



# **Regulations of the Clearing and Settlement House**

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# CHAPTER I

## GENERAL PROVISIONS

### § 1

1. These Regulations of the Clearing and Settlement House (hereinafter referred to as the "Regulations") establish the rules of the operation of the clearing system run by IRGiT S.A. (hereinafter referred to as the "Clearing House" or "IRGiT") within a clearing and settlement house, in accordance with the provisions of the Act on Trading.
2. Under the rules specified in the Regulations, the Clearing House provides clearing services, including manages the funds contributed by the CSH Members in order to ensure the correct performance of obligations and performs settlement of transactions concluded or registered in the trading venue for financial instruments as defined in the Act on Trading.
3. The rules of performance of actions by the Clearing House outside the clearing system within a clearing and settlement house, in particular the rules of fulfilment of an exchange settlement house as defined in the Act on Commodity Exchanges, are specified in separate regulations of the Clearing House.

### § 2

1. The Clearing House provides clearing services for CSH Members.
2. The Regulations specifies in particular the conditions for acquiring the CSH Member status and the conditions to be met by CSH Members in connection with the participation in the clearing system operated by the Clearing House.

### § 3

1. The conditions to be met by trading venues in connection with the Clearing House's clearing and settlement of transactions concluded or registered in said trading venues are specified in agreements concluded by the Clearing House with entities operating said systems.
2. The conditions to be met by banks in connection with the fulfilment of the function of a Payer Bank or a Settlement Bank are specified in agreements concluded by the Clearing House with said banks. The function of a Payer Bank or a Settlement Bank may be fulfilled only by banks that meet the financial and technical requirements set

by the Clearing House. The Clearing House publishes a list of banks that met the requirements for fulfilling the function of a Payer Bank and a Settlement Bank and obtained the Clearing House's consent to fulfilling these functions on a public website.

#### § 4

Wherever the following is mentioned in the provisions of the Regulations:

- 1) Act on Commodity Exchanges – means the Act of 26 October 2000 on commodity exchanges (Dz. U. 2018, item 622, as amended),
- 2) Act on Trading – means the Act of 29 July 2005 on trading in financial instruments (Dz. U. 2017, item 1768; as amended),
- 3) Act on Renewable Energy Sources – means the Act of 20 February 2015 on renewable energy sources (Dz. U. 2017, item 1148; as amended),
- 4) KNF – means the Polish Financial Supervision Authority,
- 5) Financial Instruments – means financial instruments as defined in the Act on Trading,
- 6) clearing – means the process of establishing positions, including the calculation of net obligations, and ensuring that Financial Instruments, cash, or both, are available to secure the exposures arising from those positions, occurring from the moment the Clearing House accepts a transaction for clearing in accordance with the Regulations until the moment the Clearing House or another authorized entity performs settlement.
- 7) settlement – means performance of a transaction on Financial Instruments cleared by the Clearing House, through a transfer of cash or a transfer of Financial Instruments under the rules specified in the Regulations,
- 8) CSH Member – an entity which concluded an agreement on CSH membership under the rules specified in the Regulations,
- 9) default fund – means a fund guaranteeing the proper performance of obligations arising from transactions cleared by the Clearing House, as mentioned in Article 68 d of the Act on Trading,
- 10) positions – means Financial Instruments registered in trading accounts as a result of transactions, accepted for clearing, of acquisition or disposal of a given series of Financial Instruments or transactions concluded as part of the clearing guarantee system operated by the Clearing House,
- 11) Settlement Bank – means a bank via which the Clearing House performs financial settlement,
- 12) investment firm – means an investment firm as defined in the Act on Trading,

- 13) Banking Law – means the Act of 29 August 1997 - Banking Law (Dz. U. 2017, item 1876, as amended),
- 14) Payer Bank or Clearing Bank - means a bank via which a Clearing Member settles its monetary liabilities and receivables on account of clearing conducted by the Clearing House,
- 15) transaction – means formation of rights and obligations as a result of conclusion or registration of an agreement in the trading venue, the subject matter whereof is Financial Instruments and which may be accepted by the Clearing House for clearing under the rules specified in the Regulations,
- 16) trading venue – means regulated markets, alternative trading venues and organized trading facilities as defined in the Act on Trading, which concluded relevant agreements with the Clearing House,
- 17) clearing system – means an assembly of appliances and software, in particular a specialized computer software using which the transaction clearing process is performed and clearing reports are prepared, shared by the Clearing House with authorized users of the clearing system,
- 18) emission allowances – means emission allowances as defined in the Act on Trading,
- 19) RES Property Rights – means property rights arising from certificates of origin as defined in the Act on Renewable Energy Sources,
- 20) Union Registry – means the emission allowances recording system maintained by KOBiZE in accordance with the relevant laws,
- 21) KOBiZE – means the National Centre for Emissions Management, being an entity responsible for maintaining a record of emission allowances in Poland, appointed by the minister competent for environmental affairs,
- 22) trade repository – means an entity indicated by the Clearing House and authorized under the applicable laws for collecting and storing information concerning derivative Financial Instruments and concerning transactions the object of which are said instruments,
- 23) Register of Non-Cash Collateral – means the register maintained by the House serving for recording non-cash collateral contributed by the CSH Members,
- 24) EMIR – means the 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 (OJ EU L 201 of 2012, p. 1),
- 25) event of default – means a situation, in which a CSH Member poses, or the existing circumstances reveal that there is a risk that the CSH Member may pose a reasonable threat to the safety of trading or the proper functioning of the clearing system referred to in § 1 section 1, in particular in connection

with:

- a) the Clearing House's becoming aware that a competent court has declared that entity's bankruptcy, the CSH Member has become insolvent or there is risk that it will be incapable of performing the obligations arising from the transaction clearing in a timely manner, which shall mean, among others, a case where:
  - (i) the CSH Member has filed a bankruptcy petition, a petition for initiation of restructuring proceedings, or
  - (ii) the authority competent for supervision over said entity has filed a bankruptcy petition concerning the CSH Member, or
  - (iii) the capital adequacy ratio of the bank being a CSH Member decreased below the minimum level referred to in Article 128 of the Banking Law, or
  - (iv) the level of own funds referred to in Article 4 section 1 item 118 of CRR of a CSH Member being an investment firm decreased to a level lower than the internal capital level, or
- b) the Clearing House's becoming aware that:
  - (i) said entity has been put into liquidation, or
  - (ii) a decision has been issued on initiating a resolution of the CSH Member as defined in the Act of 10 June 2016 on the Bank Default fund, the Deposit Guarantee Scheme and Resolution (Dz. U. 2017, item 1937, as amended), or
  - (iii) the authority competent for supervision over the CSH Member has made a decision to suspend the activity of said entity or a decision to withdraw said entity's license for its activity, or
  - (iv) the authority competent for supervision over the CSH Member has made a decision to establish receivership of said CSH Member, or
  - (v) the authority competent for supervision over the CSH Member has been notified by an authorized authority in accordance with relevant laws that the assets of said entity are not sufficient for satisfying its liabilities, or
  - (vi) the competent authority has made a decision to limit the scope of activity of said entity, as a result of which it shall not be authorized for concluding or clearing transactions, or
  - (vii) a different event of a similar nature has occurred that poses or might pose a threat to safety of trading or correct operation of the clearing system referred to in § 1 section 1, or
- c) the conversion, combination, division or acquisition of the CSH Member

or the acquisition by a different entity of the primary assets of said member, including the acquisition of an enterprise or an organized part thereof (as defined in relevant laws), if as a result of this infringement the obligations of the CSH Member are not recognized or assumed by the acquirer, the entity formed as a result of combination, conversion or the acquiree, respectively, or

- d) the non-performance or improper performance by said entity of its obligations arising from transaction clearing, or
  - e) the failure to submit the information referred to in § 14 that is necessary to assess whether said entity meets the conditions for CSH membership, or about events that might adversely affect the performance by said entity of the obligations arising from its CSH Member status, or
  - f) material breach by the CSH Member of laws or breach of conditions for CSH membership in a manner that poses a threat to correct and timely transaction clearing, or
  - g) non-performance or improper performance by said CSH Member of other material obligations specified in the Regulations, in particular as regards the provision of correct transaction settlement, which may constitute a ground for making a decision to revoke the entity's CSH membership status, or
  - h) the House's ascertainment, in accordance with the Regulations of the Exchange Clearing House (Commodity Market) adopted by IRGiT, of a breach committed by the respective CSH Member in the clearing system organized in accordance therewith, provided that such case causes a risk that the obligations arising from the clearing of transactions referred to in § 1 of these Regulations will not be fulfilled in a timely manner by such CSH Member, or may create a reasonable threat to the security of trading.
- 26) CRR – means the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ EU L 176 of 2013),
- 27) payment reservation – means the refusal of the Clearing Bank to settle a CSH Member's liabilities arising from transaction clearing or update of required collateral, caused by the CSH Member's failure to provide sufficient cash in the account in the Clearing Bank.

## § 5

1. Wherever the provisions of the Regulations mention submission of a declaration or delivery of information by a CSH Member or an entity applying for CSH membership, this shall mean delivery of an original document containing a declaration or information or of an exemplified copy thereof authenticated in a proper manner, subject to sections 3-5 below.
2. Exemplified copy of a document authenticated in a proper manner shall mean an official exemplified copy issued in accordance with the relevant laws, or an exemplified copy certified as a true copy by a notary, or a document copy certified as a true copy by persons authorized for representing the entity referred to in section 1, in accordance with the rules of representation of said entity specified in the articles of association of said entity.
3. In relations between the Clearing House and the CSH Members, it shall be permitted to send a document containing the declaration content or the information by electronic means. However, until the document is received in the manner referred to in section 1, only urgent actions shall be performed based on the content of the message in the form indicated in the preceding sentence. No actions shall be taken if the message or the received information is distorted to an extent preventing the determination of its content.
4. In relations between the Clearing House and the CSH Members with which the Clearing House concluded agreements acknowledging the effectiveness of submission of declarations of will and sending of information in the form of electronic transmissions and to the extent specified in said agreements, sending the content of declaration or information in the form of a computer file to the addressee shall be deemed as document delivery.
5. The form, mode and time limits for the delivery of documents by the trading facility and data indispensable for clearing and settlement and risk management is specified in the agreement concluded between the trading facility and the Clearing House.

