instruction to settle, in accordance with the rules - on the date of the settlement of, respectively, the securities sale or purchase transaction by KDPW_CCP in order to perform settlement on behalf of the participant being the counterparty to the clearing of transaction A.

6. If in the instance, described in subpara. 5, the Management Board of KDPW_CCP shall take advantage of the right to adopt a resolution on the execution of the replacement payment on behalf of the participant being the counterparty to the clearing of transaction A, the execution of this payment shall release KDPW_CCP from the obligations arising from transaction A.

7. In the circumstances described in subpara. 5, KDPW_CCP shall not be obliged to process any consequential payments in relation to the main payment arising from transaction A, and in particular KDPW_CCP shall not be obliged to pay any penalty interest for any delay in executing the cash payment arising from this transaction, or to provide restitution as a result of its suspension.

§ 46g

1. Subject to the second sentence of subpara. 3 and subject to subpara. 4, the market value of securities traded in the organised market, deposited as margins or contributions to the clearing guarantee fund or relevant guarantee fund, shall be calculated according to the following principles:

1. Subject to the second sentence of subpara. 3 and subpara. 4, the market value of securities traded on the organised market which are posted as margins or contributions to the clearing guarantee fund or the relevant guarantee fund shall be determined as follows:

1/ the market value of securities traded only on one organised market shall be calculated at their price on that market taken as the reference price,

2/ if no price taken as their reference price was determined on the organised market of trading in securities referred to in point 1 on a given day, their market value shall be calculated at the last such price before that day,

3/ the market value of securities traded on more than one organised market shall be calculated at their price on that market, assigned a priority higher than the priorities assigned to the other markets, taken as the reference price,

4/ if no price taken as the reference price was determined on the organised market identified according to point 3 on a given day, the market value of securities referred to in point 3 shall be calculated at the last such price determined on that day on another organised market on which such securities are traded or, if such price was determined on that day on more than one market, at such price determined on the market assigned a priority higher than the priorities assigned to the other markets,

5/ if no price taken as the reference price was determined on the organised markets on which securities referred to in point 3 are traded on a given day, their market value shall be calculated at the last such price on the market on which it was determined last or, if the criterion is met by more than one organised market, at the last such price on the market assigned a priority higher than the priorities assigned to the other markets.

2. The priorities assigned to the organised markets and the prices taken as the reference price for the calculation of the market price of securities are defined in Appendix 2 to the rules.

3. The market value of securities, deposited as margins or contributions to the clearing guarantee fund or relevant guarantee fund, whose price taken as the reference price is calculated as a percentage shall be equal to their current nominal value times the price calculated according to subpara. 1 and the value of incremental interest accrued at the day of calculating their market value if the entity operating the organised market provides KDPW_CCP with information indicating such value. However, it is assumed that the market value of securities on a day other than a trading day or a session day on any organised market on which such securities are traded shall be equal to their market value determined on the last trading day or a session day on such market.

4. If on a given day, due to a change of the nominal value of securities, deposited as margins or contributions to the clearing guarantee fund or relevant guarantee fund, whose price taken as the reference price is not calculated as a percentage, the Central Securities Depository of Poland has exchanged them for securities with a new nominal value, their market value on that day shall be calculated at the price taken as the reference price according to subpara. 1 and 2, however, for the purpose of the calculation, the price shall be multiplied by a ratio where the new nominal value is the numerator and the previous nominal value is the denominator.

5. Subject to subpara. 5a, the market value of securities, deposited as margins or contributions to the clearing guarantee fund or relevant guarantee fund, which are not traded on any organised market shall be calculated as follows:

1/ the market value of Treasury bills shall be calculated according to the rules applied by the National Bank of Poland to determine the market value of Treasury bills loaned in the securities registration system operated by the National Bank of Poland and used as collateral of such loans,

2/ the market value of securities delisted on an organised market or securities whose trading on such market has been terminated for other reasons shall be calculated according to subpara. 1-4, however, if such securities were traded on more than one organised market and they were delisted on such markets on different days, their market value shall be calculated at the last price on the market on which they were last delisted, taken as the reference price.

5a. The market value of securities referred to in § 47 subpara. 3 point 4, deposited as margins or contributions to the clearing guarantee fund or relevant guarantee fund, shall be calculated according to the current market data available from services of information agencies indicated by the Management Board of KDPW_CCP in a resolution or available from other sources used by the entity which operates the relevant depository system for such securities.

6. If the market value of securities, deposited as margins or contributions to the clearing guarantee fund or relevant guarantee fund, calculated according to subpara. 1-5 is expressed in a foreign currency, the value shall be calculated in the Polish currency according to the current market value of

that currency determined according to rules laid down by the Management Board of KDPW_CCP in a resolution.

7. For the purpose of application of subpara. 1-5, it is assumed that an organised market shall be a regulated market and an alternative trading system if these are operated by an entity or entities that are parties to agreements referred to in § 1 subpara. 2 concluded with KDPW_CCP and binding on the day of calculating the market value of securities, and the electronic market in Treasury securities operated by BondSpot S.A. under an agreement with the Minister of Finance.

8. The Management Board of KDPW_CCP shall specify in a resolution the entity which operates the relevant depository system for securities posted as margins or contributions to the clearing guarantee fund or the relevant guarantee fund where the market value of such securities is determined through such entity.

§ 46h

1. The market value of the underlying instrument arising from a transaction in derivative instruments to which novation applies shall be calculated according to the following principles:

1/ if the underlying instrument is a security, the value shall be calculated according to § 46g subpara. 1-6,

2/ if the underlying instrument is a foreign currency, the value shall be calculated in the Polish currency according to the current market value of that currency determined according to rules laid down by the Management Board of KDPW_CCP in a resolution.

2. For underlying instruments other than referred to in subpara. 1 points 1 and 2 arising from transactions in derivative instruments to which novation applies, their market value shall be calculated according to the terms of trading for the derivative instruments concerned by the underlying instrument.”;

40/ phrase: „PART 2 MARGINS, THE CLEARING GUARANTEE FUND, THE RELEVANT GUARANTEE FUND” shall be added after § 46h;

41/ in § 47 subpara. 4 point 1, 2 and 3 word: „§ 71” shall be replaced by: „§ 50”;

42/ in § 47a subpara. 7 phrase: „§72 ust. 8” shall be replaced by: „§46g subpara. 8”;

43/ in § 48:

a/ subpara. 4 shall be replaced by the following:

„4. 4. The initial margin shall be posted by a participant holding the status of clearing member both for transactions executed in securities trading, as well as for transactions executed in the derivatives market. Such margin shall be calculated separately for the following types of transactions:

1/ repo transactions concluded in trading in securities,

2/ transactions other than repo transactions concluded in trading in securities,

3/ transactions concluded in the derivatives market.”;

b/ subpara. 6 shall be replaced by the following:

„6. In the event of a clearing member’s non-fulfilment of the requirements defined in § 24 and § 25 or obtaining reliable information of events which may result in such circumstances in near future or a participant’s non-performance of undue performance of its obligations arising from a participation agreement, the Management Board of KDPW_CCP may, upon giving prior notification to the participant, adopt a resolution increasing, for a fixed period of time, but no longer than three months, the value of its obligations in respect of initial margins calculated on the basis of a factor set in the resolution, but no more than 100% of their existing value. The time limit for which the value of obligations in respect of margins calculated for the participant is increased may be extended for another fixed period of time, but no longer than three months, if the situation referred to in the preceding sentence continues.”;

44/ § 50 shall be replaced by the following:

„§ 50

1. In instances where collateral, described in the provisions of this Part, is posted in the form of securities, then KDPW_CCP shall have the right to dispose of these securities according to the purpose for which the collateral served, from the moment when the securities were first posted as collateral. Securities shall be deposited as an initial margin or an initial deposit by means of their transfer, respectively, to:

1/ for securities referred to in § 47 subpara. 3 point 1-3 - the securities account maintained for KDPW_CCP by the Central Securities Depository of Poland,

2/ for securities referred to in § 47 subpara. 3 point 4 – the securities account maintained for KDPW_CCP in the relevant depository system for such securities, indicated by the Management Board of KDPW_CCP in a resolution,

no later than within the time limit set by the Management Board of KDPW_CCP in a resolution. Upon such transfer, KDPW_CCP and the participant holding the status of clearing member posting the margin shall enter into an agreement of transfer of ownership of such instruments to KDPW_CCP in order to secure the performance by the participant of obligations which may be performed by means of the margin according to the rules and to cover the cost of such performance, subject to subpara. 2 and 3.

2. In the event that collateral consists of securities referred to in § 47 subpara. 3 point 4:

1/ the agreement referred to in subpara. 1, the establishment and expiration of collateral in such securities, and the enforcement of such collateral shall be governed by the applicable legal provisions of the state where the securities account referred to in subpara. 1 point 2 is managed. The Management Board of KDPW_CCP shall indicate, in a resolution, the state where such securities account is managed,

2/ each margin consisting in such securities shall be financial collateral established under title transfer financial collateral arrangements referred to in Art. 1 subpara. 1 item (b) of Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements,

3/ KDPW_CCP may make the establishment or release of such collateral dependent on additional actions to be taken by the participant, as indicated by the Management Board of KDPW_CCP in a resolution, in order to meet the conditions necessary, according to applicable legal provisions, referred to in point 1, to conclude the agreement referred to in subpara. 1, and to make the collateral effective for third parties and to enforce it in cases referred to in the rules. In this case, the conclusion of the

agreement referred to in subpara. 1 may take place provided that the participant has performed such actions,

4/ subject to subpara. 3, collateral shall be established in such securities at the instant of their transfer from the securities account managed in the system in which such securities are registered to the account managed in such system for KDPW_CCP, unless the applicable legal provisions, referred to in point 1, require that such agreement should be concluded at a different, later time. In that case, the moment when the collateral is established under such applicable legal provisions shall be set by the Management Board of KDPW_CCP in a resolution,

5/ actions related to the establishment or release of such collateral may only be taken through the entity which operates the relevant depository system for such securities, under an agreement concluded with it by, respectively, KDPW_CCP, the participant or its collateral agent.

3. In instances referred to in § 42b and § 69b, collateral in securities shall be established in the manner defined therein, and the provisions of subpara. 2 and subpara. 3a shall apply accordingly.

