

**Resolution No. 194/2020**  
**of the KDPW Management Board**  
**of 10 March 2020**

**Relating to securities that cannot be registered on securities accounts,**  
**or on omnibus securities accounts managed in KDPW**

Acting on the basis of § 2 subpara. 1 and 3 and § 78 subpara. 1 of the KDPW Rules of Operation, the KDPW Management Board has resolved the following:

**§ 1**

1. Securities issued by the Polish State Treasury or by the National Bank of Poland, that include the issuer's obligation to pay a cash payment or cash payments in a foreign currency, or which may entitle the receipt of a cash payment in a foreign currency, shall be prohibited from registration on securities accounts and omnibus securities accounts managed in KDPW.

2. The provisions of subpara. 1 shall not apply to securities accounts used exclusively for performing the settlement of transactions cleared by means of clearing novation, described in Article 45h of the Law on Trading in Financial instruments, where these securities accounts are managed on behalf of participants performing this type of clearing, holding the participant type of central counterparty, described in § 24 subpara. 5 point 1 of the KDPW Rules.

**§ 2**

1. Subject to the provisions of § 1 subpara. 2, a transaction settlement order that results in a securities account or omnibus securities account being credited with the securities, referred to in § 1 subpara. 1, shall not be executed by KDPW.

2. Other settlement orders, securities loans, as well as all other operations, which would result in the securities, referred to in § 1 subpara. 1, being credited to a securities account or omnibus securities account managed in KDPW, shall additionally not be executed either.

**§ 3**

Resolution No. 623/16 of the KDPW Management Board of 21 September 2016, relating to securities that cannot be registered on securities accounts or securities omnibus accounts managed in KDPW shall hereby be repealed.

**§ 4**

This Resolution shall come into force on 24 March 2020.

Maciej Trybuchowski  
President  
of the Management Board

dr Paweł Górecki  
Vice President  
of the Management Board

Sławomir Panasiuk  
Vice President  
of the Management Board

Michał Stępniewski  
Vice President  
of the Management Board

## **Validation**

The right to exclude the registration of certain securities, referred to in § 1 subpara.1 herein, on securities accounts and omnibus securities accounts managed in KDPW, will prevent the risk of losses for KDPW in connection with the processing of entitlements from these securities in foreign currencies. These losses would be a direct consequence of the requirement that KDPW, acting as withholding agent for tax on earnings (income) from such entitlements, withhold higher tax amounts than it would be entitled to withhold from the transferred amounts. This is a consequence of legal provisions for calculating earnings in foreign currency for tax purposes, which have been described in Article 11a of the Law on Income tax from natural persons of 26 July 1991, as well as Article 12 subpara. 2 of the Law on Income tax from legal persons of 15 February 1992. In accordance with these provisions, earnings in foreign currencies are calculated in PLN using the average exchange rate published by the National Bank of Poland on the last business day preceding the payment date of the entitlement. This means that KDPW, as withholding agent, is obliged to calculate the tax amount to be withheld in PLN according to the average exchange rate of a foreign currency published by the National Bank of Poland, although it would not in reality be able to sell the foreign currency at that price, being obliged instead to do so at commercial rates, which would be lower than the rate used for tax purposes.