## § 6

The Clearing House renders the contents of the amended Regulations accessible to the CSH Members at least two weeks before the day the amendments come into force on that.

## § 7

1. In order to perform the delegations included in the Regulations, the Clearing House Management Board shall adopt Detailed Clearing and Settlement Rules, taking into account their compliance with law, security of clearing and settlement, and interest of the CSH Members.
2. A resolution in this regard as well as amendments thereof shall be made public 7 days before the effective date thereof at the latest.

§ 8

1. Subject to sections 2-4 below, the Clearing House shall be liable for any damage suffered by a CSH Member as result of the Clearing House's non-performance or improper performance of the obligations arising from the Regulations to the extent that such damage is a normal consequence of culpable action or omission.
2. The Clearing House is not obliged to redress damage as regards benefits that the harmed CSH Member could have achieved if the damage had not been inflicted, unless said damage was inflicted by willful misconduct or gross negligence of the Clearing House.
3. The Clearing House shall not be held liable for damage referred to in section 1 to an extent that the Clearing House's non-performance or improper performance of its obligations was caused by an action or omission of a CSH Member that suffered the damage, by an action or omission of other CSH Members, or was a consequence of other circumstances for which the Clearing House is not responsible.
4. The Clearing House shall not be held liable for damage referred to in section 1 arising from non-performance or improper performance of obligations by the Payer Bank or the Settlement Bank as well as by the entity maintaining the trade repository.

## CHAPTER II

### CSH MEMBERSHIP

#### § 9

1. CSH membership is acquired on the moment the IRGiT Management Board adopts a resolution to accept the application of an interested entity to enter into a membership agreement. The following may be CSH Members:
  - 1) companies operating trading venues,
  - 2) domestic banks as defined in the Banking Law,
  - 3) investment firms,
  - 4) foreign investment firms as defined in the Act on Trading,
  - 5) other legal entities than those mentioned in items 2-4 provided that they may be members pursuant to relevant laws applicable in the Republic of Poland and their membership aims at cooperating with the Clearing House as regards actions performed in the clearing system referred to in § 1.
2. The CSH membership agreement shall indicate the type of activity pursued by the CSH Member as regards the clearing services provided by the Clearing House.
3. The following types of activity pursued by CSH Members are distinguished:
  - 1) activity on one's own account - if the CSH Member assumes responsibility for performance of obligations arising from clearing of transactions concluded by said CSH Member on its own account,
  - 2) activity on customers' account - if the Clearing and Settlement House Member assumes responsibility for discharge of liabilities arising from clearing of transactions concluded by said House Member on its customers' account,
  - 3) representative of a trading venue member - if the CSH Member assumes responsibility for performance of obligations arising from clearing of transactions concluded by another entity. The cessation of CSH membership of an entity acting as a representative shall not relieve said entity from responsibility for performance of obligations arising from clearing and settlement of transactions concluded by the entity represented by said entity until the day of cessation of said membership, including that day, as well as the obligations related to said transactions.

## § 10

The Clearing House shall clear transactions concluded and registered in trading venues if the entity that concluded a transaction, on the moment of transaction conclusion:

- 1) has the Clearing Member status in this regard, or
- 2) has a representative of a trading venue member referred to in § 9 section 3 item 3), responsible for performance of obligations arising from clearing of transactions concluded by said entity.

## § 11

1. Having the Clearing Member status shall be understood as this CSH Member's being held liable towards other CSH Members and the Clearing House for proper performance of obligations arising from transaction clearing performed by the Clearing House, and additionally as participation in the clearing guarantee system under the rules specified in the Regulations.
2. The Clearing Member shall contribute a payment towards the transaction margin and a default fund contribution in accordance with the scope of activity of said member, and meet other conditions arising from the Act on Trading as well as from the Regulations or provisions issued pursuant thereto.
3. A CSH Member shall have the Clearing Member status provided that it meets the conditions for participation in the clearing guarantee system under the rules specified in the Regulations.
4. The IRGiT Management Board may consent to the contribution of payments by Clearing Members meeting the conditions specified below towards the transaction margin to the bank account of a CSH Member in the Payer Bank. The consent of the IRGiT Management Board referred to in the preceding sentence shall be granted if the following conditions are met:
  - a) filing of a relevant application with the IRGiT Management Board,
  - b) pursuit of a different activity than on one's own account,
  - c) conclusion of an agreement with the Payer Bank and IRGiT on IRGiT's making dispositions of funds deposited in a given account, and granting of an irrevocable and non-expiring power of attorney to IRGiT by the Clearing Member to make dispositions of a given bank account.
5. In making the decision referred to in section 4, the IRGiT Management Board shall consider the impact of the applied solution on the safety of trading, in particular on the clearing or settlement processes carried out by the Clearing House, and the currently applicable laws. In the course of the assessment referred to in the preceding

sentence, the IRGiT Management Board shall take into account the current financial standing of the entity, assessed on the basis of data collected in accordance with the Regulations and taking into consideration the available data on how these entities perform their obligations towards the Clearing House or other CSH Members.

6. The IRGiT Management Board shall adopt a resolution on the application referred to in section 4 following its examination of the filed application, taking into consideration the criteria referred to in section 5. A resolution in this regard shall require substantiation.
7. If a given CSH Member pursues its activity both on its own and its customers' account or as a representative of a trading venue member, the consent referred to in section 4 shall be limited exclusively to the scope of activity that is different than on its own account.

## § 12

1. The resolution of the Clearing House Management Board to enter into a CSH membership agreement shall be adopted within 2 weeks of the day of filing a complete application in this regard with the Clearing House. If an entity applying to enter into a membership agreement meets the conditions for CSH membership specified in laws and the Regulations, and the application and documents enclosed thereto meet the formal conditions specified in the Regulations and provisions issued pursuant thereto, the membership agreement shall be concluded on the day of adoption of the resolution referred to in the first sentence, unless the Clearing House Management Board's resolution adopted in this regard specifies a different agreement conclusion date.
2. If the filed application or documents enclosed thereto must be supplemented or corrected, the date referred to in section 1 shall begin running on the day on which the entity applying for membership agreement conclusion supplements or corrects same accordingly. The time limit for requesting to supplement or correct the application or enclosed documents shall be 10 days of the day of their filing.
3. An entity that settles its liabilities and receivables via a Payer Bank indicated by itself may acquire CSH membership on the condition that the Clearing House concludes an agreement with said Payer Bank determining the rules of cooperation in this regard.
4. The provisions of sections 1 and 2 shall apply accordingly to amendments to the membership agreement.
5. If consent to enter into a membership agreement is refused then the entity applying to enter into such agreement shall have the right to file an appeal with the IRGiT Supervisory Board within 14 days of receiving the relevant resolution of the IRGiT

Management Board. Filing an appeal shall not withhold the enforceability of IRGiT Management Board's decision. The Supervisory Board shall consider the appeal within 30 days of the date on which it is filed. The decision of the Supervisory Board shall be final.

§ 13

1. The application to enter into a CSH membership agreement shall be prepared on a form the template of which is an appendix to the Detailed Clearing and Settlement Rules.
2. The application to enter into a CSH membership agreement shall include the following in particular:
  - 1) specification of the type of activity that the applicant intends to pursue, in accordance with the classification specified in §9 section 3. If the applicant applies for acquiring the CSH Member status in the function of a representative of a trading venue member, the applicant shall also enclose a written declaration of the trading venue member which it intends to represent as a party to clearing, in which said member agrees to the applicant's performance of obligations arising from clearing of the transactions concluded by it in accordance with the Regulations and the provisions issued pursuant thereto. IRGiT Management Board shall specify the template of the declaration referred to above.
  - 2) specification of an entity intended to perform the obligations of a Payer Bank for the applicant,
  - 3) power of attorney granted to IRGiT to close Positions in cases indicated in the Regulations,
  - 4) declaration regarding the court of conciliation clause.
3. The applicant shall enclose the following to the application for conclusion of the CSH membership agreement:
  - 1) exemplified copy of the company's articles of association or another deed defining the applicant's organization,
  - 2) a current (not older than 3 months) copy of or excerpt from the register competent for the Applicant,
  - 3) copies of powers of attorney – in cases, when the right to represent the Applicant does not result from the documents referred to in item 1 above,
  - 4) at IRGiT's request - an agreement authorizing IRGiT for issuing VAT invoices on behalf of and in favor of the Clearing House Member.

4. Apart from the documents referred to above, the applicant shall enclose documents related to the nature of the activity pursued by the applicant. The list of required documents shall be determined by IRGiT Management Board.

