

**RULES**  
**of**  
**Krajowy Depozyt Papierów Wartościowych (KDPW)**

*(consolidated text of the KDPW Rules approved in Resolution No 42/679/17  
of the KDPW Supervisory Board of 26 September 2017, as amended)*

**SECTION I**  
**GENERAL PROVISIONS**

**§ 1**

1. The Rules of Krajowy Depozyt Papierów Wartościowych (KDPW) - the Central Securities Depository of Poland - henceforth referred to as 'the Rules', define the operating principles of the depository system. The provisions of Article 50 of the Law on Trading in financial instruments shall apply to the Rules and any amendments thereof.
2. The term 'depository system' shall refer to the system organised, managed and supervised by KDPW - to ensure:
  - 1) The administration of a securities depository,
  - 2) Settlement involving securities registered in the depository, including the settlement of transactions executed in trading systems managed by entities that have concluded an agreement, referred to in § 23, with KDPW,
  - 3) The performance of issuers' obligations for entitled owners of securities registered in the depository, as well as
  - 4) Performing other activities defined in Art. 48 subpara. 1, items 1-6 of the Law on Trading in financial instruments.
3. With respect to the performance of the responsibilities described in subpara. 2, KDPW shall:
  - 1) Operate a securities settlement system called KDPW\_STREAM,
  - 2) Perform a notary service or central maintenance service for securities for which it performs the role of issuer CSD,
  - 3) Provide non-banking ancillary services, described herein.

**§ 2**

1. The detailed rules of operation of the depository system shall be defined in the Detailed Rules of Operation of KDPW and in other resolutions of the KDPW Management Board approved on the basis of the Rules. The KDPW Management Board may pass resolutions on detailed matters that relate to the operation of the depository system, with the exception of matters regarding the rights and obligations of participants, which define the terms and conditions of obtaining and terminating participant status.
2. The resolutions referred to in subpara. 1 shall be made available to the interested participants immediately upon being passed.
3. The resolutions referred to in subpara. 1 shall come into force two weeks after their becoming available according to subpara. 2, unless they indicate a longer period before coming into force.

4. The provisions of subpara. 2 and 3 shall apply accordingly to amendments to the resolutions referred to in subpara. 1.

5. The provisions of subpara. 3 shall not apply to resolutions of the KDPW Management Board that relate to individual matters, nor to resolutions which do not contain rules relating to the rights and obligations of participants. Subject to the provisions of subpara. 2, these resolutions shall come into force upon being passed, unless the relevant resolution provides otherwise.

### **§ 3**

The KDPW Management Board may discontinue the application of certain provisions of resolutions issued on the basis of these Rules and, with the approval of the KDPW Supervisory Board, of certain provisions of these Rules regulating the operation of the depository system, with respect to securities issued outside the territory of the Republic of Poland, or with respect to the issuer of such securities, where such provisions cannot be applied due to the applicable provisions of foreign law or procedures applied by the entity referred to in § 67, subpara. 2, which manages specific registration accounts for KDPW, on which these securities have been registered.

### **§ 4**

Whenever reference is made in the Rules or in resolutions of the KDPW Management Board, referred to in § 2, subpara. 1, to:

1) the Law on trading in financial instruments, this shall be understood to mean the Law on trading in financial instruments of 29 July, 2005 (consolidated text: Dz. U. (Journal of Laws) 2018, item 2286, as amended);

2) the Law on public offerings, this shall be understood to mean the Law on public offerings, conditions governing the introduction of financial instruments to organised trading, and public companies of 29 July 2005 (consolidated text: Dz. U. (Journal of Laws) 2019, item 623);

3) the Law on Settlement finality, this shall be understood to mean the Law on settlement finality in payment and securities settlement systems and the oversight of these systems, of 24 August 2001 (Dz. U. (Journal of Laws) 2019, item 212);

4) the Law on Financial collateral arrangements, this shall be understood to mean the Law on Financial collateral arrangements of 2 April 2004 (Dz. U. (Journal of Laws) 2016, item 891 as amended);

5) CSDR, this shall be understood to mean Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (Dz. Urz. UE L – Journal of EU Law, item 257 of 28 August 2014 as amended);

6) RTS 2017/392 to CSDR, this shall be understood to mean Commission Delegated Regulation (EU) 2017/392 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on authorisation, supervisory and operational requirements for central securities depositories (Dz. Urz. UE L – Journal of EU Law, item 65 of 10 March 2017);

6a) Commission Implementing Regulation (EU) 2018/1212, this shall be understood to mean Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018 laying down minimum requirements implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights (Dz. Urz. UE (EU Official Journal) L 223 of 4 September 2018);

6b) RTS 2018/1229 to CSDR, this shall be understood to mean Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with

regard to regulatory technical standards on settlement discipline (Dz. Urz. UE L – Journal of EU Law, item 230 of 13 September 2018);

6c) Commission Delegated Regulation 2017/389 to CSDR, this shall be understood to mean Commission Delegated Regulation (EU) 2017/389 of 11 November 2016 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council as regards the parameters for the calculation of cash penalties for settlement fails and the operations of CSDs in host Member States (Dz. Urz. UE L – Journal of EU Law, item 65 of 10 March 2017)

7) EMIR, this shall be understood to mean Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (Dz. Urz. UE L – Journal of EU Law, item 201 of 27 July 2012 as amended);

8) CSD, this shall be understood to mean the entity described in Article 2 subpara. 1 point 1 of CSDR, as well as the entity described in Article 2 subpara. 1 point 2 of CSDR;

9) CCP, this shall be understood to mean the entity described in Article 2 point 1 of EMIR;

10) depository or securities depository, this shall be understood to mean the securities depository defined in Article 3 item 21 of the Law on Trading in financial instruments;

11) KDPW, this shall be understood to mean the joint stock company known as “Krajowy Depozyt Papierów Wartościowych S.A.”,

12) KDPW\_CCP, this shall be understood to mean the joint stock company known as KDPW\_CCP;

13) securities, this shall be understood to mean securities as defined in Article 3 point 1a and b of the Law on Trading in Financial Instruments;

14) securities settlement system, this shall be understood to mean the system referred to in Article 1 point. 2 of the Law on Settlement finality;

15) notary function, this shall be understood to mean the core service referred to in point 1 of Section A of the Annex to CSDR;

16) central maintenance service, this shall be understood to mean the core service referred to in point 2 of Section A of the Annex to CSDR;

17) non-banking-type ancillary services, this shall be understood to mean the services referred to in Section B of the Annex to CSDR;

18) participant’s cash account, this shall be understood to mean the following account indicated by a direct participant:

a) the bank account used for payments in connection with transaction settlement performed by KDPW, as well as for making payments in connection with the regulation of cash penalties, referred to in § 136a subpara. 1, in addition to processing issuers’ obligations from securities registered in the depository, managed in a bank that, under an agreement with KDPW, agreed to have bank accounts managed by it debited or credited in respect of such payments on the basis of instructions issued by KDPW, if the holders of such accounts

authorise KDPW to issue such instructions, or

*b) in the case and within the scope referred to in Article 82 subpara. 7 - the bank account used for payments referred to in item a), managed in TARGET2<sup>1</sup>;*

19) settlement bank – this shall be understood to mean the bank referred to in Point 18 item a), indicated in a resolution of the KDPW Management Board with respect to payments in a specific currency processed by KDPW;

20) clearing guarantee fund, this shall be understood to mean the clearing guarantee fund referred to in Article 65 subpara. 1 of the Law on trading in financial instruments, managed by KDPW\_CCP, the fund used to guarantee the proper clearing of transactions executed in the alternative trading system, managed by KDPW\_CCP, as described in Art. 68 of the Law on Trading in financial instruments, the guarantee fund described in Art. 68d of the Law on Trading in financial instruments, established by an entity managing a clearing house that is a direct participant, or the default fund referred to in Art 42 of EMIR, managed by a CCP that is a direct participant, on condition that such a fund guarantees the performance of obligations related to the clearing of transactions executed on a trading system.

21) KDPW performing the role of issuer CSD, this shall be understood to mean that KDPW manages a central register for certain securities and that registration accounts for these securities managed by KDPW exist at their highest accounting tier;

22) KDPW performing the role of investor CSD, this shall mean that certain securities are registered in the depository via an operational link to another CSD;

23) operational link to another CSD, this shall be understood to mean an arrangement between KDPW and another CSD on the basis of which KDPW becomes a participant in the securities settlement system operated by another CSD in order to enable securities to be transferred between systems, as well as an indirect link;

24) indirect link, this shall be understood to mean an arrangement entered into by KDPW, described in Art. 2 subpara. 1, point 32 of CSDR;

25) cross-system transfer of securities, this shall be understood to mean the transfer of securities performed between a direct participant of the depository system and the participant of another CSD;

26) settlement order, this shall be understood to mean an order described in Art. 1, point 12, item b of the Law on Settlement finality.

27) direct participant, this shall be understood to mean a participant being a holder of a depository account, a securities account or an omnibus securities account managed in KDPW, where this participant may be a party to settlement processed in the depository system, as well as a participant with the participant type of settlement house, described in § 24, subpara. 4, point 1;

28) account operator, this shall be understood to mean a direct participant being a party to the agreement,

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<sup>1</sup> Beginning from the date when TARGET (Trans-European Automated Real-time Gross Settlement Express Transfer system of the next generation) is launched, replacing TARGET2 for the purposes of processing payments in euro in central bank money, Article 4 point 18 item (b) will be replaced by the following:

“b) in the case and within the scope referred to in Article 82 subpara. 7 – the bank account used for payments referred to in item a), managed in TARGET;”.

described in § 5, subpara. 1, with KDPW, used as intermediary by another direct participant to perform activities within the depository system, on the basis of the provisions described in § 35;

29) the unit nominal value of an instrument, this shall be understood to mean that portion of the total nominal value of all debt securities of a given series or issue, which apports this value in a set total number of identical units, each with equal rights that may form a transaction executed as part of the trading in financial instruments;

30) the number of securities, this shall also be understood to mean, with respect to securities which are registered using an expression of value, the nominal value of such securities expressed as a single or multiple of the unit nominal value of the relevant instrument;

31) securities account, this shall also be understood to mean a register managed by a direct participant with the participation type of lead manager;

32) depository account, securities account or omnibus securities account, this shall be understood to mean, respectively, a depository account, a securities account or an omnibus securities account as defined in the Law on Trading in financial instruments, each of these accounting instruments is a securities account, referred to in Art. 2, subpara. 1 point 28 of CSDR;

33) settlement, this shall be understood to mean the activity described in Art. 2, subpara. 1 point 7 of CSDR, including the settlement of the clearing payment described in Article 45h subpara. 3 items 1, 2 or 3 of the Law on Trading in financial instruments;

34) transaction, this shall be understood to mean a contract or any other type of event that requires settlement to be performed and relates to securities registered in the depository, as a result of which, a settlement order is introduced to the depository system;

35) trading system, this shall be understood to mean the regulated market, alternative trading system or organised trading facility;

36) regulated market, this shall be understood to mean the regulated market, as defined in CSDR;

37) alternative trading system, this shall be understood to mean a multilateral trading facility (MTF), as defined in CSDR;

38) organised trading facility, this shall be understood to mean an OTF, as defined by the Law on Trading in financial instruments;

39) investment firm, this shall be understood to mean an entity that operates as an investment firm, as defined by the Law on Trading in financial instruments;

40) foreign investment firm, this shall be understood to mean an entity that operates as a foreign investment firm, as defined by the Law on Trading in financial instruments;

40a) listed company, this shall be understood to mean an entity that is a listed company within the meaning of Article 68i subpara.1 point 2 of the Law on trading in financial instruments;

41) KDPW Detailed Rules of Operation, this shall be understood to mean the Resolution of the KDPW Management Board, which defines the detailed operating rules of the depository system;

42) Day D, this shall be understood to mean the record date on which registration accounts and account balances at the end of this day form the basis for determining persons entitled to receive entitlements from securities registered in the depository and the amount of these entitlements; days immediately prior to or immediately following the record date shall be known as W-n or W+n respectively, where n shall denote the number of days before or after this date;

43) Day W, this shall be understood to mean the payment date on which the direct participant for whom KDPW

manages a registration account receives a payment in securities from the issuer, or the payment date on which the payment in cash from the issuer was transferred onto the participant's cash account; days immediately prior to or immediately following the payment date shall be known as D-n or D+n respectively, where n shall denote the number of days before or after this date.

## § 5

1. Whenever reference is made in these Rules to making a declaration or making available, or providing information by KDPW to a direct participant, or by a direct participant to KDPW, and the Rules do not define the form in which this should take place, this shall be understood to mean delivery to the intended party of the declaration, or information in electronic form on the basis of principles described in agreements signed between KDPW and direct participants, defining the ability to make declarations of will and to send information in electronic form, subject to the provisions of subparas. 2-6.

2. The provisions of subpara. 1 shall not apply in relation to declarations and information sent by direct participants in connection with the exercise by entitled entities of rights from securities registered in the depository via an operational link to another CSD, including information sent for the purposes of confirming the tax status of such entities, should these declarations, or information be intended for further transmission by KDPW to the relevant entity, described in § 67 subpara. 2, in a form other than electronic means.

3. Official documents need to be submitted in their original form, or as properly certified copies.

4. Unless the provisions of the Rules state otherwise, sending declarations and information in the course of relations between KDPW and entities applying for a participation agreement, as well as in the course of relations between KDPW and its participants that are:

- 1) in connection with giving or revoking the consent described in § 187 subpara. 2,
- 2) in accordance with the obligations described in § 34 or § 54,
- 3) in connection with amendments to or termination of the participation agreement,
- 4) in connection with the updating of documents provided by a participant in order to conclude or amend a participation agreement,
- 5) in connection with imposing disciplinary, or order measures, and
- 6) in connection with the participation status of issuer,

shall require the delivery to the addressee of the document containing the declaration or information, prepared at least in ordinary written form, in electronic form or an appropriately certified copy.

5. The KDPW Management Board may, by means of a Resolution:

- 1) define other instances where the submission of declarations, or information should take place according to the rules described in subpara. 4,
- 2) permit participants, or entities seeking to conclude a participation agreement, to submit documents, including official documents, in the form of electronic copy (scan) and to determine the rules for submitting them in such form.

6. In relations between KDPW and participants, the submission of documents containing a declaration, or information, that do not meet the formal requirements described, respectively, in subpara. 4 or in subpara. 5 point 2, may be permitted. However, only actions requiring an urgent response should be performed on the basis of the contents of such a document. No action should be performed when such a document has been damaged in such a way as to render its contents impossible to determine, or when its authenticity may be challenged.

7. In instances described in these Rules, or in the KDPW Detailed Rules of Operation, in relations between KDPW and participants with the status of issuer, issue agent or payment agent, the transfer of declarations or information as part of these participation types shall take place using electronic means, including using the application available on the KDPW website. If, however, the declaration or the information cannot be transmitted in this manner, in particular for technical reasons, then they should be sent according to the principles described in subpara. 4, subject to the provisions of subpara. 5 item 2 and subpara. 6. The provisions of the previous sentence shall not apply to:

- 1) the application described in § 65 subpara.3,
- 2) the declarations and information submitted by participants with the participation type of payment agent, relating to the processing by KDPW of cash entitlements from bonds, mortgage bonds or investment certificates,
- 3) confirmation that the votes of shareholders cast during a general meeting have been correctly registered and counted, as described in § 142c subpara.1, and
- 4) requests relating to making available information to enable the identification of shareholders of a listed company and to determine the number of shares of that company held by them, as described in § 142d subpara.1
- 5) information on the number of votes that may be exercised at a given general meeting on the basis of registered privileged shares assigned with separate codes, submitted in accordance with the provisions of 141a subpara.2, and
- 6) requests for submission of information, referred to in 328<sup>13</sup> § 1 point 1-4 and § 2 of the Commercial Company Code,

which may only be submitted to KDPW by electronic messaging.

7a. The rules governing access and access authentication to the applications available on the KDPW website intended for electronic communication with KDPW, shall be defined by the KDPW Management Board by means of a resolution.

8. 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, while for documents containing information from the National Court Register – this shall also mean a computer printout meeting the requirements, where these documents have been granted legal equivalence with the documents issued by the Central Information Bureau of the National Court Register,
- 2) For private documents: a notarised copy stating it conforms to the original, while for documents containing personal declarations by the given entity, a copy certified as being true to the original according to the corporate representation rules of that entity will also be required.

9. The declarations and information described in subparas. 4 and 5 point 1 shall be sent by KDPW to the address indicated in the documents submitted by the participant to KDPW. 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 has received information that such a delivery was not possible, all consequences pertaining to the delivery to the participant of the declaration or information by KDPW, have taken place.

## § 6

1. Public documents submitted by participants, or by entities seeking to conclude an agreement for participation in the depository system, prepared abroad, should be legalised in accordance with the relevant law, subject to

the provisions of subpara. 2.

2. If a public document has been prepared in a country that is a signatory to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, such a document should be apostilled by the relevant state department from the country where the document has been drafted.

## **§ 7**

1. The Rules, KDPW Detailed Rules of Operation, other resolutions of the KDPW Supervisory Board or Management Board that relate to participation in general, as well as their amendments, shall be made available to participants by publishing them on the KDPW website, of which KDPW shall inform participants without undue delay.

2. In relation to direct participants, KDPW shall provide the information that the regulations, referred to in subpara.1, or amendments to these regulations, are available on the KDPW website, in the manner described in § 5 subpara. 1.

3. In relation to direct participants, who have appointed an account operator, these shall be notified of the information, referred to in subpara. 2, through the relevant account operator.

4. A participant with the participation type of issuer, may give written consent to receive via email information that the regulations, referred to in subpara.1, or amendments to these regulations, are available on the KDPW website. In such instances, KDPW shall send this information to the participant's email address indicated in that participant's consent notice.

5. A participant with the participation type of issuer, who has provided the consent, described in subpara. 4, shall be obliged to configure their email, including antispam filters, and to organise technical support in such a manner as to ensure that any information sent by KDPW to the email address indicated in the consent notice by the participant shall be received without undue delay. In the event of any difficulties in ensuring that information sent by KDPW to the email address indicated in the consent notice by the participant may be received without undue delay, the participant shall immediately notify KDPW of the temporary suspension of procedures for sending the information by email, or shall notify in writing of another email address that will ensure the immediate and effective receipt of this information, or shall withdraw the consent provided.

6. The regulations referred to in subpara. 1, as well as amendments to these regulations, may also be made available to direct participants in the manner indicated in subpara. 2, and may also be made available to issuers, referred to in the first sentence of subpara. 4, in the manner indicated in the second sentence of subpara. 4; in justified circumstances, they may also be made available in another manner, which, subject to the provisions of § 5 subpara. 9, shall ensure that participants receive information on their availability and shall enable participants to review their contents and to store them and retrieve them in the normal course of their activities.

## **§ 8**

1. Should the declaration or information, which need to be sent in electronic form, require special formatting or a predefined structure, KDPW shall designate the necessary format or structure of such a declaration or information on its website, or shall make available on its website an application enabling the preparation and submission to KDPW of the declaration or information, while maintaining the scope of data required.

2. KDPW may indicate the format or the structure of the declaration or information, referred to in subpara. 1, by making reference to the formats or the structures defined in norms established as international standards with respect to the electronic exchange of information in the form of structured messages, in particular with reference to ISO 20022 or ISO 15022 messaging standards. In such instances, KDPW shall define on its website the types of



structured messages, which may be used to send such declarations or information, and shall indicate the website on which the formats or structures of these types of messages are available, subject to the provisions of subpara. 5.

3. KDPW may in addition define on its website the rules for the use and completion of the messages, described in subpara. 2, by its participants, or by KDPW itself.

4. KDPW shall inform its participants of any changes to the requirements within the scope indicated in subpara. 1-3 at least four weeks prior to the introduction of these changes. The provisions of the previous sentence shall not apply to instances where the change relates to declarations or information, which need to be sent to KDPW using an application available on the KDPW website and is not related to the extension of the scope of data sent to KDPW using this application.

5. In instances where the format or structure of the message indicated by KDPW to which the reference was made, as described in subpara. 2, shall cease to be made available on the website indicated by KDPW, KDPW shall make the format or structure of this message available on its website until such a time as the relevant changes will be introduced in this scope, in accordance with the provisions of subpara. 4.

## **§ 9**

1. Whenever a number of days are specified, the number shall exclude all official holidays, specified in the applicable regulations, and Saturdays, subject to subparas. 2 and 3.

1a. The provisions of subpara. 1 shall not apply when calculating the deadline, described in § 171 subpara. 1.

2. If so required by the depository system, the KDPW Management Board may, by way of resolution, specify additional days that shall be excluded when calculating deadlines, and specify days from among those referred to in subpara. 1 that shall be included in the deadline calculation. KDPW shall notify its participants of every such case at least one month in advance.

3. In instances where the Rules impose a duty to perform an activity, or give an undertaking dependent on the performance of an activity, and do not specify in days, weeks or otherwise when that activity is to be carried out, the activity should be performed immediately after the event, which requires such activity to be carried out has taken place.

## **§ 10**

1. Subject to the provisions of the second sentence of subpara. 3, and the provisions of subpara. 4, the market value of securities traded in an organised market shall be calculated using the following methodology:

1) the market value of securities traded exclusively in a single organised market shall be calculated according to their price in that market, determined as the reference price;

2) if on a given date the price determined as the reference price has not been calculated in the organised market where the trading of securities, described in point 1, is performed, then the market value of those securities shall be calculated using the last such reference price determined prior to that date;

3) the market value of securities traded in more than one organised market shall be calculated according to their price in the market that has been assigned with a higher priority than the priority assigned to the remaining markets, and this price shall be determined as the reference price.

4) if on a given date in an organised market determined according to the principles described in point 3, the price determined as the reference price has not been calculated, the market value of the securities described

in point 3 shall be calculated on the basis of such a reference price calculated on that date in another organised market in which these securities are traded, and if such a price was calculated on that date in more than one market, the reference price shall be calculated on the basis of the price in that market that has been assigned with a higher priority than the priority assigned to the remaining markets;

5) if on a given date the price determined as the reference price has not been calculated on any of the organised markets where the trading of securities, described in point 1, is performed, then the market value shall be calculated on the basis of the last reference price from that market where this reference price was calculated at the latest time, and should this condition be met in more than one organised market, then the reference price shall be calculated on the basis of the last such reference price from the market that has been assigned with a higher priority than the priority assigned to the remaining markets.

2. Priorities assigned to individual organised markets and prices determined as reference prices for the purposes of calculating the market value of securities are described in Appendix 2 of the Rules herein.

3. The market value of securities, whose price has been determined as the reference price and defined as a percentage, shall be equal to the product of their current nominal value multiplied by the price calculated according to the provisions of subpara. 1, increased by the value of cumulated interest calculated on the date that their market price has been calculated, unless the entity managing the organised market or the issuer directly or indirectly delivers KDPW\_CCP information indicating this value. However, it shall be assumed that the market value of securities on a date not being a trading date or a session date on any organised market in which these securities are traded, shall be equal to the market value calculated on the last trading date or a session date in such a market.

4. If on a given date, in connection with a change in the nominal value of securities, whose price, determined as the reference price, is not defined as a percentage, an exchange operation was performed in KDPW where these securities were exchanged for securities with a new nominal value, their market value on that date shall be calculated according to the price determined as the reference price in accordance with the principles of subpara. 1 and 2; for the purposes of calculating this value, this price shall be multiplied by the product, where the numerator is the new nominal value and the denominator is the previous nominal value.

5. the market value of securities not traded in any organised market shall be calculated according to the following principles:

1) the market value of Treasury bills shall be calculated according to rules applied by the National Bank of Poland when determining the market value of Treasury bills that are used as loans executed within the securities registration system managed by the National Bank of Poland, as well as used as collateral for these loans;

2) the market value of securities which have been excluded from trading in an organised market, or whose trading in such a market has been terminated for other reasons, shall be calculated according to the principles described in subparas. 1-4, subject to the provision that if these securities were traded in more than one organised market and their exclusion from trading in these markets took place at different dates, their market value shall be calculated on the basis of the last price from the market where trading was terminated last, which shall then be the reference price.

3) for subscription rights, which are not included in the provisions of point 2 above, the market value shall be deemed to be zero.

4) the market value of other securities shall be calculated, respectively, according to their issue price, or according to their average issue prices weighted by the number of securities registered in the depository in separate issues; if the issue price cannot be determined, then their nominal value is used for the calculation.

6. If the market value of the securities, calculated according to the principles described in subparas. 1-5 is expressed in a foreign currency, this value shall be converted into Polish currency by applying the current average foreign exchange rate published by the National Bank of Poland.

7. For the purposes of applying the provisions of subpara. 1-5, it shall be assumed that an organised market is a regulated market or an alternative trading system, on condition that these are managed by an entity or entities being parties to an agreement, described in § 23 subpara. 1, concluded with KDPW and being in force on the date that the market value of the securities is to be calculated, as well as the electronic Treasury securities market managed by BondSpot S.A. on the basis of an agreement with the Minister of Finance.

#### **§ 11**

Where performing an operation in the depository system, including performing settlement described in § 86, or the processing of an issuer's obligations for those entitled to rights in securities, requires an amount expressed in a foreign currency to be converted to Polish currency, or vice versa, such conversion shall be made using the current average exchange rate published by the National Bank of Poland.

#### **§ 12**

1. KDPW shall not have the right to satisfy claims to which it is entitled from a direct participant by using securities registered on the depository account, omnibus securities account, or securities account managed for that participant, unless the participant has expressed its consent in writing.

2. With respect to securities belonging to the clients of a direct participant, that participant cannot express its consent, referred to in subpara. 1, if the client whose securities the consent relates to has not in turn given its prior consent.

#### **§ 13**

1. KDPW shall be held liable for losses incurred by a participant as a result of its failure to perform or wrongful performance of its duties arising from the Rules where these losses are a direct consequence of its wrongful performance or omission.

2. KDPW shall not be held liable for any losses, referred to in subpara. 1, where its failure to perform or wrongful performance of its duties was the result of the action or negligence of a participant, who has suffered the loss, the action or negligence of another entity, for which KDPW shall not be held liable, or was the result of other circumstances for which KDPW shall not be held liable.

3. KDPW shall not be obliged to provide compensation for damage or harm resulting in loss of any gains, which a party would have been able to obtain had the damage or harm been avoided, unless the damage or harm was intentional, or the result of gross negligence on the part of KDPW.

4. KDPW shall not be held liable for losses incurred by participants as a result of the wrongful performance or omission of the settlement bank.

5. KDPW shall not be held liable for any losses incurred by participants as a result of any action, or omission, or for any other events or legal consequences in relation to:

1) entities, described in § 40, subpara. 6, which manage registration accounts for KDPW, on which securities are registered for which KDPW performs the role of issuer CSD,

or,

2) indirect intermediaries, where the entities described in § 67, subpara. 2 keep or through which they register such securities,

unless KDPW for reasons of intent, or gross negligence, has caused such damage or harm to occur. In the latter case, KDPW shall be liable for the damage or harm to the extent that it is the natural consequence of its wrongful actions, or negligence.

6. If in the event of the occurrence of losses, described in subpara. 5, KDPW shall receive compensation from the entity described in § 67, subpara. 2, or from another source, this compensation will be apportioned between participants, on a pro-rata basis according to the level of their loss as a result of the damage or harm. If the event or legal consequences, referred to in subpara. 5, shall also lead to losses affecting the assets of KDPW, the aforementioned compensation shall also be used to reimburse those losses, while maintaining the pro-rata principle described in the previous sentence.

7. KDPW may, in cooperation with the participant, or participants who suffered the damage or harm described in subpara. 5, take steps aimed at restitution for the damage or harm from the entity described in § 67, subpara. 2, if these steps are justified in the light of circumstances in a given case and participants who apply for such action agree to cover all costs and expenses incurred in the process. In such instances, any payments received by KDPW as a result of these actions shall firstly be allocated among participants to cover related costs and expenses, in proportion to their share in these costs or expenses, however, not higher than the amount of losses indicated by each. Any potential excess amount shall be allocated among the remaining participants and KDPW according to the provisions of subpara. 6

#### § 14

1. In instances where the damage or harm, described in § 13 subpara. 5, for which KDPW is not liable, consists of a permanent inability to access securities registered on accounts managed in KDPW for direct participants, or consists of a permanent inability to access cash owed to or transferred by direct participants, and there is no method available for determining with certainty which entity was the owner, or which is entity owed securities or cash that cannot be accessed, in particular because beneficial owners cannot be identified at the level of the intermediary, or intermediaries, described in § 13 subpara. 5, then the following principles shall apply where appropriate:

1) it shall be agreed that the damage or harm consisting of the permanent inability to access securities assigned a specific securities id number has been suffered by all direct participants on whose accounts the securities assigned the specific securities id number were registered in KDPW, on a pro-rata basis in relation to the balances on the accounts of those participants at the end of the day, on which KDPW determined the information on the existence and scale of the damage or harm; in such instances, KDPW shall immediately inform direct participants, as well as the entity with which the agreement referred to in § 23 has been concluded, managing the trading system for those securities, about having accepted information about the damage or harm, and shall cease processing settlement involving the transfer of securities assigned with this securities id number from accounts, or onto the accounts of KDPW managed by the entity described in § 67, subpara. 2, until such a time that a specific reduction in the number of securities assigned with this securities id number can be carried out on the accounts managed for participants;

2) it shall be agreed that the damage or harm consisting of the permanent inability to access cash transferred by participants has been suffered by each of those participants, on a pro-rata basis to the cash amounts they transferred;

3) it shall be agreed that the damage or harm consisting of the permanent inability to access cash owed to participants for a specific purpose has been suffered by each of those participants, on a pro-rata basis to the cash amounts they are owed;

2. A permanent inability to access securities or cash, described in subpara. 1 shall mean a lack of access resulting

from the loss, unauthorised use, destruction, void status, cancellation, forgery, expropriation, confiscation relating to securities, or cash, or for other reasons, when circumstances reflect that the inability to access the securities or cash is not of a temporary nature.

3. In instances described in subpara1, point 1, the reduction of the number of securities on the accounts managed for direct participants shall be carried out as the final operation on the day that KDPW determined the information on the existence and scale of the damage or harm.

#### **§ 15**

1. KDPW shall not be obliged to enter into any agreements or establish any other legal relations with foreign tax authorities or other foreign administration bodies, and neither shall it be obliged to disclose any information to such authorities or bodies unless such disclosure is required under the law applicable in the Republic of Poland.

2. KDPW shall not have any liability for any loss caused by any action or negligence of authorities or bodies referred to in subpara. 1 or any remedies applied by them including unfavourable rules of taxation on income or assets resulting from KDPW not entering into an agreement or not establishing other legal relations with such authorities or bodies or resulting from non-disclosure of information to such authorities or bodies by KDPW unless the law applicable in the Republic of Poland requires KDPW in the given case to disclose specific information to such authorities or bodies.

#### **§ 16**

KDPW shall make available on its website:

- 1) a list of securities registered in the depository via operational links to other CSDs,
- 2) a list of entities, referred to in § 67 subpara. 2, managing registration accounts for KDPW in connection with the registration of securities, referred to in point 1, in the depository,
- 3) information relating to the legal and operational terms and conditions of the link arrangements to other CSDs.

#### **§ 16a**

1. Information deemed to be the personal data of clients of direct participants, which the direct participant sends to KDPW for the purpose of transmitting them further to the issuer, to the entity described in § 67 subpara. 2 of the KDPW Rules, or to the body which this entity has entrusted with the gathering of such information (each such body shall be referred to herein as the "relevant recipient"), irrespective of whether the sending of such information to KDPW takes place at its instigation, or at the initiative of the direct participant, shall be processed by KDPW on behalf of the direct participant and in its capacity as a processor, according to the definition contained in the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (EU Official Journal L 119 of 4 May 2017). Subject to the provisions of subpara. 2, the provisions of the preceding sentence shall apply in particular to the personal data of the clients of a direct participant, which are sent by that direct participant to KDPW in order to enable those clients to exercise their rights deriving from securities, or in order for them to apply tax exemptions or other relief from tax withheld abroad.

2. The personal data, referred to in subpara. 1, may only be sent by a direct participant on the basis of a notice, or a request from KDPW, from which it is understood that it shall be possible for KDPW to transmit them further to the indicated relevant recipient. The scope of the data and the manner and the deadline for sending them to KDPW shall be indicated each time in the KDPW notice or request, however, the scope of these data must be

contained in the following list of personal data of clients of a direct participant:

- 1) forenames and last name,
- 2) gender,
- 3) addresses where established or other contact data,
- 4) date and place of birth,
- 5) names of parents or maiden names,
- 6) numbers of identity documents,
- 7) countries of tax domicile,
- 8) personal ID numbers, or equivalent,
- 9) tax ID numbers.

3. The personal data referred to in subpara. 1 shall be processed by KDPW each time for a duration of time necessary for achieving the purpose described in subpara. 1. However, KDPW shall have the right to keep this data for a duration of time necessary to determine, or make a claim in connection with the processing of these data as well as for protection against such claims, which shall not be shorter than required by the relevant laws applicable to KDPW. Once this duration of time has passed, KDPW shall erase these data.

4. KDPW shall not send any personal data, referred to in subpara. 1, to any person other than the relevant recipient, unless relevant laws impose such a duty on KDPW to send data. The re-sending by KDPW of personal data, referred to in subpara. 1, to the same or to a different relevant recipient shall require the re-sending of this data for this purpose, by the direct participant to KDPW.

5. The sending by KDPW of a notice or a request, as described in subpara. 2, to a direct participant, shall confirm the readiness of KDPW to process the personal data, referred to in subpara. 1, in accordance with the provisions of this notice or request. The sending of personal data of clients by a direct participant in response to such a notice or request, shall be understood as an instruction for the data to be processed by KDPW, in accordance with the provisions of this notice or request.

6. All persons who have been authorised by KDPW to process the personal data, referred to in subpara. 1, shall be subject to the duty of maintaining professional confidentiality, as described in Art. 147 of the Law on Trading in Financial Instruments.

7. KDPW shall implement the necessary technical and organisational measures to ensure an adequate level of security of the personal data, referred to in subpara. 1, in accordance with Art. 32 of the Regulation referred to in subpara. 1.

8. With respect to the personal data referred to in subpara. 1, KDPW shall not use the services of another data processor.

9. Taking into account the nature of the processing of personal data referred to in subpara. 1, the purpose of which is to transfer them to the relevant recipient, KDPW shall be bound to assist the direct participant, where possible, through appropriate technical and organisational measures in the performance of duties specified in Chapter III of the Regulation, referred to in subpara. 1, with respect to the clients of the direct participant. In addition, KDPW shall support the direct participant, taking into account the nature of the processing of personal data referred to in subpara. 1, and the information available, in the performance of the duties listed in Arts. 32, 35 and 36 of the Regulation, referred to in subpara. 1.

10. KDPW shall make available to the direct participant the information necessary to prove compliance with the duties arising under Art. 28 of the Regulation, referred to in subpara. 1.

11. KDPW shall enable direct participants submitting personal data, referred to in subpara. 1, to carry out audits on the processing of such data by KDPW at intervals of not less than one year and pursuant to the rules set out in subparas. 12 to 14.

12. The application to enable the audit to be carried out should indicate the auditor proposed by the direct participant, who may also be this or another participant. If the application was submitted one year after the end of the last such audit, KDPW shall provide this information and information about the auditor indicated in it, to other direct participants sending the personal data, referred to in subpara. 1. A direct participant interested in conducting an audit should, within two weeks of receiving this information, indicate to KDPW the proposed auditor.

13. KDPW shall permit the audit to be carried out by no more than two auditors proposed by the largest number of direct participants on a date agreed with these auditors. KDPW shall immediately notify direct participants providing personal data, referred to in subpara. 1, about the auditors conducting the audit and the date of its performance.

14. As part of the audit, the auditor or auditors may request information relating to the processing by KDPW of personal data referred to in subpara. 1, including information about the IT system, software, hardware and media, by means of which KDPW processes these data; in addition, they may also inspect the premises in which the data are processed by KDPW.

15. KDPW shall notify the direct participant of any identified violation of the protection of personal data provided by the participant, referred to in subpara. 1, within 48 hours of such identification being made. Together with the notification, KDPW shall provide the direct participant with its own assessment of the resulting risk of violation of the rights or freedoms of the persons which this data concerns.

16. The provisions of subparas. 1-15 shall not apply to the personal data of clients of a direct participant, which KDPW processes in the performance of its legal duty arising from provisions of Polish law or of European Union law in force directly within the territory of the Republic of Poland, and in particular to personal data submitted to KDPW in accordance with Article 406<sup>3</sup> of the of Commercial Company Code or in order to enable clients to benefit from tax exemption or other forms of tax relief on tax withheld KDPW in the performance of its duties as withholding agent. Such personal data shall be processed by KDPW as an controller within the meaning of the provisions of the Regulation, referred to in subpara. 1.

17. A client of a direct participant, within the meaning of subparas. 1-16 shall also include a person with rights from securities registered on the omnibus securities account managed by that participant, or managed for that participant in KDPW.

## **SECTION II ACCESS TO KDPW SERVICES**

### **CHAPTER 1 GENERAL PROVISIONS**

#### **§ 17**

The services referred to in these Rules, shall be provided to participants of the depository system and to operators of trading systems, which have concluded agreements with KDPW, described in § 23 subpara. 1.

#### **§ 18**

1. Subject to the provisions of Art. 51 subpara. 3 of the Law on Trading in financial instruments, the following entities may become participants in the depository system:

- 1) entities entitled to keep securities accounts and omnibus securities accounts,
- 2) banks investment firms and foreign investment firms,
- 3) entities, referred to in Article 8a subpara. 2 of the Law on trading in financial instruments, for which omnibus securities accounts may be kept, on condition that they hold the status of financial institution within the definition described in the Agreement between the Government of the United States of America and the Government of the Republic of Poland to Improve International Tax Compliance and to Implement FATCA, signed in Warsaw on 7 October 2014 (Dz. U. (Journal of Laws) 2015, item 1647),
- 4) entities operating a clearing house or a settlement institution within the definition described in the Law on Trading in financial instruments,
- 5) CSDs that have obtained the authorisation described in Art. 16 of CSDR, or recognition in accordance with the provisions of Art. 25 of CSDR,
- 6) CCPs that have obtained the authorisation described in Art. 14 of EMIR, or recognition in accordance with the provisions of Art. 25 of EMIR,
- 7) other financial institutions, being legal entities, including institutions regulated by public law, performing activities related to the management of public debt or the stability of the financial system, if they purchase securities registered in the depository on their own account, and
- 8) issuers of securities registered in the depository.

