

Resolution No. 17/596/23**of the KDPW_CCP S.A. Supervisory Board****dated 14 June 2023**

Pursuant to Article 48(15) of the Act of 29 July 2005 on Trading in Financial Instruments (consolidated text: Journal of Laws of 2023, item 646, as amended) and § 15(2)(13) of the Statute of KDPW_CCP S.A., the KDPW_CCP S.A. Supervisory Board resolves as follows:

§ 1

The Rules of Transaction Clearing (non-organised trading) attached to Resolution No. 21/55/12 of the KDPW_CCP S.A. Supervisory Board dated 29 August 2012 (as amended) shall be amended as follows:

1/ in § 1:

a/ after point, 6 point 6a shall be added as follows:

“6b/ **business day**, this shall be understood to mean a day determined in accordance with the relevant legal provisions and the provisions of these rules,”;

b/ points 8-10 shall be replaced by the following:

“8/ **OTC guarantee fund**, this shall be understood to mean the fund which guarantees the proper clearing of transactions concluded outside organised trading referred to in Article 68 subpara. 7 of the Act,

9/ **clearing instruction**, this shall be understood to mean a settlement order within the meaning of the Law on the finality of settlement in payment systems and securities settlement systems and on the terms of supervision over such systems of 24 August 2001 (consolidated text: Journal of Laws of 2022, item 1581) which is, respectively:

a/ a document containing the terms of a transaction in a structure and format agreed with the entity operating an electronic platform, received from that platform, or

b/ an instruction confirming the acceptance of an offer to conclude a transaction for the opposite position, submitted by a clearing member in accordance with these rules and the Detailed Rules of the OTC Clearing System in the service of closing positions on demand referred to in § 90 subpara. 1, or

c/ a document issued by KDPW_CCP on the basis of appropriately matching instructions submitted by clearing members to KDPW_CCP containing the terms of a repo transaction within the meaning of these rules,

10/ **derivative instruments**, this shall be understood to mean financial instruments designated in the Detailed Rules of the OTC Clearing System, within the meaning of Article 2 subpara. 1 point 2 letters (c), (d), (g), (h) or (i) of the Act, other than securities, settled in cash in a given currency, which have not been admitted to trading on a regulated market or introduced to an alternative trading system by

an entity operating such market or trading system, respectively, in the territory of the Republic of Poland, which belong to a derivative instrument class which KDPW_CCP is authorised to clear,”;

c/ points 13-14 shall be replaced by the following:

“13/ **netting**, this shall be understood to mean the netting of mutual debits arising from cleared transactions and from participation in the OTC clearing system, performed according to the rules and the Detailed Rules of the OTC Clearing System,

14/ **clearing account**, this shall be understood to mean a registration device operated by KDPW_CCP in the OTC 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,”;

d/ after point 21, point 21a shall be added as follows:

“21a/ **auction operation**, this shall be understood to mean actions taken by KDPW_CCP in accordance with the rules in order to secure the cash payments arising from the clearing of affected transactions and to close out positions of a defaulting participant in connection with the termination of such participant’s participation agreement effective immediately,”;

e/ point 22 shall be replaced by the following:

“22/ **securities concerned by a transaction**, this shall be understood to mean securities within the meaning of Article 3 point 1 letter (a) of the Act, 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 activities within the scope of the tasks referred to in Article 48 subpara. 1 points 1-6 of the Act, other than indexed Treasury bonds, concerned by a repo transaction or a sale transaction,”;

f/ point 25 shall be replaced by the following:

“25/ **transfer order**, this shall be understood to mean a transfer order referred to in Article 63c of the Banking Law of 29 August 1997 (consolidated text: Journal of Laws from 2022, item 2324, as amended),”;

g/ point 28 shall be replaced by the following:

“28/ **position opening proposal**, this shall be understood to mean, respectively:

a/ a proposal made by a clearing member in the service of closing positions on demand, referred to in § 90 subpara. 1, to submit through the agency of KDPW_CCP offers containing terms of opening the opposite position for selected positions registered in the clearing account maintained for the clearing member, or

b/ a proposal made by KDPW_CCP in the auction operation, referred to in § 96 subpara. 1, to submit offers containing terms of opening a position corresponding to the position or positions of the defaulting participant which are being closed.

The proposal referred to, respectively, in letter (a) and letter (b) does not constitute an offer within the meaning of the provisions of the Civil Code of 23 April 1964 (consolidated text: Journal of Laws from 2022, item 1360, as amended),”;

h/ point 34a shall be replaced by the following:

“34a/ **GUI**, this shall be understood to mean an additional electronic communication system, mandatory for clearing members, to the extent set out in these rules and in the Detailed Rules of the OTC Clearing System, operating via the KDPW_CCP website under an agreement between a participant and KDPW_CCP whereby information and declarations defined in that system, referred to herein, in the Detailed Rules of the OTC Clearing System and other resolutions issued under the rules are delivered 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,”;

i/ points 39-40 shall be replaced by the following:

“39/ **SWI system**, this shall be understood to mean the core electronic communication system operating, mandatory for clearing members, under an agreement concluded with the Central Securities Depository of Poland, under which information and declarations referred to in these rules, the Detailed Rules of the OTC Clearing System and other resolutions issued under the rules are submitted in electronic form by KDPW_CCP to a participant or participants of the OTC clearing system or by a participant of the OTC clearing system to KDPW_CCP through the agency of the Central Securities Depository of Poland according to the agreement concluded with it,

40/ transaction clearing liquidity guarantee system, this shall be understood to mean the system referred to in Article 48 subpara. 10 point 2 of the Act,”;

j/ points 45-46 shall be replaced by the following:

“45/ **transaction for the opposite position**, this shall be understood to mean, respectively:

a/ a derivative transaction concluded by a clearing member in order to close the opposite position in the service of closing positions on demand referred to in § 90 subpara. 1, or

b/ a transaction concluded by KDPW_CCP in the auction operation referred to in § 96 subpara. 1,

46/ **affected transaction**, this shall be understood to mean a transaction (“transaction A”) created as a result of novation of a transaction accepted to the OTC clearing system which cannot be executed timely due to the non-performance or undue performance by the defaulting participant of an obligation arising from another transaction (“transaction B”), which was also created as a result of novation,”;

k/ points 53-54a shall be replaced by the following:

“53/ **Act**, this shall be understood to mean the Act on trading in financial instruments of 29 July 2005 (consolidated text: Journal of Laws from 2023, item 646, as amended),

54/ **applicant**, this shall be understood to mean an entity which seeks participant status in the OTC clearing system organised by KDPW_CCP with a specific participant status type or for change of such status under the participation agreement concluded with it,

54a/ **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 applicable law in a way ensuring protection of KDPW_CCP against the risk arising from the conducted activity and effective liquidation or restructuring of such activity,”;

1/ point 54b shall be replaced by the following:

“54b/ **dedicated resources I**, this shall be understood to mean a defined amount of resources constituting own capital of KDPW_CCP, dedicated to cover the potential loss arising in the event of clearing members’ default in respect of obligations arising from transactions accepted by KDPW_CCP for clearing which in the case of an identified event of default should be used prior to using the contributions to the relevant fund in the event of default of a clearing member other than the contribution to the fund of the defaulting member,”;

1/ point 54c shall become point 54d, and point 54c shall be replaced by the following:

“54c/ **dedicated resources II**, this shall be understood to mean a defined amount of resources constituting own capital of KDPW_CCP, dedicated to cover the potential loss arising in the event of clearing members’ default in respect of obligations arising from transactions accepted by KDPW_CCP for clearing or arising from a non-default event which in the case of an identified event of default should be used after using the contributions to the relevant fund in the event of default of a clearing member,”;

2/ § 4 and § 5 shall be replaced by the following:

“§ 4

1. KDPW_CCP shall make available to participants the rules, the Detailed Rules of the OTC Clearing System and resolutions adopted under the rules, as well as their amendments, by publishing their content on the KDPW_CCP website or delivering their content to the participants in writing or through the SWI system or the GUI system.
2. KDPW_CCP shall make available to participants model declarations referred to in the rules, the Detailed Rules of the OTC Clearing System 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).

§ 5

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

- 1/ SWI, or
- 2/ GUI

unless otherwise allowed under these rules or the Detailed Rules of the OTC Clearing System.

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 set out in these rules and in the Detailed Rules of the OTC Clearing System, unless otherwise provided for under these rules or the Detailed Rules of the OTC Clearing System.

2. KDPW_CCP represents that it accepts as effective declarations of will submitted and information sent by a participant in electronic form via SWI or via GUI.

3. Unless otherwise provided for under these rules or the Detailed Rules of the OTC Clearing System:
1/ declarations and information submitted by:

- a/ an applicant, KDPW_CCP or a participant in relation to seeking the conclusion, extension, limitation or termination of their participation or as part of updating documents previously submitted by the participant in order to conclude or amend a participation agreement,
 - b/ a clearing member, referred to in Title III “Participation”,
 - c/ a participant holding the status of non-clearing member or by KDPW_CCP in matters referred to in § 18 subpara. 2, subject to subpara 1a and § 110b subpara. 11 and 12,
 - d/ KDPW_CCP or a participant in matters concerning the complaint handling procedure referred to in Title IX “Complaint Handling Procedure” 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 by electronic mail over the internet. However, until the moment that 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 electronically. No action shall be performed when an electronic transfer has been distorted 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 the OTC Clearing System 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 the OTC Clearing System.
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 the 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 delivery was not possible, all consequences pertaining to the delivery to the participant of the declaration or information by KDPW_CCP have taken place.”;

3/ after § 13, § 13a shall be added as follows:

“§ 13a

KDPW_CCP shall not be obliged to compensate for any damage arising from the actions referred to in the provisions of Title IVa, unless caused by KDPW_CCP’s wilful misconduct or gross negligence.”;

4/ § 23 shall be replaced by the following:

“§ 23

1. The following shall be appended to the application for a participation agreement:

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

2/ a copy of the business authorisation granted according to, respectively, Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, the Directive of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, or Directive 73/239/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance or Directive 2002/83/EC of 5 November 2002 concerning life assurance or Directive 2005/68/EC of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC or Directive 2009/65/EC of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) or Directive 2011/61/EU of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, as well as relevant legal regulations applicable in the country of, respectively, the seat or branch of the applicant. In addition, where additional conditions are required in connection with business pursued by the applicant in the Republic of Poland – a declaration to the effect that conditions required to take up business in the Republic of Poland have been fulfilled,

3/ a card with specimen signatures of the applicant’s authorised representatives, as well as copies of powers of attorney 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 § 8 subpara. 2 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/facsimile numbers as well as email

addresses,

5a/ if the entity applies for the participation type of non-clearing member, a declaration in which the clearing member representing that entity in clearing consents to that entity's access to that clearing member's data within 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: Journal of Laws of 2022, item 309, as amended),

7/ a declaration confirming that the applicant applies specific restrictive measures in accordance with the relevant legislation, in particular with regard to persons and entities included in the sanctions lists concerning threats to international peace and security caused by terrorist acts, published on the basis of resolutions of the United Nations Security Council, regulations of the Council of the European Union and other legislation applicable to the applicant, and applicable in the territory of 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,

9/ a questionnaire, which is set out in a resolution of the KDPW_CCP Management Board, required in order to obtain information on the applicant and to identify the risks of money laundering and terrorist financing related to the business relationships undertaken by the applicant,

10/ a declaration, in accordance with the model set out by KDPW_CCP, confirming that all requirements under the relevant legislation applicable to the applicant have been met and that there are no formal and legal obstacles on the part of the applicant to conclude the agreement.