§ 14

1. A CSH Member shall:
  - 1) promptly inform the Clearing House about events that might adversely affect its performance of obligations arising from CSH membership, in particular:
    - a) promptly inform the Clearing House about every change in the data included in the documents pursuant to which the CSH membership agreement was concluded, and;
    - b) promptly inform the Clearing House about the intention to (unilaterally) terminate the agreement with the Clearing Bank or the intention to change the Clearing Bank and obtain House's consent to changing the entity acting as the Clearing Bank, and give any necessary consents or permits to the Clearing Bank for the purpose of proper performance of obligations towards the Clearing House by the Clearing Bank, and about every CSH Member's breach of obligations towards the Clearing Bank which might lead to the termination of the agreement by and between the Clearing Bank and the CSH Member;
  - 2) change the Clearing Bank within a time limit set by the Clearing House for a different entity authorized for acting as a Payer Bank if the entity that has hitherto acted as a Payer Bank forfeits this status for any reason;
  - 3) maintain properly funds (or other collateral accepted by the Clearing Bank) in the clearing bank account in the Clearing Bank with the value ensuring proper and timely performance of the financial settlement of the transaction by the Clearing House.
2. IRGiT Management Board may request additional information and documents from the CSH Member that are necessary for assessing whether the latter meets the conditions for CSH membership. The CSH Member shall provide the requested information promptly.
3. If any circumstances occur that cause the impossibility for the CSH Member being a representative of a trading venue member to continue exercising the rights or obligations arising from clearing of transactions concluded by the entity giving consent, the CSH Member shall apply promptly for termination of or relevant amendment to the CSH membership agreement.
4. The CSH Member shall promptly inform the Clearing House of the occurrence, on its side, of circumstances justifying an event of default or giving rise to reasonable concern of

their occurrence, but no later than within 24 hours from the moment of such occurrence, as well as, within the same time limit, of any other events that may adversely affect the performance of its obligations arising from membership, unless the Regulations provide for a different time limit.

#### § 15

1. The CSH Member shall meet the relevant material & technical conditions and financial conditions.
2. Meeting financial conditions consists in the CSH Member's maintaining common equity capitals at an appropriate amount and levels of prudential norms determined in accordance with § 16 and § 17.
3. Meeting material & technical conditions consists in the CSH Member's maintaining technical and technological equipment enabling secure use of the clearing system. The Clearing House Management Board may stipulate Detailed rules of access to the clearing system.

#### § 16

1. The amount of common equity capitals of CSH Members shall not be lower than:
  - 1) for members pursuing activity exclusively in the field of clearing of transactions concluded on their own' account:
    - a) PLN 25 million - in the case of banks,
    - b) PLN 3 million - in the case of other entities.
  - 2) for members pursuing activity in the field of clearing of transactions other than specified in item 1):
    - a) PLN 100 million - in the case of banks,
    - b) PLN 8 million - in the case of investment firms, foreign investment firms and foreign legal entities pursuing brokerage activity in the Republic of Poland.
    - c) PLN 40 million - in the case of other entities.
2. The provisions of section 1 shall apply accordingly to foreign investment firms and foreign legal entities pursuing brokerage activity in the Republic of Poland under a permit from the Polish Financial Supervision Authority not being credit institutions or foreign banks as defined in the Banking Law, while those referring to banks shall apply accordingly to clearing members being credit institutions or foreign banks as defined in the Banking Law.

3. Common equity capital shall be understood as Common Equity Tier I capital as defined in CRR, which is established and calculated in accordance therewith, subject to section 4.
4. If the relevant laws applicable in the country where the CSH Member has its registered office, and if there is no obligation to set up a registered office - its head office, provide that CRR shall not apply to its activity, common equity capital shall be understood as capitals that said CSH Member may use in an unlimited and prompt manner for covering risks or losses promptly upon their occurrence, which capitals shall be equivalent to the Common Equity Tier I capital as defined in CRR.
5. Capitals equivalent to the Common Equity Tier I capital as defined in CRR shall be understood as capitals established and calculated in accordance with the requirements specified in relevant laws applicable to the CSH Member, which are recognized by a competent authority authorized for exercising supervision as part of a supervisory system operating in a given European Union member state as at least as stringent as the rules established in CRR or the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ EU L of 2013, 176.) and which fulfil these rules.

#### § 17

1. Subject to the provisions of section 2 below, the CSH Member shall meet the prudential requirements specified in CRR. The obligation referred to in the first sentence refers in particular to the requirements concerning own funds as defined in CRR and supplementing the above requirements concerning individual measures that were applied to a given entity by a competent authority supervising its activity in accordance with CRR and with other relevant laws applicable in the country where the CSH Member has its registered office, and if there is no obligation to set up same - its head office.
2. If the relevant laws applicable in the country where the CSH Member has its registered office, and if there is no obligation to set up same - its head office, provide that CRR shall not apply to the activity of a given entity, a given CSH Member shall meet the requirements that are equivalent to the prudential requirements specified in CRR. The obligation referred to in the first sentence refers in particular to the requirements concerning funds equivalent to own funds as defined in CRR and concerning individual measures supplementing the above requirements that were applied to a given CSH Member by a competent authority supervising its activity in accordance with relevant laws.

3. Requirements equivalent to the prudential requirements specified in CRR referred to in section 2 shall be understood as requirements recognized by a competent authority authorized for exercising supervision as part of a supervisory system operating in a given European Union member state as at least as stringent as the rules established in CRR or the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ EU L 176 of 2013) and which fulfil these rules.
4. Funds equivalent to own funds as defined in CRR shall be understood as funds established and calculated in accordance with the requirements specified in relevant laws applicable to the CSH Member, which are recognized by a competent authority authorized for exercising supervision as part of a supervisory system operating in a given European Union member state as at least as stringent as the rules established in CRR or the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ EU L 176) and which fulfil these rules.

#### § 18

1. CSH Members shall every day calculate ratios related to prudential norms in accordance with the rules specified in relevant laws.
2. If the permitted levels of prudential norms established pursuant to the Regulations are exceeded, the CSH Member shall within two days inform the Clearing House about it in writing, indicating the causes thereof and the measures taken to restore the correct value of prudential norms.

#### § 19

1. Brokerage houses being CSH Members shall provide the Clearing House with:
  - 1) audited annual financial statements together with a report on the audit and the opinion of a statutory auditor - within 15 days of the day on which the statutory auditor finished the audit,
  - 2) semi-annual financial statements - within 6 weeks after the elapse of the first half of the financial year,

- 3) monthly financial reports prepared in accordance with relevant provisions issued pursuant to the Act on Trading specifying the scope, procedure, form and time limits of submission of information concerning activity and financial standing by investment firms, banks referred to in Article 70 section 2 of said Act, and custodian banks - within time limits specified in these provisions for submission of such information to the Polish Financial Supervision Authority.
2. Foreign investment firms being CSH Members shall provide the Clearing House with:
    - 1) annual financial statements together with a report on the audit and the opinion of a statutory auditor - within 15 days of the day on which the statutory auditor finished the audit, and if the annual financial statements are not subject to the audit obligation - within 15 days of the day on which they were accepted or approved by the competent authority,
    - 2) financial information containing data concerning the prudential norm levels maintained by them, which these entities are obliged to submit to competent authorities supervising their operation, prepared in accordance with the laws applicable to them in this regard - within time limits within which said information shall be submitted to competent authorities supervising their operation,
    - 3) other information concerning their financial standing, which under the laws or agreements applicable to them shall be submitted by said entities to competent supervisory authorities in the countries in which they have their registered office, and if there is no obligation to set up same - their head office, or to institutions performing tasks in that country in the field of clearing of transactions concluded in trading in financial instruments - within the time limits and in the form in which said information shall be submitted to said institutions.
  3. The documents referred to in sections 2, if prepared in a foreign language, shall be submitted as a translation into Polish. It is also permitted to submit documents in English, if they were prepared in this language version in accordance with the laws applicable to the Clearing Member, or translated into English. The translation shall be certified as true to the original document by persons authorized for representing the Clearing Member.
  4. The documents referred to in section 1 item 2 and 3 and in section 2 item 2 may be submitted in an electronic form.
  5. In the case of entities that in accordance with the laws applicable in the country where they have their registered office or if there is no obligation to set up same - their head office, are not obliged to submit the financial information referred to in section 1 or 2 to competent authorities supervising the activity of this entity, the given CSH Member shall

submit said information to the Clearing House within time limits within which it submits said information to the authorities authorized for supervision as part of a supervisory system operating in the European Union member states in accordance with the Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ EU L 191 of 2014). If the competent authority supervising the CSH Member, in accordance with the relevant provisions of CRR, abandoned the application of certain prudential requirements to that member, or in accordance with the provisions of CRR such requirements shall not be applicable to that member, the obligation referred to in the preceding sentence shall not apply to the extent specified above.

6. If pursuant to the relevant provisions of CRR the competent authorities supervising the activity of the CSH Member permitted the latter to depart from the application of the prudential requirements on an individual basis and therefore such a member is not obliged to submit specified financial information prepared on a standalone basis to these authorities, such a CSH Member shall promptly deliver an exemplified copy of an official document confirming the exemption referred to above regarding the application of the prudential requirements to the Clearing House. In this case said entity shall deliver such financial information to the Clearing House that are submitted on a consolidated basis to competent authorities exercising consolidated supervision which covers the CSH Member.

## § 20

1. Banks being CSH Members shall provide the Clearing House with:
  - 1) audited annual financial statements together with the opinion and the report of the statutory auditor - within 15 days of the day on which the statutory auditor finished the audit,
  - 2) quarterly financial information specified in the resolution of the Management Board of the National Bank of Poland specifying the procedure and specific rules of submission by banks of data necessary for assessment of their financial standing as well as stability and risk of the banking system to the extent concerning the information serving for assessment of financial standing of banks and their capital adequacy - within the time limits specified in said laws for delivery of such information to the National Bank of Poland.
2. The documents referred to in section 1 item 2) may be submitted in an electronic form.

## § 21

The CSH Members referred to in § 9 section 1 item 5) shall provide IRGiT with:

- 1) audited annual financial statements together with the opinion and the report of the statutory auditor - within 15 days of the day on which the statutory auditor finished the audit,
- 2) the F-01 reports on the revenues, costs and financial result, prepared in accordance with the provisions of law issued pursuant to the Act on Public Statistics of 29 June 1995 (Dz. U. No. 88, item 439, as amended) - within the time limits within which such reports shall be submitted to Statistics Poland in accordance with said provisions,
- 3) other information concerning their financial standing, if under the laws or agreements applicable to them shall be submitted by said entities to competent supervisory authorities in the countries in which they have their registered office, and if there is no obligation to set up same - their head office, or to institutions performing tasks in that country in the field of clearing of transactions concluded in trading in financial instruments - within the time limits and in the form in which said information shall be submitted to said institutions.

