

# REPORT ON THE ACTIVITIES OF THE POLISH FINANCIAL SUPERVISION AUTHORITY IN 2012

Pursuant to Article 4 section 2 of the Act of 21 July 2006 on Financial Market Supervision , the Polish Financial Supervision Authority is obliged to submit to the Prime Minister the annual report on its activities by 31 July of the following year. In execution of its statutory obligation, the Polish Financial Supervision Authority adopted the *Report on the Activities of the Polish Financial Supervision Authority in 2012* at its 178th meeting held on 26 March 2013.

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## LETTER FROM THE CHAIRMAN OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

Despite adverse impact of the international environment and lower domestic economic growth, the situation of financial institutions operating in Poland was good in 2012.

The preliminary data suggests that the net profit of the banking sector in 2012 totalled PLN 16.1bn - up by 4% from the record-breaking 2011. The banks' solvency ratio as at the end of 2012 was 14.7% and Tier 1 ratio - 13.1%. The KNF - Polish Financial Supervision Authority approved the merger between Bank Zachodni WBK and Kredyt Bank, which resulted in establishing the third largest bank on the Polish market. The Polish Financial Supervision Authority amended Recommendation J concerning the rules of gathering and processing by banks of information on real estate. The first three domestic payment institutions obtained authorisations by the Polish Financial Supervision Authority. As of 27 October 2012 the Polish Financial Supervision Authority covered credit unions with its supervision.

Open-end pension funds generated sound investment results - average value of pension fund units went up in 2012 by 16.2% and was the highest in the last six years. Universal pension fund companies earned PLN 715.1m net - up by 15.6% against the previous year. The net financial result of insurance and reinsurance companies totalled PLN 6.66bn, up by 10.98% against 2011. The technical performance in automobile insurance improved. Talanx group entered the Polish market and made a commitment before the Polish Financial Supervision Authority that it would float its shares on the Warsaw Stock Exchange. Following the biggest public offering of a private company in the history of the Polish capital market, the shares of Alior Bank made their debut on the Warsaw Stock Exchange. Brokerage houses earned PLN 115.6m net (down by 77.6% against 2011), while investment fund companies earned PLN 325m net (down by 24.2%). The value of investment fund assets at the end of 2012 totalled PLN 160.4bn and was up by 28.3% from the end of 2011. The works on change of the model of financing supervision over the capital market into a more transparent one that would be more adequate to the scale of operations of individual entities accelerated.

Against the sustained higher risk in the external environment, the Polish Financial Supervision Authority continued pursuit of the strategy of strengthening the capital base of financial institutions as the basis of their stability, security and further development.

On behalf of all the members of the Polish Financial Supervision Authority, I would like to thank everyone for their work in 2012.

Andrzej Jakubiak  
Chairman of the Polish Financial Supervision Authority (KNF)



# 1. POLISH FINANCIAL SUPERVISION AUTHORITY

## LEGAL GROUNDS FOR OPERATION OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

The Polish Financial Supervision Authority (hereinafter referred to as the “KNF” or “regulator or “the Commission”) operates under the Act of 21 July 2006 on Financial Market Supervision (Dz. U. of 2012 item 1149, as amended) hereinafter referred to as the Act on Supervision over the Financial Market.

The Polish Financial Supervision Authority exercises banking supervision, supervision over capital market, supervision over insurance market, supervision over pension market, supplementary supervision over financial conglomerates, supervision over electronic money institutions, payment institutions and payment service offices, as well as supervision over credit unions.

The aim of the supervision over financial market is to ensure proper functioning of this market, its stability, security and transparency, confidence in financial market and to ensure that the interests of this market’s participants are protected.

The President of the Council of Ministers exercises supervision over operations of the Authority.

## COMPOSITION OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

The Commission is a collective body composed of the Chairman, two Vice-Chairmen and four members: the minister competent for financial institutions or such minister’s representative, the minister competent for social security or such minister’s representative, Governor of the National Bank of Poland or Deputy Governor delegated by him or her, and a representative of the President of the Republic of Poland.

In 2012, the Polish Financial Supervision Authority was composed of:

### **Chairman**

Andrzej Jakubiak

### **Vice-Chairmen**

Lesław Gajek

Wojciech Kwaśniak

### **Members:**

#### **Representative of the Minister of Finance**

Maciej Grabowski - until March 23rd 2012

Ludwik Kotecki - from March 24th 2012

#### **Representative of the Minister of Labour and Social Policy**

Czesława Ostrowska - until May 8th 2012

Jacek Męcina - from May 9th 2012

#### **President of the National Bank of Poland or Deputy President of the National Bank of Poland delegated by him or her**

Witold Koziński - Deputy President of the National Bank of Poland

#### **Representative of the President of the Republic of Poland**

Jerzy Pruski

COMPOSITION OF THE POLISH FINANCIAL SUPERVISION AUTHORITY  
as at December 31st 2012

Chairman of the Polish Financial Supervision Authority



Andrzej Jakubiak

Vice-Chairmen of the Polish Financial Supervision Authority



Lesław Gajek



Wojciech Kwaśniak

Other Members of the Polish Financial Supervision Authority



Ludwik Kotecki  
Representative  
of the Minister of  
Finance



Jacek Męcina  
Representative  
of the Minister of  
Labour  
and Social Policy



Witold Koziński  
Deputy President  
of the National  
Bank of Poland



Jerzy Pruski  
Representative  
of the President  
of the Republic of  
Poland

## MEETINGS AND RESOLUTIONS OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

The Polish Financial Supervision Authority within its powers adopts resolutions including administrative decisions and rulings. The Authority adopts resolutions by simple majority of votes in open voting, in the presence of at least four members, inclusive of the Commission Chairman or Vice-Chairman. In case of a tie, the Commission Chairman has the casting vote.

In 2012 the Polish Financial Supervision Authority held 26 meetings, where 359 resolutions were adopted, out of which 299 resolutions had the form of decisions and rulings.

**Table 1. Number of resolutions adopted by the Commission between 2009 and 2012**

Resolution subject	Number of adopted resolutions			
	2009	2010	2011	2012
Issues regarding banking sector	75	84	76	67
Issues regarding payment services market	-	-	-	3
Issues regarding insurance market	67	62	43	59
Issues regarding pension market	114	41	82	74
Issues regarding capital market	141	248	152	152
Cross-sectoral issues and issues regarding internal organisation of the KNF works	7	7	12	4
<b>Total</b>	<b>404</b>	<b>442</b>	<b>365</b>	<b>359</b>

Source: in-house materials by KNF

Detailed information on the number of adopted resolutions per subject is presented in Table 1.1. in Annex 1.

## RULINGS AND ADMINISTRATIVE DECISIONS ISSUED UNDER THE AUTHORITY AUTHORISATION

Pursuant to Article 12 section 1 of the Act on Financial Market Supervision, the Authority may authorise the Commission Chairman, Vice-Chairmen and employees of the KNF to take actions within the scope of the KNF powers, inclusive of issuing administrative decisions and rulings.

In 2012, under the authorisation by the Polish Financial Supervision Authority 2,167 decisions and rulings were issued.

**Table 2. Number of decisions and rulings issued under the authorisation by the Commission between 2009 and 2012**

Subject of decisions and rulings	Number of decisions and rulings			
	2009	2010	2011	2012
Issues regarding banking sector	580	894	409	418
Issues regarding payment services market	-	-	-	63
Issues regarding insurance market	162	279	297	393
Issues regarding pension market	401	506	329	396
Issues regarding capital market	913	834	902	878
Cross-sectoral issues	6	41	14	19
<b>Total</b>	<b>2.062</b>	<b>2.554</b>	<b>1.951</b>	<b>2.167</b>

Source: in-house materials by KNF

Detailed information on the administrative decisions and rulings issued under the authorisation by the Commission per subject is presented in Table 1.2. in Annex 1.

#### OFFICIAL JOURNAL OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

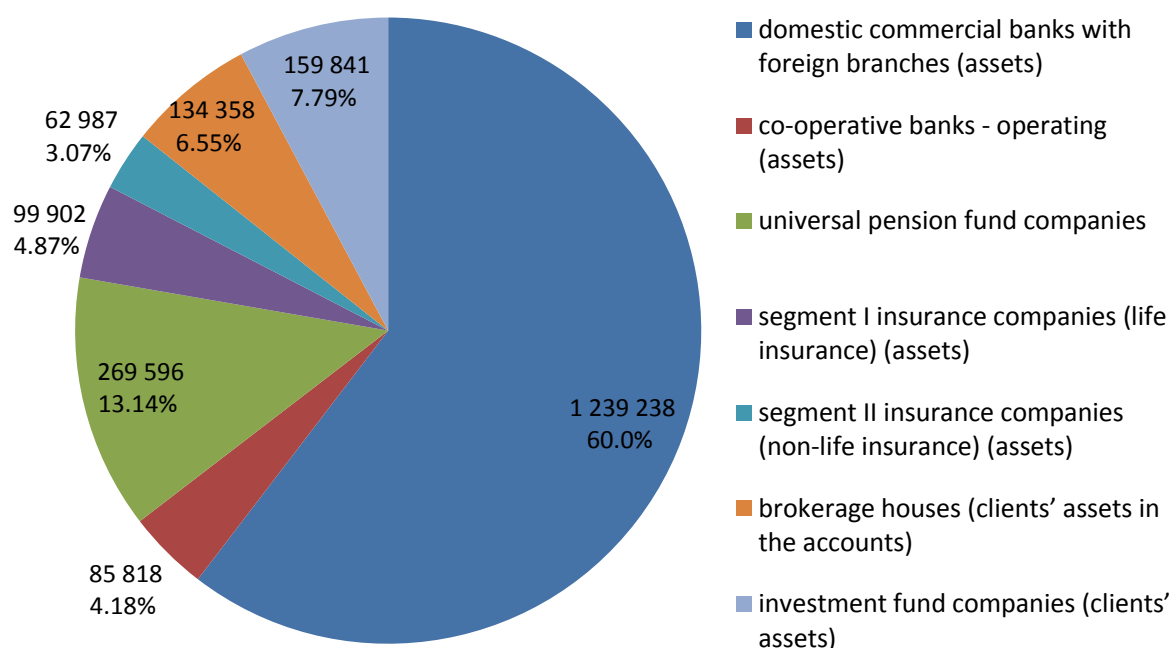
KNF issues the Official Journal of the Polish Financial Supervision Authority. In the period covered by the report 24 KNF Official Journals were issued wherein (provided it was required by law) the resolutions issued by the KNF and Announcements of the Examination Boards whose members are appointed by the Chairman of the Polish Financial Supervision Authority, among others, were published.

The list of items of the Official Journal of the Polish Financial Supervision Authority issued in 2012 is provided in Annex 3.

## 2. FINANCIAL MARKET IN POLAND - OVERVIEW

In 2012 the situation in the Polish financial markets reflected the global economic crisis and continuing economic problems of some eurozone countries. The Polish zloty appreciated over the entire 2012 against the euro and the US dollar, by 8.42% and 10.04%, respectively. It was a reaction to its significant depreciation in 2011 (10% against USD and 8.4% against EUR).

Fig. 1. Structure of the Polish financial sector assets in 2012 (PLNm)\*



Source: in-house materials by KNF

\*Total assets of the banking sector at the end of December 2012 amounted to PLN 1,353,084m - the data presented in the figure do not cover branches of credit institutions that are not supervised by the Polish Financial Supervision Authority. The figure does not provide any information about credit unions.

The banking sector continues to play a key role in the domestic financial system, which is reflected in the importance of its links with the non-financial institutions, households and the public sector, resulting from the banks' function as financial intermediaries. Thus, the banking sector has a significant, indirect impact on other financial market segments through the real economy sphere. The banking sector is also very important due to its balance-sheet links with other financial market segments. The 3.71% increase in the total assets of Polish banks in 2012 (i.e. less than in 2011) was due to, among other things, a drop in economic activity and growing uncertainty, which translated into a lower demand for loans. Nevertheless, the sector's standing remained stable, as was the base of the most liquid assets, and the sector's financial result was even better than in the previous year.

In 2012 the most important indices on the Warsaw Stock Exchange went up significantly - WIG by 26.24% and WIG20 by 20.45%. To compare, over the previous year, the indices went down by 20.83% and 21.85%, respectively. Share trading in 2012 totalled nearly PLN 203bn, down by approx. 25% against 2011 (PLN 268bn). Throughout 2012 there were 105



IPOs on the WSE amounting to EUR 731m. In 2011 there were 203 IPOs amounting to EUR 2.2bn. The Warsaw Stock Exchange once again was the European leader in terms of the number of companies which went public. Pension funds account for the vital part of demand on the stock exchange. The value of shares held in OFEs' portfolios, measured by a share in the total capitalisation of the WSE, at the end of 2012 reached 18.1% against 15.6% as at the end of 2011. The value of OFE's investments in shares listed on WSE increased over this period from PLN 69bn to PLN 95bn (up by 36%).

There were also significant increases in investment fund companies and insurance companies. In December 2012, the value of net assets entrusted for management to investment fund companies totalled PLN 159.8bn which was the highest level ever recorded in Poland. The previous record-breaking level was reached in October 2007 (PLN 144.3bn). In 2012 also the value of insurance companies' assets increased from PLN 146bn to almost PLN 163bn (up by 10%). It is a much better result than in the previous year, when the net assets grew by only 0.59%.

**Table 3. Number of entities regulated by the Commission as at December 31st 2012**

Type of entity	Number of entities
Commercial banks (including 2 associating banks)	45
Co-operative banks	572
Credit unions	55
Entities providing payment services	1.123
Segment II insurance companies (non-life insurance)	31
Segment I insurance companies (life insurance)	29
Universal pension fund companies	14
Occupational pension fund companies	5
Entities conducting brokerage business	69
Investment fund companies	54
Power utilities keeping commodity registers or accounts	50

Source: in-house materials by KNF

**Table 4. Number of entities which submitted a notification of intent to conduct activities in Poland through a branch as at December 31st 2012**

Type of entity	Number of entities
Credit institutions	28
Payment institutions	5
Insurance companies	23
Reinsurance companies	1
Investment firms*	17
Managing companies**	1

\* 20 credit institution branches also submitted notifications of intent to conduct investment activities.

\*\* Entity which obtained authorisation for management of funds such as UCITS.

Source: in-house materials by KNF

## 2.1. BANKING SECTOR AND CREDIT UNIONS

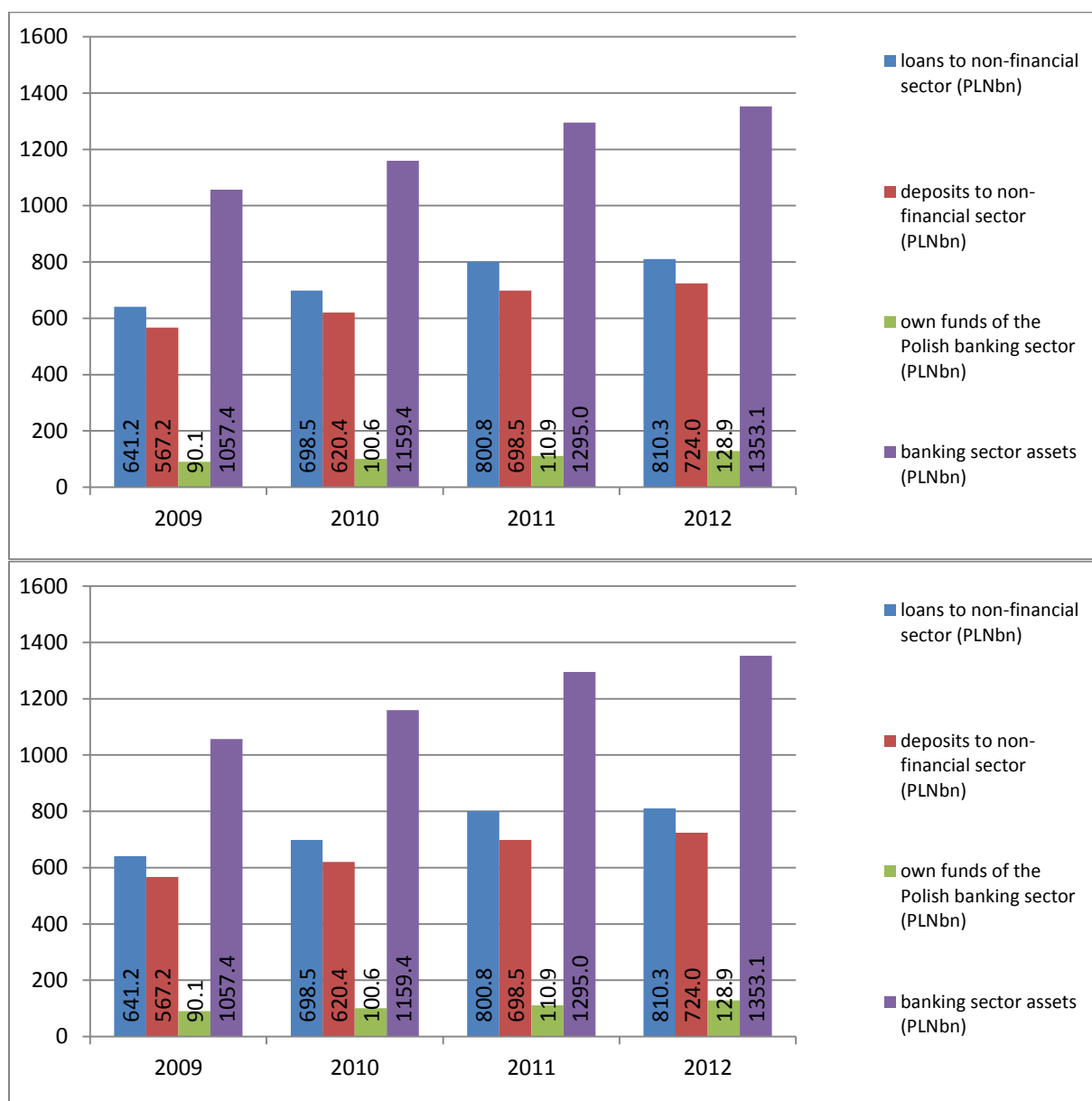
As at the end of 2012, the Polish Financial Supervision Authority regulated 45 commercial banks (including: 1 state-owned bank and 2 associating banks), 572 co-operative banks, 24 credit institution branches, 55 credit unions and the National Association of Credit Unions.

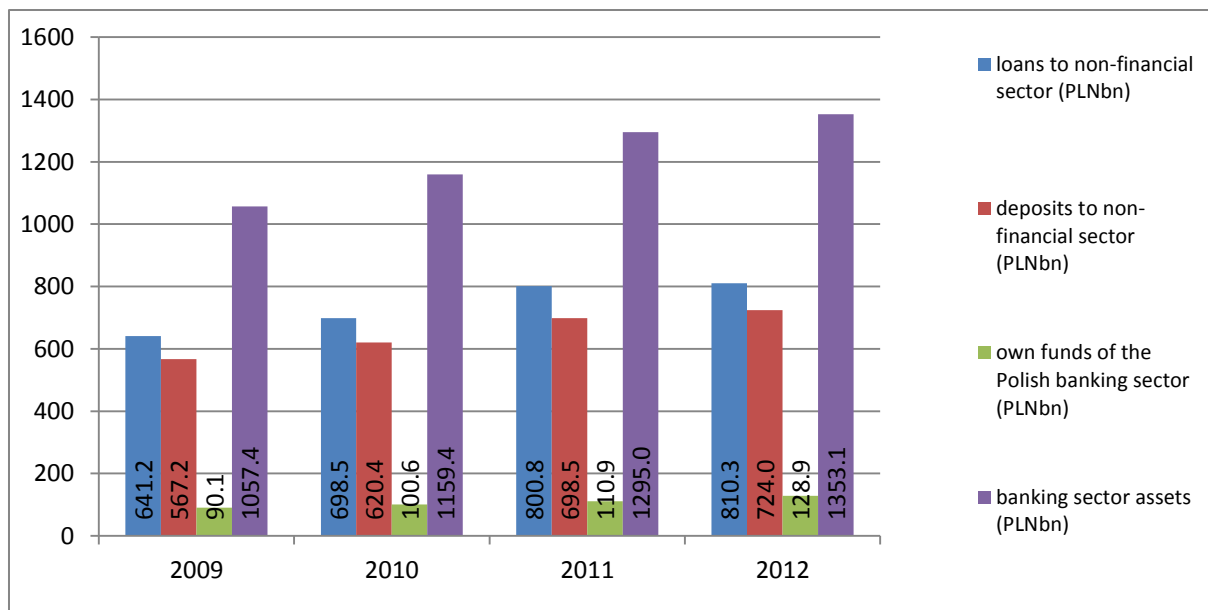
As at December 31st 2012, co-operative banks were associated in Bank Polskiej Spółdzielczości S.A. in Warsaw (365) and SGB-Bank S.A. in Poznań (206). One co-operative bank operated independently (KBS in Cracow).

In the reporting period none of the co-operative banks changed their association.

As of 27 October 2012 the Polish Financial Supervision Authority covered credit unions with public supervision.

**Fig. 2. Highlights of the Polish banking sector, 2009-2012**





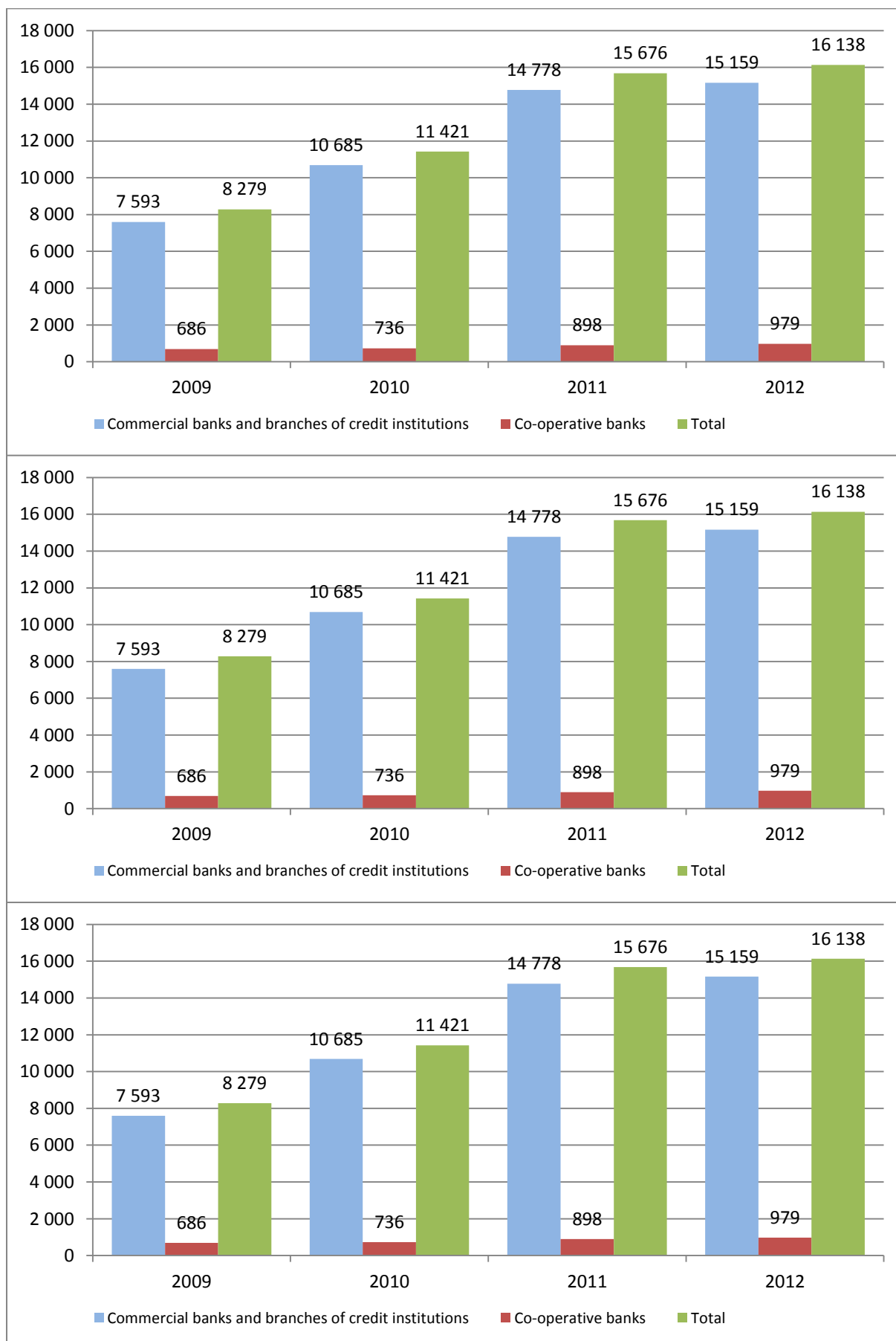
Source: in-house materials by KNF

Balance sheet total of the Polish banking sector as at the end of December 2012 amounted to PLN 1,353.1bn (up by 4.5% against the end of December 2011). Domestic commercial banks (with foreign interests) accounted for 91.6% of the sector assets value, credit institution branches for 2.1% and co-operative banks for 6.3%.

In the assets' structure loans and other receivables accounted for 71.1% (PLN 962.3bn), available-for-sale financial assets accounted for 13.3% (PLN 180.5bn), financial assets held for trading accounted for 3.3% (PLN 44.6bn) and cash in hand and balances with central bank accounted for 5.3% (PLN 71.4bn). In the equity and liabilities structure, deposits accounted for 68.8% of the balance sheet total (PLN 931.6bn) and equity for 10.9% (PLN 147.3bn).

Gross receivables to non-financial sector grew in 2012 by 1.2%, to reach as at the end of December PLN 810.3bn (it is estimated that having excluded FX differences they went up by approx. 3.7%).

