

Abstract of a Ph.D. dissertation by Paweł Gładysz entitled:

The Polish Financial Supervision Authority as a subject of Polish financial policy in 2006 - 2014.

The dissertation entitled *The Polish Financial Supervision Authority as a subject of Polish financial policy in 2006 - 2014* aims for a monographic characterisation of this supervisory body in the context of disclosing its functionality, principles for performing legislative functions and administrative jurisdiction over financial market entities. The most important issues, significant in assessing the Polish Financial Supervision Authority (hereinafter: PFSA) functionality and describing its importance for the effectiveness, stability and security of the financial market in Poland have been identified and characterised in subsequent parts of this dissertation.

Part one presents issues pertaining to the national financial policy which shape the financial market and affect the functioning thereof. In order for the state, as an organisation of a particular type to function, requires an effective system ordering social, legal as well as financial relationships to be in place. This is conducive for a state to effectively perform its fundamental functions as a political structure. Financial policy, pursued with the aim of creating an effectively functioning financial system, is an element of a state's economic policy and delineates the framework for the performance thereof and as such, the way a given country's position is perceived on the international arena. Its utilitarian character is the decisive factor in terms of its close relationship with the performance of primary goals (political, economic, social) and the tasks inscribed therein for a state as a structure. The components of each and every financial policy of a state comprise monetary and fiscal policies, with their own goals and separate mechanisms. Both jointly affect the financial attractiveness of a given country, co-establishing its position on the global financial markets. A state's fiscal policy performs very important functions, associated with economic stability, allocation of goods and their redistribution, confirming, that it is an effective instrument for the state as the financial policy author. It is also the basis for ensuring

funds in the national budget which will in turn be expedited to perform defined tasks. Monetary policy secures the national currency, preventing unfavourable inflation, with its destructive impact on financial market stability.

A state's financial policy perceived in a comprehensive manner, regulated legislatively, strictly refers to the financial market which it affects and which it should effectively shape. The structure and properties of every financial market are directly related to historic and economic conditions as well as legal and economic arrangements of each state. The most important growth trends of given financial market tools as well as its participants, particularly those institutional, are a resultant function of the economic position and growth potential of the economy Shaped under market conditions, affected by competition they reflect a significant development stage of a given financial market, providing information on its growth potential.

The various typologies for grouping and classifying financial markets make it possible to create readable labels for the functioning of financial markets, which in turn point to the extensive character of tasks inscribed into the financial policy of a state. Basic classifications of financial markets take into account the operating criterion (the type of instruments subject to trade), the counterparty type criterion as well as the territorial reach criterion. Based on criteria defined in such manner a detailed description of the money, capital and derivatives markets as well as the primary and secondary markets, the domestic regional and global markets is possible.

It can also be assumed that the most important description criterion for financial market functionality and its characteristic is the operating criterion, as it allows for the entire market structure to be depicted, taking into account the complexity and distinctiveness of instruments which prevail therein. Within the money market, these include deposit accounts, commercial papers, certificates of deposit and promissory notes. On the capital market these comprise shares, various bonds (treasury, municipal, corporate), certificates of investment and global depository receipts, and on the derivatives market: forwards, futures, currency options and swaps. Depending on the adopted classification convention, various financial market analyses are performed, subordinate to both a comprehensive and fragmentary approach, depicting the

significance of given financial instruments as well as the impact of particular institutions (entities) of the given market on the functioning thereof.

The capital market (primary and secondary) is a source of medium and long term instruments, used to obtain funds primarily associated with investments. Shares and bonds are the most prevalent instruments on this market. They differ both in essence and the type of assumed obligation. The Warsaw Stock Exchange (hereinafter: WSE) is the key entity when it comes to the capital market, facilitating an exchange of securities between all market participants. The money market is an area of the financial market, where short term instruments are traded and money surpluses accumulate. Its most important instruments include: interbank deposits as well as treasury and money bills, with the so called derivatives also present here in the form of options, swap contracts as well as futures and forwards. The currency market is part of the financial market, associated with currency exchange transactions (spot and forward transactions) with currency swaps and forward transactions being the most popular instruments.

For the financial market to function effectively and efficiently the presence of appropriate supervisory institutions is necessary, particularly in a market economy settings, free of a central planning and control system. The state's supervision over the financial market, despite the lack of an unambiguous definition, is interpreted without too much trouble as the state's sphere of influence on a key area of its functioning from the point of view of a country's growth, stability and the ability to function in market surroundings. It is necessary to secure both the country itself as well as the society, making use of financial services provided by various entities operating on that market. It also constitutes a form on "state intervention" into the functioning of a market, with the aim of securing its basis, i.e. safety of the market, entities operating thereon as well as customers (consumers).

