

Resolution No. 29/638/24
of the KDPW_CCP S.A. Supervisory Board
dated 26 June 2024
approving the Rules of the ATS Guarantee Fund

Acting pursuant to Article 66(2) of the Act of 29 July 2005 on trading in financial instruments, the Supervisory Board of KDPW_CCP S.A. resolves as follows:

§ 1

The Rules of the ATS Guarantee Fund in the wording set out in the appendix hereto are hereby approved.

§ 2

The Rules of the ATS Guarantee Fund referred to in § 1 shall enter into force following their approval by the Polish Financial Supervision Authority (KNF), on a date set by the KDPW_CCP S.A. Management Board, which shall be at least two weeks after the Rules have been made available by KDPW_CCP S.A. for information to participants making contributions to the relevant guarantee fund referred to in § 3(47)(a) of the Rules of Transaction Clearing (organised trading).

§ 3

This resolution shall come into force on the date of adoption, subject to § 2.

Tomasz Bardziłowski

Chairman of the Supervisory Board

RULES OF THE ATS GUARANTEE FUND**CHAPTER I**

General Provisions

§ 1

1. Rules of the ATS Guarantee Fund (hereinafter the “Rules”,) define the procedures for the creation and use of the guarantee fund securing the clearing by KDPW_CCP of transactions concluded in the alternative trading systems organised, respectively, by the Warsaw Stock Exchange and by BondSpot S.A., which is the ATS guarantee fund as defined in § 3 subpara. 47 a/ and § 50e of the Rules of Transaction Clearing (Organised Trading), hereinafter the “Fund”.
2. KDPW_CCP manages the assets of the Fund.
3. Specific terms described in these rules shall be used according to their definition in the Rules of Transaction Clearing (Organised Trading), hereinafter the “Rules of Transaction Clearing”.
4. The provisions of § 6 of the Rules of Transaction Clearing shall be used to determine and calculate the deadlines defined in these rules.

§ 2

1. The Fund shall secure the performance of obligations arising from the clearing by KDPW_CCP of transactions concluded in the alternative trading system organised by the Warsaw Stock Exchange and by BondSpot S.A., respectively, excluding transactions concluded outside standard trading systems, and the performance of obligations arising from non-execution or undue execution of such transactions, cleared in the clearing system referred to in § 1 subpara. 1 of the Rules of Transaction Clearing.
KDPW_CCP shall publish on its website a list of alternative trading systems referred to in the preceding sentence.
2. The Fund shall be formed by the contributions of participants holding the status of clearing member for transactions, referred to in subpara. 1.
3. The Fund shall consist of a basic and reserve resource.
4. The Fund shall secure the performance of obligations arising from transactions cleared by KDPW_CCP and arising from non-execution or undue execution of such transactions under extreme but plausible market conditions.

§ 3

1. The assets of the Fund shall be used for the purposes of covering losses which exceed losses that can be covered with required margins, in the cases defined in the Rules of Transaction Clearing, including in particular:
 - 1) to cover the differences between the price of securities forming part of a transaction guaranteed by the

Fund, whose settlement has been suspended, and the price of their purchase or sale, as well as the costs incurred to perform that purchase or sale, in instances where, in order to eliminate the settlement suspension of such transaction, securities are purchased or sold in order that the participant who has not caused the settlement of the transaction to be suspended may receive payment,

2) to meet the cash payments owed by the participant holding the status of clearing member, who has not fulfilled the cash payment obligations arising from a securities transaction guaranteed by the Fund,

3) to meet the cash payment up to the amount defined in the Rules of Transaction Clearing on behalf of a participant, who is not responsible for the settlement suspension of a transaction guaranteed by the Fund, in place of a cash payment, or non-cash payment, arising from that transaction.

2. The provisions of the Rules of Transaction Clearing shall apply to any matters relating to the principles of the use of the Fund that are not regulated herein.

3. Whenever these rules refer to a defaulting participant, this shall be understood to mean a clearing member affected by default within the meaning of the Rules of Transaction Clearing.