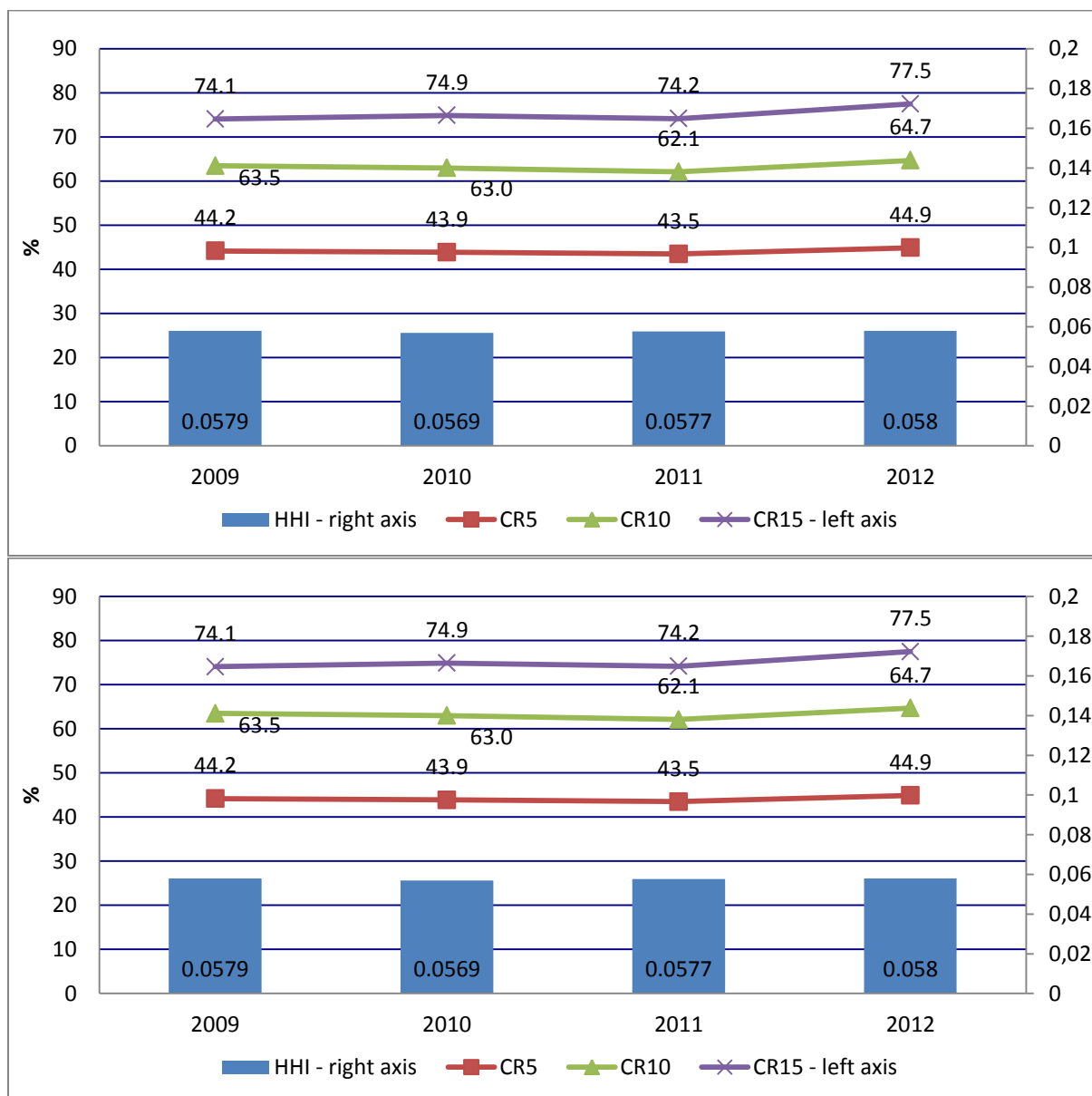
**Fig. 3. Banking sector net profit, 2009-2012 (PLNm)**

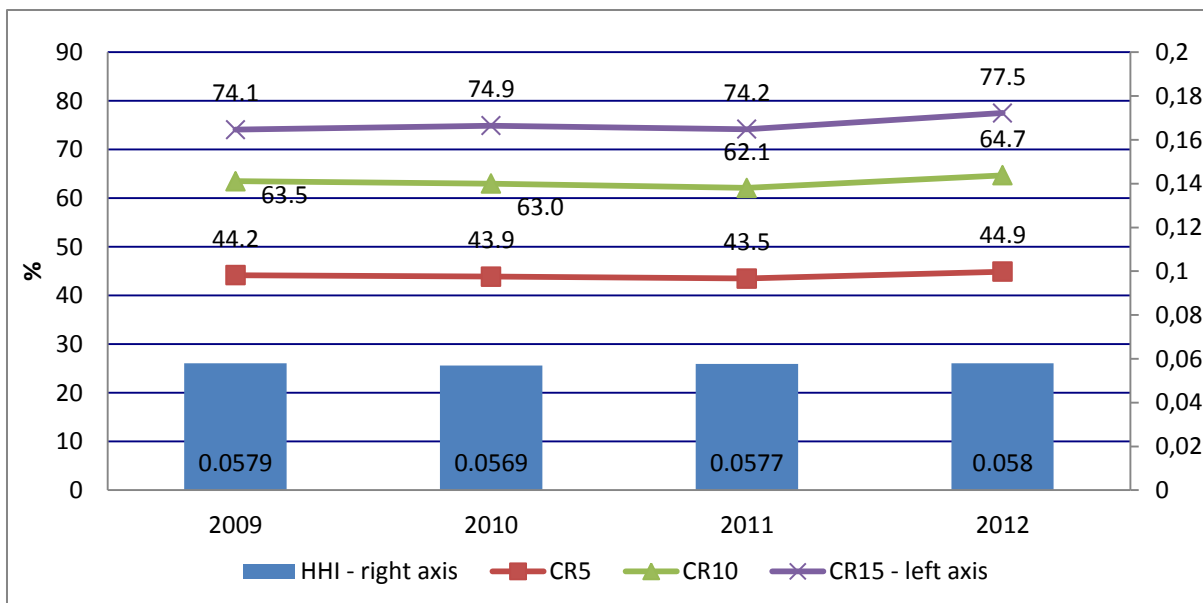


Source: in-house materials by KNF

Banking sector's net profit in 2012 totalled PLN 16.13bn and was higher than in 2011 (up by PLN 0.6bn, i.e. 3.9%). Net interest income totalled PLN 35.51bn (+1.5% year on year), including interest income of PLN 71.32bn (+10.1% year on year) and interest costs of PLN 35.81bn (+20.2%). Net commission income totalled PLN 14.4bn (+0.4% year on year). Net income on banking activity grew in the analysed period by 2.6% to PLN 58.8bn. The banks' operating expenses went up by 4.1% year on year to PLN 27.77bn and impairment losses went up by 4.0% year on year to PLN 7.91bn.

Fig. 4. Asset concentration in 2009-2012





Source: in-house materials by KNF

CR5, CR10, CR15 - indicators showing the shares of the five, ten and fifteen largest banks in the banking sector's total assets

HHI - Herfindahl-Hirschman Index (the sum of the squares of banks' shares in the banking sector assets) being the market concentration measure used to assess the competition level on a given market. This index takes account not only of the number of entities but also of their relative size. HHI at the level of 0.058 describes the competitive market.

## 2.2. INSURANCE SECTOR

### INSURANCE MARKET ENTITIES

As at the end of 2012, authorisations to conduct insurance activities in Poland were held by 60 domestic insurance companies (including 29 life insurance companies and 31 non-life insurance companies, inclusive of 1 reinsurance company).

There is one insurance company in liquidation. When compared to 2011, the number of insurance companies decreased by 2. This change is due to consolidation in 2 insurance capital groups.

As at the end of 2012, 591 insurance companies from the EU and EEA member states submitted notifications of intent to provide insurance services in Poland under the freedom to provide services, including 24 insurance companies and 1 reinsurance company in the form of a branch.

### INSURANCE AND REINSURANCE SECTOR SECURITY

After Q4 2012, <sup>1</sup>the insurance sector situation remains stable. A material surplus of own funds against the capital requirements was recorded. The ratio of available solvency margin to required solvency margin improved by almost 64pp to the level of 411.50% while the available solvency margin covering guarantee fund to guarantee fund increased by over 169pp to 1,129.05%. This substantial growth is due to, among other things, the observance by the insurance companies of the regulator's recommendation on the dividend payout rules

<sup>1</sup>The data for 2012 developed on the basis of quarterly financial statements of insurance companies (before the audit by the qualified auditor). The data for 2009-2011 based on annual reports.

for 2011 and the result of the profits earned in the insurance sector, both technical and financial, the value whereof was considerably higher than in 2011. All the insurance companies complied with the condition of maintaining available solvency margin to required solvency margin and available solvency margin covering guarantee fund to guarantee fund as well as the condition of maintaining the technical provisions coverage ratio.

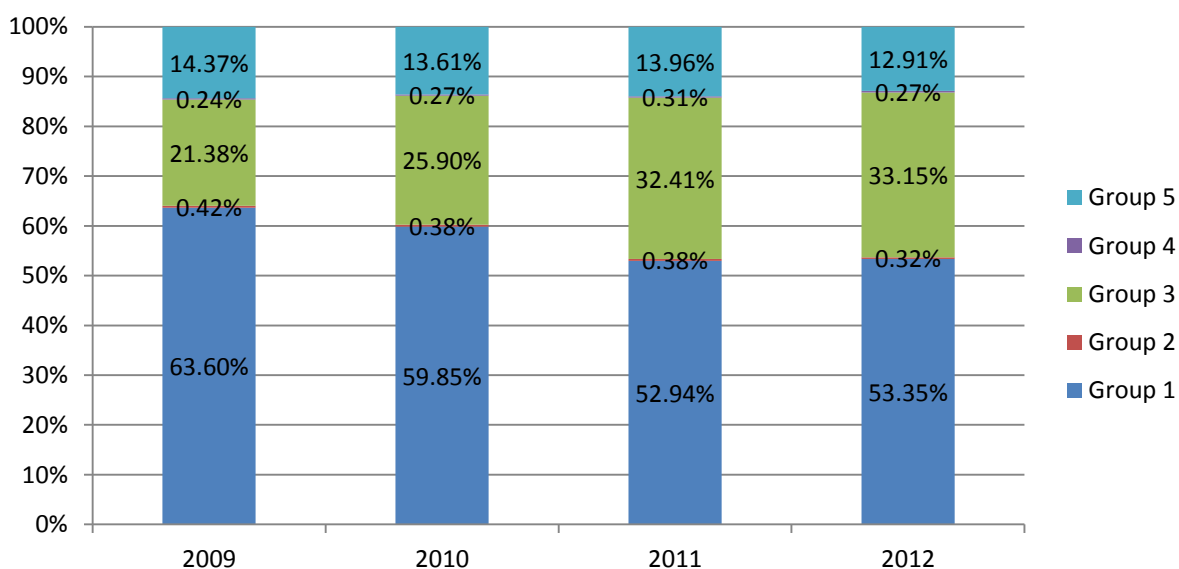
#### REVENUE OF INSURANCE COMPANIES AND REINSURANCE COMPANIES

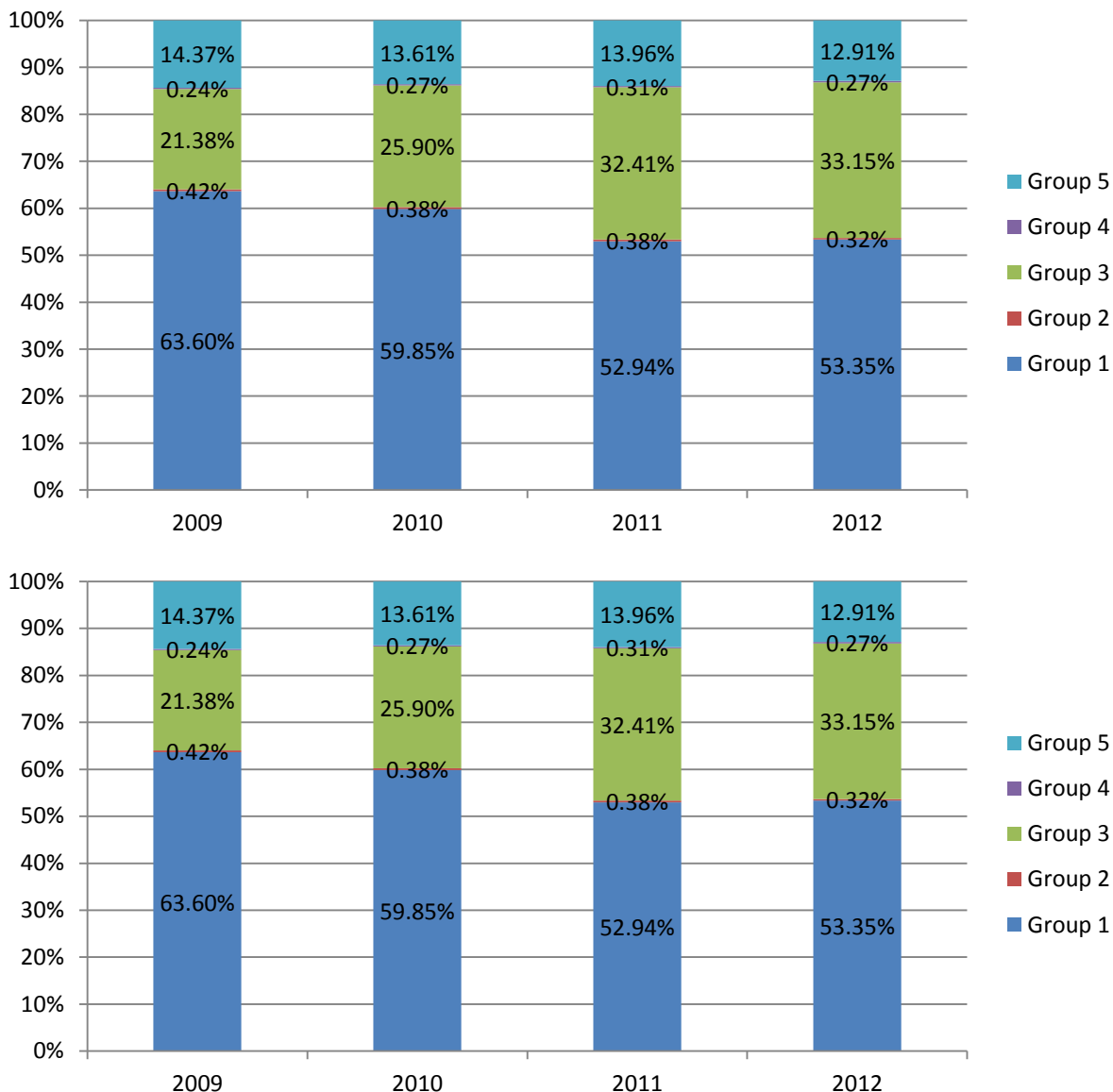
In 2012, the gross premium written being the main income source of insurance companies and reinsurance companies totalled PLN 62.64bn, which means that the insurance sector recorded against 2011 a considerable growth of 9.66% (5.47% in 2011). This growth was mainly due to the increase in premium of life insurance companies (segment I) of 14.28% (the premium of PLN 36.38bn). For segment II insurance companies gross premium written totalled PLN 26.27bn, up by 3.85%. It is an opposite trend to the one in 2009-2011 when the (segment II) non-life insurance sector premium increased much faster.

From among segment I insurance groups, the biggest increase, in value terms against 2011 of PLN 2.55bn (by 15.17%) was recorded in group 1 (life insurance) and then in group 3 (life insurance linked to unit-linked life insurance plans) where the premium went up by PLN 1.74bn (by 16.89%). Those increases are mainly related to the sales growth of insurance of investment nature - "polisolokaty" (term deposits offered as insurance policies) and structured products.

The segment I insurance portfolio is dominated by group 1 insurance (53.35% of the insurance portfolio) and the insurance of investment nature constitute considerable part thereof.

**Fig. 5. Structure of segment I insurance portfolio, 2009-2012**





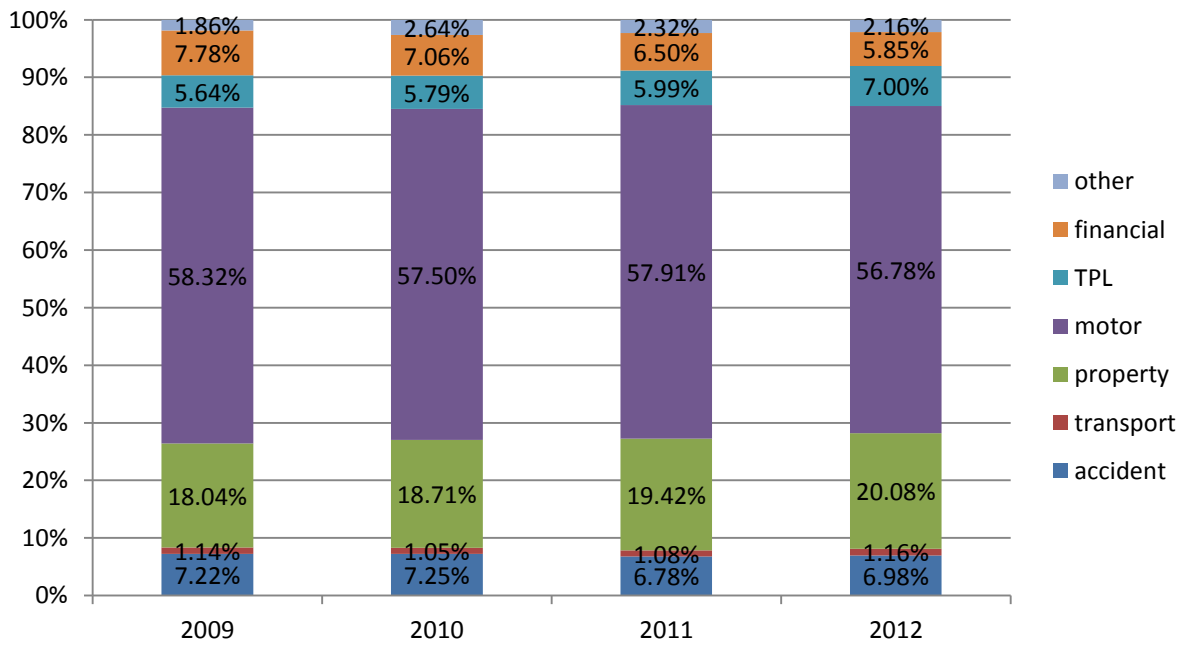
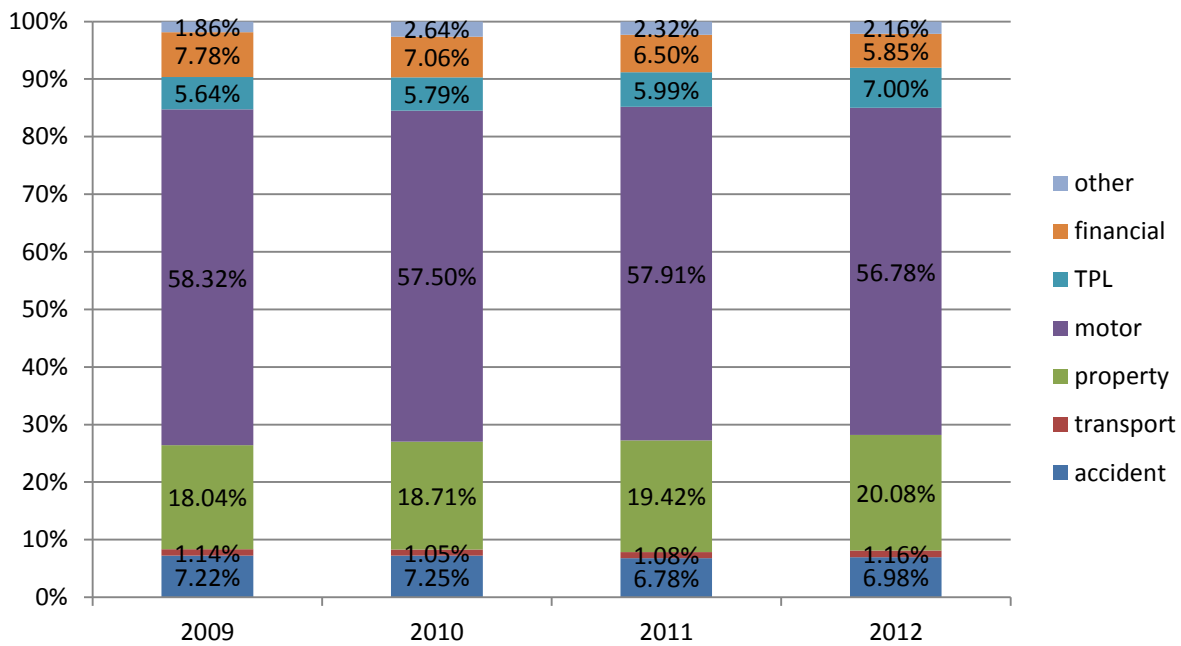
Source: in-house materials by KNF

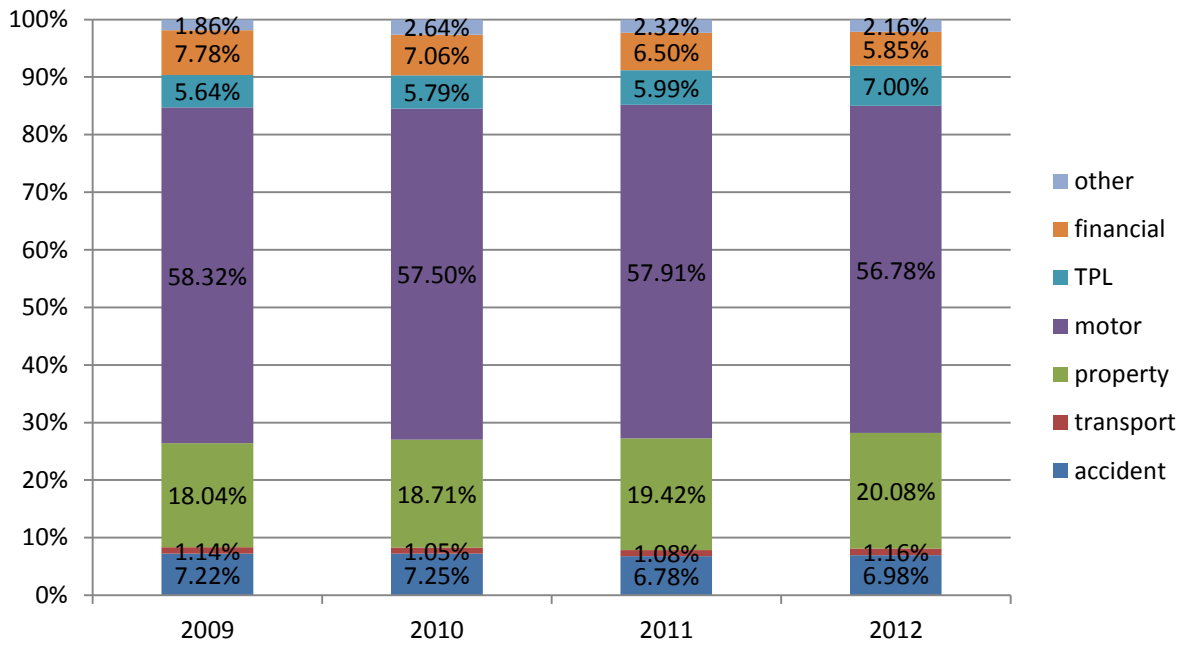
In segment II the market growth was mainly impacted by the increase in gross premium written in group 10 (automobile TPL insurance) by PLN 0.34bn (to PLN 8.94bn) primarily due to changes in premium rate structures but also premium increase in group 13 (other TPL insurance) by PLN 0.31bn (to PLN 1.75bn) as a result of introducing new TPL insurance products and premium increase in group 9 (other physical damage insurance) by PLN 0.26bn (to PLN 2.25bn) due to the growing number of insurance agreements concluded while keeping the average insurance policy price unchanged.

The segment II insurance continues to be dominated by automobile insurance (TPL and comprehensive insurance) accounting for 56.78% of the insurance portfolio.

**Fig. 6. Structure of segment II insurance portfolio, 2009-2012**







Source: in-house materials by KNF

## PERFORMANCE OF INSURANCE COMPANIES AND REINSURANCE COMPANIES

The results analysis of the insurance sector in 2012 shows that despite the continuing difficult economic conditions, the sector managed to generate financial profit higher by nearly 11% than in 2011, amounting to PLN 6.66bn

The segment I net financial result amounted to PLN 3.28bn, up by 12.23% from 2011. The net financial result improved against the same period last year, mainly due to the increased income on gross premium written and improved results on investment activities. The segment I insurance companies earned nearly PLN 7.74bn on investment activities, i.e. up by PLN 8.75bn year on year.

The segment II net financial result amounted to PLN 3.39bn, up by 9.80% from 2011. It should be emphasised that in this segment the technical earnings of PLN 719m was generated (up by nearly 141.39%, i.e. PLN 421.21m against 2011). It's been the best recorded result since 2008.

Mainly the increase in groups 3 (by PLN 0.39bn) and 10 (by PLN 0.21bn) contributed to the technical performance improvement. The performance in insurance group 9 (other physical damage insurance) and group 15 (insurance guarantees) materially deteriorated by PLN 0.13bn and PLN 0.27bn, respectively. The performance in both groups was impacted by a material growth in compensation and benefits paid, due to damage to agricultural produce (slight frost and hailstorm from the beginning of 2012) and due to executing insurance guarantees, chiefly in the construction sector.

