

**Justification for the draft resolutions to be adopted
by the Ordinary Shareholder Meeting of PKP CARGO S.A.
convened for 29 June 2022
on: (i) covering the net loss, and (ii) refraining from the distribution of
a dividend**

The Standalone Financial Statements of PKP CARGO S.A. for the financial year ended 31 December 2021 present a loss of PLN 223,287,411.98 (two hundred twenty-three million two hundred eighty-seven thousand four hundred eleven Polish zloty and 98/100). By resolution of 30 March 2022, the PKP CARGO S.A. Management Board proposed to cover the loss presented in the Standalone Financial Statements of PKP CARGO S.A. with retained earnings. This proposal has been approved by the PKP CARGO S.A. Supervisory Board.

In consideration of the foregoing and in the light of the Company's financial performance and its capital expenditure requirements, the PKP CARGO S.A. Management Board recommends to the PKP CARGO S.A. Ordinary Shareholder Meeting that no dividend be paid out for the financial year ended 31 December 2021.

**Justification for the draft resolution to be adopted
by the Ordinary Shareholder Meeting of PKP CARGO S.A.
convened for 29 June 2022
to amend the Bylaws of the Shareholder Meeting of PKP CARGO
Spółka Akcyjna**

The proposed amendments are as follows:

- 1) in § 12, sections 1–6 will be numbered 3–8;
- 2) in § 12, the following new sec. 1 and sec. 2 will be added:
 - “1. Draft resolutions of the Shareholder Meeting on matters put on the agenda should be tabled by shareholders no later than three business days before the Shareholder Meeting.
 2. Where the subject matter of the Shareholder Meeting is to be appointment to the Supervisory Board or appointment of the Supervisory Board for a new term of office, the candidates should be nominated with a notice necessary for the shareholders present at the Shareholder Meeting to make an informed decision and in any case no later than three business days before the Shareholder Meeting.”

The aim of the proposed amendments is to adapt the provisions of the *Bylaws of the Shareholder Meeting of PKP CARGO Spółka Akcyjna*, adopted by Resolution no. 64/2013 of the Extraordinary Shareholder Meeting of PKP CARGO S.A. with its registered office in Warsaw of 25 October 2013 (hereinafter referred to also as the “Bylaws”), to the latest set of corporate governance principles binding on the companies listed on the Main Market of the Warsaw Stock Exchange, that is the *Best Practice of GPW-Listed Companies 2021*, adopted by the Board of the Warsaw Stock Exchange on 29 March 2021 by resolution no. 13/1834/2021 on the adoption of the *Best Practice of GPW-Listed Companies 2021* (hereinafter referred to as “Best Practice”).

In principles 4.8 and 4.9./4.9.1., the Best Practice provides that:

“4.8. Draft resolutions of the shareholder meeting on matters put on the agenda of the shareholder meeting should be tabled by shareholders no later than three days before the shareholder meeting.

4.9. Where the subject matter of the shareholder meeting is to be appointment to the supervisory board or appointment of the supervisory board for a new term of office:

4.9.1. candidates for members of the supervisory board should be nominated with a notice necessary for shareholders present at the shareholder meeting to make an informed decision and in any case no later than three days before the shareholder meeting; the names of candidates and all related documents should be immediately published on the company’s website;”

The application of the corporate governance principles provided for in the Best Practice by listed companies is voluntary, but it is each listed company's obligation arising from the Bylaws of the Stock Exchange to inform about their application. As part of the obligation referred to in the previous sentence, on 29 July 2021, PKP CARGO S.A. published the *Information on the Application of the Code of Best Practice for WSE-Listed Companies 2021*.

For principles 4.8 and 4.9/4.9.1, PKP CARGO S.A. indicated:

"This principle has not been applied.

The Company's comment: The Company intends to propose to the Shareholder Meeting to adopt the provisions that would allow this principle to be applied."

Hence, the proposed amendments to the Bylaws are the fulfillment of the obligation adopted by PKP CARGO S.A., provided for in the *Information on the Application of the Code of Best Practice for WSE-Listed Companies 2021*.