The state supervision in itself is not an institution created in modern times, as its role was already consolidated in the middle ages and subsequently shaped in the 18th and 19th centuries. State supervision over the financial market should be located within the scope of public administration activities, despite all the differences seen here when compared with the other operational areas of this administration. Dedicated

and efficient state supervision over the financial market is associated with a necessity to classify it depending on the exercise moment as well as the type of legal means used criterion.

By which ex-ante, ongoing and ex-post supervision should be distinguished as well as supervision based on administrative decisions and other forms of legal force, however undoubtedly it is the former which is significant to it. A financial supervision institution, pursued by the state also performs three basic functions: macro-prudential supervision, micro-prudential supervision and consumer protection, which is closely linked with the existence of financial supervision.

The contemporary market supervision models have been shaped as a result of an evolution of formats applied within this scope. An assessment of the solutions used allows one to distinguish between sectoral supervision, which is traditional model (essentially solely performing micro-prudential supervision) and an integrated model, where all supervisory functions and full supervision over the entire financial market is concentrated in the hands of one entity - an institution appointed specially to that end. Additionally a partially integrated model also exists, which in an intermediary format between the two presented hereinabove, and one which should be treated as an interim stage in the evolution to an integrated supervision model.

Issues associated with organising supervision over the financial market are always linked with political, economic and historic factors which characterise the given state system. Selection of particular solutions is always a function thereof, however an assessment of the effectiveness of solutions implemented all over the worlds and their exemplary effects are not insignificant. In terms of the European Union (hereinafter: EU) states, the dominant model is the integrated financial supervision model, with ever wider use within the European Community since the end of the 1980s, with no obligatory hallmarks as far as its application goes - as there are no unambiguous legal instructions or common standards within this scope. Despite a dominance of this form of supervision over the financial market, various solutions and variants of this model are still discussed, such as the central body's (central bank) independence issue and its position in the supervisory structure. To that end various solutions are implemented aiming at improving supervisory cohesion in EU countries,

and international institutions are called up act to achieve this goal and assure effective coordination and cooperation amongst supervisory institutions in particular member states.

The transformation of the financial market supervision model in post 1989 Republic of Poland (hereinafter: RP) described in the context of such changes confirm a significant evolution, which took place from the time systemic changes started taking place (after 1989) to this very day. Application of a fully integrated model, which is effective today, was the course maintained by the Polish financial market supervision model evolution. This supervision covered the operations of all primary financial market institutions and entities operating thereon, established in accordance with the legal standards under transformation post 1989. This afforded a development impulse to the banking sector, insurance sector and the pensions market as well as the capital market sector. All of these areas of the financial market were only able to act and grow in the RP after 1989, also affecting the development of the Polish financial market, reflecting the country's economic growth. During the period from the start of the 1990s until the end of the first decade of the 21st century the number of particular entities on all financial market sectors stabilised. Over the course of that period, which could be considered to be the formation and evolution of the Polish financial market into an appropriate shape, reflecting market needs, phenomena were observed constituting both a dynamic growth in the number of entities of a given sector as well as their stabilisation. Theses tendencies were particularly evident in the banking sector, which once free from the national obligation saw an explosion in the number of entities present on the market taking place in the first part and mid 1990s (the last to catch onto this trend were Credit Unions which were also the last to be included in the area of banking supervision). Since the end of the 1990s a stability in the structure of this sector is evident, confirming effectiveness of market mechanisms on the entities acting thereon as well as the effectiveness of supervision exercised over the financial market. A similar tendency at a similar time can be seen with reference to the other financial market sectors and entities - investment funds, venture capital and pension funds as well as insurance companies (here stabilisation came about slightly later, at the start of the first decade of the 21st century). Hand in hand with the growth and transformation

to the quantitative structure of the Polish financial market post 1989 was the development of its potential, reflected in the improving financial standing of particular entities and the market.