**Table 5. Highlights of the performance of segment I insurance companies, 2009-2012 (PLNbn)**

Detailed list	2009	2010	2011	2012
<b>Balance-sheet highlights</b>				
Investments	51.31	50.76	47.31	49.31
Net assets of life insurance funds whereby the investment risk is borne by policyholders	32.81	38.93	37.46	45.11
Equity	13.86	13.23	12.76	15.05
Technical reserves	71.24	77.20	73.02	80.78
Balance-sheet total	88.28	93.97	89.87	99.90
<b>Income statement highlights</b>				
Gross premiums written	30.28	31.42	31.83	36.38
Gross compensation and benefits paid	27.70	22.58	26.07	25.92
Cost of insurance operations	5.39	5.26	5.54	6.35
Client acquisition cost	3.84	3.70	3.98	4.67
Administrative expenses	1.59	1.59	1.63	1.75
Result on insurance operations	4.32	3.59	3.35	3.49
Net profit (loss)	4.21	3.65	2.92	3.28
<b>Selected solvency items</b>				
Own funds	12.71	12.37	11.87	13.93
Solvency margin	3.67	3.89	3.78	3.91
Guarantee fund	1.36	1.43	1.36	1.42

Source: in-house materials by KNF

**Table 6. Highlights of the performance of segment II insurance companies, 2009-2012 (PLNbn)**

Detailed list	2009	2010	2011	2012
<b>Balance-sheet highlights</b>				
Investments	43.12	41.52	45.47	52.05
Equity	15.67	17.65	18.14	21.75
Technical reserves	28.97	32.60	36.30	40.00
Balance-sheet total	51.17	51.20	56.24	62.99
<b>Income statement highlights</b>				
Gross premiums written	21.12	22.74	25.29	26.27
Gross compensation and benefits paid	12.51	14.17	13.74	14.04
Cost of insurance operations	5.85	6.34	6.65	7.06
Client acquisition cost	4.25	4.70	5.36	5.67
Administrative expenses	2.05	2.09	1.92	2.07
Result on insurance operations	-0.25	-1.28	0.30	0.72
Net profit (loss)	2.64	3.09	3.08	3.39
<b>Selected solvency items</b>				
Own funds	12.25	13.77	14.33	18.00
Solvency margin	3.37	3.52	3.76	3.85
Guarantee fund	1.26	1.30	1.37	1.41

Source: in-house materials by KNF

## 2.3. PENSION SECTOR

### OPEN-END PENSION FUNDS AND UNIVERSAL PENSION FUND COMPANIES

As at the end of 2012, authorisations were held by 14 open-end pension funds and the same number of pension fund companies managing the funds.

As of 01 May 2011, following the reduction of the contribution assessment basis from the Social Insurance Institution (ZUS) to open-end pension funds, 2.3% of the contribution assessment basis is not transferred to open-end pension funds while it used to be 7.3%. As of 2013 the ratio will be 2.5% and in the following years the contribution assessment basis will increase and as of 2017 it will be 3.5%.

**Table 7. Net asset value of open-end pension funds as at year end, 2009-2012**

Open-end pension fund	Net asset value (PLNm)				Market share (%)
	2009	2010	2011	2012	2012
AEGON OFE	7,275.1	9,088.6	9,692.7	11,601.4	4.3
Allianz Polska OFE	5,052.9	6,511.4	6,725.7	8,220.2	3.0
Amplico OFE	13,702.8	16,905.8	17,444.7	21,368.3	7.9
Aviva OFE Aviva BZ WBK	45,188.5	52,889.1	51,272.0	60,901.4	22.6
AXA OFE	9,251.4	12,833.3	14,142.9	16,912.6	6.3
Generali OFE	7,724.9	10,426.0	11,270.0	13,529.1	5.0
ING OFE	43,245.3	53,202.0	53,301.7	64,169.7	23.8
Nordea OFE	6,905.6	9,337.6	10,083.9	12,048.3	4.5
Pekao OFE	2,841.1	3,411.4	3,387.7	4,047.6	1.5
PKO BP Bankowy OFE	4,911.8	6,565.2	7,558.3	9,447.0	3.5
OFE Pocztylion	3,477.3	4,263.7	4,261.3	5,092.0	1.9

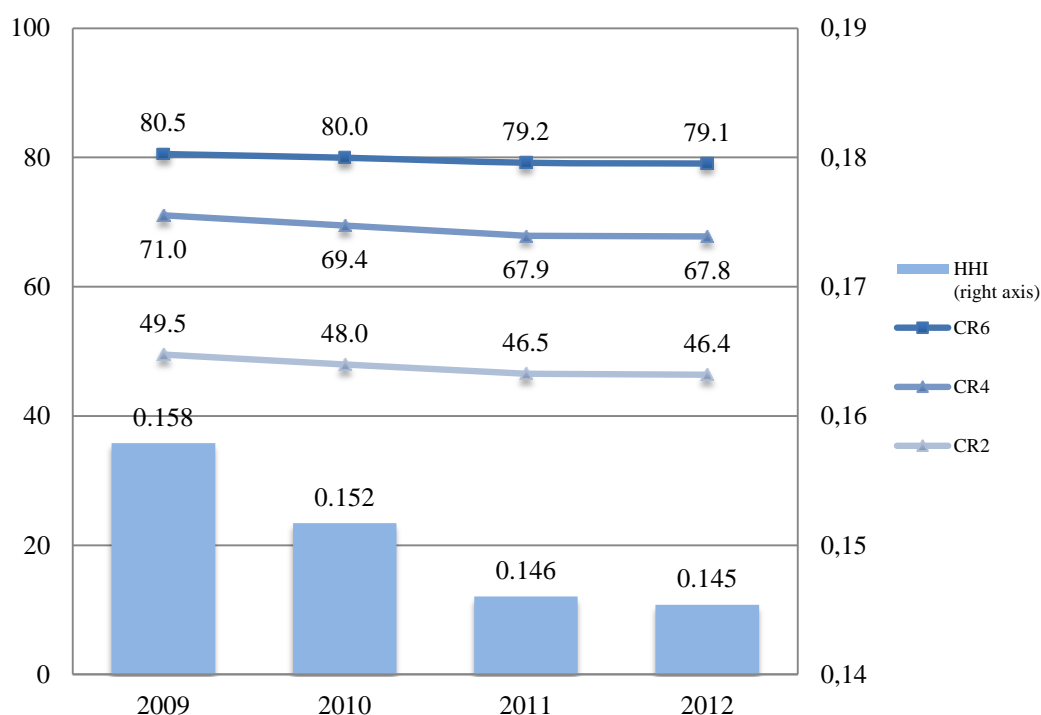
OFE Polsat	1,689.6	2,050.4	2,000.0	2,369.7	0.9
OFE PZU "Złota Jesień"	24,751.3	30,659.6	30,523.0	36,282.4	13.5
OFE WARTA	2,612.6	3,107.2	3,056.4	3,606.7	1.3
<b>Total:</b>	<b>178,630.1</b>	<b>221,251.3</b>	<b>224,720.1</b>	<b>269,596.5</b>	<b>100.0</b>

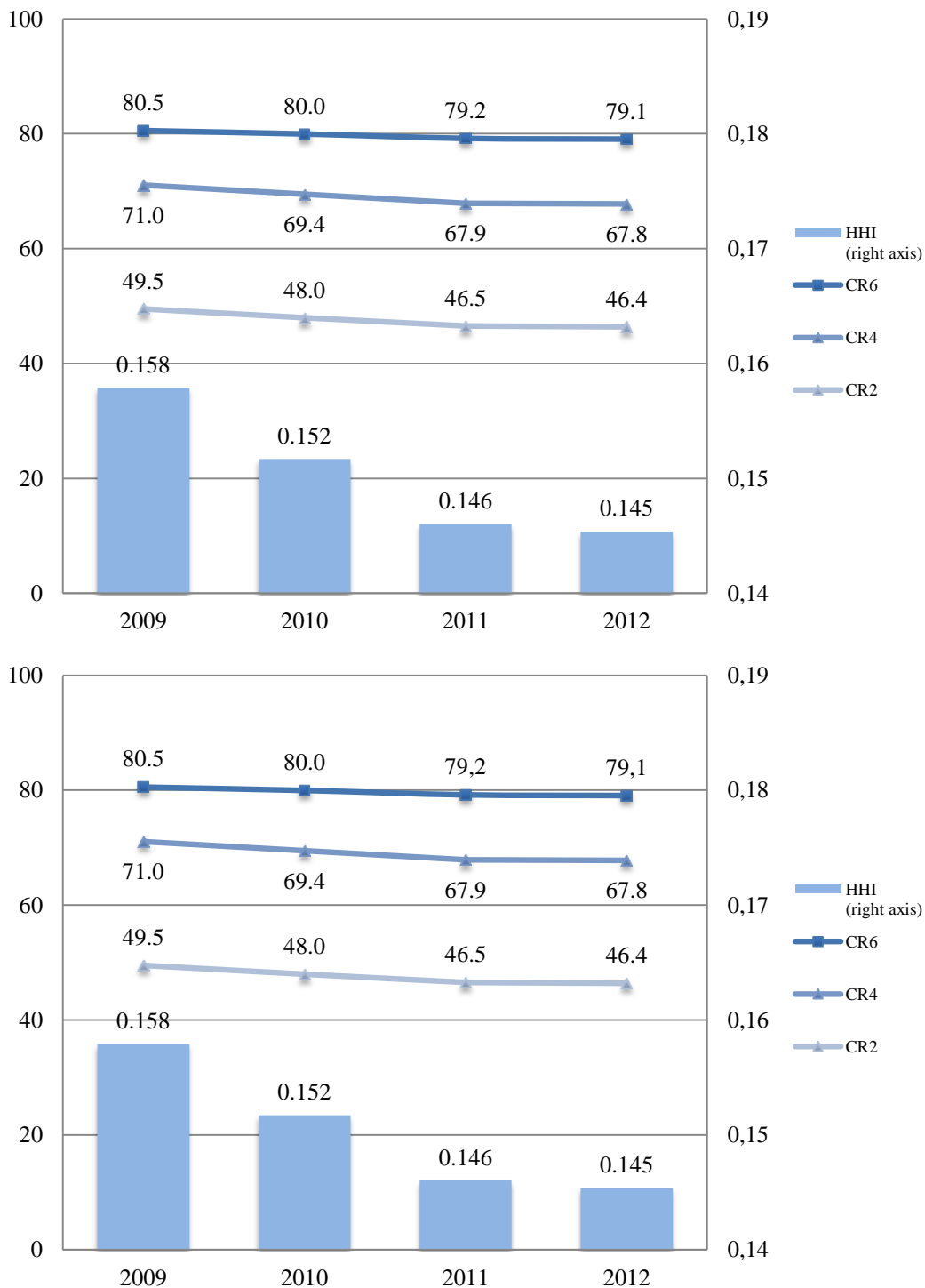
Source: in-house materials by KNF prepared based on daily reports of open-end pension funds

The open-end pension funds' assets stood at PLN 269.6bn, having increased by 20% (PLN 44.9bn) over the year. The open-end pension funds financial performance of PLN 37.4bn and the contributions transferred by the Social Insurance Institution of PLN 8bn translated into a considerable growth of funds' net assets in 2012. In 2012, the rates of return generated by open-end pension funds ranged from 14.6% to 18.0%; the weighted average rate of return reached 16.4%.

The aggregate market share of the four largest pension funds, measured in terms of net asset value as at the end of 2012, was 67.8% (67.9% in the previous year). In 2009-2012 the open-end pension funds market structure was slowly changing. The biggest entities were losing their market share which was reflected in CR2, CR4 and HHI indicators.

**Fig. 7. Concentration of net assets of open-end pension funds, 2009-2012**





CR2, CR4, CR6 - indicators showing the shares of the two, four and six largest OFEs in total assets.

HHI (Herfindahl-Hirschman Index) - a measure of market concentration, specifying the estimated level of concentration in a given industry and the level of competition in a given market; it is calculated as the sum of the squares of the market shares of individual companies (e.g. the sum of the squares of the shares of individual open-end pension funds in the open-end pension funds total assets).

Source: in-house materials by KNF

As at the end of 2012, there were 15.9m members of the open-end pension funds. The market share of the four largest funds, in terms of the number of members, fell year on year and as at year end stood at 57.6%, against 58.4% a year earlier.

**Table 8. Number of open-end pension fund members as at year end, 2009-2012**

Open-end pension fund	Number of members ('000)				Market share (%)
	2009	2010	2011	2012	2012
AEGON OFE	764.2	834.4	948.5	947.0	5.9
Allianz Polska OFE	398.0	448.5	508.1	553.7	3.5
Amplico OFE	1,100.8	1,135.7	1,192.6	1,269.9	8.0
Aviva OFE Aviva BZ WBK	2,893.5	2,786.2	2,687.5	2,672.9	16.8
AXA OFE	799.0	983.9	1,109.4	1,162.2	7.3
Generali OFE	681.0	788.0	890.1	1,006.3	6.3
ING OFE	2,902.7	2,929.8	2,954.1	3,010.2	18.9
Nordea OFE	827.6	868.5	898.8	888.3	5.6
Pekao OFE	348.4	349.5	344.5	342.8	2.2
PKO BP Bankowy OFE	417.8	468.3	539.5	657.8	4.1
OFE Pocztylion	467.6	518.1	588.3	595.9	3.7
OFE Polsat	322.7	311.1	302.5	300.8	1.9
OFE PZU "Złota Jesień"	2,119.1	2,193.5	2,215.0	2,222.9	13.9
OFE WARTA	318.3	315.4	314.5	311.5	2.0
<b>Total</b>	<b>14,360.7</b>	<b>14,931.0</b>	<b>15,493.4</b>	<b>15,942.3</b>	<b>100.0</b>

Source: Social Insurance Institution (ZUS)

The rates of return generated by open-end pension funds to a large extent depend on the financial market situation. In 2012 the funds' rates of return were one of the highest in the history of the capital part of the pension system in Poland.

**Table 9. Rates of return of open-end pension funds, 2009-2012 (%)**

Open-end pension fund	2009	2010	2011	2012
AEGON OFE	14.0%	9.9%	-4.8%	16.4%
Allianz Polska OFE	13.3%	11.1%	-4.5%	18.0%
Amplico OFE	14.5%	11.2%	-4.8%	17.2%
Aviva OFE Aviva BZ WBK	12.9%	11.3%	-4.6%	16.6%
AXA OFE	13.6%	10.3%	-3.3%	14.9%
Generali OFE	15.4%	9.3%	-4.0%	15.0%
ING OFE	13.8%	11.9%	-4.5%	16.6%
Nordea OFE	12.5%	11.5%	-4.1%	17.6%
Pekao OFE	13.9%	10.5%	-5.3%	16.1%
PKO BP Bankowy OFE	14.7%	11.2%	-4.8%	16.4%
OFE Pocztylion	13.4%	11.1%	-6.1%	15.3%
OFE Polsat	20.7%	9.3%	-7.2%	14.6%
OFE PZU "Złota Jesień"	13.5%	11.3%	-5.3%	15.7%
OFE WARTA	13.4%	11.0%	-4.2%	16.2%
<b>Average</b>	<b>14.3%</b>	<b>10.8%</b>	<b>-4.8%</b>	<b>16.2%</b>

Source: in-house materials by KNF prepared based on daily reports of open-end pension funds

In 2012, like in the previous years, the major items in the income statements of pension fund companies were revenues related to the management of pension funds (open-end and voluntary), including:

- revenue from the fee for the management of the open-end pension funds (62.4% of total revenue),
- revenue from charges on contributions to open-end pension funds (17.5% of total revenue),

and costs:

- costs directly related to the management (operation) of the pension fund companies (25.1% of total costs),
- transfer agent costs (22.0% of total costs).
- acquisition costs for open-end and voluntary pension funds (15.8% of total costs of universal pension fund companies),
- costs of charges on contributions and charges on transfer payments made to the Social Insurance Institution (ZUS) and the Polish National Depository for Securities (KDPW) (9.0% of total costs).

In 2012, revenues of universal pension fund companies were lower than in previous years. It was due to the reduction of contributions to open-end pension funds from 7.3% to 2.3% of the contribution assessment basis. As a result, in 2012, the total revenue of universal pension fund companies derived from the management of open-end pension funds and voluntary pension funds amounted to PLN 1.65bn, down by 8.6% year on year.

In the same period, the costs of funds management dropped by 26.1%, to PLN 0.77bn. Net result of universal pension fund companies in 2012 slightly exceeded PLN 715.1m and was up by 15.6% year on year. All universal pension fund companies recorded positive financial results.

An analysis of individual items of the income statement shows a clear connection between the amounts of revenue, costs and profit and the size of the fund managed. The strongest market position is enjoyed by the universal pension fund companies managing the largest pension funds. They generated the highest revenue and were able to leverage significant economies of scale in terms of their expenses.

## OCCUPATIONAL PENSION FUNDS AND OCCUPATIONAL PENSION FUND COMPANIES

As at December 31st 2012, there were five occupational pension fund companies on the market, and they managed five occupational pension funds. The first occupational pension fund company was established in 1999, while the last one started operations towards the end of 2004. As at the end of 2012, the value of assets accumulated in the occupational pension funds (PFE) stood at PLN 1,882m. The net asset value of occupational pension funds grew by PLN 325m, or 20.8%, relative to 2011. In the period under review, PLN 173m of base and additional contributions were transferred to the accounts of the members of occupational pension funds.

**Table 10. Net assets of occupational pension funds, 2009-2012 (as at December 31st, PLNm)**

Detailed list	2009	2010	2011	2012	
	Net assets	Net assets	Net assets	Net assets	Market share (%)
PFE TELEKOMUNIKACJI POLSKIEJ	831.1	934.6	909.4	1,097.0	58.3
PFE "Nowy Świat"	245.4	294.8	300.7	361.7	19.2
PFE Słoneczna Jesień	218.2	274.6	288.1	344.4	18.3
PFE UNILEVER POLSKA	20.3	27.2	31.7	42.7	2.3



PFE NESTLE POLSKA	17.8	24.2	27.7	36.5	1.9
<b>Total</b>	<b>1,332.8</b>	<b>1,555.4</b>	<b>1,557.6</b>	<b>1,882.4</b>	<b>100.0</b>

Source: Occupational pension funds

Contributions to occupational pension funds are free of any charges, and some occupational pension fund companies do not charge management fees, which - from the participants' perspective - makes this form of saving more profitable.

As at the end of 2012, occupational pension funds had 57 thousand members. Year on year the number dropped by 2.2%.

In 2012, the average rate of return reported by the occupational pension funds was 14.7% (in 2011: -4.3%). The considerable increase of the investment unit was a consequence of favourable financial market situation.

**Table 11. Investment performance of occupational pension funds, 2009-2012 (rate of return or percentage index change)**

Detailed list	2009	2010	2011	2012
PFE average rate of return	14.8	10.0	-4.3	14.7
PFE lowest rate of return	12.7	9.6	-5.2	13.6
PFE highest rate of return	17.4	10.5	-3.1	15.8
Inflation rate	3.5	2.6	4.3	3.7
WIG change	46.9	18.8	-20.8	26.2
WIG20 change	33.5	14.9	-21.9	20.4

Source: Occupational pension funds

## VOLUNTARY PENSION FUNDS

In 2012, voluntary pension funds (DFE) started operating. By December 31st 2012 there were 9 voluntary pension funds operating on the market. Voluntary pension funds have been operating for a very short time and their assets are low so the generated and presented rates of return are not a very reliable indicator that would allow assessment of their long-term investment effectiveness.

**Table 12. Voluntary pension funds' rates of return from the first valuation to December 31st 2012**

Voluntary pension fund name	Date of first valuation	Rate of return from the first valuation to December 31st 2012 (%)
DFE PZU	January 19th 2012	49.0
MetLife Amplico DFE	January 31st 2012	40.4
PKO DFE	March 16th 2012	14.4
Allianz Polska DFE	March 23rd 2012	9.9
Nordea DFE	March 26th 2012	35.7
ING DFE	July 17th 2012	3.5
DFE Pocztylion Plus	August 22nd 2012	1.0
DFE Pekao	October 24th 2012	1.7
Generali DFE	December 28th 2012	0.0

Source: Voluntary pension funds

As at the end of 2012 there were nine voluntary pension funds operating. In all of them there were individual pension security accounts (IKZE) and in four of them also individual pension accounts (IKE). Voluntary pension funds run 127.6 thousand individual pension security accounts and 0.5 thousand individual pension accounts.

#### OCCUPATIONAL PENSION SCHEMES, INDIVIDUAL PENSION ACCOUNTS AND INDIVIDUAL PENSION SECURITY ACCOUNTS

Occupational pension schemes (PPE), individual pension accounts (IKE) and individual pension security accounts (IKZE), in which participation is voluntary, are organised on an institutional basis, unlike other forms of voluntary accumulation of savings for pension purposes, and funds are accumulated in them on the terms and conditions provided for in the law.

The development of Pillar III of the pension system is supported by such incentives as tax exemptions and social security contribution allowances.

The occupational pension schemes market has been operating since 1999.

**Table 13. Occupational pension schemes development in 2009-2012**

Detailed list	2009	2010	2011	2012
Number of occupational pension schemes	1,099	1,113	1,116	1,094
Number of PPE members ('000)	334	342	345	358
Value of assets accumulated (PLNm)	4,998	6,286	6,598	8,351

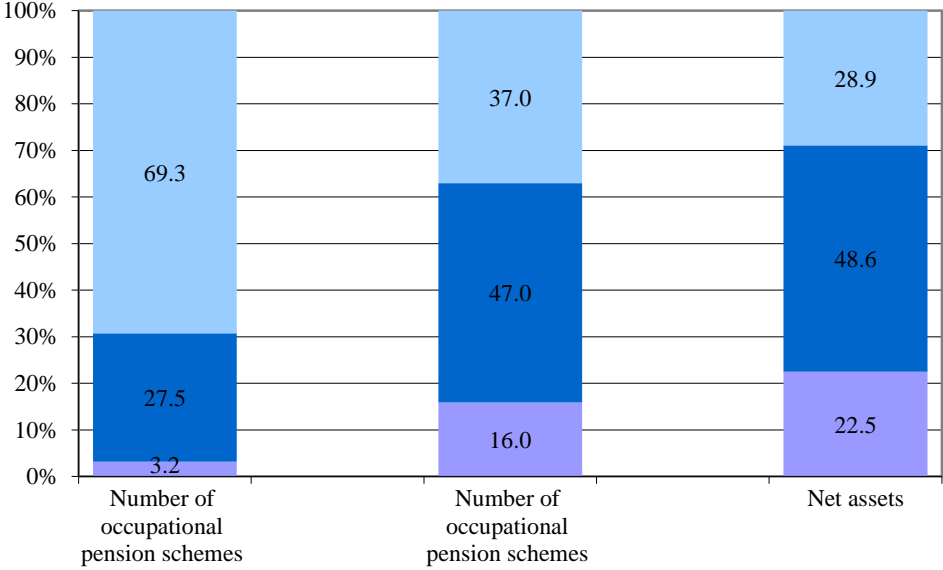
Source: in-house materials by KNF, institutions managing funds of occupational pension schemes

As at December 31st 2012, there were 1,094 occupational pension schemes, including:

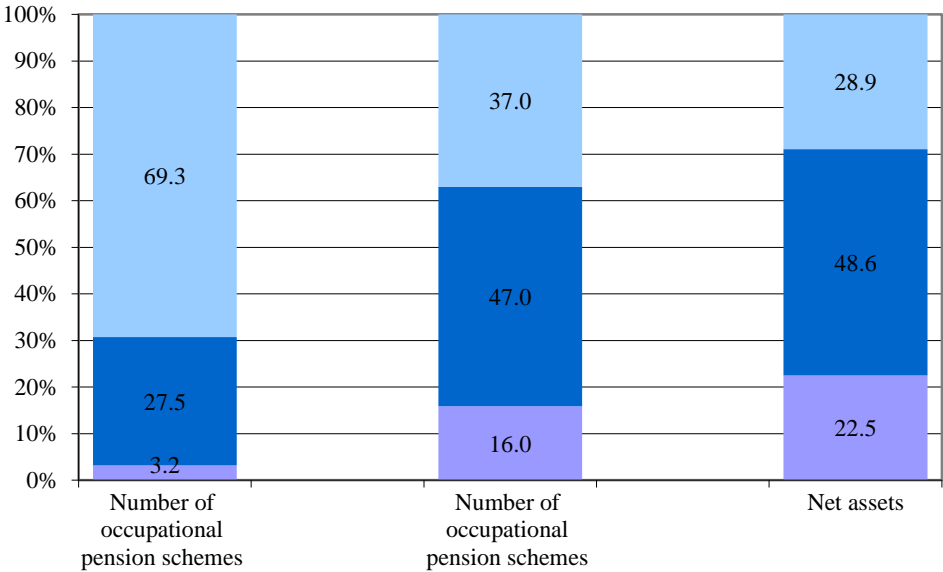
- 758 schemes operated under agreements for employee group life insurance in the form of group unit-linked life insurance,
- 301 schemes operated under agreements for payment by employers of employee contributions to investment funds.
- 35 schemes operated as occupational pension funds.

As at the end of 2012, occupational pension schemes had 358 thousand participants, and the value of their assets stood at PLN 8,351m, which means the value of assets accumulated in the accounts of PPE members grew by PLN 1,753m (or 27%) relative to 2011.

**Fig. 8. Structure of the occupational pension schemes (PPE) market in 2012 (%)**



■ group life insurance in the form of group unit-linked life insurance ■ investment fund ■ occupational pension fund



■ group life insurance in the form of group unit-linked life insurance ■ investment fund ■ occupational pension fund



Source: in-house materials by KNF, institutions managing funds of occupational pension schemes

## 2.4. CAPITAL AND COMMODITY MARKETS

Participants of the capital and commodity markets supervised by the Polish Financial Supervision Authority include entities operating on the market of securities and other financial instruments, undertakings for collective investment and entities operating on the commodity market.