3a. If a clearing member posting a margin with KDPW_CCP concludes an agreement with another entity in order to cause the establishment or release of such collateral, it shall ensure that the provisions of the agreement are not in contradiction with the provisions of the rules and of resolutions of the Management Board of KDPW_CCP adopted under the rules.

4. KDPW_CCP shall perform the sale of assets in non-cash form that constitute margins if such a need arises, to use them for purposes described in the provisions of this Part.

5. A participant holding the status of clearing member may demand the release of collateral, either in full, or in part, when the value of that participant's posted collateral is higher than the collateral required, or in instances where in order to release the collateral, equivalent collateral in alternative form was posted in accordance with the relevant rules.

6. KDPW_CCP shall not dispose of securities posted as margins within the period that such securities are registered in a securities account maintained for KDPW_CCP otherwise than in order to establish collateral referred to in subpara. 4.

7. Subject to subpara. 8, payments received by KDPW_CCP in respect of entitlements from securities posted as margins and in respect of the redemption or cancellation of such securities by the issuer shall be transferred by KDPW_CCP to participants holding the status of clearing member in an amount less of taxes due. If, however, a participant is in arrears with the performance of any cash obligations towards KDPW_CCP arising from its participation in the clearing system, referred to in § 1 subpara. 1 or subpara. 5, respectively, KDPW_CCP may credit them towards such obligations instead of transferring them to the participant.

8. If an issuer redeems or cancels securities posted as margins, KDPW_CCP shall be entitled to use such payments in order to cause the performance of obligations of a participant arising from its status of clearing member, but such payments shall be credited in the first place towards a margin in respect of which the cancelled securities were posted, to the extent that the value of other assets credited towards it is lower than the minimum margin or the margin requirement, respectively.

9. If financial collateral referred to in this Part is formed by securities, KDPW_CCP shall be entitled to request the participant holding the status of clearing member that has posted such securities as initial margin or initial deposit to post, prior to the record date of entitlements from such securities, an equivalent collateral in order to enable the collateral posted in such securities to be released.

10. Subject to subpara. 2 point 5, the Management Board of KDPW_CCP shall define in a resolution the detailed terms of the posting of securities as initial margin or initial deposit as well as the detailed terms of their return.

11. Any rights under the agreement referred to in subpara. 1 may only be assigned with the consent of KDPW_CCP.”;

45/ §§ 50d, 50e, 50f shall be added after § 50c as follows:

„§ 50d

§ 50d

1. KDPW_CCP shall organise and manage a clearing guarantee fund to ensure the proper performance of obligations arising from transactions executed in the regulated market.
2. Contributions to the clearing guarantee fund shall be paid in by participants holding the status of clearing member for transactions executed in the regulated market.
3. Contributions to the clearing guarantee fund shall be calculated by KDPW_CCP in the Polish currency.
4. The rules that describe the creation and operation of the clearing guarantee fund in matters not regulated herein, shall be defined in the rules of the clearing guarantee fund.

§ 50e

1. KDPW_CCP manages the relevant guarantee fund for each alternative trading system where transactions cleared by KDPW_CCP are executed, under an agreement concluded by KDPW_CCP with an entity or entities which organise such alternative trading systems.
2. Contributions to the relevant guarantee fund are paid in by participants holding the status of clearing member for transactions guaranteed using such fund.
3. Contributions to the relevant clearing fund shall be calculated by KDPW_CCP in the Polish currency.
4. The rules that describe the creation and operation of the relevant guarantee fund managed for alternative trading systems in matters not regulated herein, shall be defined in the rules of the fund agreed in an agreement concluded by KDPW_CCP and the entity or entities which organise the alternative trading systems.

§ 50f

The assets of the clearing guarantee fund, as well as the assets of the relevant guarantee fund, shall secure the obligations arising from transactions covered by the clearing guarantee fund or the relevant guarantee fund, respectively, and arising from the non-execution or undue execution of such transactions.”;

46/ phrase: „PART 3 RISK MONITORING” shall be added after § 50f;

47/ § 51 subpara. 2 shall be replaced by the following:

„2. The total value of the initial deposit and the initial margin posted by the participant, to the extent of clearing a given type of transactions concluded on the regulated market or in the alternative trading system, determines the maximum value of the position which may be registered in the clearing system as a result of acceptance into the system of transactions concluded by the participant or by entities represented by it to such extent in clearing performed by KDPW_CCP (transaction limit). The value of positions referred to in the preceding sentence shall be understood to mean the sum of the currently determined value of assets due from the participant holding the status of clearing member:

1/ as an initial margin, determined on the basis of positions registered in the clearing system as a result of acceptance into the system of a given type of transactions concluded on the regulated market or alternative trading system, and

2/ as marking-to-market of transactions less the value of credits due to the participant in respect of the marking-to-market of transactions concluded by it on its own account on the market.”;

48/ §§ 53, 53a, 53b shall be repealed;

49/ before § 54 phrase: „PART 4 SECURITIES LENDING AND BORROWING SYSTEMS” shall be added;

50/ § 54a subpara. 8 shall be replaced by the following:

„8. KDPW_CCP shall send to the Central Securities Depository of Poland a settlement instruction concerning the return of a loan, upon the receipt from the Central Securities Depository of Poland of a clearing instruction concerning the termination of a loan. If the participant fails to adjust the margins referred to in § 72c subpara. 2, or a contribution to the relevant guarantee fund, referred to in Appendix 3 to the rules, KDPW_CCP shall send to the Central Securities Depository of Poland, prior to receiving the clearing instruction, an early termination order for an on-demand loan.”;

51/ phrase: „PART 5 PARTICIPANTS’ PREVENTION OF SUSPENSION OF TRANSACTION SETTLEMENT AND MEASURES ARISING FROM DEFAULT UNDER THIS OBLIGATION” shall be added after § 54a;

52/ § 55 shall be replaced by the following:

„§ 55

1. In case of a lack of coverage in the bank account designated by a defaulting participant or other event which causes the inability to perform the cash obligations of that participant in the relevant bank account, that participant shall immediately take actions necessary to restore the ability to perform its cash obligations arising from the clearing of transactions including without limitation by ensuring coverage in the relevant bank account.

2. A defaulting participant shall immediately notify KDPW_CCP of the effect of taken actions referred to in subpara.1.

3. Until the receipt of reliable information from the participant, suggesting the ability of performing its obligations, KDPW_CCP shall be entitled to:

1/ submit to the entity operating the regulated market or the alternative trading system an instruction to block the ability of concluding transactions on that market or in that system in which such participant is to be indicated as a counterparty to clearing,

2/ refrain from sending settlement instructions concerning obligations of KDPW_CCP towards the participant referred to in subpara. 1 arising from transactions created as a result of novation,
3/ cancel settlement instructions, if they have been sent previously.”;

53/ §§ 55a, 55b, 55c, 55d, 55e, 55f, 55g shall be added after § 55 as follows:

„§ 55a

1. Participants shall be obliged to ensure that the settlement of a transaction to which they are a clearing counterparty is not suspended. In particular, a clearing member shall be obliged to purchase securities as part of a securities lending agreement concluded as part of the relevant securities lending system organised by the relevant settlement system in order to prevent the suspension of the settlement of a transaction owing to a shortage of securities, unless the prevention of suspension of transaction settlement is possible by other means.

2. A defaulting participant shall be responsible for suspension of settlement of a transaction to which it is a clearing counterparty due to circumstances which have arisen on its side or on the side of its settlement agent or its payment agent through which it settles transactions or whom it uses in such settlement if due to such circumstances the settlement institution has taken the action referred to in Art. 45f subpara. 1 of the Law on trading in financial instruments. At the instant of receipt from the settlement institution of information which suggests that such obligations have not been met timely and the settlement institution has taken the action referred to in Art. 45f subpara. 1 of the Law on trading in financial instruments, KDPW_CCP shall identify suspension of transaction settlement due to the circumstances for which such participant is responsible. Such participant shall be obliged to take immediate actions in order to eliminate the suspension of transaction suspension as soon as possible.

3. The participant referred to in subpara. 2 shall be liable to KDPW_CCP for any loss caused in connection with the suspension of transaction settlement. In the event that such loss is repaired using assets of the clearing guarantee fund or the relevant guarantee fund, KDPW_CCP shall be authorised to claim their reimbursement and any assets received under such claims shall become a part of the assets of the fund whose assets were used to repair the loss.

4. If the settlement of transactions for which the participant holds the status of clearing member is performed using a settlement agent or payment agent, actions taken to ensure that transaction settlement is not suspended or to eliminate suspension of such settlement, described in subpara. 1 and 2, shall be performed by the participant through such settlement agent or such payment agent.

§ 55b

1. If KDPW_CCP submits a settlement instruction referred to in § 33 point 4(a) without the option of partial settlement of the transaction concerned by that instruction, the defaulting participant may request KDPW_CCP, no later than the time limit set in the Detailed Rules of Transaction Settlement (organised trading) and on the terms defined therein, to enable settlement using the partial settlement mechanism applied by the settlement institution.

2. KDPW_CCP shall execute the request of a defaulting participant referred to in subpara. 1 on the last business day of the extension period referred to in § 56a subpara. 1 unless KDPW_CCP decides otherwise in connection with:

- 1/ the occurrence of an event of default on the part of a participant who is a counterparty to the clearing of the transaction concerned by the submitted settlement instruction, or
 - 2/ the operating conditions of a system operated by the settlement institution, or
 - 3/ suspension of the settlement of the opening leg and setting the expected settlement date of the closing leg of a repo transaction within 30 business days after the expected settlement date of such opening leg, or
 - 4/ other reasons justified by the operating conditions of the clearing system.
3. If the opening leg is settled in part, credits and debits arising from the closing leg of the repo transaction shall be reduced up to the settlement amount of the opening leg. In that case, KDPW_CCP shall recall the settlement instruction to the extent of the closing leg and submit a new settlement instruction taking into account such reduction.