**Justification for the draft resolution to be adopted
by the Ordinary Shareholder Meeting of PKP CARGO S.A.
convened for 29 June 2022 to give consent to PKP CARGO S.A.
entering into a contract for the management of a subsidiary as
referred to in Article 7 of the Commercial Company Code
(hereinafter referred to as the PKP Group Charter)**

I. Establishment of a holding structure in the PKP Group

The work on the establishment of a holding structure in PKP S.A. and subsidiaries was commenced at the end of 2017. This initiative is an outcome of numerous factors, including in particular the trend emerging in the European Union member states, which strives for intrasectoral consolidation of national enterprises. Strong, consolidated railway groups operate in the largest European Union member states, including Germany, France, Italy and Austria; the groups were formed according to a similar model, i.e. the lead role belongs to a strong, usually wholly state-owned parent company, and the holding members are mainly transport companies, infrastructural companies and other companies fulfilling ancillary functions in the process of a broadly defined rail transport. However, the formation of the PKP holding is not only a sign of following this EU trend, but also, and foremost, a way to strengthen the national railway, which is essential in the context of opening the rail transport market.

At the same time, it needs to be emphasized that PKP S.A.'s key task in the area of managing the PKP Group is still to develop holding-based management tools that will be effective in the long run. This is because reinstating PKP S.A. in the role of an integrator in the railway structure will enable coordination of investment, maintenance and transport processes, which will consequently contribute to a higher competitiveness of rail transport and unification of standards in the customer/passenger area.

II. PKP Group Charter

The draft PKP Group Charter:

- 1) sets out the primary goal of the PKP Group Charter, which is to ensure the successful pursuit of the PKP Group's strategic interests through:
 - a) developing the principles and structures, which will define and set out the PKP Group's Goals and Mission and enable reliable monitoring and evaluation of the steps taken by management boards of PKP Group Members and the effect of these measures for the operation of the Group;
 - b) including all significant projects in the PKP Group's Key Business Areas and Directions and in executive corporate strategies / multi-annual plans approved by the relevant bodies of the PKP Group Members;
 - c) introducing PKP Group management mechanisms;
 - d) optimizing the strategic decision-making processes in the PKP Group, strengthening cooperation in the PKP Group;

- e) increasing the PKP Group's financial and operational efficiency through specialization and limiting the redundancy of competences in the PKP Group;
 - f) ensuring a secure and efficient information flow in the PKP Group, including the information being the PKP Group Members' trade secret, inside information, personal data and other legally protected information;
 - g) unifying asset management principles in the PKP Group;
 - h) strengthening corporate governance and facilitating the implementation of PKP's ownership policy;
 - i) strengthening PKP's oversight over the activity of the PKP Group, to ensure that the business projects implemented by individual PKP Group Members are consistent;
- 2) sets forth the definition of the PKP Group's interest (the PKP Group's Interest is the commonality of the Parties' goals and entails balancing the interests of individual Parties and of the PKP Group);
 - 3) sets forth the definition of the PKP Group's Mission – it needs to be emphasized here that the definition of the PKP Group's Mission is consistent with the definition of the PKP Group's Mission accepted in the latest strategy for 2021–2025 (with an outlook to 2030);
 - 4) enumerates the areas where the companies' activities are to be integrated within the holding structures, including: strategy, economic analyses, corporate governance, procurement, IT and telecommunications, marketing, promotion and PR activities, finance and accounting, HR management, international cooperation, property management, rail geodetic services, security, audit and internal control, training and professional improvement, single market, and development of rail personnel's qualifications;
 - 5) sets the principles of management of the PKP Group;
 - 6) appoints the PKP Group bodies, including the PKP Group Management Board as the executive body and the PKP Group Board as the advisory and consultancy body, with the bodies not replacing the statutory bodies of the Group Members and cooperating with the Parties such that the obligations and rights of the statutory bodies of the PKP Group Members are not infringed;
 - 7) specifies the principles of adopting common policies applicable in the holding;
 - 8) specifies the principles of resolving discrepancies in the holding;
 - 9) specifies the information obligations of the holding companies;
 - 10) specifies the rules for becoming a Member: original membership begins when the Charter is concluded, while secondary membership begins when a new Member accedes to the Charter;
 - 11) specifies the rules for losing membership: each Party may terminate the PKP Group Charter upon a 6-month notice period with a terminating effect at the end of a calendar year; termination of the Charter by a Group Member has legal effects exclusively to the Member which submitted the notice of termination, which means that the Charter remains in force between the other Parties. Irrespective of the above, a notice of termination of the Charter may be submitted by PKP S.A. – such a termination submitted to all PKP Group Members will terminate the Charter in its entirety between all its Parties.