### INVESTMENT FIRMS AND BANKS OPERATING SECURITIES ACCOUNTS (CUSTODIAN BANKS)

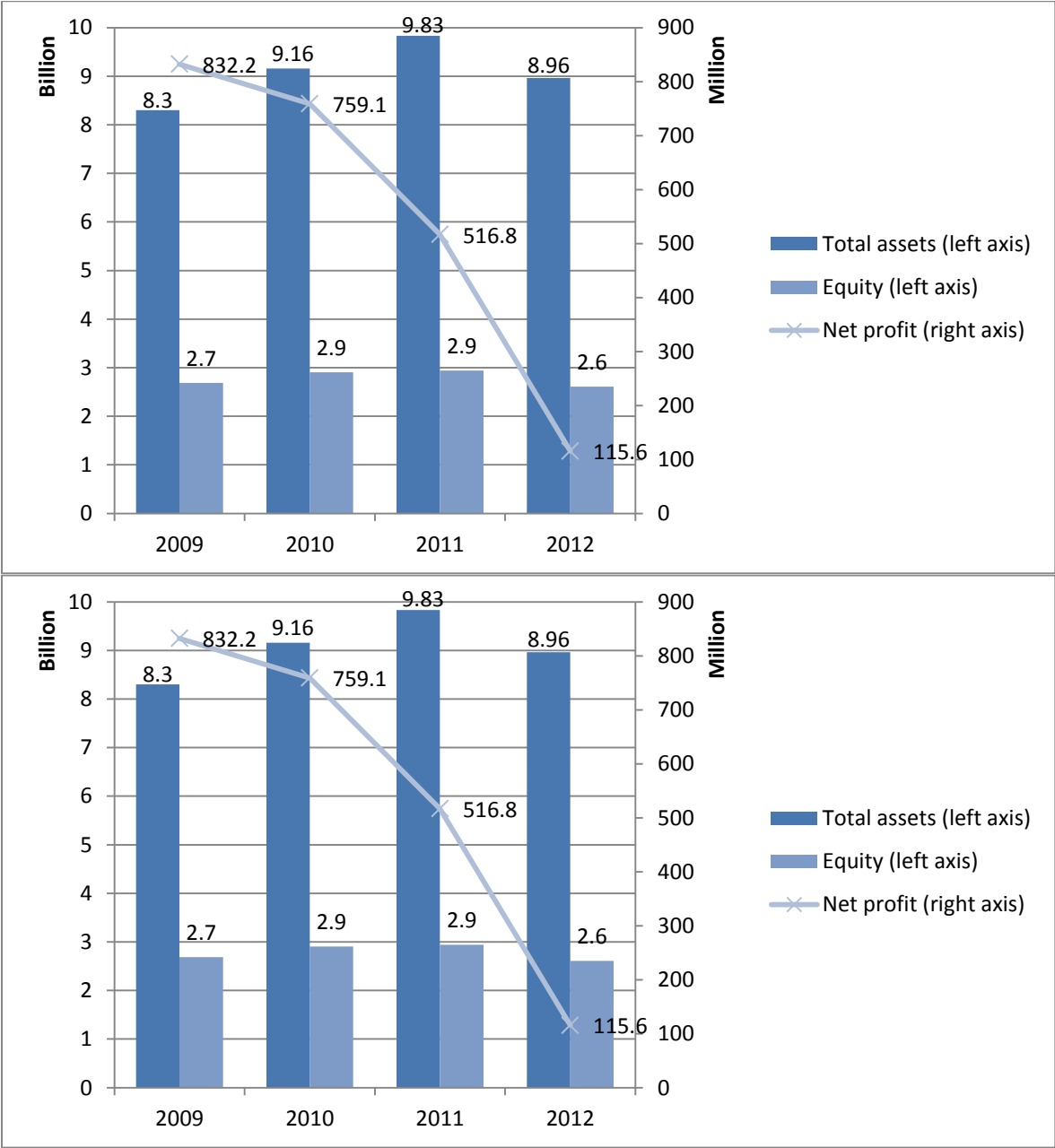
Both domestic and foreign investment firms may operate in Poland. Domestic investment firms include brokerage houses and banks conducting brokerage activities. Moreover, brokerage activities in the territory of the Republic of Poland may also be conducted by foreign investment firms under the single licence (or European passport) principle, and foreign legal persons domiciled in a member state of the Organisation for Economic Co-operation and Development (OECD) or the World Trade Organization (WTO). The group of institutions specialised in the provision of intermediation services on the securities market, licensed by the KNF, also includes custodian banks.

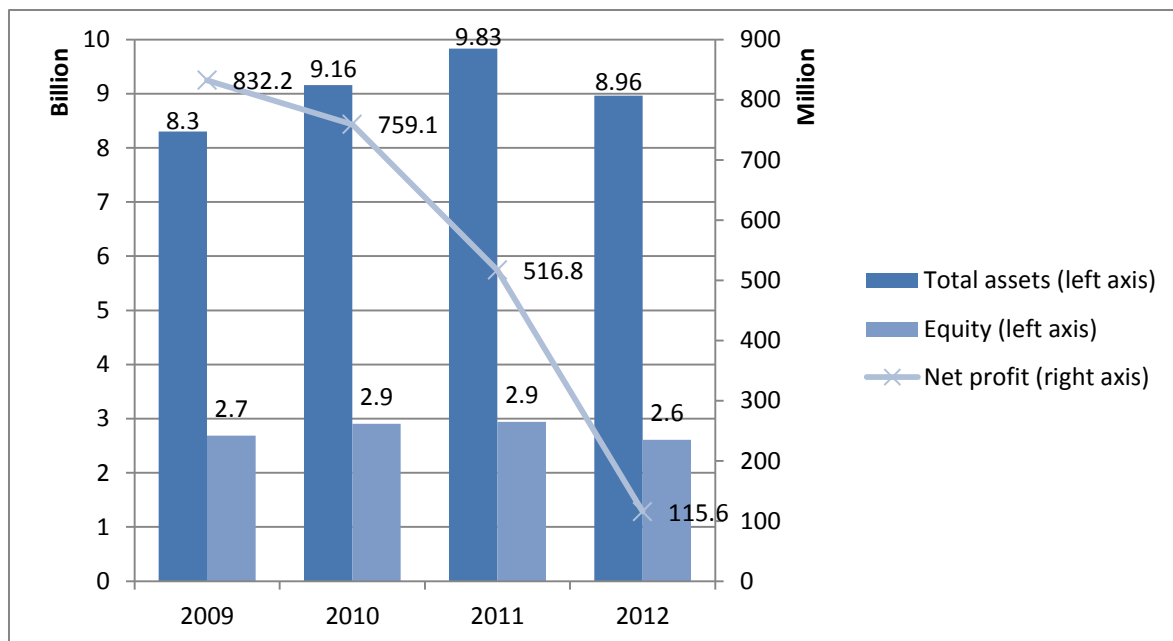
**Table 14. Number of entities conducting brokerage and custodian activities, 2009-2012**

Type of entity	2009	2010	2011	2012
Brokerage houses	46	50	51	54
Banks conducting brokerage activities	13	14	14	15
Custodian banks	13	14	15	15
<b>Total</b>	<b>72</b>	<b>78</b>	<b>80</b>	<b>84</b>

Source: in-house materials by KNF

Fig. 9. Highlights of the brokerage houses sector, 2009-2012





Source: in-house materials by KNF

**Table 15. Number of client accounts operated by brokerage houses and offices, 2009-2012**

Detailed list	Number of client accounts				Share in total assets (%) 2012
	2009	2010	2011	2012	
Brokerage houses	812,954	1,323,959*	1,210,088	1,195,885	63.19
Banks conducting brokerage activities	532,325	649,680*	675,327	696,773	36.81

Source: in-house materials by KNF

\* Change in manner of disclosure, non-homogenous population.

## ORGANISED SECURITIES MARKETS

### Warsaw Stock Exchange

In 2012, the main WSE indices surged, to a large extent making up for the drop recorded in 2011 but still the trading volume both on the equities and derivatives markets did not reach the levels comparable with the previous year.

**Table 16. Rates of return of the Warsaw Stock Exchange indices, 2009-2012 (%)**

Detailed list	2009	2010	2011	2012
WIG	46.85	18.77	-20.83	26.24
WIG20	33.47	14.88	-21.85	20.45
mWIG40	55.24	19.57	-22.51	17.42
sWIG80	61.85	10.18	-30.47	22.92

Source: [http://www.gpw.pl/analizy\\_i\\_statystyki](http://www.gpw.pl/analizy_i_statystyki)

**Table 17. Number of instruments traded on the Warsaw Stock Exchange, 2009-2012**

Detailed list	2009	2010	2011	2012
Companies	379	400	426	438
including foreign	25	27	39	43
Number of initial offerings	13	34	38	19
Delistings	8	13	12	7
Bonds	51	50	51	62
including foreign	3	3	2	2
Futures	37	55	79	91
Options	110	106	122	120

Source: [http://www.gpw.pl/analizy\\_i\\_statystyki](http://www.gpw.pl/analizy_i_statystyki)

**Table 18. Warsaw Stock Exchange's capitalisation as at year end, 2009-2012 (PLNm)**

Detailed list	2009	2010	2011	2012
Polish companies	421,178	542,646	446,151	523,390
Foreign companies	294,643	253,836	196,712	210,657
Polish bonds	411,018	486,505	521,746	588,635
Foreign bonds	586	586	173	173
<b>Total</b>	<b>1,127,425</b>	<b>1,283,573</b>	<b>1,164,782</b>	<b>1,322,855</b>

Source: [http://www.gpw.pl/analizy\\_i\\_statystyki](http://www.gpw.pl/analizy_i_statystyki)

WSE capitalization in 2012 went up by 14% when compared to 2011.

**Table 19. Trading volumes on the Warsaw Stock Exchange, 2009-2012 (PLNm)<sup>2</sup>**

Detailed list	2009	2010	2011	2012
Equities	175,943	234,288	268,139	202,880
Bonds	1,476	1,428	836	1,043
Futures	258,683	340,648	361,665	216,436
Options	8,391	16,888	23,562	16,269

Source: [http://www.gpw.pl/analizy\\_i\\_statystyki](http://www.gpw.pl/analizy_i_statystyki)

In 2012, share trading totalled PLN 202,880m against PLN 268,139m in 2011.

Regulation (EU) No 236/2012 of the European Parliament and of the Council on short selling and certain aspects of credit default swaps (O.J. EU L 86 of 24.03.2012) providing for the obligation to disclose to the regulator significant net short positions in shares came into force on November 1st 2012. The Polish Financial Supervision Authority developed IT solutions and informed the potential entities obliged to disclose the information about the mode of providing notifications. The reports are sent on an ongoing basis to the KNF and gathered in line with ESMA guidelines. Some data concerning the reports are provided to ESMA on a quarterly basis.

As at December 31st 2012, 140 stocks and 36 bonds were admitted for short selling.

#### Alternative trading facility (NewConnect)

In addition to the regulated market, the Warsaw Stock Exchange operates an organised equity market in the form of an alternative trading facility under the name of NewConnect.

<sup>2</sup>Trading volumes standardised to single format.

**Table 20. Highlights of the NewConnect alternative trading facility, 2009-2012**

Detailed list	2009	2010	2011	2012
NCIndex at year end	49.70	63.44	41.62	33.26
Rate of return of NCIndex in current year (%)	30.14	27.65	-34.39	-20.09
Capitalisation of companies at year end (PLNm)	2,457.16	4,970.95	8,383.50	10,804.74
Number of companies at year end	107	185	351	429
Number of initial offerings	26	86	172	89
Number of trading sessions	252	253	251	249
Trading volume (PLNm) <sup>3</sup>	581.00	1,847.00	1,858.478	1,140.87
Number of trades per session	1,285	3,470	4,311	3,105
Average trading volume per session (PLNm)	2.3	7.3	7.40	4.58

Source: [http://www.newconnect.pl/pub/statystyki\\_roczne/2012\\_NC.pdf](http://www.newconnect.pl/pub/statystyki_roczne/2012_NC.pdf)

### BondSpot SA

BondSpot SA operates the Polish Regulated OTC Market ("ROTC").

**Table 21. Data on the OTC and ATS market, 2009-2012<sup>4</sup>**

Detailed list	2009	2010	2011	2012
ITO index at year end	32,342.9	-	-	-
Rate of return of ITO Index in current year (%)	7.26	-	-	-
Number of listed instruments	70	88	163	209
Number of trading sessions	252	253	251	249
<b>Equities</b>				
Trading volume (PLNm)	0.85	0.29	0.084	-
Number of trades	715	388	65	-
Number of instruments	4	1	1 (not listed at year end)	-
Average trading volume per session (PLN'000)	3.37	1.13	0.33	-
<b>Covered bonds</b>				
Trading volume (PLNm)	18.25	49.9	23.30	0.01
Number of trades	59	19	17	1
Number of instruments	16	17	20	24
<b>Bonds</b>				
Trading volume (PLNm)	2,497.9	131.02	1,165.55	1,117.70
Number of trades	140	156	216	180
Number of bonds listed	50	70	143	185

Source: [http://www.gpwcatalyst.pl/pub/statystyki\\_roczne/2012\\_CAT.pdf](http://www.gpwcatalyst.pl/pub/statystyki_roczne/2012_CAT.pdf)

As at the end of 2012, there were 209 instruments listed on Bondspot ROTC and Bondspot ATS.

<sup>3</sup>Trading volumes standardised to single format.

<sup>4</sup>Trading volumes standardised to single format.



## SETTLEMENT AND DEPOSITORY SYSTEM

Krajowy Depozyt Papierów Wartościowych S.A. (the “Polish National Depository for Securities”) is a central institution responsible for management and supervision of the depository, clearing and settlement system to enable the trading of financial instruments in Poland. Starting from July 1st 2011, clearing of transactions in securities or other financial instruments registered in the Polish National Depository for Securities system is performed via KDPW\_CCP S.A. while the settlement of these transactions (transfers between deposit accounts) is performed by the National Depository.

Due to amendment on August 4th 2012 of the Act on Trading in Financial Instruments that introduced novation to the Polish legal system and thus the introduction of relevant amendments to the Transaction Clearing rules, approved by the Polish Financial Supervision Authority, KDPW\_CCP S.A acts as Central Counterparty (CCP), i.e. takes over the obligations of the parties to the cleared transaction and at the same time becomes a buyer for every seller and seller for every buyer, simultaneously securing the cleared transactions with own property.

In 2012, the Polish Financial Supervision Authority approved the Transaction Clearing Rules (non-organised trading) whereunder KDPW\_CCP S.A. became entitled to clear the OTC derivative transactions and repo transactions, as well as conducting the system of securing liquidity of such transactions' clearing.

## PUBLIC OFFERINGS OF FINANCIAL INSTRUMENTS OTHER THAN INVESTMENT CERTIFICATES

In 2012 there was a drop in public offerings as compared with the previous three years. The value of public offerings carried out during the year topped PLN 8.77bn, and was by 34% lower than in 2011 and by 65% lower than in 2010. The main reason behind the drop was the sustained fiscal crisis in the eurozone member states and limited activity in the State Treasury capital market that in 2012 carried out one public offering (sale of shares of Zespół Elektrowni PAK [power stations] for the amount of PLN 0.68bn). It should be emphasised that 2012 saw the biggest public offering of a private company in the history of the Polish capital market - Alior Bank SA amounting to PLN 2.1bn.

The slightest drop was recorded in the most important segment of capital raising through public offerings (the primary market). Even though the number of share subscriptions under public offerings considerably fell, their total value dropped only slightly (by 7.8%).

The biggest drop in activity was recorded in the structured products public offerings market (reduction in worth of offerings by almost 80%) and the market of existing shares sale (drop by almost 66%).

A material increase in activity was visible in the bonds public offerings segment where the worth of offerings went up by over 30%.

The number of public offerings placed on the market in 2012 was 155; the structure is presented in Table 22.

**Table 22. Public offerings carried out in 2012**

159 public offerings, including: <i>carried out by foreign issuers</i>			
155 cash offerings			4 non-cash offerings
79 public offerings of shares	12 public offerings of structured products	64 public offerings of bonds	
<i>including:</i> 44 offerings exempt from the requirement to prepare and seek approval of the prospectus,	<i>all carried out by foreign issuers</i>	<i>including:</i> 41 offerings exempt from the requirement to prepare and seek approval of the prospectus,	
31 offerings carried out by foreign issuers			
27 public offerings of shares	52 public subscriptions		

Source: in-house materials by KNF

The aggregate value of public cash offerings executed in 2012 amounted to PLN 8,821.2m, including PLN 3,592.7m in share subscriptions, PLN 2,272.5m in share sale offerings, PLN 2,812.3m in bond issues and PLN 143.7m in public offerings of structured products.

The drop in the worth of offerings in 2012 was coupled with the drop in the number of executed offerings but the drop was only of 12.5% and was not as serious as the drop in the worth of offerings. It reflects a reduction in the average value of a public offering that in 2011 totalled nearly PLN 75m and fell to almost PLN 57m in 2012. This trend has been visible for the last 4 years. In 2009, which saw the apogee of the first wave of worldwide financial crisis, the average value of a public offering was PLN 16m (with the smallest number of public offerings in the analysed period) and in 2010 - PLN 134m.

**Table 23. Value and number of public cash offerings, 2009-2012**

Year	2009		2010		2011		2012	
	Number of offerings*	Value (PLNm)	Number of offerings*	Value (PLNm)	Number of offerings***	Value (PLNm)	Number of offerings****	Value (PLNm)
Issues of shares	34	12,310.9	76	6,133.2	69	3,735.80	52	3,592.67
Public offerings of bonds	8	1,077.8	37	2,180.0	54	2,236.50	63	2,812.30
Share sale offerings	21	112.2	37	15,456.2	30	6,671.10	27	2,272.55
Public offerings of structured products	21	414.5	36	1,251.7	24	692.7	12	143.71
<b>Total public offerings</b>	<b>84</b>	<b>13,915.4</b>	<b>186</b>	<b>25,021.1</b>	<b>177</b>	<b>13,336.1</b>	<b>155</b>	<b>8,821.23</b>

<i>Including</i>								
Initial public offerings	22	7,539.2	60	15,899.5	66	8,560.4	38	3,371.37

\* In 2009, five non-cash public equity offerings were also carried out.

\*\* In 2010, seven non-cash public equity offerings were also carried out.

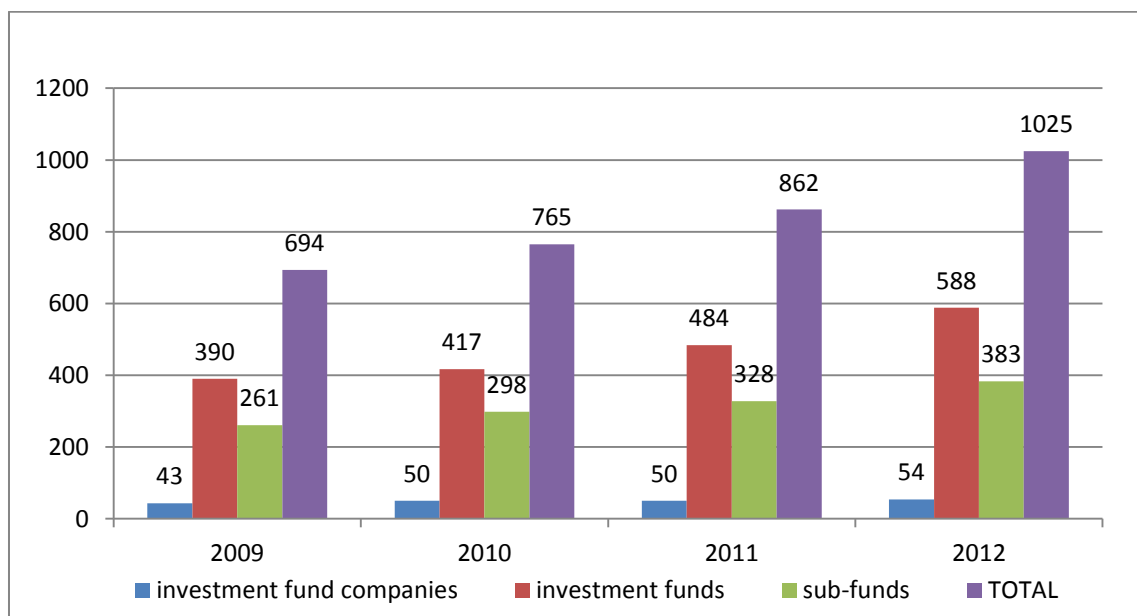
\*\*\* In 2011, seven non-cash public equity offerings were also carried out.

\*\*\*\* In 2012, four non-cash public equity offerings were also carried out.

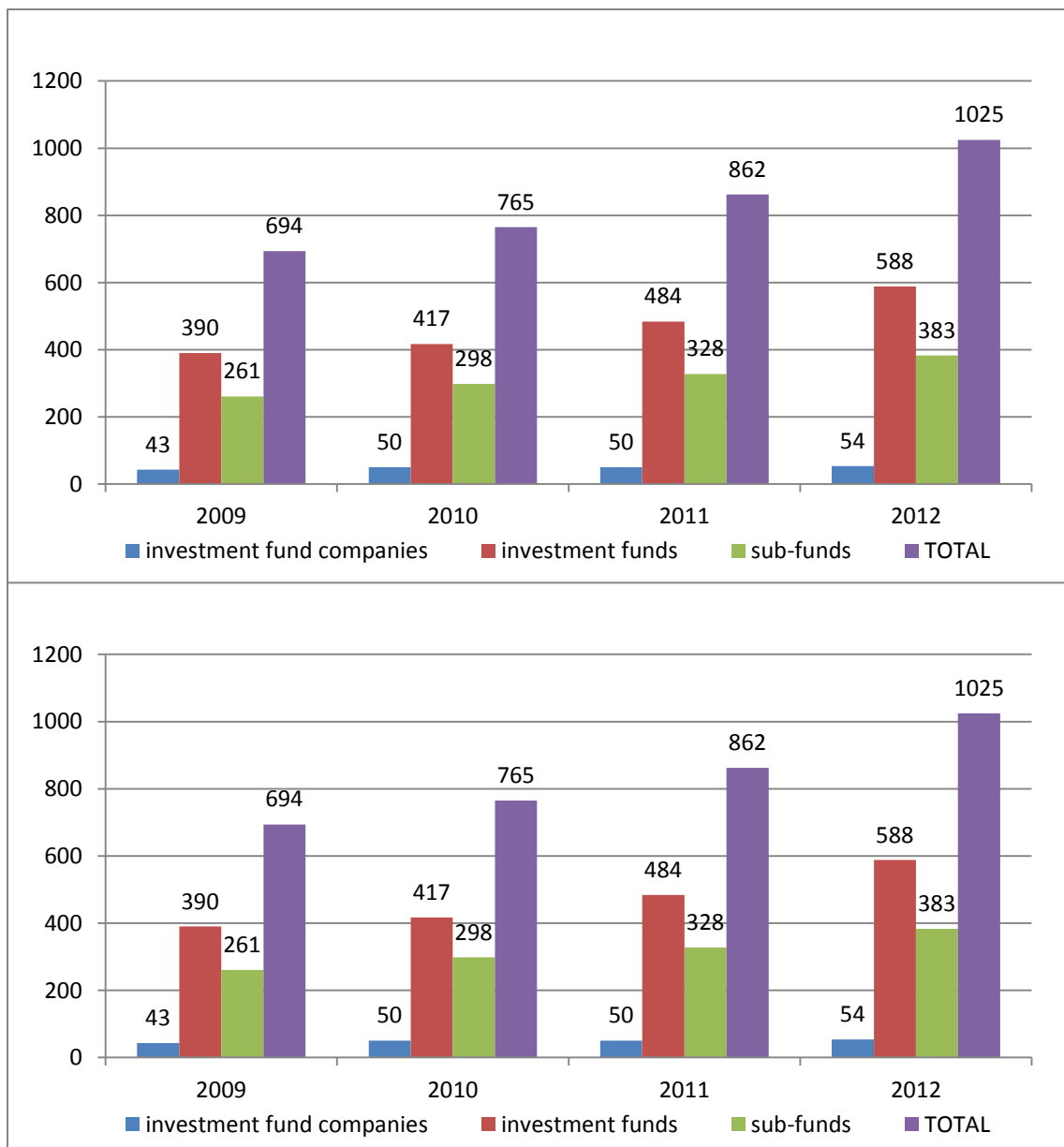
## INVESTMENT FUND COMPANIES AND INVESTMENT FUNDS

2012 was yet another year of growth in the number of regulated domestic entities<sup>5</sup> in the investment funds sector. Figure 10 illustrates the growth of the number of regulated domestic entities broken by investment fund companies, investment funds and sub-funds within the investment funds with separated sub-funds (cumulatively).

**Fig. 10. Total number of investment fund companies, investment funds and sub-funds under Commission's supervision (cumulatively, broken by type), the end of 2009-2012**



<sup>5</sup>Investment fund companies, investment funds and sub-funds.

