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**Journal of Laws of 2018, No. 145**

as amended by Journal of Laws of 2018, No. 1075 and No. 650

**ACT**

of 24 August 2001

**on Settlement Finality in Payment and Securities Settlement Systems and  
the Rules of Oversight of these Systems**

(consolidated text)

**Chapter 1**

**General provisions**

**Article 1.** The following terms as used in the Act shall have the following meaning:

- 1) payment system - shall mean legal relationships, governed by the Polish law, between at least three institutions, of which at least one must be an institution referred to in subparagraph 5(a)-(d) or (h), excluding an indirect participant, with common rules, applicable to the participants, for the clearing or execution of settlement orders referred to in subparagraph 12(a), subject to Article 2a;
- 2) securities settlement system shall mean legal relationships, governed by the Polish law, between at least three institutions, of which at least one must be an institution referred to in subparagraph 5(a)-(d) or (h), excluding an indirect participant, with common rules, applicable to the participants, for the clearing or execution of settlement orders referred to in subparagraph 12(b), subject to Article 2a.
- 3) system - shall mean systems referred to in subparagraph 1 and 2;
- 3a) interoperable system - shall mean a payment system or a securities settlement system whose system operator has entered into an arrangement that involves cross-system execution of settlement orders with at least one operator of the system that is subject to the Polish law or the law of any other Member State;
- 4) other Member State shall mean a state - other than the Republic of Poland - which is a member of the European Union, as well as Iceland, Liechtenstein and Norway;
- 5) institution - shall mean any of the entities enumerated below, which participates in a payment system or in a securities settlement system and which is responsible for discharge of the obligations arising from the execution of settlement orders within the system:
  - a) Narodowy Bank Polski, hereinafter referred to as "NBP",

- b) the central bank of another state,
  - c) a domestic bank, a branch of a foreign bank, a credit institution and a branch of a credit institution as defined in the Banking Law of 29 August 1997 (Journal of Laws of 2017, item 1876), a credit union and the National Association of Credit Unions as defined in the Act of 5 November 2009 on Credit Unions (Journal of Laws of 2017, item 2065),
  - d) an investment firm as defined in Article 3 (33) of the Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2017, item 1768),
  - e) (repealed),
  - f) (repealed),
  - g) the following entities that have their registered office on the territory of the Republic of Poland and deposit funds on their own account on the securities market:
    - an insurance undertaking within the meaning of the regulations on insurance activities,
    - an investment fund and an alternative investment company within the meaning of the regulations on investment funds and management of alternative investment funds,
    - a pension fund within the meaning of the regulations on the organisation and functioning of pension funds,
  - h) a public authority,
  - i) a publicly guaranteed undertaking,
  - j) an entity that has its registered office outside the territory of other Member States, carrying out activities analogous to the activities of a credit institution referred to in point (c), or to a foreign investment company referred to in Article 3 (32) of the Act referred to in point (d),
  - k) a participant in the securities settlement system, other than the one referred to in points (a) to (j), responsible for the discharge of the obligations arising from the clearing or execution of transfer orders in the system, provided that at least three participants in that system are the entities referred to in points (a) to (c),
  - l) with respect to the systems other than those listed in Article 15 (1) and (2) - a payment institution and an electronic money institution as defined in the Act of 19 August 2011 on Payment Services (Journal of Laws of 2017, item 2003);
- 6) central counterparty - shall mean an entity that acts in the system as the exclusive counterparty of institutions with regard to their transfer orders;
  - 7) settlement agent - shall mean an entity providing settlement accounts within the system for institution or the central counterparty, through which transfer orders are settled and, depending on vested powers, credit is granted to those institutions and the central counterparty for settlement purposes by the above-mentioned entity;
  - 8) clearing house - shall mean an entity responsible for the calculation of the net claims or obligations of institutions, a central counterparty or a settlement agent;
  - 9) participant - shall mean an institution, a central counterparty, a settlement agent, a clearing house or a system operator;
  - 10) indirect participant - shall mean an institution, a central counterparty, a

settlement agent, a clearing house or a system operator having a contractual relationship with a participant that enables the above-mentioned to pass its transfer orders through the system, provided that the indirect participant is known to the system operator;

