



GRUPA PBG

**CURRENT REPORT FILED WITH THE POLISH FINANCIAL SUPERVISION  
AUTHORITY**

DATE: November 21st 2016

**Subject:** [Delayed disclosure of inside information on commencement of negotiations to amend the contract for the Jaworzno project with Tauron Wytwarzanie S.A.](#)

**Text of the report:**

Current Report No. 33/2016

Pursuant to Art. 17.1 and 17.4 of Regulation (EU) No. 596/2014 of the European Parliament and of the Council on market abuse and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173 of 2014, page 1, as amended) (the “**MAR**”), the Management Board of RAFAKO S.A. of Racibórz (the “**Company**”) publishes below inside information on the commencement of negotiations to amend the contract for the Jaworzno project with Tauron Wytwarzanie S.A. (the “**Inside Information**”), which was subject to delayed disclosure.

Content of the delayed Inside Information:

“The Management Board of Rafako S.A. of Racibórz (the “**Company**”) announces that on September 14th 2016, the Company and its subsidiary E003B7 Sp. z o.o. of Racibórz (the “**SPV**”) commenced negotiations with Tauron Wytwarzanie S.A. of Jaworzno (the “**Employer**”) and Tauron Polska Energia S.A. of Katowice, regarding amendments to the contract of April 17th 2014 for the development of new coal-fired generation capacities at TAURON Wytwarzanie S.A. – construction of a supercritical 910 MW generating unit at the Jaworzno III Power Plant – Power Plant II: steam boiler, turbine generator set, main building, electrical and I&C systems (the “**Contract**”), the execution of which was announced by the Company in Current Report No. 21/2014 dated April 17th 2014. Commencement of the negotiations to amend the Contract resulted from detailed investigation of the ground in the area earmarked for the planned supercritical 910 MW generating unit at the Jaworzno III Power Plant – Power Plant II (the “**Unit**”), carried out by the SPV, RAFAKO S.A.’s subcontractor, after the Contract execution and handing over of the construction site to RAFAKO S.A. The investigation has shown that, contrary to the findings of earlier surveys conducted upon the Employer’s instruction before the commencement of public procurement proceedings, the ground is not suitable for spread foundation of structures comprising the Unit. In order to avoid a construction disaster, it was necessary that the SPV perform additional work, which could not be envisaged at the stage of preparation of the bid for the project. The work, comprising deep foundation of the Unit’s structure with piles and cavity walls, was contracted from specialist third parties and executed in 2015–2016. Moreover, after execution of the Contract, it turned out that the contractor had to considerably increase the tonnage of steel elements in a number of structures erected as part of the Unit construction, compared with the tonnage assumed as at the Contract date and included in the contractor’s remuneration under the Contract. The increase was due to a change of the applicable technical standards having direct and material bearing on the performance of the

Contract, following implementation of European standards (Eurocodes) in structural design to the generally applicable Polish standards, which occurred after the execution of the Contract. Eurocodes specify higher values of loads induced by environment and higher factors compared with the Polish standards which served as the basis for preparation of the contractor's bid and then for execution of the Contract. In the Company's and the SPV's opinion, the above circumstances should result in an increase in the contractor's remuneration, and extension of the deadline for the Contract completion in view of the need to re-design structures comprising the Unit. Following completion of the above work, on September 14th 2016, RAFAKO S.A. and the SPV submitted to the Employer a request to increase the Contract price by PLN 127m and extend the deadline for the Contract delivery by ten months. On the same day, TAURON Polska Energia S.A., the Employer, RAFAKO S.A. and the SPV met to negotiate on the proposed increase in the Contract price and extension of the deadline for the Contract delivery, and resolved to commence a process to agree on amendments to the Contract provisions."

This Inside Information pertains to the initial stage of negotiations understood as a protracted process under second paragraph of Art. 17.4 of the MAR. A decision to delay the disclosure of the Inside Information was made by the Company's Management Board in accordance with Resolution No. 69 of the Company's Management Board, dated September 14th 2016, concerning delayed disclosure of Inside Information. The Company's Management Board resolved to keep the Inside Information confidential in view of the risk of prejudice to its legitimate interests, i.e. possible adverse effect of the disclosure of the Inside Information on the subcontractor agreements currently being negotiated by the SPV. Furthermore, in such situation, key subcontractors that have executed effective contracts with the SPV might have demanded extension of the completion dates set out in their subcontracts, which, considering the ongoing negotiations with the Employer and their uncertain outcome, could expose the Company and the SPV to the risk of non-performance of the Contract within the agreed time limit and resultant multimillion contractual penalties for delay in the Unit delivery.

Moreover, disclosure of the Inside Information might have resulted in the SPV's subcontractors demanding renegotiation of their subcontracts, and particularly an increase in their remuneration due to additional costs they would have to incur in connection with their longer presence on the construction site (such as rental of modular shelters, cranes, scaffoldings), performance bonds, or advance payment guarantees, as well as cost of longer employment of workers, which also, considering the ongoing negotiations with the Employer and their uncertain outcome, could expose the Company and the SPV to the risk of non-performance of the Contract within the agreed time limit and resultant multimillion contractual penalties for delay in the Unit delivery.

Disclosure of the Inside Information before the negotiations with the Employer were concluded might have also adversely affected the outcome of these negotiations.

Disclosure of the Inside Information relating to the negotiations was made conditional on how the successive stages of negotiations with the Employer proceed; in accordance with Art. 17.4. of the MAR, it was delayed until no later than December 31st 2016.

As it is no longer possible to maintain its confidentiality, the Company's Management Board resolved to publish this Inside Information.

Legal basis: Art. 17 of the Market Abuse Regulation

Agnieszka Wasilewska-Semail, President of the Management Board

Jarosław Dusiło, Vice President of the Management Board