NEW INCENTIVE SCHEME FOR ELECTRICITY GENERATED IN HIGH-EFFICIENCY CHP UNITS

On 14 December 2018 Sejm (lower chamber of polish Parliament) adopted the act on promoting electricity from high-efficiency cogeneration ("Act") which is envisaged to incentivize generation of electricity from the high-efficiency combined heat and power units ("CHP Units" and "CHP Electricity"). The Act entered into force on 25 January 2019, while implementation of certain incentive mechanism will be dependent upon EC decision approving the state aid scheme provided in the Act.

[Previous legal framework] Since 1 July 2007, generation of the CHP Electricity has been incentivized with the support scheme based on different types of the certificates of origin (so-called "red", "yellow" and "violet" certificates). The foregoing scheme expired at the end of 2018 (with settlement for the year 2018 to be completed by end of June 2019).

[General overview] According to the Act, the CHP Electricity producers will be eligible to benefit from one of the 4 different feed-in premium supporting schemes based on the "fixed premium" model and available to various CHP Units' operators depending on whether the CHP Electricity is generated in the Existing, New, Modernized or Substantially Modernized CHP Unit as well as depending on the installed capacity of given CHP Unit:

Type of incentive scheme	Eligibility
Auction-based cogeneration premiums	New and Substantially Modernized CHP Units with capacity of at least 1 MWe and lower than 50 MWe
Guaranteed premiums	Existing and Modernized CHP Units with capacity of at least 1 MWe and lower than 50 MWe Existing, New, Modernized and Substantially Modernized CHP with capacity lower than 1 MWe
Contest-based individual cogeneration premiums	New and Substantially Modernized CHP Units with capacity of at least 50 MWe*
Individual guaranteed premiums	Existing and Modernized CHP with capacity of at least 50 MWe*

* CHP Units with installed capacity of at least 300 MWe will be eligible to benefit from the incentive scheme upon prior positive decision of the European Commission approving the support with respect to the given installation.

The CHP Units shall be qualified as the Existing, New, Modernized or Substantially Modernized CHP Units based on the following criteria:

Type of CHP Unit	Definition
Existing CHP Unit	CHP Unit in which electricity has been generated for the first time before 1 January 2019 and such generation has been confirmed with the certificate of origin.
New CHP Unit	CHP Unit where: - the electricity has been generated for the first time after settlement of the contest (Pol. *rozstrzygnięcie naboru*) – applicable to the New CHP Units with capacity of at least 50 MWe; or - the electricity has been generated for the first time after the settlement of the auction (Pol. *rozstrzygnięcie aukcji*) – applicable to the New CHP Units with capacity of 1 MWe ≤ P < 50 MWe; or - the electricity has been generated for the first time not earlier than on 1 January 2019 – applicable to the New CHP Units with capacity below 1 MWe; - in each case subject to the condition that the equipment installed in the unit within the development process was manufactured not earlier than 60 months before the day of first generation of electricity.
Modernized CHP Unit	CHP Unit subject to investment process aimed at restoration of original condition of the CHP Unit or change of its technological or performance parameters, if: - equipment installed within the modernization has been manufactured not earlier than 60 months before the day of first generation of electricity in the Modernized CHP Unit; and - capital expenditures within the modernization corresponded to at least 25% and not exceeding 50% of capital expenditures to be incurred on comparable new CHP Unit*, and - the electricity has been generated for the first time not earlier than on 1 January 2019.

Substantially Modernized CHP Unit	CHP Unit subject to investment process aimed at restoration of original condition of the CHP Unit or change of its technological or performance parameters if:
	- equipment installed within the modernization has been manufactured not earlier than 60 months before the day of first generation of electricity in the Substantially Modernized CHP Unit; and
	- capital expenditures within the modernization corresponded to more than 50% of capital expenditures to be incurred on comparable new CHP Unit*, and
	- the electricity has been generated for the first time after:
	  o settlement of the contest (Pol. *rozstrzygnięcie naboru*) – applicable to Substantially Modernized CHP Units with capacity of at least 50 MWe; or
	  o settlement of the auction (Pol. rozstrzygnięcie aukcji) – applicable to Substantially Modernized CHP Units with capacity of 1 MWe ≤ P < 50 MWe; or
	  o 1 January 2019 – – applicable to Substantially Modernized CHP Units with capacity <1MWe.

