

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

DATE: April 25th 2023

Subject: [Update on Jaworzno project – conclusion of an agreement between the Company, the Subsidiary, the Guarantors and TAURON Wytwarzanie S.A. \[Current Report No. 42/2023\].](#)

Text of the report:

Further to (i) Current Report No. 27/2023 of March 31st 2023, announcing that in the course of the mediation process held before the Arbitration Court at the Office of the General Counsel to the Republic of Poland between the Company, Mostostal Warszawa S.A. of Warsaw (“**Mostostal**”; the Company and Mostostal jointly: the “**Contractor**”), E003B7 Sp. z o.o. of Racibórz, which is the Company’s wholly-owned subsidiary (the “**Subsidiary**”), and TAURON Wytwarzanie S.A. of Jaworzno (“**TAURON Wytwarzanie**”), a settlement agreement was signed in connection with Contract No. 2013/0928/Ri for the development of new coal-fired generation capacities at TAURON Wytwarzanie S.A. – construction of a 910 MW supercritical power generation unit at the Jaworzno III Power Plant – Power Plant II: steam boiler, turbine generator set, main building, electrical and I&C systems (the “**Settlement Agreement**”, the “**Contract**”), and an amending annex to the Contract was executed, and (ii) Current Report No. 39/2023 of April 24th 2023 announcing that the Contractor, the Subsidiary and TAURON Wytwarzanie signed an annex to the Settlement Agreement, the Management Board of RAFAKO S.A. w restrukturyzacji (in restructuring) of Racibórz (the “**Company**”) announces that: (i) on April 24th 2023, the Company, the Subsidiary, Powszechna Kasa Oszczędności Bank Polski S.A. (“**PKO BP**”), Powszechny Zakład Ubezpieczeń S.A. (“**PZU**”) and mBank S.A. (“**mBank**”), (ii) and on April 25th 2023 also Bank Gospodarstwa Krajowego (“**BGK**”), (PKO BP, PZU, mBank and BGK being the guarantors who issued performance bonds for the Contract (the “**Guarantors**”)) entered into an agreement regarding mutual settlements between the Company, the Subsidiary and the Guarantors and acceptance of the Settlement Agreement by the Guarantors, referred to in Section 10 v. of the Company’s Current Report No. 27/2023 of March 31st 2023 (the “**Agreement with the Guarantors**”).

The material provisions of the Agreement with the Guarantors are as follows:

1. The Guarantors’ have made a representation that they have read and consent to the Settlement Agreement, and that they acknowledge execution of the Settlement Agreement;
2. It has been agreed that the Guarantors will pay to TAURON Wytwarzanie the amount of PLN 240,000,000.00 (two hundred and forty million złoty) referred to in the Settlement Agreement (the “**Call for Payment Amount**”) from the Guarantors' own funds;
3. The following conditions precedent to the Agreement with the Guarantors coming into force have been set:
 - i. delivery by the Company to the Guarantors of documents confirming that the Settlement Agreement is effective in the form of a statement by the Company, the Subsidiary, Mostostal and TAURON Wytwarzanie to the effect that the Settlement Agreement has come into force;
 - ii. delivery by the Company to the Guarantors of a relevant projection, together with a representation that, to the best knowledge of the Company's Management Board, the financial support from MS GALLEON GmbH (“**MSG**”) will result in the Company permanently regaining positive equity;

- iii. payment of the Call for Payment Amount by the Guarantors to TAURON Wytwarzanie;
- iv. the Guarantors' demand that the Company performs the obligations under performance bonds for the Contract it has guaranteed for the Subsidiary;
4. Subject to the conditions precedent to the Agreement with the Guarantors coming into force, referred to in Section 3 above, as well as the conditions precedent to the right and obligation of the Guarantors, referred to in Section 5 below, the Guarantors will have the right and obligation to subscribe for a total of 150,000,000 (one hundred and fifty million) Company shares issued pursuant to Resolution No. 4 of the Company's Extraordinary General Meeting of April 17th 2023 (the "**Shares**");
5. It has been agreed that the right and obligation of the Guarantors to subscribe for the Shares will be subject to the satisfaction of the conditions precedent to the Agreement coming into force, referred to in Section 3 above, as well as the following conditions:
 - i. a confirmation is received that MSG holds at least 35% (thirty-five percent) of the total number of shares and voting rights in the Company;
 - ii. the share of the Guarantors' Shares in the total number of shares and voting rights in the Company is less than 24% (twenty-four percent);
 - iii. MSG, the Company, or an entity designated by MSG or the Company, acquires from mBank S.A. of Warsaw and pays the price for mBank's arrangement claims against the Company;
6. It has been agreed that the Shares will be subscribed for by the Guarantors in exchange for a contribution in kind in the form of the Guarantors' claims against the Company (as the guarantor of its Subsidiary's obligations) relating to the payment by the Guarantors to TAURON Wytwarzanie of the Call for Payment Amount (the "**Debt Subject to Conversion**"), at the issue price set forth in Resolution No. 4 of the Company's Extraordinary General Meeting of April 17th 2023;
7. It has been agreed that upon conversion of the Debt Subject to Conversion into Shares (understood as the time when registration of the share capital increase which is the basis for the issuance of the Shares becomes final and the Shares are registered in the securities accounts of the Guarantors), the Company, the Subsidiary and the Guarantors will enter into an agreement implementing the Agreement with the Guarantors, concerning:
 - i. confirmation of the expiry of the agreements based on which the Guarantors issued, at the request of the Subsidiary, performance bonds for the Contract, and based on which the Company issued a guarantee for the Subsidiary's obligations;
 - ii. revocation by the Company and the Subsidiary of the authorisations granted to the Guarantors under the agreements referred to in Section 7. i. of this Current Report;
 - iii. confirmation of the expiry of the security provided under the agreements referred to in Section 7. i. of this Current Report;
 - iv. amendments to the Subsidiary's Articles of Association;
8. The Guarantors have agreed in good faith to consider the Company's and the Subsidiary's intention to reduce, to the maximum extent possible, the amounts due to the Guarantors under the final settlement of the agreements referred to in Section 7. i. above;
9. A standstill agreement has been made, to be effective from the coming into force of the Settlement Agreement until the conversion of the Debt Subject to Conversion into Shares (understood as the time when registration of the share capital increase which is the basis for the issuance of the Shares becomes final and the Shares are registered in the securities accounts of the Guarantors), but no longer than until December 28th 2023, which includes an obligation of the Guarantors not to assert or exercise any claims and rights under the agreements referred to in Section 7. i. of this Current Report against the Company and the Subsidiary, and not to take any action typical of

such standstill agreements, subject to conditions subsequent to such obligations of the Guarantors typical of standstill agreements.

Legal basis:

Article 17(1) of the Market Abuse Regulation – inside information.

Radosław Domagalski-Łabędzki – President of the Management Board

Dawid Jaworski – Vice President of the Management Board