## § 22

1. IRGiT Management Board may by way of a resolution order the CSH Member to submit, within specified time limits and over a definite term, specified information concerning its financial standing and prudential norm levels maintained by it, if it suspects that the activity of said CSH Member or a customer thereof is a threat to safety of trading or that such a threat is likely. The obligation referred to above shall apply to entities with which the CSH Member concluded agreements on performance of clearing of transactions concluded by such an entity.
2. If the relevant laws applicable in the country where the CSH Member has its registered office, and if there is no obligation to set up same - its head office, provide that CRR shall not apply to the activity of said CSH Member, IRGiT Management Board shall have the right to impose an obligation on said entity under a separate resolution to provide the Clearing House, within the time limit specified in said resolution, with a document specified therein confirming that the requirements applied to said CSH Member meet the requirements of regarding them as equivalent to the prudential requirements specified in CRR and are recognized by a competent authority authorized for exercising supervision as part of a supervisory system operating in a given European Union member state as at least as stringent as the rules established in CRR or the Directive

2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ EU L 176 of 2013) and which fulfil these rules.

## CHAPTER III

### REGISTRATION OF OPERATIONS RELATED TO TRADING IN FINANCIAL INSTRUMENTS

#### § 23

1. All operations related to registration, clearing, settlement and guaranteeing of clearing of transactions the object of which is Financial Instruments shall be performed by the Clearing House in the following types of accounts:
  - 1) trading accounts;
  - 2) clearing accounts;
  - 3) collateral accounts;
  - 4) financial settlement accounts.
2. The account system is operated by the Clearing House in accordance with the following rules:
  - 1) consideration of Financial Instruments ownership rights,
  - 2) simultaneity of actions,
  - 3) completeness,
  - 4) accuracy.
3. The rule of considering ownership rights of Financial Instruments consists in registering Financial Instruments in trading accounts, broken down into own positions of the CSH Member, the positions of its clients and the positions of the trading facility members represented by the CSH Member.
4. The rules of simultaneity of actions means that the registration in the account system takes place on the moment of performance of a specified action in the clearing system.
5. The rules of completeness means that all actions referred to in section 1 above are registered in the account system.
6. The rule of accuracy means that the account system is operated in accordance with the actual state of actions performed in the clearing system.

#### § 24

1. Records in the account system shall be made exclusively by the Clearing House.
2. The Clearing House shall record in trading accounts the positions arising from a transaction accepted in the clearing system at the moment that a document pertaining to that transaction referred to in § 34 section 2 is entered in the system.

3. The Clearing House shall store information about records made in the account system for 10 years from the moment the position is closed or executed.

#### § 25

1. An account in the clearing system shall be opened based on an instruction from a CSH Member submitted based on an application the template of which is an appendix to the Detailed Clearing and Settlement Rules.
2. The CSH Member acting on its own account shall open and maintain one account of each type referred to in § 23 section 1 in the Clearing House.
3. The CSH Member acting on customers' account shall open and maintain separate trading accounts and clearing accounts for each customer.
4. The CSH Member acting as a representative of a trading venue member shall open and maintain separate trading accounts and clearing accounts for each trading venue member.

#### § 26

1. Trading accounts shall serve for registering:
  - 1) positions arising from transactions registered in the clearing system,
  - 2) operations concerning the positions referred to in item 1),
  - 3) balances arising from netting of the positions referred to in item 1).
2. The account system shall be operated taking into account the division of trading accounts, which serve for registering the positions arising from:
  - 1) transactions concluded by the CSH Member on its own account (own positions accounts),
  - 2) transactions concluded by the CSH Member on its customers' account (customers' positions accounts),
  - 3) transactions concluded by trading venue members represented by the CSH Member (represented trading venue members' positions accounts).
3. Each trading account shall be assigned to a respective clearing account indicated by the CSH Member, except that own positions and customers' positions accounts as well as represented trading venue members' positions accounts shall be assigned to separate clearing accounts.
4. Delivery volume shall be registered in trading accounts, in the following meanings:
  - 1) for RES Property Rights – volume of positions measured in GWh,
  - 2) for Emission Allowances – volume of positions measured in Megagrams (Tons) of CO<sub>2</sub> emissions.

## § 27

1. Clearing accounts are used for:
  - 1) registering liabilities and receivables of the CSH Member arising from daily clearing of positions,
  - 2) registering CSH Member's liabilities in respect of calculated forward margin arising from opened positions.
2. Each clearing account shall be assigned to a respective financial settlement account indicated by the CSH Member.

## § 28

1. Collateral accounts shall serve for registering the value of collateral contributed by the CSH Member in cash as well as contributed in other forms of non-cash collateral recognized by the Clearing House and registered in the Non-Cash Collateral Register.
2. Each collateral account shall be assigned to a respective financial settlement account indicated by the CSH Member.

## § 29

1. Financial settlement accounts are used to register the value of liabilities and receivables of a given CSH Member, based on which in accordance with the provision of § 53 section 4 they are submitted by the Clearing House in the form of payment orders to the Settlement Bank for the purpose of performing the financial settlement of the transactions cleared by the Clearing House.
2. Each financial settlement account shall be assigned to a respective clearing bank account of the CSH Member in the Payer Bank, via which said member settles its liabilities towards the Clearing House.

## **CHAPTER IV**

### **METHOD AND PROCEDURE FOR THE CLEARING OF TRANSACTIONS**

#### **§ 30**

The Clearing House shall clear the transactions concluded in trading venues and determine the rules of conduct, collect and manage the funds of the clearing liquidity guarantee and maintenance system.

#### **§ 31**

While organizing and clearing transactions, the Clearing House shall:

- 1) maintain a system of accounts referred to in § 23 section 1,
- 2) register transactions subject to clearing, positions arising from the transactions subject to clearing and operations pertaining to such positions,
- 3) determine the scope of cash and non-cash benefits the fulfillment of which is the obligation of the parties to transaction clearing, divided into:
  - a) liabilities and receivables in respect of transaction clearing,
  - b) liabilities and receivables in respect of forward margin,
- 4) render it possible to fulfil the benefits referred to in item 3) through preparation of instructions causing the crediting or debiting of the clearing bank accounts indicated by the CSH Members, maintained in their Clearing Bank,
- 5) within the scope specified in the present Regulations – organizes and manages the clearing guarantee system.

#### **§ 32**

Transaction clearing shall be made in PLN on the rules specified in the Regulations and resolutions adopted by the Clearing House Management Board in accordance with the Regulations.

#### **Transaction reporting procedure**

#### **§ 33**

1. All data on the transactions concluded on the Financial Instruments cleared by the Clearing House shall be submitted to the clearing system electronically via the trading venue.

2. The Clearing House shall ensure transaction clearing and performance of other related actions referred to in this section on condition that the documents and data referred to in section 1 are received under the rules specified in an agreement with a given trading venue, subject to § 10.

## **Transaction clearing procedure**

### § 34

1. Having received the data on the transactions referred to in § 33, the Clearing House shall register the positions being the object of said transactions in trading accounts and then calculate the cash claims arising from the registered positions.
2. The amounts of the liabilities and receivables of the CSH Members shall be determined based on the documents specifying the terms of the concluded transactions delivered to the Clearing House via the trading venue within which the transaction has been concluded or registered.
3. The structure, format and specific rules of delivering the documents referred to in section 2 to the Clearing House shall be determined by the Clearing House upon agreement with the entity operating a given trading venue.

### § 35

1. The actions referred to in § 34 section 2 in relation to each clearing account created for a given CSH Member shall be performed in accordance with the rule that the CSH Member is obliged to make a monetary performance if its liabilities are in excess of the amounts receivable by it in the same respect unless the provisions of the Regulations provide otherwise.
2. The amount of the liabilities referred to in section 1 shall be determined in accordance with the netting principle, which means that a CSH Member's cash liabilities and receivables arising from transaction clearing and participation in the clearing guarantee system shall be transformed accordingly into a single net liability or a single net receivable.
3. At the same time, the surplus referred to in section 1 shall determine the amount of the actual financial settlement in a specific respect of transaction clearing.
4. The IRGiT Management Board may decide, by way of resolution, to exempt specific transactions from the application of the netting principle. In such cases, the amount of liabilities shall be determined separately for each exempt transaction.

5. The IRGiT Management Board may decide, by way of resolution, to apply the netting principle to the liabilities and receivables arising from the transactions as well as the liabilities and receivables of the CSH Members in other respects related to the CSH membership. In such an event, the provisions of sections 2 and 3 shall apply accordingly.

§ 36

1. After the elapse of the period of transaction conclusion in trading venues, the Clearing House shall prepare, and share with CSH Members, documents containing lists of all operations registered in the trading accounts maintained for the individual CSH Members, and in the case of CSH Members acting on customers' account or fulfilling the function of a representative of a trading venue member - of all operations registered in the trading accounts for the clearing of which they are responsible.
2. In the clearing process, the Clearing House shall prepare and share the following with the CSH Members:
  - a) in relation to each clearing account created for a given CSH Member, the clearing values arising from daily clearing of the positions registered in the clearing system,
  - b) in relation to the financial settlement account created for a given CSH Member, the values of the receivables and liabilities in respect of transaction clearing and of collateral margin amount updates.
3. The values of the receivables and liabilities of the individual CSH Members shall be calculated at the end of the day on which the clearing process is carried out. Said values shall be provided to the CSH Members in the clearing system. The detailed rules of determining the schedule and calculating the clearing values by the Clearing House for individual trading venues and sharing them with the CSH Members are defined in the Detailed Clearing and Settlement Rules.
4. The communications on the values of the CSH Member's receivables or liabilities shall be also sent electronically to the Settlement Bank and the relevant Payer Banks.
5. If no financial settlement is performed on a given day, the balance of the CSH Members' liabilities and receivables calculated on that day shall cover all transactions for which the financial settlement was not carried out prior to that day.

