



Detailed rules of the Commodities Market, Financial Instruments Market and Organised Trading Facility Members activities inspection carried out by the Towarowa Giełda Energii S.A.

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Market Surveillance Department
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Chapter 1 General provisions.

- 1.1. These Detailed rules of the Commodities Market, Financial Instruments Market and Organised Trading Facility Members activities audit carried out by the Towarowa Giełda Energii S.A. were introduced pursuant to § 31 of the Trading Rules for the Commodities Market of Towarowa Giełda Energii S.A., § 47 of the Detailed Trading Rules for the Financial Instruments Market of Towarowa Giełda Energii S.A. and § 43 of the Trading Rules for the Organised Trading Facility of Towarowa Giełda Energii S.A. in order to determine the principles of activities audit of the Exchange Members and OTF Members.
- 1.2. The Exchange carries out an inspection of the activities of the Exchange Member or OTF Member, subject to point 3.8, at its registered office or in another place of operation, within the scope related to trading on the Exchange and the rules of access to the IT systems of the Exchange.
- 1.3. Regulations related to Detailed rules of the activities inspection:
 - a) Trading Rules for the Commodities Market of Towarowa Giełda Energii S.A.;
 - b) Detailed Trading Rules for the Financial Instruments Market of Towarowa Giełda Energii S.A.;
 - c) Trading Rules for the Organised Trading Facility of Towarowa Giełda Energii S.A.;
 - d) Detailed surveillance regulations for the Commodities Market and Organised Trading Facility of Towarowa Giełda Energii S.A.;
 - e) Detailed surveillance regulations for the Financial Instruments Market and Organised Trading Facility of Towarowa Giełda Energii S.A.;
 - f) Commission Delegated Regulation (EU) of 19 July 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the organizational requirements of investment firms engaged in algorithmic trading.
- 1.4. Wherever used in this regulation, the following expressions shall have the following meaning:
 - a) Exchange Member – means an entity that has the status of an Exchange Member in accordance to the CM Rules and FIM Rules;
 - b) OTF Member - means an entity that has the status of an OTF Member in accordance with OTF Rules;
 - c) Exchange – means Towarowa Giełda Energii S.A. having its registered office in Warsaw;
 - d) PFSA – means the Polish Financial Supervision Authority;
 - e) Inspector – means a person whom the Exchange Management Board has authorised to conduct an audit;
 - f) Inspected Entity – means an Exchange Member or OTF Member that is subject to inspection;
 - g) Broker – means a person employed by an Exchange Member, OTF Member or being a member of its management bodies who fulfils the relevant requirements and is authorised to carry out the activities specified in the Exchange Rules and other regulations of the Exchange;
 - h) OTF - means the Organised Trading Facility operated by Towarowa Giełda Energii S.A.;
 - i) Exchange Rules – means CM Rules, OTF Rules and FIM Rules;
 - j) OTF Rules – means the Trading Rules for the Organised Trading Facility of Towarowa Giełda Energii S.A.;

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- k) FIM Rules – means the Detailed Trading Rules for the Financial Instruments Market of Towarowa Giełda Energii S.A.;
- l) CM Rules – means the Trading Rules for the Commodities Market of Towarowa Giełda Energii S.A.,
- m) FIM – means the Financial Instruments Market operated by the Exchange;
- n) CM – means the Commodities Market operated by the Exchange;
- o) Detailed rules of the activities inspection – means these Detailed rules of the Commodities Market, Financial Instruments Market and Organised Trading Facility Members activities inspection carried out by the Towarowa Giełda Energii S.A.;
- p) Detailed surveillance regulations – means Detailed surveillance regulations of the Commodities Market and Organised Trading Facility of Towarowa Giełda Energii S.A. and Detailed surveillance regulations of the Financial Instruments Market and Organised Trading Facility of Towarowa Giełda Energii S.A.

Chapter 2 The range of activity inspection.

2.1 The activities carried out within the activity inspection shall concern in particular:

- a) verification of whether the content of documents provided the Exchange by the Exchange Members / OTF Members corresponds to the facts;
- b) verification of the implementation of the regulations and their conformity with the minimum substantive scope the Exchange Members / OTF Members are obliged to implement according to the Regulations of the Exchange;
- c) verification of the possession of complete and up-to-date documentation required by the Regulations of the Exchange in case when an algorithmic trading technology is used;
- d) verification of possession of complete and up-to-date documentation required by the Regulations of the Exchange in case when technology with algorithmic trading attributes is used;
- e) verification of the possession of complete and up-to-date documentation required by the Regulations of the Exchange in case when an automated trading technology is used;
- f) the principles applied by CM Exchange Members to verify the compliance by the persons authorised to represent the Exchange Member in market transactions with the requirements set forth in Article 41a of the Act on Commodity Exchanges;
- g) the assessment of professional qualifications and experience of brokers acting on the OTF and/or the FIM by FIM Exchange Members or OTF Members;
- h) the method and format used by Exchange Members / OTF Members to store documents produced in connection with their operation on the CM, FIM or OTF, specifically with regard to the archiving and protection of data against loss or unauthorised access;
- i) compliance with technical requirements and principles regarding the access to the Exchange computer systems by Exchange Members / OTF Members;
- j) timely provision by the Exchange Members / OTF Members of information concerning any changes to the data they are required to provide to the Exchange in accordance with the Exchange Rules;
- k) other issues arising from the scope of inspection.

