

**Key Aspects of the Procedure  
in the Event of Default of a KDPW\_CCP Clearing Member**

## I. Triggering Events

KDPW\_CCP in co-operation with KDPW decides, based on reliable information and after first calling a participant to perform its obligations immediately (unless the bankruptcy of the participant has been declared), to take measures upon the occurrence of events which result or may result in default of a KDPW\_CCP clearing member, understood as an event of default within the meaning of the Rules of Transaction Clearing (Organised Trading) or the Rules of Transaction Clearing (Non-organised Trading), arising without limitation from the occurrence of any of the following circumstances:

- 1) a shortage or lack of cash is identified in the bank account of a KDPW\_CCP clearing member with the clearing bank or in the bank account of the KDPW\_CCP clearing member's payment agent as required to pay its debits in respect of the settlement of executed transactions;
- 2) a KDPW\_CCP clearing member fails to make required contributions to the clearing fund, the relevant (ATS or OTC) guarantee fund or towards margins (organised and non-organised trading)
- 3) a lack of cash of a KDPW\_CCP clearing member is identified as required to settle transactions due to another entity's failure to deliver securities which were to be sold in order to raise cash;
- 4) a KDPW\_CCP clearing member has discontinued its operations in whole or in part due to revocation of a brokerage licence issued by PFSA or a securities account operator licence issued by PFSA, revocation of a banking licence, opening of liquidation procedures against the KDPW\_CCP clearing member or other similar events if such events affect the liquidity of clearing of guaranteed transactions;
- 5) information is received to the effect that PFSA has decided to suspend the licence of a KDPW\_CCP clearing member which is a bank or that an application for the declaration of bankruptcy of a KDPW\_CCP clearing member has been filed with the court by a member or members of its management board or its other duly authorised representatives or information is received from NBP or other sources that bankruptcy of a KDPW\_CCP clearing member has been declared;
- 6) another event of similar nature which results or may result in default of a participant.

## II. Scope of Measures

### 1. Default Committee

Upon the occurrence of events resulting in default of a KDPW\_CCP clearing member or risk of such default:

- a) the KDPW\_CCP Managing Director (Chief Risk Officer) informs the KDPW\_CCP Management Board of identified risk exceeding the tolerance level;
- b) the Default Committee ("Committee"), headed by a Member of the KDPW\_CCP Management Board or the KDPW\_CCP Managing Director (Chief Risk Officer) who is the Deputy Chair of the Committee, convenes a meeting. The Committee is responsible for co-ordinating measures taken by internal organisational units of KDPW\_CCP and KDPW as necessary to ensure the payment of debits resulting from the clearing of transactions which requires the use of resources of the clearing guarantee system controlled by KDPW\_CCP and to prevent further default resulting from failure of the defaulting KDPW\_CCP clearing member to pay debits.

If members of the Committee receive information about events resulting in default of a KDPW\_CCP clearing member or circumstances which in their opinion may result in default of a KDPW\_CCP clearing member, they notify the Chair of the Committee or the Deputy Chair, which results in a meeting of the Committee being

convened by the Chair of the Committee or the Deputy Chair, of which the Polish Financial Supervision Authority is immediately notified. Furthermore, members of the Committee notify the Chair of the Committee or the Deputy Chair of measures taken within individual organisational limits upon the occurrence of events and co-operate within the Committee in order to develop solutions enabling the transfer or closing out of open positions of a defaulting KDPW\_CCP clearing member and its clients.

Following an in-depth analysis of the events within the Committee:

- a) in the event of risk of default, the Chair of the Committee or the Deputy Chair may:
  - ✓ request relevant organisational units of KDPW and KDPW\_CCP to take specific measures in order to monitor the KDPW\_CCP clearing member in detail;
  - ✓ request the KDPW\_CCP Management Board to impose an open position limit on the KDPW\_CCP clearing member (exposure limit);
- b) in the event that default of a KDPW\_CCP clearing member is identified, the Chair of the Committee or the Deputy Chair prepares a request to the KDPW\_CCP Management Board to pass a resolution suspending or cancelling its participation.

The concerned KDPW\_CCP clearing member, the Polish Financial Supervision Authority and the operators of the guaranteed markets on which the clearing member or entities represented by it in clearing of transactions operate are informed about the adoption of a resolution. Furthermore, KDPW\_CCP sends a message blocking the defaulting KDPW\_CCP clearing member on all guaranteed markets.

The KDPW\_CCP Managing Director (Chief Risk Officer) immediately informs the KDPW\_CCP Supervisory Board (Audit Committee) thereof.