- 11) securities - shall mean securities and other financial instruments as defined in Article 2 of the Act referred to in subparagraph 5(d);
- 12) transfer order - shall mean:
  - a) any instruction by a participant to place an amount of money on a recipient's account operated by a settlement agent or other instruction which results in the assumption or discharge of a payment obligation as defined by the rules of the payment system; or
  - b) any instruction by a participant to transfer securities by means of relevant book entries on a register of securities, or otherwise;
- 13) foreign bankruptcy proceedings - shall mean any court or administrative proceedings carried out under the law of a country other than the Republic of Poland, including proceedings for securing creditor's claims, in the course of which the property of the participant in a system or an entity with its registered office on the territory of the Republic of Poland which is a participant in a payment system or a securities settlement system, carried out under the law of another Member State, is subject to control or administration exercised by a court or another authority, where such proceedings results in the suspension of, or the imposition of limitations on, the execution of transfer orders;
- 14) declaration of bankruptcy of:
  - a) an entity that has its registered office on the territory of the Republic of Poland which is a participant in a payment system or a securities settlement system, including entities subject to the law of another Member State, pursuant to the Act of 28 February 2003 – Bankruptcy Law (Journal of Laws of 2016 No. 2171, 2260 and 2261, and Journal of Laws of 2017, item 791), shall mean a decision declaring bankruptcy issued by a court competent for bankruptcy proceedings as well as in accordance with the Act of 15 May 2015 - Restructuring Law (Journal of Laws of 2017 No. 1508), issuing of the decision on opening the remedial, arrangement or accelerated arrangement proceedings, by a court competent for restructuring proceedings,
  - b) an entity that has its registered office outside the territory of the Republic of Poland which is a participant in a payment system or a securities settlement system shall mean a ruling, judgement or decision made by a foreign court or authority, whereby the participant has forfeited or has been limited in its right to administer its property or its property has become subject to supervision in order to re-organise or liquidate the participant in the proceedings referred to in subparagraph 13;
- 15) competent authorities - shall mean authorities supervising the entities referred to in subparagraph 5(c)-(g) and (i)-(l);
- 16) netting - shall mean the conversion, for each participant, into one net claim or one net obligation of mutual obligations and claims resulting from the exchange of transfer orders between the participants;
- 17) settlement account shall mean a bank account, a cash account, a securities account, a derivative account, an omnibus account, a security deposit-account or a clearing account at a settlement agent used to carry out settlements

- between participants in a system;
- 18) collateral security - shall mean realisable assets:
- a) provided under a pledge, guarantee deposit or other security in connection with the participation in a system, or
  - b) accepted by NBP, the central bank of another Member State or the European Central Bank in connection with their function of central bank;
- 19) system operator - shall mean a central counterparty, a settlement agent and a clearing house, including in particular a clearing house or a settlement house operating pursuant to the Act of 29 July 2005 on Trading in Financial Instruments, or any other entity which determines the rules common for the participants in the system for the execution of their transfer orders.

**Article 1a.** At least one of the institutions whose legal relationships constitute the system shall have its registered office on the territory of the Republic of Poland.

**Article 1b.** The name of the payment system should be explicitly distinct from names of other payment systems, payment schemes and payment services.

**Article 2.** 1. The Governor of NBP may, in individual cases, consider the legal relationships, governed by the Polish law, between two participants – excluding the settlement agent, the central counterparty, the clearing house or the indirect participant, if any, which determine the rules of execution of transfer orders referred to in Article 1(12)(a) by those participants, to constitute a payment system on grounds of systemic risk.

2. The Polish Financial Supervision Authority, hereinafter referred to as the “PFSA”, in individual cases, may consider the legal relationships, governed by the Polish law, between two participants – excluding the settlement agent, the central counterparty, the clearing house or the indirect participant, if any, which determine the rules of execution of settlement orders referred to in Article 1 (12)(b) by those participants, to constitute a securities settlement system on grounds of systemic risk.

**Article 2a.** The Governor of NBP with regard to the payment systems, and the PFSA with regard to the securities settlement systems may decide that indirect participants are considered to be participants on the grounds of systemic risk, provided that the indirect participants are known to the system.

**Article 2b.** An arrangement between the entities operating interoperable systems shall not constitute a system.

**Article 3.** According to the regime governing the functioning of a system, a participant may act as a central counterparty, a settlement agent or a clearing house and perform a part or all of their tasks.

