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ACT

of 10 June 2016

on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution^{1), 2)}

PART I

General Provisions

Chapter 1

Scope of the Act and definitions

Article 1. 1. The Act defines:

- 1) the purpose of the activities, tasks and organisation of the Bank Guarantee Fund, hereinafter referred to as the "Fund";
- 2) the rules of the mandatory deposit guarantee scheme;

¹ This Act implements:

- Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (EU OJ L 173, 06.12.2014, p. 190)
- Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on Deposit Guarantee Schemes (EU OJ L 173, 06.12.2014, p. 149)

² This Act amends the Act: the Act of 14 June 1960. - Code of Administrative Procedure, the Act of

17 November 1964 - Code of Civil Procedure, the Act of 6 July 1982 on Land and Mortgage Register, Law of 16 September 1982 - Cooperative Law, the Act of 15 February 1992 on Corporate Income Tax, Act of 20 August 1997 on the National Court Register, Banking Act of 29 August 1997, Act of 29 August 1997 on Mortgage Bonds and Mortgage Banks, the Act of 29 August 1997 on the National Bank of Poland, Act of 15 September 2000 - Code of Commercial Companies, Act of 7 December 2000 on the Operation of Cooperative Banks, their Mergers and Affiliating Banks, Act of 6 September 2001 on Access to Public Information, Act of 30 August 2002 - Law on Proceedings Before Administrative Courts, Act of 28 February 2003 - Bankruptcy Law, Act of 29 January 2004 - Public Procurement Law, Act of 20 April 2004 on Individual Retirement Accounts and Individual Retirement Security Accounts, Act of 27 May 2004 on Investment Funds and the Management of Alternative Investment Funds, Act of 29 July 2005 on Capital Market Supervision, Act of 29 July 2005 on Trading In Financial Instruments, Act of 29 July 2005 on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading System and Public-owned Companies, Act of 21 July 2006 on Financial Market Supervision, Act of 12 February 2009 on the Provision of State Treasury Support to Financial Institutions, Act of 5 November 2009 on Credit Unions, Act of 12 February 2010 on Recapitalisation of Certain Financial Institutions, Act of 16 September 2011 on the Protection of the Rights of a Buyer of a Dwelling or a Detached House, Act of 15 May 2015 - Restructuring Law, Act of 5 August 2015 on Macro-Prudential Oversight of the Financial System and Crisis Management in the Financial System and Act of 15 January 2016 on Tax on Certain Financial Institutions, whereas the Act of 14 December 1994 on the Bank Guarantee Fund shall be repealed.

- 3) the principles of write down or conversion of capital instruments;
- 4) the principles of preparation and conduct of resolution;
- 5) the rules for the collection and use of information in order to carry out the tasks of the Fund.

2. The provisions of the Act shall not apply to Bank Gospodarstwa Krajowego.

Article 2. The terms used in this Act shall mean:

- 1) bank - a domestic bank within the meaning of Article 4 paragraph 1 point 1 of the Banking Act;
- 2) bank under restructuring - bank with reference to which a competent authority for resolution has issued the decision referred to in Article 101 paragraph 7;
- 3) depositor - person or entity entitled to a pecuniary benefit referred to in Article 20 and Article 21;
- 4) parent mixed financial holding company in a Member State – parent mixed financial holding company in a Member State referred to in Article 4 paragraph 1 point 32 of Regulation No 575/2013;
- 5) parent financial holding company in a Member State - parent financial holding company in a Member State referred to in Article 4 paragraph 1 point 30 of Regulation No 575/2013;
- 6) parent institution in a Member State - parent institution in a Member State referred to in Article 4 paragraph 1 point 28 of Regulation No 575/2013;
- 7) banking business - performing transactions referred to in Article 5 or Article 6 of the Banking Act
- 8) brokerage business - business referred to in Article 69 paragraph 2 of the Act on Trading in Financial Instruments, as well as business referred to in Article 69 paragraph 4 thereof if it is carried out jointly with the business referred to in Article 69 paragraph 2 thereof;
- 9) working day - a day from Monday to Friday, excluding public holidays;
- 10) day of fulfilment of the guarantee condition:
 - a) in the case of a bank - the date of suspension of the bank's operations designated in the decision of the Polish Financial Supervision Authority referred to in Article 158 paragraph 1 or 2 of the Banking Act and the establishment of conservatorship, unless it has been established previously, and filing a petition for bankruptcy to the competent court or the date where the Fund files a petition for bankruptcy to the competent court referred to in Article 230 paragraph 2 item 1,
 - b) in the case of a branch office of a foreign bank - the date of the court decision on the recognition of the ruling to initiate foreign bankruptcy proceedings referred to in Article 379 point 1 of the Act – Bankruptcy Law towards a foreign bank which operates in the territory of the Republic of Poland through a branch or the day of the initiation of bankruptcy proceedings involving the assets of a foreign bank located in the territory of the Republic of Poland,
 - c) in the case of a credit union – the date of suspension of credit union business designated in a decision of the Polish Financial Supervision Authority referred to in Article 74k paragraph 1 or 2 of the Act on Cooperative Savings and Credit Unions and the appointment of the conservator, unless it has been previously established and filing a petition for bankruptcy to the competent court or the date where the Fund files a petition for bankruptcy to the competent court referred to in Article 230 paragraph 2 point 2;
- 11) European Banking Authority – European Banking Authority referred to in Regulation No 1093/2010;
- 12) financial holding company - financial holding company referred to in Article 4 paragraph 1 point 20 of Regulation No 575/2013;
- 13) mixed financial holding company – a mixed financial holding company referred to in Article 4 paragraph 1 point 21 of Regulation No 575/2013;
- 14) investment firm - brokerage house within the meaning of the Act on Trading in Financial Instruments which holds a permit to operate in the scope referred to in Article 69 paragraph 2 item 3 or 7 thereof;
- 15) investment firm under restructuring - investment firm towards which a competent authority for resolution has issued the decision referred to in Article 101 paragraph 7;

- 16) own funds - own funds referred to in Article 4 paragraph 1 paragraph 118 of Regulation No 575/2013;
- 17) critical functions - services, operations or other business of an entity or group, the cessation of which could result in interference in the operation of the economy or threaten financial stability in one or more Member States of the European Union because of the size of an entity or group, their market share complexity, cross-border business, economic or financial ties, in particular taking into account the ability to perform these services, operations or other business by others;
- 18) main line of business – part of business separated for the needs of management, which constitutes an important source of revenue, profit or goodwill for an entity or a group which includes an entity;
- 19) group – parent entity referred to in Article 4 paragraph 1 point 15 point of Regulation No 575/2013 and subsidiaries referred to in Article 4 paragraph 1 point 16 of the Regulation;
- 20) group resolution plan - a plan drawn up by a competent authority for the resolution of a group defining the way in which that authority intends to restructure the group;
- 21) mixed activity holding company - mixed activity holding company referred to in Article 4 paragraph 1 point 22 of Regulation No 575/2013;
- 22) derivatives - derivatives referred to in Article 2 point 5 of Regulation No 648/2012;
- 23) financial instruments - financial instruments referred to in Article 2 of the Act on Trading in Financial Instruments;
- 24) financial institution - financial institution referred to in Article 4 paragraph 1 point 26 of Regulation No 575/2013;
- 25) credit institution - credit institution referred to in Article 4 paragraph 1 point 1 of Regulation No 575/2013 established in the territory of a Member State other than the Republic of Poland;
- 26) bridge institution - an entity having the Fund as its sole shareholder or the parent company created to assign equity interest of an entity under restructuring, its business or property rights or liabilities of an entity under restructuring with a view to continuing in full or in part of business pursued by an entity under restructuring;
- 27) major branch:
 - a) in the case of a branch of a credit institution - branch office considered major in accordance with Article 141f paragraph 13 of the Banking Act,
 - b) in the case of a branch of a foreign investment firm referred to in Article 3 point 32 of the Act on Trading in Financial Instruments - branch considered major in accordance with Article 110f. 2 thereof,
 - c) in the case of a branch of a domestic entity operating outside the territory of the Republic of Poland - branch considered major by the authorities of a host State;
- 28) credit union – cooperative credit union;
- 29) National Association of Credit Unions - National Association of Cooperative Savings and Credit Unions;
- 30) credit union under restructuring – credit union towards which the competent authority for resolution has issued the decision referred to in Article 101 paragraph 7;
- 31) resolution college - collective body established pursuant to Article 127 paragraph 1;
- 32) central counterparty - central counterparty referred to in Article 2 point 1 of Regulation No 648/2012;
- 33) domestic parent entity:
 - a) a bank or investment firm which is an EU parent institution,
 - b) an EU parent financial holding company or an EU parent mixed financial holding company, if they are covered by the consolidated supervision exercised by the Polish Financial Supervision Authority;
- 34) a mandatory deposit guarantee scheme - a system of guarantees of funds operating hereunder;
- 35) branch of a foreign bank - a branch of a foreign bank within the meaning of Article 4 paragraph 1 point 20 of the Banking Act;
- 36) officially recognised deposit guarantee scheme - a system of guarantees of funds, created and officially recognised in a Member State;

- 37) Member State - a member state of the European Union or the European Economic Area;
- 38) third state – a State other than a Member State;
- 39) resolution plan - a plan drawn up by the competent authority for resolution, defining a manner in which the authority intends to restructure an entity, including the use of instruments of resolution
- 40) domestic entity - a bank, investment firm or credit union;
- 41) entity covered by the deposit guarantee scheme - subject to the mandatory deposit guarantee scheme:
 - a) bank,
 - b) branch of a foreign bank, unless it is a participant of the deposit guarantee scheme or a deposit guarantee scheme in which it participates provides a guarantee of funds at least to the extent and in the amount specified in the Act,
 - c) credit union;
- 42) residual entity - an entity under restructuring towards which the Fund has issued a decision to liquidate or entered a petition for a declaration of bankruptcy;
- 43) entity authorised to represent - in the case of:
 - a) bank – management board, conservatorship, liquidator, administrator or attorney appointed by the Fund, and if a bank has been declared bankrupt - receiver,
 - b) branch of a foreign bank - branch manager or foreign administrator referred to in Article 379 point 4 of the Act - Bankruptcy Law,
 - c) credit union - management board, conservator, liquidator, administrator or attorney appointed by the Fund, and if a credit union has been declared bankrupt - receiver;
- 44) entity under restructuring - entity towards which the competent authority for resolution has issued the decision referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4;
- 45) subsidiary - subsidiary referred to in Article 4 paragraph 1 point 16 of Regulation No 575/2013;
- 46) asset management company - an entity having the Fund as its sole shareholder or a parent company created to transfer property rights and related liabilities of an entity under restructuring or a bridge institution with a view to managing those rights, including their sale or liquidation;
- 47) major entity - an entity which individually satisfies one of the conditions:
 - a) the total value of its assets determined as per the most recently approved financial statement exceeds the PLN equivalent of EUR 30 000 000 000 as per the average exchange rate of the last working day of the previous year, announced by the National Bank of Poland,
 - b) the ratio of the total value of its assets to gross domestic product of the Member State where it is established, exceeds 20%, unless the value of its assets determined as per the most recently approved financial statement is lower than the PLN equivalent of EUR 5 000 000 000 as per the average exchange rate of the last working day of the previous year, announced by the National Bank of Poland;
- 48) rights attached to shares - stocks and shares, subscription rights, rights to shares, subscription warrants and other negotiable securities incorporating property rights corresponding to rights arising from shares and other negotiable property rights which arise as a result of issues, incorporating the right to purchase or assume securities referred hereinabove;
- 49) sale of business tool - an instrument of resolution involving acquisition of:
 - a) undertaking operated by an entity under restructuring or
 - b) some or all of the property rights of an entity under restructuring or some or all of the liabilities of that entity, or
 - c) rights attached to shares in an entity under restructuring;
- 50) account with an entity covered by the guarantee scheme - a bank account with a bank or branch of a foreign bank or account with a credit union;

- 51) register of financial instruments - electronic register of open positions from transactions in financial instruments operated by an entity and providing an option to obtain without delay all data allowing a data recipient, in particular, the identification of the type of financial instrument, receivables and liabilities arising from transactions, transaction currency, parties to the transaction, the date of transaction, settlement method, transaction collateral and the law applicable to the transaction;
- 52) Regulation No 1093/2010 - Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing the European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (EU OJ UE L 331 of 15.12.2010, p. 12, as amended);
- 53) Regulation No 648/2012 - Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EU OJ L 201 of 27.07.2012, p. 1, as amended);
- 54) Regulation No 575/2013 - Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (EU OJ L 176, 27.06.2013, p. 1, as amended);
- 55) Regulation No 2015/63 - Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements (EU OJ L 11, 17.1.2015, p. 44);
- 56) regulated market - regulated market referred to in Article 14 paragraph 1 of the Act on Trading in Financial Instruments;
- 57) fulfilment of the guarantee condition:
 - a) in the case of a bank:
 - in the case of a bank - the Polish Financial Supervision Authority decision to suspend the business of the bank referred to in Article 158 paragraph 1 or 2 of the Banking Act and the establishment of conservatorship, unless it has been established previously and filing the petition for bankruptcy to the competent court, or
 - filing by the Fund of the petition for bankruptcy to the competent court referred to in Article 230 paragraph 2 point 1,
 - b) in the case of a branch of a foreign bank - issuance of a court decision on the recognition of the ruling to initiate the foreign bankruptcy proceedings referred to in Article 379 point 1 of the Act – Bankruptcy Law with reference to a foreign bank which operates in the Republic of Poland through a branch or bankruptcy proceedings involving the assets of a foreign bank located in the territory of the Republic of Poland,
 - c) in the case of a credit union:
 - the issuance by the Polish Financial Supervision Authority of a decision on suspension of credit union business as referred to in Article 74k paragraph 1 or 2 of the Act on Credit Unions, and the appointment of the conservator, unless it has been appointed previously, and filing the petition for bankruptcy to the competent court, or
 - filing by the Fund of the petition for bankruptcy to the competent court as referred to in Article 230 paragraph 2 point 2;
- 58) host system - officially recognised deposit guarantee system in a Member State other than the Republic of Poland on the territory of which an entity covered by the guarantee system carries on its business through a branch;
- 59) home-country deposit guarantee scheme - officially recognised deposit guarantee system which affiliates the credit institution referred to in Article 4 paragraph 1 point 17 of the Banking Act in the Member State in which the credit institution has been authorised to pursue business and on the territory of which it is established;
- 60) institutional protection system - institutional protection system referred to in Article 113 paragraph 7 of Regulation No 575/2013;
- 61) payment system - payment system referred to in Article 1 point 1 of the Act on Settlement Finality;
- 62) compensation system - compensation system referred to in Article 133 paragraph 1 of the Act on Trading in Financial Instruments;

- 63) settlement system - securities settlement system referred to in Article 1 point 2 of the Act on Settlement Finality;
- 64) calculation system – IT system of an entity covered by the guarantee system designed to ensure the option of forthwith obtaining data to identify depositors and to determine the amount of funds guaranteed due to individual depositors;
- 65) guaranteed funds – depositor funds covered by the guarantee protection to the amount referred to in Article 24 paragraph 1, 3 and 4;
- 66) funds to finance the resolution of banks and investment firms - sums for use held in the resolution fund of banks and the amount of payment commitments referred to in Article 303 paragraph 1 of banks, investment firms and branches of foreign banks;
- 67) funds to finance the resolution of credit unions - sums held for use in the resolution fund for credit unions and the amount of payment commitments referred to in Article 303 paragraph 1 of credit unions covered by the mandatory guarantee scheme;
- 68) funds covered by the guarantee protection – depositor funds protected in accordance with Article 17-19;
- 69) funds of the deposit guarantee scheme in banks - sums for use held in the guarantee fund of banks and in the statutory fund after deducting the value of tangible assets and intangible assets, and the amount of payment commitments referred to in Article 303 paragraph 1 of banks or branches of foreign banks covered by the mandatory guarantee scheme;
- 70) funds of the deposit guarantee system in credit unions- sums held for use in the guarantee fund of credit unions and the amount of payment commitments referred to in Article 303 paragraph 1 of credit unions covered by the mandatory guarantee scheme
- 71) write down or conversion of liabilities - an instrument of resolution involving write down of liabilities to cover losses or conversion of liabilities into capital instruments;
- 72) EU parent financial holding company - EU parent financial holding company referred to in Article 4 paragraph 1 point 31 of Regulation No 575/2013;
- 73) parent mixed EU financial holding company - mixed EU parent financial holding company referred to in Article 4 paragraph 1 point 33 of Regulation No 575/2013;
- 74) EU parent institution - EU parent institution referred to in Article 4 paragraph 1 point 29 of Regulation No 575/2013;
- 75) Act on Trading in Financial Instruments - Act of 29 July 2005 on Trading in Financial Instruments (Dz. U. [*Journal of Laws*] of 2014 item 94, as amended.³);
- 76) Act on Settlement Finality - Act of 24 August 2001 on Settlement Finality in payment and securities settlement systems and the supervision of such systems (Journal of Laws of 2013 item 246 and 1036 of 2015 item 978 and of 2016 item 615);
- 77) Act on Cooperative Savings and Credit Unions - Act of 5 November 2009 on Act on Cooperative Savings and Credit Unions (Journal of Laws of 2013 item 1450 as amended.⁴);
- 78) Banking Act - the Banking Act of 29 August 1997 (Journal of Laws of 2015 item 128, as amended.⁵);
- 79) Act - Bankruptcy Law - the Law of 28 February 2003 - Bankruptcy Law (Journal of Laws of 2015 item 233, 978, 1166, 1259 and 1844 and of 2016 item 615);
- 80) binding mediation - the procedure laid down in Article 19 of Regulation No 1093/2010;
- 81) owner - a shareholder, member or partner of a cooperative;
- 82) competent authority for resolution - Member State authority performing tasks related to the resolution or a Single Resolution Board (SRB) established under Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (EU OJ L 225, 30.07.2014, p. 1);
- 83) competent authority for the resolution of a group - authority for resolution competent in a Member State, the supervisory authority of which exercises supervision on a consolidated basis, or a Single Resolution Board (SRB)

³ Amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2014 item 586 of 2015, item 73, 978, 1045, 1223, 1260, 1348, 1505, 1513, 1634, 1844 and 1890 and of 2016, item 65, 615 and 904.

⁴ Amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2015 item 978, 1158, 1259, 1311, 1830, 1854, 1864 and 2281 and of 2016 item 615 and 904.

⁵ Amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2015, item 559, 978, 1166, 1223, 1260, 1311, 1348, 1357, 1513, 1634, 1830, 1844, 1854, 1864 and 2281 and of 2016, item 615 and 904.

established under Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010);

- 84) competent authority for the resolution of a major branch - competent authority for resolution in the Member State in the territory of which an entity has established a major branch;
- 85) competent authority for the resolution of a subsidiary - competent authority for resolution in the Member State in the territory of which a subsidiary has been established;
- 86) competent third-country authority for resolution - third-country authority for resolution performing tasks related to resolution;
- 87) collective decision - arrangement taken within the resolution college by the competent authorities for resolution;
- 88) separation of property rights - instrument of resolution involving a transfer of selected property rights and related liabilities of an entity under restructuring or a bridge institution to an asset management company;
- 89) foreign proceedings of resolution - resolution initiated in a third country;
- 90) foreign entity under restructuring - entity registered in a third country towards which a decision has been issued to initiate resolution.

Chapter 2

Status, tasks and organs of the Fund

Article 3. 1. The Fund shall be a legal person performing the tasks specified in the Act.

2. The seat of the Fund shall be based in Warsaw.

3. The Fund is not a state legal person nor an entity of the public finance sector.

4. The Minister competent for financial institutions shall, by way of a regulation, establish the statute of the Fund which define in detail the tasks, organisation and rules of creation and use of own funds, on considering the smooth operation of the Fund and the objectives of its operation.

Article 4. The objective of the operation of the Fund is taking measures to ensure the stability of the domestic financial system, in particular by ensuring the operation of the mandatory deposit guarantee scheme and the conduct of mandatory restructuring.

Article 5. 1. The Fund shall be engaged in the following tasks:

- 1) performance of the obligations arising from the deposit guarantee, in particular, paying guaranteed funds to depositors;
- 2) control of the data contained in the calculation system of the entities covered by the deposit guarantee scheme;
- 3) restructuring of entities referred to in Article 64 point 2 by write down or conversion of capital instruments;
- 4) pursuit of mandatory restructuring;
- 5) preparation, update and feasibility study of resolution plans and group resolution plans;
- 6) collection and analysis of information on entities covered by the deposit guarantee scheme, in particular for the preparation of analyses and forecasts for concerning the banking sector and credit union sector and individual banks and credit unions;
- 7) pursuit of other duties in favour of the stability of the domestic financial system.

2. The tasks of the Fund as regards the restructuring of credit unions where a risk of insolvency occurs shall include the following:

- 1) granting refundable financial assistance;
- 2) purchase of receivables of credit unions;
- 3) granting support for entities acquiring credit unions, acquiring selected property rights or selected liabilities of credit unions or support for acquirers of the undertaking of a credit union under liquidation, organised part or selected property rights thereof;
- 4) controlling the adequate use of assistance and support referred to in points 1 and 3 and monitoring the economic and financial situation and the management system of a credit union receiving financial assistance and of an entity provided with support by the Fund.

3. The Fund shall collaborate with other entities acting for the stability of the domestic financial system, entities

operating deposit guarantee schemes, as well as with the competent authorities for resolution and the competent third-country authorities for resolution.

4. To the extent referred to in paragraph 1 and 3 the Fund may conduct publishing, information, promotional and educational activities.

5. The Fund may provide services to a bridge institution and an asset management company.

6. At the request of the Fund, the Polish Financial Supervision Authority shall appoint the Fund the trustee referred to in Article 144 paragraph 1 of the Banking Act or Article 72c paragraph 1 of the Act on Cooperative Savings and Credit Unions. The Fund shall not be entitled to the remuneration referred to in Article 144 paragraph 8 of the Banking Act or the Article 72c paragraph 11 of the Act on Cooperative Savings and Credit Unions.

7. Following the consultation with the President of the National Bank of Poland and the Chairman of the Polish Financial Supervision Authority, the Minister competent for financial institutions may determine, by way of a regulation, additional operations of the Fund for the stability of the domestic financial system and the mode and manner of their execution, in response to the need to ensure stability of the domestic financial system.

8. The Minister competent for financial institutions shall define, by way of a regulation, the detailed conditions, scope and mode of trading by the Fund of the receivables referred to in paragraph 2 point 2, on considering the need to ensure the effectiveness of the ongoing restructuring of credit unions.

Article 6. 1. The statutory organs of the Fund shall be the Fund Council and the Fund Management Board.

2. Persons holding positions in statutory organs of the Fund and employees of the Fund may not serve in the organs or be employed in a domestic entity or the National Association of Credit Unions, with the exception of a bridge institution or an asset management company.

Article 7 1. The Fund Council shall consist of six members.

2. A person who satisfies all of the following conditions may be a member of the Fund Council:

- 1) enjoys full legal capacity;
- 2) has completed higher education;
- 3) has not been finally convicted of an intentional crime or a financial crime;
- 4) has gained knowledge and professional expertise in the financial market.

3. A representative of the Minister competent for financial institutions shall be the Chairman of the Fund Council.

4. The Fund Council shall comprise the following members:

- 1) three representatives of the Minister competent for financial institutions, including the Chairman of the Fund Council;
- 2) two representatives of the National Bank of Poland seconded by the President of the National Bank of Poland;
- 3) one representative of the Polish Financial Supervision Authority seconded by the Chairman of the Polish Financial Supervision Authority.

5. The term of office of the Fund Council shall be 3 years, in which case the mandates of all its members expire at the end of the term of office.

6. A mandate of a member of the Fund Council shall expire at the end of the term of office of the Fund Council, as a result of death, resignation or dismissal from the Fund Council.

7. Where a mandate of a member of the Fund Council expires during the term of the Fund Council, a new member shall be seconded for the period until the end of the term of office of the Fund Council.

8. Following the expiration of the term of office of the Fund Council, its members shall perform their duties until the day of appointment of a new Council of the Fund.

9. Members of the Fund Council shall be entitled to a monthly remuneration. The remuneration shall consist of a fixed part and a variable part, the amount of which is contingent upon the participation of a member of the Fund Council in its meetings and upon the frequency of convening the meetings of the Fund Council in the month.

10. The amount of monthly remuneration of a member of the Fund Council shall be determined as a multiple of the average monthly salary in enterprise sector excluding payments from profit in the fourth quarter of the previous year, as announced by the President of the Central Statistical Office.

11. Following the consultation with the President of the National Bank of Poland and the Chairman of the Polish Financial Supervision Authority, the Minister competent for financial institutions will determine, by way of a regulation, the maximum amount of monthly remuneration of the members of the Fund Council, including:

- 1) the amount of the fixed part of the remuneration,
 - 2) the method of determining the variable part of the remuneration
- having regard to their function and participation in the meetings of the Fund Council.

Article 8. The tasks of the Fund Council shall include:

- 1) exercising supervision over operations of the Management Board of the Fund;
- 2) adoption of the activity plan and the financial plan of the Fund;
- 3) approval of the annual financial statement of the Fund developed by the Management Board of the Fund and the annual activity report of the Fund and submitting them to the Council of Ministers;
- 4) approval of quarterly reports on the Fund activities developed by the Management Board of the Fund and submitting them to the Minister competent for financial institutions, not later than 40 days from the last day of the quarter for which they were issued;
- 5) acceptance, at the request of the Management Board of the Fund, of receiving a loan or a credit by the Fund, or of issuance of debt securities by the Fund;
- 6) acceptance, at the request of the Management Board of the Fund, of a loan provided by the Fund to the deposit guarantee scheme officially recognised in a Member State other than the Republic of Poland or to an entity managing resolution funds in Member States;
- 7) taking, at the request of the Management Board of the Fund, the decision to transfer funds between own funds of the Fund;
- 8) taking, at the request of the Management Board of the Fund, the decision to allocate an amount higher than 50% of the target level of funds of the deposit guarantee scheme of banks or the target level of the deposit guarantee scheme of credit unions to finance the resolution;
- 9) determining, at the request of the Management Board of the Fund:
 - a) the amount of mandatory contributions to the guarantee fund of banks and the guarantee fund of credit unions as referred to in Article 286 paragraph 1, to the resolution fund of banks and the resolution fund of credit unions as referred to in Article 295 paragraph 1 and 3, the date of their payment and the share of contributions paid in the form of a payment commitment,
 - b) the amount of extraordinary contributions to the guarantee fund of banks, the guarantee fund of credit unions, the resolution fund of banks and the resolution fund of credit unions as referred to in Article 291 paragraph 1, Article 292 paragraph 1, Article 299 paragraph 1 and Article 300 paragraph 1, and the date of their payment,
 - c) the rules for postponement of payment terms of extraordinary contributions to the resolution fund of banks and the resolution fund of credit unions,
 - d) the rules of development and approval of resolution plans and group resolution plans and of evaluation of their feasibility,
 - e) detailed internal rules of conduct of resolution by the Fund;
 - f) rules and forms of granting support, collateralization and recovery of funds related to support in resolution,
 - g) rules for carrying out valuations for the purposes of resolution,
 - h) rules of granting by the Fund loans referred to in point 6 from the guarantee fund of banks, the guarantee fund of credit unions, the resolution fund of banks and the resolution fund of credit unions,
 - i) reduction in the frequency of reviews of resolution plans of certain entities and assessment of the feasibility of these plans;
- 10) exemption, at the request of the Management Board of the Fund, of an entity from keeping a register of financial instruments;
- 11) determination of remuneration of the members of the Management Board of the Fund;
- 12) representation of the Fund in its legal relations with the members of the Management Board, in particular their appointment, suspension and removal;
- 13) adoption, at the request of the Management Board of the Fund, of the regulations defining the organisation of work and the manner of operation of the Management Board of the Fund.

Article 9. 1. The Fund Council adopts resolutions by majority of votes, in the presence of at least three of its members. In the event of a tie, the vote of the Chairman of the Fund Council shall prevail.

2. The Minister competent for financial institutions shall establish, by way of a regulation, the rules defining the organisation of work and the manner of operation of the Fund Council, on considering the objectives of the Fund, its tasks and the specificity of its activities.

Article 10. 1. The Management Board of the Fund shall consist of three to five members, including the President and his Deputy.

2. Members of the Management Board of the Fund shall be appointed and dismissed by the Fund Council.

3. A person who satisfies all of the following conditions may be a member of the Management Board of the Fund:

- 1) is a Polish citizen;
- 2) enjoys full legal capacity;
- 3) has completed higher education;
- 4) has not been finally convicted of an intentional crime or a financial crime;
- 5) possesses at least five-year professional experience in a managerial position in the functioning of the financial market.

4. The Fund Council shall select the following from among the members of the Management Board of the Fund:

- 1) President of the Management Board of the Fund;
- 2) Deputy President of the Management Board of the Fund at the request of the President of the Management Board of the Fund.

5. The term of office of the Management Board of the Fund shall be 3 years from the date of appointment.

6. A member of the Management Board of the Fund, including the President or his Deputy, may be removed from their positions by the Fund Council at any time.

7. A mandate of a member of the Management Board of the Fund shall expire on:

- 1) expiry of the term of office of the Management Board of the Fund;
- 2) death of a member of the Management Board of the Fund;
- 3) removal from office.

8. The President of the Management Board of the Fund shall serve until the appointment of his successor.

9. Following the expiration of the term of office of the Management Board of the Fund, its members shall perform their duties until the day of appointment of the new Management Board.

Article 11. 1. The Management Board of the Fund shall manage the activities of the Fund and represent it outside.

2. Other tasks of the Management Board of the Fund include:

- 1) development of draft activity plans and financial plans of the Fund;
- 2) management of the assets of the Fund, subject to the powers of the Fund Council;
- 3) submission of quarterly and annual activity reports to the Fund Council;
- 4) submission of applications to the Fund Council on the matters referred to in Article 8 points 5-10 and 13;
- 5) performance of other tasks of the Fund that are not reserved for the Fund Council.

3. The Management Board of the Fund shall adopt resolutions by a majority of votes in the presence of at least a half of the members included in its composition. In the event of a tie, the vote of the President of the Management Board of the Fund shall prevail.

4. The decisions regarding:

- 1) initiation of resolution referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4,
- 2) write down or conversion of capital instruments,
- 3) measures referred to in Article 72 paragraph 5 and Article 95 paragraph 1 required to remove the obstacles that prevent or hinder the conduct of resolution,
- 4) implementation of instruments of resolution,
- 5) appointment and removal of the administrator referred to in Article 153 paragraph 1,
- 6) appointment and removal of attorney referred to in Article 214 paragraph 1,
- 7) cancellation of the pre-emptive rights, or rights to acquire other instruments of ownership,

- 8) suspension of business of an entity under restructuring referred to in Article 155 paragraph 1,
- 9) suspension of performance of the due liabilities of an entity under restructuring referred to in Article 144 paragraph 1,
- 10) suspension of the right to enforce the collateral referred to in Article 142 paragraph 1,
- 11) amendments to the conditions of the agreements referred to in Article 150 paragraph 1,
- 12) amendments to the repayment conditions of debt instruments and other liabilities referred to in Article 206 paragraph 1, including extension of maturity or payment date or suspension of the repayment of these liabilities,
- 13) suspension of the right of unilateral termination of contracts concluded with the entity under restructuring referred to in Article 143 paragraph 1 and with the subsidiary of the entity under restructuring referred to in Article 143 paragraph 2,
- 14) requiring the acquirer to provide services to the extent necessary to carry out tasks related to the transferred: undertaking of an entity under restructuring, the rights attached to the shares of an entity under restructuring, selected or all of the property rights or selected or all of the liabilities of an entity under restructuring,
- 15) recognition and enforcement of foreign proceedings of resolution in the Republic of Poland,
- 16) imposing by the Fund of the fine referred to in Article 79 paragraph 1 or Article 95 paragraph 6,
- 17) liquidation of a residual entity in the cases referred to in Article 230,
- 18) change in the level of write down or conversion of capital instruments or liabilities referred to in Article 138 paragraph 3 point 1,
- 19) transfer back of the undertaking, selected property rights, selected liabilities or rights attached to shares referred to in Article 174 paragraph 4,
- 20) transfer back of the rights attached to the shares in the entity under restructuring, transfer of the undertaking, selected property rights or liabilities referred to in Article 188 paragraph 2,
- 21) ordering an entity to dispose of the rights attached to shares within the prescribed period pursuant to Article 175 paragraph 4,
- 22) determining the date on which an acquiring entity must not be excluded from participation in a regulated market or other organised system of trading in financial instruments, in a payment system, the system of settlement or compensation scheme, pursuant to Article 176 paragraph 2,
- 23) determining the date within which a bridge institution must not be excluded from participation in a regulated market or other organised system of trading in financial instruments, in a payment system, the system of settlement or compensation scheme, pursuant to Article 191 paragraph 5,
- 24) extension of the deadline for the sale of a bridge institution undertaking, its shares or stock pursuant to Article 181 paragraph 3,
- 25) exercise of powers, transfer and suspension of the exercise of the right to cancel, terminate the agreements referred to in Article 256 paragraph 1 or bring forward their execution date,
- 26) exercise of powers referred to in Article 257

– are taken by the Management Board of the Fund in the form of a resolution.

5. To the extent not provided for in the Act the relevant provisions of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2016 item 23 and 868), hereinafter referred to as the "Code of Administrative Procedure", with the exception of Article 10, Article 31, Article 391, Article 46 § 3-9, Article 48, Article 49, Article 61 paragraph 4, Article 78, Article 79, Article 81, Article 89-96, Article 106 and Article 127-140 of this Act shall apply to the decisions referred to in paragraph 4.

6. To the procedure for making complaints against the decisions referred to in paragraph 4, to the extent not provided for in the Act, the provisions of the Act of 30 August 2002 - Law on Proceedings before Administrative Courts (Journal of Laws of 2016 item 718 and 846) shall apply accordingly, with the exception of Article 61 § 2 and 3 of this Act.

7. The procedure for imposing fines by the Fund shall be governed by the provisions of the Code of Administrative Procedure.

8. The decisions referred to in paragraph 4 shall be final and immediately enforceable.

9. The decisions referred to in paragraph 4 shall be signed by the President of the Management Board of the Fund or his Deputy on behalf of the Management Board of the Fund.

Article 12. 1. The following persons shall be entitled to make statements on behalf of the Fund:

- 1) two members of the Fund Management Board acting jointly;
- 2) President of the Management Board of the Fund acting independently;

- 3) attorney acting jointly with a member of the Fund Management Board;
- 4) attorney acting individually or jointly with another attorney.

2. The President of the Management Board of the Fund shall perform procedures in the field of labour law vis-à-vis the employees of the Fund.

Article 13. The Management Board of the Fund in agreement with the Fund Council shall determine the organisational rules of the Fund Office.

Article 14. 1. The Minister competent for financial institutions shall supervise the activities of the Fund in keeping with the criterion of legality and compliance with the statutes.

2. The issuance of a decision by the Fund, which may trigger direct fiscal consequences or effects of a systemic nature shall require the consent of the Minister competent for financial institutions.

3. The statutory bodies of the Fund shall provide the Minister competent for financial institutions with the copies of the decision referred to in Article 11 paragraph 4 within 7 days from the date of their adoption.

4. Should it be determined by the Minister competent for financial institutions that the tasks of the Fund are carried out in violation of the law, the Minister competent for financial institutions as part of exercising the supervision referred to in paragraph 1, may:

- 1) require the removal of irregularities within the prescribed period;
- 2) request the Fund Council to remove a member of the Management Board of the Fund liable for the irregularities from his office.

Article 15. 1. The Fund shall not be liable:

- 1) for the disbursement of guaranteed funds in accordance with the list of depositors referred to in Article 41 paragraph 1:
 - a) to an unauthorised person,
 - b) in an inadequate amount;
- 2) for a failure to disburse guaranteed funds in accordance with the list of depositors to an unauthorised person undisclosed on the list.

2. In the case referred to in Article 61 paragraph 1, the Fund shall not be liable:

- 1) for the disbursement of guaranteed funds in accordance with the data referred to in Article 61 paragraph 2, submitted to the Fund by a home-country deposit guarantee scheme:
 - a) to an unauthorised person,
 - b) in an inadequate amount;
- 2) for a failure to disburse guaranteed funds in accordance with the data referred to in Article 61 paragraph 2, to an authorised person undisclosed in these data.

3. The Fund shall not be liable for any failure to perform the tasks specified in the Act, including the failure to disburse guaranteed funds within the time limits specified by law, if it was caused by force majeure.

4. The members of the statutory bodies of the Fund acting with due diligence shall not be liable for damages resulting from inadequate implementation of disbursement of guaranteed funds.

5. Neither the Fund nor persons acting on its behalf or on its stead shall be liable for damages resulting from acts or omissions in compliance with the provisions of law that link to the powers and tasks of the Fund being the resolution authority, and in particular for damage caused by the selection of resolution instruments referred to in Article 110 paragraph 1.

6. The liability for the acts or omissions referred to in paragraph 5 shall be limited to the amount of actual damage.

7. The liability to third parties for any act or omission of the Fund shall be borne solely by the Fund.

Article 16. The financial liability of employees of the Fund shall be exempt from the provisions of the Act of 20 January 2011 on Financial Liability of Public Officers for Gross Violation of Law (Journal of Laws item 173 and of 2016 item 178).

DIVISION II

Deposit Guarantee Scheme

Chapter 1

General Provisions

Article 17. 1. In the case of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme the following assets shall be covered by the guarantee protection:

- 1) funds held by the depositor in the bank accounts where the depositor is a party to the bank account agreement, regardless of the legal defect of this agreement and its invalidity, and in the cases referred to in Article 26 paragraph 2 and 3;
- 2) other depositor claims arising from banking operations referred to in Article 5 paragraph 1 points 1, 2 and 6 of the Banking Act;
- 3) amounts referred to in Article 55 paragraph 1 point 1 and Article 56 paragraph 1 of the Banking Act, subject to Article 52, as long as they become due prior to the date of fulfilment of the guarantee condition;
- 4) depositor claims arising from bank securities, supported by registered documents issued by the issuer or registered deposit certificates referred to in Article 9 paragraph 1 of the Act on Trading in Financial Instruments if they were issued prior to 2 July 2014.

2. The guarantee protection referred to in paragraph 1 shall not include:

- 1) funds paid by way of shares, entry fee and membership contributions to a cooperative;
- 2) depositor funds, if these are deposited in bank accounts which posted no trade in the period of 2 years prior to the date of fulfilment of the guarantee condition beyond the accrual of interest or collection of fees or charges, and their amount is lower than the PLN equivalent of EUR 2.5 - if they were the only depositor funds covered by the guarantee protection;
- 3) electronic money within the meaning of the Act of 19 August 2011 on Payment Services (Journal of Laws of 2014 item 873 and 1916 and of 2015 item 1764, 1830 and 1893) and funds received in exchange for electronic money as referred to in Article 7 paragraph 1 of the Act.

3. The average exchange rate as of the day of fulfilment of the guarantee condition announced by the National Bank of Poland shall apply to determine the euro value in the PLN referred to in paragraph 2 point 2.

Article 18. 1. In the case of a credit union covered by the mandatory deposit guarantee scheme the following funds shall be covered by the guarantee protection:

- 1) funds held in the depositor accounts where the depositor is a party to the account agreement, regardless of the legal defect of this agreement and its invalidity;
- 2) other depositor claims arising from the operation by a credit union of the depositor accounts referred to in point 1;
- 3) depositor claims arising from the financial settlements carried out by the credit union;
- 4) the amounts referred to in Article 14 paragraph 1 point 1 and 2 of the Act on Cooperative Savings and Credit Unions, subject to Article 52, as long as they become due prior to the day of fulfilment of the guarantee condition .

2. The guarantee protection referred to in paragraph 1 shall not include:

- 1) funds paid by way of shares, entry fee and membership contributions to a cooperative;
- 2) depositor funds, if these are deposited in accounts which posted no trade in the period of 2 years prior to the date of fulfilment of the guarantee condition beyond the accrual of interest or collection of fees or charges, and their amount is lower than the PLN equivalent of EUR 2.5 - if they were the only depositor funds covered by the guarantee protection;
- 3) electronic money within the meaning of the Act of 19 August 2011 on Payment Services and cash received in exchange for electronic money as referred to in Article 7 paragraph 1 of the Act.

3. The average exchange rate as of the day of fulfilment of the guarantee condition announced by the National Bank of Poland shall apply to determine the euro value in the PLN referred to in paragraph 2 point 2.

Article 19. 1. The funds covered by the guarantee protection referred to in Article 17 and Article 18 shall be denominated in PLN or foreign currency.

2. The value of funds covered by the guarantee protection plus the interest accrued to the date of fulfilment of the guarantee condition, as per the interest rate specified in the contract, regardless of their maturity shall be determined

as of the beginning of the day of fulfilment of the guarantee condition.

3. The exchange rate used to determine the balance of accounting ledgers as of the day of fulfilment of the guarantee condition shall apply to determine the PLN value of the funds in a foreign currency.

Article 20. In the case of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme the following persons shall be eligible to a pecuniary benefit referred to in Article 35 paragraph 2, subject to Article 22:

- 1) natural persons;
- 2) legal persons;
- 3) non-incorporated organisational units awarded with legal capacity under a separate law;
- 4) saving unions for school students;
- 5) employee cash assistance and loan funds.

Article 21. In the case of a credit union covered by the mandatory deposit guarantee scheme the following persons shall be eligible to a pecuniary benefit referred to in Article 35 paragraph 2, subject to Article 22:

- 1) natural persons;
- 2) non-governmental organisations within the meaning of Article 3 paragraph 2 of the Act of 24 April 2003 on Public Benefit and Volunteer Work (Journal of Laws of 2016 item 239 and 395);
- 3) organisational units of a church or religious association being legal persons;
- 4) cooperatives;
- 5) trade unions;
- 6) housing associations.

Article 22. 1. The guarantee protection shall not cover the following funds and claims of:

- 1) State Treasury;
- 2) National Bank of Poland;
- 3) banks, foreign banks and credit institutions referred to in the Banking Act;
- 4) credit unions and the National Association of Credit Unions;
- 5) the Fund;
- 6) financial institutions;
- 7) investment firms referred to in Article 4 paragraph 1 point 2 of Regulation No 575/2013 and recognised investment firms from a third country referred to in Article 4 paragraph 1 point 25 of that Regulation;
- 8) persons and entities that have not been identified by an entity covered by the deposit guarantee scheme;
- 9) domestic and foreign insurance undertakings and domestic and foreign reinsurance undertakings referred to in the Act of 11 September 2015 on Insurance and Reinsurance Business (Journal of Laws item 1844 and of 2016 item 615);
- 10) investment funds, investment funds societies, foreign funds, management companies and branches of investment societies referred to in the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds (Journal of Laws of 2014 item 157, as amended.⁶);
- 11) open-end pension funds, occupational pension funds, pension societies and employee pension societies referred to in the Act of 28 August 1997 on the Organisation and Operation of Pension Funds (Journal of Laws of 2016 item 291 and 615);
- 12) local self-government units;
- 13) public authorities of a Member State other than the Republic of Poland and a third country, in particular, central governments, regional and local self-government units of these countries.

2. The identification referred to in paragraph 1 point 8 shall involve determining the following data:

- 1) in the case of natural persons - name, surname and number of the Universal Electronic System of Population Register (PESEL), or the name, surname, date of birth and characteristics of the identity document in the case of a person holding no PESEL number, or name, surname and number of identity document of a foreigner, and where the identification was made prior to 23 June 2001 - name, surname and the PESEL number or the name, surname and

⁶ Amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2015 item. 73, 978, 1260, 1357, 1634 and 1844 and of 2016 item 615 and 904.

date of birth and the features of the identity document;

- 2) in the case of legal persons - name (of a company), organisational form, registered office, address and the number in the relevant register;
- 3) in the case of non-incorporated organisational units awarded with legal capacity under a separate law, saving unions for school students and employee cash assistance and loan funds - name, organisational form, registered office, address and the number in the relevant register, if applicable.

Article 23. The provision of Article 22 paragraph 1 point 8 shall not apply in the cases where the funds or receivables were included in the list of debt claims developed in bankruptcy proceedings, and also in the case of claims due in respect of funds or receivables that were confirmed by a final court decision. The provision of Article 51 shall apply accordingly.

Article 24. 1. The funds referred to in Article 17 and Article 18 shall be covered by the guarantee protection in an entity covered by the deposit guarantee scheme from the day they are transferred to the account in this entity, but not later than on the day preceding the date of fulfilment of the guarantee condition, and in the case of receivables arising from banking operations or financial settlements carried out by a credit union, as long as this transaction or settlement has been made prior to the date of fulfilment of the guarantee condition, up to the PLN equivalent of EUR 100 000 - in its entirety.

2. The average exchange rate as of the day of fulfilment of the guarantee condition announced by the National Bank of Poland shall be applied to determine the euro value in the PLN.

3. Where the funds or receivables referred to in Article 17 paragraph 1 point 1 and 2 or Article 18 paragraph 1 point 1-3 of a depositor being a natural person originate from:

- 1) paid disposal of:
 - a) property built up with a single-family residential building within the meaning of the Act of 7 July 1994 - Construction Law (Journal of Laws of 2016 item 290 and 961), part of it or interest in such property,
 - b) perpetual usufruct of land built up with a single-family residential building within the meaning of the Act of 7 July 1994. - Construction Law or interest in the right,
 - c) self-contained living premises within the meaning of the Act of 24 June 1994 on the Ownership of Residential Premises (Journal of Laws of 2015 item 1892) constituting a separate property or interest in such premises, land or interest in the land, or the right of perpetual usufruct of land or interest in the right relating to the said premises,
 - d) cooperative ownership right to the premises of residential purpose or interest in such a right
- if the sale did not take place in the course of business,
- 2) performance on behalf of the depositor contractual or judicial distribution of property following the expiry of matrimonial property,
- 3) acquisition of inheritance by the depositor, execution of legacy for the benefit of the depositor or acquisition of legitim,
- 4) payment of the sum insured under life insurance agreement further to the death of the insured person or reaching the specific age by that person,
- 5) payment of the sum insured under the agreement of insurance against accidents due to injury, health disorder or death of the insured person as a result of an accident,
- 6) severance payment under the conditions and in the amount specified in separate provisions,
- 7) retirement or disability severance payment referred to in Article 92¹ § 1 of the Act of 26 June 1974. - Labour Code (Journal of Laws of 2014 item 1502, as amended.⁷), hereinafter referred to as the "Labour Code" or other legislation on the conditions and in the amount specified therein

– they shall be covered by the guarantee protection for 3 months from the date of receipt of funds in the account or arising of receivables up to the amount of the difference between twice the limit set out in paragraph 1 and the sum of the remaining funds and receivables of a depositor referred to in Article 17 paragraph 1 or in Article 18 paragraph 1, but not higher than the limit laid down in paragraph 1, in which case the provision of paragraph 7 shall not apply. Following this date, the funds and receivables shall be covered by the mandatory deposit guarantee scheme under the terms laid down in paragraph 1.

4. Where the funds and receivables of a depositor being a natural person referred to in Article 17 paragraph 1 point 1 and 2 or Article 18 paragraph 1 point 1 and 2 are derived from the payment of compensation for damage caused by a crime

⁷ Amendments to the consolidated text of the said Act were promulgated in the Journal of Laws of 2014 item 1662, of 2015 item 1066, 1220, 1224, 1240, 1268 and 1735 and of 2016 item 868, 910 and 960.

or compensation for harm, compensation or reparation, as referred to in Article 552 of the Act of 6 June 1997 - Code of Criminal Procedure (Journal of Laws item 555, as amended⁸), they shall be covered by the guarantee protection for 3 months from the date of receipt of funds into the account or the date that a receivable arises - in entirety, in which case the provisions of paragraph 7 shall not apply. Following this date, the funds and receivables shall be covered by the mandatory deposit guarantee scheme under the terms laid down in paragraph 1.

5. A claim for the payment of guaranteed funds owed to the depositor over the limit determined in paragraph 1 in the cases referred to in paragraph 3 and 4 shall arise, once the depositor has provided the Fund with a declaration about the occurrence of such an event along with the documents in evidence thereof, and once an entity authorised to represent has confirmed that the funds or receivables of the depositor for which the depositor has made this declaration were due to the depositor on the day of fulfilment of the guarantee condition.

6. With a view to the verification of the claims referred to in paragraph 5, the Fund shall be authorised to access the data on the depositors, property, residential buildings and living premises, contained in the collections held by entities or third parties, in particular the data contained in the register of land and buildings. The Fund shall be also entitled to inspect the records of the Land and Mortgage Register relating to property or right whose sale triggered a claim of the depositor.

7. The amount referred to in paragraph 1 shall determine the maximum amount of depositor claims towards the Fund, regardless of the amount of funds the depositor held with one entity covered by the guarantee scheme and in how many accounts, or regardless of the number of receivables in respect of which the depositor may pursue claims towards an entity covered by the guarantee scheme.

8. The guarantee claims shall lapse following five years from the date of fulfilment of the guarantee condition.

9. If the depositor funds covered by the guarantee protection have been transferred to another entity as a result of implementation of an instrument of the acquisition of undertaking or to a bridge institution, the depositor shall not be entitled to claim under the guarantee for the remaining funds in the accounts of an entity under restructuring, if the value of the transferred funds corresponds to the amount referred to in paragraph 1, 3 and 4, or exceeds it.

Article 25. A branch of a foreign bank shall be covered by the mandatory deposit guarantee scheme to the extent that the deposit guarantee scheme in the state of its residence does not ensure payment of guaranteed funds within the limits specified in the Act.

Article 26. 1. If an entity covered by the guarantee scheme operates one account for several persons (collective account), each of those persons shall be a depositor - within the limits specified in the account agreement, and in the absence of contractual provisions or regulations in this area - in equal parts.

2. If an entity covered by the guarantee scheme operates a trust account, each of the entrusting parties shall be a depositor within the limits of their share in the amount held in the account, whereas a trustee shall be a depositor within the limits of the remaining amount.

3. If an entity covered by the guarantee scheme operates an account of the investment firm referred to in Article 4 paragraph 1 point 2 of Regulation No 575/2013 or of the recognised third-country investment firm referred to in Article 4 paragraph 1 point 25 of the Regulation, where the customer funds are deposited further to entrusting the firm with the pursuit of brokerage services in accordance with Article 73 paragraph 5a of the Act on Trading in Financial Instruments, each of the customers shall be a depositor within the limits of their share in the amount held in the account.

4. Customer claims unsatisfied under the terms referred to in paragraph 3 shall remain the customer receivable towards the investment firm.

Article 27. A depositor shall be entitled to seek claims from an entity covered by the guarantee scheme over and above the amount referred to in Article 24 paragraph 1 or 3.

Chapter 2

Systems of calculation and control of the accuracy of the data

Article 28. 1. An entity covered by the guarantee scheme shall maintain a system of calculation.

⁸ The amendments to the Act were promulgated in the Journal of Laws of 1999 item 931, of 2000 item 580, 717, 852 and 1027, of 2001 item 1071 and 1149, of 2002 item 676, of 2003 item 155, 1061 and 1188, of 2004 item 514, 626, 889, 2405 and 2641, of 2005 item. 70, 461, 680, 821, 1181, 1203, 1363, 1416 and 1479, of 2006 item 118, 467, 659, 708, 711, 1009, 1013, 1192, 1647 and 1648, of 2007 item 116, 432, 539, 589, 664, 766, 849 and 903, of 2008 item 162, 648, 686, 802, 1133, 1308, 1344, 1485, 1571 and 1651, of 2009 item 39, 104, 171, 585, 716, 1051, 1178, 1323, 1375, 1474 and 1589, of 2010 item 46, 626, 669, 826, 842, 1228 and 1307, of 2011 item 245, 246, 273, 654, 678, 829, 1135, 1280, 1430, 1431, 1438 and 1645, of 2012 item 886, 1091, 1101, 1327, 1426, 1447 and 1529, of 2013 item 480, 765, 849, 1247, 1262, 1282 and 1650, of 2014 item 85, 384, 694, 1375 and 1556, of 2015 item 21, 290, 396, 1185, 1186, 1334, 1788, 1855 and 2281 and of 2016 item 178 and 437.

2. A system of calculation and data produced and processed therein must not be situated outside of the territory of the Republic of Poland.

Article 29. 1. A system of calculation shall contain data of depositors possessing receivables from an entity covered by the guarantee scheme.

2. A system of calculation shall ensure readiness to draw up a list of depositors in accordance with the data contained therein while also offering the possibility to identify depositors and to determine the amount of funds guaranteed due to individual depositors under Article 24 paragraph 1, as at the day-end.

3. An entity covered by the guarantee system for the purposes referred to in Article 32 paragraph 1, Article 33 paragraph 1 and Article 42 paragraph 1 shall provide both the Fund and Polish Financial Supervision Authority with access to the data in a system of calculation.

4. An entity covered by the guarantee system shall apply the relevant safeguards that ensure the adequate operation of the system of calculation.

5. An entity covered by the guarantee system shall test the system of calculation at least once every 12 months, in particular as regards determining whether the conditions for performance of duties have been satisfied in case of fulfilment of the guarantee condition and to establish whether an entity covered by the guarantee system is capable of making a correct list of depositors. The test results shall be held by an entity covered by the guarantee system in the form of reports for 2 years from the date of their preparation and made available at the request of the Fund or the Polish Financial Supervision Authority.

Article 30. Following the consultation with the Polish Financial Supervision Authority and the Fund Management Board, the Minister competent for financial institutions shall determine by way of a regulation:

- 1) minimum requirements to be met by a system of calculation,
- 2) detailed scope and structure of the data contained in the system of calculation, as well as the technical standard of their preparation and storage,
- 3) format and mode of transmitting data to the Fund, taking into account their protection against unauthorised access,
- 4) manner of determination of guaranteed funds covered by the procedures concerning the matters referred to in Article 165a or Article 299 of the Act of 6 June 1997 - Criminal Code (Journal of Laws item 553 as amended.⁹),
- 5) mode and method of controlling the accuracy of the data contained in the system of calculation

– having regard to the need to ensure receipt by the Fund of adequately prepared and verified data for the implementation of the statutory tasks of the Fund and the conditions for carrying out factual actions related to banking business or the business of a credit union.

Article 31. An entity authorised to represent shall be responsible for the implementation and maintenance of a properly operating system of calculation and provision of the Fund with the data referred to in Article 29 paragraph 2.

Article 32. 1. The Fund shall be authorised to control the accuracy of the data contained in a system of calculation:

- 1) obtained in accordance with paragraph 2, as a result of an inspection carried out at the seat of the Fund;
- 2) under an inspection carried out at the entities covered by the guarantee scheme.

2. An entity covered by the guarantee system shall forthwith forward to the Fund, at its request, the data stored in the system of calculation.

3. With a view to carrying out the inspection referred to in paragraph 1, the Fund, in accordance with the data collected in the PESEL register, shall verify the personal data of depositors included in the calculation systems. The verification effected by the Fund shall provide for the confirmation of the compliance of reported data with the data collected in the PESEL register, and in the case of non-compliance or incompleteness resulting in the inability to identify depositors – providing the Fund with the verified data from the PESEL register.

Article 33. 1. The Polish Financial Supervision Authority shall supervise the adequate performance of the systems of calculation.

⁹ The amendments to the Act were promulgated in the Journal Laws of 1997 item 840, of 1999 item 729 and 931, of 2000 item 548, 1027 and 1216, of 2001 item 1071, of 2003 item 1061, 1142, 1750, 1935 and 2255, of 2004 item 219, 626, 889 and 2426, of 2005 item 732, 757, 1109, 1363, 1479 and 1493, of 2006 item 1409, 1592 and 1648, of 2007 item 589, 850, 859 and 1378, of 2008 item 560, 782, 1056, 1080 and 1344, of 2009 item 504, 533, 1317, 1323, 1474, 1540 and 1589, of 2010 item 46, 227, 229, 625, 626, 842, 857, 1018, 1021, 1228, 1474 and 1602, of 2011 item 78, 130, 202, 245, 381, 549, 678, 767, 964, 1135, 1280, 1381 and 1431, of 2012 item 611, of 2013 item 849, 905, 1036 and 1247, of 2014 item 538, of 2015 item 396, 541, 1549, 1707 and 1855 and of 2016 item 189, 428, 437, 862 and 904.

2. In an event of non-performance or inadequate performance by an entity covered by the guarantee scheme of the duties referred to in Article 31, the Polish Financial Supervision Authority may:

- 1) apply supervisory measures identified in:
 - a) Article 138 paragraph 3 points 1-3 and 4 of the Banking Act - in the case of a bank or branch of a foreign bank,
 - b) Article 71 paragraph 2 of the Act on Cooperative Savings and Credit Unions- in the case of a credit union;
- 2) fine an entity with a penalty of up to 0.2% of the basis of the required reserve for the month, when non-performance or inadequate performance of these duties was identified, and if the entity is not subject to reserve requirements - up to PLN equivalent of EUR 1 000 000, determined as per the average exchange rate announced by the National Bank of Poland on the date of the decision on the fine.

3. In an event of non-performance or inadequate performance of the duties referred to in Article 31 by the person referred to in paragraph 5, the Polish Financial Supervision Authority may:

- 1) in the case of a bank or branch of a foreign bank - impose the fines referred to in Article 141 paragraph 1 of the Banking Act;
- 2) in the case of a credit union - fine this person with a penalty of up to six times the gross monthly salary determined as per the salary for the last 6 months prior to the date of the penalty imposition, and if the person draws no salary - up to six times the average monthly gross salary in the national economy published by the President of the Central Statistical Office.

4. The Polish Financial Supervision Authority shall pay the amount recovered under the penalties referred to in paragraph 2 point 2 and paragraph 3, to the Fund. These amounts shall feed into the guarantee fund of banks or the guarantee fund of credit unions, as the case may be.

5. An entity covered by the guarantee system shall advise the Polish Financial Supervision Authority of a board member of a bank or a credit union or a director of a branch of a foreign bank whose duties include ensuring the implementation and operation of the system of calculation.

6. The Fund may request the Polish Financial Supervision Authority to take inspection activities or measures under supervision with regard to the adequate operation of the system of calculation.

Article 34. 1. The Fund shall test the effectiveness of its systems in terms of ability to pay guaranteed funds at least once every three years or at the request of the Minister competent for financial institutions.

2. The results of the tests referred to in paragraph 1 shall be submitted to the Minister competent for financial institutions within 14 days of their completion.

3. While running the tests referred to in paragraph 1, the Fund shall take recourse to the information required to carry them out only for this purpose and keep this information for no longer than necessary for this purpose.

Chapter 3

Payments of guaranteed funds

Article 35. 1. The following entities shall be subjects of the guarantee protection relation:

- 1) the Fund;
- 2) depositor.

2. The claim of a depositor in the amount corresponding to the guaranteed funds in respect of which the depositor acquires entitlement to pecuniary benefit vis-à-vis the Fund as of the date of fulfilment of the guarantee condition shall be the subject of the guarantee protection.

3. The pecuniary benefit referred to in paragraph 2 shall be payable in PLN within 7 working days from the date of fulfilment of the guarantee condition.

4. Where the guarantee condition has been fulfilled following the initiation of the resolution of an entity covered by the guarantee scheme, the pecuniary benefit referred to in paragraph 2 shall be deemed executed in part in which a depositor has been afforded the opportunity to collect the guaranteed funds within the period referred to in paragraph 3 by taking recourse to the instruments of resolution referred to in Article 110 paragraph 1.

Article 36. 1. The time-frame referred to in Article 35 paragraph 3 shall not apply with respect to all or part of the benefit, where:

- 1) reasonable doubts arise as to the specific data in the list of depositors or as to whether the depositor is entitled to receive guaranteed funds or if the guaranteed funds are the subject of litigation;
- 2) entitlements derived from the guaranteed funds arise from an agreement of a bank account held in the form

of individual retirement accounts or individual retirement security accounts referred to in the Act of 20 April 2004 on Individual Retirement Accounts or Individual Retirement Security Accounts (Journal of Laws 2014 item 1147, of 2015 item 978 and 1844, and of 2016 item 615), hereinafter referred to as the "Act on IKE and IKZE";

- 3) the payment of guaranteed funds referred to in Article 24 paragraph 3 and 4 is made beyond the limit set in Article 24 paragraph 1;
- 4) payment of guaranteed funds is made in the case referred to in Article 59 paragraph 1.

2. The pecuniary benefit referred to in Article 35 paragraph 2 shall be payable:

- 1) in the case referred to in paragraph 1 point 1 – as soon as the Fund has been advised of the termination of the grounds referred to in this provision;
- 2) in the case referred to in paragraph 1 point 2 - as soon as the Fund has been advised of confirmation concerning the conclusion by the depositor of an agreement to operate individual retirement accounts or individual retirement security accounts with another financial institution or receipt of confirmation of entry by the depositor to the pension scheme, as provided for in the Act on IKE and IKZE, except that in the event of failure by the depositor on any of the duties referred to in Article 14 paragraph 3 of the Act on IKE and IKZE, if the depositor does not satisfy the conditions for payment referred to in Article 34 paragraph 1 point 1 or in Article 46 or Article 34a paragraph 1 point 1 of this Act, the pecuniary benefit shall be payable as soon as the Fund has been advised of this fact by an entity authorised to represent and as soon as the Fund has been provided with other information necessary to maintain the condition of the payment referred to in Article 14 paragraph 4 of the Act on IKE and IKZE;
- 3) in the case referred to in paragraph 1 point 3 – as soon as the Fund has been provided by the depositor with declaration, along with the documents referred to in Article 24 paragraph 5, and as soon as the Fund has received confirmation from the entity authorised to represent referred to in this provision;
- 4) in the case referred to in paragraph 1 point 4 - within the deadline set in the agreement referred to in Article 60.

Article 37. The Fund shall forthwith notify an entity entitled to representation on the payment of guaranteed funds referred to in Article 36 paragraph 1 point 3 and the amount thereof.

Article 38. The rules on the transfer of funds referred to in:

- 1) Article 56 paragraph 1 - in the case of a bank or branch of a foreign bank,
- 2) Article 57 paragraph 1 - in the case of a credit union

– shall apply accordingly if the Fund makes payments of the guaranteed funds referred to in Article 36 paragraph 1 point 3, Article 44 and Article 51.

Article 39. 1. On the day of fulfilment of the guarantee condition, the Fund shall become entitled to a claim to the entity with reference to which the guarantee condition has been fulfilled, in the total amount of guaranteed funds. The Fund shall be entitled to a claim also following the declaration of bankruptcy of the entity for which the guarantee condition has been fulfilled.

2. The Fund shall be entitled to the claim referred to in paragraph 1 notwithstanding the amount of actually made payments of guaranteed funds.

3. On the date of fulfilment of the guarantee condition, the depositor shall be entitled to a claim to the entity covered by the guarantee scheme exclusively for the payment of sums over and above the value set out in Article 24 paragraph 1 or 3.

4. Further to the occurrence of the liability of the Fund to the depositor in respect of guaranteed funds, individual receivables of the depositor being the basis of the calculation of the guaranteed funds owed to the depositor shall be reduced *pro rata*.

Article 40. The guaranteed funds shall be paid in accordance with the data in the calculating system of the entity covered by the guarantee system, following the transfer of the list of depositors referred to in Article 43.

Article 41. 1. In the case of fulfilment of the guarantee condition, following the determination of the balance of the accounting records of the entity covered by the guarantee system on the day of fulfilment of the guarantee condition, the entity authorised to represent shall draw up a list of depositors in accordance with the data contained in the system of calculation of the entity covered by the guarantee system as of the day of fulfilment of the guarantee condition.

2. The entity authorised to represent shall be responsible for drawing up a list of depositors in accordance with the regulations issued pursuant to Article 30.

3. The responsibility for the data contained in the system of calculation being consistent with the data in the accounting records of the entity covered by the guarantee system and with the legal status shall be borne, for the period of acting in its capacity, by the entity authorised to represent, where it was acting in its capacity as on the day where the guarantee condition was fulfilled or in the period during the current financial (accounting) year or the financial

(accounting) year preceding the date of fulfilment of the guarantee condition.

Article 42. 1. The Management Board of the Fund shall perform ongoing inspection of drawing up the list of depositors as at the date of fulfilment of the guarantee condition by the entity authorised to represent, except when the fulfilment of the guarantee condition was the result of the decision referred to in Article 155 paragraph 1.

2. The control referred to in paragraph 1 shall include in particular the data of depositors.

3. With a view to the implementation of the control referred to in paragraph 1, the Fund shall verify the personal data of depositors included in the systems of calculation against the data collected in the PESEL register. The verification conducted by the Fund shall include the confirmation of the compliance of reported data with the data collected in the PESEL register, and in the case of non-complied or incomplete data, resulting in the inability to identify depositors – providing the Fund with the verified data from the PESEL register.

4. The Fund and the entity through which the payment of guaranteed funds will be implemented shall process the personal data of depositors to the extent necessary to implement the tasks defined in the Act.

5. The Fund shall forthwith notify the Polish Financial Supervision Authority of any irregularities revealed during the inspection referred to in paragraph 1 and shall call on the entity authorised to represent to remove them.

Article 43. The entity authorised to represent forthwith, within 3 working days from the date of fulfilment of the guarantee condition, shall provide the Fund and the General Inspector of Financial Information with the list of depositors in accordance with the data from the system of calculation.

Article 44. In the case of reasonable doubt as to the correctness of the individual data referred to in Article 43, the Fund shall make appropriate payments forthwith upon the confirmation of the correctness of the data by an entity authorised to represent.

Article 45. 1. Payments of guaranteed funds may be made on behalf of and for the account of the Fund by the entity authorised to represent or another entity with which the Fund entered into an agreement on making payments of guaranteed funds. The decision in this regard shall be taken by the Management Board of the Fund. In selecting the method of payment of guaranteed funds, the Management Board of the Fund shall take into account the need to protect the interests of depositors, including the timeliness of payments, and the level of costs envisaged to be incurred for the payment of guaranteed funds.

2. The Fund shall provide the entity referred to in paragraph 1 with the list of payments containing the data necessary to make payments.

3. With a view to the implementation of the payment of guaranteed funds the Fund may transfer the selected data acquired by the Fund during the inspection referred to in Article 32 and Article 42 paragraph 1 to an entity with which it intends to enter into an agreement on the payments of guaranteed funds.

4. The Fund shall perform ongoing control of payments of guaranteed funds. The provision of Article 42 paragraph 5 shall apply accordingly to the payments made by the entity authorised to represent.

Article 46. For the purpose of payments of guaranteed funds, the depositor's identity shall be verified in the field of the identification data referred to in Article 22 paragraph 2. The data of a natural person shall be verified against the data set out in the identity document.

