

(Translation from the Polish language)

## **FINANCIAL SUPERVISORY COMMISSION**

### **Current report No 79/2016**

Date: 7 September 2016

Issuer's shortened name: KOPEX SA

Subject: **The signing of the agreement on the key terms of financial debt restructuring of the KOPEX SA and certain of its subsidiaries.**

Legal basis: Art. 17, Par.1 MAR – confidential information

#### **Contents of the report:**

In addition to the information concerning the debt restructuring process, published by KOPEX SA (hereinafter the Issuer or KOPEX SA) in the current reports RB13/2016, RB14/2016, RB15/2016, RB16/2016, RB46/2016, RB66/2016, RB67/2016, RB69/2016, RB71/2016 and RB77/2016, the Management Board of KOPEX SA informs that on 7 September 2016 the agreement on the key terms of financial debt restructuring of KOPEX SA and certain of its subsidiaries (hereinafter the Agreement) has been signed.

The signature of the Agreement brings the conclusion of negotiations between the Issuer, its certain subsidiaries, ie. KOPEX-Przedsiębiorstwo Budowy Szybów SA, KOPEX Machinery SA, Fabryka Maszyn i Urządzeń TAGOR SA, Śląskie Towarzystwo Wiertnicze DALBIS sp. z o.o., Zabrzańskie Zakłady Mechaniczne – Maszyny Górnicze sp. z o.o., KOPEX Hydraulika Siłowa sp. z o.o., Elgór+Hansen SA (hereinafter jointly the Subsidiaries) and the following banks: Powszechna Kasa Oszczędności Bank Polski SA, Bank Pekao SA, ING Bank Śląski, BGŻ BNP Paribas SA, HSBC Bank Polska SA, Deutsche Bank Polska SA, Raiffeisen Bank Polska SA (hereinafter jointly the Financing Banks), as well as TDJ Equity IV SA (hereinafter the Investor).

The Agreement specifies the selected assumptions of the restructuring process, however, it is not binding nor final document setting out the rules of the restructuring process, and does not regulate the right and obligations of the Agreement's parties.

Participation of the Financing Banks and the Investor in the process of debt restructuring of KOPEX SA and certain of its subsidiaries, including the amendment to the terms of the current financing granted to Kopex Group by the Financing Banks under the terms of the Agreement, as well as granting the Kopex Group a bailout financing is subject to arrangement and conclusion of legal documentation accepted by the parties to the Agreement.

It is expected that the preparation of complete restructuring documentation and conclusion of the restructuring agreement should take place no later than 30 November 2016.

Key terms of financial debt restructuring are as follows:

a) expected period of financial debt restructuring is 5 years (until 31 December 2021),

b) the restructuring shall concern the credit exposure of Powszechna Kasa Oszczędności Bank Polski SA, Bank Pekao SA, ING Bank Śląski SA, Bank BGŻ BNP Paribas SA, HSBC Bank Polska SA, existing as at 25 February 2016, increased by recourse claims arising to the date of the Agreement; the total value of the credit exposure and recourse claims amounts to approx. PLN 620 mill („the Balance-Sheet Exposure”); balance-sheet exposure for the restructuring has been divided into three parts with values approx. PLN 175 mill („the First Debt Tranche”), approx. PLN 260 mill („the Second Debt Tranche”) and approx. PLN 185 mill („the Third Debt Tranche”),

c) the restructuring shall concern exposure of guarantees and letters of credits of Deutsche Bank Polska SA, Powszechna Kasa Oszczędności Bank Polski SA, Raiffeisen Bank Polska SA, ING Bank Polska SA with a total value of approx. PLN 28 mill („the Off-Balance-Sheet Exposure”),

d) The First Debt Tranche will cover part of the Balance-Sheet Exposure in the amount of approx. PLN 175 mill and part of the Off-Balance Sheet Exposure in the amount agreed in the restructuring agreement; the First Debt Tranche will be refinanced through the issue by the Issuer, other company or companies belonging to the Issuer’s capital group, the bonds or other instrument, which (subject to compliance by the Issuer and the Investor certain conditions of restructuring) will be able to be subject to redemption by the Investor or an entity designated by the Investor for a price dependent on the results of the restructuring and the sale price of shares of KOPEX-Przedsiębiorstwo Budowy Szybów SA („Kopex-PBSz”) (in the case of sale); 33.39% of possible recourse claims arising from the Off-Balance-Sheet Exposure (in a moment of such claims) will also be subject to refinance on bonds; the bonds will be issued for a period up to 31 December 2021 and will not be subject to earlier scheduled repayment; the conditions for issuance of bonds will provide only the following cases of immediate redemption of all bonds: (i) the bankruptcy or liquidation of the issuer, (ii) delay in payment resulting from the bonds, which are due to bondholders in connection with the early redemption; the conditions for issuance of bonds shall also provide for the mandatory early redemption in the event of a surplus of more than a certain value proceeds from the possible sale of KOPEX-PBSz; The First Debt Tranche will be in the second place secured on the shares and assets of KOPEX Machinery SA and Elgór+Hansen SA. In addition, the issuer of bonds will submit in favour of the Financing Banks a statement on submission to execution on the grounds of article 777 of the Civil procedure code.