## Chapter 2

### Settlement finality

**Article 4.** 1. The provisions of this Act, the provisions of Article 66, Article 67,

Article 80 and Articles 135-137 of the Act of 28 February 2003 – Bankruptcy Law and the provisions of Article 242, Article 244, Article 245, Article 254, Article 255 and Article 309 of the Act of 15 May 2015 – Restructuring Law, accordingly to the consequences of declaration of bankruptcy or opening of the restructuring proceedings against an entity that has its registered office on the territory of the Republic of Poland and which is a participant in a system shall apply, respectively:

- 1) when a ruling or a decision is made on liquidation, suspension or limitation on the activities of the participant, as well as when any other legal actions have been taken against the participant which results in the suspension or limitation of the execution of transfer orders in the system concerning the said participant;
- 2) to rulings, judgements or decisions made with respect to the said participant by a foreign court or other authority in the course of foreign insolvency proceedings.

2. The provisions of this Act, the provisions of Article 66, Article 67, Article 80 and Articles 135-137 of the Act of 28 February 2003 –Law and the provisions of Article 242, Article 244, Article 245, Article 254, Article 255 and Article 309 of the Act of 15 May 2015 – Restructuring Law, on the consequences of declaration of bankruptcy or opening of the restructuring proceedings against an entity that has its registered office outside the territory of the Republic of Poland and which is a participant in a payment system or a securities settlement system, shall apply accordingly in the event when foreign bankruptcy proceedings have been initiated against the foreign entity.

**Article 5.** The legal consequences of the declaration of bankruptcy, opening of restructuring proceedings or opening foreign bankruptcy proceedings against an entity that has its registered office on the territory of the Republic of Poland which is a participant in a payment system or a securities settlement system subject to the law of another Member State, with regard to the rights and obligations of the entity related to its participation in the system shall be determined by the governing law of the system.

**Article 6.** 1. The moment of entry of the transfer order into the system and the moment from which the transfer order cannot be revoked shall be determined by the rules governing the functioning of the system.

2. The entity operating the interoperable system shall coordinate the moment of entry of the transfer order into the system and the moment from which the transfer order cannot be revoked with the rules of the systems with which the said system cooperates, including systems that are subject to the law of another Member State.

3. Unless the rules of all cooperating interoperable systems stipulate otherwise, the rules of an interoperable system defining the moment of entry of the transfer order into the system and the moment from which the transfer order cannot be revoked shall not affect the rules of the systems with which the given system cooperates, including systems that are subject to the law of another Member State.

**Article 6a.** When as a result of the clearing of transfer orders in one system, a settlement is executed in another system, the consequences referred to in Article 136 and Article 137 of the Act of 28 February 2003 – Bankruptcy Law or Article 254 and Article 255 of the Act of 15 May 2015 – Restructuring Law, arising from the

entry of the transfer order into the first system shall apply accordingly to the resulting transfer orders executed in the latter system.

**Article 7.** 1. Within the provisions of this Act and Article 66, Article 67, Article 80 and Articles 135-137 of the Act of 28 February 2003 – Bankruptcy Law or Article 242, Article 244, Article 245, Article 254, Article 255 and Article 309 of the Act of 15 May 2015 – Restructuring Law, the consequences of declaration of bankruptcy of a participant in the system shall arise upon notification of NBP about the declaration of bankruptcy, opening of the restructuring proceedings, a ruling or a decision on liquidation, suspension or limitation of the activity of the participant, or about other legal actions taken against the participant and resulting in suspension or reduction of the execution of transfer orders in the system concerning the participant.

2. The provision of paragraph 1 shall apply accordingly in the event of declaration of bankruptcy or opening of the restructuring proceedings against an entity operating the interoperable system other than a participant.

**Article 8.** (repealed)

**Article 9.** (repealed)

**Article 10.** (repealed)

**Article 11.** In the event of declaration of bankruptcy or opening of the restructuring proceedings against a participant in the system, the provisions of the Polish law shall apply to the participant's rights and obligations related to the participation in the system, subject to Article 12.

