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***Supervisory competence of the Financial Supervision Authority
and the competences of the European Banking Authority***

Summary

The subject of this doctoral dissertation are the banking supervision issues related to the supervisory competences of the Financial Supervision Authority, which is the integrated supervisory authority over the financial market in Poland and EBA, which is the agency responsible for the supervision of credit institutions in the European Union. The reason for the choice of this topic is, firstly, the lack of monographic studies, covering the current legal status and concerning on the issue of the division of supervisory competence between the national and European authorities. Secondly – significant and frequent changes introduced in this field resulting from the progression of European integration, the evolution of European supervisory structures and the gradual harmonization of rules of supervision of the financial market in the EU.

The main point of dissertation is the assumption that the banking supervision consists of two supervisory levels – the national level – where the supervision is performed by FSA and European level – where the supervision is performed by EBA, both of which are complementary to each other. Although some supervisory competences are common to both authorities, the attributes, such as the legal character of these competences, subjective and objective scope of supervision, the conditions of using particular supervisory instruments differ thus ensuring harmonious, collision-free cooperation of both authorities. Regarding the principle of entrusting national supervisory authorities with day-to-day supervisory duties, and the two-track nature of EBA, which actions affect both the credit institutions and national supervisors, it cannot be claimed that EBA may replace FSA in exercising its supervisory powers in relation to banks.

The main purpose of the dissertation is to analyze supervisory competences available within the banking supervision of the FSA and EBA along with an analysis of legal means by which supervisory authorities exercise their powers as well as the procedures related to application of these legal means. This will allow to analyze the rationality of regulatory

solutions entrusting both the national and EU authorities with certain supervisory competences. The analysis of supervisory competences of the FSA and EBA based on four core functions of banking supervision was adopted as the operational objectives. Namely, the analysis covers the competences vested in the FSA and EBA in the scope of licensing, regulatory, control and disciplinary functions, along with an indication of their relations such as complementarity or competitiveness in certain fields.

The dissertation starts from Chapter I, in which I analyze some particular problems related to the supervisory functions which are subsequently developed in the following chapters of the study. This matter includes the concept of supervision in the field of legal science, the classification of individual forms of supervision, the objectives and legal basis of banking supervision, and the institutional structure of national and European supervision over the banking sector. Subsequent chapters of dissertation are constructed analogously and devoted to the analysis of competences of the national supervisor - FSA, and European supervisor - EBA, vested within the licensing (chapter II), regulatory (chapter III), control (chapter IV) and disciplinary function (chapter V) . Each chapter concludes with final remarks containing conclusions referring to the mutual relations of competences of the FSA and EBA.

The basic research method used in the dissertation is the dogmatic analysis method, including the analysis of applicable law, in particular – the Banking Law, the Act on supervision of the financial market, the regulation establishing EBA and the CRD IV / CRR regulatory package. In addition, the dissertation was also based on the rulings of the Constitutional Tribunal, national courts and the Court of Justice of the European Union. Additionally, the method of analysis and criticism of the literature has been applied. The main sources of the study include national and EU legal acts and a comprehensive catalog of monographs and articles on Polish and foreign law. Despite a large number of scientific studies, including a fragmentary analysis of various issues in the field of banking supervision, often determined from view of the economics or management, there is no law study focusing on a comprehensive compilation and comparison of supervisory powers of the FSA and EBA.