

Resolution No. 48/531/21
of the Supervisory Board of KDPW_CCP S.A.
dated 13 September 2021

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

§ 1

Resolution No. 14/497/21 of the Supervisory Board of KDPW_CCP S.A. dated 11 May 2021 shall be amended as follows:

1/ § 1 point 3 shall be replaced by the following:

“3/ in § 2 subpara. 1, the phrase “referred to in § 1 subpara. 1,” shall be deleted”;

2/ the wording defined in § 1 point 4 of:

a/ § 3 point 34 of the Rules of Transaction Clearing (Organised Trading) shall be replaced by the following:

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

b/ § 3 point 37 of the Rules of Transaction Clearing (Organised Trading) shall be replaced by the following:

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

c/ § 3 points 48 and 49 of the Rules of Transaction Clearing (Organised Trading) shall be replaced by the following:

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

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

3/ the wording of § 4 subpara. 1 of the Rules of Transaction Clearing (Organised Trading) defined in § 1 point 5 shall be replaced by the following:

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

1/ SWI, or

2/ GUI

unless otherwise allowed under these rules or the Detailed Rules of Transaction Clearing (organised trading).”;

4/ § 1 point 10 shall be replaced by the following:

“10/ in § 15

a/ subpara. 1 point 5 shall be deleted;

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

“3. The power of attorney described in subpara. 1 point 4 will need to contain a declaration of the participant to waive the right to cancel this authorisation or to amend its scope in order to enable KDPW_CCP to perform its obligations, as described herein. These powers of attorney shall cease to be valid at the moment of the termination of the participation of the entity which issued them to the extent within which the entity holds the status of clearing member.”;

5/ § 1 point 30 shall be replaced by the following:

“30/ in § 43i, the phrase “§ 70 subpara. 5-7” shall be replaced by the phrase: “§ 46f subpara. 5-7”;;”;

6/ § 1 point 35 shall be replaced by the following:

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

“§ 44a

1. Coverage of transactions referred to in § 44 subpara. 1 point 2 to which novation does not apply by the transaction clearing liquidity guarantee system organised by KDPW_CCP shall mean that KDPW_CCP undertakes to perform, at the expense of its own capital, the actions referred to in Part 9 “Actions taken with resources of the transaction clearing liquidity guarantee system in the case of an identified default”, in cases referred to in the rules. The provisions of § 43b, § 43g subpara. 1, § 43i, § 43j and § 43k shall apply accordingly to such transactions.

2. For transactions other than transactions referred to in § 44 subpara. 1, KDPW_CCP shall only send settlement orders to the relevant settlement institution, subject to the provisions of Section V “Negotiated Lending Clearing Liquidity Guarantee System.”;;”;

7/ the wording of § 55b subpara. 1 of the Rules of Transaction Clearing (Organised Trading) defined in § 1 point 53 shall be replaced by the following:

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

8/ § 1 point 79 shall be replaced by the following:

“79/ § 72b subpara. 2, 3 and 4 shall be replaced by the following:

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

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

1/ KDPW_CCP shall take, in the negotiated lending clearing liquidity guarantee system, referred to in subpara. 1, actions referred to in the provisions of § 58e - § 69c, in the events set out in those

provisions, using for this purpose assets deposited as margins, referred to in § 72c subpara. 2, contributions to the relevant guarantee fund, and own resources, in the sequence and in the amount determined in accordance with point 2 item (b) and § 58e subpara. 2 and 3, § 59 subpara. 4, § 60 subpara. 2, § 61 subpara. 3, § 62 subpara. 2, § 64 subpara. 2, subject to § 54a subpara. 9, § 72f and § 72g,

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

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

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

4. The provisions of § 43b, § 43g subpara. 1, § 43j and § 43k subpara. 2 shall apply accordingly to loan agreements concluded in the negotiated lending system.”.

§ 2

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

Dr Marek Dietl

Chairman of the Supervisory Board