§ 37

1. The document confirming the conclusion of a transaction may not be canceled since the moment of entering said document to the clearing system.

2. The submission and confirmation of the correctness of all transactions concluded or registered on a given trading day by the relevant trading venue shall be deemed as the moment of entering a transaction to the clearing system.

## CHAPTER V

THE CLEARING GUARANTEE SYSTEM – The method of organization of the transaction clearing liquidity securing system

### § 38

The transaction clearing liquidity guarantee system organized by the Clearing House shall cover all transactions accepted by the Clearing House for clearing.

### § 39

1. The clearing guarantee system operated by the Clearing House consists of:
  - 1) transaction margin,
  - 2) forward margin for forward contracts cleared through the physical delivery of the underlying instrument,
  - 3) default fund.
2. As part of the transaction clearing liquidity guarantee system, the Clearing House shall collect and manage the funds being payments to transaction margin, forward margin and default fund contributions, registered by the Clearing House in relevant collateral accounts of a given CSH Member in the clearing system.
3. The interest on management of the clearing guarantee system's funds contributed by the CSH Members to the Clearing House shall be accrued to the payments of the members contributed to individual elements of the clearing guarantee system. Where a CSH Member is in default towards the Clearing House with any liability arising from its participation in the clearing system referred to in § 1 section 1, the Clearing House shall have the right to effect a contractual set-off and apply the given interest receivable by the CSH Member towards these liabilities.
4. CSH Member's monetary obligations towards the Clearing House, performed as part of the transaction clearing liquidity guarantee system, shall be deemed performed at the moment a relevant bank account indicated by the Clearing House is credited.

### § 40

1. The clearing guarantee system funds may be used by the Clearing House when an event of default occurs and in particular in cases referred to in the provisions of this section, however these funds shall be used in the first place to perform the obligations arising

from the transactions.

2. In case an event of default occurs and the actions specified in this section must be taken, the Clearing House shall inform the CSH Member affected by the event of default about said actions. The information shall be provided in an electronic form and where it is impossible - in any form that will leave a sufficiently permanent trace.
3. In case an event of default occurs:
  - 1) all CSH Member's obligations affected by the event of default shall promptly become payable, subject to section 4,
  - 2) the Clearing House shall become authorized to close the positions opened as a result of the transactions referred to in item 1),
  - 3) the Clearing House shall become authorized to refuse to accept for clearing any transactions, to which the CSH Member affected by the event of default is a clearing party,
  - 4) the Clearing House shall take the actions referred to in § 70 section 1.
4. In case of an event of default which does not involve the declaration of bankruptcy, the initiation of restructuring proceedings, resolution, or the opening of liquidation of a CSH Member, the Clearing House may take the actions referred to in § 59 upon a prior request to the CSH Member to take actions for remedying the threat to safety of trading or correct operation of the clearing system. All liabilities of a CSH Member shall become payable on the ineffective elapse of the time limit specified in said request.

## **Transaction margin**

### § 41

1. A CSH Member shall contribute a transaction margin, the minimum value of which shall be determined by the Clearing House Management Board.
2. Transaction margin are designed for collateralization of financial settlements and physical delivery within the scope specified in § 42 section 1.
3. Transaction margin consist of:
  - a) delivery margin (for forward contracts cleared through the physical delivery of the underlying instrument),
  - b) historic margin (for emission allowances).
4. The payments feeding the transaction margin may be contributed in cash under the rules defined in the Detailed Clearing and Settlement Rules, subject to the provisions of § 42 section 3.
5. The cash contributed to the transaction margin may be disbursed after a CSH Member has submitted a relevant instruction.

6. The value of the historic margin depends on historic values of transactions and liabilities on account of financial settlement, provided that this value is not lower than the minimum value determined in accordance with the Detailed Clearing and Settlement Rules. The algorithm used to determine the value of and the procedure for contributing the historic margin are set forth in the Detailed Clearing and Settlement Rules.

§ 42

1. A delivery margin secures the financial settlement in the event of a payment reservation by the Clearing Bank referred to in § 58 section 1 and the physical settlement of the forward contracts cleared through the physical delivery of the underlying instrument.
2. The algorithm used to determine the value of and the procedure for providing the margin are set forth in the Detailed Clearing and Settlement Rules.
3. A delivery margin shall be contributed in the underlying instrument or in cash under the rules defined in the Detailed Clearing and Settlement Rules.

§ 43

1. (repealed)
2. (repealed)
3. (repealed)
4. (repealed)

§ 44

1. Relying on the information submitted by the entity operating a trading venue, the Clearing House shall calculate, under the rules defined in the Detailed Clearing and Settlement Rules, the current value of the liabilities arising from the transactions conducted thereon, the performance of which is the responsibility of individual CSH Members.
2. (repealed)

3. (repealed)
4. Aiming to increase the safety of trading by preventing an excessive concentration of the purchase or sale positions by a given CSH Member, the IRGiT Management Board may, by way of resolution, impose open position limits on the CSH Member. Open position limits may apply to all or selected positions (in a given market or in a given contract) of the Clearing Member. The limit shall be expressed in the nominal value of the open positions.
5. Exceeding the open position limit shall justify the closing of the positions by the Clearing House to the extent necessary to restore compliance with the limits. Where the exceedance of the open position limits arises from causes that are independent of the CSH Member, the Clearing House shall commence the closing of the positions if the CSH Member fails to promptly commence remedying said exceedance.
6. The position closing referred to in section 5 shall take place with the use of the funds contributed by the CSH Members to the clearing guarantee system pursuant to § 59.

## **Forward margin**

### § 45

1. Forward margin for forward contracts cleared through the physical delivery of an underlying instrument shall be contributed by a CSH Member and shall be composed of:
  - 1) an initial margin,
  - 2) a variation margin.
2. The value of the required initial margin shall depend on:
  - 1) the quantity of the open positions in individual forward contracts,
  - 2) the value of the daily clearing prices,
  - 3) the value of the risk parameters published on the public website of the Clearing House.
3. The risk parameter value referred to in section 2 item 3) shall be determined with the volatility of prices in a given market and the number of days to perform a given series of forward contracts taken into consideration.
4. The value of the variation margin value shall depend on the quantity of open positions and on the difference of the rates at which the forward contracts were concluded and on the current daily clearing price.
5. The detailed rules of collateral margin calculation are defined in the Detailed Clearing and Settlement Rules.

### § 46

1. The payments towards the forward margin may be contributed in cash or non-cash under the rules defined in the Detailed Clearing and Settlement Rules.
2. The monetary settlement of Clearing Member's liabilities towards the Clearing House or the monetary settlement of the Clearing House's liabilities towards the member following an update of the collateral margin amount shall be carried out by the Clearing House debiting or crediting the Clearing Member's clearing bank account in the Clearing Bank.

#### § 47

1. The collateral provided in a non-cash form in respect of forward margin may take the form of non-cash collateral, on the terms and conditions set forth in the Detailed Clearing and Settlement Rules.
2. The CSH Member which intends to contribute the non-cash collateral referred to in section 1 shall contribute the collateral in a relevant register to the account indicated by the House and to which the House has appropriate access. The detailed rules regulating the procedure of contributing the non-cash collateral referred to in section 1 and the conditions to be met by such collaterals are defined in the Detailed Clearing and Settlement Rules.
3. (repealed)

#### § 48

1. The value of the non-cash collateral referred to in § 47 section 1 shall be equal to the difference between their market value and the product of this market value and the haircut assigned thereto and announced by the House. The rules of determining the market value for a given object of non-cash collateral are defined in the Detailed Clearing and Settlement Rules.
2. The Clearing House may, on an ongoing basis, including in the transaction conclusion period in a given trading venue, update the value of the object of the non-cash collateral referred to in § 47 section 1 and the haircuts.
3. It shall be permitted to determine the haircuts for a given type of objects of the non-cash collateral referred to in § 47 section 1 at the maximum level of 100%. When determining the haircuts, the Clearing House shall take into account in particular the rate volatility of a given collateral, its liquidity and foreign exchange risk.
4. The Clearing House shall inform the CSH Members about a change in the value of haircuts promptly upon their update.

## **Default fund**

### § 49

1. In order to ensure the security of the clearing of the transactions concluded in the trading venues cleared by the Clearing House, the Clearing House shall organize and manage default funds.
2. The contributions to individual default funds shall be made by CSH Members as regards the transactions secured with these funds.
3. The default fund contributions shall be used in the events referred to in § 44 section 6, § 59 section 2 and § 62 section 2.
4. The detailed rules of establishing and using default funds to an extent not regulated in the Regulations are specified in the regulations of the default fund prepared under the rules specified in Article 68d section 3 of the Act on Trading, hereinafter referred to as the Regulations of the Default fund.

### § 50

1. The Clearing House shall operate default funds for the individual trading venues on which the transactions cleared by the Clearing House are concluded.
2. The Clearing House may operate one default fund for more than one trading venue under an agreement concluded by and between IRGiT and the entities organizing such trading venues.

## **CHAPTER VI**

### **METHOD AND PROCEDURE FOR THE SETTLEMENT OF TRANSACTIONS**

#### **§ 51**

When carrying out and organizing transaction settlement, the Clearing House shall:

- 1) carry out financial settlement on the cleared transactions,
- 2) carry out a physical settlement.

#### **Financial settlement**

#### **§ 52**

1. The financial settlement of transactions in Financial Instruments and of other operations related to CSH Member's financial receivables or liabilities, provided that the obligation to fulfil a benefit arises from the CSH membership, shall be carried out by the Clearing House via the Settlement Bank or Payer Banks.
2. The Settlement Bank shall transfer cash based on the instructions issued by the Clearing House in accordance with the documents referred to in § 33.
3. On every working day, the Clearing House shall prepare:
  - 1) instructions to credit or debit the Clearing Members' clearing bank accounts in respect of transaction clearing,
  - 2) instructions to credit or debit the Clearing Members' clearing bank accounts in respect of collateral margin updates.
4. Payment instructions shall be submitted to the Settlement Bank and the Clearing Bank by the Clearing House under the agreement concluded by and between the Clearing House and the Clearing Bank and the agreements concluded by and between the Clearing House and the Clearing Bank.