* the value of "capital expenditures to be incurred on comparable new CHP" will be set forth in the secondary legislation to be issued annually by the Minister of the Energy.

[*Aid restrictions – excessive emissions*] Incentive schemes will not be available to the CHP Units with a unit carbon dioxide emission index exceeding 450 kg/1 MWh of generated energy.

[***Aid restrictions - industrial CHPs***] Operator of CHP Unit operator shall be eligible to benefit from the relevant incentive scheme only if 70% of the useful heat generated in given CHP Unit will be supplied to the public heating systems based on the hot water (in principle, district heating systems). If the foregoing criterion is not met, the volume of the CHP Electricity eligible to the premium will be proportional to the share of heat supplied to the public heating systems. However aforesaid limitation does not apply to: (a) Existing and Modernized CHP Units with capacity of 1 MWe ≤ P < 50 MWe using methane released and captured in the course of the underground mining works in hard coal mines (either active, liquidated or under pending liquidation) as well as (b) CHP Units with capacity lower than 1 MWe.

[***Aid restrictions - competing CHPs***] Moreover New CHP Units (except for New CHP Units with capacity lower than 1 MWe) will not be eligible to benefit from the relevant incentive scheme if the heat generated in such New CHP Unit will be supplied to the open heating system to which the heat is already being supplied by the Existing CHP unit (unless New CHP Unit is to replace one or more of Existing CHP Units or is to constitute the necessary expansion of CHP Units to ensure delivery of heat to such open heating system).

[*Aid restrictions – overlapping incentive schemes*] Incentive schemes under the Act will not be available to electricity supported within capacity market and RES state aid schemes.

[*Aid restrictions – oil-fueled CHPs*] Moreover CHP Units with capacity lower than 1 MWe will not be eligible to benefit from incentive schemes if such CHP Unit is fueled exclusively by: heavy fuel oil, light fuel oil or other diesel fuel.

[Financing] Under the Act, all the proposed incentive schemes will be financed with the so-called cogeneration fee to be collected by DSOs and TSO from the final energy consumers and calculated as the product of: (a) electricity consumption and (b) the relevant cogeneration fee rate determined annually by the Minister of Energy. The cogeneration fees shall be transferred to the state-owned company named Zarządca Rozliczeń S.A. (“**SO**”) which will pay the premiums in accordance with the law. According to the Act, the applicable rate of cogeneration fee shall amount from PLN 1,58/MWh in 2019 to even PLN 13,5/MWh in 2033.

In case the total collected amount of cogeneration fees does not allow to cover all the premiums specified in the Act in particular year, the missing funds can be temporarily financed from the transitional fee account or by debt financing and will be then reimbursed from the cogeneration fee respectively increase in the future years.

[Budget] The budget for all incentives schemes is expected to amount:

- PLN 2,33 bln/year and PLN 35 bln in total in years 2019-2047 – as regards New and Substantially Modernized CHP Units;
- PLN 208 mln/year and PLN 1,29 bln in total in years 2019-2032 – as regards the Existing CHP Units.

AUCTION-BASED COGENERATION PREMIUMS

[Eligibility] **Auction-based cogeneration premiums** will be **available to** the operators of the **New and the Substantially Modernized CHP Units with capacity of 1 MWe ≤ P < 50 MWe selected within the auction** carried out by the President of ERO at least once a year, provided that not more than **5% of each auction budget will be available to the CHP Units located abroad** subject to certain pre-requisites (i.a. intergovernmental agreement providing for mutual access to the incentive schemes available in both countries; transmission of the electricity to the Polish grid is physically possible).

