KDPW |

Krajowy Depozyt
Papierów Wartościowych S.A.
ul. Książęca 4
00-498 Warszawa

T   22 537 93 43
F   22 627 31 11
E   kdpw@kdpw.pl
    www.kdpw.pl

Resolution No. 19/1028/24
of the Supervisory Board of Krajowy Depozyt Papierów Wartościowych S.A.
dated 5 April 2024

amending the Trade Repository Rules for Securities Financing Transactions

Pursuant to § 20 sub-para. 2 point 9 of the Statute, in conjunction with Article 48(5a)(1) of the Act on Trading in Financial Instruments of 29 July 2005 (i.e. Journal of Laws of 2023, item 646, as amended), the Supervisory Board of Krajowy Depozyt Papierów Wartościowych S.A. resolves as follows:

§ 1

The Trade Repository Rules for Securities Financing Transactions attached to Resolution No. 49/817/19 of the Supervisory Board of Krajowy Depozyt Papierów Wartościowych S.A. dated 11 October 2019, as amended, shall be amended as follows:

1/ in § 2:
a/ in sub-para. 1:
- after point 3, point 3a shall be added as follows:
"3a) entity responsible for reporting - this shall be understood to mean an entity that is required by law to report to a trade repository on behalf of a counterparty;",
- point 4 shall be replaced by the following:
"4) capital group - this shall be understood to mean a group of entities having the same highest level legal entity preparing consolidated financial reports and to mean this highest level legal entity, on condition that the relationship between these entities was established in the database published by the Global Legal Entity Identifier Foundation (GLEIF), which stores information on relationships between entities identified by a given LEI and the highest level legal entity; the existence of this relationship is verified by KDPW on the basis of data published by GLEIF;",
- point 8-10 shall be replaced by the following:
"8) participant – this shall be understood to mean an entity, which has concluded a participation agreement with the trade repository;
9) authorised entity – this shall be understood to mean a participant of the trade repository, or an entity authorised to have commercial access to repository data;
10) entity authorised to have commercial access to repository data – this shall be understood to mean an entity that is not a repository participant, which in accordance with the provisions of § 7 of the Rules, has access to transaction data on the basis of a non-disclosure agreement concluded with KDPW and a power-of-attorney provided by a participant;",
b/ sub-para. 2 and 3 shall be replaced by the following:
"2. KDPW publishes information on its website concerning the following:
1) a detailed procedure of reporting to the trade repository and the procedure of correcting reports;
2) the mode of access to data on SFTs and events;
3) the scope and format of the message indicating that the reporting participant has been authorised by the entity responsible for reporting or by the counterparty to report on their behalf;
4) the scope and format of messages used to provide participants with information on submitted reports and reconciliation of these reports between trade repositories.

3. A repository participant shall report in accordance with the requirements regarding the scope, time limits and format of data reported to the trade repository set out in applicable legislation and documents published by the European Securities and Markets Authority (ESMA) pursuant to that legislation.";

2/ § 3 sub-para. 1 shall be replaced by the following:
"1. A counterparty or an entity responsible for reporting or an entity authorised by a counterparty or by an entity responsible for reporting to send reports to the trade repository are eligible to become a repository participant";

3/ in § 4:
a/ sub-para. 1 shall be replaced by the following:
"1. An entity seeking the status of trade repository participant shall submit a declaration, specifying its intention to conclude a participation agreement, in the form of an application to KDPW, in writing or electronically (as a document signed with a qualified electronic signature).",
b/ in sub-para. 2:
- point 5 shall be deleted,
- point 6 shall be replaced by the following:
"6) a declaration to the effect that the applicant is familiar with the content of the rules and the information referred to in § 2 sub-para. 2, and that it undertakes to act in accordance with their content;",
- after point 6, point 6a shall be added as follows:
"6a) a declaration to the effect that the applicant shall report in accordance with the requirements regarding the scope, time limits and format of data reported to the trade repository set out in applicable legislation and documents published by the European Securities and Markets Authority (ESMA) pursuant to that legislation;",
- point 7 shall be replaced by the following:
"7) a declaration concerning the place of establishment or the fixed establishment, for which the participation agreement is concluded, within the meaning of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (Official Journal of the European Union L 77 of 23.03.2011) including the applicant's tax identifier;",
- point 8 shall be added as follows:
"8) a declaration indicating the counterparty status under SFTR (non-financial counterparty, financial counterparty, CSD, CCP, fund, other counterparty).";