§ 55c

A defaulting participant shall be obliged in connection with the suspension of the settlement of a transaction to which it is a clearing counterparty:

- 1/ to pay cash penalties imposed by the settlement institution for the suspension of the settlement of the transaction, referred to in Article 7(2) CSDR,
- 2/ to reimburse any expenses paid by KDPW_CCP as a result of actions taken in accordance with the rules in connection with such suspension of the settlement of the transaction (transaction and banking fees and commissions), unless a fee is set for such actions as referred to in the Table of Fees,
- 3/ to pay fees referred to in the Table of Fees,
- 4/ to make a cash payment in an amount determined according to the rules, if the open market buy-in is unsuccessful in whole or in part or proves impossible (compensation),
- 5/ to reimburse the difference in the price of securities in an amount determined according to the rules, if such difference arises due to the purchase of securities in an open market buy-in and their price is higher than the price of the transaction whose settlement is suspended, including additional payments arising from such transactions,
- 6/ to pay cash entitlements, in the amount and on the terms defined in the rules, in respect of property benefits lost by a participant affected by default or by its client which such participant or its client would obtain by exercising a property right attached to securities in the affected transaction, provided that:
 - a/ such right was exercised in direct connection with a corporate action other than a general meeting, understood as an action:
 - initiated in accordance with applicable legal provisions by the issuer of the securities in the affected transaction or an authorised third party, previously published in accordance with applicable legal provisions, such as profit distributions, tender offers concerning sale or exchange of securities,
 - addressed to all beneficial owners of securities which meet the criteria set in accordance with applicable legal provisions,
 - as a result of which beneficial owners of securities may, at their election, exercise the property right attached to such securities, and

- necessary to exercise a specific property right attached to such securities in a way which requires a participant affected by default or its client to declare the intention of exercising such right (optional corporate action),
- b/ such value is not included in the calculation of the payment referred to in point 4 or the amount or entitlements arising from the cleared transaction,
- c/ the property benefit is not delivered or compensated by the settlement institution to a participant affected by default or its client and, if the participant has a settlement agent, also to such agent, and
- d/ the participant affected by default or its client was entitled to exercise a right attached to securities in the affected transaction in connection with the corporate action but could not do so as a result of suspension of the settlement of the affected transaction in whole or in part (additional buyer protection),
- 7/ to repay cash or non-cash entitlements attached to securities in the affected transaction due as a result of recording the rights of beneficial owners of such securities and the amount of such entitlements on the day when the settlement of the affected transaction was suspended in whole or in part or to pay adequate cash compensation in that regard, on the terms defined by the settlement institution.

§ 55d

1. If an open market buy-in undertaken to settle a transaction concluded in trading in securities, other than a repo transaction, is unsuccessful or is considered ineffective to the extent of the settlement of such transaction, the participant responsible for the suspension of the settlement of such transaction shall pay compensation in an amount equal to:
 - 1/ if the suspension of the settlement of the transaction concerns settlement instructions which are to be executed to the extent of cash payments, the difference between the market value of securities in the transaction whose settlement is suspended at the business day preceding the payment of the cash compensation and the settlement amount included in the unexecuted settlement instructions if such settlement amount is lower than the market value,
 - 2/ if the suspension of the settlement of the transaction concerns settlement instructions which are not to be executed to the extent of cash payments, the difference between the market value of securities in the transaction whose settlement is suspended at the business day preceding the payment of the cash compensation and the market value of such financial instruments at the transaction date if the market value of such financial instruments at the transaction date is lower than their market value at the business day preceding the payment of the compensation.
2. The market value of securities and the elements covered by paid compensation shall be determined according to Implementing Regulation 2018/1229.
3. KDPW_CCP shall inform clearing members who are counterparties to clearing of the market value of securities referred to in subpara. 2 and the value of an element reflecting the fluctuations of the foreign exchange rate, credits arising from the issuer's obligations relating to such security, and accrued interest.
4. The compensation referred to in subpara. 1 shall also constitute the replacement payment.

§ 55e

1. If a settlement institution suspends the settlement of the opening leg of a repo transaction and the expected settlement date of the closing leg is set within 30 business days after the expected settlement date of such opening leg, a participant affected by default may request KDPW_CCP to shorten the settlement date of the closing leg of such repo transaction according to these rules. Such request may be presented to KDPW_CCP in the extension period referred to in § 56a subpara. 1 starting on the date of the suspension of the settlement of such transaction by the settlement institution (inclusive of such date) according to the Detailed Rules of Transaction Clearing (organised trading).
2. Upon the receipt of a request referred to in subpara. 1 from a participant affected by default, KDPW_CCP shall immediately inform the defaulting participant thereof. If the defaulting participant fails to present a declaration opposing the shortening of the settlement date of the closing leg of the repo transaction within the time limit set in the Detailed Rules of Transaction Clearing (organised trading), it shall be deemed to accept the shortening of that date in such a way that the closing leg is settled on the business day following the day on which the defaulting participant could present such declaration.
3. If a defaulting participant presents a declaration referred to in subpara. 2 to KDPW_CCP according to the Detailed Rules of Transaction Clearing (organised trading), it shall liquidate the suspension of the settlement of the opening leg of the repo transaction no later than the business day following the day of presentation of such declaration. If that time limit expires without such liquidation, the defaulting participant shall be deemed to accept the shortening of the settlement date of the closing leg in such a way that the closing leg is settled two business days after the day on which the defaulting participant could present the declaration referred to in subpara. 2.
4. If KDPW_CCP identifies an event of default of a defaulting participant, it shall no longer be eligible to present the declaration referred to in subpara. 2.
5. The provisions of § 55f subpara. 1 shall apply accordingly if circumstances referred to in subpara. 2-4 arise.
6. A clearing member who represents another entity concluding repo transactions in clearing shall ensure that the actions referred to in subpara. 1-3 are effective in relation to such entity.

§ 55f

1. If an open market buy-in undertaken to settle the opening leg of a repo transaction is unsuccessful or is considered ineffective to the extent of the settlement of such transaction:
 - 1/ the participant responsible for the suspension of the settlement of the opening leg of a repo transaction shall pay compensation in an amount equal to interest arising from the repo transaction accrued for the period from the day when the opening leg should have been settled (inclusive of such day) to the day when KDPW_CCP pays such compensation to a participant affected by default (exclusive of such day) and if the settlement date of the closing leg falls before the payment date of such compensation, then to the day when such closing leg should have been settled (exclusive of such day). A negative repo rate shall not be included in the calculation of amount of such compensation,
 - 2/ KDPW_CCP may shorten the settlement date of the closing leg of a repo transaction in such a way that the closing leg is settled on the business day following the day when KDPW_CCP notifies the participant who is the other counterparty to clearing of the shortening of that date,

- 3/ mutual credits and debits arising from the opening leg and the closing leg of the repo transaction shall be netted so that the counterparties to clearing are not required to pay any amounts other than the compensation referred to in point 1 above or to deliver securities arising from the repo transaction.
2. If an open market buy-in undertaken to settle the closing leg of a repo transaction is unsuccessful or is considered ineffective to the extent of the settlement of such transaction, the participant responsible for the suspension of the settlement of the closing leg of the repo transaction shall pay compensation in an amount equal to:
- 1/ the difference between:
- a/ the maximum value arising from the market value of securities in the closing leg whose settlement is suspended adjusted for the value of the interest coupon (if either counterparty to clearing is entitled to receive such coupon in the period of the suspension of the settlement of such transaction) and the value equal to the purchase price of the securities in the opening leg and
- b/ the value arising from the repurchase price of securities in the closing leg,
- plus
- 2/ interest arising from the repo transaction, subject to subpara. 3.
3. If a positive repo rate is set in a transaction, compensation in an amount equal to interest arising from such transaction referred to in subpara. 2 point 2 shall be deemed paid.
4. The compensation referred to in subpara. 1 and 2 shall also constitute the replacement payment.
5. The provisions of § 55e subpara. 6 shall apply accordingly if circumstances referred to in subpara. 1-3 arise.

§ 55g

1. KDPW_CCP shall charge from defaulting participants cash penalties referred to in Article 7(2) CSDR imposed and calculated by a settlement institution in connection with the suspension of settlement and subsequently distribute collected cash penalties among participants affected by default.
2. KDPW_CCP may perform the actions referred to in subpara. 1 through a settlement institution.”;

54/ phrase: „PART 6 OPEN MARKET BUY-IN OPERATIONS” shall be added after § 55g;

55/ § 56 shall be replaced by the following:

„§ 56

11. KDPW_CCP shall take actions described in this Part in order to purchase securities in a transaction whose settlement is suspended by concluding repurchase transactions in such securities.
2. KDPW_CCP shall notify clearing members who are counterparties to the clearing of a transaction whose settlement is suspended of the cost of the purchase of securities in open market buy-in operations unless such cost derives from the Table of Fees.
3. KDPW_CCP shall perform open market buy-in operations with due diligence justified by market conditions prevailing on the date of such operations.”;

56/ §§ 56a, 56b, 56c, 56d, 56e, 56f, 56g, 56h shall be added after § 56 as follows:

„§ 56a

1. KDPW_CCP shall perform open market buy-in operations in order to repurchase securities if it is possible and no event of default is identified, and unless the participant responsible for the suspension of the settlement of the transaction due to a shortage of securities liquidates the suspension within:
 - 1/ four business days after the expected settlement date of the transaction, if the transaction is in shares,
 - 2/ seven business days after the expected settlement date of the transaction, if the transaction is in securities other than shares
(extension period).
2. If an open market buy-in is unsuccessful or impossible, a participant affected by default may request KDPW_CCP to defer the open market buy-in until an appropriate later date determined according to Implementing Regulation 2018/1229 (deferred period). If no such request is delivered to KDPW_CCP within the time limit set in the Detailed Rules of Transaction Clearing (organised trading), the participant affected by default is deemed to opt for compensation.