*[**Incentive period**]* The auction-based cogeneration premiums will be payable up to the maximum period of **15 years** starting from the date of the first generation, supply and sale of the electricity which would occur in each case after completion of the auction and after: (i) obtaining or amending the relevant generation license (or being entered into the register of small producers or into the register of agricultural biogas producers) – as regards the New CHP Units, or; (ii) completion of substantial modernization and obtaining / amending relevent generation license (or being entered into the register of small producers or into the register of agricultural biogas producers) – as regards Substantially Modernized CHP Units. In any case the incentive period **may not exceed 31 December 2048**.

*[**Calculation method**]* Cogeneration premium available to given CHP Unit will be calculated as a product of:

- the fixed rate set forth within the “pay as bid” auction and;
- volume of electricity generated, sold **and fed into the grid** from given CHP, except for electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours,

The cogeneration premium is to be adjusted (decreased) in case the project obtains the investment aid.

The rate offered by CHP Unit operator for 1 MWh may not be higher than the reference value set forth in the secondary legislation issued by the Minister of Energy by 31 October of the year preceding the auction ("**Reference value**")[1]. Reference values are to be set forth considering technical and economic parameters of CHP Units, amount of operating costs, as well as other costs incurred within exploitation of CHP Unit. Reference values are set forth separately for New/Substantially Modernized CHP Units, as well as for different fuels used within each CHP Unit (see table below).

[Pre-qualification procedure] Auction may be participated by investors whose projects has been proved feasible and eligible within the pre-qualification procedure. The certificates issued within the pre-qualification procedure and authorizing to participate in auctions will be valid for 18 months (but not longer than the validity period of the documents submitted within pre-qualification process).

[Auction] The auctions are to be carried out at least once a year based on the following basic assumptions:

- the auctions would be carried out based on the "*pay as bid*" system within **one basket**.
- the reference values are to vary based on fuel criteria, as well as whether given CHP Unit may be qualified as New or Substantially Modernized. Therefore reference values are to be set forth in following eight groups:

	gas fuels*	solid fuels	biomass**	other than gas fuels, solid fuels or biomass
New CHP Units	reference value 1	reference value 2	reference value 3	reference value 4
Substantially Modernized CHP Units	reference value 5	reference value 6	reference value 7	reference value 8

* Gas generated from solid fuels within the gasification processes, as well as system gas, coal mine gas, coke-oven gas and other waste gases from technological process shall not be qualified as gas fuels;
** Biodegradable fraction of products, waste or residues of biological origin from agriculture, including plant and animal substances, forestry and related industries, including fisheries and aquaculture, processed biomass, in particular in the form of briquettes, pellets, torrefactions and biocarbons, as well as biodegradable part of industrial or municipal waste of plant or animal origin, including waste from waste treatment installations and waste from water treatment and wastewater treatment, in particular sewage sludge (in accordance with the provisions on waste as regards qualifying the part of energy recovered from thermal waste treatment).

- the Reference value for multi-fuel combustion CHP Units is to be determined considering the type of fuel, which is prevailing within such CHP Unit.
- budgets (i.e. maximum volume of CHP Electricity and maximum value of cogeneration premium) available in given year would be set forth in the secondary legislation issued by the Minister of Energy by 31 October of the preceding year, whereas the first regulation will be issued within 3 months from the date when the Act becomes effective;
- the auction may be held either via the Internet Auction Platform or in written form; whereas the bids should be submitted on the template, which will be made available either via the internet platform (in case of electronic auction) or as a part of the auction rules issued by the President of the Energy Regulatory Office (in case of written auction)
- during the auction, each CHP Unit operator may submit one offer only, provided that the offered cogeneration premium may not exceed the reference value. Offers with cogeneration premium exceeding the reference value will be rejected;
- the offers submitted within each auction are queued based on the amount of cogeneration premium specified in the offer and – in case of the same amount – the time of submission; winning offers include the offers with the lowest unit cogeneration premium which in aggregate do not exceed:

[1] The first regulation will be issued within 3 months from the date when the Act becomes effective.