2. Only those entities described in subpara. 1, points 1-7 may become direct participants.

3. Entities referred to in subpara. 1 shall obtain access to KDPW services on the basis of an agreement for participation in the depository system.

#### **§ 19**

The participation agreement shall indicate the activities that need to be performed by the participant in the depository system, in particular by specifying the type or types of participant status granted to the participant as part of the types of activities performed by that participant in the financial markets, according to the classification contained in § 24 subparas. 1-7 – and in the case of issuers: by indicating the participation type – issuer, which is granted in respect to all securities being the subject of agreements concluded with the issuer for the registration of securities in the depository.

#### **§ 20**

Participants shall be obliged immediately to inform KDPW of any changes in the details contained in the documents, which the participant has submitted together with the application for a participation agreement, as well as of any events, which may adversely affect the performance of the participant's obligations deriving from participation in the depository system.

#### **§ 21**

Each participant shall be obliged to have a LEI code that identifies them, assigned by an entity authorised to register such codes, and to ensure this code remains valid.

#### **§ 22**

1. Any civil disputes concerning proprietary interests arising between participants, or between a participant and KDPW, in connection with participation in the depository system, shall be submitted to arbitration by the court of



arbitration at KDPW.

2. Relationships between KDPW and participants under participation agreements shall be governed by the laws of the Republic of Poland.

## **CHAPTER 2 ACCESS BY TRADING PLATFORMS**

### **§ 23**

1. An entity operating a trading platform shall obtain access to the settlement system managed by KDPW on the basis of an agreement, concluded with KDPW, relating to KDPW performing the settlement of transactions executed on the trading platform operated by that entity.

2. KDPW shall conclude the agreement, described in subpara. 1, on condition that the entity operating the trading system meets the access criteria of the settlement system and the comprehensive risk assessment performed by KDPW in accordance with the provisions of Art. 89 RTS 2017/392 to CSDR has not revealed the existence of any justifiable reason for refusal of access to that entity. For the purposes of the assessment, KDPW may request that the entity operating a trading platform submit documentation to enable the assessment to be performed.

3. KDPW shall make available on its website the terms and conditions of access to the settlement system for an entity operating a trading platform.

4. The agreement, referred to in subpara. 1 shall define in particular the means of communication between KDPW and the entity operating a trading platform, including the format and structure of electronic messages, as well as the rights and obligations of the parties related to the settlement of transactions performed by KDPW, which have been executed in that trading system.

## **CHAPTER 3 DIRECT PARTICIPATION AND PARTICIPATION AS ISSUE AGENT OR PAYMENT AGENT**

### **§ 24**

1. The types of participant status available to direct participants managing securities accounts, or omnibus securities accounts as part of brokerage activities, are defined as follows:

1) Brokerage Office: for participants that keep securities accounts on behalf of clients, or omnibus securities accounts, in relation to which a depository account is managed for them in KDPW;

2) Brokerage Office-own account: for participants that keep a securities account for their own securities, in relation to which a depository account is managed for them in KDPW;

3) Lead manager: for participants who:

a) keep a register of owners holding pre-defined securities purchased on the primary market or in an initial public offering, or

b) make the entries described in Article 4 subpara. 2a of the Law on trading in financial instruments, relating to Treasury bills, or

- c) keep a register described in Article 6 subpara. 1 of the Law on trading in financial instruments, or
  - d) has created a register of persons with entitlements from securities, described in Art. 7a, subpara. 4, point 4 of the Law on trading in financial instruments, or
  - e) keep a shareholder register, referred to in Article 6a of the Law on trading in financial instruments,
- in relation to which a depository account is managed for them in KDPW;

4) Representative: for participants, who as part of an agreement with a represented entity, which may be another direct participant, or an entity that is not a direct participant, consents to be a settlement party for transactions executed by that represented entity, including in particular in the regulated market or alternative trading system, and keeps a securities account for that represented entity, in relation to which a depository account is managed for that entity in KDPW.

2. The types of participant status available for direct participants performing custodial services are defined as follows:

1) Custodian: for participants that keep securities accounts on behalf of clients, or omnibus securities accounts, in relation to which a depository account is managed for them in KDPW.

2) Custodian – own account: for participants that keep a securities account for their own securities, in relation to which a depository account is managed for them in KDPW.

3) Lead manager: for participants who:

a) keep a register of owners holding pre-defined securities purchased on the primary market or in an initial public offering, or

b) make the entries described in Article 4 subpara. 2a of the Law on trading in financial instruments, relating to Treasury bills, or

c) keep a register described in Article 6 subpara. 1 of the Law on trading in financial instruments, or

d) has created a register of persons with entitlements from securities, described in Art. 7a, subpara. 4, point 4 of the Law on trading in financial instruments, or

e) keep a shareholder register, referred to in Article 6a of the Law on trading in financial instruments,

- in relation to which a depository account is managed for them in KDPW;

4) Representative: for participants, who as part of an agreement with a represented entity, which may be another direct participant, or an entity that is not a direct participant, consents to be a settlement party for transactions executed by that represented entity, including in particular in the regulated market or alternative trading system, and keeps a securities account for that represented entity, in relation to which a depository account is managed for that entity in KDPW.

3. The types of participant status available for direct participants carrying out CSD functions are defined as follows:

1) Custodian-CSD: for participants that hold an omnibus securities account managed for them in KDPW, in connection with their role of performing activities related to the registration of securities outside the territory of the Republic of Poland, kept on this account, on behalf of other entities;

2) Depositor – for participants that hold a securities account managed in KDPW, used to register the proprietary securities of that participant;

4. The types of participant status available for direct participants managing a settlement house are defined as follows:

- 1) Settlement House: for participants acting as settlement agent, which following the conclusion of an agreement with another direct participant, manage for that participant a depository account and represent that participant within the scope of the registration of transaction settlement positions performed by a settlement house on dedicated registration accounts separated for this purpose and managed by KDPW for the represented direct participant;
  - 2) Depositor – for participants that hold a securities account managed in KDPW, used to register the proprietary securities of that participant;
5. The types of participant status available for direct participants performing activities involving the clearing of transactions executed as part of securities trading, are defined as follows:
- 1) Central Counterparty: for participants that hold a securities account managed in KDPW for the sole purpose of performing the settlement of transactions cleared by the participant acting as the mandatory counterparty to that settlement;
  - 2) Depositor – for participants that hold a securities account managed in KDPW, used to register the proprietary securities of that participant;
6. The types of participant status available for direct participants performing other activities are defined as follows:
- 1) Foreign Custodian: for participants that hold an omnibus securities account managed for them in KDPW, in connection with their role of performing activities related to the registration of securities outside the territory of the Republic of Poland, kept on this account, on behalf of other entities;
  - 2) Depositor – for participants that hold a securities account managed in KDPW, used to register the proprietary securities of that participant;
7. The following are specific participation types:
- 1) issue agents – for participants that assume responsibility for determining that the conditions described in Art. 7a subpara. 8 of the Law on Trading in financial instruments have been met, enabling the registration of specific bonds, mortgage bonds or investment certificates in the depository and that assume responsibility for the correctness of information relating to these securities, introduced by them to the depository system, as well as acting as intermediary in the process of concluding an agreement by the issuer of these securities, to which the registration relates;
  - 2) payment agent – for participants that, on the basis of authorisation provided by another participant that holds the participant type of Issuer, submit to KDPW and receive from KDPW declarations and information relating to the processing by KDPW of the payment of cash entitlements deriving from bonds, mortgage bonds or investment certificates issued by the participant granting the authorisation; act as intermediary in sending KDPW cash for the purpose of making such payments; as well as consent to be charged fees by KDPW for this service.

## **§ 25**

1. For the participation type of Representative, relating to transactions executed by the same entity that is not a participant, there cannot exist different participants, or even the same participant, but rather within different types of activities performed by that participant, determined according to the provisions of § 24 subpara. 1-6.
2. Only direct participants, described in § 24 subpara. 1, point 3, or subpara. 2, point 3, may hold the participation type of issue agent.
3. Only direct participants may hold the participation type of payment agent.

## § 26

1. An entity that intends to become a direct participant submits a declaration of its intention to conclude a participation agreement in the form of an application sent to KDPW.
2. The application, referred to in subpara. 1 should contain the following information:
  - 1) an indication, according to the classification contained in § 24 subparas. 1-6, of the type of activities the applicant intends to perform as participant within the depository system and the type or types of participant status being applied for as part of the performance of these activities, and in addition, if the participation type of settlement house or representative have been selected, to indicate, respectively, the direct participant or the entity that is not a direct participant, for whom the applicant intends to act within this scope;
  - 2) an indication of the LEI code identifying the applicant;
3. The application described in subpara. 1 should also contain a declaration stating that the applicant has understood the rules presented on the KDPW website relating to sending and receiving declarations and information in electronic form, applied in relations between KDPW and direct participants, and has understood the terms and conditions which need to be met by that applicant according to the provisions of § 37 subpara. 2.
3. The provisions of subpara. 3 shall not apply to an applicant seeking to obtain participation in a scope relating to holding an omnibus securities account or a securities account kept in KDPW and intending to operate in the depository system via an account operator. In that case, the application should contain a declaration concerning appointment of a specific direct participant as the applicant's account operator.
4. If the applicant is seeking to obtain the type of participant status related to keeping a securities omnibus account in KDPW, the application should contain a declaration stating that the applicant is familiar with the provisions of Articles 3, 4a and 30b of the Personal Income Tax Law of 26 July 1991 (Dziennik Ustaw - Journal of Laws from 2016, item 2032, as amended) and is aware that natural persons who are payers of the personal income tax are obliged to provide Polish tax authorities with tax returns indicating the amount of gain (loss) earned by them in the tax year from sale of securities for a price and exercise of rights from securities referred to in Article 3 point 1 item (b) of the Law on Trading in financial instruments, and that the provisions of the Personal Income Tax Law of 26 July 1991 impose the obligation on such taxpayers to pay income tax on such gain.

## § 27

1. The application for an agreement for direct participation shall include the following:
  - 1) a copy of the company statute, or other official document describing the legal status and organisation of the applicant and a valid copy or excerpts from the relevant company register;
  - 2) a copy of the brokerage licence or licence to conduct other activities by the applicant, if such a licence is necessary on the basis of provisions of Polish or foreign law currently in force, while for foreign investment companies conducting brokerage activities on the territory of the Republic of Poland – an additional declaration showing that conditions have arisen to allow them to begin performing brokerage activities in the territory of the Republic of Poland, defined in Article 117(3), second sentence, of the Law on trading in financial instruments, or a document from the Polish Financial Supervision Authority (KNF), or a department of the Polish Financial Supervision Authority, confirming that the Authority has received from the appropriate foreign supervisory body notification on the intention to begin performing brokerage activities in the Republic of Poland by that foreign investment company, indicating the date when this notification was received,
  - 3) a copy of internal procedures and measures that the applicant shall apply to ensure the confidentiality of information obtained from the securities settlement system operated by KDPW,

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

5) cards with specimen signatures of persons authorised to make and receive declarations from KDPW on behalf of the applicant, these declarations not being declarations of intent;

6) an information card containing addresses for deliveries as well as a list of staff employed in posts involving securities trading-related activities, that includes their positions, telephone numbers as well as email addresses;

7) a declaration giving consent to arbitration by the arbitration court at KDPW,

*8) a declaration indicating the number or numbers of bank accounts managed in the settlement bank and, in the case and within the scope referred to in Article 82 subpara. 7, managed in the TARGET2 system, used to process payments arising from the settlement of transactions performed by KDPW or performed as part of the processing of issuers' obligations arising from securities registered in the depository,<sup>2</sup>*

9) copies of annual financial statements for the previous 3 years, however, if the applicant has only performed business activities for a shorter period, for all business years together with a certified auditor's opinion and report, unless the applicant's annual financial statements are not subject to mandatory audit in accordance with the relevant laws in force in the jurisdiction of the applicant's place of business.

10) a copy of the risk management procedures the applicant has implemented, containing a description of how activities, duties and responsibilities have been allocated within the applicant's organisational structure, as well as information relating to procedures for identifying risk to which the applicant is, or may be, exposed, its assessment, monitoring and management, containing in addition rules and frequency of risk reports prepared by the applicant.

11) a description of the applicant's business continuity plan, or business recovery strategy in the event of emergencies.

12) a declaration indicating the business seat or fixed place of business within the meaning of the EU Council Implementation Regulation (EU) No. 282/2011 of 15 March 2011 on laying down implementing measures for Directive 2006/112/EC on the Common system of Value Added Tax (Journal of Laws EU L 77 of 23 March 2011) with respect to which the participation agreement is to be concluded –on condition that the applicant is a non-resident person within the definitions of the Currency Law of 27 July 2002 (Journal of Laws 2017 item 679 as amended).

2. If the application is submitted by an entity with its business seat in a jurisdiction that is not a European Union

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<sup>2</sup> Beginning from the date when TARGET (Trans-European Automated Real-time Gross Settlement Express Transfer system of the next generation) is launched, replacing TARGET2 for the purposes of processing payments in euro in central bank money, Article 4 point 18 item (b) will be replaced by the following:

“8) a declaration indicating the number or numbers of bank accounts managed in the settlement bank and, in the case and within the scope referred to in Article 82 subpara. 7, managed in the TARGET system, used to process payments arising from the settlement of transactions performed by KDPW or performed as part of the processing of issuers' obligations arising from securities registered in the depository,”.

member, or European Economic Area agreement signatory, the application should in addition include:

1) a comparative legal analysis of the regulatory and supervisory framework in the applicant's jurisdiction with the regulatory and supervisory framework applicable to the applicant if the applicant performed the same business activities and its seat of business was in an EU member state.

2) a legal opinion drafted by an entity performing professional legal support services in the applicant's home country, selected by the applicant, confirming that in the event that insolvency proceedings, within the meaning defined in the Law on settlement finality, are initiated against a foreign applicant, the provisions of these Rules relating to the moment of the introduction of a settlement order and the moment that such an order becomes irrevocable in the depository system, as well as the related principle of settlement finality and the right of KDPW to use the applicant's assets to perform this settlement, will be effective and may be enforced in the applicant's jurisdiction.

3. In instances when the applicant has applied for the participation type related to the holding of a securities account managed in KDPW, the information card, referred to in subpara. 1 point 6, should indicate in addition the precise address of the applicant's head office, the NIP tax number or other id number used to identify the applicant for tax purposes, as well as other information enabling KDPW to perform its responsibilities as tax withholding agent for legal persons for securities entitlement payments transferred to holders of securities accounts managed by KDPW.

#### **§ 28**

An applicant seeking participation that involves the holding of a securities account, or omnibus securities account managed in KDPW, shall in addition submit together with the application:

1) a declaration, or documents required for the identification of reported US accounts, or accounts held by exempt financial institutions, in accordance with the Act of 9 October 2015 on the implementation of the Agreement between the Government of the United States of America and the Government of the Republic of Poland to Improve International Tax Compliance and to Implement FATCA (Dz. U. (Journal of Laws) 2017, item 1858 as amended),

2) a declaration, or documents needed for client identification and verification of the client's identity, or the application of other financial security measures, described in the Act of 1 March 2018 on Anti-money laundering and counter-terrorism financing (Dz. U. (Journal of Laws) 2021, item 1132 as amended), including an excerpt from the Central Register of Beneficial Owners or another equivalent register kept in a relevant Member State of the European Union or a Member State of the European Free Trade Association (EFTA) - party to the Agreement on the European Economic Area, if the applicant is required to submit information on beneficial owners to such register, as well as other documents allowing the identification and verification of the identity of the beneficial owner of the applicant.

3) a declaration, or documents required for the identification of accounts reported under the provisions of the Law on the Exchange of tax information with other jurisdictions of 9 March 2017 (Dz. U. (Journal of Laws) 2019, item 648).

#### **§ 29**

1. Applicants for participation status as entities keeping securities accounts or omnibus securities accounts, shall also include the following together with the application:

1) a document containing a description of the principles and methods of managing a securities registry by the applicant, including rules for making entries on securities accounts or omnibus securities accounts, as well as containing an internal plan of registration accounts,

2) a document containing the principles the applicant has adopted for maintaining the continuity and safety of

operations related to securities registration, including operations related to making entries by the applicant on securities accounts and omnibus securities accounts

3) a list of persons to be employed by the applicant to manage securities accounting registration, containing a description of their qualifications and current experience in this field, or containing other information confirming that these persons have the required knowledge of the principles for performing this securities accounting and of practical experience of the same.

2. The provisions of subpara. 1 shall apply respectively to applicants seeking the participation type of settlement house for direct participants, whereas the documents presented, as described in subpara. 1, points 1 and 2 should relate to the registration of securities on depository accounts, which are to be managed within the scope of this participation type. This applicant shall also include the general rules of the settlement house system they are managing, as described in Art. 68b, subpara. 3 of the Law on Trading in Financial Instruments, as well as a document confirming their approval by the Polish Financial Supervision Authority.

3. The documents referred to in subpara. 1 points 1 and 2, should contain information, whose scope is defined in a resolution of the KDPW Management Board, and should be signed according to the applicant's representation rules.

4. In instances where the information contained in the documents described in subpara. 1 points 1, 2 and 3 give rise to uncertainty as to whether the applicant is able to ensure the safe and secure management of a securities registry, as set out in the appropriate regulations, KDPW shall inform the applicant of this fact. In such circumstances, the participation agreement, in as far as it relates to the provisions of subpara. 2, may be concluded with the applicant following the appropriate amendments being made to those documents by the applicant and their being resent to KDPW, or following clarification by the participant of the uncertainties in another manner, in particular by means of a written declaration sent to KDPW.

### **§ 30**

The applicant seeking participation in the participation type referred to in § 24 subpara. 3 point 1 or 2, or subpara. 5 point 1 or 2, shall in addition include with the application a list of all the critical service providers on which the applicant relies.

### **§ 31**

1. Documents included together with the application for direct participation, originally prepared in a foreign language, should be submitted in Polish translation, translated and certified by a certified translator, subject to the provisions of subpara. 3.

2. Documents, referred to in subpara. 1, originally prepared in English shall not require translation into Polish, while those that have been originally prepared in another foreign language may be submitted in English translation, meeting the requirements for translations of public documents submitted in courts or public offices in the home country of the direct participant, or of the entity seeking participation status. In the latter case, a direct participant, or entity seeking participation status shall in addition provide a declaration in KDPW, confirming that the submitted English translation meets the requirements described in the previous sentence and provides a faithful and accurate rendition of the translated document.

3. An application for the conclusion of an agreement for direct participation, as well as the applicant's own declarations included with the application and submitted to KDPW should be prepared in Polish; however, the specimen signature card, referred to in § 27 subpara. 1, points 4-6, may be prepared in English.

## **§ 32**

1. Having received the application for the conclusion of an agreement for direct participation, KDPW shall commence reviewing it without due delay.
2. Reviewing the application, KDPW shall perform a comprehensive risk assessment in accordance with the provisions of Art. 89 RTS 2017/392 of CSDR, as well as takes into consideration whether the application and appended documentation meet the formal requirements defined in the provisions of these Rules. In certain justified instances, KDPW may accept a document that does not meet the formal requirements arising from the provisions of § 5 subparas. 3-5, or § 6,
3. Where the submitted application, or appended documentation require completion or correction, KDPW shall within two weeks of the date of its receipt, prepare a notice listing the scope of required changes and supplementary information and shall without due delay send this notice to the entity seeking to obtain participation. KDPW shall also specify in this notice the deadline before which the applicant should submit corrected or additional documents.
4. KDPW shall decide on whether or not to conclude an agreement for direct participation with the applicant and shall prepare a response to the applicant in this matter within a period of one month from the date of the submission of the application for the conclusion of this agreement by the applicant; where the applicant is a CSD or CCP – then within three months of this date.
5. KDPW shall decide on the conclusion of an agreement for direct participation with the applicant in the participant type or types indicated in the submitted application on condition that the applicant has made the required changes and provided the supplementary information, referred to in subpara. 3, that the documents submitted by the applicant meet the requirements described in these Rules and permit a comprehensive risk assessment, referred to in Art. 89 RTS 2017/392 of CSDR, to be performed and that this assessment has not revealed any justifiable circumstances for refusal of access of the applicant to KDPW services.
6. The provisions of subparas. 1-5 shall apply accordingly to any amendments to the agreement for direct participation that involve the extension of participation with a new participation type.

## **§ 32a**

1. An application to extend the participation type of lead manager as part of a given type of activity, as described in § 24 subpara. 1 or 2, which consists of incorporating specific securities within this participation type, shall be deemed to be an issue letter, described in § 66 subpara. 1, point 1, or a form, described in § 65 subpara. 5, relating to these securities, respectively, signed or submitted by an entity, which in accordance with the provisions of this issue letter or form, is to perform the role of lead manager for these securities.
2. The extension of the participation type of lead manager as part of a given type of activity, as described in § 24 subpara. 1 or 2, which consists of incorporating specific securities within this participation type, shall be performed as a result of the registration of these securities by KDPW on the registration accounts managed for the participant with this participation type and scope of activities as listed in the application submitted by that participant.
3. In order to extend the participation type of lead manager as part of a given type of activity, as described in § 24 subpara. 1 or 2, which consists of incorporating specific securities within this participation type, these securities shall be registered by KDPW on registration accounts managed for the participant with this participation type and scope of activity, in accordance with the submitted application.
4. In matters not governed by the provisions of subpara. 2 and 3, the provisions of § 32 subparas. 1-5 shall apply accordingly to application referred to in subpara. 1, subject to the condition that in submitting such an



application, the applicant shall not be subject to a comprehensive risk assessment, referred to in Art. 89 subpara. 1 RTS 2017/392 of CSDR.

### **§ 33**

1. The acceptance of the application for the conclusion of a participation agreement for the participation type of settlement house for a direct participant is conditional on KDPW receiving a written declaration from that participant, confirming the conclusion of an agreement with the applicant, where this agreement provides for the applicant managing a depository account for the participant on condition of receipt by the applicant of the status of participant in the depository system in that participation type, as well as containing unconditional authorisation for the applicant to send instructions resulting in entries to be made on separate registration accounts, described in § 24, subpara. 4 point 1 and managed for participants, and to receive statements relating to these accounts.

2. In the event of the termination of the agreement concluded between the direct participant and the participant with the participation type of settlement house, on the basis of which the latter participant manages a depository account for the direct participant, or in the event of the termination of the participation agreement concluded with a participant with the participation type of settlement house for a direct participant, depending on which of these events takes place first, the direct participant shall be obliged immediately to ensure the transfer of the securities registered on separate registration accounts, described in § 24, subpara. 4 point 1, onto other registration accounts managed for that participant in KDPW. In the event that this obligation is not fulfilled by the participant, this transfer may be performed by KDPW.

### **§ 33a**

1. The application to be granted the participation type of issue agent, described in § 24 subpara.7 point 1, should specify that the applicant is seeking to obtain this participation type and should indicate the LEI code identifying the applicant.

2. The submission of the application to extend participation within the participation type of issue agent, which consists of incorporating specific bonds, mortgage bonds or investment certificates within this participation type, shall take place by submitting the form, described in § 65 subpara.5, relating to these securities and containing a declaration that the direct participant submitting the form is applying for this extension of participation.

3. Subject to the provisions of subpara. 3a, extending participation within the participation type of issue agent, which consists of incorporating specific bonds, mortgage bonds or investment certificates within this participation type, shall be conditional on the issuer holding these securities, on holding the status of participant with the type Issuer and on submitting to KDPW a power-of-attorney in written form authorising the direct participant applying for the extension of participation to be able to conclude agreements with KDPW on behalf of that issuer, which relate to the registration in the depository of securities issued by that issuer.

3a. In instances where the issuer's registered office is situated outside the territory of the Republic of Poland, an additional condition for extending participation to the participation type of issue agent, consisting of the inclusion of specific securities issued by this issuer, is the submission to KDPW of a written declaration by the issuer stating that in connection with the provision of notary and central maintenance services for these securities, KDPW will not be obliged to take any measures to enable its users to comply with the requirements of the law of the country in which the issuer is domiciled, or, if it is evident from the content of this declaration that there is a requirement for KDPW to take such measures, for KDPW to be entitled to provide notary and central maintenance services with respect to securities established under the provisions of the law of that state, in accordance with Article 23 of CSDR.

4. The extension of participation within the participation type of issue agent, which consists of incorporating

specific securities within this participation type, shall be effective following the registration of the form, described in § 65 subpara. 5, relating to those securities and confirming that the direct participant submitting the form is seeking to obtain such an extension of participation, in the application available on the KDPW website, by means of which the form was completed and submitted by the participant. By means of this application, KDPW shall immediately provide the direct participant with information confirming the registration of the submitted form or the failure of the registration.

5. Termination of the power-of-attorney, described in subpara. 3, shall become effective with respect to KDPW not earlier than on the second day following the date on which the document containing the written declaration submitted in this matter was delivered to KDPW by the issuer acting as principal. In such instances, the participant with the participation type of issue agent shall no longer have the ability to further perform activities within this participation type with respect to securities issued by that issuer.

6. In matters not governed by the provisions of subpara. 3-5, the provisions of § 31 subparas. 1-3 and § 32 subparas. 1-5 shall apply accordingly to applications referred to in subpara. 1 and 2, subject to the condition that in submitting an application, referred to in subpara. 2, the applicant shall not be subject to a comprehensive risk assessment, referred to in Art. 89 subpara. 1 RTS 2017/392 of CSDR.

### **§ 33b**

1. The application to be granted the participation type of payment agent, described in § 24 subpara. 7 point 2, should specify that the applicant is seeking to obtain this participation type and should indicate the LEI code identifying the applicant.

2. KDPW shall enable the direct participant, who has been granted the participation type of payment agent, to perform activities in the depository system within this participation type related to cash payments deriving from bonds, mortgage bonds or investment certificates issued by a given issuer, having first received a power-of-attorney in written form authorising the participant with the participation type of payment agent to submit instructions in the name of the issuer relating to the initiation by KDPW of the processing of cash payments, as well as to submit to and to receive from KDPW all other types of declarations and information related to the effective processing of this service for that issuer.

3. Termination of the power-of-attorney, described in subpara. 2, shall become effective with respect to KDPW not earlier than on the second day following the date on which the document containing the written declaration submitted in this matter was delivered to KDPW by the issuer acting as principal. In such instances, the participant with the participation type of registration agent shall no longer have the ability to further perform activities within this participation type with respect to cash payments deriving from securities issued by that issuer.

4. The bank account used to process payments related to the activities of the participant within the participation type of payment agent shall be the relevant cash account of the participant, used to process payments related to the participant's activities as direct participant.

5. The currencies of the cash payments for which activities within the participation type of payment agent may be performed in the depository system, shall be defined by the KDPW Detailed Rules of Operation.

6. In matters not governed by the provisions of subpara. 2-5, the provisions of § 31 subparas. 1-3 and § 32 subparas. 1-5 shall apply accordingly to the application, referred to in subpara. 1.

### **§ 34**

1. Participants managing securities accounts or omnibus securities accounts, shall in addition be obliged to

update the content of the documents, described in § 29, subpara. 1 point 1 and 2, according to changes in the principles of registering securities defined in the appropriate regulations, or introduced on the basis of those regulations by a resolution of the KDPW Management Board; participants shall be further obliged to provide KDPW with updated versions of those documents in every case where changes will require their update, without delay following the day of the introduction of these changes, not later however than 10 days from that day. The provisions of the previous sentence shall apply accordingly in instances where the contents of the document, described in § 29, subpara 1, point 1 or 2, which was submitted to KDPW, has become invalid for other reasons.

2. The provisions of subpara. 1 shall apply accordingly to participants with the participation type of settlement house for direct participants.

### § 35

1. A direct participant, which does not keep securities accounts or omnibus securities accounts and has not signed an agreement referred to in § 5 subpara. 1 with KDPW may operate in the depository system via an account operator. These provisions do not however apply to participants with the status of settlement house, as well as participants with the status described in § 24 subpara. 5 point 1 or 2, intending to send settlement instructions to the depository system relating to transactions cleared by themselves.

2. A direct participant may appoint an account operator by providing KDPW with a relevant written declaration to which the participant should attach:

1) a power of attorney granted to the account operator to submit and receive on behalf of the direct participant, in relations with KDPW and other participants, declarations of will on matters relating to its participation in the depository system where such declarations may, or should be made in electronic form, in particular to submit and revoke instructions which, once executed, cause an omnibus securities account or a securities account managed in KDPW for the principal to be credited or debited or the participant's cash account relevant to the principal to be credited or debited.

2) a document containing authorisation for the account operator to submit and receive, on behalf of and with binding effect to the direct participant, declarations other than declarations of will which may or should be sent in electronic form.

Appointment of an account operator shall require the written consent of the participant to perform such function giving in writing to KDPW.

3. If an account operator is appointed, declarations of will and other information submitted in electronic form:

1) shall be submitted or provided by the direct participant only via the account operator – if addressed to KDPW or to another participant or participants,

2) shall be submitted or provided by other participants and KDPW only to the account operator – if addressed to the direct participant which appointed the account operator.

4. An account operator may also provide, on behalf of the direct participant which appointed the account operator, information other than referred to in subpara. 3, as well as documents in form other than electronic form. However, the option for the account operator to submit, on behalf of the direct participant, declarations of will within a broader scope than referred to in subparas. 1 and 3 shall be explicitly indicated in the content of the power of attorney referred to in subpara. 2, first sentence, point 1.

5. Upon the delivery of a declaration of will or other information addressed to the direct participant to the account operator appointed by the direct participant in the manner defined in the agreement signed with it, referred to in § 4 subpara. 1, it shall have the effect of delivery of such declaration or information to the direct participant provided for by regulations or the provisions of these Rules.

6. An account operator shall immediately provide the direct participant which appointed the account operator, in the manner agreed with it, with the content of declarations of will or information addressed to the participant which the account operator receives according to subpara. 3 point 2.
7. KDPW and participants shall not be required to verify in any way any information or documents provided by the account operator and designated as originating from the direct participant which appointed the account operator. The direct participant shall consider such information and documents as originating from itself.
8. Revocation of the power of attorney referred to in subpara. 2, first sentence, point 1 and the authorisation referred to in subpara. 2, first sentence, point 2 shall be effective to KDPW and other participants no earlier than the second day following the day on which the direct participant which is the principal informs KDPW thereof in a written declaration.
9. Revocation of the consent referred to in subpara. 2, second sentence by the account operator shall result in discontinuation of its performance of this function for the direct participant. This shall be effective no earlier than the second day following the day on which the account operator provides KDPW with a relevant written declaration.
10. The provisions of subpara. 7 shall not apply to declarations of will submitted by an account operator on behalf of a direct participant on the basis of the power of attorney referred to in subpara. 2, first sentence, point 1.

### **§ 36**

1. A direct participant shall indicate to KDPW the entity accounts that will be the default accounts for each type of participant activity, determined according to the provisions of § 24 subparas. 1-6.
2. The role of the default account for each type of participant activity may only be performed by an entity account managed as applicable for the type of activity:
  - 1) for the participation type described in § 24 subpara 1 point 1, 2 or 4, or
  - 2) for the participation type described in § 24 subpara 2 point 1, 2 or 4, or
  - 3) for the participation type described in § 24 subpara 3 point 1, or 2, or
  - 4) for the participation type described in § 24 subpara 4 point 1, or 2, or
  - 5) for the participation type described in § 24 subpara 5 point 2, or
  - 6) for the participation type described in § 24 subpara 6 point 1 or 2.
3. Irrespective of the indication, referred to in subpara. 1, a participant with the participation type of representative for transactions executed in a trading system by a given entity that is not a participant shall indicate to KDPW the entity account managed for that participant for that participation type, which will act as default account for those transactions.
4. A default account shall be defined as an entity account used for settlement performed on the basis of settlement instructions whose details do not permit the number of the proper entity account to be determined for specific operations described in them.
5. The indication, referred to in subparas. 1 and 3 shall be carried out by the direct participant in writing.
6. In instances where the participant has not indicated an entity account that is meant to function as the default account according to the provisions of subpara. 1, or subpara. 3, or the participant has revoked the indication and has not made a new one, KDPW shall be empowered to select entity accounts, which will function as the default accounts, respectively, for each type of participant activity determined according to the provisions of § 24

subpara. 1-6, or as part of the participation type, referred to in § 24 subpara. 1 point 4 or subpara. 2 point 4, for the purposes of performing the settlement of transactions executed on trading platforms. Once such a selection has been made by KDPW, it shall immediately inform the participant of this.

*7. A direct participant who has indicated at least two bank accounts managed for the same currency in the settlement bank, or in instances referred to in § 82 subpara. 7, in the TARGET2 system, used to settle that participant's cash debits and credits from transaction settlement performed by KDPW, or carried out as part of the processing of issuer's obligations from securities registered in the depository, shall also inform KDPW which of these accounts is to be the primary account.<sup>3</sup>*

8. If operations in which the direct participant is involved, which are performed in the depository system, may be processed in different currencies, that participant shall be obliged to indicate the bank accounts that are to be used for the purpose referred to in subpara. 7, with respect to each of these currencies.

### **§ 37**

1. Direct participants shall meet the appropriate material and technical requirements unless they do not keep securities accounts, or omnibus securities accounts, and have an appointed an account operator.

2. Meeting the appropriate material and technical requirements shall mean the participant maintaining technical and technological equipment, which ensures the participant is able to connect with the IT system of KDPW used to manage the depository system, ensuring that documents can be safely sent to and received from that system in electronic form.

3. Meeting the appropriate material and technical requirements by a participant managing securities accounts or omnibus securities accounts shall in addition mean maintaining technical and technological equipment, which ensures at minimum that entries may be made in these securities accounts, that information on these entries may be processed and archived, and that the contents of documents, on the basis of which the entries were made, may be reproduced, while meeting the appropriate requirements arising from the provisions of the Law on Trading in financial instruments, as well as executive instruments derived from this legislation, and arising from the rules and resolutions of the KDPW Management Board issued on the basis of the legislation.

4. The requirement to meet the material and technical requirements, as described in subpara. 4, shall also apply to direct participants managing depository accounts with the participation type of settlement house for direct participants.

### **§ 38**

1. Participants keeping securities accounts or omnibus securities accounts, as well as participants acting as

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<sup>3</sup> Beginning from the date when TARGET (Trans-European Automated Real-time Gross Settlement Express Transfer system of the next generation) is launched, replacing TARGET2 for the purposes of processing payments in euro in central bank money, Article 4 point 18 item (b) will be replaced by the following:

*"7. A direct participant who has indicated at least two bank accounts managed for the same currency in the settlement bank, or in instances referred to in Article 82 subpara. 7, in the TARGET system, used to settle that participant's cash debits and credits from transaction settlement performed by KDPW, or carried out as part of the processing of issuer's obligations from securities registered in the depository, shall also inform KDPW which of these accounts is to be the primary account."*

settlement house for a direct participant, shall be obliged to employ persons with the relevant knowledge and experience or qualifications to perform securities registration.

2. The number of persons, described in subpara. 1, employed by a participant should be adequate for the extent and nature of its activities. The KDPW Management Board may determine more detailed requirements within this scope.

### **§ 39**

1. The KDPW Management Board may, by means of a resolution, demand that the direct participant provides the necessary information needed to assess whether that participant meets the participation criteria.

2. The direct participant shall be obliged to provide the information, described in subpara. 1, before the deadline indicated in the resolution of the KDPW Management Board, which shall be fixed at 3 days at least.

### **§ 40**

1. Direct participants, with the exception of participants that have established account operators, shall be obliged at least once every calendar year to take part in tests as part of the System for Maintaining Business Continuity, organised by KDPW.

2. The System for Maintaining Business Continuity shall mean technical and organisational processes created in KDPW in order to maintain operational continuity, or the fastest possible recovery of the key business processes performed by the depository system, in the event that these are disrupted as a result of the inability to use the IT processing systems located in the main National Depository site, or as a result of this site being unavailable for processing.

3. KDPW shall inform direct participants of the date or dates of the tests of the System for Maintaining Business Continuity in a given calendar year, with at least one month's advance notice.

### **§ 41**

1. If the exercise of rights in securities registered in the depository via an operational link to another CSD, requires KDPW to provide information relating to the owners of these securities, or their ownership status, to the issuer or the entity referred to in § 67 subpara 2, which manages the relevant registration accounts for KDPW, or the person to which such entity delegated the collection of such information, then KDPW informs the direct participants accordingly, requesting them to provide this information.

2. The provision of the information by the direct participant, referred to in subpara. 1, shall mean that the participant shall deliver to KDPW a declaration that all persons to which the information being provided relates to have given their consent for this information to be sent to the entities, referred to in subpara. 1, by KDPW.

3. Subject to the provisions of § 42, the provisions of subpara. 1 and 2 shall also apply in instances where the information being provided to the entities, referred to in subpara. 1, relating to securities owners, or their ownership status, does not take place as a result of the exercise of rights in these securities.

### **§ 42**

1. Where the agreement on the basis of which the entity, referred to in § 67 subpara 2, manages specific registration accounts for KDPW, obliges KDPW to provide, at the request of that entity, information relating to the holders of securities registered in such accounts or their ownership status, KDPW shall, if so requested,

request direct participants to provide such information, and specify a date by which direct participants are obliged to provide the same to KDPW. In such instances, the provisions of § 41 subpara. 2 shall apply accordingly.

2. Direct participants shall submit to KDPW written authorisations for KDPW to provide the entities referred to in § 67 subpara. 2 with information enabling their identification and specifying the balance of holdings in securities registered in the depository via operational links to other CSDs.

3. Direct participants registering securities, which are registered in the depository via operational links to other CSDs, on securities accounts or on omnibus securities accounts managed by them, shall also take all necessary steps to enable KDPW to perform the duties referred to in subpara. 1, including, respectively:

1) for participants managing securities accounts - by obtaining from the holders of those accounts written statements giving their consent to KDPW to provide the entities referred to in § 67 subpara. 2 with information enabling their identification and specifying the balance of holdings of each of these holders of these securities,

2) for participants managing omnibus securities accounts – by obliging the holders of these accounts to ensure that at the request of the participant, they provide information enabling the identification of persons entitled to rights to these securities, which are registered on these accounts, and specifying the individual balance of holdings of each of these persons, together with written declarations by these persons, affirming their consent to disclose this information by KDPW to the entities described in § 67 subpara. 2,

4. Where the information submitted to KDPW under subpara. 1 relates also to persons who have refused to give the consent, described in subpara. 3, items 1 and 2, the information, to the extent to which it relates to such persons, should specify only the number of such persons and total number of securities owned by them, as requested by KDPW, separately for natural persons and for legal persons and other institutions.

