



Changes to the rules governing the bodies of capital market entities and the supervisory authority

The amended Anti-crisis Shield introduces certain measures to facilitate the functioning of capital market entities, which we present below.

INVESTMENT FUNDS - REMOTE MEETINGS

- » According to the amended Anti-crisis Shield, the Act on investment funds and alternative investment funds management will be amended to include the possibility of holding the following meetings remotely:
 - meetings of the participants and the board of investors in open-end investment funds and specialised open-end investment funds;
 - meetings of the investors and the board of investors in closed-end investment funds.
- » The amendments providing for remote meetings of selected bodies of investment funds will enter into force on the day following their publication. They will not need to be implemented in the articles of association of individual funds; on the contrary, only an explicit reservation prohibiting such meetings in the fund's articles of association will preclude their application.
- » The decision on whether to allow remote participation in the proceedings of the body concerned will be vested in the convener of a given meeting or board.
- » However, the rule that both the chairman of a given meeting or board and the person taking the minutes thereof should sign the minutes of the meeting or the board of participants/investors.
- » The introduction of the amendment described above is certainly a step in the right direction, and, in the near future, may be applied in practice on a massive scale - during the process of approving the 2019 financial statements of closed-end investment funds by their investors' meetings. However, the provisions proposed may raise some doubts, with regards to, among others, the requirement that minutes be prepared in the form of a notarial deed, as stipulated in law and in the articles of association, or the unamended manner of determining the identities of authorized persons.

BONDS - REMOTE BONDHOLDERS' MEETINGS

- » As in the case of the regulations relating to funds, remote participation in bondholders' meetings is prohibited only where it is expressly reserved in the terms and conditions of the bond issue.
- » The law also provides for the modification of the rules on the notification of bondholders about a planned meeting.
- » The amendment to Art. 51(2) of the Act on bonds includes an obligation to include, in the announcement convening a bondholders' meeting, information on the manner of participation in such a meeting, and on the exercise of voting rights by means of electronic communication.

BONDS - POSSIBILITY TO EXTEND THE VALIDITY OF FINANCIAL STATEMENTS ATTACHED TO PURCHASE PROPOSALS

- »» Currently, Art. 35(3) of the Act on bonds requires that each bond issuer, operating for more than one year, include, in the purchase proposal, financial statements drawn up as of a balance sheet date falling no more than 15 months prior to the date on which the purchase proposal is submitted, along with an audit report.
- »» Due to the difficulties in drawing up and approving financial statements faced by all economic entities, Art. 73 pt. 43) of the amended Anti-crisis Shield grants the Minister of Finance the authority to extend the abovementioned 15-month time limit by way of a regulation.

SUPERVISORY AUTHORITIES - ELECTRONIC SIGNATURE OF DECISIONS AND ORDERS

- »» Pursuant to Art. 39, administrative decisions and orders issued by the Polish Financial Supervision Authority (KNF), may be issued in the form electronic documents, within the meaning of the provisions of the Act of 17 February 2005 on the informatisation of the activities of entities performing public tasks.
- »» In order for such an administrative decision and order to be valid, it should bear a qualified electronic signature of the Chairman of the KNF or his deputy. The above regulations will also apply to administrative decisions and orders issued on the basis of authorizations granted by the KNF to its Chairman, Deputy Chairman and the employees of the KNF.
- »» The amended Anti-crisis Shield therefore provides for a change in the rules of service for decisions or orders adopted and signed remotely. A copy of the decision or order will be delivered to the party, in the manner specified for written documents, without a handwritten signature, but rather with an annotation that the decision or order bears a qualified electronic signature, a trusted signature or a personal signature, together with the details of the signatory.

REGULATED MARKET - NOTIFICATION OF CHANGES TO THE REGULATIONS

- »» The amended Anti-crisis Shield provides for the introduction of temporary regulations regarding the dates by which a company operating a regulated market notifies trading participants of amendments to the regulations of said regulated market and other rules established by the company in force on the market operated by it.
- »» According to the amended Anti-crisis Shield, during a state of epidemic threat or state of epidemic, such amendments and regulations could be notified as little as at least 3 working days prior to their entry into force.
- »» At the same time, the amended Anti-crisis Shield grants the Financial Supervision Authority the power to extend this deadline (up to 2 weeks) by way of a decision, if required by the interest of trading participants.