CHAPTER II

Payment, Update and Adjustment of Contributions to the Fund

§ 3a

1. Contributions to the clearing fund shall be calculated on the basis of the exposure of each clearing member resulting from cleared transactions executed in the markets referred to in § 2 subpara. 1, irrespective of the scope of its activity in the clearing system defined according to § 11 subpara. 3 point 1-4 of the Rules of Transaction Clearing (including irrespective of any activity performed by the participant at the place of its establishment, head office or separate organised part of such activity for which it has executed a participation agreement).

2. If a participant intends to perform more than one scope of activity in the clearing system and use for such purpose more than one identifier issued to it by KDPW_CCP (institution code), then it shall indicate the identifier to be used for the purposes of participation in the Fund. For this purpose, the participant shall submit a declaration according to a template defined by KDPW_CCP, which shall be effective as of the next day following the day of submission of the declaration to KDPW_CCP. In the absence of such identifier indicated by the participant, KDPW_CCP may identify any institution code used by the participant in the clearing system and immediately notify the participant thereof.

3. The provisions of the first and second sentence of subpara. 2 shall apply accordingly to any change of the institution code for the purposes referred to in subpara. 2.

§ 4

1. Contributions of participants shall be made by depositing with the Fund:

1/ cash acceptable to KDPW_CCP, or

2/ securities acceptable to KDPW_CCP, which are Treasury securities, or

3/ debt securities acceptable to KDPW_CCP, which are denominated in EUR, issued by European Union member states other than the Republic of Poland,

where the types of acceptable securities referred to in points 2 and 3 which may constitute contributions to the Fund, as well as the conditions that these securities need to meet to be accepted as contributions, shall be defined in a resolution of the KDPW_CCP Management Board.

2. Cash acceptable to KDPW_CCP within the meaning of subpara. 1 shall only include cash contributed according to rules defined pursuant to the Rules of Transaction Clearing (Organised Trading) and the Detailed Rules of Transaction Clearing (organised trading), in the following currencies:

1/ PLN,

2/ EUR.

3. Subject to the provisions of subpara. 4 and 5, as well as the provisions of § 6 subpara. 3, § 7 subpara. 1, § 9 subpara. 3 and § 22 subpara. 3, securities paid in by a participant shall count towards the participant's contribution before any cash assets paid in.

4. Securities, referred to in subpara. 1 point 2 and 3, paid into the Fund shall count towards only a part of the participant's contribution as set by the KDPW_CCP Management Board in a resolution. However, two days prior to the record date used to determine the owners of securities entitled to payments following the redemption or cancellation of such securities, such securities shall cease to count as a valid means of contribution, subject to § 15 subpara. 2.

5. The amount of the contribution, to the extent that it consists of securities referred to in subpara. 1 point 2 and 3 and cash in EUR, shall be equal to their market value less such market value multiplied by the assigned haircut rate published by KDPW_CCP according to a procedure defined in a resolution of the KDPW_CCP Management Board.

6. The market value of securities shall be determined according to the provisions of the Rules of Transaction Clearing.

7. The updated market value of securities referred to in subpara. 1 point 2 and 3 and cash in EUR paid in as contributions by each participant shall be calculated each day in which KDPW_CCP performs transaction clearing.

8. KDPW_CCP shall define the haircut rate for each security referred to in subpara. 1 point 2 and 3 and for cash in EUR depending on its type, market price volatility risk, and liquidity.

9. The value of the haircut rate shall be updated by KDPW_CCP for every day in which KDPW_CCP performs transaction clearing. Changes to the level of the haircut rate following its update shall also apply to securities referred to in subpara. 1 point 2 and 3 and cash in EUR paid into the Fund prior to the introduction of the change.

10. The level of the haircut rate for specific securities may be set at 100%.

11. The provisions of the Rules of Transaction Clearing shall apply in matters concerning the contribution of cash and securities to the Fund and concerning their return which are not governed by these rules.

