

Resolution No. 18/1097/25
of the KDPW Supervisory Board of
26 March 2025

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 § 4, point 18 and 19 shall be amended as follows:

“18) participant’s cash account, this shall be understood to mean the bank account indicated by a direct participant to be used for payments in connection with transaction settlement performed by KDPW, as well as for making payments in connection with the regulation of cash penalties, referred to in § 136a subpara. 1, in addition to processing issuers’ obligations from securities registered in the depository, managed:

- a) in relation to payments in PLN or a foreign currency other than EUR – in the clearing bank,
- b) in relation to payments in EUR – in the TARGET system;

19) clearing bank – this shall be understood to mean the bank which, on the basis of an agreement with KDPW, has agreed to have debits and credits executed on bank accounts that it manages with respect to the payments, described in Point 18, on the basis of instructions issued by KDPW, if the holders of such accounts authorise KDPW to issue such instructions, indicated in the Rules or in a resolution of the KDPW Management Board with respect to payments executed in a specific currency processed by KDPW;”;

2/ § 4a shall be added after § 4 as follows:

“§ 4a

The clearing bank for the processing of payments in Polish zloty is the National Bank of Poland, while the participant’s cash account may only be a current account maintained in the SORBNET3 payment system.”;

3/ In § 27:

a/ in subpara.1, point 8 shall be amended as follows:

“8) a declaration indicating the number or numbers of bank accounts which will become the applicant’s participant cash accounts within the meaning of the Rules, ”;

b/ subparas. 4-8 shall be added as follows:

“4. Subject to the provisions of subparas. 6 and 7, the applicant should indicate in the declaration, referred to in subpara. 1 point 8, one or more bank accounts maintained in separate clearing banks, or in the TARGET system for each separate currency processed by KDPW, while this indication should take

into account the requirements arising from the provisions of § 36a subparas. 4-6, which shall apply accordingly.

5. The bank account or one of the bank accounts indicated in the declaration, referred to in subpara. 1 point 8, in relation to payments made in Polish zloty, should be the main current account maintained for the applicant with the National Bank of Poland in the SORBNET3 payment system, unless the applicant is not a participant in that system.

6. If the applicant does not intend to acquire or enable the acquisition of any securities via depository accounts or other accounts held for them with KDPW, that would give rise to an entitlement to receive a cash benefit paid in a given foreign currency other than Euro, the applicant does not need to indicate in the declaration, referred to in subpara. 1 point 8, any bank accounts that would become participant cash accounts for the applicant in respect of payments made in that foreign currency.

7. Where the applicant only applies for a type of participation status related to holding a securities account maintained with KDPW and at the same time does not intend to acquire through this account any securities that would entitle them to receive a cash benefit paid in a given foreign currency other than the Polish zloty; nor do they intend to participate in the settlement of transactions which involve payments in Euro, the applicant may only indicate in the declaration, referred to in subpara. 1 item 8, one or more bank accounts maintained with the National Bank of Poland in the SORBNET3 payment system, which are to become the participant's cash accounts for them in relation to payments made in Polish zloty.

8. In instances referred to in subparas. 6 and 7, a declaration indicating the number or numbers of bank accounts, referred to in subpara. 1 item 8, maintained in the TARGET system or in the relevant clearing bank for payments paid out in a given foreign currency other than Euro, may be submitted to KDPW after the applicant has first concluded an agreement on direct participation, however no later than, respectively, 5 days prior to the date of the submission of a settlement instruction into the depository system which may result in a payment in Euro either by the applicant, or on their behalf, or 5 days prior to the date of payment by the issuer of the entitlement in a given foreign currency, any part of which would be subject to a transfer to the applicant, as a direct participant, by KDPW.”;

4/ In § 36, subparas. 7 and 8 shall be repealed;

5/ § 36a shall be added after § 36a as follows:

“§ 36a

1. A direct participant shall be obliged to continuously hold a participant cash account maintained with the National Bank of Poland in the SORBNET3 payment system, and a participant who is a holder of a depository account or an omnibus securities account maintained by KDPW shall also be obliged to continuously hold a participant cash account maintained in the TARGET system, subject to the provisions of subparas. 2-6.

2. If a direct participant is involved in operations which are carried out in the depository system, and which may be subject to processing in a given foreign currency, this participant shall be obliged to hold and to indicate to KDPW at least one participant's cash account appropriate for that participant in relation to that foreign currency.

3. Payments referred to in § 4 item 18, executed by the direct participant or on its behalf, may be processed through a bank account maintained in a clearing bank for another entity being a direct participant, hereinafter referred to as a payer, with which the direct participant has concluded an agreement in this matter. The termination of such an agreement shall become legally effective for KDPW not earlier than the second day following the date on which KDPW was duly informed of this by either of the parties.

4. In instances referred to in the first sentence of subpara. 3, the direct participant and the payer shall indicate to KDPW a bank account maintained with the clearing bank for the payer, which is to become the participant's cash account, and the requirement for the participant to hold such an account is deemed to have been met.

5. With respect to payments made in Euro using participants' cash accounts maintained within the TARGET system, the provisions of the first sentence of subpara. 3, and of subpara. 4 shall apply accordingly, subject to the provision that the payer may be an entity that is not a direct participant.

6. A direct participant who has indicated at least two participant's cash accounts maintained in the same currency in the clearing bank or within the TARGET system, that are relevant to that participant, shall at the same time inform KDPW which of these accounts is to be designated the basic account. In such instances, the payments referred to in § 4, point 18 shall be executed through the account designated as the basic account, unless the settlement instruction sent to the depository system shall indicate that the settlement of the transaction specified in this instruction should be executed using another cash account of participant.”;

6/ In § 82:

a/ subparas. 3-5 shall be repealed;

b/ subparas. 7 and 8 shall be amended as follows:

“7. The provisions of subpara. 6 shall apply accordingly to payments processed in Euro, using the cash accounts of participants managed in the TARGET system.

8. The clearing bank shall manage participants’ cash accounts and perform the operations specified in subpara. 6 on the basis of an agreement concluded with KDPW and on the basis of agreements concluded with direct participants or payers, described in § 36a subpara. 3. In instances described in subpara. 7, participants’ cash accounts used to execute payments processed in Euro shall be managed on the basis of agreements concluded between direct participants, or payers, and central banks managing payment systems within the TARGET system, while the instructions described in subpara. 6 shall be sent by KDPW on the basis of an agreement with the National Bank of Poland.”;

7/ In § 136a, subpara. 4 shall be amended as follows:

“4. Cash penalties shall be paid on a monthly basis. Cash penalties charged to or in favour of a participant in the course of a given calendar month shall be paid in the consecutive month, and determined in accordance with the provisions of the KDPW Detailed Rules of Operation, by debiting or crediting the participant's cash account on the basis of KDPW instructions.”.

§ 2

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, however, not earlier than the implementation date of the SORBNET3 payment system by the National Bank of Poland.

Chairman of the KDPW Supervisory Board

Tomasz Matczuk