

CURRENT REPORT FILED WITH THE POLISH FINANCIAL SUPERVISION AUTHORITY IN WARSAW

DATE: July 25th 2023

Subject: **Receipt and acceptance of offer to subscribe for Company shares and to acquire Company shares held directly or indirectly by PBG S.A. in restructuring in liquidation [Current Report No. 79/2023].**

Text of the report:

The Management Board of RAFAKO S.A. of Racibórz (the “**Company**”) announces that on July 24th 2023, the Company received a final offer from PG Energy Capital Management sp. z o.o. of Warsaw (the “**Investor**”) (the “**Offer**”) to subscribe for shares in the Company’s increased share capital and to acquire Company shares held directly or indirectly by PBG S.A. w restrukturyzacji w likwidacji (in restructuring in liquidation) (“**PBG**”).

On July 25th 2023, the Company’s Management Board received information that PBG had accepted the Offer. On the same day, the Company’s Management Board made a decision to accept the Offer and proceed with the transaction contemplated therein.

The key terms of the Offer are as follows:

1. The Investor will purchase from PBG and Multaros Trading Company Limited (“**Multaros**”) their entire holding of Company shares, comprising in total: 42,466,000 Company shares, for either:
 - a. a price per Company share being the sum of:
 - i. the amount of PLN 0.22 (twenty-two grosz) for each Company share held by PBG and Multaros, payable on the date when PBG and Multaros sell their holding of Company shares;
 - ii. an amount equivalent to 80% of the weighted average market price of Company shares for the 3 (three) months immediately preceding the first anniversary of the sale by PBG and Multaros of their holding of Company shares to the Investor, in each case not less than PLN 0.23 (twenty-three grosz) and not more than PLN 0.58 (fifty-eight grosz) (the “**Second Part of the Selling Price**”)
 - or
 - b. a price of PLN 0.67 (sixty-seven grosz) per Company share, payable in full on the date when PBG and Multaros sell their holding of Company shares;
 - c. the Investor will have the discretion to choose the price payment option during the period leading up to the scheduled closing date of the transaction.
2. If PBG and Multaros sell their holding of Company shares at the selling price described in item 1(a) above, the payment of the Second Part of the Selling Price will be secured by a pledge created by the Investor on: (i) 42,466,000 Company shares acquired by the Investor from PBG and Multaros, and (ii) 50,000,000 Company shares representing a portion of the holding of Company shares that the Investor will subscribe for in accordance with the terms of the Offer as further detailed below;
3. The Investor will subscribe for a total of 400 million new shares in the Company, at an issue price of PLN 0.10, that is for a total price of PLN 40m;

4. The Investor has set a condition precedent to the transaction, which is to stabilise the situation of RAFAKO and ensure its fast and credible return to the market through the establishment of a close partnership with entities of the Polish Development Fund Group (the “**PFR Group**”), namely PFR Fundusz Inwestycyjny FIZ AN (“**PFR TFI**”), Agencja Rozwoju Przemysłu S.A and Korporacja Ubezpieczeń Kredytów Eksportowych S.A., and securing substantial financial support from said institutions;
5. The Investor expects PFR TFI will subscribe for a total of 100 million new shares in the Company, at an issue price of PLN 0.10, that is for a total price of PLN 10m;
6. Following the subscription of shares in the Company’s increased share capital (as mentioned in items 4 and 5 above) and the acquisition by the Investor of Company shares from PBG and Multaros (as mentioned in item 1 above): (i) the Investor will hold a total of 442,466,000 Company shares, representing 48.2% of the Company’s share capital, and (ii) PFR RFI will hold 112,615,769 Company shares (including the shares it previously held), representing 12.3% of the Company’s share capital;
7. The Investor has set a condition for the Offer, which requires that the PFR Group entities provide or arrange, on market terms, the following for the Company:
 - a. a PLN 50m revolving credit facility;
 - b. a PLN 50m long-term credit facility, which can be utilised to repay the Company’s historical obligations on their maturity dates, under terms to be agreed upon by the parties;
 - c. a guarantee facility for financing the Company’s future projects, up to an amount of PLN 100m, with support from Korporacja Ubezpieczeń Kredytów Eksportowych S.A.
8. The Investor expects that during the transitional period until PBG and Multaros complete the sale of their holding of Company shares, RAFAKO’s Supervisory Board will be expanded to include six members, where:
 - a. two members will be designated by the Investor;
 - b. two members will be designated by the PFR Group;
 - c. two members will be designated by PBG.
9. The Investor expects that upon closing of the share sale transaction by PBG and Multaros, the Company’s Supervisory Board will be expanded to include seven members, where:
 - a. four members will be designated by the Investor;
 - b. two members will be designated by the PFR Group;
 - c. one independent member will be designated by PBG.
10. The Investor expects that during the transitional period until the transaction is closed, the Investor, the PFR Group and PBG will collectively agree on any changes to the Company’s Management Board;
11. The Investor expects that its acquisition of Company shares from PBG and Multaros will occur simultaneously with reaching an agreement on financing the Company by the PFR Group, and the Parties will undertake to use their best efforts to finalise both transactions by September 30th 2023, with an option to extend the time limit to October 31st 2023;
12. The Offer is subject to certain conditions, including, without limitation:
 - a. conversion of the Company’s debt obligations into equity, as provided in the Offer;
 - b. simultaneous adoption by the Company’s General Meeting of resolutions to issue shares to the Investor and PFR TFI on terms provided in the Offer and to issue shares into which the Company’s debt obligations specified in the Offer will be converted;
 - c. execution by the Investor, PFR TFI, Agencja Rozwoju Przemysłu S.A. and the issuers of the guarantee securing the construction by RAFAKO of a 910 MW unit in

- Jaworzno III Power Plant for Tauron Wytwarzanie S.A., of a lock-up agreement temporarily restricting the transferability of the Company shares held by these entities;
- d. fulfilment of the conditions stipulated by a separate, non-legally binding RAFAKO term sheet concluded between the Investor and PFR TFI, setting out the preliminary framework for further financing of the Company, including, without limitation, the terms and conditions governing collaboration between the Investor and PFR TFI regarding the transaction;
 - e. the Investor conducting due diligence;
 - f. the PFR Group entities providing financing to RAFAKO;
 - g. granting the Investor exclusive rights to execute the transaction contemplated in the Offer between July 26th 2023 and October 31st 2023;
 - h. agreeing on detailed transaction documents and obtaining required corporate approvals.
- 13.** The Offer is based on the following assumptions:
- a. the Company's debt obligations will be converted into Company shares amounting to PLN 412,000,000, with an issue price of PLN 1.60 per share;
 - b. the Company's outstanding debt obligations maturing within the next five (5) years (before the Company undergoes capitalisation through the transaction) will not exceed PLN 200,000,000;
 - c. the Company will have working capital of PLN 50,000,000 and guarantee facilities of PLN 100,000,000;
 - d. the net value of the Company's assets on a pro forma basis after the conversion of the Company's debt obligations into shares will not be less than PLN 25m, corresponding to PLN 0.05 per share;
 - e. the amending annex regarding the contract with JSW KOKS S.A. will be essentially agreed upon and signed simultaneously with the closing of the transaction;
 - f. the other contracts performed by the Company will be continued and amended if necessary;
 - g. the Company will resume negotiations with its Lithuanian customer (JSC Vilniaus kogeneracinė jėgainė) regarding liability arising from the decision of the arbitration tribunal.

Legal basis:

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

Maciej Stańczuk – President of the Management Board
Jolanta Markowicz – Commercial Proxy