Chapter two depicts a general characterisation of the PFSA as a public administration body supervising the financial market. In the genesis of PFSA's creation a need to establish a supervision institution of this type surfaces primarily in connection with the growth of the financial market, and as such, with its expanded reach and the ensuing possible threats to market stability as well as consumer safety. The establishment of the PFSA in 2006 placed this institution in the supervisory role alongside two other entities performing this function: The Ministry of Finance and the National Bank of Poland (hereinafter: NBP). It also stood testament to the introduction of an integrated market supervision model, most commonly used in the European countries and seen in literature as well as on the basis of actual reports on the functioning thereof, as the most effective solution in terms of financial market supervision. Appointment of the PFSA also meant an evolution of the Polish financial market supervision model, which was exacted by virtue of an assessment of the current solutions and needs of post 1989 RP. The previous financial supervision institutional structure particular market sectors were subject to supervision exercised by various entities responsible for their functioning. In the initial period, i.e. from 1989, financial market supervision was entrusted to the NBP and applied to the banking sector. Initially it was exercised by the Banking Supervision Department, and after 1990, the Banking Supervision General Inspector, acting on behalf of the NBP as a separate body. This institution exercised ex-ante supervision, granting licences for banking activity in Poland, whereas the flexibility is exhibited in assessing the applications it received reflected the ideas of market demonopolisation and the intention to significantly expand the quantitative structure of that sector. This translated into a significant growth on the banking sector during that period. In 1997 the Banking Supervision Commission was appointed as a separate structure within the NBP, with the Banking Supervision General Inspector, still part of NBP structure, its executive body.

Since 1991, in the capital market sector supervision was exercised by yet another supervisory institution, but at the same time it was the first dedicated body, appointed especially to perform these functions. This was the Securities Commission, which in 1997 was transformed into the Securities and Exchange Commission (hereinafter: KPWiG), keeping watch over the growth and functioning of the capital market.

In the insurance sector supervision was initially (up to 1990) exercised by the Ministry of Finance, then a Department of the Banking System and Insurance Institutions was established and in 1993 the Insurance Department which functioned until 1995. In 1996 the National Insurance Supervision Office (hereinafter: PUNU) was appointed, which however did not have full supervisory jurisdiction (licensing remained in the hands of the Ministry of Finance). In 2002 PUNU merged with the Pension Fund Supervision Authority (hereinafter: UNFE), appointed in 1998 for the needs of the pension sector. However it only had supervisory and opinion giving authority without regulatory functions. This merger led to the establishment of the Insurance and Pension Funds Supervision Commission (hereinafter: KNUiFE), which is considered to be the first step towards consolidating the Polish financial market supervisory institutions.

EU accession was of paramount importance in terms of consolidating Polish financial market supervision institutions, as well as the pre-accession period, associated with the need to establish legal regulations, converging Polish provisions in many fields, including financial law with EU regulations. The existing banking directives (1977, 1989, 1991) regulated the scope of financial sector institutions activities, also indicating the principles for their licensing, establishing prudential regulations and exercising control, which became an area of significant guidelines for Polish legislation and the subsequently adopted formats for financial market supervision.

Merger of PUNU and UNFE (2002) and establishment of KNUiFE made it possible to integrate supervision within the scope of the insurance sector and pensions sector. The only issue remaining to be solved was that of banking and capital supervision, which did come to pass following the appointment of the PFSA (2006).

Together with the establishment of the PFSA, the institutions supervising the capital, insurance and pensions sector were dissolved, KPWiG and KNUiFE respectively. And at the end of 2007 the Banking Supervision Commission was revoked and supervision over that sector was handed over to the PFSA in 2008.

In the adopted format for exercising supervision of the market, many solutions have been applied to the PFSA from the functioning of the most effective, longest serving and most similar in the organisational sense supervisory institution, or the KPWiG. The appointed financial market consolidated supervision institution was statutorily furnished with a packet of competencies and adjudicated over all financial supervision areas, starting from licensing through control all the way to legislative and information functions, building social credibility for a finance sector institution. The established body attained full statutory financial and decision independence, which was the basis for correct performance of supervisory functions.

The structure of the established seven man body, participation of representatives from various institutions and bodies associated with the financial market was adopted (representatives of the Finance Minister, Labour and Social Policy Minister, Polish President as well as the NBP President or a person designated by them). The dominant role was played by the PFSA Chairman, with two deputies all of whom were appointed to these posts by the President of the Council of Ministers. Significant personal requirements were defined with respect to them as well as the principles of appointing and recalling, with a statutory independence of this entity and the associated supervisory limitations imposed on the President of the Council of Ministers, which however cannot be assessed to reflect the full statutory independence of this body. The legislator also outlined the principles for financing market supervision, intending to guarantee independence to the appointed body.

The PFSA organisational structure was accurately linked with the need to execute all tasks within the integrated financial market supervision area, thus particular departments have been established, responsible for separate areas of the financial market and for different tasks. Apart from that the Customer Protection Department was also established, responsible for clarifying customer complaints pertaining to various institutions and their actions, as well as the Social Communication

Department, responsible for communication with the media and PFSA information policy. The superior role of the PFSA Chairman applies to all these units, who formulates the scope of tasks and method for their performance by a given subordinate body.

