

**Resolution No. 39/386/19  
of the KDPW\_CCP S.A. Supervisory Board  
dated 17 June 2019**

Pursuant to Article 48(15) of the Act of 29 July 2005 on Trading in Financial Instruments (consolidated text: Journal of Laws of 2018, item 2286, as amended) and § 15 sub-paragraph 2 point 13 of the Statute of KDPW\_CCP S.A., the Supervisory Board of KDPW\_CCP S.A. hereby resolves as follows:

**§ 1**

Resolution No. 44/346/18 of the Supervisory Board of KDPW\_CCP S.A. dated 21 December 2018 shall be amended as follows:

**1/ § 1 point 15 shall be replaced by the following:**

**“15/ § 47 subpara. 1-5 shall be replaced by the following:**

“1. Margins take the form of initial margin and initial deposit. Such margins shall cover liabilities arising from transactions and arising from non-execution or undue execution of such transactions.

2. Initial margins and initial deposits may consist of cash or securities accepted by KDPW\_CCP.

2a. Cash accepted by KDPW\_CCP within the meaning of subpara. 2 shall be only cash posted as margins according to the terms laid down in the provisions of this Chapter and resolutions of the Management Board of KDPW\_CCP adopted under the rules, in the following currencies:

1/ PLN,

2/ EUR.

3. Securities accepted by KDPW\_CCP within the meaning of subpara. 2 shall be limited to:

1/ Treasury bonds traded in the territory of the Republic of Poland,

2/ shares of companies that make up the WIG20 stock exchange index,

3/ Treasury bills, and

4/ debt securities denominated in EUR, issued by European Union Member States other than the Republic of Poland,

on condition that these have been indicated in the list of securities described in § 47a subpara. 4. When indicating securities in the list, KDPW\_CCP shall take into account, without limitation, the issuer's credit risk level, the expected dispersion of ownership of such securities, the volatility of the price of such securities, and their liquidity, subject to subpara. 4.

4. KDPW\_CCP may indicate securities referred to in subpara. 3 point 4 in the list of securities described in § 47a subpara. 4 provided that:

1/ the provisions of the rules to the extent of the conclusion of the agreement referred to in § 71 subpara.

1, establishment of collateral on such securities, expiration of such collateral and enforcement of such collateral by KDPW\_CCP are in compliance with the applicable legal provisions referred to in § 71 subpara.

2 point 1,

2/ under the applicable legal provisions referred to in § 71 subpara. 2 point 1, KDPW\_CCP shall have the priority to enforce financial collateral on such securities from the moment it is established in favour of KDPW\_CCP,

3/ the applicable legal provisions referred to in § 71 subpara. 2 point 1 are in compliance with Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral

arrangements (Official Journal of the European Union L 168 from 2002, p. 43, as amended).

5. Each margin:

1/ shall be established on the day it is deposited and expire at the time set according to the provisions of this Chapter and the resolution of the Management Board of KDPW\_CCP adopted under the rules, subject to § 42b and § 69b,

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: Dziennik Ustaw – Journal of Laws from 2016, item 891, as amended).”;

**2/** the wording of § 77a of the Rules of Transaction Clearing (organised trading) set out in § 1 point 25 shall be replaced by the following:

“§ 77a

1. A participation agreement may be terminated:

1/ on request of a participant, effective two weeks from the date of the request, subject to subpara. 2 - 4,

2/ by agreement of the parties,

3/ according to a unilateral declaration made by KDPW\_CCP in the procedure of termination effective immediately – in the event of default,

4/ subject to subpara. 3, on the basis of a declaration of the clearing member in the procedure of termination of the agreement 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 clearing system referred to in § 1 subpara. 1, or

