NATIONAL LEGISLATION AS A SUPPORTIVE FACTOR FOR CLEARING DEVELOPMENT – POLISH CASE STUDY

3rd Stakeholder Meeting – SEEGAS Platform

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IRGiT Agenda

1. Background
2. Establishment of IRGiT from the regulatory perspective
3. Extent to which IRGiT’s activity is governed by Polish law
4. Who may become an IRGiT member
5. Key differences between an exchange clearing house and a CCP
6. Practical solutions adopted by the exchange clearing house
7. Benefits for the market from IRGiT’s operation
8. IRGiT’s experience from the last 10 years
9. IRGiT’s thoughts about clearing for SEEGAS Initiative
The requirement to establish a commodity exchange and an exchange clearing house was included in the Polish Act on Commodity Exchanges. The adopted regulations were based on the European model for the operation of exchanges, in which these entities as institutions of public trust are subject to public law regulations and state oversight. At the time, Poland was at a stage of economic development where the country needed standardization of energy products and ability to ensure their market valuation.

The Polish Power Exchange (TGE) is the only commodity exchange established on the basis of national regulations. IRGiT is the only entity rendering post-transaction services for all markets organized by the Polish Power Exchange.

EXCHANGE CLEARING HOUSE

Polish Act on Commodity Exchanges
- introduced the concept of the institution of an exchange clearing house

CLEARING HOUSE

Polish Act on Trading in Financial Instruments

CCP

Polish Act on Trading in Financial Instruments
The primary reason for the establishment of IRGiT was associated with the clearing of forward contracts. The law prohibited commodity exchanges from the conduct of such activities.

A commodity exchange may not be involved in the clearing of transactions on property rights and is required to ensure the clearing of such transactions by a commodity clearing house under the Act on Commodity Exchanges.

In 2010, IRGiT obtained a permit to operate a clearing house, a settlement house and the right to act as an exchange clearing house.

A joint-stock company licensed to operate a clearing house and a settlement house, following the prior notification to the PFSA, may act as an exchange clearing house within the meaning of the Act on Commodity Exchanges.

The legislature justified the establishment of an exchange clearing house with the “specificity of futures transactions”.

In practice, this obligation resulted in the coverage of all transactions involving energy-based exchange commodities by the operation of the exchange clearing house: both spot transactions and futures products.

Prior to the commencement of operation – presentation of an analysis, in particular economic and financial, of the ability to conduct financial clearing of exchange transactions for a period of at least three years.

Establishment of guarantees for the performance of obligations and the payment of receivables arising directly from cleared transactions.

Limited extent of operations.
Who may become an IRGiT member

**IRGiT provides services to its members**

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<tr>
<td>A</td>
<td>Companies operating the Commodity Exchange Market</td>
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<td>B</td>
<td>Commodity brokerage houses</td>
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<td>C</td>
<td>Brokerage houses</td>
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<td>D</td>
<td>Domestic financial institutions other than those enumerated in items (a)-(c), in particular banks if their membership is aimed at cooperating the Clearing House in the clearing of Transactions executed on Commodity Exchange Markets</td>
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<td>E</td>
<td>Foreign legal person conducting brokerage activities in the field of trading in exchange commodities in a country being a member of the European Union</td>
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<td>F</td>
<td>Power companies</td>
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<td>G</td>
<td>Companies running an exchange clearing house with their registered office in a member state of the European Union, the Swiss Confederation or in a member state of the European Free Trade Agreement (EFTA)</td>
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**IRGiT** (based in Warsaw, Poland)

- Provides services in the territory of Poland
- Clearing is carried out in PLN

- Employees: 40
- Clearing Members: 61
- Entities cleared via Brokerage Houses: 215
- Clearing Banks: 10
Key differences between an exchange clearing house and a CCP

1. The guaranteeing operations may not be implemented by IRGiT’s acquisition of the rights and obligations of a party to the transaction, i.e. the execution of clearing operations as a CCP (without the use of the institution of novation).

2. This is associated with the non-application of exceptions to the rules arising from the bankruptcy law (e.g. exclusion of the insolvency administrator’s right to withdraw from clearing obligations) to transactions cleared by IRGiT.

Practical solutions adopted by the exchange clearing house

- Important partner for all participants in exchange trading operations
- Standardized principles governing the granting of a member status
- Opened access to foreign exchange clearing houses
- Openness to supervision of clearing operations by an FSA of another EU country
- Limited risk on the part of the exchange clearing house in the transaction clearing process
**Benefits for the market from IRGiT’s operation**

IRGiT has established a clearing guarantee system covering:

- Transaction margins (delivery margin, historical margin, transaction limit)
- Margins for forward contracts
- Guarantee fund

**IRGiT’s experience from the last 10 years**

- Creating trading venues and regulations only in the area of existing clearing solution, considering EU regulations
- Creating trading venues intended to have high liquidity and significant market share
- Open consultation with market participants considering their situation when deciding to establish an OTF and non-CCP clearing
- Constant dialogue with the national supervision with dedicated official

**IRGiT covers the transactions of all TGE markets:**

- Commodity exchange
- Organized Trading Facility (OTF)
- Regulated market

- The advantage of IRGiT is the *coverage of markets created in accordance with MiFID II and national regulations*
Well-prepared regulations support the development of exchanges and clearing houses.

It is worth considering the implementation of local solutions in countries involved in the SEEGAS initiative which will allow clearing markets in various possibilities:
- By the exchanges themselves
- By the clearing houses
- By CCP’s

This will enable the selection of the most optimal solutions for individual markets.

Common standard of legislation will support the creation of the common regional market.
Thank you!

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