**Article 12.** 1. (repealed)

2. Where securities are provided as collateral security to a participant in the system, NBP, the central bank of another Member State, or the European Central Bank, the rights of these entities with respect to the securities shall be determined under:

- 1) the Polish law, provided that the securities have been recorded in the register or on an account kept on the territory of the Republic of Poland;
- 2) the laws of another Member State, provided that the securities have been recorded in the register or on an account kept on the territory of that Member State.

**Article 13.** 1. Decisions on the declaration of bankruptcy or opening of the restructuring proceedings of an entity that has its registered office on the territory of the Republic of Poland and which is a participant in a payment system or a settlement security system governed by the Polish law or by the law of another Member State shall be notified to NBP by the court on the day on which the decision on the declaration of bankruptcy or opening of the restructuring proceedings is made together with the moment of its issue.

2. The obligation to notify NBP referred to in paragraph 1 shall apply to courts and competent authorities also when they make a ruling, resolution or decision on liquidation, suspension or limitation of the activities of an entity that has its registered office on the territory of the Republic of Poland, resulting in the

suspension, or limitation of the execution of transfer orders in the payment system or the securities settlement system governed by the Polish law or the law of another Member State and concerning the entity.

2a. The obligation to notify NBP referred to in paragraph 1 and 2 shall also apply to indirect participants, provided that they have been recognised as participants under Article 2a.

3. Having received the notification about the issued ruling, resolution or decision referred to in paragraph 1, 2 or 2a, NBP shall notify, immediately:

- 1) the system operator;
- 2) the PFSA, if the decision concerns a participant of a securities settlement system;
- 2a) the European Systemic Risk Board;
- 3) competent authorities of other Member States, notified by those Member States to the European Commission;
- 4) the European Securities and Markets Authority.

4. The provision of paragraph 3 shall apply accordingly to the information about rulings, resolution and decisions issued in respect of foreign bankruptcy proceedings, received by NBP from the competent authorities of other Member States.

5. The Council of Ministers shall determine, by means of a regulation, a method of notifying referred to in paragraph 1, 2, 2a and 3(1) and (2), as well as in paragraph 4, taking into consideration in particular the specific characteristics of the procedure in which the ruling, resolution or decision has been made and the possibilities of using means of telecommunication.

**Article 14.** 1. The institutions referred to in Article 1(5)(c)-(l) shall provide anyone with a legitimate interest with information about the systems in which they participate and the main rules governing the functioning of those systems.

2. The provision of paragraph 1 shall apply accordingly to the entities with their registered office on the territory of the Republic of Poland which are participants in payment systems or securities settlement systems subject to the law of another Member State.

**Article 15.** 1. The provisions of Articles 4-7 and Articles 11-14 of this Act, as well as Article 22(1)(4), Article 66, Article 67, Article 80, and Articles 135-137 of the Act of 28 February 2003 – Bankruptcy Law and Article 227(1)(10), Article 242, Article 244, Article 245, Article 254, Article 255 and Article 309 of the Act of 15 May 2015 – Restructuring Law shall apply to securities settlement systems operated pursuant to the Act of 29 July 2005 on Trading in Financial Instruments, to other securities settlement systems operated by the National Depository for Securities (NDS) or by a company to which the National Depository for Securities assigned the performance of tasks referred to in Article 48(1)(6) or Article 48(2) of the Act of 29 July 2005 on Trading in Financial Instruments and to systems operated by NBP.

2. The provisions of Articles 4-7 and Article 11-14 of the Act, as well as Article 22(1)(4), Article 66 and Article 67, Article 80 and Articles 135-137 of the Act of 28 February 2003 – Bankruptcy Law and Article 227(1)(10), Article 242, Article 244, Article 245, Article 254, Article 255 and Article 309 of the Act of 15 May 2015 – Restructuring Law shall also apply to the systems other than those listed in

paragraph 1, determined by the minister competent for financial institutions, by means of a regulation, issued after consultation with the Governor of NBP and the PFSA.

3. By issuing the regulation referred to in paragraph 2, the minister competent for financial institutions shall indicate systems at which risk of a situation of non-performance of obligations by a system participant may result in non-performance of obligations by another participant or participants (systemic risk).

**Article 15a.** The provisions of Article 66, Article 67, Article 80 and Articles 135-137 of the Act of 28 February 2003 – Bankruptcy Law and the provisions of Article 242, Article 244, Article 245, Article 254, Article 255 and Article 309 of the Act of 15 May 2015 – Restructuring Law shall apply accordingly to the entity operating an interoperable system other than a participant.