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Chapter 3 Performing of the inspection.

- 3.1. The Management Board of the Exchange, or an employee authorised by the Board, shall order for activity inspection to be carried out in the Exchange Member / OTF Member organisational unit.
- 3.2. The Board issues authorisation for the Exchange employee to perform the inspection, which confirms the employee's ability to perform.
- 3.3. The Board is entitled to authorise a person, who is not the Exchange employee, to perform inspection within the scope of functioning of the Exchange IT systems.
- 3.4. The Exchange Management Board does not issue the inspection authorisation for a person who is disinterestedly suspected not to be unprejudiced.
- 3.5. The Exchange may notify an Exchange Member / OTF Member in writing of the initiation of inspection in order to enable the Inspected Entity to prepare documents and ensure that a person authorised to represent the Inspected Entity is present.
- 3.6. The authorisation to perform the inspection is issued in written form and it should indicate:
 - a) number, date and location of the issuing;
 - b) first name, last name as well as appointment of the Inspector;
 - c) firm (name) of the Inspected Entity;
 - d) location where the inspection will be performed;
 - e) object of the inspection;
 - f) date of starting of the inspection as well as anticipated duration of the inspection.
- 3.7. The inspection is performed in location where the Inspected Entity conducts its activities, and in particular in its headquarters or branch subject to point 3.8.
- 3.8. The inspection may be performed remotely using electronic means of communication.
- 3.9. When the inspection is carried out in the manner specified in point 3.8, the authorisation referred to in point 3.6, signed with a qualified electronic signature, after the confirmation with the Inspected Entity of the e-mail address to be used for communication purposes in the course of the inspection, shall be sent electronically, provided that with regard to the requirement specified in point 3.6. d) the authorisation contains information concerning remote inspection using electronic means of communication. The authorisation to carry out the inspection granted in the form indicated in this point is equivalent to the authorisation granted in writing.
- 3.10. The Inspector is entitled to access the locations and the rooms mentioned in point 3.7.
- 3.11. The inspection is performed by persons in authority by the Board, mentioned in points 3.2. and 3.3. after providing the Inspected Entity with authorisation to perform the inspection and showing of a document confirming identity of the Inspector. When the inspection is carried out in the manner specified in point 3.8, a document confirming the identity of the Inspector shall be presented to the Inspected Entity by means of a video image through the means of electronic communication.
- 3.12. The inspection begins at the moment of delivery of the authorisation to perform the inspection and it is finished at the moment when the last inspection activity is accomplished.
- 3.13. The inspection activities should be performed in such manner that does not disturb to significant extent activities of the Inspected Entity.
- 3.14. The activities performed by the Inspector during the inspection are aimed at:
 - a) ascertaining of actual conditions as well as documenting of them;

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- b) evaluation of correctness of the Inspected Entity's activities;
 - c) indication of methods of correcting of the incorrectness.
- 3.15. The Inspected Entity is obliged to provide the Inspectors with access to relevant documents or other information carriers related to the object of the inspection, to give explanations, to provide the Inspector with access to technical facilities needed for improvement of the inspection course.
- 3.16. The Inspector determines the inspection ascertainties on the grounds of:
- a) relevant documents or other information carriers;
 - b) explanations given by the person authorised to represent the Inspected Entity as well as by other persons employed by the Inspected Entity;
 - c) other materials, which could contribute in ascertaining of the actual conditions.
- 3.17. When the inspection is carried out in the manner specified in point 3.8., the Inspectors shall accept the documentation provided by the Inspected Entity in the form of scans sent by e-mail.
- 3.18. Depending on the scope of the inspection, if the Inspected Entity considers the documents disclosed to be of a sensitive nature or to constitute its trade secret or professional secret, such information should be properly marked and protected by the Inspected Entity.

Chapter 4 Post-inspection activities.