Article 47. 1. The Management Board of the Fund shall determine by way of a resolution:

- 1) information about the entity through which the payments of guaranteed funds will be made;
- 2) method of the payments;
- 3) number of depositors entitled to receive the payments;
- 4) amount being the sum of guaranteed funds owed to depositors eligible for payments forwarded to the entity referred to in paragraph 1, for the payments of guaranteed funds;
- 5) amount of the funds corresponding to the payment commitments referred to in Article 56 paragraph 1 and Article 57 paragraph 1 to be provided to the Fund by the entities covered by the guarantee scheme.

2. The resolution referred to in paragraph 1 shall be made available to the public by the Fund through a notice in a daily newspaper of nationwide circulation and shall be provided by the Fund, on the one hand, to entities covered by the guarantee scheme and required to transfer funds corresponding to the payment commitments and to the entity through which the payment of guaranteed funds will be made.

Article 48. The amounts for the payment of guaranteed funds transferred to the entity referred to in Article 45 paragraph 1 must not be used for a purpose other than the payment of guaranteed funds. These funds shall not be included in the bankruptcy estate and shall not be subject to court or administrative enforcement.

Article 49. 1. In the case of making payments by the entity authorised to represent, the costs of activities related to the preparation and making payments of guaranteed funds shall be charged to the entity covered by the guarantee system towards which the guarantee condition has been fulfilled.

2. In the case of making payments by the entity with which the Fund entered into an agreement to make payments of guaranteed funds, the costs of activities related to the preparation and making payments of guaranteed funds shall be charged to the Fund.

3. In respect of the costs referred to in paragraph 2, the Fund shall be eligible to a claim to the entity covered by the guarantee scheme towards which a guarantee condition has been fulfilled.

4. Following the declaration of bankruptcy of an entity covered by the guarantee scheme, the provisions of paragraph 3 shall apply accordingly.

Article 50. 1. Following the completion of payments, the entity referred to in Article 45 paragraph 1 within 5 working days from the last day of payment, shall make the settlement of performed payments while providing the Fund, in particular, with the following:

- 1) list of payments including identification of paid and outstanding benefits;
- 2) evidence of making payments;
- 3) outstanding amounts.

2. The provisions of Article 7 paragraph 2 of the Banking Act shall apply to the documentation referred to in paragraph 1 point 2.

Article 51. The claims of depositors under the guarantee undisclosed within the list of depositors transferred to the Fund pursuant to Article 43, with the exception of the cases referred to in Article 36 paragraph 1 shall be settled by the Fund within 7 working days of receipt of the data supplementing the list of depositors, prepared by the entity authorised to represent, especially following the determination of the list of claims drawn up in bankruptcy proceedings of the entity covered by the guarantee scheme, or following the issuance of a final ruling of the court establishing the claims against the entity covered by the guarantee scheme towards which the guarantee condition has been fulfilled.

Article 52. 1. If on the day of fulfilment of the guarantee condition the entitlements derived from the guaranteed funds were vested with legal successors of the depositor and the persons referred to in Article 55 paragraph 1 point 1 and Article 56 paragraph 1 of the Banking Act or Article 14 paragraph 1 point 1 and 2 of the Act on Cooperative Savings and Credit Unions, and notwithstanding the legal or factual cause they have been recognised in the system of calculation of the entity covered by the guarantee scheme as the powers of the legal predecessor, the Fund shall be required to provide the pecuniary benefit derived from the guaranteed funds representing the amount calculated for the legal predecessor in accordance with Article 24.

2. In the case referred to in paragraph 1:

- 1) the amount of benefit shall be determined without regard to guaranteed funds which may be due to legal successors and the persons referred to in Article 55 paragraph 1 point 1 and Article 56 paragraph 1 of the Banking Act or the Article 14 paragraph 1 point 1 and 2 of the Act on Cooperative Savings and Credit Unions in respect of the activities carried out separately from the operations underlying the creation of guaranteed funds of the legal predecessor;
- 2) the entitlements to receive guaranteed funds shall be determined in accordance with the provisions determining the effects of a particular type of legal succession and the principles of disposition of the property which belonged to the legal predecessor.

Article 53. If on the day of fulfilment of the guarantee condition the depositor was entitled to the guaranteed funds which were next included in the property to which the titles are vested with the legal successors of the depositor, the entitlements to receive guaranteed funds shall be determined in accordance with the provisions determining the effects of a particular type of legal succession and the principles of disposition of the property which belonged to the legal predecessor.

Article 54. 1. Where the funds deposited in the account have been blocked under the provisions of the Act of 16 November 2000 on Counteracting Money Laundering and Terrorism Financing (Journal of Laws of 2016 item 299 and 615), the payment of the guaranteed funds shall be suspended for the duration of the blocking.

2. If the funds deposited in the account are considered in whole or in part by a final court judgement as the subject coming directly or indirectly from the crime provided for in Article 165a or Article 299 of the Act of 6 June 1997 - Criminal Code or as a benefit of such an offense or as its equivalent, the funds deposited in the account or the relevant parts thereof shall not be taken into account in calculation of the benefit derived from guaranteed funds. These funds shall not be covered by the guarantee protection in part with reference to which forfeiture was ordered.

3. The court is required to notify the Fund of the judgement referred to in paragraph 2 relating to the entity covered by the guarantee scheme towards which the guarantee condition has been fulfilled if the judgment became final following

the date of fulfilment of the guarantee condition.

4. The Minister competent for financial institutions shall define by way of a regulation:

- 1) detailed terms and procedures of suspension of the payment of guaranteed funds to depositors in the case referred to in paragraph 1,
- 2) data to be contained in the notice of the Fund of the pending criminal proceedings and notice of its completion,
- 3) date and manner of sending the notice,
- 4) data which should be included in the information on suspension of the payment of guaranteed funds sent to the depositor,
- 5) date and manner of sending the information referred to in point 4,
- 6) data which should be included in the register of the suspended payments of guaranteed funds run by the Fund

– on considering the need to ensure that the payments are made only to authorised depositors.

Article 55. 1. The correspondence between the Fund and the depositors for the purpose of payment of guaranteed funds shall be conducted in Polish.

2. In the case of depositors of a bank branch covered by the guarantee scheme established in a Member State other than the Republic of Poland the correspondence shall be conducted in the official language of the European Union institutions used by the entity for the correspondence with the depositor, or in the official language of the State in the territory of which the branch was formed and, in the case of an entity covered by the guarantee scheme conducting cross-border activities on the territory of a Member State other than the Republic of Poland, correspondence between the Fund and the depositors using the services offered across borders shall be conducted in the language used by the depositor while using these services.

3. The provisions of paragraph 1 and 2 shall not exclude the option of correspondence between the Fund and the depositor in a language other than the language specified in these regulations, if both parties have given their consent.

Article 56. 1. In the case of fulfilment of the guarantee condition towards the bank or branch of a foreign bank, the Fund shall call on banks and branches of foreign banks for transferring funds corresponding to the payment commitments in the manner specified in Article 305 paragraph 2.

2. The funds referred to in paragraph 1 shall become the property of the Fund on the date of transfer thereof by a bank or branch of a foreign bank.

3. Where the amount of liabilities derived from the guaranteed funds exceeds the receivables arising from the call referred to in paragraph 1, the Fund shall cover the remaining amount of the liabilities from the guarantee fund of banks at the disposal for use.

4. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraph 1 and 3, the Fund shall cover the remaining amount of the liabilities from the extraordinary contributions referred to in Article 291.

5. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraph 1, 3 and 4, the Fund shall cover the remaining amount of the liabilities from other own funds with the exception of funds for mandatory restructuring on terms specified by the Fund Council.

6. In the case referred to in paragraph 5 the Fund may call the entities referred to in Article 305 paragraph 2 in the manner as defined in Article 47 paragraph 2 to transfer the funds corresponding to the payment commitments to the guarantee fund of banks in the amount necessary to maintain the proportion referred to in Article 303 paragraph 2.

Article 57. 1. In the case of fulfilment of the guarantee condition towards a credit union, the Fund shall call credit unions to transfer the funds corresponding to the payment commitments in the manner specified in Article 305 paragraph 3.

2. The funds referred to in paragraph 1 shall become the property of the Fund on the date of transfer thereof by a credit union.

3. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the receivables derived from the call referred to in paragraph 1, the Fund shall cover the remaining amount of the liabilities from the guarantee fund of credit unions at the disposal for use.

4. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraphs 1 and 3, the Fund shall cover the remaining amount of the liabilities from the extraordinary contributions referred to in Article 292.

5. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraphs 1, 3 and 4, the Fund shall cover the remaining amount of the liabilities from its other own funds,

with the exception of funds for mandatory restructuring on terms specified by the Fund Council.

6. In the case referred to in paragraph 5, the Fund may call on the entities referred to in Article 305 paragraph 3 in the manner specified in Article 47 paragraph 2 to transfer the funds corresponding to the payment commitments to the guarantee fund of credit unions, in the amount necessary to maintain the proportion referred to in Article 303 paragraph 2.

Article 58. In the case of making payments of guaranteed funds referred to in Article 36 paragraph 1 point 3, Article 44 and Article 51, the decision to use the funds for that purpose:

- 1) referred to in Article 56 - in the case of a bank or a branch of a foreign bank,
- 2) referred to in Article 57 - in the case of a credit union

– shall be made by the Management Board of the Fund.

Chapter 4

Cross-border payments of guaranteed funds

Article 59. 1. The guaranteed funds shall be paid to the depositors of a bank branch covered by the guarantee system, established in a Member State other than the Republic of Poland by a host system on behalf and for the account of the Fund.

2. The Fund shall provide a host system which will pay the guaranteed funds with the list of the payments and funds required to make the payments.

3. The payment of the guaranteed funds shall be performed in PLN, unless the agreement referred to in Article 60 provides otherwise.

Article 60. In order to allow the performance of the duties referred to in Article 59 paragraph 1 the Fund shall enter with a host system into an agreement defining the terms of cooperation regarding the payment of guaranteed funds.

Article 61. 1. The Fund may make payments of guaranteed funds to the depositors of a branch of a credit institution within the meaning of Article 4 paragraph 1 point 18 of the Banking Act, on behalf and for the account of the host system of the institution.

2. The payments referred to in paragraph 1 shall be executed upon receipt from the home-country deposit guarantee scheme of the credit institution within the meaning of Article 4 paragraph 1 point 18 of the Banking Act of the data and funds required to make such payments.

3. The guaranteed funds shall be paid in the currency specified in the agreement referred to in Article 62.

4. The provisions of Chapter 3 relating to the payment of guaranteed funds shall be applied accordingly.

Article 62. In order to allow the performance of duties referred to in Article 61 paragraph 1, the Fund shall enter with the home-country deposit guarantee scheme system into an agreement defining the terms of cooperation regarding the payment of guaranteed funds.

Article 63. 1. The agreements referred to in Article 60 and Article 62 should commit the parties to process information provided on a confidential basis, in particular they should include the pertinent provisions on the protection of personal data.

2. The Fund shall notify the European Banking Authority of the agreements concluded pursuant to Article 60 and Article 62.

DIVISION III

Resolution

Chapter 1

General Provisions

Article 64. As used in this Division, the following terms shall mean:

- 1) institution - credit institution or investment firm referred to in Article 4 paragraph 1 point 2 of Regulation No 575/2013 falling within the initial capital requirement of EUR 730 000;
- 2) entity - domestic entity, and if it is subject to consolidated supervision exercised by the Polish Financial Supervision Authority:
 - a) institution other than a domestic entity,

- b) financial institution if it is a subsidiary of a national entity or of the entity referred to in subparagraph c and d,
 - c) financial holding company, mixed-activity holding company, mixed financial holding company established in the territory of a Member State,
 - d) parent financial holding company from a Member State, EU parent financial holding company, parent mixed financial holding company from a Member State and EU parent mixed financial holding company;
- 3) extraordinary public support - State aid in the meaning of Article 107 paragraph 1 of the Treaty on the Functioning of the European Union (EU OJ 2012 C/326 of 26.10.2012, p. 47) or other public financial support on a transnational level, which, if granted at the national level, constitutes State aid granted in order to maintain or restore the profitability, liquidity or solvency of the entity or group which includes the entity, including those referred to in the Act of 12 February 2010 on Recapitalisation of Certain Institutions and the Government Financial Stabilisation Tools (Journal of Laws item 226, of 2011 item 196, of 2013 item 1012, of 2015 item 1513 and 1844 and of 2016 item 996).

Article 65. The Fund shall be the resolution authority.

Article 66. The resolution shall seek to meet the following objectives:

- 1) maintain financial stability, in particular through the protection of confidence in the financial sector and ensure market discipline;
- 2) limit the involvement of public funds or the likelihood of their exposure to the financial sector or its individual entities to achieve the objectives referred to in point 1 and 3-5;
- 3) ensure the ongoing performance of the critical functions carried out by an entity;
- 4) protect depositors and investors covered by the compensation system;
- 5) protect funds entrusted to the company by its customers.

Article 67. 1. The Fund shall pursue the objectives referred to in Article 66 by way of:

- 1) developing plans for the resolution of a group and resolution plans, including the determination of the minimum level of own funds and liabilities subject to write down or conversion;
- 2) write down or conversion of capital instruments;
- 3) carrying out resolution.

2. While pursuing the aims of the resolution, the Fund shall seek to reduce the costs of the resolution and, if possible, on considering the objectives of resolution, reducing the loss of undertaking value of an entity towards which the resolution is carried out.

3. If a domestic entity is part of a group, the Fund shall pursue the objectives referred to in Article 66 in a way that limits the impact of actions taken by the Fund as part of resolution on other entities of the group and the entire group and the stability of the Member States, in particular countries in which the group entities operate.

Article 68. 1. The exercise of the Fund powers:

- 1) shall not limit the rights of the entity being a conducting entity or participant in a payment or settlement system in favour of whom collateral has been established further to the participation in this system;
- 2) shall not limit the rights of the National Bank of Poland, a central bank in another Member State within the meaning of the Act on Settlement Finality or the European Central Bank, due to collateral of the operations with those banks established for them;
- 3) shall not affect the legal consequences of a settlement order arising from its entrance into a payment or settlement system and the effects of netting under those schemes.

2. The provisions of this division which provide for the invalidity of legal actions or their ineffectiveness to an entity under restructuring shall not apply to the legal relationships referred to in paragraph 1.

Article 69. The provisions of this division apply to entities and accordingly to the branches of a foreign bank, taking into consideration Article 101 paragraph 2, 9, 10 and 12.

Chapter 2

Write down or conversion of capital instruments

Article 70. 1. The Fund may perform write down or conversion of capital instruments:

- 1) without taking a decision to initiate resolution if the premises set out in paragraph 2 have been satisfied;

2) under resolution along with one or several instruments referred to in Article 110 paragraph 1.

2. The Fund shall perform write down or conversion of capital instruments in the case referred to in paragraph 1 point 1 if:

- 1) circumstances have occurred as referred to in Article 101 paragraph 7-9 Article 102 paragraph 1 or 4, or
- 2) an entity fails to satisfy the conditions for ongoing operation if no write down or conversion of capital instruments made, or
- 3) ongoing operation of an entity requires extraordinary public support.

3. In the case referred to in paragraph 2 point 2, it is considered that an entity fails to satisfy conditions for ongoing operation, including where all of the following conditions have been satisfied:

- 1) an entity is at risk of bankruptcy in accordance with Article 101 paragraph 3;
- 2) there is no evidence that feasible supervisory measures or the measures of an entity will remove the threat of bankruptcy in due time.

4. The public aid granted under separate regulations to a solvent entity in order to prevent a serious disturbance in the economy and maintain financial stability in the form referred to in Article 101 paragraph 13 point 3 shall not be considered the extraordinary public aid referred to in paragraph 2 point 3, if the support is proportional to the scale of disruption, is of a preventive and temporary nature and does not serve to cover the losses that the entity has incurred or will incur in the near future.

5. The Fund shall perform write down or conversion of an capital instrument if the instrument is classified as the own funds of a domestic parent entity at the individual and consolidated basis, and in the opinion of the Fund the group will be at risk of bankruptcy if capital instruments are not written down or converted.

6. If a capital instrument is classified as the own funds of a subsidiary of a domestic parent entity on an individual level as well as own funds on a consolidated level, the Fund may agree with the competent authority for resolution or the competent authority for the supervision of s subsidiary on the write down or conversion of the instrument by the authority if in the opinion of the Fund and of the said authority the group will be at risk of bankruptcy if capital instruments are not written down or converted.

7. If a capital instrument is classified as the own of funds of a domestic subsidiary of an EU parent institution on an individual level as well as the own funds on a consolidated level, the Fund may agree with the competent authority for the resolution of a group or with the competent supervisory authority of a group on performing write down or conversion of the instrument if in the opinion of the Fund and of the said authority the group will be at risk of bankruptcy if capital instruments are not written down or converted.

8. In the cases referred to in paragraph 6 and 7 it shall be considered that the group will be at risk of bankruptcy if it fails or is going to fail to satisfy in the near future prudential standards on a consolidated level as to need for action in the field of early intervention by the supervisory authority, in particular in the case of incurring loss significantly affecting the own funds or a risk thereof.

9. In the cases referred to in paragraph 6 and 7, the Fund and the competent authorities for resolution or supervisory authorities shall take into account the impact of write down or conversion of an capital instrument on the financial stability of the countries in which group entities operate.

10. While taking the decisions referred to in paragraph 6 and 7, the Fund and the competent authorities for resolution or supervisory authorities shall determine whether it is possible to take measures other than write down or conversion of capital instruments, in particular the implementation supervisory instruments of early intervention measures referred to in Article 110z paragraph 1 and 3 and Article 110zf paragraph 3 of the Act on Trading in Financial Instruments and in Article 138 paragraph 1 of the Banking Act, or capital support from the parent entity, if this measure is feasible - if they can be easily taken and whether it is likely that it will remove the threat of bankruptcy within a reasonable time.

11. If measures referred to in paragraph 10 may be undertaken, the Fund in the cases referred to in paragraph 6 and 7 shall request the Polish Financial Supervision Authority for the adoption thereof within the framework of exercised supervision.

12. Prior to the write down or conversion of the capital instruments referred to in paragraph 2, 5 and 6, the Fund shall arrange for the estimate referred to in Article 137 paragraph 2 and 3 with a view to the determination of the the amount of loss to be covered and the amount of conversion necessary to recapitalise an entity or group.

13. In the cases referred to in paragraph 6 and 7, write down or conversion of a capital instrument of a subsidiary must not be made on terms worse than redemption or conversion of similar capital instruments of a parent company.

Article 71. 1. If a capital instrument is classified as the own funds of a domestic subsidiary on an individual level as well as to the own funds on a consolidated level, the Fund, following the receipt of the information referred to in Article 101 paragraph 1, shall forthwith notify the competent supervisory authority exercising consolidating supervisor and the competent authority for the resolution of a group.

2. If a capital instrument is classified as the own funds of a subsidiary of a domestic parent entity on an individual level as well as to the own funds on a consolidated level, the Fund, following the receipt of the information referred to in Article 101 paragraph 1 shall forthwith notify the competent authority for resolution, supervisory authority for an entity and the Polish Financial Supervision Authority.

Article 72. 1. The Fund shall perform write down or conversion of capital instruments in the following order:

- 1) instruments which satisfy the conditions laid down in Article 28 paragraph 1-4 Article 29 paragraph 1-5 and Article 31 paragraph 1 of Regulation No 575/2013 - to the amount of losses of an entity under restructuring;
- 2) instruments and liabilities which satisfy the conditions laid down in Article 52 paragraph 1 of Regulation No 575/2013, as well as instruments which satisfy the conditions to be classified as capital instruments in accordance with Part 10 of Title 1, Chapter 2 of Regulation No 575/2013, irrespective of whether they have been in whole or in part excluded from the own funds, including under Article 486 of the Regulation – in the amount required to satisfy the operating conditions and in the case referred to in Article 70 paragraph 1 point 2 - to achieve the objectives of the resolution referred to in Article 66;
- 3) instruments and liabilities which satisfy the conditions laid down in Article 63 of Regulation No 575/2013 in the amount required to satisfy the conditions necessary for the performance of their business activities and in the case referred to in Article 70 paragraph 1 point 2 - to achieve the objectives of the resolution referred to in Article 66.

2. The write down or conversion of the instruments referred to in paragraph 1 points 2 and 3 shall follow in the reverse order of priority of claims referred to in Article 440 paragraph 2 of the Act – Bankruptcy Law.

3. In the case of redemption of an capital instrument:

- 1) the amount of write down may be adjusted solely in the case referred to in Article 138 paragraph 3 point 1;
- 2) no liability arises or lasts towards the current holder of the capital instrument beyond those that existed prior to the date of write down, with the exception of claims for damages that may arise as a result of the repeal of the decision of write down;
- 3) no other claim for damages may be asserted.

4. The Fund shall convert the instruments referred to in paragraph 1 points 2 and 3 into the instruments referred to in paragraph 1 point 1.

5. With a view to performing write down or conversion of capital instruments, the Fund may commit an entity to issue the instruments referred to in paragraph 1 point 1 for the benefit of the holders of instruments referred to in paragraph 1 point 2 and 3.

6. In the case referred to in paragraph 5:

- 1) instruments should be issued:
 - a) by an entity or by its parent - with the consent of the authority responsible for the resolution of a parent company,
 - b) prior to the issuance for the benefit of the State Treasury or public entities, in order to raise its own funds;
- 2) terms of issue should provide the opportunity to assume these instruments forthwith upon their conversion.

7. If the Fund intends to convert according to the differentiated rates of conversion, these should be determined in a manner specified in Article 210 paragraph 3.

8. The provisions of Article 208-212 and Article 217-222 shall apply accordingly.

Chapter 3

Resolution plans

Article 73. 1. With a view to arranging for the resolution, the Fund, following the consultation with the Polish Financial Supervision Authority, shall develop a plan for the resolution for a domestic entity that is not a part of a group subject to consolidated supervision in a Member State by the supervisory authorities other than the Polish Financial Supervision Authority.

2. In the case of a domestic entity that operates a major branch in a Member State other than the Republic of Poland, the Fund shall develop a resolution plan following the consultation with the competent authority for the resolution of the said branch.

Article 74. 1. The Fund, in cooperation with the competent authorities for the resolution of subsidiaries, and following the consultation with the competent authorities for the resolution for major branches of a domestic parent entity within the resolution college, shall develop a group resolution plan for a group of a domestic parent entity, wherein at least one subsidiary being an institution is established in a Member State other than the Republic of Poland.

2. While observing the principles of protection of information, the Fund may cooperate in developing a group resolution plan with the competent authorities for resolution of third countries in whose territory the group has established subsidiaries, financial holding companies or major branches.

Article 75. 1. The group resolution plan referred to in Article 74 paragraph 1 shall be adopted by the Fund and the competent authorities for resolution within the resolution college in the form of a collective decision.

2. If within four months from the date of transfer by the Fund of the information referred to in Article 86 paragraph 3, required to develop the group resolution plan referred to in Article 74 paragraph 1, this plan fails to be adopted within the resolution college, the Fund shall adopt a group resolution plan on considering the opinions submitted by the competent authorities for resolution within the resolution college.

3. If the Fund and the competent authorities for resolution within the resolution college fail to adopt a plan of the resolution of a group prior to the date referred to in paragraph 2 and within that period the competent authority for the resolution of a subsidiary of a domestic parent entity requests the European Banking Authority for binding mediation, the Fund shall refrain from the adoption of plan of the resolution of a group pending the the decision by the European Banking Authority.

4. Where the European Banking Authority has failed to take a decision within one month from the date of submission of the application for the binding mediation, the Fund shall adopt a group resolution plan in accordance with paragraph 2, and if the European Banking Authority takes this decision, the Fund shall proceed in accordance with the decision of the European Banking Authority.

5. Where the competent authority for the resolution for a subsidiary of a domestic parent company notifies the Fund that it does not consent to the adoption of a group resolution plan developed within the resolution college on account of the commitment, arising from the plan, to effect public spending of its State, the Fund and the competent authorities for resolution which are members of the resolution college shall re-evaluate the plan within the college.

6. If the competent authority for the resolution of a subsidiary forming part of the resolution college has decided on the development of a separate resolution plan for the subsidiary, the Fund and other competent authorities for resolution within the resolution college may adopt a group resolution plan for other entities in the form of a collective decision.

7. The Fund may address a request to the European Banking Authority to conduct non-binding mediation between the competent authorities for resolution forming part of the resolution college in accordance with Article 31 point c of Regulation No 1093/2010 and to take binding mediation.

Article 76. While developing a group resolution plan, the Fund shall take into account the potential impact of possible measures within the framework of the resolution of the group on the financial stability of the states in which the entities of the group operate and grounds for the allocation of amounts of the resolution funds to cover the costs of the proceedings, referred to in Article 82 paragraph 4.

Article 77. 1. The Fund shall cooperate with the relevant authorities for resolution with a view to developing a group resolution plan of groups in which a domestic entity is a subsidiary or a branch of a group entity operating in the territory of the Republic of Poland is major and to assessing the feasibility of this plan and to updating it, if necessary. The provision of Article 75 paragraph 7 shall apply accordingly.

2. In the case referred to in paragraph 1, if within four months from the date of transfer of the information necessary to develop a plan by the competent authority for resolution of the group, the Fund and the competent authorities for resolution fail to adopt a group resolution plan due to a lack of consent of the Fund within the resolution college, the Fund shall resolve on the development a plan of the resolution of a domestic subsidiary, on considering the opinions submitted by the competent authorities for resolution and the competent supervisory authorities, while indicating

in the statement of reasons the grounds of not agreeing to the group resolution plan developed within the resolution college, and shall communicate the decision to the other members of the college.

3. In the case referred to in paragraph 1, if prior to the date referred to in paragraph 2 the Fund and the competent authorities for resolution within the resolution college fail to adopt a group resolution plan, and the competent authority for the resolution of a group requests the European Banking Authority for binding mediation, the Fund shall refrain from the adoption of the decision referred to in paragraph 2 pending a decision by the European Banking Authority.

4. Where the European Banking Authority has not taken a decision within one month from the date of filing an application for binding mediation, the Fund resolves on the development a plan of the resolution of a domestic subsidiary and if the European Banking Authority takes this decision, the Fund shall proceed in accordance with the decision of the European Banking Authority.

5. If the competent authority for the resolution of a subsidiary forming part of the resolution college has resolved on the development a separate plan for the resolution of the subsidiary, the Fund and other competent authorities for resolution within the resolution college may adopt a group resolution plan for other entities in the form of a collective decision.

6. In the case referred to in paragraph 1, if the Fund and the competent authorities for resolution fail to adopt a group resolution plan prior to the date referred to in paragraph 2 and within that period neither the Fund nor the competent authorities for resolution requested the European Banking Authority for binding mediation, the Fund shall resolve on the development of a plan of resolution for a domestic subsidiary on considering the opinions submitted by the competent authorities for resolution and the competent supervisory authorities, while indicating in the statement of reasons the grounds for not agreeing to the group resolution plan developed within the resolution college and communicates the decision to the other members of the college.

7. In the case referred to in paragraph 1, the Fund shall develop a separate plan of the resolution for a domestic entity being a major entity and may develop a separate plan of the resolution of an entity identified as another institution of systemic importance in accordance with Article 39 paragraph 1 of the Act of 5 August 2015 on Macro-prudential Oversight of the Financial System and Crisis Management in the Financial System (Journal of Laws item 1513), unless it meets the definition of a major entity.

Article 78. 1. The Fund shall develop a resolution plan in particular on the basis of the information obtained from the Polish Financial Supervision Authority and domestic entities.

2. The Fund may require a domestic entity to co-operate in the development and updating of the resolution plan, including the development of elements of the resolution plan on the basis of the guidelines of the Fund containing a scope of information provided, the date of their transfer and the instruction on the penalties for failure to provide the information.

Article 79. 1. In the event that within a specified period determined by the Fund, a domestic entity fails to provide information referred to in Article 85 or fails to perform the duty referred to in Article 78 paragraph 2, the Fund may, by way of a decision, fine the entity with a penalty of up to 10% of the revenue reported in the latest audited financial statement, and in the absence of such a statement – fine the entity with a financial penalty of up to 10% of the projected revenue determined on the basis of the economic and financial situation of the entity, not more than PLN 100 000 000.

2. The fine referred to in paragraph 1 shall account for the income of the State Budget.

3. The claims derived from the decision to impose a fine shall be enforced in the manner specified in the provisions on administrative enforcement proceedings.

Article 80. 1. The Management Board of the Fund shall adopt resolution plans and group resolution plans by way of a resolution, .

2. The Fund shall forward the approved resolution plans and group resolution plans to the Polish Financial Supervision Authority and the Minister competent for financial institutions.

3. In the case that during the assessment of the feasibility of the plans the circumstances were identified which prevent or hinder the conduct of resolution, the implementation of the task to develop a resolution plan, to adopt a group resolution plan and to make updates thereof shall be suspended pending the determination of the necessary measures to remove these circumstances, in accordance with Article 91 paragraph 5-7 or Article 92 paragraph 6-12.

Article 81. 1. The resolution plan shall envisage measures towards an entity in the case of initiation of resolution and feasibility evaluation of these activities, in particular:

- 1) summary of the essential elements of the plan;
- 2) detailed description of the possible restructuring options, including the possibility of using individual instruments of resolution;
- 3) manner of separation of critical functions and main lines of business of an entity;
- 4) timetable for implementing the major objectives of the plan;
- 5) detailed description of the assessment of the feasibility of the resolution plan referred to in Article 89, along with the

specification of the circumstances that prevent or hinder the conduct of resolution;

- 6) description of measures that should be applied in order to remove the circumstances that prevent or hinder the conduct of resolution;
- 7) description of procedures used to assess possibilities to sell the undertaking of the entity within its critical functions, main business lines and assets and to determine their value;
- 8) description of the internal procedures of the entity providing the Fund with the up-to-date information referred to in Article 85;
- 9) description of the principles of financing of possible variants of resolution;
- 10) analysis of the possibility of using standard instruments of the National Bank of Poland to support the liquidity of the entity and enumeration of assets eligible as collateral for granting such support;
- 11) description of significant interrelationships between legally separate organisational units resulting from:
 - a) sharing of assets, services and employing the same staff,
 - b) provision of capital and liquidity support and funding,
 - c) provision of collateral, clauses of default and netting,
 - d) provision of services,
 - e) risk transfer, repurchase transactions and hedging transactions;
- 12) description of variants to maintain access to payment and settlement services and assessment of the option of transferring settlement items of a customer;
- 13) analysis of the impact of the plan on the rights and duties of employees of the entity, the costs involved and the extent of the anticipated consultation with employees, including under the Act of 13 March 2003 on specific rules for termination of employment for reasons not attributable to employees (Journal of Laws of 2015 item 192, 1220 and 1268);
- 14) minimum requirements for the own funds and liabilities eligible for write down or conversion as referred to in Article 97 paragraph 2, and the deadlines for satisfying thereof;
- 15) description of material changes in the entity, which occurred after the submission of the last information for the need of the resolution plan;
- 16) description of the basic operations and systems ensuring the continuity of the operational processes of the entity;
- 17) principles of external communication;
- 18) opinion of an entity on the resolution plan, if the opinion has been expressed.

2. The resolution plan shall take into account the option to initiate resolution in different external conditions, including the absence of financial stability or events affecting the financial market.

3. The resolution plan may involve execution of bankruptcy proceedings of an entity.

4. The resolution plan must not assume:

- 1) obtaining extraordinary public support, with the exception of the use of the resolution funds;
- 2) emergency liquidity support from the National Bank of Poland;
- 3) liquidity support from the National Bank of Poland granted on conditions different from generally accepted, in particular as regards the period, interest rates and forms of collateral.

Article 82. 1. The group resolution plan shall define the resolution of a group via the actions, including the use of the instruments of resolution, undertaken towards the parent company or by way of division of the group and the restructuring of subsidiaries.

2. The group resolution plan shall define measures undertaken towards:

- 1) EU parent institution;
- 2) subsidiary established in a Member State;
- 3) financial holding company, mixed-activity holding company and mixed financial holding company;
- 4) parent financial holding company in a Member State and the parent mixed financial holding company in a Member State;
- 5) subsidiary established in the territory of a third country.

3. The group resolution plan shall define in particular:

- 1) description of the possible measures under the resolution, taking into account the premises referred to in Article 81

paragraph 2 as regards group entities, both the parent company and the parent company and its subsidiaries, as well as coordinated measures towards subsidiaries;

- 2) analysis of the possibility of parallel application of instruments of resolution and taking recourse to other powers of resolution authorities towards group entities established in the territory of the Member States, including support for third parties in the acquisition of a group, separate business lines or types of business activities pursued by several entities in the group or individual entities;
- 3) description of feasibility assessment of the group resolution plan referred to in Article 89 along with the specification of the circumstances that prevent or hinder the conduct of resolution
- 4) description of measures that should be applied in order to remove the circumstances that prevent or hinder the conduct of resolution;
- 5) description of the method of cooperation and coordination with the third-country authorities competent for resolution and assessing their relevance to the resolution in the Member States, if a group includes entities established in third countries;
- 6) description of separation of critical functions and major business lines needed to perform the resolution of a group;
- 7) description of operations undertaken by the competent authority for the resolution of a group stemming from separate provisions;
- 8) description of the rules of financing the resolution of a group, and if the resolution funds must be used, specification of the method of burden-sharing between resolution funds of individual Member States or other sources of funding resolution stemming from the provisions applicable in those countries.

4. The manner of the distribution referred to in paragraph 3 point 8 shall take into account:

- 1) share in a group of:
 - a) risk-weighted assets of the entities of the group established in a Member State,
 - b) assets of entities of the group established in a Member State,
 - c) losses of entities of the group established in a Member State, which contributed to meeting of triggers of the resolution of the group;
- 2) share of funds from the resolution funds of other Member States, which can be used in favour of entities of the group in a Member State.

5. The group resolution plan must not assume:

- 1) obtaining extraordinary public support with the exception of the use of the resolution funds;
- 2) emergency liquidity support from central banks;
- 3) liquidity support from central banks granted on conditions different than those generally accepted, in particular as regards the period, interest rates and forms of collateral.

6. If in the opinion of the Fund the national public funds must be involved with a view to financing the resolution of a group, the Fund shall agree the group resolution plan solely in consultation with the Minister competent for financial institutions.

Article 83. The Fund Council shall determine the detailed scope of information to be included in a resolution plan, including the object and scope of business of an entity, in particular the performance of brokerage business, the ownership structure, the legal form of the business, the risk profile, the scale of links with other entities of the financial market and participation in the institutional protection scheme.

Article 84. The Fund shall provide a domestic entity with a summary of the essential elements of the resolution plan referred to in Article 81 paragraph 1 point 1, whereas the domestic parent entity shall notify of the adoption of the group resolution plan in writing within 30 days from the date of adoption of the resolution plan or the group resolution plan by the Management Board of the Fund.

Article 85. 1. A domestic entity shall provide the Fund with the information necessary to develop, update and assess the feasibility of resolution plans, concerning in particular the organisational structure, entities interrelated by capital or organisational linkages, the capital structure, the employment structure, the type and scope of operation, including the strategy of development and the assets and liabilities of the entity, including information from the register of financial instruments referred to in Article 88 paragraph 1.

2. A domestic entity shall forthwith notify the Fund of a significant organisational or legal change or the occurrence of other events affecting the objectives adopted in the resolution plan and its implementation.

Article 86. 1. A parent domestic entity shall provide the Fund with the information referred to in Article 85 concerning also the subsidiaries, to the extent necessary to draw up the group resolution plan.

2. The Fund shall forward the information referred to in Article 85 to the following entities:

- 1) European Banking Authority – in the scope of the information related to its tasks in the preparation of group resolution plans;
- 2) competent authorities for the resolution of subsidiaries - in the scope of the information on these entities;
- 3) competent authorities for the resolution of the entities referred to in Article 82 paragraph 2 points 3 and 4 - in the scope of the information on these entities;
- 4) competent authorities for the resolution of major branches - in the scope of the information relating to these branches;
- 5) The Polish Financial Supervision Authority and other supervisory authorities - in the scope of the information on the entities they supervise.

3. The Fund shall provide information on the subsidiaries established in the territory of third countries only if the consent has been given to the transfer of this information by the competent third-country authorities for resolution or supervisory authorities of those countries.

Article 87. The Minister competent for financial institutions may determine, by way of a regulation, the detailed scope, manner and time for the transfer to the Fund by the entities of the information necessary to develop, update and assess the feasibility of resolution plans of and group resolution plans, taking into account the need to ensure the adequacy of the required information towards the size and risk profile of the business of the entity, its legal form and participation in the institutional protection scheme.

Article 88. 1. The entities shall be required to keep a register of financial instruments and transmit the information stored in the register to the Fund for need of the development and updating resolution plans and group resolution plans and arranging for resolution.

2. The register of financial instruments shall also include:

- 1) repurchase sale transactions of financial instruments;
- 2) resell purchase transactions in financial instruments;
- 3) inter-bank loans whose maturity does not exceed three months;
- 4) framework agreements of financial instruments and the instruments referred to in paragraphs 1-3.

3. Following the consultation with the Fund, the Minister competent for financial institutions may determine, by way of a regulation:

- 1) the minimum requirements to be met by a register of financial instruments,
- 2) detailed scope and structure of the data contained in the register and the technical standard of their preparation and recording.
- 3) format and procedure for transmitting the data to the Fund,
- 4) procedure and method of verifying the accuracy of the data stored in the register

– having regard to the need to provide the Fund with the data necessary to perform statutory tasks of the Fund and the conditions for executing factual activities involved in bank or brokerage business, as well as taking into account the protection of data from unauthorised access.

Article 89. 1. The Fund shall, at least once a year, review and assess the feasibility of resolution plans and group resolution plans for groups of parent domestic entities, subject to Article 90 paragraph 1 point 1. The Fund shall make the first assessment of the feasibility of resolution plans and group resolution plans at the stage of their development.

2. The Minister competent for financial institutions may determine, by way of a regulation, the minimum scope of the analyses made by the Fund in order to assess the feasibility of resolution plans and group resolution plans, while taking into account the need to ensure effective implementation of the objectives of the resolution and identification of circumstances that prevent or hinder the implementation of these measures.

Article 90. 1. On considering the limited negative impact that a bankruptcy of a domestic entity or a bankruptcy of a specific type of entities could have on the financial situation of other entities, on the stability of the financial market and the economy, the Fund Council may, by way of a resolution:

- 1) determine lower frequency of review and assessment of the feasibility of resolution plans than that specified in Article 89 paragraph 1;
- 2) exempt an entity from the duty to keep the register referred to in Article 88, if such an entity is not a major entity or has not been identified or recognised as a global systemically important financial institution or another institution of systemic importance, in accordance with the provisions of the Act of 5 August 2015 on Macro-Prudential Oversight of the Financial System and Crisis Management in the Financial System.

2. While assessing the impact which a bankruptcy of a domestic entity could have on the financial situation of other

entities of the financial market, on the stability of the financial market and on the state of the economy, the Fund Council shall take into account the circumstances referred to in Article 83.

3. While making the assessment referred to in paragraph 2, the Fund Council may consult the Financial Stability Committee.

4. In the event of a change of the circumstances referred to in paragraph 1 the Fund Council may repeal or amend the resolution referred to in paragraph 1. The Fund forthwith notifies the entity concerned of any resolution being repealed or amended.

5. The Fund shall notify the European Banking Authority of the resolutions adopted in accordance with paragraph 1.

Article 91. 1. Following a significant organisational or legal change in an entity, in particular the acquisition or disposal of subsidiaries, change of the organisational structure of the entity, change of the parent company, change of domicile of the parent company and the change in business or the financial situation of the entity or upon the occurrence of another event, the Fund shall assess the feasibility of the resolution plan and, if necessary, following the consultation with the Polish Financial Supervision Authority, shall update the plan. The provisions of Article 79-81 and Article 83-85 shall apply accordingly.

2. In the case referred to in Article 74 paragraph 1, the Fund shall assess the feasibility of the resolution plan and, if necessary, shall update the plan following the consultation with the competent supervisory authorities and the competent authority for resolution for a major branch of a domestic entity.

3. The resolution plan is feasible if it allows performing liquidation of the entity through the bankruptcy proceedings or restructuring of the entity by taking recourse to the instruments of resolution and exercise of the powers of the Fund within the resolution, which as far as possible reduce the negative effects of resolution on the financial stability, including the financial stability of other countries and the European Union, and ensure the execution of critical functions.

4. If following the assessment referred to in paragraph 1 the circumstances are found that prevent or hinder the execution of the resolution, the Fund shall communicate them, in writing, to a domestic entity and the Polish Financial Supervision Authority, and in the case referred to in Article 74 paragraph 1, to the competent authorities for resolution in the countries in which the domestic entity operates through major branches.

5. The entity shall develop an action plan to eliminate the circumstances referred to in paragraph 4 and shall submit it to the Fund within a period of four months from the date of receipt of the information referred to in paragraph 4.

6. Following the consultation with the Polish Financial Supervision Authority, the Fund shall assess the plan referred to in paragraph 5.

7. If the plan referred to in paragraph 5 is insufficient in the opinion of the Fund, the Fund, following the consultation with the Polish Financial Supervision Authority, shall determine the measures necessary to remove the circumstances referred to in paragraph 4.

Article 92. 1. Following the consultation with the Polish Financial Supervision Authority, the supervision authorities of subsidiaries and competent authorities for the resolution of a major branch, the Fund, within the resolution college, in association with the competent authorities for resolution, shall assess the feasibility of a group resolution plan and, if need be, shall update the plan. The provisions of Article 74, Article 79, Article 80, Article 82, Article 84 and Article 86 shall apply accordingly.

2. The group resolution plan is feasible if it allows performing liquidation of the entities of the group through the bankruptcy proceedings or restructuring of these entities by taking recourse to the instruments of resolution and exercise of the powers of the Fund within the resolution, which as far as possible reduce the negative effects of these proceedings on the financial stability of the states where the entities of the group are established, and the European Union, as well as ensures the execution of critical functions, in particular through the effective separation thereof.

3. If following the assessment of the feasibility of the group resolution plan, the circumstances are found that prevent or hinder the execution of the resolution of a group, and the plans to remove them presented by the entities of the group are insufficient, the Fund and the competent authorities for resolution shall notify the European Banking Authority and, following the consultation with the college of supervisors referred to in Article 141f paragraph 18 of the Banking Act or the Articles. 110j paragraph 1 of the Act on Trading in Financial Instruments, and the competent authorities for resolution in the Member States in which the entities of the group operate through major branches, shall agree in the form of a collective decision within the resolution college on the measures necessary to remove them.

4. The Fund, in cooperation with the Polish Financial Supervision Authority and the European Banking Authority, in consultation with the supervisory authorities of subsidiaries, shall analyse the circumstances referred to in paragraph 3 and develop information about them and recommendations for actions needed to remove them on considering the impact of these actions on the operation of the group.

5. The Fund shall transfer the information referred to in paragraph 4 to a domestic parent entity, the competent authorities for the resolution of subsidiaries and competent authorities for the resolution of major branches.

6. Within four months from the date of receipt of the information referred to in paragraph 5 a domestic parent entity

may submit a proposal to the Fund of other measures ensuring the removal of the circumstances referred to in paragraph 3, along with the statement of reasons thereof.

7. The Fund shall notify the Polish Financial Supervision Authority, the European Banking Authority and the competent authorities for the resolution of subsidiaries, and in appropriate cases - the competent authorities for the resolution of major branches of the entities of the group - the proposal referred to in paragraph 6.

8. Following the consultation with the supervisory authorities of entities of the group and the competent authorities for the resolution of major entities of the group, the Fund and the competent authorities of resolution of subsidiaries, within the framework of the resolution college, shall analyse and assess the circumstances referred to in paragraph 3, the recommendations referred to in paragraph 4 and proposals referred to in paragraph 6, on considering the potential impact of the recommendations and proposals in the Member States in which entities of the group operate.

9. The measures necessary for the removal of the circumstances referred to in paragraph 3 shall be agreed in the form of a collective decision by the Fund and the competent authorities for resolution within the framework of the resolution college within 4 months from the date when a domestic parent entity provided the Fund with the proposals referred to in paragraph 5, or following the deadline for the submission thereof. These measures may include in particular the actions referred to in paragraph 8.

10. If the Fund and the competent authorities for resolution fail to agree the necessary measures to eliminate the circumstances referred to in paragraph 3 within the framework of the resolution college within the period referred to in paragraph 9, these measures shall be established by the Fund, taking into account the opinion of the other competent authorities for resolution included in the resolution college.

11. If the Fund and the competent authorities for resolution included in the resolution college fail to agree the necessary measures to eliminate the circumstances referred to in paragraph 3 prior to the deadline referred to in paragraph 9, and the competent authority for resolution of the subsidiary requests the European Banking Authority for binding mediation, the Fund shall refrain from the determination of these measures pending a decision by the European Banking Authority.

12. If the European Banking Authority has failed to take a decision within one month from the date of filing an application for binding mediation, the Fund shall determine the measures necessary to remove the circumstances referred to in paragraph 3 in the manner specified in paragraph 10.

13. If the European Banking Authority has taken a decision following binding mediation, the Fund shall determine the measures necessary to remove the circumstances referred to in paragraph 3 in accordance with the decision of the European Banking Authority.

Article 93. 1. In the case referred to in Article 77 paragraph 1, if following the assessment of the plan of the resolution of a group, the circumstances are established that prevent or hinder the execution of the resolution of the group, the Fund shall cooperate with the competent authorities for resolution in order to agree the necessary measures to remove these circumstances. The provision of Article 75 paragraph 7 shall apply accordingly.

2. If within four months from the date of provision the competent authority of resolution of a group with the proposals of measures to ensure the removal of the circumstances referred to in paragraph 1, or on the deadline for their submission no measures are agreed upon as necessary to remove these circumstances, the Fund shall determine the measures with reference to a domestic subsidiary, on considering the opinion of the other competent authorities for resolution included in the resolution college. The Fund shall notify the decision to the competent authority for resolution of the group and the concerned domestic subsidiary.

3. If no measures are agreed as necessary to eliminate the circumstances referred to in paragraph 1 prior to the deadline referred to in paragraph 2, and the competent authority for the resolution of a group or another competent authority for resolution being a member of the resolution college requests the European Banking Authority for binding mediation, the Fund shall refrain from the determination of these measures pending a decision by the European Banking Authority.

4. Where the European Banking Authority has not taken a decision within one month from the date of submission of an application for binding mediation, the Fund shall determine the measures necessary to remove the circumstances referred to in paragraph 1, in the manner specified in paragraph 2.

5. Where the European Banking Authority has taken a decision as a result of binding mediation, the Fund shall proceed in accordance with the decision of the European Banking Authority.

Article 94. 1. If a resolution plan or a group resolution plan involves restructuring an entity through the use of an instrument of write down or conversion of liabilities, as well as to ensure the option of write down or conversion of capital instruments in accordance with Article 70 paragraph 1, the Fund, following the consultation with the Polish Financial Supervision Authority may require the entity to effect the conditional share capital increase and to remove the provisions of the statutes or the articles of association limiting the possibility of execution of write down or conversion of capital instruments or the use of the instrument of write down or conversion of liabilities.

2. The Fund may determine the maximum amount of exposure to an entity not included in the same group derived

from the liabilities referred to in Article 206 paragraph 1.

Article 95. 1. Within the scope of application of the measures established in accordance with Article 91 paragraph 7, Article 92 paragraph 9, 10, 12 and 13, Article 93 paragraph 1, 3 and 4 and Article 94, the Fund shall adopt recommendations following the consultation with the Polish Financial Supervision Authority.

2. While issuing a recommendation, the Fund shall indicate the reasons for which it considered a proposal or a plan of the entity insufficient to eliminate the circumstances that prevent or hinder the conduct of resolution, and shall demonstrate the proportionality of the recommended measure. The Fund shall forthwith notify the recommendation to the Polish Financial Supervision Authority.

3. In terms of the impact of measures determined in accordance with Article 91 paragraph 7, Article 92 paragraph 9, 10, 12 and 13, Article 93 paragraph 1, 3 and 4 and Article 94 on the level of systemic risk, the Fund may consult with the Financial Stability Committee.

4. The recommendations may concern:

- 1) provision of solutions for continuous and uninterrupted operation of the entity, including in the case of conducting resolution;
- 2) entrance into or amendment of the agreements on financial support within the group referred to in Article 141t of the Banking Act and Article 110zr paragraph 1 of the Act on Trading in Financial Instruments;
- 3) reduction in risk exposure in particular in the scope referred to in Article 94 paragraph 2;
- 4) imposition of additional disclosure obligations;
- 5) disposal of assets of an entity;
- 6) restriction or termination of certain activities of the entity;
- 7) limitation of introduction or development of new products or lines of business;
- 8) change in the organisational and legal structure in order to simplify the structure or separate activities;
- 9) establishment of a parent financial holding company in a Member State established in the territory of the Republic of Poland or EU parent financial holding company;
- 10) issue of debt instruments convertible into capital or other capital or debt instruments subject to write down or conversion;
- 11) pursuit of measures other than those referred to in point 10 in order to achieve a minimum level of liabilities subject to write down or conversion, in particular renegotiation of the terms of the liabilities referred to in Article 206 paragraph 1, in order to ensure the effectiveness of write down or conversion under the law applicable to that liability;
- 12) maintenance of a specific structure of liabilities.

5. An entity shall develop an action plan on considering the recommendations, and shall submit it to the Fund within one month from the date of receipt of the recommendations.

6. In the case of default on the recommendations on the part of the entity, the Fund may, by way of a decision, fine the entity with a penalty of up to 10% of the revenue reported in the latest audited financial statement, and in the absence of such a statement – fine it with a financial penalty of up to 10% of the projected revenue determined on the basis of the economic and financial situation of the entity, not more than PLN 100 000 000.

7. While issuing the decision referred to in paragraph 6, the Fund shall consider the following:

- 1) gravity and duration of the infringement;
- 2) degree of liability of entities;
- 3) ratio of the amount of the financial penalty to the scale of business of entities measured in terms of revenue, profit or assets;
- 4) benefits achieved by an entity as a result of the infringement;
- 5) damage to third parties as a result of the infringement;
- 6) previous infringements, their scope and frequency;
- 7) effects of the infringement on the financial stability and the financial market;
- 8) cooperation of an entity with the Fund.

8. The Fund shall forthwith notify the European Banking Authority of entities towards which the circumstances referred to in Article 91 paragraph 4 and Article 92 paragraph 3 have been detected.

9. The fine referred to in paragraph 6 shall account for the income of the State Budget.

10. The enforcement of receivables arising from the decision to impose a financial penalty shall be executed in the manner specified in the provisions on administrative enforcement proceedings.

Article 96. 1. In accordance with Article 10 and Article 113 paragraph 7 of Regulation No 575/2013, subject to paragraph 3, the Fund Council may exempt domestic entities linked to a central body, and fully or partially exempt from the prudential requirements from the requirements specified by the provisions of this chapter.

2. In the case of the exemption referred to in paragraph 1, the requirements of this chapter shall apply at a consolidated level to the central body and its associated entities within the meaning of Article 10 of Regulation No 575/2013.

3. The exemption referred to in paragraph 1 must not apply to a domestic entity being a major entity.

4. In the event of receipt of a notice from a bank's management on the implementation of the recovery plan, in accordance with Article 142 paragraph 1 or 2 of the Banking Act, or the notification from the Polish Financial Supervision Authority referred to in Article 326 paragraph 1 point 2 or 3, the Fund may:

- 1) request an entity for information in accordance with Article 330 paragraph 1 and 2;
- 2) estimate the value of the assets and liabilities of an entity;
- 3) search for an acquiring entity in cooperation with an entity, or independently.

5. The provisions of Article 137-140 and Article 178 shall apply accordingly.

6. The Fund notifies the Polish Financial Supervision Authority of the measures taken, referred to in paragraph 4, paragraph 3.

Chapter 4

Minimum level of own funds and liabilities subject to write down or conversion

Article 97. 1. Domestic entities are required to maintain a certain minimum level own funds and liabilities, as determined by the Fund, subject to write down or conversion. The Fund may determine the minimum level of own funds and liabilities subject to write down or conversion for the entities referred to in Article 64 point 2 b-d.

2. Following the consultation with the Polish Financial Supervision Authority, the Fund shall determine the amount of the minimum level of own funds and liabilities subject to redemption or conversion for an entity covered by the requirement referred to in paragraph 1 as a percentage of the sum of liabilities and own funds on considering:

- 1) need to ensure that the instruments of resolution may be applied, including the instrument of write down or conversion of liabilities;
- 2) the scope of write down or conversion of liabilities necessary to cover the losses and rebuilding own funds at least to a level that ensures fulfilment of conditions essential for continuation of the business as a going concern, including the level specified in Regulation No 575/2013 and the need to restore confidence in the entity covered by the requirement referred to in paragraph 1, in the case of application of the instrument of write down or conversion of liabilities, in particular if the resolution plan envisages to exclude certain categories of liabilities from write down or conversion;
- 3) the scale and type of business, its financing, and the risk profile of the entity covered by the requirement referred to in paragraph 1;
- 4) the importance of the entity covered by the requirement referred to in paragraph 1 for the financial stability, in particular because of the interconnectedness with other entities of the financial system;
- 5) the amount of funds which, in accordance with the provisions of Article 272 paragraph 3-6 and 9, may be transferred from the guarantee fund of banks and the guarantee fund of credit unions in order to finance the resolution.

3. The amount of the liabilities referred to in paragraph 2 shall include liabilities arising from derivative instruments, on considering the rights of counterparties under the netting clauses.

4. The Fund shall exempt mortgage banks which are financed through the mortgage bonds from the duty to maintain a minimum level of own funds and liabilities subject to write down or conversion if all of the following conditions have been satisfied:

- 1) they may not take deposits, in accordance with separate regulations;
- 2) they may be liquidated of in accordance with the relevant provisions of bankruptcy proceedings applicable to these banks or with the use of the procedures corresponding to the sale of business tool, the bridge institution or separation of property rights;
- 3) the relevant provisions of bankruptcy proceedings applicable to these banks provide for incurring losses by the creditors, including the holders of mortgage bonds in a manner consistent with the purposes of resolution.

5. A liability may be counted into the maintained minimum level of own funds and liabilities subject to write down or conversion if it meets all of the following conditions:

- 1) an instrument in respect of which a liability has arisen has been issued and fully paid;
- 2) an instrument in respect of which a liability has arisen is not owned by that entity;
- 3) settlement of a liability is not protected by this entity;
- 4) acquisition of the instrument in respect of which a liability has arisen is not funded directly or indirectly by that entity;
- 5) residual term to performance of the liability is not less than one year;
- 6) it does not arise from a derivative instrument;
- 7) it does not arise from the deposit which has been awarded with preference in satisfaction of claims in bankruptcy proceedings.

6. If a creditor is vested with a right to demand the settlement of liability prior to the contractual term, the period referred to in paragraph 5 point 5 shall count from the date from which the creditor has been vested with this right.

7. If a liability is governed by the law of a third country, the Fund may demand that the entity demonstrates that the decision of the Fund for write down or conversion of liabilities will be effective under that law, in particular with regard to the conditions of the agreement governing this liability and international agreements on the recognition of resolution.

8. If an entity fails to demonstrate the circumstances referred to in paragraph 7, the liability must not be included in the minimum level of own funds and liabilities subject to write down or conversion.

9. The Fund may exempt a domestic entity which is a subsidiary in a group from the obligation to maintain a minimum level of own funds and liabilities subject to write down or conversion if:

- 1) a subsidiary and its parent company are supervised at the individual level by the Polish Financial Supervision Authority;
- 2) a subsidiary is subject to consolidated supervision;
- 3) a superior entity at the national level in the group of a domestic entity, unless it is a parent company, maintains a minimum level of own funds and liabilities subject to write down or conversion at the consolidated level in terms of national legislation, as specified by the Fund;
- 4) in the opinion of the Fund there are no significant legal and factual obstacles to providing a subsidiary with capital and liquidity support by a parent company;
- 5) in the opinion of the Polish Financial Supervision Authority, a domestic parent entity adequately supervises the business of the subsidiary, and a parent company submits the consent given by the Polish Financial Supervision Authority to grant the guarantee to cover liabilities of the subsidiary by its parent company or the risk of subsidiary business is not material;
- 6) risk management and control of a domestic parent entity considers the risks of the subsidiary;
- 7) a domestic parent entity holds the majority of voting rights in statutory bodies of a subsidiary, also under agreements with other entities, or is entitled to appoint or dismiss the majority of members of the management or supervisory bodies of a subsidiary;
- 8) The Polish Financial Supervision Authority has exempted a subsidiary from maintaining the individual capital requirement in accordance with Article 7 paragraph 1 of Regulation No 575/2013.

10. In the case referred to in paragraph 9 point 5, the Polish Financial Supervision Authority shall issue its consent to a domestic parent entity if granting the guarantee to cover the liabilities of a subsidiary does not deteriorate the financial situation of a parent company.

11. The Fund may exempt a domestic parent entity from the obligation to maintain a minimum level of own funds and liabilities subject to write down or conversion at the individual level, if the entity satisfies the obligation to maintain a minimum level of these funds and liabilities at the consolidated level, whereas the Polish Financial Supervision Authority has exempted the entity from keeping own funds at the individual level in accordance with Article 7 paragraph 3 of Regulation No 575/2013.

12. The Fund may allow inclusion into own funds and liabilities subject to write down or conversion of such liabilities arising from financial instruments which envisage reduction in the amount of the liability or conversion of the liability into rights attached to shares or into other items of own funds in the event of adverse changes in the financial situation, solvency, capital position or the level of own funds, if the relevant terms of the agreement on the financial instrument ensure that, where:

- 1) the Fund resolves on the application of the instrument of write down or conversion, the liabilities arising from this instrument will be written down or converted into the rights attached to shares or other items of own funds to the extent necessary prior to write down or conversion of other liabilities subject to write down or conversion as referred to in Article 206;

- 2) bankruptcy proceedings are pending against the entity, satisfaction of claims under this instrument will take place following the settlement of claims arising from the liabilities subject to write down or conversion as referred to in Article 206.

13. The Fund shall determine and assess the amount of the minimum level of own funds and liabilities subject to write down or conversion as part of the acceptance and review of resolution plans and group resolution plans.

14. Following the consultation with the Polish Financial Supervision Authority, the Fund may determine the amount of a minimum level of own funds and liabilities subject to write down or conversion for a non-domestic entity subject to consolidated supervision exercised by the Polish Financial Supervision Authority.

15. The Fund, in agreement with the Polish Financial Supervision Authority, shall notify the European Banking Authority of a minimum level of own funds and liabilities subject to write down or conversion specified for specific domestic entities, including the permit referred to in paragraph 12.

Article 98. 1. Notwithstanding the duty referred to in Article 97 paragraph 1, the domestic parent entities shall maintain a minimum level of own funds and liabilities subject to redemption or write down at a consolidated level.

2. Following the consultation with the Polish Financial Supervision Authority, the Fund and the competent authorities for the resolution of subsidiaries shall determine the minimum level of own funds and liabilities subject to write down or conversion at the consolidated level, in the form of a collective decision, on considering the criteria set out in Article 97 paragraph 2, and the manner of conducting the resolution of subsidiaries established in a third country, under a group resolution plan.

3. If the Fund and the competent authorities for the resolution of subsidiaries fail to specify the minimum level of own funds and liabilities subject to write down or conversion at the consolidated level within 4 months, the Fund shall determine the minimum level of these funds and liabilities, on considering the assessment of subsidiaries performed by the competent authorities.

4. If the Fund and the competent authorities for the resolution of subsidiaries fail to specify the minimum level of own funds and liabilities subject to write down or conversion at the consolidated level within the deadline referred to in paragraph 3, and the competent authority for resolution of subsidiaries requests the European Banking Authority for binding mediation, the Fund shall refrain from the determination of a minimum level of these funds and liabilities pending a decision by the European Banking Authority.

5. If the European Banking Authority has failed to take the decision within one month from the date of submission of the application for the binding mediation, the Fund shall determine the minimum level of these funds and liabilities at the consolidated level as specified in paragraph 3.

6. If the European Banking Authority takes a decision following binding mediation, the Fund shall determine the minimum level of own funds and liabilities subject to write down or conversion at the consolidated level in accordance with the decision of the European Banking Authority.

Article 99. 1. The Fund and the competent authorities for resolution shall determine the minimum level of own funds and liabilities subject to write down or conversion with reference for subsidiaries of EU parent institutions, including domestic entity, at the individual level, in the form of a collective decision on considering the criteria set out in Article 97 paragraph 2, in particular the scope of business, business model, risk profile and the level of own funds of subsidiaries and a minimum level of own funds and liabilities subject to write down or conversion determined at a consolidated level.

2. The Fund and the competent authorities for resolution shall notify a EU parent institution and its subsidiaries of a minimum level of own funds and liabilities subject to write down or conversion determined for subsidiaries.

3. If the Fund and the competent authorities for resolution fail to determine the minimum level of own funds and liabilities subject to write down or conversion for subsidiaries of an EU parent institution at an individual level within 4 months, the Fund shall determine the minimum level of own funds and liabilities subject to write down or conversion for a domestic entity being a subsidiary of an EU parent institution on considering the opinion of the competent authority for resolution of a group.

4. If the Fund and the competent authorities for resolution fail to determine a minimum level of own funds and liabilities subject to write down or conversion for subsidiaries of an EU parent institution at an individual level within the term referred to in paragraph 3, and the competent authority for resolution of a group requests the European Banking Authority for binding mediation, the Fund shall refrain from the determination of a minimum level of own funds and liabilities subject to write down or conversion for a domestic entity being a subsidiary of an EU parent institution at an individual level pending a decision by the European Banking Authority.

5. If the European Banking Authority has failed to take a decision within one month from the date of submission of the application for the binding mediation, the Management Board of the Fund shall determine, by way of a resolution, the minimum level of own funds and liabilities subject to write down or conversion for a domestic entity being a subsidiary of an EU parent institution.

6. If the European Banking Authority takes a decision following binding mediation, the Fund shall determine the minimum level of own funds and liabilities subject to write down or conversion for a domestic entity being a subsidiary of an EU parent institution at the individual level in accordance with the decision of the European Banking Authority.

7. If the Fund and the competent authorities for resolution fail to determine the minimum level of own funds and liabilities subject to write down or conversion for entities being subsidiaries of a domestic parent entity at the individual level within the term referred to in paragraph 3, the Fund may request the European Banking Authority for binding mediation.

Chapter 5

Resolution

Article 100. The Fund shall conduct resolution.

Article 101. 1. The Polish Financial Supervision Authority shall forthwith notify the Fund of the following:

- 1) a threat of bankruptcy of an entity;
- 2) lack of indication that the feasible supervisory measures or the measures of this entity will allow a timely removal of this threat.

2. The Polish Financial Supervision Authority shall forthwith notify the Fund of the following:

- 1) cessation of compliance by a branch of a foreign bank with the operating conditions or a threat thereof and on the lack of indication that the feasible supervisory measures or the measures of this entity will allow a timely removal of this threat or allow to fulfil these conditions;
- 2) cessation by a branch of a foreign bank of settling liabilities or a threat thereof;
- 3) the initiation by a third country authority competent for resolution of resolution or similar proceedings, or an intention to initiate it towards a foreign bank.

3. An entity shall be considered at risk of bankruptcy if at least one of the following circumstances occur:

- 1) indications occur that it will fail to satisfy the operating business conditions to the extent justifying the repeal or revocation of a license to establish a bank or to pursue brokerage business by an investment firm;
- 2) the assets of an entity are not sufficient to cover its liabilities or the indications occur that the assets of the entity are not sufficient to cover its liabilities;
- 3) an entity fails to settle its due liabilities or indications occur that it will fail to do so;
- 4) continuation of business of an entity requires involvement of extraordinary public funds.

4. The Polish Financial Supervision Authority shall assess fulfilment of the conditions referred to in paragraph 1 on the basis of:

- 1) the results of supervisory review and assessment;
- 2) the results of the recovery plan, the application of supervisory measures, including the measures of the early intervention;
- 3) the results of testing the quality of assets;
- 4) the notices of the entity management board;
- 5) other information collected under supervisory procedures.

5. While assessing fulfilment of the conditions referred to in paragraph 1, the Polish Financial Supervision Authority shall take account in particular of:

- 1) infringement or a risk thereof by an entity of the requirements concerning own funds, liquidity and financial leverage;
- 2) assessment of an entity following the supervisory review and assessment indicative of an adverse financial situation of an entity;
- 3) loss or risk of loss significantly depleting own funds;
- 4) infringement of the minimum level of own funds and liabilities subject to write down or conversion, as specified by the Fund;
- 5) operation of an entity in violation of the law or the articles of association which can lead to insolvency or loss of liquidity by an entity;
- 6) failure to implement the recommendations of the Polish Financial Supervision Authority.

6. The Polish Financial Supervision Authority shall provide the information referred to in paragraph 1 also to:

- 1) National Bank of Poland;
- 2) Minister competent for financial institutions;
- 3) supervisory authorities competent for branches of an entity at risk of bankruptcy and the parent company;
- 4) supervisory authorities exercising consolidated supervision, if an entity is at risk of bankruptcy or its parent company is subject to consolidated supervision;
- 5) competent authorities for the resolution of branches of an entity at risk of bankruptcy and the competent authorities for the resolution of a group, where a domestic entity is a subsidiary;
- 6) management authority of a recognised deposit guarantee scheme in the State in whose territory the parent entity is established;
- 7) management entities of resolution funds in the State in whose territory the parent entity is established, if the fund is not managed by the competent authority for resolution of a group;
- 8) Chairman of the Financial Stability Committee;
- 9) European Systemic Risk Board.

7. If all of the following conditions have been satisfied:

- 1) a domestic entity is at risk of bankruptcy,
- 2) no indications occur that the feasible supervisory measures or the measures of a domestic entity will allow in due time to remove the threat of bankruptcy,
- 3) measures towards a domestic entity are required in view of the public interest

– the Fund issues a decision on the initiation of resolution towards a domestic entity or a decision on write down or conversion of capital instruments.

8. In the case referred to in paragraph 2 point 1 or 3, if the measures towards a branch of an entity established in a third country or a foreign bank are required in view of the public interest, the Fund shall issue a decision on the commencement of resolution towards the said branch.

9. In the case referred to in paragraph 2, point 2, if no resolution or bankruptcy proceedings have been initiated towards an entity established in a third country or a foreign bank, or those proceedings are not going to be initiated, and the measures towards a branch of this entity or a foreign bank are required in view of the public interest, the Fund shall issue a decision to initiate resolution towards this branch of the foreign bank.

