

# Information on categorization of Clients in accordance with MIFID for Clients of mBank S.A.

Warsaw, May 2018



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## I. General information

The information on categorization of Clients in accordance with MIFID has been prepared for Clients of mBank S.A. who are:

- 1/ sole traders,
- 2/ legal persons,
- 3/ organisational units without legal personality having legal capacity under law.

In connection with the provisions on financial instruments markets applicable in Poland (hereinafter referred to as “MIFID”, whenever in this document reference is made to financial instruments, it shall also mean structured deposits), the objective of which is to strengthen the protection of Clients investing in financial instruments or using other services connected with trading in financial instruments, and to increase the transparency of operations of such companies as mBank S.A. by way of, in particular, the following provisions:

- 1/ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/UE of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive,
- 2/ the Act of 29 July 2005 on Trading in Financial Instruments,

mBank S.A. (hereinafter referred to as the “Bank”) is obliged to introduce categorization of the Clients for whom it performs activities related to trading in financial instruments within the meaning of the Act on Trading in Financial Instruments of 29 July 2005.

Consequently, each Client has been categorized as:

- 1/ a Professional Client, or
- 2/ a Retail Client, or
- 3/ a Professional Client, being an Eligible Counterparty within mBank S.A. provision of services consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account.

The aim of the aforesaid categorization is to provide you with appropriate level of protection and adjust the scope of information provided on investment products and services or other services related with trading in financial instruments rendered by mBank S.A. to individual needs of every Client. The categorization referred to in this information does not relate to brokerage services provided by the Brokerage Bureau of mBank S.A.

Category of Clients	Professional Client being an Eligible Counterparty	Professional Client	Retail Client
Scope of protection arising from MIFID	The lowest level of protection arising from MIFID	The medium level of protection arising from MIFID	The highest level of protection arising from MIFID

In accordance with the policy implemented by mBank S.A., the Bank does not diversify the level of protection either in the case of particular types of services provided by mBank S.A., related to trading in financial instruments, rendered **to the same Retail Client or Professional Client of the Bank**, or in the case of particular financial instruments or transactions undertaken by **this Client** with the Bank (except for Professional Clients being Eligible Counterparties within the provision of services by mBank S.A. consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account – **in this case mBank S.A. diversifies the level of protection in the extent to which a Professional Client acts as an Eligible Counterparty and the extent to which a Professional Client is not an Eligible Counterparty**).

## II. Professional Client

A Professional Client is an entity who has the investment experience, knowledge and expertise to make proper investment decisions or decisions concerning other services connected with trading in financial instruments, and properly assess the risks they involve.

The level of protection offered by MIFID to Professional Clients is presented in detail in the “**Rules for treating Professional Clients in the scope of services provided by mBank S.A. in terms of trading in financial instruments**”, constituting Appendix No. 1 to this document. Professional Clients should familiarize themselves with these rules.

Professional Clients are obliged to notify mBank S.A. of any changes in the data which may impact the possibility of treating him as a Professional Client.

A Professional Client may file a written request with mBank S.A. to treat him as a **Retail Client**. If mBank S.A. agrees to the request, in accordance with the policy implemented, such a Professional Client will be treated as a Retail Client in the full extent of activities performed by the Bank related to trading in financial instruments (the Client is provided with a higher level of protection guaranteed by MIFID; this takes place also in the case when the Professional Client asks for treatment as a Retail Client with respect to certain types of services, transactions or financial instruments). **Template request for treatment of a Professional Client as a Retail Client** is presented in Appendix No. 2 to this document.

**Due to the adopted business model, the Bank does not approve a request of a Professional Client** for treatment as **an Eligible Counterparty** within mBank S.A. provision of services consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account.

## III. Retail Client

A Retail Client is an entity, who is not a Professional Client within the meaning of the Act on Trading in Financial Instruments of 29 July 2005 and is provided **with the highest level of protection stipulated in MIFID**.

The level of protection offered by MIFID to Retail Clients includes, in particular, the following obligations of the Bank:

- 1/ **prior to entering into an agreement on provision of services (governing the performance by mBank S.A. of activities related with trading in financial instruments) with a Retail Client, the Bank runs the adequacy test (which is to provide the Bank with basic information about the Client’s knowledge and experience in the field of investments in financial instruments, necessary for the Bank to assess whether the underlying financial instrument or the service to be provided on the basis of the agreement entered into are suitable for a given Client, taking into account his knowledge and investment experience).**

- 2/ **mBank S.A. warns that by the time mBank S.A. receives a completely filled out form of the adequacy test, it finds it impossible to assess whether a financial instrument or a service being the subject matter of an agreement concluded or to be concluded with mBank S.A. are suitable for the Client taking into account the Client's knowledge and investment experience, particularly it will be impossible to assess whether the Client has knowledge and experience adequate for concluding transactions involving individual financial instruments.**
- 3/ **mBank S.A. warns that derivative transactions pose a risk of considerable losses in the case of unfavourable changes in the prices of their underlying instruments,**
- 4/ on the basis of the adequacy test filled out by the Client and forwarded to mBank S.A., mBank S.A. provides the Client with information, whether the financial instrument being the object of offered service or a service to be provided under the concluded agreement are appropriate for a given Client, taking into account his individual standing (informs the Client about an adequacy test),
- 5/ mBank S.A. notifies the Client each time an amendment in the adequacy test is made. Another adequacy test is made among others on the basis of the history of transactions made between the Client and mBank S.A. transactions concerning financial instruments or services, and its result is sent to the Client without the need for the Client to apply to mBank S.A. for conducting such a test,
- 6/ prior to entering into an agreement on provision of services (governing the performance by mBank S.A. of activities related with trading in financial instruments) with a Retail Client, the Bank provides the Client with detailed information on the Bank and the service to be provided on the basis of the agreement, using a durable medium or publishing the information on the Bank's website,
- 7/ the Bank presents Clients with a general description of the nature of financial instruments and the risk involved so that the Clients are able to make conscious investment decisions,
- 8/ prior to entering into an agreement with the Retail Client on acquisition or sale of financial instruments on the Bank's own account, execution of orders, receipt and transmission of orders, the Bank provides the Client with information on the applicable order execution policy or policy for acting in accordance with the best interests of Clients respectively, as well as the information on costs and related fees,
- 9/ when executing Client orders or concluding transactions to which the provisions on order execution apply, the Bank is obliged to take all reasonable steps to obtain the best possible results for the Client taking into account the price of the financial instrument, costs associated with executing the order, time of concluding the transaction and likelihood of concluding the transaction and its settlement, order size, its nature or any other aspects that have a major impact on execution of the order,
- 10/ the Bank executes orders of Retail Clients (or concludes transactions to which the provisions on order execution apply) promptly upon their receipt, in a chronological order, unless the Client instructs otherwise, or the order nature or market conditions suggest otherwise, or if such sequence is prejudicial to the interests of Clients,
- 11/ when executing orders or concluding transactions to which the provisions on order execution apply, the Bank notifies Retail Clients forthwith of any relevant circumstances making it impossible to execute their orders properly,
- 12/ the Bank is obliged to provide Retail Clients with regular reports on the service provided with frequency and in the scope specified explicitly by the law,