The PFSA was also authorised to work with various finance sector institutions in the EU in order to work out common solutions, implement significant actions and conduct within the area of financial market supervision. This was closely linked with Poland being part of the EU and the need to implement the adopted EU regulations, including directives strictly applicable to the financial market. Participation of PFSA representatives in international structures and meetings, conferences organised by important supervisory institutions within the Community, resulted in its contribution to the creation of significant models for conduct, working out a regulations package for the financial market or supervision principles. The PFSA participated in works and meetings of the European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA), European Securities and Markets Authority (ESMA) as well as the European Systemic Risk Board (ESRB). Apart from that the PFSA also works with numerous international organisations engaged with the functioning of given financial market sectors, for example the International Association of Insurance Supervisors, International Organization of Securities Commissions, International Organisation of Pension Supervisors and Basel Committee on Banking Supervision. The PFSA's participation in the works of numerous international financial market organisations co-creating the law and contribution to improvements to the financial market supervision model is closely linked with the idea of a single common market and a single EU financial market supervision model.

One of the key areas of PFSA activity is ex-ante supervision over the market, exercised through the licensing function. This aspect of supervision is particularly significant for financial market safety and stability, and through its actions within this scope the PFSA may make a correct PFSA financial assessment of entities applying for an opportunity to function on the financial market already at an initial stage. The PFSA's legal authority in this scope is dictated by the financial market supervision act in question and provisions of administrative law, governing the activities of public

administration bodies which the PFSA is also subject to. For this area of PFSA activity the use of statutory sources of law as well as making administrative decisions constituting an expression of the exercise of supervisory functions by the PFSA have been assigned. An administrative decision, by virtue of which the PFSA grants (or otherwise) a licence in the issue in question reflects the essence of its jurisdiction as well as the necessity of creating it based on the established legal principles, such as the principle of a democratic state under the rule of law, economic freedom guarantee, proportionality subsidiary competitiveness and competition principles. Additionally, the issued administrative decisions have to be in accordance with the constitution and the liberal model of supervision over the workings of the economy. The application of these principles is a condition for compliance with the law and effectiveness of supervision exercised by the PFSA pursuant to the jurisdiction afforded to it.

In the performance of the said supervisory jurisdiction, the PFSA not only drawn upon the legal standards generally applicable in Poland , but in accordance with the constitutional significance granted to EU law, it also observes the prudence requirements applicable to licensing financial entities, formulated by EU supervisory institutions and bodies.

To a large extent the PFSA, through the performance of licensing jurisdiction, executes the market protection and safety principles of the system as well as its customers, and as such the activities instigated here significantly reflect the primary purpose of this institution. This also reflects the legislator's adopted objective on excluding this type of activity from the application of economic freedom principle and subordinating it to the requirement of attaining an appropriate licence permitting for the performance thereof.

The PFSA's administrative decisions, associated with these permissions, are of a preventative character as well as a primary character in terms of other supervisory means. They are subject to immediate enforceability. The PFSA's licensing activity also fulfil regulatory an restrictive functions in terms of the financial market. In accordance with the assignment of PFSA jurisdiction within the scope of its structures, it is pursued by different units, appointed to execute tasks in particular financial market sectors. These functions are fulfilled by: Banking, Payment Institutions and

Credit Unions Licensing Department, Insurance and Pension Licensing Department and Investment Firms and Capital Market Infrastructure Department.

The Polish financial institution licensing model pursued by the PFSA stands testament to it applying procedures indicated by the EU as effective, purposeful and correct and as such this model fully reflects the licensing model adopted by the EU. In order to obtain the licence in question, appropriate entities applying for it have to satisfy the basic normative prerequisites. This means that three areas are subject to PFSA assessment: capital, personnel and economic which are verified in terms of their properties and guarantee for the effective functioning of the future institution as well as its compliance with the law, both general and closely associated with the financial market sector within which the given institution is to operate. In the capital area an estimation of capital resources necessary for the entity applying for the licence to perform the given activity is made. In the personnel area, the skills of persons associated with these entities are researched and in the economic area - their stability guarantee is verified. Only the satisfaction of all three prerequisites constitutes a basis for issuing an administrative decision permitting activity on the financial market. All entities applying for the opportunity to conduct a given activity on the financial market have to submit an appropriate application to the PFSA, whereas it has to contain a description of precisely standardised contents constituting the essence of that application (in particular the personal details of the founders and Management Board members, data on the organisational structure and legal format, details on initial capital, draft Articles of Incorporation together with a financial plan for the near future). Pursuant to detailed provisions in applicable acts the requirements with respect to the banking, insurance, capital and pensions sectors have been standardised. At this stage the PFSA assesses compliance of the application content with the law and verifies their compliance with the actual state. It also assesses whether the proposed formal solutions are correct also in terms of their applicability to the financial market.