- making a replacement payment in order to perform an obligation arising from a transaction cleared in the clearing system referred to in § 1 subpara. 1,

within 45 calendar days from the day after the day on which KDPW\_CCP becomes obliged to make the payment to the clearing member affected by default, referred to in § 60a subpara 2, § 61 subpara. 1, § 65 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 – Act of 28 February 2003 (consolidated text: Dziennik Ustaw – Journal of Laws of 2019, item 498, as amended),

e/ KDPW\_CCP is in liquidation and, at the same time, where the dissolution of KDPW\_CCP does not take place on the basis of a legally valid court decision, a resolution of the General Meeting of KDPW\_CCP preventing the dissolution, referred to in Article 460 § 1 of the Code of Commercial Companies of 15 September 2000 (consolidated text: Journal of Laws from 2019, item 505), 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 participant holding the status of clearing member, or the participant is obliged to make payments in respect of participation in the clearing system, a participation agreement may be terminated in the case referred to in subpara. 1 point 1 only following the deletion of such positions from the clearing system and the 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 § 59 *et seq.* of the Rules of Transaction Clearing and the participant performs all obligations arising from participation in the clearing system, including the obligation to make the required contribution to the clearing fund or the relevant guarantee fund.

4. A clearing member for which KDPW\_CCP has identified an event of default and initiated any of the actions described in § 77c 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 § 77c subpara. 3, all its obligations arising from transactions accepted for clearing for which the participant is a clearing counterparty and arising from its participation in the transaction clearing liquidity guarantee system.”;

**3/** point 27a shall be inserted after point 27 as follows:

“**27a/** in Appendix 1 “Table of Fees”, point 3 “Derivatives fees”:

**a/** sub-points 3.1.1.3. and 3.1.1.3.1. shall be replaced by the following:

Fee types and amount	Rules for calculating and charging fees
<p>3.1.1.3. Registration of transactions or position transfers in futures other than futures referred to in other items of the Table of Fees – <b>0.80 PLN per contract</b> however: 3.1.1.3.1. Fee charged for participants who on the basis of an agreement concluded with an entity managing a regulated market, or alternative trading system, sell and purchase specific derivatives on their own account in order to maintain liquidity or to organise trading in this market; or charged for participants representing an entity which performs these activities in transaction clearing performed by KDPW_CCP, holding the status of clearing member for positions arising as a result of transactions, or that are the subject of a transfer – <b>0.12 PLN per contract</b></p>	

**b/** sub-points 3.1.1.4. and 3.1.1.4.1. shall be inserted as follows:

Fee types and amount	Rules for calculating and charging fees
<p>3.1.1.4. Registration of transactions or position transfers in sector index futures – <b>0.80 PLN per contract</b></p>	

however:

3.1.1.4.1. Fee charged for participants who on the basis of an agreement concluded with an entity managing a regulated market, or alternative trading system, sell and purchase specific derivatives on their own account in order to maintain liquidity or to organise trading in this market; or charged for participants representing an entity which performs these activities in transaction clearing performed by KDPW\_CCP, holding the status of clearing member for positions arising as a result of transactions, or that are the subject of a transfer – **0.12 PLN per contract**

4/ § 1 point 28 item (d) shall be replaced by the following:

“d/ § 6 - § 12 shall be replaced by the following:

“§ 6

1. A participant shall join the Fund upon the performance of the obligations referred to in subpara. 1-6.
2. A participant shall make a contribution to the basic resource of the Fund for the first time exclusively in the form of cash. The first contribution should be paid in not later than the day of joining the negotiated lending system by the participant or the entity which the participant shall represent as a clearing member in the clearing system but not later than two days prior to the day of the commencement of the activities of the participant or entity in the system.
3. A participant intending to hold the status of clearing member for transactions guaranteed by the Fund, executed by another entity following a change of participant holding such status, shall be obliged to make a contribution to the basic resource of the Fund for the first time not later than two days prior to the date when the participant intends to acquire the status of clearing member to such extent.
4. The amount of the first contribution paid shall equal the minimum contribution determined according to the provisions of § 8, subpara. 2.