5. The provisions of subparas. 3 and 4 shall apply accordingly to direct participants being holders of omnibus securities accounts managed in KDPW, which in relation to entries made on such accounts, perform the registration outside the territory of the Republic of Poland of securities registered in the depository via operational links to other CSDs.

### **§ 43**

1. Rights arising from the participation agreement, which relate to participation types for direct participants, may only be transferred to another direct participant.

2. In instances described in subpara. 1, KDPW, at the mutual request of interested participants, shall determine the date of the consolidation.

3. the consolidation date shall be the day at the end of which KDPW shall cease to service the accounts of the participant that has transferred their rights within the scope that forms the basis for this transfer.

4. The result of the consolidation shall be the transfer of registration entries from the accounts referred to in subpara. 2 onto accounts managed for the participant on behalf of whom the rights have been transferred.

5. The provisions of subpara. 2-4 shall apply accordingly in instances when the Polish Financial Supervision Authority has issued an order, referred to in Art. 89 subpara. 4 of the Law on Trading in financial instruments.

## **CHAPTER 4 ISSUER PARTICIPATION**

### **§ 44**

The type of participant status available to entities issuing securities, which have been, or which intend to be, registered in the depository, is that of issuer.

#### **§ 45**

1. An entity that intends to conclude a participation agreement for the participation type of issuer shall submit a declaration on its intention to conclude this agreement in the form of an application sent to KDPW.
2. An application for the conclusion of a participation agreement for the participation type of issuer should indicate the LEI code identifying the applicant.

#### **§ 46**

1. The application to conclude a participation agreement for the participation type of issuer shall include the following:

- 1) a copy of the company statute, or other official document describing the legal status and organisation of the issuer and a valid copy or excerpts from the relevant company register;
- 2) copies of power-of-attorney documents granted to persons authorised to represent the applicant in relations with KDPW, in instances where the right to represent the applicant does not derive from the documents specified in point 1
- 3) a declaration giving consent to arbitration by the arbitration court at KDPW,
- 4) a declaration indicating the business seat or fixed place of business within the meaning of the EU Council Implementation Regulation (EU) No. 282/2011 of 15 March 2011 on laying down implementing measures for Directive 2006/112/EC on the Common system of Value Added Tax (Journal of Laws EU L 77 of 23 March 2011) with respect to which the participation agreement is to be concluded – on condition that the applicant is a non-resident person within the definitions of the Currency Law of 27 July 2002 (Journal of Laws 2017 item 679 as amended).
- 5) in instances where the applicant's registered office is situated outside the territory of the Republic of Poland - a declaration specifying the securities that the applicant intends to register in the depository, and the state under the law of which they have been or are to be issued, and if that state is not also the state in where the applicant has registered its seat of business, and KDPW is to act as the issuer CSD - also indicating whether, in connection with the provision of notary and central maintenance services with respect to these securities, KDPW will be required to take measures enabling its users to comply with the legal requirements of both, or of only one of these jurisdictions.

2. The provisions of § 31 subparas. 1-3 shall apply accordingly to the application and the documents, referred to in subpara. 1.

#### **§ 47**

1. Having received the application for the conclusion of a participation agreement for the participation type of issuer, KDPW shall commence reviewing it without due delay.
2. Reviewing the application, KDPW shall take into consideration whether the application and appended documentation meet the formal requirements defined in the provisions of these Rules. In certain justified instances, KDPW may accept a document that does not meet the formal requirements arising from the provisions of § 5 subparas. 3-5, or § 6,
3. Where the submitted application, or appended documentation require completion or correction, KDPW shall within two weeks of the date of its receipt, prepare a notice listing the scope of required changes and



supplementary information and shall without due delay send this notice to the entity seeking to obtain participation. KDPW shall also specify in this notice the deadline before which the applicant should submit corrected or additional documents.

4. KDPW shall decide on whether or not to conclude a participation agreement for the participation type of issuer with the applicant and shall prepare a response to the applicant in this matter within a period of three months from the date of the submission of the application for the conclusion of this agreement by the applicant.

#### **§ 48**

1. Participants with the participation type of issuer shall be obliged to send KDPW the following information relating to bonds, mortgage bonds and investment certificates issued by them, in instances where these instruments have been registered in the depository on the basis of an agreement concluded prior to 1 July 2019 and have not been withdrawn from the depository prior to that date.

1) For bonds or mortgage bonds:

- a) the deadlines for the payment of entitlements from securities assigned with specific securities id numbers, including past deadlines and future deadlines,
- b) the aggregate value of the payment amount and the payment currency, which were mandatory prior to the provision of this information, with respect to securities assigned with specific codes,
- c) the aggregate value of the payment amount and the payment currency, which prior to the provision of this information, were executed with respect to securities assigned with specific codes;

2) For investment certificates:

- a) LEI codes identifying sub-funds, with which investment certificates, assigned with specific codes, are potentially associated,
- b) the deadlines for the payment of entitlements from investment certificates assigned with specific securities id numbers, including past deadlines and – if these are known - future deadlines as well,
- c) the aggregate value of the payment amount and the payment currency, which were mandatory prior to the provision of this information, with respect to investment certificates assigned with specific securities id numbers,
- d) the aggregate value of the payment amount and the payment currency, which prior to the provision of this information, were executed with respect to investment certificates assigned with specific securities id numbers.

2. If all the payments, which have become mandatory prior to July 1 2019, derived from bonds, mortgage bonds or investment certificates assigned with a specific securities id number were executed using KDPW as intermediary, the participant being their issuer shall only provide the information described, respectively, in subpara. 1, point 1, item a, or in subpara. 1, point 2, items a and b.

3. The information described in subpara. 1, should be sent not later than 31 December 2019, using the application made available on the KDPW website.

4. The information described in subpara. 1 may be communicated using a payment agent as intermediary.

5. The provisions of subpara. 1 shall not apply to the State Treasury, the National Bank of Poland and to issuers established outside the territory of the Republic of Poland.

#### **SECTION III**

## ADMINISTRATION OF THE SECURITIES DEPOSITORY

### CHAPTER 1 REGISTRATION PRINCIPLES

#### § 49

1. As part of its administration of the securities depository, KDPW shall define the rules of securities registration, including rules according to which entries on securities accounts or omnibus securities accounts managed by direct participants should be performed.
2. Direct participants managing securities accounts or omnibus securities accounts, as well as participants with the participation type of settlement house for direct participants, shall be obliged to conform to the rules of managing a securities register, as described in the Rules and in resolutions of the KDPW Management Board.
3. A participant acting within the scope of its participation type of settlement house for direct participants shall not open depository accounts prior to opening separate registration accounts, described in § 24, subpara. 4 point 1, in KDPW for those participants. In relation to entries made on such separate registration accounts, participants managing securities accounts, or omnibus securities accounts, for whom these registration accounts are managed, may only interact with KDPW through a direct participant holding the participant status of settlement house.
4. KDPW shall supervise the registration of securities by its direct participants to the extent that it complies with these Rules and provisions of the resolutions of the KDPW Management Board, and within the scope described in subpara. 1, with the provisions of law.
5. The supervision referred to in subpara. 4 shall not include the registration of securities performed by direct participants that are holders of omnibus securities accounts managed in KDPW.

#### § 50

1. Registration of securities shall mean the activities performed by KDPW and its direct participants for the purpose of registering:
  - 1) balances of securities holdings;
  - 2) changes in securities holdings as a result of settlement performed by KDPW, and
  - 3) effects of operations on securities.
2. Registration of securities is carried out through the use of registration accounts.
3. Registration accounts shall mean registration facilities used for recording securities registered on depository accounts, omnibus securities accounts and securities accounts.
4. Registration accounts managed in KDPW for direct participants describe:
  - 1) the participation type within a given type of activity, determined according to the classification defined in § 24, subpara. 1-6, within which the specific registration accounts are managed; a group of accounts defined in this manner shall be known henceforth as a "formal account",
  - 2) attributes defined in the depository system, subject to the provisions of § 58 subparas. 2-4, by a direct participant in order to define the use of a specific registration account, or in order to segregate securities registered on this account; a group of accounts defined in this manner shall be known henceforth as an "entity account",

5. In order to begin the management of registration accounts in KDPW for direct participants with the specific participation type and type of activities performed, determined according to the provisions of § 24, subpara. 1-6, requires the definition in the depository system of the attributes described in subpara. 4, point 1, which shall be known henceforth as “opening a formal account”.

6. The commencement of the management of separate registration accounts, as described in § 24, subpara. 4 point 1 for direct participants shall take place together with the opening of a formal account for a participant with the participation type of settlement house for that direct participant.

## **§ 51**

1. the registration of securities shall be carried out as expressions of quantity, while in instances described in § 65 subpara. 2, as expressions of value, according to the following principles:

- 1) double-entry bookkeeping, subject to the provisions of subpara. 2, second sentence,
- 2) separate registration of securities,
- 3) classification by types of participant status,
- 4) simultaneous registration,
- 5) completeness,
- 6) integrity,
- 7) transparency.

2. The principle of double-entry bookkeeping means that each operation relating to securities should be recorded:

- 1) in at least two registration accounts, and any record or sum of records on one account or accounts' side should be accompanied by a record of equal value on the opposite side of another account or accounts, or:
- 2) on both sides of the same registration account, however, the entry or total entries on one side of this account must be accompanied an entry of equal value on the opposite side.

The principle of double-entry bookkeeping may be waived within the registration performed by direct participants when the chronological order of all entries made in securities accounts and omnibus securities accounts managed by those participants is applied and not applying the double-entry rule does not lead to the breach of other rules governing securities registration.

3. The principle of separate registration of securities means that all operations relating to securities are registered in separate registration accounts, managed for securities marked with the same securities code number.

4. The principle of classification by types of participant status means that in the securities register, separate registration accounts are created, which correspond to specific types of participant status assigned to a participant as part of specific activities performed by that participant, according to the classification described in § 24 subparas. 1-6.

5. The principle of simultaneous registration shall mean that operations relating to securities need to be registered on securities accounts and omnibus securities accounts managed by participants on the day these operations are registered on the appropriate registration accounts managed for the participant in KDPW, on the basis of documents confirming their registration on these registration accounts. The principle described in the first sentence shall also apply to the registration of operations on securities accounts and omnibus securities accounts that correspond to depository accounts managed by a participant with the participation type of

settlement house, and apply to separate registration accounts described in § 24, subpara. 4 point 1, managed in KDPW for a participant managing these securities accounts, with the proviso, however, that entries arising following transactions that are settled by a participant with the participation type of settlement house shall be performed not earlier than following the receipt of documents provided by that participant, confirming transaction settlement. For participants acting as settlement houses, the principle of simultaneous registration shall mean that entries on depository accounts managed by that participant should at the end of each day be reconciled with the entries on the separate registration accounts, described in § 11, subpara. 3a point 1, managed in KDPW for participants being holders of these depository accounts.

6. The principle of completeness means that all operations relating to securities should be registered.
7. The principle of integrity requires the making of full and accurate records of operations involving securities.
8. The principle of transparency means that records should both clearly and unequivocally reflect the securities holdings of persons entitled to them.

## **§ 52**

Records of securities, which are entered on registration accounts managed by KDPW and are expressed according to value, may be managed by participants and expressed according to quantity.

## **§ 53**

1. Direct participants shall be obliged to verify each day the correct state of the balance on registration accounts managed for them in KDPW.
2. Direct participants performing the registration of securities shall be obliged to reconcile each day the correct state of the entries performed by them within the registration system with the entries on registration accounts managed for them in KDPW.
3. A participant acting as settlement house shall be obliged constantly to monitor the balance of the depository accounts managed by that participant, ensuring that they are reconciled with the corresponding securities accounts and omnibus securities accounts managed by their holders.

## **§ 54**

*Repealed*

## **§ 55**

1. The supervision of direct participants referred to in § 49 subpara. 4 shall be performed by means of a review of:
  - 1) daily reports, which participants shall be obliged to provide KDPW conforming to the manner defined in resolutions of the KDPW Management Board, showing consolidated securities holdings arising from the register managed by participants, and in the case of participants acting as settlement houses – aggregated positions on depository accounts managed by them, and in addition containing information on discrepancies between the balances on registration accounts kept for participants in KDPW and the balances on the corresponding securities accounts and omnibus securities accounts, or - in the case of participants operating a clearing house - the balances on the depository accounts managed by these participants,.
  - 2) information indicating the reasons and methods of correcting the discrepancies between the balances on

the registration accounts kept for participants in KDPW, and, respectively, the aggregated balances of securities holdings or the aggregated balances of depository accounts resulting from the securities records kept by them, which participants are obliged to submit to KDPW not later than within 3 days from the date of such a discrepancy arising,

3) other documents and information relating to the securities register managed by participants, provided to KDPW on the basis of the provisions of these Rules, or resolutions of the KDPW Management Board.

1a. If the content of the information or of the documents, referred to in subpara. 1, shall indicate the possibility of irregularities in the securities accounting records kept by the direct participant, KDPW shall request that the participant immediately provide appropriate explanations or a specific report from these accounting records.

2. The supervision of direct participants referred to in § 49 subpara. 4 shall also be performed by means of on-site inspections at the organisational offices of the participant, carried out by persons so-authorized by KDPW, in particular in instances where following an analysis performed according to the provisions described in subpara. 1, inaccuracies were confirmed in the manner in which the participant was managing the securities register, which, owing to their scale, frequency or long-term nature, may be deemed a risk to the safety of the securities depository system.

3. Prior to commencing an audit, the inspector shall be obliged to show the manager of the department, or person authorised by the manager the relevant authorisation allowing for the audit to be performed.

4. In the course of performing the audit, inspectors shall have the right of access to documentation kept in the department being inspected and the right to obtain information from the department's staff. All declarations made by persons who provide information should be recorded in writing.

5. The results of the audit shall be presented in a report, drawn up immediately on completion of the audit. The report shall be signed by the inspectors as well as the manager of the department under inspection or a person authorised by the manager. The manager of the inspected department shall have the right to express objections as regards to the content of the report and such objections shall be included in the report.

6. The findings presented in the inspection report referred to in subpara. 5 may serve as grounds for issuing post-inspection decisions and recommendations, as well as grounds for a resolution by the KDPW Management Board concerning the participation in the depository system of the entity having undergone the inspection.

## **§ 56**

KDPW shall immediately notify the Polish Financial Supervision Authority of any irregularities in the direct participant's dealings discovered in the course of the performance of its supervision, referred to in § 49 subpara. 4.

## **§ 57**

1. At the request of KDPW, a participant acting as settlement house shall be obliged to suspend the management of a depository account managed on behalf of a direct participant, indicated in the request, for the period indicated in that request. During this period, this depository account managed for the aforementioned participant may only be used to make entries, which may be warranted by events that took place prior to the receipt by the participant acting as settlement house of such a request from KDPW.

2. The demand, described in subpara. 1, may be made by KDPW in the event of any major irregularities in the manner of the management of securities accounts or omnibus securities accounts by the direct participant, or major irregularities in the manner that entries are made on these securities accounts and that such actions significantly contravene or pose a risk to trading or to the interests of investors.

3. KDPW shall indicate in the demand, described in subpara. 1, the irregularities that form the basis of the

demand sent to the participant.

4. A copy of the demand, described in subpara. 1, shall be sent to the Financial Supervision Commission for notification purposes.

#### **§ 58**

1. Subject to the provisions of § 72, subpara. 1, the global amount of the securities marked with a given code number shall be registered in the depository system on a special registration account called an “issue account” and simultaneously in registration accounts kept by KDPW for direct participants, or in securities accounts used to register KDPW’s proprietary securities holdings, according to the securities balances of these securities registered by each such participant in securities accounts or omnibus securities accounts, as well as according to these securities balances registered on securities accounts or omnibus securities accounts managed in KDPW.

2. KDPW shall record separately on registration accounts kept for each direct participant the following:

1) securities registered for each participation type and for types of activities determined according to the provisions of § 24 subpara. 1-6, however, securities registered on depository accounts by a participant acting as settlement house shall be registered in KDPW on separate registration accounts, described in § 24, subpara. 4 point 1, managed separately for direct participants that are holders of these depository accounts,

2) Treasury securities registered on securities accounts managed by participants and owned by non-resident entities as defined by rules determining reporting requirements for trading in securities issued by the State Treasury, set out on the basis of provisions of the Law on trading in financial instruments,

3) Treasury securities registered on omnibus securities accounts managed by participants,

4) debt securities belonging to their issuer and registered on securities accounts managed for that issuer by a direct participant, where, in accordance with the relevant legal provisions, the issue of these debt securities took place even though failure by the issuer to sell these securities, or failure by the issuer to purchase these securities did not lead to their cancellation,

5) for registration accounts kept in connection with a securities omnibus account – securities owned by legal persons and other organisational units with separate tax identity (payers of corporate income tax) and securities owned by natural persons, including owned via partnerships or other ventures without separate tax identity (payers of personal income tax),

3. For the exclusive purpose of processing the clearing of transactions, KDPW shall record separately on direct participants’ registration accounts securities related to those transactions.

4. Securities recorded on registration accounts managed in KDPW for direct participants may also be segregated according to other criteria, which may be defined by the KDPW Management Board in the form of a resolution. Such forms of segregation may be introduced exclusively in order to define the attributes assigned to entity accounts.

5. Subject to the provisions of subparas. 2-4, by defining the attributes of entity accounts using the appropriate method, a direct participant with the participation type described in § 24, subpara. 1 point 1 or 3, subpara. 2 point 1 or 3, subpara. 3 point 1, or subpara. 6 point 1, for whom registration accounts are managed in KDPW, may in its chosen manner, aggregate or segregate securities registered on behalf of clients.

#### **§ 59**

1. On each day that settlement is performed in the depository system, with respect to securities for which KDPW performs the role of issuer CSD, KDPW shall reconcile the state of the balance on the issue account with the state of the balances on the registration accounts managed by KDPW, which consist of depository accounts, omnibus

securities accounts or securities accounts. Reconciliation is performed at the end of each settlement session and at the end of each day that settlement is carried out in the depository system.

2. On each day that settlement is performed in the depository system, with respect to securities for which KDPW performs the role of investor CSD, KDPW shall verify that the number of securities recorded on registration accounts managed by KDPW, which consist of depository accounts, omnibus securities accounts or securities accounts is reconciled with:

- 1) the number of these securities registered on the issue account, and
- 2) the number of these securities registered on the relevant registration accounts managed for KDPW by the entity, referred to in § 67, subpara. 2.

3. The verification, referred to in subpara. 2 point 1, shall be performed at the end of each settlement session and at the end of each day on which settlement is carried out in the depository system, whereas the reconciliation referred to in subpara. 2 point 2, shall be performed at the end or at the beginning of each day, on the basis of information sent by the entity, referred to in § 67, subpara. 2, managing the relevant registration accounts for KDPW.

4. The verification referred to in subparas. 1 and 2 shall be performed for securities assigned with separate securities id numbers.

#### **§ 60**

1. Where the verification, referred to in § 59, subpara. 1 or 2, will show a surplus or a deficiency of securities assigned a specific securities id number, recorded on registration accounts managed by KDPW, which consist of depository accounts, omnibus securities accounts or securities accounts and the balance shall not be corrected before the end of the next day on which settlement is performed in the depository system, KDPW shall suspend settlement processing for the securities, assigned with that securities id number, until such a time that the balance has been corrected.

2. KDPW shall immediately inform its direct participants, the Polish Financial Supervision Authority, the National Bank of Poland and the entity referred to in § 23, which operates a trading system for these securities, about the settlement processing suspension for the securities assigned a specific securities id number.

3. KDPW shall resume settlement processing for securities assigned a specific securities id number, immediately following the correction of the surplus or deficit on registration accounts managed by KDPW, which consist of depository accounts, omnibus securities accounts or securities accounts. KDPW shall immediately inform its direct participants, the Polish Financial Supervision Authority, the National Bank of Poland and the entity referred to in § 23, which operates a trading system for these securities, about the resumption of settlement processing.

#### **§ 61**

1. In instances where another CSD, to which KDPW has established an operational link, has suspended the settlement processing of securities registered in the depository via this link, KDPW shall immediately on receipt of this information, in turn suspend this processing of settlement in the depository system.

2. KDPW shall resume settlement processing that has been suspended in accordance with the provisions of subpara. 1, immediately following the receipt of information that settlement processing has been resumed by the CSD, referred to in subpara. 1.

3. In instances, described in subparas. 1 and 2, the provisions of § 60 subpara. 2 and the second sentence of subpara. 3 shall apply.

## **§ 62**

1. In the event that the authorisation granted to KDPW, referred to in Art. 16 of CSDR, shall be withdrawn, KDPW shall have the right to transfer to another CSD, holding the authorisation, referred to in Art. 16 of CSDR, or recognised, according to the provisions of Art. 25 of CSDR, and which has granted its consent, the following:

- 1) the securities book-entry system, including databases, archive records and settlement instructions introduced to the depository system, however not yet processed,
- 2) securities registered on securities accounts and omnibus securities accounts managed by KDPW,
- 3) cash held by KDPW in connection with the provision of services described in these Rules, to which participants, or their clients are entitled,
- 4) cash paid in by participants for collateral purposes, described in these Rules,

2. KDPW shall inform participants of the deadline for the transfer of the assets and data, referred to in subpara. 1, as well as the CSD to which they will be transferred.

## **CHAPTER 2 SECURITIES REGISTRATION**

### **§ 63**

1. Securities existing in dematerialised form, as defined by the provisions of CSDR, are eligible for registration in the depository, and in instances where KDPW performs the role of investor CSD, in addition securities that have been immobilised, as described in Art. 2 subpara. 1 point 3 of CSDR, by another CSD.

2. If securities for which KDPW is to perform the role of issuer CSD have been issued in physical form, their registration in the depository shall be conditional on first performing the actions described in Art. 6 subpara. 1 of the Law on Trading in financial instruments, in order to remove legal force from these documents at the moment of the registration of the securities they represent in the depository.

3. The condition referred to in subpara. 2 shall not apply to shares issued by a company established outside the territory of the Republic of Poland, which have been issued in physical form and have been introduced to the depository in accordance with the principles described in § 69a, unless the specific direct participant is to perform the responsibilities of lead manager with respect to these shares.

### **§ 64**

1. The registration of securities for safekeeping in the depository shall take place on the basis of an agreement with the issuer.

2. The following securities may be registered in the depository without any agreement having to be concluded with the issuer:

- 1) securities issued by an entity established outside the territory of the Republic of Poland and registered in another CSD, that do not meet any of the requirements of dematerialisation described in Art. 5 subpara. 1 of the Law on Trading in financial instruments, on condition that:
  - a) the securities were acquired by a direct participant or its client through the exercise of rights to their possession or purchase, either free of payment or for payment,
  - b) the rights, referred to in point a) were directly related to holding securities previously registered in the depository, and



c) an operational link has been established to the other CSD to enable the registration of these securities in the depository;

2) Treasury bills, for which the National Bank of Poland performs the role of issuer CSD,

3) shares issued by KDPW,

4) Securities registered in another CSD, which have been admitted without the consent of their issuer to trading on a regulated market, or introduced to an alternative trading system operated by an entity that has concluded an agreement, referred to in § 23 subpara. 1 with KDPW, insofar as the agreement so provides, and on condition that there is an operational link to another CSD that enables these securities to be registered in the depository.

3. The provisions of § 67 shall apply in order to register the securities, referred to in subpara. 2, points 1 and 2, in the depository, whereas for Treasury bills, referred to in subpara. 2 point 2, the entity, referred to in § 67 subpara. 2 shall be the National Bank of Poland.

## § 65

1. An issuer which intends to conclude an agreement for the registration of securities in the depository shall submit a declaration of its intention to conclude this agreement in the form of an application sent to KDPW.

2. The issuer may request in the application, referred to in subpara. 1., that the registration of the debt securities that form the basis for the application is to be performed as an expression of value, in the form of a single or multiple unit nominal value of the instrument.

2a. If the issuer intends to conclude an agreement for the registration of shares in the depository in order to meet the legal obligations referred to in Article 17 of the Law of 30 August 2019 on the amendment of the Commercial Company Code and certain other laws (Dz.U (Journal of Laws) 2019 item 1798, with later amendments), the application, referred to in subpara.1, will need to disclose these circumstances.

3. The application for the conclusion of an agreement for the registration in the depository of: bonds issued in accordance with the provisions of the Bond Act of 15 January 2015 (consolidated text - Dz. U (Journal of Laws) 2018, item 483, as amended); of mortgage bonds issued in accordance with the provisions of the Law on Mortgage bonds and mortgage banks of 29 August 1997 (consolidated text - Dz. U (Journal of Laws) 2020, item 415) , which were not issued as part of a public offering and for which their issuer does not intend to apply for their admittance to trading in the regulated market, or for their introduction to an alternative trading system; or investment certificates issued by a close-end investment fund, which is not a public closed investment fund; such an application for the conclusion of a registration agreement may only be submitted using an application available on the KDPW website. Other obligations, mortgage bonds or investment certificates may be included in the application for the conclusion of a registration agreement submitted in this manner, should the circumstances described in Art. 7a of the Law on Trading in financial instruments arise, or if the issuer so decides.

4. The application, described in subpara. 3, may only be submitted on behalf of the issuer by a direct participant, which performs the role of issue agent within the meaning of Art. 7a of the Law on Trading in financial instruments with respect to the securities to which this application pertains.

4a. If the application, referred to in subpara. 3, relates to securities issued by an issuer whose registered office is situated outside the territory of the Republic of Poland, then prior to its submission, the participant, referred to in subpara. 4, shall be required to obtain confirmation from the issuer that the declaration, referred to in § 33a subpara. 3a, submitted to KDPW in connection with an application by the participant, referred to in subpara. 4, for extending participation to the participation type of issue agent, consisting of the inclusion of specific securities issued by this issuer, shall also refer to those securities for which this application is sought. In the absence of such confirmation, the participant, referred to in subpara. 4, shall be obliged to obtain from the issuer

and submit to KDPW a written declaration, referred to in § 33a subpara. 3a, relating to these securities, and may submit an application, referred to in subpara. 3, relating to these securities only after having first obtained confirmation from KDPW that KDPW is entitled to provide with notary and a central maintenance services with respect to these securities.

5. The submission of the application, described in subpara. 1a, in KDPW shall take place following the completion of the registration form in the application available on the KDPW website by providing information on the securities to which the application pertains and their issuer. The correct completion of the form shall result in its registration within the application, subject to the provisions of subpara. 7.

6. The application, described in subpara. 3, shall in addition indicate the intended date of the registration of the securities in the depository by the issuer. The indicated date should fall after the date of the registration of the registration form in the application used to complete and submit it.

7. The direct participant, described in subpara. 4, shall also confirm in the registration form, described in subpara. 5, that with respect to the securities indicated in that registration form, the direct participant performs the role of issue agent with the meaning of Art. 7a of the Law on Trading in financial instruments and that the direct participant is applying for the extension of its participation within the participation type: issue agent, described in § 24 subpara.7 item 1, and lead manager. Any application, described in subpara. 3, which does contain such declarations shall be legally void.

## § 66

1. The issuer shall include the following documents with the application to register securities in the depository, subject to the provisions of subpara. 8:

- 1) an issue letter relating to the securities issue and containing information concerning the securities being deposited, including their number, or – in instances described in § 65 subpara. 2 – the total nominal value and unit nominal value of the instrument, and where appropriate, indicating the participant performing the role of lead manager or registration agent, and the registration account managed for that participant in KDPW on which the securities concerned should be entered,
- 2) documents specifying the legal status of the securities being registered, prepared according to the applicable legal regulations,
- 3) documents providing the legal basis on which the securities were issued,
- 4) documents that constitute the basis on which permission is granted to distribute the securities to those entitled by making entries in securities accounts or by means of omnibus securities accounts,
- 4a) in instances where KDPW is to perform the role of issuer CSD and the issuer's registered office is situated outside the territory of the Republic of Poland – a declaration indicating whether in connection with the provision of notary and central maintenance services with respect to securities to which the application pertains, KDPW will be obliged to take any measures to enable its users to comply with the legal requirements of a jurisdiction other than the Republic of Poland, as well as,
- 5) for securities issued in accordance with the laws of a country other than the Republic of Poland:
  - a) a legal opinion drafted by an entity performing professional legal support services in that country, selected by the applicant, indicating indisputably that all the terms and conditions which need to be met for the issue of these securities to be successfully finalised and for the securities to be distributed to those so entitled, as described in point 4 – on condition that KDPW is to perform the role of issuer CSD for these securities, and

b) a document describing the basic principles of the exercise of rights from these securities.

2. The issue letter referred to in subpara. 1 point 1, shall be submitted separately for each set of securities being introduced to the depository under a separate securities code number and shall be signed by the issuer and by the direct participant that intends to perform the role of lead manager, or registration agent for these securities, where such a role is to be performed in connection with the registration of securities in the depository. The issue letter submitted in instances described in § 72 subpara.3 point 5 shall indicate that the shares to which it applies are to be recorded on the registration account held for a given direct participant that does not manage a register for them that conforms to the participation type of lead manager and does not perform the role of registration agent for them; the letter shall be signed by the issuer and by that direct participant.

3. If the application, referred to in subpara. 1, relates to securities for which KDPW shall perform the role of investor CSD, the issuer shall in addition indicate in the issue letter, referred to in subpara. 1 point 1, the CSD performing the role of issuer CSD for these securities.

4. If the decisions of the formal governing bodies of an issuer, which is established outside the territory of the Republic of Poland, that relate to an issue of shares, for which KDPW shall perform the role of investor CSD, were taken in a period lasting longer than two years and preceding the date the application to conclude an agreement for their registration was submitted to KDPW, the issuer may append to that application, in place of documents that form the legal basis for the issues of these shares, a personal declaration indicating the dates that the decision was made by the formal governing bodies of the issuer to initiate these share issues and the number of shares successfully issued by that issuer on the basis of each such decision. This process does not however apply to those share issues which were still pending on the date the issuer submitted the application relating to the conclusion of an agreement for their registration in the securities depository.

5. The application to conclude an agreement for the registration of securities in the depository shall also include an application for the conclusion of a participation agreement for the participation type – issuer, unless that the latter agreement has already been concluded with the applicant earlier and remains in force.

6. Documents included with the application, referred to in subpara. 1, which have been drawn up in a foreign language in their original form should be submitted in Polish, translated and certified by a certified translator. The provisions of § 31 subpara. 2 shall apply accordingly.

7. A detailed list of documents which need to be submitted with the application, referred to in subpara. 1, shall be defined by the KDPW Management Board in the KDPW Detailed Rules of Operation.

8. The documents referred to in subpara. 1 shall not be included with the application referred to in § 65 subpara. 3.

9. *Repealed*

## **§ 67**

1. An agreement for the registration of securities for which KDPW will perform the role of investor CSD may be concluded on condition that an operational link has been established to another CSD that can be used to register these securities in the depository and that the other CSD has implemented and has made available procedures, which define how that CSD processes rights and obligations deriving from these securities. A link to another CSD may be a direct link or an indirect link.

2. The entity managing the relevant registration accounts for KDPW on which the securities, referred to in subpara. 1 are to be registered in order to transfer them onto the registration accounts managed by KDPW shall be another CSD; in case of an indirect link, this entity shall be a credit institution, a branch of a local bank abroad, or a foreign bank within the definition of the Banking Law of 29 August 1997 (Dz. U. (Journal of Laws) 2018, item 2187, as amended).

3. The registration of securities, referred to in subpara. 1, on the registration account managed by KDPW for a direct participant shall be performed after they have first been registered on the relevant registration account managed for KDPW by the entity referred to in subpara. 2.

4. The securities, referred to in subpara. 1, shall be registered on the registration account managed by KDPW for a direct participant for the duration of the period that they shall be registered on the relevant registration account managed for KDPW by the entity referred to in subpara. 2. The deregistration of these securities from the registration account managed in KDPW, performed in connection with their transfer from the relevant registration account managed for KDPW shall not be deemed a securities withdrawal operation, described in § 143 subpara. 2 point 3 and § 145.

## **§ 68**

1. Having received the application for the conclusion of an agreement for the registration of securities in the depository, KDPW shall commence reviewing it without due delay.

2. Subject to the provisions of § 70a, when reviewing the application, KDPW shall perform a comprehensive risk assessment in accordance with the provisions of Art. 89 RTS 2017/392 of CSDR, as well as takes into consideration whether the application and appended documentation meet the formal requirements. In certain justified instances, KDPW may accept a document that does not meet the formal requirements arising from the provisions of § 5 subparas. 3-5, or § 6,

3. Where the submitted application, or appended documentation require completion or correction, KDPW shall within two weeks of the date of its receipt, prepare a notice listing the scope of required changes and supplementary information and shall without due delay send this notice to the applicant. KDPW shall also specify in this notice the deadline before which the applicant should submit corrected or additional documents.

4. As part of the assessment of legal risks, each of the following features shall in particular be considered a negative factor:

1) a court of law has issued a decision with respect to the issuer on the provision of collateral and the registration of these securities in the depository would lead, or could potentially lead to a contravention of this decision – on condition that KDPW holds reliable information confirming that such a decision has been issued and the issuer has not demonstrated that the decision was revoked, its execution was prevented or that the collateral was rescinded,

2) a decision was made on declaring the issuer bankrupt, which involved the liquidation of its assets, or a decision on the petition to declare the issuer bankrupt has been rejected owing to the fact that the issuer's assets are insufficient to cover the costs of the bankruptcy procedure – on condition that KDPW holds reliable information confirming such a decision has been made.

3) the issuer has not met the legal requirements, which govern an issue, or the allocation or dematerialisation of securities to which the agreement applies unless – in the case of shares - meeting a specific legal requirement was subject to oversight by the appropriate registry court, and that court carried out the registration which forms the basis for the creation of rights to shares.

4) the issuer does not have a LEI code that identifies them, or does not ensure that this code remains valid.

5. As part of its assessment of financial risks, KDPW shall consider in particular whether the issuer is in arrears with payment of any fees defined in these Rules, and if such payments are overdue, the length of time the debt has been outstanding and whether and how the issuer has substantiated the debt and its non-payment.

6. KDPW shall decide on whether or not to conclude an agreement for the registration of securities in the depository with the issuer and shall prepare a response for the issuer in this matter within a period of three

months from the date of the submission of the application for the conclusion of this agreement by the issuer.

#### **§ 69**

A securities registration agreement may not be concluded prior to the conclusion of the applicant's participation agreement for the participation type of issuer.

#### **§ 69a**

1. If the agreement for the registration of shares has been concluded by a participant in order to meet the legal obligations, referred to in Article 17 of the Law of 30 August 2019 on the amendment of the Commercial Company Code and certain other laws (Dz.U (Journal of Laws) 2019 item 1798, as amended), the number of shares registered in the depository may not exceed the number of shares whose physical counterparts have been submitted to the issuer.
2. The issuer shall determine the number of shares whose physical counterparts have been submitted to that issuer in the issue letter for those shares.
3. Shares whose physical counterparts have been deposited with the issuer after the date of the conclusion of their registration agreement, shall be registered in the depository on the basis of an annex or annexes to the issue letter for these shares, in which the issuer has confirmed the receipt of the submission of these physical counterparts.
4. The provisions of subparas. 1-3 shall not apply in instances where the issuer that is a party to the share registration agreement, which has been concluded by the issuer in order to meet the legal obligations referred to in subpara. 1, has not provided the physical shares and has confirmed this in the application submitted for the conclusion of this agreement.
5. The provisions of sections 1-4 shall apply accordingly in the event that the registration agreement relates to shares issued before March 1, 2021 by an issuer with its registered office situated in the territory of the Republic of Poland, who was not required to meet the obligation, referred to in subpara. 1, or who met this obligation by concluding an agreement for keeping a register of shareholders, in the event that all these issuer's shares could not be registered in this register with the effect referred to in Art. 343 § 1 of the Commercial Companies Code, as a result of failure by shareholders to submit all the physical counterparts of these shares issued to them.
6. The provisions of subparas. 1-4 shall apply accordingly to subscription warrants in instances where the issuer established outside the territory of the Republic of Poland has declared in the application for the conclusion of an agreement for their registration in the depository that this agreement relates to subscription warrants issued by the issuer before 1 March 2021.

#### **§ 70**

An agreement for the registration of securities which the issuer intends to apply for their admission to trading in the regulated market, or introduction to the alternative trading system, may be concluded prior to these events taking place. In such cases, the registration of securities in the depository shall only take place on condition, respectively, of the admission of these securities to trading in the regulated market, or their introduction to the alternative trading system, and after the provision of documents confirming this to KDPW, unless:

- 1) for bonds issued on the basis of the Bond Act of 15 January 2015 (Dz. U. (Journal of Laws) 2018, item 483, as amended), mortgage bonds issued on the basis of the Law on Mortgage bonds and mortgage banks of 29 August 1997 (Dz. U. (Journal of Laws) 2016, item 1771, as amended), and investment certificates issued by close-end investment funds – an agreement on the registration of these securities in the depository has been concluded following the submission of the application, described in subpara. 1a, in KDPW, indicating an earlier date for their

registration in the depository,

2) for other securities – the relevant regulations in force permitting their earlier registration in the depository.

#### **§ 70a**

1. The submission of the application, referred to in § 65 subpara. 3 shall not result in KDPW performing a comprehensive risk assessment, referred to in Art. 89 subpara. 1 RTS 2017/392 of CSDR, on the applicant.

2. With respect to securities included in the application, referred to § 65 subpara. 3, the agreement for their registration shall be concluded following the registration of these securities in the depository by KDPW, in accordance with the details of this application.

#### **§ 71**

1. Fungible securities introduced to the depository shall be given a securities code number that differs from the code numbers of other securities. Fungibility of securities means that they have been issued by the same issuer, give the same entitlements, have the same status in trading and that their registry is managed by KDPW according to the same principles; in instances where their registration is performed using an expression of value, it shall in addition mean that the unit nominal value of the instrument is of equal parity and is expressed in the same currency.

2. Fungible securities from different issues may be marked with the same securities code number at their issuer's request.

2a. The provisions of subpara. 2 shall not apply to securities that are the subject of the application, referred to in § 65 subpara. 3.

3. At the request of an issuer, securities admitted to the depository may be assigned a code which had previously been assigned to other securities, on condition that the securities admitted to the depository are fungible in relation to the securities already assigned this code.

3a. The provisions of subpara. 3 shall not apply to securities that are the subject of the application, referred to in subpara. 1a.

4. The securities id number assigned to securities registered in the depository via an operational link to another CSD shall correspond to the securities id number under which they are registered by the other CSD.