§ 5

1. The rights arising from the securities referred to in § 4 subpara. 1 point 3 being recorded in the securities account referred to in § 6 subpara. 1 point 2 shall be subject to the applicable legislation of the state in which the account is maintained. The KDPW_CCP Management Board shall indicate in a resolution the

state in which the securities account in which the securities referred to in § 4 subpara. 1 point 3 are recorded is maintained.

2. KDPW_CCP shall accept the securities referred to in § 4 subpara. 1 point 3, if:

1/ the applicable legislation of the state referred to in in subpara. 1 ensure effective contribution of such securities to the Fund and their use with precedence over third parties in the cases referred to in the rules and the Rules of Transaction Clearing and pursuant to the provisions of those rules,

2/ the provisions of the rules and the Rules of Transaction Clearing concerning the contribution of such securities to the Fund and their use in the cases referred to in those provisions are in conformity with the legislation referred to in subpara. 1.

3. If securities referred to in § 4 subpara. 1 point 3 are contributed to the Fund:

1/ KDPW_CCP may accept such securities conditional on additional actions taken by the participant, specified by the KDPW_CCP Management Board in a resolution, as necessary to ensure effective posting of such securities as contributions to the Fund and their use with priority over third parties in cases defined in and according to these rules and the Rules of Transaction Clearing;

2/ actions taken to contribute and return such securities may be carried out through the mediation of the operator of the relevant depository system for such securities under an agreement concluded between it and, respectively, KDPW_CCP, the participant or its collateral agent;

3/ the value of the contribution to the extent that it consists of such securities may be calculated and updated through the mediation of the operator of the relevant depository system for such securities which has concluded an agreement with KDPW_CCP, taking into account the haircut rate assigned to them and published by KDPW_CCP.

4. If a clearing member who contributes securities to the Fund concludes an agreement with another entity in order to have such securities contributed or returned, it shall ensure that the provisions of the agreement are not in conflict with these rules and with resolutions of the KDPW_CCP Management Board adopted hereunder.

§ 6

1. Securities referred to in § 4 subpara. 1 points 2 and 3 contributed by participants to the Fund shall be recorded, respectively, in:

1/ securities referred to in § 4 subpara. 1 point 2 – the securities account maintained by KDPW for KDPW_CCP,

2/ securities referred to in § 4 subpara. 1 point 3 – the securities account maintained for KDPW_CCP in the relevant depository system for such securities, indicated by the KDPW_CCP Management Board in a resolution.

2. Contributions to the Fund shall be made:

1/ for cash assets - by means of a debit of the bank account maintained in the relevant clearing bank or in TARGET2 for the participant or its payment agent, subject to subpara. 6,

2/ for securities referred to in § 4 subpara. 1 point 2 - by means of the transfer of securities onto the securities account referred to in subpara. 1 point 1, according to the principles described in the relevant rules issued by KDPW, defining the rules for the maintenance of the securities depository and for

processing of transaction settlement,

3/ for securities referred to in § 4 subpara. 1 point 3 - by means of the transfer of securities onto the securities account referred to in subpara. 1 point 2, according to the principles described in the relevant rules issued by entity indicated by the KDPW_CCP Management Board in a resolution, defining the rules for the maintenance of the securities depository for such instruments and for processing of transaction settlement, subject to § 5 subpara. 3 point 2.

3. Instructions sent to KDPW in order to transfer securities referred to in § 4 subpara. 1 point 2 contributed to the Fund by the clearing member via its settlement agent to the securities account maintained for KDPW_CCP by KDPW should specify that the transferred securities should be credited as a contribution to the Fund and should be sent according to the regulations referred to in subpara. 2 point 2.

4. Subject to § 5 subpara. 3 point 2, the KDPW_CCP Management Board shall define in a resolution detailed terms of contributing securities to the Fund and of returning them.

5. Securities contributed to the Fund as per subpara. 3 and 4 shall not be credited towards other contributions of the participant to the basic resource of the Fund.