  - the budget allocated for given auction, or;
  - 80% of an aggregate volume of CHP Electricity covered by all the offers submitted within given auction – in case an aggregate volume of the CHP Electricity offered within the auction does not exceed the maximum volume specified as the budget of this auction;
  - in case the remaining volume of CHP Electricity to be sold within the auction is lower than the volume specified in the next lowest offer, the remaining volume is not sold within the auction;
- upon settlement of the auction (Pol. *rozstrzygnięcie aukcji*), the cogeneration premium is set for each winning bidder separately, such premium being fixed (irrespective of the wholesale energy prices);
- the unit cogeneration premium is to be binding within the entire incentive period save for yearly indexation with annual average index of retail prices of consumer goods and services, announced by the President of Central Statistical Office;
- the amount of investment aid granted to given CHP Unit within 10-year period preceding the auction and/or after the auction would reduce the cogeneration premium set forth within the auction (save for the state aid granted for construction/operation of the existing CHP Unit before Substantial Modernization);
- cogeneration premium shall be settled on monthly basis;
- the underlying investments in New CHP Units as well as the Substantial Modernization of the CHP Units must be completed within:
  - 48 months from settlement of the auction (Pol. *rozstrzygnięcie aukcji*) – as regards New and Substantially Modernized CHP Units with capacity of 1 MWe ≤ P < 50 MWe using gas fuels;
  - 60 months from settlement of the auction (Pol. *rozstrzygnięcie aukcji*) – as regards New and Substantially Modernized CHP Units with capacity of 1 MWe ≤ P < 50 MWe using solid fuels, biomass or any other fuel except for gas fuels;

  such commitment is to be secured with bank guarantee or money deposit in the amount of PLN 30/kW of the installed capacity;

[Expected premiums] According to the draft of the Act, it was expected that the unit cogeneration premiums would be in range of:

- PLN 178/MWh for CHP Units using gas fuels;
- PLN 216/MWh for CHP Units using solid fuels;
- PLN 102/MWh for CHP Units using other fuels.

GUARANTEED PREMIUMS

[Eligibility] Guaranteed premiums will be available to the operators of the Existing and Modernized CHP Units with capacity of 1 MWe≤P<50 MWe as well as all the Existing, New, Modernized and Substantially Modernized CHP with capacity <1 MWe. Eligibility of given CHP operator and unit shall be confirmed by way of the certificate issued by the President of ERO at request of the CHP Unit operator. Such certificate is to specify i.a. type of the CHP Unit as well as the incentive period available to given CHP Unit.

Application for the certificate has to be submitted within 60 days as of the day of:

- obtaining or amending generation license (or being entered into the register of small producers or into the register of agricultural biogas producers) – as regards New CHP Units with capacity lower than 1 MWe;
- first electricity generation in substantially modernized CHP Unit – as regards Substantially Modernized CHP Units with capacity lower than 1 MWe;
- first electricity generation in modernized CHP Unit – as regards Modernized CHP Units with capacity lower than 1 MWe;

[Incentive period] Guaranteed premiums will be payable up to the maximum period of:

- 5 years calculated from the day of the first electricity generation, sale and feed into grid upon completion of the Modernization (occurring after the date of being admitted to the scheme of guaranteed premium) but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity of 1 MWe ≤ P < 50 MWe where the capital expenditures within the Modernization corresponded to at least 25% and not exceeding 33% of capital expenditures to be incurred on comparable New CHP Unit;