Permissions associated with issuing administrative decisions permitting any personnel changes in the authorities of supervised entities as well as organisational and formal changes are also within the scope of PFSA licensing jurisdiction. This is closely linked with the scope of adjudications pertaining to the initial licence

applications submitted by various entities. This dictates that no organisational and functional change in the structure of these entities, with the existence of which the PFSA concurred, may take place without its participation in their assessment and without its permission for such change. The licensing model pursued by the PFSA, is assessed as more restrictive than the model followed in EU countries despite being founded on the same formal basis. This stands testament to the fact that the PFSA cares for the safety of financial market supervision entrusted to it, to a large degree securing its interests.

Data depicting the growth rate and scale for the financial market reflect the impact of the PFSA on this market in Poland in the context of performing the licensing and authorisation functions. Year in year out the PFSA received applications to grant permission to conduct activity of the financial market, whereas as shown by analysis of 2006–2013 data, the lion's share pertained to the capital market, with the final years showing a clear decrease in the growth rate of the number of active entities. Since its inception, every year the PFSA received dozens of applications to grant investment funds associations with permissions to conduct activity with the largest numbers recorded in 2008–2010 (115–130 licences granted per annum). From 2010 a slowdown in the growth rate of new entities in this industry was noted: in 2012 the PFSA issued 4 new permits, and in 2013 only one. There was also a steady influx of applications for permission to conduct brokerage activity, primarily by brokerage houses, however the scale here was significantly smaller. During the analysed period the PFSA issued a few new permits every year (the most - 10 - were issued in 2011).

The remaining sectors of the financial market absorbed the PFSA's attention to a much lesser extent within the scope of performing its licensing duties. In the pensions sector, throughout the entire period apart from the final years (2012–2013), there were no structural or quantitative transformations. The stable number of active open ended pension funds (OFE) and the universal pension fund companies managing them confirmed major market stability in this sector. In 2012 the PFSA issued a permit for the establishment of nine voluntary pension funds. In 2013 the number of active OFEs was reduced as a result of a merger between OFE Polsat and PKO BP Bankowy OFE, which the PFSA did consent to.

The insurance sector is as stable as the pensions sector. There were no changes here in 2009 and 2011–2013. The PFSA did not adjudicate on any new applications and did not issue permits to conduct insurance activity.

Also in the banking sector licensing did not entail the establishment of a significant number of new entities. The PFSA only issued the permits in question during 2008–2010 (one off permits for the creation of new entities) and in 2012 (four permits for existing banks to merge, BZ WBK SA and Kredyt Bank amongst others). In connection with changes to applicable law in the sector, from 2012 domestic payment institution (KIP) and payment service offices were distinguished (already in 2012 the PFSA issued three KIP permits).

The licensing activity conducted by the PFSA with respect to financial market entities lead to the establishment of the following factual state at the end of 2013: 13 open ended pension funds - OFE and 13 universal pension fund companies - PTE, 59 domestic insurance companies, 645 banks (out of which: 41 in the form of joint-stock companies, 571 cooperative banks, 55 credit unions - SKOK), 19 domestic payment institutions and 1315 payment service offices, 84 entities on the capital market: 57 brokerage houses, 14 banks engaged with brokerage activity and 13 custodian banks, 55 investment fund companies - TFI and 639 investment funds.

In particular it should be emphasised the legitimacy of this supervision being extended to the instructions coming under the PFSA supervisory umbrella last, namely credit unions. The need to also subject financial advisors and financial intermediaries to this supervision arises as a postulate, primarily due to their participation in the market but also due to the constant increase in the number of transactions performed by them. The PFSA licensing aspect is also very important for the capital sector, in particular with reference to security brokers and investment advisors which directly affect the safety of customers.

Another area of PFSA supervisory jurisdiction was the creation of prudence regulations and legislative functions. These actions served to insure financial market stability through improving and correcting the current regulations within the scope of requirements and principles for the functioning of various financial market entities. This area of PFSA's activity was pursued by it through the use of acts associated with

announcing and implementing various recommendations as well as associated with PFSA representatives participation in legislative works at various levels, or the creation of own draft changes to acts regulating the functioning of the Polish financial market. These duties were part of macro-prudential supervision and pertained to ensuring safety to consumers on the market as well as protecting the public interest (ensuring financial institutions are credible and trustworthy).