4/ in § 7:
a/ sub-para. 1 and 2 shall be replaced by the following:
"1. An entity that is not a participant of the trade repository may obtain commercial access to the data relating to transactions and events to which the participant is a counterparty or to which funds for which the participant is an entity responsible for reporting are a counterparty (as an entity authorized to have commercial access to trade repository data).
2. An applicant seeking the status of an entity authorized to have commercial access to trade repository data shall file an application for a non-disclosure agreement with KDPW.",
b/ in sub-para. 3:
- point 4 shall be replaced by the following:
"4) a declaration of the participant authorising the applicant to access data relating to transactions and events;",
- point 5 shall be added as follows:
"5) a declaration concerning the place of establishment or the fixed establishment, for which the non-disclosure agreement is concluded, within the meaning of Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the

common system of value added tax (Official Journal of the European Union L 77 of 23.03.2011), including the applicant's tax identifier.",
c/ after sub-para. 3, sub-para. 3a and 3b shall be added as follows:
"3a. An entity authorised to have commercial access to repository data, whose authorisation has been confirmed by a participant that is an entity responsible for reporting on behalf of counterparties that are funds, shall be granted access to data on transactions to which funds affiliated with that participant are parties, provided that the relationship between the participant and those funds has been established in the database published by GLEIF storing relationships between entities identified by LEIs; the existence of this relationship shall be verified by KDPW based on data published by GLEIF.
3b. The participant which is the entity responsible for reporting referred to in sub-para. 3a shall update the data concerning the relationship with the funds recorded in the database published by GLEIF.";

5/ in § 10:
a/ sub-para. 4 shall be replaced by the following
"4. The primary channel of communication between participants and the trade repository shall be the U2A interface. KDPW shall deliver all output messages to the participant via the U2A interface. A return message from the trade repository shall be transmitted to the participant via the A2A interface if the participant sent to KDPW the message to which the return message refers via that interface. A participant which uses both communication channels (U2A and A2A) to communicate with the trade repository shall indicate to KDPW whether any messages other than return messages shall be delivered to it via the A2A interface.",
b/ after sub-para. 4, sub-para. 4a shall be added as follows:
"4a. The participant shall gain access to the communication interfaces referred to in sub-para. 2 based on the four-character institution code assigned to it by KDPW. At the request of a participant that is a participant reporting to the trade repository, KDPW may assign it more than one institution code.";

6/ in § 11 after sub-para. 2, sub-para. 2a shall be added as follows:
"2a. Within the communication channel, authenticated by the certificate referred to in sub-para. 2, KDPW shall make available a pair of communication queues separately for each direction of communication, within the scope of permissions. Messages not received by a participant shall be removed by KDPW from the output queues 100 hours after they have been delivered to the queue.";

7/ § 11a sub-para. 8 shall be deleted:

8/ § 12 shall be replaced by the following:
<div align="center">"§ 12</div>

1. A report shall meet the requirements described in the provisions of § 2 subpara. 2 point 1 and subpara. 3.
2. Any failure to complete report fields or any failure to comply with the required data format, described in the provisions of § 2 subpara. 3, or failure to comply with the required manner in which reports shall be submitted, described in described in the provisions of § 2 subpara. 2 point 1 shall result in the report being rejected by the trade repository.
3. A participant shall use identification codes required by KDPW according to the required scope and format of data referred to in § 2 subpara. 3 when reporting to the repository.";

9/ after § 12, § 12a shall be added as follows:
<div align="center">"§ 12a</div>
1. Reporting by a participant reporting on behalf of an entity responsible for reporting or counterparty requires prior transmission to the repository of the dedicated message referred to in § 2 sub-para. 2 point 3. The message should indicate the e-mail address of the entity granting authorisation to report

on its behalf, to which KDPW shall forward information on how the entity confirms the participant's authorisation. A participant may not start reporting until KDPW has received confirmation of the participant's authorisation.

2. In order to obtain the confirmation of the authorisation referred to in sub-para 1, KDPW shall send information to the e-mail address provided by the participant in the message referred to in sub-para. 1 regarding the need to confirm the participant's authorisation through KDPW's dedicated application. The confirmation should be made within a period not exceeding 30 days from the date of transmission by the participant of the message referred to in sub-para. 1. After this deadline, confirmation of the authorisation on the basis of this message shall not be possible.

3. The participant referred to in sub-para. 1 shall inform the entity on whose behalf it is to start reporting of the need to confirm its authorisation to KDPW.

4. KDPW may, at any time, request from the participant or directly from the entity which has given it the authorisation, information or documents confirming the existence of this authorisation. KDPW may also delete from the SFTR Transaction Repository application the relationship between the participant and the entity on whose behalf it is reporting if it becomes aware that the relationship is no longer in force.";

10/ in § 13:
a/ sub-para. 4 shall be replaced by the following:
"4. Where a notification of a report is accepted after 23:59:59 hours UTC, the report notification shall be deemed to be accepted on the following business day.",
b/ sub-para. 6 shall be replaced by the following:
"6. KDPW reserves the right to introduce a technical break in the operation of the SFTR Trade Repository application.";

11/ in § 17:
a/ sub-para. 1 point 5 shall be deleted,
b/ sub-para. 2 shall be replaced by the following:
"2. KDPW shall give access to trade repository data to the authorities authorised under Article 12(2) of SFTR.",
c/ sub-para. 4 shall be replaced by the following:
"4. On the basis of a declaration submitted to KDPW using a dedicated message, described in § 2 subpara. 2 point 4, KDPW shall send the participant each business day information relating to reports sent by that participant to the trade repository on the previous business day and a status report for all transactions reported by that participant on that day.";

12/ § 18 shall be replaced by the following:
"§ 18
1. KDPW may provide data on transactions or events to an entity authorised to have commercial access to trade repository data only with the consent of a repository participant that is a counterparty or an entity responsible for reporting on behalf of counterparties that are funds.