### **Chapter 3**

#### **Rules of oversight**

**Article 16.** 1. An authorisation of the Governor of NBP shall be required to operate payment systems, except for systems operated by NBP.

2. In order to operate securities settlement systems, except for systems operated by the National Depository for Securities (NDS) or by a company to which the National Depository for Securities assigned the performance of tasks referred to in Article 48 (1)(6) or Article 48 (2) of the Act of 29 July 2005 on Trading in Financial Instruments and systems operated by NBP, an authorisation of the PFSA issued pursuant to Article 68a(5) of the Act of 29 July 2005 on Trading in Financial Instruments shall be required or an authorisation from the PFSA to provide clearing services as a central counterparty, issued pursuant to Article 14(1) of Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201 of 27.07.2012, p. 1), or an authorisation of the PFSA to operate as a central securities depository, issued pursuant to Article 16(1) of Regulation (EU) no. 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257 of 28.08.2014, p. 1).

3. An authorisation shall also be required to introduce changes to the rules of the system the functioning of which is subject to authorisation. The provisions of Articles 17-19 shall apply accordingly.

4. Within a month following the day of obtaining the authorisation referred to in paragraph 3, the system operator shall be bound to provide NBP with consolidated texts of documents defining the rules of the functioning of the system.

**Article 17.** 1. Proceedings related to the authorisation referred to in Article 16(1) shall be initiated at the request of the entity intending to operate the system.

2. The request shall be submitted to the Governor of NBP not later than 3 months before the scheduled commencement date of the functioning of the system and shall include the name of the system, currencies in which clearing or settlement will be performed in the system, as well as rules of the system, attaching the



following:

- 1) documents specifying:
  - a) the responsibilities of the entity to operate the system or the system operator,
  - b) the criteria for participation in the system, including the requirements for participants and the rules of acquiring or losing the participant's status,
  - c) the moment of entry of the transfer order into the system and the moment from which the transfer order cannot be revoked by a participant or a third party,
  - d) rules governing the transfer, entry and execution of transfer orders in the system,
  - e) rules of management of particular types of risks occurring in connection with the functioning of the system,
  - f) the scope of mutual liability of the participants of the system and the system operator,
  - g) the legal form of the entity which intends to operate the system;
- 2) templates of agreements defining the legal relationships between the participants as well as between the system operator other than a participant and the participants, related to the participation in the system and its functioning;
- 3) a declaration of the planned date of commencement of the functioning of the system, while the entry of the first transfer order referred to in Article 1(12)(a) to the system shall be deemed to be the commencement of the functioning of the system.

3. (repealed)

3a. If the entity intending to operate the system is established as a limited liability company or a joint stock company, it shall attach to the request for authorisation for operating the system a list of partners or shareholders, including their percentage share in the share capital when it exceeds the threshold of 5%.

3b. A person who has acquired or purchased shares – which together with the shares acquired or purchased earlier constitute a package of, or exceeding, 10%, 20%, one third, or 50% of votes at the general meeting of shareholders of the system operator which operating requires an authorisation – shall immediately notify NBP thereof in the case of a payment system or the PFSA in the case of securities settlement system.

4. Entities which were granted the authorisation for operating of the payment system shall notify the Governor of NBP of:

- 1) the commencement of operating of the system, attaching the list of its participants,
  - 2) a change in the system participants, including a change of indirect participants if they have been recognised as participants under Article 2a,
  - 3) a change of data concerning the company, the registered office and the address of the system operator,
  - 4) termination of the functioning of the system
- within 7 days from the date on which such an event occurred.

5. On request of the Governor of NBP, the applicant shall provide immediately, but not later than within 7 days from the day of receipt of the request, consolidated texts of amended documents defining the rules of the functioning of the system.

**Article 17a.** 1. In the case of acquiring information on potential legal relationships existing between two entities, defining the rules of execution of settlement orders between them, significant in terms of systemic risk, the Governor of NBP may demand from such entities to submit documents and information concerning such relationships within 2 weeks following the receipt of the request. In justified cases, on request of the system operator, the Governor of NBP may extend the deadline for submission of the documents by a further 2 weeks.