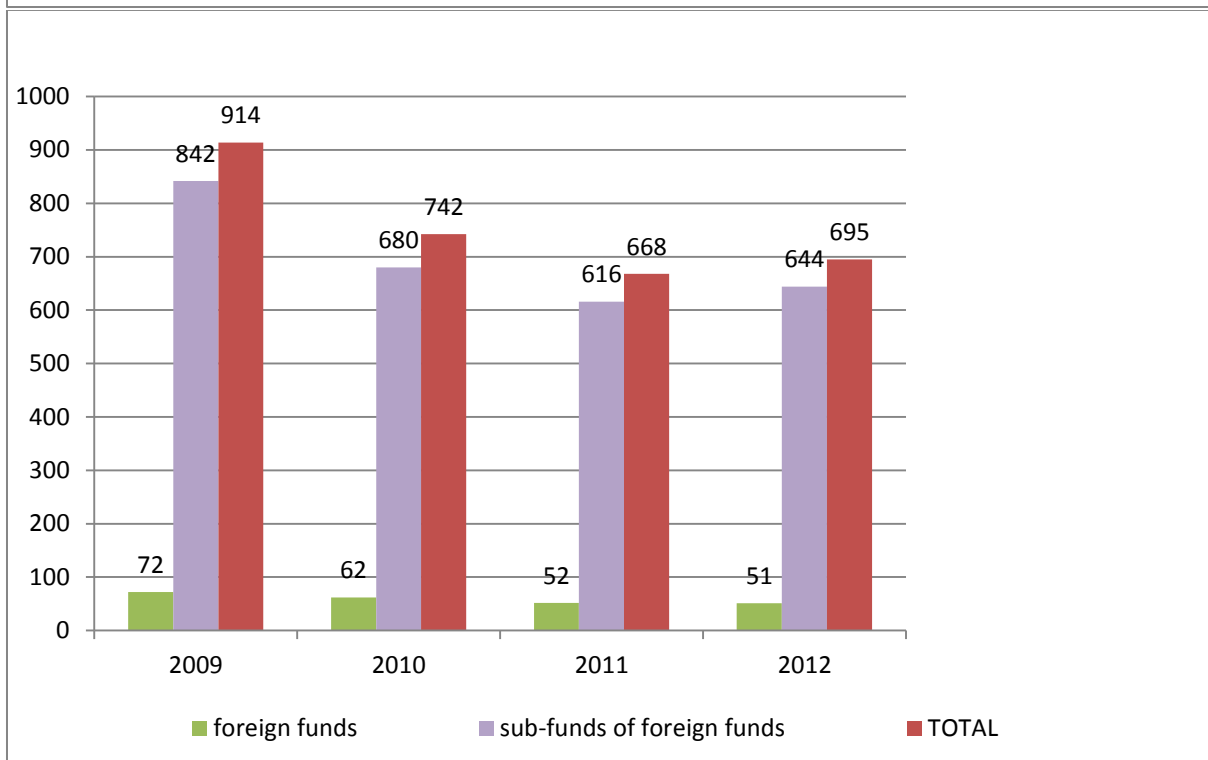
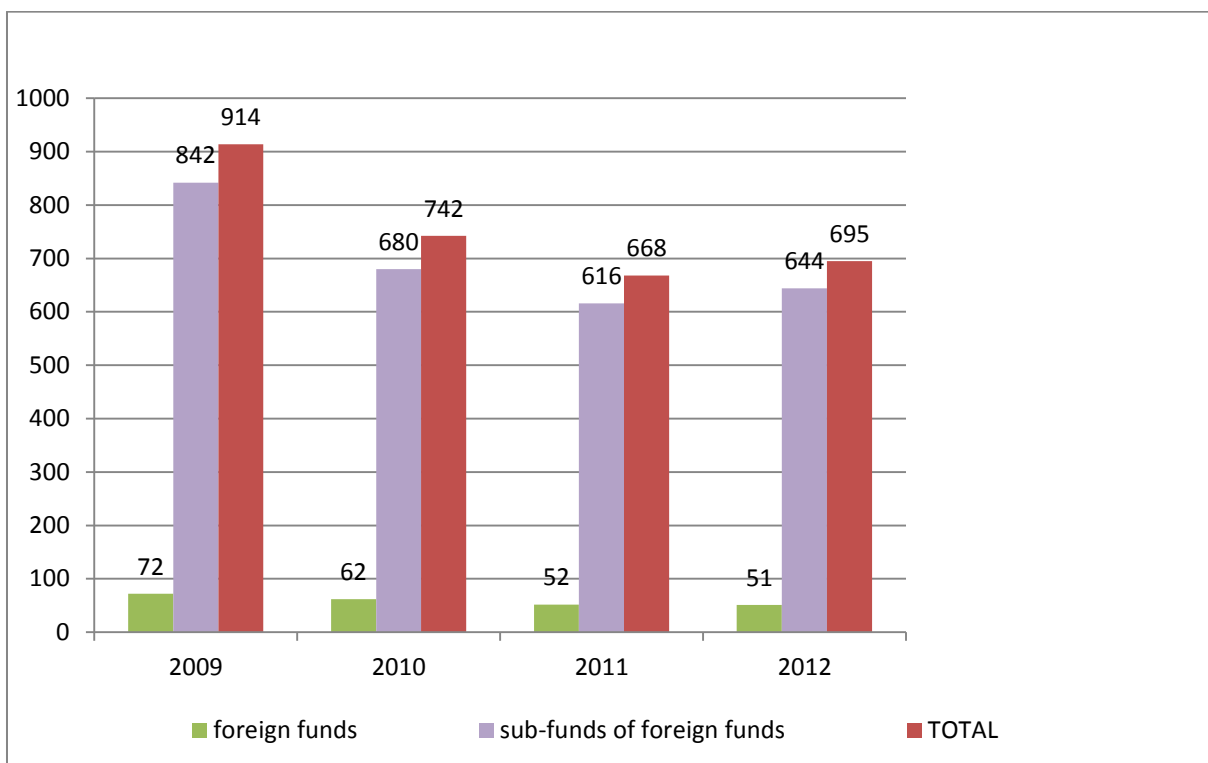


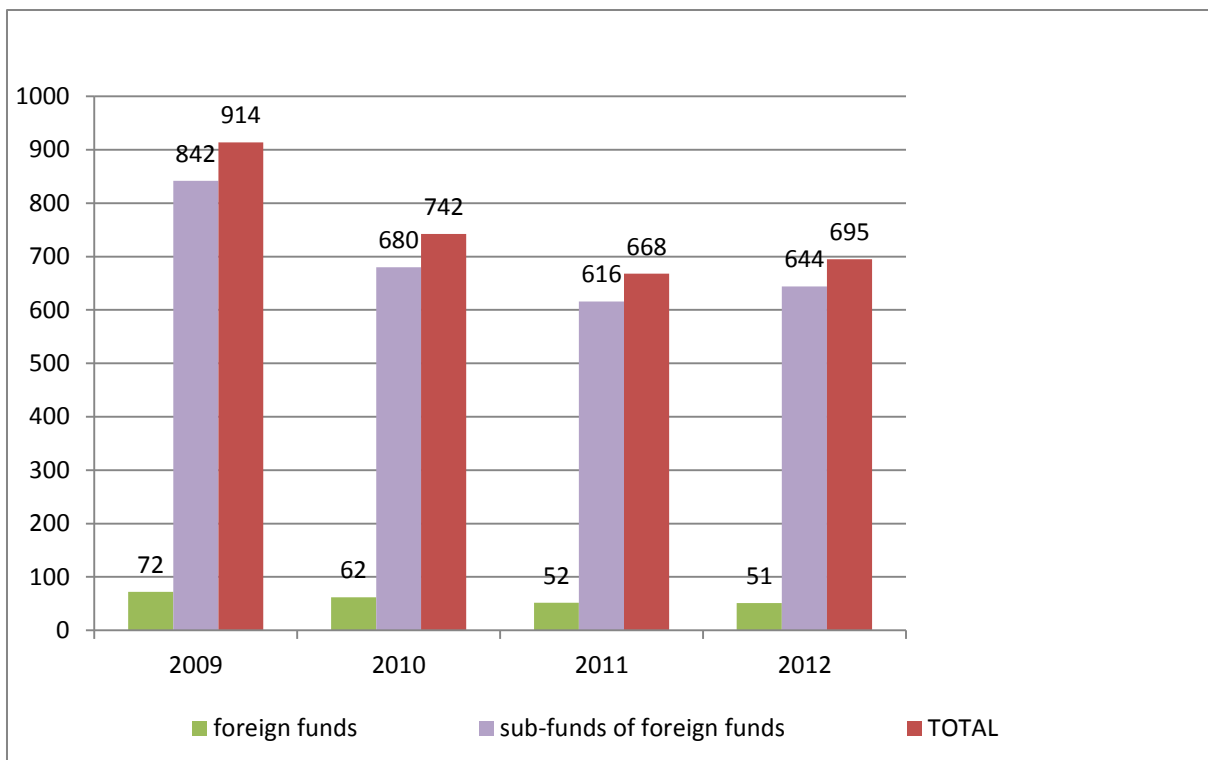
Source: in-house materials by KNF

As at December 31st 2012, there were 54 investment fund companies operating, which managed a total of 588 investment funds.

The Polish Financial Supervision Authority exercises supervision over marketing in the Republic of Poland of shares of foreign investment funds.

**Fig. 11. Total number of foreign investment funds and sub-funds comprising foreign investment funds (cumulatively, broken by type), at year ends in the period of 2009-2012**



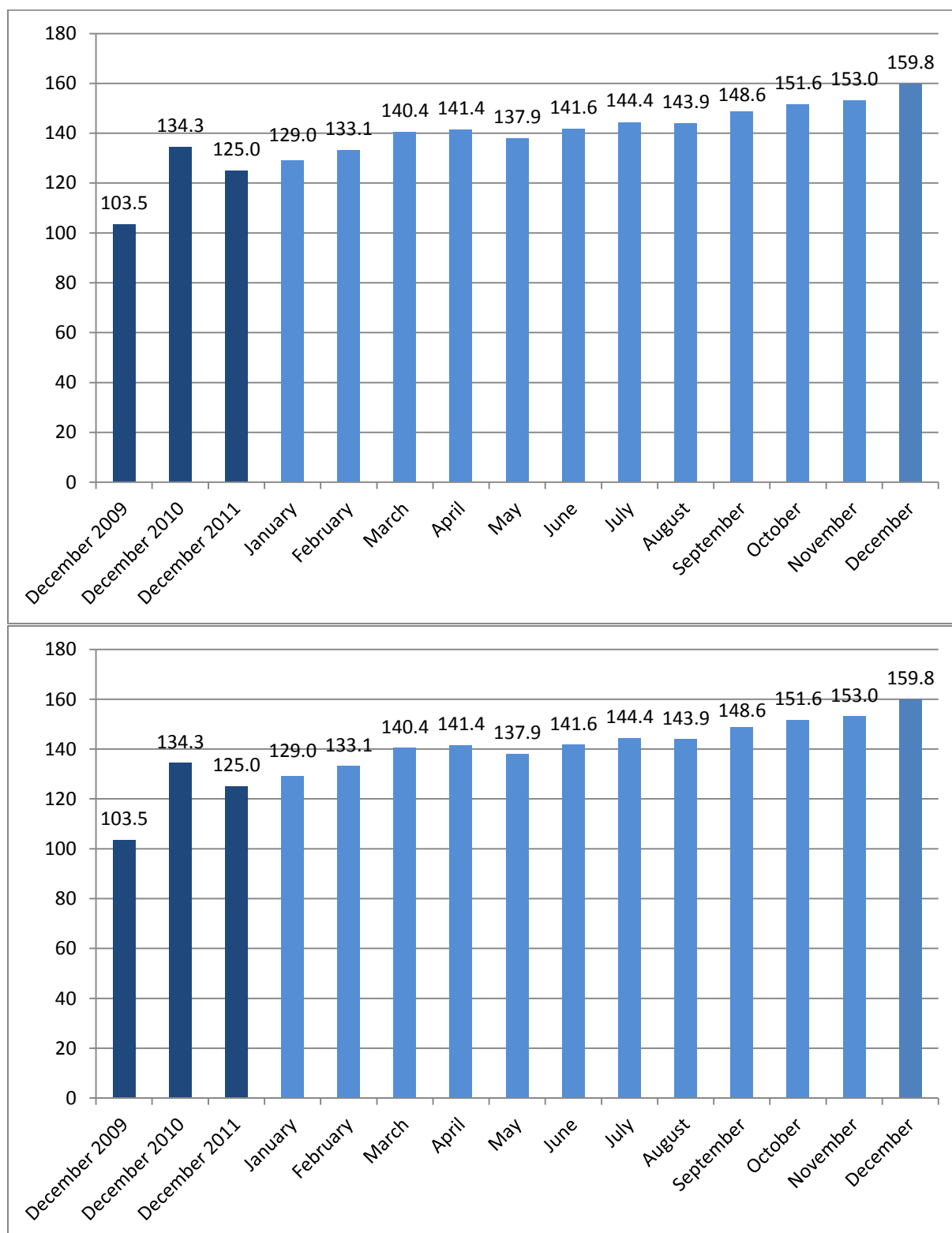


Source: in-house materials by KNF

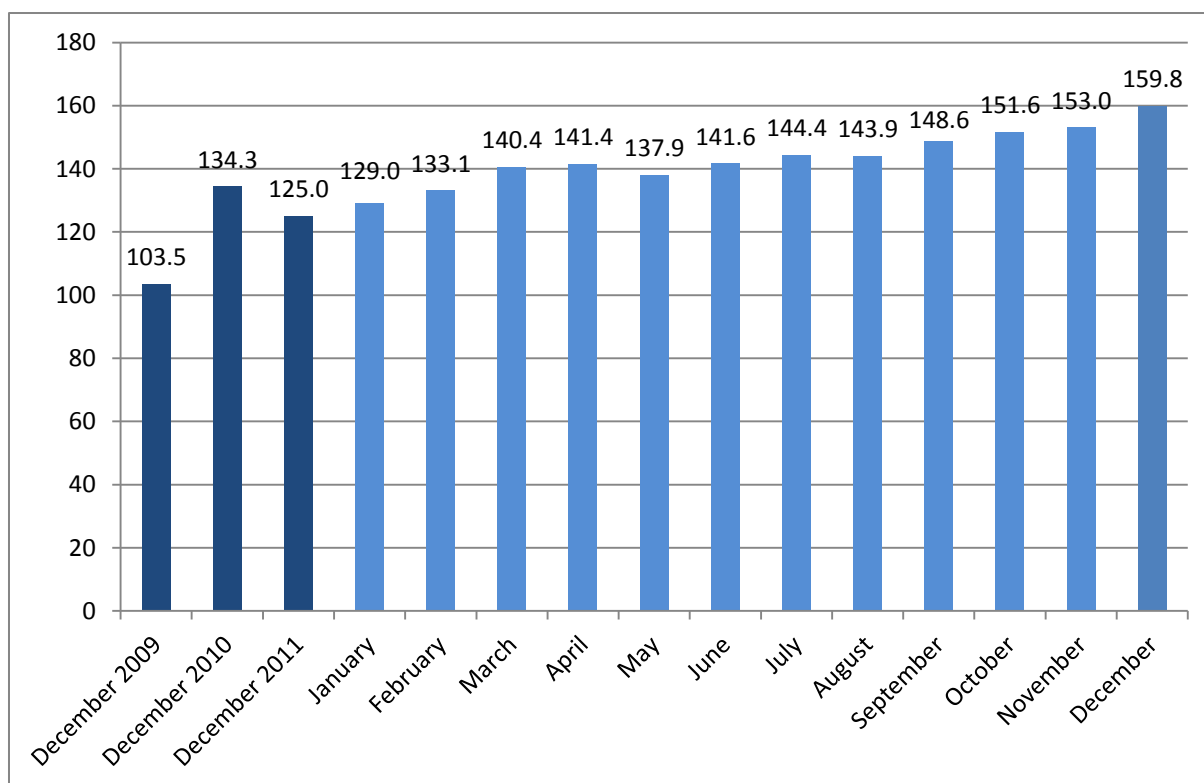
Following the economic slump in financial markets in mid-2011, 2012 saw the growth in the value of assets managed by the investment fund companies.

Over 2012, the value of assets managed by the investment fund companies grew by PLN 34.8bn, to PLN 159.8bn as at December 31st 2012.

**Fig. 12. Assets under management of investment fund companies at year ends in the period 2009-2011 and in 2012 (PLNbn)<sup>6</sup>**



<sup>6</sup> Based on monthly reports filed by the investment fund companies. Such reports are not audited or reviewed by qualified auditors, and so they may be subject to later revisions.



Source: in-house materials by KNF

The above breakdown shows that the upward trend sustained almost throughout the entire 2012 and as a result the total assets of funds managed by the investment fund companies reached as at December 31st 2012 the level much higher than in previous years. The biggest increase in the value of assets was recorded in March and September. The value of assets dropped only in May and August. Similarly to the previous years, the abovementioned fluctuations to a large extent reflected changes in stock indices.

Despite the recorded growth in the level of the managed assets, in 2012 the investment fund companies generated slightly lower income than a year earlier. With simultaneous costs growth, as at the end of December 2012, the aggregate profits of investment fund companies reached PLN 325m, and were by PLN 104m lower than in 2011.<sup>7</sup>

**Table 24. Aggregate costs of investment fund companies in 2009 - 2012 (PLNm)<sup>8</sup>**

Costs	2009	2010	2011	2012	
Total costs, including:	1,525	1,655	1,731	1,763	100.0%
- fixed costs	436	403	447	553	31.4%
- variable costs, including:	1,089	1,252	1,284	1,210	68.6%
- variable distribution costs*	735	923	958	861	48.8%

\* Costs related directly to acceptance and execution of orders for subscription, redemption and conversion of units in investment funds or acceptance of subscription orders for investment certificates and allotment of investment certificates, representing the distributor's fees or incurred in connection with the funds' promotion or marketing.

<sup>7</sup> Based on monthly reports filed by the investment fund companies. Such reports are not audited or reviewed by qualified auditors, and so they may be subject to later revisions.

<sup>8</sup> Based on monthly reports filed by the investment fund companies. Such reports are not audited or reviewed by qualified auditors, and so they may be subject to later revisions.



## COMMODITY MARKET

In 2012, the trading volumes on Towarowa Gielda Energii SA (Polish Power Exchange, hereinafter referred to as "TGE"), increased against 2011. The total trading volume was 133.206 TWh (against 126.679 TWh in 2011).

In 2012, 19.047 TWh were in total traded on the Day-Ahead Market. Compared with the previous year, trading volume on the Day-Ahead Market dropped by 3.51%.

In 2012, 112.871 TWh were in total traded on the Commodity Forward Market. The trading volume went up by 5.58% when compared to 2011.

In 2012, 54.998 TWh were in total traded on the Property Rights Market (up by 8.68% year on year).

As at the end of 2012, there were 53 TGE members, including 4 brokerage houses.

2012 was another year of functioning of the market coupling mechanism, i.e. combining power markets of Poland and Sweden. It is related with the European Commission recommendations whereunder a single European energy market is to be established by 2014. Transfer capacity in terms of energy transfer from Poland to Sweden throughout 2012 totalled 0.972 TWh while in terms of transfer from Sweden to Poland - 3.468 TWh. The actual energy transfer from Poland to Sweden throughout 2012 totalled 0.129 TWh, i.e. 13.27% of transfer capacity use. The energy transfer volume from Sweden to Poland in 2012 was 2.667 TWh, i.e. 76.90% of transfer capacity use in this direction.

The trading volume of electricity auctions held in 2012 was 1.267 TWh.

In 2012, no transactions were made on the Emission Allowances Market (CO<sub>2</sub> Spot) being part of TGE S.A.

On December 20th, the Gas Market was launched as part of TGE S.A. From that date on, the gas trading takes place on the Forward Market while as of December 31st 2012 also on the Spot Market. By the end of 2012, there was only one transaction made on both markets (on the Forward Market).

Izba Rozliczeniowa Gield Towarowych S.A. (Warsaw Commodity Clearing House, hereinafter referred to as "IRGiT S.A.") is authorised to run the Clearing House and the Settlement House, which is a precondition for settling and clearing financial instruments on the regulated market. Nevertheless, IRGiT S.A. as at the end of 2012 was inactive. Pursuant to Article 68 section 14 of the Act on Trading in Financial Instruments, the Clearing and Settlement House may act as the Exchange Clearing House as defined by the Act on commodity markets. The Exchange Clearing House is a partner of the TGE S.A. (Polish Power Exchange) in cross-border power trade under the market coupling project.

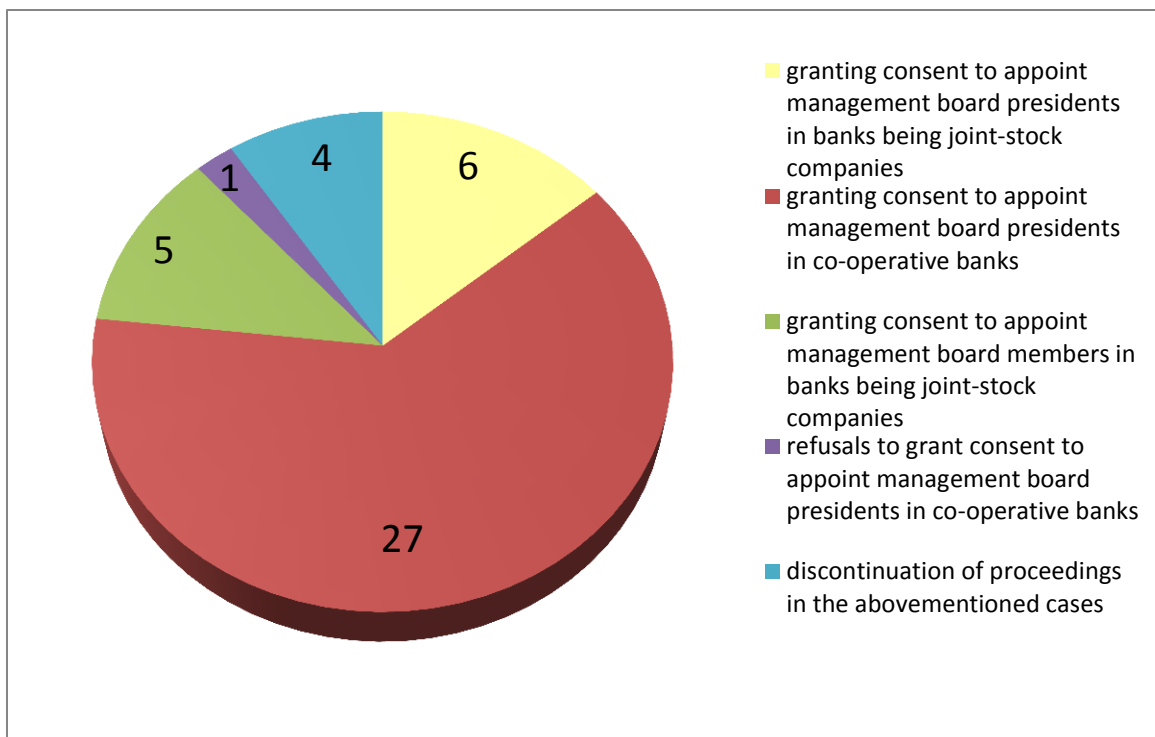
## 3. LICENSING AND AUTHORISATION ACTIVITIES

### 3.1. BANKING SECTOR

#### TASKS CONCERNING CHANGES IN COMPOSITION OF BANKS' CORPORATE BODIES

In 2012, the Polish Financial Supervision Authority took 39 decisions by way of resolution on granting the consent to appoint management board members, including presidents of banks.

**Fig. 13. Number of decisions on granting the consent to appoint bank management board members, including presidents, taken by KNF in 2012**



#### TASKS CONCERNING CHANGES IN THE SHAREHOLDING STRUCTURE OF BANKS BEING JOINT-STOCK COMPANIES

In 2012, the Polish Financial Supervision Authority took 4 decisions by way of resolution on the intention to subscribe for or purchase bank shares or share-related rights. 1 proceeding in this regard has been dismissed. The Authority also adopted 1 resolution on rescinding the prohibition to exercise share-related voting rights and 2 decisions on sale of bank registered shares.<sup>9</sup>

#### MERGER OF BANKS AND PURCHASE OF A BANK ENTERPRISE OR ITS ORGANISED PART

In 2012 the Polish Financial Supervision Authority issued authorisations to bank mergers. One of them concerned the merger of Bank Zachodni WBK SA and Kredyt Bank SA by transfer of all the assets of Kredyt Bank SA to Bank Zachodni WBK SA.

When assessing the request, the Polish Financial Supervision Authority paid special attention to the plan of banks' merger, business plan of the bank upon merger for the period of three years comprising the information about preparation and planned course of merger-related works concerning, among other things, the mode of securing interests of clients and minority shareholders and additional obligations related to sound and stable functioning of the bank upon merger made by Banco Santander SA from Spain due to the planned increase of the Santander Group share in the Polish market.

<sup>9</sup> Any disposal of registered shares by shareholders within 1 year of the date of entering the bank to the register of entrepreneurs requires consent by the Polish Financial Supervision Authority.

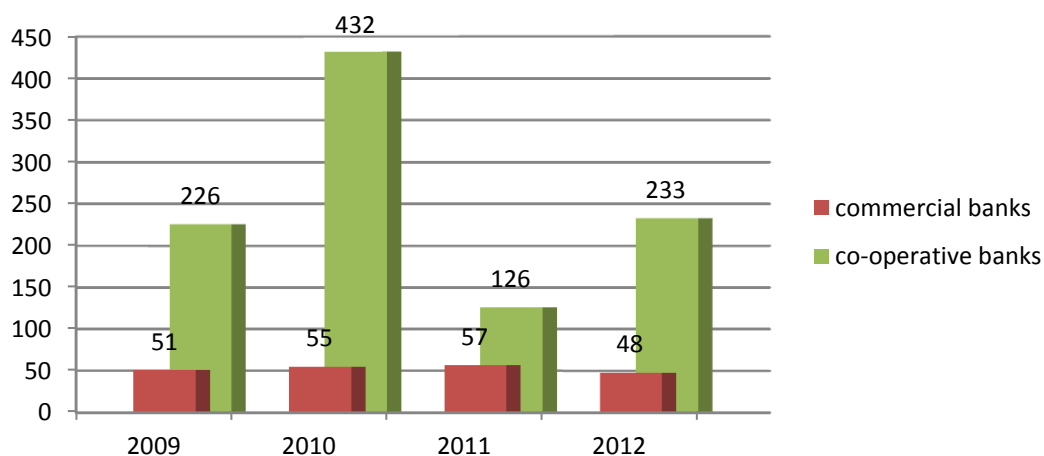
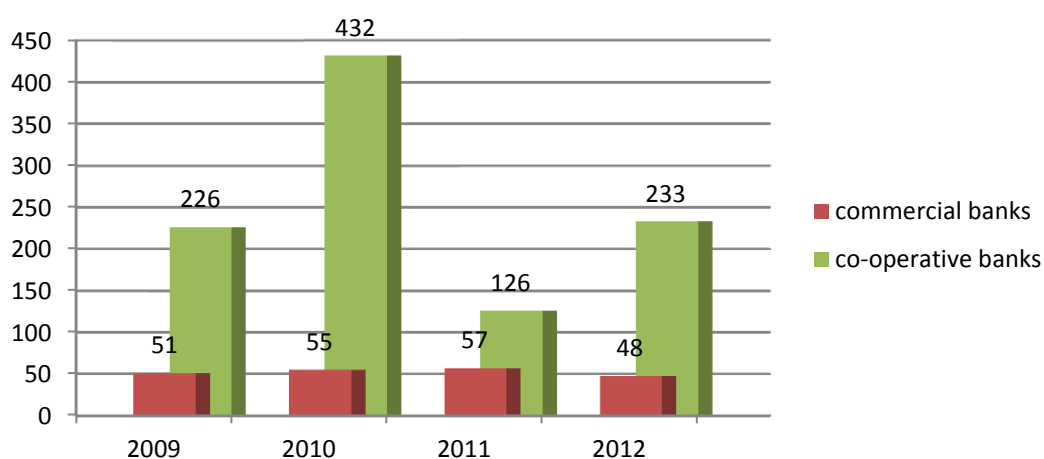
## AMENDMENTS TO BANKS' CHARTERS

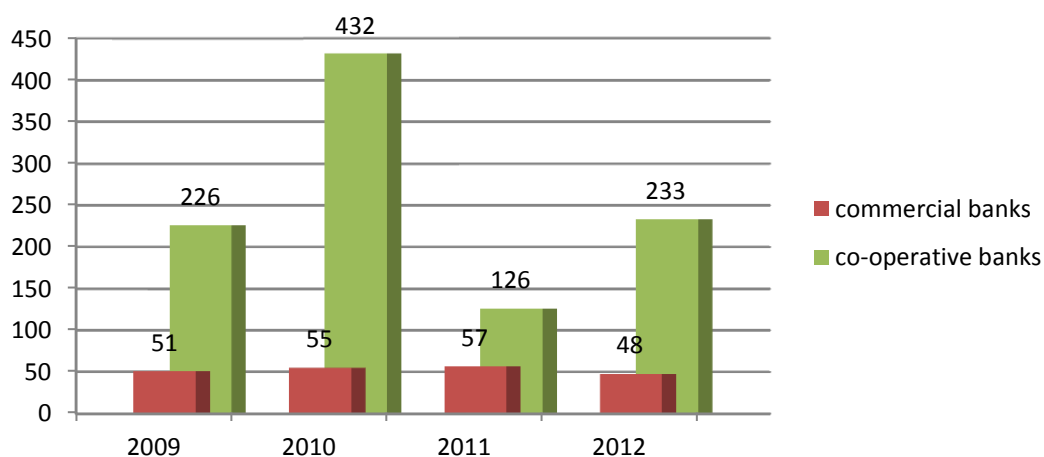
In 2012, upon consideration of the requests concerning amendments to bank charters, the Polish Financial Supervision Authority issued 281 decisions, including:

- 48 decisions on authorisation to amend charters of banks being joint-stock companies,
- 233 decisions on authorisation to amend charters of co-operative banks.