§ 56b

1. On the business day after the expiry of the extension period, KDPW_CCP shall perform a preliminary verification to check whether an open market buy-in is possible for the cleared transaction whose settlement is suspended.
2. An open market buy-in is deemed impossible if financial instruments in the transaction whose settlement is suspended no longer exist.
3. An open market buy-in is deemed unsuccessful if it concerns a repo transaction where the settlement of the opening leg is suspended and the expected settlement date of the closing leg is set within 30 business days after the expected settlement date of such opening leg.
4. If an open market buy-in is impossible or cannot be performed, KDPW_CCP shall notify the participant affected by default and the defaulting participant thereof. Upon receipt of such notification, respectively, by the defaulting participant and the participant affected by default:
 - 1/ the defaulting participant may not require KDPW_CCP to perform a payment arising from the transaction whose settlement is suspended,
 - 2/ the participant affected by default may not require KDPW_CCP to perform a payment arising from the transaction whose settlement is suspended,
 - 3/ the participant affected by default is eligible to receive compensation on the terms laid down in CSDR and these rules.
5. If compensation is to be paid under CSDR, KDPW_CCP shall, no later than two business days after the completion of an open market buy-in or after the expiry of the deferred period:
 - 1/ determine the amount of compensation and notify the defaulting participant and the participant affected by default thereof,
 - 2/ recall the settlement instruction for the transaction whose settlement is suspended to the extent that it concerns the open market buy-in which is not possible and subsequently, if compensation is to be paid, collect the compensation from the defaulting participant and pay it to the participant affected by default.
6. Compensation shall be paid in the currency of the transaction whose settlement is suspended.

§ 56c

1. If an open market buy-in is possible, KDPW_CCP notifies the defaulting participant and the participant affected by default thereof on the business day following the expiry of the extension period.
2. Upon receipt of the notification referred to in subpara. 1, the defaulting participant may perform the obligation arising from the transaction whose settlement is suspended only as follows:
 - 1/ deliver securities in the transaction to the open market buy-in agent referred to in Article 24 of Implementing Regulation 2018/1229, subject to the agent's prior consent, or
 - 2/ deliver securities in the transaction whose settlement is suspended to KDPW_CCP provided that KDPW_CCP accepts the offer of such defaulting participant referred to in § 56d subpara. 2 according to the rules.
3. Upon receipt of the notification referred to in subpara. 1
 - 1/ the defaulting participant may not require KDPW_CCP to perform a payment arising from the transaction whose settlement is suspended,
 - 2/ the participant affected by default may require KDPW_CCP to perform a payment arising from the transaction whose settlement is suspended only according to the rules.

§ 56d

- a) 1. KDPW_CCP shall perform open market buy-in operations to the extent that the settlement of a cleared transaction is suspended by the settlement institution by providing:
 - b) 1/ the open market buy-in agent with instructions to purchase the quantity of securities in the transaction which is not delivered by the defaulting participant on the terms of the agreement between KDPW_CCP and such agent, or
 - c) 2/ clearing members with instructions containing a proposal to purchase the quantity of securities in the transaction which is not delivered by the defaulting participant on the terms defined in the Detailed Rules of Transaction Clearing (organised trading). KDPW_CCP may limit the number of clearing members whom it provides with proposals to purchase securities.
- d) 2. Each clearing member who receives a proposal to purchase securities may, on the terms defined in the Detailed Rules of Transaction Clearing (organised trading), provide KDPW_CCP with an offer of a transaction in securities defined in the proposal (repurchase transaction) which is binding until the completion of the open market buy-in. By presenting such offer, the clearing member accepts that the transaction will be presented for clearing in the clearing system and accepts the effect referred to in subpara. 3.
3. If KDPW_CCP accepts the terms of a received offer of a repurchase transaction, KDPW_CCP shall:
 - 1/ provide the clearing member with a confirmation of the conclusion of such repurchase transaction (the transaction is concluded upon delivery of the confirmation to the clearing member), and subsequently
 - 2/ record the transaction in the clearing system,
 - 3/ send settlement instructions to the settlement institution in order to settle the transaction in such securities.

§ 56e

e) The Detailed Rules of Transaction Clearing (organised trading) lay down the specific terms and conditions of submitting proposals to purchase securities and offers of repurchase transactions.

§ 56f

As a result of an open market buy-in, KDPW_CCP shall deliver securities within the following time limits, subject to § 56a subpara. 2:

- 1/ four business days after the extension period, if the transaction whose settlement is suspended is in shares,
- 2/ seven business days after the extension period, if the transaction whose settlement is suspended is in securities other than shares
(delivery period).

§ 56g

1. In an open market buy-in, KDPW_CCP shall, at the end of each business day, notify the participant affected by default and the defaulting participant if the open market buy-in is unsuccessful.
2. If an open market buy-in operation results in the purchase of securities, KDPW_CCP shall, at the end of the business day when it receives such securities:
 - 1/ notify the participants who are counterparties to the clearing of the transaction and the settlement institution of the quantity and price of purchased securities,
 - 2/ deliver securities purchased in the open market buy-in to the participant affected by default and recall the settlement instruction concerning the transaction whose settlement is suspended to the extent that the participant affected by default is satisfied.
3. If the opening leg is settled in part as a result of an open market buy-in, credits and debits arising from the closing leg of the repo transaction shall be reduced up to the settlement amount of the opening leg. In that case, KDPW_CCP shall recall the settlement instruction to the extent of the closing leg and submit a new settlement instruction taking into account such reduction.

§ 56h

1. If the price of securities in a repurchase transaction is higher than the price of the transaction whose settlement is suspended, KDPW_CCP shall:
 - 1/ determine the difference in price and notify the defaulting participant thereof, and subsequently
 - 2/ debit the difference to the defaulting participant.
2. If the price of securities in a repurchase transaction is lower than the price of the transaction whose settlement is suspended, KDPW_CCP shall:
 - 1/ determine the difference in price and notify the defaulting participant and the participant affected by default thereof, and subsequently
 - 2/ credit the difference to the participant affected by default.
3. The difference in price referred to in subpara. 1 point 1 and subpara. 2 point 2, respectively, shall be paid:
 - 1/ together with additional payments arising from the repurchase transaction and the transaction whose settlement is suspended,

2/ on the day when the repurchase transaction is settled and the securities purchased in such transaction are delivered to the participant affected by default.”;

57/ phrase: „PART 7 ADDITIONAL BUYER PROTECTION” shall be added after § 56h;

58/ § 57 shall be replaced by the following:

„§ 57

1. Subject to subpara. 2 and 3 and § 57a subpara. 1-3, if the buyer of securities in a cleared transaction is eligible, as a result of an optional corporate action, to exercise a property right attached to such securities in connection with such corporate action and the settlement date of the transaction is such that the right may be exercised, the clearing member who is a counterparty to the clearing of such transaction and who buys the securities may present a declaration to KDPW_CCP, according to the Detailed Rules of Transaction Clearing (organised trading) and within the time limit set therein, to the effect that it or its client intends to exercise the property right attached to such securities in connection with such optional corporate action and use additional buyer protection defined in the rules, if the exercise of such right requires it or its client to declare the intention to exercise it and it or its client intends to do so.

2. The right referred to in subpara. 1 shall be available if a participant affected by default or its client is unable, as a result of suspension of the settlement of a transaction, to exercise when due a property right attached to securities in such transaction in whole or in part in connection with an optional corporate action.

3. KDPW_CCP shall not be required to perform entitlements in connection with an optional corporate action to the extent that a participant affected by default or its client:

a/ could exercise when due a right attached to securities in the affected transaction in connection with such optional corporate action but did not do so,

b/ could not exercise when due a right attached to securities in the affected transaction in connection with such optional corporate action for reasons which are not directly connected with the suspension of the settlement of such transaction.”;

59/ §§ 57a and 57b shall be added after § 57 as follows:

„§ 57a

1. If a clearing member fails to take the measures referred to in § 57 subpara. 1 within the required time limit, this shall be deemed to imply that:

1/ it or its client waives additional buyer protection,

2/ KDPW_CCP is not obliged to perform entitlements in respect of a property benefit lost in connection with the optional corporate action.

2. The right referred to in § 57 subpara. 1 shall not be available if the value of the benefit which a participant affected by default or its client would obtain in connection with an optional corporate action is to be or has been included:

a/ in the calculation of the amount of compensation in accordance with the CSDR or the amount of entitlements arising from the affected transaction,

b/ by the settlement institution which is to transfer the obtained property benefit or compensation for its amount to the participant affected by default or its client and if the client has a settlement agent, then also to such agent.

3. The right referred to in § 57 subpara. 1 shall not be available to:

1/ the defaulting participant who is responsible for the suspension of the settlement of the transaction,
2/ upon the identification, prior to the submission of the declaration referred to in § 57 subpara. 1, of an event of default of any participant who is a counterparty to the clearing of the transaction.

4. KDPW_CCP shall immediately notify the clearing member who is a counterparty to clearing and who sells securities of additional buyer protection extended to the cleared transaction.

§ 57b

1. If a participant affected by default or its client is unable, as a result of suspension of the settlement of a transaction, to exercise property rights attached to securities in the affected transaction in connection with an optional corporate action and the participant takes when due the measures referred to in § 57 subpara. 1, KDPW_CCP shall:

1/ calculate the amount of the entitlement referred to in § 55c subpara. 6 according to subpara. 2,

2/ notify the defaulting participant of the amount of such entitlement, and then

3/ debit the defaulting participant with the entitlement and pay it to the participant affected by default.

2. The entitlement referred to in § 55c subpara. 6 shall be equal to:

a/ if the exercise of the right attached to securities in the affected transaction whose settlement is suspended results in the exchange of such securities or their sale in exchange for a property entitlement according to the terms of the optional corporate action – the difference between the amount of such entitlement which a participant affected by default or its client would obtain if it exercised the right attached to the securities in the affected transaction and the amount of the entitlement arising from the affected transaction,

b/ if the exercise of the right attached to securities in the affected transaction whose settlement is suspended results in the receipt of a property entitlement without concurrent exchange or sale of such securities according to the terms of the optional corporate action – the amount of such entitlement which a participant affected by default or its client would obtain if it exercised the right attached to the securities in the affected transaction whose settlement is suspended, and the amount of such entitlement shall be calculated according to the Detailed Rules of Transaction Clearing (organised trading).

3. The entitlement referred to in § 55c subpara. 6 shall be paid, respectively: 1/ on the day when the securities purchased in the open market buy-in are delivered to the participant affected by default or no later than two business days after the buy-in is closed if such securities are bought in full,

2/ no later than two business days after the settlement of the suspended transaction if all securities in the transaction are delivered by the defaulting participant before the open market buy-in starts,

3/ on the day when compensation is paid to the participant affected by default or no later than two business days after the buy-in is closed if securities in the affected transaction are not bought in full.