6. Cash assets in EUR shall be contributed to the Fund and returned according to instructions sent by the participant, and shall be returned to the bank account indicated according to § 20 subpara. 2 point 3 of the Rules of Transaction Clearing.

§ 7

1. Participant shall make the first contribution to the basic resource of the Fund exclusively in the form of cash. The first contribution should be paid prior to the date that the appropriate governing body of the Warsaw Stock Exchange or BondSpot S.A. passes a decision indicating the day that the participant, or an entity that will be represented by a participant in the clearing system acting as clearing member, commences activities in the alternative trading system organised by the Warsaw Stock Exchange, not later, however, than two days prior to the day of the commencement of these activities indicated in that decision.

2. Participant seeking the status of clearing member for transactions covered by the Fund, executed by another entity following a change of participant holding such status, shall be obliged to make the first contribution to the basic resource of the Fund not later than two days prior to the date when the participant intends to acquire the status of clearing member for such transactions.

§ 8

1. Subject to the provisions of subpara. 3 and 4, contributions to the basic resource of the Fund shall be updated each day in which clearing in the Polish currency is performed by KDPW_CCP.

2. KDPW_CCP performs the update by calculating the required amount of the contribution.

3. The update of the contribution of a participant to the basic resource of the Fund is performed for the first time after the close of organised trading in the alternative trading system, on the date on which the participant, or the entity which the participant will be representing within the clearing system as clearing member, may commence executing transactions on any of the markets referred to in § 2 subpara. 1.

4. In the event of default, within the meaning of the Rules of Transaction Clearing, by a defaulting

participant, the KDPW_CCP Management Board may decide in a resolution to suspend for a set period of time the update of contributions to the basic resource of the Fund or determine other dates of such contribution updates if justified by the safety of trading or the clearing of transactions.

§ 9

1. The update of the value of the Fund and of the required contribution of each participant shall be performed according to the principles referred to in Appendix 1 to these Rules. The amount of the contribution to the basic resource of the Fund shall be calculated in proportion to the exposures of the clearing member arising from cleared transactions taking into account the minimum contribution.
2. The amount of the contribution to the basic resource of the Fund, including the amount of the separate contribution described in the provisions of the first sentence of § 7 subpara. 5, shall not be lower than PLN 100,000 (minimum contribution). The KDPW_CCP Management Board may determine another amount for the minimum contribution in a resolution.
3. In instances justified by reasons of trading or transaction clearing safety, the KDPW_CCP Management Board may, in a resolution, oblige all or some participants holding the status of clearing members for transactions covered by the Fund to pay in contributions in a specific amount, other than the amount defined according to the provisions of subpara. 1 and 2, as well as determine that the payment of these contributions may be in a form other than the one described herein.

§ 10

1. Subject to the provisions of subpara. 2, the contribution of a participant shall be adjusted if the required contribution is different than the value of the assets paid in by the participant to the basic resource of the Fund.
2. If the assets of the Fund were sold below their purchase price, following their use in accordance with the provisions of § 3 subpara. 1, the level forming the basis for the adjustment of the contributions shall be defined by the KDPW_CCP Management Board in a resolution.
3. The adjustment of the contribution shall be made by participants paying in a supplementary contribution to the basic resource of the Fund, or by a refund of part of the participant's contribution.
4. A refund of a part of the participant's contribution shall only be made in the form of cash, through a credit payment onto the bank account, referred in § 6 subpara. 2 point 1, subject to § 6 subpara. 6. The amount of the refund shall not be higher than the surplus over the part of the participant's contribution which, according to the provisions of § 4 subpara. 4, must remain in cash form.
5. The participant's debits and credits as a result of the adjustment of the contribution to the Fund shall be offset (netted) with the participant's debits and credits arising from the adjustment of contributions to the clearing fund or the relevant guarantee fund, with the amount of margins, and with marking to market, described in § 46 subpara. 3 of the Rules of Transaction Clearing.