#### **§ 72**

1. Securities introduced to the depository on the basis of an agreement with an issuer, for which registers that correspond to the participation type of lead manager are not managed, shall be registered initially on a dedicated registration account opened in KDPW for a direct participant performing the role of registration agent for these securities. The responsibilities of a registration agent shall consist of allocating securities to entitled entities in the form of entries on securities accounts or by means of omnibus securities accounts.

2. In order to perform this role, the participant shall be obliged immediately to transfer the securities from a special registration account opened for that participant in connection with the participant's role, onto the relevant registration accounts managed for the participant, or for other direct participants with the relevant participation types.

3. The provisions of subpara. 1 shall not apply to securities registered in the depository:

1) via an operational link to another CSD, or

2) in accordance with the provisions of § 73 subpara. 1 or

- 3) following the performance of a securities exchange operation, or
  - 4) following settlement performed by KDPW of transactions executed in primary trading, or
  - 5) ) on the basis of an agreement concluded following the submission by an issuer of an application described in § 65 subpara.2a or in § 69a subpara. 6, on condition that all the securities that are subject to this agreement, for which share registers are not managed specifically by entities with the participation type of lead manager, are to be registered on the same registration account managed in KDPW for a given direct participant.
4. The KDPW Management Board may define other circumstances in the KDPW Detailed Rules of Operation for which the provisions of subpara. 1 shall not apply.

### **§ 73**

1. In instances where securities issues of a given type, issued either as part of a continuous or repeated procedure performed by a specific issuer, are to be registered using a code number which has been previously assigned to securities of the same type issued by that issuer, the registration of subsequent securities with this same code, as well as reductions of the number of securities assigned with this code following the performance of rights incorporated in these securities, may only take place on the basis of documents sent to KDPW in electronic form by the direct participant taking part in these operations, on condition that the following conditions shall be met:

- 1) Securities registered in this manner are issued on the basis of the same legal provisions, which define identical conditions for the performance of their issue and which shall not be subject to change during the period of the registration of these securities,
- 2) Securities registered in this manner were included, subject to the provisions of subpara. 5b, item 2, in the same notification document prepared in connection with their public offering, or application for having them admitted to trading in the regulated market, if the provisions of the Law on public offerings require the preparation of such a document.
- 3) Registration by a court, or any other body is not required for the successful issue of securities that are subject to any subsequent registration in a securities depository,
- 4) Together with the application for the conclusion of an agreement for the registration of securities, the issuer shall include documents authorising KDPW to register all subsequent issues in the same manner,
- 5) Securities of all issues shall be fungible,
- 6) A direct participant taking part as applicable, in a securities distribution or actions leading to the cancellation of securities, shall conclude an agreement with KDPW, referred to § 4 subpara 1.

2. In instances where an annex requiring the approval of the Polish Financial Supervision Authority was appended to the notification document relating to securities registered in the manner described in subpara. 1, the issuer shall be obliged to prevent the participant taking part in the distribution of these securities from sending electronic documents, which form the basis of their registration, for a period until the day following the day that the annex has been provided to KDPW, along with a copy of the decision of the Polish Financial Supervision Authority as regards its confirmation.

3. Prior to the deadline for submitting to KDPW the notification document relating to securities registered according to the rules described in subpara. 5, the issuer shall be obliged to:

- 1) ensure that electronic documents forming the basis for their registration are no longer being submitted by the participant taking part in their distribution, or

2) submit a new notification document to KDPW related to these securities, together with an excerpt from the relevant official decision of the Polish Financial Supervision Authority, adopted in relation to this document, if such a decision shall be necessary.

4. The provisions of subpara. 1 shall not apply to securities that are the subject of the application, described in § 65 subpara. 3.

#### **§ 74**

In instances where, owing to the procedures carried out by KDPW in the performance of its functions of managing the depository system, technical entries are deliberately made in registration accounts prior to closure of a securities issue, the making of such entries shall be governed by the relevant provisions of these Rules on the admittance of securities to the depository. In such instances, the issue letter shall specify the maximum number of securities to be issued, while in instances described in § 65 subpara. 2, the unit nominal value and the total maximum nominal value of the securities shall be specified.

#### **§ 75**

1. For each application for changing the method of registering securities that have already been deposited the issuer shall include an issue letter containing the suggested changes.

2. In the event of the change of any data relating to securities issues covered by an issue letter, or the form, described in § 65 subpara. 5 submitted earlier to KDPW, the issuer shall be obliged to submit an annex to that issue letter, or the document updating the data contained in this form.

3. In instances described in the KDPW Detailed Rules of Operation, the issuer shall be obliged to attach documents to the annex to the issue letter or update document, described in subpara. 2, indicating the data that needs to be amended, enabling the effectiveness of the implementation of these changes to be determined.

#### **§ 76**

1. KDPW shall, at the request of the issuer, assign a joint securities code number to convertible securities previously recorded under different code numbers (assimilation).

2. With the request referred to in subpara. 1, the issuer shall include documents to establish whether permission may be granted for such an assimilation.

3. The assimilation shall be performed on a date agreed with the issuer. Notification concerning the assimilation date shall be sent by KDPW to direct participants, as well as to the entity with which the agreement referred to in § 23 has been concluded, managing the trading system for the securities to be assimilated.

4. Assimilated securities shall bear the same securities code number starting from the assimilation date.

5. The decision to perform an assimilation may not be carried out before all of the securities being assigned a joint securities code number actually obtain the same status with respect to their trading.

6. Subject to the provisions of subpara. 5, the assimilation of securities registered via an operational link to another CSD, shall be executed in the depository system on the basis of information on its execution in the other CSD.

#### **§ 77**

Changes to rights in securities or status of securities with respect to their trading that relate to only a certain part of the securities denoted with a given securities id number is only permitted in instances where it shall be



possible to perform an incontrovertible identification of the securities, which are subject to the change, and there are no legal barriers present, and there is no danger to the security of the securities depository and to the interests of trading participants. In such instances, KDPW shall assign a separate securities id number to the securities that will be affected by the change.

#### **§ 78**

1. The KDPW Management Board may determine by means of a resolution that indicated securities or securities which have the features set out in the resolution shall not be registered on omnibus securities accounts or securities accounts managed in KDPW.

2. A resolution referred to in subpara. 1 may be adopted:

1) if, due to the features of securities indicated in the resolution or due to the incomplete understanding of their effect, there is a risk that KDPW might be unable to properly perform the obligations of remitter of income tax imposed on entities managing omnibus securities accounts, arising in connection to the performance of the issuer's liabilities arising from them, or that the effective and safe performance of such obligations would require KDPW to incur additional investments or expenses,

2) if, due to ambiguity or non-uniform application of tax regulations by tax authorities or due to amendment of such regulations, there is a risk referred to in point 1 or doubts arise as to the scope or manner of performing tax obligations imposed on an entity managing omnibus securities accounts as remitter of income tax on gain (income) from entitlements from securities referred to in the resolution,

3) with respect to securities which are registered in the depository via an operational link with another CSD.

3. KDPW shall inform direct participants with the type of participant status of Foreign Custodian about an adopted resolution referred to in subpara. 1 at least two weeks before its effective date. Participants holding omnibus securities accounts or securities accounts managed in KDPW on which securities referred to in the resolution are registered shall be obliged to ensure the transfer of such securities onto depository accounts managed by KDPW no later than the effective date of the resolution.

4. KDPW shall publish, on its website, information necessary to identify securities which shall not be registered on omnibus securities accounts or securities accounts managed by KDPW.

#### **§ 79**

1. If the events referred to in Article 56 subpara. 1 points 1 and 2 of the Law on trading in financial instruments have occurred, relating to a proportion of shares registered with the same securities code number as other shares, KDPW shall reduce the nominal value of all shares bearing the same code number or, should the above not be possible, reduce the number of shares bearing that particular code number.

2. The reduction of the number of shares bearing a particular securities code number shall be carried out by KDPW and shall involve a proportional reduction of the number of shares registered on each securities account, or omnibus security account, using a rate of reduction adopted by KDPW.

3. The reduction of the number of shares shall be carried out according to information on the share balances on each securities account and securities omnibus account, supplied by participants at the request of KDPW and within the time-period specified in this request, as well as based on data relating to the balances of these shares on each securities account and securities omnibus account managed by KDPW.

4. If a proportional reduction would lead to the withdrawal from the depository of a number of shares that does not correspond to the number of cancelled shares, the principle of proportionality shall not be applied to the

extent necessary to allow for the reduction results to match the number of cancelled shares.

5. The amounts specified in Article 56 subpara. 4 of the Law on Trading in financial instruments, to be received by the shareholders, shall be paid by the issuer through KDPW. KDPW shall request that the issuer transfer the required amount and then shall allocate the amount among direct participants. The direct participants shall then pass on the respective received amounts to entitled holders of securities accounts kept by those participants, or to relevant holders of omnibus securities accounts kept by those participants.

#### **§ 80**

1. If, in the instance referred to in § 79 subpara. 1, it shall be necessary to reduce the number of shares marked with a particular securities id number, the KDPW Management Board, acting in consultation with the entity with which the agreement described in § 23 has been concluded, managing the trading system for these shares, shall define, by way of resolution, the date upon expiry of which all shares assigned with the same code are to be blocked in the depository. The date upon expiry of which shares are to be unblocked shall then be defined.

2. KDPW shall not settle transactions relating to shares described in subpara. 1, in the period between the expiry of the deadline set for the blocking of the shares and the date set for their unblocking.

3. The principle laid down in subpara. 2 shall apply accordingly to corporate actions if they involve shares referred to in § 79 subpara. 1.

### **SECTION IV THE SECURITIES SETTLEMENT SYSTEM**

#### **CHAPTER 1 TRANSACTION SETTLEMENT**

#### **§ 81**

1. In performing the settlement of transactions, KDPW shall enable the transfer of securities and payments arising from those transactions to be executed, through the registration of changes in balances on depository accounts, omnibus securities accounts and securities accounts managed for direct participants, as well as through the sending of instructions to debit or credit participants' cash accounts.

2. Transaction settlement is carried out in the multibatch settlement system or real-time system. The KDPW Management Board shall determine in the KDPW Detailed Rules of Operation the types of transactions whose settlement may be performed in both of these systems, as well as the types of transactions whose settlement may be performed in only one of these systems.

3. Payments arising from the settlement of transactions performed by KDPW shall be made in PLN or in EUR.

#### **§ 82**

1. Payments made by a direct participant or for a participant as part of the settlement of transactions performed by KDPW shall be executed through the participant's cash account.

2. The detailed principles of KDPW's participation in clearing conducted by the National Bank of Poland, referred to in Article 48 subpara. 5 of the Law on trading in financial instruments, shall be defined in the relevant agreement concluded by KDPW with the National Bank of Poland.

3. Payments referred to in subpara. 1 made by a direct participant or in favour of a direct participant may be

executed through a bank account managed in the settlement bank for another entity which is a direct participant, henceforth referred to as 'the payer', which signed a relevant agreement with the direct participant. KDPW shall consider the termination of such an agreement as having taken place not earlier than the day following the day on which KDPW was informed of the fact by either of the parties.

4. In instances referred to in subpara. 3, the bank account managed in the settlement bank for the payer shall become the participant's cash account within the meaning of these Rules.

5. A direct participant may indicate two or more bank accounts managed in the settlement bank for that direct participant for various payment agents, through which payments referred to in subpara. 1 shall be made by the participant or in favour of the participant, indicating at the same time one of these accounts as the primary account. In such instances, such payments shall be made through the bank account indicated as the primary account, unless the settlement instruction sent to the depository system will indicate that the transaction defined in the instruction by the participant should be settled through another account indicated by the participant.

6. The settlement bank shall credit or debit participants' accounts on the basis of instructions from KDPW, issued according to the participants' respective cash debit and credit positions, arising from their settlement instructions sent to the depository system.

*7. For payments processed in Euro, participants' cash accounts should be managed in the TARGET2 system. In such instances, within the scope of these payments, the provisions of subpara. 3, first sentence, and subparas. 4 - 6 shall apply accordingly, subject to the provision that an entity that is not a direct participant may perform the role of payer.<sup>4</sup>*

*8. The settlement bank shall manage participants' cash accounts and perform the operations specified in subpara. 6 on the basis of an agreement concluded with KDPW and on the basis of agreements concluded with direct participants or payers. In instances described in subpara. 4a, participants' cash accounts used to execute payments processed in Euro shall be managed on the basis of agreements concluded between direct participants, or payers, and central banks managing payment systems within the TARGET2 system, while the instructions described in subpara. 4 shall be sent by KDPW on the basis of an agreement with the National Bank of Poland.<sup>5</sup>*

9. A refusal by the settlement bank to accept or to process instructions sent by KDPW, described in subpara. 4-6,

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<sup>4</sup> Beginning from the date when TARGET (Trans-European Automated Real-time Gross Settlement Express Transfer system of the next generation) is launched, replacing TARGET2 for the purposes of processing payments in euro in central bank money, Article 4 point 18 item (b) will be replaced by the following:

*"7. For payments processed in Euro, participants' cash accounts should be managed in the TARGET system. In such instances, within the scope of these payments, the provisions of subpara. 3, first sentence, and subparas. 4 - 6 shall apply accordingly, subject to the provision that an entity that is not a direct participant may perform the role of payer."*

<sup>5</sup> Beginning from the date when TARGET (Trans-European Automated Real-time Gross Settlement Express Transfer system of the next generation) is launched, replacing TARGET2 for the purposes of processing payments in euro in central bank money, Article 4 point 18 item (b) will be replaced by the following:

*"8. The settlement bank shall manage participants' cash accounts and perform the operations specified in subpara. 6 on the basis of an agreement concluded with KDPW and on the basis of agreements concluded with direct participants or payers. In instances described in subpara. 7, participants' cash accounts used to execute payments processed in Euro shall be managed on the basis of agreements concluded between direct participants, or payers, and central banks managing payment systems within the TARGET system, while the instructions described in subpara. 6 shall be sent by KDPW on the basis of an agreement with the National Bank of Poland."*

shall lead to settlement involving cash payments to be suspended, as well as the corresponding securities settlement, until the settlement bank resumes the provision of these services. KDPW shall immediately inform direct participants of this.

10. KDPW shall not be liable for any losses incurred by participants as a result of the suspension of settlement for the reasons indicated in subpara. 9.

11. The provisions of subparas. 9 and 10 shall apply accordingly in instances described in subpara. 7.

### **§ 83**

1. The settlement of transactions carried out in the multibatch system shall be performed according to the principle that the cash account of the participant is debited or credited by an amount that constitutes an excess of, respectively, cash credits over cash debits, or cash debits over cash credits, which in accordance with settlement instructions sent to the depository system that are to be processed within the same settlement session, need to be realised using this cash account (netting).

2. The settlement, described in subpara. 1, shall be conducted according to the principle of multilateral netting.

3. The excess referred to in subpara. 1 shall indicate the amount of the actual cash amount to be transferred as part of the settlement process in the multibatch settlement system. However, in order to determine this amount, following the principle specified in subpara. 1, the value of the cash payments arising, respectively, from purchase and sale transactions for which settlement has been suspended shall be subtracted from the value of the cash payments arising from purchase and sale transactions.

4. For the settlement of transactions processed in the multibatch system, the depository account, omnibus securities account or securities account managed in KDPW for a participant are debited and credited separately according to the balance of non-cash debits or credits depending on the relevant settlement instructions sent to the depository system, which are to be processed within the same settlement session.

5. The settlement performed in the multibatch system shall take place exclusively by performing the actions described in subpara. 4, if the instructions for this settlement do not contain orders for the settlement of the cash payment leg. For free-of-payment settlement, the provisions of subparas.1-3 shall not apply.

### **§ 84**

1. The instructions described in § 82 subpara. 6, sent in connection with the settlement of transactions in the multibatch settlement system, shall not contain the following:

1) the amount of the cash debits of the direct participant transferring the payments using the payment agent, where this amount exceeds the debit limit set by the payment agent for that participant,

and,

2) the amount of the cash debits of the participant with the participant type of representative, performed by a given entity that is not a direct participant as part of the settlement of transactions executed in the regulated market, or alternative trading system, and cleared by KDPW\_CCP, where this amount exceeds the debit limit set by that participant for those transactions,

- on condition that such a limit has been indicated to KDPW within the deadline and in the manner described in the KDPW Detailed Rules of Operation.

2. The provisions of subpara. 1 point 2 shall apply on condition that all the following stipulations are met:

1) a participant with the participation type of representative, who has set a debit limit for transactions

executed by a given entity that is not a direct participant, does not hold the status of clearing member in the clearing system for transactions executed in organised trading operated by KDPW\_CCP with respect to these transactions,

2) the status described in point 1 with respect to all transactions executed by a given entity that is not a direct participant in the regulated market or alternative trading system and cleared by KDPW\_CCP, is held by not more than one member of the clearing system for transactions executed in organised trading operated by KDPW\_CCP,

3) KDPW\_CCP shall ensure, in a manner agreed with KDPW, for KDPW immediately to determine whether with respect to transactions to which a debit limit set by a participant with the participant status of representative, the conditions described in points 1 and 2 are met.

3. In instances where the amount of the cash debits of the participant, as a party to the settlement of a transaction, shall exceed the debit limit indicated according to the provisions of subpara. 1 points 1 or 2, it shall be implicit that with respect to the excess above the debit limit, there shall be a shortage on the participant's cash account.

4. The provisions of subpara. 1 point 2 and subparas. 2 and 3 shall apply accordingly to the indication by a participant with the participant status of representative, of the debit limit for transactions executed on the regulated market or alternative trading system by an entity that is not a direct participant, cleared by an entity other than KDPW\_CCP, being a direct participant with the type of participation status described in § 24 subpara. 5, point 1 or 2, as well as to indicate this limit for transaction settlement performed by KDPW.

#### **§ 85**

1. The settlement of transactions in the real time settlement system shall be performed in accordance with the principle that the participant's cash account and the participant's depository account, omnibus securities account or securities account managed for the participant by KDPW are debited or credited separately for the amount of the cash or non-cash debits or credits arising from separate settlement instructions, sent to the depository system, which are to be processed in this system.

2. The settlement of transactions performed in the real-time settlement system shall take place exclusively by registering the relevant entries on the depository account, omnibus securities account, or on the participant's securities account, if the instructions for this settlement do not contain orders for the settlement of the cash payment leg.

#### **§ 86**

1. In instances where, owing to a shortage of securities, transaction settlement, which should take place at the latest on the record date for determining those entitled to payments from securities and the amount of those entitlements (day D), has been suspended, or remains suspended on day D either fully or partially, this settlement, with respect to those instances where it takes place after day D, shall then performed according to the principle that the cash payment debited from the cash account of the relevant participant acting for the buyer shall be lowered by the value of the calculated entitlement arising from those securities. Where the calculated payment arising from securities relates to individual subscription rights, or other securities, the cash payment arising as a result of such settlement shall be lowered by the market value of this individual subscription right, or other security, determined on the basis of its price on the date it is paid out.

2. The provisions of subpara. 1 shall apply on condition that the settlement of the transaction performed in the depository system shall include the settlement of cash payments.

## § 87

1. Transaction settlement is performed on the basis of matched settlement instructions introduced to the depository system by direct participants that are parties to the settlement, with the exception of:

1) transactions executed in trading systems, whose settlement is performed on the basis of settlement instructions introduced to the depository system by entities performing the clearing of these transactions, which are executed in these systems, holding the participation type described in § 24 subpara. 5 point 1 or 2,

2) transactions executed within the negotiated securities lending system, described in § 120 subpara. 1 whose settlement is performed on the basis of settlement instructions introduced to the depository system by KDPW\_CCP,

3) other transactions executed outside organised trading and eligible for clearing by KDPW\_CCP, whose settlement is performed on the basis of settlement instructions introduced to the depository system by KDPW\_CCP,

4) transactions executed on the electronic Treasury securities market operated by BondSpot - Treasury BondSpot Poland, which are not subject to clearing performed by KDPW\_CCP, whose settlement is performed on the basis of matching settlement instructions introduced to the depository system by BondSpot and by direct participants being parties to this settlement,

5) conditional and unconditional transactions executed by the National Bank of Poland as part of open market operations involving the sale of securities to banks, or the purchase of securities from banks, where settlement is performed on the basis of settlement instructions introduced to the depository system by the National Bank of Poland,

6) transactions executed as part of auctions organised by the National Bank of Poland for the sale, exchange or repurchase of Treasury securities, or bonds issued by the Bank Gospodarstwa Krajowego and underwritten or guaranteed by the State Treasury, as well as transactions executed as part of a supplementary sale of Treasury bonds organised in accordance with the relevant regulations in connection with the sale auction of such bonds organised by the National Bank of Poland, where settlement is performed on the basis of settlement instructions introduced to the depository system by the National Bank of Poland,

7) transactions involving the transfer of securities onto the securities account managed in KDPW on behalf of the National Bank of Poland, for the purpose of collateralising the repayment of technical credit granted by the National Bank of Poland to another direct participant, as well as retransfer transactions performed by the National Bank of Poland involving securities used as collateral for such credit following its repayment, where settlement is performed on the basis of settlement instructions introduced to the depository system by the National Bank of Poland, respectively, by the direct participant transferring the securities in favour of the National Bank of Poland, or by the National Bank of Poland retransferring the securities.

2. The condition for performing the settlement of the transactions described in subpara. 1, points 1, 2, 3, 5 or 6 is prior consent given by the parties to that settlement to perform settlement with their involvement on the basis of settlement instructions introduced to the depository system, respectively, by KDPW\_CCP, by another entity performing the clearing of transactions, or by the National Bank of Poland. The consent of the participant relates to the type of activities the participant performs in accordance with the provisions of § 24 subparas. 1- 6, and involves all types of participation status conferred within that scope. The withdrawal of consent becomes effective at the end of the second day following the date of the submission to KDPW of the participant's declaration to this effect; however, this shall not limit the right of KDPW to perform settlement of transactions with the involvement of the participant on the basis of settlement instructions introduced by the entity to which the consent applied on the date prior to its withdrawal becoming effective, as well as on the basis of such settlement instructions introduced by the entity at a later date, whose only purpose is to meet the obligations

assigned to the participant in accordance with the settlement instructions introduced by that entity during the period that the consent remained valid.

3. In instances where both parties to a transaction not indicated in subpara. 1, points 1-3 and 5-7 involve the same direct participant, the performance of the settlement requires the introduction to the depository system by the participant of two matching settlement instructions, generated for each position in this settlement. Such settlement may however be performed on the basis of a single settlement instruction introduced by a direct participant to the depository system, on condition that the participant indicates that:

1) the performance of this settlement shall not require the introduction by that participant of a second instruction to the depository system, related to this settlement,

and

2) the settlement shall only involve the transfer of securities between registration accounts managed for the participant within the type or types of participation status assigned to that participant as part of the same type of activities described in § 24 subpara. 1- 6,

4. The KDPW Management Board may define in the KDPW Detailed Rules of Operation instances where the settlement of transactions described in subpara. 1, points 5, 6 or 7 will require matching of instruction details by both parties to settlement.

#### **§ 88**

The matching of settlement instructions shall be determined according to principles described in the KDPW Detailed Rules of Operation.

#### **§ 89**

1. The settlement of a cross-system transfer of securities registered in the depository via an operational link with another CSD, performed either onto a registration account, or from a registration account of a direct participant in connection with making the relevant entry on the registration account managed for KDPW by the entity referred to in § 67, subpara. 2, shall take place on the basis of a settlement order introduced to the depository system by that direct participant and a receiving order sent by KDPW.

2. KDPW shall introduce a receiving order, described in subpara. 1, to the depository system relating to a cross-system transfer of securities performed on the registration account of a direct participant, following confirmation by the entity referred to in § 67, subpara. 2 of the registration of these securities on the registration account managed by this entity for KDPW.

3. In order to perform the settlement of a cross-system transfer of securities performed from the registration account of a direct participant, that participant introduces to the depository system a settlement order relating to the transfer out of these securities. On the basis of this order, the securities indicated in the order are blocked for the purpose of their transfer out. Having received confirmation of the transfer out of these securities from the registration account managed for KDPW by the entity referred to in § 67, subpara. 2, KDPW introduces a receiving order to the depository system accepting the order sent by the direct participant, relating to their deregistration from the registration account managed for that participant.

4. The settlement order relating to the transfer out of the securities, referred to in the first sentence of subpara. 3, as well as the settlement order sent by the participant, as described in subpara. 1, in order to carry out the cross-system transfer of securities performed on the registration account managed for that participant, should contain all the details that need to be provided to the entity referred to in § 67, subpara. 2, managing the relevant registration accounts for KDPW in order to perform the related transfers.

## § 89a

1. If as a result of the settlement of the intersystem transfer of securities, these securities were recorded in the registration account of a direct participant on day D or before day D, and the issuer's benefit payment, deriving from these securities, determined for that day was made available to this or other direct participants in accordance with the balances of their registration accounts on day D, despite the fact that the intersystem transfer of these securities was performed with the exclusion of the right to receive this benefit payment, the direct participant who sent the settlement instruction for this transfer shall be obliged to reimburse KDPW without delay, however, not later than one day after the date of the receipt of a demand in this matter, the benefit payment derived from these securities.

2. KDPW shall order the direct participant to reimburse the benefit payment derived from the securities that were the subject of the intersystem transfer onto the participant's registration account, in the event of its receiving a request for the reimbursement of this benefit payment from the entity referred to in § 67 subpara. 2, which first transferred the benefit payment to KDPW, or in the event of not receiving a benefit payment from that entity deriving from these securities.

3. The reimbursement of the benefit payment by the direct participant shall take place according to the following principles:

1) for cash benefits - by making the amount of the cash benefit available to KDPW on the participant's cash account,

2) for non-pecuniary benefits - by making the securities from which the benefit derives available to KDPW on the registration account onto which the intersystem transfer of the securities from which the benefit derives was made.

4. KDPW shall be entitled to debit the participant's cash account or the registration account kept for that participant for the amount corresponding to the benefit payment to be reimbursed.

5. If as a result of the settlement of the intersystem transfer of securities, these securities were recorded in the registration account of a direct participant after day D, and the issuer's benefit payment, deriving from these securities, determined for that day was not made available to this or other direct participants, despite the fact that the intersystem transfer of these securities was performed together with the right to receive this benefit payment, then KDPW shall, following the receipt of this benefit payment from the entity referred to in § 67 subpara. 2, make available this benefit payment to the direct participant who sent the settlement instruction for this transfer without delay, however, not later than one day after the date of its receipt.

6. The transfer of the benefit payment by KDPW shall take place according to the following principles:

1) for cash benefits - by transferring the benefit payment amount onto the participant's cash account,

2) for non-pecuniary benefits - by recording the securities being the subject of this benefit on the registration account onto which the intersystem transfer of the securities from which the benefit derives was made.

## § 90

1. In instances where the settlement of a transaction is performed on the basis of settlement orders introduced to the depository system by participants being counterparties to the transaction and containing an order for the performance of settlement of the cash payment leg, and the payment values indicated in the orders are not identical, these orders shall be deemed matched on condition that the difference between the cash payment values indicated in them do not exceed the following values:

1) for the settlement of transactions with a value lower or equal to EUR 100 000 – EUR 2, or



2) for the settlement of transactions with a value greater than EUR 100 000 – EUR 25

- (tolerance levels).

2. In instances where a transaction is settled in PLN, the exchange calculation of the values referred to in subpara. 1, points 1 and 2 into PLN shall be performed according to the official EUR exchange rate published by the European Central Bank and valid on 1 January of the calendar year in which the matching of settlement orders relating to that transaction was determined in the depository system.

3. Settlement using tolerance limits shall be performed irrespective of whether the parties to settlement have consented to its application in their settlement orders.

4. Settlement using tolerance limits shall be performed according to the value of the cash payment indicated in the settlement order sent by the party which within this settlement process must deliver securities to the other party, while for transactions referred to in § 87 subpara.1 point 4 – according to the value of the cash payment indicated in the settlement order sent by BondSpot S.A.

### **§ 91**

1. A settlement order shall be considered to have been introduced to the depository system from the moment of its registration in the depository system.

2. In order to register a settlement order in the depository system, a direct participant shall deliver it to KDPW in accordance with the principles defined in the agreement concluded by that participant, referred to in § 5, subpara. 1.

3. Settlement orders shall only be registered in the depository system on business days, with the exception of Saturdays, during the times defined in the KDPW Detailed Rules of Operation. The KDPW Management Board may by means of a Resolution indicate other days in which settlement orders shall be registered in the depository system and may determine that on specific business days they shall not be subject to such registration.

4. Only settlement orders meeting the necessary formal requirements shall be registered in the depository system. Settlement orders that do not meet the necessary formal requirements shall be deemed void and rejected.

5. Settlement orders shall be deemed to meet the necessary formal requirements if they have been generated in electronic form, contain the necessary data, maintain the necessary format or structure and have been correctly filled in.

### **§ 92**

1. Subject to the provisions of subpara. 7, the settlement order, introduced to the depository system by a direct participant, may not be unilaterally cancelled by that participant or any other entity from the moment KDPW has determined that this instruction matches with the corresponding instruction introduced to the depository system by a direct participant acting as the settlement counterparty.

2. KDPW shall perform the matching of settlement orders introduced to the depository system in order to determine their validity on business days, with the exception of Saturdays, during times defined in the KDPW Detailed Rules of Operation. The provisions of the second sentence of § 91, subpara. 3 shall apply accordingly.

3. In instances where a transaction is to be settled in the multibatch settlement system, the related settlement instructions introduced to the depository system by a direct participant acting as the settlement counterparty, may only be cancelled from the depository system following their matching by KDPW exclusively on the basis of matching bilateral declarations of these participants submitted to KDPW not later than the start of the settlement session, where KDPW may perform the settlement of that transaction. If, however, these documents were

submitted following the start of such a session, and within that session, the settlement of the transaction has not proved to be possible owing to a shortage of securities on the participant's registration account, or a shortage of cash on the participant's cash account, the cancellation shall be deemed to have been executed successfully.

4. In instances where the transaction is to be settled in the real-time settlement system, the related settlement instructions, introduced to the depository system by direct participants acting as the settlement counterparties, may only be cancelled from the depository system following their matching by KDPW on the basis of their matching bilateral declarations from these participants submitted to KDPW:

1) with respect to settlement instructions, which do not include an order to perform settlement of the cash payment leg – not later than the moment of the performance of settlement indicated in those instructions,

2) with respect to other settlement instructions - not later than the moment of the transfer to the settlement bank of the instruction, referred to in § 82, subpara. 6; if, however, any these declarations are sent later and the instruction has not been realised, then the cancellation shall be deemed to have been successful.

5. A settlement order referred to in § 87, subpara. 1, points 1,2,3,5 or 6, as well as a settlement order referred to in § 87, subpara. 1 point 4, introduced by BondSpot, cannot be unilaterally cancelled by a direct participant being a counterparty to the settlement indicated in this order, nor by any other entity, subject to the provisions of subpara. 6, from the moment that it has been introduced to the depository system.

6. Subject to the provisions of subpara. 6a, the settlement order described in § 87 subpara. 1, points. 1, 2, 3, 5, 6 or 7, as well as the settlement instruction described in § 87 subpara. 1, point. 4, introduced by BondSpot may only be cancelled on the basis of a declaration by the entity introducing the order to the depository system, or on the basis of matching declarations by direct participants being parties to the settlement indicated in this order, on condition that such a declaration or declarations are sent to KDPW:

1) if the settlement order is sent to the multibatch system – until the start of the settlement session within which KDPW may execute these instructions; if however, within this settlement session, such an instruction has not been executed, then cancellation performed after its commencement will be deemed successful.

2) if the settlement order is sent to the real-time settlement system – until the moment it is executed.

6a. A settlement order, referred to in § 87 subpara.1 point 1, 2 or 3, relating to transactions, whose settlement is secured by the clearing guarantee fund, sent by a participant that has introduced this order to the depository system, may only be cancelled by that participant.

7. The settlement orders introduced to the depository system for the purpose of performing a cross-system securities transfer registered in the depository via an operational link to another CSD may be cancelled up to the moment of the submission by KDPW of the instruction to perform this transfer to the entity referred to in § 67, subpara. 2. If the cancellation of such a settlement order shall take place after this moment, however, within the deadline necessary to enable KDPW to cancel this instruction in the normal course of its activities, then from the moment of cancellation by the entity referred to in § 67, subpara. 2 and on condition that it has been realised, the cancellation of such a settlement order shall be deemed to have been effective.

### **§ 93**

1. In instances where the settlement of transactions is to be performed in the real-time settlement system, a direct participant, who has sent an instruction relating to this settlement to the depository system, may request for settlement to be put on hold:

1) with respect to settlement instructions, which do not include an order to perform settlement of the cash payment leg – until the moment of the performance of settlement indicated in those instructions,

2) with respect to other settlement instructions – until the moment of the transfer to the settlement bank of the instruction, referred to in § 48, subpara. 4; if, however, this order has not been realised, then the request to stop the settlement instruction being processed, submitted after the instruction was sent, shall be deemed to have been successful.

2. In instances where the settlement of transactions is to be performed in the multibatch settlement system, a direct participant who has introduced an instruction related to this settlement into the depository system may request this instruction be put on hold until the commencement of the settlement session, during which it may be executed; however, if during that settlement session the settlement instruction has not been executed, then the request for the instruction to be put on hold submitted after its commencement shall be deemed being effective.

2a. The settlement instruction, referred to in § 87 subpara. 1 point 1, relating to a transaction whose settlement is not secured by a clearing fund managed by a participant that has entered the instruction into the depository system, as well as settlement instructions, referred to in § 87 subpara. 1 points 5 and 6, may only be put on hold on the basis of a request submitted by a direct participant that is a party to the settlement to which a given instruction relates. To determine the deadline before which the participant may submit such a request, the provisions of subparas. 1 and 2 shall apply accordingly.

3. A settlement instruction which has been put on hold at the request of a direct participant shall be sent for settlement if that participant shall submit such a request to KDPW and – in instances where the execution of a given settlement requires matching settlement instructions to be introduced to the depository system by both settlement counterparties, on condition that the execution of the settlement instruction sent to the depository system by the direct participant being the counterparty to this settlement has not been put on hold, or that following a period being on hold, it too was sent for settlement execution.

#### § 94

1. A settlement instruction shall be removed from the depository system without the need for it being cancelled if, prior to its expiry:

1) the instruction was not sent for settlement at the request of the direct participant, who introduced it to the depository system, or if a settlement instruction sent to the depository system by the participant who was the counterparty to the settlement, was put on hold,

or if

2) KDPW cannot match this instruction with any other settlement instruction sent to the depository system by a direct participant being the counterparty to the settlement

or

3) the settlement indicated in the operation instruction was not processed in the depository system, where this settlement related to securities registered via an operational link to another CSD, performed in relation to the transfer of such securities onto registration accounts managed for KDPW by an entity, described in § 67 subpara. 2, or in connection with the transfer of these securities from the registration accounts managed for KDPW by the entity described in § 67 subpara. 2, onto other accounts managed by the same entity, or a different entity of the same type, owing to the failure of the transfer to be processed

- (cancellation of an expired settlement instruction by the system).

2. Subject to the provisions of subpara. 3, the date of expiry of a settlement instruction shall be 30 calendar days from the intended settlement date indicated in the instruction, or from the date the instruction was introduced to the depository system, depending which of these dates is the later. If the expiry date falls on a date on which

KDPW does not perform settlement, the system will cancel the expired instruction on the next available business day that is not a Saturday.

3. Any additions or amendments to the settlement instruction, as well as any other activities or events leading to a change in the instruction's status in the depository system, or the performance of the verification process, described in subpara. 1, point 2 as regards this instruction shall interrupt the time to expiry. Each time the interruption takes place, the time to expiry is restarted.

#### **§ 95**

1. Putting a settlement instruction on hold at the request of a direct participant removes the consequences arising from the introduction of this instruction to the depository system, subject to the provisions of § 136a subpara. 1. When the direct participant sends an order to release the instruction for settlement, these consequences are restored, unless the instruction has earlier been removed from the depository system in accordance with the provisions of § 94 subpara. 1.

2. Putting a settlement instruction on hold at the request of a direct participant, as well as the sending of a release instruction by a direct participant shall not affect the moment that the settlement instruction is introduced to the settlement system, nor the moment when it can no longer be cancelled in that system.

#### **§ 96**

Subject to the provisions of § 97, the settlement instructions, described in § 87 subpara 1, point 1 are not obliged to indicate separately the cash and non-monetary (securities) debit and credit position arising from each underlying transaction, however, they may show netted, or aggregated positions for these debits and credits.

#### **§ 97**

1. KDPW shall perform the settlement of transactions on the basis of settlement orders, described in § 96, on condition that the entity performing the clearing of these transactions, holding the participation status referred to in § 24 subpara. 5 point 1 or 2 has earlier agreed with KDPW the terms and conditions for sending such orders and fulfils these terms and conditions.

2. The terms and conditions described in subpara. 1 should in particular enable KDPW to perform the activities, described in § 100 subparas. 1 and 2.

#### **§ 98**

1. The settlement of transactions shall be performed in accordance with the principle that the crediting of a cash account of a participant being a party to settlement shall take place simultaneously with the debiting of the registration account managed for that participant in KDPW, while the debiting of the participant's cash account shall take place simultaneously with the crediting of the registration account managed for that participant in KDPW.

2. The principles described in subpara. 1 shall not apply to the settlement of transactions performed on the basis of:

- 1) settlement instructions, described in § 96, if the details in that instruction indicate that settlement involves:
  - a) only the debiting or crediting of registration accounts managed for a direct participant, without making any changes to the balance of that participant's cash account, or,
  - b) debiting or crediting the cash account of a participant and recording no movement of assets on the

registration accounts managed for that participant, or

c) the simultaneous debiting of the participant's cash account and the registration accounts managed for that participant, or

d) the simultaneous crediting of the participant's cash account and the registration accounts managed for that participant, or

e) only recording no movement of assets on the registration accounts managed for a direct participant, without changing the balance on that participant's cash account, or

2) another settlement instruction, if its details indicate that the settlement shall only consist of the debiting or crediting of registration accounts managed for a direct participant, without making changes to that participant's cash account.

3. Upon completion of the operations referred to, respectively in subparas. 1 or 1a, the settlement of the transaction shall be considered as having been executed in KDPW, subject to the provisions of § 57 subparas.1-7

4. Entries in securities accounts and omnibus securities accounts managed by participants and arising as a result of transactions shall be made on the basis of documents confirming the execution of settlement of those transactions in KDPW, made on the settlement date of those transactions. If the transaction was subject to partial settlement, the provisions of the previous sentence shall apply accordingly to entries corresponding to each part of settlement performed.