e) The Second Debt Tranche will cover part of the Balance-Sheet Exposure in the amount of approx. PLN 260 mill and part of the Off-Balance Sheet Exposure in the amount agreed; the Second Debt Tranche will be assigned to KOPEX-PBSz and will be paid according to a schedule starting from 2018, through the funds from the activity of KOPEX-PBSz; the Second Debt Tranche will also be subject to one-off repayment of proceeds from the sale of shares of KOPEX-PBSz, when it comes to such a sale within the disinvestment process provided for the restructuring plan of the Kopex Group; the Second Debt Tranche will be fully secured on all shares and total assets of KOPEX-PBSz (with the exception of real estate located in Katowice at ul. Grabowa 1). In addition, KOPEX-PBSz will submit in favour of the Financing Banks a statement on submission to execution on the grounds of article 777 of the Civil procedure code.

f) The Third Debt Tranche will cover part of the Balance-Sheet Exposure in the amount of approx. PLN 185 mill and part of the Off-Balance Sheet Exposure. The Third Debt Tranche will be assigned to the Issuer or its subsidiaries (other than KOPEX-PBSz). The Third Debt Tranche will be fully secured on shares and assets of KOPEX Machinery SA and Elgór+Hansen SA, and partly by way of guarantee granted by the entity from the TDJ Group in the amount of up to PLN 125 mill. for the period to 30 June 2022. In addition, the debtors of the Third Debt Tranche will submit in favour of the Financing Banks a statement on submission to execution on the grounds of article 777 of the Civil procedure code.

The Third Debt Tranche will be paid according to the following rules:

- approx. PLN 60 mill from the Third Debt Tranche will be paid immediately after the signing of the restructuring agreement, from the proceeds from repayment of loans and liabilities by the entities related to Mr. Krzysztof Jędrzejewski;
- the remaining part of the Third Debt Tranche (i.e. approx. PLN 125 mill) will be paid according to a schedule starting in 2019, through the funds from the activity of the Issuer or its subsidiaries (other than KOPEX-PBSz),
- in addition, the Third Debt Tranche will be subject to mandatory full repayment in the event of the optional sale of KOPEX Machinery SA and Elgór+Hansen SA to Famur SA, if such a transaction has been agreed upon in the future.

g) According to the Agreement, subject to agreeing and concluding the restructuring agreement with all the Financing Banks, the Investor will purchase the further shares of KOPEX SA from Mr. Krzysztof Jędrzejewski. It will result in the acquisition of majority shares of KOPEX SA in accordance with the transaction communicated by the Issuer in the current report RB18/2016 dated 17 March 2016.

h) After the acquisition of KOPEX SA shares by the Investor from Mr. Krzysztof Jędrzejewski, the entities related to Mr. Krzysztof Jędrzejewski will make an immediate repayment of the obligations of these entities to the Issuer and its subsidiaries. The net proceeds to be received by the Issuer and its subsidiaries in the amount of not less than PLN 60 mill will be immediately allocated to the partial repayment of the Third Debt Tranche from the Balance-Sheet Exposure and partial security of the Third Debt Tranche from the Off-Balance-Sheet Exposure.

i) Immediately after the signing of the restructuring agreement and security documents, the Financing Banks will release or count toward the above mentioned repayment of approx. PLN 60 mill., all funds of the Issuer and its subsidiaries that has been blocked by the Financing Banks after 25 February 2016 in the total amount of approx. PLN 45 mill.

j) The restructuring agreement will also confirm that Powszechna Kasa Oszczędności Bank Polski SA (PLN 7.9 mill) and ING Bank Śląski SA (PLN 10.6 mill) has satisfied their receivables due from the Issuer and its subsidiaries due to the Balance-Sheet Exposure assigned to the Third Debt Tranche by the funds blocked and cleared after 25 February 2016.

k) As a part of the conditions for restructuring of Kopex Group, the Investor declared to provide the Issuer and its subsidiaries the bailout funding in the amount of up to PLN 100 mill. Financing will be provided by the Investor after the conclusion of the restructuring agreement for a period of not longer than until 15 December 2018. Financing will be secured

on assets of the Issuer and its subsidiaries, which are not security for a debt of the Financing Banks (with the exception of real estate located in Katowice at ul. Grabowa 1). In addition, the Issuer will submit in favour of the Financing Banks a statement on submission to execution on the grounds of article 777 of the Civil procedure code.

l) Assumptions of the restructuring conditions also provide for transfer from the Issuer to another entity outside the Kopex Group the advanced payment bank guarantee and bank performance bond, granted by ING Bank Śląski SA on behalf of KOPEX SA in connection with one of the contracts of the Issuer.

m) As a part of the debt restructuring of the Kopex Group, the Bank BGŻ BNP Paribas SA will sale with discount all of its the Balance-Sheet Exposure to an entity of the TDJ Group.

n) To allow the repayment of the financial debt of the Kopex Group in connection with the restructuring, the Agreement provides that the Issuer and its subsidiaries will be obliged to implement the operational and asset restructuring plan providing, among others, sale of selected assets, including financial assets. Within this process, the Issuer in cooperation with the Financing Banks, and on dates agreed with the Banks, will start the process of selling Kopex-PBSz, as well as redundant assets, including real estate. The funds raised from the of Kopex Group's assets (after deducting reasonable transaction costs and taxes) will be used for the early repayment of bailout funding or the Financing Bank's receivables.