10. The measures shall be taken in the public interest, if they are necessary to ensure implementation of at least one of the objectives of resolution laid down in Article 66, and these objectives may not be attained to the same extent under the supervision or bankruptcy proceedings.

11. Prior to the decision referred to in paragraph 7, the Fund shall consult the fulfilment of the conditions referred to in paragraph 7 points 1 and 2 with the Polish Financial Supervision Authority. The Polish Financial Supervision Authority shall issue an opinion within 5 working days. Where in the opinion of the Fund, the conditions referred to in paragraph 7 and 8 or 9 have failed to be satisfied, the Fund shall notify the Polish Financial Supervision Authority.

12. The decisions referred to in paragraph 7-9 shall include the valuation referred to in Article 137 paragraph 1. In its decision the Fund may determine the scope and conditions of application of instruments of resolution, appoint the administrator, attorneys or issue a decision on the liquidation of the residual entity referred to in Article 230 paragraph 1.

13. No extraordinary commitment of public funds referred to in paragraph 3 point 4 shall be deemed to occur in the case of granting assistance to a solvent entity under separate regulations in order to prevent a serious disturbance in the economy and maintain financial stability in the form of:

- 1) the State Treasury guarantees in order to secure the liquidity support provided by the National Bank of Poland,
- 2) the State Treasury guarantees of the repayment of liabilities arising from newly issued debt instruments,
- 3) recapitalisation on the conditions not divergent from the average market conditions where it is necessary to cover the capital shortfall estimated by stress testing or the asset quality review held by the Polish Financial Supervision Authority, the European Central Bank or the European Banking Authority

– provided that it is proportionate to the scale of risks, it is of a preventive and temporary nature and must not be used to cover losses that the entity incurred or will incur in the near future.

Article 102. 1. The Fund may resolve on:

- 1) initiation of the resolution towards the financial institution referred to in Article 64 point 2 sub-point b where the conditions of Article 101 paragraph 7 have been satisfied both for this institution and the parent company;

2) initiation of the resolution of the entity referred to in Article 64 point 2 sub-points c and d where the conditions of Article 101 paragraph 7 have been satisfied with regard to both these entities, as well as to at least one subsidiary being an institution or bank, and if the subsidiary is established in a third country - if the third country competent authority deemed that the conditions have been satisfied to initiate the resolution defined in the relevant laws of that country.

2. In the cases referred to in paragraph 1, the provisions of Article 101 paragraph 12 shall apply.

3. In the case referred to in paragraph 1 point 2 if a domestic entity is a subsidiary of a mixed financial holding company, controlled directly or indirectly by an intermediate financial holding company, the Fund takes a decision with respect to the intermediate financial holding company.

4. If the conditions of Article 101 paragraph 7 have not been satisfied with reference to the entity referred to in Article 64 point 2 sub-points c and d, the Fund may issue a decision towards this entity if the conditions have been satisfied towards at least one subsidiary being an institution or bank, and because of the property rights and liabilities of that entity, its bankruptcy would pose a threat to other institutions, banks or to the whole group or the resolution of the entity referred to in Article 64 point 2 sub-points c and d is necessary for the resolution of a subsidiary being an institution or for the whole group. The provisions of Article 101 paragraph 12 shall apply.

5. In the case referred to in paragraph 1 point 2 and point 4 the Fund and the competent authority for resolution of a subsidiary being an institution may agree that no transfer of capital and losses between group entities, including the write down or conversion of liabilities is accounted for examining the compliance with the conditions set out in Article 101 paragraph 7.

Article 103. 1. The Fund shall serve an entity with the decision referred to in Article 101 paragraph 7-9 and Article 102 paragraphs 1 and 4.

2. The entity referred to in Article 101 paragraph 7-9 and Article 102 paragraphs 1 and 4 shall be a party to the proceedings to initiate resolution.

3. The Fund shall develop the statement of reasons for the decision referred to in Article 101 paragraphs 7-9 and Article 102 paragraphs 1 and 4 within 14 days of its service to an entity under restructuring.

4. The statement of reasons for the decision shall be served on an entity under restructuring also in an electronic form.

5. The supervisory board of an entity under restructuring may make a complaint against the decision to the administrative court within seven days of the receipt of the statement of reasons for the decision to this entity. Any person whose legal interest has been infringed upon by the decision shall also be entitled to submit a complaint to the administrative court.

6. The Fund shall forthwith notify the decision referred to in Article 11 paragraph 4 points 1, 2, 4-14 and 17-20 to the entities mentioned in Article 101 paragraph 6 and:

- 1) European Commission;
- 2) European Central Bank;
- 3) respectively the European Securities and Markets Authority, European Insurance and Occupational Pensions Authority or the European Banking Authority;
- 4) if an entity at risk is the institution referred to in Article 1 point 5 sub-point c, d and h-j of the Law on Settlement Finality - operators of payment systems or settlement systems of which the entity is a participant and the National Depository of Securities Joint Stock Company;
- 5) Polish Financial Supervision Authority.

7. The notice referred to in paragraph 6 shall be accompanied by a copy of the decision to implement the instruments of resolution. The notice shall state the date from which the decision becomes enforceable.

Article 104. 1. In the case referred to in Article 103 paragraph 5, the complaint shall be submitted through the Fund. The Fund shall forward the complaint to the complete administrative court, along with a complete and orderly documentation of the case and the response to the complaint within 14 days of its receipt.

2. The administrative court shall examine the complaint within 30 days of its receipt along with the case file and the response to the complaint.

3. The Supreme Administrative Court shall examine the cassation appeal within 2 months from the date of its receipt.

4. The time limits laid down in paragraph 2 and 3 shall not include the time limits provided by law to make certain procedures, periods of suspension of the proceedings and periods of delay caused by the fault of a party or for reasons beyond the control of the court.

Article 105. 1. The court shall issue a ruling on the basis of the legal and factual conditions prevailing at the date of the decision.

2. In the cases referred to in Article 145 of the Act - Law on Proceedings before Administrative Courts the court, while taking into account the complaint against the decision, shall declare the issue thereof in violation of the law.

3. A final judgment of the Administrative Court confirming the issuance by the Fund of a decision in violation of the law shall not affect the validity of the legal acts issued hereupon and does not prevent the conduct of activities by the Fund on the basis thereof, in the case that the cessation of these activities posed a threat to the undertaking value of the entity, continuity of settling liabilities the protection of which is the purpose of resolution, financial stability or the rights of third parties acquired in good faith, in particular persons who have acquired property rights or liabilities as a result of the Fund's decision to use the instruments of resolution.

4. Liability for damage for issuance by the Fund of a decision in violation of the law shall be limited to the amount of the loss suffered.

5. The compensation shall be limited to a pecuniary benefit.

Article 106. 1. In the matters referred to in this chapter documentation of the case can be created and processed by using information technology.

2. The provision of paragraph 1 shall also apply to service, notifications and transmission of documents and information. In this case, confirmation of data transfer shall be a proof of the delivery.

Article 107. The provisions of Article 103-106 shall apply accordingly to the decisions on the matters referred to in Article 11 paragraph 4 points 4-15 and 17-20.

Article 108. If in the assessment of the National Bank of Poland or the Minister competent for financial institutions, economic situation of the domestic entity can adversely affect:

- 1) performance of critical functions,
- 2) financial stability, in particular confidence in the financial sector and market discipline,
- 3) protection of the interests of depositors,
- 4) protection of the funds or assets of customers entrusted to an entity

– these entities shall notify the Fund and the Polish Financial Supervision Authority of this fact.

Article 109. 1. The Fund shall forthwith publish on its website:

- 1) decision to initiate resolution and decision to use instruments of resolution or information about the causes and consequences of those decisions, in particular for consumers;
- 2) the decisions referred to in Article 142 paragraph 1, Article 143 paragraph 1 and 2 and Article 144 paragraph 1, along with information about the conditions of the suspension of settlement of liabilities, suspension of the right to collateral and suspension of the right to terminate.

2. The Fund shall forthwith forward in a paper or electronic form decisions and information referred to in paragraph 1 to the Polish Financial Supervision Authority, the European Banking Authority and an entity under restructuring, with the aim of their publication on the websites of these entities.

3. The decisions referred to in paragraph 1 may be published with no explanations of the grounds.

4. The Polish Financial Supervision Authority and an entity under restructuring shall publish decisions and the information referred to in paragraph 1, on their websites as soon as they are received from the Fund.

5. If the rights attached to shares or debt instruments issued by an entity under restructuring are admitted to trading on a regulated market in accordance with the provisions of the Act of 29 July 2005 on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading and Public-owned Companies (Journal of Laws of 2013 item in 1382, of 2015 item 978, 1260 and 1844 and of 2016 item 615), hereinafter referred to as the "Act on Public Offering" or introduced to the alternative trading system, the decisions and information referred to in paragraph 1 shall be published forthwith in a manner specified in the regulations on the disclosure of information on issuers whose securities are admitted to trading on a regulated market or in the provisions of the rules of the alternative trading system.

6. If the rights attached to shares or debt instruments are not admitted to trading on a regulated market, the Fund shall provide a copy of the decision to apply the instruments of resolution to the stockholders, shareholders, members and creditors of an entity under restructuring registered in the records of an entity under restructuring to which the Fund has access.

Article 110. 1. Within the resolution the Fund may use the instruments of resolution, including:

- 1) acquisition of undertaking;
- 2) bridge institution;
- 3) write down or conversion of liabilities;

4) separation of property rights.

2. Separation of property rights may be used only in conjunction with another instrument of resolution.

3. The Fund shall select instruments of resolution, on considering in particular:

- 1) the need to achieve the objectives of resolution;
- 2) facts of the case;
- 3) rules of loss coverage of an entity under restructuring in the first place by the owners of rights attached to shares;
- 4) principles of bearing the consequences of losses by creditors in the order of satisfying claims, as defined in the Act and the Act - Bankruptcy Law;
- 5) duty to protect the guaranteed funds and funds covered by the compensation scheme;
- 6) principles of the protection of the rights of owners and creditors laid down under Chapter 19;
- 7) expected effects of instruments for other group entities and financial stability in their home countries, where the resolution is carried out towards an entity under restructuring being a member of a group.

4. Where the instruments of resolution are implemented towards a credit union, the provisions of Article 10 and Article 11 of the Act on Cooperative Savings and Credit Unions shall not apply.

5. Where a cooperative bank is a purchaser or an acquiring entity within the resolution, the provisions of Article 5 paragraph 3 and 4 of the Act of 7 December 2000 on the Operation of Cooperative Banks, their Affiliation, and Affiliating Banks (Journal of Laws of 2015 item 2170 and of 2016 item 381), hereinafter referred to as the "Act on the Operation of Cooperative Banks" shall apply accordingly.

6. If the losses of an entity under restructuring have failed to be covered even though the resolution referred to in Article 141 has been adopted, the Fund performs write down or conversion of capital instruments to cover losses before the implementation of instruments of resolution or in parallel with the implementation thereof. Losses may also be covered through the use of an instrument of write down or conversion of liabilities in accordance with the principles set out in Chapter 17.

Article 111. The resolution shall be initiated on the date of service of the Fund's decision to the entity referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4.

Article 112. 1. In the framework of resolution the Fund may use the resolution funds to:

- 1) grant loans or guarantees to an entity under restructuring, its subsidiaries, bridge institution, asset management vehicle and the acquiring entity;
- 2) acquire property rights of an entity under restructuring.

2. The Fund may provide loans or guarantees referred to in paragraph 1 point 1 on market conditions if:

- 1) funds derived from them are necessary to maintain the liquidity or solvency of an entity under restructuring, its subsidiaries, a bridge institution and asset management vehicle or
- 2) they are connected with the use of instruments of resolution, in particular, with the aim to support the process of acquisition of rights attached to shares, undertaking, selected property rights or liabilities of an entity under restructuring.

3. The Fund may provide support from the resolution funds with a view to the acquisition of the undertaking or transfer referred to in Article 188 paragraph 1 points 2 and 3, this involving:

- 1) granting guarantees of total or partial coverage of losses resulting from the risk associated with the acquired property rights and liabilities;
- 2) providing a subsidy to cover the difference between the value of the acquired liabilities and the value of the acquired property rights, subject to Article 279.

4. While providing the guarantee referred to in paragraph 3 point 1, the Fund may reserve the right to share in revenue arising from property rights and liabilities covered by the guarantee.

5. Covering losses as a result of enforcement of the guarantee referred to in paragraph 3 point 1 shall constitute the cost of resolution referred to in Article 235 point 5.

6. With a view to securing the claim resulting from the loans and guarantees referred to in paragraph 1 point 1, the Fund shall require the establishment of security.

Article 113. 1. Upon the initiation of resolution:

- 1) the right to adopt resolutions in matters reserved by law and the articles of association or the memorandum of association to the competence of bodies of an entity under restructuring shall devolve to the Fund;

- 2) the powers of the supervisory board shall be suspended, subject to Article 103 paragraph 5 and Article 216 paragraph 7;
- 3) the Management Board shall be dismissed, and the mandates of its members shall expire;
- 4) previously granted commercial proxies and powers of attorney shall expire;
- 5) conservatorship shall be terminated;
- 6) the following decisions shall expire:
 - a) on the appointment of the liquidator,
 - b) on the appointment of the conservator for a credit union,
 - c) on the appointment of the trustee for a credit union pursuant to Article 72c paragraph 1 of the Act on Cooperative Savings and Credit Unions,
 - d) on the appointment of the trustee pursuant to Article 144 paragraph 1 of the Banking Act,
 - e) on the appointment of the trustee for a brokerage house in accordance with Article 110zza of the Act on Trading in Financial Instruments;
- 7) the competence of other bodies of an entity under restructuring shall be suspended, subject to Article 216 paragraph 6;
- 8) the rights shall expire of persons sitting on the bodies of an entity under restructuring to the severance pay and remuneration for the period from the date of the initiation of resolution;
- 9) the rights shall expire of persons holding managerial positions in an entity under restructuring to the payment of variable remuneration components.

2. The decision of the Fund referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4 shall determine the organisation and operation of an entity under restructuring.

3. The initiation of resolution shall not result in expiry of powers of attorney granted by an entity under restructuring further to its participation in a payment system or settlement system, authorising:

- 1) placing of settlement orders to the payment system or settlement system or taking measures leading to the settlement of liabilities arising in connection with the introduction of a settlement order to such a system;
- 2) closure of derivative contracts and determining the net value of the liabilities arising from such instruments in the case referred to in Article 207 paragraph 2 and 3, including the actions specified in the procedures referred to in Article 48 paragraph 1 of Regulation No 648/2012;
- 3) undertaking measures specified in the procedures in the event of default, if it takes place for reasons other than initiation of resolution or a decision by the Fund in these proceedings, in particular, where the relevant obligations of an entity under restructuring are not fulfilled, including the commitment to payment and delivery, as well as the obligation to provide security.

4. The powers of attorney shall expire upon the completion of the measures referred to in paragraph 3.

5. To enter the orders referred to in paragraph 3 paragraph 1:

- 1) the provisions of Article 80 paragraph 2 of the Act - Bankruptcy Law shall apply;
- 2) the provisions of Article 136 and Article 137 of the Act - Bankruptcy Law and Article 6a of the Law on Settlement Finality shall apply accordingly.

Article 114. 1. The Fund may exercise the powers referred to in Article 113 paragraph 1 point 1, by the administrator, referred to in Article 153 paragraph 1, or by attorney.

2. The remuneration of the administrator and attorneys shall be determined by the Fund.

3. Costs of activity of the administrator shall be charged to an entity under restructuring, subject to Article 153 paragraph 10.

4. If necessary, the administrator shall be granted unpaid leave for the term of its office.

5. The period of the unpaid leave shall be counted into the periods of work which determines the acquisition of employee rights.

6. Appointment of the administrator shall be notified to the National Court Register.

Article 115. 1. Legal transactions performed in violation of Article 113 shall be invalid.

2. The reimbursement of benefit made on the basis of the legal transaction referred to in paragraph 1 in favour of an entity under restructuring shall be granted if the legal transaction was effected following the initiation of resolution and

prior to giving the information about the Fund's decision referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4 to the public, unless the party knew of the initiation of these proceedings.

Article 116. The Fund shall forthwith notify the court of registration of the initiation of resolution.

Article 117. The Fund shall draw up the opening balance sheet of the resolution on the day of the decision referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4 on the basis of the valuation referred to in Article 137 paragraph 2 and 3.

Article 118. 1. The persons who served as a member of the management board referred to in Article 113 paragraph 1 point 3, conservator of a credit union or exercised conservatorship as referred to in Article 113 paragraph 1 point 5 shall be required to forthwith identify and surrender to the Fund all assets of an entity under restructuring that are at their disposal not later than 3 days from the date of the initiation of resolution and also surrender the documents relating to its business, assets and settlements, in particular accountancy ledgers, other records kept for tax purposes and correspondence. They shall confirm performing this duty in a written statement which they submit to the Fund.

2. Paragraph 1 shall apply accordingly to the members of the supervisory board referred to in Article 113 paragraph 1 point 2.

Article 119. The initiation of resolution shall not limit the consumer's right to cancel an agreement concluded on the basis of separate regulations.

Article 120. At the request of the Fund the entities operating trade repositories shall make available the information they hold, necessary for the preparation of resolution plans, group resolution plans, write down or conversion of capital instruments or conducting resolution.

Article 121. To the resolution:

- 1) conducted towards entities under restructuring being commercial companies the following shall not apply:
 - a) the provisions of Article 401 paragraph 1-4 and 6, Article 402¹ - 402³, Article 406¹ - 406⁶, Article 411¹ and 411², Article 412 paragraph 2, 3, 5¹ and 6, Article 412¹ paragraph 2-5, Article 421 paragraph 2 and 4, and Article 428 paragraph 1-3 and the provisions of Title IV, Section I and II of the Act of 15 September 2000 - Code of Commercial Companies (Journal of Laws of 2013 item. 1030, as amended.¹⁰), hereinafter the "Code of Commercial Companies",
 - b) to convening the shareholders' meeting or general meeting of an entity under restructuring - the terms referred to in Article 238 paragraph 1 and Article 402 paragraph 1 and 3 of the Code of Commercial Companies,
 - c) provisions of the Act of 25 April 2008 on the Participation of Employees in a Company established as a Result of a Cross-border Merger of Companies (Journal of Laws item 525);
- 2) conducted towards entities under restructuring being banks the provisions of Article 124, Article 124a and Article 124c of the Banking Act shall not apply;
- 3) conducted towards entities under restructuring being cooperatives the provisions of Article 32, Article 36 paragraph 8, Article 39 paragraph 2-5, Article 40, Article 41 paragraph 1, Article 42 paragraph 3-7 and Title I of Sections VIII, IX and XI of the Act of 16 September 1982 - Cooperative Law (Journal of Laws of 2016 item 21) shall not apply;
- 4) conducted towards entities under restructuring being cooperative banks the provisions of Article 5a and Article 23 of the Act on the Operation of Cooperative Banks shall not apply;
- 5) conducted towards entities under restructuring being credit unions the provisions of Article 74a and Article 74b of the Act on Cooperative Savings and Credit Unions shall not apply.

Article 122. 1. The resolution shall be completed:

- 1) on the date of issuing the court ruling on declaration of bankruptcy of an entity under restructuring;
- 2) in the case referred to in Article 174 paragraph 1 point 3 – on the date referred to in Article 176 paragraph 1;
- 3) on the date of completion of the liquidation of the residual entity referred to in Article 230 paragraph 4 or
- 4) on the date of consent as referred to in Article 22b paragraph 1 of the Banking Act

2. The resolution must not be completed prior to:

- 1) liquidation of a bridge institution, and in the case referred to in:
 - a) Article 196 paragraph 2 - on the day of restricting the operation of a bridge institution,

¹⁰ The amendments to the consolidated text of the Act were promulgated in the Journal. of Laws of 2014 item 265 and 1161, of 2015 item 4, 978, 1333 and 1830 and of 2016 item 615.

- b) Article 200 - on the date of the court ruling on declaration of bankruptcy of a bridge institution;
- 2) sale of shares in a bridge institution in accordance with Article 181 paragraph 3;
- 3) sale or enforcement of property rights separated in accordance with Article 225 of the entity under restructuring.

Article 123. If the application of an instrument of acquisition of undertaking, bridge institution or separation of property rights towards an entity under restructuring triggers the transition of an undertaking to another employer as referred to in Article 23¹ of the Labour Code, the acquiring entity, bridge institution or asset management vehicle shall not be liable for the liabilities of an entity under restructuring deriving from the employment relationship arising prior to the date of transition of this undertaking.

Article 124. 1. If the Fund has applied an instrument of acquisition of undertaking, bridge institution or separation of property rights towards an entity under restructuring, the provisions of Article 23¹ paragraph 1, 2 and 4-6 of the Labour Code shall not apply. The transfer of information referred to in Article 23¹ paragraph 3 of the Labour Code should take place at least 2 days prior to the expected date of transfer of an undertaking or a part thereof to another employer.

2. In the case of the initiation of resolution the provisions of Article 41¹ of the Labour Code shall apply to an entity under restructuring, accordingly.

Article 125. While applying the instruments of resolution and exercising the powers referred to in this section, the Fund, if necessary, shall notify employees of an entity under restructuring of the measures taken and shall consult those measures with them.

Article 126. The Fund may request the Minister competent for financial institutions to implement the government financial stabilisation tools referred to in the chapter 3a of the Act of 12 February 2010 on the Recapitalisation of Certain Institutions and Government Financial Stabilisation Tools.

Chapter 6

Resolution of groups

Article 127. 1. The Fund shall establish a resolution college for the entities subject to the consolidated supervision exercised by the Polish Financial Supervision Authority.

2. The resolution college shall be established to perform the following tasks:

- 1) exchange of information necessary for the development of group resolution plans and the preparation and conduct of the resolution of groups;
- 2) development and updating of group resolution plans;
- 3) feasibility assessment of group resolution plans;
- 4) determination of the circumstances that prevent or hinder the conduct of resolution and agree on the measures needed to remove them;
- 5) agreement on the need of development of a resolution scheme;
- 6) agreement on a resolution scheme;
- 7) agreement on the communication manner;
- 8) agreement on the use of resolution funds;
- 9) agreement on the minimum level of own funds and liabilities subject to write down or conversion at the consolidated level and for subsidiaries at the individual level;
- 10) cooperation and coordination of the measures with the competent authorities for resolution in third countries.

3. The composition of members of the resolution college shall include:

- 1) the Fund;
- 2) competent authorities for the resolution of subsidiaries;
- 3) competent authorities for the resolution of the entities referred to in Article 82 paragraph 2 point 4;
- 4) competent authorities for the resolution of major branches;
- 5) supervisory authorities of the states whose competent authorities for resolution are the members of the resolution college;
- 6) ministers competent for financial institutions of the states whose competent authorities for resolution are the members of the resolution college, unless they are competent authorities for resolution;
- 7) governing bodies of recognised deposit guarantee schemes of the states whose competent authorities for resolution are

the members of the resolution college, unless they are the competent authorities for resolution;

8) European Banking Authority.

4. If the supervisory authority referred to in paragraph 3 point 5 is not a central bank, a central bank's representative may participate in the resolution college without voting rights with the consent of the supervisory authority. The European Banking Authority shall participate in the resolution college with no voting rights.

5. The competent authority for resolution of a subsidiary and the competent authority for resolution of a major branch established in the territory of a third country may participate in the resolution college at its request if in the opinion of the Fund it ensures the protection of information in accordance with the principles set out in the Act.

6. If other colleges or groups pursue the same functions and tasks and provide the same participation for the authorities and entities referred to in paragraph 3, as a resolution college, the Fund shall not establish a separate resolution college. The provisions of this Act shall apply accordingly to such collective bodies and groups to the extent to which they perform the functions and tasks specified in the Act.

Article 128. 1. The Fund shall chair the resolution college, coordinates its activities, ensures timely exchange of information and determines, following the consultation with the other members of the college, the detailed rules and mode of its operation.

2. The Fund shall convene meetings of the resolution college, while notifying its members sufficiently in advance of the dates and places of the meetings and the issues which are the subject matters of the meetings.

3. The Fund may invite to participate in the meeting of the resolution college, as observers, the competent authorities for the resolution of third countries in whose jurisdiction a subsidiary or a significant branch of a domestic parent entity or of another entity of the group established in a Member State, at their request. To be invited, these bodies must satisfy the requirements laid down in Article 127 paragraph 5.

4. The Fund shall designate the members and entities referred to in Article 127 paragraph 3 and 5 to be invited to participate in a meeting of the resolution college, on considering the circumstances of the issues being discussed during the meeting of the resolution college, including the importance of these issues for the authorities and entities and their potential impact on financial stability in the Member States.

5. The authorities referred to in Article 127 paragraph 3 points 2 and 3 attend the meeting of the resolution college, if the meeting covers the matters related to the entities established in the Member States of these authorities, in particular when arrangements relating thereto are made in the form of collective decisions.

6. The Fund shall notify the members of the resolution college of the arrangements determined at the meeting.

Article 129. The Fund shall participate in the resolution colleges created by the competent authorities for the resolution of the group which includes domestic entities.

Article 130. 1. Where a competent authority for resolution or the supervisory authority of a Member State requests the Fund for information relevant to the performance of their tasks related to the resolution, which the Fund received from the competent authority for resolution of a third country, the Fund shall request the competent authority for resolution of a third country for consent to the transfer of the said information.

2. Where a competent authority for resolution of a third country does not give its consent to the transfer of the information referred to in paragraph 1, the Fund may refuse to transmit the information.

3. Where a competent authority for resolution of a third country has given its prior consent to the transfer of information, the provisions of paragraph 1 and 2 shall not apply.

Article 131. 1. Where a parent company with its registered office in a third country established subsidiaries or major branches in more than one Member State, including in the territory of the Republic of Poland, the Fund and the competent authorities for the resolution of subsidiaries and competent authorities for resolution from the Member States in which an entity from a third country operates as a major branch shall establish the European resolution college.

2. The authorities referred to in paragraph 1 shall agree on which of them chairs the European resolution college.

3. Where subsidiaries are controlled by a financial holding company established in the territory of a Member State, the Fund shall agree with the other competent authorities for resolution, which of them is to chair the European resolution college.

4. If other colleges or groups perform the same functions and the same tasks and provide the same participation for the authorities referred to in paragraph 1 as the European resolution college, the authorities may collectively decide not to establish a distinct European resolution college. The provisions of this Act shall apply accordingly to such colleges and groups to the extent to which they perform tasks specified by the Act.

Article 132. 1. The Fund shall notify the competent authority for resolution of a group and other members of the resolution college that the conditions to initiate resolution of a subsidiary have been satisfied.

2. In the case referred to in paragraph 1 the Fund shall notify of the measures which, in its opinion, should be taken towards this subsidiary.

3. If following the consultation with the other members of the resolution college, the competent authority for resolution of a group considers that the measures indicated by the Fund will not lead to fulfilment of the conditions to initiate resolution towards other group entities, the Fund may take the decision referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4 towards a subsidiary.

4. The Fund may also take the decision referred to in paragraph 3 in the case that the competent authority for resolution of a group failed to provide the assessment within 24 hours of receipt of the notice or such longer period as agreed by the Fund with this authority.

5. If following the consultation with the other members of the resolution college, the competent authority for resolution of a group considers that the measures indicated by the Fund will meet the conditions to initiate resolution towards other group entities, within 24 hours of receipt of the notice, or such longer period as agreed with the Fund, shall propose a resolution scheme.

6. In an event of a receipt of a notice from the competent authority that conditions to initiate resolution are met for a subsidiary of a domestic parent company, the Fund, following the consultation with the members of the resolution college, shall assess whether the measures indicated by that authority can provide for compliance with the conditions to initiate resolution of other group entities.

7. If the Fund considers that the measures indicated by the competent authority for resolution referred to in paragraph 6 will fail to provide for compliance with the conditions to initiate resolution of other group entities, it shall notify the competent authority for resolution.

8. If the Fund considers that the measures indicated by the competent authority for resolution, referred to in paragraph 6, will meet the conditions to initiate resolution towards other group entities, it proposes a resolution scheme within 24 hours of receipt of the notice, or such longer period as agreed with this authority.

Article 133. 1. The resolution scheme shall:

- 1) include measures identified in the group resolution plan, unless the objectives of resolution, on considering the current conditions, are attained to a greater extent through the measures not specified in the plan;
- 2) specify the measures to be taken towards a parent company and its subsidiaries;
- 3) define the coordination of the measures referred to in point 2 and the method of financing thereof on considering the principles of cost-sharing defined in the group resolution plan.

2. The method of financing referred to in paragraph 1 point 3 shall specify:

- 1) the results of the valuation referred to in Article 137 paragraph 2 and 3 performed for the entities of the group covered by the resolution scheme;
- 2) the total amount of losses to be covered, suffered by the entities of the group covered by the resolution scheme;
- 3) the amount of losses suffered by the entities of the group covered by the resolution scheme, which are required to be covered by the owners and individual classes of creditors;
- 4) the amounts of the guarantee fund for banks and guarantee fund for credit unions transferred in accordance with Article 272 paragraph 4 and 5;
- 5) the total amount of required funding, its purpose and form;
- 6) the manner of distribution of the amount of required funding for the resolution funds of the individual Member States of the entities covered by the resolution scheme;
- 7) the amount of the required funding from the resolution funds of the individual Member States of the entities covered by the resolution scheme;
- 8) the amount of required funding, to be acquired by resolution funds of the individual Member States of the entities covered by the resolution scheme in the form of loans from other market sources of financing of funds;
- 9) the terms of using the resolution funds of the individual Member States of the entities covered by the resolution scheme.

3. The Fund shall determine the division of the required funding between the resolution funds of the individual Member States of the entities covered by the resolution scheme on the basis of the principles defined in the group resolution plan, unless the Fund and the competent authorities for resolution stipulate otherwise in the collective decision referred to in paragraph 5.

4. If a group resolution plan does not specify the principles of the division of the amount of required funding between the resolution funds of the individual Member States of the entities covered by the resolution scheme, the Fund, while making the determination of this division, shall take into account the criteria set out in Article 82 paragraph 3.

5. A resolution scheme shall be agreed by the Fund in the form of a collective decision with the competent authorities for the resolution of entities covered by the scheme.

6. Where a resolution scheme may result in financial consequences for the public finances of the Republic of Poland, the Fund may agree such a scheme only in consultation with the Minister competent for financial institutions.

7. If in the opinion of the Fund the measures indicated in the resolution scheme presented by the competent authority for resolution of a group are inadequate or in the assessment of the Fund, measures other than those specified in this scheme must be taken in order to safeguard financial stability, the Fund shall notify the competent authorities for resolution of the entities covered by the resolution scheme along with the statement of reasons.

8. In the case referred to in paragraph 7 the Fund shall consider the impact of its position on the financial stability of the Member States of entities covered by a group resolution plan and on the situation of entities of a group.

9. In the case of agreeing the resolution scheme in the manner specified in paragraph 5 the Fund shall take measures including the adoption of a decision to initiate resolution, in line with the agreed scheme.

10. In the case referred to in paragraph 7 the Fund shall collaborate with the members of the resolution college with a view to coordinating measures undertaken towards the entities of the group being at risk of bankruptcy.

11. In the case referred to in paragraph 7 the Fund shall forthwith notify the members of the resolution college of the measures undertaken within the framework of resolution towards a domestic subsidiary entity.

Article 134. 1. Where in the opinion of the Fund the conditions have been satisfied for the initiation of resolution towards a domestic parent entity, the Fund shall notify the Polish Financial Supervision Authority and other members of the resolution college, as well as shall notify on the measures towards the entity, the initiation of which it deems necessary and adequate.

2. The Fund shall propose a draft resolution scheme if:

- 1) undertaking measures towards a domestic parent entity can satisfy the conditions for the initiation of resolution towards subsidiaries in the Member States;
- 2) undertaking measures towards a domestic parent entity is not sufficient to remove the threat of bankruptcy or fails to provide the fullest possible attainment of the objectives of resolution;
- 3) the conditions for the initiation of resolution are satisfied at least towards one subsidiary in a Member State;
- 4) undertaking measures towards a domestic parent entity will bring benefits to subsidiaries justifying the agreement on resolution scheme.

3. If the measures proposed by the Fund do not contain proposals for the agreement on the resolution scheme, the Fund shall take decisions, including the decision to initiate resolution, following the consultation with the members of the resolution college.

4. In the cases referred to in paragraph 2 the Fund shall include the measures identified in the group resolution plan in the resolution scheme, unless given the current conditions, the objectives of resolution are going to be attained to a greater extent through the measures not specified in this plan, on considering the expected impact of these measures on the financial stability of the Member States in which the subsidiaries operate.

5. If the Fund proposed the draft resolution scheme, agreement on this scheme with the competent authorities for the resolution of the subsidiaries covered by the scheme shall be effected in the form of a collective decision. In such a case, the Fund shall take measures in accordance with this scheme.

6. If a resolution scheme has not been agreed upon in the manner indicated in paragraph 5, the provisions of Article 133 paragraph 10 and 11 shall apply accordingly.

Chapter 7

The impact of resolution on other proceedings

Article 135. 1. The enforcement proceedings or the procedure for precautionary measures addressed to the assets of an entity under restructuring instituted before the commencement of the resolution shall be discontinued.

2. Termination of enforcement proceedings shall not preclude adjudicating the property of real estate if the adjudication was granted before the commencement of the resolution, and the buyer under enforcement proceedings pays the purchase price on time.

3. The amounts obtained in the terminated proceedings and not released shall be reimbursed to an entity under restructuring, unless they have been obtained from the sale of assets encumbered in rem. Termination of enforcement proceedings shall not preclude making the distribution of amounts received from the sale of assets encumbered in rem by an authority responsible for enforcement proceedings.

4. During the resolution no enforcement proceedings nor the procedure for precautionary measures may be initiated towards an entity under restructuring.

5. The provisions of paragraph 1-4 shall not apply to the enforcement of maintenance payments and pensions in respect of compensation for causing illness, disability, injury or death and due to the conversion of allowances covered under life estate rights into life annuity.

Article 136. 1. If no arbitration has been initiated as of the date of the initiation of resolution proceedings, the Fund may withdraw from the arbitration agreement, effected by an entity under restructuring, if the pursuit of the claim before an arbitration court hinders the conduct of resolution.

2. At the request of the opposing party submitted in writing, the Fund within 30 days shall declare in writing whether it withdraws from the arbitration agreement. Failure to submit the declaration by the Fund within this period shall be deemed waiver from the arbitration agreement.

3. The opposing party may withdraw from the arbitration agreement if the Fund, despite absence of its withdrawal from the arbitration agreement, refuses to participate in the costs of proceedings before an arbitration court.

4. As a result of the withdrawal, an arbitration agreement shall be repealed.

5. The proceedings before arbitration courts shall be governed by the provisions of Article 176 paragraph 2 and Article 181 paragraph 2 of the Act of 17 November 1964 - Code of Civil Procedure (Journal of Laws of 2014 item 101 as amended.¹¹), hereinafter referred to as the "Code of Civil Procedure".

Chapter 8

Powers of the Fund during resolution

Article 137. 1. Prior to the decision to initiate resolution, the Fund shall provide a valuation of assets and liabilities of an entity.

2. The valuation shall be made on behalf of the Fund by an entity independent of public authorities, the Fund, an entity whose assets and liabilities are subject to valuation, the parent company of the entity whose assets and liabilities are subject to valuation, or other entities of a group which includes an entity whose assets and liabilities are to be subject to valuation.

3. If no valuation may be made in the scope referred to in Article 138 paragraph 7, or by the entity referred to in paragraph 2 prior to the decision to initiate resolution or a decision on the write down or conversion of capital instruments, particularly when in view of the purposes of resolution, the decision should be taken prior to the anticipated completion date of the valuation, the Fund shall make a provisional valuation of assets and liabilities of the entity.

4. The provisional valuation shall be a sufficient basis for a decision on write down or conversion of capital instruments or the decision to initiate resolution and other decisions in the framework of resolution until preparation of valuation in the manner specified in paragraph 2, if such decisions are necessary to achieve the objectives of resolution or to remove the threat of bankruptcy and this valuation may not be effected.

¹¹ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2014 item 293, 379, 435, 567, 616, 945, 1091, 1161, 1296, 1585, 1626, 1741 and 1924, of 2015 item. 2, 4, 218, 539, 978, 1062, 1137, 1199, 1311, 1418, 1419, 1505, 1527, 1567, 1587, 1595, 1634, 1635, 1830 and 1854 and of 2016 item 195, 437 and 868.

5. Where the valuation is performed in order to apply the instrument of write down or conversion of liabilities, and derivative instruments constitute the subject of write down or conversion of liabilities, this valuation shall be provisional valuation pending the result of the settlement of derivative instruments.

6. The Fund shall commission the valuation referred to in paragraph 2, regardless of the performance of the preliminary valuation.

7. The valuation referred to in paragraph 2 and 3 can be challenged solely in the complaint against the decision to apply the instrument of resolution or a decision on write down or conversion of capital instruments.

Article 138. 1. The valuation referred to in Article 137 paragraph 2 shall be effected in order to:

- 1) verify the premise of risk of bankruptcy, in particular satisfying the conditions of conducting business covered by a licence issued by the Polish Financial Supervision Authority;
- 2) determine the losses of the entity, impairment of property rights and liabilities of the entity, in particular in respect of items referred to in paragraph 5;
- 3) select an instrument which will provide the most complete achievement of the objectives of resolution;
- 4) determine the amounts referred to in Article 202 paragraph 1, and the categories of own funds or liabilities subject to write down or conversion;
- 5) determine the scope of the acquired property rights or liabilities in the case of applying the instrument of bridge institution or separation of property rights and remuneration for acquisition;
- 6) determine the acquired property rights or liabilities in the case of applying the instrument of acquisition of undertaking and the assessment of the conditions offered by the entities interested in the acquisition.

2. If the Fund made a provisional valuation in accordance with Article 137 paragraph 3, the valuation referred to in Article 137 paragraph 2 shall seek the final determination of the value of property rights and verification of the correctness of the determination of the amounts referred to in Article 202 paragraph 1, the scope of write down or conversion and the remuneration referred to in paragraph 1 point 5, determined on the basis of the provisional valuation in order to decide the case referred to in paragraph 3.

3. If the estimated net asset value is higher than the net asset value in the provisional valuation, the Fund may:

- 1) change the level of write down or conversion of capital instruments or liabilities;
- 2) adjust the remuneration for the transfer of assets or liabilities to a bridge institution or asset management vehicle.

4. In a provisional valuation the Fund shall take into account a reserve for additional losses unidentified due to the required period of time to perform the valuation.

5. The valuation shall take into account claims which the Fund may address to an entity under restructuring in respect of the costs of applying the instruments of resolution, transfers from the fund for the guaranteed deposits' disbursement, support granted to an entity under restructuring and to an acquiring entity and the use of public funds.

6. The valuation must not take into account prospective granting extraordinary public financial support for an entity nor emergency liquidity support provided by the National Bank of Poland or another central bank on non-standard conditions relating to security, time or interest rates.

7. The valuation should contain:

- 1) assessment of the value of assets and liabilities of an entity;
- 2) balance sheet and profit and loss account taking into account an assessment made and the amounts referred to in paragraph 4 and 5;
- 3) assessment of the financial situation of an entity;
- 4) a list of the balance sheet liabilities and off-balance sheet liabilities of an entity by category of settlement of claims in accordance with the provisions of the Act - Bankruptcy Law and estimation of the anticipated level of satisfaction of claims which would have taken place if the court ruling on the declaration of bankruptcy had been issued towards an entity under resolution.

8. Where the valuation is performed in order to apply the instrument of write down or conversion of liabilities, the valuation should include a determination of the value of the instruments of ownership issued as a result of the conversion in order to determine the conversion rates.

9. The valuation may include an estimation of the market value of assets and liabilities.

10. A provisional valuation should indicate the value of assets and liabilities and the amounts referred to in paragraph 4 and 5.

Article 139. 1. The valuation in the scope specified in Article 138 paragraph 1 point 1 and 2 shall be based on an objective and realistic assessment of the assets and liabilities, including the law applicable to the preparation of financial statements and the requirements as regards own funds referred to in Article 92-98 of Regulation No 575/2013, and rules for determining the capital necessary to cover the risk inherent in the business of an entity.

2. A valuer may, where appropriate, adopt different assumptions and use other methods of valuation than those that were accepted and applied by the entity while preparing financial statements or performing duties in the field of supervisory reporting, in particular, it can take note of supervisory guidelines.

Article 140. 1. The valuation in the scope specified in Article 138 paragraph 1 point 3-6 shall be made on the basis of an objective, realistic and prudent assessment of the expected cash flows derived from the use of instruments of resolution, on considering a resolution plan or a group resolution plan and a resolution scheme, if it has been developed.

2. Following the consultation with the Fund, a valuer may, where due to the current conditions, the objectives of the resolution are going to be attained to a greater extent by the measures not specified in the plans referred to in paragraph 1, estimate expected cash flows arising from the instruments of resolution other than those specified in those plans.

3. In the scope specified in Article 138 paragraph 1 point 2, a valuer shall take into account the results of the estimation in the estimation of the expected cash flows.

4. The estimation of the expected cash flows shall be effected with the use of discount rates to determine the present value of future cash flows.

Article 141. The Fund may close the accounts of an entity under restructuring on a given date, prepare a financial statement of this entity and adopt a resolution on loss coverage for the period ending on the date of preparation of the financial statement, as well as on coverage of a loss from previous years.

Article 142. 1. The Fund may suspend the right to enforce the collateral from the assets of an entity under restructuring, but for no longer than the end of the working day following the date of publication of the Fund's decision to suspend this right.

2. The Fund may not suspend the right of collateral enforcement by:

- 1) an entity being an entity conducting or a participant of a payment or settlement system, for which collateral has been established in respect of participation in this system;
- 2) the National Bank of Poland, a central bank of another Member State within the meaning of the Act on Settlement Finality or the European Central Bank in respect of the collateral established for their benefit for the transactions with these banks.

3. In its decision referred to in paragraph 1, the Fund shall take into account its impact on the functioning of the financial market.

4. The Fund shall seek to provide a level playing field for the suspension of the right to enforce securities of entities of a group towards which resolution measures are taken.

Article 143. 1. The Fund may suspend the right of unilateral termination of agreements concluded with an entity under restructuring, but for the period not longer than until the end of the working day following the publication date of the Fund's decision on suspension of this right.

2. The Fund may also suspend the right of unilateral termination of agreements concluded with a subsidiary of an entity under restructuring, but for the period not longer than until the end of the working day following the publication date of the Fund's decision to suspend the right of termination or withdrawal if all of the following conditions have been satisfied:

- 1) performance of the obligations under an agreement is secured by an entity under restructuring;
- 2) contractual reasons of the termination or withdrawal apply solely to the financial situation of an entity under restructuring;
- 3) in the case of a transfer:
 - a) property rights and liabilities of a subsidiary connected with an agreement shall be acquired by an acquiring entity or
 - b) the Fund shall provide another adequate manner to collateralise the performance of the obligations under an agreement.

3. The provisions of paragraph 1 and 2 shall not apply if the party to the agreement has been notified by the Fund that the rights and obligations arising from the agreement are not subject to the transfer to a bridge institution, asset management vehicle or a third party, or they will not be subject to write down or conversion.

4. A party to the agreement concluded with an entity under restructuring may not terminate or withdraw from an agreement due to the initiation of resolution or the performance by the Fund of powers under the Act towards an entity under restructuring if the principal supplies of services arising from the agreement are effected, and the contractual obligations in the field of the established collateral are performed.

5. If the rights and obligations under an agreement concluded with an entity under restructuring have been transferred to a bridge institution or a third party, the party of such an agreement may terminate it or withdraw from it solely if following the transfer the conditions are satisfied for opening of court proceedings aimed at the pursuit of a claim from the agreement.

6. A party to an agreement concluded with an entity under restructuring may not terminate or withdraw from the agreement, if the obligations under the agreement are subject to write down or conversion of liabilities.

7. The Fund may not suspend the right to terminate an agreement concerning the participation in a payment system or settlement system, as well as agreements concluded in connection with the participation in such a system, vested with the entity operating the system, a participant of this system, a central counterparty, the National Bank of Poland or a central bank of a Member State other than the Republic of Poland.

Article 144. 1. The Fund may suspend enforcement of due liabilities of an entity under restructuring for a period not longer than until the end of the working day following the publication date of the Fund's decision to suspend the enforcement of liabilities.

2. The provision of paragraph 1 shall not apply to the liabilities:

- 1) to depositors - in respect of guaranteed funds;
- 2) to investors - in respect of funds under protection of a compensation scheme;
- 3) due to participation in a payment system or a settlement system of securities, as defined in the Law on Settlement Finality, including to the entity operating the system;
- 4) to a central counterparty;
- 5) to the National Bank of Poland, a central bank of another Member State within the meaning of the Act on Settlement Finality or the European Central Bank.

3. In its decision referred to in paragraph 1 the Fund shall take into account its impact on the functioning of the financial market.

4. Where the term of performance of the obligation falls during the suspension period, the liability shall become due on the working day following the period of suspension.

5. Where the performance of a liability of an entity under restructuring under the agreement or other legal relationship has been suspended on the basis of the decision referred to in paragraph 1, the performance of the liability under the agreement or under the said legal relationship by the other parties shall be suspended for the same period.

Article 145. 1. The provisions of Article 4 and Article 8-10 of the Act of 2 April 2004 on Selected Financial Security (Journal of Laws of 2016 item 891) shall not apply in the cases referred to in Article 142 paragraph 1, Article 143 paragraph 1 and 2 and Article 144 paragraph 1.

2. The provision of paragraph 1 shall not apply to the security referred to in Article 142 paragraph 2.

Article 146. 1. The Fund may, by way of a decision, commit an entity belonging to a group of an entity under restructuring to the provision of services to the extent necessary to perform activities related to the transferred: undertaking of an entity under restructuring, rights attached to the shares of an entity under restructuring, selected or all of the property rights or selected or all of the liabilities of an entity under restructuring by an entity to which they are transferred, particularly if they had been rendering the said services to an entity under restructuring prior to the date of initiation of resolution. The period of rendering services may not be longer than 12 months from the date of the decision of the Fund to implement the instrument of acquisition of undertaking, bridge institution or separation of property rights.

2. Entities of a group shall be required to render the services referred to in paragraph 1 under the existing contractual conditions, and if these entities had not concluded agreements in the subject matter of those services with an entity under restructuring - on average market conditions on the basis of an agreement concluded with the entity to which the services are rendered.

3. The services referred to in paragraph 1 may not include financial support.

Article 147. The Fund may, by way of a decision, cancel the pre-emptive rights attached to shares, or rights to assume other equity instruments vested with the owners of an entity under restructuring.

Article 148. The Fund may request a company operating the regulated market or an investment firm organising an alternative trading system referred to in Article 78 of the Act on Trading in Financial Instruments:

- 1) for the exclusion of financial instruments from organised trading under the provisions thereof, in particular in the case of the application of the instrument of write down or conversion of liabilities;
- 2) for the suspension of trading in financial instruments for a period not longer than a month.

Article 149. 1. The Fund may entrust the performance of transactions of a bank under restructuring referred to in Article 5 and Article 6 of the Banking Act to another bank. The provisions of Article 6a paragraph 2, paragraph 3 point 2 and paragraph 4-8 and Article 6c-6d of the Banking Act shall not apply.

2. The Fund may, by way of a written agreement, entrust the performance of intermediation in terms of the activities enumerated in Article 5 and Article 6 of the Banking Act and factual activities related to banking business on behalf and for the benefit of the bank under restructuring to an entrepreneur or a foreign entrepreneur. The provisions of Article 6a paragraph 2, paragraph 3 point 2, paragraph 4-8 and Article 6c-6d of the Banking Act shall not apply.

3. The Fund may entrust the performance of transactions related to the business carried out by an investment firm under restructuring, including the pursuit of its brokerage business, to an entrepreneur or a foreign entrepreneur. The provisions of Article 81a paragraph 2 point 1, Article 81b paragraph 1 point 6-10 and paragraph 2, Article 81d and Article 81g paragraphs 2-5 of the Act on Trading in Financial Instruments shall not apply.

4. The Fund shall forthwith notify the Polish Financial Supervision Authority on the conclusion of the agreements referred to in paragraph 1-3.

Article 150. 1. The Fund may, by way of a decision, amend the terms of an agreement to which an entity under restructuring is a party, and may settle the agreement, transfer the rights from the agreement to a third party or substitute for a party to the agreement.

2. The provision of paragraph 1 shall not apply to an agreement on the participation in a payment system or settlement system, nor to the contractual relations entered into in respect of the participation in a payment system or settlement system.

Article 151. 1. If the Fund amends the terms of the agreement, transfers a part of the property rights of an entity under restructuring to another entity or transfers thereof from the asset management vehicle or bridge institution to another entity, property rights or liabilities related to or resulting from the same legal transaction should be transferred in whole or altered or be subject to termination, so as not to restrict their aim or rights of parties to a legal transaction and to maintain:

- 1) the degree of securing the performance of obligations under the established security and in particular not to effect:
 - a) transfer of property rights constituting security for performance of the obligation or benefits from the rights which constitute the security of performance without the transfer of this obligation,
 - b) transfer of benefits from the collateral without making transfer of the collateralised liability,
 - c) transfer of the obligation without a transfer of property rights constituting security for the performance of the said obligation or benefits from the property rights constituting security for the performance of the obligation,
 - d) amendments to the conditions of collateral agreements which lead to the cancellation or limitation of rights to the enforcement of collateral;
- 2) option of set-off or compensation.

2. The provisions of paragraph 1 shall apply to:

- 1) agreements and contracts:
 - a) on the establishment of financial collateral within the meaning of the Act of 2 April 2004 on Selected Financial Security,
 - b) on the establishment of the security other than that referred to in sub-point a,

- c) including the parties' right to set-off or agreements containing a compensation clause, including those providing, in the case of breach of contractual provisions or another event, for a forthwith set-off or compensation of receivables of the parties,
 - d) securing receivables,
 - e) repurchase agreements,
 - f) structured finance, in particular securitisation;
- 2) bonds or other collateralised instruments.

Article 152. If necessary to provide depositors with access to the guaranteed funds, the Fund may in particular:

- 1) transfer of liabilities derived from guaranteed funds without a transfer the associated property rights or liabilities;
- 2) transfer property rights or liabilities, amend the conditions or settle the agreement without the relevant transactions of a transfer or amendment of related liabilities derived from guaranteed funds.

Chapter 9

Administrator

Article 153. 1. The Fund may, by way of a decision, appoint an administrator for an entity under restructuring.

2. The Fund publishes information on the appointment of the administrator on its website.

3. The Fund provides information on the appointment of the administrator in writing or with the use of information technology to the Polish Financial Supervision Authority and an entity under restructuring, in order to publish it on their websites.

4. The Polish Financial Supervision Authority and an entity under restructuring shall publish the information on the appointment of the administrator forthwith upon the receipt thereof from the Fund.

5. The administrator shall be entrusted with the powers of the Fund referred to in Article 113 paragraph 1 point 1. The Fund may by way of the decision on their appointment limit the scope of powers vested in the administrator.

6. The administrator shall exercise the powers referred to in paragraph 5 under the supervision of the Fund.

7. In a decision to appoint the administrator the Fund shall determine the manner of performing supervisory tasks, the administrator's actions that require the prior consent of the Fund and the scope and frequency of notification to the Fund of the financial situation of an entity under restructuring and undertaken measures.

8. The Fund shall appoint the administrator for a maximum period of one year. Wherever necessary for the pursuit of the objectives of resolution, the Fund may extend this period to two years.

9. The Fund may remove the administrator at any time.

10. In the decision to appoint the administrator the Fund may specify which costs linked to the performance of duties of the administrator will account for the costs of resolution, on considering the financial situation of an entity under restructuring.

11. The Fund may amend the decision to appoint the administrator at any time.

Article 154. 1. The administrator shall take the measures required to attain the objectives of the resolution referred to in Article 66 in accordance with decisions of the Fund. These shall include, in particular capital increase, change of the ownership structure of an entity under restructuring or its acquisition by another entity stable in financial and organisational terms, with the use of the instruments of resolution referred to in Article 110 paragraph 1.

2. The measures under the powers referred to in paragraph 1 shall take precedence over actions arising from the performance of duties within the competence of statutory bodies of an entity under restructuring under the statutes, articles of association, internal regulations of an entity under restructuring or other regulations.

3. The administrator shall provide the Fund with information referred to in Article 153 paragraph 7 at the dates specified in the decision on their appointment, in particular on the day of the appointment and removal from office.

Chapter 10

Suspension of business activities of an entity under restructuring

Article 155. 1. If it is necessary to implement the instruments of resolution, the Fund may issue a decision to suspend business activities of a bank under restructuring, or a credit union under restructuring or suspension of execution in whole or in part of the brokerage business by an investment firm under restructuring.

2. The provisions of Article 159 paragraph 3 of the Banking Act, Article 74l paragraph 3 of the Act on Cooperative Savings and Credit Unions and Article 167 of the Act on Trading in Financial Instruments shall apply accordingly.

Chapter 11

The effects of resolution on liabilities of an entity under restructuring

Article 156. 1. The initiation of resolution, decisions taken by the Fund within the framework of resolution, as well as the consequences of such decisions towards the agreements concluded by an entity under restructuring shall not be considered the basis of the enforcement of the collateral within the meaning of Article 3 point 4 of the Act of 2 April 2004 on Selected Financial Security nor a declaration of bankruptcy within the meaning of Article 1 point 14 of the Act on Settlement Finality, if the material commitments of an entity under restructuring under the agreement, including the commitment for payment and delivery, as well as the commitment to provide security, subject to Article 142, Article 144, Article 161 and Article 213 are performed.

2. If the relevant provisions of the agreement, in particular in terms of delivery, payment and security are performed by an entity under restructuring or entities of the group which includes an entity under restructuring, neither the initiation of resolution, nor the decisions taken by the Fund within the framework of the resolution, nor the consequences thereof shall serve as basis for the other party of the agreement to:

- 1) terminate, withdraw, suspend or amend the agreement and effect a set-off or compensation in the case of the agreements:
 - a) concluded by a subsidiary of an entity under restructuring, if an entity under restructuring collateralises the satisfaction of obligations under an agreement,
 - b) concluded by an entity of a group, if these provisions relate to default on obligations by another entity of a group;
- 2) exercise of rights deriving from the collateralisation of performance of obligations under these agreements, including provisions relating to default on obligations by another entity of a group;
- 3) restriction or requiring the restriction on the rights of an entity under restructuring or entities of a group arising from the agreements, including the provisions of an agreement relating to default on obligations by another entity of a group.

3. The contractual provisions contradictory to paragraph 2 shall be invalid.

4. The provisions of paragraphs 1 and 2 shall not infringe the right to undertake the measure referred to in paragraph 2 if the implementation of this right takes place for reasons other than those linked to the initiation of the resolution, taking a decision by the Fund within the framework of resolution, or consequences thereof.

5. The provisions of paragraph 1 and 2 shall be considered to be overriding mandatory provisions within the meaning of Article 9 of Regulation of the European Parliament and Council (EC) No 593/2008 of 17 June 2008 on the law applicable to contractual obligations (Rome I) (EU OJ L 177, 04.07.2008, p. 6).

Article 157. 1. The provisions of an agreement to which an entity under restructuring is a party that prevent the attainment of the objectives of the resolution, in whole or in part, shall be ineffective towards an entity under restructuring.

2. The provisions of an agreement which reserve the change or termination of the legal relationship in the case of conducting resolution towards an entity under restructuring shall be invalid.

3. The provisions of paragraph 1 and 2 shall not apply to contractual provisions which grant to a party the right to terminate or change the legal relationship further to an event other than the initiation of the resolution, taking a decision by the Fund within the framework of resolution or a consequence of such a decision.

Article 158. 1. The Fund may terminate the following agreements without observing the period of notice and without compensation:

- 1) contract of mandate agreement or commission contract where an entity under restructuring was the contractor or consignee;
- 2) agency contract where an entity under restructuring was an agent;

- 3) contract of lending for use;
- 4) on loan or credit, if the subject of the loan or credit has not been made available to the borrower;
- 5) on access to safe deposit boxes or storage agreement;
- 6) on a bank account, securities account, on the operation of a collective account or agreement on property insurance;
- 7) lease agreement where an entity under restructuring is the lessee ;
- 8) leasing or letting of the real estate if the subject of the agreement has not been surrendered.

2. The provision of paragraph 1 shall apply to agreements concluded prior to the initiation of resolution.

3. Termination may also occur if the termination of the agreement by the entity under restructuring was unacceptable.

Article 159. 1. Where the implementation of the agreement concerning leasing or letting real estate hinders attainment of the objectives of resolution or the rent of leasing or letting real estate differs from the average rent of leasing or letting real estate of the same kind, the Fund may, irrespective of notice periods reserved in the agreement, terminate the agreement concerning leasing or letting real estate of an entity under restructuring with a 3-month notice period, if the subject matter of leasing or letting has been surrendered.

2. The Fund may terminate an agreement concerning leasing or letting real estate surrendered to an entity under restructuring with a 6-month notice period, if the agreement concerns the real estate where the business of an entity under restructuring was operated, and in other cases - within the period prescribed by law, unless the notice periods provided in the agreement are shorter.

3. The termination may also occur if the termination of the agreement by the entity under restructuring was unacceptable.

4. The termination of the agreement must not take place prior to the deadline for which the rent has been paid in advance. The Fund may terminate an agreement concerning leasing or letting prior to that date, if the continuance of the agreement hindered the conduct of resolution, in particular when it leads to an increase in the costs of resolution.

5. The claim for the loss suffered as result of a notice effected prior to the end of the notice period may be pursued against an entity under restructuring, but for a period not longer than two years, under the liquidation or bankruptcy proceedings of a residual entity and, in the case referred to in Article 174 paragraph 1 point 3, Article 188 paragraph 1 point 1 and Article 201 paragraph 1 point 1 - in accordance with Article 242 paragraph 1.

Article 160. 1. Within resolution conducted towards an affiliating bank, the Fund may, with a 3-month notice period, terminate the association agreement, agreement of an institutional protection scheme, agreement of an integrated association and agreement on cooperation, referred to in the Act on the Operation of Cooperative banks.

2. Upon the expiry of the notice period of the association agreement, the association council shall be dissolved.

3. Within resolution conducted towards an affiliated cooperative bank, the Fund may terminate, without observing the period of notice, the association agreement, agreement of an institutional protection scheme, agreement of an integrated association agreement and agreement on cooperation, referred to in the Act on the Operation of Cooperative Banks.

4. The provisions of Article 16 paragraph 4, 4a and 4aa, Article 22b paragraph 2, Article 22c Article 22j, Article 22l, Article 22o paragraph 3 and Article 22w of the Act on the Operation of Cooperative Banks shall not apply in the cases referred to in paragraph 1 and 3.

Article 161. The Fund may, by way of a decision, amend the terms of repayment of debt instruments and performance of other obligations referred to in Article 206 paragraph 1, and extend the maturity or payment period or suspend payment in accordance with Article 144 and Article 213.

Article 162. 1. The decision to initiate the resolution shall not affect the bank account agreements concluded with an entity under restructuring nor the agreements on the basis of which securities accounts are operated for this entity, as well as collective accounts, or cash accounts, if an entity under restructuring performs significant liabilities arising from such agreements.

2. During the period of conducting resolution, the lessor may not terminate an agreement concerning leasing or letting real estate where an entity under restructuring operates its business, unless an entity under restructuring fails to comply with the obligations specified in the agreement.

3. The provision of paragraph 1 shall apply accordingly to lease agreements, property insurance, agreements of bank sureties and guarantees and letters of credit, as well as agreements involving licenses granted to the entity under restructuring.

Article 163. 1. If by the date of service of the decision of the Fund referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4, the obligation derived from a reciprocal agreement has failed to be performed in whole or in part, the Fund may perform this obligation and demand from the other party the provision of the agreed consideration or may withdraw from the agreement with effect from the date of initiation of resolution.

2. At the request of the other party made in writing with a certified date, the Fund, within three months from the date of initiation of the resolution, shall declare in writing whether it withdraws from the agreement or requests its execution. Failure to submit the declaration within this period shall be deemed withdrawal from the agreement.

3. The other party, which is required to perform the benefit first, may withhold the performance thereof until the performance or collateralisation of the agreed consideration.

4. The provisions of paragraph 1-3 shall not apply to agreements which cover futures and forward financial transactions, loans for financial instruments or sale of financial instruments with a commitment to repurchase them.

5. If on the date of initiation of resolution an entity under restructuring was a party to an agreement other than a mutual agreement, the Fund may withdraw from the agreement, unless the law provides for another effect.

Chapter 12

Ineffectiveness of actions against an entity under restructuring

Article 164. The owners, creditors or other persons affected by the transfer of rights attached to shares, undertaking, property rights or liabilities, must not sue a decision on this transfer in a manner other than that specified in Article 11 paragraph 6, in particular under the law of a Member State other than the Republic of Poland, where rights attached to shares, undertaking, property rights or liabilities are situated or by the law of which they are governed.

Article 165. Subject to Article 151 and Article 156 paragraph 2 and 3, the receivables which correspond to the liabilities being the subject of a transfer to a bridge institution, asset management vehicle or a third party must not be written down by offsetting.

Article 166.1. The legal transactions performed by an entity under restructuring within a year prior to the initiation of resolution, whereby it disposed of its property shall be ineffective towards its assets if the transactions have been made, whether or not in return for payment, whereas the value of the benefit of the entity sorely exceeds the value of a benefit received by the entity or a benefit reserved for the entity or a third party.

2. The provision of paragraph 1 shall apply to a court settlement, recognition of the lawsuit and waiver of a claim.

3. Security and payment of debt other than due debt, effected by an entity within 6 months prior to the initiation of resolution towards it shall be ineffective. Nonetheless, the one which received the payment or security may by way of a petition for legal action demand these activities to be deemed effective, if the one was unaware of the threat of bankruptcy of the entity at the time of performing them.

4. The provisions of paragraphs 1-3 shall not apply to security established prior to the date of initiation of resolution in respect of futures and forward financial transactions, loans for financial instruments or repurchase transactions on financial instruments concluded in the context of the implementation of the framework agreement on the basis of specific agreements, if the framework agreement stipulates that each of the specific agreements which cover futures and forward financial transactions, loans for financial instruments or repurchase transactions on financial instruments, will be concluded in the context of the implementation of the framework agreement and that the termination of the framework agreement causes the termination of specific agreements concluded in the context of the implementation hereof.

Article 167. 1. Legal transactions effected in return for payment within 6 months prior to the initiation of resolution by an entity with its owners, representatives or their spouses, as well as with affiliated entities, their owners, representatives or spouses thereof shall be ineffective.

2. The provision of paragraph 1 shall also apply to the transactions which an entity effected with another entity if one of them was the parent entity on the day of the performance of the transactions.

3. The transfer of a future receivable shall be ineffective if the receivable arised following the initiation of the resolution.

4. Where an agreement on the transfer of receivables has been concluded in writing with a certified date not later than 6 months prior to the initiation of the resolution, the provision of paragraph 1 shall not apply.

Article 168. 1. The encumbrance of the property with mortgage, pledge, registered pledge or maritime mortgage shall be ineffective if an entity has not been a personal debtor of a secured creditor, whereas the encumbrance has been established in the year prior to the initiation of resolution, and in respect of its establishment the entity has received no benefits.

2. The provision of paragraph 1 shall apply accordingly if the security in rem has been established in exchange for a benefit that is disproportionately low compared to the value of the fixed security.

3. Regardless of the amount of the benefit received by the entity, the encumbrance referred to in paragraph 1 and 2 shall be ineffective if it collateralises the liabilities of the persons or entities referred to in Article 167 paragraph 1 and 2.

Article 169. The provisions of Article 4 and Articles 8-10 of the Act of 2 April 2004 on Selected Financial Security shall not apply in the cases referred to in Articles 166-168.

Article 170. 1. The agreement on the transfer of ownership title to an object, receivable or another property right of an entity concluded in order to secure claims shall be ineffective if it is has not been concluded in a written form with a certified date.

2. The agreement establishing financial collateral under the provisions of the Act of 2 April 2004 on Selected Financial Security shall not need to be made in writing with a certified date for the effectiveness thereof towards an entity under restructuring.

Article 171. 1. If the remuneration for work of the entity representative, an employee of the entity performing the tasks in the scope of management of the undertaking or the remuneration of a person providing the services related to the management or supervision of the undertaking of the entity specified in the employment agreement, service agreement or a resolution passed or adopted by a statutory body of the entity prior to the initiation of resolution is sorely higher than the average remuneration for such work or services and is not attributable to the amount of workload, the remuneration or part thereof attributable to the period prior to the initiation of resolution, but not longer than 6 months prior to the date of service of the Fund's decision referred to in Article 101 paragraph 7-9 and Article 102 paragraph 1 and 4 shall be subject to return, and if it is not paid, a claim for its payment shall be ineffective towards an entity under restructuring.

2. The provision of paragraph 1 shall apply accordingly to benefits payable in connection with the termination of employment or agreement for the provision of services related to management of the undertaking of the entity.

Article 172. 1. In the matters not stipulated in Article 166-171 the provisions of the Act of 23 April 1964 - Civil Code (Journal of Laws of 2016 item 380 and 585) on the protection of the creditor in the event of insolvency of a debtor shall apply accordingly for challenge to the legal transactions of an entity under restructuring effected prior to the initiation of resolution which are detrimental to the creditors,.

2. Solely the Fund may file a petition for a legal action. The Fund may join a pending case.

Article 173. 1. No action may be claimed ineffective following 2 years from the initiation of the resolution, unless this power has expired before.

2. If a transaction of an entity is ineffective by operation of law or has been deemed ineffective towards an entity under restructuring, all the decrease in the assets of an entity under restructuring following this transaction or the items which did not enter therein shall be returned to an entity under restructuring, and if no return may be effected in kind, an entity under restructuring should be paid the equivalent in cash. The agreed consideration shall not be returned before the the subject of the benefit is transferred to an entity under restructuring.

Chapter 13

Acquisition of an undertaking

Article 174. 1. The Fund may issue a decision on the acquisition by the acquiring entity, without the consent of the owners, debtors or creditors of an entity under restructuring of:

- 1) undertaking of an entity under restructuring;
- 2) some or all of the property rights or some or all of the liabilities of an entity under restructuring;
- 3) rights attached to shares of an entity under restructuring.

2. More than one entity may be an acquiring entity. The Fund may decide on the acquisition to the extent specified in paragraph 1 point 1 and 2, on condition that an acquiring entity holds or has obtained a permit to engage in those transactions required to continue the acquired business.

3. If the entitlement referred to in paragraph 2 is necessary to obtain a permit from the Polish Financial Supervision Authority, the Polish Financial Supervision Authority shall examine the application for a permit in terms that do not delay the acquisition process to the extent restricting or hindering the attainment of the objectives of resolution.