2. Subject to subpara. 3a, if the application concerns a participation type related to the status of clearing member, the applicant shall, in addition to the documents described in subpara. 1, also append the following to the application:

1/ a list of staff involved in transaction clearing that includes their positions, telephone numbers as well as e-mail addresses,

2/ if the applicant intends to participate in the clearing of repo transactions and sale transactions or post securities referred to in § 79 subpara. 3 point 1-3 as margins or contributions to the OTC guarantee fund:

a/ a declaration providing the identifier of the applicant in the relevant settlement system or designating an entity that will perform the role of settlement agent for the applicant and the identifier of that entity in the relevant settlement system,

b/ a declaration of the entity indicated by the applicant according to item (a) that intends to perform the functions of settlement agent, providing its consent to perform these functions for the applicant, and undertaking to perform this function in the duration of availability of the systems under which it is performed,

3/ a declaration indicating the number of the bank account of the applicant managed in the relevant

clearing bank in the Polish currency in which it will execute cash credits and debits arising from the clearing of transaction performed by KDPW_CCP according to the rules or designating 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 - the number of the bank account managed for the applicant in TARGET or indicating the entity that will perform the function of payment agent for the applicant and the number of the bank account maintained for it in this system,

4/ a declaration of the entity designated by the applicant in accordance with the provisions of point 3 that intends to perform the functions of payment agent, providing their consent to perform these functions for the applicant, and undertaking to perform this function in the duration of availability of the systems under which it is performed,

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 § 79 subpara. 3 point 4 as margins or contributions to the OTC clearing 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 § 1 point 2a 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 § 28 subpara. 3-4 and § 29 subpara. 2-4, 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 § 8 subpara. 1,

b/ a list of financial information referred to in § 32 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 § 32 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 § 32 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. Where an applicant is a participant of a separate clearing system operated by KDPW_CCP for transactions executed in organised trading and, when applying for participation in that system, it submitted documents referred to in subpara. 1 points 1-3 and 5-6, subpara. 2 points 1-3, point 5, point 6 item (a), point 7, and subpara. 3-4, in place of such documents it may submit a declaration confirming their application to participation in the OTC clearing system, unless they have been amended and KDPW_CCP has not yet been notified thereof.

6. Upon the conclusion of a participation agreement, the declarations referred to in subpara. 2 points 2, 3 and 4 may be amended but any such amendment shall be effective to KDPW_CCP no earlier than on the second day after the submission of the relevant declaration by the participant to KDPW_CCP unless KDPW_CCP agrees to a shorter period.”;

5/ § 24 subpara. 1 shall be replaced by the following:

“1. A clearing member who has acquired a given participation type shall be obliged, before commencing activity in the OTC clearing system within such participation type, to do the following:

1/ make a contribution to the OTC guarantee fund,

2/ pay an initial deposit in the amount set by the Management Board of KDPW_CCP in a resolution (minimum amount of initial deposit),

- 3/ open a clearing account in the OTC clearing system relevant for the given participation type,
- 4/ deliver a written power of attorney for KDPW_CCP, according to the model set out by KDPW_CCP, to:
- a/ close positions in derivative instruments on the participant's account for which the participant holds the status of clearing member, in instances described in the rules,
- b/ receive and submit on its behalf declarations of will on matters concerning the transfer within the transaction clearing liquidity guarantee system of positions arising from transactions executed by an entity acting with the participation type of non-clearing member, represented by the participant in the clearing system, or executed on the account of such entity, together with the collateral of such positions posted as initial margin, and perform actions referred to in § 110a - § 110c in the cases described in the rules,
- 5/ deliver a written power of attorney for KDPW_CCP, according to the model set out by KDPW_CCP, to amend or supplement the terms of transactions for which it is a clearing counterparty on its behalf, in the manner set out in Title IVa of the rules, in order to adjust its transactions to the extraordinary circumstances referred to in § 44a, in particular in connection with a change in a benchmark which affects cleared transactions,
- 6/ deliver a declaration, according to the model set out by KDPW_CCP, where the participant commits to ensure the submission of transaction reports or which designates KDPW_CCP as the entity to submit transaction reports to the relevant trade repository where the obligation to submit such reports to a trade repository results from relevant regulations,
- 7/ conduct tests confirming the participant's readiness to commence operations in the OTC clearing system referred to in the Detailed Rules of the OTC Clearing System.”;

6/ § 27 shall be replaced by the following:

“§ 27

1. Participants with the status of clearing member shall meet the appropriate material, technical and financial conditions.
2. Meeting the appropriate financial conditions shall mean that the participant maintains the adequate level of Tier I capital and meets the precautionary requirements referred to in the provisions of § 28 and § 29, subject to subpara. 2a.
 - 2a. The fulfilment of financial conditions by participants whose primary task is to take measures to promote the stability of the national financial system under the applicable legislation shall consist in their maintaining an adequate amount of capital as required under that legislation.
3. Meeting the appropriate material and technical conditions shall mean that the participant maintains technical and technological equipment which allows the participant to connect with the IT system used by KDPW_CCP to operate the OTC system ensuring that documents can be safely sent to and received from that system in electronic form.”;

7/ after § 36a, §§ 36b-36d shall be added as follows:

“§ 36b

The clearing member shall ensure in its agreement with the entity performing the function of its paying agent or settlement agent, respectively, that it performs that function in accordance with the

provisions of the rules and, in particular, that it performs it in the duration of availability of the systems in which it performs that function.

