

Resolution No. 21/1030/24
of the KDPW Supervisory Board of

3 June 2024

Acting in accordance with Article 50 subpara. 1 of the Law on Trading in financial instruments of 29 July 2005, as well as § 20, subpara.2 (6) of the KDPW Articles of Association, the KDPW Supervisory Board has resolved the following:

§ 1

The KDPW Rules, approved on the basis of Resolution No. 42/679/17 of the KDPW Supervisory Board of 26 September 2017 (as amended), shall be amended as follows:

1/ In § 136a:

a/ subpara. 1 shall be amended as follows:

“1. Subject to the provisions of Article 7 (3) and (8) 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.”;

b/ subparas. 6-9 shall be repealed;

2/ In § 136c:

a/ subpara. 2 shall be repealed;

b/ subpara. 3 shall be amended as follows:

“3. A daily cash penalty report shall be provided if, on a given date, KDPW shall charge a cash penalty to which a given direct participant is either liable, or in receipt of, 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.”;

3/ § 136f shall be amended as follows:

§ 136f

Payments for the difference in prices, referred to in Article 7a (8) of CSDR, for the cash compensation; referred to in Article 7a (9) of CSDR, as well as for the reimbursement of the amounts referred to in Article 7a (10) of CSDR, shall be performed without KDPW acting as intermediary.

4/ § 136g shall be amended as follows:

“§ 136g

Subject to the provisions of Article 7a (7 & 12) of CSDR, in the event that the European Commission should adopt an implementing act, described in Article 7a (1) of CSDR, direct participants who are parties to late settlement caused by a failure to deliver securities, shall be obliged within the scope of the provisions of the aforementioned implementing act, to comply with the provisions of Article 7a (4-10) 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.”;

§ 2

The provisions of § 2 subpara. 3 of Resolution No. 51/938/21 of the KDPW Supervisory Board shall be repealed.

§ 3

1. Subject to the provisions of subpara. 2 and 3, this Resolution shall enter into force two weeks after the date of its publication by the KDPW Management Board, following its approval by the Polish Financial Supervision Authority.
2. The provisions of § 1 point 1b and § 1 point 2a and 2b herein shall enter into force not earlier than 2 September 2024.
3. With respect to penalty fees for late settlement of transactions, which have been calculated for the period prior to 2 September 2024, the provisions of § 136a and § 136c of the KDPW Rules shall apply without taking into account the amendments specified in § 1 point 1b and in § 1 point 2a and 2b herein.

Chairman of the KDPW Supervisory Board

Adrian Kalisz