#### **§ 99**

1. The deadline when direct participants, being counterparties to transaction settlement, should enable settlement execution in the depository system shall be determined in accordance with the principles described in the KDPW Detailed Rules of Operation, subject to the provisions of Art. 5 subpara. 2 of CSDR.

2. KDPW shall be ready to perform the settlement of transactions within the time limit determined according to the provisions of subpara. 1, provided that, respectively, the instruction, or matched instructions, relating to that settlement, were introduced to the depository system not later than the deadline defined in the KDPW Detailed Rules of Operation.

#### **§ 100**

1. Should settlement of transactions not be fully possible within the specified time owing to a shortage of assets in the participant's registration account or cash deposit account, KDPW shall specify the transactions for which settlement is to be suspended fully or partially, applying the principle of minimising the adverse effect of such shortage on the liquidity of settlements carried out for other participants, using at the same time the principles arising from the provisions of § 102, subparas. 1-7. The performance of settlement of these transactions shall not require their settlement instructions to be introduced to the depository system a second time.

2. If the settlement of a transaction performed on the basis of a settlement order, described in § 96, has been fully or partially suspended, KDPW shall accordingly:

1) determine the sale transactions, whose settlement has been performed using securities obtained as a result of the simultaneous settlement of transactions for the purchase of these securities – if the reason for the suspension is a shortage on the direct participant's registration account and the settlement order covers both securities sale transactions and securities purchase transactions, to which the shortage is attributed,

or,

2) determine the purchase transactions whose settlement has been performed using cash obtained as a result of the simultaneous settlement of transactions for the purchase of these securities – if the reason for the

suspension is a shortage on the participant's registration account and the settlement order covers both securities purchase transactions and securities sale transactions.

In such instances, the provisions of § 102 subpara. 8 shall apply accordingly.

In such instances, the provisions of § 102 subpara. 7 shall apply accordingly.

3. Transactions for which settlement has been suspended shall be settled without delay once conditions for their settlement become present, applying the provisions of § 102 subpara. 1-7.

4. If the settlement of a transaction involving individual subscription rights was unable to take place in any form before the deadline for accepting offers for shares of a new issue, owing to a shortage of assets on either the participant's registration account, or cash account, settlement shall not take place after the deadline.

5. The KDPW Management Board may define in the KDPW Detailed Rules of Operation those types of transactions executed outside trading systems, whose settlement shall not be suspended partially or fully, if it cannot be completely performed on the intended date. In such instances, the settlement of such transactions shall not be performed after this date, unless settlement instructions are resent to the depository system for a second time.

### **§ 101**

1. In instances where it is not possible to ensure the simultaneous settlement of all transactions for which a given direct participant is a settlement party, owing to a shortage of assets on the participant's cash account or registration account, this settlement shall be performed according to the following principles:

1) the settlement of transactions whose clearing is secured with the clearing guarantee fund managed by a participant holding the participant type referred to in § 24 subpara. 5 point 1 or 2, as well as the settlement of transactions relating to the termination of loan agreements executed in the negotiated lending and borrowing system referred to in § 120 subpara. 1, shall be performed first,

2) remaining transactions shall be settled after that,

2. In instances where it is not possible to ensure the simultaneous settlement of all transactions for which a given direct participant is a settlement party, and it is not possible for the participant to meet cash obligations arising from participation in the depository system, first, obligations arising in connection with the settlement of transactions are executed, followed next by obligations arising from other activities. Obligations of the participant, in its capacity as issuer of equities, to the owners of those securities shall be met last of all.

### **§ 102**

1. Subject to the provisions of subpara. 6 and § 100 subparas. 4 and 5, the partial settlement of a transaction shall be performed in instances where its full settlement cannot be performed within the correct deadline, owing to:

1) a partial shortage of cover on the participant's registration account, or

2) a partial shortage of cover on the participant's cash account, or,

3) a partial shortage of cover on the participant's registration account, at the same time as a partial shortage of cover on the cash account of the participant being the counterparty to transaction settlement,

2. Partial settlement may take place when the following conditions are met:

1) the direct participants that are the parties to this settlement have given their consent in settlement orders relating to this transaction, or by assigning attributes to registration accounts that are to be used to perform this settlement, which indicate the eligibility of these accounts to be used to perform partial settlement – for settlement that requires matched settlement orders to be introduced to the depository

system by both settlement parties, or

2) partial settlement is performed on the basis of a settlement order that includes consent for the partial settlement of this transaction and that has been introduced to the settlement system by an entity performing the clearing of transactions and holding the participation type described in § 24 subpara. 5 point 1 or 2, and the clearing of this transaction has been secured using the clearing guarantee fund managed by that entity, or

3) the direct participant, whose registration accounts are to be debited following the performance of this settlement, has given their consent for this in the settlement order introduced by them into the settlement system, or by assigning attributes to the registration account that is to be debited following this settlement, which indicate the eligibility of the account to be used to perform partial settlement - for settlement that does not require matched settlement orders to be introduced to the depository system by both settlement parties and that is different from the settlement described in point 2.

3. The partial settlement of a transaction performed in instances described in subpara. 1 point 2, or in instances described in subpara. 1 point 3, where the lack of sufficient coverage on the cash account of the participant being a party to settlement does not exceed the lack of coverage on the registration account of the participant being the other party, shall be performed as follows:

1) the transfer of a specific number of securities between registration accounts managed in KDPW for direct participants being parties to settlement, where these securities have been assigned a securities id number indicated in the settlement order or orders for that transaction, which corresponds proportionally to that portion of the cash payment arising from that transaction, or - if the settlement shall be performed on the basis of a settlement order described in § 96 - that part of the cash payment indicated in that settlement order, which may be paid from the participant's cash account on which the lack of coverage took place, preventing the settlement of this transaction in full or in the part that corresponded to the previous suspension, although the number of securities transferred shall be determined by rounding down to the nearest whole number,

and,

2) debiting the cash account of a participant on which a shortage of cover was determined and crediting the cash account of the participant being the other party to settlement with an amount equal to that part of the cash payment arising from that transaction, or - if the settlement shall be performed on the basis of a settlement order described in § 96 - that part of the cash payment indicated in that settlement order, which shall correspond on a pro-rata basis to the number of securities transferred between registration accounts of these participants as part of a given part of transaction settlement, rounded off to a single lowest currency monetary unit in which the payment is expressed, however, where the total of the amounts determined for all parts of the settlement of a given transaction must equal the amount of the cash payment arising from this transaction.

4. The partial settlement of a transaction performed in instances described in subpara. 1 point 1, or in instances described in subpara. 1 point 3, where the lack of sufficient coverage on the cash account of the participant being a party to settlement does not exceed the lack of coverage on the registration account of the participant being the other party, shall be performed as follows:

1) the transfer of a specific number of securities between registration accounts managed in KDPW for participants being parties to settlement, where these securities have been assigned a securities id number indicated in the settlement order for that transaction, and where they amount to the number of corresponding securities available on the account on which a shortage preventing settlement from taking place was identified, respectively fully or partially covered by the former suspension of settlement,

and, on condition that settlement of the cash payment leg is also performed,

- 2) debiting the cash account of a participant being a party to settlement and crediting the cash account of the participant being the other party to settlement with an amount equal to that part of the cash payment arising from that transaction, or - if the settlement shall be performed on the basis of a settlement order described in § 96 - that part of the cash payment indicated in that settlement order, which shall correspond on a pro-rata basis to the number of securities transferred between registration accounts of these participants as part of a given part of transaction settlement, rounded off to a single lowest currency monetary unit in which the payment is expressed, however, where the total of the amounts determined for all parts of the settlement of a given transaction must equal the amount of the cash payment arising from this transaction.
5. The settlement of a transaction, with respect to its suspended part following its partial settlement, shall be performed without delay once conditions to do so allow, unless the execution of the instruction relating to this settlement has been put on hold in accordance with the provisions of § 93 subparas. 1, 2 or 2a, or the instruction has been cancelled in the depository system.
6. The KDPW Management Board shall indicate in the KDPW Detailed Rules of Operation those transactions which may be subject to partial settlement.
7. Partial settlement shall be performed in the multibatch system, and in instances referred to in subpara. 1 point 1 – in the real time settlement system as well.
- 7a. Subject to the provisions of Article 23 (2) of RTS 2018/1229 to CSDR, a direct participant, by taking actions referred to in subpara. 2 point 1 or point 3, respectively, shall be obliged to:
- 1 / enable the possibility of partial settlement of a transaction on the last business day of the extension period referred to in Article 7 (3) of CSDR - if, in relation to this transaction, the participant is an entity that is bound by the obligation referred to in Article 23 (1) of RTS 2018/1229 to CSDR and also
  - 2 / enable the client to perform the partial settlement of the transaction on the last business day of the extension period referred to in Article 7 (3) of the CSDR, - if, in relation to this transaction, the client is an entity that is bound by the obligation specified in Article 23 (1) of RTS 2018/1229 to CSDR.
8. Following the performance of the partial settlement of a transaction, any instructions or declarations of will relating to the performance of settlement sent by a direct participant shall not have legal effect with respect to the already settled part of the transaction. The instructions and declarations of will described in the first sentence may only have legal effect with respect to the suspended part of settlement.
9. KDPW shall not bear any liability for damages arising from the performance of only the partial settlement of a transaction and declining to perform settlement in the remaining scope, if this has been caused by the successful cancellation from the depository system of a settlement order on the basis of which the settlement of this transaction was to have been performed, nor shall it bear any liability arising from other events, which have resulted, in accordance with the rules, in the removal of this order from the depository system or the prevention of the order from being realised.

### **§ 103**

Direct participants managing securities accounts, or omnibus securities accounts shall be obliged to instruct the holders of these accounts on the rules for performing the partial settlement of transactions, as described in § 102, and moreover, they shall be obliged:

- 1) for participants managing securities accounts – to determine the terms and conditions for performing services on behalf of the holders of these accounts in such a manner as to obtain their consent for applying these rules,
- 2) for participants managing omnibus securities accounts – to oblige the holders of these accounts to take



measures to ensure that these rules have been accepted by persons purchasing securities through these accounts.

#### § 104

1. Following notification that legal measures have been initiated against a direct participant with the aim of the liquidation, reorganisation or restructuring of that participant's obligations, resulting in the suspension or restriction of the ability to process settlement instructions, to which the participant was a party ("insolvent participant"):

1) KDPW shall immediately prevent the introduction of settlement instructions to the depository system that indicate the insolvent participant as a settlement party,

2) KDPW shall remove from the depository system those settlement instructions that indicate the insolvent participant as a settlement party, where these instructions have been introduced following the initiation of those legal measures against the participant and where they are not subject to execution on the date of the initiation of the measures, or they did not become irrevocable at the moment that KDPW received information on the initiation of the measures,

3) KDPW shall perform settlement of transactions to which the insolvent participant is a party, on the basis of settlement instructions introduced to the depository system prior to the prevention of the ability to introduce them, and that have not been cancelled in accordance with point 2 or on the basis of settlement instructions referred to in subpara. 2,

4) following the execution of the settlement described in point 3, KDPW shall transfer securities belonging to clients of the insolvent participant, from the registration accounts managed for that participant onto the registration accounts managed for a direct participant indicated by the Polish Financial Supervision Authority, or in the event that no such indication has been made, then onto the registration accounts managed for a direct participant that has given consent to such a transfer.

2. The prevention of the ability to introduce to the depository system settlement instructions that indicate the insolvent participant as a settlement party shall not relate to settlement instructions introduced by KDPW\_CCP or another participant holding the participation type described in § 24 subpara. 5 points 1 and 2:

1) in order to take measures to prevent the suspension of settlement of transactions that are subject to clearing by such a participant and arising as a result of settlement instructions that have been introduced to the depository system prior to the initiation of the legal measures described in subpara. 1 against the insolvent participant, or that the instructions have been introduced to the depository system following the initiation of these legal measures, however, they were subject to execution on the date the measures were initiated and became irrevocable prior to the receipt of information on the initiation of the legal measures by KDPW, or,

2) in order to execute the settlement instructions that were introduced to the security settlement system managed by such a participant ("settlement system") – on condition that it has applied to KDPW to enable this and has indicated that the insolvent participant at the moment that legal measures, described in subpara. 1 were initiated against that participant, the participant was a participant of the clearing system and that the settlement instructions that were to be introduced to the depository system are the result of settlement instructions that were introduced to the clearing system prior to legal measures being initiated against the insolvent participant, or, if they were introduced to the clearing system following the initiation of the legal measures – that they were subject to execution in this system on the date of their initiation and they become irrevocable at the moment the participant operating the clearing system was notified that legal measures were being initiated against the insolvent participant.

3. The participant holding the participation type described in § 24 subpara. 5 points 1 and 2 shall, together with

the application to introduce settlement instructions, described in subpara. 2 point 2, to the depository system, shall apply to KDPW not later than one day following the date of the prevention of the ability of introducing settlement instructions to the depository system indicating the insolvent participant as a settlement party.

4. KDPW may indicate to the participant holding the participation type described in § 24 subpara. 5 points 1 and 2 a deadline for showing that the circumstances, described in subpara. 2 point 2, that shall be at least 2 days, as well as may demand from that participant more precise information on the details of the settlement instruction, described in subpara. 2 point 2 and limit the time that they may be introduced to the depository system.

5. The provisions of subpara. 1 point 4 – where these provisions relate to the transfer of securities belonging to clients of an insolvent participant, performed when the Polish Financial Supervision Authority has not issued an official decision on such a transfer – shall not apply in instances where, on account of the legal measures initiated against the insolvent participant:

1) these provisions would not be justified in particular owing to the intervention of another entity in the rights and obligations of the insolvent participant arising from the participant's participation in the depository system, or

2) the prevention of the ability to introduce settlement instructions to the depository system that indicate that participant as a settlement party is a temporary measure and the participant performs significant responsibilities deriving from the participant's participation in the depository system and has maintained the status of system participant.

## **CHAPTER 2 TRI-PARTY REPO**

### **§ 105**

1. In the tri-party repo service, according to the terms of a repo transaction defined in its relevant settlement order or orders and on the terms and conditions of the Rules, KDPW shall:

1) make the settlement of the opening and closing of a repo between direct participants who are counterparties to the settlement of the repo transaction;

2) select securities to be transferred between registration accounts maintained for such participants in the settlement;

3) mark to market the value of a repo agreement, determine the present credited market value of securities transferred in relation to the repo transaction to the registration account of the participant acting on the side of the buyer in the repo opening settlement, and determine the amount of an increase or return of the value, if any;

4) perform marking-to-market between direct participants being settlement parties to a repo transaction in order to adjust the credited market value of securities transferred in relation to the repo transaction to the registration account of the participant acting on the side of the buyer in the repo opening settlement to the present value of the repo agreement increased with the coverage rate;

5) select securities to be transferred between registration accounts maintained for such participants in the marking-to-market referred to in point 4;

6) notify such participants of the present value of the repo agreement, the present credited market value of securities transferred in relation to the repo transaction to the registration account of the participant acting on the side of the buyer in the repo opening settlement, and the requirement to increase or return it in the

marking-to-market referred to in point 4 or the requirement to substitute securities in the case referred to in § 108 subpara. 3;

7) calculate the compensation referred to in § 112 subpara. 1 and credit and debit the cash accounts of such participants with the compensation amount.

2. The tri-party repo service shall be activated if a request for the service derives from the relevant repo transaction settlement order or orders.

3. Provision of the tri-party repo service shall not cause KDPW to accept any liability for obligations arising from the repo transaction.

4. For the purposes of repo opening settlement and marking-to-market, referred to in subpara. 1 point 4, the market value of securities shall be determined taking into account the assigned haircut defined by KDPW on its website (credited market value of securities). In instances referred to in § 66 subpara. 2 point 1, the amount of an existing cash increase shall be added to the credited market value of securities.

5. The coverage rate shall be defined by the KDPW Management Board in the KDPW Detailed Rules of Operation.

#### **§ 106**

1. A repo opening shall be settled in the tri-party repo service no later than one day before the repo closing settlement date of the transaction.

2. If a repo opening is not settled within the time limit referred to in subpara. 1 for any reason, repo settlement orders shall be removed from the depository system without cancellation by participants.

#### **§ 107**

1. Securities shall be selected for the repo opening settlement according to the following principles:

1) subject to the provisions of § 108 subpara. 1, only those securities shall be selected which bear the code defined in the relevant repo settlement order or orders or belong to the securities basket indicated in the order or orders, dedicated for such purpose by the direct participant whose registration accounts are to be debited following execution of the settlement;

2) the selection shall be performed in such a way that the settlement uses securities bearing as few securities codes as possible with a total credited market value as close as possible to the value of the repo transaction increased with the coverage rate but no less than such value.

2. Securities shall be selected for the repo closing settlement according to the following principles:

1) only those securities shall be selected which have been dedicated for such purpose by the direct participant whose registration accounts are to be debited as a result of the settlement;

2) the selection shall be performed in such a manner that the settlement uses securities bearing the same securities code and in the same quantity as the securities transferred to the registration account of the participant in the repo opening settlement, taking into account any return of a surplus or increase of the credited market value of such securities in the marking-to-market referred to in § 105 subpara. 1 point 4;

3. In instances where in accordance with the provisions of § 110 subpara. 3 point 1, supplementing the credited market value of securities transferred as part of the settlement of a repo opening on the registration account of a participant has taken place by performing cash settlement and the amount which has been credited as a result on the cash account of that participant was not refunded by that participant in full or in part, in accordance with the provisions of § 110 subpara 4, KDPW shall as part of the settlement of the repo closing, debit the cash

account of that participant with an amount equal to the existing cash surplus according to the balance on the date the settlement was performed.

5. If it is not possible to settle a repo closing in due time because of the lack of sufficient coverage in the cash account of the participant acting on the side of the seller in the repo opening settlement, it shall not be settled after such time.

#### **§ 108**

1. KDPW shall publish on its website a list of codes of securities which can be indicated in repo settlement orders activating the tri-party repo service and the composition or compositions of securities baskets which can be indicated in such orders.

2. If securities bearing a code are removed from a securities basket, the securities bearing such code shall no longer be included when calculating the current credited market value of securities transferred in connection with the repo to the registration account of the participant acting on the side of the buyer in the repo opening settlement.

3. If securities bearing a code are removed from a securities basket:

1) the participant acting on the side of the seller of such securities in the repo opening settlement shall dedicate an appropriate number of other securities which belong to the basket for the next marking-to-market;

2) the participant acting on the side of the buyer of such securities in the repo opening settlement shall dedicate for the next marking-to-market the same number of such securities in which they were transferred to the registration account of the participant in the repo opening settlement, taking into account any return of a surplus or increase of the credited market value of such securities in the marking-to-market referred to in § 105 subpara. 1 point 4;

- in order to replace the securities removed from the securities basket with other securities in the same securities basket (substitution of securities).

4. If substitution of securities cannot be performed due to default under the obligation referred to in subpara. 2 point 2 by the participant acting on the side of the buyer in the repo opening settlement, KDPW shall initiate the repo closing settlement.

5. If securities bearing a code are removed from the list referred to in subpara. 1:

1) repo settlement orders which specify such code shall be removed from the depository system without having to be cancelled by participants, unless repo opening settlement has already been performed on their basis;

2) KDPW shall initiate repo closing settlement, unless repo opening settlement has already been performed on the basis of orders referred to in point 1.

#### **§ 109**

1. The value of a repo agreement shall be the value of cash payments made in the repo opening settlement.

2. On every day when KDPW performs the settlement of transactions, the value of a repo agreement shall be updated based on the repo rate defined in the relevant repo settlement order or orders expressed as a per annum rate.

3. In the event that the settlement of a repo closing shall be suspended, KDPW shall cease to perform marking-to-

market of the value of the repo.

4. The detailed rules of updating the value of a repo agreement shall be laid down by the KDPW Management Board of the in a resolution.

#### **§ 110**

1. Marking-to-market referred to in § 105 subpara. 1 point 4 shall be performed on every day when KDPW performs the settlement of transactions provided that, as at the given day, the ratio of the present value of a repo agreement increased with the coverage rate to the total credited market value of securities transferred in relation to the repo transaction to the registration account of the participant acting on the side of the buyer in the repo opening settlement exceeds 0.5% of the value of the repo agreement upwards or downwards.

2. In the event that the settlement of a repo closing shall be suspended, KDPW shall cease to perform marking-to-market in relation to a given repo transaction.

3. Securities shall be selected for marking-to-market with appropriate application of the rules laid down in § 107 subpara. 1 or 2, respectively, depending on whether it is to increase or to return a surplus of the credited market value of transferred securities, however:

1) if it is to increase the credited market value of transferred securities up to the present value of the repo agreement increased with the coverage rate and the appropriate application of the rules laid down in § 107 subpara. 1 does not ensure such increase in whole or in part, then such increase, respectively in whole or in the remaining part, shall be made by means of a cash settlement between the direct participants who are counterparties to the repo settlement in the marking-to-market;

2) if it is to return a surplus of the credited market value of transferred securities and the appropriate application of the rules laid down in § 107 subpara. 2 does not ensure such selection that would equate it with the present value of the repo agreement increased with the coverage rate, the return in the remaining part shall not be performed as part of the marking-to-market process, subject to the provisions of subpara. 4.

3. If a surplus of the credited market value of transferred securities is to be returned in the marking-to-market because it exceeds the present value of a repo agreement increased with the coverage rate and an earlier increase of the credited market value of such securities was made in whole or in part by means of a cash settlement, the return shall be made in the first place in cash up to the amount of the existing cash increase.

4. If marking-to-market is to be performed on any given day to increase the credited market value of transferred securities up to the present value of the repo agreement increased with the coverage rate but it could not be performed on such day because of the lack of sufficient coverage in the registration account or the cash account of the participant acting on the side of the seller in the repo opening settlement, KDPW shall initiate the repo closing settlement on the next day.

#### **§ 111**

The information referred to in § 105 subpara. 1 point 6 shall be provided to participants on every day when KDPW performs the settlement of transactions.

#### **§ 112**

1. In instances where a record date to determine persons entitled to cash payments occurs for securities transferred in relation to a repo transaction onto the registration account of the participant acting on the side of the buyer in the repo opening settlement and the participant acting on the side of the seller in the settlement

acquires no such entitlements, the former participant shall pay to the latter participant compensation in the amount equal to the gross value of such payments, subject to their payment by the issuer.

2. The compensation referred to in subpara. 1 shall be paid on the date of the actual payment of the cash entitlements by the issuer of the securities.

### **CHAPTER 3**

#### **THE AUTOMATIC SECURITIES LENDING AND BORROWING SYSTEM**

##### **§ 113**

1. At the request of an entity authorised to perform the clearing of transactions executed in a given trading system, being at the same time a participant described in § 24 subpara. 5 point 1 or 2, KDPW, if it performs the settlement of these transactions, may take active measures to conclude, collateralise or return securities loans used to ensure clearing and settlement liquidity of such transactions.

2. The co-operation described in subpara. 1 is carried out on the basis of an agreement concluded between KDPW and the entity, described in subpara.1.

##### **§ 114**

1. In order to prevent the suspension of settlement or to eliminate the suspension of settlement of transactions executed in the regulated market or alternative trading system, secured with the relevant clearing fund managed by KDPW\_CCP, KDPW shall organise an automatic system for the lending and borrowing of securities, granted with KDPW acting as intermediary on settlement day, or on the day following the day when settlement should be carried out.

2. A securities lending and borrowing agreement is an agreement on the basis of which a securities lender transfers to a securities borrower ownership of a pre-defined number of securities assigned a given code, and the securities borrower in turn undertakes to transfer back the ownership of the same number of securities assigned with this code upon the date specified in the agreement and to provide appropriate collateral and remuneration indicated in the Table of Fees. In the event that the borrowed securities are subject to any corporate actions, the obligation to transfer back ownership of these securities shall include returning securities in the same form and number which they would have if they had been registered in place of the borrowed securities on the securities account of the securities lender, had the borrowed securities been registered on this account on the day the corporate action operation was performed.

3. Parties to a securities lending and borrowing agreement may be direct participants, who have provided KDPW with a written declaration of intent to join the securities lending system, described in subpara. 1, acting on their own account or on the account of another person. However, the securities borrower may only be such direct participant which also holds the status of clearing member in the clearing system operated by KDPW\_CCP for transactions executed in organised trading, or holds the participation status of representative.

4. The value of the required collateral for a loan shall equal the product of the required coverage rate and the market value of the securities forming the loan. The rules for determining the required coverage rate shall be defined in the KDPW Detailed Rules of Operation, while the value of the required collateral cannot be lower than the market value of the loaned securities.

5. The return of borrowed securities shall take place within 5 days of the conclusion of the loan agreement. The securities borrower shall have the right to return the borrowed securities prior to this date.

6. The securities lender cannot refuse to accept a partial return of loaned securities.

7. In instances where a record date has been indicated for securities subject to a securities loan, in order to determine beneficial owners entitled to cash distributions, and the securities have not been returned before this date inclusively to the securities lender, nor has the securities lender received the collateral, in accordance with the provisions of § 116, subpara. 1, subpara. 2 point 2 or subpara. 3, the securities borrower shall be obliged to pay the securities lender an additional payment equal to the gross value of these cash distributions (compensation).

#### **§ 115**

1. Collateral used to secure a securities loan may take the form of cash, as well as securities determined according to the principles indicated in the KDPW Detailed Rules of Operation.

2. Collateral in the form of cash shall be deposited in KDPW's bank account.

3. Securities used as collateral are blocked on the relevant registration accounts managed in KDPW for the securities borrower. Following this blocking, KDPW shall be entitled to transfer the blocked securities onto the relevant registration accounts managed for the securities lender, in instances and according to the principles described in § 116.

4. The value of securities making up the collateral shall be their market value, which may be reduced using appropriate discounting.

5. Securities are recorded in a registration account kept for the borrower and collateral is recorded in the relevant registration account or bank account, according to the principle defined in § 98 subpara. 1, which shall apply accordingly.

#### **§ 116**

1. In instances where the securities borrower does not return the borrowed securities within the set time limit, KDPW shall transfer the assets forming the collateral to the securities lender and the securities lender shall be entitled to use the collateral in order to cover any liabilities related to the return of the securities, as well as to cover any necessary costs borne by the securities lender or determined on the basis of average prices, to sell the securities making up the collateral and to cover any necessary costs involving the purchase of the unreturned securities to the securities lender. If the collateral is insufficient to meet all the liabilities in full, the securities borrower shall be obliged to settle the outstanding amount as cash payment with the securities lender within 5 days of the date of the receipt of the request from the securities lender to settle the liabilities. All settlement between the securities lender and securities borrower, arising from the transfer to the securities lender of assets forming the collateral and meeting the liabilities of the securities lender, shall take place without the agency of KDPW.

2. In instances where the securities borrower has not supplemented collateral up to the required amount, or has not posted collateral in the required form, KDPW shall perform the settlement of the return of the loaned securities to the extent this shall be possible. In such instances, the securities lending and borrowing agreement shall be terminated in relation to the part of the agreement that has been settled, while in relation to the outstanding part:

1) the agreement remains in force until the expiry of the deadline described in the first sentence of § 114 subpara. 5 – if the value of the existing collateral corresponds at least to its required value within this scope

or,

2) the liabilities of the securities lender in relation to the return of the loaned securities become effective and

the securities lender becomes entitled to take over the collateral in order to use its assets to satisfy these liabilities, while the provisions of subpara. 1 shall apply accordingly – if the value of the existing collateral is lower than the value required in this scope.

3. If in instances described in subpara. 1, or subpara. 2 point 2, the securities borrower shall return partially or in full the loaned securities before the assets forming the collateral are transferred to the securities lender, the right of the securities lender to take over the collateral and use it to satisfy liabilities relating to the loaned securities and the costs, described in the first sentence of subpara. 1, shall expire to the extent that the outstanding liabilities have been satisfied by the return of the securities loan. In such instances, KDPW shall transfer to the securities lender the assets forming the collateral only to the extent corresponding to its required value, calculated in relation to the outstanding portion of the liability.

#### **§ 117**

The KDPW Management Board may indicate in the KDPW Detailed Rules of Operation those corporate actions involving securities, whose processing in the depository system determines that on the day of their exercise, those securities shall not be subject to securities lending, and where the lending and borrowing agreements concluded earlier shall terminate following the deadline, determined according to the provisions of the KDPW Detailed Rules of Operation, preceding the day of the exercise of these corporate actions.

#### **§ 118**

KDPW shall enable the parties to the lending and borrowing agreement their mutual identification disclosure.

#### **§ 119**

The total number of securities assigned a specific securities code, loaned within the automatic securities lending system, may not exceed 5% of the total issue for a single borrower and 10% of the total issue for all borrowers collectively.

### **CHAPTER 4**

#### **THE NEGOTIATED LENDING AND BORROWING SYSTEM**

#### **§ 120**

1. KDPW shall organise, in co-operation with KDPW\_CCP, a system for the on-demand lending and borrowing of securities, granted with KDPW acting as intermediary (negotiated lending and borrowing system).
2. Securities loans concluded as part of the negotiated securities lending system shall be cleared by KDPW\_CCP. The rules relating to the processing and collateralisation of this clearing shall be defined in the relevant regulations issued by KDPW\_CCP.
3. The provisions of § 114 subpara. 2, § 115 subpara. 5, § 117 and § 119 shall apply accordingly with respect to securities lending agreements concluded within the negotiated securities lending system.
4. Eligible as parties to loans executed in the negotiated lending and borrowing system shall be direct participants who submit a written declaration referred to in subpara. 5 to KDPW provided that they also hold the status of clearing member in the clearing system operated by KDPW\_CCP for transactions executed in organised trading or are represented in the clearing system by other entities holding such status for transactions executed by them,
5. The declaration for membership of the negotiated securities lending system should indicate whether the



participant intends to act only as securities borrower, only as securities lender, or both as securities borrower and lender in agreements concluded as part of the system. A declaration submitted by a participant intending to act as a securities lender should contain a power-of-attorney in favour of KDPW to enable KDPW to accept confirmation on behalf of that participant of acceptance of the terms and conditions of the securities loan, described in the first sentence of § 121 subpara 6, from other direct participants described in § 121 subpara 3, whom this participant sent proposals for concluding a securities loan. The revocation of the power-of-attorney by the participant shall result at the same time in the revocation of the declaration submitted by that participant with respect to that participant's intention to conclude securities loans within the scope of securities lender.

5. Participants concluding securities lending agreements as part of the negotiated securities lending system may act on their own account, or on the account of a third party.

6. KDPW shall ensure mutual anonymity to the parties of the lending agreement concluded as part of the negotiated securities lending system. Disclosure of the identity of a party may only take place at the request of the counterparty which intends to claim damages for failure to perform contractual obligations, or negligent performance of these obligations.

### **§ 121**

1. In order to conclude a securities lending agreement as part of the negotiated securities lending system, a participant, who has indicated in the declaration described in § 120 subpara. 5 its intention to participate in such agreements as a securities borrower, shall send other participants of this system, through KDPW, information on its aim to commence negotiations of the terms and conditions of such an agreement (borrower's request). The borrower's request shall not be deemed to constitute an offer within the definition of the provisions of the Polish civil code.

2. KDPW shall make available the contents of the borrower's request to participants, who in their declarations described in § 120 subpara. 5, have indicated their intention to participate in negotiated securities lending agreements as securities lenders.

3. A participant, who in its declaration described in § 120 subpara. 5, has indicated its intention to participate in negotiated securities lending agreements as a securities lender, may send to a participant, who has submitted a borrower's request, a proposal to conclude a securities loan, through the agency of KDPW.

4. The proposal to conclude a securities loan should contain the following: a declaration on the intention to conclude a securities loan incorporating the provisions of § 123 subpara. 3, § 124, § 125 subpara. 2, § 126 subpara. 2, § 127 and § 128 of the Rules, the number and ISIN code of the securities which are to make up the loan, the amount of the payment to the securities lender determined according to the provisions of § 125 and the intended settlement date of the loan, while for securities loans concluded for a set time period – should contain in addition the end date of the loan, determined by taking into account the provisions of § 123 subpara. 2 and § 126 subpara. 1 respectively.

5. A proposal to conclude a securities loan, which does not meet the requirements described in subpara. 4 shall not be sent by KDPW to the participant, which prepared the borrower's request.

6. If the participant, who has submitted a borrower's request, accepts the terms and conditions set out in the proposal to conclude a loan, it then sends KDPW confirmation of the acceptance. In such instances, KDPW shall accept this confirmation on behalf of the participant proposing to conclude a securities loan, acting on the basis of the power-of-attorney, described in the second sentence of § 120 subpara 5, and shall register the conclusion of the securities loan and send the securities lender and borrower confirmation of this.

7. At the instant of the registration of the securities lending agreement, KDPW shall cease to make available the

borrower's request to other participants to the extent that the securities lending agreement meets the request.

#### **§ 122**

The borrower's request, described in § 121 subpara. 1, as well as the proposal to conclude a loan described in § 121 subpara. 3, may be cancelled until the confirmation by the securities borrower of the terms and conditions described in the proposal to conclude a securities loan has been sent to KDPW.

#### **§ 123**

1. Immediately following the registration of the securities loan concluded within the negotiated securities lending system, KDPW shall send confirmation of its conclusion to KDPW\_CCP for the loan to be cleared.
2. The intended settlement date determined by the parties related to the granting of the loan within the negotiated securities lending system cannot fall after the deadline defined in the resolution of the KDPW Management Board, counting from the date of the conclusion of the securities lending agreement.
3. If the settlement related to the granting of the loan concluded as part of the negotiated securities lending system was unable to be performed within the set deadline owing to a shortage of cover on the participant's cash account or registration account, the participant shall be deemed to have rescinded the securities lending agreement having paid the fee described according to Appendix 1 "The Table of Fees".

#### **§ 124**

1. The collateral in relation to securities lending agreements concluded as part of the negotiated securities lending system (contractual collateral) may only be posted in the form of cash. The contractual collateral shall be posted for the life of the securities loan.
2. The contractual collateral shall be posted by means of a transfer of cash forming the collateral onto the cash account of the participant acting as securities lender.
3. The securities lender shall be obliged to pay the securities borrower interest for use of the cash posted as contractual collateral. The interest shall be calculated and charged according to the provisions of Appendix 1 "The Table of Fees".
4. The value of the contractual collateral required shall be updated each day that KDPW shall perform transaction settlement. KDPW shall perform marking to market of the cash between the parties to the lending agreement, consisting of the securities borrower supplementing the contractual collateral up to the required amount, or of the securities lender refunding the excess above the required amount of this collateral.
5. The rules for determining the value of the necessary contractual collateral, as well as the rules for updating the collateral shall be defined by the KDPW Management Board, following their approval by KDPW\_CCP, in the KDPW Detailed Rules of Operation.
6. The securities lender shall be entitled to exercise the contractual collateral in the following instances:
  - 1) failure by the securities borrower to return the loaned securities before the deadline,
  - 2) termination of the securities lending agreement following the failure by the securities borrower to supplement the contractual collateral up to the required amount, or
  - 3) termination of the securities lending agreement following the failure by the securities borrower, or by the entity representing the borrower in the transaction clearing system managed by KDPW\_CCP for transactions executed in organised trading, to meet the obligations arising from the clearing of transactions carried out

within this system.

7. Contractual collateral shall be exercised following its appropriation by KDPW\_CCP and shall be performed in order to purchase securities forming part of the loan and returning them to the securities lender, or providing the securities lender with a compensatory payment, described in the rules issued by KDPW\_CCP, which define the principles of the clearing of transactions executed as part of the negotiated securities lending system and the collateralisation of these clearing operations. The appropriation by KDPW\_CCP of the contractual collateral shall take place on the basis of an instruction sent by KDPW\_CCP.

8. The return of the securities loan shall take place simultaneously with the return of the contractual collateral. The principles described in § 98 subpara. 1 shall apply accordingly.

#### **§ 125**

1. Payment due to the securities lender on the basis of the securities lending agreement concluded as part of the negotiated securities lending system should be agreed by the parties as a percentage value of the market price of the securities forming the loan, expressed in the form of an annual amount.

2. The payment described in subpara. 1 shall be calculated and charged according to the provisions of Appendix 1 "The Table of Fees".

#### **§ 126**

1. Within the negotiated securities lending system, securities lending agreements may be concluded for a set time period, no longer however than the period defined by the KDPW Management Board by means of a resolution; or they may be concluded for an unlimited period.

2. If the parties did not define any set deadline in the securities lending agreement concluded within the negotiated securities lending system, this shall mean that the agreement has been concluded for an unlimited period and that the return of the securities loan should take place within the deadline determined by the provisions of the KDPW Detailed Rules of Operation, and set following a request by one of the parties submitted through KDPW.

#### **§ 127**

In instances where a record date to determine persons entitled to cash distributions from the securities has fallen with respect to the loaned securities and the securities lender has not obtained the rights to receive the cash, and moreover has not received before that date any compensatory payment, described in § 124 subpara. 7, the securities borrower shall be obliged to pay the securities lender an additional payment amount of the gross value of the cash distribution (compensation).

#### **§ 128**

1. An agreement concluded as part of the negotiated securities lending system shall be terminated in the following circumstances:

- 1) at the end of the set period for which the agreement has been concluded, and if this deadline has not been defined – then on the date determined in the KDPW Detailed Rules of Operation, following the transfer by one of its parties, through the agency of KDPW, of a request by the other party to terminate the securities loan,
- 2) in the event of failure by the securities borrower to supplement the contractual collateral to the required amount, or failure by the securities lender to return the excess collateral over the required amount.

3) following the failure by a party, or by the entity representing a party in the transaction clearing system managed by KDPW\_CCP for transactions executed in organised trading, to meet the obligations arising from the clearing of transactions carried out within this system – if KDPW\_CCP issues a request for termination; KDPW\_CCP shall be entitled to issue such a request in instances indicated in rules issued by KDPW\_CCP, which define the principles of the clearing of transactions executed as part of the negotiated securities lending system and the collateralisation of these clearing operations,

4) in the event of failure to perform, or negligent performance by a securities borrower, of the obligations to pay the securities lender the payment due, or failure to perform, or negligent performance by a securities lender of the obligations to pay the securities borrower the interest due, described in § 124 subpara. 3 – if the other party requests a termination of the agreement.

2. In instances described in subpara 1 item 4, a securities loan agreement shall be terminated following the expiry of the deadline indicated in the KDPW Detailed Rules of Operation, after having received from the party, which has failed to perform its obligations, or has performed them in a negligent manner, the request of the other party relating to the termination of the agreement. The request shall be submitted through KDPW.

3. KDPW shall inform KDPW\_CCP of the termination of the securities loan agreement for the reasons indicated in subpara. 1 items 1, 2 and 4.

