

**COMMITTEE ON PAYMENT AND SETTLEMENT SYSTEMS
INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS**

**DISCLOSURE FRAMEWORK FOR
SECURITIES SETTLEMENT SYSTEMS**

**The National Depository for Securities, Poland
(Krajowy Depozyt Papierów Wartościowych)**

January 2004

I. Basic information

A. What is the name of the SSS?

The National Depository for Securities (*in Polish*: Krajowy Depozyt Papierów Wartościowych) (KDPW)

B. Where and in which time zone is the SSS located?

Ul. Książęca 4, Warsaw, Poland
Central European Time (GMT +1)

C. What functions does the SSS perform?

Depository functions:

- Registration of securities admitted to public trading,
- Supervising the compliance between the size of an issue with the number of outstanding securities,
- Administration of corporate actions for securities in the system,
- Assigning ISIN codes to securities,

Clearing & settlement functions:

- Clearing & settlement of transactions on the cash market,
- Clearing for derivatives,
- Risk management, including:
 - Administration of settlement guarantee systems,
 - System for ensuring settlement liquidity, including: securities lending and borrowing system (automatic and on-request), buy-in/sell-out procedures.

Other functions:

- Transfer of funds between open-end pension funds,
- Administration of the Pension Fund Guarantee System,
- Administration of the Compensation Fund

1. Does the SSS serve as a securities depository and/or provide securities settlement services?

KDPW operates as both a securities depository and a clearing and settlement institution for transactions concluded on the Warsaw Stock Exchange (WSE), on the regulated secondary off-

exchange market (Central Table of Offers - CTO) and outside regulated trading in the area of cash market instruments and derivatives. Moreover, KDPW is a derivatives clearing house for the Power Exchange.

(a) What types of instrument are eligible for deposit at the SSS (e.g. debt, equities, warrants, etc.)?

All types of instruments that have been admitted to public trading in Poland by the Polish Securities and Exchange Commission (SEC) are eligible for deposit at KDPW. Currently, the following types of instruments are registered:

- equities (shares, rights to shares, subscription rights, investment certificates, warrants)
- debt instruments (Treasury bonds, international financial institution bonds, central bank bonds, municipal bonds, corporate bonds, convertible bonds)

Moreover non-public securities can be deposited at KDPW. Currently one issue of non-public corporate bonds is registered at KDPW.

(b) What types of instrument are eligible for transfer within the SSS?

All the aforementioned instruments are eligible for transfer within KDPW.

(c) Please describe whether eligible securities are dematerialised, immobilised or transferred physically.

All securities which have been admitted to public trading are dematerialised. Non public securities may be immobilised in KDPW.

(d) Does the SSS provide safekeeping for physical certificates?

According to the Law on the Public Trading in Securities, KDPW does not keep any securities in physical form.

2. Does the SSS provide cash accounts and/or provide funds transfers in conjunction with securities transfers? If so, in what currencies?

KDPW does not keep cash accounts, although according to the Law on the Public Trading in Securities it could do so. The settlement bank for transactions denominated in PLN is the National Bank of Poland (the Polish Central Bank, NBP). The cash leg of settlement is carried out using cash accounts kept for banks in the Payment System Department (PSD) at the NBP. KDPW operates on the basis of authorisation granted by direct depository participants and prepares cash transfers for transaction settlement purposes, which are carried out in the PSD.

The payments in foreign currencies are made with the intermediary of the commercial bank (Kredyt Bank S.A.), which is a result of the fact that the NBP does not manage foreign currency accounts for banks.

3. Does the SSS provide a trade matching service? Do others provide such services for securities settled at the SSS?

KDPW provides trade matching for non-regulated market transactions and for post-transaction transfers i.e. operations between direct and indirect market participants. For regulated market transactions, WSE and CTO themselves perform the matching.

4. Does the SSS provide a trade netting service (as distinct from undertaking the settlement of securities transfers on a net basis)? Do others provide such services for securities settled at the SSS? In either case, what types of netting (bilateral or multilateral), if any, are performed?

According to the KDPW Rules, KDPW performs cash clearing using multilateral netting. The KDPW Management Board may decide, by way of resolution, that particular transactions are excluded from multilateral netting, or specify those types of transactions to which this principle does not apply. In such cases the liabilities shall be determined separately for each excluded transaction or according to a bilateral netting principle. At present bilateral netting is used for settlement of so-called outright transactions (the sale of Treasury bonds by the National Bank of Poland). In case of Treasury bonds non-regulated and primary market transactions, there is a possibility to choose the RTGS system.

5. Does the SSS offer a securities lending or borrowing program?

In order to ensure transaction settlement liquidity, KDPW organizes and manages an automatic securities lending and borrowing system whose purpose is to prevent or eliminate suspensions of a settlement for transactions secured by the Settlement Guarantee Fund. Moreover the KDPW system offers on-request securities loans for the purpose of ensuring the liquidity of settlement for transactions concluded on regulated markets.

6. Does the SSS provide custodial and/or related services such as the collection of interest, dividends, principal or withholding tax reclamations? Which types of service are provided?

KDPW provides the following custodial services:

- dividend payment,
- interest payment and bonds redemption,
- conversion of convertible bonds into shares of a new issue,
- exercising of pre-emptive rights to shares in a new issue,
- exercise of warrants,
- redemption of investment certificates,
- exchange of securities,
- assimilation of securities,
- withdrawal of securities from the Depository,
- conversion of securities,
- replacement of securities following mergers or divisions of public companies,
- subscription to securities in a new issue.

7. Does the SSS act as a central counterparty or principal to transactions with its participants?

KDPW does not take any responsibility for payment as a party to the transaction and in this sense is not a central counterparty. For the same reason, KDPW does not act as principal, e.g. in securities lending and borrowing transactions.

However KDPW as a clearing house uses risk management measures which ensure settlement guarantee both for cash payments, as well as from the securities side, what seems to be a key role of CCP.

8. Other? Please specify.

Not applicable.

D. What type of organisation is the SSS?

1. *Please indicate whether the SSS is a public sector or private sector entity.*

KDPW is a private sector entity.

2. *Please indicate whether the SSS is organised on a for-profit or a non-profit basis.*

KDPW is organized on a non-profit basis.

3. *What is the legal basis for the establishment of the SSS and for securities transfers made through it?*

In 1991-94, KDPW formed a part of the Warsaw Stock Exchange. In 1994, following the adoption of the Law on the Public Trading in Securities and Trust Funds, it became (and remains) an independent institution as a joint stock company. KDPW's responsibilities are defined in the Law on the Public Trading in Securities.

The legal existence of the company is defined in the Polish Commercial Code and the KDPW Statute. Internal Rules governing KDPW operations include the KDPW Rules and Detailed Rules of Operation.

E. Please describe and provide a diagram outlining the organisational and ownership structure of the SSS.

See Figure 1.

1. *Who are the owners of the SSS?*

The KDPW shareholders are: The Warsaw Stock Exchange (33.3%), the State Treasury (33.3%) and the National Bank of Poland (33.3%).

2. *What entity or entities operate the SSS? Which functions of the SSS, if any, are outsourced to third parties?*

KDPW manages its own depository-settlement system. No SSS functions are outsourced to third parties.

3. *Does the SSS have a Board of Directors?*

KDPW has a Board of Directors - the KDPW Management Board.

(a) What is its composition?

President and CEO - Elzbieta Pustola

Vice President - Ludwik Sobolewski

Remaining members: Anna Szulecka, Aleksander Chlopecki¹

¹ Since the 1st of April 2004

(b) What are its responsibilities?

The Management Board runs the Company and manages its finances, and acts as the public face of the Company. The Management Board prepares drafts of the KDPW Rules, the KDPW Supervisory Board Rules, the Rules of the KDPW Court of Arbitration and drafts and adopts detailed rules relating to the operation of the Depository.

F. Please describe the financial resources of the SSS.

1. Amount of paid-in capital and retained earnings?

Capital (according to the Balance Sheet for 31.12.2002):

Share capital: 21 million PLN,

Supplementary capital: 91.6 million PLN,

Reserve capital: 141.3 million,

Net profit for 2002: 12.1 million PLN.

2. Guarantees, insurance coverage or other similar arrangements?

KDPW has property insurances only.

3. Credit lines or letters of credit?

None

4. Powers to assess participants or equity holders?

None

G. Please describe whether the SSS or its operator is subject to authorisation, supervision or oversight by an external authority.

The KDPW Rules are approved by the Polish Securities and Exchanges Commission. The Polish SEC supervises KDPW in relation to its activities as the central institution of the depository-settlement system and operator of that system. The National Audit Board (*Najwyższa Izba Kontroli, or NIK*) may monitor KDPW activities that involve co-operation of KDPW with other state institutions.

Moreover, as a joint stock company the KDPW is permanently supervised by its own Supervisory Board.

II. Rules and procedures of the SSS

A. Does the SSS maintain a complete list of the rules and procedures governing the rights and obligations of participants and the duties of the SSS?