Moreover, 10 proceedings in the abovementioned matters were discontinued.

**Fig. 14. Number of issued decisions granting consent to amendments to charters of commercial banks and co-operative banks in 2009-2012**





Source: in-house materials by KNF

#### EXTENSION OF THE TERRITORY OF OPERATION OF A CO-OPERATIVE BANK

Extension of the territory of operation by a co-operative bank requires a separate consent of the Polish Financial Supervision Authority when the bank intends to conduct activity on the territory of counties other than the ones neighbouring the county where the bank operates. The Polish Financial Supervision Authority took 1 decision on issuing authorisation to extend the territory of operation of a co-operative bank.

#### CONDUCTING ACTIVITY THROUGH A BRANCH OR AS PART OF CROSS-BORDER ACTIVITY

In 2012, the Polish Financial Supervision Authority received from relevant regulators of states belonging to EEA 7 notifications of the intention of credit institutions to conduct activity through a branch on the territory of Poland.

In the reporting period, the Polish Financial Supervision Authority also received from relevant regulators of states belonging to EEA 27 notifications of the intention of credit institutions to conduct cross-border activity on the territory of Poland. In this period 3 credit institutions notified Commission of discontinuance of this activity.

Moreover, in 2012 the Polish Financial Supervision Authority received from domestic banks 1 notification of the intention to conduct cross-border activity in states belonging to EEA.

As at the end of 2012, the total of 13 domestic banks notified Commission of conducting cross-border activity in states belonging to EEA.

#### OPENING REPRESENTATIVE OFFICES OF FOREIGN BANKS AND CREDIT INSTITUTIONS AND THEIR OPERATION

As of January 1st 2012 the rules of keeping the register of representative offices of foreign banks and credit institutions changed.<sup>10</sup> Under the previously effective provisions, the register of representative offices of foreign entrepreneurs, inclusive of representative office of foreign banks and credit institutions was kept by the Minister of Economy. Under current regulations, the Minister of Finance transferred the registered data of representative office of foreign banks and credit institutions to the Polish Financial Supervision Authority and removed them from the register kept thereby. The Polish Financial Supervision Authority was obliged to publish in the Public Information Bulletin (BIP) the list of granted, revoked and expired authorisations to open representative office by foreign banks and credit institutions. The Polish Financial Supervision Authority was also granted the power to state by way of an administrative decision that the authorisation to open a representative office of a foreign bank or credit institution in case of them ceasing to conduct activity in the territory of the Republic of Poland has expired.

The scope of operations of a representative office of a foreign bank and credit institution may only cover conducting activity in the field of promotion and advertisement of a foreign bank or credit institution as defined in the authorisation.

In 2012, the Polish Financial Supervision Authority issued 3 decisions granting authorisations to open representative office by a foreign bank or credit institution and 2 decisions on stating expiry of an authorisation to open a representative office of a credit institution and foreign bank.

### 3.2. CREDIT UNIONS (SKOK) SECTOR

As of October 27th 2012, the Polish Financial Supervision Authority covered credit unions (SKOK) with its supervision. As is the case of supervision over banks, the supervision of the Polish Financial Supervision Authority over the credit unions system is aimed at ensuring security of deposits of the unions' members. The Act of November 5th 2009 on Credit Unions<sup>11</sup> provided for a number of licensing activities related to its entry into force:

- under Article 86 section 1 of the Act on Credit Unions, the credit unions within 9 months of the Act's entry into force, shall file to the Polish Financial Supervision Authority the requests for approval of:
  - charters adjusted to the provisions of the Act,
  - management board presidents,
- under Article 86 section 2 of the Act on Credit Unions, the National Association of Credit Unions, within 6 months of the Act's entry into force, shall file to the Polish Financial Supervision Authority the request for approval of:
  - charter adjusted to the provisions of the Act,
  - management board members.

The Act on Credit Unions as part of the license-related supervision provides for a number of tasks to be performed by the Polish Financial Supervision Authority on an ongoing basis:

- issuing authorisations to establish credit unions (Article 7 section 1),
- approving amendments to charters of credit unions (Article 8 section 2),
- approving amendments to the charter of the National Association of Credit Unions (Article 53 section 2),
- granting consents to appointing presidents of credit unions (Article 21 section 1),

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<sup>10</sup> As of January 1st 2012, the Act of September 16th 2011 on Reduction of Some Obligations of Citizens and Entrepreneurs (Dz. U. of 2011, No. 232, item 1378) amending, among others, the Act on Freedom of Economic Activity and the Banking Law Act entered into force

<sup>11</sup> Dz. U. of 2012, item 855, as amended

- granting consents to appointing management board members of the National Association of Credit Unions (Article 51 section 1).

Before the end of 2012, the Polish Financial Supervision Authority received the first requests of the credit unions for:

- approval of amendments to the charter of the credit unions,
- approval of the charter of the credit unions adjusted to the provisions of the Act,
- authorisation to establishment of the credit unions.

### 3.3. PAYMENT SERVICES AND ELECTRONIC MONEY MARKET

On October 24th 2011, the Act of August 19th 2011 on Payment Services<sup>12</sup> (hereinafter referred to as: “APS”) implementing the Directive 2007/64/EC entered into force.

Conducting activity as payment institution requires an authorisation of the Polish Financial Supervision Authority, while conducting activity as payment service office is a regulated activity under the Act of July 2nd 2004 on Freedom of Economic Activity<sup>13</sup> and does not require obtaining an authorisation of the Polish Financial Supervision Authority - it only requires entering into the Payment Services Register. The payment service offices may only provide money remittance services. Both payment institutions and payment service offices may conduct, apart from providing payment services, also other economic activity and then obtain the status of hybrid payment institutions or hybrid payment service offices, respectively.

As part of its new obligations, the Polish Financial Supervision Authority runs and provided on its website the Payment Services Register (PSR) covering: domestic payment institutions, payment service offices, credit unions and the National Association of Credit Unions. In line with the provisions of the Act on Payment Services (APS), the entities other than payment service providers, conducting on the date of entry into force of APS (i.e. October 24th 2011) the activity in the scope of payment services, were able to further pursue this activity in the territory of the Republic of Poland without the requirement to obtain an authorisation to conduct activity as payment institution or the requirement of entry into PSR provided that a relevant request is filed within 6 months of the date of entry into force of APS (i.e. April 24th 2012).

In 2012, the Polish Financial Supervision Authority received:

- 45 requests for granting authorisation to provide payment services as a domestic payment institution; the Authority granted 3 authorisations, 5 proceedings were discontinued and 1 request have not been considered,
- 1,281 requests for entry of the payment service office to PSR - 46 requests were withdrawn, 1,162 payment service offices were registered and there were 126 entries amended in PSR,
- 3 requests for removal of a credit union from PSR.

In accordance with APS, EU payment institutions may conduct in the territory of another member state activity through a branch, cross-border activity of through an agent under single European passport regime - without the requirement to obtain authorisation and only the home-country regulator sends to the host-country regulator a notification of the intention to conduct activity. In 2012, the Polish Financial Supervision Authority received 90 notifications. Under the single European passport regime, also domestic payment institutions may conduct activity in other member states and 1 domestic payment institution took

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<sup>12</sup> Dz. U. No. 199, item 1175, as amended.

<sup>13</sup> Dz. U. of 2010, No. 220, item 1447, consolidated text as amended

advantage of this opportunity by notifying Commission of the intention to conduct cross-border activity in 4 states belonging to EEA.

On October 24th 2011, the amendments to the Act of September 12th 2001 on Electronic Payment Instruments, related to a partial implementation of the Directive 2009/110/EC of the European Parliament and of the Council of September 16th 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, entered into force.

Prior to the entry into force of the amendment to the Act on Electronic Payment Instruments no entity filed a request for granting authorisation to conduct activity as electronic money institution. The amendment introducing more liberal rules of licensing these entities increased attractiveness of this type of activity. In 2012, the Polish Financial Supervision Authority received 3 requests for granting authorisation to conduct activity as domestic electronic money institution. Throughout 2012, the Polish Financial Supervision Authority did not issue any authorisation in that scope.

## 3.4. INSURANCE SECTOR

### AUTHORISATIONS TO CONDUCT INSURANCE AND REINSURANCE ACTIVITY

In 2012, the Polish Financial Supervision Authority received 2 requests for granting authorisation to conduct insurance activity. One request for granting authorisation to conduct insurance activity was not considered. The other request was filed by the same entity and consideration thereof has not been finalised in 2012.

In the reporting period two proceedings were conducted on extension of the thematic scope of operations of the domestic insurance company, one authorisation was granted to extend the thematic scope of activity and the other proceedings have not been finalised in 2012.

### NOTIFICATIONS OF CONDUCTING INSURANCE ACTIVITY IN POLAND

As at the end of 2012, 591 insurance companies from the EU and EEA member states submitted notifications of conducting insurance activity in Poland under the freedom to provide services, and 23 insurance companies and 1 reinsurance company notified their operations in the form of a branch. In 2012, the Polish Financial Supervision Authority received 43 notifications of foreign insurance companies of the intent to conduct insurance activity as cross-border activity (41 referred to EU member states and 2 to Liechtenstein) and 4 notifications of foreign insurance companies from EU member states of the intent to conduct insurance activity in the territory of the Republic of Poland through a branch. Moreover, 4 insurance companies from EU member states notified of their intent to conduct insurance activity in the territory of the Republic of Poland under the freedom to provide services through a branch in another EU member state (19 notifications).

In 2012, 15 insurance companies from EU member states notified of their intent to extend the scope of the insurance activity conducted in the territory of the Republic of Poland under the freedom to provide services.

In 2012, KNF also received 12 notifications of withdrawal from the intent to conduct insurance activity in the territory of the Republic of Poland by an insurance company with a registered office in an EU member state, including 11 notifications of insurance companies of their intention to conduct insurance activity in the territory of the Republic of Poland in other way than through a branch under the freedom to provide services and 1 notification of the insurance company of its intent to conduct insurance activity in the territory of the Republic of Poland through a branch.

There was also 1 notification of a domestic insurance company of its intent to open a branch in the territory of another EU member state and 1 notification of a domestic insurance

company of the intent to conduct insurance activity under the freedom to provide services in the territory of 26 EU member states.

#### CHANGES IN COMPOSITION OF INSURANCE COMPANIES' CORPORATE BODIES

In 2012, Commission issued 22 decisions on granting authorisation (7 in relation to insurance companies' management board presidents and 15 in relation to insurance companies' management board members); in 4 cases the proceedings were discontinued. In 3 cases the proceedings were suspended. What is more, there was 1 case of related proceedings on abandoning the requirement of higher education - the proceedings were discontinued at the request of the insurance company.

It should be emphasised that even though the requirement of obtaining consent refers only to two management board members, all members must meet the criteria defined by the Act on Insurance Activity (full capacity to perform acts in law, higher education, no criminal record, warranty of due management of the insurance company). The regulator verifies whether those criteria are met as part of its ongoing supervision over operations of insurance companies (the relevant corporate body of the insurance company for appointing or dismissing management board members is obliged to inform the regulator about any changes to the management board composition within 7 days of passing a resolution on appointment or dismissal). Similar supervisory actions are also performed as regards verification of analogical information received in relation to changes in the composition of the supervisory board.

#### AMENDMENTS TO CHARTERS OF REGULATED ENTITIES

In 2012, the regulator issued 31 decisions on approval of amendments to charters of domestic insurance companies.

#### PURCHASE OF OR SUBSCRIPTION FOR SHARES OR SHARE-RELATED RIGHTS

In 2012, the regulator issued 18 decisions in proceedings related to the purchase of or subscription for shares of insurance companies. Under those decisions 32 proceedings concerning 13 insurance companies were discontinued, in 6 cases no grounds for raising an objection to direct purchase of shares of 5 domestic insurance companies were stated, in 7 cases no grounds for raising an objection to indirect purchase of shares of 7 domestic insurance companies were stated. In one case the term for direct purchase of shares in a domestic insurance company was extended. Also in 1 case the prohibition to exercise by a shareholder a voting right under shares of a domestic insurance company was rescinded. In one case an objection to direct purchase of shares in a domestic insurance company was raised.

#### MERGER OF DOMESTIC INSURANCE COMPANIES

In 2012, in two cases the Polish Financial Supervision Authority refrained from raising an objection to the planned merger of domestic insurance companies.

#### CROSS-BORDER MERGER OF INSURANCE COMPANIES

In 2012, in one case the Polish Financial Supervision Authority refrained from raising an objection to the planned cross-border merger of insurance companies.



## STARTING INSURANCE ACTIVITY BY A DOMESTIC INSURANCE COMPANY IN THE TERRITORY OF ANOTHER EUROPEAN UNION MEMBER STATE

In 2012, in one case the Polish Financial Supervision Authority sent a declaration to a relevant body of a European Union member state wherein a domestic insurance company intended to conduct insurance activity through a branch that the insurance company had the funds to cover the solvency margin and enclosed the information referred to in Article 135 section 1 of the Act on Insurance Activity.

### ACTUARIES

In the reporting period there were 25 requests filed for entries to the actuaries register and 24 decisions in this regard were issued. In 2012, the Polish Financial Supervision Authority issued one decision on recognising professional qualifications to perform a regulated profession - actuary.

### INSURANCE AGENTS

In 2012, 117,283 actions were performed in the register of insurance agents, consisting in registration of requests for entry into the register, change of the data subject to registration and removal from the register. There were 16,971 changes of data concerning individual agents and 67,298 changes concerning persons acting as agents. 12,036 agents and 59,088 persons acting as agents were removed from the register.

As at December 31st 2012, there were 34,278 insurance agents and 152,210 persons acting as agents entered into the register.

**Table 25. Number of registered insurance agents and persons acting as agents, 2009-2012**

Detailed list		2009	2010	2011	2012
Agents	sole	8,111	8,390	6,266	7,351
	multi-agents	3,897	3,930	3,360	4,515
	<b>total</b>	<b>12,008</b>	<b>12,320</b>	<b>9,626</b>	<b>11,866</b>
Persons acting as insurance agent	working for one agent	44,853	40,288	44,193	46,083
	working for at least two agents	6,155	5,565	7,568	9,574
	<b>total</b>	<b>51,008</b>	<b>45,853</b>	<b>51,761</b>	<b>55,657</b>

Source: in-house materials by KNF

In 2012, there were also 113 entities performing intermediation activity through persons working under employment contract for which the provisions of law provide for facilitation of obtaining qualifications entered into the register of insurance agents, including:

- 35 banks conducting intermediation activity through persons obliged to train themselves only as to the general and specific insurance conditions of the insurance company that the registered entities co-operate with, information about rate structures, rules of calculating insurance premiums and settlements as to the quantity and value under the concluded insurance agreements and collection of insurance premiums,

- 78 entrepreneurs who under the agreement concluded with segment II insurance company conduct intermediation activity as activity supplementary to the core economic activity if the intermediation activity:
  - remains in direct relation with core activity of this entrepreneur,
  - does not require detailed knowledge of insurance,
  - insurance agreement term does not exceed 12 months.

## INSURANCE AND REINSURANCE BROKERS

**Table 26. Brokers register at year end in 2009-2012**

Brokers		2009	2010	2011	2012
Insurance	natural persons	646	654	707	738
	legal persons	268	282	299	339
	<b>total</b>	<b>914</b>	<b>936</b>	<b>1,006</b>	<b>1,077</b>
Reinsurance	natural persons	5	5	4	5
	legal persons	12	13	16	19
	<b>total</b>	<b>17</b>	<b>18</b>	<b>20</b>	<b>24</b>

Source: in-house materials by KNF

In 2012, the Polish Financial Supervision Authority issued a total of 115 authorisations to conduct brokerage activity as regards insurance and reinsurance, including 58 authorisations for natural persons and 57 for legal persons. In this period 5 authorisations were granted to a legal person and 1 for a natural person for conducting brokerage activity as regards reinsurance.

In the reporting period there were proceedings held on withdrawal of the authorisation to conduct brokerage activity as regards insurance and reinsurance, including 32 on the party's initiative and 6 ex officio.

**Table 27. Number of authorisations to conduct brokerage activity as regards insurance granted by the Polish Financial Supervision Authority in 2009-2012**

Detailed list	2009	2010	2011	2012
Natural persons	34	44	79	57
Legal persons	23	24	29	52
<b>Total (reinsurance excluded)</b>	<b>57</b>	<b>68</b>	<b>108</b>	<b>109</b>

Source: in-house materials by KNF

In the reporting period six examinations were held by the Examination Board appointed by the Minister of Finance, including three examinations for insurance brokers and three for reinsurance brokers. In total, 603 persons took the examinations (including 36 persons the examination for reinsurance brokers) and 358 persons passed the examinations (including 19 persons who passed the examination for reinsurance brokers).

**Table 28. Statistics of persons taking the examination for insurance brokers in 2009-2012**

Detailed list	2009	2010	2011	2012
Persons taking the examination - total	381	504	657	567

Persons who passed the examination for brokers	164	261	457	339
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Source: in-house materials by KNF

**Table 29. Statistics of persons taking the examination for reinsurance brokers in 2009-2012**

Detailed list	2009	2010	2011	2012
Persons taking the examination - total	1	21	23	36
Persons who passed the examination for brokers	0	7	21	19

Source: in-house materials by KNF

## NOTIFIED INSURANCE AGENTS

In 2012, 224 insurance agents intending to conduct activity in the territory of the Republic of Poland were notified by registration bodies or regulators of European Union member states and notifications for 184 agents were withdrawn.

## 3.5. PENSION SECTOR

### PENSION FUNDS AND PENSION FUND COMPANIES

As regards licensing functions, in 2012 there were 100 proceedings finished with the issue of 100 administrative decisions. There were also 9 decisions made in relation to pension market entities.

The number of issued decisions and rulings is presented in Table 1.2 in Annex 1.

### CHANGES IN THE COMPOSITION OF GOVERNING BODIES OF PENSION FUND COMPANIES

In 2012, the following decisions were made:

- 9 decisions as regards granting authorisation to appoint a management board member in a universal pension fund company, including 1 decision refusing to grant the authorisation,
- 3 decisions as regards granting authorisation to appoint a management board member in an occupational pension fund company,
- 14 decisions as regards granting authorisation to appoint a supervisory board member in a universal pension fund company,
- 4 decisions as regards granting authorisation to appoint a supervisory board member in an occupational pension fund company.

### LAUNCHING VOLUNTARY PENSION FUNDS

Voluntary pension funds (hereinafter referred to as “DFE”) are established and managed by universal pension fund companies and governed by the provisions of the Act of August 28th 1997 on the Organisation and Operation of Pension Funds (hereinafter referred to as the “Act on Pension Funds”) added under the Act of March 25th 2011 on Amending Certain Acts Related to the Functioning of the Social Insurance System that Entered into Force on January 1st 2012.

Pursuant to Article 2 section 3 of the Act on Pension Funds, as defined in the amending Act, the objects of the voluntary pension fund are to maintain individual pension accounts (hereinafter referred to as “IKE”) or individual pension security accounts (hereinafter referred to as “IKZE”), as defined in the Act of April 20th 2004 on Individual Pension Accounts and

Individual Pension Security Accounts (hereinafter referred to as the “Act on IKE and IKZE”). Individual pension accounts and individual pension security accounts are an element of the system of saving for future pension and are one of the forms of the so-called 3rd pillar of the capital pension system functioning in Poland.

Membership in a voluntary pension fund, as opposed to membership in an open-end pension fund is based on a voluntary basis. Saving as part of IKE or IKZE, any natural person may become a member of a voluntary pension fund, provided that they have turned 16 years of age (minors may make payments towards IKE only in the calendar year wherein they earn income from work performed under an employment contract). One may become a member of the voluntary pension fund upon concluding an agreement for maintaining IKE or IKZE with the fund (Article 88a of the Act on Pension Funds that entered into force on January 1st 2012).

The differences between pension saving voluntary products (IKE and IKZE) consist in particular in determining the limits of payments made under individual products and tax-related issues applicable to saving as part of IKE and IKZE.

As regards the amount of payments towards individual pension accounts the limits set forth in Article 13 of the Act on IKE and IKZE apply, whereunder the payments to individual pension accounts in a calendar year may not exceed a threefold amount of average forecasted monthly consideration in the national economy for a given year (PLN 10,578 in 2012) determined in the Budget Act or the Mini-Budget Act or in their drafts, if the relevant acts have not been enacted (it does not apply to accepted transfer payments). In line with section 1a of Article 13 of the Act on IKE and IKZE when the amount determined in the mode defined in section 1 is lower than the one announced in a previous calendar year, then the amount of payments made towards IKE in a previous calendar year applies. The financial institution is obliged to provide the overpayment as defined by the agreement on individual pension account maintenance in case of overpayment of the amount set forth in Article 13 section 1 of the Act on IKE and IKZE

When it comes to the limit of payments towards individual pension security accounts, it is regulated by Article 13a of the Act on IKE and IKZE which in section 1 states that the payments made towards individual pension security accounts in a calendar year cannot exceed the amount equivalent to 4% of the premium assessment basis for pension insurance determined for the saver for the previous year, however not more than 4% of the cap of annual premium assessment basis for pension and social security insurance announced under Article 19 section 10 of the Act of October 13th 1998 on Social Insurance System (Dz. U. of 2009, No. 205, item 1585, as amended) for the previous year. Under Article 13a section 2 of the Act on IKE and IKZE, when the amount calculated under section 1 does not exceed 4% of the equivalent of twelvefold minimum consideration for work published in the Official Journal of the Republic of Poland “Monitor Polski”, by way of an announcement of the President of the Council of Ministers, by September 15th of the previous calendar year, the saver may make payment in a calendar year towards IKZE to the amount of 4% of the equivalent of twelvefold minimum consideration for work in a previous calendar year. The said limitation does not apply to the accepted transfer payments.

From January 1st 2012 to December 31st 2012 the saver was able to transfer the funds accumulated in an individual pension account to an individual pension security accounts. The value of transferred funds constituted a payment towards the individual pension security account that could have reduced the tax base as defined by the amended Act on Personal Income Tax. The surplus over the deduction limit set in a given tax year may be deducted in subsequent years. In the period of making deductions from tax base of funds transferred from an individual pension security account to an individual pension security account, the saver may not make payments towards an individual pension security account. The funds

transferred to an individual pension security account are not subject to tax defined in Article 30a of the Act on Personal Income Tax.

The persons saving in individual pension security accounts may reduce the tax base by deducting the payments towards individual pension security accounts as defined by provisions on personal income tax, if such person under a written agreement collects savings only in one individual pension security account.

In 2012, the Polish Financial Supervision Authority granted 4 authorisations to establish 5 voluntary pension funds. Also 4 voluntary pension funds that obtained authorisations of the Polish Financial Supervision Authority in 2011 started operating in 2012.

## OCCUPATIONAL PENSION SCHEMES (PPE)

In the reporting period the KNF stated:

- a drop in the number of requests for entry of the scheme to the register by approx. 32% (31 requests in 2012 and 41 requests in a previous year),
- a growth in the number of requests for entry of amendments to the scheme to the register by approx. 19% (217 requests in 2012 and 175 requests in a previous year),
- a growth in the number of requests for removal of the scheme from the register by approx. 28% (46 requests in 2012 and 33 requests in a previous year),
- a drop in the number of notifications of the change of employer's or manager's data by approx. 41% (108 notifications in 2012 and 152 notifications in a previous year),

The number of decisions issued by the Commission in proceedings concerning occupational pension schemes in 2012 is presented in Table 1.2 in Annex 1, while the number of resolutions passed by the Commission concerning occupational pension schemes in 2012 is presented in Table 1.1 in Annex 1.

## 3.6. CAPITAL AND COMMODITY MARKETS

### INVESTMENT FIRMS AND CUSTODIAN BANKS

In 2012, the Polish Financial Supervision Authority issued 4 decisions on granting authorisation to conduct brokerage activity for new entities (for 3 brokerage houses and 1 bank), 8 decisions on granting authorisation to conduct brokerage activity extending the scope of this activity, inclusive of 1 decision for the bank and 1 negative decision on granting authorisation to conduct brokerage activity. In the reporting period, the Polish Financial Supervision Authority also considered 3 notifications of the intent to conduct actions related to brokerage activity outside of a separate banking unit where brokerage activity is conducted. As at December 31st 2012, 13 requests for granting authorisation to conduct brokerage activity and 1 request for granting authorisation to providing custody services were being considered.

In 2012, 10 notifications of the intention to purchase or subscribe for shares of brokerage houses were considered. In 3 cases the decisions on no objection to the intention to purchase or subscribe for shares of brokerage houses and setting the timeframe wherein the purchase or subscription may take place were issued while in 7 cases the proceedings have been discontinued.

As at December 31st 2012 1 proceeding regarding notification was being considered.

### Investment firms' notifications

In the reporting period, the Polish Financial Supervision Authority received 200 notifications of the intention to conduct activity in the territory of the Republic of Poland by foreign investment firms (including 198 notifications of conducting cross-border activity and 2 - through a branch) and 201 notifications concerning changes of the data covered by the

original notification. 55 entities resigned from conducting brokerage activity in the territory of the Republic of Poland.