§ 11

1. The adjustment of the contribution shall take place on the basis of documents containing the information, referred to in subpara. 2 below, issued by KDPW_CCP and made available to participants.

2. On the day of the update, KDPW_CCP shall make available not later than 23:00 hours, to each participant holding the status of clearing member for transactions covered by the Fund, information defining the updated amount of the participant's contribution to the basic resource of the Fund, the updated market value of the securities paid in as part of the contribution and the amount of the participant's cash debits and credits that need to be adjusted as part of the next contribution adjustment.

§ 12

1. A participant shall pay the adjusted contribution, when such contribution consists of cash assets, up to 8.30 on the day following the day when the information, referred to in § 11 subpara. 2 is made available, indicating that the participant is obliged to make a payment. On the same day, KDPW_CCP shall refund part of the contribution paid in by the participant if this information indicates a credit owed to the participant. In instances justified by reasons of trading and transaction clearing safety, the Management Board of KDPW_CCP may, in a resolution, designate separate deadlines for each update.

2. Treasury securities may be used as part of the contribution on condition that before 18:00 hours on the day the information referred to in § 11 subpara. 2 or 3 was made available they were registered, respectively, in:

1/ for securities referred to in § 4 subpara. 1 point 2 - the securities account referred to in § 6 subpara. 1 point 1,

2/ for securities referred to in § 4 subpara. 1 point 3 - the securities account maintained for KDPW_CCP in the relevant depository system for such securities indicated by the KDPW_CCP Management Board in a resolution.

3. The adjustment consisting of a refund to the participant of part of the contribution paid in shall be withheld in instances where participants are obliged to make replacement or additional contributions, described in § 21 subpara. 1 and 2, as well as in § 22 subpara. 1 - 3.

CHAPTER III

Withdrawal of Securities

§ 13

1. Participants may withdraw securities paid in by them to the Fund by means of an instruction sent to KDPW_CCP to this effect.

2. KDPW_CCP shall send an instruction to KDPW, to transfer securities from the securities account referred to in § 6 subpara. 1, in accordance with the contents of the instruction referred to in subpara. 1, the day following the day of its receipt, on condition that:

1) the participant has performed the necessary obligations relating to the adjustment of the contribution,

2) the withdrawn securities do not need to be used by the Fund and,

3) the instruction referred to in subpara. 1 was sent to KDPW_CCP prior to 18:00 on the day preceding the date of the intended withdrawal.

3. If the instruction referred to in subpara. 1 is sent to KDPW_CCP, then the documents referred to in § 11 subpara. 2 shall not include the value of the securities, which are to be withdrawn in accordance with the

instruction.

§ 14

1. Participants shall be obliged to withdraw securities they have paid into the Fund two days prior to the record day on which those entitled to receive payments following redemption or cancellation of such securities are determined. This does not exempt participants from the obligation to adjust the contribution.

2. KDPW_CCP may send an instruction to transfer securities which have not been withdrawn by the participant according to subpara. 1 from the securities account referred to in § 6 subpara. 1 point 1 or 2, respectively, onto the account from which the securities were contributed into the Fund.

CHAPTER IV

Reserve Resource of the Fund

§ 15

1. Subject to subpara. 4, the reserve resource of the Fund consists of:

- 1) revenue from the investment of cash assets in the Polish currency paid into basic resource, and
- 2) the assets described in § 21 subpara. 4, and
- 3) revenue generated by the investment of assets, as referred to in points 1- 2 above.

2. If a participant does not perform the obligations referred to in § 14 subpara. 1, the payment from the issuer received for the redemption or cancellation of securities that were paid in by the participant to the Fund shall be added to the basic resource of the Fund, increasing the value of cash assets paid in by that participant as contributions.

3. Any revenue from the management of cash resources of the Fund in EUR shall go to KDPW_CCP.

4. Any assets paid by a clearing member as a contribution to the Fund or due to such clearing member as a surplus above the required contribution to the basic resource shall be counted towards the participant's contribution to the reserve resource of the Fund. Such assets shall be withdrawn according to the procedures applicable to the return of assets paid as contributions to the basic resource, subject to § 17 subpara. 1-3, which shall apply accordingly.

