

NR 817 /2021

**RESOLUTION
OF THE MANAGEMENT BOARD OF KRAJOWY DEPOZYT PAPIERÓW WARTOŚCIOWYCH S.A.
DATED 21 JUNE 2021**

AMENDING THE AMR RULES

Pursuant to § 23 sub-para. 2 of the Statute of Krajowy Depozyt Papierów Wartościowych, the Management Board of Krajowy Depozyt Papierów Wartościowych S.A. resolves as follows:

§ 1

The ARM Rules attached to Resolution No. 775/17 of the Management Board of Krajowy Depozyt Papierów Wartościowych S.A. dated 13 November 2017, as amended, shall be amended as follows:

1) § 2 shall be replaced by the following:

“§ 2

1. Whenever the provisions of these Rules refer to:

- 1) KDPW – this shall mean Krajowy Depozyt Papierów Wartościowych S.A. – the Central Securities Depository of Poland;
- 2) the competent supervisory authority – this shall mean the Polish Financial Supervision Authority, or the supervisory authority of another European Union member state other than the Republic of Poland, relevant for the ARM participant;
- 3) ARM participant – this shall mean an ordinary ARM participant, a market operator, or a representative;
- 4) ordinary ARM participant – this shall mean an entity which is an investment firm within the meaning of Article 4(1)(1) of MiFID, has concluded an ARM system participation agreement with KDPW, and is mandated to report to the competent supervisory authority the details of transactions concluded in financial instruments, in accordance with the provisions of Article 26(1) of MiFIR, on the basis of which KDPW shall submit on its behalf ARM reports to the competent supervisory authority;
- 4a) market operator – this shall mean an entity referred to in Article 4(1)(18) MiFID which has concluded an ARM system participation agreement with KDPW and is mandated to report to the competent supervisory authority the details of transactions concluded in financial instruments by market participants other than investment firms within the meaning of Article 4(1)(1) of MiFID, in accordance with the provisions of Article 26(5) of MiFIR, on the basis of which KDPW shall submit on its behalf ARM reports to the competent supervisory authority;
- 5) representative – this shall mean an entity which has concluded an ARM system participation agreement with KDPW and submits instructions to the ARM system on behalf of the ordinary ARM participant;
- 6) message/messages – this shall mean information sent by ARM participants to KDPW, containing data sent in accordance with the ARM Rules, including detailed information regarding each transaction necessary for KDPW to prepare and submit an ARM report to the competent supervisory authority;
- 7) ARM report – this shall mean information sent by KDPW on behalf of the ordinary ARM participant or on behalf of a market operator to the competent supervisory authority, containing detailed information on concluded transactions, prepared according to the specifications described in RTS 22;
- 8) ARM system – this shall mean a range of technical and IT tools managed by KDPW, which enable KDPW to generate ARM reports, on the basis of messages received from ARM participants and on the basis of

other information held by KDPW, and to send ARM reports on behalf of ARM participants, to the competent supervisory authorities;

9) transactions – this shall mean the transactions as defined in Article 2 of RTS 22;

10) RTS 22 – this shall mean Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (Official Journal of the EU L 87 of 31.3.2017, p. 449);

11) electronic certificate – this shall mean an electronic certificate by means of which messages are sent by the ARM participant to KDPW;

11a) access application – this shall mean an application enabling access to KDPW's IT systems, including the ARM system, with single sign-on (SSO), available on the KDPW website;

12) business days – this shall mean each day of the week, except those days which, by virtue of regulations currently in force in the jurisdiction where the competent supervisory authority is domiciled, are not holidays, Saturdays or Sundays, and which are not included when determining time limits described in the ARM Rules in relations between KDPW and ARM participants, whose transactions are reported to the aforementioned competent supervisory authority;

13) Trade Repository – this shall mean the trade repository managed by KDPW, described in Article 2(2) 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 (Official Journal of the EU L 201 of 27.7.2012, p. 1);

14) MiFIR – this shall mean Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (Official Journal of the EU L 173 of 12.6.2014, p. 84);

14a) MiFID – this shall mean Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (Official Journal of the EU L 173 of 12.6.2014, p. 349);

15) Trade Repository Rules – this shall mean the Derivatives Trade Repository Rules which form an appendix to Resolution No. 784/12 of the KDPW Management Board of 23 October 2012, as amended, and the terms and conditions of communication with the trade repository approved by the KDPW Management Board under those Rules;