**Retail Clients** have the right to file a written request with the Bank for treatment of a **Retail Client** as a **Professional Client**. If mBank S.A. agrees to the request, in accordance with the policy implemented, such a Professional Client will be treated as a Retail Client in the full extent of activities performed by the Bank in terms of trading in financial instruments, provided that it arises from the request that the Retail Client requests to be treated as a Professional Client in such a (full) range (then, the Client is provided with a lower level of protection guaranteed by MIFID compared to that offered to a Retail Client). If a Retail Client requests for treatment as a Professional Client with respect to certain types of services, transactions or financial instruments, mBank S.A. will disagree due to the policy implemented. **Template request for treatment of a Retail Client as a Professional Client** is presented in Appendix No. 3 to this document.

Professional Clients should familiarise themselves with the "Rules for treating Professional Clients in the scope of services provided by mBank S.A. in terms of trading in financial instruments", presented in Appendix No. 1 to this document.

Should you have any doubts about the fact that your company has been classified by mBank S.A. as a **Retail Client**, despite the fact that it meets the criteria of a **Professional Client** laid down in Article 3 point 39b letters a-m of the Act on Trading in Financial Instruments of 29 July 2005, in particular, when your company meets at least two of the following requirements<sup>1</sup>:

- 1/ balance sheet total: EUR 20,000,000 or more,
- 2/ achieved value of sales revenue: EUR 40,000,000 or more,
- 3/ equity or own funds: EUR 2,000,000 or more,

mBank S.A. kindly requests that you apply for re-classification and recognition of your company as a **Professional Client**. **Template request for re-classification of a Retail Client as a Professional Client** is presented in Appendix No. 4 to this document.

#### **IV. A Professional Client, being an Eligible Counterparty in terms of mBank S.A. provision of services consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account.**

An Eligible Counterparty is a type of Professional Client who is provided with the lowest level of protection guaranteed under MIDIF **within mBank S.A. provision of services consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account**. An Eligible Counterparty is treated as a **Professional Client** within mBank S.A. performance of activities connected with trading financial instruments other than specifically indicated in the previous sentence (i.e. in this scope he is eligible for a higher security level than an Eligible Counterparty).

Within the provision of services by mBank S.A. consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account, an Eligible Counterparty **is not provided with the level of protection offered to a Professional Client** (described below in Appendix No. 1 hereto), except for the protection specified in points 2, 3 and 8 of the first paragraph of this Appendix.

A Professional Client is an entity who has the investment experience, knowledge and expertise to make proper investment decisions or decisions concerning other services connected with trading in financial instruments, and properly assess the risks they involve.

The level of protection offered by MIFID to Professional Clients is presented in detail in the "Rules for treating Professional Clients in the scope of services provided by mBank S.A. in terms of trading in financial instruments", constituting Appendix No. 1 to this document. Professional Clients should familiarize themselves with these rules.

<sup>1</sup> The equivalent of the amounts denominated in EUR is calculated using the average exchange rate of EUR as published by the National Bank of Poland as at the date of preparation of the financial statements by a given entrepreneur.

Professional Clients are obliged to notify mBank S.A. of any changes in the data which may impact the possibility of treating him as a Professional Client.

**A Professional Client being an Eligible Counterparty, within the provision of services by mBank S.A. consisting in execution of orders, receipt and transmission of orders, or acquisition or sale of financial instruments on own account**, may file a request with mBank S.A. in writing for treatment as:

- 1/ a **Retail Client**, or
- 2/ a **Professional Client**.

If mBank S.A. agrees to the request, in accordance with the policy implemented, such a Professional Client will be treated as a Retail Client in the full extent of activities performed by the Bank in terms of trading in financial instruments (the Client is provided with a higher level of protection guaranteed by MIFID; this takes place also in the case when the Professional Client asks for treatment as a Retail Client with respect to certain types of services, transactions or financial instruments). By approving the request, the Bank agrees to treat an Eligible Counterparty as a Professional Client, unless it arises from the request that the entity requests for treatment as a Retail Client.

**Template request for treatment of a Professional Client being an Eligible Counterparty as a Retail Client** is presented in Appendix No. 5 to this document.

**Template request for treatment of a Professional Client being an Eligible Counterparty as a Professional Client** is presented in Appendix No. 6 to this document.

## V. Additional Information

Any MIDIF-related correspondence **signed in accordance with rules of Client representation** should be addressed to the corporate branch of mBank S.A. servicing your company, **with "MIFID" annotation**.

Should you have any questions or doubts about Client categorization under MIFID, do not hesitate to contact the employees of mBank S.A. corporate branches.

The scope of protection granted to a Professional Client by MIFID is as follows:

- 1/ prior to entering into an agreement on provision of services (governing the performance by mBank S.A. of activities related with trading in financial instruments; whenever this document refers to financial instruments, it shall also mean structured deposits), the Bank is not obliged to run the adequacy test in the case of a Client who is not a Retail Client (which is to provide the Bank with basic information about the Client's knowledge and experience in the field of investments in financial instruments, necessary for the Bank to assess whether the underlying financial instrument or the service to be provided on the basis of the agreement entered into are suitable for a given Client, taking into account his knowledge and investment experience), however, the Bank is authorised to assume that a Professional Client has the necessary knowledge about investing in the scope of financial instruments and investment experience,
- 2/ Prior to entering into an agreement on provision of services (governing the performance by mBank S.A. of activities related with trading in financial instruments) with a Professional Client, the Bank provides the Client with detailed information on the Bank and the service to be provided on the basis of the agreement, using a durable medium or publishing the information on the Bank's website,
- 3/ the Bank presents Professional Clients with a general description of the nature of financial instruments and the risks these instruments involves so that the Clients are able to take conscious investment decisions,
- 4/ Prior to entering into an agreement with the Professional Client on acquisition or sale of financial instruments on the Bank's own account, execution of orders, receipt and transmission of orders, the Bank provides the Client with information on the applicable order execution policy or policy for acting in accordance with the best interests of Clients respectively, as well as the information on costs and related fees,
- 5/ When executing Client orders or concluding transactions to which the provisions on order execution apply, the Bank is obliged to take all reasonable steps to obtain the best possible results for the Client taking into account the price of the financial instrument, costs associated with executing the order, time of concluding the transaction and likelihood of concluding the transaction and its settlement, order size, its nature or any other aspects that have a major impact on execution of the order,
- 6/ The Bank executes orders submitted by Clients (or concludes transactions to which the provisions on order execution apply) promptly upon their receipt, in a chronological order, unless the Client instructs otherwise, or the order nature or market conditions suggest otherwise, or if such sequence is prejudicial to the interests of Clients,
- 7/ When executing orders or concluding transactions to which the provisions on order execution apply, the Bank is not obliged to notify Professional Client forthwith of any relevant circumstances making it impossible to execute his/her orders properly,
- 8/ The Bank is obliged to provide Retail Clients with regular reports on the service provided with frequency and in the scope specified explicitly by the law, (with some possibility of modification of that scope by both parties).