§ 36c

1. The participant shall comply with the requirements set out in the applicable legislation on the prevention of money laundering and terrorist financing in connection with the business relationships undertaken by the participant.
2. In the event of a change in the factual or legal situation which has a significant impact on the participant's declaration contained in the questionnaire referred to in § 23 subpara. 1 point 9, the participant shall immediately inform KDPW_CCP thereof by submitting an updated questionnaire.

§ 36d

Each participant shall immediately inform KDPW_CCP of:

- 1/ any specific restrictive measures applied to it or its client for which it is a clearing counterparty to transactions accepted in the clearing system in accordance with the relevant legislation in connection with placement in any of the sanctions lists concerning threats to international peace and security caused by terrorist acts, published on the basis of resolutions of the United Nations Security Council, regulations of the Council of the European Union and other legislation applicable to the applicant, and applicable in the territory of the United States of America and the United Kingdom,
- 2/ any proceedings initiated against it in connection with the provision of financial services which may impose administrative sanctions on it for any breach of regulations applicable to it or a decision has been issued imposing such administrative sanctions on it.”;

8/ § 39 subpara. 4 shall be replaced by the following:

“4. As of the time of novation, the participation agreement shall constitute the framework agreement referred to in Article 85 subpara. 1 of the Bankruptcy Law of 28 February 2003 (consolidated text: Journal of Laws from 2022, item 1520, as amended) for transactions accepted for clearing created as a result of novation, and such transactions shall be executed under such agreement.”;

9/ after § 44, Title IVa “Modification of the terms of transactions as a result of extraordinary circumstances” and § 44a - § 44c shall be added as follows:

“§ 44a

KDPW_CCP may, on behalf of clearing members, amend or supplement the terms of cleared transactions in accordance with the provisions of this Title (hereinafter collectively referred to as “modification of the terms of transactions”) in order to adjust the cleared transactions to extraordinary circumstances that arise and affect the cleared transactions and for which neither party is responsible, i.e.:

- 1/ a change of benchmark affecting cleared transactions,
- 2/ cessation of the provision of a benchmark affecting cleared transactions,
- 3/ suspension of the provision of a benchmark affecting cleared transactions,
- 4/ other extraordinary circumstances which affect cleared transactions, subject to their specification

in the rules.

§ 44b

1. Subject to sub-para. 2-4, modification of the terms of transactions referred to in § 44a shall concern:
 - 1/ a benchmark referred to in those terms,
 - 2/ other terms in connection with a change of benchmark.
2. Subject to subpara. 4, KDPW_CCP may, as part of modification of the terms of transactions, establish and register in the OTC clearing system operating positions to which clearing members are a clearing counterparty in order to reflect in the system the effects of the modification of the terms of the transactions. Operating positions:
 - 1/ are the content of the transaction whose terms are being modified and therefore do not create a new legal relationship,
 - 2/ are of an operational nature only and serve to reflect in the OTC clearing system the effects of the modification of the terms of transactions,
 - 3/ therefore do not increase the nominal value of the transaction whose terms are modified.
3. After the modification of the terms of a transaction, the clearing counterparty shall be, respectively, obliged to pay or entitled to receive the benefit resulting from the change in the valuation of the transaction due to this modification.
4. Detailed modifications of the terms of transactions, including the manner of determining any payments between the counterparties to the transaction, the manner of establishing and recording the operating positions referred to in subpara. 2, are set out in the Detailed Rules of the OTC Clearing System.

§ 44c

1. In order to make a modification of the terms of transactions, KDPW_CCP shall provide clearing members with a statement specifying in particular:
 - 1/ the type of transactions affected by the modification of the terms of transactions,
 - 2/ the benchmark to be modified and the date or dates of the modification of the terms of transactions in accordance with the Detailed Rules of the OTC Clearing System.
2. The modification of the terms of transactions shall take place within the time limit specified in KDPW_CCP's statement referred to in subpara. 1.
3. KDPW_CCP's statement referred to in subpara. 1 shall be communicated to clearing members at least two weeks prior to the date of the modification of the terms of transactions.
4. KDPW_CCP's statement referred to in subpara. 1 shall constitute consent to the modification of the terms of transactions; KDPW_CCP shall submit it on its own behalf and on behalf of clearing members who are the other clearing counterparty of such transactions (acting on the basis of a power of attorney granted by the clearing members).
5. When KDPW_CCP submits the statement referred to in subpara. 1, KDPW_CCP shall become entitled to perform in the OTC clearing system all actions aimed at the modification of the terms of transactions within the time limit specified in the statement.
6. KDPW_CCP shall be entitled to make more than one statement referred to in subpara. 1 with respect to the modified terms of transactions.”;

10/ § 71 subpara. 2 shall be replaced by the following:

“2. The transaction clearing liquidity guarantee system organised by KDPW_CCP shall also cover:

- a/ transactions concluded by KDPW_CCP within the system and in accordance with the provisions of this Section,
- b/ legal relations referred to in § 41 subpara. 1 point 2.”;

11/ § 73 shall be replaced by the following:

“§ 73

In the transaction clearing liquidity guarantee system, KDPW_CCP shall:

- 1/ collect and manage assets that form margins,
- 2/ collect and manage assets that form the OTC guarantee fund,
- 2a/ determine the amount of variation margin and the amount of entitlements from such margin, 3/ monitor risks arising from transactions accepted for clearing and take actions aiming to mitigate such risks,
- 4/ provide the service of closing positions on demand within the scope defined in these rules and the Detailed Rules of the OTC Clearing System,
- 5/ perform the auction operation within the scope defined in these rules and the Detailed Rules of the OTC Clearing System,
- 6/ take actions aimed to make payments arising from the clearing of transactions in case of:
 - a/ suspension of transaction settlement,
 - b/ non-execution of cash payments arising from transaction clearing within the time limit determined by the parties to the transaction,
 - c/ occurrence of an event of default which justifies immediate termination of the agreement.”;

12/ § 74a subpara. 2 shall be replaced by the following:

“2. Revenue earned from the management of cash contributed by clearing members to the transaction clearing liquidity guarantee system, other than revenue earned from the management of cash contributed in EUR, shall be transferred to clearing members on a quarterly basis unless the Management Board of KDPW_CCP defines another time limit by way of a resolution, less of taxes due. If, however, a participant is in arrears with the performance of any obligations towards KDPW_CCP arising from its participation in the OTC clearing system or in a separate clearing system operated by KDPW_CCP for transactions executed in organised trading, KDPW_CCP may credit it towards such obligations instead of transferring it to the participant.”;

13/ § 76 subpara. 2 shall be replaced by the following:

“2. A clearing member 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 entity which operates the settlement system has taken the action referred to in Art. 45f subpara. 1 of the Act. At the instant of receipt from the settlement system of information which suggests that such obligations have not been met timely and the entity which operates the settlement system has taken the action referred to in Art. 45f subpara. 1 of the

Act, 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.”;

14/ § 78a shall be replaced by the following:

“§ 78a

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:

1/ prior to using resources contributed to the OTC guarantee fund, excluding the contribution of the participant on whose part the event of default has occurred, with resources constituting dedicated resources I, taking into account the allocation according to subpara. 3,

2/ after using all resources contributed to the OTC guarantee fund or the relevant guarantee fund, respectively, with resources constituting dedicated resources II, taking into account the allocation according to subpara. 3.

2. KDPW_CCP shall allocate for dedicated resources I own funds in an amount representing at least 25% of the KDPW_CCP capital requirement, taking into account the allocation according to subpara. 3.

2a. KDPW_CCP shall allocate for dedicated resources II own funds in an amount representing 25% of the KDPW_CCP capital requirement, taking into account the allocation according to subpara. 3.

3. The amount of the funds referred to in subpara. 2 and subpara. 2a, respectively, shall be calculated taking into account the allocation of such funds in relation to the OTC guarantee fund as well as other guarantee funds and the clearing guarantee fund, managed by KDPW_CCP within another clearing system, proportionally to the value of each of these funds. KDPW_CCP shall announce the allocation rules on its website.

4. If assets constituting dedicated resources I and dedicated resources II, respectively, are used according to the provisions of the rules, KDPW_CCP shall immediately take actions necessary to replenish such dedicated resources up to the amount referred to in subpara. 2 or subpara 2a, respectively, 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 current amount of assets constituting dedicated resources I and dedicated resources II and the allocation of such resources on its website or via the SWI system or the GUI system;

2/ 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.”;

15/ in § 79:

a/ subpara. 5 point 2 shall be replaced by the following:

“2/ shall constitute financial collateral referred to in Art. 1 in conjunction with Art. 5 subpara. 1 point 1 of the Law on certain financial collateral of 2 April 2004 (consolidated text: Journal of Laws from 2022, item 133), subject to § 86 subpara. 2.”;

b/ after subpara. 9, subpara. 9a shall be added as follows:

“9a. Any surplus contributed by a clearing member on account of a given margin to the relevant

account held for the KDPW_CCP in excess of the required amount of the margin shall also constitute financial collateral contributed on account of that margin.”;

16/ § 81 subpara. 4 shall be replaced by the following:

“4. The value of securities issued by a clearing member or by an entity of the participant’s group of companies, within the meaning of Article 3 subpara. 1 point 44 of the Accountancy Act of 29 September 1994 (consolidated text: Journal of Laws from 2023, item 120, as amended), or securities for which the participant or such entity has granted a guarantee or surety to perform obligations arising thereunder shall not be recognised to any degree when calculating the value of margins posted by the participant. If a merger, split or take-over of the participant or another entity which has issued securities posted by the participant as margins or the acquisition of a significant block of shares of the participant or such entity or another event causes an effect through which securities become securities issued by the participant that has posted them as margins or by an entity of the participant’s group of companies, within the meaning of Article 3 subpara. 1 point 44 of the Accountancy Act of 29 September 1994, the value of such securities shall cease to be recognised to any degree when calculating the value of posted margins as of the second day after it comes to the attention of KDPW_CCP.”;

17/ the title of Section 5 in Section IV shall be replaced by the following:

“Section 5 Auction operation in the event of termination of a participation agreement by KDPW_CCP effective immediately”;

18/ § 96 - § 99a shall be replaced by the following:

“§ 96

1. The auction operation shall be organised in case of immediate termination of a participation agreement concluded with a defaulting participant in order to ensure the execution of cash payments arising from the clearing of affected transactions and the closing of positions of a defaulting participant in connection with the termination of its participation agreement effective immediately. Participation in the auction operation shall be mandatory for all clearing members receiving a position opening proposal referred to in § 97 subpara. 1.
2. The auction operation shall involve KDPW_CCP concluding a transaction which corresponds to the position or positions of the defaulting member to be closed. Positions shall be closed according to in § 104 subpara. 3.
3. The operation referred to in subpara. 1 shall be initiated by KDPW_CCP in case of termination of transactions created as a result of novation between KDPW_CCP and a defaulting participant and closing of positions registered in clearing accounts maintained for the participant.
4. KDPW_CCP shall perform the operation referred to in subpara. 1 with due diligence justified by market conditions prevailing on the date of the operation.

§ 97

1. KDPW_CCP shall perform the auction operation to the extent of positions identified by KDPW_CCP by sending to the other clearing members an instruction with a position opening proposal which is intended to secure the execution of cash payments arising from the clearing of the affected

transactions or the closing of positions of the defaulting member. KDPW_CCP shall be entitled to limit the number of clearing members to which it sends the position opening proposal on the terms set out in the Detailed Rules of the OTC Clearing System.