4. The entitlement referred to in § 55c subpara. 6 shall be paid in the currency of the transaction whose settlement is suspended.”;

60/ phrase: „PART 8 AUCTIONS IN THE EVENT OF TERMINATION OF A PARTICIPATION AGREEMENT BY KDPW_CCP EFFECTIVE IMMEDIATELY” shall be added after § 57b;

61/ §§ 58, 58a and 58b shall be replaced by the following:

„§ 58

1. KDPW_CCP may perform an auction in order to close out the positions of a defaulting participant arising from transactions concluded in trading in securities which are recorded in the clearing system.
2. An auction on the terms defined in this Part shall be performed in the event that KDPW_CCP terminates the participation agreement with the defaulting participant effective immediately.
3. KDPW_CCP shall perform operations referred to in subpara. 1 with due diligence justified by market conditions prevailing on the date of such operations.

§ 58a

1. KDPW_CCP shall perform auctions to the extent of positions identified by KDPW_CCP which are recorded in clearing accounts managed for the defaulting participant and KDPW_CCP shall for this purpose provide the other clearing members with instructions containing a proposal to open positions in order to close out the positions of the defaulting participant. KDPW_CCP may limit the number of clearing members whom it provides with proposals to open positions on the terms defined in the Detailed Rules of Transaction Clearing (organised trading).
2. Each clearing member who receives a proposal to open positions may provide KDPW_CCP with an offer of a transaction which is binding until the completion of the auction. By presenting such offer of a transaction, the clearing member accepts that the transaction will be presented for clearing in the clearing system and accepts the effect referred to in subpara. 3.
3. If KDPW_CCP accepts the terms of a received offer of a transaction, KDPW_CCP shall:
 - 1/ provide the clearing member with a confirmation of the conclusion of such transaction (the transaction is concluded upon delivery of the confirmation to the clearing member), and subsequently
 - 2/ record the transaction in the clearing system,
 - 3/ send settlement instructions to the settlement institution in order to settle the transaction in such securities.

§ 58b

f) The Detailed Rules of Transaction Clearing (organised trading) lay down the specific terms and conditions of submitting proposals to open positions and offers of transactions.”;

62/ §§ 58c and 58d shall be added after § 58b as follows:

„§ 58c

KDPW_CCP may terminate any actions taken during an auction without stating its reasons.

§ 58d

g) 1. The defaulting participant shall reimburse any costs of an auction paid to third parties (including transaction and banking fees and commissions) in connection with actions taken according to the rules

and the Detailed Rules of Transaction Clearing (organised trading).

2. KDPW_CCP shall, after completing an auction and closing the processing of an event of default, document, at the written request of the defaulting participant, all costs paid as referred to in subpara. 1.

3. The cost of an auction shall be paid from margins posted by the defaulting participant and if such resources are insufficient, from the resources of the clearing guarantee fund or the relevant guarantee fund and from own resources of KDPW_CCP, in the amount and in the order determined according to the provisions of Part 9 of the rules.”;

63/ phrase: „PART 9 ACTIONS USING THE RESOURCES OF THE TRANSACTION CLEARING LIQUIDITY GUARANTEE SYSTEM UPON IDENTIFICATION OF AN EVENT OF DEFAULT” shall be added after § 58d and §§ 58e and 58f shall be added as follows:

„§ 58e

1. KDPW_CCP shall cover losses in the case of default in respect of obligations arising from transactions cleared by KDPW_CCP, which it is obliged to perform with its own assets, prior to using resources contributed to the clearing guarantee fund or the relevant guarantee fund, respectively, excluding the contribution of the participant on whose part the event of default has occurred, with resources constituting own capital of KDPW_CCP, dedicated to that purpose according to subpara. 2, in the amount calculated according to subpara. 3 (dedicated resources).

2. KDPW_CCP shall dedicate for the purpose referred to in subpara. 1 own funds in an amount representing at least 25% of the KDPW_CCP capital requirement, subject to subpara. 3.

3. The amount of the funds referred to in subpara. 2 shall be calculated taking into account the allocation of such funds in relation to the value of the clearing guarantee fund, the relevant guarantee fund or other guarantee fund organised under the rules referred to in § 1 subpara. 5.

4. If assets constituting dedicated resources are used according to the provisions of the rules, KDPW_CCP shall immediately take actions necessary to replenish the dedicated resources up to the amount referred to in subpara. 2 within one month of the day when such resources are used.

5. KDPW_CCP shall inform participants holding the status of clearing member of:

1/ the amount of assets constituting dedicated resources – immediately after calculating it, but at least once per year,

2/ the allocation of assets constituting dedicated resources referred to in subpara. 3 – immediately after updating contributions to the funds referred to in subpara. 3,

3/ any change of the amount of assets constituting dedicated resources due to their use according to the rules and of replenishing such resources up to the amount referred to in subpara. 2,

4/ the amount of all own funds of KDPW_CCP and the amount of the KDPW_CCP capital requirement – immediately after receiving a written request of a participant holding the status of clearing member.

6. Subject to subpara. 4 and subpara. 5 point 3, any change of the amount of assets constituting dedicated resources due to their recalculation shall require giving prior notification to participants holding the status of clearing member.

7. KDPW_CCP shall inform participants holding the status of clearing member of the detailed rules of

calculating the KDPW_CCP capital requirement and the dedicated resources.

§ 58f

1. If assets deposited as margins or contributions to the clearing guarantee fund or the relevant guarantee fund in a currency other than the currency required for the settlement of transactions need to be used in accordance with the rules, KDPW_CCP may convert such currency at the market rate on the day of the conversion.
2. If any assets which have been converted remain to be returned after the actions according to the rules, KDPW_CCP may return such assets in the converted currency which was required for the settlement of transactions.
3. In the event of sale of securities which form financial collateral referred to in this Section by KDPW_CCP in accordance with the purpose of such collateral, redemption or cancellation of such securities by the issuer, the provisions of subpara. 1 and 2 shall apply accordingly to assets received as a result of such sale, redemption or cancellation, respectively.”;

64/ § 59 shall be replaced by the following:

„§ 59

1. In instances where the settlement of a transaction executed as part of securities trading, performed in the relevant settlement institution on the basis of an instruction from KDPW_CCP, has been suspended owing to a shortage of cash on the participant's bank account, or the bank account of a payment agent indicated by the participant, managed in the relevant clearing bank or in TARGET2, KDPW_CCP shall send to a settlement institution the settlement instructions relating to other transactions whose settlement is performed after the suspension in such a manner that the debits of that participant which have not been met may be realised using the cash credits arising from these transactions. In such instances, the credits shall be netted with the as yet unrealised debits of the participant.
2. In instances where the credits of the participant, described in subpara. 1, shall prove insufficient to eliminate the suspension of transaction settlement caused by that participant, KDPW_CCP shall, immediately after the receipt of information on suspension of transaction settlement from the settlement institution, cancel the settlement instruction on the behalf of that participant, sent to the relevant settlement institution. At the moment of the cancellation of the instruction to settle the transaction on behalf of the participant, described in subpara. 1, it may not require KDPW_CCP to perform a payment arising from the content of such instruction. Then KDPW_CCP shall initiate measures intended to sell the securities that form the transaction and perform settlement of the affected transaction on behalf of the participant affected by default. Such measures shall be taken:
 - 1/ according to § 56d, applicable accordingly, provided that KDPW_CCP shall send an order to sell securities to the agent or a proposal of selling securities to clearing members, or
 - 2/ by submitting an order to sell securities on the regulated market or in the alternative trading system if so allowed by the agreement between KDPW_CCP and the operator of the regulated market or the alternative trading system.
3. In instances, described in subpara. 2, the costs of executing a securities sale transaction shall be covered using the margins posted by the participant, described in subpara. 1, and if these should prove

insufficient, also from the assets of the respective clearing guarantee fund, or the relevant guarantee fund, in the order and in the amount laid down in subpara. 4 and § 58e subpara. 1.

4. Subject to subpara. 5, any potential differences in the price of securities between the sale transaction executed according to the provisions of subpara. 2, and the transaction for which settlement was suspended, if the price difference reflects a profit, shall be transferred to KDPW_CCP and used to perform other obligations on behalf of participants affected by default, however, if the price difference incurs a loss, then the difference shall be covered from margins posted by the defaulting participant and then in sequence from:

- 1/ the contribution of that participant to the clearing guarantee fund or the relevant guarantee fund,
- 2/ the dedicated resources of KDPW_CCP in the amount calculated according to § 58e subpara. 2 and 3, and after the resources have been used,
- 3/ other resources of the clearing guarantee fund or the relevant guarantee fund.

5. Where the costs of the execution of the securities sales transaction were covered using the assets of the clearing guarantee fund, or the relevant guarantee fund, any potential profit from the price difference between the securities, described in subpara. 4, shall be added to the assets of the fund.

6. In the case of the necessity to use margins posted by the defaulting participant according to the principles described in subpara. 3 or 4, these margins shall be used in the following order, where KDPW_CCP reserves the option of using the assets in another order, in particular in the case of transactions recorded in client position accounts:

- 1/ initial deposit,
- 2/ initial margin.

7. The shortage of cash on the bank account of a payment agent shall also apply in circumstances where the cash liabilities of the participant cannot be fully realised using cash on that account as a result of these liabilities exceeding the relevant debit limits determined by the payment agent, or as a result of other actions taken by the clearing bank or the central bank which operates a payment system in TARGET2, the payment agent or the competent authority resulting in the inability to use these cash assets to realise the cash obligations of the participant in full.”;

65/ § 60 subpara. 2 shall be replaced by the following:

„2. If the margins posted by the participant, described in § 59 subpara. 1, shall prove insufficient, the cash liabilities of that participant shall be met in sequence from:

- 1/ the contribution of that participant to the clearing guarantee fund or the relevant guarantee fund,
- 2/ the dedicated resources of KDPW_CCP in the amount calculated according to § 58e subpara. 2 and 3, and after the resources have been used,
- 3/ other resources of the clearing guarantee fund or the relevant guarantee fund.