The Bank informs that the aforesaid enumeration of rules for treating Professional Clients in the scope of activities performed by mBank S.A. related to trading in financial instruments was based on MIFID provisions, in particular on:

- 1/ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/UE of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive,
- 2/ the Act of 29 July 2005 on Trading in Financial Instruments,

and is not an exhaustive enumeration.

....., 20.....(date)

Client's name: .....

Client's address: .....

mBank S.A.  
Corporate Branch .....

„MIFID”

Since our company has been classified as a **Professional Client**, pursuant to Article 45(3)(b) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/UE of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, we hereby apply for treating our company as a **Retail Client** in the full extent of activities performed by mBank S.A. in terms of trading in financial instruments within the meaning of the Act on Trading in Financial Instruments of 29 July 2005 (whenever this document refers to financial instruments, it shall also mean structured deposits).

We acknowledge that a Retail Client enjoys the highest level of protection in respect of trading in financial instruments in the meaning of the Act on Trading in Financial Instruments of 29 July 2005. The approval of the request by mBank S.A. will result in increasing the level of protection as compared with that offered to us so far as a Professional Client.

.....  
On behalf of the Client<sup>1</sup>

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### Confirmation of treatment of a Professional Client as a Retail Client by mBank S.A.<sup>2</sup>

On..... 20... mBank S.A. confirms that .....

.....  
will be treated as a **Retail Client**.

.....  
on behalf of mBank S.A.

<sup>1</sup> In accordance with the rules for representing the Client.  
<sup>2</sup> To be filled out by mBank S.A., then a confirmation is delivered to the Client.

....., 20.....(date)

Client's name: .....

Client's address: .....

mBank S.A.  
Corporate Branch .....

.....  
„MIFID”

Since our company has been classified as a **Retail Client**, pursuant to Article 3a(1) of the Act on Trading in Financial Instruments of 29 July 2005, we hereby apply for treatment as a **Professional Client** in the full scope of performing by mBank S.A. activities related to trading in financial instruments within the meaning of the Act on Trading in Financial Instruments of 29 July 2005 (whenever this document refers to financial instruments, it shall also mean structured deposits).

We state that we have received and became acquainted with the “Rules of treating Professional Clients in the scope of activities performed by mBank S.A. related to trading in financial instruments”. We state that we know the rules of treating Professional Clients by mBank S.A. and the results of treating our company as a Professional Client.

We state that we meet at least two of the requirements mentioned below:

- 1/ our company has concluded transactions of which the minimum value should total the equivalent of EUR 50,000 in PLN each, on the relevant market, with average frequency of at least 10 transactions every quarter within the last four quarters,<sup>1</sup>
- 2/ the value of the financial instrument portfolio of our company, including cash funds, is the equivalent of at least EUR 500,000<sup>1</sup>, in PLN,
- 3/ we have been working for at least one year in the financial sector and held a professional position that required knowledge of transactions on financial instruments or services which would be provided by mBank S.A. to our company on the basis of a concluded agreement.

In the case of treating our company as a Professional Client, we undertake to notify mBank S.A. of any changes in the data which may impact the possibility of treating us as a Professional Client.

We acknowledge that a Professional Client enjoys the medium level of protection in respect of trading in financial instruments in the meaning of the Act on Trading in Financial Instruments of 29 July 2005. The approval of the request by mBank S.A. will result in decreasing the level of protection as compared with that offered to us so far as a Retail Client.

.....  
On behalf of the Client<sup>2</sup>

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### Confirmation of treatment of a Retail Client as a Professional Client by mBank S.A.<sup>3</sup>

On..... 20... mBank S.A. confirms that .....

.....  
will be treated as a **Professional Client**.

.....  
on behalf of mBank S.A.

<sup>1</sup> The equivalent of the amounts denominated in Euro, referred to in points 1-2 is set at the fixing rate of Euro of the National Bank of Poland as at the date prior to the date of submitting the request.

<sup>2</sup> In accordance with the rules for representing the Client

<sup>3</sup> To be filled out by mBank S.A., then a confirmation is delivered to the Client.



....., 20.....(date)

Client's name: .....

Client's address: .....

mBank S.A.  
Corporate Branch .....

„MIFID”

Since our company has been classified as a **Retail Client** despite the fact that in our opinion it meets the requirements of Article 3 point 39b letter...<sup>1</sup> (please enter the relevant letter from b to m) of the Act on Trading in Financial Instruments of 29 July 2005 we hereby apply for a reclassification and considering our company as a Professional Client in the full extent of activities performed by mBank S.A. in terms of trading in financial instruments (whenever this document refers to financial instruments, it shall also mean structured deposits).

In order to justify the aforementioned application we hereby attach **the last annual financial statements or other documents which confirm that the prerequisites specified in Article 3 point 39b are met**. We acknowledge that the request submitted by us which does not include the annual financial statements or other documents will not be considered by mBank S.A.

We state that we have received and became acquainted with the "Rules of treating Professional Clients in the scope of activities performed by mBank S.A. related to trading in financial instruments". We state that we know the rules of treating Professional Clients by mBank S.A. and the results of treating our company as a Professional Client.

In the case of treating our company as a Professional Client, we undertake to notify mBank S.A. of any changes in the data which may impact the possibility of treating us as a Professional Client.

We acknowledge that a Professional Client enjoys the medium level of protection in respect of trading in financial instruments in the meaning of the Act on Trading in Financial Instruments of 29 July 2005. The approval of the request by mBank S.A. will result in decreasing the level of protection as compared with that offered to us so far as a Retail Client.