4. The Fund may, with the consent of the acquiring entity, decide to transfer back an undertaking, selected property rights, selected liabilities or rights attached to shares acquired by an acquiring entity to an entity under restructuring or to the original holders of rights attached to shares in an entity under restructuring.

5. An acquiring entity is required to pay compensation for the undertaking being acquired, property rights or rights attached to shares. The payment may be made in particular by the assumption of liabilities of an entity under restructuring of the corresponding value of the acquired: undertaking, property rights, rights attached to shares or through cash settlement.

6. In the case referred to in paragraph 1 point 3 the Fund shall notify the decision to the National Depository of Securities Joint Stock Company.

7. The service of the decision or notification of the decision referred to in paragraph 1 point 3 shall constitute the notice referred to in article 69 paragraph 1 of the Act on Public Offering and Article 106 paragraph 1 of the Act on Trading in Financial Instruments.

Article 175. 1. In the event of issuing a decision by the Fund, as referred to in Article 174 paragraph 1 point 3, the Polish Financial Supervision Authority shall issue a decision on the objection to the acquiring entity referred to in Article 25h paragraph 1 of the Banking Act or the Article 106h paragraph 1 of the Act on Trading in Financial Instruments within 14 working days from the date of receipt of the notification, along with the required information and documents, and in the case of an objection it shall notify the Fund in writing.

2. In the event that there are no grounds to objection, the Polish Financial Supervision Authority shall issue the decision referred to in Article 25h paragraph 4 of the Banking Act or the Article 106h paragraph 4 of the Act on Trading in Financial Instruments. The provision of paragraph 1 shall apply accordingly.

3. Prior to the expiry of the tenth working day of the term for a decision the Polish Financial Supervision Authority may, in writing, commit an entity submitting the notification to provide additional information or documents within 14 working days of receipt of a request. In this case, the period referred to in paragraph 1 shall be extended by 14 working days.

4. In the case of notification of objection by the Polish Financial Supervision Authority, the Fund may, by way of a decision, order the entity to sell rights attached to shares within the prescribed period, on considering the situation in the financial sector and the capital market.

5. By the date of receipt of the decision of the Polish Financial Supervision Authority or disposal of rights attached to shares, the exercise of the voting rights arising from the rights attached to the shares by the acquiring entity shall be suspended. During the suspension period, the Fund may exercise their voting rights arising from these rights.

6. If the rights attached to the shares are not disposed of within the period referred to in paragraph 4, the Polish Financial Supervision Authority may, at the request of the Fund or *ex officio*, award a fine of PLN 10 000 000 on an acquiring entity.

7. Acquisition of an undertaking of an entity under restructuring or its organised part shall be preceded by a consultation with the President of the Office of Competition and Consumer Protection on the impact of the acquisition on competition. The provision of Article 13 paragraph 1 of the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 2015 item 184, 1618 and 1634) and the provisions of Article 491 § 3 and Article 528 § 3 of the Code of Commercial Companies shall not apply.

8. In the case of a decision to acquire an undertaking of an entity under restructuring, the period for submitting the information referred to in Article 23¹ § 3 of the Labour Code shall be 2 days.

9. The fine referred to in paragraph 6 shall account for the income of the State Budget.

10. The enforcement of receivables arising from the fine referred to in paragraph 6 shall follow under the provisions on administrative enforcement proceedings.

Article 176. 1. From the date specified in the Fund's decision referred to in Article 174 paragraph 1 point 1 and 2 an acquiring entity shall succeed an entity under restructuring as regards the acquired property rights and related liabilities, including judicial and administrative proceedings.

2. In the event that an acquiring entity fails to satisfy the conditions for participation in a regulated market or another organised system of trading in financial instruments, payment system, system of settlement or compensation scheme, whose an entity under restructuring was a member, and the participation of an acquiring entity in such a system is essential for the continuation of the acquired business of an entity under restructuring, the Fund may determine by way of a decision a period not longer than 24 months, in which an acquiring entity must not be excluded from the participation in the said system for the reasons of failure to satisfy those conditions if it carries out important commitments arising from their participation, including the commitment to payment and delivery, and also provides the security required in the system. This time limit may be extended by the Fund at the request of an acquiring entity.

3. An acquiring entity shall not be liable for the tax liabilities of an entity under restructuring, including those which occurred following the initiation of resolution.

4. To the extent specified in the decision referred to in Article 174 paragraph 1 point 1 and 2, permits, licenses and reliefs awarded to an entity under restructuring under the provisions in force in the territory of the Republic of Poland in respect of its establishment or business shall devolve to an acquiring entity on the date specified in the decision, unless separate legislation or decision to grant a permit, license or relief provide otherwise.

5. Disclosure in the land registers or other records of the acquisition by the acquiring entity of an undertaking of an entity under restructuring or its property rights, disclosed in these registers or records, shall follow at its request, in accordance with the decision of the Fund, as referred to in Article 174 paragraph 1.

Article 177. 1. Where the subject of acquisition are dematerialised rights attached to the shares referred to in the Act on Trading in Financial Instruments, the entity running the securities account of an entity under restructuring, where those rights are recorded, following the receipt from the National Depository of Securities Joint Stock Company of information of the decision referred to in Article 174 paragraph 1 point 3 shall block them in the account from the date of receipt of the decision to the date of the execution of order by an entity conducting brokerage business in the territory of the Republic of Poland, being a participant of the National Depository of Securities Joint Stock Company through which the transfer is made of dematerialised shareholders' rights (intermediary).

2. An intermediary shall provide the National Depository of Securities Joint Stock Company with the orders to transfer dematerialised shares to the deposit account of the intermediary, in compliance in terms of their form, scope, manner and timing of their submission in accordance with the regulations issued pursuant to Article 94 paragraph 1 point 1 of the Act on Trading in Financial Instruments

3. At the date of the execution of order, the National Depository of Securities Joint Stock Company shall transfer the dematerialised shareholders rights to the deposit account of an intermediary.

4. The transfer of dematerialised shareholders' rights shall take place by carrying out, on the day of execution of the order, the recording of these shares in the securities account of an entity acquiring rights attached to the shares in return for payment of a price determined in accordance with Article 174 paragraph 5.

5. Where the materialised shares are the subject of acquisition, the shareholders shall deposit documents of shares or evidence of their submission with the company to the disposal of the company within 14 days from the date of publication of the decision referred to in Article 174 paragraph 1 point 3. If a shareholder has failed to deposit a document of shares within this period, the Fund shall cancel it pursuant to Article 358 of the Code of Commercial Companies and shall issue a new document of shares bearing the same number of issue to an entity assuming rights attached to the shares.

6. The Fund shall transfer the rights attached to shares to an entity acquiring the rights attached to shares.

Article 178. 1. The Fund shall select an acquiring entity in a manner that ensures:

- 1) openness;
- 2) transparency;
- 3) equal treatment of potential acquiring entities;
- 4) no conflict of interest;
- 5) expediency of proceedings;
- 6) selection of an entity offering the most favourable terms taking into consideration the resolution objectives in the prevailing market conditions.

2. carried out by the Fund or the Polish Financial Supervision Authority, are likely to acquire an entity under restructuring, while attaining the objectives of resolution is without prejudice to the requirements set out in paragraph 1.

3. In the case referred to in Article 174 paragraph 1 point 1 the Fund shall take into account in particular the declaration of an acquiring entity with reference to:

- 1) scope of the acquired business of an entity under restructuring;
- 2) payment through the acquisition of liabilities in respect of the guaranteed funds in the acquired accounts of depositors of an entity under restructuring;
- 3) financial terms of the acquisition, in particular the price for the undertaking of an entity under restructuring and the amount of expected support;
- 4) date of acquisition;
- 5) feasibility of assuming and continuing the acquired business of an entity under restructuring, in particular ensuring the safety of the acquired guaranteed funds and guaranteed funds held in an acquiring entity.

4. In the case referred to in Article 174 paragraph 1 point 2 the Fund shall take into account in particular the declaration of an acquiring entity with reference to:

- 1) scope of the acquired business of an entity under restructuring, in particular the liabilities resulting from guaranteed funds in the acquired accounts of depositors of an entity under restructuring;
- 2) financial terms of the acquisition, in particular the price for property rights and liabilities being acquired and the amount of expected support;
- 3) date of acquisition;
- 4) feasibility of assuming and continuing the acquired business of an entity under restructuring, in particular guaranteeing the safety of the acquired guaranteed funds and guaranteed funds held in an acquiring entity,

5. In the case referred to in Article 174 paragraph 1 point 3 the Fund shall take into account in particular the declaration of an acquiring entity with reference to:

- 1) financial terms of the acquisition, in particular the price for property rights being acquired and liabilities and the amount of expected support;
- 2) date of acquisition;
- 3) possibility of liquidity and capital support for an entity under restructuring, in particular ensuring the safety of the guaranteed funds held in an entity under restructuring.

6. The Fund may waive the requirements set out in paragraph 1, if their satisfaction hindered attainment of at least one of the objectives of resolution, and if it deems it necessary to prevent risks to the financial stability posed by the situation of an entity under restructuring and reduction in the effectiveness of the instrument of acquisition of a undertaking for the evasion of material adverse effects on financial stability.

7. An entity under restructuring may delay the transfer of information about the search for an acquiring entity, if required in accordance with Article 56 paragraph 1 of the Act on Public Offering, in accordance with Article 57 hereof.

Article 179. If the value of the acquired liabilities resulting from the guaranteed funds exceeds the value of the acquired property rights, the Fund may, in order to ensure the acquisition of transfer of liabilities resulting from these funds, provide an acquiring entity with the relevant funds from the guarantee fund of banks or guarantee fund of credit unions up to the amount of liabilities assumed resulting from these funds, net of the expected amounts of the settlement of claims resulting from the payout of guaranteed funds under bankruptcy proceedings as if on the day of the decision to initiate resolution, the court had issued a decision declaring bankruptcy of an entity under restructuring.

Article 180. The owners, debtors and creditors of an entity under restructuring whose property rights or liabilities have not been assumed following the decision referred to in Article 174 paragraph 1 shall not be entitled to claims with reference to an acquiring entity, its assets and the members of its bodies.

Chapter 14

Establishment of a bridge institution

Article 181. 1. The Fund may establish a bridge institution in the form of a capital company in order to:

- 1) manage the rights attached to the shares in one or more entities under restructuring acquired on the basis of the Fund's decision and the exercise of the powers from these rights,
 - 2) continue the business of undertaking of an entity under restructuring or a part thereof, acquired on the basis of the decision of the Fund and reorganisation thereof,
- pending the disposal to a third party or termination of business.

2. In order to establish a bridge institution, the Fund may purchase shares or interests of a bank operating as a joint stock company or investment firm in a number sufficient to obtain the status of a parent company. The provisions of Article 25-25r of the Banking Act, Article 106-108 of the Act on Trading in Financial Instruments and Article 73 and Article 74 of the Act on public offering shall not apply.

3. An undertaking of a bridge institution, its shares or interests should be sold within two years from the date of commencement of business referred to in Article 188 paragraph 1. The Fund may extend this time limit, on its request or *ex officio*, for a year, where it is necessary to:

- 1) sell shares or interests of a bridge institution;
- 2) sell an undertaking of a bridge institution or its selected property rights or selected liabilities;
- 3) liquidate a bridge institution;
- 4) guarantee continuity of provision of essential financial services.

4. While issuing the decision referred to in paragraph 3, the Fund shall take account of an assessment of market conditions and the forecast of their changes. The deadline may be re-extended.

5. The business of a bridge institution shall be subject to supervision exercised by the Polish Financial Supervision Authority in the scope and on the terms specified in the Banking Act or the Act on Trading in Financial Instruments, unless the provisions of those laws provide otherwise.

6. The provisions of Article 36 paragraph 4, Article 38, Article 141m-141x, Article 142, Article 142a Article 144-147, Article 153-157f and Article 158 paragraph 4, 5 and 7 of the Banking Act and the provisions of Article 84 paragraph 2 point 3, Article 89 paragraph 1 point 1, Article 110zc-110zdz and Article 167 paragraph 1 point 4 of the Act on Trading in Financial Instruments shall not apply to the establishment and operation of a bridge institution.

7. Disclosure of information covered by banking secrecy referred to in Article 104 paragraph 1 of the Banking Act, or respectively professional secrecy, as referred to in Article 147 of the Act on Trading in Financial Instruments shall be admitted if necessary for the conclusion and execution of an agreement on the sale of shares of a bridge institution, an undertaking of a bridge institution or its property rights or liabilities. Disclosure of confidential information referred to in Article 154 of the Act on Trading in Financial Instruments, and the trade secrets in the meaning of Article 11 paragraph 4 of the Act of 16 April 1993 on Unfair Competition (Journal of Laws of 2003 item. 1503, as amended.¹²) shall be admitted within the same limits.

8. Upon the sale of all shares or interests of a bridge institution or the loss of the status of the parent company by the Fund the provisions hereof shall cease to apply to its operations.

Article 182. 1. The Fund shall contribute the initial share capital to a bridge institution from the resolution funds.

2. The Fund shall cover the operating costs of a bridge institution from the resolution funds as necessary, unless it generates sufficient revenue from management or manages no transferred property rights.

Article 183. Where a bridge institution is a bank, the initial share capital of a bridge institution contributed by the Fund must not be less than the equivalent of EUR 1 000 000 in PLN converted as per the average exchange rate announced by the National Bank of Poland, effective on the date of a permit to establish a bridge institution.

¹² The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2004 item. 959, 1693 and 1804, of 2005 item. 68, of 2007 item 1206 and of 2009 item 1540.

Article 184. 1. A bridge institution shall maintain a sum of own funds at the level not lower than the higher of the following values:

- 1) value arising from satisfaction of the requirements of the own funds referred to in Article 92 of Regulation No 575/2013;
- 2) amount necessary to cover the identified significant risks in its operations and changes in the economic environment estimated by a bridge institution on considering the expected level of risk.

2. If a bridge institution holds solely shares or interests in an entity under restructuring, that latter is required to maintain the total of own funds as referred to in paragraph 1.

Article 185. 1. Where necessary to attain the objectives of resolution, the Polish Financial Supervision Authority, at the request of the Fund, may authorise the establishment of a bridge institution notwithstanding the failure to satisfy the requirements laid down in the provisions of Regulation No 575/2013, the Banking Act, the Act on Trading in Financial Instruments or the Act of 5 August 2015 on Macro-prudential Oversight of the Financial System and Crisis Management in the Financial System.

2. The provisions of the Banking Act concerning the establishment of a bank in the form of a joint stock company and the provisions of the Act on Trading in Financial Instruments relating to obtaining a permit to conduct brokerage business shall not apply to the proceedings for permit referred to in paragraph 1.

3. In the permit referred to in paragraph 1, the Polish Financial Supervision Authority shall determine, at the request of the Fund, the duration and scope of exemption of application with reference to a bridge institution of the requirements laid down in Regulation No 575/2013, the Banking Act, the Act on Trading in Financial Instruments or the Act of 5 August 2015 on Macro-prudential Oversight of the Financial System and Crisis Management in the Financial System.

4. The Polish Financial Supervision Authority shall consider the applications for permit referred to in paragraph 1 within a term that does not prevent or hinder the attainment of the objectives of resolution.

5. The provisions of Article 34 paragraph 1 of the Banking Act or the provisions of Article 84 paragraph 2 points 1 and 2 of the Act on Trading in Financial Instruments shall apply accordingly to the permit referred to in paragraph 1.

6. The period referred to in paragraph 3 must not be longer than 3 years from the date of the establishment of a bridge institution.

Article 186. Following the period referred to in Article 185 paragraph 3, but not longer than within one year following the commencement of business referred to in Article 188 paragraph 1 by a bridge institution established under the permit referred to in Article 185 paragraph 1, the requirements stipulated in the provisions of Regulation No 575/2013, the Banking Act, the Act on Trading in Financial Instruments and the Act of 5 August 2015 on Macro-prudential Oversight of the Financial System and Crisis Management in the Financial System shall apply to the said institution.

Article 187. 1. Subject to Article 31 paragraph 3 and Article 34 paragraph 2 of the Banking Act, in the event that the Fund is not the sole shareholder or partner of a bridge institution, the Funds shall hold exclusive powers to:

- 1) approve the statutes or articles of association of a company;
- 2) select or approve the members of corporate bodies of a bridge institution;
- 3) determine the rules of remuneration of the members of corporate bodies of a bridge institution;
- 4) approve the strategy and risk profile of a bridge institution.

2. The statutes of a bridge institution shall lay down the detailed rules and procedures of the exercise of the powers referred to in paragraph 1 point 1-4.

3. Amendment of the statutes or articles of association requires a written approval by the Fund.

4. In the period of operating business by a bridge institution, powers of the general meeting of shareholders or meeting of partners shall be exercised by the Fund.

5. The remaining shareholders or partners of a bridge institution shall not be entitled to claim damages towards a bridge institution or the Fund in respect of restrictions referred to in paragraph 1 and 3. Neither may they bring action for revocation of the resolution referred to in Article 249 and Article 422 of the Code of Commercial Companies, action for annulment referred to in Article 252 and Article 425 of the Code of Commercial Companies, as well as action for redressing the damage inflicted on the company referred to in Article 295 and Article 486 of the Code of Commercial Companies. The provision of Article 189 of the Code of Civil Procedure shall not apply.

Chapter 15

Business of a bridge institution

Article 188. 1. A bridge institution shall commence operations at the moment of a transfer to it, on the basis of the decision of the Fund of:

- 1) rights attached to shares in an entity under restructuring;
- 2) undertaking or an organised part thereof;
- 3) selected property rights or liabilities of an entity under restructuring.

2. The Fund may transfer back rights attached to shares in an entity under restructuring, transfer of an undertaking, selected property rights or liabilities from a bridge institution to the original holders of rights attached to shares in an entity under restructuring or, respectively, to an entity under restructuring, if they were subject to the transfer, as referred to in paragraph 1, and this possibility is provided for in the decision of the transfer.

3. Detailed conditions and mode of a transfer and a back transfer shall be established by a decision of the Fund.

4. The value of transferred liabilities must not exceed the value of transferred property rights.

5. If the value of the transferred liabilities exceeds the value of the transferred property rights, the Fund may transfer funds in the amount of the excess of liabilities over the value of property rights to a bridge institution, but not more than the value of guaranteed funds up to the amount covered by the mandatory guarantee scheme in accordance with Article 24 paragraph 1, in the accounts of an entity under restructuring, net of the expected amounts of the settlement of claims derived from the payment of guaranteed funds in bankruptcy proceedings as if on the day of the decision to initiate resolution, the court had issued a decision declaring bankruptcy of an entity under restructuring.

6. In the case of a transfer and back transfer of rights attached to shares in an entity under restructuring, the provisions of Article 73 or Article 74 of the Act on Public Offering shall not apply.

Article 189. The Fund may transfer an undertaking or selected property rights or liabilities from more than one entity under restructuring to a bridge institution. In this case, a bridge institution is required to manage the assets transferred from each entity under restructuring separately or keep records of business in a way that allows the separation of their assets and liabilities and results of management thereof.

Article 190. If the value of transferred property rights determined in accordance with Article 137 paragraph 2 and 3, exceeds the value of transferred liabilities, the transfer shall be made for consideration, in the amount of difference between the value of the transferred property rights and the value of transferred liabilities.

Article 191. 1. From the date specified in the decision referred to in Article 188 paragraph 1 points 2 and 3 a bridge institution shall succeed an entity under restructuring with reference to the acquired property rights and related liabilities, including the right to court proceedings.

2. A bridge institution shall not be liable for the tax liabilities of an entity under restructuring, including those which occurred following the initiation of resolution.

3. Permits, licenses and reliefs awarded to an entity under restructuring under the provisions in force in the territory of the Republic of Poland in respect of its establishment or business shall devolve to a bridge institution on the date specified in the decision of the Fund, unless separate legislation or decision to grant a permit, license or relief provide otherwise.

4. Disclosure in the land registers or other records of the acquisition by a bridge institution of property rights, disclosed in these registers or records shall follow at its request, on the basis of the decision of the Fund, as referred to in Article 188 paragraph 1.

5. In an event that a bridge institution fails to satisfy the conditions for participation in a regulated market or another organised system of trading in financial instruments, payment system, system of settlement or compensation scheme, in which an entity under restructuring was a participant, whereas the participation of a bridge institution in such a system is essential for the continuation of the acquired business of an entity under restructuring, the Fund may determine by way of a decision a period not longer than 24 months, in which a bridge institution must not be excluded from the participation in the said system for the reason of failure to satisfy those conditions if it performs important commitments arising from the participation, including the commitment to payment and delivery, and also provides the security required in a given system. This time limit may be extended by the Fund at the request of a bridge institution.

6. In the case of transfer to a bridge institution of rights attached to shares, including those issued by an entity under restructuring, the provisions of Articles 25-25s of the Banking Act and Articles 106-106n of the Act on Trading in Financial Instruments shall not apply.

7. In proceedings relating to the transferred undertaking, selected property rights or selected liabilities, initiated by an entity under restructuring and not completed before the date of delivery of the decision referred to in Article 188 paragraph 1 points 2 and 3, under the final administrative decision, order or judgment a bridge institution shall succeed an entity under restructuring at the date of notification of the decision.

Article 192. 1. The transfer shall not require the consent of the owners, debtors or creditors of an entity under restructuring.

2. The owners, debtors or creditors of an entity under restructuring whose rights or liabilities have not been transferred to the bridge institution shall not be entitled to claims towards a bridge institution, its assets or the members of its statutory bodies.

Article 193. 1. The Fund shall dispose of the rights attached to the shares in a bridge institution on the principles stipulated in Article 178.

2. A bridge institution shall dispose of its undertaking or property rights under the terms of Article 178.

Article 194. 1. The employees of the Fund or persons designated by the Fund may participate in the performance of inspection activities in a bridge institution undertaken by employees of the Polish Financial Supervision Authority referred to in Article 133 paragraph 3 of the Banking Act or Article 27 paragraph 1 of the Act of 21 July 2006 on Financial Market Supervision (Journal of Laws of 2016. item 174, 615 and 888).

2. The Polish Financial Supervision Authority by way of a resolution at the request of the Fund shall determine the scope of inspection activities for which the employees of the Fund or persons designated by the Fund are eligible.

Chapter 16

Termination of business of a bridge institution

Article 195. A bridge institution shall terminate its business upon:

- 1) commencement of liquidation;
- 2) disposal of an undertaking of a bridge institution or all property rights related to business and the acquisition by a third party of all liabilities other than liabilities towards the Fund.

Article 196. 1. The Fund shall resolve on the liquidation of a bridge institution if the period referred to in Article 181 paragraph 3 has expired and not all property rights linked to operating business have been disposed of or transferred. The provision of Article 156a of the Banking Act shall not apply.

2. In the case referred to in Article 189 the Fund shall issue a decision to limit the business of a bridge institution in the scope in which the condition referred to in paragraph 1 has been met. The provisions of Article 197 paragraph 4 shall apply accordingly.

3. In the case of a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint stock company, the Fund may request the Polish Financial Supervision Authority for the revocation of the permit to establish a bridge institution. The provision of Article 155 of the Code of Administrative Procedure regarding the obligation to obtain the consent of the party shall not apply.

4. In the case of a bridge institution operating under the provisions of the Act on Trading in Financial Instruments, the Fund may request the Polish Financial Supervision Authority for the revocation of the permit to conduct brokerage business. The provision of Article 155 of the Code of Administrative Procedure regarding the obligation to obtain the consent of the party shall not apply.

5. The Fund may resolve on the liquidation of a bridge institution where the majority of property rights and liabilities related to the performance of business has sold or transferred.

6. In an event of disposal or transfer of all property rights of a bridge institution, the Fund may reduce the own funds of a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint stock company to the level specified in Article 183.

Article 197. 1. The Fund-appointed liquidator shall assume the management of assets of a liquidated bridge institution, to whom all the rights reserved by law and the statutes or the articles of association for the statutory bodies of a bridge institution shall devolve.

2. The liquidator represents a bridge institution.

3. On the day of assuming the management of assets of a liquidated bridge institution by the liquidator:

- 1) bridge institution's management board and supervisory board shall be dissolved, whereas mandates of their members shall expire;
- 2) powers of attorney and proxies shall expire.

4. The provisions of the Code of Commercial Companies apply to the liquidation of a bridge institution, provided that:

- 1) no dividends or interest shall be paid during the period of liquidation;
- 2) the opening balance of the liquidation, the liquidation programme and the account of the conducted liquidation shall be subject to approval by the Fund;
- 3) the provisions of Article 474 paragraph 1 of the Code of Commercial Companies shall not apply;
- 4) The liquidator, at least once a month, shall provide the Fund with the reports on the course of the liquidation.

5. The Fund shall notify the Polish Financial Supervision Authority of the course of liquidation on a quarterly basis.

Article 198. 1. Following the completion of the liquidation, the liquidator shall make a liquidation report and communicates it to the Fund, the Polish Financial Supervision Authority and the court of registration, along with a request for removal of a bridge institution from the register.

2. The Fund shall approve the liquidation report.

Article 199. The Fund may remove a liquidator if they conduct liquidation in a way which endangers attainment of the objectives of resolution.

Article 200. 1. If, in line with the balance sheet made at the end of the reporting period, the assets of a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint-stock company are not sufficient to cover its liabilities, or a bridge institution fails to settle its liabilities towards depositors in the scope of the payment of funds under guarantee protection for the reasons directly related to the financial situation of a bridge institution, the management board of a bridge institution or liquidator shall forthwith notify the Fund.

2. In the case referred to in paragraph 1 the Fund shall request the Polish Financial Supervision Authority for the suspension of business of a bridge institution and for filing a petition to the competent court for a declaration of its bankruptcy. The provisions of Article 158 paragraph 1 and 2 of the Banking Act shall apply accordingly.

3. The Fund may request the Polish Financial Supervision Authority to revoke the permit to establish a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint stock company also where the circumstances have arisen posing a threat of insolvency or of a reduction in the total own funds to the extent triggering non-compliance with the requirements for the establishment of a bridge institution. The provision of Article 155 of the Code of Administrative Procedure regarding the obligation to obtain the consent of the party shall not apply.

Chapter 17

Write down or conversion of liabilities of an entity under restructuring

Article 201. 1. The Fund may, without the consent of the owners and creditors of an entity under restructuring:

- 1) write down or convert liabilities with a view to recapitalising an entity under restructuring;
- 2) write down or convert liabilities transferred to a bridge institution with a view to equipping it with own funds;
- 3) write down or convert liabilities transferred under an instrument of separation of property rights;
- 4) write down liabilities under an instrument of acquisition of an undertaking.

2. Write down or conversion of liabilities with a view to recapitalising an entity under restructuring shall be admitted if it brings an entity under restructuring in conformity with requirements of operation defined under other provisions and there are reasonable indications that following the restructuring referred to in Article 214, it will attain a long-term financial stability.

Article 202. 1. Prior to write down or conversion of liabilities, the Fund, on the basis of the valuation referred to in Article 137 paragraph 2 and 3, shall determine the amount of losses to be covered and the amount by which own funds of an entity under restructuring should increase in order to enable it to satisfy the conditions stipulated in Article 201 paragraph 2, or the amount necessary to provide a bridge institution or asset management vehicle with own funds.

2. While determining the amount of the necessary own funds, the Fund shall take into account the expected capital needs of an entity under restructuring, bridge institution or asset management vehicle for at least 12 months.

3. If the arrangements were made on the basis of a provisional valuation, whereas following the final valuation, the volume of losses to be covered diverges from that determined in the provisional valuation, the Fund shall re-determine them.

Article 203. Prior to write down or conversion of liabilities, the Fund shall cover the losses of an entity under restructuring in accordance with Article 70 paragraph 1 or Article 141.

Article 204. 1. The creditors whose receivables are subject to conversion shall assume the rights attached to shares in the number resulting from the value of the converted receivables and the issue price determined in the resolution on share capital increase.

2. Upon adoption of a resolution to increase share capital further to write down or conversion of liabilities, it shall be deemed that the creditors whose receivables are subject to conversion assume the rights attached to the shares issued through covering thereof with converted receivables. The provisions of Article 259, Article 262 paragraph 2 point 2 and Article 431 paragraph 2 point 1 of the Code of Commercial Companies shall not apply.

Article 205. 1. Where an entity under restructuring has issued financial instruments which provide for a reduction of the liability amount or conversion of the liability into rights attached to the shares or other items of own funds in the event related to the financial situation, solvency, capital position or the level of own funds in the event of write down or conversion of liabilities, the liability shall be written down or converted as per the terms of issue.

2. The instruments whose terms of issue provided for their write down or conversion into capital in the case of deterioration of the situation of an entity shall be subject to write down or conversion in the first place.

3. The Fund may effect write down or conversion of liabilities towards the rights attached to the shares created as a result of the conversion and towards instruments that were not subject to write down or conversion in their the full amount.

Article 206. 1. The liabilities of an entity under restructuring may be subject to write down or conversion of liabilities, with the exception of liabilities :

- 1) derived from guaranteed funds;
- 2) collateralised, including liabilities arising from bonds and liabilities in the form of financial instruments which are an integral part of the collateralised pool in accordance with the applicable law in a manner similar to the bonds;
- 3) arising from the property rights or funds belonging to customers and held by an entity under restructuring, including those deposited on their behalf by investment funds or alternative investment funds, provided that such property rights or funds are protected under the Act – Bankruptcy Law;
- 4) arising from the trust relationship between an entity under restructuring and another entity, provided that such a liability is subject to protection under the Act - Bankruptcy Law or the Act of 23 April 1964 - Civil Code;
- 5) due to domestic banks, foreign banks, other credit institutions and investment firms, with the original maturity of less than 7 days, with the exception of liabilities between entities included within the same group;
- 6) arising from the participation in payment systems, settlement systems or liabilities towards the operators of these systems or their participants arising from participation in such a system, which will mature in less than 7 days;
- 7) due to employees, in particular those arising from the due remuneration and pensions, with the exception of liabilities arising from variable remuneration components, which are not regulated by the collective agreement;
- 8) due to creditors arising from the supply of goods and provision of services, which are essential for the current operation of an entity under restructuring, including IT services, public utility services, rental services, servicing and maintenance of buildings and premises;
- 9) due to tax authorities and liabilities from the social security;
- 10) in respect of contributions to the Fund and other officially recognised guarantee schemes.

2. Write down or conversion of liabilities may cover liabilities referred to in paragraph 1 point 2, in the part exceeding the value of established security.

3. The Fund may exempt from write down or conversion of liabilities in whole or in part the liabilities whose:

- 1) write down or conversion are not possible within the term necessary from the angle of the objectives of resolution;
- 2) exemption is necessary to achieve continuity of critical functions and major business lines so as to preserve the ability of an entity under restructuring to continue the key operations, services and transactions;
- 3) write down or conversion could threaten financial stability, seriously disrupt the operation of the economy, the financial market or the financial sector, in particular liabilities in respect of deposits of natural persons and small and medium-sized enterprises;
- 4) write down or conversion would lead to losses of other creditors to a greater degree than if they had been exempt from the write down or conversion.

4. Prior to the exemption referred to in paragraph 3 the Fund shall notify the European Commission.

5. Where an exemption referred to in paragraph 3 requires the use of funds from the resolution funds, the Fund shall make exemption if the European Commission does not object to the exemption within 24 hours, or such longer period as agreed with the Fund. If the European Commission determines the conditions for the exemption, the Fund may effect it upon satisfying these conditions.

Article 207. 1. While assessing the appropriateness of the exemption from the write down or conversion of liabilities arising from derivative instruments or the repurchase sale of financial instruments, the Fund shall take into account the assessment of the impairment resulting from the closure of derivative contracts or sales transactions in relation to the size of the losses which may be covered through the cancellation of liabilities arising from derivatives or sale transaction.

2. If derivatives or the repurchase sale of or financial instruments have not been exempt from write down or conversion, the Fund shall make write down or conversion of liabilities arising therefrom. The Fund shall close derivative instruments' contracts or repurchase sale transactions of financial instruments prior to write down or conversion of these liabilities.

3. Where a derivative instrument or a repurchase sale transaction of financial instruments includes a compensation clause, within the valuation referred to in Article 137 paragraph 2 and 3, the value of the net liability derived from this instrument or transaction shall be determined for the purpose of write down or conversion of these liabilities.

Article 208. 1. Write down or conversion shall cover liabilities in respect of the principal and interest due.

2. If write down or conversion covers commitment or a right attached to the shares in part, contractual terms and conditions in the remaining scope shall be unchanged, except for the basis of calculation of interest. In this regard, the Fund may take other actions arising from the law.

Article 209. 1. The amount of written down or converted liabilities shall be determined as the difference of the sum of the amounts determined in accordance with Article 202 paragraph 1 and the losses covered under Article 203.

2. Liabilities in the amount referred to in paragraph 1 shall be subject to write down up to the amount of losses not covered in accordance of Article 203, and in the remaining amount – they are subject to conversion into the rights attached to the shares.

3. Write down and conversion shall proceed in the following order:

- 1) capital instruments in accordance with the order laid down in Article 72 paragraph 1;
- 2) other subordinated liabilities, if the amount of write down or conversion of receivables referred to in point 1 is less than the required amount of write down or conversion;
- 3) other liabilities if the amount of write down or conversion of receivables referred to in points 1 and 2, is less than the required amount of the write down or conversion.

4. Write down or conversion of liabilities referred to in paragraph 3 point 3 shall follow the order of priority reverse towards the order of satisfaction of claims referred to in Article 440 of the Act - Bankruptcy Law.

Article 210. 1. If no complete write down or conversion of liabilities of a specific category referred to in Article 209 paragraph 3 is required to attain the required amount of write down or conversion, liabilities in this category shall be subject to write down or conversion *pro rata* to the value of the liability.

2. If not all of the rights attached to the shares of existing owners of an entity under restructuring have been written down in order to cover the losses determined in accordance with Article 202, the Fund may diversify the rates of conversion of liabilities into the rights attached to the shares in order to proportionately reduce the share of the existing owners.

3. In the case referred to in paragraph 2, differentiation of the conversion rates should take into account the ranking of claims referred to in Article 440 paragraph 2 of the Act – Bankruptcy Law.

4. Following the consultation with the Fund, the Minister competent for financial institutions may determine, by way of a regulation, the detailed rules for determining differential conversion rates, taking into account the principles of resolution, referred to in Article 110 paragraph 3 points 3 and 4.

Article 211. 1. The owners who assumed the rights attached to shares as a result of the conversion shall be provided with those rights forthwith upon request, following the registration of the share capital increase.

2. The right of exercising voting rights from the rights attached to shares assumed as a result of the conversion shall remain on hold pending the completion of valuation referred to in Article 137 paragraph 2, and in the event of issuing a decision by the Fund to alter the level of write down or conversion in accordance with Article 138 paragraph 3 point 1 – pending the date on which the decision becomes enforceable.

Article 212. The provisions of Article 7 paragraph 1 and Article 69 of the Act on Public Offering, Article 19 paragraph 1 point 2 of the Act on Trading in Financial Instruments, Article 418¹ paragraph 1, Article 441 and Article 456 of the Code of Commercial Companies shall not apply to the conversion of liabilities.

Article 213. Where an entity under restructuring is required to repay the subordinated debt which satisfies the conditions referred to in Article 63 of Regulation No 575/2013, interest or other payments in respect thereof, the Fund may suspend payment of those liabilities in the part thereof not being subject to write down or conversion of liabilities, until the entity satisfies the requirements of conducting business specified in separate regulations.

Article 214. 1. The administrator or the attorney appointed by the Fund, within one month from the date of delivery of the decision of the Fund on write down or conversion of liabilities, shall develop a restructuring programme and shall oversee its implementation. The Fund may extend the deadline to develop the programme to 2 months of the delivery of that decision, in particular in the case of the notification of state aid for an entity under restructuring.

2. The objective of the restructuring programme shall be to attain long-term financial stability by an entity under restructuring.

3. The programme should include at least:

- 1) analysis of the causes of the current situation of an entity under restructuring;
- 2) assumptions underlying the preparation of the programme and their statement of reasons;
- 3) assessment of the current situation of an entity under restructuring, including its market (competitive) position;
- 4) description of actions to be taken in order to restore long-term financial stability of an entity under restructuring;
- 5) physical and financial resources necessary to implement the programme and the manner of provision thereof;
- 6) schedule of activities and responsibility sharing for the implementation thereof.

4. The measures referred to in paragraph 3 point 4 may include:

- 1) cessation of activities generating losses or associated with an elevated risk;
- 2) sale of assets, lines of business, or part of business of an entity under restructuring;
- 3) reorganisation of an entity under restructuring;
- 4) changes in the operational solutions;
- 5) operational restructuring of an entity under restructuring aimed at restoring competitiveness or profitability;
- 6) changes in the method of financing activities and capital support for an entity under restructuring.

Article 215. 1. If write down or conversion of liabilities has been applied to more than one entity of a group, a parent entity shall develop a restructuring programme specifying measures towards the entities of the group.

2. A domestic parent entity shall provide the Fund with a restructuring programme. The Fund shall forward the plan to the competent authorities for the resolution of subsidiaries and to the European Banking Authority.

Article 216. 1. Following the consultation with the Polish Financial Supervision Authority, the Fund shall assess the restructuring programme within one month from the date of receipt thereof. The Polish Financial Supervision Authority shall forward its opinion on the programme within 10 working days from the date of receipt of the request of the Fund to issue such an opinion.

2. On considering the opinion of the Polish Financial Supervision Authority, the Fund shall accept a restructuring programme, if it deems the programme likely to attain the objective and determines at the same time the deadlines for reporting on the implementation of the programme, or provides comments and objections in order to supplement or amend it.

3. The administrator or the attorney appointed by the Fund shall provide the Fund with a revised plan within 14 days from the date of receipt comments and objections to the programme. Within 7 days from the date of receipt of the revised programme, the Fund shall re-assess it.

4. The administrator or the attorney appointed by the Fund shall provide the Fund with reports on implementation of the restructuring programme at intervals not longer than semi-annual.

5. Following the consultation with the Polish Financial Supervision Authority, the Fund may require the administrator or the attorney to amend or re-develop the restructuring programme if its implementation is not adequate or the objective of the programme is not feasible to be attained.

6. If the objectives of the restructuring programme have been achieved, the Fund shall convene the general meeting of shareholders, meeting of partners or a general meeting of members in order to remove the existing supervisory board and to appoint a new supervisory board.

7. A supervisory board shall appoint a management board of an entity under restructuring. In the case of a bank under restructuring, the appointment shall be effective on the date of consent as referred to in Article 22b paragraph 1 of the Banking Act.

Article 217. 1. Write down of rights attached to shares and write down or conversion of liabilities shall be effective towards an entity under restructuring and concerned owners and creditors, regardless of limits and restrictions on assumption of the rights attached to shares and on investing funds.

2. Where following write down or conversion of liabilities, an entity whose receivables have been converted into the rights attached to the shares, or another creditor of an entity under restructuring exceeds the limits and restrictions on assumption of the rights attached to shares and on investing funds, the Polish Financial Supervision Authority in consultation with the Fund shall determine the term for attaining their adequate level.

3. If the creditor referred to in paragraph 2 is not subject to supervision by the Polish Financial Supervision Authority, it should ensure compliance with any applicable limits and restrictions on assumption of the rights attached to shares and on investing funds, not later than 12 months from the date of publication of the decision of the Fund on write down or conversion of liabilities.

Article 218. The creditor referred to in Article 217 paragraph 2, who following the conversion of liabilities exceeds the percentage thresholds referred to in Article 25 paragraph 1 of the Banking Act, is required to submit the notification referred to in Article 25 paragraph 1 of the Act within the period specified in Article 25 paragraph 5 of the Act. The provisions of Article 25 paragraph 7-9 and Articles 25a-25o of the Banking Act and Article 175 paragraph 4-6 shall apply accordingly.

Article 219. The creditor referred to in Article 217 paragraph 2, who as a result of the conversion of liabilities exceeds the thresholds referred to in Article 106 paragraph 1 of the Act on Trading in Financial Instruments, is required to submit the notification referred to in Article 106 paragraph 1 of the Act within the period specified in Article 106 paragraph 5 of this Act. The provisions of Article 106 paragraph 7-9 and Article 106a-106n of the Act on Trading in Financial Instruments and Article 175 paragraph 4-6 shall apply accordingly.

Article 220. If the threshold of 33% or 66% of the total number of votes in a public company has been exceeded as a result of conversion of debt into the shares of a company under restructuring, the duty to announce a call for subscription for the sale of shares or exchange of shares within the meaning of Article 73 or Article 74 of the Act on Public Offering shall be applicable in the case where, following such acquisition of shares, the share in the total number of votes increases further. The time-frame for the performance of the obligation shall count from the date of the event causing an increase in the share in total number of votes.

Article 221. Upon an entry into the register of an increase or decrease in the share capital of an entity under restructuring, the procedure for precautionary measures and enforcement proceedings pending against the said entity with a view to the satisfaction of the claims covered by write down or conversion of liabilities shall be terminated, whereas the enforcement orders underlying the conduct of such proceedings shall become unenforceable.

Article 222. 1. An entity issuing a financial instrument or incurring a liability which may be subject to write down or conversion is required:

- 1) to provide in the terms of issue or in an agreement for the reservation of possibility to implement the instrument of write down or conversion of liabilities towards such an instrument or liability in a way in which enables a purchaser of a financial instrument or a party to a an agreement under which an entity incurs a liability to familiarise with this reservation;
- 2) to obtain the consent of a purchaser of a financial instrument or a party to an agreement under which an entity incurs a liability to acknowledge the consequences of a decision to apply the instrument of write down or conversion of liabilities.

2. The Fund may exempt an entity from the duty referred to in paragraph 1, where the law applicable to the financial instrument or agreement provides for unconditional acknowledgement of the consequences of the Fund's decision on write down or conversion of liabilities. In this case, the Fund may require this entity to produce a legal opinion.

Chapter 18

Separation of property rights

Article 223. Property rights may be separated if:

- 1) liquidation of property rights could have a material adverse effect on the market situation, in particular on prices of such property rights;
- 2) transfer of property rights to an asset management vehicle is necessary for continuation of operation of an entity under restructuring or a bridge institution or
- 3) transfer of property rights to an asset management vehicle will increase revenue from these rights.

Article 224. 1. The Fund may establish an asset management vehicle or a greater number of them in the form of a capital company.

2. An asset management vehicle shall manage the property rights and liabilities transferred thereto from one or several entities under restructuring or from a bridge institution, including their disposal.

3. An asset management vehicle may also render to the Fund management services of other property rights under an agreement.

4. The Fund shall contribute the initial share capital of an asset management vehicle from the resolution funds.

5. The Fund shall cover the operating costs incurred by an asset management vehicle from the resolution funds, to the extent necessary, if it does not generate sufficient revenue from management or does not manage the transferred property rights.

6. If the Fund is not the sole stockholder or shareholder of an asset management vehicle, it shall be vested with the powers to:

- 1) approve the statutes or articles of association the company;
- 2) select members of corporate bodies of an asset management vehicle or approve their appointment;
- 3) determine the rules of remuneration of members of corporate bodies of an asset management vehicle and the scope of their duties;
- 4) approve the strategy and risk profile of an asset management vehicle.

Article 225. 1. The transfer of property rights and liabilities shall follow under a decision of the Fund.

2. The Fund may transfer back property rights or liabilities to an entity under restructuring or to a bridge institution. The detailed conditions and mode of a transfer and a back transfer shall be established by a decision of the Fund.

3. The back transfer may occur in the case provided for in the decision referred to in paragraph 1, or in a case that the transferred property rights or liabilities fail to satisfy the conditions of the transfer specified in that decision.

4. Upon the transfer an asset management vehicle shall enter into the rights and obligations of an entity under restructuring or a bridge institution in the scope of assumed property rights and related liabilities.

5. Permits shall devolve to an asset management vehicle, as well as licenses and reliefs which have been awarded to an entity under restructuring under the provisions in force in the territory of the Republic of Poland due to the establishment or business, except for a permit to establish a bank and permit to commence operations by a bank, and provided that:

- 1) they are associated with the transferred property rights or liabilities;
- 2) separate legislation or a decision to grant a permit, license or relief does not provide otherwise.

6. Disclosure in the land registers or other records of the transition to an asset management vehicle of rights related to the transferred property rights or liabilities, disclosed in these books or other registers shall follow at its request, on the basis of the decision of the Fund, as referred to in paragraph 1.

7. An asset management vehicle shall not be liable for the tax liabilities of an entity under restructuring nor those of a bridge institution.

8. In the proceedings relating to the transferred property rights and liabilities, initiated by an entity under restructuring or a bridge institution and pending on the day of service of the Fund's decision to transfer the property rights under a final administrative decision, judgement or ruling, an asset management vehicle shall succeed an entity under restructuring or a bridge institution as from the date of service of the Fund's decision.

Article 226. 1. If the value of transferred rights determined in accordance with Article 137 paragraph 2 and 3 exceeds the value of transferred liabilities, the transfer shall follow for consideration in the amount of the surplus of the value of the transferred property rights over the value of transferred liabilities.

2. If the value of transferred liabilities determined in accordance with Article 137 paragraph 2 and 3 exceeds the value of the transferred property rights, the surplus of the value of transferred liabilities over the value of transferred property rights shall account for a liability of an entity under restructuring or of a bridge institution towards an asset management vehicle.

3. An asset management vehicle shall pay the remuneration determined in accordance with paragraph 1 to an entity under restructuring or to a bridge institution in the form and within the time limit stipulated in the Fund's decision on the transfer of property rights, but not later than within 3 months from the date of the transfer.

4. The Fund shall define the method and date of performance of obligation determined in accordance with paragraph 2 in the decision on the transfer of property rights.

Article 227. The Fund may transfer property rights and liabilities of more than one entity under restructuring or a bridge institution to an asset management vehicle. In this case, an asset management vehicle is required to manage the assets transferred from each entity under restructuring and bridge institution separately or to keep records of business activities so as to be able to separate their assets and liabilities and the result of management thereof.

Article 228. 1. The provisions of Articles 25-25s of the Banking Act, Article 106-106n of the Act on Trading in Financial Instruments, Article 54-54n of the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds and Articles 82-98 of the Act of 11 September 2015 on Insurance and Reinsurance Business shall not apply in the case of a transfer of the rights attached to shares to an asset management vehicle.

2. An asset management vehicle shall be exempt from the duty of notification of the acquisition of blocks of shares in public owned companies, obtaining the consent of the competent authorities to exercise rights from the shares and announce a call for the sale of shares referred to in Article 73 and Article 74 of the Act on Public Offering.

Article 229. 1. The transfer referred to in Article 225 paragraph 1 shall not require the consent of the owners, debtors or creditors of an entity under restructuring or a bridge institution.

2. The owners, debtors and creditors of an entity under restructuring shall not be entitled to claim to an asset management vehicle, its property and members of its corporate bodies in connection with the transfer of property rights and asset management.

3. The Fund shall be liable for the acts and omissions of an asset management vehicle and members of its statutory bodies, under the terms of Article 241 and Article 242.

Chapter 19

Liquidation of a residual entity

Article 230. 1. Where an entity under restructuring has not been sold as a result of implementation of the instrument of acquisition of undertaking, a bridge institution or separation of property rights or the implementation of these instruments was not possible, an entity shall be subject to liquidation through bankruptcy or liquidation proceedings.

2. In the case referred to in paragraph 1 if:

- 1) the conditions referred to in Article 158 paragraph 1 of the Banking Act have been satisfied towards a bank under restructuring, the Fund may file a petition for bankruptcy of the bank;

- 2) the conditions referred to in Article 74k paragraph 1 or 2 of the Act on Cooperative Savings and Credit Unions have been satisfied towards a credit union under restructuring, the Fund may file a petition for bankruptcy of the credit union;
- 3) the conditions referred to in Article 10 and Article 11 of the Law - Bankruptcy Law have been satisfied towards an investment firm under restructuring, the Fund may file a petition for bankruptcy of the investment firm.

3. Solely the Fund may file a petition for bankruptcy of an investment firm under restructuring.

4. In cases other than those referred to in paragraph 2 the Fund shall issue a decision on the liquidation of an entity.

5. The Fund shall issue a decision on the liquidation of an entity also in the case of a final rejection of its petition for bankruptcy under Article 13 paragraph 1 or 2 of the Act – Bankruptcy Law, unless the court, while dismissing the bankruptcy petition, has determined that the evidence collected in the case legitimises the termination of an entity entered into the National Court Register without the conduct of liquidation proceedings. The provision of Article 13 paragraph 2a of the Act - Bankruptcy Law shall not apply.

6. The Fund may, by way of a decision, require the entities referred to in paragraph 2 to render services to the extent necessary to perform activities related to the transferred: undertaking of an entity under restructuring or rights attached to the shares of an entity under restructuring, some or all property rights, or some or all liabilities of an entity under restructuring by an acquiring entity, in particular if they had been rendering such services to an entity under restructuring prior to the date of initiation of resolution. The service period must not be longer than 12 months from the date of the decision of the Fund on the acquisition of undertaking or a bridge institution.

7. A residual entity shall render the services referred to in paragraph 6 on market conditions, pursuant to an agreement with an entity on whose behalf the services are rendered. Those agreements must not be terminated prior to the date referred to in paragraph 6 without the consent of the Fund.

Article 231. 1. The liquidation of a residual entity operating in the form of a bank or a credit union shall proceed in accordance with the rules governing the liquidation of commercial companies or cooperatives, provided that:

- 1) no dividends or interest shall be paid during the period of liquidation;
- 2) the opening balance of the liquidation, the liquidation programme and the account of the conducted liquidation shall be subject to approval by the Fund;
- 3) the liquidator, at least once a month, shall provide the Fund with the reports from the course of the liquidation;
- 4) distribution of assets remaining after the satisfaction of creditors and their securing among the shareholders (members) must not take place within one year from the date of the last announcement of the opening of liquidation.

2. The decision referred to in Article 230 paragraph 4 shall determine the detailed conditions and procedure for the liquidation of an entity and the appointment of a liquidator.

3. The liquidator shall be entitled to request changes in the subject of the commitment referred to in Article 152 of the Banking Act or the Article 74f paragraph 1 of the Act on Cooperative Savings and Credit Unions. District commercial court with territorial jurisdiction shall examine the petition for a legal action.

4. A liquidator may offset the debt arising from a bank account or an account operated by a credit union against the receivables of a liquidated bank or a credit union, even if the terms of its repayment have not yet occurred.

5. In the case of liquidation of a residual entity operating in the form of a bank or a credit union:

- 1) Article 463 paragraph 1 of the Code of Commercial Companies shall not apply;
- 2) Article 118 of the Act - Cooperative Law shall not apply, whereas the provisions of Article 119-129 of this Act shall apply accordingly;
- 3) the liquidator shall assume the management of assets of a liquidated residual entity and the entitlements reserved in the Act and the statutes for the statutory bodies of a residual entity; the liquidator represents a residual entity in liquidation in and out of court;
- 4) the powers of the supervisory board shall be suspended, subject to Article 103 paragraph 5;
- 5) the provisions of Article 74h and Article 74m-74s of the Act on Cooperative Savings and Credit Unions shall apply.

6. Following the completion of the liquidation, the liquidator shall prepare a liquidation report and shall submit it to the Fund and to the court of registration along with a request for removal of a bank or credit union from the register.

7. Liquidation of another residual entity shall proceed in accordance with the rules on the liquidation of commercial companies or cooperatives, whereas:

- 1) the provision of Article 463 paragraph 1 of the Code of Commercial Companies shall not apply;
- 2) the provisions of Article 118 of the Act - Cooperative Law shall not apply.

8. The Fund shall appoint and remove liquidators of a residual entity.

Article 232. The provision of Article 146 shall apply towards a residual entity and the entities belonging to the same group as this entity.

Article 233. In the bankruptcy proceedings conducted towards a residual entity the provisions of Part I of Title III of Section III of the Act - Bankruptcy Law shall not apply to measures undertaken in the framework of resolution.

Chapter 20

Resolution costs

Article 234. 1. The Fund shall provide an entity under restructuring or a residual entity with:

- 1) the remuneration referred to in Article 174 paragraph 5, in the part payable in the form of the pecuniary benefit,
 - 2) the remuneration referred to in Article 190 and Article 226 paragraph 1,
 - 3) other revenue from resolution
- following the deduction of the costs of resolution linked to the use of instruments of acquisition of undertaking, transfer of property rights or liabilities to a bridge institution or to an asset management vehicle.

2. The Fund shall provide the owners of rights attached to the shares with the funds obtained in respect of:

- 1) transfer of rights attached to the shares issued by an entity under restructuring to an acquiring entity referred to in Article 174 paragraph 1 point 3,
 - 2) transfer of rights attached to the shares issued by an entity under restructuring to a bridge institution referred to in Article 181 paragraph 1 point 1
- following the deduction of the costs of resolution linked to the use of instruments of acquisition of undertaking or transfer of rights attached to the shares to a bridge institution.

3. The Fund shall transfer the amounts referred to in paragraph 1 within 3 months from the date of completion of resolution.

4. Where a residual entity has been declared bankrupt, the Fund shall transfer the funds referred to in paragraph 1 to the bankruptcy estate.

Article 235. The costs of resolution borne by the Fund shall include:

- 1) court fees and the expenses necessary to achieve the purposes of resolution other than those referred to in Article 237 and Article 239;
- 2) cost of the valuation referred to in Article 137 paragraph 2 and 3;
- 3) costs of disposal of undertaking of an entity under restructuring, selected property rights, disposal of real estate and movables, the pursuit of claims from debtors and performance of other property rights or disposal thereof;
- 4) expenses in respect of support awarded under resolution;
- 5) losses in respect of granting loans and guarantees under resolution to an entity under restructuring, its subsidiaries, an entity acquiring rights attached to the shares of an entity under restructuring, its undertaking or selected property rights or liabilities;
- 6) expenses in respect of the acquisition of property rights in an entity under restructuring referred to in Article 112 paragraph 1 point 2, and the costs of disposal thereof;
- 7) costs associated with the exercise of the duties of the administrator in the case referred to in Article 153 paragraph 10;
- 8) expenses in respect of the subsidy referred to in Article 112 paragraph 3 point 2;
- 9) expenses in respect of financing resolution referred to in Article 179, Article 188 paragraph 5, Article 237 and Article 272 paragraph 3 and 4.

Article 236. The benefits derived from a bridge institution and an asset management vehicle, including dividends and interest, as well as proceeds from the sale or liquidation of a bridge institution and an asset management vehicle shall account for revenues from the resolution, subject to Article 189 and Article 227.

Article 237 The costs linked to the establishment of a bridge institution, expenses of the assumption of the rights attached to its shares and the costs of its business not covered by its revenues account for the costs resolution, subject to Article 189 and Article 227.

Article 238. In the case where the method of required funding of resolution, defined in the resolution scheme, determines division of required funding between the individual Member States, revenues and benefits in excess of the costs of resolution shall be divided between Member States *pro rata* to the required funding.

Article 239. The costs incurred by the Fund in respect of the use of the instrument of write down or conversion of liabilities not covered by revenues of an entity under restructuring or a bridge institution shall be charged to the resolution funds.

Article 240. Upon the completion of resolution, the Fund shall make a report thereon on considering the settlement referred to in Article 234-239.

Chapter 21

Protection of the rights of owners and creditors

Article 241. 1. In order to determine whether creditors and owners were satisfied as a result of the resolution to a degree lower than they would have been satisfied in the bankruptcy proceedings in a case that on the day of the decision to initiate resolution, the court had issued a ruling on a declaration of the debtor's bankruptcy, the Fund shall commission an additional valuation. The provision of Article 137 paragraph 2 shall apply accordingly.

2. The determination referred to in paragraph 1 shall be made on the assumption that the granted state aid would be returned by the repayment or in another form and any new state aid will not be granted.

Article 242. 1. The creditors and owners, who have been satisfied as a result of resolution to a degree lower than they would have been satisfied in the procedure referred to in Article 241 paragraph 1, as a result of:

- 1) write down or conversion of liabilities,
- 2) failure to effect the transfer of their liabilities from an entity under restructuring through the use of instruments of acquisition of undertaking or a bridge institution

– shall be entitled to supplementary claim vis-à-vis the Fund.

2. Financial liability of the Fund towards creditors and owners referred to in paragraph 1, including depositors, in the scope of the transfer of guaranteed funds shall be limited to the difference between the level of satisfaction of owners and creditors estimated in accordance with Article 241 and the actual satisfaction of owners and creditors as a result of resolution.

3. The settlement with creditors and owners of liability referred to in paragraph 1 shall follow the completion of resolution.

4. The Fund shall satisfy the recognised supplementary claims from the resolution funds.

5. The provision of paragraph 2 shall also apply to the Fund's liability for its own torts, as well as those of entities for which the Fund is liable.

6. Supplementary claims shall expire following 5 years from the date of completion of resolution.

Chapter 22

Recognition and enforcement of resolution proceedings conducted by the competent authorities of resolution

Article 243. The provisions of this chapter shall apply in the case of initiation of resolution of an entity or towards a branch of a foreign bank by a competent authority of resolution of a Member State other than the Republic of Poland.

Article 244. Resolution vis-à-vis an entity referred to in Article 243 shall be recognised by operation of law, unless it has been initiated by the competent authority for resolution.

Article 245. 1. In the case of initiation of resolution referred to in Article 244, the competent authority for resolution which intends to perform its activities in the Republic of Poland is required to demonstrate its powers with an officially certified copy of the judgment or the decision to initiate the resolution, accompanied by a certified translation into the Polish language.

2. Attorneys and other persons acting on behalf of the competent authority for resolution referred to in paragraph 1 are required to demonstrate their powers with an officially certified copy of the judgment or the decision on their appointment, accompanied by a certified translation into the Polish language.

3. The competent authority for resolution and persons referred to in paragraph 2 shall exercise within their official duties in the Republic of Poland the same rights as those granted to them in the state in which they were established or appointed.

4. The competent authority for resolution or the persons referred to in paragraph 2 are required to apply for a disclosure of the initiation of resolution in land registers, the National Court Register and other registers kept in the Republic of Poland under a decision or judgment referred to in paragraph 1.

Article 246. 1. If the competent authority for resolution effects:

- 1) a transfer of instruments of ownership, property rights or liabilities,
- 2) write down or conversion of capital instruments,
- 3) write down or conversion of liabilities,

– for which the applicable law is the law of the Republic of Poland or towards the owners or creditors established or residing in the territory of the Republic of Poland, this transfer, write down or conversion shall be recognised by law.

2. Owners of instruments and property rights and creditors in respect of the instruments and liabilities referred to in paragraph 1 may challenge the decisions or transactions of transfer, write down or conversion or take recourse to other forms of protection of their interests solely under the law of the Member State of the competent authority for resolution taking these decisions or transactions.

Chapter 23

Recognition and enforcement of foreign proceedings of resolution

Article 247. The provisions of this chapter shall not apply to proceedings of resolution initiated in a third country, if the European Union concluded an agreement with the third country an international agreement on recognition and enforcement of resolution proceedings within the scope regulated by this agreement, from the date of its entry into force.

Article 248. 1. The Fund shall issue a decision on the recognition and enforcement of foreign proceedings of resolution in the Republic of Poland at the request of the competent authority for resolution of a third country conducting the proceedings.

2. Application for recognition and enforcement must be accompanied by:

- 1) copy of the judgment or decision on the initiation of foreign proceedings of resolution or
- 2) certificate of the authority referred to in paragraph 1 in evidence that the proceedings are pending.

3. In the absence of the documents referred to in paragraph 2, the application must be accompanied by other reliable written record in evidence of the initiation of the foreign proceedings of resolution.

4. The authority referred to in paragraph 1 shall append the request with the information on other foreign proceedings pending towards a foreign entity under restructuring of which it is aware, as well as the information on persons authorised to act on its behalf in the event of issuing a Fund's decision to recognise and enforce foreign proceedings of resolution, while enumerating their names and places of residence, accompanied by an officially certified copy of the judgment or decision on their appointment.

5. The documents or written evidence referred to in paragraph 2 and 4 must be accompanied by their certified translation into the Polish language.

6. In case of doubt, the Fund may request authentication of the submitted documents or official confirmation of authenticity of the signature.

7. Following the submission of an application for recognition of foreign bankruptcy proceedings, the competent authority for resolution of a third country shall forthwith notify the Fund of:

- 1) Amendment of the recognised foreign proceedings;
- 2) other foreign proceedings concerning a foreign entity under restructuring of which it is aware.

Article 249. 1. In the case of the establishment of a European resolution college, members of the college shall take a collective decision on the recognition and enforcement of foreign resolution proceedings towards a foreign entity under restructuring or a parent which operates:

- 1) subsidiaries established in at least two Member States deemed major by at least two Member States;
- 2) branches situated in at least two Member States deemed major by at least two Member States;
- 3) property rights or liabilities in at least two Member States or for which the law of the Member States is the applicable law.

2. In the case of the collective decision referred to in paragraph 1 the Fund shall issue a decision on the recognition and enforcement of foreign proceedings of resolution in the Republic of Poland in compliance with the collective decision, subject to Article 251 paragraph 2 and 3.

Article 250. The competent third country authority for resolution conducting the resolution proceedings and a foreign entity under restructuring shall be the parties to the proceedings on the recognition and enforcement of foreign proceedings of resolution.

Article 251. 1. In the absence of a collective decision of the European resolution college or a lack of creation of a European resolution college, the Fund shall issue a decision on the recognition and enforcement of foreign proceedings of resolution, on considering the interests of the Member States where a foreign entity under restructuring or a third country parent entity operates, in particular the impact of the recognition and enforcement of this procedure on the other group entities and the financial stability in the Member States.

2. The Fund shall issue a decision to refuse recognition and enforcement of foreign proceedings of resolution if:

- 1) proceedings cover a case that comes under the exclusive jurisdiction of Polish courts;
- 2) recognition and enforcement would be contrary to the fundamental principles of the legal order of the Republic of Poland.

3. The Fund may issue a decision to refuse recognition or enforcement of foreign resolution proceedings if:

- 1) foreign resolution proceedings could have a negative impact on financial stability in the Republic of Poland ;
- 2) independent proceedings of resolution towards a branch of a foreign bank is necessary to attain the objectives referred to in Article 66;
- 3) creditors, notably depositors residing or established in the Republic of Poland were in a worse position in foreign proceedings than other creditors, notably the depositors of the same legal situation in the country where the foreign proceedings are pending;
- 4) recognition or enforcement of foreign resolution proceedings required involvement of public funds;
- 5) the effects of recognition and enforcement of foreign proceedings of resolution were contrary to the provisions of the Polish law.

4. In the case of the establishment of the European resolution college, the Fund shall issue a decision to refuse recognition and enforcement of foreign proceedings of resolution following the consultation with the members of the college.

Article 252. 1. The decision to recognise and enforce foreign proceedings of resolution shall enumerate:

- 1) business name of a foreign entity under restructuring and its registered office;

- 2) foreign court or a competent third country authority for resolution which has initiated the foreign proceedings;
- 3) persons authorised to act in the proceedings on behalf of a competent third country authority for resolution conducting foreign proceedings of resolution while naming them and enumerating their places of residence.

2. Persons referred to in paragraph 1 point 3 shall demonstrate their powers with an officially certified copy of the judgment or the decision on their appointment, accompanied by a certified translation into the Polish language.

Article 253. 1. Recognition of foreign proceedings of resolution shall include the recognition of the judgments and decisions given in their course, as well as decisions regarding the course of the proceedings of resolution and its completion.

2. The Fund may take a decision on the partial recognition or enforcement of foreign proceedings of resolution.

Article 254. 1. The decision on the recognition of foreign proceedings of resolution may be amended or repealed in the event of subsequent detection or occurrence of grounds for refusing recognition and enforcement.

2. The proceedings for repeal or amendment of a decision on the recognition of foreign proceedings of resolution may be initiated at the request of anyone who has a legal interest or *ex officio*.

3. In its decision to amend the decision on the recognition of foreign proceedings of resolution the Fund shall determine the scope of the amendments.

Article 255. 1. In the case of a decision to recognise and enforce foreign proceedings of resolution the provisions of Chapter 7 shall apply accordingly.

2. A competent third country authority for resolution shall notify the Fund of a change of persons authorised to act on behalf of that body, while naming them and enumerating their places of residence, along with an officially certified copy of the judgment or the decision on their appointment, accompanied by a certified translation into the Polish language.

Article 256. 1. In the case of a decision to recognise and enforce foreign resolution proceedings, the Fund may, *ex officio* or at the request of the authority conducting foreign resolution proceedings:

- 1) exercise the powers vested in it in the course of resolution towards:
 - a) property rights of a foreign entity under restructuring for which the Polish law is the applicable law,
 - b) property rights or liabilities which are entered in the accounts of a branch of a foreign entity under restructuring in the Republic of Poland for which the Polish law is the applicable law, or where they are subject to enforcement in the Republic of Poland;
- 2) perform the transfer, including by ordering the transfer, of shares of a subsidiary of a foreign entity under restructuring with its seat in the Republic of Poland;
- 3) suspend the enforcement of the right to cancel, terminate or bring forward the execution date of the agreements with a foreign entity under restructuring, towards which the European resolution college took a collective decision on the recognition and enforcement of foreign proceedings of resolution, if these rights derive from the activities undertaken under these proceedings, whereas the relevant provisions of these agreements are satisfied, including the provisions in terms of delivery, payment and security.

2. In the case referred to in Article 251 paragraph 4, the provisions of Article 143 and Article 144 apply to the parties to agreements with a foreign entity under restructuring, if it is essential for the adequate conduct of foreign proceedings of resolution in a third country.

Article 257. If the public interest so requires, the Fund may exercise the powers vested in it in the course of the resolution towards a foreign entity being a parent entity, if the competent third country authority for resolution deems that the conditions have been satisfied to initiate resolution towards this entity in this third country.

Article 258. Recognition or enforcement of foreign proceedings of resolution shall not affect the pending bankruptcy proceedings.

DIVISION IV

Restructuring of credit unions

Article 259. 1. The Fund may undertake and perform activities referred to in this Division, if the total of the following conditions have been satisfied:

- 1) it has undertaken no measures related to resolution towards a credit union;
- 2) restructuring costs of a credit union do not exceed the cost of the tasks performed by the Fund under the law in the scope of the operation of the mandatory deposit guarantee scheme and the preparation and conduct of resolution;
- 3) credit union taking recourse to the assistance referred to in Article 260 paragraph 1, provides depositors with access to the guaranteed funds;
- 4) The Polish Financial Supervision Authority confirmed the ability of a credit union to pay extraordinary contributions referred to in Article 292 paragraph 1.

