

**Resolution No 151/63/08/2015**

of the Warsaw Commodity Clearing House Management Board

dated on the day of August the 27<sup>th</sup> 2015

and concerning non-cash collaterals

The Management Board of the Warsaw Commodity Clearing House (called "the Company" or "WCCH" thereafter), acting on the grounds of § 37 subparagraph 6, and § 39 subparagraph 6 of the Regulations of the Exchange Clearing House (Commodity Market) has decided as follows:

**§ 1**

The object of the collaterals lodged by the Clearing Members of the House in non-cash form by the right of the collateral margins and the transaction limit may be as follows:

- a) Property Rights under Certificates of Origin, referred to in § 2 subparagraph 1 of the present Resolution,
- b) Emission Allowances,
- c) bank guarantees,
- d) sureties granted by third entities,
- e) Investment Fund participation units, referred to in § 13 of the Resolution hereby,

on condition that the object of the collateral, mentioned in items a) – e) is accepted by the WCCH.

**§ 2**

1. As the non-cash collaterals of liabilities by the right of the collateral margins and transaction margin the House accepts the following Property Rights under Certificates of Origin:
  - a) PMOZE\_A
2. The order for blocking of the Property Rights under the Certificates of Origin for collateralizing of the liabilities by the right of collateral margins or transaction margins shall be placed in the Certificate of Origin Register, run by the Polish Power Exchange, by their owner, who lodges the Property Rights under Certificates of Origin as the collateralization.
3. Together with lodging of the Property Right under the Certificates of Origin, mentioned in subparagraph 1 above, the Clearing Member of the House (called "Clearing Member" thereafter) that lodges such collateral has to conclude

with the House and sign the agreement concerning assignment of such Property Rights under Certificates of Origin lodged as collateral.

4. Reckoning of the Property Rights under the Certificates of Origin on account of the collaterals shall be carried out on the next working day following the day of receiving (from the Certificate of Origin Register) the information about type and quantity of the Property Rights blocked as collaterals as well as after signing the agreements concerning assignment as collateral, mentioned above.

### § 3

1. The part of the market value of the Property Rights under Certificates of Origin, determined in the way presented below, shall be reckoned on account of the collaterals mentioned in § 2 subparagraph 1:

$$W_i = Lpm_i * Wr_i * Upm_i$$

where:

$W_i$ - the collateral value in given type of the Property Rights,

$Lpm_i$  – number of the Property Rights of given type,

$Wr_i$  - the market value of the Property Rights of specified type being subject of the trading on the exchange market, determined according to last closing price,

$Upm_i$ - the recognition factor for given type of the Property Rights, announced in the Warsaw Commodity Clearing House statements.

2. The value  $W_i$  of is summed up with other collaterals lodged by given Clearing Member or by its client in non-cash form.

### § 4

1. Release of blocking of the Property Right under the Certificates of Origin shall take place on the grounds of relevant application for blocking release, submitted by given Clearing Member to the Certificates of Origin Record through the agency of the House, however on condition that the value of remaining means reckoned on account of that collateral is at least equal to – respectively – minimum or required value of the collateral or on condition that the House member has supplemented already the collateral up to – respectively – its minimum or required value.
2. Till the moment of releasing of the blocking the Property Rights under the Certificates of Origin, value of which is not taken into consideration during determination of the value of the collateral, lodged by the Clearing Member, any more, shall remain object of the collateral and they may be used in accordance with the purposes it has been established for.

### § 5

1. The object of the collaterals being lodged by the Clearing Members in non-cash form may be CO2 emission allowances, which have been defined as:
 

EUA – allowances for introduction into air of greenhouse gases in the understanding of the European Parliament and the European Council Directive No 2003/87/WE dated on the day of October the 13th 2003, establishing the system of trade of greenhouse emission allowances in the Community as well as amending the Council Directive No 96/61/WE, deposited in the Union Register (UR – in the understanding of the EU Commission Regulation No 920/2010 dated on the day of October the 7th 2010 regarding standardized and protected register system).
2. The Clearing Member lodging the collaterals in form of the emission allowances commissions the Union Register (UR) to transfer the allowances into the House's account kept in the UR or into its account established in the UR. Moreover the Clearing Member shall hand over the "Assignment as collateral" agreement signed by Clearing Member to the WCCH.
3. The emission allowances are apportioned on account of the collaterals on the day following the day of signing of the "assignment as collateral" agreement, on condition that before closing of the "assignment as collateral" agreement the Emission Allowances being object of the assignment have to be transferred into one of the accounts, mentioned in subparagraph 2.