The rules and procedures are contained within the following documents:

- The KDPW Rules
- The KDPW Detailed Rules of Operation

– The KDPW Registration Procedures

1. How can participants obtain a copy of the rules and procedures?

The KDPW Rules and any amendments, once they have been adopted by the KDPW Supervisory Board and immediately on being approved by the Polish SEC, are sent to all KDPW participants by Electronic System for the Distribution of Information (ESDI system) or fax and then a copy is sent by post. Also other regulations, such as the Detailed Rules of Operation and KDPW Registration Procedures and amendments to them, are sent in the same way. In addition, a copy of the current rules and procedures is available from KDPW directly or from its web-site (www.kdpw.com.pl).

2. Does other documentation provided to participants (e.g. user guides) have the same status as the rules and procedures?

Other documentation does not have the same status.

3. Describe the process for changing rules and procedures, including any need for regulatory approval.

(a) What authority is required, and how does this differ depending on the type of change involved?

The KDPW Rules and its amendments are adopted by the KDPW Supervisory Board at the request of the KDPW Management Board. The KDPW Rules and its amendments must then be approved by the Polish SEC, which may withhold its approval if it believes the proposed changes are in breach of legal regulations or may pose a threat to proper trading.

Other regulations such as the Detailed Rules of Operation are adopted by the KDPW Management Board, acting on the basis of the KDPW Rules.

(b) How are participants notified of changes in rules and procedures?

Participants are informed of all changes in rules and procedures by the ESDI system or fax. KDPW informs all its participants about changes in the KDPW Rules at least 2 weeks before they come into force.

As regards changes in the Detailed Rules of Operation or Registration Procedures, KDPW generally informs all participants before they come into force.

(c) Is there a procedure for participants or others to comment on proposed rule changes?

KDPW constantly co-operates with its participants in adapting the depository-settlement system rules to the needs of a changing capital market. KDPW organizes meetings with participants, where changes are discussed. KDPW also prepares questionnaires and discussion websites, gathering opinions on different solutions.

B. Are the rules and procedures binding on the SSS as well as its participants? Under what conditions and on whose authority can written rules and procedures be waived or suspended by the SSS?

The KDPW Rules, as well as other KDPW regulations, all form an integral part of the participants' agreement and are binding on both parties to that agreement: KDPW and all the KDPW participants.

III. Relationships with participants

A. Please describe the types of membership offered by the SSS.

1. How do the types differ?

Entities whose main form of business activity involves the management of securities accounts, issuers of securities admitted to public trading, as well as other national financial institutions if their participation involves working with KDPW in order to ensure KDPW performs its activities – only these entities may, with the appropriate conditions having been met, become KDPW participants. Participants may also include – following approval by the Polish SEC and meeting its terms and conditions – legal entities or institutions with their main office outside the territory of the Republic of Poland, performing the role of central securities register or settlement institution for transactions executed as part of securities trading.

Participation in KDPW may take the form of:

- direct participation,
- indirect participation.

Direct participation involves independent relations with KDPW and other market participants.

Indirect participants maintain relations with KDPW and other market participants through direct participants.

Access requirements to the KDPW system are identical for all potential participants who will be performing the same functions in the system. The highest financial requirements are set on the basis of the KDPW Rules for clearing members, differentiated according to the market in which they perform their functions and depending on their identity: different levels for brokers and different levels for banks.

KDPW participation is obtained by means of a KDPW participation agreement. The participation agreement defines the activities the given participant will perform in the depository-settlement system, by indicating the type or types of participation status.

Types of participation status in the securities cash market:

- Custodian: where the participant manages clients' securities accounts.
- Custodian - Own account: where the participant manages its own account with its own securities.
- Depositor: where a participant authorises KDPW to manage that participant's own account with its own securities.
- Brokerage office: where a brokerage house or a bank carries out brokerage activities acting as an agent in securities trading.
- Brokerage office - Own account: where a brokerage house or bank carrying out brokerage activities manages its own account with its own securities.
- Lead manager - bearer securities: where a brokerage house, bank carrying out brokerage activities or bank managing securities accounts but not as a part of brokerage activities, keeps a register of owners holding bearer securities purchased on the primary market or in an initial public offering, or keeps a register of holders described in Article 67 subpara. 1 of the Law on the Public Trading in Securities.
- Lead manager - where a brokerage house, bank carrying out brokerage activities or bank managing securities accounts but not as a part of brokerage activities, keeps a register of

owners holding registered securities purchased on the primary market or in an initial public offering, or keeps a register of holders described in Article 67 subpara. 1 of the Law on the Public Trading in Securities.

- Over-the-counter market maker: where a brokerage house, bank carrying out brokerage activities or other financial institution performs function involving the buying or selling of securities on their own account in order to carry out functions connected with maintaining liquidity or the management of trades
- Stock Exchange market maker: where a brokerage house, bank carrying out brokerage activities or other financial institution, on the basis of an agreement with the Stock Exchange operator, performs function involving the buying or selling of securities on their own account in order to carry out functions connected with maintaining liquidity or organising trading in the regulated over-the-counter market.
- Participant's agent: where a participant, by virtue of an agreement with another participant, takes responsibility for the settlement of transactions and the registration of other operations on behalf of that participant or the participant's clients.
- Representative: where a participant, by virtue of an agreement with another entity that is not a participant, takes responsibility for the settlement of transactions executed by that entity and manages securities accounts for that entity.

Types of participation status in the securities derivatives market:

- Custodian - Derivatives: where the participant manages clients' securities accounts not as a broker but as bank.
- Custodian - Own account - Derivatives: where the participant manages its own account with its own securities not as a broker but as bank.
- Brokerage office - Derivatives: where a brokerage house or a bank carrying out brokerage activities acts as an agent in derivatives trading.
- Brokerage office - Own account - Derivatives: where a brokerage house or bank carrying out brokerage activities manages its own account with its own securities.
- Participant's agent - Derivatives: where a participant, by virtue of an agreement with the participant managing securities accounts, takes responsibility for the settlement of transactions concluded on the basis of an order of the account holder.
- Over-the-counter market maker - Derivatives: where a brokerage house, bank carrying out brokerage activities or other financial institution, performs functions involving the buying or selling derivatives on its own account in order to carry out functions connected with maintaining liquidity or organising trading in the regulated over-the-counter market.
- Stock Exchange market maker - Derivatives: where a brokerage house, bank carrying out brokerage activities or other financial institution, on the basis of an agreement with the Stock Exchange operator, carries out activities that involve buying or selling derivatives on its own account in order to carry out functions connected with maintaining liquidity or the management of trades on the stock market.
- Depositor - Derivatives: where a participant entrusts KDPW with the safekeeping of derivatives accounts for their own derivatives.

Issuers of securities admitted to public trading are also KDPW participants.

Direct participants may hold the status of clearing and non-clearing members, which is related to the settlement guarantee system. The clearing member is responsible both to KDPW and other participants for the proper and correct settlement of transactions, and is particularly involved in the establishment of the settlement guarantee system, on the basis of provisions defined in the KDPW Rules. A participant may hold the status of clearing member for certain types of transactions.

2. *Within each membership category, are all participants subject to the same rules and procedures? Please describe important exceptions, including both differences in rules across participants and the rationale for these differences.*

All participants holding the same status are subject to the same rules and procedures.

- B. *Can participants establish accounts for their customers' assets that are segregated from their own asset accounts at the SSS?*

Yes, securities are registered with provisions for various types of participation status, which results in the requirement of separation of clients' securities from the participant's own securities.

1. *If so, is this accomplished through a single omnibus customer account or through a multiplicity of accounts and/or sub-accounts?*

For cash market instruments client assets are registered on omnibus accounts, for derivatives on individual accounts.

2. *Is the segregation optional or compulsory?*

The segregation of clients' securities from the participant's own securities is compulsory.

3. *Does the fact that a sub-account at the SSS bears the name of a third party give any rights to that third party as a participant under the rules of the system?*

No. The fact that the system manages accounts both for participants and their clients does not entitle the clients of those participants to any rights as participants in the KDPW system.

- C. *Please describe participant requirements for each type of membership.*

1. *Are participants required to be domiciled or resident in a particular jurisdiction?*

According to the Law on the Public Trading in Securities, only Polish financial institutions may become KDPW direct participants. Institutions based outside Poland that perform the functions of a central securities register or settle securities transactions may also become KDPW direct participants.

KDPW also accepts foreign issuers as participants in a participation type of "issuer".

2. *Are participants required to be subject to a supervisory regime? If so, please describe.*

According to the Law on the Public Trading in Securities the supervision of the Polish securities market is performed by the Polish Securities and Exchange Commission, which is a government administration body.

The supervision of local banks and Polish branches of international banks is performed by The Banking Supervisory Commission (BSC), according to the Act on the National Bank of Poland and the Banking Act. Decisions and duties specified by the BSC are performed and coordinated by the General Inspectorate of Bank Supervision, which is a separate body in the structure of the National Bank of Poland.

The activity of banks on the Polish securities market is subject to control by both the Polish SEC and BSC, which requires these institutions to cooperate. According to the aforementioned Acts,

the President or the Deputy-President of the Polish SEC is a member of the BSC and a representative of the President of the National Bank of Poland is a member of the Polish SEC. Irrespective of this, KDPW participants are subject to the KDPW Rules. The KDPW Audit Department controls the activities of participants whether they comply with the KDPW Rules and procedures.

3. *Are participants required to hold an equity stake in the SSS?*

No.