2. The Fund shall consult the measures in the field of restructuring and the obligations imposed on a credit union with the Polish Financial Supervision Authority.

Article 260. 1. While performing the task referred to in Article 5 paragraph 2 point 1, the Fund may provide credit unions covered by the guarantee scheme with loans, guarantees or sureties.

2. The funds received by the credit unions covered by the guarantee scheme as a result of the award by the Fund of loans, guarantees or sureties referred to in paragraph 1 may be used only to remove the insolvency threat if the conditions referred to in Article 261 have been satisfied.

3. The Fund may grant a loan to a credit union solely to include the funds obtained in this way to the own funds.

4. The provisions relating to guarantees provided by banks shall apply accordingly to the guarantees referred to in paragraph 1.

Article 261. Granting by the Fund the aid referred to in Article 5 paragraph 2 points 1 and 2 shall be contingent in particular on:

- 1) recognition by the Fund Management Board of the results of an audit of financial statements presented by a credit union covered by the guarantee scheme which requests assistance as regards its business;
- 2) provision of the Fund Management Board by a credit union which requests assistance with a favourable opinion issued by the Polish Financial Supervision Authority as regards the programme of recovery proceedings;
- 3) demonstration that the amount of loans, guarantees, sureties and funds spent by the Fund for redemption of receivables requested by a credit union covered by the guarantee scheme would not exceed the total maximum amount in respect of the guarantee in the said credit union calculated as the sum of guaranteed funds in the accounts of depositors of the credit union;
- 4) the use of the existing own funds of the credit union requesting assistance for covering its losses;
- 5) in the case of the assistance referred to in Article 5 paragraph 2 point 1, collateralisation of the receivables in respect of the granted assistance in order to guarantee repayment of the full amount of the assistance plus interest.

Article 262. 1. The Polish Financial Supervision Authority shall forthwith notify the Fund Management Board of the necessity to initiate by the credit union management board of recovery proceedings referred to in Article 72a paragraph 1 of the Act on Cooperative Savings and Credit Unions.

2. At its request addressed to the Polish Financial Supervision Authority, the Fund, shall be appointed a trustee referred to in Article 72c paragraph 1 of the Act on Cooperative Savings and Credit Unions towards a credit union covered by the guarantee scheme. The Fund shall not be entitled to remuneration referred to in Article 72c paragraph 11 of this Act.

3. The provisions of the Act of 23 April 1964 - Civil Code and other laws providing for the types and methods of securing receivables of banks shall apply the Fund's receivables deriving from granting assistance and support referred to in Article 5 paragraph 2.

4. Civil law transactions through which implementation of the tasks referred to in Article 5 paragraph 2 takes place shall be free of stamp duty and civil law transactions tax.

Article 263. 1. A credit union covered by the guarantee scheme and taking recourse to the assistance from the Fund shall provide at the request of the Fund the information required to perform the activities referred to in Article 5 paragraph 2 point 4.

2. If the financial resources of the guarantee fund of credit unions are used for restructuring, credit unions shall forthwith provide the Fund with funds, if need be in the form of extraordinary contributions referred to in Article 292 paragraph 1, in the amount of funds used for restructuring if:

- 1) the guarantee condition has been fulfilled, whereas the level of funds held in the guarantee fund of credit unions fell below 2/3 of the minimum level referred to in Article 288 paragraph 1;
- 2) the level of funds held in the guarantee fund of credit unions is lower than 25% of the minimum level referred to in Article 288 paragraph 1.

Article 264. 1. While performing the tasks referred to in Article 5 paragraph 2 point 3, the Fund may provide support to entities acquiring credit unions, assuming selected property rights or selected liabilities of a credit union or the purchasers of undertaking of a credit union in liquidation, its organised part or selected property rights thereof.

2. The support referred to in paragraph 1 may be granted by way of:

- 1) assumption of shares of an acquiring bank;
 - 2) granting a loan or guarantee;
 - 3) granting a guarantee of the total or partial coverage of losses resulting from the risk associated with the assumed or acquired property rights or assumed liabilities;
 - 4) granting a subsidy to cover the difference between the value of the assumed or acquired property rights and assumed liabilities derived from guaranteed funds in the accounts of depositors of a credit union up to a total maximum amount resulting from the guarantee in the credit union calculated as the sum of guaranteed funds in the accounts of depositors of the credit union where the risk of insolvency was detected.
3. In the case referred to in paragraph 2 point 1, the provision of Article 25 paragraph 1 of the Banking Act shall not apply.

Article 265. Granting by the Fund of the support referred to in Article 5 paragraph 2 point 3 shall be contingent in particular on:

- 1) recognition by the Fund Management Board of the results of an audit of a financial statement presented by an acquiring entity or a purchaser as regards its business;
- 2) providing the Fund Management Board by an acquiring entity or a purchaser with a favourable opinion issued by the Polish Financial Supervision Authority as regards the advisability of the acquisition and the absence of risk to the safety of depositors' funds collected at a credit union with towards which the Polish Financial Supervision Authority has taken a decision on the acquisition or liquidation, and at an assuming or acquiring bank or a credit union;
- 3) demonstration that the amount of funds committed by the Fund to the support for an acquiring entity or a purchaser would not be higher than the total maximum amount under the guarantee in a credit union towards which the Polish Financial Supervision Authority has issued a decision on the acquisition or liquidation, calculated as the sum of guaranteed funds in the acquired accounts of depositors of the said credit union;
- 4) the use of the existing own funds of the credit union being acquired or liquidated for covering its losses;
- 5) collateralisation of the receivables in respect of the granted support in order to guarantee repayment of the full amount of the support plus interest in the case of the support in the form referred to in Article 263 paragraph 2 point 2.

Article 266. An entity taking recourse to the support of the Fund shall provide, at the request of the Fund, the information necessary to assess the risk concerning the repayment of the support or losses associated with acquired or assumed property rights or liabilities.

Article 267. In respect of the support referred to in Article 263 paragraph 2 point 3 and 4, the Fund shall be entitled to claim on a credit union towards which the Polish Financial Supervision Authority has issued a decision on the acquisition of selected property rights or selected liabilities or on liquidation, and in the case of a declaration of bankruptcy of the credit union also on its bankruptcy estate.

Article 268. The actions referred to in this Division may be taken and performed upon the European Commission's decision on the compatibility with the common market.

DIVISION V

Financial management of the Fund

Chapter 1

Sources of funding, own funds of the Fund, profits distribution or loss coverage

Article 269. 1. The Fund shall conduct its financial management on the basis of the annual financial plan.

2. The Fund shall provide the Minister competent for financial institutions with draft financial plans of the Fund in the manner and time limits stipulated in the regulations relating to the work on the draft Budget Act.

Article 270. 1. The sources of funding of the Fund are:

- 1) contributions referred to in Article 286 paragraph 1, paid by the entities covered by the guarantee scheme and contributions referred to in Article 295 paragraph 1 and 3, paid by domestic entities and branches of foreign banks;
- 2) extraordinary contributions referred to in Article 291 paragraph 1, Article 292 paragraph 1, Article 299 paragraph 1 and Article 300 paragraph 1;
- 3) revenues from financial assets of the Fund, including loans and guarantees granted by the Fund;
- 4) funds received within non-returnable foreign assistance;
- 5) funds of subsidies granted at the request of the Fund, from the state budget on the principles defined in the Act of 27 August 2009 on Public Finance (Journal of Laws of 2013 item 885, as amended.¹³);
- 6) funds of short-term credit granted by the National Bank of Poland in accordance with Article 306;
- 7) funds of loans granted from the State Budget;
- 8) funds obtained from borrowings, credit and bond issues;
- 9) funds obtained from the loans granted by the officially recognised deposit guarantee schemes and entities managing resolution funds from the Member States other than the Republic of Poland in accordance with concluded agreements;
- 10) funds referred to in Articles 236-238;
- 11) funds received as a result of settlement of claims of the Fund for the payment of guaranteed funds and support granted to an acquiring entity referred to in Article 112 paragraph 1 point 1 and paragraph 3;
- 12) other revenues obtained by the Fund.

2. The Fund may issue bonds.

Article 271. The statutory fund shall be created to provide funds for the purchase of tangible and intangible assets of the Fund and to cover liabilities arising from guaranteed funds.

Article 272. 1. The guarantee fund of banks shall be created in order to cover liabilities from guaranteed funds in banks and branches of foreign banks and to cover potential losses of the Fund. In the case referred to in Article 57 paragraph 5, the funds from the guarantee fund of banks can serve to settle the liabilities derived from the guaranteed funds in credit unions.

2. The guarantee fund of credit unions shall be created in order to cover liabilities derived from the guaranteed funds in credit unions. In the case referred to in Article 56 paragraph 5, the funds from the guarantee fund of credit unions can serve to settle the liabilities derived from the guaranteed funds in banks and branches of foreign banks. The funds from the guarantee fund of credit unions can also serve to perform the tasks of the Fund referred to in Article 5 paragraph 2, if the conditions stipulated in Article 259 paragraph 1 have been satisfied.

3. The funds from the guarantee fund of banks and the guarantee fund of credit unions shall be committed to finance the resolution, insofar as they serve to ensure depositors' access to guaranteed funds within resolution, in particular in the case referred to in Article 179 and Article 188 paragraph 5.

4. The funds from the guarantee fund of banks and the guarantee fund of credit unions shall serve to finance resolution up to the amount of losses that creditors would suffer with respect of the guaranteed funds if the funds were not exempt from the write down or conversion of liabilities, whereas in the case of implementation of other instruments of resolution - losses that creditors would suffer with respect of the guaranteed funds if these creditors suffered losses *pro rata* to the losses incurred by creditors in the same category of settlement of claims in accordance with the provisions of the Act - Bankruptcy Law.

5. The funds of the guarantee fund of banks and of the guarantee fund of credit unions, as referred to in paragraph 4, shall serve to finance resolution in the amount not exceeding the amount of expenses to finance the payment of guaranteed funds in the bankruptcy proceedings as if on the day of the decision to initiate resolution the court had issued a ruling on a declaration of bankruptcy of an entity under restructuring, net of the expected amounts of satisfaction of claims of the Fund derived from the payment of guaranteed funds in such proceedings.

¹³ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2013 item 938 and 1646 of 2014 item 379, 911, 1146, 1626 and 1877 of 2015 item 238, 532, 1045, 1117, 1130, 1189, 1190, 1269, 1358, 1513, 1830, 1854, 1890 and 2150 and of 2016 item 195.

6. Where the funds of the guarantee fund of banks and the guarantee fund of credit unions serve to finance resolution, these funds must not finance the acquisition of rights attached to the shares by the Fund.

7. If the valuation referred to in Article 241 paragraph 1 demonstrates that the funds of the guarantee fund of banks and the guarantee fund of credit unions assigned to finance resolution exceed the amount of expenses to finance the payment

of guaranteed funds in the bankruptcy proceedings as if on the day of the decision to initiate resolution, the court had issued a ruling on a declaration of bankruptcy of an entity under restructuring, net of the expected amounts of satisfaction of claims for the payment of guaranteed funds in such proceedings, the Fund shall reimburse the excess to the guarantee fund of banks or to the guarantee fund of credit unions.

8. If the Fund transferred funds from the guarantee fund of banks and to the guarantee fund of credit unions to finance resolution in accordance with the resolution scheme, the Funds shall file a claim for reimbursement of those funds in the amount of a surplus of the transferred funds over the amount of expenses to finance the payment of guaranteed funds in bankruptcy proceedings, as if on the day of the decision to initiate resolution, the court had issued a ruling on a declaration of bankruptcy of an entity under restructuring, net of the expected amounts of satisfaction of claims for the payment of guaranteed funds in such proceedings.

9. The amount of the guarantee fund of banks and the guarantee fund of credit unions assigned for financing resolution must not be higher than 50% of the target level of funds of the deposit guarantee scheme of banks or the target level of the deposit guarantee scheme of credit unions, referred to in Article 287 paragraph 2 and Article 288 paragraph 2. The Fund Council may decide to allocate an amount higher than 50% of the target level of the deposit guarantee scheme of banks and the target level of the deposit guarantee scheme of credit unions to finance resolution, on considering the need for efficient utilisation of financial resources.

Article 273. 1. The resolution fund of banks shall be created to provide funds for financing the Fund's tasks in the field of resolution of banks, investment firms and branches of foreign banks.

2. The resolution fund of credit unions shall be created to provide funds for financing the Fund's tasks in the field of resolution of credit unions.

3. Financing tasks in the field of resolution referred to in paragraph 1 and 2 shall include in particular the financing of:

- 1) tasks defined in Article 112;
- 2) establishment of a bridge institution and asset management vehicle and equipment of those entities with own funds needed due to the scale and results of activities;
- 3) satisfaction of the supplementary claims referred to in Article 242;
- 4) exemption of liabilities from write down or conversion of liabilities referred to in Article 206 paragraph 3;
- 5) coverage of resolution costs in keeping with the resolution scheme agreed by the Fund and coverage of potential losses of the Fund arising from resolution.

4. Where the costs of financing the Fund's tasks in the field of resolution of banks and investment firms exceed the value of funds accumulated in the resolution fund of banks, including those originating from extraordinary contributions referred to in Article 299 paragraph 1, the funds of the resolution fund of credit unions collected from contributions referred to in Article 295 paragraph 3 may serve to finance resolution of banks and investment firms.

5. Where the costs of financing the Fund's tasks in the field of resolution of credit unions exceed the value of funds accumulated in the resolution fund of credit unions, including those originating from extraordinary contributions referred to in Article 300 paragraph 1, the funds of the resolution fund of banks, collected from contributions referred to in Article 295 paragraph 1 may serve to finance resolution of credit unions.

Article 274. 1. In the case referred to in Article 206 paragraph 3, if as a result of the exemption of liabilities from write down or conversion of liabilities, losses of an entity under restructuring have failed to be fully covered with written down liabilities of other creditors, the Fund may allocate funds referred to in Article 273 to cover the losses of an entity under restructuring or to assume rights attached to the shares in an entity under restructuring in order to restore its own funds.

2. The Fund may allocate funds for the purpose specified in paragraph 1 if:

- 1) it has written down or converted rights attached to the shares or liabilities of at least 8% of total liabilities, increased by own funds of an entity under restructuring, determined on the basis of the valuation referred to in Article 137 paragraph 2 and 3, and
- 2) the amount of funds does not exceed 5% of total liabilities, increased by own funds of an entity under restructuring, determined on the basis of the valuation referred to in Article 137 paragraph 2 and 3.

Article 275. In an event that the condition referred to in Article 274 paragraph 2 point 1 has failed to be satisfied, the Fund may allocate funds for the purpose specified in Article 274 paragraph 1 if:

- 1) it has written down or converted the rights attached to the shares or liabilities in the amount not less than 20% of risk-weighted assets of an entity under restructuring and
- 2) the amount of funds respectively to finance resolution of banks and investment firms or funds to finance resolution of credit unions is not less than 3% of the amount of guaranteed funds in all the entities covered by the deposit guarantee scheme, and
- 3) the balance sheet total of an entity under restructuring at the consolidated level determined on the basis of the last approved financial statement does not exceed the PLN equivalent of the amount of EUR 900 000 000 000 as per the average exchange rate of the last working day of the previous year, announced by the National Bank of Poland.

Article 276. Expenses for the pursuit of the objective stipulated in Article 274 paragraph 1 may be financed from the funds:

- 1) to finance resolution of banks and investment firms or credit unions, as the case may be;
- 2) which can be obtained within 3 years from extraordinary contributions;
- 3) if the funds referred to in points 1 and 2 are insufficient - from other sources, as defined in Article 278.

Article 277. The Fund may allocate funds referred to in Article 273 for coverage of losses of an entity under restructuring or for assumption of the rights attached to shares in an entity under restructuring in order to restore its own funds in excess of the level referred to in Article 274 paragraph 2, point 2, if all unsecured liabilities subject to write down or conversion, other than those covered by the guarantee protection, have been written down or converted. In order to finance these expenses, the Fund may borrow from third parties or to cover them with the funds for financing resolution of banks and investment firms or credit unions, as the case may be.

Article 278. The Fund may borrow from third parties, where funding for resolution of banks and investment firms or credit unions is not sufficient to cover the expenses, whereas no funds from extraordinary contributions to the Fund may be forthwith obtained or the funds derived from extraordinary contributions are insufficient.

Article 279. The provisions of Article 274-278 shall apply accordingly, if as a result of financing resolution with the use of instruments other than write down or conversion of liabilities, the funds of the resolution fund of banks or funds of the resolution fund of credit unions indirectly cover losses or negative own funds of an entity under restructuring.

Article 280. The restructuring fund of cooperative banks shall be created to provide funding for the objectives stipulated in Article 35 paragraph 3 and 4 of the Act on the Operation of Cooperative Banks.

Article 281. The guarantee fund of banks, the guarantee fund of credit unions, the resolution fund of banks, the resolution fund of credit unions and the restructuring fund of cooperative banks shall be divided into the utilized funds - to the extent that they have been used to finance the Fund's tasks, and funds to be utilized - in all other respects. The statutes of the Fund shall determine the detailed rules of the creation and utilization of the own funds of the Fund.

Article 282. 1. The amounts received by the Fund from the bankruptcy estate of a credit union shall feed into the guarantee fund of credit unions.

2. The amounts received by the Fund from the bankruptcy estate of a bank or branch of a foreign bank shall feed into the guarantee fund of banks.

3. The amounts received by the Fund from the bankruptcy estate of an investment firm shall feed into the resolution fund of banks.

Article 283. Financial resources of the Fund shall serve to finance the Fund's tasks, in particular:

- 1) guaranteeing of pecuniary funds;

- 2) resolution;
- 3) assistance activity for banks for the purposes stipulated in Article 35 paragraph 3 and 4 of the Act on the Operation of Cooperative Banks;
- 4) acquisition of the property rights referred to in Article 314;
- 5) coverage of the costs or outlays related to the operation of the Fund.

Article 284. If the required financing referred to in Article 133 paragraph 2 point 7 is effected by granting a guarantee, the Fund may guarantee the repayment of liabilities up to the amount of the Fund's share in required financing specified in the resolution scheme.

Article 285. 1. The Fund Council shall allocate the net profit to increase the guarantee fund of banks, guarantee fund of credit unions, resolution fund of banks and resolution fund of credit unions, in the proportion defined as the ratio of financial resources held in the individual funds to the sum of financial resources held in all of these funds as of the balance sheet date of the last approved financial statement.

2. Where the level of each of the funds referred to in paragraph 1 is zero as of the balance sheet date of the last approved financial statement, the Fund Council shall resolve on the way of allocation of the net profit for a specific fund.

3. The provisions of paragraphs 1 and 2 apply accordingly to the coverage of the net loss.

4. The Fund Council may allocate all or part of the net profit of the Fund to increase the statutory fund.

5. The decision on distribution of the profit or coverage of the loss shall be taken by the Fund Council in the form of a resolution, at the request of the Management Board of the Fund.

6. The provisions of the Act of 29 September 1994 on Accounting (Journal of Laws 2013 item 330, as amended.¹⁴) shall apply accordingly to the profit distribution or loss coverage.

Chapter 2

Mandatory contributions to the Fund

Part 1

Financing of the mandatory deposit guarantee scheme

Article 286. 1. The mandatory deposit guarantee scheme shall be financed by the entities covered by the guarantee system with the contributions paid on a quarterly basis, subject to Article 294 paragraph 1.

2. Contributions to the mandatory deposit guarantee scheme paid by banks and branches of foreign banks shall feed into the guarantee fund of banks.

3. Contributions to the mandatory deposit guarantee scheme paid by credit unions shall feed into the guarantee fund of credit unions.

4. On the day of fulfilment of the guarantee condition, a bank, a branch of a foreign bank or a credit union shall be exempt from the duty to pay contributions as referred to in paragraph 2 or 3 accordingly.

Article 287. 1. The minimum level of funds of the deposit guarantee scheme of banks shall account for 0.8% of the amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

2. The target level of funds of the deposit guarantee scheme of banks shall account for 2.6% of the amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

3. Contributions to the guarantee fund of banks shall be determined in such an amount to attain:

- 1) the minimum level of funds of the deposit guarantee scheme of banks by 31 December 2016;
- 2) the target level of funds of the deposit guarantee scheme of banks by 3 July 2030.

¹⁴ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2013 item 613, of 2014 item 768 and 1100, of 2015 item 4, 978, 1045, 1166, 1333, 1844 and 1893 and of 2016 item 615.

4. While determining the amounts of contributions, the Fund Council may shorten the deadline for achieving the target level of funds of the deposit guarantee scheme of the banks specified in paragraph 3 point 2, on considering the current level of funds of the deposit guarantee scheme of banks and financial results of banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

5. In an event that the Fund makes total payments in excess of 0.8% of the amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by four years.

6. In the event that the Fund makes total payments in excess of 0.8% of the amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by four years.

7. While determining the amounts of contributions for a given quarter, the current phase of the economic cycle shall be taken into account and the impact that the contributions may have on the financial situation of banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

8. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.8% of the guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 293 paragraph 1 point 1 for a given calendar year is not greater than 0.25% of the guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

9. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds of the deposit guarantee scheme of banks fall below the 2/3 of this level, contributions to the mandatory deposit guarantee scheme of banks shall be set at a level enabling the attainment of the minimum level of funds of the deposit guarantee scheme of banks - in a period not longer than 6 years, whereas the target level of the deposit guarantee scheme of banks - in a period not longer than 10 years.

10. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of the deposit guarantee scheme of the banks referred to in paragraph 3 point 2, on considering the level of funds of the deposit guarantee scheme of banks, the current phase of the economic cycle and the financial situation of banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

Article 288. 1. The minimum level of funds of the deposit guarantee scheme of credit unions shall account for 0.8% of the amount of guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme.

2. The target level of funds of the deposit guarantee scheme of credit unions shall account for 1% of the amount of guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme.

3. Contributions to the guarantee fund of credit unions shall be set in such an amount to attain:

- 1) the minimum level of funds of the deposit guarantee scheme of credit unions by 31 December 2020;
- 2) the target level of funds of the deposit guarantee scheme of credit unions by 3 July 2030.

4. Where the Fund makes total payments in excess of 0.8% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by four years.

5. Where the Fund makes total payments in excess of 0.8% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by four years.

6. While determining the amount of contributions for a given quarter, the current phase of the economic cycle shall be taken into account and the impact that the contributions may have on the financial situation of credit unions covered by the mandatory deposit guarantee scheme.

7. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.8% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 293 paragraph 1 point 2 for a given calendar year is not higher than 0.25% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme.

8. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds of the deposit guarantee scheme of credit unions fall below the 2/3 of this level, contributions to the mandatory deposit guarantee scheme of credit unions shall be set at a level enabling the attainment of the minimum level of funds of deposit guarantee scheme of credit unions - in a period not longer than 6 years, whereas the target level of the deposit guarantee scheme of credit unions - in a period not longer than 10 years.

9. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of funds of the deposit guarantee scheme of credit unions referred to in paragraph 3 point 2, on considering the level of funds of the deposit guarantee scheme of credit unions, the current phase of the economic cycle and the financial situation of credit unions covered by the mandatory deposit guarantee scheme.

Article 289. 1. The contributions to the mandatory deposit guarantee scheme of banks and branches of foreign banks, calculated for a given quarter, shall be determined on the basis of the value of guaranteed funds as at the end of the quarter immediately preceding the quarter covered by the contribution in a bank or branch of a foreign bank required to contribute.

2. The amount of contribution shall be determined in view of the risk profile of an entity liable to contribution, including in particular its participation in an institutional protection scheme, capital adequacy ratio and asset quality.

3. The Fund shall develop methods of calculation of contributions separately for banks and branches of foreign banks and submits them to the Polish Financial Supervision Authority for validation.

4. The Polish Financial Supervision Authority shall take a decision on the validation or denial of the methods referred to in paragraph 3 within 2 months from the date of the request for validation of the methods submitted by the Fund.

5. The Polish Financial Supervision Authority may refuse the validation of the methods referred to in paragraph 3, if they have been developed in violation of the regulations issued under paragraph 11. While issuing a decision to refuse the validation of the methods, the Polish Financial Supervision Authority shall provide the Fund with recommendations for their necessary amendments.

6. The Polish Financial Supervision Authority shall validate the methods of calculation of the contributions referred to in paragraph 3 in the form of resolutions.

7. The Polish Financial Supervision Authority shall notify the Fund and the European Banking Authority forthwith of validation of the methods of calculation of the contributions, not later than 5 days from the date of adoption of the resolutions referred to in paragraph 6.

8. The Fund shall modify the method of calculation of the contributions, if the current methods fail to differentiate adequately the calculated contributions according to the risk profile of the entities required to contribute and may change it in the event of an amendment to the reporting system of banks or branches of foreign banks covered by the mandatory deposit guarantee scheme.

9. The provisions of paragraph 4-7 for validation of the methods of calculation of the contributions apply in the case referred to in paragraph 8.

10. The Fund shall notify the Polish Financial Supervision Authority of introduction of acceptable modifications in the methods which do not require validation by the Polish Financial Supervision Authority, no later than one month from the date of the amendments.

11. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the method of determination of the risk profile of entities required to contribute and of taking this profile into account in the calculation of the contributions to the guarantee fund of banks, in particular:

- 1) method of calculation of the contributions payable by individual entities,
 - 2) selection of indicators of the risk profile of an entity and the method of their utilization,
 - 3) method of determining the risk profile of an entity,
 - 4) minimum level of relief in the calculation of the contribution, in the case of an entity which participates in an institutional protection scheme,
 - 5) method of taking into account belonging of an entity to the low risk sector in the calculation of contribution,
 - 6) rules for the application of minimum contributions,
 - 7) rules and the mode of revisions to specified contributions up to an aggregate amount of contributions in a given year
- having regard to the necessity of ensuring differentiation of the contributions depending on the risk profile of the entities required to contribute.

12. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the procedure for the validation by the Polish Financial Supervision Authority of the methods of calculation of the contributions developed by the Fund and the scope of information relating to the method of calculation of the contributions made available to entities paying contributions, as well as the mode of making it available, in particular:

- 1) scope of the documentation enclosed by the Fund to an application for the validation of methods of calculation of the contributions,
 - 2) scope of acceptable amendments to the methods which do not require the validation of the Polish Financial Supervision Authority
- having regard the necessity of ensuring uninterrupted and efficient cooperation between the Polish Financial Supervision Authority and the Fund, completeness of information and appropriateness of the methods of calculation of the contributions and modifications thereof, as well as of ensuring that the entities paying contributions have current access to the necessary data.

Article 290. 1. The contributions to the mandatory deposit guarantee scheme of credit unions, calculated for a given quarter, shall be calculated on the basis of the value of guaranteed funds as at the end of the quarter immediately preceding the quarter covered by the contribution in a credit union required to contribute.

2. The amount of contribution shall be calculated in view of the risk profile of a credit union liable to contribution, including in particular the capital adequacy ratio and asset quality.

3. The Fund shall develop the method of calculation of the contributions for credit unions and shall submit it to the Polish Financial Supervision Authority for validation.

4. The Polish Financial Supervision Authority shall take a decision on the validation or denial of the method referred to in paragraph 3 within 2 months from the date of the request for validation of the method submitted by the Fund.

5. The Polish Financial Supervision Authority may refuse the validation of the method referred to in paragraph 3, if it has been developed in violation of the regulations issued under paragraph 11. While issuing a decision to refuse the validation of the method, the Polish Financial Supervision Authority shall provide the Fund with recommendations for necessary amendments thereof.

6. The Polish Financial Supervision Authority shall validate the method of calculation of the contributions referred to in paragraph 3 in the form of a resolution.

7. The Polish Financial Supervision Authority shall notify the Fund and the European Banking Authority forthwith of validation of a method of calculation of the contributions, not later than 5 days from the date of adoption of the resolution referred to in paragraph 6.

8. The Fund shall modify the method of calculation of the contributions, if the current method fails to differentiate adequately the calculated contributions according to the risk profile of the entities required to contribute and may change it in the event of an amendment to the reporting system of credit unions covered by the mandatory deposit guarantee scheme.

9. The provisions of paragraphs 4-7 for validating the methods of calculation of the contributions shall apply in the case referred to in paragraph 8.

10. The Fund shall notify the Polish Financial Supervision Authority of the introduction of acceptable modifications in the method which do not require validation by the Polish Financial Supervision Authority, no later than one month from the date of the amendment.

11. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister in competent for financial institutions shall determine, by way of a regulation, the method of determination of the risk profile of credit unions required to contribute and of taking this profile into account in the calculation of the contributions to the guarantee fund of credit unions, in particular:

- 1) method of calculation of the contributions payable by credit unions,
- 2) selection of indicators of the risk profile of a credit union and the method of their utilization,
- 3) methods of determining the risk profile of a credit union,
- 4) rules for the application of minimum contributions,
- 5) rules and the mode of revisions to specified contributions up to an aggregate amount of contributions in a given year

– having regard to the necessity of ensuring differentiation of the contributions depending on the risk profile of credit unions required to pay them:

12. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister competent

for financial institutions shall determine, by way of a regulation, the procedure for the validation by the Polish Financial Supervision Authority of a method of calculation of the contributions developed by the Fund and the scope of information relating to the method of calculation of the contributions made available to credit unions paying contributions, as well as the mode of making it available, in particular:

- 1) scope of the documentation enclosed by the Fund to an application for the validation of the method of calculation of the contributions,
 - 2) scope of acceptable amendments to the methods which do not require the validation of the Polish Financial Supervision Authority
- having regard to the necessity of ensuring uninterrupted and efficient cooperation between the Polish Financial Supervision Authority and the Fund, completeness of information and appropriateness of the method of calculation of the contributions and modifications thereof, as well as of ensuring that the entities paying contributions have current access to the necessary data.

Article 291. 1. Where the funds of the deposit guarantee scheme of banks are not sufficient to make payment of guaranteed funds, the Fund Council at the request of the Management Board of the Fund may, by way of a resolution, commit banks and branches of foreign banks covered by the mandatory deposit guarantee scheme to pay extraordinary contributions to the guarantee fund of banks, not exceeding in total in a calendar year 0.5% of the amount of guaranteed funds held with them at the end of the fourth quarter of the year preceding the year when the liabilities in respect of extraordinary contributions arise.

2. Where the funds from the extraordinary contributions referred to in paragraph 1 are insufficient to make payments of guaranteed funds, the Fund Council may, at the request of the Management Board of the Fund, with the consent of the Polish Financial Supervision Authority, by way of resolution, commit banks and branches of foreign banks to pay an extraordinary financial contribution to the guarantee fund of banks in the amount higher than that specified in paragraph 1.

3. The amount of extraordinary contributions referred to in paragraph 1 and 2 shall be determined according to the method referred to in Article 289 paragraph 3.

4. If the payment of the extraordinary contribution referred to in paragraph 1 or 2 placed the liquidity or solvency of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme at risk, the Polish Financial Supervision Authority may, at its request, postpone the date of payment in respect of all or part of this contribution, no longer than by 6 months from the date specified in the resolution of the Fund referred to in paragraph 1.

5. At the request of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme, the Polish Financial Supervision Authority may again postpone the date of payment of the extraordinary contribution referred to in paragraph 1 or 2, no later than by a period of further 6 months.

6. The Polish Financial Supervision Authority, by way of a decision, shall determine the conditions for the postponement of payment of the extraordinary contribution referred to in paragraph 1 or 2 for the guarantee fund of banks in the cases referred to in paragraph 4 and 5.

7. The Polish Financial Supervision Authority shall take the decisions referred to in paragraph 4 and 5, following the consultation with the Fund. The Polish Financial Supervision Authority shall forthwith notify the Fund of the decisions taken.

8. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

9. The provisions of paragraph 1 or 2 shall apply if as a result of the postponement of the payment of the contributions referred to in paragraph 4 or 5, the paid extraordinary contributions are insufficient to make payments of guaranteed funds.

Article 292. 1. Where the funds of the deposit guarantee scheme of credit unions are insufficient for the payment of guaranteed funds, the Fund Council may at the request of the Management Board of the Fund, by way of a resolution, commit the credit unions covered by the mandatory deposit guarantee scheme to pay to the guarantee fund of credit unions extraordinary contributions not exceeding in total in a calendar year 0.5% of the amount of guaranteed funds held with them as at the end of the fourth quarter of the year preceding the year when the liabilities in respect of extraordinary contributions arise.

2. Where the funds from the extraordinary contributions referred to in paragraph 1 are insufficient to make payments of guaranteed funds, the Fund Council may, at the request of the Management Board of the Fund, with the consent of the Polish Financial Supervision Authority, by way of a resolution, commit credit unions to pay an extraordinary financial contribution to the guarantee fund of credit unions in an amount higher than that specified in paragraph 1.

3. The amount of extraordinary contributions referred to in paragraph 1 and 2 shall be determined according to the method referred to in Article 290 paragraph 3.

4. If payment of the extraordinary contribution referred to in paragraph 1 or 2 placed the liquidity or solvency of a credit union covered by the mandatory deposit guarantee scheme at risk, the Polish Financial Supervision Authority

may, at its request, postpone the date of payment in respect of all or part of the contribution, no longer than by 6 months from the date specified in the resolution of the Fund referred to in paragraph 1.

5. At the request of a credit union covered by the mandatory deposit guarantee scheme, the Polish Financial Supervision Authority may again postpone the date of payment of the extraordinary contribution referred to in paragraph 1 or 2, no longer than by a period of further 6 months.

6. The Polish Financial Supervision Authority shall determine, by way of a decision, the conditions for the postponement of payment of the extraordinary contribution referred to in paragraph 1 or 2 to the guarantee fund of credit unions in the cases referred to in paragraph 4 and 5.

7. The Polish Financial Supervision Authority shall take the decisions referred to in paragraph 4 and 5, following the consultation with the Fund. The Polish Financial Supervision Authority shall forthwith notify the Fund of the decisions taken.

8. Contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

9. The provision of paragraph 1 or 2 shall apply if as a result of the postponement of the payment of the contributions referred to in paragraph 4 or 5, the paid extraordinary contributions are insufficient to make payments of guaranteed funds.

Article 293. 1. The Fund Council shall determine by way of a resolution:

- 1) total amount of contributions referred to in Article 286 paragraph 2 for a given calendar year, due quarterly from banks and branches of foreign banks;
- 2) total amount of contributions referred to in Article 286 paragraph 3 for a given calendar year due quarterly from credit unions;
- 3) time limits for payment of contributions.

2. In the case referred to in Article 291 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from banks and branches of foreign banks and the date or dates of the payment of these contributions.

3. In the case referred to in Article 292 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from credit unions and the date or dates of the payment of these contributions.

4. The amounts referred to in paragraph 1 point 1 and paragraph 2 shall be allocated to individual banks and branches of foreign banks in accordance with the method referred to in Article 289 paragraph 3.

5. The amounts referred to in paragraph 1 point 2 and paragraph 3 shall be allocated to individual credit unions in accordance with the method referred to in Article 290 paragraph 3.

6. Information on the amount of the contribution and the date or dates of the payment thereof shall be forwarded without undue delay to entities required to pay.

Article 294. 1. Where the level of funds of the deposit guarantee scheme of banks or where the level funds of the deposit guarantee scheme of credit unions calculated on the basis of the data available on the day of calculation of the contribution attains or exceeds, on the date of calculation of the contribution the target level specified in Article 287 paragraph 2 or Article 288 paragraph 2, contributions to the guarantee fund of banks or the guarantee fund of credit unions are not collected.

2. Information on refraining from the collection of contributions shall be communicated to the entities covered by the mandatory deposit guarantee scheme by way of its publication on the website of the Fund.

Division 2

Financing resolution

Article 295. 1. Resolution of banks, investment firms and branches of foreign banks shall be financed by these entities from the contributions paid at least once a year.

2. Contributions referred to in paragraph 1 shall feed into the resolution fund of banks.

3. Resolution of credit unions shall be financed by these entities from contributions paid at least once a year.

4. Contributions referred to in paragraph 3 shall feed into the resolution fund of credit unions.

5. A residual entity shall be exempt from the contributions referred to in paragraph 1 or 3.

6. A credit union which implements a programme of recovery proceedings shall be exempt from the obligation to pay the contributions referred to in paragraph 3, during the period from the date of validation of the submitted programme

of recovery proceedings by the Polish Financial Supervision Authority until the date of completion of its implementation.

Article 296. 1. The minimum level of funds for financing resolution of banks and investment firms shall account for 1% of the amount of the guaranteed funds in banks, investment firms and branches of foreign banks.

2. The target level of funds for financing resolution of banks and investment firms shall account for 1.2% of the amount of the guaranteed funds in banks, investment firms and branches of foreign banks.

3. Contributions to the resolution fund of banks shall be set in such an amount to attain:

- 1) minimum level of funding for resolution of banks and investment firms by 31 December 2024;
- 2) target level of funding for resolution of banks and investment firms by 31 December 2030.

4. Where the total disbursements by the Fund to finance resolution of banks, investment firms and branches of foreign banks exceed 0.5% of the amount of guaranteed funds held in the entities liable for contributions referred to in Article 295 paragraph 1, until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by four years.

5. Where the total disbursements effected by the Fund to finance the resolution of banks, investment firms and branches of foreign banks exceed 0.5% of the amount of guaranteed funds held in the entities liable for contributions referred to in Article 295 paragraph 1 until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by four years.

6. While calculating the amount of contributions to finance resolution of banks and investment firms, these contributions should be spreaded over time as evenly as possible with due regard to the current phase of the economic cycle and the impact which the contributions may have on the financial situation of banks, investment firms and branches of foreign banks.

7. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.5% of the guaranteed funds in the entities liable for contributions referred to in Article 295 paragraph 1, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 301 point 1 for a given calendar year is not higher than 0.25% of the amount of guaranteed funds in the entities liable for contributions referred to in Article 295 paragraph 1.

8. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds for financing resolution of banks and investment firms fall below the 2/3 of this level, contributions shall be set at a level enabling the attainment of the minimum level referred to in paragraph 1 in a period not longer than 6 years, whereas the target level referred to in paragraph 2 - in a period not longer than 10 years.

9. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of funds for financing resolution of banks and investment firms, referred to in paragraph 3 point 2, on considering the level of funds for financing resolution of these entities following the disbursements, the current phase of the economic cycle and the financial situation of banks, investment firms and branches of foreign banks.

Article 297. 1. The minimum level of funds for financing resolution of credit unions shall account for 0.1% of the amount of guaranteed funds in credit unions.

2. The target level of funds for financing resolution of credit unions shall account for 0.14% of the amount of guaranteed funds in credit unions.

3. Contributions to the resolution Fund of credit unions shall be set in such an amount to attain:

- 1) minimum level of funds for financing resolution of credit unions by 31 December 2024;
- 2) target level of funds for financing resolution of credit unions by 31 December 2034.

4. Where of the total disbursements effected by the Fund to finance the resolution of credit unions exceed 0.5% of the amount of guaranteed funds held in credit unions liable for contributions referred to Article 295 paragraph 3, until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by four years.

5. Where of the total disbursements effected by the Fund to finance the resolution of credit unions exceed 0.5% of the amount of guaranteed funds held in credit unions liable for contributions referred to Article 295 paragraph 3, until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by four years.

6. While calculating the amount of contributions to finance resolution of credit unions, these contributions should be spreaded over time as evenly as possible with due regard to the current phase of the economic cycle and the impact which the contributions may have on the financial situation of credit unions.

7. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.5% of the guaranteed funds in credit unions liable for contributions referred to in Article 295 paragraph 3, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 301 paragraph 1 point 2 for a given calendar year is not higher than 0.025% of the amount of guaranteed funds in credit unions liable for contributions referred to in Article 295 paragraph 3.

8. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds for financing resolution of credit unions fall below the 2/3 of this level, contributions shall be set at a level enabling the attainment of the minimum level referred to in paragraph 1 in a period not longer than 6 years, whereas the target level referred to in paragraph 2 - in a period not longer than 10 years.

9. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of funds for financing resolution of credit unions referred to in paragraph 3 point 2, on considering the level of funds for financing resolution of credit unions following the disbursements, the current phase of the economic cycle and the financial situation of credit unions.

Article 298. 1. Contributions to finance resolution shall be calculated on the basis of the value of liabilities net of the amount of own funds and guaranteed funds. In the case of banks and investment firms the contribution base shall be additionally reduced in a manner specified in Regulation No 2015/63, in particular Article 5 of the Regulation.

2. The amount of contribution shall be calculated on considering the risk profile of an entity liable to pay the contribution.

3. The method of calculation of contributions to finance resolution of banks and investment firms, ensuring differentiation of contributions paid, depending on the risk profile of a bank and investment firm liable to contribute shall be determined by Regulation No 2015/63.

4. The Fund Council shall establish the detailed rules for calculation of contributions to the resolution fund of banks by way of a resolution.

5. The resolution referred to in paragraph 4 shall define in particular:

- 1) additional risk indicators referred to in Article 6 paragraph 5 of Regulation No 2015/63, and the method of their utilization;
- 2) procedure for the contributions in the form of a lump sum.

6. The Minister competent for financial institutions shall determine, by way of a regulation, the detailed rules for calculation of risk-based contributions to finance resolution with regard to branches of foreign banks, on considering their specificity, including the reporting obligations, and ensuring their convergence with the method of calculation of contributions for banks stipulated in Regulation No 2015/63, in particular:

- 1) method of calculation of contributions paid by branches of foreign banks;
- 2) selection of indicators of the risk profile of a branch of a foreign bank, and the method of their utilization;
- 3) methods of determination of the risk profile of a branch of a foreign bank;
- 4) rules and the procedure of adjustments of due contributions;
- 5) rules for collection of contributions in the form of a lump sum, including the criteria for covering branches of foreign banks with the lump sum along with calculation of the amounts of the lump sum due.

7. The Minister competent for financial institutions shall define, by way of a regulation, the detailed rules for calculation of risk-based contributions to finance the resolution of credit unions, on considering the specificity of credit unions, including related to their organisational and legal form and reporting obligations, and ensuring their convergence with the method of calculation of contributions for banks and investment firms as defined in Regulation No 2015/63, in particular:

- 1) method of calculation of contributions to be paid by credit unions;
- 2) selection of indicators of the risk profile of a credit union and the method of their utilization;
- 3) method of determination of the risk profile of credit unions;
- 4) rules and the procedure of adjustments of due contributions;
- 5) rules for the collection of contributions in the form of a lump sum, including the criteria for covering credit unions with the lump sum along with an calculation of the amounts of the lump sum due.

Article 299. 1. Where the funds for financing resolution of banks and investment firms are insufficient to finance resolution, the Fund Council, at the request of the Management Board of the Fund, by way of a resolution, may commit banks, investment firms and branches of foreign banks to pay extraordinary contributions for the resolution fund of banks in the amount not exceeding three times the total amount of the contributions set for a given calendar year, and if the total amount of these contributions is not determined - in the amount not exceeding three times the total amount of contributions paid for the previous calendar year.

2. The amount of extraordinary contributions referred to in paragraph 1 shall be determined in accordance with the methods referred to in Article 298 paragraph 3 and in the regulations issued pursuant to Article 298 paragraph 6.

3. If the payment of the extraordinary contribution referred to in paragraph 1 placed at risk the liquidity or solvency of a bank, investment firm or a branch of a foreign bank liable to pay the contribution, the Fund may on their reasoned request postpone the date of payment in respect of all or part of this contribution, by no longer than 6 months from the date specified in the resolution of the Fund Council, referred to in paragraph 1 as the date of payment of the extraordinary contribution.

4. On a reasoned request of a bank, investment firm or a branch of a foreign bank, the Fund may again postpone the date of payment of the extraordinary contribution by further 6 months.

5. The Fund Council shall determine the conditions for the postponement of the payment of the extraordinary contributions referred to in paragraph 1 by way of a resolution on request of the Management Board of the Fund.

6. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

Article 300. 1. Where the funds for financing resolution of credit unions are not sufficient to finance the resolution, the Fund Council on request of the Management Board of the Fund, by way of a resolution, may commit credit unions to pay extraordinary contributions to the resolution fund of credit unions, in the amount not exceeding three times the total amount of the contributions determined for a given calendar year, and if the total amount of this contribution is not determined - in the amount not exceeding three times the total amount of contributions paid for the previous calendar year.

2. The amount of extraordinary contributions referred to in paragraph 1 shall be determined in accordance with the method established in the regulations issued pursuant to Article 298 paragraph 7.

3. If the payment of the extraordinary contribution referred to in paragraph 1 placed at risk the liquidity or solvency of a credit union liable to pay the financial contribution, the Fund may on its reasoned request, postpone the date of payment in respect of all or part of the contribution, by no longer than 6 months from the date specified in the resolution of the Fund Council referred to in paragraph 1 as the date of payment of the extraordinary contribution.

4. The Fund may, on a reasoned request of a credit union, again postpone the date of payment of the extraordinary contribution, by no longer than further six months.

5. The Fund Council shall determine the conditions for the postponement of the payment of the extraordinary contributions referred to in paragraph 1 by way of resolutions on request of the Management Board of the Fund.

6. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

Article 301. 1. The Fund Council shall determine by way of a resolution:

- 1) total amount of contributions referred to in Article 295 paragraph 1 for a given calendar year, due from banks, investment firms and branches of foreign banks;
- 2) total amount of contributions referred to in Article 295 paragraph 3 for a given calendar year, due from credit unions;
- 3) date or dates of payment of contributions for a given calendar year.

2. In the case referred to in Article 299 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from banks, investment firms and branches of foreign banks and the date or dates of payment of these contributions.

3. In the case referred to in Article 300 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from credit unions and the date or dates of payment of these contributions.

4. The amounts referred to in paragraph 1 point 1 and paragraph 2 shall be shared by individual banks, investment firms and branches of foreign banks in accordance with the method referred to in Article 298 paragraph 3 and in the regulations issued pursuant to Article 298 paragraph 6.

5. The amounts referred to in paragraph 1 point 2 and paragraph 3 shall be allocated to individual credit unions in accordance with the method established in the regulations issued pursuant to Article 298 paragraph 7.

6. Information on the amount of the contribution and the date or dates of payment thereof shall be forwarded without undue delay to entities required to contribute.

Article 302. 1. Where the level of funds to finance resolution of banks and investment firms, or the level of funds to finance resolution of credit unions, calculated on the basis of the data available as of the day of the calculation of the contribution attains or exceeds on this date the level specified in Article 296 paragraph 2 and Article 297 paragraph 2 accordingly, no contributions to the resolution fund of banks or the resolution fund of credit unions shall be collected.

2. Information on refraining from the collection of contributions shall be communicated to the entities referred to in Article 295 paragraph 1 and 3 through its publication on the website of the Fund.

Division 3

Payment commitments

Article 303. 1. While determining the amount of mandatory contributions, the Fund Council may determine the extent to which the entities liable to the payment thereof are entitled to contribute in the form of payment commitments.

2. The share of the total amount of payment commitments for the guarantee fund of banks or the guarantee fund of credit unions may not exceed 30% of the level of a given fund to be used.

3. The share of payment commitments in the annual contribution to the resolution fund of banks or the resolution fund of credit unions may not exceed 30% of the annual contribution due.

4. The contribution in the form of a lump sum must not be paid in the form of a payment commitment.

5. The entities required to pay annual contributions shall notify the Fund forthwith, but no later than 5 working days from the receipt of the information on the amount of the contribution, of their intention to pay a part of the contribution in the form of payment commitments.

Article 304. 1. The entities which pay contributions in the form of payment commitments are required to earmark the funds in an amount not less than their payment commitment and invest these funds in high liquidity instruments in a safe manner in order to be able to transfer funds up to the equivalent of their payment commitments on the first call of the Fund, on the dates referred to in Article 305 paragraph 1-3.

2. The entities which pay their contributions in the form of payment commitments are required to:

1) invest funds referred to in paragraph 1 in:

- a) Treasury securities,
- b) money bills and bonds issued by the National Bank of Poland - if these may be traded;

2) deposit assets stipulated in point 1 in a separate account for each entity maintained by the:

- a) National Bank of Poland,
- b) National Depository of Securities Joint Stock Company or a company it entrusted with the performance of transactions related to the tasks referred to in Article 48 paragraph 1 point 1-6 of the Act on Trading in Financial Instruments.

3. Agreements between the entities which pay their contributions in the form of payment commitments and the entities referred to in paragraph 2, point 2 shall provide for the assumption of assets which constitute collateral of a payment commitment and the funds in respect of their redemption until the acquisition of further assets by way of an irrevocable hold for the benefit of the Fund. The agreements shall entitle the Fund to demand the transfer for its benefit of the blocked assets in the event that an entity liable to pay contributions fails to comply with the calls by the Fund referred to in Article 305 paragraph 1-3, and to irrevocable power of attorney for the Fund to collect from the account assets pledged as collateral of payment commitments and the funds from the redemption thereof. Copies of the agreements certified as true by persons authorised to represent the entity which pays contributions in the form of payment commitments along with the power of attorney shall be submitted to the Fund forthwith, but no later than 5 working days from the date of the conclusion thereof.

4. Cooperative banks which are members of associations are required to deposit the funds referred to in paragraph 1, in an earmarked bank account in an affiliating bank, whereas the credit unions - in the National Association of Credit Unions. Affiliating banks on behalf of affiliated banks, whereas the National Association of Credit Unions on behalf of credit unions, shall invest these funds in assets referred to in paragraph 2 point 1, and shall deposit them in the accounts referred to in paragraph 2 point 2. The provision of paragraph 3 shall apply accordingly.

5. The funds referred to in paragraph 1 shall not be included in liquid funds in the calculation of the liquidity standards referred to in Article 412 of Regulation No 575/2013, nor in the funds of liquid reserve referred to in Article 38 paragraph 1 of the Act on Cooperative Savings and Credit Unions, must not be the subject of pledge nor be encumbered in any way, they are not subject to judicial or administrative enforcement, nor are included in bankruptcy estate.

6. Domestic entities and branches of foreign banks shall provide the Fund with the information on the funds referred to in paragraph 1, and the assets referred to in paragraph 2.

7. In the case of affiliated cooperative banks, the tasks stipulated in paragraph 6 shall be performed by the affiliating banks, and in the case of credit unions – the National Association of Credit Unions.

8. In the case of suspension of business, initiation of resolution or bankruptcy of a domestic entity or a foreign bank, an entity authorised to represent shall transfer the funds referred to in paragraph 1 to the Fund no later than within 2 working days respectively from the date of the suspension, initiation of resolution or declaration of bankruptcy.

9. Subject to Article 303 paragraph 2 and 3, the Fund may accept contributions in the form of payment commitments under separate agreements between the Fund and the entity liable to pay contributions (contractual payment commitment).

10. Where an entity referred to in Article 303 paragraph 5 fails to satisfy the conditions stipulated in paragraph 1-6 and 9 or in the regulations issued under paragraph 11 and 12, the payment commitments of such an entity shall become due immediately. The Fund may call for the funds corresponding to payment commitments within the period specified by itself. The provision of Article 316 shall be applied.

11. Following the consultation with the Fund, the Minister competent for financial institutions, shall determine by way of a regulation:

- 1) additional conditions to be satisfied by the agreements referred to in paragraph 3,
 - 2) minimum level of the ratio of assets referred to in paragraph 2 to the amount of payment commitments,
 - 3) limits which determine the share of particular assets in the total amount of funds corresponding to payment commitments,
 - 4) detailed scope and mode of transfer of the information referred to in paragraph 6,
- with a view to ensuring the Fund the ability to exercise control of fulfilment by entities of the duties in respect of the payment commitments and obtaining by the Fund of payments of funds in respect of payment commitments and on considering the guidelines of the European Banking Authority on payment commitments under a directive of the European Parliament and of the Council 2014/49/EU of 16 April 2014 on deposit guarantee schemes (EU OJ L 173, 12.06.2014, p. 149) issued pursuant to Article 16 of Regulation No 1093/2010.

12. Following the consultation with the Fund, the Minister competent for financial institutions may determine, by way of a regulation, the conditions to be satisfied by the agreements referred to in paragraph 9, including the form and procedure of establishment of the contractual collateral of payment commitments, the minimum level of the ratio of the collateral value to the amount of the contractual payment commitment, limits defining the share of individual assets in the total amount of funds corresponding to contractual payment commitments, the detailed scope of the transfer of information on assets constituting collateral of contractual payment commitments and the timing and mode of the transfer thereof with a view to ensuring the Fund the ability to exercise control of compliance by entities with the duties concerning contractual payment commitments, payment thereof to the Fund and taking into account the guidelines of the European Banking Authority on payment commitments under a directive of the European Parliament and of the Council 2014/49/EU of 16 April 2014 on deposit guarantee schemes issued in accordance with Article 16 of Regulation No 1093/2010.

Article 305. 1. If necessary for financing resolution tasks, the Fund shall call entities which paid annual contributions in the form of a payment commitment to transfer in a cash form the funds corresponding to payment commitments, no later than within 2 working days from the date of service of the call. In the call, the Fund shall determine the amount to be transferred while respecting the proportion in which the payment commitments stand to the funds accumulated in a relevant resolution fund.

2. In the case of fulfilment of the guarantee condition towards a bank or branch of a foreign bank, the Fund shall call, in the manner specified in Article 47 paragraph 2, banks and branches of foreign banks to transfer a part or all of the funds corresponding to payment commitments to the guarantee fund of banks up to the amount of liabilities in respect of guaranteed funds not later than within 2 working days from the receipt of the call.

3. In the case of fulfilment of the guarantee condition towards a credit union, the Fund shall call credit unions in the manner specified in Article 47 paragraph 2, to transfer a part or all of the funds corresponding to payment commitments to the guarantee fund of credit unions up to the amount of liabilities in respect of guaranteed funds not later than within 2 working days from the receipt of the call.

4. The Fund shall call the entities referred to in paragraph 2 or 3, in the manner specified in Article 47 paragraph 2 to transfer the funds corresponding to payment commitments to the guarantee fund of banks or the guarantee fund of credit unions, in the case of financing resolution in accordance with Article 272 paragraph 4, up to the amount of such financing. In the call, the Fund shall determine the amount to be transferred while respecting the proportion in which the payment commitments stand to the funds accumulated in a relevant guarantee fund.

5. If a bank, a branch of a foreign bank or a credit union cease to be a member of the mandatory deposit guarantee scheme or join another deposit guarantee scheme, they are required to transfer, for the benefit of the Fund, the whole amount of funds corresponding to payment commitments respectively to the guarantee fund of banks or the guarantee fund of credit unions immediately, not later than within 2 working days.

6. If a bank, investment firm, branch of a foreign bank or credit union cease to be an entity referred to in Article 64 point 2, they are obliged to transfer, for the benefit of the Fund, the whole amount of funds corresponding to payment commitments respectively to the resolution fund of banks or the resolution fund of credit unions.

7. The funds referred to in paragraph 1-6 shall become the property of the Fund on the date of the transfer.

Article 306. Where a risk to the financial stability occurs and in order to satisfy urgent needs of the Fund related to the payment of guaranteed funds within the time limit under Article 35 paragraph 3, the National Bank of Poland, at the request of the Management Board of the Fund approved by the Fund Council may provide the Fund with short-term credit provided that adequate security has been established.

Division 4

Payment of contributions

Article 307. 1. The duty to pay a contribution determined in accordance with Article 293 paragraph 1, 4 and 5 by a domestic entity or branch of a foreign bank shall arise on the first day of a quarter.

2. The duty to pay a contribution determined in accordance with Article 301 paragraph 1, 4, 5 by a domestic entity or branch of a foreign bank shall arise on the first day of the third quarter.

3. The duty to pay an extraordinary contribution by a domestic entity or branch of a foreign bank shall arise on the date when the Fund Council determines the total amount of extraordinary contributions.

4. Where a bank, a branch of a foreign bank or a credit union becomes covered by the mandatory deposit guarantee scheme during the quarter, the obligation to pay a contribution to the guarantee fund of banks or the guarantee fund of credit unions for the quarter shall arise from the date of commencement of operations.

5. A bank or investment firm established in the course of the year shall pay a contribution to the resolution fund of banks on the terms stipulated in Article 12 paragraph 1 of Regulation No 2015/63.

6. A credit union established in the course of a calendar year shall pay a contribution to the resolution fund of credit unions on the terms corresponding to the terms stipulated in Article 12 paragraph 1 of Regulation No 2015/63.

7. A branch of a foreign bank established in the course of a calendar year shall pay a contribution to the resolution fund of banks on the terms corresponding to the terms stipulated in Article 12 paragraph 1 of Regulation No 2015/63.

8. In the case referred to in paragraph 4, the basis of calculation of the contribution shall be set at the end of the last day of the month when the duty to pay the contribution occurred. The entities referred to in paragraph 4 shall pay contributions in proportion to the number of full months of business in the quarter when they commenced business, along with the contribution for the following quarter.

9. Contributions paid by banks, investment firms, branches of foreign banks or credit unions which commence business shall be determined irrespective of the risk profile of the entity referred to in Article 289 paragraph 2, Article 290 paragraph 2 or Article 298 paragraph 2, until the data allowing for determination thereof could be collected.

10. In the case of a merger, if an entity established as a result of the merger is required to pay contributions under the Act, calculation of the contributions shall be made on considering the sum of the bases referred to in Article 289 paragraph 1, Article 290 paragraph 1 or in Article 298 paragraph 1, relevant for the merging entities and the risk profile of the acquiring entity determined on the basis of the methods referred to in Article 289, Article 290 or Article 298.

11. In the case of a merger, if merging entities have failed to pay the contribution referred to in Article 286 paragraph 1, due for the quarter when the merger took place, and an entity established as a result of the merger is not required to pay contributions under the Act, it shall pay contributions due from the merging entities in proportion to the number of full months of operating their business independently in the quarter when the merger took place. If the merging entities have paid due contributions for the quarter when the merger took place, and an entity established as a result of the merger is not required to pay the contributions under the Act, the Fund shall reimburse a part of the contributions in proportion to the number of full months when the merging entities did not operate their business independently in the quarter when the merger took place.

12. In the case of a merger, if the merging entities have failed to pay the contribution referred to in Article 295 paragraph 1, due for the year when the merger took place, and an entity established as a result of the merger is not required to pay contributions under the Act, it shall pay contributions due from the merging entities in proportion to the number of full months when the merging entities operated their business independently in the year when the merger took place. If the merging entities have paid due contributions for the year where the merger took place, and an entity established as a result of the merger is not required to pay contributions under the Act, the Fund shall reimburse a part of the contributions in proportion to the number of full months when the merging entities did not operate their business independently in the year where the merger took place.

Article 308. 1. If a bank or branch of a foreign bank joins another deposit guarantee scheme and ceases to be a member of the mandatory deposit guarantee scheme, contributions, with the exception of the extraordinary contributions referred to in Article 291 paragraph 1 or 2, paid within the period of 12 months preceding the withdrawal of membership shall be forwarded to this deposit guarantee scheme.

2. The provision of paragraph 1 shall not apply if a bank or branch of a foreign bank has been excluded from the deposit guarantee scheme further to a decision of the Polish Financial Supervision Authority to repeal a permit to establish a bank or branch of a foreign bank in accordance with the provisions of the Banking Act. The postponed extraordinary contributions referred to in Article 291 paragraph 1 or 2 shall be paid to the Fund before a given entity joins another deposit guarantee scheme.

3. If a part of the business of a bank or branch of a foreign bank is transferred to a Member State other than the Republic of Poland and is accordingly subject to another deposit guarantee scheme, contributions paid by these entities within the period of 12 months preceding the transfer of the business to a Member State other than the Republic of Poland with the exception of extraordinary contributions shall be transferred to this deposit guarantee scheme in proportion to the amount of the transferred guaranteed funds. The postponed extraordinary contributions referred to in Article 291 paragraph 1 or 2 shall be paid to the Fund prior to the transfer of a part of the business of a given entity in proportion to the amount of the transferred guaranteed funds.

Chapter 3

Loans between the Fund and other deposit guarantee schemes

Article 309. 1. Having obtained the consent of the Fund Council, the Management Board of the Fund, may, by way of an agreement, grant a loan to an officially recognised deposit guarantee scheme of a Member State other than the Republic of Poland for the execution of its guarantee obligations if all of the following conditions have been satisfied:

- 1) officially recognised deposit guarantee scheme of a Member State other than the Republic of Poland which contracts a loan is not able to meet its obligations in respect of the payment of the guaranteed funds due to a lack of available funds;
- 2) officially recognised deposit guarantee scheme which contracts a loan has taken the opportunity to have recourse to the payment of extraordinary contributions;
- 3) officially recognised deposit guarantee scheme which contracts a loan makes a declaration that the borrowed funds will be utilized for settlement of claims of depositors in respect of the guaranteed funds;
- 4) officially recognised deposit guarantee scheme which contracts a loan is not required, at the time of granting it, to repay a loan granted by another deposit guarantee scheme;
- 5) the total amount of the loan sought by the officially recognised deposit guarantee scheme does not exceed 0.5% of the funds guaranteed by the deposit guarantee scheme which contracts a loan;

6) officially recognised deposit guarantee scheme which contracts a loan produces a document confirming that the information on the reasons for its decision to apply for a loan has been submitted to European Banking Authority and determining the amount of the requested loan.

2. The term for loan repayment must not be longer than 5 years from the date of granting thereof, whereas the loan may be repaid in annual installments. Interest shall be payable on the maturity date.

3. The loan agreement shall determine the rules of the loan interest, whereas the interest rate on the loan may not be lower than the lombard interest rate of the European Central Bank during the period for which the loan was granted.

4. The Fund shall notify the European Banking Authority of the initial interest rate of the loan and the period for which it was granted.

Article 310. 1. Having obtained the consent of the Fund Council, the Management Board of the Fund, may apply for a loan to one or more officially recognised deposit guarantee schemes in the Member States other than the Republic of Poland for the execution of its guarantee obligations if all of the following conditions have been satisfied:

- 1) The Fund is not able to satisfy its obligations in respect of payments of guaranteed funds due to a lack of available funds provided for in Article 56 paragraph 5 or Article 57 paragraph 5;
- 2) the Fund has taken the opportunity to have recourse to extraordinary contributions referred to in Article 291 paragraph 1 or in Article 292 paragraph 1;
- 3) the funds from the loan will be utilized for settlement of claims of depositors in respect of the guaranteed funds;
- 4) the Fund is not required to repay a loan to any other deposit guarantee scheme at the time of application;
- 5) the total amount of the loan sought by the Fund does not exceed 0.5% of the funds guaranteed by the Fund;
- 6) the Fund provides the European Banking Authority with the information on the satisfaction of the conditions referred to in points 1-5 and on the amount of the requested loan.

2. The term for loan repayment must not be longer than 5 years from the date of granting thereof, whereas the loan may be repaid in annual installments. Interest shall be payable on the maturity date.

3. While determining the total amount of contributions for the mandatory deposit guarantee scheme, the Fund Council shall take into account the necessity of timely repayment of the loan and restoration of the target level of funds of the deposit guarantee scheme.

4. The Fund shall notify the European Banking Authority on concluded loan agreements.

5. In the event of a dispute regarding the provisions of the concluded agreements, the Fund may request the European Banking Authority for binding mediation.

Chapter 4

Loans between the Fund and other entities managing resolution funds in the Member States

Article 311. 1. The Fund may grant loans from the resolution funds to other entities managing resolution funds in the Member States, if the borrower demonstrates fulfilment of the conditions referred to in paragraph 4.

2. In the case referred to in paragraph 1, the Fund shall agree the terms of the loan with entities managing resolution funds and with the entity managing the fund which requests a loan. The terms of the loan, including the interest rate and the repayment period shall be the same for all providers of the loan, unless the Fund and these entities agree otherwise. The amount of the loan granted by the Fund shall be equal to the share of the amount of the guaranteed funds in the total amount of the loan, determined as a ratio of the sum of funds guaranteed by the Fund to the amount of funds guaranteed in all Member States whose resolution funds are involved in granting the loan, unless the Fund and these entities agree otherwise.

3. The detailed rules of granting loans, referred to in paragraph 2 shall be determined by the Fund Council.

4. The Fund may raise loans for the benefit of the resolution funds from other entities managing resolution funds in the Member States if all of the following conditions have been satisfied:

- 1) funds obtained from annual contributions are not sufficient to cover the expenses referred to in Article 273 paragraph 1-3;
- 2) funds from extraordinary contributions to the Fund may not be obtained forthwith;
- 3) no funds from third parties on the conditions average for the financial market may be obtained forthwith.

5. The Fund shall count the amount of an outstanding loan referred to in paragraph 1 into the funds for financing resolution and liquidation referred to in Article 296 paragraph 1 and 2 and Article 297 paragraph 1 and 2.

Chapter 5

Financial statements

Article 312. 1. In the area of accounting the Fund shall apply the provisions of the Accounting Act of 29 September 1994.

2. The Minister competent for financial institutions shall determine, by way of a regulation, specific accounting rules of the Fund, including the scope of information disclosed in the notes to the financial statement with a view to ensuring sound financial management of the Fund.

Article 313. 1. The financial statement of the Fund shall be prepared by 31 March for the preceding year.

2. The financial statement of the Fund shall be audited by entity authorised to audit financial statements in accordance with the Act of 7 May 2009 on Auditors, their self-government, entities authorised to audit financial statements and public supervision (Journal of Laws of 2015 item 1011 and 1844 and of 2016 item 615), selected through a tender by the Fund Council. The cost of audit shall be borne by the Fund.

3. By 30 June, the Fund Council shall provide the Council of Ministers with the activity report of the Fund for the preceding year, reviewed by the Minister competent for financial institutions, along with the attached financial statement and the results of the audit referred to in paragraph 2.

4. The Council of Ministers shall approve or refuse the approval of the reports referred to in paragraph 3 by 31 August.

5. Refusal of the approval by the Council of Ministers of the activity report of the Fund for the preceding year shall be equivalent to the expiry of the mandate of the members of the statutory bodies of the Fund, provided that they remain in office until appointment of new members of the statutory bodies of the Fund.

6. The provision of paragraph 5 shall not apply to the members of the statutory bodies of the Fund whose term of office is not covered in the activity report of the Fund.

Chapter 6

Financial assets and financial liabilities of the Fund

Article 314. 1. The Fund may purchase or sell on its own behalf solely:

- 1) securities issued or guaranteed by the State Treasury or the National Bank of Poland;
- 2) securities issued or guaranteed by the governments or central banks of the Member States or the States being the Members of the Organisation for Economic Co-operation and Development;
- 3) money market funds' units referred to in Article 178 of the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds.

2. The Fund may acquire or dispose of rights attached to shares, pre-emption rights, options on rights attached to shares and other assets and provide guarantees and sureties with a view to performing tasks related to resolution.

3. The Fund may purchase, sell or exercise the rights from financial assets referred to in paragraph 1 and 2.

Article 315. 1. Financial resources of the Fund shall be held in the current accounts, separate accounts and deposit accounts in the National Bank of Poland.