#### **§ 53**

1. Financial settlement for Financial Instruments shall be carried out on the next working day following the day on which a given Financial Instrument is cleared.
2. Financial settlement shall not be carried out on statutory holidays and on Saturdays.
3. On the financial settlement day, a CSH Member shall ensure that there are funds in the clearing bank account in the Clearing Bank it has indicated at least in the amount equal to the balance of liabilities calculated by the Clearing House by the hour indicated in the

Detailed Clearing and Settlement Rules. Should the CSH Member fail to fulfil its obligation referred to in the preceding sentence, the Clearing Bank shall make the payment unless the Clearing Bank has executed payment reservation in relation to this CSH Member under the rules specified in the agreement by and between the Clearing House and the Clearing Bank.

4. Financial settlement shall be carried out based on the documents referred to in § 33 that specify the value of the CSH Member's cleared net positions increased by VAT in accordance with the applicable laws.
5. VAT invoices shall be issued on each Monday or the next working day if Monday is a statutory holiday and shall cover the period of the previous week.
6. The IRGiT Management Board shall have the right to decide to suspend the financial settlement for a definite period in relation to the CSH Member concerning the transfer of the receivables in respect of the cleared transactions by the Clearing House to the clearing bank account in the Clearing Bank indicated by the CSH Member in the case where the CSH Member is in default as regards the delivery of the Financial Instrument, thus giving rise to the necessity to suspend the settlement in the physical delivery. The decision referred to in the first sentence shall be made by the IRGiT Management Board in the form of a resolution.
7. The IRGiT Management Board shall decide to resume the previously suspended financial settlement referred to in section 6 where the CSH Member which caused the suspension has performed its obligations towards the Clearing House consisting in delivering the required quantity of the instrument being the object of the delivery to the Clearing House. The suspended payment value shall be netted with the value of a given CSH Member's liabilities or receivables calculated on the day on which the IRGiT Management Board made the decision referred to in the sentence above.

## **Physical settlement**

### § 54

1. Physical settlement of transactions in Financial Instruments shall consist in debiting or crediting the accounts of such instruments, maintained by the Clearing House, in connection with the transaction of Financial Instruments disposal or purchase, respectively. Physical settlement of transactions in Financial Instruments shall be carried out:
  - a) as regards emission allowances - on each working day on which such an instrument is cleared,

- b) as regards the Financial Instrument the underlying instrument of which is the RES Property Right - on the next working day following the following the day on which such an instrument is cleared.
2. As part of the operations connected with the performance of the CSH Member's non-monetary obligations arising from transactions, the Clearing House enables physical delivery of Financial Instruments at the quantity arising from the carried out settlement through submission of instructions to the entities responsible for their delivery.
  3. The Clearing House shall not be liable for the physical delivery of the Financial Instrument. The Clearing House shall not be liable also for any loss or damage suffered indirectly or directly by CSH Members, their customers or represented trading venue members, in connection with or on the occasion of the delivery of the Financial Instrument.

### **Procedure of emission allowance delivery**

#### § 55

1. The Financial Instrument being emission allowances shall be delivered through relevant accounts in KOBiZE.
2. The delivery of emission allowances shall be deemed as completed on the entry of emission allowance transfer orders, arising from the concluded transactions the object of which is emission allowances and subject to clearing through physical delivery, to the Union Registry by the Clearing House.
3. The detailed rules of emission allowance delivery are defined in the Detailed Clearing and Settlement Rules.

### **Procedure of RES Property Rights delivery**

#### § 56

1. The Financial Instrument the underlying instrument of which is the RES Property Right shall be delivered through registers maintained in accordance with separate laws.
2. The delivery of the underlying instrument being the RES Property Right shall be deemed as completed on the Clearing House's sending the information about the

concluded transactions the object of which is the RES Property Rights and which are subject to clearing through physical delivery to the entity maintaining a relevant register in accordance with the applicable laws.

3. The detailed rules of the delivery of the Financial Instrument the underlying instrument of which is the RES Property Right are defined in the Detailed Clearing and Settlement Rules.

## **Suspension of settlement in physical delivery**

### § 57

1. The Clearing House shall have the right to decide to suspend the settlement of the physical delivery of the relevant Financial Instrument for a definite period where:
  - 1) a given CSH Member fails to perform or improperly performs the obligations arising from the financial settlement carried out by the Clearing House,
  - 2) the entity maintaining a relevant register for a given Financial Instrument in accordance with the applicable laws is temporarily unavailable or has informed the Clearing House about temporary non-acceptance of settlement instructions from the Clearing House,
  - 3) the entity maintaining a relevant register for a given Financial Instrument in accordance with the applicable laws has informed the Clearing House about temporary non-acceptance of settlement instructions from the Clearing House for the indicated CSH Members, their customers or represented trading venue members.

The decision referred to in the first sentence shall be made by the IRGiT Management Board in the form of a resolution.

2. Where the IRGiT Management Board makes the decision referred to in § 57 section 1 item 1) or item 3), the IRGiT Management Board may impose a charge on the CSH Member for causing the suspension of the settlement in the physical delivery, as specified in Appendix 1 to the Regulations (Table of Fees and Charges), allowing in particular for the cause and scale of the suspension of the settlement in the physical delivery as well as its influence on the security of clearing and settlement and legitimate interest of the CSH Members.
3. The IRGiT Management Board shall decide to resume the previously suspended financial settlement of the physical delivery referred to in section 1 where:
  - 1) the Clearing Member which caused the suspension has performed its obligation towards the Clearing House as regards the transfer of the accrued

liabilities to the Clearing House's account in respect of the clearing of transactions which, in accordance with the Clearing House Management Board decision were subject to suspension.

- 2) a relevant register for a given Financial Instrument maintained by the authorized entity in accordance with the applicable laws has resumed work or acceptance of settlement instructions from the Clearing House for all CSH Members or their customers and represented trading venue members,
  - 3) a relevant register for a given Financial Instrument maintained by the authorized entity in accordance with the applicable laws has resumed acceptance of settlement instructions from the Clearing House for the indicated CSH Members or their customers and represented trading venue members.
4. The suspended settlement in the delivery of the Financial Instrument shall be carried out by the Clearing House on the next working day following the day on which the IRGiT Management Board made the decision referred to in section 3 above.

## CHAPTER VII

### PERFORMANCE OF OBLIGATIONS.

### RULES OF CONDUCT IN THE CASE OF NON-PERFORMANCE OF OBLIGATIONS.

#### § 58

1. The CSH Member obliged to make a cash benefit in accordance with the content of the document referred to in § 33, made available after the end of the possibility to conclude transactions in a trading venue, shall have the sufficient funds in the clearing bank accounts in its Payer Bank, which serves the purposes specified in § 52, until the moment they are payable at the latest. The amount of such funds shall be at least equal to the amount of this liability, taking into account other liabilities connected with its CSH membership. Should the CSH Member fail to fulfil the obligation of having sufficient funds on the clearing bank account in the Clearing Bank under the rules specified in this section, the Payer Bank shall make the payment unless it has executed payment reservation under the rules specified in the agreement by and between the Clearing House and the Clearing Bank.
2. Where, upon the elapse of the deadline referred to in sentence 1 of section 1 , the funds on a CSH Member's clearing bank account are insufficient to cover the liabilities of said CSH Member and the Payer Bank has executed payment reservation in relation to a given CSH Member, the Management Board may take the actions referred to in § 40 section 3 and in § 57 or such liabilities shall be covered with the funds contributed to the clearing guarantee system by a given CSH Member.
3. If, as a result of using the required margin, the value of said margin decreases below the minimum value, the CSH Member shall promptly replenish said margin at least up to this value.

#### § 59

1. Where the CSH Member obliged to contribute a collateral margin, replenish a transaction margin up to the minimum value determined pursuant to § 41 section 1, contribute a delivery margin, make a contribution to the default fund or make a benefit as part of settlements arising from open positions, fails to perform or improperly performs its obligations, or where the Clearing House finds an event of default by the Clearing Member, the Clearing House, upon a prior request to the CSH Member to replenish the required funds, shall commence closing the positions opened as a result

of the transactions concluded by said CSH Member on its own account or on its customer's account or by a trading venue member for which said CSH Member is accountable to the Clearing House, using for this purpose the collaterals contributed by said CSH Member for the collateral margin attributable to such positions and, where need be, also for the transaction margin.

2. If the funds referred to in section 1 prove insufficient to close the positions in the Financial Instruments for which a given CSH Member is accountable to the Clearing House, the funds contributed to the default fund by said CSH Member and afterwards the funds contributed to the default fund by other clearing members of the Clearing House shall be used, at the same time requesting CSH Members to contribute replacement default fund contributions if need be.
3. The Clearing House shall realize the non-cash assets composing the clearing guarantee system if it is necessary to use them in accordance with sections 1–2.

## **Auctions for the purpose of default management**

### § 60

1. Auctions for the purpose of default management may be organized by the Clearing House in order to secure the financial settlement arising from clearing the transactions of a given CSH Member in relation to which the Clearing House has commenced closing positions pursuant to § 59 section 1. The CSH Members which have been proposed by the Clearing House to open the position referred to in § 61 section 1 shall participate in this process.
2. The process referred to in section 1 shall consist in the Clearing House's conclusion of a transaction, on the account of the CSH Member in relation to which the Clearing House has commenced the closing of positions pursuant to § 59 section 1, for an opposite position corresponding to the position or positions of said CSH Member.
3. The process referred to in section 1 shall be conducted by the Clearing House with due diligence arising from reasonable market conditions existing on the process execution day. Conduct with due diligence shall be understood as taking actions by the Clearing House in accordance with the applicable regulations with the observance of clearing security and with the legitimate interest of Clearing House Members taken into account.
4. The detailed rules of conducting auctions for the needs of default management are defined in the Detailed Clearing and Settlement Rules.