.....  
On behalf of the Client<sup>2</sup>

### Confirmation of reclassification of a Retail Client as a Professional Client performed by mBank S.A.<sup>3</sup>

On..... 20... mBank S.A. confirms that

.....  
has been considered as a **Professional Client**.

.....  
on behalf of mBank S.A.

<sup>1</sup> Article 3 item 39b) of the Act on Trading in Financial Instruments of 29 July 2005: "Whenever the act refers to a: Professional Client - it shall mean an entity for whom at least one of the services referred to in Article 69(2) or (4) is or will be provided, who has experience and knowledge allowing for taking the right investment decisions, as well as to correctly assessing risk related to these decisions, who is:

- a) a bank;
- b) an investment firm;
- c) an insurance company;
- d) an investment fund, an alternative investment company, an association of an investment funds or a manager of an alternative investment company within the meaning of the Act on Investment Funds date 27 May 2004;
- e) pension fund or an association within the meaning of the Act of 28 August 1997 on establishment and organisation of pension funds;
- f) a commodity brokerage house;
- g) entities that conclude transactions, in the course of their economic activity and for their own account, on futures, options, or other derivatives markets, or on money markets, exclusively to hedge their positions on those markets, or entities that deal for the accounts of other members of those markets for that purpose, where the clearing members of the same markets are responsible for the performance of the obligations arising from such transactions;
- h) a financial institution other than those indicated in letters a-g;
- i) an institutional investor other than that referred to in letters a-h, conducting regulated business activity on the financial market;
- j) an entity conducting business activity outside the Republic of Poland tantamount to the operation conducted by the entities listed in letters a-i;
- k) an entrepreneur meeting at least two of the below requirements, whereas the equivalent of the amounts in EUR is calculated according to the average exchange rate of EUR of the National Bank of Poland as at the day of generating the financial statements by a given entrepreneur:
  - balance sheet total: EUR 20,000,000 or more,
  - achieved value of sales revenue: EUR 40,000,000 or more,
  - equity or own funds: EUR 2,000,000 or more,
- l) public body that manages public debt, central bank, World Bank, International Currency Fund, European Central Bank, European Investment Bank, or other international organisation playing a similar role;
- m) another institutional investor, who's main scope of activity is investing in financial instruments, including entities engaged in securitisation of assets or concluding other type of financial transactions;
- n) (-)"

<sup>2</sup> In accordance with the rules for representing the Client

<sup>3</sup> To be filled out by mBank S.A., then a confirmation is delivered to the Client.

....., 20.....(date)

Client's name: .....

Client's address: .....

mBank S.A.  
Corporate Branch .....

.....  
.....  
.....  
„MIFID”

Since our company has been classified as a Professional Client, being an Eligible Counterparty within provision of service by mBank S.A. of executing orders, accepting and forwarding orders or as part of purchasing or disposing of financial instruments for one's own account, pursuant to Article 45(3)(a) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/UE of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, we hereby apply for treating our company as a **Retail Client** in the full extent of activities performed by mBank S.A. in terms of trading in financial instruments within the meaning of the Act on Trading in Financial Instruments of 29 July 2005 (whenever this document refers to financial instruments, it shall also mean structured deposits).

We acknowledge that a Retail Client enjoys the highest level of protection in respect of trading in financial instruments in the meaning of the Act on Trading in Financial Instruments of 29 July 2005. The approval of the request by mBank S.A. will result in increasing the level of protection as compared with that offered to us so far as an Eligible Counterparty.

.....  
On behalf of the Client<sup>1</sup>

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**Confirmation of treatment  
of a Professional Client being an Eligible Counterparty  
as a Retail Client by mBank S.A.<sup>2</sup>**

On..... 20... mBank S.A. confirms that .....

.....  
will be treated as a **Retail Client**.

.....  
on behalf of mBank S.A.

<sup>1</sup> In accordance with the rules for representing the Client  
<sup>2</sup> To be filled out by mBank S.A., then a confirmation is delivered to the Client.

....., 20.....(date)

Client's name: .....

Client's address: .....

mBank S.A.  
Corporate Branch .....

.....  
„MIFID”

Since our company has been classified as a Professional Client, being an Eligible Counterparty within provision of service by mBank S.A. of executing orders, accepting and forwarding orders or as part of purchasing or disposing of financial instruments for one's own account, pursuant to Article 45(3)(a) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive, we hereby apply for treating our company as a **Professional Client** in the full extent of activities performed by mBank S.A. in terms of trading in financial instruments within the meaning of the Act on Trading in Financial Instruments of 29 July 2005 (whenever this document refers to financial instruments, it shall also mean structured deposits).

We state that we have received and became acquainted with the "Rules of treating Professional Clients in the scope of activities performed by mBank S.A. related to trading in financial instruments". We state that we know the rules of treating Professional Clients by mBank S.A. and the results of treating our company as a Professional Client.

In the case of treating our company as a Professional Client, we undertake to notify mBank S.A. of any changes in the data which may impact the possibility of treating us as a Professional Client.

We acknowledge that a Professional Client enjoys the medium level of protection in respect of trading in financial instruments in the meaning of the Act on Trading in Financial Instruments of 29 July 2005. The approval of the request by mBank S.A. will result in increasing the level of protection as compared with that offered to us so far as an Eligible Counterparty.

.....  
On behalf of the Client<sup>1</sup>

---

**Confirmation of treatment  
of a Professional Client being an Eligible Counterparty  
as Professional Client by mBank S.A.<sup>2</sup>**

On..... 20... mBank S.A. confirms that .....

.....  
will be treated as a **Professional Client**.

.....  
on behalf of mBank S.A.

<sup>1</sup> In accordance with the rules for representing the Client  
<sup>2</sup> To be filled out by mBank S.A., then a confirmation is delivered to the Client.

## **I. Contact details of mBank:**

mBank Spółka Akcyjna  
ul. Senatorska 18, 00-950 Warszawa  
tel.: (22) 829-00-00, fax: (22) 829-00-33  
[www.mbank.pl](http://www.mbank.pl)

## **II. Name of mBank's dominant entity**

mBank has a strategic dominant entity. It is Commerzbank AG with its registered office in Frankfurt am Main (address D - 60311 Frankfurt am Main, Kaiserplatz, Germany) with many years of capital exposure to mBank.

## **III. Languages of communication with mBank**

The official language in relations with Clients at mBank is Polish. All the information communicated to Clients is in Polish, and the documents signed with Clients are also in this language, unless otherwise agreed by the Client and the Bank.

## **IV. Ways of communication between mBank and the Client**

Ways of communication are chosen by the parties in agreements on provision of services (whose subject matter is performance by mBank of the activities related to trading in financial instruments) concluded between the Client and mBank (whenever in this document reference is made to financial instruments, it shall also mean structured deposits).