The PFSA's right to pass acts containing recommendations pertaining to various market areas in order to reduce the inherent risk and increase their stability regulated by law. Such authority was designated as "good practices for prudent and stable management of banks", but despite that their significance for the functioning of the financial market was comparable with the impact of currently effective general law regulations. The PFSA's recommendations, categorised as the so called soft law, confirmed the significance and potential for the growth of this form of market prudence supervision, despite them not being taken into account in the catalogue of constitutionally binding rule of law. In the EU this form of supervision is also much more widespread than in Poland and supported by the most important EU supervisory institutions. Thus their application by the PFSA stands testament to it following the current EU supervisory trends and the application of "non-directive" and flexible tools to shape the financial market as an effective method of its control and supervision of various aspects of its activity.

In most cases recommendations are seen as acts of internal law and considered to be internal normative acts in the understating of the Polish Constitution as well as non-normative forms of administration activities. Despite not being binding in the legal sense, they turned out to be very effective financial market supervisory tools. As the PFSA adopted the principle of controlling the implementation of these regulations by supervised entities and failure to take into account the recommendations contained therein was usually a basis for issuing instructions pertaining to making up these shortages and negatively affected the control assessment issued by the PFSA.

The PFSA performed this aspect supervisory duties with respect to the banking sector and only in this financial market sector did it adopt appropriate decisions of such importance. Due to the fact that these recommendations pertained to the entire

sector, they were of a general character and the need to standardise the sector was associated with its significant impact on the safety of the entire system and safety of customers.

The PFSA began applying prudence regulations for the banking sector from 2008, whereas the first adopted recommendation was recommendation S (II) building on recommendation S pertaining to good practices within the scope of exposure to loans secured by mortgages, issued in 2006 by the Banking Supervision Commission which at the time exercised supervision over the banking sector.

In subsequent years the PFSA issued significant recommendations pertaining to the principles and procedures for testing creditworthiness (T), managing risk in connection with derivative instruments transactions (A), managing currency risk in banks (I) or managing operational risk (M) as well as the principles of for identifying depreciated balance sheet credit exposures (R). Also a recommendation concerning the creation by banks of databases related to the real estate market in connection with mortgages (recommendation J) was developed. Numerous recommendations were also drawn up pertaining to organising operations by banks, such as recommendation H (bank's internal audit) or recommendation D pertaining to IT security and managing IT areas in banks.

The cycle for drawing up recommendations for a market usually extended beyond one year. The drawn up drafts were then consulted with banks sent out for analyses and for interested entities to express their opinions and then, following possible corrections, announced as the PFSA's position and recommendation on a given issue. A significant, common goal of PFSA's actions was to improve the set up of banking activity, improve its effectiveness, increase sector and financial market security, particularly in the context of the consequences of the crises in this sector experienced in 2008.

Within the scope of legislation activities, the PFSA also confirmed its supervisory jurisdiction, participating in the process of establishing law pertaining to the financial market and the activity of given entities thereon across its different sectors. Most frequently the PFSA participated in issuing opinions and creating drafts of governmental amendments to various acts. In providing opinions or amending them,

the PFSA was primarily guided by the need to ensure financial market stability and to eliminate legal loopholes providing opportunities for abuse. The necessity to adjust Polish legislation to EU law, its implementation in compliance with the obligations on an EU member state was a significant source for amendments.

The period of PFSA activity subject to analysis was associated with numerous changes to the legal framework within the scope applicable to the market in question, and thus the PFSA's participation in the law making process was significant in the assessment of its activity. During this period the same acts were amended on numerous occasions, which confirmed the need of adaptive existing to EU law, as well as functional changes stemming from the application of non-existent law within the initially approved scope.

Within the scope of the capital market the Commission participated in the drawing up of draft amendments to the Act on trading in financial instruments, the Act on public offering and conditions governing introduction of financial instruments to trading and on investment funds. It drew up a draft amendment to the Act of bonds.

Within the scope of the insurance market, the PFSA participated in the works on amending the OFE Act, drawing up a draft amendment to the Act on health benefits financed from public funds. It participated in drawing up amendments to the Act of individual pension funds as well as on capital pensions, the legislation process for the Act on insurance activity, compulsory insurance, insurance guarantee fund and Polish motor insurers' bureau. Apart from that it drew up a draft amendment to the act on insurance agency and participated in the drawing up draft assumptions for the draft act on insurance and reinsurance activity. The PFSA co-established the draft Act on organisation and functioning of pension funds and subsequently amendments thereto.

In the banking sector PFSA's activity within the described scope pertained to participation in the process of amending the Banking law act, Act on banking guarantee fund as well as the Accountancy act. It participated in drawing up a draft Act of payment services as well as draft Act on credit unions. It drafted amendments to the Act on consumer credit and also draft assumptions to the Act on reversed mortgage and a draft amendment to the Act on mortgage bonds and mortgage banks.