2. The Fund may hold securities accounts in the National Depository of Securities Joint Stock Company, the National Bank of Poland, a bank or a brokerage house and may hold cash accounts for settlements.

3. With a view to the purchase or sale of securities referred to in Article 314 paragraph 1 point 2, as well as the purchase or sale of securities in order to perform the tasks referred to in Article 314 paragraph 2, the Fund may hold securities accounts in a foreign clearing house and hold a bank account to perform the related settlements.

Article 316. 1. Extracts from accounting ledgers of the Fund, signed by the authorised members of the Management Board of the Fund and bearing its seal in evidence of the existence of receivables of the Fund and appended with the statement that the claims derived therefrom are due, shall have the legal force of enforcement titles, no enforcement clauses being required.

2. The enforcement of receivables documented in the records referred to in paragraph 1 shall take place, depending on the nature of the liabilities, in the manner specified in the Code of the Civil Procedure, or in the provisions of the administrative enforcement proceedings.

3. A debtor may demand, by way of a lawsuit, termination in whole or in part of enforcement proceedings conducted by the Fund in the manner specified in the Code of the Civil Procedure, or in the provisions on administrative enforcement proceedings, if the enforced receivable does not exist or exists in a smaller amount, or if the debtor files counterclaims eligible for a set-off against the enforced receivable.

4. At the request of the plaintiff, the court may suspend the enforcement proceedings by way of issuance of injunctive relief.

DIVISION VI

Information obligations, exchange and protection of information

Article 317. Information on the principles of operation of the mandatory deposit guarantee scheme, including the material and personal scope of protection and principles of payments of guaranteed funds shall be published on the Fund's website.

Article 318. 1. The entities covered by the deposit guarantee scheme shall inform parties using and interested in using their services of:

- 1) their economic and financial situation;
- 2) participation in the mandatory deposit guarantee scheme and the principles of the operation thereof, including the material and personal scope of protection awarded by this system, while indicating in particular:
 - a) maximum amount of the guarantee,
 - b) types of persons and entities that may be considered a depositor.

2. Where an entity covered by the deposit guarantee scheme operates under different trademarks, it shall inform parties using and interested in using its services of their entitlement to one limit of the guarantee of funds held in this entity.

3. Within performance of the duties referred to in paragraph 1 point 2 and paragraph 2, the entities covered by the deposit guarantee scheme shall provide information to parties using and interested in using their services prior to entrance into an account agreement and then at least once a year. This information shall be provided in the form of an information sheet. In the case of a transfer of the information prior to the entrance into an account agreement, the recipient of this information shall confirm its receipt.

4. The entities covered by the deposit guarantee scheme are required to inform parties using and interested in using their services of the lack of the guarantee protection if:

- 1) a receivable arising in respect of performance of the banking transactions or the transactions referred to in Article 3 paragraph 1 and 1a of the Act on Cooperative Savings and Credit Unions is not protected by the mandatory deposit guarantee scheme, in particular if these persons may not be considered depositors;
- 2) further to the performance of a transaction other than a banking transaction or the transactions referred to in Article 3 paragraph 1 and 1a of the Act on Cooperative Savings and Credit Unions an entity covered by the deposit guarantee scheme issues a registered document in evidence of its pecuniary liability;
- 3) in respect of services provided by an entity covered by the deposit guarantee scheme, in particular involving intermediation in concluding agreements any receivables arise or may arise of the said persons towards another entity which is not covered by the deposit guarantee scheme.

5. Information on the procedure and conditions for receiving a pecuniary benefit under the Act should be made available at the request of a person using or interested in using services of an entity covered by the guarantee scheme.

6. An account statement shall include information on whether the funds held therein are protected by the mandatory deposit guarantee scheme.

7. Information made available both to persons using and interested in using services of an entity covered by the mandatory deposit guarantee scheme should be communicated:

- 1) in a manner in which information is disclosed on the services provided, including by means of electronic communication;
- 2) in writing if requested by a person using or interested in using services of an entity covered by the mandatory deposit guarantee scheme who received information on the services provided by means of electronic communication;
- 3) in a clear and comprehensible manner .

8. Information on participation in the mandatory deposit guarantee scheme may not be used for advertising purposes and should be limited to the information referred to in paragraph 1 and 4.

9. The prohibition referred to in paragraph 8 shall also apply to entities not participating in the mandatory deposit guarantee scheme.

10. The Minister competent for financial institutions shall determine, by way of a regulation, a sample form of the information sheet referred to in paragraph 3, for depositors, which provides basic information on the protection of funds held in an entity covered by the mandatory deposit guarantee scheme, taking into account information concerning the scope of protection, the date and currency of payment and in order to ensure adequate satisfaction of obligations by the entities covered by the mandatory deposit guarantee scheme.

Article 319. 1. Where an entity covered by the mandatory deposit guarantee scheme intends to introduce changes which will result in termination of membership in the mandatory deposit guarantee scheme and in joining another deposit guarantee scheme, the entity shall notify the Fund at least 6 months prior to the planned change of the system.

2. During the period from the date on which the notice was given to the date of termination of membership in the mandatory deposit guarantee scheme an entity covered by the scheme shall continue to perform the duties arising from the provisions of the Act.

Article 320. 1. Members of the Fund Council and members of the Management Board of the Fund, employees of the Office of the Fund and persons employed in the Fund under a specific work contract, a contract of mandate or other agreements of similar nature shall be bound to professional secrecy.

2. The professional secrecy referred to in paragraph 1 shall include all the information obtained or produced in connection with execution of the tasks of the Fund, whose unauthorised provision, disclosure or confirmation could violate the legally protected interests of the entities to which the information directly or indirectly pertains or hinder execution of the tasks of the Fund.

3. The duty referred to in paragraph 1 shall last after termination of the legal relationship referred to in paragraph 1.

4. Subject to paragraph 7-9, without prejudice to the duty referred to in paragraph 1, the Fund shall provide information to:

- 1) competent authorities, third-country authorities competent for resolution, the European Banking Authority, operators of deposit guarantee schemes, compensation schemes, entities managing resolution funds, for the purposes of proceedings or ongoing tasks conducted by these authorities and to the extent necessary for performance of the statutory functions of the Fund or international obligations of the Republic of Poland;
- 2) competent supervisory authorities of the Member States concerned in the case of a threat to the stability of the domestic financial system or in execution of international obligations of the Republic of Poland;
- 3) administrator or attorney to the extent necessary for execution of their rights and obligations under the laws and stemming from the Fund's decision on their appointment;
- 4) entity performing the valuation referred to in Article 137 paragraph 2 and 3, to the extent necessary to effect the valuation;
- 5) advocate or legal counsel further to provision of legal assistance to the Fund and to the extent necessary for the provision of this assistance;

- 6) entity interested in acquisition of the undertaking of an entity under restructuring, its selected or all property rights or selected or all liabilities or rights attached to shares thereof concerning this entity with a view to application of the instrument of acquisition of the undertaking and to the extent necessary for offering by this entity an acquisition price and for issuance and execution of the Fund's decision on the acquisition;
- 7) bridge institution or asset management vehicle within the scope of information concerning an entity under restructuring to the extent necessary for issuance and execution of the Fund's decision to use the instrument of a bridge institution or instrument of separation of property rights;
- 8) other entities entrusted by the Fund with execution of tasks in the course of resolution or process of the payment of guaranteed funds to the extent necessary for performance of these operations;
- 9) Central Statistical Office, in order to execute the tasks arising from the Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community (EU OJ L 145 of 10.06.2009, p. 1, as amended).

5. Information provided or exchanged in accordance with paragraph 4 points 1 and 2 may be transferred to other entities only with the consent of the Fund.

6. Subject to paragraph 8-10, a notification on suspicion of committing a crime shall be without prejudice to the obligation referred to in paragraph 1.

7. The information in the cases referred to in paragraph 4 point 4-9 may be disclosed on condition of its protection by an entity to which it has been entrusted.

8. The information constituting both the professional secrecy and bank secrecy, as well as the secrecy referred to in Article 9e of the Act on Cooperative Savings Credit Unions, or the secrecy referred to in Article 147 of the Act on Trading in Financial Instruments may be disclosed only in the manner and under the terms of sharing information constituting such secrecy.

9. Provision of the third country entities referred to in paragraph 4 points 1 and 2 with information constituting professional secrecy may take place only if protection of this information is provided at least equivalent to the protection stipulated in this Article.

10. The information constituting secrecy protected by law and obtained from the entities referred to in paragraph 4 points 1 and 2 may be disclosed only after obtaining the consent of these entities and for the purposes established in this consent.

11. Persons other than those referred to in paragraph 1 familiarized with the information constituting professional secrecy, in particular in the cases referred to in paragraph 4 and 8 shall be committed to observe professional secrecy, unless separate provisions provide for the obligation to continue providing such information.

Article 321. The Fund may share information and effect mutual exchange of information protected under separate laws to the entities referred to in Article 320 paragraph 4 points 1, 2 and 7, to the extent necessary for ensuring cooperation in the implementation of the objectives and tasks of the Fund, and to the extent necessary to perform their statutorily defined tasks, in particular to ensure financial stability or to establish or verify due, potential or disputed benefits to depositors or in connection with the obligation of payment of the guarantee benefits.

Article 322. 1. Information concerning resolution can be shared under the provisions on access to public information following completion of resolution.

2. The restriction referred to in paragraph 1 shall not apply to information provided to the public under the Act

Article 323. The duty to protect information shall not apply to information provided to the public in the manner provided for by law.

Article 324. In the case of non-performance or improper performance by an entity covered by the mandatory deposit guarantee scheme of the obligations referred to in Article 318 and Article 319, the Fund shall notify the Polish Financial Supervision Authority.

Article 325. 1. The Fund shall be entitled to obtain information regarding the entities covered by the mandatory deposit guarantee system, branches of foreign banks, investment firms and entities referred to in Article 64 point 2 a-d necessary for execution of its tasks, held by the National Bank of Poland, the Minister competent for financial institutions, the Polish Financial Supervision Authority and the Supreme Audit Office.

2. The Fund may use the obtained information with a view to developing analyses and forecasts for the banking sector, the sector of investment firms, the sector of credit unions or individual entities covered by the mandatory deposit guarantee scheme, as well as investment firms.

3. Information referred to in paragraph 1 may not be disclosed by the Fund in cases other than those provided for by the Act.

4. Analyses and forecasts referred to in paragraph 2 may be published in a form which ensures protection of information and may be disclosed to the concerned entities.

Article 326. 1. The Polish Financial Supervision Authority shall provide the Fund with the information on the entities referred to in Article 64 points 1 and 2, the entities covered by the mandatory deposit guarantee scheme and branches of foreign banks necessary to perform the tasks of the Fund, in particular information concerning:

- 1) their economic and financial situation;
- 2) their commitment to implement a recovery plan or to develop a programme of recovery proceedings, on receiving information on their loss, the threat of its occurrence and emergence of the danger of their insolvency or illiquidity, and on actions taken in such a case towards these entities;
- 3) measures of early intervention or appointment of a conservator or conservatorship in these entities;
- 4) consent to conclude an agreement on financial support referred to in Article 141t of the Banking Act or in Article 110zr paragraph 1 of the Act on Trading in Financial Instruments and the terms of this agreement;
- 5) financial support granted under the agreement referred to in point 4 and other forms of liquidity or capital support granted to them;
- 6) occurrence of circumstances other than those listed in points 2-5 which could result in arising of liabilities of the Fund in particular towards depositors in respect of the guaranteed funds or a threat of bankruptcy of an entity;
- 7) necessary to develop a resolution plan;
- 8) significant organisational or legal change or occurrence of another event affecting the assumptions adopted in the resolution plan and execution thereof.

2. In the cases referred to in paragraph 1, points 2, 3, 5 and 6, the Polish Financial Supervision Authority shall provide the Fund also with the information on the results of inspections conducted in an entity, recommendations issued, measures which have been taken to remove irregularities identified in the framework of supervision and their implementation by the entity.

3. The Polish Financial Supervision Authority shall provide the Fund with the information to the extent specified in paragraph 2 also when the inspections have been conducted by the National Association of Credit Unions, an affiliating bank or other authorised institutions.

4. The Polish Financial Supervision Authority shall provide the Fund with the information on the measures of early intervention or the appointment of a conservator in entities of a group of which an entity is a part and on their financial situation.

5. The Polish Financial Supervision Authority shall provide the Fund with the reporting information:

- 1) obtained from credit unions and the National Association of Credit Unions on the basis of regulations issued pursuant to Article 62c paragraph 4 of the Act on Cooperative Savings and Credit Unions;
- 2) obtained from investment firms on the basis of regulations issued pursuant to Article 94 paragraph 2 of the Act on Trading in Financial Instruments and Regulation No 575/2013.

6. The Polish Financial Supervision Authority provides the Fund with the following information:

- 1) annual financial statements of banks and branches of foreign banks, investment firms and entities referred to in Article 64 point 2 sub-point a-d, with the auditor's opinion enclosed, within 30 days from the date of their receipt;
- 2) analyses on the functioning of the banking sector, the sector of investment firms and the sector of credit unions.

Article 327. 1. The Fund and the National Bank of Poland shall exchange information to the extent necessary to perform their statutorily defined tasks.

2. The information referred to in paragraph 1 may constitute classified information within the meaning of provisions on the protection of classified information. Transfer of classified information shall be effected under the conditions and the procedure specified in the Act of 5 August 2010 on Classified Information Protection (Journal of Laws, item 1228, of 2015 item 21, 1224 and 2281 and of 2016 item 749).

Article 328. 1. In order to determine the principles of cooperation and transfer of information, the Fund may enter into agreements on cooperation and exchange or transfer of information specifying in particular the principles of cooperation, the scope of the exchange or transfer of information and the principles of protection of such information.

2. Subject matter, scope, procedure and deadlines for providing the information referred to in Article 325 paragraph 1, Article 326 and Article 327 paragraph 1 shall be determined by separate agreements concluded between the Fund and the President of the National Bank of Poland, the Minister competent for financial institutions and the President of the Supreme Audit Office, as well as the agreement on cooperation and exchange of information between the Fund and the Polish Financial Supervision Authority, referred to in Article 17 of the Act of 21 July 2006 on the Financial Market Supervision.

3. With a view to coordination of cooperation in execution of the tasks specified in the Act, the agreement on cooperation and exchange of information concluded between the Fund and the Polish Financial Supervision Authority shall define in particular:

- 1) detailed scope of the information transferred and the rules for its protection;
- 2) procedure and deadlines for the transfer of information;
- 3) detailed rules for the participation of employees of the Fund in inspection activities in the bridge institution undertaken by employees of the Polish Financial Supervision Authority, referred to in Article 133 paragraph 3 of the Banking Act and Article 26 paragraph 1 of the Act of 29 July 2005 on the Capital Market Supervision (Journal of Laws of 2014 item 1537, as amended.¹⁵);
- 4) principles of coordination of actions undertaken towards an entity in order to prepare resolution.

Article 329. 1. The Fund shall enter into a non-binding agreement with a competent authority of a third country in accordance with the framework agreement concluded by the European Banking Authority with a competent authority of a third country.

2. The agreement referred to in paragraph 1 may specify:

- 1) principles of exchange of information necessary for development and updating resolution plans and group resolution plans;
- 2) principles of cooperation in the development of resolution plans and group resolution plans, including the principles of undertaking actions following decisions referred to in Article 101 paragraph 7 and Article 248 paragraph 1, or similar activities referred to in the law of a third country;
- 3) principles of early notification of the parties to the agreement or consultation with the parties to such an agreement before taking significant steps within the framework of resolution or similar proceedings under the law of a third country, affecting the entities or groups concerned by such an agreement;
- 4) principles of coordination in terms of informing the public in the case of joint actions within the framework of resolution;
- 5) procedures for exchange of information and cooperation to the extent specified in point 1-4, including the procedures and rules for appointment and operation of groups of crisis management.

3. The Fund shall forthwith notify the European Banking Authority of entrance into the agreement referred to in paragraph 1.

Article 330. 1. The Fund shall be vested with a right to obtain information necessary to perform its tasks, in particular the information required for the valuation referred to in Article 137 paragraph 1, and for preparation of resolution directly from an entity in the event of committing the entity to the implementation of a recovery plan, preparation of a programme of recovery proceedings, undertaking early intervention measures towards the entity or appointment of conservatorship or a conservator in the said entity.

2. In the case referred to in paragraph 1, the Fund shall be also vested with the right to obtain the information specified therein from a national parent entity, towards which an entity is a subsidiary.

3. The entities covered by the mandatory deposit guarantee scheme, branches of foreign banks, investment firms and the entities referred to in Article 64 point 2 sub-point a-d shall be committed to provide the Fund with information other than the information transferred to the National Bank of Poland and the Polish Financial Supervision Authority, necessary to perform the tasks of the Fund, in particular:

- 1) information on the value of receivables and the funds guaranteed by the Fund;

¹⁵ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2015 item. 73, 1223, 1260, 1357 and 1513 and of 2016 item 615.

2) data and information necessary for calculation of mandatory contributions, including in the case of banks and investment firms in accordance with Regulation No 2015/63.

4. In the case of cooperative banks affiliated to other banks, the information referred to in paragraph 3, relating to individual banks, is provided to the Fund by the affiliating banks.

5. In the case of credit unions, the information referred to in paragraph 3, relating to individual credit unions, is provided to the Fund by the National Association of Credit Unions.

6. Following the consultation with the Fund, the Minister competent for financial institutions, shall determine, by way of a regulation, the detailed scope, manner and time for transmission of the information referred to in paragraph 1 and 2 and a method of verification of the correctness of the information provided, having regard to the necessity of the proper execution of the tasks of the Fund.

7. Following the consultation with the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the detailed scope, manner and time for transmission of the information referred to in paragraph 3, having regard to the necessity of the proper execution of the tasks of the Fund.

Article 331. By 31 March, the Fund shall provide the European Banking Authority with the information on the total guaranteed funds in the entities covered by the mandatory deposit guarantee scheme and on the funds available to the Fund as of the end of the preceding year.

DIVISION VII

Provisions of the criminal law and provisions on pecuniary penalties

Article 332. 1. Whoever, being a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, gives rise to the loss for the Fund as a result of the fact that the entity has failed to separate and invest funds corresponding to payment commitments in the manner referred to in Article 304 paragraph 1,

shall be liable to a fine, restriction of freedom or imprisonment from 3 months to 5 years.

2. Whoever, being a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, gives rise to the loss for the Fund as a result of encumbering the funds referred to in paragraph 1, shall be liable to the same penalty.

Article 333 Whoever, being a member of a management board or a supervisory board of an entity covered by the mandatory deposit guarantee scheme, a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, gives rise to the loss for the Fund as a result of failure to pay the mandatory contributions by this entity, referred to in Article 286 paragraph 2 or 3 or Article 295 paragraph 2 or 4, or the extraordinary contributions referred to in Article 291 paragraph 1, Article 292 paragraph 1, Article 299 paragraph 1 or Article 300 paragraph 1, or to pay these contributions in an adequate amount despite the fact that this entity has possessed funds sufficient to pay these contributions,

shall be liable to a fine, restriction of freedom or imprisonment from 3 months to 5 years.

Article 334. 1. Whoever, being a member of a management board or a supervisory board of a bank covered by the mandatory deposit guarantee scheme, an administrative organ of a European company or a member of the management board or supervisory board of a credit union covered by the guarantee scheme or a member of a management board or a supervisory board of an affiliating bank or a member of the management board or supervisory board of the National Association of Credit Unions committed to disclose to the Fund information relating to an entity covered by the mandatory deposit guarantee scheme or its depositors to the extent specified in the Act, provides false information or conceals the true data

shall be liable to a fine, restriction of freedom or imprisonment for up to 2 years.

2. Whoever fails to provide the information referred to in Article 85, Article 86 paragraph 1 and Article 88 paragraph 1 shall be liable to the same penalty.

3. Whoever, being committed under Article 118 paragraph 1, fails to surrender all assets or documents of an entity under restructuring to the Fund shall be liable to the same penalty.

4. Whoever, being responsible for ensuring the adequate operation of the internal control of data and information required to the extent specified in the Act or for provision of information and explanations at the request of the Fund, fails to perform this obligation or performs it untimely shall be liable to the same penalty.

5. Whoever, while exercising supervision in accordance with Article 9a paragraph 2 of the Banking Act, Article 212 paragraph 1, Article 213 paragraph 1 or Article 382 paragraph 1 of the Code of Commercial Companies or Article 44 of the Act of 16 September 1982 – the Cooperative Law fails to enforce completion by a management board of a bank, investment firm or a credit union of the duty to notify the Polish Financial Supervision Authority of fulfilment of the conditions to

initiate resolution in accordance with Article 157f paragraph 3 of the Banking Act or Article 110zzh paragraph 3 of the Act on Trading in Financial Instruments, or effects it in an unreliable or untimely manner shall be liable to the same penalty.

Article 335. 1. The Polish Financial Supervision Authority may, by way of a decision, impose a fine up to the amount of EUR 5 000 000 on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank who fails to perform the obligation to notify the Polish Financial Supervision Authority of fulfilment of the conditions to initiate resolution in accordance with Article 157f paragraph 3 of the Banking Act or Article 110zzh paragraph 3 of the Act on Trading in Financial Instruments, or effects it in an unreliable or untimely manner.

2. The Polish Financial Supervision Authority may, by way of a decision, impose a fine up to the amount of EUR 5 000 000 on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, who fails to perform the obligations referred to in Article 110zj paragraph 1 and 7, Article 110zk paragraph 1, Article 110zl paragraph 1, Article 110zm paragraph 1 and Article 110zx paragraph 1 of the Act on Trading in Financial Instruments or Article 141m paragraph 1, 4 and 5, Article 141n paragraph 1 and Article 141v paragraph 7 point 1 of the Banking Act.

3. While issuing the decision referred to in paragraph 1 and 2, the Polish Financial Supervision Authority shall consider:

- 1) gravity of the infringement and its duration;
- 2) reasons for the infringement;
- 3) financial situation of a fined person;
- 4) willingness of the person responsible for the infringement to cooperate with the Polish Financial Supervision Authority and
- 5) prior violations of the law regulating the operation of the financial market committed by the person responsible for the infringement.

Article 336. 1. The Fund may, by way of a decision, impose a fine up to the amount of EUR 5 000 000 on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank who fails to perform the obligation to prepare or present to the Fund a financial statement or other reports and information related to preparation and conduct of resolution, or effects it in an unreliable or untimely manner.

2. While issuing a decision referred to in paragraph 1, the Fund shall consider:

- 1) gravity of the infringement and its duration;
- 2) reasons for the infringement;
- 3) financial situation of a fined person;
- 4) willingness of the person responsible for the infringement to cooperate with the Fund and
- 5) prior violations of the law regulating the operation of the financial market committed by the person responsible for the infringement.

Article 337. In the decision to impose the penalty referred to in Article 335 and Article 336 the obligation may be imposed on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, to discontinue certain action or refrain from such an action in the future.

Article 338. 1. In the cases referred to in Article 335, the Polish Financial Supervision Authority may, by way of a decision, impose a pecuniary penalty on an entity managed by these persons, of up to 10% of the revenue reported in the latest audited financial statement, and in the absence of such a statement - a fine of up to 10% of the projected revenue determined on the basis of the economic and financial situation of the entity, however not higher than PLN 100 000 000.

2. While issuing a decision referred to in paragraph 1, the Polish Financial Supervision Authority shall consider:

- 1) gravity of the infringement and its duration;
- 2) reasons for the infringement;
- 3) financial situation of a fined entity;
- 4) prior violations of the law regulating the operation of the financial market.

Article 339. In the case of imposition of the pecuniary penalty referred to in Article 335, Article 336 and Article 338, the Polish Financial Supervision Authority or the Fund may publish the information on such a penalty on its website.

Article 340. In the cases referred to in Article 335 and Article 336 amounts in EUR shall be converted into PLN as per the average exchange rate announced by the National Bank of Poland on the last working day preceding issuance of the decision to impose a pecuniary penalty.

DIVISION VIII

Amendments to existing regulations

Article 341. In the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2016 item 23 and 868) in Article 97:

- 1) in paragraph 1 point 4 a full stop shall be replaced by a semicolon and the following point 5 shall be added:
 - 5) at the request of the Bank Guarantee Fund, where an entity under restructuring referred to in Article 2 point 44 of the Act of 10 June 2016 on the Bank Guarantee Fund, the deposit guarantee scheme and resolution (Journal of Laws item 996) is a party to the proceedings.";
- 2) paragraph 2 shall read as follows:

"2. When the reasons for suspension of the proceedings referred to in paragraph 1 point 1-4 no longer apply, an authority of the public administration shall initiate the proceedings *ex officio* or at the request of a party.";
- 3) the following paragraph 3 shall be added:

"3. An authority of the public administration shall initiate the proceedings referred to in paragraph 1 point 5 at the request of the Bank Guarantee Fund."

Article 342. The Act of 17 November 1964 - Code of Civil Procedure (Journal of Laws of 2014 item 101 as amended.¹⁶) shall be amended as follows:

- 1) in Article 176 the existing provisions are marked as paragraph 1 and the following paragraph 2 shall be added as follows:

"2. The court shall suspend at the request of the Bank Guarantee Fund proceedings in which an entity under restructuring referred to in Article 2 point 44 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996) is a party.";
- 2) in Article 181 the existing provisions are marked as paragraph 1 and the following paragraph 2 shall be added as follows:

"2. The court will initiate the proceedings referred to in Article 176 paragraph 2 at the request of the Bank Guarantee Fund.";
- 3) the following Article 477^{7a} shall be added after Article 477⁷:

"Article 477^{7a} The provision of Article 176 paragraph 2 shall not apply to proceedings within the labour law, in the cases in which an entity under restructuring referred to in Article 2 point 44 of the Act of 10 June 2016 of the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution is the defendant.";

Article 343. In the Act of 6 July 1982 on the Land and Mortgage Registers and on Mortgage (Journal of Laws of 2016 item 790) in Article 36¹ the following paragraph 5 shall be added:

"5. Copies of the documents in the files of the land registers shall be provided also at the request of the Bank Guarantee Fund within the scope of statutory tasks.".

Article 344. In the Act of 16 September 1982 - Cooperative Law (Journal of Laws of 2016 item 21) in Article 125 paragraph 1 point 2 shall be replaced by as follows:

- "2) receivables from the employment relationship and receivables to which legislation confers the same protection as to the receivables from the employment relationship, and compensation for a personal injury, incapacitating or deprivation of life, including compensation for accidents at work and occupational diseases, receivables of the Bank Guarantee Fund in respect of financing resolution from the guarantee fund of banks referred to in Article 272 paragraph 3 and 4 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996) and the support referred to in Article 112 paragraph 1 and 3 of this Act;".

¹⁶ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2014 item 293, 379, 435, 567, 616, 945, 1091, 1161, 1296, 1585, 1626, 1741 and 1924, of 2015 item. 2, 4, 218, 539, 978, 1062, 1137, 1199, 1311, 1418, 1419, 1505, 1527, 1567, 1587, 1595, 1634, 1635, 1830 and 1854 and of 2016 item 195, 437 and 868.

Article 345. The Act of 15 February 1992 on Corporate Income Tax (Journal of Laws of 2014 item 851, as amended.¹⁷) shall be amended as follows:

- 1) in Article 6 in paragraph 1, in point 16, the full stop shall be replaced by a semicolon and the following point 17 and 18 shall be added:
"17) Bank Guarantee Fund;
18) asset management vehicle within the meaning of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996).";
- 2) in Article 11 in paragraph 8 in point 3, the full stop shall be replaced by a semicolon and the following point 4 shall be added:
"4) in the case of transactions between the Bank Guarantee Fund and a bridge institution or transactions between the asset management vehicle and a bridge institution within the meaning of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution.";
- 3) in Article 12:
 - a) in paragraph 4:
 - in point 8:
 - – sub-point c shall read:
"c) implementation of a restructuring programme under separate laws or",
 - – the following sub-point d shall be added:
"d) resolution within the meaning of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution;"
 - in point 22, the full stop shall be replaced by a semicolon and the following points 23 and 24 shall be added:
"23) of the received funds referred to in Article 112 paragraph 3 point 2 and Article 179 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, provided by the Bank Guarantee Fund to a taxpayer assuming liabilities of an entity under restructuring;
24) of the received funds referred to in Article 112 paragraph 3 point 2 and Article 188 paragraph 5 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution provided by the Bank Guarantee Fund to a bridge institution.";
 - b) after paragraph 9, the following paragraph 9a shall be added:
"9a. The provisions of paragraph 4 point 15 sub-point c shall apply accordingly to credit unions.";
- 4) in Article 15, after paragraph 1h, the following paragraph 1ha shall be added:
"1ha. Tax deductible costs in credit unions shall also include:
 - 1) loss on disposal to a securitisation fund or an association of investment funds constituting a securitisation fund of receivables from credit (loans), being the difference between the amount obtained from the sale and the value of the receivables from credit (loans) – up to the amount of the previously recognized impairment loss of this part of the receivable, included in tax deductible costs made on this part of receivables, in accordance with this Act;
 - 2) transferred to a securitisation fund or an association of investment funds constituting a securitisation fund:
 - a) benefits from securitised receivables,
 - b) principal amounts of securitised receivables,
 - c) amounts received in respect of realisation of collateral of securitised receivables covered by a sub-participation agreement;
 - 3) returned to a securitisation fund or an association of investment funds constituting a securitisation fund amounts obtained from the disposal to these entities of the rights to the cash flow from securitised receivables from credit (loans) covered by the sub-participation agreement in the cases when the back transfer of rights to these receivables takes place, if a credit union has showed revenue under Article 12 paragraph 4f and has not included the principal amount of the credit (loan) into tax deductible costs under point 2 sub-point b or c it.";
- 5) in Article 16 in paragraph 1:

¹⁷ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2014 item 915, 1138, 1146, 1215, 1328, 1457, 1563 and 1662, of 2015 item 73, 211, 933, 978, 1166, 1197, 1259, 1296, 1348, 1595, 1688, 1767, 1844 and 1932 and of 2016 item 68, 615 and 780.

- a) in point 10 sub-point e shall read:

"e) due to the transfer by a bank or a credit union to a securitisation fund or an association of investment funds constituting a securitisation fund, of funds derived from repayment of credit (loans) covered by the securitisation of receivables."
 - b) point 68 shall be repealed,
 - c) in point 70, the full stop shall be replaced by a semicolon and the following point 71 shall be added:

"71) contributions to the guarantee fund of banks and contributions to the guarantee fund of credit unions, referred to in Article 286 paragraph 2 and 3 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, and contributions to the resolution fund of banks and contributions to the resolution fund of credit unions referred to in Article 295 paragraph 1 and 3 of this Act.";
- 6) in Article 17 paragraph 1 point 55, the full stop shall be replaced by a semicolon and the following point 56 shall be added:
- 56) received funds, provided by the Bank Guarantee Fund to an acquiring entity in the performance of the loss-coverage guarantee referred to in Article 112 paragraph 3 point 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, insofar as they cover losses of an acquiring entity which emerged after the acquisition, concerning the acquired property rights not considered tax deductible costs.".

Article 346. The Act of 20 August 1997 on the National Court Register (Journal of Laws of 2016 item 687) shall be amended as follows:

- 1) in Article 44 in paragraph 1:
 - a) after point 1, the following point 1a shall be added:

"1a) information on the initiation and completion of resolution;"
 - b) after point 2, the following points 2a and 2b shall be added:

"2a) data concerning the person of the administrator referred to in Article 153 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996);

2b) data concerning attorneys referred to in Article 114 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution;"
- 2) in Article 45:
 - a) the following paragraph 1c shall be added after paragraph 1b:

"1c. Following the notification of the court of registration by the Bank Guarantee Fund of the initiation of resolution deletion of the entries in section 2 of the register of entrepreneurs referred to in Article 39 points 1 and 3, and the entries in section 6 of the register of entrepreneurs concerning establishment of conservatorship referred to in Article 44 paragraph 1 point 1, and the data pertaining to the person of a liquidator along with the mode of representation and the conservator referred to in Article 44 paragraph 1, point 2 shall be made *ex officio*."
 - b) the following paragraph 4a shall be added after paragraph 4:

"4a. Following the notification of the court of registration by the Bank Guarantee Fund of the initiation of resolution, an entry in section 5 of the register of entrepreneurs concerning removal of the trustee referred to in Article 43, and entries in section 6 of the register of entrepreneurs referred to in Article 44 paragraph 1 points 1a, 2a and 2b shall be made *ex officio*."

Article 347. The Banking Act of 29 August 1997 (Journal of Laws of 2015 item 128, as amended.¹⁸) shall be amended as follows:

- 1) after Article 11, the following Article 11a and Article 11b shall be added:

"Article 11a. The provisions of Article 31 of the Code of Administrative Procedure shall not apply to the proceedings before the Polish Financial Supervision Authority conducted pursuant to the provisions of chapter 12 of the part AA.

¹⁸ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2015, item 559, 978, 1166, 1223, 1260, 1311, 1348, 1357, 1513, 1634, 1830, 1844, 1854, 1864 and 2281 and of 2016, item 615 and 904.

Article 11b. 1. The service of official letters in proceedings under chapter 12 of the part AA may be effected by means of electronic communication within the meaning of Article 2 point 5 of the Act of 18 July 2002 on Electronic Services (Journal of Laws of 2013 item 1422 of 2015 item 1844 and of 2016 item 147 and 615) to the electronic mail address reported previously to the Polish Financial Supervision Authority by a bank. The provision of Article 391 of the Code of Administrative Procedure shall not apply to these proceedings.

2. Upon the commencement of business, a bank within 14 days shall provide the Polish Financial Supervision Authority with an electronic mail address for the service in the proceedings referred to in the first sentence of paragraph 1, and also provides the ability to identify itself at the electronic delivery mailbox in the IT system of the Polish Financial Supervision Authority and to sign official acknowledgements of receipt in the manner stipulated in Article 20a of the Act of 17 February 2005 on Computerization of Entities Performing Public Tasks (Journal of Laws of 2014 item 1114 and of 2016 item 352).
 3. A bank shall notify the Polish Financial Supervision Authority of a change of the electronic mail address referred to in paragraph 1. In the case of a lack of the notification of the Polish Financial Supervision Authority of a change of the electronic mail address, a service to a previously specified electronic mail address produces a legal effect. The first sentence of the provision of Article 41 of the Code of Administrative Procedure shall not apply to proceedings referred to in paragraph 1.
 4. In the case of appointing an attorney, the document of the power of attorney shall specify the electronic mail address for the service. In the absence of specification of the electronic mail address for service in the document of the power of attorney, a service of an official letter to the electronic mail address of the bank which appointed an attorney produces a legal effect. In the case of a change of the electronic mail address specified in the document of the power of attorney, the provision of paragraph 2 shall apply accordingly.
 5. In the case of a failure to collect an official letter in a form of an electronic document in the manner referred to in Article 46 paragraph 4 point 3 of the Code of Administrative Procedure, the service shall be presumed effective after 2 working days from the date of dispatch of the notification referred to in Article 46 paragraph 4 of the Code of Administrative Procedure.”;
- 2) paragraph 3 in Article 14 shall read:
- ”3. A state-owned bank shall not be subject to an entry in the National Court Register.”;
- 3) after Article 14, the following Article 14a shall be added:
- ”Article 14a. A state-owned bank is not a state-owned enterprise, state organisational unit nor an entity of the public finance sector as defined by separate provisions.”;
- 4) paragraph 2 point 5 in Article 40 shall read:
- ”5) in the case of entities covered by the mandatory deposit guarantee scheme of the Bank Guarantee Fund, the conditions of access to the system of calculation referred to in Article 2 point 64 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996), by the Polish Financial Supervision Authority and the Bank Guarantee Fund, particularly in case of fulfilment of the guarantee condition.”;
- 5) introduction to the enumeration in Article 40a paragraph 1a shall read as follows:
- ”A branch of a foreign bank, which is not an entity covered by the mandatory deposit guarantee scheme within the meaning of Article 2 point 41 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution shall provide - in the manner in which the information on the rendered services is provided - the persons using and interested in using its services with the following information:”;
- 6) in Article 48o:
- a) after paragraph 1, the following paragraph 1a and 1b shall be added:
- ”1a. In the case that a credit institution which pursues business in territory of the Republic of Poland operates under various trademarks, it shall inform persons using and interested in using its services of their entitlement to one limit of the guarantee for funds held in this institution.
- 1b. In the case referred to in paragraph 1 point 2 and paragraph 1a, a credit institution operating in the territory of the Republic of Poland prior to the conclusion of an account agreement shall provide persons interested in using its services, and then at least once a year, with information in the form of the information sheet referred to in Article 318 paragraph 3 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution. In the case of provision of information prior to the conclusion of an account agreement, these persons shall confirm receipt thereof.”;
- b) paragraph 3 shall be repealed,

- c) the following paragraph 4a shall be added after paragraph 4:

"4a. Bank account statement shall include information whether the funds held in it are protected by the mandatory deposit guarantee scheme."
- d) introduction to the enumeration in paragraph 5 shall read as follows:

"Any information made available to persons using and interested in using services of a credit institution, pursuant to the provisions of paragraph 1-2, should be provided in a manner:";
- 7) after Article 48o, the following Article 48p shall be added:

"Article 48p. In the case where a credit institution operating in the territory of the Republic of Poland intends to implement legal or organisational changes which will result in the change of the deposit guarantee scheme under the protection of which the guaranteed funds or portion thereof are held in it to the mandatory deposit guarantee scheme referred to in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, it shall notify the Bank Guarantee Fund at least six months prior to the planned change.";
- 8) in Article 59, the following paragraph 3a shall be added after paragraph 3:

"3a. A trust account shall be kept in such a way that at any time third parties which paid funds into this account may be identified and their share in the amount held in the trust account may be calculated.";
- 9) in Article 104 in paragraph 2:
 - a) in point 2, after sub-point b, a comma shall be added and sub-point c reading as follows:

"c) entrusted with execution of operations in accordance with Article 149 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution,"
 - b) in point 10 the full stop shall be replaced by a semicolon and the following point 11 shall be added:

"11) provision of information covered by bank secrecy is necessary to conduct resolution, in line with the provisions of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution.";
- 10) in Article 105 in paragraph 1 in point 2:
 - a) sub-point h shall read:

"h) of the Bank Guarantee Fund to the extent specified by the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution and authorised employees of the Bank Guarantee Fund in the scope specified in the authorisation."
 - b) sub-point u shall read:

"u) of an entity referred to in Article 42 paragraph 4 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution to the extent necessary to ensure proper execution of payments of the guaranteed funds";
- 11) in Article 106d point 2 shall read:

"2) crimes or reasonable suspicion of committing crimes to the detriment of banks, other institutions statutorily authorised to grant credit, credit institutions, financial institutions, lending institutions and the entities referred to in Article 59d of the Act of 12 May 2011 on Consumer Credit, and their customers, with the aim of prevention of these crimes and to the extent necessary to prevent them.";
- 12) in Article 111a:
 - a) in paragraph 1:
 - point 1 shall read:

"1) information on its business by individual Member States and third countries where it operates subsidiaries, on the consolidated basis within the meaning of Article 4 paragraph 1 point 48 of Regulation No 575/2013 for a financial year;"

– in point 2, the full stop shall be replaced by a semicolon and the following point 3 shall be added:

"3) information on the conclusion of the agreement referred to in Article 141t paragraph 1, its parties, subject and costs provided that it operates in one of the holding companies referred to in Article 141f paragraph 1, or on the absence of such an agreement.”,

b) point 2 in paragraph 2 shall read:

"2) turnover in a given year showed in the financial statement;”,

c) paragraph 3 shall read:

"3. The information referred to in paragraph 2 shall be audited by a statutory auditor.”;

13) the following Article 124d shall be added after Article 124c:

"Article 124d. 1. In an event of a merger of banks, bank takeover or acquisition of bank undertaking, a bank shall inform an entity referred to in Article 20 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, of the merger, takeover or acquisition at least one month prior to the planned merger, takeover or acquisition. The Polish Financial Supervision Authority may designate a shorter notification period in order to protect trade secrets or financial stability.

2. Where the funds referred to in Article 17 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, held at the bank established as a result of the event referred to in paragraph 1 exceed the value stipulated in Article 24 paragraph 1 thereof, they may be paid within 3 months from the date of notification referred to in paragraph 1, in the amount exceeding the value of guaranteed funds without loss of accrued interest or payment of fees on this account.”;

14) after Article 130, the following Article 130a shall be added:

"Article 130a. 1. A resolution on the conditional increase in the share capital of the bank may be taken with the aim of conversion of the bank's liabilities from financial instruments which provide for the conversion of liabilities into shares in the event related to the financial situation, solvency, capital position or the level of own funds (mandatorily convertible instruments) into the share capital.

2. Conversion of liabilities from mandatorily convertible instruments into shares of a bank shall take place upon the occurrence of the events referred to in the terms of the issuance as a basis for the conversion.

3. Forthwith upon identification of the occurrence of the events specified in the terms of the issuance as a basis for the conversion, the bank's management board shall report assumption of shares as a result of the conversion of liabilities derived from mandatorily convertible instruments to the court of registration.”;

15) in Article 138:

a) point 1 in paragraph 3 shall read:

"1) apply to the competent authority of the bank for removal of the president, deputy president or another member of the management board of the bank directly liable for the irregularities identified; the provision of Article 22d shall apply accordingly;”

b) the following paragraph 8 shall be added:

"8. While taking decisions referred to in paragraph 3 and 3a, the Polish Financial Supervision Authority shall consider the following:

- 1) gravity and duration of the infringement;
- 2) degree of contribution and responsibility of entities or persons;
- 3) proportion of the amount of the financial penalty to the scale of business of entities measured in terms of revenue, profit or assets;
- 4) benefits achieved by an entity or person as a result of the infringement;
- 5) damage to third parties as a result of the infringement;
- 6) previous infringements, their scope and frequency;
- 7) effects of the infringement on financial stability and the financial market;
- 8) co-operation of an entity or person with the Polish Financial Supervision Authority.”;

16) The title of Chapter 12 shall read: "Recovery plans and early intervention, liquidation and bankruptcy of a bank";

17) In Chapter 12:

a) the existing part A shall be marked as AA whose title is replaced by the following: "AA. Early intervention”

- b) prior to the part AA, the following part A shall be added:

"A. Recovery plans

Article 141m. 1. A domestic bank which does not operate in one of the holding companies referred to in Article 141f paragraph 1 and the entities referred to in Article 77 paragraph 7 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution shall develop recovery plans indicating actions in the event of significant deterioration of the financial situation of the bank in the case of a threat to financial stability, difficult macroeconomic conditions or other events having a negative impact on the financial market or bank.

2. The Polish Financial Supervision Authority may, by way of a decision, order to develop a recovery plan of a bank which operates in one of the holding companies referred to in Article 141f paragraph 1, or a major branch of a credit institution.

3. The recovery plan shall include:

- 1) operations aimed at maintaining or restoring the bank's solvency or ability to achieve profit by the bank;
- 2) levels of quantitative or qualitative indicators determining the financial situation of the bank, which can be effectively monitored, and if they have been attained, the actions stipulated in the recovery plan may be taken;
- 3) measures aimed at reducing risk and the financial leverage referred to in Article 4 paragraph 1 point 93 of Regulation No 575/2013, without taking into account the possibility of obtaining extraordinary public financial support;
- 4) the principles of information policy of the bank during the period of the recovery plan.

4. A bank shall update the recovery plan at least once a year and following a substantial change of the organisational or legal structure, financial situation or after occurrence of another event affecting the assumptions adopted in the recovery plan and its execution. The Polish Financial Supervision Authority, by way of a decision, shall approve an update of the recovery plan. The provisions of Article 141p paragraph 1-4 shall apply accordingly to the application for approval of an update of the recovery plan.

5. A bank shall draw up recovery plans within the period specified in the decision referred to in Article 36 paragraph 1, but no later than within one year from the date of receipt of a permit to commence business.

Article 141n. 1. A bank being a primary parent entity in a domestic bank holding company, a bank operating in a mixed holding company, the primary parent company of which is established in the territory of the Republic of Poland, or a bank operating in a holding group whose parent company is established outside a Member State shall develop a group recovery plan at the level of the holding group. The Polish Financial Supervision Authority may, by way of a decision, order a bank to develop a recovery plan or a group recovery plan, taking into consideration entities established in the territory of the Republic of Poland, operating in the same holding group as the bank.

2. The bank referred to in paragraph 1 shall apply to the Polish Financial Supervision Authority for approval of a group recovery plan. The application shall be appended by a bank with opinions on obstacles for taking recovery measures at the level of the holding company and individual entities covered by the recovery plan, as well as major obstacles for effecting an immediate transfer of funds between the entities supervised in the holding group, in order to recapitalise these entities or settle their liabilities.

3. The Polish Financial Supervision Authority, by way of a decision, shall approve the plan referred to in paragraph 1, while taking into account the recovery plans of entities operating in the same holding group as the bank, as long as the existing regulations require them to develop such recovery plans, as well as an assessment of the relevant supervisory authorities and the agreement referred to in Article 141t.

4. A group recovery plan shall include the elements referred to in Article 141m paragraph 3 concerning a holding company.

5. The provisions of Article 141m paragraph 4 and 5 shall apply accordingly to a group recovery plan.

6. The Polish Financial Supervision Authority shall forward a group recovery plan to:

- 1) competent supervisory authorities of entities operating in a holding group;
- 2) competent supervisory authorities of major branches of the bank in the scope pertaining to these branches;
- 3) Bank Guarantee Fund;
- 4) resolution authorities competent for the entities operating in a holding group;
- 5) Minister competent for financial institutions.

Article 141o. 1. The Polish Financial Supervision Authority may grant authorisation to develop a group recovery plan of banks belonging to the protection scheme referred to in Article 22b paragraph 1 of the Act on the Operation of Cooperative Banks, their Affiliation and Affiliating Banks, or within the integrated association referred to in Article 22o paragraph 1 thereof, by the management unit referred to in Article 22d paragraph 1 point 2 thereof, or the affiliating bank referred to in Article 22d paragraph 1 point 1 or Article 22o paragraph 1 thereof, in the case of banks which satisfy the requirements stipulated in Article 113 paragraph 7 of Regulation No 575/2013 or permanently affiliated to a central body as referred to in Article 10 paragraph 1 thereof, at their request. A central body which develops the plan shall submit an application on behalf of the banks permanently affiliated to it.

2. Subject to the provisions relating to the protection of information, the banks referred to in paragraph 1, at the request of an entity preparing and updating a group recovery plan, shall forward the information necessary for preparation and updating of the plan. The Polish Financial Supervision Authority may, by way of a decision, order a bank which refused provision of the information to develop or update its own recovery plan.

3. The Polish Financial Supervision Authority shall notify the European Banking Authority of granting consent to develop a group recovery plan referred to in paragraph 1.

Article 141p. 1. The Polish Financial Supervision Authority may, by way of a decision, limit the material or personal scope of the recovery plan referred to in Article 141m paragraph 1 and 2, Article 141n paragraph 1 and Article 141o paragraph 1.

2. While taking the decision referred to in paragraph 1, the Polish Financial Supervision Authority shall take into account:

- 1) impact of a bank's bankruptcy on the entities referred to in Article 1 paragraph 2 of the Act of 21 July 2006 on the Financial Market Supervision and on the national economy;
- 2) nature of a bank's business and the scope and degree of its complexity, ownership structure, legal form, risk profile, size or connections with entities other than those referred to in Article 1 paragraph 2 of the Act of 21 July 2006 on the Financial Market Supervision;
- 3) membership in the protection scheme or schemes referred to in Article 113 paragraph 7 of Regulation No 575/2013, or a permanent connection with the central body referred to in Article 10 paragraph 1 of the Regulation;
- 4) provision of investment services or investment business within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments.

3. With a view to determining the circumstances referred to in paragraph 2, point 1 and Article 141t paragraph 2 point 5, the Polish Financial Supervision Authority may consult the Financial Stability Committee and the Bank Guarantee Fund.

4. In the event of a change of circumstances referred to in paragraph 2, the Polish Financial Supervision Authority may amend or repeal the decision referred to in paragraph 1.

5. The Minister competent for financial institutions shall define, by way of a regulation, the detailed scope of a recovery plan and a group recovery plan referred to in Article 141m paragraph 1 and 2, Article 141n paragraph 1 and Article 141o paragraph 1, having regard to the nature of the bank's business and the scope and degree of its complexity, ownership structure, legal form, risk profile, size or connections with entities other than those referred to in Article 1 paragraph 2 of the Act of 21 July 2006 on the Financial Market Supervision.

Article 141q. 1. The Polish Financial Supervision Authority shall approve, by way of a decision, a recovery plan and a group recovery plan referred to in Article 141m paragraph 1 and 4 and Article 141n paragraph 1, within 6 months from the date of submission of the application by the bank for its approval, taking into consideration the adjustment of the capital structure and financing structure of the bank's to the organisational structure and risk profile of the bank, as well as the results of the latest supervisory review and evaluation referred to in Article 133a, and:

- 1) requirements referred to in Article 141m paragraph 1 and 3;
- 2) effectiveness of a recovery plan in terms of improving the financial situation of the bank, including its solvency and the ability to generate profit;
- 3) in the case of a threat to the financial situation of the bank the opportunity to take forthwith the measures provided for in the recovery plan, in a manner reducing negative consequences for the financial system.

2. A bank shall append the application with a resolution by a supervisory body of the bank on the approval of a recovery plan.

3. Where a recovery plan covers major branches of a domestic bank, the Polish Financial Supervision Authority shall approve the plan following the consultation with the competent supervisory authorities of host countries of these branches on their financial situation.

4. Prior to the issuance of the decision referred to in paragraph 1, the Polish Financial Supervision

Authority shall request the Bank Guarantee Fund for an opinion on the expected impact of the implementation of the recovery plan on the resolution, referred to in Division III in Chapter 5 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution within 14 days. This term shall not be included in the term referred to in paragraph 1.

5. If it is determined that a recovery plan prevents effective execution of the procedure of resolution, the Bank Guarantee Fund shall forthwith notify this to the Polish Financial Supervision Authority.

6. If a recovery plan fails to satisfy the premises of the decision referred to in paragraph 1, the Polish Financial Supervision Authority shall call a bank to supplement or amend its recovery plan within two months from the date of service of the call. This term shall not be included in the term referred to in paragraph 1. The Polish Financial Supervision Authority may extend that period by one month at the bank's request.

7. In the event that a bank fails to amend or supplement a recovery plan, or notwithstanding the amendments or the supplementation, a recovery plan fails to satisfy the premises of the decision referred to in paragraph 1, the Polish Financial Supervision Authority shall refuse, by way of a decision, approval of the recovery plan and shall call the bank to submit a new recovery plan.

8. If a bank fails to undertake measures referred to in paragraph 7, or the Polish Financial Supervision Authority deems them insufficient, the Polish Financial Supervision Authority may recommend the bank to take measures referred to in Article 138 paragraph 1.

9. The Polish Financial Supervision Authority shall forward an approved recovery plan to the Bank Guarantee Fund.

10. In the event of refusal to approve a group recovery plan, the Polish Financial Supervision Authority may, by way of a decision, revoke the consent referred to in Article 141o paragraph 1.

Article 141r. 1. While taking the decision referred to in Article 141q paragraph 1 within exercise of consolidated supervision, the Polish Financial Supervision Authority shall cooperate with the competent supervisory authorities supervising the entities operating in the same holding group as the bank, aiming to achieve a common position concerning both the decision and the assessment of its premises. The provisions of Article 138b paragraph 1-4, paragraph 5, the first sentence and paragraph 5a-7 shall apply accordingly.

2. The Polish Financial Supervision Authority shall cooperate with the competent supervisory authorities exercising consolidated supervision of entities operating in the same holding group as the bank, aiming to achieve a common position concerning both to the decision and the assessment of its premises as regards the approval by these authorities of a group recovery plan.

3. The Polish Financial Supervision Authority may refer the request to the European Banking Authority for assistance in reaching agreement with the competent supervisory authority in accordance with Article 31 of Regulation No 1093/2010 and for taking binding mediation in the absence of agreement with the competent supervisory authorities as regards the decisions referred to in paragraph 2 and Article 141n paragraph 1 and 3.

Article 141s. 1. A bank may take measures stipulated in a recovery plan, notwithstanding a failure to achieve the levels of the indicators referred to in Article 141m paragraph 3 point 2. In this case the bank's management board shall adopt a resolution on taking such measures and shall forthwith forward it, along with a statement of reasons, to the Polish Financial Supervision Authority.

2. The Polish Financial Supervision Authority may grant a waiver from taking a measure specified in a recovery plan, notwithstanding the attainment by the bank of the levels of the indicators referred to in Article 141m paragraph 3 point 2, unless it negatively affects prudent and sound management of the bank. The waiver shall be granted at the bank's request. The bank shall append the application with a resolution of the bank management board on withdrawal from taking such a measure along with a statement of reasons.

Article 141t. 1. A bank operating in one of the holding groups referred to in Article 141f paragraph 1 may, with the consent of the Polish Financial Supervision Authority, enter into an agreement on financial support with other entities subject to consolidated supervision operating in the same holding group and closely affiliated entities. The support shall be provided on a reciprocal basis specified in the agreement, in particular by granting a loan, guarantee or security for repayment of credit and loans or performance of obligations.

2. Financial support may be granted if:

- 1) bank receiving support satisfies the premises of the decision referred to in Article 142, Article 144 or Article 145;
- 2) it significantly improves the financial situation of a bank receiving support;
- 3) it allows to maintain or restore financial stability at the level of the holding group and is in the interest of an entity providing support;
- 4) bank receiving support is capable of its repayment with interest at contractual repayment dates;

- 5) it does not put liquidity or solvency of the entity providing the support at risk;
- 6) it poses no threat to the stability of the national financial system;
- 7) bank providing support complies with the requirements stipulated in Article 92, Article 412 and Article 460 of Regulation No 575/2013, as well as with recommendations and orders referred to in Article 138 paragraph 1 point 2 and 4-6 and granting financial support causes no infringement thereof;
- 8) granting the support does not compromise the performance of the recommendations referred to in Article 95 paragraph 4 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution towards the bank providing support.

3. The agreement referred to in paragraph 1 shall determine the rules for calculating fees and commissions for transactions in the framework of the support, including the rules for determining fees and commissions at the time of granting financial support, taking into consideration any direct or indirect benefits which the parties can attain as a result of providing financial support.

4. Subject to the provisions relating to the protection of information, a bank which applies for the support, at the request of an entity providing support, shall transfer information necessary for the conclusion and execution of the agreement and for the determination of fees and commissions.

5. Entrusting a third party with execution of the agreement referred to in paragraph 1 shall be invalid.

Article 141u. 1. The Polish Financial Supervision Authority may, by way of a decision, grant consent to enter into the agreement referred to in Article 141t paragraph 1, at the bank's request.

2. The bank shall append the application with a draft agreement and resolutions of general meetings of shareholders of banks competent as regards the consent to the conclusion of the agreement, adopted in each of the banks by a majority of 3/4 of votes. The resolutions may provide for the terms and conditions of the support.

3. The Polish Financial Supervision Authority may grant consent to the conclusion of the agreement, if satisfaction of the premises referred to in Article 141t is ensured and none of the parties to the agreement satisfies the premises for undertaking the measures referred to in Article 142 paragraph 1. Amendments to the agreement require prior consent of the Polish Financial Supervision Authority.

4. The Polish Financial Supervision Authority shall forthwith forward the request to the competent supervisory authorities for entities that are parties to the agreement.

5. While granting the consent referred to in paragraph 1 within exercise of consolidated supervision, the Polish Financial Supervision Authority shall cooperate with competent supervisory authorities exercising supervision of the entities operating in the same holding group as the bank, aiming to develop a common position concerning both the decision and the assessment of its premises. The provisions of Article 138b paragraph 1-4, paragraph 5, first sentence, and paragraph 5a-7 shall apply accordingly.

6. The Polish Financial Supervision Authority may within two days from receipt of information on the decision of the competent supervisory authority to refuse or limit granting financial support to the bank, address a request to the European Banking Authority for assistance in reaching agreement with the competent supervisory authority in accordance with Article 31 of Regulation No 1093/2010 and for taking binding mediation.

7. Following the conclusion of the agreement referred to in paragraph 1, the bank shall send a copy thereof to the Polish Financial Supervision Authority. The Polish Financial Supervision Authority shall forward it to the Bank Guarantee Fund.

8. The management board of a bank which entered into the agreement referred to in paragraph 1. shall provide the general meeting of shareholders with a report on execution of the agreement along with the activity report at least once a year.

Article 141v. 1. The Polish Financial Supervision Authority may, by way of a decision, grant consent to provision by the bank of support in execution of the agreement referred to in Article 141t paragraph 1, at the request of the bank providing the support.

2. The application shall be appended by the bank with a resolution of the management board of the bank on granting financial support along with a statement of reasons pointing to the purpose of the granted support, the way to satisfy the premises stipulated in Article 141t, the impact of the support on the bank granting it and consequences of failure to provide the support for the financial situation at the level of the holding group, as well as with a resolution of the management board of the bank receiving support concerning consent to receive financial support.

3. The Polish Financial Supervision Authority shall grant the consent referred to in paragraph 1 within 5 working days from the date of receipt of the application, the information and analyses referred to in paragraph 2, subject to paragraph 4.

4. In the event of identification of any deficiencies in the application or the accompanying documents, the Polish Financial Supervision Authority shall call the bank to remedy these deficiencies within the prescribed period.

5. The Polish Financial Supervision Authority may limit the scope of financial support. The consent may be given on condition of or subject to a time limit.

6. If the Polish Financial Supervision Authority refrains from granting consent within the period referred to in paragraph 3, financial support may be granted under the conditions specified in the application and accompanying documents.

7. The bank shall notify its intention to provide financial support to:

- 1) competent authority exercising consolidated supervision of a holding group in which a bank operates;
- 2) competent supervisory authority of a bank receiving support;
- 3) European Banking Authority.

8. The bank shall append the notification referred to in paragraph 7 with copies of the resolutions referred to in paragraph 2 and the draft agreement referred to in Article 141u paragraph 2.

9. The Polish Financial Supervision Authority shall forward a copy of the consent referred to in paragraph 1 to:

- 1) competent supervisory authority exercising supervision of the bank receiving support;
- 2) European Banking Authority;
- 3) college and resolution college relevant for the bank providing the support;
- 4) Bank Guarantee Fund.

Article 141w. The entities belonging to one of the holding groups referred to in Article 4 paragraph 1 point 10-11c subject to consolidated supervision shall disclose to the public, in particular on their website, information on the conclusion of the agreement on financial support within the holding group in accordance with Article 141t, parties to the agreement, its object and the costs incurred, as well as update this information on an annual basis. The information on a failure to conclude the agreement shall also be subject to updating and public disclosure.

Article 141x. A bank shall disclose to the public, in accordance with Article 431-434 of Regulation No 575/2013 information whether it is a party to the agreement on financial support within a group. If a bank is a party to such an agreement, it discloses to public also a description of general conditions of the agreement and enumerates the affiliated entities which are parties to the agreement. This information shall be updated at least once a year.”;

18) Article 142 shall read:

"Article 142. 1. In the event of a breach by a bank or of a threat of a breach of:

- 1) Article 92 of Regulation No 575/2013, on considering the additional requirement of own funds in excess of the amount resulting from the requirements calculated in accordance with the detailed rules stipulated in Regulation No 575/2013, referred to in Article 138 paragraph 1 point 2a,
- 2) Article 4 paragraph 2 of the Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation No 575/2013 of the European Parliament and the Council (EU OJ L 11 of 17.01.2015, p. 1) with regard to the requirement of coverage of the net receipts for credit institutions, on considering the higher liquidity coverage requirement referred to in Article 128 paragraph 6a point 5, and the duty to comply with the additional liquidity requirements referred to in Article 138 paragraph 1 point 1a,
- 3) supervisory liquidity measures referred to in the regulations issued pursuant to Article 128 paragraph 6a point 5, the duty to comply with the additional liquidity requirements referred to in Article 138 paragraph 1 point 1a, as well as the provisions of Article 412, Article 429 and Article 460 of Regulation No 575/2013 or the provisions of Division IV of Chapter 1 of the Act of 29 July 2005 on Trading in Financial Instruments,
- 4) Article 3-7, Article 14-17 and Article 24-26 of Regulation No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (EU OJ L 173, of 12.06.2014, p. 84)

the bank's management board shall forthwith notify the Polish Financial Supervision Authority and the Bank Guarantee Fund and shall ensure implementation of a recovery plan.

2. The management board of the bank shall forthwith notify the violations referred to in paragraph 1 to the Polish Financial Supervision Authority and the Bank Guarantee Fund and shall ensure implementation of a recovery plan in the event of significant deterioration of the financial situation of the bank, including the occurrence of a balance sheet loss or a threat thereof, or a threat of insolvency or liquidity loss, deteriorating liquidity and solvency, increasing level of financial leverage, referred to in Article 4 paragraph 1 point 93 of Regulation No 575/2013, growing number of non-performing loans or concentration of exposures.

3. The Polish Financial Supervision Authority may by way of a decision:

- 1) address the management board of a bank with a request to implement a recovery plan, including taking the measures specified in the recovery plan or an update thereof if the premises for its implementation differ from

the premises adopted during development of the recovery plan, or with a request to take within a specified period the measures envisaged in the updated plan in order to satisfy the requirements referred to in paragraph 1 or to improve the financial situation;

- 2) prohibit or restrict granting credit and loans to shareholders (members) and members of the management board, supervisory board and employees of a bank;
- 3) order reduction or withholding of payment of certain variable components of remuneration of persons holding managerial positions in a bank;
- 4) address the management board of a bank with a demand to convene an extraordinary general meeting of shareholders in order to assess the situation of a bank, adopt a decision to cover a balance sheet loss or to adopt other resolutions, including resolutions on an increase in the own funds;
- 5) address the bank with a demand to remove one or more members of the management board of the bank or persons holding managerial positions if these persons fail to guarantee prudent and sound management of the bank;
- 6) order, on considering a recovery plan, preparation and implementation of a restructuring plan of liabilities towards some or all of creditors;
- 7) order changes in the business strategy of a bank;
- 8) order to amend the statutes of a bank or its organisational structure.

4. While assessing the financial situation of a bank, the Polish Financial Supervision Authority may take into account observance by the bank of the requirement for own funds referred to in paragraph 1 point 1, increased by 1.5 percentage points and an increasing level of financial leverage, referred to in Article 4 paragraph 1 point 93 of Regulation No 575/2013, a growing number of non-performing loans or concentration of exposures.

5. The decision referred to in paragraph 3 shall be immediately enforceable.

6. While issuing a decision referred to in paragraph 3, the Polish Financial Supervision Authority may specify the terms or conditions in the provisions thereof.

7. Over the period of implementation of the recovery plan, the profit achieved by the bank is allocated first to loss-coverage and then to an increase in the bank's own funds.

8. In the case of issuance of the decision referred to in paragraph 3, the Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund.”;

- 19) the following Article 142a shall be added after Article 142:

"Article 142a. 1. In the case referred to in Article 142 paragraph 3 point 4, the bank's management board should convene an extraordinary general meeting of shareholders within 14 days of receipt of the decision, and following the ineffective lapse of this term, an extraordinary general meeting of shareholders may be convened by the Polish Financial Supervision Authority. In this case, the Polish Financial Supervision Authority shall determine the agenda of the meeting of shareholders.

2. The costs of convening and holding the general meeting of shareholders shall be charged to the bank.

3. The intervals in the general meeting of shareholders may not last longer than 14 days in total.”;

- 20) Article 143 shall be repealed;

- 21) in Article 144:

- a) paragraph 1 shall read:

"1. In the case referred to in Article 138 paragraph 3, due to the circumstances referred to in Article 142 paragraph 1, with a view to improving the situation of the bank or to ensuring effectiveness of the implemented recovery plan, the Polish Financial Supervision Authority may, subject to Article 5 paragraph 6 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, issue a decision on appointment of a trustee in a bank.”,

- b) The following paragraph 1a shall be added after paragraph 1:

"1a. In the case referred to in paragraph 1, the Polish Financial Supervision Authority shall specify the detailed scope of tasks of the trustee in its decision.”,

- c) The following paragraphs 4a-4c shall be added after paragraph 4:

"4a. With the consent of the Polish Financial Supervision Authority the trustee may convene an extraordinary general meeting of shareholders.

4b. The costs of convening and holding a general meeting of shareholders shall be charged to the bank.

4c. The intervals between the general meeting of shareholders may not last longer than 14 days in total.”,

- d) paragraphs 6 and 7 shall read:

"6. A person holding competence and professional experience in the organisation and principles of the bank's operations, as well as offering a guarantee of protection of the interests of the bank may hold the office of the trustee in the bank in which the trustee is to be appointed. Also a legal person may be the trustee.

7. The trustee shall provide the Polish Financial Supervision Authority with quarterly reports on its activities, including the assessment of the financial situation of the bank or of implementation of the recovery plan by the bank's management board."

- e) The following paragraphs 8a and 8b shall be added after paragraph 8:

"8a. The Polish Financial Supervision Authority shall publicly disclose information on the appointment of the trustee through its publication in the *Public Information Bulletin* on its website.

8b. If the trustee has been appointed for reasons other than those referred to in Article 144 paragraph 1, the term of office thereof shall not be longer than one year. This period may be extended if the reasons for the appointment thereof have not ceased to exist. The Polish Financial Supervision Authority shall forward the decision to shareholders of a bank."

- f) paragraph 9 shall read:

"9. The Polish Financial Supervision Authority may remove the trustee in the event of resignation or inadequate execution of the function thereof."

22) in Article 145:

- a) paragraph 1 shall read:

"1. If as a result of occurrence of the circumstances indicated in Article 142 paragraph 2, implementation of the measures referred to in Article 138 paragraph 3 failed to contribute to improvement of the situation of the bank or in order to ensure effectiveness of the implemented recovery plan, or where implementation thereof proves ineffective, the Polish Financial Supervision Authority may issue a decision on establishment of conservatorship. The establishment of conservatorship shall not affect the organisation and operation of the bank as a legal person, except for the changes provided for by law."

- b) The following paragraph 1a shall be added after paragraph 1:

"1a. The Polish Financial Supervision Authority may make performance of certain activities by the conservatorship contingent on obtaining its consent."

- c) paragraph 2 shall read:

"2. The right to adopt resolutions and decisions on all the matters reserved by law and the statutes to the competence of the authorities and bodies of the bank shall devolve to the conservatorship, subject to paragraph 1a. Upon the establishment of the conservatorship, the supervisory board, subject to paragraph 4, shall be suspended, whereas members of the management board of the bank shall be removed by operation of law and previously established proxy and powers of attorney shall expire. For the duration of the conservatorship, the powers of other bodies of the bank shall be suspended."

