

DECISION

Pursuant to Article 104(1) of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2018, item 2096, as amended, "CAP") in conjunction with Article 11(1) and (5) of the Act of 21 July 2006 on financial market supervision (Journal of Laws of 2019, item 298, as amended) and Article 15(1) in conjunction with Article 17 of 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 (EU Official Journal L 201 of 2012, p. 1, as amended, "EMIR") in conjunction with Article 3(2) of the Act of 29 July 2005 on capital market supervision (Journal of Laws of 2019, item 1871) and pursuant to § 1(2) of Resolution No 103/2019 of the Polish Financial Supervision Authority of 26 March 2019 authorising the Chairperson of the Polish Financial Supervision Authority to act within the powers of the Polish Financial Supervision Authority and to grant further authorisations and Authorisation No 343/2019 of 21 June 2019,

upon its review of the application of 24 June 2019,

lodged by KDPW_CCP S.A.

with its registered office in Warsaw

ul. Książęca 4

00-498 Warsaw

the Polish Financial Supervision Authority hereby decides as follows:

to authorise KDPW_CCP S.A. to extend the scope of the authorisation to provide clearing services as a CCP, issued by decision of the Polish Financial Supervision Authority of 8 April 2014 (DRK/WIRK/4070/3/10/14/KZ) and the decision of the Polish Financial Supervision Authority of 9 August 2016 (DRK/WIRK/4070/2/32/16/TB/KZ), to include activities related to clearing under the Statute and the Rules of Clearing and Settlement of EUA/EUAA Sale Transactions with regard to transactions concluded at auctions held by an auction platform, to the extent of clearing of the following class of financial instruments:

- **EUA/EUAA (European Union Aviation Allowances and EU Allowances; emission) referred to in Article 3(1)(3) of Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (EU Official Journal L 302 of 2010, p. 1, as amended), carbon dioxide (CO₂) equivalent emission allowances within the meaning of Article 2(4) of the Act of 17 July 2009 on the greenhouse gas and other substances emission management system (Journal of Laws of 2019, item 1147, as amended), auctioned for delivery at an agreed date no later than the second trading day from the day of the auction (two-day spot), being emission allowances within the meaning of Article 2(1)(2)(j) of the Act of 29 July 2005 on trading in financial instruments (Journal of Laws of 2018, item 2286, as**

amended), established in accordance with Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (Official Journal L 275 of 2003, p. 32, as amended).

Pursuant to Article 107(4) CAP, no justification is given for the decision as the request of the applicant has been granted in full.

INSTRUCTIONS

1. A party dissatisfied with this administrative decision may, pursuant to Article 127(3) CAP in conjunction with Article 11(6) of the Act of 21 July 2006 on financial market supervision, request the Polish Financial Supervision Authority to re-examine the case. Pursuant to Article 129(2) CAP in conjunction with Article 127(3) *in fine* CAP, a request for the re-examination of the case shall be lodged within 14 days from the delivery of this decision directly to the Polish Financial Supervision Authority.
2. Within 14 days available to lodge a request for the re-examination of the case, a party may, pursuant to Article 127a(1) CAP in conjunction with Article 127(3) *in fine* CAP, waive its right to request the Polish Financial Supervision Authority to re-examine the case. Pursuant to Article 127a(2) CAP and Article 130(4) CAP, the administrative decision will become final and binding upon the presentation to the Polish Financial Supervision Authority of a declaration of waiver of the right to request the re-examination of the case by the last one of the parties to the proceedings, and it will be enforceable before the expiry of the deadline for the lodgement of a request for the re-examination of the case. Pursuant to Article 16(1) CAP, a final decision is a decision for which no request for the re-examination of the case may be lodged and which may be revoked or modified, or the proceedings annulled or reopened, only in cases provided for under CAP or specific statutes. Pursuant to Article 16(3) CAP, a binding decision is a final decision against which no appeal may be lodged with an administrative court.
3. Pursuant to Article 52(3) of the Act of 30 August 2020 on administrative court proceedings (Journal of Laws of 2018, item 1302, as amended, "AACP"), a party may lodge an appeal against this administrative decision with the Regional Administrative Court in Warsaw without first exercising the right to request the Polish Financial Supervision Authority to re-examine the case. Pursuant to Article 53(1) AACP, an appeal shall be lodged within 30 days from the delivery of this administrative decision to a party. Appeals shall be lodged with the Regional Administrative Court in Warsaw through the Polish Financial Supervision Authority (Article 54(1) AACP). Pursuant to Article 2(6) of the Regulation of the Council of Ministers of 16 December 2003 concerning the amount and the terms and conditions of charging court fees in proceedings before administrative courts (Journal of Laws of 2003, No 221, item 2193, as amended), a fixed court fee of PLN 200 is due for an appeal against this administrative decision. If an appeal is lodged with an administrative court, the party is entitled to support pursuant to Article 243(1) AACP at its request presented before the administrative court proceedings are opened or in the course of such proceedings. Pursuant to Article 224(1) AACP,

the right to support shall include a waiver of court fees or the appointment of a barrister or legal counsel. The right to support is governed by the provisions of Article 243 – 262 AACP.

By authorisation of the Polish Financial Supervision Authority

[signed and stamped]

Sebastian Bogdan

acting Director

Financial Market Development Department

C/C:

KDPW_CCP S.A.

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