3. KDPW_CCP shall have no obligations in connection with a transaction whose settlement has been suspended to the extent that the cash obligations of the participant referred to in § 59 subpara. 1 arising from such transaction have been met with the resources of the clearing guarantee fund or the relevant guarantee fund.”;

66/ § 60a subpara. 3 shall be replaced by the following:

„3. If the margins posted by the defaulting participant, described in subpara. 1, prove insufficient, the cash debits of that participant shall be met in sequence from:

- 1/ the contribution of that participant to the clearing guarantee fund or the relevant guarantee fund^[SEP]
- 2/ the dedicated resources in the amount calculated according to § 58e subpara. 2 and 3, and after the resources have been used,
- 3/ other resources of the clearing guarantee fund or the relevant guarantee fund.”;

67/ § 61 shall be replaced by the following:

„§ 61

1. In instances where the actions of KDPW_CCP prove insufficient to ensure that the cash liabilities of the defaulting participant arising from transaction clearing may be met in full, or where the actions initiated by KDPW_CCP in accordance with the rules do not result in the sale of all the securities that form the transaction whose settlement has been suspended, or if such actions cannot be initiated for reasons beyond the control of KDPW_CCP, then the Management Board of KDPW_CCP guided by the safety and liquidity of clearing shall determine, by means of a resolution, respectively, not to perform, or to cease the further performance of these actions, or not to meet the cash liabilities of the participant in the manner described in the provisions of § 60 subpara. 1 and 2, and to meet on behalf of the participant affected by default the replacement payment on terms and in an amount corresponding to compensation calculated for such transaction.

1a. A replacement payment referred to in subpara. 1 shall be paid no later than two days after KDPW_CCP completes actions aiming to close out all positions of the defaulting participant.

1b. A replacement payment shall be paid in the currency of transaction settlement.

2. If the resolution, described in subpara. 1, forms the basis to cease the further performance of the actions, described in the first sentence of § 59 subpara. 2, the amount of the replacement payment shall be determined in relation to the number of securities, which following these actions, it did not prove possible to sell.

3. In order to execute the cash payment, described in subpara. 1, KDPW_CCP shall use margins, contributions to the clearing guarantee fund or the relevant guarantee fund and own funds of KDPW_CCP, in the order and in the amount referred to in § 59 subpara. 4 and 6 and § 58b subpara. 1.

4. Meeting the replacement payment shall release KDPW_CCP from all obligations towards participants that are parties to the clearing of transactions, whose settlement has been suspended on account of the defaulting participant, described in § 59 subpara. 1, where these obligations arise from the execution of the transaction, or its acceptance for clearing.”;

68/ § 61a shall be added after § 61 as follows:

„§ 61a

If there is, despite a performed auction referred to in Part 8 of the rules, an open repo transaction of the defaulting participant, KDPW_CCP may shorten the settlement date of the opening leg or the closing leg, respectively, in such a way that mutual credits and debits arising from such repo transaction are netted. In that case, § 55f subpara. 1 shall apply accordingly.”;

69/ § 62 shall be replaced by the following:

„§ 62

1. If a clearing member fails to perform its cash debits arising from marking to market in respect of compensation or cash payment referred to in § 55c subpara. 4-7, respectively, due to lack of coverage in the relevant bank account maintained by the clearing bank, sufficient for the settlement instruction to be executed in the clearing bank when due, KDPW_CCP shall identify an event of default and take actions necessary to meet the cash payment to the participant affected by default using margins posted by the defaulting participant. The provisions of § 59 subpara. 2 second sentence and subpara. 6 shall apply accordingly. In that case, KDPW_CCP may take measures referred to in § 69 subpara. 1-3.
2. If the margins posted by the defaulting participant referred to in subpara. 1 prove insufficient, the cash debits of that participant shall be met in the following sequence:
 - 1/ from the contribution of that participant to the clearing guarantee fund or the relevant guarantee fund^[1]_[SEP]
 - 2/ from the dedicated resources in the amount calculated according to § 58e subpara. 2 and 3, and after the resources have been used,
 - 3/ from other resources of the clearing guarantee fund or the relevant guarantee fund^[1]_[SEP]
3. KDPW_CCP shall have no obligations to the extent that the cash debits of the defaulting participant have been met with margins and the resources of the clearing guarantee fund or the relevant guarantee fund.”;

70/ § 63 shall be repealed;

71/ § 64 shall be replaced by the following:

„§ 64

1. In the event that a defaulting participant whose event of default is identified by KDPW_CCP is responsible for the suspension of transaction settlement caused by a shortage of securities, KDPW_CCP shall take actions referred to in Part 6 “Open market buy-in operations” provided that:
 - 1/ such actions shall be performed as an auction in the event of termination of the participation agreement with the defaulting participant by KDPW_CCP effective immediately and the provisions of the rules governing such auctions shall apply,
 - 2/ KDPW_CCP shall not be bound by the time limits set in Part 6 “Open market buy-in operations”,
 - 3/ the participant affected by default may not request the deferral of the open market buy-in until an appropriate later date determined,
 - 4/ payments made in such actions shall be in the currency of the transaction settlement and shall release KDPW_CCP from all obligations to participants who are counterparties to the clearing of the transaction whose settlement is suspended by the defaulting participant.To settle such transaction, KDPW_CCP may submit an order to sell securities on the regulated market or in the alternative trading system if so allowed by the agreement between KDPW_CCP and the operator of the regulated market or the alternative trading system.
2. If the cash credit position of the defaulting participant is insufficient to complete actions referred to in Part 6 “Open market buy-in operations”, including the payment of compensation or the reimbursement of a difference in price, the purchase of these securities shall be financed from margins

posted by that participant and if these provide insufficient, also from resources of the clearing guarantee fund or the relevant guarantee fund, respectively, in the sequence and amount referred to in § 59 subpara. 4 and § 58e subpara. 1. The provisions of § 59 subpara. 6 shall apply accordingly.

3. KDPW_CCP shall have no obligations in connection with a transaction whose settlement has been suspended to the extent that the obligations of the defaulting participant arising from such transaction have been met with the resources of the clearing guarantee fund or the relevant guarantee fund, respectively.;"

72/ § 65 shall be repealed;

73/ §§ 67, 68 and 69 shall be replaced by the following:

„§ 67

1. In instances where the actions, described in the provisions of this Section, cannot be fully performed using the assets described therein, then KDPW_CCP shall assume the obligation for the performance of these actions using its own proprietary assets, to the extent that the actions have not been completely performed despite the use of these assets, subject to § 66.

2. The creditors of KDPW_CCP as regards the obligations, described in subpara. 1 and in § 58b subpara. 1, are exclusively participants holding the status of clearing member.

3. The obligations of KDPW_CCP, described in subpara. 1 and § 58b subpara. 1, shall not apply to any indirect payments, in particular payment of interest for delay in meeting a cash payment, or restitution following the suspension of transaction settlement.

§ 68

1. In instances of the performance of the actions according the provisions of this Section:

1/ KDPW_CCP shall have the right to demand a refund of own resources used to perform such actions from the defaulting participant,

2/ the ownership of the securities purchased for the resources of the transaction clearing liquidity guarantee system shall be acquired by KDPW_CCP in order to meet obligations to the participant affected by default,

3/ KDPW_CCP shall have the right to receive the cash payment from the transaction for which the defaulting participant is the other counterparty to clearing and shall not be required to settle with the defaulting member to such extent,

4/ KDPW_CCP shall not be obliged to settle with the defaulting member or the member affected by default, any profits arising from potential differences between the prices of securities purchased using the resources of the transaction clearing liquidity guarantee system between the transaction whose settlement has been suspended and the their purchase by KDPW_CCP, other than where required under these rules,

5/ KDPW_CCP shall have the right to demand a refund from the defaulting participant to the extent of the cost of closing out positions which is not covered by such participant, including differences in prices, paid according to the provisions of the rules,

6/ KDPW_CCP shall not be required to cover any loss arising from the use of the resources of the transaction clearing liquidity guarantee system in order to perform actions in accordance with the

provisions of this Part.

2. If any surplus of funds remains after meeting all obligations to participants affected by default and obligations arising from actions performed in accordance with the provisions of this Part, such surplus shall be credited to KDPW_CCP provided that:

1/ such surplus shall be credited to KDPW_CCP to the extent that KDPW_CCP used its own resources, resources of the clearing guarantee fund or resources of the relevant guarantee fund,

2/ to the extent that such surplus derives from the use of resources of the clearing guarantee fund or resources of the relevant guarantee fund, it shall be credited to the reserve resources of such fund.

§ 69

1. In instances where the participant, who in relation to holding the status of clearing member is obliged to supplement or post initial deposit, initial margin, contributions to the clearing guarantee fund, or the relevant guarantee fund, or payment following marking to market, does not perform this obligation, or does not perform it properly, KDPW_CCP shall initiate the process of closing positions registered in the clearing system that are the result of the acceptance into the system of transactions executed on the account of this participant, using the initial deposit and initial margin, corresponding to these positions, for this purpose. Other positions for which the participant holds the status of clearing member, will also be closed using these assets, if these positions were not secured using initial margin.

2. If the assets, described in subpara. 1, shall prove insufficient, contributions to the clearing guarantee fund or the relevant guarantee fund and own funds of KDPW_CCP, in the order and in the amount referred to in § 59 subpara. 4 and 6 and § 58b subpara. 1, shall be used to close these positions. In instances where these assets are still insufficient, the provisions of § 67 subpara. 1-3 shall apply to close these positions.

3. The defaulting participant shall reimburse the cost of closing out positions paid to third parties (including transaction fees and commissions). The cost of closing out positions shall be paid according to subpara. 2. After completing the processing of an event of default, KDPW_CCP shall document, at the written request of the defaulting participant, all costs paid.

4. In the event of an order by the Polish Financial Supervision Authority, described in Article 89 subpara. 4 of the Law on trading in financial instruments, KDPW_CCP shall transfer client positions secured using initial margins onto the accounts of a participant holding the status of clearing member, indicated in that order, and shall retain these margins as initial margins posted by that participant.”;

74/ phrase: „PART 10 SECURING POSITIONS ARISING FROM TRANSACTIONS CONCLUDED BY A NON-CLEARING MEMBER AND MEASURES SECURING SUCH POSITIONS (PORTING)” shall be added after § 69;

75/ § 69a shall be replaced by the following:

„§ 69a

1. In the event that, following the performance of the actions referred to in Part 9 “Actions using the resources of the transaction clearing liquidity guarantee system upon identification of an event of default”, assets posted as initial margin remain in a collateral account opened for a defaulting

participant in order to secure positions arising from transactions executed by a participant acting with the participation type of non-clearing member, registered in the clearing system in a way enabling clear identification by KDPW_CCP as transactions executed by the non-clearing member, KDPW_CCP shall transfer such assets to the entity acting with the participation type of non-clearing member and, should this prove impossible or excessively onerous, to the participant holding the status of clearing member on whose part the event of default has occurred.