- d) paragraph 3 shall be repealed

- e) paragraph 5 shall read:

"5. The conservatorship shall develop a recovery plan referred to in Article 141m, manages its execution, and shall notify the Polish Financial Supervision Authority and the supervisory board on the status of implementation of this plan at least every 3 months."

- f) the following paragraph 7 shall be added:

"7. The provisions of Article 144 paragraph 8a and 9 shall apply accordingly."

23) The following Article 146a shall be added after Article 146 :

"Article 146a. 1. Prior to the issuance of the decision referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1 with towards a bank being the parent company of a holding group, the Polish Financial Supervision Authority shall advise the European Banking Authority on the planned decision and request the competent supervisory authorities exercising supervision of the entities in the same holding group for an opinion as regards the planned decision. In the pending proceedings in the matters referred to in Article 141v paragraph 1 and 5, Article 142 paragraph 3, Article 142a paragraph 1, Article 144 paragraph 1, Article 145 paragraph 1, the Polish Financial Supervision Authority may waive the application of Article 10 paragraph 1 of the Code of Administrative Procedure, also in the cases where application of this provision could prevent or significantly hinder achievement of the objectives of the early intervention. The statement of reasons for the decision may be served within 14 days from the date of service of the decision. If the statement of reasons is served after the service of the decision, the deadline for application for a retrial shall run from the date of the service of the statement of reasons for the decision.

2. The Polish Financial Supervision Authority may issue the decision referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1 within 3 days of the service of the application referred to in paragraph 1 to competent supervisory authorities.

3. While issuing the decision referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1, the Polish Financial Supervision Authority shall take into account opinions of the competent supervisory authorities received within the period specified in paragraph 2.

4. The Polish Financial Supervision Authority shall forward the decision referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1 to the competent supervisory authorities and to the European Banking Authority.

5. Prior to the issuance of the decision, referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1, towards a bank which is a subsidiary in a holding group, the Polish Financial Supervision Authority shall notify the European Banking Authority of the planned decision and request the competent supervisory authority which exercises consolidated supervision of the parent entity in the holding group for an opinion regarding the planned decision. The provisions of paragraphs 2-4 shall apply accordingly.

6. Where the competent supervisory authority which exercises supervision of a subsidiary operating in one of the holding groups referred to in Article 141f paragraph 1 point 2-5, or the competent supervisory authority which exercises consolidated supervision of the parent company operating in one of the holding groups referred to in Article 141f paragraph 1 point 2-5 (the applicant), prior to the issuance of a decision on a measure similar to that specified in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1 requests the Polish Financial Supervision Authority for an opinion regarding the planned decision, the Polish Financial Supervision Authority shall forward an opinion on the potential impact of the planned decision on entities of the financial market in Poland, within 3 days from receipt of the request for such an opinion.

7. Where the Polish Financial Supervision Authority receives the request referred to in paragraph 6, the Polish Financial Supervision Authority shall examine appropriateness of implementation of the measures referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1 towards the entities which are under its supervision within the concerned holding group. If it is determined to be necessary to take such measures, the Polish Financial Supervision Authority shall forthwith, but not later than within 3 days from the date of receipt of the application, notify the applicant and enter into consultation with the applicant aimed at achieving agreement on coordination of early intervention measures.

8. The provision of paragraph 7 shall apply accordingly, if in response to the notifications referred to in paragraph 1 or 5, the applicant indicates the need to take measures of early intervention within the same holding group which was the subject of the notification.

9. If no agreement has been reached in the consultations referred to in paragraph 7 and 8, following 5 days from the date of submission of the application referred to in paragraph 1, 5 and 6, the Polish Financial Supervision Authority may issue the decisions referred to in Article 142 paragraph 3, Article 144 paragraph 1 or Article 145 paragraph 1, towards a supervised entity from the holding group which was the subject of the consultations.

10. In the cases referred to in paragraph 7 and 8, the Polish Financial Supervision Authority may submit a request to the European Banking Authority for taking the actions referred to in Article 31 sub-point c of Regulation No 1093/2010.

11. If the Polish Financial Supervision Authority considers the decision of the applicant referred to in paragraph 6 unfounded or no agreement on the coordination of the measures of early intervention can be reached, the Polish Financial Supervision Authority may prior to the deadline specified in the paragraph 9 refer the matter to the European Banking Authority in order to receive assistance in reaching the agreement. In this case, the Polish Financial Supervision Authority shall refrain from taking the decisions referred to in paragraph 9.

12. The guidelines of the European Banking Authority issued further to the referral under paragraph 11 shall be binding for the Polish Financial Supervision Authority.”;

24) the title of Part B shall read: "Liquidation of a bank";

25) paragraphs 1 and 2 in Article 147 shall read:

"1. If following 6 months from the date of the extraordinary general meeting of shareholders convened pursuant to Article 142a paragraph 1 a loss exceeds half of the own funds, the Polish Financial Supervision Authority may decide to:

- 1) repeal the permit to establish a bank and to liquidate it;
- 2) request the Council of Ministers for liquidation of a bank - in the case of a state-owned bank.

2. The Polish Financial Supervision Authority may also issue a decision to liquidate a bank on a date other than that specified in paragraph 1 if the circumstances occurred which pose a threat of insolvency to a bank or of reduction in the total own funds thereof, to the extent that the bank would cease to satisfy the requirements governing its establishment.”;

26) Article 148-151 shall be repealed

27) The following Article 157f shall be added after Article 157e:

"Article 157f. 1. If a bank is at risk of bankruptcy, the Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund while indicating premises of such an assessment.

2. A bank shall be at risk of bankruptcy, if there is at least one premise is satisfied, referred to in Article 101 paragraph 3 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution.

3. The management board of a bank, conservatorship or liquidator shall forthwith notify the Polish Financial Supervision Authority of satisfaction of the premises referred to in paragraph 1.

4. The Polish Financial Supervision Authority shall forthwith provide the Bank Guarantee Fund with the information received from supervisory authorities of other countries on the threat of bankruptcy towards the entities of a group to which the bank belongs.”;

28) Article 158 paragraph 1-5 shall read:

"1. If according to the balance sheet prepared at the end of the reporting period assets of the bank are not sufficient to cover its liabilities, the management board of the bank, conservatorship or liquidator shall forthwith notify the Polish Financial Supervision Authority, which resolves on suspension of the operations of the bank and the establishment of conservatorship, unless it has been established earlier, and shall at the same time file to the competent court for bankruptcy.

2. If for the reasons directly attributable to its financial situation, a bank fails to settle its liabilities regarding the payment of funds referred to in Article 2 point 68 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution towards depositors within the meaning of Article 2 point 3 hereof, the Polish Financial Supervision Authority within 5 working days from the date of identification of this circumstance, shall issue a decision on suspension of the operations of the bank and the establishment of conservatorship, unless it has been appointed earlier, and at the same time shall file to the competent court for bankruptcy.

3. The Polish Financial Supervision Authority shall refrain from taking the decisions referred to in paragraph 1 or 2, if the Bank Guarantee Fund has issued a decision to initiate resolution.

4. The Polish Financial Supervision Authority may issue the decisions referred to in paragraph 1 *ex officio*, if the notification referred to in paragraph 1 does not take place.

5. The decisions to suspend the operations of the bank and to establish the conservatorship referred to in paragraph 1 and 2 shall be publicly disclosed by a notice in a daily newspaper of nationwide circulation and in the *Court and Commercial Gazette*. The Polish Financial Supervision Authority shall notify its decisions to the Bank Guarantee Fund.”;

29) Article 169 shall read:

"Article 169. Further to the liquidation pursuant to Article 138 and Article 147, the bankruptcy of a bank or establishment of conservatorship rights of members of the management board and the supervisory board of a bank regarding the severance payment and remuneration for the period following termination of the employment relationship shall expire.”.

Article 348. In the Act of 29 August 1997 on Mortgage Bonds and Mortgage Banks (Journal of Laws of 2015 item 1588) in Article 15 paragraph 1:

- 1) point 1 shall be repealed;
- 2) point 6 shall be repealed;

Article 349. In the Act of 29 August 1997 on the National Bank of Poland (Journal of Laws of 2013 item 908 and 1036 and of 2015 item 855 and 1513) shall be amended as follows:

1) in Article 39:

a) paragraph 3 shall read:

"3. The Management Board of the National Bank of Poland may exempt a bank from satisfaction of the minimum reserve requirement during implementation of a recovery plan”;

b) The following paragraph 3a shall be added after paragraph 3:

"3a. The Management Board of the National Bank of Poland may exempt a credit union or the National Association of Credit Unions from satisfaction of the minimum reserve requirement during implementation of a programme of recovery proceedings”;

- 2) paragraph 3 in Article 42 shall read:

"3. NBP may also grant a refinancing loan also to a bank for the purpose of implementation of a recovery plan.";

- 3) Article 43 paragraph 1 shall read:

"1. In the cases provided for in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996) and the Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2013 item 1450 as amended¹⁹) NBP may provide short-term loans to the Bank Guarantee Fund."

Article 350. In the Act of 15 September 2000 - Code of Commercial Companies (Journal of Laws of 2013 item 1030, as amended.²⁰) paragraph in Article 157¹ shall read:

"6. The Minister of Justice in consultation with the Minister competent for computerization shall determine, by way of a regulation, the procedure of creation of an account in the IT system, the manner of using the system and undertaking within it operations related to establishment of a limited liability company with the use of a standard template of an agreement and other operations performed in the IT system, as well as requirements concerning the electronic signature of persons concluding an agreement of this type of the company and persons signing the list of shareholders and a statement of payment of contributions to cover the share capital (data enabling verification of the identity) with a view to facilitating establishment of companies, the need to ensure efficiency of the proceedings and protection of safety and security of business transactions, as well as providing security of data stored in the system, including personal data."

Article 351. In the Act of 7 December 2000 on the Operation of Cooperative Banks, their Affiliation, and Affiliating Banks (Journal of Laws of 2015 item 2170 and of 2016 item 381) shall be amended as follows:

- 1) Article 2 point 2 shall read:

"2) affiliating bank - this shall be construed as a bank in the form of a joint stock company established by cooperative banks if the bank affiliates at least one cooperative bank under the terms of Article 16 and holds initial share capital of at least four times the amount specified in Article 32 paragraph 1 of the Banking Act, or twice that amount in the case of a bank whose business is confined exclusively to providing services to the affiliated banks (apex affiliating bank)";

- 2) in Article 10c:

- a) paragraph 1 shall read:

"1. The statutes may provide that the management board of a cooperative bank shall be entitled to suspend or reduce reimbursement of contributions for shares."

- b) The following paragraph 1a shall be added after paragraph 1:

"1a. While taking the decision referred to in paragraph 1, the management board of a cooperative bank shall pay attention in particular to:

- 1) general situation of a bank in terms of financial standing, liquidity and solvency;
- 2) requirements for own funds referred to in Article 92 paragraph 1 of Regulation No 575/2013, requirements imposed under Article 138 paragraph 1 point 2 and 2a of the Banking Act and the requirement referred to in Article 55 paragraph 4 of the Act of 5 August 2015 on Macro-prudential Oversight of the Financial System and Crisis Management in the Financial System (Journal of Laws item 1513)."

- c) paragraph 3 shall read:

"3. In the case of expiry of premises of suspension of or reduction in the reimbursement of contributions for shares, the bank's management board may make payments to members requesting reimbursement of contributions for shares. The reimbursement of these contributions must not take place prior to approval of the financial statement for the year when those premises expired and in the case when its shares have been intended to cover losses of the cooperative. The statutes shall define the manner and schedule of the reimbursement."

¹⁹ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2015 item 978, 1158, 1259, 1311, 1830, 1854, 1864 and 2281 and of 2016 item 615 and 904.

²⁰ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2014 item 265 and 1161, of 2015 item 4, 978, 1333 and 1830 and of 2016 item 615.

3) Article 22d paragraph 2 shall read:

"2. A managing entity shall be established in the form of a joint stock company or a cooperative of legal persons to which to the extent not settled hereunder, the provisions of the Act of 15 September 2000. - Code of Commercial Companies (Journal of Laws of 2013 item 1030 as amended.²¹) or the Act - Cooperative Law shall apply, with the exception of Article 37 thereof.”;

4) in Article 22g:

a) paragraph 3 shall read:

"3. payment contributed by a protection scheme participant for the assistance fund may not be less than the amount of reduction in the contribution referred to in Article 286 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996), resulting from the difference between the contribution calculated for a bank being a protection scheme participant and the estimated contribution amount as if the bank did not participate in a protection scheme.”;

b) the following paragraph 3a shall be added:

"3a. The Bank Guarantee Fund shall provide the protection scheme participants with the calculated difference referred to in paragraph 3. This information shall be communicated to a protection scheme participant and the governing body of a protection scheme.”;

5) Article 35a paragraph 10 shall read:

"10. The funds held in the cooperative banks restructuring fund on 31 December 2021 and funds originating from repayments of instalments of principal of the loans effected following 31 December 2021 shall account for a source of funding of the Bank Guarantee Fund within the meaning of Article 270 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution.”.

Article 352. In the Act of 6 September 2001 on Access to Public Information (Journal of Laws of 2015 item 2058 and of 2016 item 34 and 352) in Article 5:

1) The following paragraph 2a shall be added after paragraph 2 :

"2a. The right to public information shall be limited to the extent and on the terms stipulated in the provisions concerning resolution.”;

2) paragraph 3 shall read:

"3. Subject to paragraph 1, 2 and 2a, access to information on the matters resolved in proceedings before state authorities may not be limited, particularly in administrative, criminal or civil proceedings, in view of the protection of interests of a party if the proceedings pertain to public authorities or other entities performing public functions or persons performing public functions - in terms of those tasks or functions.”.

Article 353. The Act of 30 August 2002 - Law on Proceedings before Administrative Courts (Journal of Laws of 2016 item 718 and 846) shall be amended as follows:

1) the following paragraph 4 shall be added to Article 124:

"4. At the request of the Bank Guarantee Fund, the court shall suspend the proceeding, a party of which is an entity under restructuring referred to in Article 2 point 44 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996) where it is necessary for the adequate conduct of resolution, including application of the instruments of resolution.”;

2) the existing provisions of Article 129 shall be marked as paragraph 1 and the following paragraph 2 shall be added:

"2. In the event of suspension at the request of the Bank Guarantee Fund of the proceeding referred to in Article 124 paragraph 4, the court shall resolve on initiation of the proceeding at the request of the Fund.”.

Article 354. The Act of 28 February 2003. - Bankruptcy Law (Journal of Laws of 2015 item 233, 978, 1166, 1259 and 1844 and of 2016 item 615) shall be amended as follows:

1) in Article 426 paragraph 2 shall read:

"2. Solely the Polish Financial Supervision Authority or the Bank Guarantee Fund may file for bankruptcy of a bank.”;

²¹ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2014 item 265 and 1161, of 2015 item 4, 978, 1333 and 1830 and of 2016 item 615 and 996.

- 2) in Article 427:
 - a) the following point 1a shall be added in paragraph 1 after point 1:
"1a) a representative of the Bank Guarantee Fund;"
 - b) paragraph 1a shall read:
"1a. In the case of proceedings concerning bankruptcy of a state-owned bank or a bank being a subsidiary of the State Treasury, the court shall also hear a representative of the Minister competent for the matters of the State Treasury.";
- 3) the following paragraph 4 shall be added in Article 429:
"4. The Bank Guarantee Fund shall be appointed a trustee at its request.";
- 4) in Article 437 paragraphs 2 and 3 shall read:
"2. The judge-commissioner shall determine terms and conditions for the acquisition of an undertaking of a bank by other banks and the deadline for submission of tenders, following the consultation with the Polish Financial Supervision Authority and the Bank Guarantee Fund.
3. The judge-commissioner shall issue a decision approving a selected tender, following the consultation with the Polish Financial Supervision Authority and the Bank Guarantee Fund.";
- 5) The following paragraphs 1a and 1b shall be added in Article 438 after paragraph 1:
"1a. Where valuation of an undertaking of a bank indicates that the purchase price thereof would prevent the full coverage of receivables referred to in Article 39 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996), the sale of an undertaking of a bank shall take place:
 - 1) upon the acquisition by a purchaser of liabilities of the bankrupt in respect of receivables referred to in Article 39 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, or
 - 2) without the acquisition by a purchaser of liabilities in respect of bank accounts.
1b. The judge-commissioner shall select a method of the sale of an undertaking of a bank referred to in paragraph 1a along with determination of the conditions of an acquisition of an undertaking of a bank by other banks. A ruling by the judge-commissioner may be appealed.";
- 6) Article 440 shall read:
"Article 440. 1. The satisfaction of claims and receivables due from a bankrupt bank shall take place in accordance with paragraphs 2-6.
2. The receivables subject to satisfaction from funds of the bankruptcy estate of the bank shall be divided into the following categories:
 - 1) the first category - receivables referred to in Article 39 paragraph 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, along with interest and costs of enforcement, receivables from the employment relationship attributable to the time prior to the declaration of bankruptcy with the exception of claims in respect of remuneration for a representative of the bankrupt or remuneration of a person performing activities related to the management or supervision of the undertaking of the bankrupt, receivables of farmers in respect of contracts to supply products from their own farm, maintenance claims and pensions in respect of compensation for causing illness, incapacity for work, disability, injury or death and pensions granted in respect of conversion of lifetime rights to an annuity, receivables from social security contributions within the meaning of the Act of 13 October 1998 on the Social Insurance System for the last three years prior to the date of the declaration of bankruptcy;
 - 2) the second category - receivables of natural persons, micro, small and medium-sized enterprises in respect of the funds covered by guarantee protection other than the guaranteed funds under Article 2 point 65 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution;
 - 3) the third category - other receivables, if not subject to satisfaction under the other categories, in particular taxes and other government levies and other receivables from social security contributions;
 - 4) the fourth category - interest from the receivables included under the higher categories in the order in which the principal is subject to satisfaction, as well as judicial and administrative fines and receivables from donations and bequests;
 - 5) the fifth category - receivables of partners or shareholders in respect of a loan or another legal transaction with similar effects, in particular a supply of goods with deferred payments effected for the benefit of the bankrupt being a capital company within 5 years prior to the declaration of bankruptcy, along with interest if they are not subject to satisfaction in the lower categories;

- 6) the sixth category - receivables from subordinated liabilities not included in the bank's own funds, including interest and costs of enforcement;
- 7) the seventh category - receivables from liabilities included in the bank's own funds referred to in Article 62 of Regulation of the European Parliament and of the Council (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (EU OJ L 176, 27.06.2013, p. 1), hereinafter referred to as the "Regulation No 575/2013" along with interest and costs of enforcement;
- 8) the eighth category - receivables from liabilities included in the bank's own funds referred to in Article 51 of Regulation No 575/2013 along with interest and costs of enforcement;
- 9) the ninth category - receivables from liabilities included in the bank's own funds referred to in Article 26 of Regulation No 575/2013 along with interest and costs of enforcement.

3. The bankruptcy estate shall serve to cover in the first place the costs of the bankruptcy proceedings and the costs of resolution uncovered by the revenues from resolution, and if the funds of the bankruptcy estate so permit – also other liabilities of the bankruptcy estate referred to in Article 230 paragraph 2, as the relevant sums flow into the bankruptcy estate. The provisions of Article 343 paragraph 1a and 2 and Article 344 shall apply.

4. The receivables of the Bank Guarantee Fund derived from the payment of guaranteed funds or provision of the possibility of collecting them shall not require notification. The relevant receivables shall be placed on the list of *ex officio* claims.

5. The provision of Article 342 paragraph 5 points 2-3 and paragraph 6 shall apply in the case referred to in paragraph 2 point 5.

6. Provisions relating to the coverage of receivables in respect of the employment relationship shall apply accordingly to the claims of the Fund of Guaranteed Employee Benefits for reimbursement from the bankruptcy estate of benefits paid by the Fund to employees of the bankrupt.”;

- 7) in Article 441a paragraph 1 shall read:

“1. Solely the Polish Financial Supervision Authority or the Bank Guarantee Fund may file for bankruptcy of a credit union.”.

Article 355. In the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2015 item 2164 and of 2016 item 831) the full stop in point 15 in Article 4 shall be replaced by a semicolon and the following points 16-18 shall be added:

- “16) procurements related to preparation and conduct of the process of disbursement of guaranteed funds referred to in Article 2 point 65 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996), in particular services provided by an entity with which a contract on the disbursement of guaranteed funds is to be concluded;
- 17) procurements related to preparation and conduct of resolution or write down or conversion of capital instruments, in particular procurements for:
 - a) conduct of valuation,
 - b) provision of advisory services, including strategic, economic, financial, tax, legal and information technology consultancy,
 - c) entrusting an entrepreneur or foreign entrepreneur with the performance of brokerage in terms of transactions enumerated in Article 5 and Article 6 of the Banking Act of August 29, 1997 (Journal of Laws of 2015 item 128 as amended.²²) on behalf and for the benefit of the bank under restructuring and transactions related to business conducted by an investment company under restructuring, including the pursuit of its brokerage business;
- 18) procurements effected by a bridge institution referred to in Article 2 point 26 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution or asset management vehicle referred to in Article 2 point 46 hereof.”.

²² The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2015 item 559, 978, 1166, 1223, 1260, 1311, 1348, 1357, 1513, 1634, 1830, 1844, 1854, 1864 and 2281 and of 2016 item 615, 904 and 996.

Article 356. In the Act of 20 April 2004 on Individual Retirement Accounts and Individual Retirement Security Accounts (Journal of Laws of 2014 item 1147, of 2015 item 978 and 1844, and of 2016 item 615) in Article 14 paragraphs 4 and 5 shall read:

"4. In the case of failure to perform of any of the obligations referred to in paragraph 3 by the savers, if they fail to satisfy the conditions for the payment referred to in Article 34 paragraph 1 point 1 or in Article 46 or Article 34a paragraph 1 point 1, the funds allocated in the liquidation proceedings, bankruptcy proceedings or in proceedings determining the method of execution of payments of the guaranteed funds referred to in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996) shall be reimbursed under the provisions of the given financial institutions operating Individual Retirement Accounts and Individual Retirement Security Accounts.

5. If the saver satisfies the conditions referred to in paragraph 3, respectively, financial institution, conservatorship, receiver or the Insurance Guarantee Fund referred to in the Act of 22 May 2003 on Mandatory Insurance, Insurance Guarantee Fund and Polish Motor Insurers' Bureau (Journal of Laws of 2013 item 392, of 2014 item 827 and of 2015 item 1273, 1691, 1844 and 2281), in the case of settlement of claims under the agreements referred to in Article 8 paragraph 1 point 3, or the Bank Guarantee Fund referred to in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, in the case of settlement of claims under the agreements referred to in Article 8 paragraph 1 point 4, shall be required to effect a transfer payment of funds assigned to the saver in the liquidation proceedings, bankruptcy proceedings or proceedings determining the method of execution of payments of the guaranteed funds referred to in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution to an Individual Retirement Account or Individual Retirement Security Account specified in the confirmation of entrance into an agreement."

Article 357. In the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds (Journal of Laws of 2014 item 157 as amended.²³) in Article 185 in paragraph 5 point 1 shall read as follows:

"1) domestic banks, credit institutions or credit unions are the originators of securitisation".

Article 358. In the Act of 29 July 2005 on the Capital Market Supervision (Journal of Laws of 2014 item 1537 as amended.²⁴) the following paragraphs 4 and 5 shall be added in Article 23:

"4. The Polish Financial Supervision Authority or its authorised representative may provide the Bank Guarantee Fund with information, including opinions, necessary to ensure the adequate performance of its tasks defined in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996).

5. The memorandum of understanding between the Polish Financial Supervision Authority and the Bank Guarantee Fund shall determine the principles and procedures for the provision of information referred to in paragraph 4"

Article 359. The Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2014 item 94 as amended.²⁵) shall be amended as follows:

1) in Article 3:

a) the following point 4e shall be added after point 4d:

"4e) Regulation 600/2014 - shall be construed as Regulation of the European Parliament and of the Council (EU) 600/2014 of 15 May 2014 on the markets in financial instruments and amending Regulation (EU) No 648/2012 (EU OJ L 173, 12.06.2014, p. 84);"

b) in point 49, the full stop shall be replaced by a semicolon and the following point 50 shall be added:

"50) working day - shall be construed as any day from Monday to Friday excluding public holidays.";

2) the following paragraph 8 shall be added in Article 20:

"8. In the case that the Bank Guarantee Fund files the request referred to:

1) in Article 148 point 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996), a company operating the regulated market shall exclude from trading the securities or other financial instruments enumerated in the application;

²³ The amendments to the consolidated text of the Act were promulgated in the Journal of Laws of 2015 item. 73, 978, 1260, 1357, 1634 and 1844 and of 2016 item 615 and 904.

²⁴ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2015 items 73, 1223, 1260, 1357 and 1513 and of 2016 item 615.

²⁵ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2014 item 586 of 2015, item 73, 978, 1045, 1223, 1260, 1348, 1505, 1513, 1634, 1844 and 1890 and of 2016, item 65, 615 and 904.

- 2) in Article 148 point 2 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, a company operating the regulated market shall suspend trading in securities or other financial instruments covered by the application for the period specified in the application.”;
- 3) the following paragraph 11 shall be added in Article 78:
"11. In the case that the Bank Guarantee Fund files the request referred to:
 - 1) in Article 148 point 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, an investment firm operating an alternative trading system shall exclude from trading the financial instruments enumerated in the application;
 - 2) in Article 148 point 2 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, an investment firm operating an alternative trading system shall suspend trading in the financial instruments covered by the application for a period specified in the application.”;
- 4) Article 110q shall read:
"Article 110q. 1. A brokerage house shall manage liquidity risk in a manner adequate to the nature, scope and complexity of its business.
2. The Polish Financial Supervision Authority shall notify the European Banking Authority of administrative sanctions and supervisory measures pursued towards a brokerage house further to its liquidity risk.”;
- 5) in Article 110w:
 - a) point 1 in paragraph 1 shall read:
"1) information on its business by individual Member States and third countries where it operates subsidiaries, on a consolidated basis within the meaning of Article 4 paragraph 1 point 48 of Regulation 575/2013 for a given financial year;”
 - b) point 2 in paragraph 2 shall read:
"2) revenues in a given year disclosed in a financial statement;”
 - c) paragraph 3 shall read:
"3. The information referred to in paragraph 2 shall be audited by a statutory auditor.”;
- 6) in Division IV of Chapter 1 the following Section 2c shall be added after Section 2b:

" Section 2c

Recovery plans and the principles of early intervention for certain brokerage houses

Article 110zi. 1. Any reference in this section to:

- 1) parent mixed financial holding company from a Member State - shall mean the parent mixed financial holding company in from Member State referred to in Article 4 paragraph 1 point 32 of Regulation 575/2013;
- 2) parent financial holding company from a Member State - shall mean the parent financial holding company from a Member State referred to in Article 4 paragraph 1 point 30 of Regulation 575/2013;
- 3) parent institution from a Member State - shall mean the parent institution from a Member State referred to in Article 4 paragraph 1 point 28 of Regulation 575/2013;
- 4) brokerage house - shall mean the brokerage house referred to in Article 98 paragraph 3;
- 5) financial holding company - shall mean the financial holding company referred to in Article 4 paragraph 1 point 20 of Regulation 575/2013;
- 6) mixed financial holding company - shall mean the mixed financial holding company referred to in Article 4 paragraph 1 point 21 of Regulation 575/2013;
- 7) critical function - shall mean the critical function referred to in Article 2 point 17 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution;
- 8) main line of business – shall mean the line of business and related services which accounts for an important source of revenue or profit for a brokerage house or a group which includes a brokerage house;

- 9) group – shall mean a parent entity and its subsidiaries;
- 10) mixed activity holding company - shall mean the mixed activity holding company referred to in Article 4 paragraph 1 point 22 of Regulation 575/2013;
- 11) institution - shall mean a credit institution, brokerage house or foreign investment firm;
- 12) financial institution - shall mean the financial institution referred to in Article 4 paragraph 1 point 26 of Regulation 575/2013;
- 13) credit institution – shall mean the credit institution referred to in Article 4 paragraph 1 point 1 of Regulation 575/2013 to which the provisions of Regulation 575/2013 shall apply in accordance with the introductory sentence in the first paragraph of Article 1 of Regulation 575/2013;
- 14) major branch - shall mean the major branch referred to in Article 110f;
- 15) extraordinary public financial support - mean the state aid in the meaning of Article 107 paragraph 1 of the Treaty on the Functioning of the European Union or other public financial support on a transnational level, which, if granted on a national level, constitutes state aid granted in order to maintain or restore profitability, liquidity or solvency of a brokerage house or a group whose part is the brokerage house, including the measures referred to in the Act of 12 February 2010 on Recapitalisation of Certain Institutions and on Government Financial Stabilisation Tools (Journal of Laws item 226, of 2011 item 196, of 2013 item 1012, of 2015 item 1513 and 1844 and of 2016 item 996);
- 16) parent entity - shall mean the parent entity referred to in Article 110a paragraph 1 point 10;
- 17) affiliated entity - shall mean an entity within a group;
- 18) subsidiary - shall mean the subsidiary entity, referred to in Article 4 paragraph 1 point 16 of Regulation 575/2013;
- 19) standard bankruptcy proceeding - shall mean the bankruptcy proceeding pending, conducted under the provisions of the Act of 28 February 2003 - Bankruptcy Law or a foreign bankruptcy proceeding referred to in Article 379 point 1 of the Act;
- 20) institutional protection scheme - shall mean a scheme which satisfies the requirements of Article 113 paragraph 7 of Regulation 575/2013;
- 21) EU parent financial holding company – shall mean the EU parent financial holding company referred to in Article 4 paragraph 1 point 31 of Regulation 575/2013;
- 22) EU parent mixed financial holding company - shall mean the EU parent mixed financial holding company referred to in Article 4 paragraph 1 point 33 of Regulation 575/2013;
- 23) EU parent institution - shall mean the EU parent institution referred to in Article 4 paragraph 1 point 29 of Regulation 575/2013;
- 24) EU parent company - shall mean an EU parent institution, EU parent financial holding company or an EU parent mixed financial holding company.

2. The provisions of section 2b shall not apply to the brokerage houses referred to in paragraph 1 point 4.

Article 110zj. 1. A brokerage house which is not subject to consolidated supervision exercised by a competent supervisory authority and a brokerage house which is not required to develop a group recovery plan is obliged to possess a recovery plan. The recovery plan is a part of the management system referred to in Article 110c paragraph 1. A brokerage house shall take into account the entities operating in the same group in the recovery plan.

2. Where necessary to ensure stability of the financial market, the Polish Financial Supervision Authority may, by way of a decision, order the brokerage house referred to in Article 110zm paragraph 1 or 9 or Article 110zn, paragraph 1 to develop a recovery plan. In its decision, the Polish Financial Supervision Authority shall determine a deadline of submission of the recovery plan by a brokerage house. The provisions of Article 110zk paragraphs 2-11 shall apply to the procedure of the approval of the recovery plan.

3. The recovery plan shall include:

- 1) summary of the main elements thereof;
- 2) description of significant changes in a brokerage house which took place from the date of submission of the recovery plan or last update thereof;

- 3) description of the information policy of a brokerage house further to potential adverse financial market reactions to the deteriorating situation of the brokerage house;
- 4) measures relating to the capital and liquidity of a brokerage house necessary to improve its financial situation;
- 5) projected schedule of measures undertaken with a view to implementing essential elements of a recovery plan;
- 6) detailed description of circumstances which threaten effective and timely implementation of a recovery plan inclusive of an analysis of the impact of the measures provided for in the recovery plan on the entities operating in the same group as a brokerage house, customers and other parties to the agreements concluded with a brokerage house;
- 7) critical functions occurring in a brokerage house;
- 8) procedures for determining the value and marketability evaluation of major business lines and assets of a brokerage house;
- 9) links between the process of developing a recovery plan and the management system of a brokerage house and principles of approval of the recovery plan and determining persons responsible for the development and implementation thereof;
- 10) measures to be undertaken with a view to maintaining an adequate level of own funds of a brokerage house or to restoring the level of own funds to the amount required in accordance with Article 110e and in accordance with the provisions of Regulation 575/2013;
- 11) measures to ensure the going concern and timely settlement of due liabilities, targeted especially at providing access to reserve funding sources, including potential liquidity sources, as well as at an assessment of available collateral and an assessment of the possibility of providing financial support between affiliated entities and transferring liquidity between business lines;
- 12) arrangements to reduce risk and financial leverage referred to in Article 4 paragraph 1 point 93 of Regulation 575/2013;
- 13) measures for restructuring of liabilities of a brokerage house;
- 14) measures for restructuring of business lines of a brokerage house;
- 15) memoranda of understanding, agreements and other measures for maintaining continuous access of a brokerage house to the infrastructure of the financial markets;
- 16) memoranda of understanding, agreements and other measures to maintain the going concern of a brokerage house;
- 17) description of preparatory actions in order to enable the sale by a brokerage house of assets or business lines in a timeframe which ensures restoration of financial stability of a brokerage house;
- 18) other measures or management strategies for restoring financial stability of a brokerage house and projected financial impact of such measures or strategies;
- 19) measures which a brokerage house has undertaken or plans to undertake in order to facilitate implementation of the recovery plan, including those necessary for the timely recapitalisation of a brokerage house;
- 20) levels of indicators referred to in Article 110zo paragraph 1 after the attainment of which measures stipulated in the recovery plan can be undertaken;
- 21) measures which may be undertaken by a brokerage house if the premises for early intervention, referred to in Article 110zz have been satisfied.

4. The recovery plan shall satisfy the following conditions:

- 1) measures provided for in the recovery plan help restore or maintain good financial condition and profitability of a brokerage house or group;
- 2) measures provided for in the recovery plan may be effectively and rapidly implemented without adverse consequences for the financial system, in particular without causing the need for implementation of recovery plans by other institutions at the same time;
- 3) capital structure and financing structure of a brokerage house provided for in a recovery plan are tailored to the level of complexity of the organisational structure and risk profile of a brokerage house.

5. The recovery plan must not assume obtaining extraordinary public financial support.

6. The recovery plan shall be subject to approval by a management board of a brokerage house.

7. A brokerage house shall update its recovery plan at least once a year and following a substantial change in the organisational or legal structure, financial situation or another event affecting the assumptions adopted in a recovery plan and the execution thereof. The Polish Financial Supervision Authority may order a brokerage house to update its recovery plan more frequently.

Article 110zk. 1. A brokerage house shall provide the Polish Financial Supervision Authority with a recovery plan within 6 months from the date of commencement of business.

2. The Polish Financial Supervision Authority shall approve a recovery plan by a way of a decision within 6 months from the date of receipt thereof.

3. The update to a recovery plan referred to in Article 110zj paragraph 7 must be approved by the Polish Financial Supervision Authority. The provisions of paragraph 2 and 4-10 shall apply accordingly.

4. Where a recovery plan covers a major branch of a brokerage house, the Polish Financial Supervision Authority shall consult with a competent supervisory authority in the Member State in whose territory a major branch operates.

5. The Polish Financial Supervision Authority shall forward a recovery plan to the Bank Guarantee Fund which shall forthwith notify the Polish Financial Supervision Authority should any measures be identified in a recovery plan which may have an adverse impact on the effectiveness of restructuring and liquidation of a brokerage house.

6. Should a recovery plan fail to satisfy the requirements specified in Article 110zj or any other relevant circumstances threatening its implementation occur, the Polish Financial Supervision Authority shall call on a brokerage house to supplement or amend the plan within 2 months from the date of service of the call. This term shall not be included in the term referred to in paragraph 2. At the request of a brokerage house, the Polish Financial Supervision Authority may extend that term by one month.

7. Should a supplemented or amended recovery plan remain non-compliant with the requirements specified in Article 110zj or any other relevant circumstances threatening its implementation occur, the Polish Financial Supervision Authority shall refuse, by way of a decision, to approve a recovery plan and shall call on a brokerage house to submit a new recovery plan.

8. In the decision referred to in paragraph 7, the Polish Financial Supervision Authority may set a deadline for a brokerage house to present a new recovery plan and areas of business of the brokerage house which in the opinion of the Polish Financial Supervision Authority are required to be considered in a recovery plan.

9. The Polish Financial Supervision Authority shall approve a new recovery plan referred to in paragraph 7 within 6 months from the date of receipt thereof.

10. Should the new recovery plan referred to in paragraph 7 fail to satisfy the requirements specified in Article 110zj or any other relevant circumstances threatening implementation thereof occur, the Polish Financial Supervision Authority shall recommend a brokerage house to specify changes in the business of the brokerage house required in view of satisfying the requirements referred to in Article 110zj, or to remove other relevant circumstances threatening implementation of a recovery plan, while setting a reasonable time limit for submission of these changes. Should the new recovery plan fail to satisfy the requirements specified in Article 110zj or any other relevant circumstances threatening its implementation occur, whereas a brokerage house fails to specify the changes in business or the Polish Financial Supervision Authority considers them insufficient, the Polish Financial Supervision Authority shall refuse, by way of a decision, to approve the new recovery plan and shall order to implement the necessary changes in the business of the brokerage house.

11. In the decision referred to in paragraph 10 the Polish Financial Supervision Authority may set the deadline for the introduction of changes in the business of the brokerage house and, in particular, order a brokerage house to:

- 1) change its risk profile, including liquidity risk;
- 2) undertake measures with a view to ensuring timely recapitalisation of a brokerage house;
- 3) make a review of the strategy and the organisational structure of a brokerage house;
- 4) introduce changes to the financing strategy which will reduce the level of risk associated with the business of the brokerage house in terms of the major business lines and critical functions;
- 5) introduce changes in the system of risk management in a brokerage house referred to in Article 110b paragraph 1.

12. The Polish Financial Supervision Authority shall forward the approved recovery plan to the Bank Guarantee Fund within 7 days from the date of the decision referred to in paragraph 2.

Article 110zl. 1. A brokerage house which is an EU parent entity or EU parent financial holding company and EU parent mixed financial holding company being EU parent entities over which the Polish Financial Supervision Authority exercises supervision on a consolidated basis referred to in Article 110g paragraph 3-8 are required to possess group recovery plans. A group recovery plan may specify the measures to be undertaken by an EU parent entity, as well as the individual subsidiaries.

2. The objective of a group recovery plan shall be to improve the financial situation of a group or affiliated entities being institutions, while taking into account the financial situation of other affiliated entities. A group recovery plan shall provide for the coordination of measures towards an EU parent entity, subsidiaries and major branches.

3. The provisions of Article 110zj paragraph 3-6 and of Article 110zk paragraph 5 and 12 shall apply

accordingly to a group recovery plan. A group recovery plan may take account agreements for financial support within a group referred to in Article 110zr paragraph 1. A recovery plan of a group sets out the information referred to in Article 110zj paragraph 3 for a group, brokerage house, as well as for individual subsidiaries.

4. A group recovery plan shall be subject to approval by a governing body of an entity required to the development thereof.

Article 110zm. 1. The EU parent entity referred to in Article 110zl paragraph 1 shall present a group recovery plan within 6 months from the date when it acquired the status of an EU parent entity. The provisions of Article 110zk shall apply accordingly to a group recovery plan.

2. The Polish Financial Supervision Authority shall forward a group recovery plan to:

- 1) competent supervisory authorities of subsidiaries in a group;
- 2) competent supervisory authorities in the Member States in whose territory a major branch of a brokerage house or another institution included in a group pursues its business;
- 3) Bank Guarantee Fund;
- 4) resolution authorities competent for subsidiaries.

3. Following the consultation with the competent authorities in the Member States in whose territory a major branch of a brokerage house or another institution operates, the Polish Financial Supervision Authority shall seek to reach an agreement with the competent supervisory authorities for the subsidiaries included in a group in terms of:

- 1) determination whether a group recovery plan satisfies the requirements of Article 110zl and the impact of the measures provided for in a group recovery plan on financial stability in all Member States in which affiliated entities pursue their business;
- 2) need to prepare and submit recovery plans by some or all of the subsidiaries;
- 3) adequateness of undertaking measures referred to in Article 110zk paragraphs 6-11 in respect of a group recovery plan.

4. Where no agreement in term of paragraph 3 points 1 and 3 is attained within 4 months from the date of submission by the Polish Financial Supervision Authority of a group recovery plan to the entities referred to in paragraph 2, the Polish Financial Supervision Authority may take the measures referred to in Article 110zk paragraphs 6-11 towards an EU parent entity on considering the positions previously communicated by the competent supervisory authorities. The Polish Financial Supervision Authority shall notify the competent supervisory authorities of the final provisions of a group recovery plan.

5. Where prior to the expiry of the period of four months referred to in paragraph 4, the Polish Financial Supervision Authority or any other concerned competent supervisory authority requests the European Banking Authority in accordance with Article 19 of Regulation 1093/2010, the Polish Financial Supervision Authority may undertake measures referred to in paragraph 3 point 3 towards an EU parent entity forthwith upon the receipt of the decision of the European Banking Authority in accordance with Article 19 paragraph 3 of the Regulation. The Polish Financial Supervision Authority shall pursue the measures referred to in Article 110zk paragraph 4-8 towards an EU parent entity having regards to the decision of the European Banking Authority, unless the European Banking Authority fails to issue its decision within one month from the date of the end of the conciliation procedure. The term of four months referred to in paragraph 4 shall be deemed the term of accomplishment of the conciliation procedure within the meaning of the Regulation.

6. The Polish Financial Supervision Authority may request the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 only to the extent referred to in paragraph 3 point 1 and with reference to the EU parent entity in the matters referred to in Article 110zk paragraph 11 points 1, 2 and 4.

7. Where a competent supervisory authority requests the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 prior to the expiry of the period of four months referred to in paragraph 4, the Polish Financial Supervision Authority along with other competent supervisory authorities which have not requested the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 may reach an agreement to the extent referred to in paragraph 3 point 1 or 3 on a group recovery plan in the scope of affiliated entities subject to the supervision of the Polish Financial Supervision Authority and the competent supervisory authorities, inclusive of a brokerage house.

8. Where no agreement referred to in paragraph 3 point 2 on the need to develop and submit a recovery plan by a subsidiary has been reached within 4 months from the date of submission by the Polish Financial Supervision Authority of a group recovery plan to the entities referred to in paragraph 2, the Polish Financial Supervision Authority may communicate a position to a competent supervisory authority of a subsidiary.

9. Where a group includes a brokerage house being a subsidiary, whereas no agreement referred to in paragraph 3 point 2 on the need to develop and submit a recovery plan by a brokerage house has been reached within 4 months from the date of submission by the Polish Financial Supervision Authority of a group recovery plan to the entities referred to in paragraph 2, the Polish Financial Supervision Authority may order a brokerage house, by way of a decision, to develop and submit a recovery plan in accordance with Article 110zj. In its decision the Polish Financial

Supervision Authority shall specify the date of development and submission of a recovery plan.

10. Where an agreement has been reached on the development and submission of a recovery plan by a brokerage house, the Polish Financial Supervision Authority shall order a brokerage house, by way of a decision, to develop and forward its recovery plan in accordance with Article 110zj. In its decision the Polish Financial Supervision Authority shall specify the date for the development and submission of a recovery plan.

Article 110zn. 1. In the case of a brokerage house being a subsidiary of an EU parent entity under consolidated supervision of a competent supervisory authority of another Member State, the Polish Financial Supervision Authority shall seek to reach an agreement with the competent supervisory authority and other relevant supervisory authorities within 4 months from the date of providing the Polish Financial Supervision Authority with a group recovery plan by a competent supervisory authority exercising consolidated supervision insofar as the matters referred to in Article 110zm paragraph 3, and has an option to communicate its position to this competent supervisory authority in the scope referred to in Article 110zm paragraph 3 point 1 or 3 with reference to an EU parent entity.

2. Where no agreement on the need to develop and submit a recovery plan by a brokerage house has been attained within the period of four months referred to in paragraph 1, the Polish Financial Supervision Authority may issue towards the said brokerage house a decision on the development and submission of a recovery plan in accordance with Article 110zj. In its decision the Polish Financial Supervision Authority shall specify the date for the development and submission of a recovery plan.

3. Where the Polish Financial Supervision Authority or a competent supervisory authority in another Member State requests the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 insofar as a brokerage house prior to the expiry of the period of four months referred to in paragraph 1, the Polish Financial Supervision Authority may issue a decision referred to in paragraph 2 forthwith upon the receipt of the decision of the European Banking Authority in accordance with Article 19 paragraph 3 of the Regulation. While issuing a decision referred to in paragraph 2, the Polish Financial Supervision Authority shall take into account the decision issued by the European Banking Authority, unless the European Banking Authority has failed to issue the decision within one month from the end of the conciliation procedure. The term of four months shall be deemed the term of accomplishment of the conciliation procedure within the meaning of the Regulation.

4. The Polish Financial Supervision Authority may request the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 only to the extent referred to in paragraph 3 point 1 of Article 110zm, and with reference to an EU parent entity in the matters referred to in paragraph 11 points 1, 2 and 4 of Article 110zk.

5. Where a competent supervisory authority requests the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 prior to the expiry of the period of four months referred to in paragraph 1, the Polish Financial Supervision Authority along with other relevant supervisory authorities which have not requested the European Banking Authority in accordance with Article 19 of Regulation 1093/2010 may reach an agreement on the matters referred to in Article 110zm paragraph 3 point 1 or 3 in terms of a group recovery plan, covering affiliated entities subject to the supervision of the Polish Financial Supervision Authority and the competent supervisory authorities, including a brokerage house.

6. Where an agreement has been reached on the need to develop and submit by a brokerage house of a recovery plan in accordance with paragraph 1 or 5, the Polish Financial Supervision Authority shall order a brokerage house, by way of a decision, to develop and forward a recovery plan, in accordance with Article 110zj. In its decision the Polish Financial Supervision Authority shall specify the date of development and submission of a recovery plan.

Article 110zo. 1. Both a recovery plan and a group recovery plan shall determine the levels of indicators which trigger measures specified in the plan, undertaken by a brokerage house. These indicators relate to the financial situation of a brokerage house, they can be either of a quantitative or qualitative nature. The indicators should allow easy and systematic monitoring of their level. A brokerage house shall present the indicators and the manner of monitoring their level to the Polish Financial Supervision Authority. along with a recovery plan.

2. Wherever reasonable, a brokerage house may undertake measures identified in a recovery plan, even though an indicator concerned by the measure has not attained a level specified in a recovery plan.

3. Wherever reasonable in view of the circumstances, a brokerage house may refrain from undertaking a measure identified in a recovery plan, even though an indicator concerned by the measure has attained a level specified in a recovery plan.

4. In the cases referred to in paragraph 2 and 3, a brokerage house shall forthwith notify the Polish Financial Supervision Authority, while indicating the reasons underlying the measures in accordance with paragraph 2 or the reasons for withdrawal therefrom in accordance with paragraph 3.

Article 110zp. 1. The Polish Financial Supervision Authority may, by way of a decision, limit the scope of the information referred to in Article 110zj paragraph 3 required in a recovery plan or a group recovery plan or change the frequency of updating a recovery plan or a group recovery plan.

2. While issuing the decision referred to in paragraph 1, the Polish Financial Supervision Authority shall take into account:

- 1) impact of cessation of business by a brokerage house on the financial markets, other institutions and the economy in as a whole;

- 2) impact of bankruptcy of a brokerage house conducted in the form of a standard bankruptcy procedure on the financial markets, other institutions and the economy as a whole;
 - 3) nature of the business of a brokerage house, its scope and the level of complexity, ownership structure of a brokerage house, legal form, risk profile, size or interconnectedness with entities;
 - 4) participation in the institutional protection schemes or other common joint-and-several schemes referred to in Article 113 paragraph 7 of Regulation 575/2013;
 - 5) scope of business referred to in Article 69 paragraph 2 and 4 pursued by a brokerage house.
3. The Polish Financial Supervision Authority may consult the Financial Stability Committee in the scope referred to in paragraph 2.
 4. The Polish Financial Supervision Authority may amend or revoke the decision referred to in paragraph 1.
 5. The issuance of the decision referred to in paragraph 1 shall not limit the powers of the Polish Financial Supervision Authority and the Bank Guarantee Fund referred to in this section.
 6. The Polish Financial Supervision Authority may not issue a decision referred to in paragraph 1 towards a brokerage house where:
 - 1) total value of its assets exceeds EUR 30 000 000 000 or
 - 2) ratio of the value of its assets to the gross domestic product of the Republic of Poland exceeds 20%, unless the value of its assets is less than EUR 5 000 000 000.
 7. The average exchange rate of the euro published by the National Bank of Poland on the last working day of the preceding year shall be used to calculate the PLN value of the amounts expressed in euro.
 8. The Polish Financial Supervision Authority shall notify the European Banking Authority of the issuance of the decision referred to in paragraph 1.

Article 110zq. The Polish Financial Supervision Authority may, by way of a decision, exempt a brokerage house from the obligation to develop a recovery plan referred to in Article 110zj-110zp if a brokerage house belongs to an institutional protection scheme, provided that the institutional protection scheme ensures the level of protection not lower than that in the case of development of a recovery plan.

Article 110zr. 1. A brokerage house covered by consolidated supervision and EU parent institution, financial holding company, mixed financial holding company, mixed holding company, parent financial holding company in a Member State, EU parent financial holding company, parent mixed financial holding company in a Member State, EU parent mixed financial holding company, and their subsidiaries in the Member States or third countries being institutions or financial institutions, covered by consolidated supervision jointly with a brokerage house may enter into agreements on providing financial support to any party of this agreement where the premises to apply the measures of early intervention referred to in Article 110zz occur towards this party, if the conditions stipulated in Article 110zs-110zy have been satisfied.

2. Affiliated entities may enter into other agreements and arrangements which fail to satisfy the conditions referred to in Article 110zs-110zy. Such agreements may not be executed if a brokerage house or any other party to the agreement satisfies the conditions for application of early intervention measures.

Article 110zs. 1. The agreement referred to in Article 110zr paragraph 1 may cover one or more subsidiaries in a group and provide in particular for financial support from a parent company for subsidiaries, from the subsidiaries for a parent entity or between subsidiaries within a group.

2. The agreement referred to in Article 110zr paragraph 1 may provide for financial support, in particular in the form of a loan, granting a guarantee or provision of assets to be used as collateral, including between an entity receiving support and an a non-affiliated entity.

3. If in accordance with the agreement referred to in Article 110zr paragraph 1, one of the entities affiliated within a group agrees to provide support to another affiliated entity, the agreement may envisage provision of the support on a reciprocal basis by an affiliated entity receiving support for the benefit of an affiliated entity providing support.

4. The agreement referred to in Article 110zr paragraph 1 shall establish the rules of calculation of fees, commissions or remuneration for each transaction effected under this agreement at the time of providing financial support.

5. The agreement referred to in Article 110zr paragraph 1 shall satisfy the following conditions:

- 1) upon the entrance into the agreement and determination of the fees, commissions or remuneration for provision of the financial support a party is required to act in its best interests which may take into account any direct or indirect benefits which a given party may gain as a result of the financial support;

- 2) a party providing financial support – prior to determination of fees, commissions or remuneration for provision of the financial support and taking any decision on the provision thereof - is required to obtain full information relevant to the given situation from a party receiving such support;
- 3) a party providing financial support may, while deciding on the provision thereof, take into account information unavailable for market participants, acquired further to its participation to the same group as a party receiving financial support;
- 4) rules of calculation of fees, commissions or remuneration for provision of financial support may not take into account a possible, expected, temporary impact on the market prices, resulting from events which occur outside the group.

6. The measures arising from the agreement referred to in Article 110zr paragraph 1 concerning the provision of financial support may solely be taken by the parties to the agreement within the group, excluding execution thereof by third parties.

7. A brokerage house or other entities covered by consolidated supervision referred to in Article 110zr paragraph 1 may provide financial support even if they have not entered into an agreement if the support poses no threat to a group. Pursuit of business in the territory of the Republic of Poland by an affiliated entity not being a brokerage house or by a brokerage house in the territory of another Member State may not be contingent upon entrance into an agreement.

8. An agreement on financial support within a group may be concluded solely if none of the parties satisfies the conditions of application of early intervention measures at the time of conclusion of the agreement.

Article 110zt. The financial support referred to in Article 110zr paragraph 1 may be granted if:

- 1) granting financial support significantly improves the financial situation of an affiliated entity receiving the support;
- 2) provision of financial support helps entities operating in a group to maintain or restore financial stability and is in the interest of an affiliated entity providing financial support;
- 3) the requirements referred to in Article 110zr paragraph 1 and Article 110zs have been satisfied;
- 4) at the time of taking a decision by an affiliated entity which provides support on granting it, a reasonable probability exists that an affiliated entity receiving financial support is going to settle fees, commissions or remuneration for financial support, and if this support takes the form of a loan – that it is going to repay the loan; if financial support takes the form of a guarantee or any form of security, the same condition applies to a liability arising for the holder of this security when the guarantee or security is executed;
- 5) financial support poses no threat to liquidity or solvency of an affiliated entity providing support;
- 6) financial support poses no threat to stability of the financial system of the Member State of residence of an affiliated entity providing support;
- 7) at the time of providing financial support a brokerage house granting it satisfies the requirements specified in section 2a, implementing provisions issued pursuant to Article 110x and 110za and additional requirements referred to in Article 110y paragraph 1 point 9 imposed on a brokerage house and granting financial support triggers no violation of these requirements by a brokerage house, unless the Polish Financial Supervision Authority approves so;
- 8) at the time of providing financial support a brokerage house granting it satisfies the requirements of Regulation 575/2013 as regards the limits of large exposures and granting financial support triggers no violation of these requirements by a brokerage house, unless the Polish Financial Supervision Authority approves so;
- 9) granting financial support poses no threat to the successful completion of resolution of an affiliated entity providing support.

Article 110zu. 1. Where the Polish Financial Supervision Authority exercises consolidated supervision of a brokerage house being an EU parent institution, conclusion by a brokerage house of the agreement referred to in Article 110zr paragraph 1 shall require the consent of the Polish Financial Supervision Authority issued at the request of a brokerage house to approve the agreement. A brokerage house shall append the application with a draft agreement, information allowing identification of entities intending to enter into the agreement and an approval of the general meeting of shareholders or partners of a brokerage house to enter into the agreement referred to in Article 110zv.

2. The Polish Financial Supervision Authority forthwith forwards the application to the competent supervisory authorities exercising supervision over individual subsidiaries to be the parties to the agreement.

3. The Polish Financial Supervision Authority in the mode specified in paragraph 5-8, by way of a decision, refuses to give consent to the conclusion of the agreement if the agreement fails to satisfy the conditions stipulated in Article 110zt or any of the parties satisfies the conditions for application of early intervention measures.

4. Any amendments in the agreement must be approved by the Polish Financial Supervision Authority.

5. While issuing a decision, the Polish Financial Supervision Authority aims to reach an agreement with the competent supervisory authorities supervising subsidiaries, as regards the assessment whether the terms of the proposed agreement are consistent with the terms of financial support referred to in Article 110zt, on considering the potential impact of execution of the agreement, including budgetary consequences in those Member States where a group operates.

6. Where the agreement referred to in paragraph 5 is reached, the Polish Financial Supervision Authority issues a decision within four months from the date of receipt of the request.

7. In the absence of the agreement referred to in paragraph 5 within the period referred to in paragraph 6, the Polish Financial Supervision Authority shall issue a decision on the request, whilst taking into account the previously communicated positions of the supervisory authorities from other Member States. The Polish Financial Supervision Authority shall notify other competent supervisory authorities from other Member States of the contents of the decision.

8. If within the period referred to in paragraph 6 any of the supervisory authorities referred to in paragraph 2 refers the case to the European Banking Authority in accordance with Article 19 of Regulation 1093/2010, the Polish Financial Supervision Authority may issue a decision referred to in paragraph 7 forthwith upon the receipt of the decision of the European Banking Authority in accordance with paragraph 3 of Article 19 of the Regulation. The Polish Financial Supervision Authority shall issue a decision in accordance with the decision of the European Banking Authority. If the European Banking Authority fails to issue a decision within one month from the end of the conciliation procedure, the Polish Financial Supervision Authority shall issue its decision forthwith. The term of four months is deemed to be the term for the completion of the conciliation procedure within the meaning of Regulation 1093/2010.

9. While supervising a brokerage house which is a subsidiary of an EU parent institution and which is to become a party to the agreement referred to in paragraph 1 of Article 110zr, the Polish Financial Supervision Authority shall seek to reach an agreement in the scope referred to in paragraph 5 within 4 months from the date of provision by the EU parent institution of an application for the approval of the agreement to the competent supervisory authority of this institution. Prior to the expiry of the period of four months, the Polish Financial Supervision Authority may communicate a position to the competent supervisory authority of the said institution or address the European Banking Authority in accordance with Article 19 of Regulation 1093/2010.

Article 110zv. 1. Conclusion of an agreement for financial support within a group to which a brokerage house should become a party must be approved by the general meeting of shareholders or partners of a brokerage house.

2. The management board of a brokerage house shall provide the general meeting of shareholders or partners with a report on execution of the agreement on financial support within a group coupled with an activity report on an annual basis.

Article 110zw. Having given the consent referred to in Article 110zu, the Polish Financial Supervision Authority shall forward a copy of the agreement for financial support within a group and any copies of amendments to this agreement to the Bank Guarantee Fund and to resolution authorities in other Member States competent for subsidiaries in a group which are parties to the agreement.

Article 110zx. 1. Where a brokerage house intends to provide financial support under the agreement referred to in Article 110zr paragraph 1, it shall forthwith request for consent of the Polish Financial Supervision Authority. At the same time, a brokerage house shall communicate its intention to provide financial support under the agreement referred to in Article 110zr paragraph 1 to:

- 1) competent supervisory authority exercising consolidated supervision of a group which includes a brokerage house;
- 2) competent supervisory authority exercising supervision of an affiliated entity receiving financial support;
- 3) European Banking Authority.

2. A brokerage house shall append the application and notification referred to in paragraph 1 with a copy of the agreement on financial support within a group and a statement of reasons for the proposed measures, while specifying in particular the objective of financial support and indicating the manner of satisfaction of the conditions stipulated in Article 110zt, as well as detailed information on the proposed financial support.

3. The Polish Financial Supervision Authority shall give the consent referred to in paragraph 1 within 5 working days from the date of receipt of the request and the documents referred to in paragraph 2.

4. In the event of any deficiencies in the application and accompanying documents, the Polish Financial Supervision Authority shall call on a brokerage house to remedy the deficiencies within the prescribed period.

5. The Polish Financial Supervision Authority may limit the scope of financial support. Consent may be contingent and subject to a time limit.

6. Where the conditions stipulated in Article 110zt have not been satisfied, the Polish Financial Supervision Authority shall refuse to give its consent.

7. If the Polish Financial Supervision Authority fails to issue a decision within the period referred to in paragraph 3, a brokerage house may provide financial support under the conditions specified in the application and accompanying documents.

8. The period of 5 working days referred to in paragraph 3 shall be deemed observed if prior to its expiry a decision was mailed at a Polish public post office.

9. The Polish Financial Supervision Authority shall forthwith forward the information on the decision to:

- 1) competent supervisory authority for an affiliated entity receiving financial support;
- 2) competent supervisory authority exercising consolidated supervision – in the case when the Polish Financial Supervision Authority does not exercise consolidated supervision of a brokerage house;
- 3) European Banking Authority;
- 4) other members of the college and members of the resolution college - where the Polish Financial Supervision Authority exercises consolidated supervision over a brokerage house and the colleges have been established;
- 5) Bank Guarantee Fund.

10. Where the competent supervisory authority in another Member State has prohibited or limited provision of financial support to a brokerage house or another affiliated entity, the Polish Financial Supervision Authority – being an authority exercising consolidated supervision or an authority exercising supervision of a brokerage house which is a subsidiary in a group may, in the case of doubts about the decision, within 2 working days of receipt thereof, submit a request to the European Banking Authority for assistance in reaching an agreement in accordance with Article 31 point c of Regulation 1093/2010.

11. A brokerage house shall provide the Polish Financial Supervision Authority and the entities referred to in paragraph 1 point 1-3 with information on provision of financial support.

12. While exercising consolidated supervision over a brokerage house, the Polish Financial Supervision Authority shall communicate provision of financial support by a brokerage house to the other members of the college, the Bank Guarantee Fund and members of the resolution college if the colleges have been established.

13. If a competent supervisory authority of another Member State has prohibited or restricted provision of financial support to a brokerage house by an affiliated entity under its supervision, whereas financial support has been provided in a recovery plan of a group, the Polish Financial Supervision Authority may apply to the competent supervisory authority which exercises consolidated supervision in a group for re-examination of a recovery plan of a group in accordance with Article 110zn. Where the Polish Financial Supervision Authority exercises consolidated supervision in a group, it shall undertake measures with reference to the verification of a recovery plan of a group in accordance with Article 110zm.

14. If a competent supervisory authority of another Member State has prohibited or limited provision of financial support to a brokerage house by an affiliated entity under its supervision, whereas financial support has been envisaged in a recovery plan of a brokerage house, the Polish Financial Supervision Authority shall recommend the brokerage house an amendment to its recovery plan in accordance with Article 110zk.

15. If the Polish Financial Supervision Authority has objected to a planned provision of financial support or limited provision thereof by a brokerage house to an affiliated entity in a group or a competent supervisory authority from another Member State has prohibited or limited provision of financial support by an affiliated entity under its supervision for an affiliated entity in a group, whereas the provision of financial support has been provided for in a group recovery plan, and the Polish Financial Supervision Authority exercises consolidated supervision in the group, at the request of a competent supervisory authority from another Member State for an affiliated entity for which financial support has been refused or limited, the Polish Financial Supervision Authority shall recommend a brokerage house or its parent entity being an EU parent company an amendment to a group recovery plan.

Article 110zy. In accordance with Articles 431-434 of Regulation 575/2013, a brokerage house shall make public whether it is a party to an agreement on financial support within a group. If the brokerage house is a party to the said agreement, it shall also make public a description of the general conditions thereof and enumerates the affiliated entities that are parties to the agreement. This information shall be updated at least once a year.

Article 110zz. If due to a rapidly deteriorating financial situation of a brokerage house, including deteriorating liquidity, high or rapidly increasing level of leverage, growing value of non-performing loans granted by a brokerage house or concentration of exposures, a brokerage house violates or is likely to violate the provisions of Article 98 Part 2a of the Regulation 575/2013, Articles 3-7, Articles 14-17, Article 24, Article 25 or Article 26 of Regulation No 600/2014, irrespective of the supervisory measures provided for in Article 110y, the Polish Financial Supervision Authority may, by way of a decision, apply the following early intervention measures towards a brokerage house:

- 1) order implementation of a recovery plan, including adoption of certain measures provided for therein;
- 2) order update of a recovery plan in accordance with Article 110zj paragraph 7 by including the circumstances which have given rise to occurrence of a situation being a premise for application of early intervention measures, and have not been provided for in a recovery plan;
- 3) in the situation referred to in point 2 order implementation of specific measures provided for in an updated recovery plan;
- 4) order a brokerage house to examine the reasons for the occurrence of the situation, identify measures to resolve the identified problems identified and develop an action program to address these issues and the timetable for its implementation;
- 5) order a brokerage house to convene an extraordinary general meeting of shareholders or an extraordinary general meeting of partners in order to consider the situation of a brokerage house or place issues identified by the Polish Financial Supervision Authority in the agenda of the general meeting; in an event of failure to satisfy any of the demands, the provisions of Article 237 paragraph 1 and 3 or Article 400 paragraph 3 and 5 of the Act of 15 September 2000 - Code of Commercial Companies shall apply to the demands of the Polish Financial Supervision Authority;
- 6) order to develop and agree on a restructuring plan of receivables or other debts with creditors of a brokerage house, according to a recovery plan;
- 7) order amendments in a strategy of a brokerage house;
- 8) order to amend statutes or articles of association of a brokerage house or its management structure, including its organisational structure;
- 9) order removal of a management board member whose acts or omissions gave rise to the premises for application of early intervention measures, whereas other applied measures of early intervention proved ineffective or insufficient;
- 10) order suspension of a management board member in performance of official duties pending adoption of a resolution on a request for removal of the board member referred to in point 9.

2. In the assessment of the financial situation of a brokerage house, the Polish Financial Supervision Authority may take into account in particular the observance by a brokerage house of the own funds requirement specified in the provisions of Regulation 575/2013, increased by 1.5 percentage points.

3. In the case referred to in paragraph 1 point 5, the costs of convening and holding the meeting shall be borne by a brokerage house. Intervals in the meeting may not last longer than 14 days in total.

4. The Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund of the initiation of the procedure on the implementation of the early intervention measure referred to in paragraph 1.

5. In the decision referred to in paragraph 1 the Polish Financial Supervision Authority may determine the term for execution thereof.

6. At the request of the Polish Financial Supervision Authority or its authorised representative, persons authorised to represent a brokerage house or included in its statutory bodies or remaining with a brokerage house in the employment relationship shall forthwith develop and submit, at the expense of the said brokerage house, all information to update a resolution plan, as well as other information which in the opinion of the Polish Financial Supervision Authority may have an impact on preparation or implementation of resolution, including on valuation of assets and liabilities of a brokerage house.

Article 110zza. 1. If, in the opinion of the Polish Financial Supervision Authority, application of the measures referred to in Article 110zz paragraph 1 point 9 is insufficient to improve the situation of a brokerage house, the Polish Financial Supervision Authority may issue a decision on appointment of a trustee or establishment of conservatorship. In the decision, the Polish Financial Supervision Authority shall specify the tasks of the trustee or conservatorship.

2. The Polish Financial Supervision Authority may alter the decision referred to in paragraph 1.

3. The trustee or conservatorship shall be appointed for a period not longer than one year. Wherever reasonable, this period may be extended if in the assessment of the Polish Financial Supervision Authority the premises for appointment thereof persist. The Polish Financial Supervision Authority shall publish information on the extension of the period for which the trustee or conservatorship has been appointed on a website.

4. The provisions of Article 110ze paragraphs 2-10 and 12-16 shall apply accordingly to the trustee.

5. The provisions of Article 110zf paragraph 3-8 and Article 110zg shall apply accordingly to the conservatorship.

6. In its decision to establish conservatorship, the Polish Financial Supervision Authority may make the pursuit of specific measures by the conservatorship conditional upon consent of the Polish Financial Supervision Authority.

7. The conservatorship may convene a general meeting of shareholders or a general meeting of partners upon consent of the Polish Financial Supervision Authority.