Orders placed by Clients under the agreement on receipt and transmission of orders to acquire or sell financial instruments, and agreement on execution of orders to acquire or sell financial instruments may be submitted by Clients directly at the outlets of mBank whose list is available at [www.mbank.pl](http://www.mbank.pl) or by phone while observing the rules of Client identification, applicable at mBank.

## **V. Permission to conduct operation by mBank (including brokerage activity)**

The mBank S.A. represents that:

- 1/ it was established on the basis of Resolution No. 99 of the Council of Ministers of 20 June 1986 on the establishment of Bank Rozwoju Eksportu,
- 2/ it holds a permission of the Securities and Exchange Commission (present name: the Polish Financial Supervision Authority) of 30 June 2005, a permission of the Polish Financial Supervision Authority of 20 March 2012 and a permission of the Polish Financial Supervision Authority of 17 November 2015 to conduct brokerage activity,
- 3/ it holds a permission of the Securities and Exchange Commission of 23 November 1995 to provide custody services, to operate securities accounts, to register ownership of securities and changes to the ownership,
- 4/ the authority supervising mBank with respect to the operation referred to in items 1-3 is the Polish Financial Supervision Authority, Pl. Powstańców Warszawy 1, 00-950 Warszawa.

## **VI. Reports on provision of services (concerning performance by mBank of the activities related to trading in financial instruments)**

The rules, procedure and dates of delivering reports on provision of services are specified by the parties in the agreements on provision of services (whose subject matter is performance by mBank of the activities related to trading in financial instruments) concluded between Client and mBank or regulations concerning those services.

## **VII. Indication of basic rules of protection of Client's assets**

mBank protects the assets of its Clients:

- 1/ by effecting withdrawals of funds solely to the hands of Clients or persons authorised by Clients in the agreements on provision of services (whose subject matter is performance by mBank of the activities related to trading in financial instruments) concluded between the Client and mBank, and
- 2/ by applying the rules of identification of Clients and the persons authorised by Clients provided for in those agreements.

Description of actions taken to ensure protection of Client's assets is specified in agreements on provision of services concluded with Clients or regulations concerning those services.

Moreover, the assets of Clients at mBank are protected on the basis of the regulations on the Bank Guarantee Fund and the regulation on the system of compensation created by Krajowy Depozyt Papierów Wartościowych S.A. (the National Depository of Securities).

## **Protection under the regulations on the Bank Guarantee Fund**

Deposits of the following depositors are subject to protection by the Bank Guarantee Fund on the terms specified in the Act of 10 June 2016 on Bank Guarantee Fund, Deposit Guarantee Scheme and compulsory restructuring, hereinafter referred to as the "BFG Act":

- 1/ natural persons;
- 2/ legal persons;
- 3/ organisational units without legal personality if they have legal capacity,
- 4/ school savings schemes;
- 5/ workers' mutual assistance and loan funds.

In the case of the bank, the following funds are protected under the guarantee:

- 1/ depositor's funds in bank accounts, where the depositor is a party to the bank account agreement, irrespective of any legal flaws or invalidity of such an agreement, and in the cases stipulated in Article 26 (2) and (3) of the BFG Act,
- 2/ other amounts due to the depositor on account of the banking activities referred to in Article 5 (1) (1), Article 5 (1) (2) and Article 5 (1) (6) of the Banking Law Act,
- 3/ amounts referred to in Article 55 (1) (1) and Article 56 (1) of the Banking Law Act, subject to Article 52 of the BFG Act, provided that they became due and payable before the day of fulfilment of the guarantee condition,
- 4/ amounts due to the depositor on account of bank securities confirmed by registered documents produced by the issuer or registered deposit certificates referred to in Article 9 (1) of the Act on Trading in Financial Instruments, provided that they were issued before 2 July 2014.

In the case where the Bank operates one account for a few persons (joint account), each of those persons is a depositor – within the limits set in the account agreement, and where there are no contractual provisions or provisions in this scope – in equal parts.

In the case when the bank maintains a trust account, each depositor under the trust account agreement is considered a depositor within the limits arising from his share in the amount accumulated in the account, whereas the trustee is considered a depositor with regard to the remaining part.

In the case when an entity covered by the deposit guarantee scheme maintains an account for the benefit of an investment firm within the meaning of Article 4 (1) (2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, or a recognised third-country investment firm referred to in Article 4 (1) (25) of the said Regulation, in which, under Article 73 (5a) of the Act on Trading in Financial Instruments, there are funds which have been entrusted by the firm's clients in connection with the firm's provision of brokerage services, then every client is considered a depositor within the limits arising from his share in the amount deposited in the account. Amounts due to clients which are not repaid pursuant to the preceding sentence constitute the clients' claims towards the investment firm.

Whose deposits are not protected?

Funds and receivables of the following institutions are not protected by the Bank Guarantee Fund:

- 1/ State Treasury;
- 2/ National Bank of Poland;
- 3/ domestic banks, foreign banks and credit institutions referred to in the Banking Law Act;
- 4/ co-operative savings and credit unions and the National Co-operative Savings and Credit Union;
- 5/ Bank Guarantee Fund;
- 6/ financial institutions;
- 7/ investment firms referred to in Article 4(1)(2) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 and recognised third-country investment firm referred to in Article 4 (1) (25) of the said Regulation,
- 8/ persons and entities which were not identified by the bank (this exception does not apply when the funds or receivables were included in the list of receivables prepared as part of insolvency proceedings, and when the claims arising from the funds or receivables were confirmed by a final and binding court ruling),
- 9/ domestic and foreign insurance companies as well as domestic and foreign reinsurance companies referred to in the Act on Insurance and Reinsurance Activity of 11 September 2015,
- 10/ investment funds, investment fund companies, foreign funds, management companies and branches of investment companies referred to in the Act of 27 May 2004 on investment funds and management of alternative investment funds;
- 11/ Open-end pension funds, employee pension funds, general pension societies and employee pension societies, referred to in the Act on Organisation and Operation of Pension Funds of 28 August 1997,
- 12/ local government units;
- 13/ public authorities of a Member State other than the Republic of Poland and of a third country, in particular central and regional governments as well as local government units of these countries.

Which deposits are not protected?

Not protected by the Bank Guarantee Fund are:

- 1/ funds deposited on account of acquiring shares in, joining, or making a contribution to a cooperative;
- 2/ depositor's funds in bank accounts in which, apart from crediting interest and debiting fees and commissions, there were no other transactions in the last two years before the day of fulfilment of the guarantee condition, where the amount of such funds is lower than the equivalent of EUR 2.5 in PLN – provided that such funds are the depositor's only funds protected by the guarantee,
- 3/ electronic money within the meaning of the Act on Payment Services of 19 August 2011 and funds received in exchange for electronic money referred to in Article 7 (1) of the said Act.