2. In the event referred to in subpara. 1, the defaulting participant shall not be entitled to raise claims against KDPW_CCP for return of assets referred to in subpara. 1.”;

76/ in § 69b:

a/ subpara. 1 shall be replaced by the following:

„1. Subject to subpara. 2, 3 and 13, in the event of default on the part of a defaulting participant in whose accounts positions are registered which arise from transactions executed by an entity acting with the participation type of non-clearing member, whose settlement has not been suspended, and which have been registered in the clearing system in a way enabling clear identification by KDPW_CCP as transactions executed by such entity, and assets posted as initial margin to secure such positions, such entity may request that such positions be transferred together with such collateral to the designated clearing account and the linked collateral account opened by the participant that has committed to perform obligations arising from the clearing of such transactions.”;

b/ subpara. 11 and 12 shall be replaced by the following:

„11. The instructions referred to in subpara. 2 shall be submitted in the form and content defined in the Detailed Rules of Transaction Clearing (organised trading).

12. If KDPW_CCP identifies an event of default on the part of a participant in whose accounts positions are registered which arise from transactions executed by an entity acting with the participation type of non-clearing member or executed on its account, registered in the clearing system in a way enabling clear identification by KDPW_CCP as transactions executed by the entity or executed on its account, as well as assets which secure such positions, posted as initial margin, KDPW_CCP shall immediately publish on its website the time limit for the submission of an instruction for the transfer of the rights and assets, referred to in subpara. 2, and inform the entity holding the status of non-clearing member thereof via SWI, GUI or by electronic mail over the Internet.”;

77/ § 69c subpara. 2 shall be replaced by the following:

„2. If a defaulting participant represents an entity being a participant with a participation type other than that of non-clearing member, the provisions of subpara. 1 and § 69b shall apply accordingly.”;

78/ §§ 70, 71, 72 i 72a shall be repealed;

79/ § 72b subpara. 2 and 3 shall be replaced by the following::

„2. Assets deposited in the negotiated lending clearing liquidity guarantee system, referred to in subpara. 1, may be used to the extent referred to in subpara. 1, upon the identification of an event of default of a participant holding the status of clearing member who is a party to a loan agreement concluded in the negotiated lending system, according to the provisions of Section VI Part 4 “Transaction clearing liquidity guarantee system”, which shall apply accordingly, subject to § 72f, § 72g and provided that wherever margins are referred to therein, this shall be understood to mean the margins referred to in § 72c, subpara. 2.

3. The fact that negotiated loans are guaranteed in the negotiated lending clearing liquidity system referred to in subpara. 1 shall mean that:

1/ KDPW_CCP shall take, in the negotiated lending clearing liquidity guarantee system, referred to in subpara. 1, actions referred to in the provisions of § 58e - § 69c, in the events set out in those provisions, using for this purpose assets deposited as margins, referred to in § 72c, subpara. 2, contributions to the relevant guarantee fund, and own resources, in the sequence and in the amount determined in accordance with point 2, item (b) and § 58b, subparas. 2 and 3, § 59, subpara 4, § 60, subpara. 2, § 61, subpara. 3, § 62, subpara. 2, § 64, subpara. 2, subject to § 54a, subpara. 9, § 72f and § 72g,

2/ subject to § 54a, subpara. 9, KDPW_CCP is obliged to:

a/ cover any loss in the event of default under obligations arising from cleared loan agreements to the extent that they are guaranteed in the negotiated lending clearing liquidity guarantee system, referred to in subpara. 1, before using assets deposited with the relevant guarantee fund, with the exception of a contribution paid in by the defaulting participant, with assets which constitute the own capital of KDPW_CCP, designated for such purpose according to § 58b, subpara. 2, in the amount determined according to § 58b, subpara. 3. The provisions of § 58b shall apply accordingly, and

b/ take, at the expense of other own resources, actions referred to in the provisions of § 59, subpara. 4, § 60, subpara. 2, § 61, subparas. 1 and 3, § 62, subpara. 2, § 64, subpara 6, § 67, subpara. 1, in the event that such actions, taken according to those provisions, do not result in meeting an obligation arising from the clearing of a negotiated loan, to the extent guaranteed in the negotiated lending clearing liquidity guarantee system, referred to in subpara. 1, subject to § 66, which shall apply accordingly.”;

80/ §§ 72e, 72f, 72g shall be replaced by the following:

„§ 72e

The resources of the relevant guarantee fund, referred to in Appendix 3 to the rules, shall be used upon the identification of an event of default and in the events referred to in Chapter IV “Transaction Clearing Liquidity Guarantee System”.

§ 72f

1. To the extent that the cash credits of a defaulting participant for which KDPW_CCP identifies an event of default are insufficient to purchase securities necessary to eliminate the suspension of settlement related to the return of an on-demand loan concluded in the negotiated lending system, the purchase of these securities shall be financed in the first place from contractual collateral provided

to KDPW_CCP according to § 54a subpara. 9, and if it is insufficient, then in the sequence and the amount determined according to subpara. 3 and § 59 subpara. 4, § 64 subpara. 2, § 72b subpara. 3 point 2.

2. In the event of a replacement payment, KDPW_CCP shall use the assets referred to in subpara. 1, in the sequence and the amount determined according to subparas. 1 and 3 and § 59 subpara. 4, § 61, subpara. 1, § 65 subpara. 2, § 72b subpara. 3 point 2.

3. If the margins referred to in § 72c subpara. 2 need to be used, such margins shall be used before the assets which constitute the own resources of KDPW_CCP and the assets of the relevant guarantee fund, in the following sequence:

- 1/ initial deposit for loans, and
- 2/ initial margin for loans.

§ 72g

1. The provisions of these rules concerning liquidation of the suspension of settlement of repo transactions and the calculation and payment of compensation in the event of suspension of the settlement of repo transactions by the settlement institution shall apply accordingly to on-demand loans, provided that the calculation of compensation shall take into account the amount of the contractual collateral, provided according to § 54a, subpara. 9. Such compensation shall also be the replacement payment and meeting such payment shall relieve KDPW_CCP from all obligations arising from the provision of the contractual collateral.

2. In instances of identification of an event of default of a defaulting participant, in settlement suspension of such participant's return of an on-demand loan concluded in the negotiated lending system, in order to make the replacement payment, KDPW_CCP shall use the contractual collateral provided to KDPW_CCP according to § 54a, subpara. 9, and the margins posted by the participant, described in § 72c, subpara. 2, the assets of the relevant guarantee fund, and own resources, in the sequence referred to in § 72f.”;

81/ § 77a subpara. 1 point 4:

a/ (a) shall be replaced by the following:

„a/ KDPW_CCP has not made a payment in accordance with the rules in respect of:

- making a clearing payment determined as a result of the clearing of a transaction in the clearing system, or
- making a replacement payment in order to perform an obligation arising from a transaction cleared in the clearing system

within 45 calendar days from the day after the day on which KDPW_CCP becomes obliged to make the payment to the clearing member affected by default, provided that the obligation to execute such payment has not expired and has not been terminated with the consent of the clearing member that is the creditor, the time limit of such obligation has not changed with the consent of such clearing member, it has not been cancelled and has not expired due to statute of limitation,”;

b/ (d) and e shall be replaced by the following:

„d/ an entity which is a creditor of KDPW_CCP has filed a motion for declaration of bankruptcy of KDPW_CCP and at least one of the following conditions is met at the same time: the motion has not been withdrawn, dismissed, returned or rejected within 60 calendar days after its submission for reasons other than those listed in Article 13 of the Bankruptcy Law – Act of 28 February 2003 (consolidated text: Journal of Laws of 2020, item 1228, as amended),

e/ KDPW_CCP is in liquidation and, at the same time, where the dissolution of KDPW_CCP does not take place on the basis of a legally valid court decision, a resolution of the General Meeting of KDPW_CCP preventing the dissolution, referred to in Article 460 § 1 of the Code of Commercial Companies of 15 September 2000 (consolidated text: Journal of Laws from 2020, item 1526, as amended), is not adopted within 30 calendar days after liquidation is initiated,”;

82/ § 77c:

a/ in subpara. 2 phrase: „referred to in § 1 subpara. 1,” shall be repealed;

b/ subpara. 3 and 4 shall be replaced by the following:

„3. KDPW_CCP’s notice of termination of the participation agreement effective immediately may be delivered to the participant electronically via SWI and, if delivery of the notice in this way is not possible, by electronic mail over the Internet. If it is not possible to deliver the notice in the manner referred to in the preceding sentence, the notice may be delivered to the participant in any manner.