The PKP Group Charter is formulated such that it:

- 1) stipulates that PKP has no liability referred to in Article 7 of the Commercial Company Code for any damage caused to a PKP Group Member for the failure to exercise the rights or fulfill the obligations

or the improper exercise of the rights or fulfillment of the obligations provided for in the PKP Group Charter or for any liabilities of any PKP Group Member to its creditors;

- 2) guarantees independence of the PKP Group Members with the status of rail infrastructure managers in the performance of their core functions (i.e. decisions concerning the provision of rail infrastructure and charging of fees for using rail infrastructure);
- 3) **ensures that its performance may not infringe on the requirements related to a public company status held by a PKP Group Member.**

According to information provided by PKP S.A., the following entities are expected to accede to the PKP Group Charter:

- 1) PKP S.A.,
- 2) PKP CARGO S.A.,
- 3) "PKP Intercity" S.A.,
- 4) "PKP Informatyka" Sp. z o.o.,
- 5) PKP Linia Hutnicza Szerokotorowa Sp. z o.o.,
- 6) PKP Szybka Kolej Miejska w Trójmieście Sp. z o.o.,
- 7) PKP TELKOL Sp. z o.o.,
- 8) "Xcity Investment Sp. z o.o.",
- 9) "CS NATURA TOUR" Sp. z o.o.,
- 10) Kolejowe Zakłady Łączności Sp. z o.o.,
- 11) PKP Intercity Remtrak Sp. z o.o.,
- 12) WARS S.A.,
- 13) PKP CARGO TERMINALE sp. z o.o.,
- 14) PKP CARGOTABOR sp. z o.o.,
- 15) PKP CARGO SERVICE sp. z o.o.,
- 16) PKP CARGO CONNECT sp. z o.o.,
- 17) CARGOSPED Terminal Braniewo Sp. z o.o.,
- 18) "TRANSGAZ" S.A.

According to the PKP Group Charter, any company, whether it is engaged in PKP Group's core business or non-core business, may become a PKP Group Member. Therefore, two types of membership have been introduced:

- 1) Key Companies**, including PKP CARGO S.A., which are PKP Group Members active within the PKP Group's core business or are important for the PKP Group's Key Business Areas and Directions; they are listed in Appendix 1 to the PKP Group Charter, and
- 2) Supporting Companies** – other entities listed in Appendix 2 to the PKP Group Charter.

III. Benefits of signing the PKP Group Charter:

The establishment of a holding structure in PKP S.A. and subsidiaries will contribute to:

- 1) improvement of management of the PKP Group;
- 2) achievement of greater cost efficiency;
- 3) raising of standard for services provided within the PKP Group – companies forming the holding are companies with complementary competencies; the formula of a holding provides a greater opportunity for cooperation in the implementation of joint projects and a common mission, using

the business potential of all the entities, but also to the benefit of all – this is a situation where each of the companies achieves benefits resulting from the group’s activities and these effects would not be achievable if each company acted on its own;

- 4) achievement of image and diplomatic benefits – a holding ensures a stronger position of the group internationally;
- 5) unification of standards of activity within the PKP Group;
- 6) achievement of synergies in individual areas of cooperation.

Importantly, the formal establishment of a group will not bring back the activity within a single entity or, so to speak, a “reversal” of effects of the act on the commercialization and restructuring of the state enterprise “Polskie Koleje Państwowe”. Indeed, a holding is just a tool/formula to ensure coordination and cooperation of companies operating in the rail sector, aligned towards the attainment of a common mission, however with full respect for their autonomy and statutory requirements, such as those imposed on infrastructure managers or on companies holding a public company status. Therefore, a holding is an opportunity for all companies to strengthen their market position rather than an attempt to diminish their importance.

It must be emphasized that the adoption of the PKP Group Charter by PKP CARGO S.A. is aligned with the Company’s development strategy, namely Initiative 11 “Optimizing decision-making processes and customizing the PKP Cargo Group’s structure”. This initiative provides for tidying up and dividing, by area, the resources and powers of PKP CARGO Group companies in accordance with the concept of PKP Group’s holding structure, i.e. 5 planned operational areas taking into account the geographical differences in the activity of Group companies: rolling stock, intermodal, terminal, maintenance and international.

IV. Risks and restrictions associated with joining the PKP Group

Execution of a management contract referred to in Article 7 of the Commercial Company Code by PKP CARGO S.A. will oblige the Company to coordinate its activities on an ongoing basis with PKP S.A.