- 6 years calculated from the day of the first electricity generation, sale and feed into grid upon completion of the Modernization (occurring after the date of being admitted to the scheme of guaranteed premium) but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity of 1 MWe ≤ P < 50 MWe where the capital expenditures within the Modernization corresponded to over 33% and not exceeding 40% of capital expenditures to be incurred on comparable New CHP Unit;
- 7 years calculated from the day of the first electricity generation, sale and feed into grid upon completion of the Modernization (occurring after the date of being admitted to the scheme of guaranteed premium) but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity <50 MWe where the capital expenditures within the Modernization corresponded to over 40% and not exceeding 50% of capital expenditures to be incurred on comparable New CHP Unit;
- 15 years calculated from the date of the first generation of electricity confirmed with the certificate of origin (excluding the period between 1 January 2013 and 29 April 2014 subject to the qualification that this exclusion does not apply to energy generated in CHP Units using methane released and captured at underground mining works in hard coal mines, as well as in CHP Units using gas fuel obtained from biomass processing), but not later than until 31 December 2035 – in case of the Existing CHP Units with capacity of 1 MWe ≤ P < 50 MWe;
- 5 years calculated from the day of the first electricity generation after the date of being admitted to the scheme of guaranteed premium, upon completion of the Modernization, but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity <1MWe where the capital expenditures within the Modernization corresponded to at least 25% and not exceeding 33% of capital expenditures to be incurred on comparable New CHP Unit;
- 6 years calculated from the day of the first, after the date of being admitted to the scheme of guaranteed premium, electricity generation upon completion of the Modernization, but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity <1MWe where the capital expenditures within the Modernization corresponded to over 33% and not exceeding 40% of capital expenditures to be incurred on comparable New CHP Unit;
- 7 years calculated from the day of the first, after the date of being admitted to the scheme of guaranteed premium, electricity generation upon completion of the Modernization, but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity <1MWe where the capital expenditures within the Modernization corresponded to over 40% and not exceeding 50% of capital expenditures to be incurred on comparable New CHP Unit;
- 15 years from the date of the first, after the date of being admitted to the scheme of guaranteed premium, electricity generation after obtaining or amending generation license (or being entered into the register of small producers or register of agricultural biogas producers), but not later than until 31 December 2048 – in case of the New CHP Units with capacity <1MWe;
- 15 years calculated from the date of the first, after the date of being admitted to the scheme of guaranteed premium, generation of electricity after obtaining or amending generation license (or being entered into the register of small producers or register of agricultural biogas producers) upon completion of the Substantial Modernization, but not later than until 31 December 2048 - in case of the Substantially Modernized CHP Units with capacity <1MWe;
- 15 years calculated from the first generation of electricity confirmed with the certificate of origin (excluding the period between 1 January 2013 and 29 April 2014 – this exclusion does not apply to energy generated in CHP Units using methane released and captured at underground mining works in hard coal mines, as well as in CHP Units using gas fuel obtained from biomass processing), but not later than 31 December 2035 - in case of the Existing CHP Units with capacity <1MWe.

*[**Calculation method**]* Guaranteed premium available to given CHP Unit will be calculated as a product of (a) the fixed rate set forth set forth annually in the secondary legislation issued by the Minister of Energy by 31 October of the preceding year[2] and (b) volume of electricity **generated, sold and fed into the grid** from given CHP Unit, except for the electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours (subject to the provision that the premium for the CHP Units with capacity <1MWe and/or an Existing or Modernized CHP Unit with capacity of 1 MWe ≤ P < 50 MWe using methane released and captured at underground mining works in hard coal mines will be calculated based on the volumes of the generated electricity – even if such electricity is not sold and fed into the grid). The guaranteed premium shall be settled on monthly basis.

The amount of investment aid granted to given CHP would reduce the guaranteed cogeneration premium.

[2] The first regulation will be issued within 3 months from the date when the Act becomes effective.

CONTEST-BASED INDIVIDUAL COGENERATION PREMIUMS

***[Eligibility]* Contest-based individual cogeneration premiums** will be **available to** the operators of the **New and the Substantially Modernized CHP Units with capacity of at least 50 MWe selected within the contest** carried out by the President of ERO at least once a year, provided that not more than **5% of each contest budget will be available to the CHP Units located abroad** subject to certain pre-requisites (i.a. intergovernmental agreement providing for mutual access to the incentive schemes available in both countries; transmission of the electricity to the Polish grid is physically possible).