2. If the Governor of NBP considers that the legal relationships referred to in paragraph 1 constitute a payment system, the entities that establishes such relationships shall be bound to define the moment of the entry of a transfer order into the system and the moment from which the transfer order cannot be revoked by a participant or a third party. The provisions of Articles 16(3) and (4), Articles 17(3a)-(5) and Articles 18(2) and (3) shall apply accordingly.

**Article 17b.** The system operator intending to conclude an agreement with another system operator concerning cross-system execution of transfer orders, shall notify the Governor of NBP, not later than 7 days prior to concluding such an agreement, of systems to be covered under such an agreement and the entities operating such systems.

**Article 18.** 1. The authorisation referred to in Article 16(1) shall be refused if the rules governing the functioning of the system:

- 1) are in conflict with the Polish law; or
- 2) fail to ensure efficient or safe functioning of the system.
  2. The authorisation may be revoked when:
    - 1) the operation of the system infringes the Polish law;
    - 2) the operation of the system is grossly inefficient or unsafe for the functioning of the system;
    - 3) the rules governing the functioning of the system have been amended without the authorisation referred to in Article 16(3);
    - 4) the system failed to commence its functioning within 12 months following the issuance of the authorisation;
    - 5) the system fails to operate in a period longer than 12 consecutive months;
    - 6) the system operator failed to comply with the recommendation referred to in paragraph 6b.

2a. In cases referred to in paragraph 2(1)-(3) and (6), the Governor of NBP may issue the decision on a partial or full suspension of the functioning of the system, if revoking of the authorisation is not justified due to the significance of the infringement and its limited impact on the efficient and safe functioning of the system.

3. When the authorisation is revoked, the system operator shall close the system by the specified deadline.

4. In order to assess the functioning of the system in terms of occurrence of the premises referred to in paragraph 2(1)-(3) and (6), the system operator shall provide, at the request of the Governor of NBP, the required information in the scope as defined in Article 17(2) within 2 weeks from the date of delivery of the request. In justified cases, on request of the system operator, the Governor of NBP may extend the deadline for submission of the information and documents by a

further 2 weeks.

5. In order to assess the functioning of the system referred to in Article 2(1) in terms of the occurrence of the premises referred to in paragraph 2(1)-(3) and (6), at the request of NBP, the entity that has established legal relationships constituting such a system shall provide the required information as defined in Article 17a within 2 weeks from the date of delivery of the request. In justified cases, on request of the system operator, the Governor of NBP may extend the deadline for submission of the documents by a further 2 weeks.

6. If the Governor of NBP has a reasonable suspicion that an entity operates the system without the required authorisation, the entity shall provide – at the request of the Governor of NBP – the information and documents in the scope covered under Article 17(2), required to assess the actual state of affairs and determine whether the entity operates the payment system, within 2 weeks from the day of delivery of the request. In justified cases, on request of the system operator, the Governor of NBP may extend the deadline for submission of the information and documents by a further 2 weeks.

6a. The system operator shall be obliged to submit to NBP:

- 1) information on events occurring in connection with the operation of the system which have or may have an adverse effect on the efficient or safe functioning of the system;
- 2) data concerning the current functioning of the operated system, the system operator, as well as the performing of the settlement or clearing.

6b. In order to ensure the functioning of the system compliant with the provisions of the Polish law as well as efficient and safe functioning of the system, the Governor of NBP may issue recommendations, by way of a decision, to the system operator.

6c. The documents and information referred to in paragraph 6a shall be submitted in electronic form, with the use of adequate certificates issued by NBP or other forms of authentication used by NBP.

7. (repealed)

**Article 19.** Article 127 § 3 of the Code of Administrative Proceedings shall apply to the decisions referred to in Article 2, Article 2a, Article 16 and Article 18.

**Article 19a.** 1. The documents and information referred to in Article 16(4), Article 17(4) and (5), Article 17a, Article 17b and Article 18 (4)-(6), shall be submitted in electronic form.

2. The documents and information referred to in paragraph 1 may be submitted in English. In such a case, the procedural actions referred to in Article 5 of the Act of 7 October 1999 on the Polish language (Journal of Laws of 2018, No. 931), may be performed in Polish or in English.