§ 16

1. The share of a given participant in the revenue generated by the investment of assets from the basic resource in the Polish currency and by the investment of assets from the reserve resource, referred to in § 15 subpara. 1 – 3, shall be proportional to the participant's share, respectively, in the basic resource in such currency and in the reserve resource, subject to the provisions of subpara. 2.

2. The share of a participant in the assets described in § 21 subpara. 4, shall be proportional to that participant's share in the basic resource.

§ 17

1. The share in the revenue generated by the investment of assets referred to in § 15 subpara. 1 point 1

and 3 shall be paid out to participants quarterly, subject to subpara. 3 – 5.

2. Benefits from securities contributed to the Fund shall be transferred by KDPW_CCP to the participant who contributed such securities to the Fund on the day of receipt of such benefits, subject to subpara. 3 – 5.

3. In the event of a default within the meaning of the Rules of Transaction Clearing, the KDPW_CCP Management Board may, in a resolution, suspend the payment of assets referred to in subpara. 1 and 2 until the measures referred to in § 77b subpara. 1 of the Rules of Transaction Clearing are completed or participants perform the obligation to pay in contributions referred to in § 20 subpara. 1 and 2 or § 21 subpara. 1 – 3.

4. If the payment of assets referred to in subpara. 1 and 2 is suspended, such assets shall be added to the share of each clearing member in the reserve resource of the Fund and shall be counted towards contributions referred to in § 21 subpara. 1 and 2 or § 22 subpara. 1 – 3, subject to § 18 subpara. 2.

5. As a remitter of the withholding tax on revenue earned by clearing members who are non-residents, KDPW_CCP shall charge the withholding tax in the maximum amount applicable under Polish law prior to transferring to such members any benefits from securities contributed to the Fund, any payment from the issuer received for the redemption or cancellation of such securities or any revenue referred to in subpara. 1.

6. KDPW_CCP shall immediately notify participants of any suspension of payment of assets referred to in subpara. 1 and 2.

CHAPTER V

Using the Assets of the Fund, Replacement and Additional Contributions

§ 18

1. In the event of a default within the meaning of the Rules of Transaction Clearing:

1/ contributions to the basic resource of the Fund shall be adjusted unless their update has been suspended according to § 8 subpara. 4, subject to § 11 subpara. 3 and § 18,

2/ KDPW_CCP may disburse of any assets contributed to the basic resource of the Fund for the purposes of the Fund.

2. Prior to any disbursement a contribution of a defaulting participant paid to the basic resource of the Fund, KDPW_CCP shall count assets forming its share in the reserve resource towards such contribution.

§ 19

1. KDPW_CCP shall allow clearing members other than the defaulting participant to replace securities or cash in euro paid by them to the Fund with cash in the Polish currency unless:

1/ this shall jeopardise the safety of trading or the safety of clearing,

2/ this shall affect the deadlines of measures referred to in § 77b subpara. 1 of the Rules of Transaction Clearing, or

3/ this shall increase the cost of the measures referred to in point 2.

For this purpose, KDPW_CCP shall notify such clearing members of the time limit within which they may submit a declaration relating to the replacement of securities or cash in euro with cash assets in the Polish currency up to the amount of the required contribution to the basic resource of the Fund.

2. The declaration referred to in subpara. 1 should indicate, respectively, the quantity and identifier of securities or the quantity of cash assets in euro that are to be replaced. The replacement shall take place provided that:

1/ the cash assets in the Polish currency available in the bank account referred to in § 6 subpara. 2 point 1 are sufficient to replace the assets indicated in the participant's declaration, and

2/ the time limit set by KDPW_CCP, referred to in subpara. 1, is still pending.

§ 20

1. Disbursement of the Fund assets shall be made from the basic resource. If securities form part of the assets of the Fund that are subject to the disbursement, KDPW_CCP shall sell these securities.