### **Scope of guarantees from the Bank Guarantee Fund**

Subject to the exceptions provided for in the BFG Act, funds are included in the guarantee scheme at the bank from the day they are transferred to the bank account, however, no later than on the day preceding the date of fulfilment of the guarantee condition, and in the case of receivables resulting from banking activities, provided that the activity was performed prior to the date of fulfilment of the guarantee condition, up to the equivalent of EUR 100,000 in PLN – in 100%.

In the case of banks, the guarantee condition is fulfilled when:

- The Polish Financial Supervision Authority (KNF) decides to suspend the bank's activity under Article 158 (1) and/or (2) of the Banking Law Act and imposes forced administration, if this has not been done earlier, and files a petition for bankruptcy regarding the bank with a competent court or;
- The Bank Guarantee Fund files a petition for bankruptcy regarding the bank with a competent court under Article 230 (2) (1) of the BFG Act.

The average exchange rate of the National Bank of Poland from the day of fulfilment of the guarantee condition is applied in order to determine the PLN equivalent of an amount expressed in EUR.

The PLN equivalent of EUR 100 000 constitutes the maximum amount of the depositor's claims against the Bank Guarantee Fund, regardless of the amount of funds deposited and number of accounts held with one bank or the number of receivables the depositor is eligible for from the bank.

The depositor has the right to assert claims in excess of PLN equivalent of EUR 100,000 against the bank.

Claims under the guarantee expire after 5 years of the day on which the guarantee condition is met.

### **Protection resulting from the regulation on the obligatory system of compensation created by Krajowy Depozyt Papierów Wartościowych S.A. (the National Depository of Securities)**

1. As a custodian bank and a bank conducting brokerage activity, mBank is a member of the obligatory system of compensation created by Krajowy Depozyt Papierów Wartościowych S.A. under the Act on Trading in Financial Instruments of 29 July 2005 ("Act on Trading").
2. The aim of the system of compensation with reference to the Clients of custodian banks is to compensate the Clients, up to the amount specified in the Act on Trading, for the value of lost financial instruments (being the subject matter of trading on the organised market and registered in the securities accounts), held by the Clients in custodian banks (including (taking into account) exclusions and limitations specified in the law) in the case of:
  - 1/ declaration of bankruptcy of a custodian bank or opening of restructuring proceedings, or
  - 2/ legally binding dismissal of the petition for bankruptcy due to the fact that the assets of the custodian bank are not enough or is only sufficient to satisfy the costs of proceedings, or
  - 3/ finding by the Polish Financial Supervision Authority that the custodian bank is not able to, due to the reasons closely linked to financial standing, perform its obligations resulting from investors' claims and their performance is not possible in the near future.

3. The aim of the system of compensation with reference to the Clients of banks conducting brokerage activity is to guarantee payment of funds to the Clients, up to the amount set out in the Act on Trading, and to compensate the Clients, up to the amount specified in the Act on Trading, for the value of lost financial instruments, accumulated by the Clients in banks running a brokerage activity, for services rendered to them, as referred to in Article 69 (2) and (4).1 of the Act on Trading (including (taking into account) exclusions and limitations specified in the law) in the case of:
  - 1/ declaring bankruptcy or opening restructuring proceedings of a bank conducting brokerage activity, or
  - 2/ legally binding dismissal of the petition for bankruptcy due to the fact that the assets of the custodian bank are not enough or is only sufficient to satisfy the costs of proceedings, or
  - 3/ finding by the Polish Financial Supervision Authority that the bank conducting brokerage activity is not able to, due to the reasons closely linked to financial standing, perform its obligations resulting from investors' claims and their performance is not possible in the near future.
4. The compensation system secures the payment of Clients' funds, referred to in items 2 or 3, reduced by the receivables of the custodian bank or a bank conducting brokerage activity from the Client on account of provided services, as at the date of occurrence of one of the events forming the basis for payment of compensation (one of the events referred to in (2)(1)-(3) or (3)(1)-(3)), up to the PLN equivalent of EUR 3,000 – in 100% of the funds subject to the compensation system and 90% of the surplus over the amount while the upper limit of the funds covered by the compensation system is the PLN equivalent of EUR 22,000.
5. To calculate the EUR values, referred to in (4), in PLN the average exchange rate of the National Bank of Poland is applied, in accordance with the announced foreign exchange table of the day of occurrence of the circumstances forming the basis for payment of compensation.
6. The amounts, referred to in (4), specify the maximum amount of Clients' claims, regardless of that in what amount and in how many bank accounts he held financial instruments or the number of claims under which he is entitled to receivables in a given custodian bank or a bank conducting brokerage activity.
7. The compensation claims are prescribed upon 5 years from the day of occurrence of the circumstances forming the basis to pay compensation.

#### **VIII. Rules of providing services (concerning performance by mBank of the activities related to trading in financial instruments)**

Detailed rules of providing services are specified in agreements on provision of services concluded with Clients or regulations concerning those services.

#### **IX. The rules of filing by Clients and handling by mBank complaints made in connection with provided by mBank services (concerning performance by mBank of the activities related to trading in financial instruments)**

1. In connection with the services provided by mBank, the Client has the right to file a complaint with mBank.
2. Complaints may be filed in each organisational unit of the Bank that provides Customer service. The list of organisational units of the Bank together with their addresses is published on the official website of mBank Group.
3. Complaints may be filed in writing, verbally – by phone or in person during a meeting with the Bank's employee or electronically, in particular via the electronic banking system mBank CompanyNet.
4. Every complaint shall include a detailed description of the questionable event, expectations of the Customer regarding the way of resolving the complaint, bank account number, name and Statistical ID No (REGON) of the Client and details of the person filing the complaint (full name, telephone number and e-mail address).
5. The detailed rules of filing and handling complaints of Clients, including the dates of their resolving, are specified in the agreements on provision of services concluded with Clients or regulations concerning those services.

#### **X. Basic rules of conduct to avoid conflicts of interest**

The rules applicable at mBank allow for avoiding conflicts of interest, as well as their efficient management in the case when they arise. They are specified in the binding Policy of Managing Conflict of Interest at mBank S.A., hereinafter referred to as the "policy". The main principle of the policy states that the Client's interest takes precedence over the interest of the Bank and its employees, which aims at protection of the Clients' interests and guarantees their equal treatment.

What is a conflict of interests?