## § 6

The part of the emission allowances market value is apportioned on account of the collaterals being lodged in form of emission allowances, determined in the way as follows:

$$W_{up} = Cz * I_{up} * F_{ex} * P_u$$

Explanations:

**$W_{up}$** - the value of recognized collaterals lodged in form of CO2 emission Allowances;

**$Cz$**  – the last known settlement price of the CO2 emission Allowances EUA listed on European Energy Exchange spot market. If this price is not known, the settlement price shall be the last known daily settlement price of the futures contract for allowances EUA on Intercontinental Exchange;

**$I_{up}$**  – number of blocked CO2 emission allowances;

**$F_{ex}$**  – zloty/EURO average exchange rate published by the National Bank of Poland on given day;

$P_u$ - recognition rate for collaterals lodged in form of CO2 emission allowances, published in the Risk Management Department statements.

The value of  $W_{up}$  is summed up with other collaterals lodged by given Clearing Member or by its client in non-cash form.

#### § 7

1. The emission allowances are released according to the application of given Clearing Member submitted to the WCCH on condition that the required collateral margin value lodged by given Member of the House is covered with the value of other remaining collaterals lodged by this Member of the House.
2. Till the moment of releasing the emission allowances, value of which is no longer taken into consideration during determination of value of the collateral lodged by given Clearing Member, the allowances remain the collateral object and they may be used in accordance with the purposes the collateral has been established for.

#### § 8

1. The bank guarantees, mentioned in § 1 above, should meet – in particular – the following conditions:
  - 1) only a bank accepted by the Warsaw Commodity Clearing House shall be entitled to issue the guarantees,
  - 2) the bank guarantee should include unconditional and irrevocable commitment of the bank to make immediate payment – on the first demand of the Warsaw Commodity Clearing House – of the amount up to the maximum value specified in the guarantee.
2. The term “immediate payment” should be understood as crediting of the Warsaw Commodity Clearing House bank account on the day of making of the demand – if the demand is made till 9:30 a.m. or on next day – if the demand is made after 9:30 a.m.
3. The amount of cash benefit, the bank guarantee – granted to the Warsaw Commodity Clearing House as the collateral by the right of the collateral margin or the transaction margin – has been issued for that, must not be lower than 100.000 zloty (in words: one hundred thousand zloty).

#### § 9

1. Making its proposal for lodging of the collateral in form of the bank guarantee the Clearing Member shall be obliged to specify the collateral title as well as to submit a draft of the bank guarantee document to the Warsaw Commodity Clearing House.
2. Final approval of the bank guarantee as the collateral being lodged in non-cash form shall take place in form of relevant Resolution of the WCCH Management

Board. The bank guarantee shall be registered in the Register of Non-Cash Collaterals and after the relevant Resolution of the WCCH Management Board, is considered as collateral.

#### § 10

1. On demand made by the Clearing Member, the Warsaw Commodity Clearing House shall provide information concerning the approval of the bank indicated by the House member as the issuer of the bank guarantee being subject of the collateral lodged by the Clearing Member.
2. In case when – during the period of validity of the bank guarantee accepted on account of the collateral – the bank that has issued the guarantee loses the Warsaw Commodity Clearing House approval, the Clearing Member – according to call of the Warsaw Commodity Clearing House – shall be obliged to lodge immediately, no later than 7 working days, the bank guarantee document issued by another bank, that meets the conditions specified in § 8 as well as § 9 above, or to lodge immediately the collateral in another form approved by the House.

#### § 11

The Clearing Member that has lodged the collateral, mentioned in § 1 above, in form of the bank guarantee shall be obliged – not later than 5 (five) days before expiration of the guarantee validity period - to submit a new document of the bank guarantee, to submit an annex to the existing bank guarantee or to submit a statement confirming that the collateral will be lodged by it in another acceptable form. In the case of non-compliance with this condition WCCH has the right to non-recognition of the bank guarantee and deletion from the Register of Non-Cash Collaterals.

#### § 12

1. The bank sureties, mentioned in §1, have to meet the following conditions:
  - 1) an entity that is the House member or an entity that is a client, given House Member keeps the exchange commodity account for which, shall be entitled to issue the surety;
  - 2) the surety has to be collateralized by the guarantor in one of the following forms:
    - a) the “Assignment of the Property Rights under Certificates of Origin as collateral” agreement,
    - b) the “Assignment of the Emission Allowances as collateral” agreement;
    - c) the bank guarantee issued by a bank accepted by WCCH.
    - d) A lien on the Investment Fund participation units.

The collaterals, referred to in items a) – d) are lodged and expire according to the principles set forth in the present Resolution.