2. Every clearing member receiving a position opening proposal shall be obliged, under the terms set out in the rules and the Detailed Rules of the OTC Clearing System, to submit to KDPW_CCP an offer to conclude a transaction. Delivery of an offer to conclude a transaction by a clearing member shall mean at the same time that the clearing member consents that the transaction is sent for clearing in the OTC clearing system and accepts the consequences referred to in subpara. 3 point 1.

3. If KDPW_CCP accepts the terms of an offer to conclude a transaction, it shall:

1/ deliver to the clearing member a confirmation of the conclusion of the transaction (the transaction is concluded upon delivery of the confirmation to the clearing member), and then

2/ register the transaction in the OTC clearing system.

§ 98

1. The Management Board of KDPW_CCP shall designate in the Detailed Rules of the OTC Clearing System such information as should be contained in a position opening proposal and in an offer to conclude a transaction, subject to the following:

1/ the price of the offer to conclude a transaction shall follow from the contents of the offer determined on the terms set out in the Detailed Rules of the OTC Clearing System,

2/ the settlement date of the cash payment arising from the clearing of the transaction shall not be later than the time limit set out in the Detailed Rules of the OTC Clearing System running from the time of conclusion of the transaction,

3/ the derivative instrument or securities concerned by the transaction shall correspond to the kind and parameters of the derivative instrument or securities, respectively, concerned by the affected transaction.

2. The detailed terms and procedures of delivering a position opening proposal and an offer to conclude a transaction are set out in the Detailed Rules of the OTC Clearing System.

§ 99

KDPW_CCP shall be entitled to suspend the performance of actions in the auction operation without stating its reasons.

§ 99a

1. The defaulting participant shall repay the cost of the auction operation incurred in favour of third parties (commissions, transaction and banking fees) in connection with actions taken according to the rules and the Detailed Rules of the OTC Clearing System.

2. After performing the auction operation, KDPW_CCP shall document, on written request of the defaulting participant, all incurred costs referred to in subpara. 1.

3. The cost of the auction operation shall be covered with margins posted by the defaulting participant and if these prove insufficient – from the resources of the OTC guarantee fund and from the own resources of KDPW_CCP in the amount and sequence laid down in § 101 subpara. 2, subject to § 107a.”;

19/ § 101 subpara. 2 shall be replaced by the following:

“2. Subject to subpara. 3, differences in prices of securities, if any, between the sale made according to subpara. 1 and the transaction whose settlement has been suspended, including transaction costs, shall inure to KDPW_CCP if positive, and, if negative, they shall be covered with margins posted by the defaulting participant and after the resources have been used, in sequence from:

- 1/ the contribution paid in by the participant to the OTC guarantee fund,
- 2/ the dedicated resources I in the amount calculated according to § 78a subpara. 2 and 3,
- 3/ the remaining assets of the OTC guarantee fund, subject to § 107a,
- 4/ the dedicated resources II in the amount calculated according to § 78a subpara. 2a and 3.”;

20/ § 102 subpara. 2 shall be replaced by the following:

“2. Where margins posted by the defaulting member referred to in subpara. 1 prove insufficient, its cash obligations shall be performed in the following order:

- 1/ the contribution paid in by the participant to the OTC guarantee fund,
- 2/ the dedicated resources I in the amount calculated according to § 78a subpara. 2 and 3,
- 3/ the remaining assets of the OTC guarantee fund, subject to § 107a,
- 4/ the dedicated resources II in the amount calculated according to § 78a subpara. 2a and 3.”;

21/ § 104 subpara. 2 shall be replaced by the following:

“2. Positions referred to in subpara. 1 shall be closed in the auction operation.”;

22/ after § 107, § 107a shall be added as follows:

“§ 107a

KDPW_CCP shall use resources contributed to the OTC guarantee fund in accordance with the provisions of this Section to bring about the performance of the obligation arising from the clearing of a transaction covered by the transaction clearing liquidity guarantee system, where the allocation of such resources for the performance of this obligation shall take into account the involvement of participants in the auction operation conducted by KDPW_CCP, i.e.:

- a/ in the first place, the contributions of those participants who did not participate in the auction or did not submit an offer required under the provisions of the Detailed Rules of the OTC Clearing System shall be used,
- b/ in the second place, the contributions of those participants whose offers were not accepted by KDPW_CCP shall be used, with the exception of those offers whose amount corresponded to the amount of the offer which was accepted by KDPW_CCP,
- c/ in the last place, the contributions of those participants whose offers were accepted by KDPW_CCP or corresponded to the terms of the offers accepted by the KDPW_CCP but were rejected for reasons beyond the control of the clearing members who made them, shall be used.”;

23/ § 108a shall be replaced by the following:

“§ 108a

1. In the event that, due to actions of KDPW_CCP taken in order to cause the performance of an obligation arising from the clearing of a transaction accepted to the OTC clearing system or to a

separate clearing system operated by KDPW_CCP for transactions executed in organised trading, the amount of own funds of KDPW_CCP decreases to 110% of the set KDPW_CCP capital requirement, KDPW_CCP shall immediately notify clearing members thereof. In that event, prior to using other own funds, KDPW_CCP shall call such participants to make additional contributions to the OTC guarantee fund, not greater than 100% of the maximum existing contributions according to their latest update, provided that the obligation arising from the transaction, which should be performed, is secured by that fund.

2. Immediately after making additional contributions referred to in subpara. 1 to the OTC guarantee fund, KDPW_CCP shall use such assets to ensure the performance of an obligation arising from the clearing of a transaction covered by the transaction clearing liquidity guarantee system, subject to § 107a.