4. The settlement related to the return of the loaned securities shall be performed on the basis of an instruction sent to KDPW by KDPW\_CCP.

5. In the event of the termination of the securities loan agreement, concluded as part of the negotiated securities lending system, for the reasons indicated in subpara. 1 items 1 or 4, the party which was in breach of the terms and conditions of this agreement through its actions, or inaction, thus resulting in the termination of the loan, shall be obliged to pay the other party additional compensation of an amount determined according to the provisions of Appendix No. 1 “The Table of Fees”.

## **§ 129**

1. KDPW shall suspend the submission of the documents, described in § 121 subpara. 1 and 3 from a specific participant for a defined period of time:

1) at the request of KDPW\_CCP;

2) if a participant is deemed to pose a risk to trading safety or to the proper performance of the depository system.

2. KDPW shall suspend the submission of the documents, described in § 121 subpara. 1 relating to securities assigned a specific securities id number for a defined period of time:

1) from all securities borrowers – if the total number of securities assigned this code, and loaned on the basis of agreements concluded as part of the negotiated securities lending system, shall exceed the limit defined in § 119 for all securities borrowers;

2) from a specific securities borrower – if the total number of securities assigned this code, and borrowed by this borrower on the basis of agreements concluded as part of the negotiated securities lending system, shall exceed the limit defined in § 119 for a single borrower.

3. In the event of the suspension described in subpara 1 or 2, KDPW shall remove from the negotiated securities lending system the documents described in § 121 subpara. 1 and 3, sent by the participant, described in subpara. 1, or relating to the securities, described in subpara. 2, unless a securities lending agreement has earlier been concluded on the basis of these documents. KDPW shall inform the participants of the negotiated securities

lending system of the removal of these documents.

**CHAPTER 5**  
**BLOCKING SECURITIES IN FAVOUR OF ANOTHER DIRECT PARTICIPANT**

**§ 130**

1. The blocking of securities in favour of another participant is a specific operation, which shall consist of:

1) Segregation on the registration account managed for a direct participant (collateral giver) used to register the proprietary securities of that participant, of securities that form financial collateral posted by that participant in favour of another direct participant (collateral taker), and

2) Removing the ability of performing settlement in the depository system without the consent of the collateral taker, involving securities that were blocked with the exception of:

a) the transfer of securities in accordance with the provisions of § 186 subpara.1 or 2,

b) the settlement of a compulsory purchase of shares of a public company, described in Art. 82 subpara. 1 of the Law on Public Offerings

c) the transfer of securities in accordance with a decision of the Polish Financial Supervision Authority issued on the basis of Art. 89 subpara. 4 of the Law on Trading in Financial Instruments, as well as,

d) other such operations, which irrespective of the blocked securities, should be performed by KDPW in accordance with legal provisions currently in force.

2. The blocking of securities in favour of another participant shall not affect the ability to perform corporate actions on these securities.

3. The consent of the collateral taker, as described in subpara. 1, point 2, shall be expressed by means of sending an instruction to the depository system containing the terms and conditions of the settlement to which the collateral taker agrees. The KDPW Management Board may define in the KDPW Detailed Rules of Operation those instances where the consent of the collateral taker may be expressed in another manner, indicated in this manner. Another manner of expressing this consent may also be described in tri-party agreements concluded by KDPW with the collateral giver and collateral taker, relating to the blocking of securities on the securities account or on the depository account managed in KDPW for the collateral giver, with respect to securities blocked on the basis of these agreements in favour the collateral taker.

**§ 131**

1. The blocking of securities in favour of another participant shall be performed for an indeterminate period, until it is removed.

2. Blocking securities in favour of another participant shall not enable a collateral taker to exercise its right to utilise the securities that have been blocked. Rights and all other payments from the securities that have been blocked according to their balance on day D, including payments relating to redemption or cancellation, shall be transferred for use by the collateral giver.

**§ 132**

1. The blocking of securities in favour of another participant, as well as the removal of the blocking requires matched settlement instructions to be sent to the depository system by the collateral giver and collateral taker.

2. The introduction to the settlement system of matched instructions to block securities and defining the terms and conditions shall confirm that the direct participants that have sent these instructions have concluded an agreement on posting financial collateral, which foresees securities being blocked for an indeterminate period of time on the basis of the terms and conditions described in these instructions and in accordance with the provisions of § 130 - § 134.

### **§ 133**

1. The sending by the collateral giver of a settlement instruction to the depository system to block securities in favour of another participant, shall at the same mean granting the collateral taker indicated in that instruction an irrevocable power of attorney to send to the depository system on behalf of the collateral giver instructions to remove this blocking and to transfer the released securities, in full or in part, onto the registration account managed in KDPW for the collateral taker. The power of attorney shall be granted on condition that the blocking shall be performed on the registration account of the collateral giver.

2. KDPW shall without delay provide the collateral taker with information on the introduction to the depository system of an instruction blocking securities in favour of that collateral taker by the collateral giver and the contents of that instruction, as well as information on the expected blocking initiated by the instruction.

### **§ 134**

In instances where the collateral taker shall become entitled to the blocked securities to sell them, or gain possession of them, it may then send matched instructions to the depository system to remove the blocking and to transfer these securities, either in full or in part onto the registration account managed for it. One of these instructions shall be sent to the depository system on behalf of the collateral taker itself, while the second instruction shall be sent on behalf of the collateral giver on the basis of the power of attorney, described in the first sentence of § 133 subpara. 1.

### **§ 135**

1. KDPW shall not oversee or monitor whether the collateral giver, or collateral taker act in accordance with, or contrary to the provisions of the agreement concluded between them on the posting of financial collateral.

2. KDPW shall not be liable for any damages borne by the collateral giver as a result of the failure to release or delayed release of the blocking of securities caused by the failure to send or delayed sending to the depository system by the collateral taker of an instruction relating to such action, that matches an instruction sent to the depository system by the collateral giver concerning the same action, nor shall KDPW be liable for the transfer of such blocked securities onto the registration account of the collateral taker on the basis of the instructions described in § 134, if the collateral taker has sent these instructions to the depository system despite having no right to seek whole or partial possession of these securities.

3. KDPW shall in addition not be liable for any damages borne by the collateral taker as a result of its inability to assume possession of the blocked securities in connection with the transfer of payments paid out by the issuer of these securities, including principal payments to the collateral giver, in accordance with the provisions of the second sentence of § 131 subpara. 2, or in connection with the use of these securities to perform the settlement described in § 130 subpara. 1, point 2 a, b, c or d.

### **§ 136**

1. The provisions of § 131 subpara. 2, § 132-§ 134 and § 135 subpara. 2 and 3 shall not apply to the blocking of securities in favour of another participant in relation to:

1) liens established on these securities by the collateral giver for the purpose of securing Lombard credit

provided to the collateral giver by the National Bank of Poland – if the KDPW Management Board approves such a decision by means of a Resolution in connection with the agreement on implementing this type of securities blocking, concluded between KDPW and the National Bank of Poland,

2) financial collateral liens established on these securities by the collateral giver in favour of the State Treasury – if the KDPW Management Board approves such a decision by means of a Resolution in connection with the agreement on implementing this type of securities blocking, concluded between KDPW and the State Treasury, as represented by the Ministry of Finance,

3) liens established on these securities by the collateral giver in favour of the Bank Guarantee Fund - if the KDPW Management Board approves such a decision by means of a Resolution in connection with the agreement on implementing this type of securities blocking, concluded between KDPW and the Bank Guarantee Fund,

4) blocking on the basis of tri-party agreements described in the third sentence of § 130 subpara. 3 – if these agreements contain rules that apply specifically to matters not regulated in these agreements.

2. The provisions of § 130-§ 135 shall not apply to the blocking of securities carried out for the purpose of the collateralisation of securities loans as part of the automatic securities lending and borrowing system. For establishing and removing this blocking, as well as for determining the related rights and obligations of the participants, the rules relating to securities lending and borrowing as part of this system shall apply.

## **CHAPTER 6 SETTLEMENT DISCIPLINE**

### **§ 136a**

1. Subject to the provisions of subparas. 7-11 herein and Article 7 (12) and (13) of CSDR, a direct participant that did not enable the timely settlement of a transaction to be performed due to:

- 1) lack of coverage on the participant's registration account, or
- 2) lack of coverage on the participant's cash account, or
- 3) putting a settlement instruction on hold at the request of the participant, or
- 4) failure by the participant to enter a settlement instruction into the depository system that would enable timely settlement otherwise to be performed,

- shall be obliged to pay a cash penalty to the participant being the counterparty to this settlement, which shall be calculated and collected by KDPW, if this settlement involves securities that are admitted to trading or traded on a trading venue, or are subject to clearing by a CCP.

2. KDPW shall calculate a cash penalty in accordance with the provisions of Article 7 (2) of CSDR, of Article 16 of RTS 2018/1229 to CSDR and of the provisions of Delegated Regulation 2017/389 to CSDR, as well as taking into account harmonised market guidelines drafted in the application of these provisions, by CSDs within the European Central Securities Depositories Association. KDPW enables participants access to the content of these guidelines through its website.

3. Cash penalties shall be calculated in PLN and EUR. If the value constituting the basis for calculating the cash penalty is expressed in a foreign currency other than Euro, the cash penalty shall be calculated for a specific date after conversion of this value:

- 1) into EUR, according to the official exchange rate of a given foreign currency on that date, published by the European Central Bank - in instances where the failed settlement includes a cash payment component denominated in euro, or

- 2) into PLN, according to the average exchange rate of a given foreign currency on that date, published by the National Bank of Poland – in all other instances.
4. Cash penalties shall be paid on a monthly basis. Cash penalties charged to or in favour of a participant in the course of a given calendar month shall be paid in the consecutive month, and determined in accordance with the provisions of the KDPW Detailed Rules of Operation, by debiting or crediting the participant's cash account on the basis of KDPW instructions. The provisions of § 82 subpara. 5 shall apply accordingly.
5. Payment amounts liable and receivables of direct participants in relation to cash penalties calculated in a given currency, to be settled on a given payment date, are determined according to the excess amount, respectively, of the participant's liabilities over the participant's receivables or the participant's receivables over the participant's liabilities in relation to cash penalties calculated in that given currency by KDPW during a given calendar month. The calculation of this excess amount is based on the principle of multilateral netting.
6. In the event of the failure to perform the timely settlement of a transaction, to which a CCP is a party within the participation type referred to in § 24 subpara. 5 point 1, the provisions of subparas. 1, 4 and 5 shall not apply.
7. A CCP with the participation type referred to in § 24 subpara. 5 point 1, shall be obliged to:
- 1) collect, within the period referred to in subpara. 4, cash penalties calculated by KDPW for the period of each specific calendar month for failure to perform timely settlement owing to any of the reasons listed in subpara. 1 point 1-4, of transactions referred to in subpara. 6, from its participants who are liable to the CCP for performing obligations, the non-performance or incorrect performance of which prevented the timely settlement of these transactions,
  - 2) distribute, within the same time period, the amounts collected in accordance with point 1 among its participants who are the other counterparties to the clearing of transactions referred to in subpara. 6 and whose settlement has not been performed on the intended date,
  - 3) provide KDPW with reports on cash penalties collected in accordance with the provisions of point 1 and the amounts distributed in accordance with the provisions of point 2, before the last day of each calendar month.
8. KDPW shall provide a CCP, being a participant with the participation type referred to in § 24 subpara. 5 point 1, with daily reports referred to in § 136c subpara. 2.
9. KDPW shall authorise CCPs that are participants with the participation type referred to in § 24 subpara. 5, point 1, to collect cash penalties charged by KDPW for failure to perform the timely settlement of transactions, referred to in subpara. 6.

#### **§ 136b**

1. If KDPW is charged by an entity referred to in § 67 subpara. 2 with a cash penalty amount referred to in Article 7 subpara. 2 of CSDR, calculated in connection with the failure to perform timely settlement in another CSD in order to enable KDPW to perform the settlement of an intersystem transfer of securities registered in the depository through an operational link to another CSD, the direct participant who entered the settlement instruction for this transfer into the depository system shall be obliged to pay KDPW the amount equivalent to this cash penalty.
2. If KDPW shall be is credited by an entity referred to in § 67, subpara. 2, with a cash penalty amount referred to in Article 7, subpara. 2 of CSDR, calculated in connection with the failure to perform timely settlement in another CSD in order to enable KDPW to perform the settlement of an intersystem transfer of securities registered in the depository through an operational link to another CSD, KDPW shall transfer this amount to the direct participant who entered the settlement instruction for this transfer into the depository system.
3. The payment of amounts liable and receivables referred to in subpara. 1 and 2 shall take place on the dates of the payment of cash penalties charged by KDPW. The provisions of § 136a subparas. 4 and 5 shall apply accordingly.



### **§ 136c**

1. KDPW shall provide a direct participant with daily reports on cash penalties, specifying the amount of the cash penalty charged to or in favour of the participant on a given date for the failure to perform settlement based on individual settlement instructions entered into the depository system. These reports shall also include the participant's amounts liable and receivables, referred to in § 136b subparas. 1 and 2.
2. Daily cash penalties reports provided to participants that are CCPs with the participation type referred to in § 24 subpara. 5 point 1, shall specify the amount of the cash penalties charged on a given date by KDPW for the failure to perform settlement based on individual settlement instructions entered into the depository system and related to the transactions referred to in § 136a subpara. 6.
3. A daily cash penalty report shall be provided if, on a given date, KDPW, respectively, shall charge a cash penalty to which a given direct participant is either liable, or in receipt of, or shall charge a cash penalty for failure to settle the transaction referred to in § 136a subpara. 6, as well as in instances where on a given date, KDPW has made any adjustments to the calculation published in the daily cash penalty report previously provided to a given direct participant.
4. Following the end of each calendar month, KDPW shall provide a direct participant with a monthly report indicating the aggregated amounts of its liabilities and receivables in relation to cash penalties charged to or in favour of the participant during a given month in a given currency in relation to every other participant, as well as a report on payments, indicating the amount of the excess amount, referred to in § 136a subpara. 5, to be settled by the next payment date. These reports shall be prepared on the basis of data contained in the daily cash penalty reports prepared for each day of a given calendar month and provided to each direct participant.

### **§ 136d**

1. A direct participant may appeal a cash penalty charged on a given date by KDPW and specified in the daily cash penalty report submitted to that participant.
2. The appeal request should at least contain:
  - 1) an indication of the settlement instruction to which the cash penalty being appealed by the participant relates to, in a manner enabling KDPW to identify the specific settlement instruction,
  - 2) an indication of the justification for submitting an appeal and questioning the cash penalty,
  - 3) an indication of the remedial actions expected from KDPW.
3. If an appeal lodged by a direct participant is granted, KDPW shall correct the daily cash penalty report to which the appeal related, and, if applicable, other daily cash penalty reports, and then shall forward the corrected reports to the relevant participants.
4. Appeals may be lodged within the time limit specified in the KDPW Detailed Rules of Operation, which may not end within a period of 5 days from the last day of the calendar month in which KDPW calculated a given cash penalty; and with respect to the adjustment resulting from the corrected daily cash penalty report provided to the participant on the last day of that deadline, on condition that the adjustment was made following the granting of an appeal submitted by another participant - not later than on the first business day following the expiry of this deadline.
5. The effective expiry of the deadline referred to in subpara. 4 shall result in the direct participant acknowledging the obligation to pay all cash penalties accrued to that participant during a given calendar month and the direct participant accepting all cash penalties accrued to that participant within this period, in accordance with the content of the daily cash penalty reports submitted to that participant prepared for each day of that month, including any adjusted reports.

### **§ 136e**

1. If the funds available on the participant's cash account do not allow the participant's obligations under a specific cash penalty regulation to be met in full, KDPW shall recalculate the amounts liable and receivables of the remaining direct participants deriving from these cash penalties under this particular regulation.
2. The recalculation referred to in subpara. 1 shall disregard the amounts liable and receivables of the direct participant who failed to ensure sufficient funds enabling that participant's obligations deriving from cash penalties to be met in full.
3. Payments for amounts liable and receivables of a direct participant, excluded under a specific cash penalty regulation, shall be processed following the creation of conditions enabling their execution.

#### **§ 136f**

Payments for the difference in prices, referred to in Article 7 (6) of CSDR, for the cash compensation; referred to in Article 7 (7) of CSDR, as well as for the reimbursement of the amounts referred to in Article 7 (8) of CSDR, shall be executed without KDPW acting as intermediary.

#### **§ 136g**

Subject to the provisions of Article 7 (11-13) of CSDR, in the event of a failure of the timely settlement of a transaction due to a failure to deliver securities, direct participants who are parties to its settlement shall be obliged to comply with the provisions of Article 7 (3-8) of CSDR, if the transaction is not subject to clearing by a CCP and has not been executed on a trading venue, and the transaction consists of securities that have been admitted to trading or are traded on a trading venue, or are subject to clearing by a CCP.

#### **§ 136h**

1. Direct participants shall notify KDPW of the outcome of buy-ins, in accordance with the provisions of Article 27 (4-9), Article 29 (4-9) and Article 31 (4-9) of RTS 2018/1229 to CSDR.
2. A direct participant with the participation type of Representative, referred to in § 24 subpara. 1, point 4 or subpara. 2, point 4 with respect to transactions executed on a trading venue shall enable and entity being represented to submit via that participant to KDPW the outcome of any buy-ins in accordance with the provisions of Art. 29 (4-9) of RTS 2018/1229 to CSDR.

### **SECTION V**

#### **THE PERFORMANCE OF ISSUERS' OBLIGATIONS FOR SECURITIES OWNERS AND SERVICES RELATED TO THE ORGANISATION OF GENERAL MEETINGS AND TO VOTING IN CORPORATE GOVERNING BODIES, AS WELL AS TO SHAREHOLDER IDENTIFICATION**

#### **§ 137**

1. The performance of issuers' obligations for securities owners shall mean the process, organised and co-ordinated by KDPW, by which participants with the participation status of - issuer transfer monetary or non-monetary asset-related entitlements from securities to holders of rights in securities registered in the depository.
2. Non-monetary asset-related entitlements, referred to in subpara. 1, shall mean entitlements that consist of securities, which may be registered in the depository.
3. The performance of issuers' obligations towards the owners of securities registered in the depository via an

operational link to another CSD shall take place on the basis of and using information received by KDPW from the entity referred to in § 67 subpara. 2, which manages specific registration accounts for KDPW on which these securities have been registered.

4. Funds arising from the performance of issuers' obligations to owners of Treasury bills registered in KDPW according to the principles referred to in § 64 subpara. 2 point 2 shall be sent to KDPW via the National Bank of Poland.

5. The participant with the participation status of - issuer shall be obliged to inform KDPW within the deadlines and in accordance with the principles defined in the KDPW Detailed Rules of Operation of each deadline for the payment of an entitlement from bonds, mortgage bonds or investment certificates registered in the depository, irrespective of whether the execution of this payment is to be processed by KDPW in any manner. The submission of this information may be carried out using a payment agent as intermediary.

6. The provisions of subpara. 1 shall not apply to the State Treasury, the National Bank of Poland and to issuers established outside the territory of the Republic of Poland.

### **§ 138**

1. If the entitlements paid out by the issuer are in the form of cash, and the securities are not registered in the depository via an operational link to another CSD, KDPW, on the basis of the balances on registration accounts on day D shall determine the cash amount to be distributed to securities owners, shall inform, respectively, the payment agent or the issuer and shall request the issuer to pay those amounts onto KDPW's bank account.

2. Cash amounts paid by the payment agent or by the issuer for the payment of the entitlement shall be transferred by KDPW to cash deposit accounts held by participants for whom registration accounts are kept, according to these account balances on day D and in a way that ensures the availability of those funds for the direct participants on day W, subject to subpara. 3.

3. In the instance referred to in the second sentence of Article 7 subpara 2 of the Law on Trading in financial instruments, a buyer of securities receives an entitlement after day W by having the cash liability arising from a transaction reduced by the value of the entitlement.

4. The minimum number of days between day D and day W cannot be shorter than the number indicated in the KDPW Detailed Rules of Operation.

### **§ 139**

In instances where the cash benefit payment from the issuer is paid out in a foreign currency, and the clearing bank does not provide clearing services for that particular foreign currency, KDPW may distribute the cash for the payment of the entitlement following its conversion into EUROS according to the exchange rate applied by the credit institution, foreign branch of a national bank, or foreign bank within the meaning of the Banking Law (Dz. U (Journal of Laws) 2018, item 2187, as amended), managing the bank account on behalf of KDPW, onto which the payment was paid.

### **§ 139a**

1. if the issuer has at least partially executed the payment from bonds, mortgage bonds or investment certificates registered in the depository, without using KDPW as intermediary, or has not executed such a payment in full, or in part within the required deadline, the issuer shall be obliged to notify this to KDPW, either directly or through a payment agent, respectively, on the day following the date of the execution of this payment, or on the day following the expiry of the required deadline.

2. The notification, described in subpara. 1, should contain the indicated value and currency of the payment and the scope it was executed.
3. Notifications, described in subpara. 1, shall be submitted using the application available on the KDPW website.
4. The provisions of subpara. 1 shall not apply to the State Treasury, the National Bank of Poland and to issuers established outside the territory of the Republic of Poland.

#### **§ 140**

1. KDPW shall organise the process for performance of obligations, referred to in § 137 subpara. 1, so as to enable the performance of tax obligations arising in connection with the performance of these obligations,
2. In the event that on the basis of a document defining the tax status of a direct participant, or the direct participant's client, or on the basis of other documents or information sent by the direct participant to KDPW and then by KDPW to the issuer of securities registered in the depository via an operational link to another CSD, or to the entity described in § 67, subpara. 2, managing specific registration accounts for KDPW, that participant, or that participant's client took advantage of a tax deduction administered outside the jurisdiction of the Republic of Poland, which has resulted in a lower tax rate paid, and subsequently it has turned out that for any reason, the participant or the participant's client was not entitled to take advantage of this deduction, or that the documents provided did not entitle to such a deduction, and KDPW was subsequently for this reason charged with the amount corresponding to the deduction, in addition to other additional charges, the direct participant, who provided the document, or the information, shall be obliged to reimburse this amount at the request of and on behalf of KDPW.
3. The provisions of subpara. 2 shall apply accordingly in instances where the direct participant or the participant's client has not, for reasons other than the reasons described in subpara. 2, paid tax levied outside the territory of the Republic of Poland, or has not taken the requisite steps to waive the levy of such a tax in connection with the processing of rights from securities registered in the depository via an operational link with another CSD in connection with the holding of such securities, or in connection with the conclusion of any agreement relating to such securities, if KDPW has for that reason been charged with the amount of the tax, together with any other potential additional payments.
4. Clients of participants, within the meaning of subparas. 2 and 3 above, shall also be deemed to include:
  - 1) for a participant keeping omnibus securities account - persons entitled to securities registered on an omnibus securities account managed by that participant,
  - 2) for a participant holding an omnibus securities account managed in KDPW – persons entitled to securities registered on this omnibus securities account.

#### **§ 141**

1. Acting at the request of the issuer, KDPW shall register individual subscription rights on technical accounts corresponding to depository accounts, omnibus securities accounts and securities accounts managed for direct participants. This registration shall take place in accordance with the balances at the end of the date of the subscription rights event on registration accounts, on which shares related to the subscription are registered.
2. An individual subscription right is a right deriving from a single existing share that entitles to a subscription for shares of a new issue in the same proportion as the proportion defined for a single existing share.
3. Following receipt by KDPW of information confirming the admission of individual subscription rights to trading in the regulated market, or introduction in an alternative trading system, the individual subscription rights shall

be transferred from technical accounts, described in subpara. 1, onto depository accounts, omnibus securities accounts and securities accounts managed for participants.

4. Following the expiry of the deadline for subscribing to shares of a new issue, individual subscription rights shall be de-registered and at the same time, rights arising from subscriptions for shares of a new issue shall be registered on the technical accounts corresponding to depository accounts, omnibus securities accounts and securities accounts, according to the balances on the accounts on which the individual subscription rights were registered.

5. On the date of the registration of rights to shares in the depository, KDPW shall close the technical accounts for rights arising from subscriptions to shares of a new issue.

6. Shares in a new issue taken up following exercise of subscription rights shall be entered in the Depository, respectively, in accordance with the balances on registration accounts for rights to shares, registered in the securities depository, or in accordance with balances in technical accounts, as described in subpara. 4.

#### **§ 141a**

1. Immediately on proving notice of the announcement on the convening of a general meeting, however:

1/ for listed companies – on the same business date,

2/ for other types of companies – not later than on the following date,

- the issuer that is a listed company, or another type of company established outside the territory of the Republic of Poland, shall send KDPW details of this general meeting, whose scope is defined in the KDPW Detailed Rules of Operation. These details should be sent using the dedicated application available on the KDPW website.

2. Together with information on the convening of a general meeting, the issuer, referred to in subpara. 1, shall be obliged, respectively, to provide KDPW or to verify the correctness and validity of information on the number of votes to be exercised from privileged shares registered in the depository, assigned with separate id codes. The provisions of the second sentence of subpara. 1 shall apply accordingly.

3. If information on the convening of a general meeting sent by the issuer of a listed company meets the requirements of Article 4 subpara. 1 of Commission Implementing Regulation (EU) 2018/1212, KDPW shall send this information to direct participants that hold shares issued by that listed company on registration accounts managed in KDPW or whose registration accounts have been credited with such shares before the date, inclusively, indicated in this notification for registering participation in that general meeting.

#### **§ 142**

1. On the basis of, respectively, personalised declarations of the right to participate in a general shareholder meeting or documents referred to in Article 10a, subpara. 1 of the Law on trading in financial instruments, issued in relation to a general meeting of a company established in the Republic of Poland held on a given date, participants managing securities accounts and participants being holders of omnibus securities accounts managed in KDPW shall prepare lists of entities entitled from their ownership of shares to participate in that general meeting, as well as pledgors and users who are entitled to a right to vote, containing the following information for each person indicated in these lists and personalised declarations or documents issued to them:

1) The first name and surname, or the company name of the entity entitled from the shares, the pledgor or user, indicating the type of entitlement deriving from the shares,

2) The head office (place of residence) and the address of the entity entitled from the shares, the pledgor or the user,

- 3) The securities id number of the shares, on the basis of which the right to participation in the general meeting may be exercised,
- 4) The number of the shares, on the basis of which the right to participation in the general meeting may be exercised,
- 5) The number of the personalised declaration or document referred to in Article 10a, subpara. 1 of the Law on trading in financial instruments issued to the entity entitled from the shares, the pledgor or the user,
- 6) Additional information enabling the issuer to determine any potential restrictions in the exercise of voting rights deriving from shares, in particular, a reference indicating who is entitled to exercise voting rights deriving from shares, as well as in the case of joint ownership of shares, information indicating the form of the joint ownership and the other joint owners.

2. A list of holders of shares entitled to participate in a general shareholder meeting and pledgors and users, who are entitled to exercise their right to vote, prepared according to Article 10a subpara. 2 of the Law on Trading in Financial instruments by the holder of an omnibus securities account managed by a participant, shall contain information described in subpara. 1, in addition to information indicating the company (name) and the address of this holder.

3. The lists described in subpara. 1 and 2, shall be sent to KDPW in electronic form, according to agreements concluded with KDPW on the ability of making declarations of will and on sending information in electronic form. The lists shall be sent within the deadline indicated in Art. 4063 § 5 of the Commercial Company Code. The list, described in subpara. 2, shall be sent to KDPW through a participant managing an omnibus securities account for the entity, which prepared the list.

3a. If the list referred to in subpara. 1 or subpara 2 has been prepared in connection with the general meeting of a public company established in the Republic of Poland that is at the same time a listed company, it should be sent to KDPW in the format required for the notice, referred to in Article 6 of Commission Implementing Regulation (EU) 2018/1212. In such instances, the list may also contain the identification details of proxies designated to participate in a general meeting by entitled persons or - if the issuer has enabled such a possibility in the notice on calling a general meeting, referred to in § 141a – may provide information on the method that votes may be exercised by entitled persons.

3b. The enabled possibility, referred to in the second sentence of subpara. 3a, shall not apply with respect to a given entitled person if the list, referred to in subpara. 1 or 2 contains information on that entitled person, referred to in § 142a subpara.3 point 1 and 2.

4. A global list of entities entitled from their ownership of shares to participate in a general meeting taking place on a certain date, as well as pledgors and users, who are entitled to exercise their right to vote, shall be drawn up in electronic form on the basis of the lists described in subparas. 1 and 1a, using the personalised declarations on the right to participate in that general meeting issued by KDPW.

5. Subject to the provisions of subpara. 6, the global list, described in subpara. 4 shall contain the following information on each entity holding rights from their shares, and pledgors and users, who are entitled to exercise their right to vote, on the personalised declarations that have been issued in relation to the right to participate in a general meeting, and on the entities issuing these declarations:

- 1) The first name and surname, or the company name of the entity holding rights from their shares, pledgors or users, indicating the category of rights from shares to which they are entitled,
- 2) The head office (place of residence) and the address of the entity holding rights from shares, the pledgor or user,
- 3) The securities id number of the shares, on the basis of which the right to participation in the general

meeting may be exercised,

4) The number of the shares, on the basis of which the right to participation in the general meeting may be exercised,

5) The number of the personalised declaration issued to the entity entitled to rights from shares, to the pledgor or user,

6) Additional information enabling the issuer to determine any potential restrictions in the rights of entities entitled to vote on the basis of their shareholding, in particular, a reference indicating the entity entitled to vote on the basis of their shareholding, as well as, in the case of joint ownership of shares, information indicating the forms of the joint ownership and the other joint owners,

7) The company name and the address of the participant which is the issuer of the declaration or document referred to in Article 10a subpara. 1 of the Law on Trading in financial instruments.

6. In those instances where a global list, described in subpara. 4, is prepared on the basis of the lists described in subpara. 2, it shall contain the information described in subpara. 5 items 1-6, and in addition contain also information on the firm (name) and address of the omnibus securities account holder, who prepared the list described in subpara. 2 indicating the relevant beneficiary from the shares, the pledgor or the user, as well as the firm (name) and address of the participant managing this omnibus securities account.

7. KDPW shall make available to the issuer the global list, described in subpara. 4, before the deadline defined in the first sentence of Art. 4063 § 6 of the Commercial Company Code using a dedicated application available on the KDPW website. The global list shall be made available in accordance with the principles described in a resolution of the KDPW Management Board, securing the data contained in that list from access by persons unauthorised by the issuer and in a manner enabling the issuer to determine the date of the general meeting to which the global list that has been made available refers.

8. In instances described in the second sentence of Art. 4063 § 6 of the Commercial Company Code, providing an issuer with a global list, described in subpara. 4, shall take place in the form of a written document in the head office of KDPW, and within the deadline described in those provisions.

#### **§ 142a**

1. An issuer of shares registered in the depository that is a company established in the Republic of Poland, or a listed company established outside the Republic of Poland, which permits the participation of entitled persons in a general meeting taking place on a given date using electronic means, may use the dedicated KDPW IT system made available via an application made available on the KDPW website for the purpose of remote voting at this general meeting.

2. The IT system, described in subpara. 1, shall in particular ensure:

1) the verification of the identity of persons with title to shares, of pledgors and users who are entitled to vote indicated in the global list, referred to in § 142 subpara. 4, or in the notices referred to in § 142b subparas. 1, 2 and 3, or their proxies, voting at a general meeting using electronic means performed according to the principles described in a Resolution of the KDPW Management Board,

2) electronic means of communication between a person entitled to vote, or its proxy, and the issuer, in the scope described in a Resolution of the KDPW Management Board,

3) the ability to vote by entitled persons or their proxies using electronic means of communication before, or during the general meeting,

4) confirmation of receipt by the issuer of a vote cast by an entitled person using this system,

5) the recording of the voting process carried out using this system.

3. Where the issuer permits the ability to vote at a given general meeting by means of the IT system, described in subpara. 1, the participant shall additionally indicate in the list, described in § 142 subpara. 1 or 2, or in the notices referred to in § 142b subparas. 1, 2 and 3, on the basis of instructions from the person indicated in that list or the notice, who is entitled to vote and who has expressed an interest in voting at this given general meeting using this system, the following information:

- 1) an indication whether the person is a natural person, or an entity that is not a natural person,
- 2) the email address of that person.

4. An issuer making use of the IT system described in subpara. 1, shall consent to the rules for verification of the identity of persons entitled from shares to participate in the general meeting, of pledgors and users entitled to vote and their proxies, voting using electronic means of communication, described in the KDPW Detailed Rules of Operation. The related risks shall be borne exclusively by the issuer.

#### **§ 142b**

1. At the request of a shareholder to notify the issuer that is a listed company established outside the Republic of Poland of the shareholder's participation in that company's general meeting, participants managing securities accounts and participants being holders of omnibus securities accounts managed in KDPW shall send KDPW the notice of participation, described in Article 6 of Commission Implementing Regulation (EU) 2018/1212. The notice may contain the identification details of the proxy designated by the shareholder to participate in the general meeting, or - if the issuer has enabled such a possibility in the notice on calling a general meeting, referred to in § 141a – may provide information on the method that votes may be exercised by the shareholder, unless the participant has included in the notice the information on the shareholder, referred to § 142a subpara.3 points 1 and 2.

2. Participants managing omnibus securities accounts and participants being holders of securities accounts managed in KDPW shall send KDPW the notices of participation referred to in Article 6 of Commission Implementing Regulation (EU) 2018/1212, received by them, respectively, from the holders of these accounts or further intermediaries, on whose behalf they register the shares of a listed company established outside the territory of the Republic of Poland, in response to information on the calling of a general meeting from that company.

3. A participant being the holder of a securities account managed in KDPW that is authorised to participate in the general meeting of a listed company established outside the Republic of Poland on the basis of being a holder of shares registered on this account, may send KDPW the notice of participation referred to in Article 6 of Commission Implementing Regulation (EU) 2018/1212, if that participant intends to take part in that general meeting.

4. The notices of participation, referred to in subparas.1-3, shall be sent to KDPW while conforming to the provisions of the first sentence of § 142 subpara.3, as appropriate.

5. KDPW shall prepare and send to the participant that is the holder of the securities account managed in KDPW and entitled as the holder of shares registered on that account to participate in the general meeting of a listed company established outside the Republic of Poland, the confirmation of entitlement, referred to in Article 5 of Article 6 of Commission Implementing Regulation (EU) 2018/1212.

6. If the notices, referred to in subparas. 1-3, relate to participation in the general meeting of a listed company established outside the Republic of Poland, that is an issuer of shares for which KDPW performs the role of issuer CSD, KDPW shall make it available the information contained in these notices via a dedicated application on



the KDPW website, applying the deadlines indicated by that company in the information on calling a general meeting, referred to in § 141a.

7. In order to make available the information, described in subpara. 6, the provisions of the second sentence of § 142 subpara. 7 and § 142 subpara.8 shall apply accordingly.

8. If the notices, referred to in subparas. 1-3, relate to participation in the general meeting of a listed company established outside the Republic of Poland, which is an issuer of shares for which KDPW performs the role of investor CSD, KDPW shall provide the information contained in these notices to the entity, referred to in § 67 subpara.2, from which KDPW obtained the information on the calling of the general meeting, applying the deadlines indicated by that entity.

#### **§ 142c**

1. An issuer of shares registered in the depository that is a company established in the Republic of Poland or a listed company established outside the Republic of Poland, it may, using KDPW as intermediary, send to a given shareholder, pledgor or user of shares, or its proxy, confirmation that its votes cast at the general meeting have been correctly registered and counted, which is referred to in Article 7 subpara. 2 of Commission Implementing Regulation (EU) 2018/1212.

2. Having obtained the confirmation, referred to in subpara. 1, from the issuer, KDPW shall send it accordingly to:

- 1) the direct participant, that has indicated a given shareholder in the list, referred to in § 142 subpara.1, or in the notice, referred to in § 142b subpara.1, or
- 2) the direct participant, that has sent KDPW the list, referred to in § 142 subpara.2, or the notice, referred to in § 142b subpara.2, containing the shareholder's details, or
- 3) the direct participant that is a shareholder or a proxy, to which the confirmation has been sent.

#### **§ 142d**

1. KDPW shall enable the issuer, that is a listed company, to submit a request relating to making available information enabling the identification of its shareholders and to determine the number of shares held by them on the basis of the balance on the date, which cannot be earlier than the date of its submission nor later than 30 calendar days following that date, in accordance with the requirements described in Article 3 subpara. 1 of Commission Implementing Regulation (EU) 2018/1212. If the request relates to shares for which KDPW performs the role of investor CSD, it can be submitted to KDPW using the intermediary referred to in § 67 subpara.2.

2. If the request, referred to in subpara. 1, contains an instruction for it to be transmitted further, KDPW shall without due delay send the request on to direct participants managing securities accounts, or omnibus securities accounts, or who are holders of omnibus securities accounts managed in KDPW, who have recorded, on registration accounts managed in KDPW, shares described in that request according to the balance on the date of its submission, or whose registration accounts will be credited with these shares before the date, inclusively, indicated in the request, according to the balance when replies to the request are to be prepared.

3. If the request, referred to in subpara. 1, shall indicate KDPW as the authorised receiver of the information contained therein, the direct participants shall send KDPW, before the date determined in accordance with Article 9 subpara. 6 of Commission Implementing Regulation (EU) 2018/1212, not later however than on the date indicated in the request as being the issuer's deadline, responses to that request, prepared in accordance with the requirements described in Article 3 subpara. 2 of Commission Implementing Regulation (EU) 2018/1212.

4. In instances described in subpara. 3, following the reconciliation of the share balances disclosed in the responses to the request of the issuer sent to KDPW, with their balances on depository accounts and omnibus

securities accounts managed in KDPW, determined on the date on which these responses were to be prepared in accordance with this request, and in addition, following the reconciliation of the inter-related shareholding balances disclosed in each of these responses, KDPW shall make available to the issuer by means of its website, information enabling the identification of its shareholders and to determine the number of shares held by them, prepared on the basis of these responses, as well as on the basis of the balances of the issuer's shares on securities accounts managed in KDPW, determined on the same date. This information shall be made available on the business day following the date indicated in the request, referred to in subpara, as the issuer's deadline.

5. If the request, referred to in subpara. 1, shall indicate an entity other than KDPW as the authorised receiver of information contained therein, KDPW shall prepare a response to the request, indicating in it the share balances for each depository account, omnibus securities account and securities account managed for direct participants, determined on the date on which the response is to be prepared in accordance with the request, and shall send it to the address indicated in that request.

#### **§ 142e**

1. An issuer of shares registered in the depository that is a company established in the Republic of Poland, which permits resolutions to be approved by the Management Board or Supervisory Board by means of direct telecommunication may use the dedicated KDPW IT system, available via an application on the KDPW website to vote during or outside such Board meetings.