- 3) The surety shall be issued as an unconditional surety paid on first demand;
- 4) The surety is granted according to the principles specified in the draft of the agreement established by WCCH. Final approval of the surety as well as the entity granting the surety for the liabilities of the Clearing Member shall take place in form of relevant Resolution of the WCCH Management Board.
2. The value of the collaterals, referred to in subparagraph 1, is determined according to the principles specified in §3 (the Property Rights under Certificates of Origin), §6 (the Emission Allowances), § 8 (the Bank Guarantees) as well as § 14 (Investment Fund participation units).
3. The recognized value of the Surety collateralized by:
  - a) the Property Rights under Certificates of Origin as well as the Emission Allowances must not be higher than 65% of the value of the collateral margins collateralized by such sureties;
  - b) the Bank Guarantees or the Investment Fund participation units – must not be higher than 90% of the collateral margins, taking the provisions included in § 15 subparagraph 6 below into consideration.

### § 13

1. As a non-cash collateral of liabilities by the right of collateral margins as well as transaction margins the House approves the Investment Fund participation units, which meet the following conditions:
  - a) An issuer of the instrument has its seat of business in Poland and it is characterized by low credit risk,
  - b) The instrument is characterized by low market risk, what has been found on the grounds of several years' observations,
  - c) The instrument is denominated in PLN,
  - d) The instrument is easy to dispose and it is neither subject to regulation-type or legal limitations nor charged with claims of third persons,
  - e) For the instrument there is an active market of direct sale or agreements with granted redemption promise, with diversified group of purchasers and sellers, the House has reliable access to which even in extreme conditions,
  - f) For the instrument there are reliable data regarding prices, which are published on regular basis,
  - g) The Investment Fund, the participation Units issued by which are subject to the collateral, has been created on the grounds of a license granted by the Polish Financial Supervision Authority and it has been registered in the Collective Investment Undertaking Register kept by the District Court in Warsaw, VII Civil and register Department.
2. The Clearing Member, which lodges the collateral in the form of the Investment Fund participation units, establishes the Lien as well as blocking on the Investment Fund participation units, which have been recorded in the Investment Fund register. Moreover the entity establishing the Lien provides WCCH with the power of attorney within the scope determined in the Lien agreement as well as it delivers the copy of the Lien Agreement signed by the Clearing Member.

3. Appropriation of the Investment Fund participation units to the collaterals is made starting since the working day following the day of receiving – from the Investment Fund or from other authorized entity – the information regarding type and number of blocked Investment Fund participation units as well as after signing the Lien agreement referred to above.

#### § 14

1. The part of market value of the Investment Fund participation units determined according the formula below is subject to appropriation of the Investment Fund participation units to the value of collaterals lodged in such form:

$$W_i = L_i * W r_i * U_i$$

where:

$W_i$ - the value of collateral lodged in given type of the Investment Fund participation units  
 $L_i$  – number of given type of the Investment Fund participation units,  
 $W r_i$  – market value of given type of the Investment Fund participation units,  
 $U_i$ - the recognition factor for given type of the Investment Fund participation units, specified in messages issued by WCCCH.

The value  $W_i$  is summed up with other collaterals lodged by given Clearing Member or by its client in non-cash form.

#### § 15

1. Total value of the collaterals lodged in non-cash form shall be composed by the sum of values of the collaterals calculated in accordance with the algorithm presented in § 3 above for individual types of the Property Rights under the Certificates of Origin, in § 5 for the Emission Allowances, in §14 for Investment Fund participation units, as well as for the value of the lodged bank guarantees.
2. The accepted total value of the collaterals lodged in form of the Property Rights under Certificates of Origin as well as in form of the Emission Allowances must not be higher than 65% of the value of reckoned collateral margins.
3. The accepted total value of the collaterals lodged in non-cash form must not be higher than 90% of the value of reckoned collateral margins as well as it must not compose more than 50% of the value of the transaction limit.
4. If the Clearing Member while lodges the collateral, does not declare the purpose of the collateral being lodged or if it declares that the lodged non-cash resources are to be designed for collateral margin and transaction limit it shall be understood that the non-cash resources lodged for the collaterals shall be used in first row for covering of the liabilities by the right of the collateral margins. Possible surplus of the means shall be reckoned in account of the transaction limit.

5. The sureties lodged by the client of the Clearing Members may be designed only for covering of the liabilities by the right of the collateral margins for transactions being cleared by given Clearing Member in behalf of and for the benefit of the Guarantor.
6. The values, mentioned in subparagraph 3 above, may be determined for some members as well as for specified clients of Brokerage Houses at another level – according to relevant Resolution of the WCCH Management Board.

#### § 16

The Resolution comes into force on the day of passing it.

#### §17

On the day, the present Resolution comes into force on that, the following Resolution of the Management Board of the Warsaw Commodity Clearing House is revoked:  
Resolution No 175/60/08/2014 dated on the day of August the 22<sup>nd</sup> 2014 and concerning non-cash collaterals.

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*Dariusz Bliźniak*  
*The Management Board President*

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*Andrzej Kalinowski*  
*The Management Board Member*