4. *Are there financial, economic, personal or other requirements (e.g. minimum capital requirements, "fit and proper" tests)? If so, please describe.*

The detailed terms and conditions, along with the documentation that an institution applying for KDPW participation status needs to present, are contained in the KDPW Rules.

A necessary condition for obtaining KDPW participation status is meeting the organizational, material, technical and financial conditions.

Organizational conditions require the participant to have in place a detailed system of internal rules and regulations defining in particular the flow of information, scope of duties and responsibilities of employees performing functions relating to the management of securities accounts and carrying out transaction settlement.

Material and technical conditions require the participant to have the appropriate technical and technological equipment necessary for the correct registration of securities.

Financial conditions require the participant to maintain an adequate level of equity.

The level of own funds held by clearing members active on the securities market, excluding the derivatives market, may not be lower than:

- PLN 50 million – for banks;
- PLN 2.5 million – for brokerage houses.

The level of own funds held by clearing members active on the derivatives market, may not be lower than:

- a. for participants settling transactions concluded on clients' account:
 - PLN 100 million - for banks,
 - PLN 15 million - for brokerage houses,
- b. for participants only settling transactions concluded on their own account:
 - PLN 25 million - for banks,
 - PLN 5 million - for brokerage houses.

For the purpose of securities registration, participants keeping securities accounts shall be obliged to employ persons who have obtained the title of securities registration specialist having taken the appropriate examinations.

D. Does the SSS engage in oversight of its participants to ensure that their actions are in accordance with its rules and procedures? If so, please describe.

KDPW is responsible for supervising participants to see whether they have correctly followed the appropriate securities registration procedures.

This function is performed by the KDPW Audit Department which supervises participants and monitors them as to their correct registration of securities following transaction settlement, as well as other operations in securities. Audits are performed through the analysis of documents sent to KDPW as well as direct audits carried out in the offices of participants. KDPW immediately informs the Polish SEC of the errors in conduct by a participant discovered during

an audit and if these errors are severe and involve the activities of a participant in the regulated market, the institution running that market is also informed.

E. Under what conditions can participants terminate their membership in the SSS? Does this mark the end of all liabilities of the participant? If not, please describe what liabilities could remain.

KDPW participation is obtained by means of a KDPW participation agreement and participation ends with the termination of this agreement. In normal circumstances, the termination of a KDPW participation agreement takes place at the request of the participant. A participant may decide to close its depository accounts at KDPW, and at the same time give notice of its intent to terminate its participation in the Depository only when securities have ceased to be registered on its depository accounts.

Once participation terminates, all duties and responsibilities arising from that participation in the Depository cease. However, where KDPW gives notice of the termination of the participation agreement with immediate effect, all liabilities existing up to the day participation in KDPW ends, such as liabilities arising as a result of transactions concluded before the day the participation ends and not settled until that day and payments owed to KDPW from unpaid fees, continue to apply.

F. Under what conditions can the SSS terminate a participant's membership in the SSS?

KDPW may give notice of the termination of the participation agreement with immediate effect, or suspend participation in instances where the participant poses a risk to the safety of trading or the proper performance of the depository-settlement system. Such risks occur in particular when the participant is in breach of legal regulations governing the operation of that system, or is in breach of the KDPW Rules. Decisions on terminating or suspending participation are taken by the KDPW Management Board.

Loss and suspension of participation status does not affect the duties of the participant arising from any operations carried out up to the day of the loss or suspension of that status.

Upon the loss or suspension of participation status, only those operations, which took place up to the day of the loss or suspension of that status, are executed in the KDPW accounts managed for that participant.

A participant whose participation status has ceased at KDPW is obliged to transfer securities registered on its accounts to another participant. KDPW reserves the right to sell securities owned by that participant, operating on that participant's account, in the event that they were not transferred to another participant within one month of the day participation status ceased.

In the event that participation status has been lost or suspended, KDPW immediately informs the Stock Exchange and the regulated OTC Market (CTO). These are then obliged to limit or suspend that participant's activities on the regulated market.

G. Please describe the scope of the SSS's liability to participants, including the standard of liability (negligence, gross negligence, willful misconduct, strict liability or other), the force majeure standard, and any limitation to the scope of liability of the SSS (e.g. indirect or consequential damages). Where are these liabilities and their limitations set out (e.g. in statute or contract)?

Participation in KDPW is fixed in private law; KDPW's liability, therefore, for the non-performance, or improper performance of duties and obligations is defined according to the provisions of the Civil Code, which define the general principles of civil liability. Thus, in

accordance with Article 361 of the Civil Code, KDPW is responsible for damages caused to a participant as a result of its non-performance or improper performance of its obligations, whether this has occurred as a result of fault, negligence or fraud, although this responsibility only covers reasonable consequences of actions or failures to perform, from which the damage arose. In this scope, the liability of KDPW covers damages up to the full amount, i.e. losses borne by the injured party, as well as profits which may have been earned had the loss not occurred. KDPW is thus responsible for not taking due care and attention, which is assessed by taking into account the professional nature of its activities (Articles 472 and 361 §2 of the Civil Code). KDPW is responsible for losses incurred with the total sum of its assets. However KDPW is not responsible for losses incurred solely through the actions, or failure to act on the part of its participants.

IV. Relationships with other SSSs and commercial intermediaries

A. Does the SSS maintain linkages (including sub-custodian or cash correspondent relationships) or other relationships with other SSSs?

Yes.

1. Please identify each of the other SSSs used and the type of securities transferred via the linkages.

(a) What is the name of the other SSS? Where is it located?

Since 2003 KDPW has opened an account with OeKB (Austrian CSD)

(b) What securities are eligible for transfer via the linkage to the other SSS?

Securities registered at OeKB, listed on the Warsaw Stock Exchange are eligible for transfer via the link with the OeKB.

(c) Are transfers of securities made via the linkage to the other SSS limited to only those that are free of payment or are transfers against payment also made via the linkage to the other SSS? If against payment, please describe the timing of the transfers and the corresponding payments.

Transfers of securities are limited only to those that are free of payment.

(d) Does the other SSS provide custody services to the SSS and, if so, who bears any credit or custody risks?

OeKB provides custody services for KDPW who in turn provides custody services for its participants in accordance with its procedures. KDPW bears respective risks against its participants.

B. Does the SSS use securities custodians (other than the other SSSs addressed in the previous question) and/or commercial cash correspondents? Please identify the custodians or cash correspondents used and the duties that each performs.

No.

C. Please describe the standards used in approving or reviewing relationships with other SSSs, custodians or cash correspondents, including any financial or operational requirements or the presence of insurance or public supervision.

There are no such institutionalised standards.

D. Does the SSS advance funds or securities to or on behalf of other intermediaries such as issuing or paying agents? If so, please identify the circumstances in which such exposure could arise.

No

E. Please describe measures in place to protect the SSS and its members against the failure of other SSSs or commercial intermediaries to meet obligations to the SSS, including risk controls, collateral or alternative sources of funds and securities.

There are no special measures to protect KDPW and its participants against the failure of another SSS.

V. Securities transfers, funds transfers and linkages between transfers

A. Please discuss whether and how settlement instructions are matched between participants prior to processing by the SSS.

1. Is matching required for all transactions without exception?

All transactions concluded on the WSE and CTO are confirmed on the given market by the parties to the transaction. At the end of Day 'T' (transaction day), KDPW receives from the WSE and CTO lists of confirmed transactions, which it treats as a list of matched settlement instructions.

KDPW offers mandatory matching for all transactions from the unregulated market and for settlements between direct and indirect market participants of transactions concluded on the regulated market by a broker on behalf of a custodian or its client. The matching at KDPW level is also required for several free of payment securities transfers, in particular when they relate to the accounts of various participants. Matching is used both in the multi-batch and RTGS system.

2. What procedure is used when instructions do not match?

A non-matched instruction waits in the system until the moment when the corresponding counterparty's correct instruction will be delivered. This non-matched instruction may still be canceled or the second side may refuse its confirmation. If the corresponding counterparty's instruction is not delivered before the end of the settlement day, it will be irrevocably treated as an expired instruction and its usage in the next settlement cycle will be impossible.

For unregulated market transactions and post-transaction settlements between a direct and indirect market participant the tolerance level service is offered which means that participants may agree to settle the transfer in spite of a specified difference in value of transactions.

3. Are matched settlement instructions binding on participants?

Yes. However there is a procedure of cancellation of matched settlement instructions upon the parties' bilateral agreement, on condition the settlement based on these instructions did not take place.

(a) If so, please describe the consequences of failure by participants to meet obligations (e.g. forced settlement, penalties, short positions).

The failure of a participant to meet its obligations leads to the suspension of the settlement of a transaction, until the shortage of assets has been compensated. The participant who was responsible for the suspension of transaction settlement is required to pay a penalty fine, as determined by the KDPW Rules.

In instances where a participant is responsible for the suspension of a guaranteed transaction (that is, WSE and CTO transactions) as a result of a shortage of funds on its cash account, a mechanism for meeting liabilities from as yet unsettled transactions of a given participant could be used. If a participant's receipts are insufficient to meet its liabilities, the Settlement Guarantee Fund may be used to provide funds. In this case, securities subject to this transaction shall remain at the sole disposal of the KDPW and may be disposed of in instances where the participant fails to provide the adequate amount of receipts to the Fund.