The conflict of interest means that mBank knows of circumstances that may lead to occurrence of a conflict between the interest of the Bank, a person related to the Bank and the Bank's obligation to operate diligently, taking into account the interest of the Bank's Client. These are also the circumstances known to the Bank which may lead to occurrence of conflict between the interest of several Clients of the bank.

The conflict of interest may occur in the relations between:

- mBank or other entity of mBank capital group and the Client,
- Client and an employee of mBank or another person related to mBank,
- mBank and an employee of mBank or another person related to mBank,
- mBank's Clients.

Pursuant to the adopted policy in the case when it will not be possible to prevent an identified conflict of interest or manage it in a way to ensure that the risk of damage to the client's interests does not occur, mBank will promptly inform the Client to whom the incident refers of the fact in order to obtain his/her permission for further performance of services. Such an information will include, in particular, a description, nature and source of conflict, indication of risks for the Client arising from the conflict, steps taken to mitigate this risk and a statement that the organisational and administrative arrangements established by mBank to prevent or manage that conflict are not sufficient to ensure, with reasonable confidence, that the risks of damage to the interests of the Customer will be prevented.

In order to guarantee correct implementation of the Policy at mBank, activities aiming at the following have been undertaken:

- introduction of information barriers between particular organisational units of the bank in order to guarantee confidentiality of information;
- introduction of rules limiting the use, by employees, of information about the Clients and transactions concluded by them exclusively to cases when it is necessary for proper execution of tasks related to services provided by mBank (on the basis of need-to-know principle).

Activities taken aim at guaranteeing that information on the Clients is used within the structures of mBank, as well as mBank capital group only in the scope necessary to provide services or meet requirements of the law.

Appropriate measures will be taken against mBank employees breaching provisions of the policy.

The full content of the policy is available on the websites of mBank ([www.mbank.pl](http://www.mbank.pl)). At the request of the Client, his Account Manager may provide the Client with the said policy in a paper form at mBank's outlets.

## **XI. Costs and charges related to services (concerning performance of activities related to trading in financial instruments by mBank)**

1. All the fees and commissions paid by the Clients to mBank are stipulated in agreements on provision of services (concerning the Bank's activities related to trading in financial instruments) concluded with the Clients or in the regulations concerning these services. These agreements or regulations may redirect to the "Tariff of Banking Fees and Commissions of mBank for SME and Corporates"
2. In the case when the price of the service or its part is expressed in a foreign currency, agreements on the service provision concluded with the Client or regulations concerning these services stipulate foreign currency, exchange costs and rules for exchange rates adopted by mBank. These agreements or regulations may include a list of other amounts not payable to mBank or through the agency of mBank.
3. Agreements on provision of services concluded with Clients or rules on these services include information on the possibility of occurrence of other costs than the service costs, including taxes on transactions concluded due to given financial instrument or service which may be imposed on the Client, which are not payable to mBank, nor through its agency.

## **XII. Safekeeping and registering securities**

mBank uses services of clearing houses both on the domestic and foreign markets when safekeeping and registering Clients' securities.

Securities admitted to organised trading in Poland are registered by mBank in securities accounts and collective accounts maintained in terms of the deposit system organised by Krajowy Depozyt Papierów Wartościowych S.A. ("KDPW") in which mBank participates directly.

Assets registered within the deposit system organised by the KDPW are registered:

- 1/ in individual securities accounts maintained on behalf of and for particular Clients or
- 2/ in collective accounts, which may only be maintained for: legal persons or other organisational units with a registered office outside Poland, which perform tasks of central registration of securities and are subject to supervision of the relevant body supervising financial institutions in EU member state or EEA or an equivalent state within the meaning of provisions on counteracting money laundering ("Equivalent State"), foreign investment companies which do not conduct a brokerage activity on the territory of Poland, authorised to conduct business operations in the scope of registering financial instruments in the country in which they are registered, foreign investment companies conducting brokerage activities on the territory of Poland without opening a branch, authorised to conduct business operation in the scope of registration of financial instruments in the country in which they are registered, foreign legal persons with a registered office in an Equivalent State authorised to conduct brokerage activities in the scope of registering financial instruments in the country in which they are registered which do not conduct brokerage activities on the territory of Poland and foreign banks with a registered office in an Equivalent State authorised to conduct business activity in the scope of registering financial instruments in the country in which they are registered

by KDPW participants.

The balances in securities accounts and in collective accounts reflect the balances of collective deposit accounts maintained with the KDPW for particular KDPW participants. The collective deposit accounts maintained with KDPW do not allow for identification of persons or entities entitled to particular securities registered in such accounts. Such identification is made at the level of securities accounts maintained with KDPW participants. Pursuant to the provisions of the Act on Trading, in the case of securities accounts, the owner of securities is always the holder of the securities account in which the securities have been registered. That is different in the case of a collective account – the holder of a collective account is not considered entitled to the securities registered in this account. Person indicated to mBank by the Account Holder is entitled to the securities registered in the collective account, in the number of securities arising from the indication.

Securities registered in a collective account are not registered by mBank in individual securities accounts.

Securities held by mBank's Clients are registered in the deposit system separately from the securities held by mBank.

mBank has at its disposal securities registered in the securities accounts maintained by it on behalf of and for the mBank's Client within the scope and on terms stipulated in the agreement concluded with the Client. In the case of collective accounts, disposal of securities held by a person entitled to securities registered in such an account may take place only in the scope and on the terms stipulated in the agreement concluded with the collective account holder.

mBank may not have at its disposal securities registered in the securities accounts and securities registered in collective accounts on own account or on the account of the third party for other purposes and in other manner than stipulated in the provisions of law and in the agreement concluded with the Client and only upon the approval of the Client or the person entitled to securities registered in the collective account respectively whereas the approval is not required, provided that the Bank holds securities to establish collateral as a result of executing the order of the Client or the collective account holder.

T-bills and monetary bills are registered by mBank as part of a system of accounts and deposit accounts for T-bills and monetary bills (under SKARBNET4 system), maintained by the National Bank of Poland, in which mBank is a direct participant ("System").

Assets registered in the System owned by the Bank's Clients are registered in individual accounts for bills maintained with the Bank (opened on behalf of and for particular Clients) or in collective accounts for T-bills. The balances in individual accounts for bills and in collective accounts for T-bills reflect the balances of collective deposit accounts maintained in the System for particular System participants. The collective deposit accounts maintained in the System do not allow for identification of persons or entities entitled to particular securities registered in such accounts. Such identification is made at the level of individual accounts for bills maintained by the System participants. The holder of the securities registered in individual account for bills is always the holder of this account. This is different in the case of a collective account for T-bills – the holder of a collective account for T-bills is not entitled to the securities registered in this account. Person indicated to mBank by the Account Holder is entitled to the securities registered in the collective account, in the number of securities arising from the indication.