2. Provision of a declaration by a participant referred to in sub-para. 1 to KDPW whereby the participant confirms that it has granted the entity named in the declaration the authorisation to access information on transactions and events to which that participant or a fund for whose reporting the participant is responsible is a party shall be tantamount to granting the consent referred to in subpara. 1.

3. The consent referred to in subpara. 1 may be withdrawn only by the participant submitting a declaration cancelling the authorisation granted to the named entity to access information on transactions and events. In the declaration, the participant may set a date as of which KDPW shall no longer give access to that entity to data on transactions or events. Otherwise, KDPW shall terminate access to such data immediately upon receipt of the declaration cancelling the authorisation.";

13/ § 20 sub-para. 1-3 shall be replaced by the following:

"1. Where another entity has taken over the rights and responsibilities of the counterparty or an entity responsible for reporting, relating to transactions reported to the trade repository, KDPW shall have the right to change the LEI of that entity assigned to the transaction to the LEI of the entity taking over, based on information received from another trade repository of from a participant reporting the transactions on behalf of the entity subject to the takeover.

2. The entity performing the takeover, as described in subpara. 1, is an entity that has assumed the rights and responsibilities of the counterparty or an entity responsible for reporting relating to transactions, either as a result of ordinary succession or another event resulting in the rights and responsibilities to be taken over.

3. The participant reporting on behalf of the counterparty or an entity responsible for reporting being taken over shall be obliged to provide KDPW documents confirming the takeover of the rights and responsibilities of the entity by another entity.";

14/ In Appendix 1 to the Trade Repository Rules – Table of Fees:
a/ point 1.3 (in section I. Fees for reporting participants subject to the provisions of Point II of the Table

1.3. Maximum amount charged for the fee described in Point 1.2 of the Table of Fees : 1.3.1. For fees for reports submitted by a single participant reporting on behalf of a single counterparty: 1 000 000 PLN/annually 1.3.2. For reporting participants described in Point 1.1.2. of the Table of Fees: 2 000 000 PLN/annually 1.3.3 For reporting participants described in Point 1.1.3. of the Table of Fees: 4 750 000 PLN/annually	When the participant exceeds the maximum fee amount (cap) in a given calendar year for a specific service, the fee shall no longer be charged until the end of that year.

of Fees) shall be replaced by the following:

IV.	Other fees
4.1. Fee for the porting of data of one counterparty to another trade repository: 4.1.1. For the porting of data with not more than 10 thousand submitted reports: 1 000 PLN, 4.1.2. For the porting of data with more than 10 thousand submitted reports: 1 200 PLN, increased by PLN 200 each time the number of reports exceeds another 10,000.	Fee for data transfer performed on the basis of a single participant instruction.
4.2. Fee for providing access to an entity authorised to have commercial access to repository data, to information on a participant on the basis of a power-of-attorney, granted by that participant: 700 PLN .	Fee charged to the participant granting the power-of-attorney levied on a one-time basis for providing access according to the terms of the power-of-attorney.
4.3. Fee for a change of LEI or natural person identification code used in a report based on information obtained from another trade repository or reporting participant: 4.3.1. in the event of a change of no more than 10,000 records – PLN 1,000 4.3.2. in the event of a change of more than 10,000 records - PLN 1,200, increased by PLN 200 each time the number of records changed exceeds another 50,000.	Fee charged to the reporting participant for a particular transaction. For the purposes of the charge, the record is considered to be the field in the repository database in which the LEI being changed is entered.
4.4. Fee for issuing and maintaining an institution code 4.4.1. in the case of a reporting participant with general rights, for issuing the eighth and each subsequent institution code - PLN 170 4.4.2. in the case of a reporting participant with own rights or extended own rights, for issuing the second and each subsequent institution code − PLN 170	Monthly fee charged in arrears for each month the institution code is maintained, with the full amount charged for the month in which the code is issued.

b/ section IV. Other fees shall be replaced by the following:

§ 2

1. The amendments to the Rules referred to in § 1 shall become effective on 29 April 2024.
2. Participants who, as at the effective date of the amendments to the Rules, report contracts to the trade repository on behalf of other entities on the basis of a reported relationship, pursuant to § 12(6) of the Rules before the amendment, shall obtain confirmations of existing reporting authorisations, pursuant to the procedure set out in § 12a of the Rules, no later than 7 June 2024. After this deadline, reporting on behalf of an entity that has not confirmed a participant authorisation shall not be possible.

§ 3

The resolution shall enter into force on the date of its adoption.

Adrian Kalisz

Chairman of the KDPW S.A. Supervisory Board