Among the acts generally applicable to the entire financial market the PFSA co-participated in drawing up the Financial Stability Committee Act, Act on qualified auditors as well as the Act on limiting administrative obstacles for citizens and businessmen and draft assumption to the Anti-Corruption Act. It participated in drawing up draft amendment to the Act on rendering economic information available and on exchanging economic data as well as the Act on the national Treasury aid to financial institutions. The PFSA participated in adopting the Act on mutual assistance in pursuing taxes, customs duties and other receivables. It also participated in works on a draft Act on supervision of credit institutions, insurance and reinsurance companies and investment firms that form part of a financial conglomerate. It also worked on draft provisions to the Act on freeing up access to some professions.

The regulations drawn up, both prudence in the form of recommendation as well as legislation implementing EU provisions as well as those resulting in significant changes to the law due to transformations on the financial market and social and economic change, confirmed the unquestionable contribution of the PFSA as a supervisory body to the process of creating the legal and formal framework for the functioning of the financial market. Here the impact of PFSA recommendations was particularly evident, as an instrument which confirmed the significance of this supervisory means for the performance of the supervisory function over the financial market.

The last aspect of PFSA activity, closely related to its legislative jurisdiction over the financial market was auditing the entities operating therein. It can be considered to be not only a purposeful element of supervision but also one of the most important components of PFSA's systemic position. The adopted understanding of the audit process, drawn from organisation management theory, is associated with treating it as cohesive with the other areas or purposeful and conscious activity inscribed in the granted jurisdiction. Audits are necessary in order to ascertain on an ongoing basis the legitimacy of implemented solutions, adopted guidelines and conduct instructions. Audits are necessary to be able to, on an ongoing basis or at defined time periods verify and assess the activity of supervised entities, particularly in such an important area as the financial market.

The audits performed by the PFSA confirms it exercises ongoing and ex-post supervision, pertaining to already determined irregularities and compliance issues. These functions also satisfied micro-prudential supervision, translating into safety of the entire system and its users.

The audit functions are necessary to ensure correct operations of financial institutions and are inscribed in the current market supervision model. It is necessary to attain the correct balance between jurisdiction and position of the auditing body and the position of the audited entities. The audit functions performed by the PFSA reflect the legal provision and PFSA's legislative jurisdiction.

An audit takes place in two stages: the first entails a verification of the actual state and the second comprises ongoing supervision in the strict sense, started upon finding certain defects, compliance issues and irregularities in the activities of the audited entity. The ex officio audit proceedings instigated in such a case lead to determining the causes of such irregularities and aims to determine a mechanism for remedying them and to improve the actual state. The execution of ongoing supervision by the PFSA is based on the ex officio principle, whereas it makes use of two methods: information obtained by the supervisory body based on financial reports and direct inspections conducted at the registered address of the supervised entity. Both methods are justified by law and inscribed in the legislative jurisdiction of the PFSA. Pursuant to the legislator's will, entities operating on the financial market are obligated to submit obligatory reports on their activity in line with the reporting periods as determined by the supervisory body, and are obligated to grant PFSA access to their premises and documents in order to conduct the inspection in question.

In order for the exercised supervision to function, the International Financial Reporting Standards have been made obligatory, on account of which effective comparison of data included in reports as well as cross-sector market comparisons are possible. The application of these standards and the associated requirements, also implemented in Poland, are founded on the principles of truth and accuracy which is the basis for accounting. Within this scope the standards implemented in Poland within the scope of accounting principles in the financial sector, were a confirmation of EU

law implementation and the directives therein, pertaining to consolidated financial reports (Directive VII and VIII).

As part of the second method for obtaining intimation and performance of audits by the PFSA at the premises of supervised entities comprehensive or targeted audits are undertaken pertaining to only a few selected (usually between one and three) areas of a given entity's activity. The PFSA applies both audit forms. Comprehensive audits comprise the entire spectrum of a supervised entity's activity: from the organisational sphere and functional structure, through conduct of operational activity, its standards and norms, all the way to internal audit standards and conduct in the event of self determined irregularities. The obtained assessment, pertaining to given audited areas, constituted the basis for an overall assessment of the audited entity and as such to determine significant post audit recommendations. Targeted audits, ever more frequent in recent years in the banking sector, pertained to given aspects under assessment during a particular period by the PFSA (e.g. implementation of defined directives and the application of the prudence criteria adopted therein).