In such instances where the participant poses a risk to the safety of trading and the proper performance of the depository-settlement system, the KDPW Management Board may take a decision on terminating or suspending its participation.

In similar situation but where the participant is not responsible for the suspension, a cash loan from the Settlement Guarantee Fund may be used.

To avoid the suspension of a guaranteed transaction as a result of a shortage of securities on a participant's depository account, an automatic securities loan is used to deliver the necessary securities, or if this is impossible, a buy-in/ sell-out procedure is initiated.

If it is impossible, transaction is suspended and the participant has an obligation to deliver securities.

(b) Please describe whether this is a feature of the SSS's rules and procedures or of national law or regulations.

These principles are governed by the KDPW Rules and the Detailed Rules of Operation.

(c) Please provide a time line indicating the points at which matched instructions become binding, as well as any pre-matching process that takes place.

Instructions become binding as soon as they are matched.

For the regulated markets (WSE or CTO) transactions, at the moment the transaction data has been received from the market, i.e. around 17.00 on transaction day, KDPW treats these transactions as matched settlement instructions.

For non-regulated market transactions and other transfers which are matched at KDPW the matching process takes place at the beginning of each settlement session in multi-batch system or in real-time in RTGS system (see also p. V.A.3).

KDPW does not use pre-matching processes.

B. Are securities transferred within the SSS registered?

All securities admitted to public trading in Poland are fully dematerialized. An issuer of these securities is obliged to conclude an agreement with KDPW in order to register these securities in

the system managed by KDPW. The securities are registered on securities accounts, which allow for the identification of persons entitled to securities, kept by the authorized intermediaries. The owner of the securities account is directly entitled to the securities registered on his/her account. Moreover KDPW carries out the registration of securities using depository accounts, which do not allow for the identification of persons entitled to securities. Depository accounts are used for registration purposes and managed only by KDPW for participants entitled to keep securities accounts. Participants who hold depository accounts managed in KDPW have no entitlements from the securities registered on these accounts; however, making entries on a depository account in KDPW authorizes and obligates that participant to make the appropriate entries on the corresponding securities account as well.

1. Who is the registrar?

The registrars (understood as securities account keepers) are authorized intermediaries: brokerage houses or banks carrying out brokerage activities, also KDPW (see Point 3 below).

2a. Is it normal practice to register the securities in the name of the SSS (or its nominee) or in the name of the beneficial owner?

Securities are only registered in the name of their owner on securities accounts kept by authorized institutions (see Point 1 above), the concept of nominee or beneficial securities ownership is alien to Polish law.

However, in instances where the beneficial owner is a foreign client, it is possible to register that client's securities on the account of a foreign intermediary, kept at a local custodian.

2b. Are there instances in which securities housed within the SSS are registered to neither the SSS (or its nominee) nor the beneficial owner?

None.

3. If the SSS offers custodial services, will it hold securities registered in the name of the beneficial owner?

KDPW may manage securities accounts for financial institutions which are direct KDPW participants (as depositors), on which their own securities are registered.

4. Under what circumstances does the SSS initiate registration of securities in the buyer's name?

KDPW never initiates registration of securities in the buyer's name.

5. How long does the registration process typically take? Are participants notified when registration is complete?

Not applicable.

6. Can securities be transferred within the SSS before registration in the buyer's name is complete? If so, do the rules and procedures of the SSS provide for an unwind or reversal of such transfers in case of bankruptcy or other events which result in the buyer's name not being entered on the register?

Not applicable.

C. Please describe how securities transfers are processed within the SSS.

1. Please indicate whether the transfers are processed as debits and credits to members' accounts or via some other method.

All securities transfers are processed as debits and credits on the appropriate participants' accounts. The depository system managed by KDPW constantly ensures that for each security, the number of securities issued (registered on the global issue account) is equal to the number of securities registered on the depository accounts kept by KDPW for its participants. Moreover, KDPW participants are required to ensure that the number of securities registered on the clients' accounts in their own registration system is equal to the number of securities on the relevant depository account in KDPW system.

2. On a continuous (real-time) basis, or in one or more batches?

Securities transfers are currently processed in seven daily batches, in a multi-batch system or on a continuous basis in the RTGS system.

The scope of operations settled in the RTGS system is currently limited to Treasury bonds and NBP bond operations: transactions concluded outside the regulated market, securities transfer operations following these transactions, operations involving the collateralisation of intraday NBP credit and Lombard credit, operations involving the transfer of securities following a civil law agreement, a portfolio transfer or account crediting. RTGS is also used to settle Treasury bond auctions organised by the NBP.

3. If continuous, during what hours does the processing occur? If in batches, at what time or times is the processing initiated and completed?

The RTGS system works from 8.00 to 15.45.

The multi-batch system starts at 7.30 and finishes at the end of the last settlement session (about 19.00).

4. Do securities settlements occur daily? Please identify securities for which settlement occurs only on specific days of the week or month.

Securities settlements take place daily. The opening days of the KDPW system are in compliance with the opening days of the NBP.

D. Please describe whether final funds transfers in conjunction with the SSS are made as debits and credits to balances held at the SSS, at one or more commercial banks, at the central bank, or via some other method.

The system used by KDPW to settle cash funds in PLN is owned and managed by the National Bank of Poland. Cash settlement takes place in the NBP's Payment System Department (PSD). KDPW acting as a clearing house establishes the depository participants' clearing positions and informs participants of their amounts. Next, KDPW on the basis of an agreement with the NBP, as well as authorization provided by participants, sends payment orders to the PSD, based on the calculated amounts.

The payments in foreign currencies are made with the intermediary of the commercial bank (Kredyt Bank S.A.). The settlement of transactions in foreign currencies is performed only during the 4th batch session starting at 1 p.m.

1. Does the SSS maintain cash accounts for its participants? Are these accounts equivalent to deposit accounts at a commercial or central bank or do they serve only as "cash memorandum" accounts?

KDPW does not maintain cash accounts for its participants. Direct participants of the cash clearing system are banks holding accounts in the PSD and at the same time holding direct participant status in KDPW. A KDPW participant not holding its own cash account at the PSD (for instance, a brokerage house), needs to indicate (after having concluded the appropriate agreement with a bank) an account of a bank within the PSD through which cash settlement arising from its participation in the depository-settlement system will be carried out. In such cases, the bank performs the role of payment bank.

2. On what entity (SSS or other) does the participant bear cash deposit risk?

Cash settlements are risk free, since the settlement agent is the National Bank of Poland.

3. Under what circumstances does the SSS provide credit extensions or advances of funds to its participants and thereby expose itself to credit risk?

There are no circumstances in which KDPW provides credit extensions or advances to its participants.

4. How long can such credit extensions last? How long do they typically last?

Not applicable.

E. Is the SSS a DVP system? If so, please describe the DVP model used according to the models outlined in the DVP Report (see the Introduction). Please also provide a diagram indicating the timing of events in the processing of securities and funds transfers in the SSS. Where the SSS provides more than one alternative for settlement processing, please provide a response for each alternative and indicate the relative importance of each alternative.

The settlement process is described in Figure 3.

The KDPW settlement system is based on the principle of DVP. In the multi-batch system Model 2 (BIS Report, 1992) is used - securities are settled in gross, while the cash funds are netted. In the RTGS system, the settlement is carried out according to Model 1 - securities and cash are settled in gross.

1. Are funds transfers and securities transfers processed within the same system or in different systems? If different, how are they linked?

Securities transfers are processed in the KDPW system while funds transfers are processed in the NBP system.

(a) Please describe whether each securities transfer is linked to a specific funds transfer on a trade-by-trade basis or on a net basis or via some other method.

In the multi-batch system, at the end of a settlement session, after verifying the cash and securities coverage of its participants, securities are transferred between accounts against transfer of funds which is made through the execution of KDPW instructions crediting or debiting payment bank accounts at the NBP. The cash instructions reflect the actual balance of participants' respective receivables or liabilities determined on a net basis. The securities transfers are made on trade-by-trade basis.

In the RTGS system, after verifying KDPW cash and securities coverage of its participants, securities are transferred between accounts against transfer of funds; both transfers are made on trade-by-trade basis.

(b) Does the SSS "split" large transactions into multiple transactions or require participants to do so?

KDPW does not split large transactions into multiple transactions and does not require participants to do so.

2. When do securities transfers and funds transfers become final?

(a) At what time do securities transfers become final? After what event or events?

Securities transfers that are the result of transaction settlement become final at the moment an entry is made on the depository account (immediately after the settlement of the transaction). For DVP transfers, this entry takes place at the same time as confirmation is given by the NBP of final cash settlement having taken place.

(b) At what time do funds transfers become final? After what event or events? Does this timing allow for same-day retransfer of funds received in exchange for securities?

Cash fund transfers become final at the moment when the cash payment orders are executed in the NBP.

The timing allows for same-day retransfer of funds received in exchange for securities.

(c) If final delivery of securities precedes the final transfer of funds, can participants dispose freely of such securities prior to funds finality? If so, what actions will be taken if funds are not received?

Settlement is carried out on the basis of DVP.