## § 61

1. Auctions for the purpose of default management shall be conducted by the Clearing House in relation to the positions registered on the trading accounts maintained for the CSH Member in relation to which the Clearing House has commenced the closing of positions pursuant to § 59 section 1, by way of the Clearing House's sending an instruction to other CSH Members containing a proposition to open a position being a position corresponding to the position or positions closed pursuant to § 59 section 1. In the circumstances justified with clearing security, the Clearing House shall be authorized to reduce the number of entities to which it addresses its proposition to open positions under the rules defined in the Detailed Clearing and Settlement Rules.
2. The CSH Member which has received the proposition to open positions shall submit a transaction conclusion offer for the opposite position under the rules defined in the Regulations and in the Detailed Clearing and Settlement Rules. Submission of a transaction conclusion offer for the opposite position shall mean at the same time that the CSH Member submitting the offer gives consent to submitting the transaction for clearing in the clearing system.
3. If the Clearing House accepts the received transaction conclusion offer for the opposite position, the Clearing House shall send the transaction conclusion confirmation to the CSH Member and at the same time register the transaction for the opposite position in the relevant trading account in the clearing system.
4. The moment the opposite position is registered in the clearing system shall be deemed as the moment of transaction conclusion.

## § 62

1. The Clearing House shall, at any time, have the right to withhold or suspend auctions for the needs of default management without stating any reasons.
2. The costs of the auctions for the needs of default management shall be covered with the receivables of the CSH Member obliged to cover them, from transaction margin and margin contributed by said entity, from default fund contributions, and should the funds prove insufficient – with the funds of the default fund in proportion to the contribution of a given member in the following order:
  - 1) the funds of the members which have not submitted the offer despite having received the position opening proposition pursuant to § 61 section 2,
  - 2) the funds of the members which have submitted the offers that have not been accepted by the Clearing House,

- 3) the funds of the members which have submitted the offers that have been accepted by the Clearing House,
  - 4) other funds.
3. Where the funds of the default fund used under the rules described in section 2 above prove insufficient, the CSH Members obliged to maintain contributions in this fund shall make replacement contributions in accordance with the Regulations of the Default fund.

## CHAPTER VIII

### POSITION TRANSFER

#### § 63

A position transfer consists in moving the entries expressing the holdings of the positions in specific Financial Instruments from the trading account maintained for a given CSH Member to the trading account maintained for another CSH Member ("position transfer").

#### § 64

1. A CSH Member may file an application with the Clearing House for a position transfer to another CSH Member's trading account maintained by the Clearing House in the clearing system as part of the same trading venue and for the same type of Financial Instruments.
2. A position transfer, subject to section 4, may be performed exclusively based on a written application of the CSH Member in the accounts of which these positions are registered, accepted by the CSH Member which assumes the Clearing Member status as regards said positions, under the rules defined in the Detailed Clearing and Settlement Rules.
3. The acceptance of the application referred to in section 2 by the member which assumes the Clearing Member status as regards the positions transferred shall be deemed as its simultaneous consent to the performance of all obligations related to clearing and settlement of the transactions arising from said positions.
4. In the event of a possible insolvency of a given CSH Member which is responsible for the correct clearing of the positions of its customers or trading venue members represented by it, the filing of an application for a position transfer by the customer of this CSH Member or the represented trading venue member, respectively, the positions of which are registered in the trading account shall be permitted.
5. A position transfer requires the Clearing House's consent.
6. On registering a position transfer in the account system by the Clearing House:
  - 1) The CSH Member which has filed the application for a position transfer referred to in section 2 shall no longer be authorized or liable, respectively, in respect of clearing the transactions for which it was responsible,
  - 2) The CSH Member which assumes the Clearing Member status as regards the positions transferred shall become authorized or liable, respectively, in respect of clearing the positions being the object of the transfer.

7. The Clearing House shall have the right to refuse to perform a position transfer where:
- 1) it finds an event of default by any CSH Member referred to in section 2, or
  - 2) prior to stating the compliance of the instructions referred to in section 2, a relevant instruction was sent to the Settlement Bank in order to clear the cash benefits in relation to the transferred positions or funds being the object of collateral transfer,  
or
  - 3) a different circumstance justified with clearing security has occurred.

## CHAPTER IX

### REPORTING TO TRADE REPOSITORY

#### § 65

1. The House shall submit transaction reports (that is, information about the transactions the object of which is the Financial Instruments accepted by the House for clearing, submitted to the trade repository by the House, a CSH Member, or another entity, respectively, under applicable laws) to the relevant trade repository provided that the transaction reporting obligation arises from the laws, unless another entity authorized therefor has undertaken to ensure that said reports are submitted by itself.
2. If the Clearing House is responsible for submitting the transaction reports to the trade repository, they shall be submitted in particular as a result of registering positions in trading accounts, a change regarding such positions in connection with the transaction, and unregistering them from such accounts. The Clearing House shall submit transaction reports to the extent arising from the documents specifying the terms of the transactions referred to in § 34 section 2, the actions made in the clearing system, and the information obtained from the CSH Member referred to in section 3, with the method of defining accounts in the clearing system taken into consideration.
3. The CSH Member which has designated the Clearing House as the entity responsible for submitting transaction reports to the relevant trade repository shall provide the Clearing House with any and all information required to fulfil the obligation to submit the transaction report to the trade repository. In the case of a CSH Member which pursues an activity on customers' accounts or as a representative of a trading venue member, it shall, provided that the obligation to report transactions arises from the laws, inform the customer or the trading venue member, respectively, about the designation of the Clearing House as the entity responsible for submitting the reports on the transactions concluded by this entity to the trade repository and ensure that such an entity will not perform the obligation to report the transactions reported by the Clearing House to the trade repository on its own.
4. The CSH Member which has designated the Clearing House as the entity responsible for submitting transaction reports to the trade repository shall cover the costs incurred by the Clearing House for the repository in respect of report submission if:
  - a) the cost amount arises from the regulations issued by the trade repository,
  - b) the Clearing House informed the CSH Member about the amount of the costs two weeks before incurring them at the latest by publishing this information on the website.

5. The costs referred to in section 4 shall be reimbursed by the CSH Member on a monthly basis and within 14 days from the invoice delivery date.
6. The Clearing House Management Board shall define the Detailed rules of reporting by IRGiT to the relevant trade repository.

## CHAPTER X

### SUPERVISION OVER CSH MEMBERS

#### § 66

1. The Clearing House shall supervise the activity of CSH Members as regards its compliance with the Regulations and the content of the applicable resolutions of the IRGiT Management Board, in particular through:
  - 1) analyzing the information provided by CSH Members,
  - 2) inspecting organizational units of CSH Members through persons authorized by the Clearing House.
2. During an inspection carried out in an organizational unit of a CSH Member, the inspector shall have the right to inspect the documents and other information related to the performance of the entity's obligations arising from the CSH membership agreement and the right to request information from the unit's employees to the extent arising from CSH membership. The Clearing House Management Board or the employee authorized by the Clearing House Management Board shall promptly notify the relevant supervision authority of the defaults found during the inspection.
3. The IRGiT Management Board shall define the Detailed rules for inspection the CSH Members' activity.

# CHAPTER XI

## MEASURES FOR MAINTAINING ORDER AND DISCIPLINE

### § 67

1. There are following measures for maintaining order and discipline:
  - 1) the charge referred to in section 2 item 1),
  - 2) the penalty charge referred to in section 2 item 2),
  - 3) the charges for causing the suspension of the settlement of physical delivery or payment reservation referred to in the Table of Fees and Charges,
  - 4) deprivation of or suspension of CSH membership.
2. The IRGiT Management Board may impose a charge on the CSH Member which infringes on the obligations specified in the Regulations in accordance with the following rules:
  - 1) In the event that a CSH Member breaches the membership rules such that it fails to perform or improperly performs the obligations arising from the CSH membership agreement which do not affect the safety of trading or clearing carried out by the Clearing House, the IRGiT Management Board may oblige the CSH Member to pay a charge of up to PLN 10,000. The charge referred to in section 3 item b) shall be calculated at PLN 200 per each day of the delay in delivering each separate piece of financial information.
  - 2) In the event that a CSH Member breaches on the membership rules such that it fails to perform or improperly performs the obligations arising from the CSH membership agreement, and it creates a threat to the safety of trading or clearing carried out by the Clearing House, the IRGiT Management Board may oblige the CSH Member to pay a charge of up to PLN 50,000.
3. Non-performance or improper performance of obligations arising from the CSH membership agreement shall include in particular:
  - a) the failure to submit the information referred to in § 14 section 4, § 18 section 2, and § 22 section 1 in a timely manner,
  - b) the failure to submit the financial information referred to in § 25–28 in a timely manner,
  - c) failure to contribute the required payment towards the collateral margin or default fund in a timely manner.
4. The charge referred to in section 1 item 1) shall not apply when the charge referred to in section 1 item 2) or item 3) has been imposed on the CSH Member for a given breach.

5. Should the CSH Member, despite the fact that the charge referred to in section 1 item 2) above has been imposed, fail to remedy the causes being the grounds for imposing said charge within the time limit specified by the Clearing House, the IRGiT Management Board shall have the right to apply the penalties described in § 70 section 1 of the Regulations.
6. Should the CSH Member be in default with the charges due to the Clearing House in respect of the services provided for the CSH Member as specified in the Regulations for a period exceeding 30 days from the due date of a given charge, the IRGiT Management Board shall have the right to apply the penalties described in § 70 section 1 of the Regulations.