4. In the case of cancellation of participation, KDPW_CCP shall take the actions referred to in this Chapter and in Chapter III “Transaction Clearing” Section IV “Transaction Clearing Liquidity Guarantee System”, including actions aimed to meet liabilities to a participant with the participant type of non-clearing member referred to in § 69a - § 69c.”;

b/ subpara. 7 phrase: „referred to in § 1 subpara. 1” shall be repealed;

83/ § 77d subpara. 1 point 2 phrase: „referred to in § 1 subpara. 1,” shall be repealed;

84/ § 77e subpara. 5 phrase: § 72” shall be replaced by: „§ 46g”;

85/ § 78 subpara. 2 shall be replaced by the following:

„2. If a participant holding the status of clearing member contravenes the principles of participation by failing to carry out or by improperly carrying out its obligations under the participation agreement, other than obligations to pay fees defined in the Table of Fees, the Management Board of KDPW_CCP shall, on the terms laid down in the provisions of this Chapter, fine such participant:

1/ PLN 50,000 if the participant:

a/ fails to provide the information referred to in § 22 subpara. 3 in due time, or

b/ fails to provide the additional information referred to in § 31 in due time, or

c/ fails to provide the information referred to in § 27 in due time, or

d/ is in breach of the principles referred to in § 9 subpara. 2 in a way which poses or posed a risk that obligations arising from the clearing of transactions to which it is a clearing counterparty will not be met in due time, or
e/ fails to adjust a contribution (including an additional contribution) to the clearing guarantee fund or the relevant guarantee fund,
or
2/ PLN 10,000 in the case of a breach which poses or posed a risk to the safety of trading or the proper operation of the clearing system unless:
a/ it is a breach referred to in point 1 items (a)-(f), and
b/ a special fee is levied for such breach,
unless the participant's participation in the clearing system has been cancelled for such reason or its participation in the system has been suspended.”;

86/ § 78a phrase: „referred to in § 1 subpara. 1” shall be repealed;

87/ § 83 subpara. 1 shall be replaced by the following:

„1. KDPW_CCP may refrain from carrying out the participation agreement (suspension of participation) if:

- 1/ the participant threatens the safety of trading or the proper operation of the clearing system,
- 2/ the participant is in arrears with the payment of any fees due according to the Table of Fees for at least two full payment periods, where such periods need not be consecutive, and no complaint handling procedure has been opened on the matter or, if opened, it has been closed and the decision made in the procedure is final, or
- 3/ despite the levying of the fee referred to in § 78 subpara. 2 point 1, the participant has not remedied the condition of breach or taken an action or inaction defined by the Management Board of KDPW_CCP in order to prevent any further breach or has taken it inadequately,
- 4/ the clearing member consistently and systematically fails to deliver securities to the securities settlement system operated by the settlement institution, as referred to in Article 7(9) CSDR, being responsible for the suspension of settlement of transactions due to a shortage of securities, or
- 5/ another breach occurs and KDPW_CCP has not terminated the participation agreement effective immediately.”;

88/ in § 83a and § 84 phrase: „referred to in § 1 subpara. 1,” shall be repealed;

89/ the title of Title VIII appearing after § 84d shall be replaced by the following: „INTERIM AND FINAL PROVISIONS”;

90/ § 88 shall be replaced by the following:

„§ 88

Clearing members shall harmonise the following with amended provisions of the rules or resolutions adopted under the rules:

- 1/ internal procedures applicable in connection with their activity in the clearing system,

2/ agreements concluded with clients whereby they agree to represent such clients in the clearing system,
 3/ agreements concluded with entities performing for them the function of payment agent, settlement agent or collateral agent, respectively,
 within two weeks after KDPW_CCP's publication of amended provisions of the rules or resolutions adopted under the rules on its website unless the provisions of the rules, resolutions adopted under the rules or resolutions implementing amended provisions require otherwise.”;

91/ § 90 shall be added after § 89 as follows:

„§ 90

The provisions of the rules concerning the obligation to pay cash penalties, referred to in Article 7(2) CSDR, charging such penalties from defaulting participants and distributing them to participants affected by default, shall apply as of the date of coming into force of the CSDR provisions governing such cash penalties.”;

92/ in Appendix 1 “Table of Fees”,

a/ in point 2.1. the section „**Fee types and amount**” shall be replaced by the following:

Fee types and amount	Rules for calculating and charging fees
<p>2.1. Fee for transaction clearing (excluding transactions referred to in point 2.2. and point 2.3.) – 0.0035 % of the value of the transaction, however, not less than 0.2 PLN and not more than 2.0 PLN for the clearing of one transaction however: 2.1.1. Fee charged for participants who on the basis of an agreement concluded with an entity managing a regulated market, or alternative trading system, sell and purchase specific securities on their own account in order to maintain liquidity or to organise trading in this market; or charged for participants representing an entity which performs these activities in transaction clearing performed by KDPW_CCP: for the clearing of one transaction executed as part of these activities – 0.00053% of the transaction value, however, not less than 0.03 PLN and not more than 0.38 PLN.</p>	

b/ in point 2.2. the section „**Fee types and amount**” shall be replaced by the following:

Fee types and amount	Rules for calculating and charging fees
<p>2.2. Fee for clearing of transactions, other than repo transactions, in Treasury bonds concluded in an alternative trading system – 0.0035 % of the value of the transaction, however:</p>	

2.2.1. Fee charged for participants who on the basis of an agreement concluded with an entity managing an alternative trading system sell and purchase Treasury bonds on their own account in order to maintain liquidity or to organise trading in this market; or charged for participants representing an entity which performs these activities in transaction clearing performed by KDPW_CCP: for the clearing of one transaction executed as part of these activities – 0.00053% of the transaction value unless the transaction is marked as eligible for a discount under an agreement between KDPW_CCP and the operator of the alternative trading system.

c/ point 2.3. shall be added after point 2.2 as follows:

Fee types and amount		Rules for calculating and charging fees
2.3. Fee for clearing of repo transactions		The fee is charged on the nominal amount of each opening leg of a repo transaction (fee base). The amount of the fee is equal to the percentage fee for the given maturity of the repo transaction multiplied by the fee base for such repo transaction.
Maturity	Percentage fee	
1-2D	0.0005%	
3-4D	0.0006%	
5-7D	0.0007%	
(1W;2W]	0.0010%	
(2W;1M]	0.0015%	
(1M;3M]	0.0020%	
(3M;6M]	0.0040%	
(6M;12M]	0.0080%	

d/ point 4b.2. shall be added after point 4b.1. as follows:

Fee types and amount	Rules for calculating and charging fees
	The fee referred to in point 4b.2 (a) and (b) is charged to the clearing member who causes

<p>4b.2. Fee for failed delivery of securities for the settlement in due time of:</p> <p>a/ a repurchase transaction in securities concluded by a clearing member with KDPW_CCP in an open market buy-in or auction operation – 10000 PLN</p> <p>b/ the opening leg of a repo transaction after the defaulting member submits a request opposing the shortening of the settlement date of the closing leg of a repo transaction – 5000 PLN</p>	<p>the suspension of settlement of a repurchase transaction due to a shortage of securities. The fee is charged separately for each transaction whose settlement is suspended.</p> <p>The fee referred to in point 4b.2 (b) is charged if a clearing member submits a request opposing the shortening of the settlement date of the closing leg of a repo transaction and then the opening leg of such repo transaction is not settled on or before the business day after the submission of such request.</p>
---	--

e/ point 5.1. shall be replaced by the following:

Fee types and amount	Rules for calculating and charging fees
<p>5.1. Fee for the processing of suspension of settlement due to a shortage of securities:</p> <p>a/ 1000 PLN – if the amount of failed settlement is no more than 5,000,000 PLN,</p> <p>b/ 2500 PLN – if the amount of failed settlement is more than 5,000,000 PLN</p>	<p>The fee referred to in point 5.1 is charged:</p> <p>a/ for each commenced business day when transaction settlement is suspended due to a shortage of securities, from the last day of the extension (exclusive) to the last day of an open market buy-in, including the deferred period (inclusive), and if an open market buy-in is unsuccessful or impossible and compensation is to be paid, then to the compensation payment day (inclusive),</p> <p>b/ depending on the amount of failed settlement according to a settlement order submitted by KDPW_CCP.</p>

f/ point 5.1a. shall be added after point 5.1. as follows:

Fee types and amount	Rules for calculating and charging fees
<p>5.1a. Fee for actions taken at the request of a participant affected by default to shorten the settlement date of the closing leg of a repo transaction – 2500 PLN</p>	<p>The fees referred to in points 5.1 and 5.1a are charged to the clearing member who has not removed the suspension of transaction settlement owing to a shortage of securities.</p>

The fee referred to in point 5.1a is charged separately for each repo transaction whose settlement is suspended if a participant affected by default requests KDPW_CCP to shorten the settlement date of the closing leg of such repo transaction.

g/ in point 5.4. section „Rules for calculating and charging fees: phrase: „Fee charged on a monthly basis” shall be deleted;

h/ the current point 5.6. shall be renumbered 5.7. and shall be replaced by the following:

Fee types and amount	Rules for calculating and charging fees
5.7. Fees for the provision of services to the payment agent referred to in § 15d subpara. 1 of the rules	Fees for services provided by KDPW_CCP according to § 15d subpara. 1 of the rules.
5.7.1. Fee for the setting, modification or cancellation of a limit on payments arising from the participation in the clearing system of a participant indicated by the payment agent – 100 PLN, however, not more than 1200 PLN for all services referred to in this point executed within a calendar month,	Fees charged from payment agents at each time: - a limit is set, modified or cancelled on payments arising from the participation in the clearing system of a participant indicated by the payment agent (however, the sum of such fees charged within a calendar month when such services are provided cannot exceed the maximum amount defined in point 5.7.1.),
5.7.2. Fee for the provision of the payment agent with information on the limit set on payments arising from the participation in the clearing system of a participant indicated by the payment agent and information on the degree of utilisation of the limit – 5 PLN	- information on the limit set on payments arising from the participation in the clearing system of a participant indicated by the payment agent and information on the degree of utilisation of the limit is provided to the payment agent.

i/ point 5.6. shall be replaced by the following:

Fee types and amount	Rules for calculating and charging fees
5.6. Fees for actions taken in respect of additional buyer protection – 1000 PLN	The fee is charged in the case of suspended settlement of a transaction for which a participant affected by default requests additional buyer protection, separately for each such transaction.

The fee is charged to the clearing member who causes the suspension of transaction settlement due to a shortage of securities.

93/ in Appendix 3 „ON-DEMAND LENDING GUARANTEE FUND RULES“:

a/ § 4 subpara. 5 shall be replaced by the following:

„5. The market value of securities shall be determined according to the provisions of § 72 of the Rules of Transaction Clearing (organised trading).“;

b/ § 20 subpara. 4 shall be replaced by the following:

„4. Cash paid into the Fund, as a result of actions taken according to the provisions of the Rules of Transaction Clearing (organised trading) shall be allocated to the reserve resource of the Fund; however, where such assets are in a currency other than the Polish currency, KDPW_CCP may convert them into the Polish currency at the market exchange rate at the date of the conversion prior to allocating such assets to such resource.“.

§ 2

This Resolution shall come into force on the first day of the calendar month falling no earlier than two weeks after the Management Board publishes the resolution approved by the Polish Financial Supervision Authority.

Chairman of the Supervisory Board

dr Marek Dietl