(d) If final delivery of funds precedes the final transfer of securities, can participants dispose freely of such funds prior to securities finality? If so, what actions will be taken if securities are not received?

Settlement is carried out on the basis of DVP.

(e) Does the timing of finality differ depending on the type of security transferred or the currency in which payment is to be made? Please describe.

The timing of finality of settlement does not depend on the type of security transferred or the currency.

3. Please discuss whether participants are notified of securities or funds transfers while they are still provisional, only when they are final, or both.

Participants are informed of securities transfers when they are registered (which means they are final) receiving statements of accounts. The KDPW system does not carry out provisional transfers.

Participants are informed of funds transfers after each settlement session throughout making final statement reports available. At the end of a settlement day the report for payment banks is also generated on all performed cash transfers. Participants also receive reports on pending transactions and on predicted cash balances.

F. Does the SSS itself "guarantee" funds or securities transfers?

KDPW itself does not guarantee securities or cash transfers. KDPW manages a settlement guarantee system used in this purpose (see point I.C.7).

1. Under what circumstances and at what point are transfers guaranteed by the SSS?

See point I.C.7.

2. What actions does the guarantee obligate the SSS to take?

See point I.C.7 and V.A.3.(a).

3. Please indicate whether the guarantee is a feature of the SSS's rules and procedures or of national law or regulations.

See point I.C.7 and V.A.3.(b).

VI. Default procedures

A. Please discuss the events or circumstances that would constitute default of a participant under the rules and procedures of the SSS or that would lead the SSS to make use of exceptional settlement arrangements or unwind procedures.

1. Failure by a participant to meet a test of its solvency under the applicable laws of its jurisdiction?

KDPW does not verify the solvency of participants. The financial standing of participants is examined by authorized supervisory bodies (the Polish SEC, The Banking Supervisory Commission). On the basis of decisions of these bodies, special procedures may then be initiated as regards the participant.

2. Failure to make payments or deliveries of securities within the time specified?

The participant is obliged to make payment or deliver securities necessary for settlement without delay. The failure to make payment or to deliver securities within the time specified leads to the suspension of transaction settlement.

KDPW offers special means whose purpose is to prevent or eliminate suspensions of settlement for transactions secured by the Settlement Guarantee Fund.

In case of any shortage in the participant's cash account, if the participant is not responsible for the delay in cash payment, a cash loan from the Settlement Guarantee Fund may be granted. Moreover, irrespective of whether the participant is responsible for the suspension or not, the participant's liabilities are met using receipts from transactions that have not yet been settled. If a participant's receipts are insufficient to meet its liabilities, they are met from the Settlement Guarantee Fund, however, only up to the amount paid in by the participant to the relevant part of the Settlement Guarantee Fund. Should such a payment be insufficient to meet the full extent of the liabilities, KDPW decides whether to use a proportion of the payment or not to use the payment at all. In such cases, the KDPW Management Board may, by means of a Resolution, decide not to carry out settlement for a participant who has caused a suspension. This position shall be considered the equivalent of a declaration made by the other party to the transaction of its withdrawal from the agreement. Then KDPW, depending on the circumstances, sells or purchases securities on the account of the participant who did not cause the suspension of the transaction.

In the aforementioned situations where a participant poses a risk to the safety of the proper performance of the depository-settlement system, the KDPW Management Board may make a decision on terminating or suspending its participation.

A clearing member who fails to ensure the settlement of a transaction owing to a shortage of securities shall be obliged immediately to ensure an adequate level of securities in the depository account. This may be achieved using such means as concluding a securities lending and borrowing agreement or issuing a purchase order. If a settlement remains suspended, KDPW shall have the right to purchase securities on the participant's account (buy-in/sell-out procedure).

3. To the extent that the rules and procedures grant discretion in the determination of the use of default or other exceptional procedures, please discuss where the authority to exercise such discretion resides and the circumstances in which this authority would be used.

The KDPW Rules define in detail the procedures in such circumstances. Depending on the risk that may be caused by exceptional circumstances, the KDPW Management Board reserves the right to suspend KDPW participation status. In such circumstances, KDPW informs without delay the WSE and the CTO market, and these are in turn obliged to limit or suspend that participant's operations on the regulated market. If the participant's situation does not improve, further decisions are taken with the Securities and Exchanges Commission.

B. What procedures are followed by the SSS once it has determined that a default event has occurred or that exceptional settlement arrangements are to be employed?

1. How and at what point are participants notified that this has occurred?

Participants who are parties to a transaction are informed about the default immediately it has happened by means of a report.

2. Would the SSS be expected to continue to meet all its obligations to participants under these circumstances? Please discuss the resources in place to ensure that this would occur (e.g. collateral, participants' fund, insurance, loss-sharing arrangements, etc.).

KDPW has means available to ensure settlement continuity in cases of permanent inability of a participant to meet his obligations from concluded transactions, which include the following:

- A mechanism for meeting liabilities from as yet unsettled transactions of a given participant in instances of a shortage of funds on the cash account,
- The Settlement Guarantee Fund,
- Margins (only for derivative transactions).

For derivatives settlements, in instances where the assets collected as part of the margin or the Settlement Guarantee Fund prove to be insufficient, KDPW may decide to use some of its own assets to close a position.

When the assets of the Settlement Guarantee Fund are used, in an amount exceeding the contribution made by that participant to the relevant part of the Settlement Guarantee Fund, participants other than the participant who caused the assets to be used make top-up contributions.

3. Please describe and provide a time line indicating the order in which these resources would be used as well as the timing of participant notifications and important deadlines (e.g. when the SSS's obligations to participants would be met, when participants would need to cover their loss-sharing obligations).

If the shortage of cash funds to settle the transaction is not the fault of the participant, the shortage may be covered by funds from the Settlement Guarantee Fund taking the form of a loan. If the participant is to blame, the shortage is covered (in order) first from the current credits due to the participant, next from the participant's contribution to the Settlement Guarantee Fund; if these funds are insufficient, the contributions of the remaining participants of the Fund may be used.

In the event of a shortage of securities on a participant's account, an automatic securities loan is initiated, if this is possible; if not, the settlement of the transaction is suspended. If the participant does not act in any way to allow the settlement of the transaction to take place, KDPW may carry out a securities purchase order on the participant's account, using the cash funds from the Settlement Guarantee Fund.

If a participant operating on the derivatives market is unable to meet its obligations, KDPW closes all open positions, using the maintenance margin, followed by the initial margin. If these funds are insufficient, the appropriate part of the Settlement Guarantee Fund is then used.

4. Please describe all conditions under which provisional transfers of securities or funds could be unwound by the SSS.

Any transfers of securities and cash cannot be unwound in the KDPW system once they have been realised.

Transactions covered by the guarantee system may not be revoked.

Outside the regulated market, a settlement instruction may be effectively withdrawn from the system by a party to the transaction until the moment when it will be matched with appropriate instruction introduced by the participant who is the other party to the transaction. After matching a transaction may be cancelled if the parties to that transaction mutually agree to this and send a cancellation instruction to KDPW. Any possible liabilities arising from the cancellation of these transactions are agreed between the parties.

(a) How and on what authority would a decision to unwind securities or funds transfers be made by the SSS?

Not applicable.

(b) When and how would participants be notified of a decision to unwind provisional securities or funds transfers?

Not applicable.

(c) How long would participants have to cover any debit positions in their own securities or funds accounts resulting from an unwind?

Not applicable.

(d) In the event of an unwind, would all transfers be unwound or would only a subset of transfers (e.g. only securities purchases or only those of a subset of participants) be unwound?

Not applicable.

(e) If only a subset of transfers, what procedure would be followed to determine which transfers and in what order?

Not applicable.

5. Can bankruptcy or insolvency be declared retrospectively in the SSS's jurisdiction (e.g. under a "zero-hour" rule), and could this cause provisional securities or funds transfers to be unwound?

Despite the lack of clear and unambiguous regulations which would indicate that the “zero hour rule” applies in Poland, it is generally accepted as a legal principle that this rule is indeed applicable when bankruptcy is declared. There are however mechanisms that protect an entity acting as KDPW participant from the negative aspects of this rule.

The provisions of the Act on Finality in Payment Systems and Securities Settlement Systems of August 24, 2001 and the Bankruptcy and Rehabilitation Act of February 28, 2003 ensure the following:

- They introduce the principle of notifying the National Bank of Poland of the initiation of bankruptcy proceedings against a system participant, and the moment the notification has taken place is considered to be the instant the bankruptcy has been declared. Henceforth, the bankruptcy may affect the rights and obligations of a bankrupt participant, arising from participation in the system. The NBP is obliged to send information to KDPW on the declaration of bankruptcy immediately.
- They define, as a statutory principle, that an instruction introduced into the system cannot be revoked from the moment that is defined in the regulations that describe the operational principles of the system.
- They set out the statutory principle of the inviolability of legal consequences arising from the sending of an instruction into the system and the inviolability and obligation of netting taking place if the instruction is sent before the participant's bankruptcy is declared – as well as if the instruction is sent to the system later and if KDPW can show that it did not know and was unable to know about the declaration of bankruptcy and the instruction is executed on the day the participant's bankruptcy is declared.
- They maintain the principle (found in the now repealed Article 139 of the Polish Securities Law) of the availability of assets - despite the declaration of bankruptcy - for

the purpose of using them for the settlement of a transaction, as well as excluding these assets from the assets under the bankruptcy order,

- They introduce the principle that in the event of the bankruptcy of a participant who is subject to foreign laws, Polish law shall be used to define that participant's rights and obligations relating to participation in the system operated by the National Depository, as the prevalent law for that system,
- They exclude from the assets under the bankruptcy order those assets making up collateral posted by a participant on behalf of another participant in the course of participation in the system;
- They introduce the principle of *lex rei sitae*, or the supremacy - in relation to securities forming collateral posted for a system participant – of the law of the country in whose territory the account or register in which those securities are recorded, is maintained.