2. The system, referred to in subpara. 1, ensures in particular:

- 1) the ability to cast votes by given Board members using electronic means of communication,
- 2) recording the progress of voting carried out using this system.

3. An issuer using the system, referred to in subpara. 1, shall agree to abide by the rules of remote voting and the methods of authentication of users of the system, referred to in subpara.1, described in the KDPW Detailed Rules of Operation. The issuer assumes all related risks.

4. An issuer using the system, referred to in subpara. 1 shall independently determine the rules for authenticating the identity of persons entitled to vote.

#### **§ 142f**

1. KDPW shall enable issuers, that are companies established in the territory of the Republic of Poland and that are not public companies, to submit requests relating to providing the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code.

2. If the request to provide the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code has been submitted by a shareholder of a company referred to in subpara. 1, to a direct participant, in accordance with the provisions of Article 328<sup>13</sup> § 3 or § 4 of the Commercial Company Code, the direct participant shall on the basis of this request prepare an instruction for this information to be made available to the shareholder, indicating in it in particular details enabling the identification of that shareholder and shall send it to KDPW. Sending such an instruction to KDPW shall at the same time mean that the direct participant confirms that the person indicated in the instruction is the shareholder authorised to receive this information.

3. If the request to provide the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code has been submitted by a shareholder of a company referred to in subpara. 1, that is a direct participant authorised to receive this information on the basis of shares registered on the securities account managed in KDPW, KDPW shall verify their right to this authorisation.

4. The requests referred to in subparas. 1 and 3 as well as the instructions referred to in subpara. 2 shall indicate in particular the id code of the shares to which they apply and the date on which the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code shall be prepared. This date may not be earlier than the date of the submission of the request or instruction to KDPW and not later than 30 calendar days after this date.

5. KDPW shall immediately send the request, referred to in subparas. 1 and 3, or the instruction referred to in subpara. 2 to direct participants managing securities accounts or omnibus securities accounts who have entered on registration accounts managed in KDPW shares to which the request or instruction relates, according to the balance on the date of their receipt by KDPW, or whose registration will be credited with these shares before the date, referred to in subpara. 4, indicated in this request or instruction, inclusively.

6. Direct participants shall prepare and send KDPW the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code on the next business day following the date for which it is to be prepared.

7. KDPW shall cease to accept the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code from direct participants after five days following the date on which it is to be prepared.

8. Following the reconciliation of the shareholding balances disclosed in the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code and sent to KDPW with the balances on the depository accounts and omnibus securities accounts managed in KDPW, determined on the date on which this information was to be prepared, KDPW shall make them available, respectively, to the issuer or shareholder, together with the same information prepared by KDPW on the basis of these share balances on securities accounts and omnibus securities accounts managed in KDPW and determined on the same date. The provision of this information shall take place on the next business day following deadline described in subpara. 7.

9. KDPW shall provide the issuer with the information referred to in Article 328<sup>13</sup> § 1 point 1-4 and in § 2 of the Commercial Company Code via the KDPW website; it shall provide this information to the shareholder in the manner determined according to the provisions of the KDPW Detailed Rules of Operation.

## **SECTION VI CORPORATE ACTIONS**

### **§ 143**

1. Corporate actions shall be defined as activities performed within the depository system, other than the settlement of transactions settled in KDPW, as a result of which changes in the proprietary interests in securities, as well as in other aspects of securities or of securities issues, are reflected in said the system.

2. Corporate actions include, in particular:

- 1) the exchange of securities,
- 2) the assimilation of securities,
- 3) the withdrawal of securities from the Depository,
- 4) the conversion of registered securities into bearer securities or vice versa, as well as the conversion of bearer preference securities into ordinary bearer shares or vice versa;
- 5) the replacement of securities.

3. Corporate actions on securities registered in the depository via an operational link with another CSD, with the

exception of the withdrawal of these securities from the Depository without their legal nature coming to an end, shall take place on the basis of information received by KDPW from the entity referred to in § 67 subpara. 2, which manages specific registration accounts for KDPW on which these securities have been registered.

#### **§ 144**

An exchange of securities is carried out in connection with a change of the size of the securities issue and involves a reduction or increase in the number of securities in a particular issue registered in the Depository. For shares in particular, this operation is carried out in connection with the reduction of their nominal value without reducing the equity capital (increasing the number of shares), or in connection with increasing the equity capital without issuing new shares and without changing their nominal value (increasing the number of shares of a given issue) and in connection with a reverse split (reducing the number of shares). This operation is also carried out on other securities where changing the size of the issue is permitted by the applicable regulations.

#### **§ 145**

1. The withdrawal of securities from custody shall be performed in instances when the legal personality of securities comes to an end. This operation shall additionally be performed following the termination of the agreement on the registration of shares in the depository in accordance with the provisions of the second sentence of Article 91 subpara. 11, or the provisions of Article 14 of the Law on Public offerings, or following the termination of the agreement on the registration of other securities in the depository, if these retain their legal personality and may be legally traded outside the depository.

2. If the cancellation of securities, being part of a specific corporate action, or as a result of the performance of the issuer's obligations for securities owners, the withdrawal of cancelled securities from the depository shall be carried out according to the rules governing the principles of the execution of this operation or principles of the performance of such issuers' obligations.

3. The issuer shall be obliged to inform KDPW of the cancellation of shares registered in the depository on the day current information on this event is sent. The issuer shall send documents to KDPW, on the basis of which the withdrawal operation of the cancelled shares from the depository is performed, without delay following their cancellation.

#### **§ 146**

1. The exchange of securities means that owners of particular securities are given other securities in their place. One result of replacement may be the cancellation of securities, for which other securities are issued.

2. A securities exchange operation involving shares shall be carried out in particular in connection with the merger of public companies as part of the process of transferring the total of assets of the company being taken over in exchange for its shares, or in connection with the division of a public company as part of the process of transferring the whole or part of the total assets of the company being divided into another public company.

3. The exchange of securities as an element of performing issuers' obligations for securities owners shall be governed by principles defining the rules for the processing of the performance of such obligations and rules for the introduction of securities to the depository.

#### **§ 147**

Entries in securities accounts, or omnibus securities accounts kept by participants, resulting from corporate actions may be carried out after the participant has received a registration-related document issued by KDPW

confirming that such entries are permitted, unless as a result of corporate action operations on securities, changes in allocation of the relevant securities to a given account does not take place.

## **SECTION VII**

### **THE ISSUE OF INDIVIDUAL DEPOSITORY CERTIFICATES AND INDIVIDUAL DECLARATIONS ON THE RIGHT TO PARTICIPATE IN THE GENERAL SHAREHOLDER MEETING OF A PUBLIC COMPANY**

#### **§ 148**

1. KDPW shall issue a depository certificate at the request of a direct participant for which a securities account is kept in KDPW.
2. A depository certificate shall be issued immediately after a direct participant has submitted a written application in this matter. The depository certificate shall be delivered by the method normally used in trade relations or in a manner agreed with the direct participant.
3. At the request of the direct participant entitled from the shares registered on a securities account managed for that participant, or at the request of a pledgor or user of these shares, submitted according to the provisions of Art. 4063 § 1 of the Commercial Company Code, KDPW shall issue personalised declarations on the right to participate in the general meeting.
4. For the purpose of issuing and delivering the personalised declarations on the right to participate in general meetings, the provisions of subpara. 2 shall apply as appropriate.

## **SECTION VIII**

### **PROCEDURAL RULES OF THE ADVISORY COMMITTEE AND USER COMMITTEE**

#### **CHAPTER 1**

#### **ADVISORY COMMITTEE**

#### **§ 149**

1. The Advisory Committee shall nominate from among its members, described in Art. 46 subpara. 5 points 1-4 of the Law on Trading in financial instruments, a Chairman and Deputy Chairman. In the event of the absence of the Chairman, the Chairman's responsibilities shall be performed by the Deputy Chairman.
2. The Chairman shall, not later than 3 days following nomination, present the KDPW Management Board with a copy of the Advisory Committee's resolution in this matter, certified by the Chairman, and indicate the address or addresses where requests for an Advisory Committee opinion should be sent.

#### **§ 150**

The Advisory Committee may draft rules that define the procedures for calling meetings and presenting opinions, subject to the provisions of this Section.

#### **§ 151**

Requests for Advisory Committee opinions shall be sent by the KDPW Management Board, or the KDPW Supervisory Board to the Advisory Committee Chairman.

#### **§ 152**

Advisory Committee opinions shall be signed by the Chairman and shall be delivered to the KDPW Management Board at the KDPW address.

#### **§ 153**

1. Advisory Committee meetings shall be considered to be official on condition that all representatives of entitled entities, which are members of the Advisory Committee, have been informed and that at least 1/2 of them are present.
2. Advisory Committee opinions may also be presented via mailing list circular, on condition that the Resolution which contains that opinion has been signed by at least 1/2 of the representatives of entitled entities, which are members of the Advisory Committee.

#### **§ 154**

Advisory Committee opinions shall be presented to the KDPW Management Board not later than 14 days after a request for an opinion has been lodged in accordance with the provisions of § 151. In certain reasonable circumstances, the KDPW Management Board or the KDPW Supervisory Board, may extend this deadline at the request of the Advisory Committee Chairman.

#### **§ 155**

In certain exceptional circumstances dictated by the interest of the market or its participants, and with the consent of the Advisory Committee Chairman, the KDPW Management Board or the KDPW Supervisory Board, may request that the opinion be presented and delivered sooner than the deadline defined in the first sentence of § 154.

#### **§ 156**

Failure to deliver the Advisory Committee opinion to the KDPW Management Board before the deadline determined, respectively in § 154 or § 155, shall be considered to imply that the Advisory Committee has no comments to make regarding the matter presented to it for which an opinion was sought.

### **CHAPTER 2 USER COMMITTEE**

#### **§ 157**

1. As part of the Advisory Committee, a User Committee shall be established, which shall consist of members of the Advisory Committee, referred to in Art. 46 subpara. 5 points 1-4 of the Law on Trading in financial instruments.
2. Each change in the membership of the Advisory Committee, referred to in Art. 46 subpara. 5 points 1-4 of the Law on Trading in financial instruments, shall result in a corresponding change in the membership of the User Committee.

#### **§ 158**

1. The duties of the Chairman of the User Committee shall be performed each time by the Chairman of the Advisory Committee, while the duties of the Deputy Chairman of the User Committee shall be performed each

time by the Deputy Chairman of the Advisory Committee.

2. In the event of the absence of the Chairman of the User Committee, the duties of the Chairman shall be performed by the Deputy.

#### **§ 159**

The User Committee shall provide opinions and perform an advisory role for the KDPW Management Board and Supervisory Board in matters relating to the operational aspects of the depository system, which significantly affect its participants, and in particular in matters relating to the operation of the securities settlement system managed by KDPW, the rules for admitting participants in the depository system, the rules for admitting securities to the depository, the standard of services offered by KDPW or the structure of the fees charged by KDPW.

#### **§ 160**

1. The KDPW Supervisory Board and Management Board shall seek the opinion of the User Committee in matters relating to the following:

- 1) the Rules and its amendments,
- 2) the KDPW Detailed Rules of Operation or other regulations adopted by the KDPW Management Board on the basis of the Rules and amendments thereof,

2. The KDPW Management Board shall make available to the User Committee the recommendations of the Internal Audit Department in KDPW, if these recommendations:

- 1) relate to criteria involving direct participation, or the participation of issuers of securities in the depository system,
- 2) relate to other matters, referred to in the provisions of § 159,
- 3) may affect the standard of services performed by KDPW, including ensuring business continuity.

3. The information referred to in subpara. 2 shall be made available to the User Committee, unless in certain instances, disclosure of specific information may be refused on the grounds of conflict of interest between KDPW and members of the User Committee, or the grounds of preventing those members obtaining a commercial advantage.

#### **§ 161**

1. Meetings of the User Committee shall take place at least every six months.
2. Meetings of the User Committee shall be called by the Chairman, who chairs the meetings.
3. The Chairman shall determine the agenda for the meetings. The Chairman should include in the agenda all proposals put forward by other members of the User Committee.
4. The members of the User Committee shall attend meetings in person.
5. In matters that affect both the Advisory Committee and the User Committee, meetings of the User Committee may be jointly organised with meetings of the whole Advisory Committee.

#### **§ 162**

1. Opinions of the User Committee shall be adopted in the form of a resolution.
2. Resolutions shall be approved by means of an open ballot and a simple majority of votes cast.
3. Resolutions may be adopted on condition that at least half the members of the User Committee are in

attendance and that all its members were informed of the date of the meeting at least 3 days in advance.

4. Resolutions may not be adopted regarding matters that were not included in the agenda, unless all the members of the User Committee are present at the meeting and none of them has raised any objection to adopting such a resolution.

5. Opinions of the User Committee may also be issued as circular resolutions, on condition that these resolutions bear the signature of at least half the members of the User Committee.

6. In matters referred to in subpara. 5, the User Committee may issue its own opinion as part of a resolution adopted by the whole Advisory Committee.

#### **§ 163**

Opinions of the User Committee shall be signed by the Chairman and shall be submitted to the KDPW Management Board at the address of KDPW.

#### **§ 164**

1. Members of the User Committee shall disregard their personal interests in performing their functions, giving precedence to the common interest of the users represented by the member, and shall undertake to ensure the proper operation and development of the depository system.

2. In the event that a conflict of interest arises, the member of the User Committee shall immediately notify the Chairman of this and shall refrain from participating in the discussion and voting in the matter in which the conflict of interest has arisen.

3. In instances where the Chairman determines the existence of an actual or potential conflict of interest involving a member of the User Committee in relation to a particular matter, the Chairman shall prevent the member from voting in this matter. If the conflict of interest involving a member of the User Committee is significant and not provisional in nature, the Chairman shall immediately notify the group of participants represented by the member of the User Committee of this.

4. In instances where the conflict of interest involves the Chairman, the notification referred to in subpara. 2 shall be made to the Deputy Chairman, who in such instances shall take the measures described in subpara. 3.

#### **§ 165**

Requests for opinions from the User Committee, as well as all other information submitted to the User Committee shall be sent to the Chairman by the KDPW Supervisory Board or Management Board.

#### **§ 166**

The provisions of § 154 - § 156 shall apply accordingly to opinions issued by the User Committee at the request of the KDPW Supervisory Board or Management Board.

#### **§ 167**

KDPW shall immediately inform the Polish Financial Supervision Authority and the User Committee of any decision taken by the relevant KDPW governing body that disregards the opinion of the User Committee.

### **SECTION VIII**

#### **FEES**



### **§ 168**

1. The types of fees, the rules for calculating them and the amounts charged by KDPW, as well as instances in which these fees are partially charged to certain participants as remuneration for services performed by them within the depository system, and the rules for settling with them as a consequence, are described in Appendix No. 1 to the Rules, referred to hereinafter as the Table of Fees.

2. The fees indicated in the Table of Fees do not include value added tax, nor any other taxes or charges arising from public law. The amounts of these fees shall be subject to increase by the amount of any applicable taxes or charges arising from public law which KDPW is or will in future be obliged on the basis of relevant regulations to charge.

### **§ 169**

At the request of the KDPW Management Board, the Supervisory Board may, for a limited time, lower the level of the fee or waive the fee altogether, for fees defined in the Fee Table.

### **§ 170**

The provisions contained herein concerning fees for shares shall also apply to rights to shares, unless the provisions of the Rules state otherwise.

### **§ 171**

1. Subject to the provisions of subpara. 2, participants shall pay fees before the 21st day of the calendar month following the month in which, respectively:

- 1) the service for which the fee is charged – depending on its type – has been performed, or was in the process of being performed,
- 2) the event for which the fee is charged has taken place.

2. The fee for the management of assets provided for the purpose of issuers' corporate actions payments to securities owners shall become due when the management of these assets ceases.

3. Each payment made by a participant having at least two outstanding debts owed to KDPW for unpaid fees shall be automatically set aside to satisfy the outstanding debt, beginning with the oldest.

### **§ 172**

In instances where the value used to determine the amount of the fee is expressed in a foreign currency, its conversion into Polish currency shall take place on the basis of the average exchange rate of the foreign currency published by the National Bank of Poland, respectively:

- 1) for fees invoiced each time following the performance of the services for which they are calculated – on the date of the performance of the service, or, if the exchange rate is unknown at the moment the invoice is prepared – on the date prior to this date,
- 2) for fees invoiced on a recurring basis:
  - a) if these fees are calculated separately for each, or for certain dates within that cycle – on each date that the fee is calculated,
  - b) if these fees are calculated on an aggregate basis for the whole of that period – on the last date of this period.

#### **§ 172a**

1. In instances where the processing of a redemption or payment of cash entitlement from bonds, mortgage bonds or investment certificates is initiated and performed according to information or declarations sent to KDPW by a participant with the participant type of payment agent, the fee for this service shall be charged to this participant. This principle shall be applied as well in instances where prior to the conclusion of this service, the participant with the participant type of payment agent has for whatever reason ceased to perform the role in the depository system.
2. In all other instances, the fees described in the Table of Fees, in the section relating to fees charged to issuers and payment agents, shall be charged to issuers.

#### **§ 173**

1. Subject to the provisions of subpara. 2, The fees described in the Table of Fees, in the part relating to fees charged to issuers and payment agents, shall not be charged for activities performed in relation to securities registered in the depository via an operational link to another CSD.
2. The fee described in point 2.6.2. of the Table of Fees, in the section relating to fees charged for issuers and payment agents, and – if the issuer being a listed company shall submit a request directly to KDPW to disclose information enabling the identification of its shareholders and to determine the number of shares held by them at a given date – then the fees described in points 6.4., 6.4.1., 6.5.1.1., 6.5.1.2., 6.5.1.3. and 6.5.3. of that part of the Table of Fees shall be charged irrespective of the rules for the registration of securities in the depository.
3. The part of the Table of Fees relating to fees charged to issuers and payment agents shall also define the rules for determining the remuneration due to direct participants for:
  - 1) their providing information enabling the identification of shareholders and determining the number of shares held by them at a given date, at the request of issuers that are listed companies, and
  - 2) their providing information referred to in 328<sup>13</sup> § 1 point 1-4 and § 2 of the Commercial Company Code, according to balances on a given date, at the request of issuers that are companies established in the territory of the Republic of Poland, that are not listed companies, or at the request of their shareholders,- as well as rules for settling this remuneration with direct participants by KDPW.

#### **§ 174**

At the written request of a participant, KDPW shall make available an itemised invoice.

### **SECTION X MEASURES FOR MAINTAINING ORDER AND DISCIPLINE**

#### **§ 175**

1. Measures for maintaining order and discipline shall include:
  - 1) reminders,
  - 2) the fine referred to in subpara. 2,
  - 3) special fees,
  - 4) the suspension of participation.

2. If a participant contravenes the principles of participation in the depository system by failing to carry out or by improperly carrying out its obligations under the participation agreement, the KDPW Management Board shall fine the participant PLN 5,000 on terms defined below, unless grounds exist for cancelling or suspending participation.

3. The special fees are detailed in Part 8 of the Table of Fees, in the section relating to fees charged to direct participants.

#### **§ 176**

1. Special fees shall be paid by direct participants on a monthly basis.
2. The provisions of § 171 and § 172 herein shall apply accordingly to special fees.

#### **§ 177**

1. Should there be grounds to impose the fine referred to in § 175 subpara. 2, the KDPW Management Board shall notify the participant concerned of the violation, specifying precisely how it occurred and specifying a time limit to remedy the condition resulting from the violation, or indicating appropriate action or control measures to be taken to prevent further violations. Should the participant fail, respectively, to remedy the condition, or fail to take the appropriate action or control measures, the KDPW Management Board shall fine the participant concerned.

2. Should the participant concerned fail to remedy the condition resulting from the violation for which it was fined, or has failed to take, or failed properly to take the appropriate action or control measures indicated by the KDPW Management Board to prevent further violations, the KDPW Management Board shall specify a time limit for eliminating the said condition prior to each subsequent imposition of a fine, or respectively, for taking the appropriate action or control measures.

3. The KDPW Management Board may decide not to impose the fee, described in § 175 subpara. 2 and only caution the participant.

#### **§ 178**

1. The resolution passed by the KDPW Management Board concerning the imposition of the special fine referred to in § 175 subpara. 2 shall immediately be delivered to the participant concerned.

2. The resolution on imposing the fine shall be carried out within 10 days of its being delivered to the participant.

#### **§ 179**

1. The participant fined on the basis of § 175 subpara. 2 may, within 7 days of the receipt of the Management Board's resolution adopted in this matter, submit an appeal to the KDPW Supervisory Board. The appeal shall be submitted through the KDPW Management Board.

2. Submission of an appeal shall not prevent the enforcement of the resolution.

#### **§ 180**

1. The Supervisory Board's resolution concerning appeals shall be adopted within a period not later than 3 months after their submission. Resolutions adopted by the KDPW Supervisory Board shall be final.

2. A change of circumstances occurring after the KDPW Management Board has issued its resolution shall not

provide grounds for reversing the resolution. In such instances, the participant in question may apply to the KDPW Management Board to review the case once again.

#### **§ 181**

1. KDPW may refrain from terminating the participation agreement (suspension of participation) in instances where a participant threatens the safety or the proper operation of the depository system. Such a threat shall be deemed to take place specifically where:

- 1) a participant has ceased to meet the participation criteria as a result of which, no longer has the ability to be a participant of the depository system, or
- 2) the participant is in breach of regulations governing the operation of the depository system, or
- 3) the participant is in breach of significant provisions of the participation agreement, or deliberately disregards other terms and conditions of the agreement, including the consistent and systematic failure to deliver securities, thus preventing the timely settlement of transactions or
- 4) the participant's financial situation casts uncertainty as to whether the participant is able to meet its obligations with respect to KDPW, or
- 5) legal measures have been initiated against the participant with the aim of the liquidation, reorganisation or restructuring of that participant's obligations, resulting in the suspension or restriction of the ability to process settlement instructions, to which the participant was a party.

2. The suspension of participation is for a specified period, not longer than 6 months. The previous participant status shall be restored on the basis of a decision taken by the KDPW Management Board, by way of resolution, before or on expiry of the aforementioned period, unless a different decision concerning further participation has been taken before the expiry of that period.

3. Participation may be suspended with regard to all of the participant's activities under the participation agreement or with regard to only some activities.

4. The decision to suspend participation shall specify conditions needing to be met in order for the previous participant status to be restored.

5. In the event of suspension of participation, the provisions of § 179 and § 180 shall apply accordingly.

6. The KDPW Management Board shall decide to suspend the participation of a given participant due to the participant's consistent and systematic failure to deliver securities, thus preventing the timely settlement of transactions, following consultation with the Polish Financial Supervision Authority and, potentially, another supervisory authority relevant for that participant, as well as after the expiry of the period granted to that participant of at least 10 days for the submission of comments, explanations and information on measures taken by the participant to improve the settlement efficiency rate, referred to in Article 39 (1) of the RTS 2018/1229 to CSDR. KDPW shall immediately notify the Polish Financial Supervision Authority and, potentially, another supervisory authority relevant for the participant about such a decision being made.

7. Information of the suspension of participation of a given participant shall be published on the KDPW web page.

#### **§ 182**

Suspension of participation shall not affect the participant's obligations arising from its activities carried out up to the date of suspension. The provisions contained in these Rules shall apply accordingly.

### **§ 183**

Subject to the provisions of § 104, during the period of suspension of participation, only those operations which may be validated by events that took place before the suspension date, shall be carried out on the registration accounts kept in KDPW for the participant concerned.

## **SECTION XI TERMINATION OF PARTICIPATION AGREEMENT**

### **§ 184**

1. A participation agreement may be terminated in the following manner:

- 1) on the basis of a unilateral declaration of intent submitted by the participant, with one month's notice from the date of its submission, subject to the provisions of subpara. 2 and 3, or
- 2) by mutual agreement, or
- 3) on the basis of a unilateral declaration of intent submitted by KDPW, in accordance with the provisions of § 185 (termination of participation).

2. If the application, referred to in subpara. 1, was submitted by a direct participant, the termination of the participation agreement cannot take place prior to the transfer of all securities registered on registration accounts managed for that participant in KDPW, on registration accounts managed in KDPW by another direct participant, as well as prior to the finalisation of all settlement performed on the basis of settlement instructions introduced to the depository system, however not cancelled or revoked in accordance with the provisions of these Rules, indicating that direct participant as the settlement party.

3. A participation agreement for the participation type of issuer shall not be subject to termination prior to the withdrawal from the depository of all securities issued by that entity.

4. The provisions of subpara. 1 and 2 shall apply respectively to any amendments to the agreement on direct participation, relating to the limitation of this participation to a specific participation type or types.

### **§ 185**

1. In instances described in § 181 subpara. 1, KDPW shall have the right to terminate an agreement for direct participation with immediate effect (termination of participation), irrespective of whether in connection with the relevant circumstances, measures were earlier taken against the participant resulting in the suspension of participation, unless under the circumstances, the termination of participation would be in breach of the law.

2. Participation may be terminated either fully or partially. In the event of partial termination of participation, the KDPW declaration, described in § 184, subpara. 1, point 3, shall indicate the participation types to which termination relates.

### **§ 186**

1. An entity keeping securities accounts, or omnibus securities accounts, whose participation has been terminated, shall be obliged to take measures in order to transfer securities registered in those accounts to another direct participant. KDPW shall have the right to sell securities owned by that entity acting on its account, if those securities have not been transferred to another participant within one month of the termination of participation.

2. An entity whose participation has been terminated, holding a securities account managed in KDPW, shall transfer securities registered in the account onto a depository account, omnibus securities account or securities account managed for another direct participant, or other direct participants. The provisions of the second sentence of subpara. 1 shall apply accordingly.

3. An entity whose participation has been terminated, holding an omnibus securities account managed in KDPW, shall transfer securities registered in the account onto a depository account, omnibus securities account or securities account managed for another direct participant, or other direct participants within one month after its participation has been terminated.

## **SECTION XII INTERIM PROVISIONS**

### **§ 187**

Obligations entered into following the conclusion of agreements for direct participation, participation agreements for the participation type of issuer and agreements for the registration of securities in the depository, prior to the date of the entry into force of these Rules, shall from this date be governed by the provisions of these Rules.

### **§ 188**

Applications for the conclusion, amendment or termination of participation agreements, as well as applications for the conclusion of an agreement for the registration of securities in the depository, submitted prior to the date of the coming into force of these Rules and which have not been reviewed prior to that date, shall be reviewed according to the provisions of these Rules.

### **§ 189**

1. Settlements, as well as all other operations commenced prior to the date of the entry into force of these Rules and not completed prior to that date shall be performed in accordance with the provisions of these Rules.
2. Settlement instructions that have been introduced to the depository system prior to the date of the entry into force of these Rules and have not been processed, deregistered, or successfully cancelled from that system prior to that date, shall be governed by the provisions of these Rules.

### **§ 190**

The KDPW Detailed Rules of Operation, approved by the KDPW Management Board prior to the date of the entry into force of these Rules, as well as other Resolutions of the KDPW Management Board approved prior to that date on the basis of the KDPW Rules, being an appendix to Resolution No 8/58/98 of the KDPW Supervisory Board of 24 July 1998 (as amended) shall remain in force. From that date onwards, they shall be governed by the provisions of these Rules.

Table of Fees - Appendix 1 to the KDPW Rules – Table of Fees

<b>Fees charged to KDPW direct participants</b>	
<b>Fee types and amount</b>	<b>Rules for calculating and charging fees</b>
<b>1. Fee for opening a formal account</b>	Fee invoiced after KDPW has performed the service
<p>1.1. Fee for the opening of the first formal account in a given type of activity determined according to § 24 subparas.1-6 --- 20 000 PLN</p> <p>1.2. Fee for the opening of each next formal account in a given type of activity determined according to § 24 subparas.1-6 --- 4 000 PLN</p>	<p>The fee described in 1.2 shall not be charged in instances where the only differing attribute between the formal account being opened and the formal accounts already held by the participant in a given type of activity determined according to § 24 subparas.1-6 is the securities code.</p>
<b>2. Fee for the management of an entity account</b>	<p>The fee is invoiced on a monthly basis for each entity account. In instances where the entity account was opened during the calendar month or was closed prior to the end of the calendar month, the fee is calculated and charged at the full rate.</p>
<p>2.1. Fee for the management of one entity account as part of a given type of activity determined according to § 24 subparas.1-6--- 600 PLN</p> <p>However,</p> <p>2.1.1. Fee for the management of one entity account as part of the type of activities determined according to the provisions of § 24 subparas. 3, 4, 5 or 6 --- 2 500 PLN</p>	

2.2. Fee for the management of each next entity account as part of a given type of activity determined according to § 24 subparas.1-6 --- 5 PLN

### **3. Fee for operating a securities depository**

The fees are invoiced on a monthly basis, calculated on the basis of the market value of the securities held on the participant's registration accounts according to the balance at the end of each calendar day; however:

- for securities, which are registered in the depository via an operational link to Clearstream Banking SA in Luxembourg, for the purpose of calculating these fees, the market value of one security will be assumed to be not less than 2 EUR,
- for securities, which are registered in the depository via an operational link to OeKB CSD GmbH, and which are not listed on financial instruments trading platforms operated by Wiener Börse AG, for the purpose of calculating these fees, the market value of one security will be assumed to be not less than 4 EUR.

The fee is calculated as the sum of the results (the product) calculated for balances on each calendar day of a given month, consisting of:

- a) the market value, of securities held on the participant's registration accounts according to the balance on a given calendar day divided by the number of calendar days in the month for which the fee is charged,
- and
- b) the amount of the fee applicable for these securities.

For securities registered on separate registration accounts, described in § 11, subpara. 3a point 1, managed for an



3.1 Fee for safekeeping of bonds issued by the State Treasury, or the central government of another state, whose central registration is performed by KDPW - 0.00018 %,

indirect or direct participant, the fee shall be paid by the participant with the participation type of settlement entity for that indirect or direct participant.

The fee is calculated in instances where the conditions necessary to charge the fee described in point 3.3. have not been met.

3.2 Fee for safekeeping other securities than those described in 3.1. --- 0.00033 %

The fee is calculated in instances where the conditions necessary to charge the fee described in point 3.3. have not been met.

However:

3.2.1. For securities registered via an operational link to OeKB CSD GmbH --- 0.00338 %

3.2.2. For securities registered via an operational link to Clearstream Banking Luxembourg --- 0.00509 %

However:

3.2.2.1. Where the central registration of securities takes place in the Czech Republic --- 0.01597%

3.2.2.2. Where the central registration of securities takes place in the Slovak Republic --- 0.00967 %

3.2.2.3. *Repealed*

3.2.2.4. Where the central registration of securities takes place in Commonwealth of Australia-- 0.00946 %

3.2.3. For securities registered via an operational link to KELER Zrt. --- 0.00642 %

3.2.4. For securities registered via an operational link to NASDAQ CSD SE:

3.2.4.1. Where the securities are processed in the Estonian settlement system --- 0.00405%

3.2.4.2. Where the securities are processed in the Lithuanian settlement system --- 0.00467%

3.2.4.3. Where the securities are processed in the Latvian settlement system --- 0.00780%

3.2.5. For securities registered via an operational link to Euroclear Bank SA/NV in Brussels- 0.00901 %

However:

3.2.5.1. Where the central registration of securities takes place in Sweden --- 0.01000 %

3.2.5.2. Where the central registration of securities takes place in the United Kingdom of Great Britain and Northern Ireland --- 0.00900 %

3.2.5.3. Where the central registration of securities takes place in the Kingdom of Spain-- 0.00533 %

3.2.6. For securities whose central registration is performed in Bulgaria, registered via an indirect operational link with UniCredit Bulbank AD --- 0.00967 %

3.2.7. For securities whose central registration is performed in Slovenia, registered via an indirect operational link to Nova Ljubljanska banka d.d. --- 0.00828%;

3.3. Fee for the safekeeping of debt securities belonging to their issuer meeting the conditions described in § 58 subpara. 2 point 4 --- 0,000007%.

Fee charged on condition that the direct participant has indicated to KDPW the correct entity account to be used for the separate registration of debt securities belonging to their issuer.

#### 4. Settlement fees

Fees invoiced on a monthly basis, charged to participants being parties to settlement. In the event of partial settlement the fees shall be charged separately for each part of the transaction, which has been settled. The fees described in point 4 are not charged to participants that are parties to settlement with the participation status of central counterparty.

4.1. For the settlement of transactions executed in a trading system managed by an entity, which has concluded an agreement with KDPW, described in § 23 --- 3.90 PLN

However:

4.1.1. For settlement of a transaction secured with the clearing guarantee fund --- 1 PLN,

However:

4.1.1.1. if settlement is performed on the basis a settlement order not indicating separate cash or non-monetary debit and credit positions arising from each underlying transaction, however, indicating netted or aggregated positions of these debits and credits --- 3.90 PLN

The fee for the amount indicated in 4.1.1.1. shall be calculated for the settlement of all transactions covered by the settlement order described in 4.1.1.1.

#### 4.2. *Repealed*

4.3. For the performance of another type of settlement, which includes a cash payment and non-cash payment --- 3.90 PLN

4.4. For the performance of settlement, which only includes securities, that is not the settlement described in points 4.2. --- 3 PLN

However:

4.4.1. For asset status change operations --- 1 PLN

4.5. For the settlement of a cross-system transfer of securities registered in the depository via an operational link to another CSD --- 20 EUR (equivalent)

However:

4.5.1. Fee for the settlement of a cross-system transfer of securities registered via an operational link to OeKB CSD GmbH, performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by OeKB CSD GmbH, or performed as a result of their transfer from these accounts onto accounts managed by OeKB CSD GmbH for another entity --- 7 EUR (equivalent)

4.5.2. Fee for the settlement of a cross-system transfer of securities registered via an operational link to Clearstream Banking SA in Luxembourg, performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by Clearstream Banking SA in Luxembourg, or performed as a result of their transfer from these accounts --- 11.50 EUR (equivalent)

However:

4.5.2.1. If the cross-system transfer is performed in connection with the transfer of securities between accounts managed exclusively by Clearstream Banking SA in Luxembourg --- 5,20 EUR (equivalent)

4.5.2.2. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the Czech Republic --- 32.00 EUR (equivalent)

4.5.2.3. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by Euroclear Bank SA/NV in Brussels --- 6,90 EUR (equivalent)

4.5.2.4. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in France --- 20.50 EUR (equivalent)

4.5.2.5. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in Italy --- 36.50 EUR (equivalent)

4.5.2.6. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the Slovak Republic --- 28.00 EUR (equivalent)

4.5.2.7. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in Canada --- 25.50 EUR (equivalent)

4.5.2.8. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the United Kingdom of Great Britain and Northern Ireland --- 18 EUR (equivalent)

4.5.2.9. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the Federal Republic of Germany --- 23 EUR (equivalent)

4.5.2.10. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the Kingdom of Spain

--- 36.50 EUR (equivalent)

4.5.2.11. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the Commonwealth of Australia --- 53 EUR (equivalent)

4.5.3. Fee for the settlement of a cross-system transfer of securities registered via an operational link to KELER Zrt., performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by KELER Zrt., or performed as a result of their transfer from these accounts onto accounts managed by KELER Zrt. for another entity --- 18 EUR (equivalent)

4.5.4. Fee for the settlement of a cross-system transfer of securities registered via an operational link to NASDAQ CSD SE, performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by NASDAQ CSD SE, or performed as a result of their transfer from these accounts onto accounts managed by NASDAQ CSD SE for another entity --- 7.50 EUR (equivalent)

4.5.5. Fee for the settlement of a cross-system transfer of securities registered via an operational link to Euroclear Bank SA/NV in Brussels, performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by Euroclear Bank SA/NV in Brussels, or performed as a result of their transfer from these accounts: --- 9.50 EUR (equivalent)

However:

4.5.5.1. If the cross-system transfer is performed in connection with the transfer of securities between accounts managed exclusively by Euroclear Bank SA/NV in Brussels --- 5.80 EUR (equivalent)

4.5.5.2. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed exclusively by Clearstream Banking SA in Luxembourg --- 9.80 EUR (equivalent)

4.5.5.3. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in Sweden --- 37 EUR (equivalent)

4.5.5.4. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in France -

-- 10 EUR (equivalent)

4.5.5.5. If the cross-system transfer is performed in connection with the transfer of securities from or onto registration accounts managed by the authorised financial institution in the Kingdom of Spain --- 37 EUR (equivalent)

4.5.6. Fee for the settlement of a cross-system transfer of securities registered using an indirect operational link via UnicCredit Bulbank AD, performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by Centraljen Depozitar AD in Sofia, or performed as a result of their transfer from these accounts onto accounts managed by Centraljen Depozitar AD in Sofia for another entity--- 28 EUR (equivalent)

4.5.7. Fee for the settlement of a cross-system transfer of securities registered using an indirect operational link via Nova Ljubljanska banka d.d., performed as a result of the transfer of these securities onto the registration accounts managed for KDPW by Centralna Klirinško Depotna Družba d.d. in Ljubljana, or performed as a result of their transfer from these accounts onto accounts managed by Centralna Klirinško Depotna Družba d.d. in Ljubljana for another entity --- 36.50 EUR (equivalent)

#### **5. Fees for processing messages/instructions**

Fees invoiced on a monthly basis charged for each message/instruction.

5.1. Fee for deletion by the system of an out-of-date instruction --- 1 PLN

However:

5.1.1 If on the basis of this instruction a cross-border securities transfer was to have been processed --  
- 20 EUR (equivalent)

5.2. Order matching --- 1 PLN

Order matching is defined as activities performed by KDPW involving determining that settlement orders sent to the depository system by participants that are settlement counterparties for a given transaction contain correct

	details relating to the operation.
<b>6. Lending and borrowing fees</b>	Fees invoiced on a monthly basis charged from participants acting as securities borrowers.
6.1. Fees for processing an automatic securities loan in the absence of the events described in 6.2:	
6.1.1. For KDPW --- 0.002% of the market value of the securities that make up the loan, however, not less than 25 PLN for each day the securities loan remains outstanding	
6.1.2. For the securities lender --- 0.008% of the market value of the securities that make up the loan, however, not less than 100 PLN for each day the securities loan remains outstanding	
6.2. Fee for processing an automatic securities loan where the securities borrower did not maintain the loan collateral at the requisite level, or did not return the securities on loan before the required deadline:	
6.2.1. For KDPW --- 0.01% of the market value of the securities that make up the loan, however, not less than 100 PLN for each day the securities loan remains outstanding	
6.2.2. For the securities lender --- 0.04% of the market value of the securities that make up the loan, however, not less than 200 PLN for each day the securities loan remains outstanding	
6.3. Fee for calculating compensation, described in §114 subpara. 7, for the securities lender:	
6.3.1. For KDPW – 4% of the gross value of the cash payment related to the securities that make up loan, not less than 100 PLN and not more than 500 PLN,	
6.3.2. For the securities lender – compensation that is equivalent to the gross value of the cash payment related to the securities that make up loan.	
<b>7. Securities lending fees within the negotiated securities lending system</b>	Fees invoiced on a monthly basis.
7.1. Fee for the registration of a securities loan agreement concluded as part of the negotiated securities lending system --- 0.002% of the market value of the securities constituting the loan, however, not less than 25 PLN and not more than 1000 PLN	Fee charged to participants being parties to the securities lending agreement.