2. If securities form part of the assets of the Fund that are subject to the disbursement, KDPW_CCP shall sell such securities on the regulated market or outside the regulated market with a view to selling them as soon as possible at the best possible price.

§ 21

1. Following the completion of measures defined in the Rules of Transaction Clearing involving any disbursement of assets of the Fund, KDPW_CCP shall update the contributions to the basic resource of the Fund and determine the amount of replacement contributions. Participants shall be obliged immediately to replenish the Fund according to the update. The provisions of § 8 - § 12 shall apply accordingly.

2. Replacement contributions shall be paid in proportion to the contributions of participants to the basic resource of the Fund. A participant's share in the reserve resource shall count towards the replacement contribution.

3. The obligation to make replacement contributions shall not apply to the defaulting participant, whose obligations arising from the status of clearing member for transactions guaranteed with the Fund have been performed using assets of the Fund.

4. The assets paid into the Fund according to the actions taken in accordance provisions of the Rules of Transaction Clearing shall be allocated to the reserve resource of the Fund; however, where such assets are in any currency other than the Polish currency, KDPW_CCP may exchange them into the Polish currency at the market exchange rate as at the date of such exchange, prior to allocating such assets to such resource.

§ 22

1. Where, due to actions taken by KDPW_CCP in order to cause the performance of an obligation arising from the clearing of a transaction accepted to the clearing system, the amount of own funds of KDPW_CCP falls to 110% of the set capital requirement, clearing members shall be obliged to make additional contributions relative to the value of their contributions made thus far to the basic resource of the Fund, arising from the most recent update performed before measures were taken under the Rules of Transaction Clearing involving disbursement of assets of the Fund.

2. The amount of the additional contribution that the participant may be obliged to make in the event described in subpara. 1 shall not exceed at each time 50% of that participant's total amount of existing contributions to the basic resource of the Fund, arising from the most recent update (maximum amount of additional contribution).

3. The additional contributions shall only be paid in the form of cash within the deadline defined by KDPW_CCP, set at the earliest on the day following the date of the demand for additional payment. The KDPW_CCP Management Board may decide in a resolution that additional contributions may be paid in instalments whose amount shall be defined in such resolution.

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

CHAPTER VI

Consequences of Termination, Suspension of Participation or Participant Acquisition

§ 23

1. Subject to the provisions of subpara. 2 and 3 in instances when participant status is terminated or limited to the extent that it involves the loss of clearing member status for transactions covered by the Fund, KDPW_CCP shall refund the participant the securities and cash assets remaining from contributions made by that participant to the basic resource, as well as the cash assets being equal to the participant's share in the reserve resource, calculated as at the day of the refunding of the assets to the participant. The assets refunded to the participant may be subject to a deduction by an amount necessary to perform the clearing of transactions executed in connection with other transactions covered by the assets of the Fund, for which the participant held the status of clearing member.

2. The refund shall take place once the obligations of the participant have been met, arising from the participant's status of clearing member for transactions covered by the Fund.

3. If an event of default within the meaning of the Rules of Transaction Clearing occurs before the participant status is terminated or limited to the extent that it involves the loss of clearing member status for transactions guaranteed by the Fund, then:

1/ the clearing member's participation in the Fund shall not terminate until the measures referred to in § 77b subpara. 1 of the Rules of Transaction Clearing are completed and the clearing member performs the obligation to pay in the contribution referred to in § 22 subpara. 1 – 3,

2/ the assets forming the clearing member's share in the reserve resource shall be counted towards the contribution referred to in § 22 subpara. 1 – 3,

3/ the assets shall not be returned until the measures referred to in § 77b subpara. 1 of the Rules of Transaction Clearing are completed and the clearing member performs the obligation to pay in the contribution referred to in § 22 subpara. 1 – 3.