16) Compensation Scheme – this shall mean the compensation scheme managed by KDPW, described in Article 133(1) of the Law on Trading in Financial Instruments of 29 July 2005 (i.e. Dz.U. (Journal of Laws) of 2017, item 1768, as amended);

17) SWI participant – this shall mean a participant of the SWI system, as defined in the Data Exchange System (SWI) Rules, which form an appendix to Resolution No 166/16 of the KDPW Management Board of 11 March 2016, as amended;

18) KDPW Rules – this shall mean the Rules of Krajowy Depozyt Papierów Wartościowych;

18a) Access Rules – this shall mean the Rules of access to the IT systems of Krajowy Depozyt Papierów Wartościowych, approved in a separate resolution of the Management Board of Krajowy Depozyt Papierów Wartościowych;

19) submission – this shall mean submission of detailed information about an individual transaction sent to KDPW via a message submitted by a participant or via a trading venue in order to generate an ARM report, or submission of an ARM report cancellation or submission of removal of information necessary to build such a report.

2. KDPW shall publish on its website (www.kdpw.pl) information concerning:

1) the requirements relating to the contents, scope, format, structure and codes of messages sent by ARM participants to KDPW;

- 2) /repealed/
- 3) the scope of the formal and content check of messages;
- 4) the rules for issuing and exchanging electronic certificates, referred to in § 15 sub-para. 2, to persons authorised by ARM participants.

3. KDPW shall also publish on its website:

- 1) the template of the power of attorney necessary for sending messages, issued by the ordinary participant to a representative;
- 2) the template of the instruction for generating reports from the organised markets as part of the ARM system;
- 3) the template of the declaration presented by a market operator concerning the reporting of transactions concluded by market participants other than investment firms within the meaning of Article 4(1)(1) of MiFID.”;

2) § 7a shall be added after § 7 as follows:

“§ 7a

A market operator shall send messages subject to prior submission to KDPW of a declaration concerning the reporting of transactions concluded by a market participant named in such declaration.”;

3) § 9 sub-para. 3 and 4 shall be replaced by the following:

- “3. ARM reports on transactions executed by ordinary ARM participants on markets operated by the Warsaw Stock Exchange or BondSpot may be generated using trading data obtained by KDPW directly from the systems of the aforementioned operators.
4. Ordinary ARM participants intending to use the procedure described in sub-para. 3 shall be obliged to submit a written instruction to KDPW on generating reports from the organised market as part of the ARM system, prepared according to the template published on the website referred to in § 2 sub-para. 3 item 2.”;

4) § 11 sub-para. 2 shall be replaced by the following:

- “2. ARM participants shall be obliged to use an active LEI identifier code in messages sent to KDPW. In the case of a market operator, an active LEI shall be used to identify market participants concluding transactions which the market operator is obliged to report. Failure to indicate an active LEI by an ARM participant, or indication of an incorrect LEI, shall result in the message being rejected by KDPW. The second and third sentences of sub-para. 1 shall apply accordingly.”;

5) the heading of part VI shall be replaced by the following:

“VI Communication with the ARM system”;

6) § 15 shall be replaced by the following:

“§ 15

1. ARM system communication interfaces available to participants shall include the U2A interface and the A2A interface.
 2. Communication between ARM participants and KDPW using the A2A interface shall take place via communication channels authenticated using one of the following electronic certificates:
 - 1) certificates issued to ARM participants on the basis of the ARM Rules,
 - 2) certificates issued to ARM participants on the basis of provisions of the SWI Rules, which forms an annex to Resolution no. 166/16 of the KDPW Management Board of 11 March 2016, as amended, subject to the provisions of § 3 sub-para. 5,
 - 3) certificates issued to ARM participants on the basis of the provisions of the Trade Repository Rules.
 3. Communication with KDPW using a communication channel authenticated with a certificate referred to in sub-para. 2 item 1 shall be set up under the provisions of the Access Rules.
 4. Communication between ARM participants and KDPW using the U2A interface shall take place using an access account in the access application based on permissions obtained under:
 - 1) the ARM Rules;
 - 2) the Derivatives Trade Repository Rules.
 5. The terms and conditions of opening access accounts in the access application, the terms and conditions of granting access to persons authorised by ARM participants to communicate with KDPW, and the terms and conditions of communicating with KDPW are laid down in the Access Rules.”;
- 7) § 15a shall be replaced by the following:

“§ 15a

1. A person authorised by an ARM participant may, under the ARM Rules, have permissions to access the ARM system using an access account as:
 - 1) a user – the authorised person has access to direct communication with the ARM system; or
 - 2) an administrator – the authorised person has the permission to grant further powers of attorney for third parties to directly communicate with the ARM system and to cancel such powers of attorney by granting or revoking their access to the ARM system, respectively.
2. Requests for access as an administrator shall only be approved or rejected by KDPW.
3. Requests for access to direct communication with the ARM system as a user shall only be approved or rejected by the administrator appointed by the ARM participant, subject to sub-para. 4.
4. Requests for access to the ARM system as a user, submitted by a person who is an administrator appointed for an ARM participant, shall be approved or rejected by KDPW, unless another administrator is appointed.
5. Access of a person acting as an administrator shall only be cancelled by KDPW.
6. Access of a person acting as a user shall only be cancelled by an administrator appointed by the ARM participant.
7. Each ARM participant shall authorise at least one person to act on its behalf as an administrator.

8. The Access Rules shall constitute an integral part of the ARM Rules.

9. By concluding a participation agreement, an ARM participant accepts the Access Rules.”;

8) § 16 shall be replaced by the following:

“§ 16

1. The ARM participant may collect electronic certificates, referred to in § 15 sub-para. 2 item 1, which authorise it to send messages to KDPW.
2. A person holding a valid electronic certificate or a person granted access to the ARM system via an access account in the access application, according to § 15 sub-para. 4, as a user, shall be deemed a person authorised by the ARM participant to send messages described in the provisions of these ARM Rules on behalf of that participant.
3. KDPW and ARM participants shall accept the finality of delivery of messages and ARM reports sent on the basis of the provisions of the ARM Rules, subject to the conditions contained therein, authenticated using electronic certificates, referred to in § 15 sub-para. 2, or sent by a person holding access permissions in the ARM system via an access account in the access application, as a user, and they shall consent to the gathering of all potential evidence that such action has been performed.”;

9) § 17 – § 21 shall be deleted;

10) § 32 sub-para. 3 shall be replaced by the following:

“3. Any amendments to the ARM Rules shall require prior notification of the ARM participant of the amendments and of the date of their entry into force. Notification of an amendment of the ARM Rules by electronic mail at the e-mail address of a person authorised by the participant to have access to the ARM application shall be deemed effective delivery to such participant.”;

11) the Table of Fees attached to the ARM Rules shall be amended as follows:

- a) sub-para. 1.4 shall be added in the second line in the column “Fee types and amounts” as follows:
“1.4. Fee applicable to a market operator sending messages to ARM as a part of its reporting obligation – PLN 160 for each market participant concluding transactions in the system operated by the market operator.”;
- b) the third line in the column “Principles for calculating fees” shall be replaced by the following: “Fee charged monthly in arrears, respectively, from an ordinary ARM participant sending messages only on its own behalf to ARM or from a representative or a market operator, for each submission”;
- c) the fourth line in the column “Fee types and amounts” shall be replaced by the following:
“3. The maximum total fee amount under points 1 and 2 of the Table of Fees, provided that no more than 1 million submissions per month are sent, shall be PLN 3,650 per month in relation to fees incurred by one ordinary ARM participant or fees for the reporting of transactions concluded by one

participant of a market operated by a market operator. For each submission beyond 1 million, the fee shall be PLN 0.001 per submission.”.

§ 2

1. This Resolution shall come into force on 5 July 2021, subject to sub-para. 2 – 5.
2. From the date of coming into force of this resolution to 30 September 2021, communication of ARM participants with KDPW via the U2A interface may take place via communication channels authenticated with one of the following electronic certificates:
 - 1) certificates issued to ARM participants on the basis of the provisions of § 16 sub-para. 1 of the ARM Rules in the existing wording,
 - 2) certificates issued to ARM participants on the basis of provisions of the SWI Rules, which form an annex to Resolution No. 166/16 of the KDPW Management Board of 11 March 2016 as amended,
 - 3) certificates issued to ARM participants on the basis of agreements recognising the finality of declarations and information sent in electronic form, in accordance with the provisions of the Compensation Rules, which form an annex to Resolution No. 6/97/2001 of the KDPW Supervisory Board of 12 March 2001, as amended,
 - 4) certificates issued to ARM participants on the basis of the provisions of the Trade Repository Rules.
3. The provisions of Chapter VII of the ARM Rules in the existing wording shall apply to communication with KDPW, to the extent of sub-para. 2, up to 30 September 2021.
4. Communication of ARM participants with the ARM system shall only be available according to § 15 of the ARM Rules in the wording of this Resolution as of 1 October 2021.
5. The provisions of § 1 item 11 (c) shall come into force on 1 January 2022.

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