3. In the event that the amount of own funds of KDPW_CCP decreases below 110% of the set KDPW_CCP capital requirement, the Management Board of KDPW_CCP shall immediately notify participants holding the status of clearing member:

1/ of the amount of own funds of KDPW_CCP and

2/ of the fact that the situation has been restored where the amount of own funds of KDPW_CCP is 110% of the set KDPW_CCP capital requirement.”;

24/ after § 108a, § 108b - § 108c shall be added as follows:

“§ 108b

1. If, as a consequence of circumstances for which KDPW_CCP is not responsible, the actions taken by KDPW_CCP, after having identified an event of default of the defaulting participant, cannot result in the full performance of the obligation arising from the clearing of a transaction accepted into the OTC clearing system, despite:

1/ use of resources in the order and in the amount set out in § 78a subpara. 1 to 3 and § 102 subpara.

2, KDPW_CCP may request other clearing members to reduce the value of the variation margin or the settlement amount to which such clearing members are or will be entitled,

2/ the auction operation carried out for the third time, KDPW_CCP may request the other clearing members to terminate in whole or in part the cleared transactions to which they are the other clearing counterparty.

2. Any change of the conditions referred to in subpara. 1 point 1 and 2 shall only cover positions registered on participants’ own accounts.

3. Before requesting clearing members to change the conditions referred to in subpara. 1 point 1 and 2, KDPW_CCP shall inform the clearing members that the actions taken so far have not resulted in the performance of the obligation arising from the clearing of the transaction accepted to the OTC clearing system and therefore, within the indicated time limit, it shall organise an auction operation for the last time.

4. In order to request clearing members to change the conditions referred to in subpara. 1 point 1 or 2, KDPW_CCP shall send them a proposal specifying in particular:

1/ the positions that are covered by the proposal for this change of conditions,

2/ the deadline by which the clearing members are to declare whether they agree or disagree with the change in those conditions,

- 3/ the deadline by which the conditions referred to in subpara. 1 point 1 or 2 are to be changed,
- 4/ in the event of a change of the conditions referred to in subpara. 1 point 1:
 - a/ the value reduction distribution ratio, determined in accordance with the provisions of the Detailed Rules of the OTC Clearing System,
 - b/ the period during which the change of the conditions of the transaction is to be effective,
- 5/ in the event of a change of the conditions referred to in subpara. 1 point 2 – the limit up to which the positions may be closed, determined in accordance with the provisions of the Detailed Rules of the OTC Clearing System.
5. Any change of the conditions referred to in subpara. 1 point 1 and 2 shall require the consent of the clearing members who are a clearing counterparty to at least 2/3 of the value of the positions recorded in the OTC clearing system that are affected by the change, whereby:
 - 1/ the clearing members shall be required to declare whether or not they give their consent,
 - 2/ the clearing members who do not give a timely declaration of such consent or of failure to give such consent shall not be included in the calculation of the qualified majority referred to above requiring such consent (i.e., the value of the positions to which they are a clearing counterparty shall be disregarded in that calculation).
6. The consent referred to in subpara. 5 shall mean that:
 - 1/ in the event of a change of the conditions referred to in subpara. 1 point 1, KDPW_CCP shall not be obliged to pay, respectively, the variation margin or the settlement amount for marking to market in an amount exceeding the established value reduction distribution ratio, and the clearing member shall remain obliged to KDPW_CCP in full to pay such benefits calculated in that period in respect of marking to market,
 - 2/ in the event of a change of the conditions referred to in subpara. 1 point 2, the clearing counterparties shall not be obliged to execute the cleared transaction in the amount specified in the agreed limit.
7. Any change of the conditions referred to in subpara. 1 point 1 and 2 shall take place within the deadline specified in the proposal referred to in subpara. 4, provided that the clearing members give their consent in accordance with subpara. 5. KDPW_CCP shall immediately inform the clearing members of:
 - 1/ the number of clearing members who:
 - a/ have made declarations on the change of conditions referred to in subpara. 1 point 1 and 2,
 - b/ have given consent to a change of those conditions,
 - c/ have not given consent to a change of those conditions,
 - 2/ a change or no change of the conditions referred to in subpara. 1 point 1 and 2 and, in the event of a change to such conditions, confirmation of the date and time when such conditions are changed.
8. The Detailed Rules of the OTC Clearing System set out detailed principles and procedures for the change of the conditions referred to in subpara. 1 point 1 and 2, including on the submission of a proposal to change those conditions and on the consent given by clearing members referred to in subpara. 5.

§ 108c

1. If KDPW_CCP identifies an event of default with respect to a defaulting participant and initiates the

actions referred to in this section, KDPW_CCP may withhold payments to clearing members of:

1/ all resources of the transaction clearing liquidity guarantee system,

and

2/ the variation margin or the settlement amount to which such clearing members are or will be entitled,

until such actions have been completed and the positions of the defaulting participant have been closed out, but no later than for a period of 10 business days from the date on which such event of default is identified.

2. KDPW_CCP shall:

1/ inform all clearing members of the withholding of payments of resources referred to in subpara. 1,

2/ calculate, on an ongoing basis, the variation margin or the settlement amount to which such clearing members are or will be entitled during the period in which the payment of such benefits,

3/ at the end of the period during which the payment of the resources referred to in subpara. 1 is withheld, pay these resources to the clearing members, whereby the variation margin or the settlement amount calculated on each day shall be offset to form a single cash credit.”;

25/ § 109 subpara. 1 shall be replaced by the following:

“1. Where actions of KDPW_CCP described in the preceding provisions of this Section do not result in performance of the obligation arising from the clearing of, respectively, a repo transaction or sale transaction whose settlement has been suspended or a derivative transaction, KDPW_CCP shall be obliged to perform such obligation with its own assets to the extent that it is not performed despite such actions, subject to § 108a and § 108b.”;

26/ § 111 shall be replaced by the following:

“§ 111

1. A participation agreement may be terminated:

1/ on the basis of a declaration of a clearing member, effective two weeks from the date of the request, subject to subpara. 2-6,

2/ by agreement of the parties,

3/ on the basis of a declaration of KDPW_CCP, effective immediately, in case of occurrence of an event of default,