**Article 19b.** The Minister competent for financial institutions, after requesting the opinion of the Governor of NBP, shall determine, by way of a regulation, the criteria for the assessment of the rules for the functioning of the payment system, the detailed scope of information and data, as well as the type of documents to be attached to the application for authorisation of the payment system operating and the detailed scope of information and data referred to in Article 17b and Article

18(6a), taking into account the necessity to check the accuracy, security and efficiency of the functioning of the payment system as well as the completeness and reliability of the provided information and documents.

## **Chapter 4**

### **Specific provisions**

**Article 20.** Where the system operator is established as a commercial company as defined in the Code of Commercial Companies, the authorisation referred to in Article 16(1) or (3) shall not pass to the acquiring company or a new company established as a result of merger or division.

**Article 21.** (repealed)

**Article 22.** 1. NBP shall keep and publish on its website the list of the systems and the list of participants in the systems referred to in Article 15.

2. (repealed)

3. (repealed)

4. (repealed)

**Article 23.** The Governor of NBP shall inform the European Securities and Markets Authority about the systems referred to in Article 15 and about the entities operating those systems.

## **Chapter 5**

### **Penal provisions**

**Article 24.** 1. Whoever operates a system or changes the rules governing its functioning without the authorisation referred to in Article 16(1) or (3), or whoever fails to meet the obligation to close the system by the specified deadline despite the decision revoking the authorisation for its operating or the decision ordering its closing shall be subject to a fine of up to PLN 5,000,000.

2. The same penalty shall apply to anyone who fails to meet the obligation to provide the documents referred to in Article 27(2).

3. The same penalty shall apply to anyone who commits the act referred to in paragraph 1 or 2, acting for or on behalf of a natural person, a legal person or an organisational unit without legal personality.

**Article 25.** 1. Whoever fails to fulfil the obligation to provide the documents and information referred to in Article 16(4), Article 17(4) and (5), Article 17a, Article 17b and Article 18 (4)-(6a), shall be subject to a fine of up to PLN 500,000.

2. The same penalty shall apply to anyone who commits the act referred to in paragraph 1, acting for or on behalf of a natural person, a legal person or an organisational unit without legal personality.

## Chapter 6

### Amendments in binding regulations, interim and final provisions

**Article 26.** Article 139 of the Act of 21 August 1997 – Law on Public Trading in Securities (Journal of Laws No 118, item 754 and No 141, item 945, of 1998 No 107, item 669 and No 113, item 715, of 2000 No 22, item 270, No 60, item 702 and 703, No 94, item 1037, No 103, item 1099, No 114, item 1191, No 116, item 1216 and No 122, item 1315 and of 2001 No 110, item 1189) shall be deleted.

**Article 27.** 1. The provisions of Article 16(1) and (2) shall not apply to the systems as defined in Article 1(1) and (2) operated on the date of entry into force of the Act.

2. The system operators referred to in paragraph 1 – except for NBP and the NDS – shall provide, respectively, the documents indicated in Article 17(2) to NBP in respect of the payment systems or to KPWiG (the Commission for Securities and Stock Exchange) in respect of the securities settlement systems, within 3 months from the date of entry into force of the Act.

3. The rules governing the functioning of the systems referred to in paragraph 1 shall be evaluated based on the documents provided under paragraph 2 in terms of:

- 1) their compliance with the Polish law;
- 2) ensuring the efficient and safe functioning of the system.

4. Where the rules governing the operation of the system referred to in paragraph 1 fail to meet the criteria referred to in paragraph 3, the Governor of NBP with respect to payments systems, or the PFSA – after consultation with the Governor of NBP – with respect to securities settlement systems, shall issue, within the specific period:

- 1) a recommendation to adjust the system; or
- 2) a decision ordering the closure of the system.

5. Article 127 § 3 of the Code of Administrative Proceedings shall apply accordingly to the decisions referred to in paragraph 4(2).

**Article 28.** Before the accession of the Republic of Poland to the European Union, the minister competent for financial institutions shall inform the European Commission that NBP is the entity that should be notified by the courts or competent authorities about the issued rulings, judgements or decisions referred to in Article 13(1) and (2).

**Article 29.** The provisions of Article 1(4) and (5)(f) and (j), Article 5, Article 13(3)(3) and (4) and Article 23 shall apply from the date of accession of the Republic of Poland to the European Union.

**Article 30.** The Act shall enter into force on 1 January 2002.