4. The provisions of subpara. 1 above shall not apply in instances where:

1) termination of participation status takes place as a result of the acquisition of a participant by another entity, which assumes all the rights of the participant being acquired. In such instances, assets paid into

the Fund by the participant being acquired and that participant's share in the reserve resource shall be allocated to the acquiring participant, or

2) limitation of participant status is caused by the acquisition of a participant by another entity, assuming the participant's rights within a specified scope, while the procedure described in the second sentence of point 1 has been applied to contributions to the basic resource and to the share in the reserve resource of the participant being acquired.

§ 24

1. Subject to the provisions of subpara. 2, refunds of the assets referred to in § 23 subpara. 1 shall be made within a period of 7 days following the performance of the obligations, referred to in § 23 subpara. 2, and in the case referred to in § 23 subpara. 3 after the measures referred to in § 77b subpara. 1 of the Rules of Transaction Clearing are completed and the participant performs the obligation to pay in the contribution referred to in § 22 subpara. 1 – 3.

2. The refund of entitlements from securities shall take place on the day these entitlements have been received, subject to § 17 and § 23 subpara 1 and 3.

3. In instances of refunds of securities referred to in § 23 subpara. 1, the provisions of § 13 subpara. 2 and 3 shall apply.

§ 25

In instances where a participant is acquired by another entity, within a given scope, the amount of contribution to the basic resource of the Fund, required to be paid in by the acquiring entity, shall be determined at the level of the most recent updated contribution of the participant being acquired, paid in during the period of the acquisition, subject to the provisions of § 26.

§ 26

1. The amount of the contribution to the basic resource of the Fund required to be paid in by the acquiring entity, who is at the same time a participant in the Fund, shall be determined in accordance with general principles, however, using data relating to both the acquiring entity and the entity being acquired, as the basis of calculation, subject to the provisions of subpara. 2.

2. When calculating the contribution, described in subpara. 1, data relating to the participant being acquired shall only apply in the scope of the acquisition.

CHAPTER VII

Reporting

§ 27

The Management Board of KDPW_CCP shall present Fund participants with semi-annual and annual reports on its activities in relation to the management of the assets of the Fund.

Appendix 1 to the Rules of the ATS Guarantee Fund

**RULES FOR DETERMINING THE VALUE OF THE FUND
AND THE AMOUNT OF CONTRIBUTIONS OF CLEARING MEMBERS**

- I. The value of the Fund is determined by KDPW_CCP in the following steps:
 1. Calculation of uncovered risk, separately for own portfolios of the clearing member (i.e., all positions arising from transactions registered in own position accounts of the clearing member) and for client portfolios (i.e., all positions arising from transactions registered in client position accounts of the clearing member). Uncovered risk is equal to the difference between the hypothetical loss on a portfolio, determined by KDPW_CCP at the end of day in the clearing system on the basis of stress test parameters set by KDPW_CCP, and the value of the initial margin required from the clearing member, where uncovered risk for portfolios of the clearing member's clients has a lower bound equal to 0;
 2. Calculation of the exposure of each clearing member as at the given day in the clearing system equal to the sum of uncovered risk of each own portfolio and each client portfolio of the clearing member.
 3. Calculation of the maximum exposure as at the given day in the clearing system equal to the greater of:
 - 1/ the biggest clearing member exposure of all exposures calculated in item 2, or
 - 2/ the sum of the second and third biggest clearing member exposures of all exposures calculated in item 2.
 4. Calculation of the value of the Fund equal to the biggest maximum exposure calculated in item 3 at all days in the clearing system within the observation window set by KDPW_CCP times the parameter securing against change of exposure on the following day.*
- II. The required contribution of a clearing member to the Fund is calculated in proportion to the clearing member's average exposure (calculated in item I.2) within the observation window set by KDPW_CCP.* The required contribution of a clearing member to the Fund is equal to or greater than the minimum contribution set by KDPW_CCP.

* KDPW_CCP notifies clearing members of the defined observation window referred to in items I.4 and II, and the parameter securing against change of exposure referred to in item I.4 in accordance with § 4a subpara. 1 or 2 of the Rules of Transaction Clearing.