## 2. Positions and assets of a defaulting KDPW\_CCP clearing member and its clients

Following the adoption of a resolution of the KDPW\_CCP Management Board suspending or cancelling the participation of a defaulting entity, the following operating measures are taken:

- a) In organised trading:
  - a. On the cash market:
    - i. If clients of the defaulting KDPW\_CCP clearing member include entities holding the status of KDPW\_CCP non-clearing member, KDPW\_CCP notifies them on its website and by e-mail or by fax of the deadline within which they may submit orders for the transfer of their transactions together with collateral to a designated clearing account and an assigned collateral account opened with a KDPW\_CCP clearing member who assumes the status of KDPW\_CCP clearing member for such positions; following the receipt of matching orders from KDPW\_CCP non-clearing members and accepting KDPW\_CCP clearing members, KDPW\_CCP transfers the non-settled transactions and assets to the entities who have made the relevant arrangements with the KDPW\_CCP non-clearing members;
    - ii. A list of guaranteed balances and non-settled buy and sell transactions of the defaulting KDPW\_CCP clearing member is created;
    - iii. If there is sufficient coverage in securities in the accounts of the defaulting KDPW\_CCP clearing member, sell transactions are settled; in the absence of

coverage in securities in the accounts of the defaulting KDPW\_CCP clearing member, KDPW\_CCP repurchases the necessary quantity of securities, followed by the settlement of such sell transactions; for buy transactions, KDPW\_CCP attempts to execute opposite transactions on the market;

b. On the derivatives market:

- i. KDPW\_CCP immediately attempts to close out the proprietary positions of the defaulting KDPW\_CCP clearing member by executing opposite transactions;
- ii. If clients of the defaulting KDPW\_CCP clearing member include entities holding the status of KDPW\_CCP non-clearing member, KDPW\_CCP notifies them on its website and by e-mail or by fax of the deadline within which they may submit orders for the transfer of their positions together with collateral to a designated clearing account and an assigned collateral account opened with a KDPW\_CCP clearing member who assumes the status of KDPW\_CCP clearing member for such positions; following the receipt of matching orders from KDPW\_CCP non-clearing members and accepting KDPW\_CCP clearing members, KDPW\_CCP transfers the rights and assets to the entities who have made the relevant arrangements with the KDPW\_CCP non-clearing members;
- iii. For positions of other clients of the defaulting KDPW\_CCP clearing member, according to matching instructions from the accepting KDPW\_CCP clearing member and the defaulting KDPW\_CCP clearing member, KDPW\_CCP transfers positions together with collateral to the KDPW\_CCP clearing member accepting such client positions;
- iv. For positions of all clients of the defaulting KDPW\_CCP clearing member which have not been transferred to another KDPW\_CCP clearing member, KDPW\_CCP attempts to close them out by executing opposite transactions;

b) In non-organised trading:

- i. If clients of the defaulting KDPW\_CCP clearing member include entities holding the status of KDPW\_CCP non-clearing member, KDPW\_CCP notifies them on its website and by e-mail or by fax of the deadline within which they may submit orders for the transfer of their positions together with collateral to a designated clearing account and an assigned collateral account opened with a KDPW\_CCP clearing member who assumes the status of KDPW\_CCP clearing member for such positions; following the receipt of matching orders from KDPW\_CCP non-clearing members and accepting KDPW\_CCP clearing members, KDPW\_CCP transfers the rights and assets to the entities who have made the relevant arrangements with the KDPW\_CCP non-clearing members;
- ii. For positions of all clients of the defaulting KDPW\_CCP clearing member which have not been transferred to another KDPW\_CCP clearing member and for proprietary positions of the defaulting KDPW\_CCP clearing member, auctions are carried out (separately for derivatives and repo transactions) in order to close out all open positions.

Following the payment of all debits and the transfer or close-out of all positions of clients of the defaulting KDPW\_CCP clearing member, if any assets posted as initial margins have remained in collateral accounts held for clients, KDPW\_CCP transfers such assets:

- a) directly to the KDPW\_CCP non-clearing members whose transactions were secured with assets so posted;
- b) to the defaulting KDPW\_CCP clearing member to the extent of assets posted as collateral of transactions executed for the account of clients of the KDPW\_CCP clearing member who are not KDPW\_CCP non-clearing members and where the return of assets directly to a KDPW\_CCP non-clearing member is not feasible or is excessively cumbersome.

If the actions of KDPW\_CCP do not result in a payment in securities being made in respect of a transaction, KDPW\_CCP S.A. makes a replacement payment in cases and on the terms set out in the Rules of Transaction Clearing (organised trading) and the Rules of Transaction Clearing (non-organised trading) respectively.

### **III. Clearing Guarantee System Waterfall**

KDPW\_CCP uses assets in the event of default of a KDPW\_CCP clearing member according to the following waterfall:

- a) credits of the defaulting KDPW\_CCP clearing member;
- b) initial clearing deposit/initial deposit of the defaulting KDPW\_CCP clearing member;
- c) initial margin of the defaulting KDPW\_CCP clearing member;
- d) additional margin of the defaulting KDPW\_CCP clearing member;
- e) contribution of the defaulting KDPW\_CCP clearing member to the clearing fund or the guarantee funds;
- f) dedicated resources of KDPW\_CCP in an amount equal to at least 25% of the capital requirement taking into account the allocation of such resources to the given fund;
- g) contributions of the other KDPW\_CCP clearing members to the relevant fund;
- h) other own capital of KDPW\_CCP up to 110% of the capital requirement;
- i) additional contributions of the other KDPW\_CCP clearing members to the relevant fund (max. 50% of the most recent basic contribution);
- j) other own funds of KDPW\_CCP.

### **IV. Default Procedure Review and Testing**

KDPW\_CCP reviews the Procedure in the Event of Default of a KDPW\_CCP Clearing Member once per quarter and, where its amendment is required, asks the opinion of the Risk Committee. Internal testing of the procedure is performed once per quarter. Testing of the procedure with the participation of KDPW\_CCP clearing members and other relevant infrastructure entities is conducted once per year or upon a significant amendment of the procedure.