**Table 30. Number of notified foreign investment firms at year end in 2009-2012**

Type of entity	2009	2010	2011	2012
Foreign investment firm, without a branch	1,059	1,297	1,482	1,625
Foreign credit institution, without a branch	233	248	257	263
Foreign investment firm, branch	8	14	16	17
Foreign credit institution, branch	20	20	19	20
<b>Total</b>	<b>1,320</b>	<b>1,579</b>	<b>1,774</b>	<b>1,925</b>

Source: in-house materials by KNF

In the reporting period the Polish Financial Supervision Authority considered 11 notifications of Polish investment firms of the intention to conduct activity without opening a branch in the territory of other member states (Bulgaria, Cyprus, France, Greece, Netherlands, Luxembourg, Germany, Romania, Great Britain) and 2 notifications of the intention to conduct activity in the territory of other member states through a branch (Czech Republic, Romania) and raised no objection thereto. As at December 31st 2012, 2 proceedings regarding notifications were being considered (Slovakia, Hungary).

**Table 31. Number of notified Polish investment firms at year end in 2009-2012**

Type of entity	2009	2010	2011	2012
Brokerage house (number of branches)	1 (5)	1 (9)	3 (11)	4 (13)
Brokerage house, without a branch	5	7	8	11

Source: in-house materials by KNF

## INVESTMENT FIRMS AGENTS

As at December 31st 2012, the register of investment firms' agents comprised 172 entities including 28 legal persons and 144 natural persons.

In 2012, 55 natural persons and 2 legal persons were entered into the register of investment firms' agents.

**Table 32. Investment firms agents' register at year end in 2009-2012**

Investment firms agents	2009	2010	2011	2012
Natural persons	38	43	89	144
Legal persons	20	22	28	28
<b>Total</b>	<b>58</b>	<b>65</b>	<b>117</b>	<b>172</b>

Source: in-house materials by KNF

In the reporting period there were 2 examinations for investment firm agents. 235 persons took the examination. 47 persons passed the examination.

## QUALIFIED INVESTORS

In 2012, the regulator made 8 entries to the register of qualified investors. As at December 31st 2012, there are 23 entries in the “small and medium-sized enterprises” section and 8 entries in the “natural persons” section in the register of qualified investors.

## SECURITIES BROKERS

As at December 31st 2012 there were 2,627 licensed securities brokers.

In 2012, 125 persons were added to the list of securities brokers.

**Table 33. Number of persons entered in the list of securities brokers and a total number of licensed securities brokers in 2009-2012**

Detailed list	2009	2010	2011	2012
Number of persons entered in the list of securities brokers in a given year	166	218	130	125
Total number of licensed securities brokers	2,155	2,371	2,502	2,627

Source: in-house materials by KNF

In 2012 there were 2 examinations held for candidates for securities brokers. The total of 727 persons took these examinations and 134 persons passed them. So far 2,806 persons passed the examination for candidates for securities brokers.

What is more, in the reporting period there was 1 supplementary examination for securities brokers. 2 persons took the examination and none of them passed it. So far 95 persons passed the supplementary examination for securities brokers.

## INVESTMENT ADVISORS

As at December 31st 2012 there were 410 licensed investment agents. In 2012 there were 29 persons entered into the list of investment advisors.

**Table 34. Number of persons entered in the list of investment advisors and a total number of licensed investment advisors in 2009-2012**

Detailed list	2009	2010	2011	2012
Number of persons entered in the list of investment advisors in a given year	19	49	47	29
Total number of licensed investment advisors	287	336	383	410

Source: in-house materials by KNF

In 2012 there were 6 partial examinations of the examination for investment advisors. 29 persons passed the entire examination cycle.

## COMPANIES CONDUCTING REGULATED MARKET AND DEPOSITORY FOR SECURITIES

**Table 35. Number of decisions issued in 2012**

Entity being a party to the decision	Number of decisions
Gięda Papierów Wartościowych w Warszawie SA (Warsaw Stock Exchange)	4
BondSpot SA	2
Krajowy Depozyt Papierów Wartościowych SA (Polish National Depository for Securities)	9
KDPW_CCP SA	5
Towarowa Gięda Energii SA (Polish Power Exchange)	4

Source: in-house materials by KNF

Amendments to WSE Regulations approved by Commission in 2012 will enable WSE to launch in 2013 a new system for trading in financial instruments - Universal Trading Platform (UTP).

### APPROVAL OF ISSUE PROSPECTUSES OF FINANCIAL INSTRUMENTS OTHER THAN INVESTMENT CERTIFICATES

In 2012, the regulator issued 188 decisions on issue prospectuses and annexes updating them, including:

- 43 decisions approving issue prospectuses of financial instruments other than investment certificates (developed as one or three documents)
- 145 decisions approving annexes to issue prospectuses of financial instruments other than investment certificates.

**Table 36. Number of approved issue prospectuses and annexes to issue prospectuses in 2009-2012**

Detailed list	2009	2010	2011	2012
Number of approved issue prospectuses	31	63	57	43
Number of approved annexes to issue prospectuses	208	172	128	145

Source: in-house materials by KNF

In 2012, the Commission stated equivalence of information in the information memorandum and information required for issue prospectus in 2 cases.

In the reporting period, the Polish Financial Supervision Authority also received 57 confirmations of approval of issue prospectuses from regulators from other states.

In the course of 75 proceedings conducted in 2012 for approval of issue prospectus (information memorandum), the KNF made over 5,020 remarks to the documents submitted. Moreover, the Commission issued 18 decisions on suspension of administrative proceedings on approval of issue prospectus (information memorandum, annex to issue prospectus) and 12 decisions on resuming suspended proceedings and 16 decisions on discontinuation of administrative proceedings on approval of issue prospectus (information memorandum, annex to the issue prospectus).



In 2012, the Commission issued 22 opinions as regards public offerings or admitting securities to trading on a regulated market.

The overview of issuers whose issue prospectuses were approved by the Polish Financial Supervision Authority in 2012 is presented in Table 2.1 in Annex 2, while the up-to-date list of issue prospectuses approved by the Commission is available on the KNF website.

**UNDERTAKINGS FOR COLLECTIVE INVESTMENT**

In 2012, the regulator made 153 rulings concerning undertakings for collective investment.

As at December 31st 2012, the Commission KNF authorisations were held by 54 investment fund companies, which managed a total of 588 investment funds, including: 65 open-end investment funds, 57 specialist open-end investment funds, and 466 closed-end investment funds.

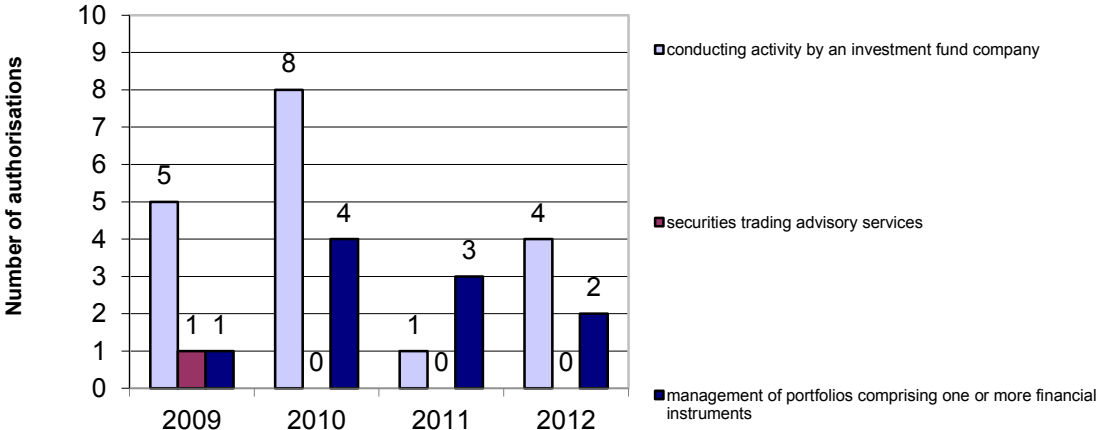
**Table 37. Number of investment fund companies and investment funds in 2009-2012, cumulatively**

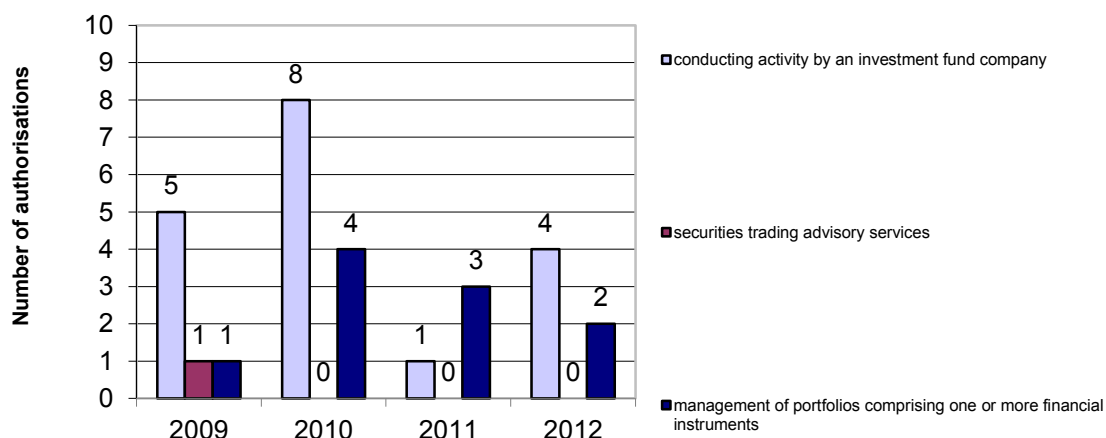
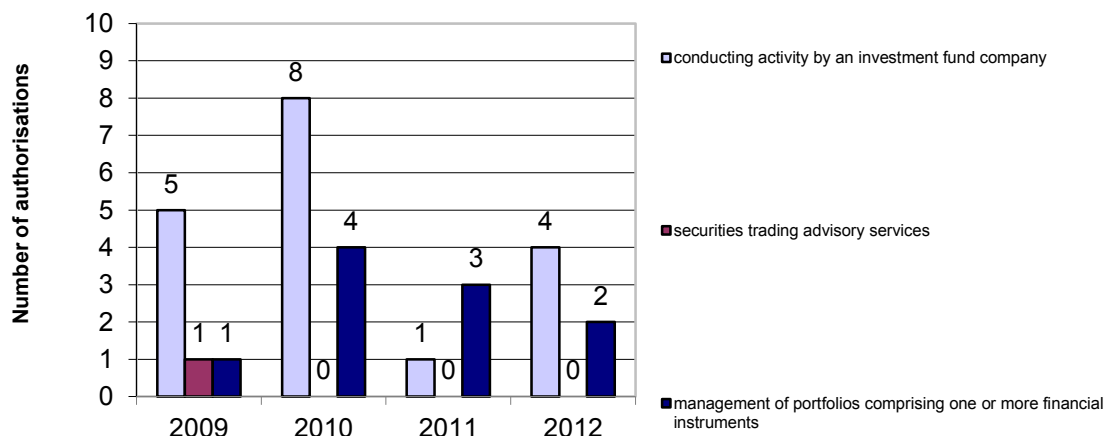
Detailed list	2009	2010	2011	2012
Investment fund companies	43	50	50	54
Investment funds	369	417	484	588

Source: in-house materials by KNF

In 2012 the Polish Financial Supervision Authority issued 4 authorisations to establish investment fund companies.

**Fig. 15. Number of authorisations concerning operations of investment fund companies in 2009-2012**





Source: in-house materials by KNF

In 2012, the Polish Financial Supervision Authority issued:

- 4 authorisations to establish open-end investment fund,
- 6 authorisations to establish specialist open-end investment fund,
- 5 authorisations to establish public closed-end investment fund.

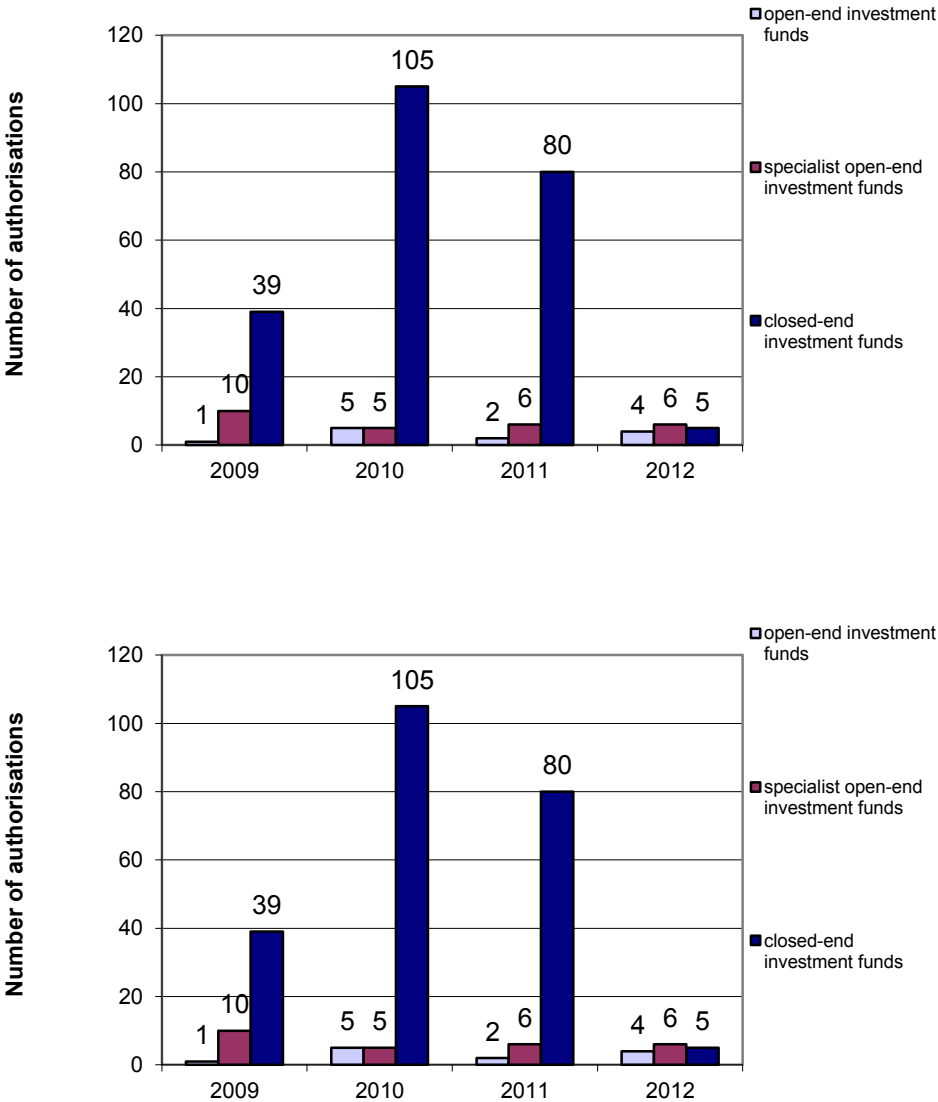
One open-end investment fund was established by transformation of the existing open-end investment funds into one open-end investment fund with separated sub-funds.

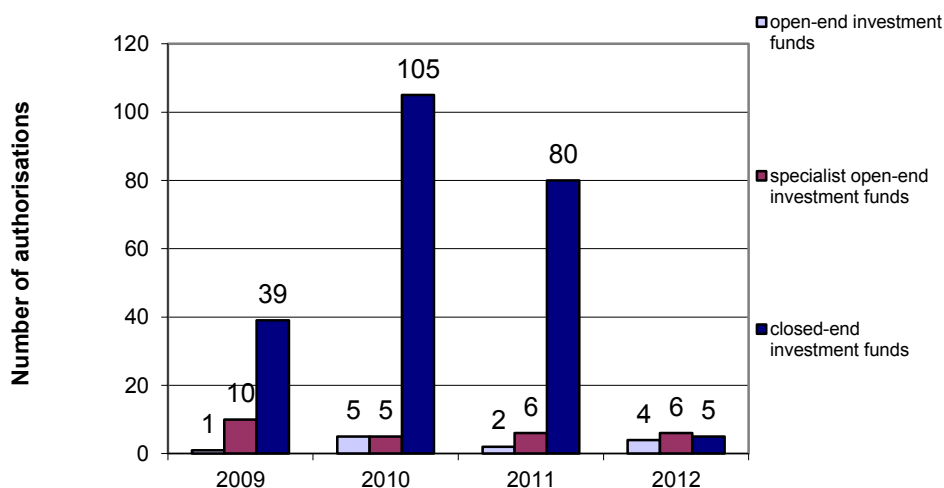
In 2012, 6 new funds with separated sub-funds started operating. As a result of their establishment and of the transformation of open-end investment funds or specialist open-end investment funds into a new sub-fund of the existing open-end investment fund or specialist open-end investment fund with separated sub-funds, the number of sub-funds separated as part of funds of this type considerably grew from 328 sub-funds in December 2011 to 383 sub-funds as at the end of December 2012.

Due to the entry into force on December 4th 2011 of the Act of September 16th 2011 amending the Act on Investment Funds and the Act on Corporate Income Tax (Dz. U. No.

234, item 1389) establishment of closed-end investment funds whose investment certificates in line with the fund’s charter will not be offered as part of public offering, admitted to trading on regulated market or introduced to alternative trading system, does not require obtaining authorisation therefor from the Polish Financial Supervision Authority. Investment fund companies are obliged to notify the Authority of establishment of the abovementioned closed-end investment fund immediately upon its entry into the register of investment funds - in 2012 117 such funds were registered. The abovementioned amendments to legal provisions led to a material reduction in the number of decisions issued by the Commission as regards granting authorisations to establish closed-end investment funds.

**Fig. 16. Number of authorisations to establish investment funds in 2009-2012**





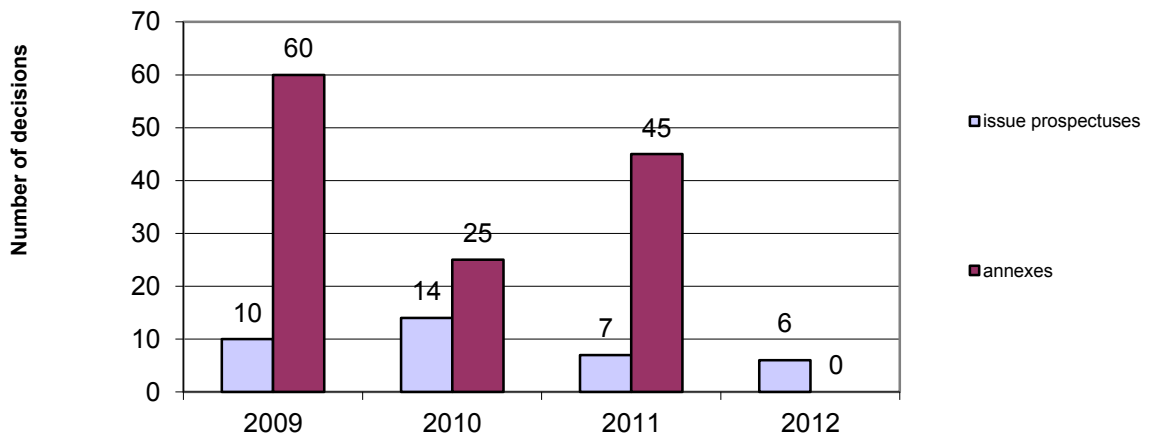
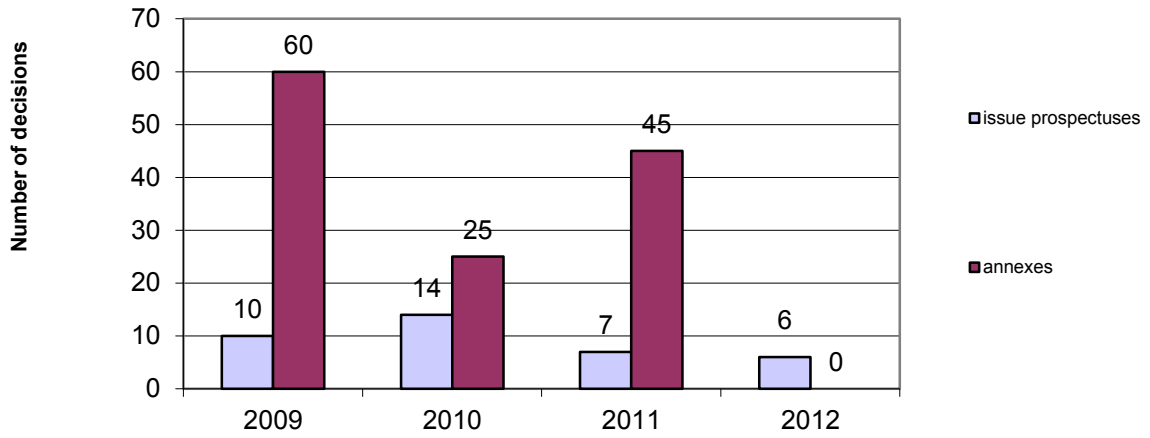
Source: in-house materials by KNF

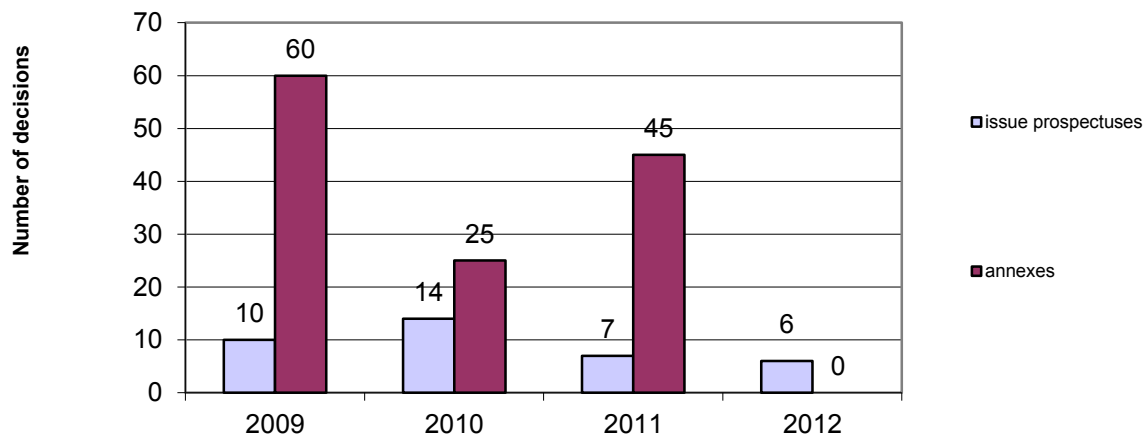
In 2012, in the investment funds sector the Polish Financial Supervision Authority issued 36 decisions on approval of issue prospectuses and annexes, including:

- 10 decisions approving issue prospectuses of investment certificates issued by public closed-end investment funds,
- 26 decisions approving annexes to issue prospectuses of investment certificates issued by public closed-end investment funds.

Moreover, the Polish Financial Supervision Authority issued 1 decision on suspension of administrative proceedings on approval of issue prospectus of investment certificates (annex to issue prospectus) and 4 decisions on discontinuation of administrative proceedings on approval of annex to the issue prospectus of investment certificates.

**Fig. 17. Number of issue prospectuses and annexes to issue prospectuses of public closed-end investment funds approved by the Commission in 2009-2012**





Source: in-house materials by KNF

The Polish Financial Supervision Authority keeps the register of foreign funds, open-end investment funds with their registered office in states belonging to the European Economic Area (EEA), open-end investment funds with their registered office in state belonging to OECD other than a member state or a state belonging to EEA, marketing fund units in the territory of the Republic of Poland.

As regards foreign funds as compared to 2011 there was an increase in the number of notifications of foreign funds and sub-funds. The Polish Financial Supervision Authority received 24 notifications of the intention to market foreign investment funds units in the territory of the Republic of Poland which concerned 4 new funds and 66 sub-funds. In 2011 there were 17 notifications concerning 3 funds and 75 sub-funds.

What is more, the Polish Financial Supervision Authority submitted a notification of intent of 3 managing companies to conduct activity in the territory of the Republic of Poland.

#### Intermediaries in selling and redeeming investment fund units or shares

As at December 31st 2012, the list of distributors of investment fund units holding authorisations of the Polish Financial Supervision Authority covered 80 entities. In the reporting period, the Polish Financial Supervision Authority issued 9 authorisations to intermediation in selling and redeeming investment fund units or shares of foreign funds and overruled 1 decision on granting authorisation to intermediate in selling and redeeming investment fund units and shares of specialist open-end investment funds.

## BROKERAGE HOUSES TRADING IN COMMODITIES AND ENTITIES KEEPING COMMODITY REGISTERS OR ACCOUNTS

In 2012, the Polish Financial Supervision Authority issued the first decision as regards conducting brokerage activity in the scope of trading in commodities for a brokerage house trading in commodities.

In 2012, 1 authorisation was issued for a power utility for keeping commodity registers and accounts. As at December 31st 2012, 50 power utilities held authorisation to keep commodity registers or accounts.

## COMMODITY BROKERS

As at December 31st 2012 there were 269 licensed commodity brokers. In 2012, there were 39 persons entered into the list of commodity brokers.

**Table 38. Number of persons entered in the list of commodity brokers and a total number of licensed commodity brokers in 2009-2012**

Detailed list	2009	2010	2011	2012
Number of persons entered in the list of commodity brokers in a given year	31	29	28	39
Total number of licensed commodity brokers	173	202	230	269

Source: in-house materials by KNF

In 2012, the Polish Financial Supervision Authority issued 4 decisions on recognising professional qualifications to perform a commodity broker profession.

In 2012 there were 2 examinations held for commodity brokers. The total of 138 persons took these examinations and 39 persons passed them. So far 265 persons passed the examination for commodity brokers.

## GRANTING AUTHORISATIONS TO CONVERT SHARES INTO CERTIFICATED FORM (REMATERIALISATION OF SHARES)

In 2012 the Polish Financial Supervision Authority issued 5 authorisations to convert shares into certificated form.