Securities registered in a collective account for T-bills are not registered by mBank in the individual accounts for bills.

Securities registered in the System held by mBank Clients are separated from the securities held by mBank.

mBank has at its disposal securities kept in the System for the Bank's Clients within the scope and on terms stipulated in the law and agreement concluded with the Client and only upon the approval of the Client, whereas the approval of the Client is not required, provided that the Bank holds securities for the purpose of establishing collateral as a result of executing an order of the Client.

Domestic securities not admitted to organized trading and being tangible assets are kept by mBank for particular Clients. The holder of securities is entitled to the securities kept by mBank. Assets kept at the Bank and held by the Bank's Clients are separated from the assets owned by mBank.

The Bank has at its disposal securities kept by mBank for the Bank's Clients within the scope and on terms stipulated in the law and in the agreement concluded with the Client and only upon the approval of the Client, whereas the approval of the Client is not required, provided that the Bank holds securities for the purpose of establishing collateral as a result of executing an order of the Client.

Domestic securities not admitted to organised trading not being tangible assets are registered by mBank in the Register maintained by the Bank, provided that these securities are not registered in the depository of securities under an agreement between their issuer and the KDPW (in such a case they are registered in the securities accounts and collective accounts on the terms and conditions described above).

mBank opens registers of securities under the name and for particular Clients. Assets registered at mBank owned by its Clients are separated from the assets owned by mBank.

mBank has at its disposal securities registered in the Register kept by mBank for its Clients within the scope and on terms stipulated in the law and in the agreement concluded with the Client and only upon the approval of the Client, whereas the approval of the Client is not required, provided that the Bank holds securities for the purpose of establishing collateral as a result of executing an order of the Client.

Foreign securities (not admitted to organised trading in Poland) are registered by a foreign depository and clearing house: Clearstream Banking Luxembourg (CBL) or Euroclear.

Financial instruments registered for the Clients in CBL are registered in the collective account. mBank opens registers of securities for particular Clients. Pursuant to the provisions on beneficial ownership applicable on the territory of Luxembourg and Belgium, the owner of securities is always the owner entered in the securities register maintained by mBank, i.e. the Client.

Assets owned by mBank's Clients registered by CBL/Euroclear are separated from the assets owned by mBank.

mBank has at its disposal securities registered by CBL/Euroclear within the scope and on terms stipulated in the law and in the agreement concluded with the Client and only upon the approval of the Client, whereas the approval of the Client is not required, provided that the Bank holds securities for the purpose of establishing collateral as a result of executing an order of the Client.

Pursuant to the Rules on provision of custody services by mBank S.A., appended to the Agreement on provision of custody services, in the case when the Client fails to provide funds for transaction settlement, the Bank may satisfy its claims using the financial instruments deposited in the accounts and registers of a given Client. In the case when the Client does not make the payment within three days following the transaction settlement date, mBank is entitled to sell the securities in question at the price ensuring the highest probability of the order execution. The amount obtained from the sale of securities is due to the Bank, yet the surplus between the amount gained from the sale of securities and the amount of unpaid purchase transaction and transaction costs is due to the Client (the surplus is credited to the Client's bank account). The above provisions will not be applied in the case when the Client has concluded an agreement with mBank stipulating other procedure in the case the Client does not make a payment. The Client is obliged to repay the costs incurred by mBank, increased by the statutory interest accrued from the settlement date of the purchase transaction unpaid by the Client until the date the Client settles his liabilities towards the Bank in whole.

mBank monitors on a daily basis securities kept and registered for Clients in order to protect the Client's assets and the rights held by persons authorised under securities registered in collective accounts. mBank controls on a daily basis the balance of securities kept in line with the entries in the securities accounts, collective accounts, deposit accounts and securities registers against the balance of securities registered in accounts maintained with the KDPW, NBP and CBL/Euroclear respectively.

mBank may entrust keeping of securities to another entity, in particular in the case of foreign securities. In such a case, mBank will be responsible towards the Client on general terms, and the consequences of insolvency of an entity being entrusted, will be regulated by the law applicable to this entity. mBank, pursuant to implemented internal rules will undertake and continue cooperation exclusively with entities which guarantee the protection of the Client's rights to securities entrusted with such an entity.

### **XIII. Powers of the Bank Guarantee Fund**

Should mBank become an entity in restructuring in accordance with the Act on the Bank Guarantee Fund (hereinafter referred to as the "Fund"), it would be able, without a consent of the Clients being creditors of mBank as an entity in restructuring:

- 1/ redeem or convert liabilities for the purpose of injection of additional capital in restructuring;
- 2/ redeem or convert liabilities transferred to the bridge institution in order to equip it with own funds;
- 3/ redeem or convert liabilities transferred within the instrument of separation of property rights;
- 4/ redeem liabilities within the instrument of the enterprise acquisition;

on the principles set out in the Act on the Bank Guarantee Fund.

Redemption or conversion of liabilities are instrument of compulsory restructuring consisting in redemption of liabilities in order to cover losses or exchange of liabilities for equity instruments.

Redemption or conversion of liabilities for the purpose of injection of additional capital in restructuring is acceptable, if as a result thereof the entity in restructuring will satisfy the conditions for conducting business activities set out by separate provisions and there are justified reasons to believe that as result of the restructuring referred to in Article 214 of the Act on the Bank Guarantee Fund the entity will achieve long-term financial stability.

Creditors, whose debt claims are subject to conversions, shall acquire their equity interests in the number resulting from the value of the converted debt claims and the issue price fixed in the resolution on the increase in share capital.

The subject of redemption or conversion may be liabilities of the entity in restructuring, except for, in particular, the following liabilities:

- 1/ - related to guaranteed funds;
- 2/ secured (up to the amount of the established collaterals);
- 3/ arising from holding by the entity in restructuring of property rights or funds owned by clients, including those deposited on their behalf by investment funds or alternative investment funds, provided that such property rights or funds are protected in accordance with the Act – Bankruptcy Law;
- 4/ arising from the trusteeship relationship between the entity in restructuring and another entity, provided that such a liability is protected under the Act - Bankruptcy Law or the Act of 23 April 1964 - Civil Code;
- 5/ towards domestic banks, foreign banks, other credit institutions and investment firms, with an original maturity of up to 7 days, except for liabilities between entities belonging to the same group;
- 6/ arising from participation in payment systems, clearing systems or from liabilities towards operators of such systems or their participants, which have occurred as a result of participation in such systems and will become due within 7 days.