6. Please describe any circumstances in which transfers of securities or funds that were defined as final in response to question V.E.2 above would ever be unwound.

Final transfers of securities or funds would never be unwound.

C. Has a participant in the SSS ever been declared in default or become insolvent?

There have been no incidents of a participant becoming insolvent.

1. Have loss-sharing procedures been invoked?

The need has never arisen.

2. Please describe whether any of these defaults or insolvencies resulted in losses for the SSS or its participants and how they were absorbed.

This has never occurred.

VII. Securities overdrafts, securities lending and back-to-back transactions

A. Is it possible for debit positions (overdrafts) in securities accounts at the SSS to arise?

Debit positions (overdrafts) are not permitted on security accounts.

Shortages of securities necessary for the settlement of transactions are possible, however - these result in the settlement of the transaction being suspended.

1. Under what conditions could such debit positions occur?

(a) Do these conditions always result in debit positions in securities accounts rather than failed transactions? If not, please explain the basis for differential treatment by the SSS.

Not applicable.

(b) Are these situations covered explicitly by the rules and procedures of the SSS?

Not applicable.

2. How long can such debit positions last? How long do they typically last?

Not applicable.

3. How are debit positions in securities accounts prevented, rectified or managed?

Debit positions are not allowed and this is monitored by the system continuously, thus short positions are prevented by the system itself.

4. What procedures would be followed by the SSS in case the debit cannot be rectified? (e.g. failure by a participant with a debit balance in a securities account or unavailability of the securities in the market)

(a) Application of loss-sharing provisions allocating the loss to participants?

(b) Absorption of the loss by the SSS?

(c) Other? Please specify.

Not applicable.

B. Under what circumstances does the SSS provide for the lending of securities to ensure settlements?

1. Is the process for lending securities automatic? If not, please describe the procedures used by the SSS to determine whether a securities loan will be made.

An automatic securities lending and borrowing system is organised and managed by KDPW within the framework of the system for ensuring settlement liquidity. Automatic securities loans are executed on or after the settlement day in a case of lack of securities required for settlement of transaction guaranteed by settlement fund. Its purpose is to prevent or eliminate the suspension of settlement of above mentioned transactions.

Apart from automatic securities lending, KDPW also offers on-request securities lending and borrowing.

2. At what point are participants notified that securities are being lent to them in order to complete their settlements?

For automatic securities loans, participants are notified in the form of a report that securities are being lent to them in order to complete their settlement, immediately after a loan is given.

3. Which securities on deposit at the SSS are eligible for lending? Do participants have the option to make securities available for lending or is it mandatory?

All securities which are traded on regulated markets may form the basis of a securities lending agreement. Securities shall not be lent on the record date of those securities. Moreover, after the issuer has announced the record date, no loans shall be made, if the date the securities are to be returned falls on the record date or later.

Participation in the automatic securities lending and borrowing program is mandatory only for clearing members acting as borrowers. Participants who wish to act as securities lenders may only do so after granting KDPW their authorisation.

4. Are lent securities identified by the SSS with specific participants as lenders or only with a common pool of securities available for lending? Does the participant whose securities are lent become a principal to the transaction?

Securities intended to be loaned are registered on special participants' accounts (set aside for automatic securities loans). Moreover, in the event of a shortage of necessary securities on these accounts, KDPW informs all participants of the securities lending system of demand for particular securities. Lent securities are identified by KDPW with specific participants as lenders. The parties to a securities loan remain anonymous.

C. How does the SSS settle back-to-back transactions?

Back-to-back transactions are not defined by the KDPW Rules, however, it is possible to execute a transaction similar to back-to-back transactions throughout independent non-regulated market transactions (this refers only to Treasury bonds).

1. Under what conditions are delivery instructions by participants receiving and redelivering securities on the same day under back-to-back transactions settled for same-day value?

(a) Only if the participant has securities on deposit with the SSS that have been received pursuant to a final securities transfer?

Not applicable.

(b) If the participant has securities on deposit with the SSS that have been received pursuant to a provisional securities transfer?

Not applicable.

(c) Before securities have been received either provisionally or finally, but when a matched receipt instruction exists for the same or greater value? Is such a practice limited to markets where matching is binding?

Not applicable.

(d) Before securities have been received either provisionally or finally, but when a third party has promised to deliver to the SSS securities of the same or greater value? Must the provider of the guarantee have itself received the securities through a final transfer? Please describe how the SSS evaluates such promises, and whether they are addressed by the written rules and procedures of the SSS.

Not applicable.

(e) Other? Please specify.

Not applicable.

2. Please describe limits or controls in place with respect to any of the above arrangements for the settlement of back-to-back transactions, including limits on amounts involved or related to the liquidity of the underlying securities.

Not applicable.

3. Under what conditions are payment instructions by participants in the SSS under back-to-back transactions settled for same-day value? Can participants use the proceeds of an on-delivery of securities without the need for an extension of credit?

Not applicable.

VIII. Risk control measures

A. Please describe the roles and responsibilities of those areas of the SSS responsible for risk management and control.

1. Please describe the process for the internal review of risk management policies and procedures.

KDPW has a Corporate Security Department whose main responsibility is a permanent monitoring of system safety procedures. KDPW also has an Internal Audit Department which controls, for instance, the correctness of procedures and compatibility of the Risk Management Section's activities with these procedures.

The internal review of existing risk management policies and procedures is a constant process. This means that projects are currently being carried out to improve the effectiveness of existing risk management systems, and constant monitoring of solutions implemented in other countries, along with an assessment of whether such solutions could be implemented at KDPW.

2. Is there a risk management policy that addresses the review and approval of new products and services offered by the SSS? At what level of the organisation is risk management approval given for a new product or service?

There exists a policy of approval of risk management principles related to new products and services by the KDPW Management Board. New products and services are submitted to approval by proper organisational units.

3. Does the SSS have a risk management function with clear independence from and authority over operational or marketing functions?

Yes, it has. Departments responsible for risk management have their risk management functions clearly separated from operational or marketing functions.

4. Does the Board of Directors review risk management policies and procedures? Does the Board have a risk management or audit committee?

Acceptance of risk management policy, as well as all modification procedures and the introduction of new products and services takes place at the level of the Management Board. KDPW does not have a formal risk management or audit committee.

B. Please describe any internal or external audits or supervisory/regulatory examinations that are performed with respect to the SSS. For each such audit or examination, please address the following questions.

1. Who performs the audit or examination?

The following external authorities have the authority to supervise the KDPW system:

- The National Audit Board (Najwyższa Izba Kontroli, or NIK);
- The Polish Securities and Exchange Commission (Komisja Papierów Wartościowych i Giełd, or KPWiG);

and the following KDPW departments:

- KDPW Audit Department;
- KDPW Internal Audit Department.

Moreover, the external auditors verify KDPW financial statements.

2. What is the scope of the audit or examination?

(a) Please indicate whether and how it addresses the sufficiency of and compliance with internal controls.

(b) Please indicate whether and how it addresses the SSS's compliance with its own rules and procedures.

The National Audit Board monitors KDPW activities that involve co-operation of KDPW with other state institutions.

The Polish SEC supervises KDPW in relation to its activities as the central institution of the depository-settlement system and management of that system. Supervision relates not only to compliance with the aforementioned Law, but also, to a certain extent the way that KDPW meets its responsibilities. An authorized representative of the SEC has the right to go to KDPW and look into its books, documents and other data carriers and can participate in sittings of the KDPW Supervisory Board and at Annual General Meetings.

The KDPW Audit Department supervises participants and monitors them as to their correct registration of securities following transaction settlement, as well as other operations in securities, meeting financial requirements of KDPW participation, and the correct and secure safekeeping of documents. Audits are performed through the analysis of documents sent to KDPW as well as direct audits carried out in the offices of participants. KDPW immediately informs the SEC of errors in conduct by a participant discovered during an audit and if these errors are severe and involve the activities of a participant in the regulated market, the institution running that market is also informed.

The KDPW Internal Audit Department supervises the internal organizational units at KDPW. The purpose of performing internal audits in KDPW is to monitor the correct functioning of the institution. The Internal Audit Department is directly responsible to the President and CEO of KDPW and performs activities that relate to the monitoring of the proper performance of KDPW organizational units with the general rules set out in internal KDPW regulations, and proper organization and efficiency.

The verification of KDPW financial statements made by the external auditors serves to assess whether correct accounting procedures are used, whether registration is properly carried out and the assets and finances of the company are correctly presented.