A visible tendency within this aspect of the PFSA's activity is a standardisation of audit and inspection procedures towards all entities regardless of the sector which they represent. Here the PFSA observed not only the legislative framework for this activity, but also applied the guidelines of international supervision institutions within the scope of auditing the financial market.

Combining both methods, i.e. auditing financial reports and direct audits at supervised entities is a legitimate solution, furnishing the PFSA with a reliable picture of the functioning of a given financial institution. This allows to eliminate possible inconsistencies and false conclusions which may occur from analysing only financial reports.

In order to assess particular entities in different sectors of the financial market, the PFSA adopted an assessment model correct to their operational indicators, closely associated with their activity indexes (operational liquidity, capital reserves, exposure commitment and solvency index). Implemented policy was also assessed including information policy and customer relations. In the event of determining significant irregularities the PFSA implements repair proceedings, which has to be adjusted to the

reported proceedings (and in the event of a lack thereof, it determines it on its own and implements pursuant to the same principle). In the financial market entity assessment system, the PFSA applied various methodologies including CAEL and BION. The first is based on an analysis of capital adequacy asset quality, financial result and solvency index, the other pertains to risk analysis.

The performance of audits by the PFSA in the banking sector confirmed most frequent application of comprehensive character inspections. As a result of assessing the financial standing of supervised entities, it implemented repair proceedings with a discernible tendency for a constant number of commercial banks subject to this process and an increasing number of cooperative banks where such proceedings were required. As a result of the performed audits, not only repair proceedings were implemented but also post audit recommendations or warnings were or issued (particularly when it comes to cooperative banks). At the end of 2013, all entities in the sector were subject to an assessment pursuant to CAEL methodology.

A similar trend within the scope of the character of performed audits pertained to the insurance sector but only in the initial period. From 2008 a dominance of targeted audits at these entities was seen. As a result of the audits conducted in this sector, the PFSA issued post audit recommendations, obligated the audited insurance companies to adjust their activity to the provisions of law or levied financial penalties. With reference to financial reports analyses, it most often demanded these to be made up or corrected, with ex officio penalty proceedings much rarer.

In the pension sector the PFSA conducted between a few to a dozen or so audits per annum. Here both universal pension fund companies and open ended pension funds as well as associated entities such as banks, custodians and third parties were subject to the audits. In particular the audits verified OFE investment thresholds as well as correct accounting reporting. The fraction of implemented proceedings in connection with determined irregularities was rising in subsequent years. The PFSA also implemented post audit proceedings in relation to about half of entities audited in a given period. This proportion increased in recent years, which attests to an increasing number of observed irregularities.

In the capital sector the PFSA conducted audits in head offices of: GPW, Krajowy Depozyt Papierów Wartościowych S.A. and BondSpot, as well as at investment funds, investment companies and custodian banks. In total the average number of audits amounted to a dozen or so and brokerage houses were most frequently audited. The audits resulted in both administrative proceedings as well as an introduction of a supervision over trading system and a demand to suspend trading shares in the event of determining financial instrument manipulations contrary to the law.

Application of various supervisory means by the PFSA during the course of the audits, was subject to legislative provisions and was closely associated with the legislative framework of freedom prescribed for public administration bodies. The selection of given audit means was always dictated by an assessment of the current situation and pursuit of maximum audit efficiency as well as effectiveness in terms of safe functioning of the financial market. The applied supervisory means were both of a general character (legal regulations) as well as individual, associated with the role of administrative decisions as legal means of supervision. Administrative decisions imposing defined yet varied sanctions on given entities of the financial market, both financial as well as personnel, primarily referred to the capital sector entities. The second sector where these were resorted to frequently was the insurance sector. The observed irregularities and associated sanctions in the form of financial penalties applied to breaching obligations stemming from the Act on insurance activity in different areas. This included both exceeding the permitted guarantee fund margin as well as a unilateral amendment to the terms of agreements or incorrect disclosure of financial assets in the balance sheet and failure to comply with information obligations with respect to the Insurance Guarantee Fund. In the banking as well as the pension sector these were relatively rare. The level of their inconvenience for supervised entities also varied. The most radical were decisions pertaining to personnel, resulting in the PFSA withdrawing permissions to perform a given activity. During the course of analysis these were disclosed with reference to securities brokers and investment advisors at different market entities.

The PFSA made all administrative decisions in accordance with the discretionary principle, determining the position of that institution in supervision over the financial market. Interests of supervised entities were secured by the necessity for the PFSA to thoroughly justify adjudicating decisions ruling out groundlessness.

The supervisory means made use of by the PFSA were a significant element of it executing its auditing authority , confirming the significance of this supervisory area to the specifics of supervision over financial institutions, understood in as comprehensive and cohesive was as possible.