By signing the PKP Group Charter, the Company undertakes to cooperate with PKP Group Members **in the Cooperation Areas**. The Cooperation Areas include: internal audit and internal control, strategy, economic analyses, corporate governance, procurement, IT and telecommunications, marketing, promotion, PR activities, finance, accounting, HR management, international cooperation, legal and organizational activities, common market, property management, rail geodetic services, security, training and professional improvement and development of rail personnel. Additionally, the Management Board of the PKP Group will issue regulations effective in each Cooperation Area in the form of PKP Group Policies, adopted by way of a resolution of the PKP Group Management Board. The Policies mentioned above include: (i) The Policy for Provision of Information and Documents in the PKP Group, (ii) The Corporate Governance Policy for PKP Group Companies, and (iii) The Accounting Policy of the PKP Group.

The Policy for the Provision of Information and Documents in the PKP Group obliges the signatories of the PKP Group Charter to provide PKP S.A. with specific information pertaining to the current activity of the entity in respective areas of its operation. In particular, PKP S.A. is authorized to: receive information on the planned and completed investment undertakings; information on annual material and financial plans; information on the intention to commission advisory services from selected entities, information on the intention to apply for an individual tax interpretations, or information on significant court disputes. The information mentioned above is provided to PKP S.A. promptly, but no later than within 5 calendar days after the event occurs or after the Company learns about the event.

The Company has obtained a legal opinion from attorney Krzysztof Haładaj LLD from the Law Firm MJH Moskwa, Jarmuż, Haładaj i Partnerzy – Adwokaci i Radcowie Prawni Sp. P. in Warsaw, concerning PKP

CARGO S.A.'s capacity to join the PKP Group Charter. According to the legal opinion of 13 May 2022, PKP CARGO S.A. as a public company may enter into a management contract referred to in Article 7 of the Commercial Company Code. The legal opinion also noted that if PKP CARGO S.A. decided to join the PKP Group and therefore to introduce certain mechanisms increasing PKP S.A.'s control over the Company, the Company must be sure that there are "reasonable objective business criteria and the access to the Group's Charter must be in the company's interests". Also, PKP CARGO S.A. as a public company is obligated to observe capital market regulations concerning the protection and publication of inside information in order to eliminate information asymmetry. As a result, the Company will have to assess whether information provided to PKP S.A. under the Group Charter constitutes inside information within the meaning of Regulation of the European Parliament and of the Council (EU) No. 596/2014 of 16 April 2014 on market abuse (hereinafter: "MAR"). If the Company classifies certain information as inside information, it will have to monitor the process of disclosing it to PKP S.A. and, if such information is classified as inside information, mark it accordingly. In such a situation, PKP CARGO S.A. should inform PKP S.A. of the restrictions associated with access to insider information (prohibition of insider trading) and take all actions based on the MAR and the Company's own regulations governing the protection of inside information, drawing up a list of persons having access to inside information (so-called Insiders) and informing the individuals with access to inside information of their obligations.

V. Features of PKP CARGO S.A. as a public company

In the course of work on the draft PKP Group Charter, PKP CARGO S.A. raised objections to PKP S.A. regarding the wording of the management contract within the meaning of Article 7 of the Commercial Company Code. In its letter of 8 February 2019, PKP CARGO S.A. pointed among others to the concerns associated with PKP CARGO S.A.'s status as a public company, i.e. its obligations related to its disclosure obligations and protection of inside information.

To address PKP CARGO S.A.'s concerns regarding to its signing of the management contract within the meaning of Article 7 of the Commercial Company Code, the following was stipulated in the PKP Group Charter: *"The functioning of PKP Group Members with a special legal status resulting from mandatory provisions of law within the PKP Group, in particular where the PKP Group Member discharges the function of an infrastructure manager or has the status of a public company, may not infringe on the requirements for these entities to maintain independence with regard to their Core Functions, as well as the requirements related to their public company status" (§17 section 4 of the PKP Group Charter).*

VI. Other

In order to implement the provisions of the PKP Group Charter, the Company will be obliged, within 3 months of the date of signing the PKP Group Charter, to introduce the provisions referred to in Appendix 6 to the Charter into the PKP CARGO S.A. Articles of Association (in particular the provisions stipulating that the Company's objective is to conduct a business geared towards the pursuit of PKP Group's interests).