Article 110zzb. 1. If the premises for application of the measures referred to in Article 110zz and Article 110zza have been satisfied towards a brokerage house being an EU parent company or towards an EU parent financial holding company or an EU parent mixed financial holding company, the Polish Financial Supervision Authority, if it exercises consolidated supervision referred to in Article 110g paragraph 3-8, shall notify this fact to the European Banking Authority and the concerned competent supervisory authorities included in the college.

2. While issuing a decision on application of the measures referred to in Article 110zz and Article 110zza, the Polish Financial Supervision Authority shall take into account the positions expressed by the concerned competent supervisory authorities, including the impact of the decisions on affiliated entities. The Polish Financial Supervision Authority shall forward the information on the decision to the concerned competent supervisory authorities included in the college and to the European Banking Authority.

3. Where a competent supervisory authority from another Member State exercising consolidated supervision of an EU parent company notifies the Polish Financial Supervision Authority exercising supervision over a brokerage house being a subsidiary of this EU parent company of occurrence of premises for application of the measures equivalent to the measures provided for in Article 110zz or Article 110zza towards an EU parent company, the Polish Financial Supervision Authority may communicate its position as regards the application of these measures.

4. Where the Polish Financial Supervision Authority has been notified by a competent supervisory authority from another Member State of planned application of measures equivalent to those provided for in Article 110zz or Article 110zza towards an institution being a subsidiary of an EU parent company covered by the consolidated supervision exercised by the Polish Financial Supervision Authority, the Polish Financial Supervision Authority may communicate its position as regards the impact of the planned measures on a group and affiliated entities to the said competent supervisory authority within 3 working days from the receipt of the notification.

5. Where the notification referred to in paragraph 4 has been addressed by more than one competent supervisory authority, the Polish Financial Supervision Authority shall seek to reach an agreement with the concerned competent authorities as regards application of the measures referred to in Article 110zza or the measures equivalent to the measures provided for in Article 110zza for all relevant institutions or as regards coordination of application of the measures referred to in Article 110zz or the measures equivalent to the measures provided for in Article 110zz for more than one institution. The consensus should be reached within 5 working days from the date of receipt by the Polish Financial Supervision Authority of the last notification. The Polish Financial Supervision Authority shall notify reaching the agreement to an EU parent company under its consolidated supervision.

6. The provision of paragraph 5 shall also apply where the Polish Financial Supervision Authority, being an authority exercising consolidated supervision of an EU parent company, is one of the competent supervisory authorities intending to undertake measures listed in that provision towards a subsidiary which is a brokerage house. In this case, in the absence of the agreement referred to in paragraph 5 within 5 working days from the date of receipt by the Polish Financial Supervision Authority of the last notification, the Polish Financial Supervision Authority may issue a decision on application of the measures referred to in Article 110zz and Article 110zza. The Polish Financial Supervision Authority shall take into account positions of the other competent supervisory authorities in its decision.

7. If the premises for application of the measures referred to in Article 110zz and Article 110zza have been satisfied towards a brokerage house being a subsidiary of an EU parent company covered by consolidated supervision exercised by a competent supervisory authority from another Member State, the Polish Financial Supervision Authority shall notify this to the European Banking Authority and the said competent supervisory authority exercising consolidated supervision. While issuing its decision, the Polish Financial Supervision Authority shall take into account the position of the competent supervisory authority exercising consolidated supervision from another Member State if it has been expressed within 3 working days from the date of receipt by the competent supervisory authority of the notification from the Polish Financial Supervision Authority. The Polish Financial Supervision Authority shall notify the decision to the authority exercising consolidated supervision, the other competent supervisory authorities within the college and the European Banking Authority.

8. If the premises for application of measures referred to in Article 110zz and Article 110zza have been satisfied towards a brokerage house being a subsidiary of an EU parent company covered by consolidated supervision exercised by the competent supervisory authority from another Member State and at the same time at least one other competent supervisory authority from another Member State exercising supervision of another institution being a subsidiary of the same EU parent entity plans to apply the measures equivalent to those provided for in Article 110zz or Article 110zza towards the institution under its supervision, the Polish Financial Supervision Authority shall seek to reach an agreement with the concerned competent authorities as regards application of the measures referred to in Article 110zza or the measures equivalent to those provided for in Article 110zza for all relevant institutions or as regards coordination of application of any measures referred to in Article 110zz or measures equivalent to those provided for in Article 110zz.

9. In the absence of the agreement referred to in paragraph 8, within 5 working days from receipt by the competent supervisory authority exercising consolidated supervision of an EU parent company of the last notification, the Polish Financial Supervision Authority may issue a decision on application of the measures referred to in Article 110zz and Article 110zza towards a brokerage house being a subsidiary.

10. If the Polish Financial Supervision Authority does not agree with a decision issued following the receipt of the notification of the occurrence of the premises for the application of the measures equivalent to those provided for in Article 110zz or Article 110zza in accordance with paragraph 3 or 4 or in the absence of the agreement referred to in paragraph 5 and 8, the Polish Financial Supervision Authority may refer the matter to the European Banking Authority.

11. The European Banking Authority at the request of any competent supervisory authority may provide assistance to the competent supervisory authorities which intend to apply at least one of the measures referred to in Article 110zz paragraph 1:

- 1) point 1 – towards the measures provided for in a recovery plan in accordance with Article 110zj paragraph 3 point 4, 10, 11 and 19 ,
- 2) point 6,
- 3) point 8

– with a view to reaching an agreement in accordance with Article 19 paragraph 3 of Regulation 1093/2010.

12. While issuing the decisions referred to in paragraph 2, 6, 7 or 9, the Polish Financial Supervision Authority shall take into account the potential impact of these decisions on financial stability in the concerned Member States.

13. If, before the end of the period of the consultation referred to in paragraph 1 and 7, or within 5 working days referred to in paragraph 6 and 9, any of the competent authorities refer the matter to the European Banking Authority in accordance with Article 19 paragraph 3 of Regulation 1093/2010, the Polish Financial Supervision Authority may issue a decision forthwith following the receipt of the decision of the European Banking Authority in accordance with Article 19 paragraph 3 of the Regulation. While issuing its decision, the Polish Financial Supervision Authority shall take into account the decision of the European Banking Authority, unless the European Banking Authority fails to issue a decision within 3 working days from the date of completion of the conciliation procedure. The term for the consultation referred to in paragraph 1 and 7 and the period of 5 working days referred to in paragraph 6 and 9 shall be considered the term of completion of the conciliation procedure within the meaning of the Regulation. The matter shall not be referred to the European Banking Authority, if the term of the consultation referred to in paragraph 1 and 7 and the period of 5 working days referred to in paragraph 6 and 9 has expired or if a collective decision has been taken.

14. In the absence of a decision by the European Banking Authority within 3 working days from completion of the conciliation procedure, the individual decisions issued in accordance with paragraph 2, 6, 7 or 9 shall apply.

15. The Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund of the decisions concerning application of the early intervention measure referred to in paragraph 2 and 6-9.

Article 110zzc. The provisions of this section in terms of group recovery plans shall not apply to groups which include a domestic bank, unless a brokerage house is an EU parent institution in the said group or the measures referred to in this section are applicable for a brokerage house.

Article 110zdd. In the proceedings conducted in the matters referred to in Article 110zze and Article 110zzf, the Polish Financial Supervision Authority may derogate from application of Article 10 paragraph 1 of the Act of 14 June 1960 - Code of Administrative Procedure also in the cases where application of this provision could prevent or significantly hinder achievement of the objectives of early intervention.

Article 110zze. 1. The decisions taken by the Polish Financial Supervision Authority pursuant to the provisions of the present section shall be immediately enforceable.

2. The statement of reasons for the decision referred to in paragraph 1 may be served within 14 days from the date of receipt of the decision.

3. Where the statement of reasons is served following the service of the decision, the deadline for submission of a request for retrial runs from the date of receipt of the statement of reasons for the decision.

Article 110zzf. The provision of Article 31 of the Act of 14 June 1960 - Code of Administrative Procedure shall not apply to the proceedings before the Polish Financial Supervision Authority conducted under the provisions of this section.

Article 110zzg. 1. The service by the Polish Financial Supervision Authority of official letters in administrative proceedings conducted pursuant to the provisions of this section may take place by means of electronic communication within the meaning of Article 2 point 5 of the Act of 18 July 2002 on Electronic Services (Journal of Laws of 2013 item 1422, of 2015 item 1844 and of 2016 items 147 and 615) to the electronic mail address previously given to the Polish Financial Supervision Authority by a brokerage house. The provision of Article 39¹ of the Act of 14 June 1960 - Code of Administrative Procedure shall not apply to these proceedings.

2. Upon commencement of business, a brokerage house shall provide the Polish Financial Supervision Authority with an electronic mail address for service in proceedings referred to in the first sentence of paragraph 1 within 14 days. Within the same period, a brokerage house shall provide for itself the possibility of identification at

the electronic mailbox in the IT system of the Polish Financial Supervision Authority and of signing official acknowledgements of receipt in the manner provided for in Article 20a of the Act of 17 February 2005 on Computerisation of Entities Performing Public Tasks (Journal of Laws of 2014 item 1114 and of 2016 item 352).

3. The brokerage house referred to in paragraph 1 shall notify the Polish Financial Supervision Authority of a change of its electronic mail address referred to in paragraph 1. In the event of failure to fulfil this obligation, service of an official letter sent to a previously specified electronic address produces a legal effect. The provision of Article 41 of the Act of 14 June 1960 - Code of Administrative Procedure shall not apply to the proceedings referred to in the first sentence in paragraph 1.

4. In the case of appointment an attorney by the brokerage house referred to in paragraph 1, the document of the power of attorney should specify the electronic mail address for service. In the absence of the specification of an electronic mail address for service in the document of the power of attorney, an official letter served at the electronic address of a brokerage house which appointed an attorney shall produce a legal effect. The provision of paragraph 3 shall apply accordingly in the case of a change of the electronic mail address specified in the document of the power of attorney.

5. In the case of a failure to collect an official letter in the form of an electronic document in the manner referred to in Article 46 paragraph 4 point 3 of the Act of 14 June 1960 - Code of Administrative Procedure, the service shall be deemed effected following 2 days from the date of dispatch of the notification referred to in Article 46 paragraph 4 of the Act of 14 June 1960 - Code of Administrative Procedure.

Article 110zzh. 1. If a brokerage house is at risk of bankruptcy, the Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund while pointing to premises of such an assessment.

2. A brokerage house is at risk of bankruptcy, if at least one of the premises referred to in Article 101 paragraph 3 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution occurs.

3. The management board of a brokerage house, conservatorship or liquidator shall forthwith notify the Polish Financial Supervision Authority of the satisfaction of the conditions referred to in paragraph 1”;

7) Article 142 shall read as follows:

"Article 142. 1. In respect of the transfer of funds to a receiver, insolvency administrator, the National Depository of Securities Joint Stock Company shall be entitled to a claim against the bankruptcy estate for reimbursement of the transferred amounts to the compensation scheme. The claim for the reimbursement shall not cover the part of the transferred amount which corresponds to the share of the brokerage house in bankruptcy in the compensation scheme.

2. The provision of Article 440 of the Act of 28 February 2003 - Bankruptcy Law shall apply accordingly to the satisfaction of claims from the funds of the bankruptcy estate in the case of the entities referred to in Article 64 point 2 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, of:

- 1) investment firm;
- 2) financial institution referred to in paragraph 1 point 26 of Article 4 of Regulation 575/2013, established in a Member State if it is a subsidiary within the meaning of Article 4 paragraph 1 point 16 of Regulation 575/2013 towards the credit institution referred to in Article 4 paragraph 1 point 1 of Regulation 575/2013, the entity referred to in paragraphs 3-9, or an investment firm and is subject to consolidated supervision exercised in accordance with Articles 6-17 of Regulation 575/2013;
- 3) financial holding company referred to in Article 4 paragraph 1 point 20 of Regulation 575/2013, established in a Member State;
- 4) mixed financial holding company referred to in Article 4 paragraph 1 point 21 of Regulation 575/2013, established in a Member State;
- 5) mixed activity holding company referred to in Article 4 paragraph 1 point 22 of Regulation 575/2013, established in a Member State;
- 6) parent financial holding company from a Member State, referred to in Article 4 paragraph 1 point 30 of Regulation 575/2013;
- 7) EU parent financial holding company referred to in Article 4 paragraph 1 point 31 of Regulation 575/2013;
- 8) parent mixed financial holding company from a Member State referred to in Article 4 paragraph 1 point 32 of Regulation 575/2013;
- 9) the EU parent mixed financial holding company referred to in Article 4 paragraph 1 point 33 of Regulation 575/2013.

3. The claims of the National Depository of Securities Joint Stock Company referred to in paragraph 1 along with interest and costs of enforcement shall be subject to the satisfaction in the first category.”;

8) in Article 150 in paragraph 1:

a) points 7a and 7b shall read as follows:

"7a) by a brokerage house to an entity vested with the duties referred to in the provisions of division IV of chapter 1 of sections 2a and 2c in the Republic of Poland or in another Member State or the provisions of Regulation 575/2013, insofar as it is necessary to implement those duties;

7b) between subsidiaries and the parent entity in a capital group which includes a brokerage house if the information falls within the scope of consolidated supervision, provided that the transfer thereof is necessary to perform the duties referred to in the provisions of Article 110b, Article 110c, Article 110e, Article 110g paragraph 2, Article 110m, Article 110p, Article 110q, Article 110v or Article 110w and the provisions of division IV of chapter 1 of section 2c;"

b) in point 15, sub-point d shall read as follows:

"d) to the European Banking Authority, European Insurance and Occupational Pensions Authority, European Securities and Markets Authority, European Systemic Risk Board, Financial Stability Committee, European System of Central Banks, European Central Bank, central banks in other Member States and to the competent supervisory authority in another Member State, Bank Guarantee Fund, resolution authorities in other Member States to the extent necessary to perform statutory tasks and the tasks defined by the directly applicable European laws";

9) the following paragraph 11 shall be added to Article 167:

"11. The Polish Financial Supervision Authority may impose sanctions referred to in paragraph 1 and 2 where an investment firm fails to present the new recovery plan referred to in Article 110zk paragraph 7, or fails to present the new recovery plan within the period referred to in Article 110zk paragraph 8.".

Article 360. In the Act of 29 July 2005 on Public Offering, Conditions Governing Introduction of Financial Instruments to Organised Trading, and Public-Owned Companies (Journal of Laws of 2013 item 1382, of 2015 item 978, 1260 and 1844 and of 2016 item 615) in Article 75 paragraph 3 point 6, the full stop shall be replaced by a semicolon and the following point 7 shall be added:

"7) under resolution.".

Article 361. The Act of 21 July 2006 on Financial Market Supervision (Journal of Laws of 2016 item 174, 615 and 888) shall be amended as follows:

1) in Article 12 in paragraph 2a in point 9 the full stop shall be replaced by a semicolon and the following points 10-13 shall be added:

"10) issuance of a warning;

11) issuance of a decision concerning programmes of recovery proceedings;

12) suspension of members of statutory bodies in their official duties;

13) limitation of the scope of business.";

2) in Article 17:

a) paragraphs 1 and 2 shall read as follows:

"1. The Chairman of the Polish Financial Supervision Authority may provide the Minister competent for financial institutions, National Bank of Poland and the Bank Guarantee Fund with information obtained by the Polish Financial Supervision Authority, including the information protected under separate laws.

2. With a view to determining the principles of cooperation and exchange of information referred to in paragraph 1, the Chairman of the Polish Financial Supervision Authority may conclude Memoranda of Understanding on cooperation and exchange of information.";

b) paragraph 4 shall be repealed;

3) Article 17a shall be repealed.

Article 362. The Act of 12 February 2009 on Provision by the State Treasury of Support to Financial Institutions (Journal of Laws of 2014 item 158, of 2015 item 1844 and of 2016 item 615) shall be amended as follows:

1) the following paragraph 5 shall be added in Article 3:

"5. Where an entity for which the State Treasury provided the support referred to in paragraph 1 is declared bankrupt, or the arrangement procedure has been initiated towards the said entity, the collateral of the claims referred to in paragraph 3 shall not fall within the bankruptcy estate or the estate of the arrangement procedure." ;

- 2) the following paragraph 3 shall be added in Article 4:

"3. In the case of declaration of bankruptcy of an entity to which the National Bank of Poland granted a refinancing loan, in respect of which the State Treasury granted a guarantee for the National Bank of Poland, or opening the arrangement procedure towards the said entity, the collateral of the refinancing loan and the collateral of the guarantee for the National Bank of Poland shall not fall within the bankruptcy estate or the estate of the arrangement procedure."

Article 363. The Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2013 item 1450 as amended.²⁶) shall be amended as follows:

- 1) in Article 9f in paragraph 1:

- a) point 25 shall read as follows:

"25) at the demand of the Bank Guarantee Fund in the scope of execution of its tasks as defined in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996);",

- b) the following point 26 shall be added:

"26) to an acquiring entity, bridge institution or asset management vehicle to the extent required to conduct resolution, including application of instruments of resolution.";

- 2) after Article 28, the following Articles 28a-28c shall be added:

"Article 28a. 1. A credit union operating in the territory of the Republic of Poland shall provide - in the manner in which the information is provided about the rendered services – persons using its services and those interested in using its services with the information on:

- 1) its economic and financial situation;
- 2) participation in the guarantee scheme and principles of its functioning, including on the material and personal scope of protection afforded by this scheme, while specifying in particular:
 - a) maximum amount of the guarantee,
 - b) types of entities which may be considered eligible to receive a pecuniary benefit.

2. Where a credit union operating in the territory of the Republic of Poland pursues its business under different trade names, it shall inform persons interested in using its services and those using them on their entitlement to one guarantee limit for the funds held in the said credit union.

3. In the case referred to in paragraph 1 point 2 and paragraph 2, a credit union operating in the territory of the Republic of Poland, prior to conclusion of an account agreement shall provide persons interested in the use of its services, and then least once a year, persons using its services with information in the form of the information sheet referred to in Article 318 paragraph 3 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution. In the case of provision of this information prior to conclusion of an account agreement these persons shall acknowledge its receipt.

4. A credit union operating in the territory of the Republic of Poland shall inform a person using its services and person interested in the use of its services on the absence of the guarantee protection if:

- 1) a claim arising further to the pursuit of the transactions referred to in Article 3 will not be protected by the guarantee scheme;
- 2) further to the pursuit of a transaction other than that referred to in Article 3 a credit union issues a registered document in evidence of its pecuniary liabilities;
- 3) in connection with services rendered by a credit union, in particular involving intermediation in conclusion of agreements, any claims arise or may arise of persons using its services and interested in the use of its services towards another entity which is not covered by the guarantee system.

5. The information on the procedure and conditions for receiving a pecuniary benefit should be made available at the request of a person using services of a credit union and interested in the use of its services.

6. An account statement shall include information on whether the funds held in the account are protected by the guarantee scheme.

²⁶ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2015 item 978, 1158, 1259, 1311, 1830, 1854, 1864 and 2281 and of 2016 item 615 and 904.

7. The information made available to persons using services of a credit union and interested in the use of its services, pursuant to paragraphs 1, 4 and 5 should be provided in a manner:

- 1) in which the information is communicated on the services provided;
- 2) clear and comprehensible.

8. The information on participation in the guarantee scheme must not be used for marketing purposes and should be limited to the information referred to in paragraph 1 and 4.

9. The prohibition stipulated in paragraph 8 shall also apply to entities not participating in the guarantee scheme.

Article 28b. If a credit union operating in the territory of the Republic of Poland intends to perform legal or organisational changes which will result in a change of the guarantee scheme which covers the guaranteed funds held in it or a part thereof to the mandatory guarantee scheme referred to in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, it shall notify the Bank Guarantee Fund at least 6 months prior the planned change.

Article 28c. 1. In the case of a merger of credit unions or transformation of a credit union, a credit union relevant for a depositor shall notify the depositor at least one month prior to the said merger or transformation. At the request of one of these credit unions, the Polish Financial Supervision Authority may set a shorter term of such a notification in order to protect a trade secret or financial stability.

2. Within 3 months from the date of notification of a merger of credit unions or transformation of a credit union, depositors may collect (withdraw) or transfer funds covered by the guarantee protection held in the credit union which notified the depositor to another credit union or another credit institution, at no cost, in the case where these funds at the end of the day of the merger of credit unions or transformation of a credit union exceed the guarantee limit specified in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution.”;

- 3) Article 48 paragraph 2 and 3 shall read as follows:

”2. A credit union in which a conservator has been appointed shall not take part in the vote at the general meeting of the National Association of Cooperative Savings and Credit Unions.

3. At a general meeting each member shall be entitled to the number of votes equal to the number of shares held.”;

- 4) Article 53 paragraph 2 shall read as follows:

”2. An amendment to the statutes of the National Association of Cooperative Savings and Credit Unions requires approval by the Polish Financial Supervision Authority if it concerns the matters referred to in paragraph 1.”;

- 5) in Article 55 paragraph 1a shall be repealed;

- 6) the following paragraph 10 shall be added in Article 73:

”10. In the case of receipt of the notification referred to in Article 72a paragraph 1 and commitment of a credit union to initiate recovery proceedings in accordance with Article 72a paragraph 4, appointment of a trustee in accordance with Article 72c paragraph 1 or appointment of a conservator in accordance with paragraph 1, the Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund.”;

- 7) the title of chapter 6b shall read as follows: ”Merger, acquisition, liquidation and bankruptcy of credit unions”;

- 8) Article 74k shall read as follows:

Article 74k. 1. If on the reporting date specified in the provisions issued pursuant to Article 62c paragraph 4 assets of a credit union are not sufficient to cover its liabilities, the management board of the credit union, a conservator or liquidator shall forthwith notify the Polish Financial Supervision Authority which shall resolve on appointment of a conservator, unless they have been appointed previously, and may decide to suspend the business of the credit union and file to the competent court for bankruptcy of the credit union, and shall also notify the National Association of Cooperative Savings and Credit Unions. The Polish Financial Supervision Authority shall forthwith notify the Bank Guarantee Fund and the National Association of Cooperative Savings and Credit Unions of the undertaken actions. The provisions of Article 73 paragraph 3-6b and 8 shall apply accordingly.

2. If a credit union fails to settle its liabilities regarding the payment of the guaranteed funds referred to in Article 2 point 65 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution towards depositors within the meaning of Article 2 point 3 of this Act for reasons directly related to its financial situation, the Polish Financial Supervision Authority - within 5 working days from the date of identification of this circumstance - shall take the decisions referred to in paragraph 1. The Polish Financial Supervision Authority shall forthwith communicate its decisions to the Bank Guarantee Fund.

3. The Polish Financial Supervision Authority shall not take the decisions referred to in paragraph 1 or 2, if the Bank Guarantee Fund has decided to initiate resolution of a credit union.

4. The Polish Financial Supervision Authority may also take the decisions referred to in paragraph 1 *ex officio* if no notification referred to in paragraph 1 has been effected.

5. The decision to suspend the business of a credit union referred to in paragraph 1 shall be disclosed to the public by a notice in a daily newspaper of nationwide circulation and in the Court and Commercial Gazette."

Article 364. The Act of 12 February 2010 on the Recapitalisation of Certain Financial Institutions (Journal of Laws item 226, of 2011 item 196, of 2013 item 1012 and of 2015 item 1513 and 1844) shall be amended as follows:

- 1) a general description of the subject of the Act in the title of the Act shall read as follows: "on the recapitalisation of certain institutions and the government financial stabilisation tools";
- 2) Article 1 and Article 2 shall read as follows:

"Article 1. 1. The Act shall define the principles, conditions and procedure for recapitalisation of certain institutions and application of government financial stabilisation tools.

2. The recapitalisation shall involve awarding by the State Treasury guarantees to increase own funds of institutions.

3. Financial stabilisation tools include:

- 1) public instrument of capital support;
- 2) temporary acquisition of institutions and financial institutions by the State Treasury.

Article 2. The terms used in this Act shall mean:

- 1) bank - the domestic bank referred to in Article 4 paragraph 1 point 1 of the Banking Act of 29 August 1997 (Journal of Laws of 2015 item 128 as amended.²⁷);
- 2) parent mixed financial holding company in a Member State – the parent mixed financial holding company in a Member State, referred to in Article 4 paragraph 1 point 32 of Regulation 575/2013;
- 3) parent financial holding company in a Member State – the parent financial holding company in a Member State, referred to in Article 4 paragraph 1 point 30 of Regulation 575/2013;
- 4) financial holding company – the financial holding company referred to in Article 4 paragraph 1 point 20 of Regulation 575/2013;
- 5) mixed financial holding company – the mixed financial holding company referred to in Article 4 paragraph 1 point 21 of Regulation 575/2013;
- 6) investment firm – the investment firm referred to in Article 4 paragraph 1 point 2 of Regulation 575/2013 which is subject to the initial capital requirement of EUR 730 000;
- 7) mixed activity holding company – the mixed activity holding company referred to in Article 4 paragraph 1 point 22 of Regulation 575/2013;
- 8) Additional Tier 1 instruments – capital instruments which meet the conditions stipulated in Article 52 paragraph 1 of Regulation 575/2013;
- 9) Common Equity Tier 1 instruments – capital instruments which meet the conditions stipulated in Article 28 paragraphs 1-4, Article 29 paragraphs 1-5 or Article 31 paragraph 1 of Regulation 575/2013;
- 10) Tier 2 instruments – capital instruments or subordinated loans which meet the conditions stipulated in Article 63 of Regulation 575/2013;
- 11) institution – a credit institution or investment firm;
- 12) financial institution – the financial institution referred to in Article 4 paragraph 1 point 26 of Regulation 575/2013;
- 13) credit institution – the credit institution referred to in Article 4 paragraph 1 point 1 of Regulation 575/2013, with the exception of credit unions and Bank Gospodarstwa Krajowego;
- 14) Common Equity Tier 1 capital – the element of institutions' own funds referred to in Article 26-50 of Regulation 575/2013;

²⁷ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2015 item 559, 978, 1166, 1223, 1260, 1311, 1348, 1357, 1513, 1634, 1830, 1844, 1854, 1864 and 2281 and of 2016 item 615, 904 and 996.

- 15) Tier II capital – the element of institutions’ own funds referred to in Article 62-71 of Regulation 575/2013;
 - 16) systemic crisis – disruption of stability of the financial system which can produce material adverse consequences for the internal market and for the economy identified by the Financial Stability Committee;
 - 17) Member State – a Member State of the European Union;
 - 18) rights attached to shares – shares, subscription rights within the meaning of the Act of 15 September 2000 - Code of Commercial Companies (Journal of Laws of 2013 item 1030 as amended ²⁸), rights to shares, subscription warrants and other negotiable securities incorporating property rights corresponding to the rights arising from shares issued pursuant to the relevant provisions of the Polish or foreign law and other negotiable property rights, which arise as a result of issuance, incorporating the right to purchase or assume such securities;
 - 19) Regulation 575/2013 – Regulation of the European Parliament and of the Council (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms amending Regulation (EU) No 648/2012 (EU OJ L 176, 27.06.2013, p. 1);
 - 20) EU parent financial holding company – the parent financial holding company referred to in Article 4 paragraph 1 point 31 of Regulation 575/2013;
 - 21) EU parent mixed financial holding company – the EU parent mixed financial holding company referred to in Article 4 paragraph 1 point 33 of Regulation 575/2013.”;
- 3) the following Article 2a shall be added after Article 2:
- "Article 2a. 1. Guarantee to increase own funds may be granted only to an institution.
2. The government financial stabilisation tools may be applied towards:
- 1) institution;
 - 2) financial institution established in the territory of a Member State, if the financial institution is a subsidiary of a credit institution or investment firm, or a company referred to in Article 2 points 2-5, 7, 20 and 21, and is covered by the supervision on a consolidated basis over the parent company in accordance with Article 6-17 of Regulation 575/2013;
 - 3) financial holding company, mixed financial holding company and mixed activity holding company established in the territory of a Member State;
 - 4) parent financial holding company in a Member State, EU parent financial holding company, parent mixed financial holding company in a Member State, EU parent mixed financial holding company.
3. No government financial stabilisation tools shall be applied towards cooperative banks and investment firms operating in a legal form other than a joint-stock company.”;
- 4) Articles 3-7 shall read as follows:
- "Article 3. 1. If as a result of the stress tests referred to in Article 110t of the Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2014 item 94 as amended ²⁹) or Article 133b of the Banking Act of 29 August 1997, asset quality review or other supervisory activities the Polish Financial Supervision Authority has committed an institution to increase its own funds in accordance with Article 138 paragraph 1 point 1a, 2 and 2a of the Banking Act of 29 August 1997 or Article 110y paragraph 1 point 7 and paragraph 3 of the Act of 29 July 2005 on Trading in Financial Instruments, whereas the measures pursued by the institution proved ineffective, the State Treasury may grant its guarantee to the said institution to increase the institution’s own funds under the terms of this chapter, hereinafter referred to as the "prudential guarantee."
2. The increase in the own funds covered by the prudential guarantee shall involve issuance of shares directed to the existing shareholders or third parties.
3. The deadline for subscription for shares must not be longer than 14 days from the date of opening of the subscription.
4. In the case of a closed subscription, exercise of the subscription right shall take place within one period which shall be 14 days from the date of publication thereof. The provisions of Article 435 of the Act of 15 September 2000 - Code of Commercial Companies shall not apply.

²⁸ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2014 item 265 and 1161, of 2015 item 4, 978, 1333 and 1830 and of 2016 item 615 and 996.

²⁹ The amendments to the consolidated text of the Act were promulgated in Journal. of Laws of 2014 item 586, of 2015 item 73, 978, 1045, 1223, 1260, 1348, 1505, 1513, 1634, 1844 and 1890 and of 2016 item 65, 615, 904 and 996.

Article 4. 1. A prudential guarantee may be granted solely to a solvent institution if at the time of granting thereof the premises referred to in Article 101 paragraph 3 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996) do not occur, whereas the burden sharing measures have been applied towards shareholders and subordinated creditors of the institution according to the agreement referred to in Article 6 paragraph 5.

2. Execution of the prudential guarantee agreement shall take place when shares issued by the institution have not been sold, in whole or in part, to the existing shareholders or third parties.

3. The amount of the prudential guarantee must not be higher than the amount of increase in the own funds specified by the Polish Financial Supervision Authority.

4. The Minister competent for financial institutions shall define, by way of a regulation, the detailed conditions of burden sharing by shareholders and subordinated creditors, including the need of compliance of the detailed conditions of burden sharing with the EU framework of the state aid.

Article 5. 1. The prudential guarantee shall be executed:

- 1) where the existing shareholders or third parties have acquired no more than 50% of the size of the issuance of shares – by acquisition of all or a part of the shares issued;
- 2) where the existing shareholders or third parties have acquired over 50% of the size of the issuance of shares – by acquisition of shares of a total nominal value being the difference between the amount of the prudential guarantee and the total value of the shares acquired by the existing shareholders or third parties.

2. The detailed conditions of the execution of the guarantee, including the terms of issuance of shares of the financial institution and their acquisition by the State Treasury shall be determined by the agreement referred to in Article 6 paragraph 5.

Article 6. 1 The Minister competent for financial institutions may, at the request of an institution, grant a prudential guarantee on behalf of the State Treasury.

2. The application referred to in paragraph 1 should include in particular:

- 1) name of the institution;
- 2) subject of the prudential guarantee;
- 3) amount of the requested prudential guarantee;
- 4) information on the current economic and financial situation of the institution, including the latest financial statement.

3. The Minister competent for financial institutions shall grant a prudential guarantee by way of an agreement following the consultation with the Chairman of the Polish Financial Supervision Authority and the President of the National Bank of Poland, specifying the conditions and amount thereof. In the case of banks, the Minister competent for financial institutions, shall also request the opinion of the President of the Management Board of the Bank Guarantee Fund, while in the case of investment firms – the opinion of the President of the National Depository of Securities Joint Stock Company.

4. The prudential guarantee agreement may be concluded between the Minister competent for financial institutions and the institution on condition of obtaining the consent of the general meeting of shareholders of the institution to be bound by the agreement. The general meeting of shareholders shall be convened within seven days from the date of announcement of convening thereof. The provision of Article 402 paragraph 1 of the Act of 15 September 2000 - Code of Commercial Companies shall not apply.

5. The agreement of the prudential guarantee in particular:

- 1) provides the Minister competent for financial institutions with adequate influence on the financial policy of the institution, including participation of representatives appointed by the Minister competent for financial institutions in the statutory bodies of the institution;
- 2) defines the method of calculation of the price of the acquired shares and the terms of the issuance thereof ;
- 3) determines the amount of the granted prudential guarantee;
- 4) indicates the objectives of the use of funds derived from the issuance of shares;
- 5) determines restrictions on the payment of dividends or balance sheet surplus;
- 6) determines restrictions on the remuneration policy towards the members of the statutory bodies of the institution and its managers;
- 7) defines the duty to forthwith adjust the provisions of the statutes, articles of association and other internal regulations of the institution to the provisions of the prudential guarantee agreement;
- 8) defines the method of settlement of the loss brought forward of the institution;
- 9) defines the terms of burden sharing by shareholders and subordinated creditors of the institution.

6. Monthly remuneration of a member of a statutory body of an institution must not exceed twelve times the average salary in enterprise sector excluding payment of bonuses from profit in the fourth quarter of the previous year, as announced by the President of the Central Statistical Office, and additional components of the remuneration may not exceed in a year three times the monthly remuneration of a member of a statutory body of the said institution.

7. Refusal of a prudential guarantee shall give no rise to claims of institutions or third parties against the State Treasury.

Article 7 1. The increase in the own funds as a result of execution of the prudential guarantee shall take place on the date of acquisition of shares by the State Treasury. The provision of Article 441 paragraph 4 of the Act of 15 September 2000 - Code of Commercial Companies shall not apply.

2. The Minister competent for financial institutions shall exercise the rights from the shares acquired by the State Treasury referred to in Article 5.

3. The shares acquired by the State Treasury as a result of execution of the prudential guarantee shall carry preferential voting rights and award 2 votes per share while voting on a resolution on profit distribution.

4. The provision of Article 25 of the Banking Act of 29 August 1997, Article 69 of the Act of 29 July 2005 on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public-Owned Companies (Journal of Laws of 2013 item 1382, of 2015 item 978, 1260 and 1844 and of 2016 item 615 and 996) and Article 106 paragraph 1 of the Act of 29 July 2005 on Trading in Financial Instruments shall not apply to acquisition of shares of the institution by the State Treasury as a result of execution of the prudential guarantee.”;

5) Article 8 shall be repealed;

6) Articles 9-13 shall read as follows:

"Article 9. 1. Where an institution fails to comply with the prudential guarantee agreement, the Minister competent for financial institutions may:

- 1) request the Polish Financial Supervision Authority to take the measures referred to in Article 138 of the Banking Act of 29 August 1997 or Article 110y of the Act of 29 July 2005 on Trading in Financial Instruments towards the institution;
- 2) submit the possessed shares for withdrawal.

2. The withdrawal of shares shall take place in return of remuneration determined by the management board of the institution in accordance with Article 10 paragraph 2.

3. The withdrawal of shares shall be effected by the management board of the institution within 30 days from the date of submission of the request by the Minister competent for financial institutions. The provisions of the third sentence of Article 359 paragraph 1 and the first sentence of paragraph 2 of the Act of 15 September 2000 - Code of Commercial Companies shall not apply.

Article 10. 1. The provisions of the Act of 30 August 1996 on Commercialisation and Privatisation (Journal of Laws of 2016 item 981) shall apply to determination of the price of the sale of shares of institutions, acquired by the State Treasury as a result of execution of the prudential guarantee, as regards determination of the price of shares under indirect privatisation.

2. If redemption of shares of institutions, acquired by the State Treasury as a result of execution of the prudential guarantee takes place on the basis of a resolution of the general meeting of shareholders on the obligatory redemption of shares, the share price shall not be lower than the highest of the following values:

- 1) price determined in accordance with paragraph 1;
- 2) average market price for the three months preceding the resolution of the general meeting of shareholders during which the shares were traded on the regulated market;
- 3) the product of multiplication of the price of acquisition of these shares and an adjusting factor.

3. The price being the arithmetic average of the average daily prices weighted by the volume of trading shall be considered the average market price as referred to in paragraph 2.

4. The provision of Article 418 paragraph 1 of the Act of 15 September 2000 - Code of Commercial Companies shall not apply.

Article 11. 1. Effectiveness of the prudential guarantee is contingent on payment of the commission fee of the guarantee by an institution.

2. The commission fee shall be charged on the basis of the amount of a liability covered by the prudential guarantee.

3. The commission fee of the prudential guarantee shall be paid into the account of surety and guarantee reserves of the State Treasury, maintained by the Bank Gospodarstwa Krajowego.

Article 12. The Minister competent for financial institutions shall define, by way of a regulation, the method of determining the adjusting factor and charging and collecting the commission fee on the prudential guarantee and the amount of that charge on considering:

- 1) making the amount of the commission fee dependent on the period for which the prudential guarantee is provided;
- 2) risk associated with business of an institution being a beneficiary of the prudential guarantee;
- 3) determination of rates of the commission fee on the prudential guarantee the award of which does not constitute state aid within the meaning of the regulations on state aid.

Article 13 The provisions of the Act of 8 May 1997 on Sureties and Guarantees granted by the State Treasury and Certain Legal Persons (Journal of Laws of 2015 item 1052 and 1854) shall not apply to the prudential guarantee, with the exception of Article 31 of this Act.”;

- 7) chapter 3 shall be repealed;
- 8) the following chapter 3a shall be added after chapter 3:

"Chapter 3a

Government financial stabilisation tools

Article 19a. 1. In the event of a systemic crisis, with a view to preventing liquidation of an entity subject to the resolution proceedings, the Minister competent for financial institutions may take recourse to the government financial stabilisation tools if application of the instruments of resolution referred to in the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution:

- 1) is insufficient to avoid material adverse effects for financial stability or
- 2) is insufficient to protect the public interest, if the entity referred to in Article 2a paragraph 2 has already received extraordinary liquidity support from the National Bank of Poland, or
- 3) is insufficient to protect the public interest if the public capital support from the instrument of capital support has already been granted to the entity referred to in Article 2a paragraph 2 – as regards the instrument of temporary public ownership.

2. A government financial stabilisation tool may be utilized if holders of rights attached to shares and creditors of the entity referred to in paragraph 2 of Article 2a, subject to the resolution proceedings, have covered losses or participated in increase of own funds of the entity by write down or conversion of capital instruments, write down or conversion of liabilities, or as a result of application of other instruments of resolution proceedings in the amount of at least 8% of total liabilities and own funds of an entity subject to resolution determined in the valuation referred to in paragraph 1 of Article 137 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution.

3. The Bank Guarantee Fund shall request for application of the government financial stabilisation tools to the Minister competent for financial institutions.

4. The Minister competent for financial institutions shall take the decision on application of a government financial stabilisation tool following the consultation with the President of the National Bank of Poland, Chairman of the Polish Financial Supervision Authority and the President of the Management Board of the Bank Guarantee Fund.

5. The provisions of the Act of 14 June 1960 - Code of Administrative Procedure (Journal Laws of 2016 item 23, 868 and 996) shall apply to the decision referred to in paragraph 4, with the exception of the provisions of Article 10 paragraph 1, Article 127 paragraph 3 and Article 130 paragraph 2 of this Act.

6. The provision of Article 25 of the Banking Act of 29 August 1997 shall not apply in the event of taking the decision referred to in paragraph 4.

7. Service of the decision referred to in paragraph 4 shall account for effecting the notification referred to in Article 69 paragraph 1 of the Act of 29 July 2005 on Public Offering, Conditions Governing Introduction of Financial Instruments to Organised Trading and Public-Owned Companies and in Article 106 paragraph 1 of the Act of 29 July 2005 on Trading in Financial Instruments.

Article 19b. 1. Application of public capital support shall involve:

- 1) assumption or acquisition of Common Equity Tier 1 instruments or Additional Tier 1 instruments or Tier 2 instruments;
- 2) granting a guarantee to increase own funds.

2. In the case referred to in paragraph 1, the Minister competent for financial institutions shall exercise powers from rights attached to shares, inclusive of the ensuing personal rights. The provisions of Article 2 point 5 of the Act of 8 August 1996 on the Principles of Exercise of Powers Vested with the State Treasury (Journal of Laws of 2016 item 154 and 888) shall apply accordingly.

3. The entities covered by the instrument of temporary public ownership should be managed in a way which ensures coverage of operating costs and liabilities from revenues.

4. Once the circumstances referred to in Article 19a paragraph 1 have ceased to apply, the Minister competent for financial institutions shall dispose of rights attached to shares, where it is reasonable in view of market and financial conditions. The rights may be disposed of solely to the entities other than those referred to in Article 19c paragraph 1.

Article 19c. 1. Application of the instrument of temporary public ownership shall involve the transfer of all the rights attached to the shares of the entity referred to in Article 2a paragraph 2 (transfer of rights attached to the shares) for the benefit of:

- 1) state legal person referred to in Article 1a of the Act of 8 August 1996 on the Principles of Exercise of Powers Vested with the State Treasury;
- 2) company where the State Treasury holds a dominant position;
- 3) commercial company where the entities referred to in paragraph 1 or 2 are parent entities.

2. The State Treasury or a state legal person holds a dominant position if:

- 1) it holds directly or indirectly the majority of votes at the general meeting of partners or at a general meeting of shareholders, including as a pledgee or user, or in the management board of another capital company (subsidiary), also under agreements with other persons, or
- 2) is entitled to appoint or remove the majority of members of the management board of another capital company (subsidiary) or cooperative (cooperative subsidiary), also under agreements with other persons, or
- 3) is entitled to appoint or remove the majority of members of the supervisory board of another capital company (subsidiary) or cooperative (cooperative subsidiary), also under agreements with other persons, or
- 4) members of the management board constitute more than half of the composition of the management board of another capital company (subsidiary) or cooperative (cooperative subsidiary), or
- 5) it holds directly or indirectly the majority of votes in a subsidiary partnership or at a general meeting of the cooperative subsidiary, also under agreements with other persons, or
- 6) exercises a decisive influence on business of a subsidiary capital company or cooperative subsidiary.

Article 19d. 1. The Minister competent for financial institutions shall transfer rights attached to shares by way of a decision. The decision shall determine an entity acquiring rights attached to shares, the rights attached to shares subject to the transfer and the date and mode thereof.

2. While issuing the decision, the Minister competent for financial institutions shall repeal the decision of the Bank Guarantee Fund referred to in Article 101 paragraphs 7-9 and Article 102 paragraph 1 and 4 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, to the extent specified in Article 113 paragraph 2 of this Act.

3. The decision shall be final and immediately enforceable.

4. The decision shall be served to an entity acquiring rights attached to shares, as well as to the Chairman of the Polish Financial Supervision Authority, the President of the Bank Guarantee Fund and the President of the National Depository of Securities Joint Stock Company.

5. The provision of Article 61 paragraph 3 and point 1 and 2 of Article 145 paragraph 1 of the Act of 30 August 2002 - Law on Proceedings before Administrative Courts (Journal of Laws of 2016 item 718, 846 and 996) shall not apply in the proceedings before the administrative court.

Article 19e. 1. On the date specified in the decision referred to in Article 19d paragraph 1:

- 1) the powers of the Bank Guarantee Fund referred to in Article 113 paragraph 1 point 1 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution shall expire;
- 2) the entity acquiring rights attached to shares shall assume the management of the assets of the entity covered by the instrument of temporary public ownership;
- 3) the proxies and powers of attorney granted by the entity covered by the instrument of temporary public ownership shall expire.

2. An entity assuming rights attached to shares shall announce twice in a daily newspaper of nationwide circulation and in the *Court and Commercial Gazette* the decision to acquire rights attached to shares of an entity covered by the instrument of temporary public ownership and calls on creditors of this entity to file their claims within one month from the date of the last announcement. This obligation shall not apply to creditors in respect of bank accounts.

Article 19f. 1. The transfer of rights attached to shares shall not require the consent of their owner.

2. Where the dematerialised rights attached to shares referred to in the Act of 29 July 2005 on Trading in Financial Instruments are subject to the transfer, the entity operating a securities' account of the entity referred to in Article 2a paragraph 2 of this Act on which these rights are recorded, following the receipt of information on the decision referred to in Article 19d paragraph 1 from the National Depository of Securities Joint Stock Company, shall block them in the account from the date of the receipt of the decision to the date of execution of an order by an entity operating brokerage business in the territory of the Republic of Poland and being a participant of the National Depository of Securities Joint Stock Company through which the transfer of dematerialised rights attached to shares takes place (intermediary).

3. The intermediary shall submit orders in the National Depository of Securities Joint Stock Company to transfer dematerialised shares to the deposit account of the intermediary in compliance as to the form, scope, manner and timing of their submission with the regulations issued pursuant to Article 94 paragraph 1 point 1 of the Act of 29 July 2005 on Trading in Financial Instruments.

4. The National Depository of Securities Joint Stock Company shall transfer dematerialised rights attached to shares to the deposit account of the intermediary at the date of execution of the order.

5. The dematerialised rights attached to shares shall be transferred by recording - on the day of execution of the order - these shares in the securities' account of the entity acquiring rights attached to shares in return for payment of a price determined in accordance with a valuation performed at the request of the Minister competent for financial institutions. The provisions of Article 137-140 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution shall apply to the performance of the said valuation.

6. Where shares in the form of a document are the subject of transfer, shareholders within 14 days from the date of publication of the decision referred to in Article 19d paragraph 1 shall deposit the documents of shares in the company or evidence of their deposit at the disposal of the company. If a shareholder has failed to deposit a document of shares within that period, the entity vested with the powers of the management board shall cancel it in accordance with Article 358 of the Act of 15 September 2000.- Code of Commercial Companies and shall provide the entity acquiring rights attached to shares with a new document of shares with the same number of the issuance.

7. The entity vested with the powers of the management board shall transfer rights attached to shares to the entity acquiring them.

8. A valuation performed at the request of the Minister competent for financial institutions shall be applied to determine the price for the transfer of rights attached to shares other than dematerialised ones. The provisions of Article 138 and Article 139 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution shall apply accordingly to the performance of the said valuation.

9. Subject to restrictions under the provisions of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution, the existing holders of rights attached to shares shall be vested with all the rights arising therefrom until the date when the whole transfer price has been fully paid.

Article 19g. 1. To the extent stemming from possessed rights attached to shares, an entity acquiring rights attached to shares of an entity covered by the instrument of temporary public ownership shall manage it in a way which ensures coverage of operating costs and liabilities from revenues.

2. Once the circumstances referred to in Article 19a paragraph 1 have ceased to exist, an entity acquiring rights attached to shares shall dispose of these rights if it is justified by market and financial conditions. The Minister competent for financial institutions shall order an entity acquiring rights attached to shares, by way of a decision, to dispose of these rights.”;

9) paragraphs 1-3 of Article 20 shall be repealed;

10) paragraphs 1 and 2 of Article 21 shall read as follows:

”1. Funds derived from exercise of rights attached to shares of institutions or rights attached to shares of entities covered by the government financial stabilisation tools shall account for the revenue of the State Budget.

2. Funds derived from the sale, write down or redemption of shares of institutions or rights attached to shares of entities covered by the government financial stabilisation tools shall account for the revenue of the State Budget.”.

Article 365. Article 7 in the Act of 16 September 2011 on the Protection of the Rights of the Purchaser of a Dwelling or Single Family House (Journal of Laws of 2016 item 555) shall be repealed.

Article 366. The Act of 15 May 2015 - Restructuring Law (Journal of Laws item 978, 1259, 1513, 1830 and 1844 and of 2016 item 615) shall be amended as follows:

1) paragraph 2 in Article 4 shall read:

"2. The provisions of the Act shall not apply to:

- 1) State Treasury and local government units;
- 2) domestic banks;
- 3) Bank Gospodarstwa Krajowego;
- 4) branches of foreign banks;
- 5) credit unions;
- 6) investment firms referred to in Article 2 point 14 of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws item 996);
- 7) insurance and reinsurance undertakings;
- 8) investment funds;
- 9) financial institutions within the meaning of Article 4 paragraph 1 point 26 of Regulation of the European Parliament and of the Council (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (EU OJ EU L 176 of 27.06.2013, p. 1), hereinafter referred to as 'Regulation No 575/2013' established in a Member State of the European Union if it is a subsidiary within the meaning of Article 4 paragraph 1 point 16 of Regulation No 575/2013 of the credit institution referred to in Article 4 paragraph 1 point 1 of Regulation No 575/2013, the entity referred to in points 3-9, or an investment firm and are supervised on a consolidated basis in accordance with Article 6-17 of Regulation No 575/2013;
- 10) financial holding companies within the meaning of Article 4 paragraph 1 point 20 of Regulation No 575/2013 established in a Member State of the European Union;
- 11) mixed financial holding companies within the meaning of Article 4 paragraph 1 point 21 of Regulation No 575/2013 established in a Member State of the European Union;
- 12) mixed activity holding companies within the meaning of Article 4 paragraph 1 point 22 of Regulation No 575/2013 established in a Member State of the European Union;
- 13) parent financial holding companies from a Member State of the European Union within the meaning of Article 4 paragraph 1 point 30 of Regulation No 575/2013;
- 14) EU parent financial holding companies within the meaning of Article 4 paragraph 1 point 31 of Regulation No 575/2013;
- 15) parent mixed financial holding company in a Member State of the European Union referred to in Article 4 paragraph 1 point 32 of Regulation No 575/2013;
- 16) EU parent mixed financial holding company referred to in Article 4 paragraph 1 point 33 of Regulation No 575/2013.”;

2) Division III in Title IV shall be repealed.

Article 367. Point 4 of Article 92 of the Act of 5 August 2015 on Macro-Prudential Oversight of the Financial System and Crisis Management in the Financial System (Journal of Laws item 1513) shall read as follows:

"4) 50% of off-balance sheet medium/low risk documentary letters of credit and off-balance sheet undrawn medium/low risk credit facilities referred to in paragraph 3 sub-point i of Article 493 of Regulation 575/2013.”.

Article 368. Paragraph 2 point 1 in Article 11 of the Act of 15 January 2016 on Tax on Certain Financial Institutions (Journal of Laws item 68) shall read as follows:

"1) the recovery plan implemented in the event of the circumstances referred to in Article 142 paragraph 2 of the Banking Act of 29 August 1997, and attaining the level of the indicators referred to in Article 141m paragraph 3 point 2 of this Act;”

DIVISION IX

Episodic, transitory, adjusting and final provisions

Chapter 1

Episodic provisions

Section 1

Guaranteed deposit protection fund

Article 369. 1. The entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b shall create and maintain the guaranteed deposit protection fund to satisfy claims of depositors in the case of fulfilment of the guarantee condition towards any of them, until 31 December 2024.

2. The amount of the guaranteed deposit protection fund in the following year shall be determined no later than the end of the preceding calendar year as the product of multiplication of the total sum of funds collected in a bank in all accounts being the basis for computation of the amount of the minimum reserve in accordance with Article 38 paragraph 2 of the Act of 29 August 1997 on the National Bank of Poland (Journal of Laws of 2013 item 908 and 1036 and of 2015 item 855 and 1513) for October and the rate determined by the Fund Council at the request of the Management Board of the Fund amounting up to:

- 1) 0.55% - for the guaranteed deposit protection fund created for the year 2017;
- 2) 0.5% - for the guaranteed deposit protection fund created for the year 2018;
- 3) 0.45% - for the guaranteed deposit protection fund created for the year 2019;
- 4) 0.4% - for the guaranteed deposit protection fund created for the year 2020;
- 5) 0.35% - for the guaranteed deposit protection fund created for the year 2021;
- 6) 0.3% - for the guaranteed deposit protection fund created for the year 2022;
- 7) 0.25% - for the guaranteed deposit protection fund created for the year 2023;
- 8) 0.2% - for the guaranteed deposit protection fund created for the year 2024.

3. While fixing the rate determining the amount of the guaranteed deposit protection fund referred to in paragraph 2, the Fund Council shall take into account in particular the amount of funds of the deposit guarantee scheme for banks, held in the form of the payment commitments referred to in Article 303 paragraph 1 of banks or branches of foreign banks covered by the mandatory guarantee scheme.

4. The guaranteed deposit protection fund is created on the last reporting day of the month in which the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-point a and b was awarded a permit to commence business, and in the case of a domestic bank established pursuant to Article 42a paragraph 1 of the Banking Act - on the last reporting day of the month in which the bank was registered in the register of companies. In the above cases, the guaranteed deposit protection fund shall be created on the basis of the amount of funds referred to in paragraph 2 for the month in which a permit to commence business was awarded or the bank was registered in the register of companies.

5. The guaranteed deposit protection fund shall not be created for assets derived from issuance of mortgage bonds and public bonds.

6. The guaranteed deposit protection fund shall be increased or decreased on 1 July each year, *pro rata* to the amount referred to in paragraph 2, being the basis for computation of the amount of the minimum reserve for April of each year. On the day of fulfilment of the guarantee condition, the entity covered by the guarantee scheme shall be exempt from the duty to create the guaranteed deposit protection fund and change its amount.

7. The entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b are required to:

- 1) invest assets covering the guaranteed deposit protection fund in:
 - a) Treasury securities,
 - b) money bills of the National Bank of Poland and bonds issued by the National Bank of Poland - if these can be traded,
 - c) participation units of money market funds;
- 2) deposit the assets referred to in point 1 sub-point 1 a and b in a separate account for each entity in:
 - a) National Bank of Poland,
 - b) National Depository of Securities Joint Stock Company,
 - c) entity operating securities' accounts and cash accounts used to operate them- and in the absence of this option - invest these assets in an interest-bearing current account in the National Bank of Poland.

8. Cooperative banks affiliated with the affiliating banks are required to deposit assets covering the guaranteed deposit protection fund of an association in a separate account in an affiliating bank.

9. The entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b shall provide the Management Board of the Fund with the information on the amount of deposits covered by the mandatory deposit guarantee scheme and the sum of the guaranteed deposit protection fund on the following dates:

- 1) by 15 December each year, in the amount in accordance with paragraph 2
- 2) by 15 June each year, in the amount constituting the basis for computation of the amount of the minimum reserve for April

– in the form of the template prescribed by the Management Board of the Fund.

10. In the case of cooperative banks affiliated with affiliating banks, the latter perform the duties stipulated in paragraph 9.

11. In the case of fulfilment of the guarantee condition towards the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b in the period from 1 January 2017 until 31 December 2024 the Fund shall make payment of the guaranteed funds from the financial resources of the guaranteed deposit protection funds, following exhaustion of the funds referred to in Article 56.

12. In the case referred to in paragraph 11, the Fund shall call on the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-point a and b towards which guarantee condition has been fulfilled to transfer sums from the guaranteed deposit protection fund in the amount of the difference between the amount of the liability of the Fund in respect of the payment of the guaranteed funds and the amount of funds referred to in Article 56.

13. Where the amount transferred in accordance with paragraph 12 is insufficient to cover the liability of the Fund in respect of the payment of the guaranteed funds, the Fund shall notify the entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b, by an announcement in a daily newspaper of nationwide circulation of the duty to contribute for the benefit of the Fund the amounts allocated for the payment of the guaranteed funds (the total amount of the mandatory payment of the entities covered by the guarantee scheme), in the amount of the difference between the amount of the liability of the Fund in respect of the payment of the guaranteed funds and the amount of the funds referred to in Article 56, and the funds transferred in accordance with paragraph 12. In the notification the Fund shall indicate a bank account to which the payments are to be made, and the transfer title. The affiliating banks shall contribute payments to which the cooperative banks affiliated with the affiliating banks are required on behalf of those banks.

14. The amount to be contributed by the entity covered the guarantee scheme referred to in Article 2 point 41 sub-points a and b (the mandatory contribution of an entity covered by the guarantee scheme) shall be determined as the amount being in such a proportion to the total amount of the mandatory contribution of the entities covered by the guarantee scheme as the proportion of the amount of the guaranteed deposit protection fund of an entity covered by the guarantee scheme to the amount of the sum of the guaranteed deposit protection funds of all entities covered by the guarantee scheme, excluding the entity towards which fulfilment of the guarantee condition occurred.

15. The funds derived from mandatory contributions of the entities covered by the guarantee scheme shall become the property of the Fund.

16. On the day following the day of making the mandatory contribution of an entity covered by the guarantee scheme, the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b shall reduce the guaranteed deposit protection fund by the value corresponding to the contribution payment.

17. The mandatory contribution of an entity covered by the guarantee scheme shall be tax deductible for the entity within the meaning of the Act of 15 February 1992 on Corporate Income Tax (Journal of Laws of 2014 item 851 as amended.³⁰).

18. The assets covering the guaranteed deposit protection fund must not be pledged or be encumbered in any way and are not subject to court or administrative enforcement.

19. The assets which accounted for the guaranteed deposit protection fund of the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b towards which the guarantee condition has been fulfilled shall not fall within the bankruptcy estate or arrangement proceedings' estate of an entity covered by the guarantee scheme.

³⁰ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2014 item 915, 1138, 1146, 1215, 1328, 1457, 1563 and 1662, of 2015 item 73, 211, 933, 978, 1166, 1197, 1259, 1296, 1348, 1595, 1688, 1767, 1844 and 1932 and of 2016 item 68, 615 and 780.

Section 2

Penal provision

Article 370. 1. Whoever, being a member of the management board or supervisory board of the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b causes a loss for the Fund as a result of the fact that the entity has failed to create the guaranteed deposit protection fund or has failed to create it in the adequate amount or the assets intended for the guaranteed deposit protection fund have not been invested in Treasury securities or money bills of the National Bank of Poland nor deposited in the manner referred to in Article 369 paragraph 7 and 8,

shall be liable to a fine, imprisonment or deprivation of liberty for up to 2 years.

2. A member of the management board or supervisory board of the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b who causes a loss for the Fund, encumbering the assets covering the guaranteed deposit protection fund with the rights of third parties shall be liable to the same penalty.

Chapter 2

Transitory and adjusting provisions

Article 371. 1. At the date of entry into force of this Act, the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become the Fund.

2. At the date of entry into force of this Act:

- 1) financial plan and the activity plan of the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become the financial plan and activity plan of the Fund;
- 2) receivables and liabilities of the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become receivables and liabilities of the Fund;
- 3) employees of the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become employees of the Fund; the provision of Article 23¹ of the Labour Code shall apply accordingly;
- 4) membership of the persons referred to in Article 6 paragraph 4 point 4 of the Act repealed in Article 388 in the Fund Council shall expire.

Article 372. At the date of entry into force of this Act, in the Fund:

- 1) assistance fund, stabilisation fund, reserve fund and fund of recoveries from bankruptcy estates shall be liquidated;
- 2) guarantee fund of banks shall be increased by the value of the assistance fund and the fund of recoveries from bankruptcy estates;
- 3) resolution fund of banks shall be increased by the value of the stabilisation fund and the reserve fund;
- 4) financial resources of the guarantee fund of credit unions created under the Act repealed in Article 388 shall be counted towards the guarantee fund of credit unions.

Article 373. 1. The hitherto effective provisions shall apply to financial assistance granted to the banks covered by the guarantee scheme under the provisions of the Act amended in Article 351 and the Act repealed in Article 388.

2. At the date of termination of an agreement on financial assistance to banks or reimbursement of financial assistance granted to banks under the provisions of the Act repealed in Article 388 funds obtained in this respect shall increase the resolution fund of banks.

3. The provision of paragraph 2 shall not apply to the funds obtained under financial assistance granted from the cooperative banks restructuring fund.

Article 374. The Fund shall develop the resolution plans and group resolution plans referred to in Article 73 and Article 74 no later than 12 months from the date of entry of the Act into force.

Article 375. To the proceedings pending before the date of entry into force of this Act, concerning:

- 1) revocation of a permit to establish a bank on the basis of Article 25n paragraph 5, Article 138 paragraph 3 point 4 and paragraph 6 of the Act amended in Article 347,
- 2) revocation of a permit to establish a branch of a foreign bank on the basis of Article 138 paragraph 6a of the Act amended in Article 347,

- 3) proceedings on the basis of Article 147 paragraph 1, and Article 158 paragraphs 1 and 2 of the Act amended in Article 347,
 - 4) proceedings on the basis of Article 74c paragraphs 3 and 4 and Article 74k paragraphs 1 and 2 of the Act amended in Article 363,
 - 5) revocation of a permit to conduct brokerage business on the basis of Article 106l paragraph 6, Article 108 paragraph 7 and Article 167 paragraph 1 of the Act amended in Article 359
- the provisions of these laws shall apply as currently worded.

Article 376. The provisions of the Act referred to in Article 354 shall apply as currently worded to the cases where an application for declaration of bankruptcy under the provisions of the Part 3 of Title II of the said Act was filed prior to the date of entry into force of the present Act.

Article 377. In the cases where an application for declaration of bankruptcy under the provisions of the Part 3 of Title II of the Act referred to in Article 354 was filed prior to the date of entry into force of the present Act no liabilities arising from claims of the Bank Guarantee Fund referred to in paragraph 1 of Article 39 shall devolve to a purchaser of an undertaking of a bank or credit union pursuant to Article 437 of the Act referred to in Article 354.

Article 378. In the cases where an application for opening of the arrangement procedure under the provisions of Title II of Division III of the Act referred to in Article 366 was filed prior to the date of entry into force of the present Act the provisions of the Act referred to in Article 356 shall apply as currently worded.

Article 379. If a composition was concluded in the bankruptcy proceedings under the provisions of Part 3 of Title II of the Act referred to in Article 354 or in the arrangement procedure under the provisions of Title IV of Division III of the Act referred to in Article 366, the provisions of the Act referred to in Article 366 shall be applied as currently worded to requests for amendment or revocation of the composition.

Article 380. Receivables of the Fund in respect of granted financial assistance and support referred to in Article 19 paragraph 1, Article 20c paragraph 1 and Article 20g paragraph 1 of the Act repealed in Article 388 shall be settled in the bankruptcy proceedings and the liquidation proceedings referred to in Article 125 paragraph 1 point 2 of the Act referred to in Article 344 in the second category.

Article 381. 1. The banks required to develop recovery plans which were awarded a permit to pursue business prior to the the date of entry into force of this Act shall develop the recovery plan not later than three months from the date of entry into force of the Act.

2. The brokerage houses required to develop recovery plans which were awarded a permit to pursue business prior to the date of entry into force of the Act shall develop a recovery plan not later than 6 months from the date of entry into force of the Act.

3. The entities required to develop a group recovery plan on the basis of Article 141n of the Act referred to in Article 347 and Article 110zj of Act referred to in Article 359 shall develop a group recovery plan not later than 6 months from the date of entry into force of the Act.

4. During implementation by a bank of the recovery proceedings referred to in Article 142 paragraph 1 of the Act referred to in Article 347 as currently worded, the bank shall develop a recovery plan within 3 months from the end of recovery proceedings, a group recovery plan within 6 months from the date of termination of recovery proceedings.

Article 382. The provisions of Division III shall apply to credit unions from 1 January 2017.

Article 383. 1. The contributions referred to in chapter 2 of Division V shall be collected for the benefit of the Fund for the first time for the year 2017.

2. The provisions of Article 4 paragraph 1d point 7 and paragraph 2 point 3, Article 7 paragraph 2 point 5 and point 5a and paragraph 3, Article 13 paragraphs 1-5, Article 13c paragraphs 1-7, Article 14 paragraphs 2-4, Article 14a, Article 14b, Article 14c, Article 15 points 1-2, Article 16a paragraph 7, Article 36, Article 38r paragraph 5 and Article 42a of the Act repealed in Article 388 shall apply until 31 December 2016.

3. The funds referred to in Article 38r paragraph 5 of the Act repealed in Article 388 should be construed as the funds of the guarantee fund of credit unions available for use referred to in Article 272 paragraph 2.

4. The mandatory contributions for 2016 by banks and branches of foreign banks in respect of participation in the mandatory guarantee scheme shall feed into the guarantee fund of banks.

5. The mandatory contributions for 2016 by credit unions in respect of participation in the mandatory guarantee scheme shall feed into the guarantee fund of credit unions.

6. The prudential levies contributed for 2016 by banks and branches of foreign banks shall feed into the resolution fund of banks.

Article 384. 1. The entities covered by the guarantee scheme referred to in Article 2 point 3 of the Act repealed in Article 388 shall maintain until 31 December 2016 the guaranteed deposit protection funds referred to in Article 25 paragraph 1 of the Act, created for the year 2016.

2. In the event of fulfilment of the guarantee condition towards a bank or a branch of a foreign bank before 31 December 2016, the Fund shall make payments of the guaranteed funds in the first place from the funds referred to in Article 16a paragraph 1 of the Act repealed in Article 388.

3. The provisions of Article 16a paragraph 1, Article 25 paragraph 1, 1a, 3a, 5 and 6, Articles 26-26c, Article 26d paragraph 1, Article 26e and Article 42 of the Act repealed in Article 388 shall apply until 31 December 2016.

Article 385. The hitherto effective implementing provisions issued on the basis of Article 157¹ paragraph 6 of the Act referred to in Article 350, as currently worded, shall remain in force until the date of the entry into force of the implementing provisions issued under Article 157¹ paragraph 6 of the Act referred to in Article 350 as amended by the present Act, but not longer than for 3 months from the date of entry into force of the Act.

Article 386. The hitherto effective implementing provisions issued on the basis of Article 3 paragraph 4, Article 6 paragraph 6, Article 8 paragraph 2, Article 17 paragraph 8, Article 26s paragraph 3, Article 38 paragraph 7, Article 38j, Article 38zg paragraph 3, Article 38zh paragraph 9 and 38zq of the Act repealed in Article 388 shall remain in force until the date of the entry into force of the implementing provisions issued on the basis of Article 3 paragraph 4, Article 7 paragraph 11, Article 9 paragraph 2, Article 30, Article 54 paragraph 4, Article 312 paragraph 2, Article 330 paragraph 7, but not longer than for 12 months from the date of entry into force of the Act.

Article 387. The hitherto effective implementing provisions issued on the basis of Article 12 of the Act amended in Article 364, as currently worded, shall remain in force until the date of the entry into force of the implementing provisions issued under Article 12 of the Act amended in Article 364, as amended by this Act but not longer than for 12 months from the date of entry into force of the Act.

Chapter 3

Final provisions

Article 388. The Act of 14 December 1994 on the Bank Guarantee Fund (Journal of Laws of 2014 item 1866 as amended.³¹) shall expire.

Article 389. The Act shall enter into force after 3 months from the date of the promulgation thereof, with the exception of:

- 1) Article 351 point 2, Article 361 point 1 and Article 363 paragraph 3 which enter into force on the day following the date of the promulgation;
- 2) Article 106 which enters into force on 11 February 2017.

President of the Republic of Poland: *Andrzej Duda*

³¹ The amendments to the consolidated text of the Act were promulgated in Journal of Laws of 2015 item 978, 1166, 1513 and 1844 and of 2016 item 381 and 615.