§ 7

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 a trading session on the regulated market or organised trading in the alternative trading system, respectively, 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 conclusion of loans in the negotiated lending system or on the date that the participant acquires the status of clearing member for loans concluded in the system by another entity following a change of participant holding this status.
4. In the event of default, within the meaning of the Rules of Transaction Clearing (organised trading), 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.

§ 8

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 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 cases specially justified by reasons of safety of trading and transaction clearing, the KDPW\_CCP Management Board in a resolution may oblige all or some participants holding the status of clearing member for loans guaranteed by the Fund to pay in contributions in a specific amount other than the amount determined according to subparas. 1 and 2 and decide that such contributions may be paid in in a form other than provided for in the Rules.

#### § 9

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 update adjustment of the contributions shall be defined by the KDPW\_CCP Management Board by means of 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 following a refund of part of the participant's contribution.

4. A refund of 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 § 5, subpara. 2, point 1, subject to § 5 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. 3 must remain in cash form.

5. A participant's debits and credits as a result of the adjustment of contributions to the Fund shall be offset (netted) with the participant's debits and credits arising from participation in the clearing system operated by KDPW\_CCP.

#### § 10

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 loans guaranteed 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.

#### § 11

1. A participant shall pay the adjusted contribution, when such contribution consists of cash assets, up to 08:30 hours on the day following the day when the information referred to in § 10, 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 or transaction clearing safety, the Management Board of KDPW\_CCP may, by means of a resolution, designate separate deadlines for each update.

2. Securities may be used as part of the contribution on condition that, before 18:00 hours on the day the information referred to in § 10, subpara. 2 was made available, they were registered, respectively:

1/ for securities referred to in § 4, subpara. 1, point 2 - on the securities account referred to in § 5, subpara. 1, point 1,

2/ for securities referred to in § 4, subpara. 1, point 3 - on the securities account managed for KDPW\_CCP in the relevant depository system for such securities, indicated by the KDPW\_CCP Management Board in a resolution.

3. An adjustment consisting in a refund of part of the contribution paid in by the participant shall be suspended if a situation arises such that participants are obliged to pay in replacement or additional contributions referred to in § 20, subparas. 1 and 2, and in § 21, subparas. 1-3.

#### § 12

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 the depository system operated, respectively, by the Central Securities Depository of Poland or the entity referred to in § 5, subpara. 2, point 3, to transfer securities from the securities account referred to in § 5, subpara. 1, in accordance with the contents of the instruction referred to in subpara. 1, on the day following the day of its receipt, on condition that:

1/ the participant has performed the 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 hours 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 § 10, subpara. 2 shall not include the value of the securities which are to be withdrawn in accordance with the instruction.”;

**5/** The appendix to Resolution No. 44/346/18 of the Supervisory Board of KDPW\_CCP S.A. dated 21 December 2018, which is Appendix 1 to the On-Demand Lending Guarantee Fund Rules, shall be replaced by the appendix to this Resolution.

#### § 2

This Resolution shall come into force on the date of its adoption.

Dr Marek Dietl

Chairman of the Supervisory Board

**Rules for determining the amount of contributions to the on-demand lending guarantee fund**  
**Rules for determining the value of the on-demand lending guarantee fund**  
**and the amount of contributions of clearing members**

- I. The value of the guarantee 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 as at the end of day in the clearing system, on the basis of stress-test parameters determined by KDPW\_CCP, and the value of the initial margin required of the clearing member, provided that uncovered risk of client portfolios of clearing members has a floor value equal to zero;
  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 all own portfolios and all client portfolios 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 time window set by KDPW\_CCP multiplied by the parameter securing the change of the exposure value on the next 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 time 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 time window referred to in items I.4 and II and the parameter securing the change of exposure referred to in item I.4 in accordance with § 4a subpara. 1 or 2 of the Rules of Transaction Clearing.