*[**Incentive period**]* The contest-based cogeneration premiums will be payable up to the maximum period of **15 years** starting from the date of the first generation, supply and sale of the electricity (occurring after settlement of the contest) and after: (i) obtaining or amending the relevant generation license (or being entered into the register of small producers or into the register of agricultural biogas producers) – in case of New CHP Units with capacity of at least 50 MWe, or (ii) obtaining or amending generation license (or being entered into the register of small producers or into the register of agricultural biogas producers) upon completion of Substantial Modernization – in case of Substantially Modernized CHP Units with capacity of at least 50 MWe. In any case the incentive period **may not exceed 31 December 2048**.

*[**Calculation method**]* The contest-based individual cogeneration premium available to given CHP Unit will be calculated as a product of (a) the fixed rate specified by the President of the ERO and accepted by the bidder within the contest and (b) volume of electricity **generated, sold and fed into the grid** from given CHP, except for electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours.

[Pre-qualification procedure] Contest may be participated by investors whose projects has been proved feasible and eligible within the pre-qualification procedure. The certificates issued within the pre-qualification procedure and authorizing to participate in auctions will be valid for 18 months (but not longer than the validity period of the documents submitted within pre-qualification process).

[Contest] The contests are to be carried out based on the following basic assumptions:

- the President of ERO is to calculate unit individual cogeneration premium rate for each of the participants to the contest, by taking into consideration the following criteria:
    - percentage share of the useful heat generated in given CHP Unit, which is to be supplied to the public heating systems;
    - technical and economic data, including balance of profits and losses and predicted revenues and costs from business activity;
    - predicted unit carbon dioxide emission index, which in any case may not exceed 450 kg/1 MWh;

  The individual cogeneration premium set forth by the President of ERO will be reduced by the amount of any investment aid granted to given CHP Unit within 10-year period preceding the contest (provided several exemptions specified in the Act, i.a. state aid granted for construction/operation of the existing CHP Unit before Substantial Modernization). The individual cogeneration premium calculated by the President of ERO may not exceed the maximum individual cogeneration premium, set forth in the secondary legislation issued by the Minister of Energy

- the offers submitted within the contests are being evaluated based on the following criteria:
    - unit individual cogeneration premium rate determined by the President of ERO (any state aid granted within 10-year period before the contest will not to be included at this stage);
    - location of the CHP Unit, whereas the value of this criterion is to be set forth in the secondary legislation issued by the Minister of Energy;
    - fuel used in the CHP Unit, whereas the value of this criterion is to be set forth in the secondary legislation issued by the Minister of Energy.

  Points value (Pol. *wartość punktowa*) of each offer is to be determined as a product of unit individual cogeneration premium rate applicable to the given offer and factors attributed to the location of the CHP Unit and type of fuel used in such CHP Unit. Winning offers include the offers with the lowest points value (the lower points value, the highest rank) which in aggregate do not exceed the budget, nor the volume of electricity, allocated for given contest; in case the remaining volume of CHP Electricity to be sold within the contest is less than the volume specified in the next offer, the remaining volume is not sold within the contest;

- if the bidder does not accept the unit individual cogeneration premium calculated by the President of ERO, the offer submitted by this bidder is to be rejected;

- budgets (i.e. the maximum volume of CHP Electricity and the maximum amount of the individual cogeneration premium) available in the contest for given year would be set forth in the secondary legislation issued by the Minister of Energy by 31 October of the preceding year, whereas the first regulation will be issued within 3 months from the date when the Act becomes effective;
- upon settlement of the contest (Pol. *rozstrzygnięcie naboru*), the individual cogeneration premium is set for each winning bidder separately and is being fixed (irrespective of the wholesale energy prices);
- the underlying investments in New CHP Units as well as the Substantial Modernization of the CHP Units must be completed within:
    - 48 months from settlement of the contest (Pol. *rozstrzygnięcie naboru*) – as regards the New and Substantially Modernized CHP Units with capacity of at least 50 MWe using gas fuels;
    - 60 months from settlement of the contest (Pol. *rozstrzygnięcie naboru*) – as regards the New and Substantially Modernized CHP Units with capacity of at least 50 MWe using solid fuels, biomass or any other fuel except for gas fuels;

  such commitment is to be secured with bank guarantee or money deposit in the amount of PLN 30/kW of the installed capacity;
- the unit individual cogeneration premium is to be binding within the entire incentive period save for yearly indexation with annual average index of retail prices of consumer goods and services, described by President of Central Statistical Office;
- as a rule, individual cogeneration premium shall be settled on monthly basis.