4/ subject to subpara. 4-6, on the basis of a declaration of a clearing member, effective immediately, in case of occurrence of any of the following events:

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 OTC clearing system, or

- making a replacement payment in order to perform an obligation arising from a transaction cleared in the OTC clearing system, within 45 calendar days after the day on which KDPW_CCP becomes obliged to make the payment to the clearing member affected by default, referred to in § 102 subpara. 1, § 103 subpara. 1 and § 106 subpara. 1, respectively, 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/ bankruptcy of KDPW_CCP has been declared or a motion for bankruptcy has been dismissed because the assets of KDPW_CCP are insufficient to pay the cost of the procedure or are only sufficient to pay such cost,

c/ the Management Board or the liquidator of KDPW_CCP has filed a motion for declaration of bankruptcy of KDPW_CCP,

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 of 28 February 2003,

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 of 2022, item 1467, as amended), is not adopted within 30 calendar days after liquidation is initiated,

f/ the Polish Financial Supervision Authority has decided to cancel the authorisation given to KDPW_CCP for the provision of clearing services as a CCP and the time limit for appeal measures has expired or such measures have been exhausted.

2. If positions or balances arising from the netting of positions are registered in clearing accounts maintained for a clearing member or the participant is obliged to make payments in respect of participation in the OTC clearing system, a participation agreement may be terminated in the case referred to in subpara. 1 point 1 only on the condition of deletion of such positions from the clearing system and performance of all obligations arising from participation in the system.

3. Termination of the participation agreement in the case referred to in subpara. 1 point 1 shall be effective unless KDPW_CCP identifies an event of default of any participant holding the status of clearing member within two weeks after the submission of the request by the participant. If KDPW_CCP identifies an event of default of any participant holding the status of clearing member, the termination of the participation agreement on request of the participant referred to in subpara. 1 item 1 shall be effective once KDPW_CCP completes the actions referred to in § 100 et seq. and the participant performs all obligations arising from participation in the clearing system, including the obligation to make the required contribution to the OTC guarantee fund.

4. A clearing member for which KDPW_CCP has identified an event of default and initiated any of the actions described in § 113 subpara. 1 prior to the occurrence of any of the circumstances that justify termination of the participation agreement referred to in subpara. 1 point 4 shall not be entitled to terminate the participation agreement effective immediately unless it has performed, in accordance with the notice referred to in § 113 subpara. 3, all its obligations arising from transactions accepted for clearing in the OTC clearing system for which the participant is a clearing counterparty and arising from its participation in the transaction clearing liquidity guarantee system.

5. If KDPW_CCP has activated a recovery plan as referred to in Article 9(1) of Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No

648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132:

1/ it shall inform clearing members thereof;

2/ it may propose to a clearing member that is a party to the obligation, in respect of which KDPW_CCP has not made a payment in accordance with the payment rules, another means of performing that obligation, in particular deferring the payment date or amending the content of that obligation. Where such participant agrees to this, the provisions of subpara. 1 point 4 item a) shall not apply to that participant unless KDPW_CCP has failed to perform the obligation subject to that arrangement as a result of circumstances for which it is responsible.

6. A participant shall not be entitled to unilaterally terminate the participation agreement in connection with a change in the conditions referred to in § 108b subpara. 1 point 1 or 2 or the exercise by KDPW_CCP of the rights referred to in § 108c subpara. 1. In such a case, the provisions of subpara. 1 point 4 item a) shall not apply.”;

27/ § 113 subpara. 1 shall be replaced by the following:

“1. In case of occurrence of an event of default on the part of the defaulting participant, KDPW_CCP shall be entitled to:

1/ terminate the participation agreement concluded with the participant effective immediately (cancellation of participation), together with transactions accepted for clearing for which the participant is a clearing counterparty, effective as of the time determined according to subpara. 2, and
a/ close positions registered in clearing accounts maintained for the participant by means of the auction operation, or

b/ perform the actions referred to in § 100 - § 106,

2/ refrain from carrying out the participation agreement concluded with the defaulting participant in the procedure defined in § 121,

3/ refuse to accept further transactions for clearing where the defaulting participant would participate in clearing unless another participant holds the status of clearing member for such transactions and has been designated for their clearing.”;

28/ in § 121, after subpara. 2, subpara. 2a shall be added as follows:

“2a. The threat referred to in subpara. 1 point 1 shall also arise in the event that KDPW_CCP identifies a risk of money laundering and terrorist financing associated with the business relationships undertaken by the participant, in particular in connection with information on the application of restrictive measures to the participant in accordance with the relevant legal provisions, information on the initiation of proceedings in connection with the provision of financial services on the basis of which administrative sanctions may be applied to the participant for breach of the legal provisions applicable to the participant, or information on the issuance of a decision on the application of such administrative sanctions to the participant.”;

29/ § 136 shall be replaced by the following:

“§ 136

In the event that any amendments are made to the rules which introduce an obligation for clearing

members or entities applying for participant status to provide additional documents, participants who, on the effective date of such amendments, hold that status shall be obliged to provide KDPW_CCP with such documents within two weeks of receiving a request to that effect from KDPW_CCP and, if the documents are to be provided in accordance with a template drawn up by KDPW_CCP, after KDPW_CCP has made that template available to the participants, unless a longer deadline results from the content of the Supervisory Board's resolution on such amendment to the rules.”;

30/ in § 1 et seq. of the rules, the word “TARGET2” shall be replaced by the word “TARGET”;

31/ in § 1 et seq. of the rules, the phrase “KDPW_CCP S.A.” shall be replaced by the phrase “KDPW_CCP”.

§ 2

This resolution shall enter into force two weeks after the Management Board has published the resolution approved by the Polish Financial Supervision Authority.

Dr Marek Dietl
Chairman of the Supervisory Board