3. What is the frequency of the audit or examination?

NIK has so far performed 2 audits. The SEC carries out on average one audit a year in KDPW. On average, there are about 90-100 direct audits performed by The KDPW Audit Department, which is an average of about 2 audits a year for every KDPW participant. In case of internal audits, there are about 20 audits carried out in KDPW each year. The frequency of internal examinations of operating procedures is dependent on the assessment of the risk of the failure to carry out, or the improper carrying out of a given procedure or action.

According to regulations, external financial audits are carried out annually. Exceptions include situations where correctness needs to be defined in a narrower scope, where audits may take place several times a year.

4. Are audit or examination reports available for review by participants?

Audit and examination reports are neither published nor available for public use. The KDPW Audit Department reports are sent only to the participants who were the subject of examination. Internal audit reports are given to the KDPW President and CEO. Only external financial audit reports are available to KDPW participants (a report is included in the Annual KDPW report).

C. Please discuss whether the SSS has the capacity to value (i.e. mark to market) the securities that it holds.

1. Please describe how these valuations are used by risk control systems at the SSS.

KDPW has an integrated valuation system for securities used as collateral

2. How frequently are securities revalued?

Securities are revalued once a day.

3. What are the sources for security valuations?

(a) What outside price or data sources are used?

The principle source for valuation are securities prices, received from the regulated markets and documents from the money and foreign exchange markets.

(b) If pricing models are used, please describe how the models are chosen and how the model inputs are obtained.

Not applicable.

D. Please discuss whether the SSS has a lien on the securities held in or transferred through it.

KDPW has no lien on securities held in or transferred through it.

1. Does the lien apply only to the securities owned by the participants themselves or does it extend to the securities beneficially owned by customers of participants?

Not applicable.

2. Under what circumstances and in what manner would such a lien allow the SSS to use the securities?

Not applicable.

E. Please discuss the circumstances in which the SSS requires collateral to limit or mitigate risks.

1. Does the SSS manage its own collateral system?

KDPW manages its own collateral system, which is used for securing securities loans and for safeguarding the derivatives market. Moreover, the assets of the Settlement Guarantee Fund for cash markets may be treated as a kind of collateral.

2. Does the SSS share a collateral system with another SSS or payment system?

At present a KDPW project is being discussed with the National Bank of Poland, whose purpose is to offer KDPW participants the ability to offer Treasury bills as collateral; these Treasury bills are kept on deposit by the NBP Central Treasury Bill Register.

3. Can collateral at the SSS be posted and returned on the same day?

Collateral at KDPW may be returned on the next day.

4. What types of transaction at the SSS involve the use of collateral?

Collateral is required for automatic securities loans and for derivatives market transactions.

5. What are the policies with regard to the type of collateral used or haircuts required?

Up to 60% of the value of margins may be posted in non-cash collateral. Shares of selected companies may be accepted, as well as Treasury bonds. Haircuts are used for calculating the value of collateral. The value of the collateral is marked to market daily on the basis of the market price of the securities.

6. How are collateral valuation methodologies developed and reviewed?

The valuation methodology of securities forming collateral is developed using documents published by the Bank for International Settlement, Risk Metrics Group and other sources dealing with market risk and liquidity risk.

7. To what extent are collateral policies described in the written rules and procedures of the SSS?

Basic rules of collateral policy are described in the KDPW Rules and the KDPW Detailed Rules of Operation. The KDPW Rules allow the KDPW Management Board to define details regarding collateral by way of resolution (e.g. list of securities eligible as collateral, haircuts).

F. Please describe the SSS's use of limits on exposures to monitor or control risks.

1. Please explain the types of limit used and the exposures to which they apply.

KDPW has introduced transaction and engagement (or concentration) limits. The transaction limit specifies the value of obligations which may be accepted by a given clearing member

because of deposits securing his positions and the value of mark-to-market obligations. The transaction limit is monitored in real time.

The engagement limit describes the level of concentration on the derivatives market, according to individual accounts administered by individual clearing members. Its purpose is to prevent excessive concentration of derivatives in investors' individual portfolios.

2. Do the limits apply to all participants and/or to other SSSs with which the SSS is linked? What are the exceptions to the limits?

Transaction limits apply to all clearing members on the derivatives market. The engagement limit is not currently implemented.

3. Do limits apply to participants individually or in the aggregate or both?

Transaction limits are applied individually for each clearing member. The engagement limit was created to be used as a flexible method of assessing concentration at the following levels:

- Individual investor level,
- The level for a group of pre-defined investors,
- Clearing member level.

4. Do limits apply to implicit as well as explicit extensions of credit or securities (e.g. when on-deliveries of securities are permitted pursuant to provisional but not final delivery of securities)?

Not applicable.

5. Does the SSS automatically reject transactions that exceed limits or is compliance determined ex post?

The application that monitors the transaction limit sends a message to the administrator, once a clearing member has exceeded 90% of the level of the individual transaction limit. On receipt of this message, the clearing member is informed of the need to raise assets posted as collateral for the transaction limit. In instances where the participant does not transfer the assets for the vadium (which determines the amount of the transaction limit) onto the appropriate account in KDPW, once the transaction limit has been fully exceeded (by 100%), the clearing member may be suspended from making any further orders.

6. How are limit policies developed and reviewed?

Limit policies are under constant review as a result of the emergence of new instruments and services, as well as recommendations of international institutions on credit risk management.

7. To what extent are limit policies described in the written rules and procedures of the SSS? Where does additional authority to set or amend limit policies reside?

Limit policy is defined in the KDPW Rules and in the terms and conditions of the issue and trading of derivatives. Additional authority to set internal limits is held by intermediary institutions, such as brokerage houses.

G. Please describe other controls to mitigate or reduce risks at the SSS.

1. Does the SSS or its participants have the capacity to monitor participants' accounts continuously during processing?

In the multi-batch system, participants receive information on the balances in their accounts at the end of a settlement session.

In the RTGS system, information on the balance in the given account is sent automatically at the moment of settlement. Moreover, the participants may request for an account statement each time.

2. Is there a special risk control regime that the SSS would apply to a participant known to be experiencing financial difficulties?

The KDPW Management Board may, by way of resolution, order a direct participant holding clearing member status to provide over specific periods of time, information on the participant's total liabilities, net capital and current engagement level in instances where there is a well founded suspicion that the activities being carried out by that participant threaten or are likely to threaten the safety of trading.

3. Does the SSS maintain or administer loss-sharing arrangements other than those applicable to events of default and addressed in Section VI above? Are these loss-sharing pools pre-funded by participants?

No.

IX. Operational risks

A. Please provide assessments of the operational reliability of the computer and other systems used by the SSS, including any criteria that the SSS uses internally for this purpose.

1. What is the percentage uptime of the systems used by the SSS?

(a) Whole system overall?

100% for the last 3 years.

(b) Broken down by major components? (e.g. communications network, central processing facility)

KDPW's Wide Area Network availability remains at 99.9% (the figures may be different for individual participants).

Other components: 100%.

(c) During critical processing periods?

See above.

2. Has the SSS experienced major operational problems during the past two years?

(a) Have settlements been delayed, been disrupted or otherwise failed because of operational problems during this period?

No

(b) Please describe the nature of any such problems.

Not applicable

B. Please describe contingency or disaster recovery planning at the SSS.

The KDPW contingency strategy is based on the use of a disaster recovery site where all elements of the KDPW system are duplicated. In an emergency, depending on conditions, the back-up systems can be activated and/or KDPW employees transferred to the disaster recovery site.

The KDPW has set up its own Recovery Site outside of Warsaw. The Recovery Site has been equipped with necessary back-up systems, telecommunication links and office premises needed for continuing KDPW operations. Both the Production and Recovery sites are connected by means of a fibre optic line owned by KDPW.

All production databases are transferred to the back-up systems in real time mode. After each phase of processing the checkpoints are also transmitted. Additionally all data is replaced on the back-up system on a daily basis.

In the beginning of 2003 the Department for Corporate Security has been set up in KDPW, dealing with security within the institution (e.g. physical security, IT security), Business Continuity Planning and Operational Risk.

1. Does the SSS have a formal plan for business continuity in place?

Yes, it does. It is called the KDPW System for Maintaining Operational Continuity.

2. Is this plan available for review by participants?

No, it is not. The principle behind the activation of the disaster recovery system is that from the point of view of the participant, the only visible change is the change of KDPW telephone number and address; participants do not therefore need to review the plan.

The participants receive general information about the KDPW Operational Model and statements on the disaster recovery system.

3. How often is this plan tested? Does this involve participants in the SSS?

The tests take place at least twice a year. They consist of the activation of the disaster recovery site and verification of data and launch of all applications. The participants take part in the test.

4. What are the major elements of the business continuity plan?

All information that can be made available is given above.

5. How long would it take the SSS to resume operations if primary systems become unusable?

Irrespective of the type of emergency and the time it occurred, the disaster recovery site is expected to be activated within 3 hours.

In the mentioned in p. A.2.b cases the time of renewal of KDPW operational activity was appropriately 40 i 50 minutes since the moment of evacuation.

C. What are the key features of the internal controls covering operations and security at the SSS (e.g. change controls or those covering remote access)?

1. Please describe controls or security procedures in place to ensure that the SSS acts only on authentic settlement instructions from valid participants.