INDIVIDUAL GUARANTEED PREMIUMS

[Eligibility] **Individual guaranteed premiums** will be **available to** the operators of the **Existing and Modernized CHP Units with capacity of at least 50 MWe**. Eligibility of given CHP operator and unit shall be confirmed by way of certificate issued by the President of ERO at request of the CHP operator on annual basis. Such certificate is to specify i.a. incentive period available to given CHP Unit and the unit rate of the individual guaranteed premium. This incentive scheme will be also available for operators of Existing and Modernized CHP Units with capacity of at least 300 MWe upon prior individual notification to the European Commission and on the condition that the European Commission considers certain support as permissible under the EU state aid regulations.

*[**Incentive period**]* Individual guaranteed premiums will be payable up to the maximum period of:

- 5 years calculated from the date of the first generation, sale and feed into grid electricity upon completion of the Modernization (after the date of being admitted to the scheme of individual guaranteed premium) but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity of at least 50 MWe where the capital expenditures within the Modernization corresponded to at least 25% and less than 33% of capital expenditures to be incurred on comparable New CHP Unit;
- 6 years calculated from the date of the first generation, sale and feed into grid electricity upon completion of the Modernization (after the date of being admitted to the scheme of individual guaranteed premium) but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity of at least 50 MWe where the capital expenditures within the Modernization corresponded to at least 33% and less than 40% of capital expenditures to be incurred on comparable New CHP Unit;
- 7 years calculated from the date of the first generation, sale and feed into grid electricity upon completion of the Modernization (after the date of being admitted to the scheme of individual guaranteed premium) but not later than until 31 December 2036 – in case of the Modernized CHP Unit with capacity of at least 50 MWe where the capital expenditures within the Modernization corresponded to at least 40% and not exceeding 50% of capital expenditures to be incurred on comparable New CHP Unit;
- 15 years calculated from the date of the first generation of electricity confirmed with the certificate of origin (excluding the period between 1 January 2013 and 29 April 2014 – this exclusion does not apply to energy generated in CHP Units using methane released and captured at underground mining works in active, liquidated or liquidated hard coal mines, as well as in CHP Units using gas fuel obtained from biomass processing), but not later than until 31 December 2035 – in case of the Existing CHP Units with capacity of at least 50 MWe.

*[**Calculation method**]* Guaranteed premium available to given CHP Unit will be calculated as a product of (a) the fixed rate set forth annually by the President of the ERO and not exceeding the maximum individual guaranteed premium set forth in the secondary legislation issued by the Minister of Energy for given year and (b) volume of electricity **generated, sold and fed into the grid** from given CHP, except for electricity generated in those hours where the

negative prices are quoted at the day-ahead market for more than 6 subsequent hours. The guaranteed premium shall be settled on monthly basis.

Guaranteed individual premium set forth by the President of ERO is to be reduced by the amount of investment aid granted to given CHP Unit within 10-year period preceding the date of submitting application for certificate (provided several exemptions specified in the Act, i.a. state aid granted for construction/operation of the Existing CHP Unit before Modernization).

Krzysztof Cichocki
Partner
attorney-at-law
+48 22 608 70 51
krzysztof.cichocki@skslegal.pl

Tomasz Młodawski
Senior Counsel
attorney-at-law
+48 22 608 73 27
tomasz.mlodawski@skslegal.pl

Maciej Lewicki
Associate
attorney-at-law
+48 22 608 73 03
maciej.lewicki@skslegal.pl

Adam Warchocki
Junior associate
trainee attorney-at-law
+48 22 608 70 83
adam.warchocki@skslegal.pl