- 4.1. The Inspector draws out protocol or report concerning the performed inspection.
- 4.2. An inspection report is prepared if it concerns activities indicated in point 2.1. a-j and no incorrectness is found.
- 4.3. The protocol should include in particular:
- a) name and the address of the inspected entity;
 - b) first names, last names and appointments of the Inspectors;
 - c) number and date of the authorisation to perform the inspection;
 - d) the object and the scope of the inspection;
 - e) date of beginning and end of the inspection;
 - f) first names, last names as well as appointments of the persons who gave explanations during the inspection;
 - g) description of the performed inspection activities as well as ascertainties concerning the actual conditions, along with indication of the documents or other information carriers, the ascertainties have been based on which;
 - h) description of identified incorrectness;
 - i) list of materials collected during the inspection;
 - j) location and date of drawing out of the protocol;
 - k) the Inspectors' signatures.
- 4.4. The inspection report does not include point 4.3. h-i.
- 4.5. The protocol / report should be drawn out in legible manner; it should be transparent and it must not arouse any interpretation doubt as regards the contents and wording describing the actual conditions.
- 4.6. The protocol / report is drawn out in two copies, within the period of 10 (ten) days, counting from the day of completing of the inspection.

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- 4.7. One copy of the protocol / report is immediately delivered to the Inspected Entity.
- 4.8. The Inspected Entity is entitled to lodge its justified reservations concerning the inspection protocol within the scope of incorrectness cases, which have been found by the Inspector – within the period of 7 (seven) days, counting from the day of receiving of the protocol.
- 4.9. The Exchange investigates the reservations concerning the inspection protocol within the period of 7 (seven) days, counting from the day of receiving of relevant letter.
- 4.10. In case when the Exchange:
- a) Accepts the Inspected Entity's reservations – the inspection protocol shall be revised to the extent necessary, in the form of an addendum in writing;
 - b) Does not accept the Inspected Entity's reservation – a position concerning the reservations shall be drawn up in writing.
- 4.11. The decisions set out in point 4.10. may not be appealed against.
- 4.12. The Exchange enjoins the Inspected Entity to remove the incorrectness found during the performed inspection and establishes the deadline for removing them, which cannot be shorter than 7 business days ("the post-inspection recommendations"), subject to point 4.13.
- 4.13. The deadline referred to in point 4.12. starts to run on the day following the receipt of the post- inspection injunctions by the Inspected Entity.
- 4.14. The Inspected Entity is obliged to immediately notify the Exchange in writing of the removal of incorrectness specified in point 4.12. and specify the manner of implementation of the post-inspection recommendations.
- 4.15. In urgent cases, when the safety of trading or the interest of the Inspected Entity requires so, the Exchange may provide the post-inspection recommendations prior to the completion of the inspection and recommend for the identified incorrectness to be removed within a shorter time limit than specified in point 4.12.
- 4.16. The Exchange employee who performs the inspection activities is obliged to:
- a) perform the activities in accordance with the provisions of the detailed rules of the activities inspection;
 - b) fall in line with limits of authorisation to perform the inspection;
 - c) keep professional secret as well as to protect confidential information.
- 4.17. The Exchange archives all documents related to the performed inspection as well as it keeps the inspection log including the following information pieces:
- a) designation of the inspected entity;
 - b) date of start and finishing of the inspection;
 - c) the inspection scope;
 - d) the post-inspection recommendations.
- 4.18. The Exchange is entitled to provide the PFSA with information, obtained within the framework of the activity inspection carried out, which are indispensable for exercising of the statutory supervision of the PFSA over entities conducting activities on capital market.

Chapter 5 Sanctions.

- 5.1. If the Inspected Entity:
- a) violates the provisions of the Exchange Rules, Detailed surveillance regulations or other legal regulations concerning commodity or financial instruments trading;

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- b) renders the inspection impossible or hinders it;
- c) does not provide the Inspector with access to relevant documents or other information carriers related to the object of the inspection, does not give explanations or does not provide the Inspector with access to technical facilities indispensable for improvement of the inspection course;
- d) does not apply for the post-inspection recommendations;

the Board, or an employee authorized by the Board is entitled to apply disciplinary measures towards the Inspected Entity, to the extent provided for in the Exchange Rules or the Detailed surveillance regulations.

- 5.2. The Board is entitled to apply the measures provided for in § 34 item 1 as well as § 35 item 1 of the CM Rules, in § 46 item 1 as well as § 48 item 1 of the OTF Rules and § 50 item 1 as well as § 52 item 1 of the FIM Rules if the inspection is ordered in connection with the Inspected Entity's breach of the trading safety rules, market order or regulations being in force on the Exchange.
- 5.3. The Inspected Entity can appeal the decision of the Board under the terms determined in the Exchange Rules.

Chapter 6 Final provisions.

- 6.1 The Head of the organisational unit, specified in the title page of this regulation, shall be responsible for updating the contents of these Detailed rules of the activities inspection as the person who individually fills the role of the owner of this regulation.
- 6.2 At least once a year, the owner of these Detailed rules of the activities inspection shall review them and, if necessary, update them. More frequent reviews should be conducted in the event of significant changes in the internal environment of the Exchange or its environment affecting the matters covered in this regulation.
- 6.3 Any violations of or deviations from the provisions of these Detailed rules of the activities inspection, and complaints, if any, concerning the area covered by them should be reported to the Compliance and Risk Department.

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