7.2. Fee for calculating the interest, described in § 124 subpara. 3, due to the securities borrower or the payment due to the securities lender according to the provisions of the securities lending agreement: Fee charged to the participant with the obligation to pay the amount of interest or payment calculated by KDPW.

*7.2.1. Repealed*

7.2.2. for the securities lender --- payment calculated based on the annual percentage rate agreed by the parties in the securities lending agreement for each day of the life of the securities lending agreement, however, not less than 50 PLN for the total period of its validity

The payment is calculated as the sum of the products calculated on balances for each calendar day during the life of the securities loan, whose factors include:

- a) the quotient of the annual percentage rate of the payment to the securities lender, agreed by the parties in the securities lending agreement and the number 365, and
- b) the market price of the securities constituting the loan according to the balance on a given calendar day

7.2.3. for the securities borrower --- interest calculated based on the POLONIA reference price, calculated by the National Bank of Poland for each day of the life of the securities lending agreement

Interest is calculated as the sum of the products determined for balances for each calendar day during the life of the securities loan, whose factors are:

- a) the product of the POLONIA reference price calculated by the National Bank of Poland for a given calendar day and the number 365, and
- b) the market price of the securities constituting the loan according to the balance on a given calendar day

In instances where the POLONIA reference price is not calculated on a given day, it shall be deemed that on that date the price is equal to the last price calculated by the National Bank of Poland.



<p>7.3. Fee for the calculation of the amount due following the termination of the securities loan concluded within the negotiated securities lending system by one of the parties (§ 123 subpara.3):</p>	<p>Fee charged to the participant terminating the securities loan, calculated according to the balance on the date of the termination.</p>
<p>7.3.1. for KDPW --- 0.01 % of the market value of the securities constituting the loan, however, not less than 100 PLN</p>	<p>Fee only calculated in instances where the party terminating the securities lending agreement is the securities borrower. The fee is calculated as a product, whose factors are:</p> <ul style="list-style-type: none"> <li>a) the product of double the annual percentage rate due to the securities lender, agreed by the parties in the securities lending agreement, and the number 365,</li> <li>and</li> <li>b) the market price of the securities constituting the loan</li> </ul>
<p>7.3.2. for the securities lender --- calculated amount based on double the annual percentage rate of the payment to the securities lender, agreed by the parties in the securities lending agreement</p>	<p>Fee only calculated in instances where the party terminating the securities lending agreement is the securities lender. The fee is calculated as a product, whose factors are:</p> <ul style="list-style-type: none"> <li>a) the product of double the POLONIA reference price and the number 365,</li> <li>and</li> <li>b) the market price of the securities constituting the loan</li> </ul>
<p>7.3.3. for the securities borrower --- calculated amount based on double the POLONIA reference price calculated by the National Bank of Poland on the date of the termination of the securities lending agreement</p>	<p>Fee charged to the participant being a party to the securities loan described in § 128 subpara. 5, calculated according to the balance on the date of the termination of the securities loan.</p>
<p>7.4. Fee for the calculation of the additional compensation, described in § 128 subpara. 5</p>	
<p>7.4.1. for KDPW --- 0.01% of the market value of the securities constituting the loan, however, not less than 100 PLN,</p>	

<p>7.4.2. for the participant being the counterparty to the securities lending agreement --- 0.04 % of the market value of the securities constituting the loan, however, not less than 150 PLN,</p> <p>7.5. Fee for calculating the compensation for the securities lender, described in § 127</p> <p>6a.5.1. for KDPW --- 4% of the gross value of the cash payment for the loaned securities, however, not less than 100 PLN and not more than 500 PLN,</p> <p>6a.5.2. for the securities lender --- compensation being equal to the gross cash payment for the securities on loan.</p>	<p>Fee charged to a participant acting as securities borrowers.</p>
<p><b>8. Special fees</b></p> <p>8.1. <i>Repealed</i></p> <p>8.2. The fee for each subsequent resubmission of a transaction for settlement, whose settlement was unable to take place fully or partially, owing to a shortage of assets on the registration account, or cash account of the participant --- 2 PLN</p>	<p>Fees invoiced on a monthly basis.</p> <p>Fee charged to a participant with a shortage on the securities registration account, or cash account, charged where transaction settlement has been moved to the next settlement session, or where the transaction has been resent for settlement in the real-time settlement system. This fee shall not be charged to participants as part of their activities related to their participation status of central counterparty. For transactions whose settlement is performed on the basis of a settlement order, which does not define separate cash or non-monetary debits or credits, arising from separate transactions, however, indicating netted or aggregated positions of these debits and credits, the fee shall be calculated in the event of subsequent resubmission for settlement, full or partial, of all transactions included in that settlement order.</p>

8.3. Fee for not returning before the set deadline the securities loan concluded within the negotiated securities lending system, or not returning the contractual collateral for that loan. Fee charged to a participant being a party to securities loan agreement, which failed to meet its obligation to return the securities loan, or to return the contractual collateral. The fee is calculated according to the balance on the date of the termination of the securities lending agreement.

8.3.1. for KDPW --- 0.04 % of the market price of the securities constituting the loan, however, not less than 200 PLN for each day the securities loan is maintained in the depository system, commencing on the day following the date of the termination of the securities loan agreement,

However:

8.3.1.1. in instances where it is not possible to appropriate the contractual collateral by KDPW\_CCP owing to the existence of grounds entitling the securities lender to exercise this collateral, the fee described in point 8.3.1. shall be increased by an amount calculated on the basis of double the percentage rate of the payment to the securities lender, agreed by the parties in the securities lending agreement, for each day, commencing on the date KDPW has confirmed this inability to appropriate the contractual collateral until the date of the return of the securities constituting the loan to the securities lender, or the making by KDPW\_CCP of an alternative payment, described in the rules issued by KDPW\_CCP, or until the day the inability to appropriate the contractual collateral no longer exists, inclusively, depending on which of these dates is earliest, not less than 300 PLN for each such day. The increased amount is calculated as the sum of the products determined for the balances on each calendar day in the period it is calculated, whose factors are:

- a) the product of double the annual percentage rate due to the securities lender, agreed by the parties in the securities lending agreement, and the number 365,
- and
- b) the market price of the securities constituting the loan according to the balance on a given calendar day

8.3.2. for the securities lender --- amount calculated on the basis of double the annual percentage rate of the payment to the securities lender, agreed by the parties in the securities lending agreement for each day that the loan is maintained in the depository system, commencing on the day following the date of the termination of the securities loan agreement, however, not lower than 300 PLN for each such day. Fee only calculated in instances where the securities borrower has failed to return the securities loan within the set deadline. The fee is calculated as the sum of the products determined for the balances on each calendar day that the securities loan is maintained in the depository

8.3.3. for the securities borrower --- amount calculated on the basis of double the POLONIA reference price calculated by the National Bank of Poland for each day that the securities loan is maintained in the depository system, commencing on the day following the date of the termination of the securities loan agreement, however, not lower than 300 PLN for each such day.

## 8.5 Cash penalty mechanism fee

system, following the date of the termination of the securities loan, whose factors are:

a) the product of double the annual percentage rate due to the securities lender, agreed by the parties in the securities lending agreement, and the number 365,  
and

b) the market price of the securities constituting the loan according to the balance on a given calendar day.

The fee is not calculated for the period for which the amount described in point 8.4.1.1. is calculated.

Fee only calculated in instances where the securities lender has failed to return the contractual collateral within the set deadline. The fee is calculated as the sum of the products determined for the balances on each calendar day that the securities loan is maintained in the depository system, following the date of the termination of the securities loan, whose factors are:

a) the product of double the POLONIA reference price calculated by the National Bank of Poland for a given calendar day and the number 365,  
and

b) the market price of the securities constituting the loan according to the balance on a given calendar day.

Monthly fee, calculated separately for each type of participation status, determined according to the provisions of § 24 subpara. 1-6, within which the participant performs activities in the depository system. The fee shall not be calculated for the type of participation status described in § 24 subpara. 5 in instances where as

part of this type of participation status, the participants performs activities exclusively as a central counterparty. In instances where as part of a given type of participation status, participation was obtained during a calendar month, or was terminated before the end of that month, the fee for this type of status shall be calculated in full and shall not be subject to any refund.

8.5.1 Calculated according to the type of participation status described in § 24 subpara. 1, 2 or 4 ---  
800 PLN

8.5.2 Calculated according to the type of participation status described in § 24 subpara. 3, 5 or 6 ---  
250 PLN

#### **9. Fees for additional services**

Fee charged on a invoiced basis.

9.1. *Repealed*

9.2. *Repealed*

9.3. Fee for providing itemised billing information--- 200 PLN

Fee calculated in instances where the participant is provided on request with itemised billing information for each position in the invoice. This fee shall not be calculated where billing is provided for special fees, described in Section 8.

9.4. Fees for additional services relating to securities registered in the depository via an operational link to another CSD:

9.4.1. Fee charged to a direct participant for the provision to the issuer, or to an entity referred to in § 67 subpara. 2, of summary information provided by that participant relating to owners of the securities, or their ownership status, in relation to the exercise of rights in these securities --- 15 PLN

9.4.2. Fee charged to direct participants for the provision to the issuer of securities, or to an entity referred to in § 67 subpara. 2 documents provided by that participant relating to the owners of these securities, or their holding status in relation to the exercise of rights deriving from those securities (including documents describing the tax status of the participants or their clients) --- 340 PLN for each document, however, not less than 800 PLN

However:

9.4.2.1. *Repealed*

9.4.2.2. Where the provision of these documents is a condition of the exercise of rights deriving from the securities --- 40 PLN for each document, however, not less than 100 PLN

9.4.3. Fee charged to a direct participant for sending an entity described in § 67 subpara. 2 a voting instruction for shareholder meetings provided by that participant --- 100 EUR (equivalent) per shareholder

9.4.4. Fee charged to a direct participant for providing an entity described in § 67 subpara. 2 an instruction provided by that participant relating to the exercise of subscription rights to shares of a new issue arising from shares registered by this entity on the account managed for KDPW --- 0.5 % of the total share issue price specified in the instruction, however, not less than the equivalent of 300 EUR

9.4.5. Fee charged to a direct participant for services rendered in order to enable that direct participant, or its client, personally to take part in shareholder meeting in order to exercise rights derived from shares registered by an entity described in § 67 subpara. 2 on an account managed for KDPW --- 150 EUR (equivalent) per shareholder

9.4.6. Fee charged to a direct participant for providing an entity described in § 67 subpara. 2 an instruction provided by that participant relating to the nomination of securities registered by this entity on an account managed for KDPW for redemption or exchange ---50 EUR (equivalent)

9.4.7. Fee charged to a direct participant for the provision, at the participant's request, of information on the terms and conditions of exercise by entitled persons to vote or to participate in a shareholders' general meeting, in this way exercising rights deriving from shares registered in the depository via an operational link with another CSD, or on the terms and conditions of exercise of rights of redemption or exchange of securities registered in this manner in the depository --- 200 EUR (equivalent)

9.5. Fee for the transfer to the participant of a cash entitlements paid from securities registered in the depository via an operational link to another CSD, if the payment has been sent to KDPW using the entity described in § 67 subpara. 2 as intermediary --- 12 EUR (equivalent)

Fee charged separately for each payment of entitlements by issuers. The fee is not charged to participants with the type of participant status related to holding a securities omnibus account in KDPW

#### 9.6. *Repealed*

9.7. Fees only charged to participants with the type of participant status related to holding an omnibus securities account in KDPW

Fee charged separately for each payment of entitlements by issuers.

9.7.1. Fee for the transfer to the participant of cash entitlements paid by the issuer of securities registered in the omnibus securities account managed for the participant --- 80 PLN,

9.7.2. Fee for processing of data provided by the participant of persons entitled from securities registered in the omnibus securities account managed for the participant, performed in order to determine the amount of tax liabilities of those persons in respect of the entitlement paid to them by the issuer --- 180 PLN per entitled person

Fee charged separately for each payment of entitlements by issuers. The fee is not charged if the data are transferred on request of KDPW.

9.7.3. Fee for processing of data provided by the participant of persons entitled from securities registered in the omnibus securities account managed for the participant, performed in order to issue to those persons the declarations referred to in Article 8c subpara. 1 of the Law on trading in financial instruments --- 180 PLN per entitled person

9.7.4. Fee charged when transferring to the participant the whole or a portion of the amount of income tax withheld by KDPW as part of its obligation as a withholding agent, as a result of a renewed calculation of the amount of the tax on the basis of information or documentation submitted by the participant following the deadline defined in a resolution of the KDPW Management Board for sending such information or documentation for the purposes of either not withholding the tax in its entirety, or withholding it at a lower level at source (quick refund service) --- 240 PLN

Fee charged separately for each payment of entitlements by issuers, which when processed, results in KDPW performing its obligations as withholding agent for tax derived from income (earnings) from these payments.

9.8 Fee for financial processing related to payment by the participant or its client of a transaction tax levied outside the territory of the Republic of Poland, related to the cross-system transfer of securities – 50 EUR (equivalent).

9.9. Fee for performing tri-party repo service activities referred to in § 105 subpara.1 points 2, 3, 5, 6 and 7 – 0.00021%

Fee charged only to the participant acting on the side of the seller in the repo opening settlement. Fee charged for every day of the period from the repo opening settlement date to the repo closing settlement date, calculated as the sum of products calculated for every calendar day by multiplying:

a) the rate of the present value of the repo



	<p>agreement to the number of calendar days in the month for which the fee is charged,</p> <p>and</p> <p>b) the fee rate</p>
<p>9.10. Fee for the cancellation, at the request of a participant, of an instruction, sent by KDPW to an entity, described in § 67 subpara.2, to enable the cross-system transfer of securities registered in the depository via an operational link to another CSD --- 15 EUR (equivalent)</p>	<p>The fee shall be charged exclusively to the collateral giver, calculated as the sum of the product calculated for balances on each calendar day of a given month, consisting of:</p>
<p>9.11. Fee for blocking securities in favour of another participant – 0,00015%, however, not less than PLN 1000 with respect to blocking maintained in favour of one collateral taker, irrespective of their number and length of time the collateral is posted</p>	<p>a) The quotient of the market value of the securities being blocked, where the blocking is maintained in favour of a specific collateral taker and the number of calendar days in the month in which the fee is charged, and</p> <p>b) the fee amount.</p> <p>The fee shall not be charged for the processing of the blocking described in § 136 subpara. 1 and 2.</p>
<p>9.12. Fee for issuing a participant a personal depository certificate -- 200 PLN</p>	<p>Fee charged separately for each personalised depository certificate issued.</p>
<p>9.13. Fee for issuing a participant a personal depository certificate entitling participation in a general meeting of shareholders -- 200 PLN</p>	<p>Fee charged separately for each personalised depository certificate issued, entitling participation in a general meeting of shareholders.</p>

<p>9.14. Fee for providing the shareholder of a company established in the territory of the Republic of Poland, that is not a public company, with information referred to in 328<sup>13</sup> § 1 point 1-4 and § 2 of the Commercial Company Code, according to balances on a given date on the basis of an instruction sent by a direct participant in accordance with the provisions of § 142f subpara. 2, or where the shareholder is the direct participant, in accordance with the provisions of § 142f subpara. 3 --- 1 800 PLN,</p>	<p>Fee invoiced on a monthly basis, charged for making available information in relation to each instruction, or each request submitted by the participant. In order to calculate these fees, all instructions, or requests submitted by a given participant which differ only in respect to the id code of the shares to which they refer, shall be deemed, respectively, a single instruction or a single request.</p>
<p>However,</p>	
<p>9.14.1. If the shareholder was provided the information in any manner other than by electronic communication --- an additional 300 PLN</p>	<p>Additional fee by which the amount of the fee described in point 9.14 is increased.</p>
<p>9.15. Fee for providing, at the participant's request, a document containing information about securities registered in the participant's registration accounts --- 500 PLN.</p>	<p>Fee charged separately for each issued copy of the document.</p>

**Fees charged to issuers and payment agents**

Fee types and amount	Rules for calculating and charging fees
<p><b>1. Fee for securities registration</b></p>	<p>Fee charged on a one-off basis following the registration of securities and calculated according to the market rate of the securities registered. Where the securities being registered are assigned a securities id number, which is used to assign other securities of the same type issued by the same issuer, the market value of the registered securities is determined according to the principles used to determine the market value of the same number securities previously assigned this code, on the day the registration is performed. This fee shall not be charged for the registration of subscription rights.</p>
<p>1.1. Fee for securities registration (subject to the provisions of 1.2 and 1.3)</p>	<p>Fee invoiced following the registration of the securities.</p>
<p>1.1.1. Fee for the registration of shares --- 0.01 % of the market value, however, not less than 5000 PLN and not more than 100 000 PLN</p>	
<p>1.1.2. Fee for the registration of rights to shares --- 0.001 % of the market value, however, not less than 2000 PLN and not more than 15 000 PLN</p>	<p>Fee invoiced following the registration of the securities.</p>
<p>1.1.3. Fee for the registration of bank securities, bonds, or mortgage bonds -- - 0.01 % of the market value, however not less than 4000 PLN and not more than 50 000 PLN,</p> <p>However:</p> <p>1.1.3.1. for bonds issued by the State Treasury, the central government of another state, the National Bank of Poland or another central bank -- - 0.001 % of the market value, however not less than 2500 PLN and not more than 10 000 PLN</p>	<p>Fee invoiced following the registration of the securities</p>

<p>1.1.4 Fee for the registration of structured certificates --- 0.012% of their market value, however not less than 500 PLN and not more than 100 000 PLN</p>	<p>Fee invoiced on a monthly basis calculated separately for each registration.</p>
<p>1.1.5 Fee for the registration of other securities --- 0.012% of their market value, however not less than 4000 PLN and not more than 100 000 PLN.</p>	<p>Fee invoiced following the registration of the securities</p>
<p>1.2. Fee for the registration of securities performed according to the instructions in documents delivered in electronic form by a participant, or direct participants, on the basis of authorisation provided by the issuer --- 0.01 % of the market value, however, not more than 100 000 PLN,</p> <p>However:</p> <p>1.2.1. for bonds issued by the State Treasury, the central government of another foreign state, the National Bank of Poland, or another central bank --- 0.001% of the market value</p> <p>1.2.2 for structured certificates --- 0.01 % of their market value, however, not less than 500 PLN”;</p>	<p>Fee invoiced on a monthly basis and charged for securities registered with the same id code in the calendar month.</p>
<p>1.3 Fee for the registration of bonds, mortgage bonds or investment certificates, performed following the submission of the application, described in § 65 subpara. 3 --- 0.005% of the market value, however not less than 1 000 PLN and not more than 25 000 PLN</p>	<p>Fee charged separately for the registration of securities covered by separate applications, described in § 65 subpara. 3, invoiced on a monthly basis.</p>
<p><b>2. Fees for processing the redemption, or payment of entitlements from securities</b></p>	<p>Fees are calculated separately for performing services with respect to securities assigned separate identification codes and charged for issuers or payment agents.</p>
<p>2.1. Fee for the processing of a dividend payment, or a pre-payment for a dividend, or processing of income generated from an investment fund when this takes place without the redemption of investment certificates --- 0.2 % of the value of the amounts transferred, however, not less than 1500 PLN and not more than 50 000 PLN</p>	<p>Fee calculated separately for each entitlement payment (following each payment instalment) invoiced on a monthly basis</p>

2.1.1. if the issuer or payment agent has provided KDPW information on the amount of the payment to be distributed and the D date and W date later than 2 days prior to D date, or has provided this in a manner other than by means of an application available on the KDPW website, on condition that applying different procedures was the responsibility of the issuer or payment agent, or if the indication of days D and W took place in contravention of the provisions of § 138 subpara. 4 --- 0.05 % of the value of the amounts transferred, however, not less than 1 000 PLN and not more than 7000 PLN.

2.2. Fee for the processing of income payments from bonds, bank securities, or mortgage bonds, or the redemption of bonds, bank securities or mortgage bonds, where this is not performed according to the principles described in § 73 subpara. 1 --- 0.04% of the value of the amounts paid, however, not less than 500 PLN and not more than 4 000 PLN.

Fee calculated separately for each entitlement payment (following each payment instalment) invoiced on a monthly basis

However:

2.2.1. if the issuer or payment agent has provided KDPW information on the amount of the payment to be distributed and the D date and W date later than 5 days prior to D date, or has provided this in a manner other than by means of an application available on the KDPW website, on condition that applying different procedures was the responsibility of the issuer or payment agent, or if the indication of days D and W took place in contravention of the provisions of § 138 subpara. 4 --- 0.05 % of the value of the amounts transferred, however, not less than 2000 PLN and not more than 7000 PLN.

2.3. Fee for the processing of entitlement payments other than those described in 2.1 and 2.2, or for the processing of entitlement payments for the redemption or cancellation of securities that are not bonds, mortgage bonds, or bank securities, where this redemption is not performed according to the principles described in § 73 subpara. 1

Fee calculated separately for each entitlement payment, invoiced on a monthly basis.

--- 0.08% of the value of the amounts paid, however, not less than 1 500 PLN and not more than 15 000 PLN

However:

2.3.1. For structured certificates --- 0.05% of the value of the amounts transferred, however, not less than 200 PLN and not more than 15 000 PLN.

However:

2.3.1.1 If the issuer of structured certificates has sent information to KDPW indicating the amount of the payment and also days D and W in a manner other than by means of the application on the KDPW website, on condition that failure to use the application was solely attributable to the issuer ---- 0.075% of the value of the amounts transferred, however, not less than 300 PL and not more than 22 000 PLN.

2.3.2. For the redemption of investment certificates in instances where the issuer or the payment agent has sent KDPW information relating to the amount of the entitlement being paid, to the date of Day W, or to other dates related to the processing of this redemption in a manner other than by means of the application available on the KDPW website, on condition that the failure to perform the processing in the prescribed manner was the responsibility of the issuer or the payment agent --- 0.12 % of the value of the entitlements to be paid, however, not less than 2 500 PLN and not more than 15 000 PLN.

2.4. Fee for the redemption of securities, processed according to the principles described in § 73 subpara. 1 --- 50 PLN,

However:

2.4.1 in instances where the cash payment is not processed in any way via KDPW --- 7 PLN.

2.5. Fee for the processing of a partial redemption of securities assigned with a given securities id number, other than investment certificates --- 2 500 PLN,

Fee invoiced on a monthly basis and calculated for each day the service is performed by KDPW.

Fees calculated irrespective of the fees described in 2.2, 2.2.1, invoiced on a monthly basis.

However:

2.5.1. *Repealed*

2.5.2. *Repealed*

2.5.3. where the redemption is performed at the request of a person with entitlement to securities and the date of the redemption has not been determined in advance by the issuer, however has been determined separately for each such request and is dependent on the date of its submission --- 1 000 PLN.

## 2.6. Special fees

Fees calculated irrespective of the fees described in 2.1, 2.1.1, 2.2, 2.2.1, 2.3, 2.3.1, 2.3.2, 2.5, and 2.5.3.

2.6.1. Fee charged where the cash payment amount is distributed between direct participants following day W, or in a specific manner indicated by the issuer or payment agent --- 1 000 PLN

Fee invoiced on a monthly basis, calculated in instances where, for the purpose of making a securities-related cash payment, the issuer or payment agent transfers to KDPW the amount of this payment after day W, or transfers to KDPW an amount other than the amount that the issuer has been requested to pay by KDPW in accordance with § 138 subpara. 1, and the issuer indicates KDPW a specific manner in which the payment is to be distributed. The fee shall not be calculated in instances where the amount of the payment indicated in the request sent by KDPW has not been properly paid.

2.6.2. Fee charged in instances where in connection with a cash distribution payment in a foreign currency, KDPW has withheld tax on the date of the transfer of that payment to direct participants as part of its obligations as withholding agent for this tax ---  $1.002 \times$  foreign exchange costs of the tax withheld + 1 500 PLN.

Fee invoiced on a monthly basis charged separately for each processed operation.

The cost of the foreign exchange of the tax amount withheld consists of the following components being multiplied together:

- a) The amount of the tax withheld by KDPW in foreign currency on the date the distribution payment is transferred to direct participants, and
- b) The difference between the average exchange rate of a given foreign currency published by the National Bank of Poland, used to calculate the income from the distribution payment in PLN for tax purposes, and the actual foreign currency exchange rate that KDPW has used to exchange the payment into PLN; in instances where the difference is a negative number, it shall be deemed equal to zero.

2.6.3. Fee charged in instances where the issuer credits the applicable KDPW bank account with the amount of the cash payment in EUR prior to day W and the interest rate for cash deposits published by the European Central Bank is negative –  $1/360$  of the product, whose factors are the absolute value of the interest rate for cash deposits published by the European Central Bank increased by a margin of 0.2%, and the basis for calculating the fee + the equivalent of 50 EUR.

Fee invoiced on a monthly basis, charged separately for each new calendar day commenced on which cash in EUR is held in deposit on the KDPW cash account. The basis for the calculation of the fee is the value of all cash assets in EUR paid in by the issuer of payment agent and held on a given calendar day on the KDPW cash account.

The calculation of the exchange rate expressed in EUR into PLN shall be performed on the basis of the average EUR exchange rate published by the National Bank of Poland from the last business day of the month for which the fee is charged (the provisions of § 172 shall not be applicable).

2.7 Fee for performing an operation involving the withdrawal of debt securities from the depository in connection with the issuer having made payments for their redemption without using KDPW as intermediary --- 1 000 PLN

Fee invoiced on a monthly basis charged separately for each operation processed.



2.8 Fee for the processing of payment of penalty interest as a consequence of delays in executing cash payment securities distributions	Fee invoiced on a monthly basis charged separately for each interest payment.
<b>3. Fee charged for services performed in connection with the processing of subscription rights/free securities issues/securities allocation</b>	Fee invoiced following the performance of the service by KDPW
3.1. Fee for the registration of individual subscription rights on technical accounts --- 3 000 PLN	
3.2. Fee for other services performed as part of the processing of subscription rights or of the allocation of free-of-charge shares, or other securities --- 0,15 % of the value of the issue of the securities covered via participants, however not less than 10 000 PLN and not more than 30 000 PLN  However:	Fee also charged in instances where the issue of shares/other securities was not successfully completed. The value of the securities issue shall be determined according to their issue price/prices.
3.2.1. where there has been no additional subscription for shares of a new issue --- 0,15 % of the issue value of the shares covered via participants, however, not less than 4 000 PLN and not more than 30 000 PLN.	
<b>4. Fee for the processing of company mergers, demergers, or the processing of mergers of closed investment funds --- 20 000 PLN</b>	Fee invoiced following the performance of the service by KDPW charged to the participant being the company initiating the takeover. In the event of a larger number of companies initiating a takeover, the fee shall be charged at the full amount to each of these companies. The fee shall be charged irrespective of the fees described in point 1.
<b>5. Fees for the processing of other operations</b>	Fees are calculated separately for the performance of a given operation with respect to securities assigned with separate securities id numbers.
5.1. Fees for cancellation of a part of the share total --- 20 000 PLN	Fee invoiced following the performance of the service by KDPW.
5.2. Fee for processing a reverse share split ---8 000 PLN  However:	Fee invoiced following the performance of the service by KDPW.

5.2.1 if the reverse share split was not completed successfully--- 4 000 PLN	
5.3. Fee for the processing of the exchange of convertible bonds or subscription warrants of a specific issue for shares, or for the processing of the realisation of other rights to take on shares of a new issue, not being a subscription right	Fee invoiced on a monthly basis and calculated for each day the service is performed by KDPW.
5.3.1. In instances where the processing is performed in the manner described in § 73 subpara.1 --- 50 PLN	Fee invoiced on a monthly basis and calculated for each day the service is performed by KDPW.
5.3.2. In instances where the processing is not performed in the manner described in § 73 subpara.1– 1 000 PLN	Fee invoiced on a monthly basis and calculated for each day the service is performed by KDPW.
5.4. Fee for the processing of all other corporate actions ----- 2 000 PLN However: 5.4.1 for bonds issued by the State Treasury, the central government of another foreign state, the National Bank of Poland, or another central bank ---- 1 000 PLN	Fee invoiced following the performance of the service by KDPW. The fee is not charged for the withdrawal of all the shares of a given issuer from the central securities depository.
5.5. Fee for providing the issuer with information on persons entitled to attend a specific general meeting --- 2 500 PLN However, 5.5.1. If the issuer informed KDPW about the announcement of a general meeting later than 2 days prior to the registration date for attendance at the meeting, or in a manner other than by means of an application available on the KDPW website, on condition that applying different procedures was the responsibility of the issuer --- 4 000 PLN	Fee invoiced on a monthly basis. The fee also includes making available information about proxies designated by entitled persons to participate in a given general meeting, in accordance with the provisions of § 142 subpara.9 or the provisions of § 142b subpara.6, where in each instance this information is provided by KDPW and the issuer does not use the IT system described in § 142a to organise the general meeting. The fee applies to activities performed with respect to all the shares of an issuer, irrespective of the number of id numbers they have been assigned.
5.6. Fee for the use by an issuer of the IT system described in § 84b, to enable electronic voting at a general meeting called on a given date --- 1 500 PLN	Fee invoiced on a monthly basis

5.7. *Repealed*

5.8. Fee for the use by issuers of the IT system, referred to in § 142e subpara. 1, to conduct one or more votes during a Management or Supervisory Board meeting --- 1 500 PLN. Fee invoiced on a monthly basis calculated irrespective of the number of votes conducted within a given calendar month using the IT system, referred to in § 142e subpara. 1.

5.9. Fee for the processing of a compulsory redemption of shares in a company that is not a public company --- 2 000 PLN. Fee invoiced following the performance of the service by KDPW.

**6. Fees for additional services**

6.1 Fee for the management of assets held in custody in connection with the realisation of issuers' obligations to securities owners (corporate entitlements) – 30% of the income generated Fee charged according to the value of the managed income generated. The fee is calculated and invoiced following the end of the period of the management of the assets held in custody and is subject to netting with the payment to the issuer on return of the income.

6.2 Fee for providing direct participants, at the request of the issuer and by means of electronic messaging, information directed to securities holders ---1 500 PLN Fee invoiced following the performance of the service by KDPW.

6.3. Fee for providing an issuer with a declaration confirming that the issuer has performed a bond redemption through KDPW, or confirming the withdrawal of bonds from the depository --- 500 PLN, Fee charged separately for each declaration copy, invoiced following the performance of the service by KDPW.

However:

6.3.1. If the declaration needs to contain notarised signatures --- 700 PLN.

6.4. Fee for processing:

Fee invoiced on a monthly basis

- 1) a request from an issuer, being a listed company, for providing that issuer with shareholder identification and for determining the number of shares, or
- 2) a request from an issuer being a company established in the territory of the Republic of Poland that is not a public company for providing that issuer with the information referred to in 328<sup>13</sup> § 1 point 1-4 and § 2 of the Commercial Company Code,  
- according to the balance held on a specific date and for shares assigned a specific id code --- 250 PLN,

However:

- 6.4.1. if the issuer has submitted more than one request on the same day and the only difference between the requests are the id codes of the shares to which the requests relate --- 50 PLN for the second and each subsequent request.

6.5. Fees for providing the issuer that is a listed company with shareholder identification and for determining the number of shares assigned a given id code, held by the shareholder on a specific date.

Fee invoiced on a monthly basis. The fee amounts described in points 6.5.1.1, 6.5.1.2., 6.5.1.3., 6.5.2. and 6.5.3. are charged for making available information in relation to each request submitted by the issuer. In order to calculate these fees, all requests submitted by a given issuer which differ only in respect to the id code of the shares to which the requests refer, shall be deemed a single request.

- 6.5.1. if the request from the issuer relating to providing this information contains an instruction to forward the request and KDPW has been designated as the authorised receiver of this information:

6.5.1.1 in instances where the market value of the shares to which the request If in a given calendar year, on the basis of the requests referred to in 6.5.1,

relates, according to the balance on the date on which the response has been prepared in accordance with the request, shall not exceed 50 million PLN --- 3 600 PLN

information enabling the identification of shareholders and the determination of the number of shares held by them as at a given date has been made available to the issuer on at least five previous occasions, the fee shall be reduced by 50%.

6.5.1.2 in instances where the market value of the shares to which the request relates, according to the balance on the date on which the response has been prepared in accordance with the request, exceeds 50 million PLN, however shall not exceed one billion PLN --- 6 600 PLN

If in a given calendar year, on the basis of the requests referred to in 6.5.1, information enabling the identification of shareholders and the determination of the number of shares held by them as at a given date has been made available to the issuer on at least five previous occasions, the fee shall be reduced by 50%.

6.5.1.3. in instances where the market value of the shares to which the request relates, according to the balance on the date on which the response has been prepared in accordance with the request, exceeds one billion PLN --- 9 600 PLN

If in a given calendar year, on the basis of the requests referred to in 6.5.1, information enabling the identification of shareholders and the determination of the number of shares held by them as at a given date has been made available to the issuer on at least five previous occasions, the fee shall be reduced by 50%.

6.5.2. if the request did not contain any instruction for forwarding the request -- - 1250 PLN.

6.5.3. if the information provided related to the date from which entities became shareholders --- 1 250 PLN

The fee is calculated separately from the fees described in points 6.5.1.1., 6.5.1.2. and 6.5.1.3., and charged in instances where the request from the issuer included the indication of such a deadline and contained an instruction for the request to be forwarded and indicated KDPW as the authorised receiver of the information..

<p>6.6. Fee for providing the issuer that is a company established in the territory of the Republic of Poland and that is not a public company, with shareholder information and for determining the number of shares assigned a given id code, held by shareholders on a specific date --- 1 800 PLN.</p>	<p>Fee invoiced on a monthly basis, charged for making available information in relation to each request submitted by the issuer. In order to calculate these fees, all requests submitted by a given issuer which differ only in respect to the id code of the shares to which the requests refer, shall be deemed a single request.</p>
<p>6.7. Fee for providing, at the issuer's request, a document containing information about securities issued by the issuer and registered with the depository --- 500 PLN.</p>	<p>Fee invoiced following the performance of the service by KDPW, charged separately for each issued copy of the document.</p>
<p>7. Remuneration of direct participants for transferring shareholder information.</p>	<p>The remuneration is calculated and paid by KDPW on a quarterly basis, in arrears.</p>
<p>The total pool of remuneration due to direct participants for:</p> <p>1) the transfer of information enabling the identification of shareholders and to determine the number of shares held by them at a given date, at the request of issuers that are listed companies, and</p> <p>2) the transfer of information referred to in 328<sup>13</sup> § 1 point 1-4 and § 2 of the Commercial Company Code, according to the balance on a specific date, at the request of issuers that are companies established in the territory of the Republic of Poland that are not a public companies, or at the request of their shareholders --- the sum of 2/3 of the total fee amount due according to the provisions of points 6.5.1.1., 6.5.1.2., 6.5.1.3. and 6.6. in this section of the Table of Fees, and 4/5 of the total fee amount due according to the provisions of point 6.5.3., in this section of the Table of Fees, and 2/3 of the total amount of fees due in accordance with point 9.14 (not including fees charges in accordance with point 9.14.1.) in the section entitled "Fees charged to KDPW direct participants</p>	<p>The basis for calculating the total pool of remuneration due to direct participants for all information submitted by them in each calendar quarter is the total payment sum calculated by KDPW for the fees indicated, irrespective of the date this information was disclosed to issuers or shareholders.</p> <p>The total pool of remuneration owed to direct participants for a given quarter is allocated between them on a pro rata basis according to the number of securities account holders or omnibus securities account holders (and potentially holders of other accounts where a participant is the holder of an omnibus securities in KDPW), disclosed in the information provided by them in that quarter; however, for the purposes of performing the allocation, only the following responses shall be approved:</p> <p>1/ responses that have been verified and approved by KDPW, and</p> <p>2/ responses sent by direct participants within the deadline defined, respectively, in the provisions of the third sentence of Article 9, subpara. 6, of Implementing Regulation 2018/1212, or in accordance with the provisions of § 142f subpara. 3, irrespective of any subsequent clarifications, corrections or supplementation necessary after this date.</p>

Appendix 2 to the KDPW Rules – priority status assigned to specific markets and prices determined as reference prices for the purpose of calculating the market values of securities.

	<b>Type of security</b>	<b>Priority assigned to the market<sup>1</sup></b>	<b>Market code <sup>2</sup></b>	<b>Reference price used for the purposes of calculating the market value of securities on X-date</b>
1	Treasury bonds	1	TBSP	Fixing price from last fixing session taking place prior to X-date
		2	RRP BondSpot	Closing price from the last trading date prior to X-date
		3	RRG GPW	Price used as the basis for calculating the session opening price on X-date
2	Non-Treasury bonds and Mortgage bonds	1	RRG GPW	Price used as the basis for calculating the session opening price on X-date
		2	ASO GPW	Closing price from the last trading date prior to X-date
		3	ASO BondSpot	Closing price from the last trading date prior to X-date
		4	RRP BondSpot	Closing price from the last trading date prior to X-date
3	Securities that are not Treasury bonds or Mortgage bonds	1	RRG GPW	Price used as the basis for calculating the session opening price on X-date
		2	ASO GPW	Closing price from the last trading date prior to X-date
		3	RRP BondSpot	Closing price from the last trading date prior to X-date”.

<sup>1</sup> The designation of priorities follows these principles: the lower the priority number assigned to a specific market, the higher the priority

<sup>2</sup> Specific markets have been designated as follows:

- TBSP – electronic Treasury securities market managed by BondSpot S.A. on the basis of an agreement with the Minister of Finance,
- RRG GPW – stock exchange regulated market managed by the Warsaw Stock Exchange,
- RRP BondSpot – off-exchange regulated market managed by BondSpot S.A.,
- ASO GPW – alternative trading system managed by the Warsaw Stock Exchange,
- ASO BondSpot – alternative trading system managed by BondSpot S.A.