Data exchange between KDPW and participants takes place using the Electronic System for the Distribution of Information, which uses cryptography and electronic signatures. The cipher keys with certificates are provided on microprocessor cards by KDPW Authorisation Centre. Each participant's workstation and the employee are authenticated in the server by means of cryptographic algorithms, user ID and a password. Communications are protected both by KDPW (using file filtering and firewalls) and telecom service providers. For direct interfacing with KDPW computers, the standard security procedures are used: user profiles and passwords and, where required, encoded links.

2. Are internal operational and security controls included in the internal and/or external audits of the SSS?

Yes, they are.

3. Are internal operational and security controls covered by regulatory requirements applicable to the SSS?

Yes, they are partially.

All internal security controls included in regulatory requirements applicable to the SSS have been employed in KDPW.

Additional controls, not covered by regulatory requirements, have been implemented in KDPW.

D. Does the SSS impose minimum operational or performance standards on third parties (e.g. communications providers)?

All co-operation with third parties is based on agreements for each product provided.

1. How does the SSS ensure that such standards are met on a continuing basis and what sanctions are available to the SSS if they are not?

KDPW constantly monitors all components dependent on third parties (e.g. the efficiency of telecommunication links). Moreover, wherever possible, all equipment is periodically verified.

2. How would the SSS allocate losses incurred due to operational problems caused by third parties?

From financial penalties based on agreements with the third parties and from KDPW's own funds.

Figure 1. Organization Chart of KDPW

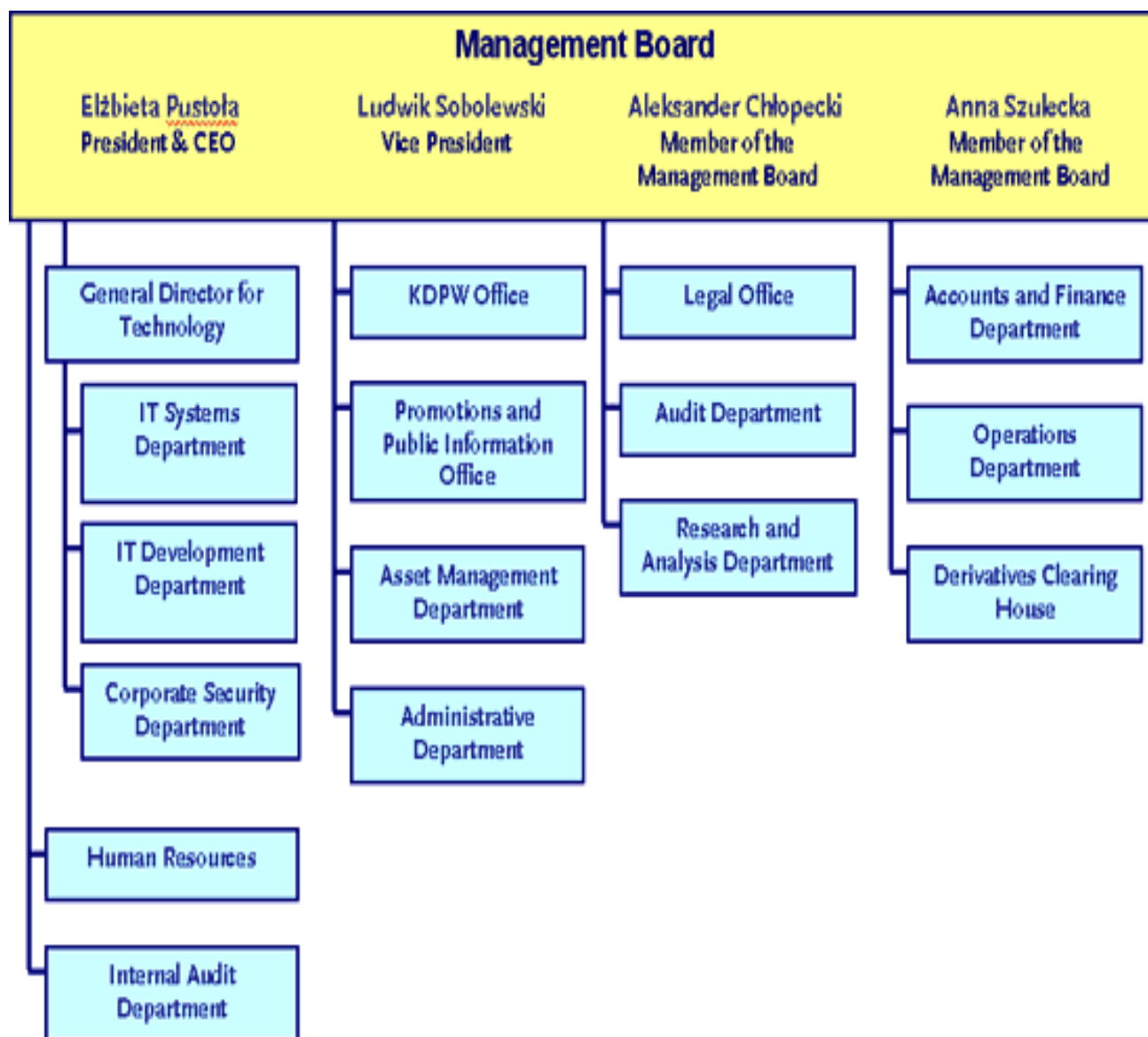
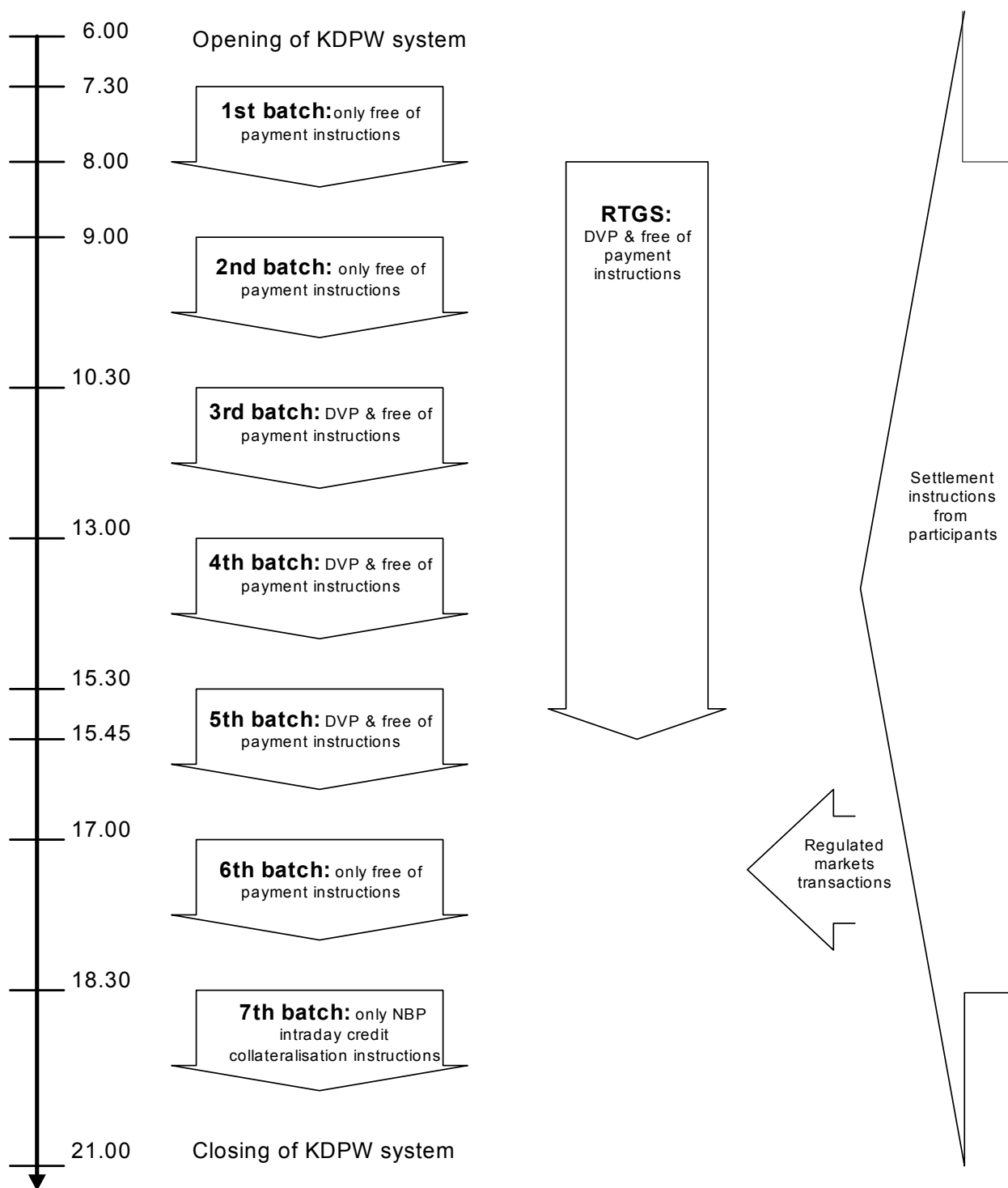


Figure 2. KDPW accounting day



*Figure 3. Settlement process
(the multi-batch system)*

