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Current report no 16/2017

Information on filing a lawsuit against Energa-Operator S.A. as regards claims for damages in connection with a dispute concerning the execution of significant contracts

Legal basis: Art. 17.1 of the Market Abuse Regulation

Content of the report:

The Management Board of **ARCUS S.A.** (hereinafter “**the Issuer**”) hereby discloses the information that today was notified on filing by the Issuer’s legal representative for litigation purposes of a lawsuit with the Court of Appeals in Gdańsk, 9th Commercial Division (“the Lawsuit”) against Energa-Operator S.A. with its registered office in Gdańsk (“Energa”) on the basis of which the Issuer and T-matic Systems S.A. (“T-matic”) as Claimants, pursue claims in the amount of PLN 174,111,458.96 along with the statutory interest thereon to be paid by Energa as compensation for the damage to the Claimants deriving from the tort/ an act of unfair competition committed by Energa in connection with the ongoing multi-faceted dispute (“Dispute”) concerning the validity, performance and mutual claims arising from and related to the conclusion and execution by Claimants for the benefit of Energa of several implementation agreements for the delivery and setting up of meter infrastructure (agreements no ZP/62AZU/2011, no ZP/63/AZU/2011, no ZP/64/AZU/2011, no W/1/AZU/00071/12), as well as implementation agreements for the development of the PLC-based intermediate infrastructure in the assembly area, (agreements no ZP/66/AZU/2011 and ZP/67/AZU/2011) concluded in the period between 25 August 2011 and 1 February 2013 as a result of public procurement procedure (hereinafter “the Implementation Agreements”). The information on significant events associated with the Dispute was disclosed by the Issuer in current reports no 3/2015, 21/2015, 22/2015, 24/2015, 25/2015, 2/2017, 4/2017, 5/2017, 6/2017.

The Claimants puts forward the pleas alleging that Energa is liable for damages (both tortious and contractual) to Claimants with regard to the negative consequences of the actions and omissions related to the creation, escalation and failure to terminate the Dispute. In the opinion of the Claimants, unreasonable and unlawful request of Energa (as the ordering party) for the payment of significant amounts as claims in relation to the performance of the Implementation Agreements, including charging contractual penalties and inducing by Energa to the expansion of the Dispute, as well as failure of Energa to pay of amounts due in connection with works performed, resulted in the damage to the Claimants which was related to the occurrence of circumstances which negatively affecting the business activity performed by the Claimants as well as their functioning in the economic transactions, translating into concrete property damage. The misconduct of Energa constituted a direct and exclusive cause of the deterioration of the financial situation of the Claimants and loss of funds in the amount claimed.

In particular, the unreasonable charging of contractual penalties in the amount of grossly unfair, whilst being aware of the Issuer’s obligation to disclose this information to the public (disclosure requirements) could be regarded as a violation of the principles of loyalty and fairness in trade as

well as also as an abuse of rights in connection with the contradiction with public policy of coexistence.

In this respect, Energa shall be assigned the commitment of the act of unfair competition within the meaning of the Act of 16 April 1993 on Counteraction to Unfair Competition, due to its actions contrary to the law or morality, which threatens or violates the interests of Claimants as entrepreneurs. The application also includes Claimants' request for exemption from the obligation to pay procedural costs, including a court fee for the application.

SIGNATURES OF PERSONS REPRESENTING THE COMPANY:

Michał Czeredys – President of the Management Board

Rafał Czeredys – Member of the Management Board