#### § 68

1. Where there are grounds for imposing the charges referred to in § 67 section 2, the Clearing House Management Board shall inform the CSH Member about the breach, describing the breach in detail, and set it a time limit to remedy the effects of the breach. In the case of a failure to remedy the breach, the Clearing House Management Board shall impose a relevant charge on the CSH Member.
2. Where the CSH Member has failed to remedy the effects of the breach of obligations being the grounds for imposing the charge, the Clearing House Management Board shall set it an additional time limit to remedy it before each successive imposition of the charge.
3. In the case of a minor breach, the Clearing House Management Board shall have the right to refrain from imposing the charges referred to in § 67 section 2 and admonish the member.

#### § 69

1. The Clearing House Management Board's resolution on imposing the charge referred to in § 67 section 2 shall be promptly served on the CSH Member to which it refers. The CSH Member on which the charge referred to in § 67 section 2 has been imposed shall have the right to file an appeal with the IRGiT Supervisory Board within 14 days of receiving the relevant resolution of the IRGiT Management Board. Filing an appeal shall not withhold the enforceability of IRGiT Management Board's decision. The Supervisory Board shall consider the appeal within 30 days of the date on which it is filed. The decision of the Supervisory Board shall be final.
2. The resolution on imposing the charge shall be enforced within 10 days of the date of serving the resolution on the CSH Member to which it refers.

3. A change of the circumstances upon the adoption of the resolution on imposing the charge by the IRGiT Management Board may not constitute the grounds for its repealing. In such an event, the CSH Member to which the charge refers may request the IRGiT Management Board to reconsider the matter.

#### § 70

1. The Clearing House may unilaterally terminate the CSH membership agreement with immediate effect (deprivation of membership) or refrain from the performance thereof (suspension of membership) where the CSH Member poses a threat to the safety of trading or proper operation of the Clearing House. Such a threat occurs in particular where the CSH Member infringes on the laws regulating the operation of the Clearing House or the provisions of the Regulations.
2. The membership may be suspended for a definite period, however not longer than 6 months. The previous status of the CSH Member shall be restored based on the IRGiT Management Board's resolution adopted prior to the elapse of this time limit or on the elapse of this time limit, unless a different decision on further membership in the Clearing House is made prior to the elapse of this time limit.
3. The suspension or deprivation of the membership may concern either the entire CSH Member's activity covered by the CSH membership agreement or only a part thereof.
4. The decision on membership suspension shall indicate the conditions for restoring the previous status of the CSH Member.
5. A change of the circumstances in the event of the resolution on membership suspension or deprivation may not constitute the grounds for its repealing. In such an event, the CSH Member may request the IRGiT Management Board to reconsider the matter.

#### § 71

The membership suspension and deprivation does not affect the CSH Member's obligations arising from its activity pursued until the membership suspension or deprivation day. In this regards, the provisions of the Regulations shall apply accordingly.

#### § 72

1. In the period of membership suspension or in the case of membership cessation, only such operations as are justified with the events that occurred until the CSH membership suspension or termination shall be performed in the accounts maintained in the Clearing House for the CSH Member, subject to section 2.

2. The entity whose CSH membership has ceased shall take actions aimed to close the positions in the Financial Instruments for the clearing of which it is responsible or to transfer such positions to another Clearing Member. The Clearing House, acting on such an entity's account, shall have the right to close the positions the latter has opened in the forward contracts for the clearing of which such an entity was responsible if they were not transferred to another Clearing Member within the time limit specified by the IRGiT Management Board.

§ 73

Civil law disputes related to CSH membership between CSH Members and between a CSH Member and the Clearing House shall be submitted to the jurisdiction of the court of conciliation of the Polish Power Exchange with its registered office in Warsaw. Detailed rules of conduct before the court of conciliation of the Polish Power Exchange are defined in the regulations of said court.

## CHAPTER XII

### TERMINATION OF CSH MEMBERSHIP AGREEMENT BY CSH MEMBER

#### § 74

1. A CSH Member may terminate its CSH membership agreement with a fourteen-day termination notice period, effective at the end of the calendar month, subject to section 3. A CSH Member's unilateral termination notice for the CSH membership agreement shall be made in writing, otherwise being null and void.
2. Unilateral termination of the CSH membership agreement shall not result in the forfeiture of the Clearing Member status as regards the transactions concluded in trading venues until the termination of said agreement or the expiration of other obligations related to this status.
3. The CSH Member which has unilaterally terminated the CSH membership agreement shall take actions aimed to close the positions in the Financial Instruments opened as a result of the transactions concluded in the trading venues for the clearing of which it is responsible or transfer such positions to another Clearing Member. Such positions shall be closed or transferred by the day on which the notice period elapses at the latest.

## **CHAPTER XIII**

### **CHARGES**

#### **§ 75**

1. A CSH Member shall pay the Clearing House fees and charges at the amounts and within the time limits specified in Appendix 1 to the Regulations, hereinafter referred to as the Table of Fees and Charges.
2. The annual CSH membership fee collected from the CSH Members which have concluded the membership agreement in the given calendar year shall be charged at the full amount. The annual fee shall not be reimbursed in the case of membership suspension or termination of the membership agreement.
3. The IRGiT Management Board may, for a definite period, reduce or waive the collection of a specific category of fees and charges in relation to all or an objectively defined group of CSH Members, in particular to the entities which have concluded an arrangement with a given trading venue on the entity's concluding transactions in order to maintain liquidity of trading.
4. The IRGiT Management Board shall define the Detailed rules of calculating and collecting fees and charges referred to in section 1.

## **Appendix 1 – TABLE OF FEES AND CHARGES**

### **I. Membership fees**

- 1. Annual IRGiT membership fee** PLN 5,000

### **II. Transaction clearing and settlement charges**

**The following charges shall be collected from each party to a transaction**

#### **2. Charge for registering and clearing the transactions:**

- |     |  |          |                 |
|-----|--|----------|-----------------|
| 2.1 | concluded on forward contracts with physical delivery of RES Property Rights | PLN 0.40 | per 1 MWh       |
| 2.2 | concluded as regards emission allowances                                     | PLN 0.03 | per 1 allowance |

#### **3. Charge for settling the transactions:**

- |     |  |          |                 |
|-----|--|----------|-----------------|
| 3.1 | concluded on forward contracts with physical delivery of RES Property Rights | PLN 0.40 | per 1 MWh       |
| 3.2 | concluded as regards emission allowances                                     | PLN 0.03 | per 1 allowance |

### **III. Fees for access to the clearing system and electronic banking**

- |    |   |         |            |
|----|---|---------|------------|
| 1. | Annual fee for access to the clearing system<br>(applies to every established access beyond three)                    | PLN 200 | per access |
| 2. | Annual fee for access to the Settlement Bank's e-banking system<br>(applies to every established access beyond three) | PLN 300 | per access |
| 3. | (repealed)  |         |            |

### **IV. Fees for opening accounts in the clearing system**

- |    |   |         |             |
|----|---|---------|-------------|
| 1. | Annual fee for opening and maintaining a trading account (Trading Account) for a customer or a represented trading venue member at a CSH Member's request | PLN 500 | per account |
| 2. | Annual fee for opening and maintaining a Clearing Account for a customer or a trading venue member at a CSH Member's request                              | PLN 500 | per account |

### **V. Fees and charges for participation in the clearing guarantee system**

- 1. The fee on funds of CSH Members held in the clearing guarantee system**

The grounds for calculating the charge is the arithmetic mean of the values of the recognized assets of a Member of a given type in accordance with the balance as at the individual days of a calendar quarter.

1.1 Quarterly fee calculated on the contributed cash:  
-0.3% of the base amount understood as the arithmetic mean of the value of cash held by a CSH Member in the clearing guarantee system, according to the balance on the individual days of the calendar quarter.

1.2 Quarterly fee on the recognized non-cash collateral:  
-0.06% of the base amount understood as the arithmetic mean of the value of assets of a given type, recognized by IRGiT as non-cash collateral and held by a CSH Member in the clearing guarantee system, according to the balance on the individual days of the calendar quarter, but not more than PLN 50,000.

Transfer of bank costs related to the cash contributed by the CSH Member to the clearing guarantee system

1.3 Where the Clearing House incurs bank costs related to the management, holding or investing of cash contributed by CSH Members to the clearing guarantee system, the Clearing House may obligate the CSH Members to reimburse the Clearing House for such costs. The costs subject to reimbursement are the costs resulting from the negative interest rate, bank commissions, fees for keeping a high account balance and other fees that have a comparable effect and are charged by banks on such cash.

<b>2. Fee for registration of non-cash collateral in the collateral register (reckoned for each type of collaterals being lodged)</b>	100 PLN	per registration
<b>3. The fee for monthly servicing of the non-pecuniary collaterals being lodged in form of bank guarantees</b>	100 PLN	per month

## **VI. Other fees and charges**

### **1. Fee for causing the suspension of the settlement of a physical delivery**

2% of the value of the suspended transaction, no less, however, than PLN 500  
per each day of the settlement suspension

### **2. Charge for causing payment reservation for financial settlement**

The charge is calculated on the whole value of the limiting direct payments in accordance with the following formula:

max.  $5 \times \text{NBP lombard rate} \times n/365 \times \text{the reserved payment amount}$ , but not less than PLN 10,000 per each case of payment reservation

where:

NBP – National Bank of Poland,

n – number of days, counted from the day the limiting occurred until the day of remedying the breach understood as the moment of replenishing the funds up to the sum of the value of the required transaction margin and the delivery margin.

<b>3. Fee for a position transfer</b>	PLN 50	per transfer of of 1 transaction
<b>4. A charge for preparing and carrying out clearing in the IRGiT training system</b>	800 PLN	per man-day
<b>5. Charge for training services</b>	subject to negotiations	
<b>6. Fee for handling accounting documents outside the self-invoicing system</b>	PLN 10	per document

**All fees and charges presented in the Fee and the Charge Table above do not include VAT tax.**