## 4. OFF-SITE SUPERVISION

### 4.1. BANKING SUPERVISION

The aim of the supervision exercised by the Polish Financial Supervision Authority over the banking sector is to ensure security of funds in bank accounts and compliance of banks' operations with applicable laws, decision on authorisation to establish a bank and compliance of operations conducted by banks pursuant to Article 70 section 2 of the Act on Trading in Financial Instruments of July 29th 2005 with provisions of the said Act, the Banking Law Act and charter.

#### PRUDENTIAL SUPERVISION OVER DOMESTIC BANKS

The supervisory activities involved ongoing monitoring and quarterly analysis of banks' economic and financial standing. Based on the analysis results, the banks were awarded points according to the CAEL rating system. In 2012, all commercial banks were rated, inclusive of associating (including 14 banks material from system-perspective) and all co-operative banks. The KNF prepared:

- 186 analyses (CAEL) of commercial banks conducted in four quarterly cycles,
- 2299 analyses (CAEL) of co-operative and associating banks conducted in four quarterly cycles,
- 4 quarterly lists with data concerning CAEL ratings assigned to co-operative banks submitted to associating banks,
- 1 quarterly list with data concerning CAEL ratings assigned to co-operative banks and associating banks submitted to the Bank Guarantee Fund,
- 4 quarterly lists of subordinated loans extended to co-operative banks and included in their Tier 2 and Tier 3 Capitals, submitted to the Bank Guarantee Fund.

Executive summaries were also assessed in the case of 18 branches of foreign banks. In 2012, apart from CAEL rating banks were also covered with the BION assessment, i.e. the Supervisory Review and Assessment.

In the area of consolidated supervision, the regulator reviewed consolidated financial statements of banks and the economic and financial standing of banking groups and holding companies. Direct off-site supervision involved the selection of banks for comprehensive and problem-oriented inspections, and the results of the selection process were passed to the KNF's organisational units responsible for inspection. Data were developed for inspections carried out at banks.

Comparative (quarterly) analyses were conducted to examine the manner in which debt owed by the same borrower is classified by different banks and how shareholder structures of some major bank clients are presented; if any discrepancies were identified, relevant steps were taken with respect to the regulated entities involved.

Actions from previous years aimed at continuous monitoring of the entities' operations and, in particular, their liquidity positions were continued.

The following issues were analysed, among others: financing granted/obtained, limits for transactions with entities from group, anti-tax products and FX-loans for housing real properties offering.

As part of desktop supervision recommendations were issued concerning, among others:

- principles of dividend payout and capital base strengthening;
- anti-tax products offering;
- change to/rotation of entity authorised to audit bank financial statements;
- review of the lending policy as regards FX-mortgage loans;
- supplementation of contingency liquidity plans in USD pursuant to ESRB recommendation;
- review of stress tests assumptions in the area of liquidity risk;

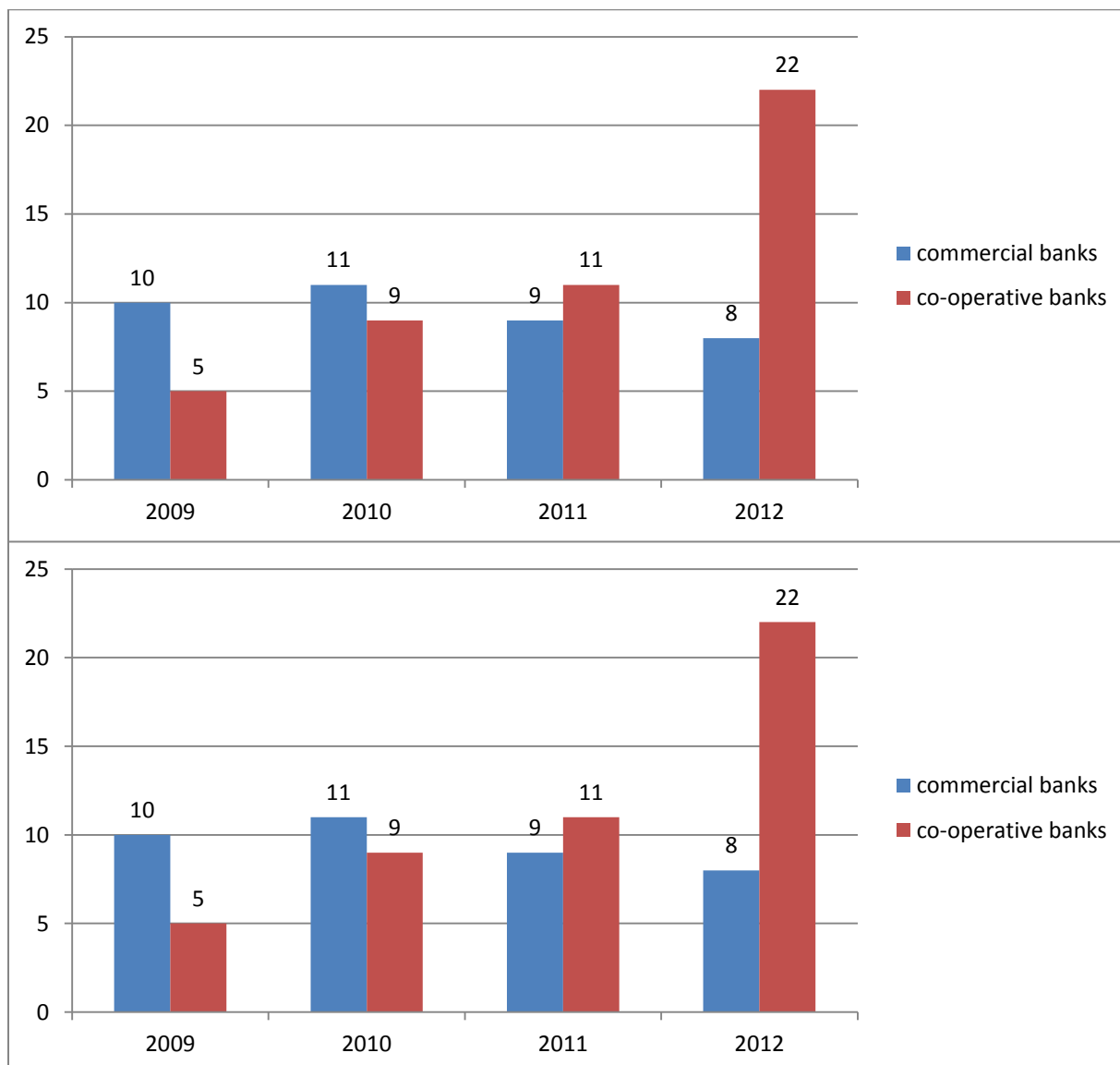


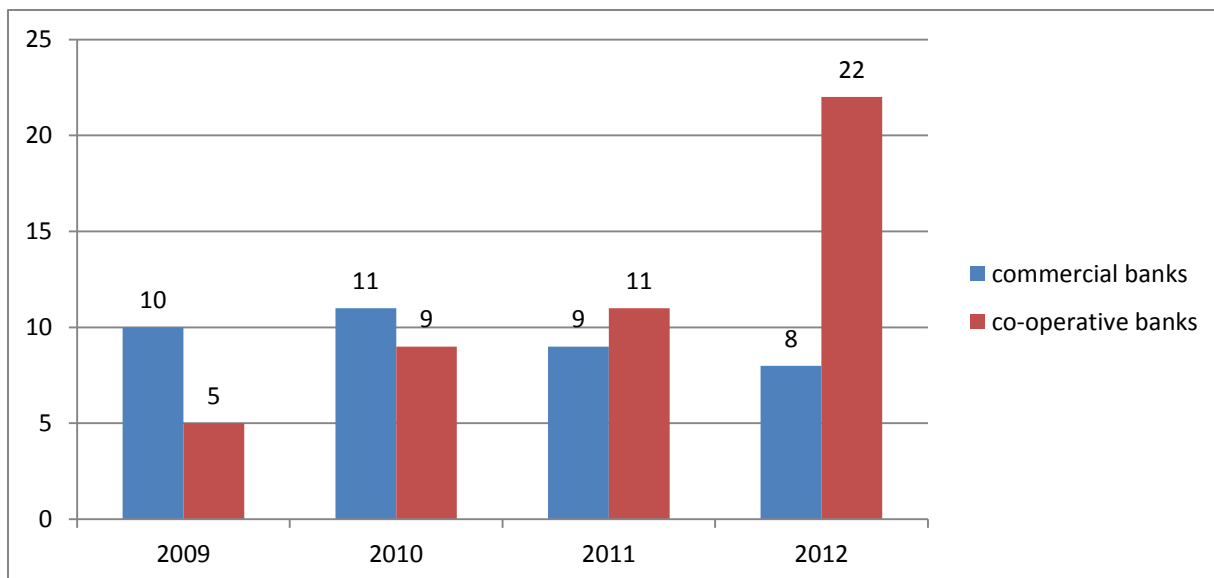
- review of procedures regarding technical and lombard loans;
- suspending lending;
- adjusting operations to the provisions of law regarding bank outsourcing;
- implementing post-BION recommendations.

In 2012, 8 commercial banks were covered with recovery proceedings. In 2012, 1 of the commercial banks was re-obliged to develop recovery programme. In the case of 1 bank the management board obliged to submit recovery programme pursuant to provisions of the Banking Law. In 2012, in the case of 2 banks the recovery programme was approved by the Commission.

As at the end of 2011, 14 co-operative banks were subject to recovery proceedings. In the reporting period 2 co-operative banks completed execution of the recovery programmes. In 2012, 10 co-operative banks were covered with the recovery programme. As at the end of 2012, 22 co-operative banks were subject to recovery proceedings.

**Fig.18 Number of commercial and co-operative banks covered with recovery proceedings, 2009-2012**

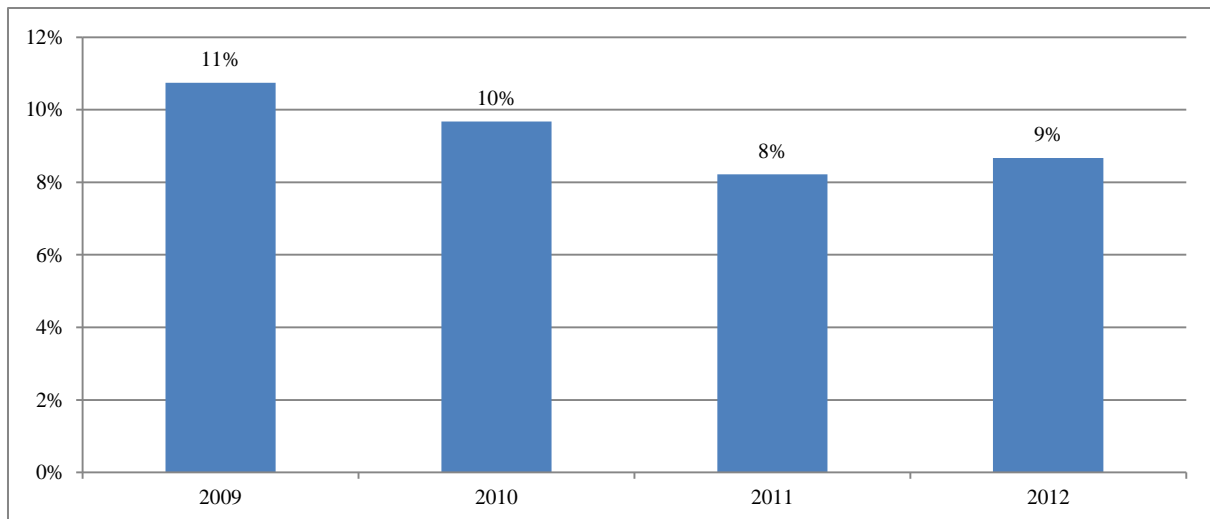




Source: in-house materials by KNF

**Fig.19 Share of assets of commercial and co-operative banks covered with recovery proceedings in the banking sector's assets (%)**





Source: in-house materials by KNF

Requests issued by banks under provisions of the Banking Law were analysed. The said concerned individual matters related to:

- including subordinated liabilities (30 requests) in Tier 2 and Tier 3 capitals,
- including cash funds generated under bonds issue (22 requests) in Tier 2 and Tier 3 capitals,
- early reimbursement of subordinated liabilities (7 requests),
- releasing from the obligation to provide to the KNF consolidated financial statements translated into Polish language (3 requests) as well as with regard to limitation of the scope of the said obligation (7 requests).

In 2012, analysis of outsourcing requests and notifications was continued. 5 decisions were issued whereunder authorisation was granted to conclude agreement on entrusting performance of activities by foreign entrepreneurs under Article 6a section 1 item 1m of the Banking Law.

The review of domestic capital groups performed in 2012, indicated that none of the capital groups performs the criteria qualifying it as a financial conglomerate.

Moreover, 1 authorisation was issued under Article 128b section 2 item 1 of the Banking Law.

In 2012, the KNF undertook actions aimed at persuading the banks to resign from offering term deposits of anti-tax nature. As of March 31st 2012, the last banks withdrew the term deposits of anti-tax nature from their offers as a result of the said actions. Relevant letters were issued to the banks that did it as the last ones.

## STRESS TESTING

In 2012, as in the previous years, the KNF performed stress tests of the banking sector aimed at determining the potential impact of the volatile macroeconomic environment on the financial standing and capital position of the Polish banking sector institutions as well as resilience of the Polish banking sector to potential adverse macroeconomic scenarios.

For the purpose of the test base case scenario as well as two shock scenarios concerning economic situation were adopted. The basis for selection of shock scenarios constituted determination of the impact of simultaneous change of several factors on the banks' standing. Shock scenario I assumes further debt crisis escalation and progressing recession in the euro zone impacting macroeconomic and financial variables in Poland. Shock scenario II assumes internal shock.

Data were first collected from the banks and then analysed on the basis of both to date reported performance (trend analysis) and the forecasts based on the developed models. The results of analysis of data provided by the banks were subject to supervisory adjustment performed by the KNF. Next step assumed estimation of potential capital needs of the analysed banks.

A comparison of the adjusted balance-sheet values under impairment losses and IBNR provisions with the values provided by the banks constituted the basis for assessing potential impairment losses and provisions that would be charged to the bank's income statement. Subsequently, the adjustment of the net financial result had an effect on the capital adequacy calculation by changing the value of the bank's equity. The resulting data made it possible to determine a new capital adequacy ratio and assess the banking sector's capital needs which might arise if that value fell below the regulatory minimum. Similarly as in the previous year conclusions drawn from the results of the stress tests will be incorporated into the off-site BION analysis and inspection procedures to enable an in-depth review of the selected areas. Stress tests' results constituted essential element considered when determining by the KNF the future dividend policy.

## SUPERVISORY REVIEW AND ASSESSMENT (BION)

In 2012, works were commenced on the new version of the “BION Methodology”. Works were conducted as part of the Supervisory Review and Assessment Methodology Modification Team. BION process rules were reviewed. The aim of the review was to develop draft with amendments allowing to more completely consider banks’ risk profile, integrate arrangements arising from analysis and inspection procedures with the use of the proportionality rule to the extent greater than to date. As a result of performed works, the BION Methodology was amended through elimination or adjustment of certain criteria, grade scale modification as well as change to the rules on weight determination for individual risk types.

In 2012, in total 684 BION analyses were carried out, including 682 in co-operative banks (438 as part of the BION process for 2011 and 244 for 2012) and 2 in associating banks. As a result of the analytical works, 10 supervisory warnings were issued as part of analytical activities taken in co-operative banks.

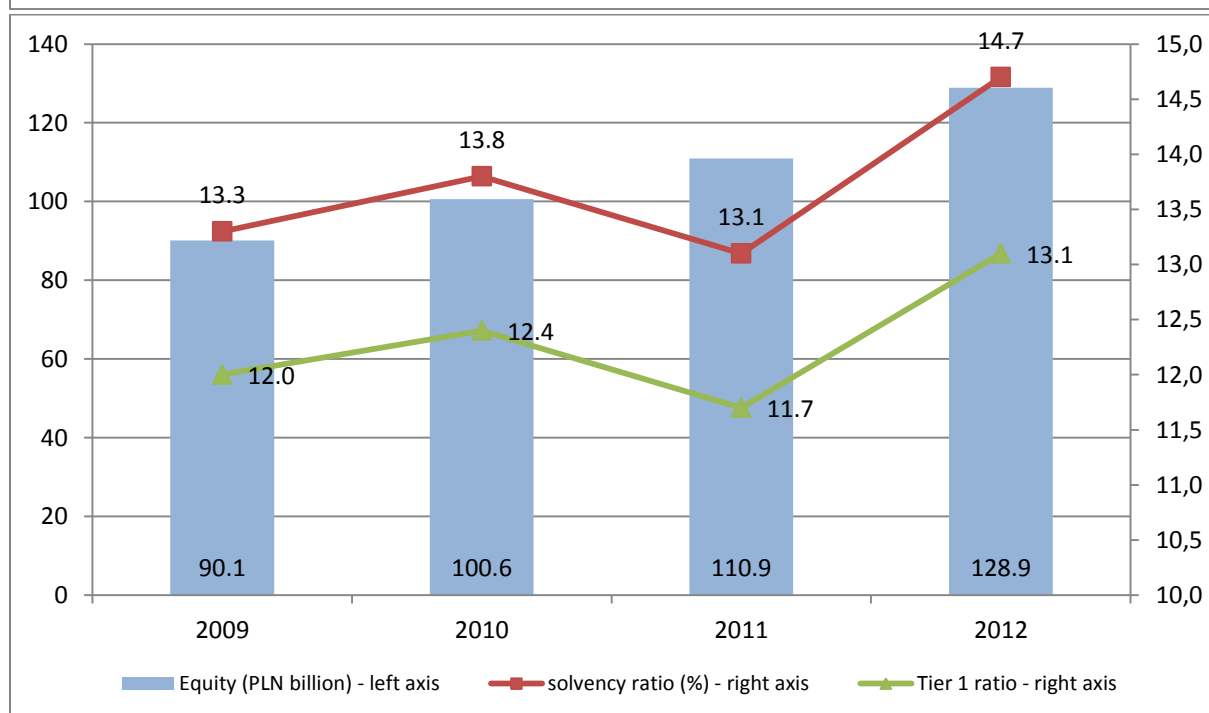
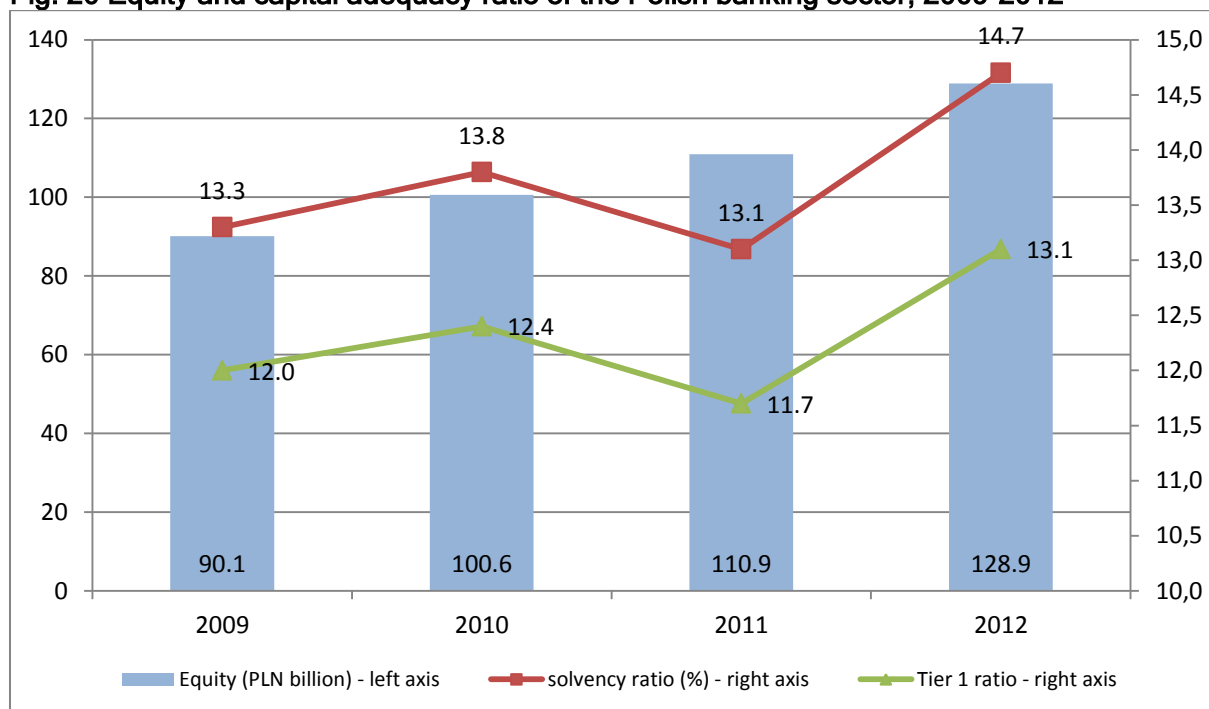
## MONITORING OF BANKS' COMPLIANCE WITH APPLICABLE REGULATIONS

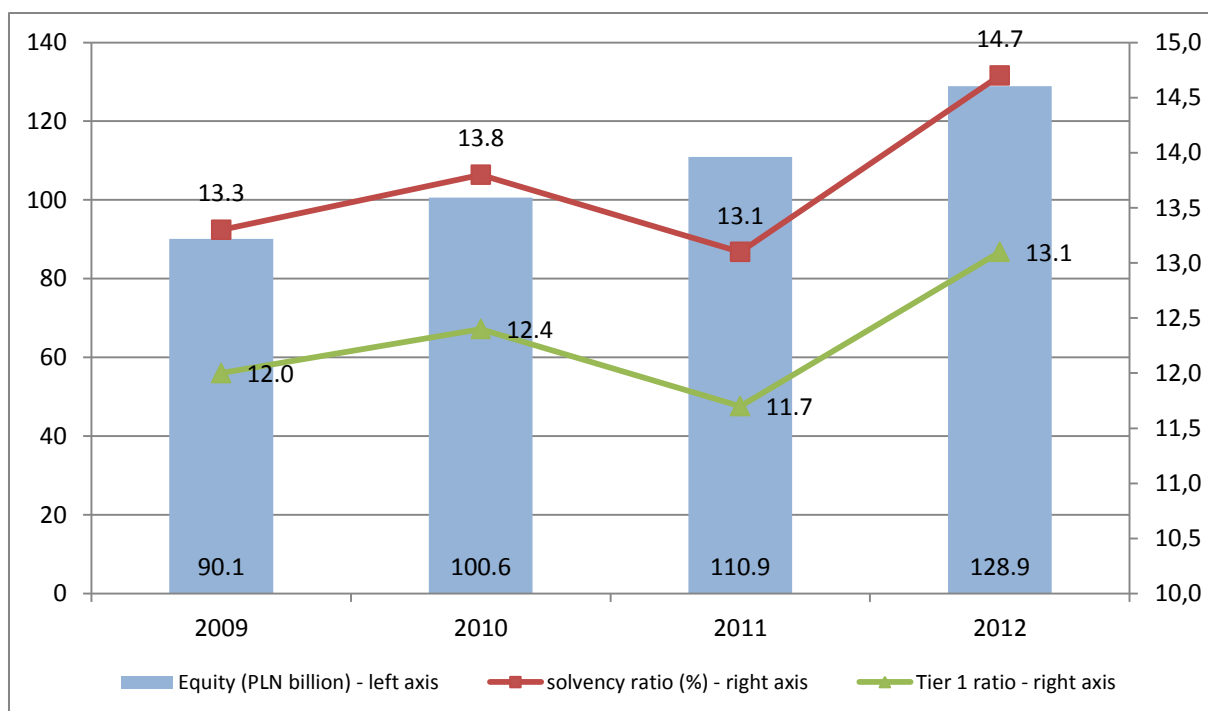
The KNF performs ongoing desktop monitoring of banks financial standing, inclusive of liquidity and capital position. In 2012, special attention was paid to banks’ maintenance of good quality of equity and their appropriate value. Equity ensures bank’s safety in case of undesirable external events that may occur as a result of crisis in the real zone or turmoil in the international financial markets, for example.

To maintain capital adequacy on the level recognized as safe, the supervisory body recommended that banks limit dividend payout. Profit retention at banks resulted in sector’s solvency ratio growth to 14.74 as at the end of 2012 (against 13.1% in 2011). What is especially important is the fact that solvency ratio in all banks was at the level of at least 8%. Six co-operative banks had their solvency ratio between 8% and 9%. Moreover, 6 commercial banks and 102 co-operative banks had their solvency ratio above 9% but lower than 12%. Tier 1 coefficient based on equity increased y/y from 11.7% to 13.1% as at the end of 2012.

Equity (for the solvency ratio) increased by 16.5% to PLN 128.9bn. Core equity (after reductions) constituted 89.1% of banking sector’s equity and in the perspective of the analysed period increased by 16.0% to PLN 114.8bn.

**Fig. 20 Equity and capital adequacy ratio of the Polish banking sector, 2009-2012**





Source: in-house materials by KNF

## PREPARATORY WORKS RELATED TO LEGISLATIVE AMENDMENTS TO THE CO-OPERATIVE BANKING SECTOR

Amendments to the model of functioning of co-operative banks, inclusive of implementation of institutional protection systems (IPS) were set as one of the KNF priorities.

The KNF regularly analysed the new drafts of the CRR and CRD IV and provided several times comments to the Ministry of Finance being in favour of solutions aiming at stabilizing the Polish co-operative banking sector. The comments were made, among others, on:

- inclusion of preferential outflow weights for deposits of local government units in the LCR,
- equal treatment of group of entities when determining LCR and NSFR ratios,
- special treatment of shares of co-operative banks in the definition of equity,
- option to establish liquidity group and to report on the basis of consolidated liquidity norm by associations meeting IPS criteria,
- expand the options granted to local regulator with the option to release a group of banks from the capital exposure limit for receivables from inside a group meeting IPS criteria and making aggregate reports,
- definition of liquid assets as regards the option to include in this pool the deposits of co-operative banks at associating banks.

In 2012, the KNF advised on and made recommendations concerning solutions for technical standards on co-operative banks' equity and definition of a co-operative bank in the CRD IV. As part of actions taken in EBA working group, we have objected to making dependent the share payment on repayment of all liabilities by the shareholder as stipulated in the technical standards draft, remark was made with regard to granting earlier consent to decrease capitals (share payment) by the local regulator. Matters important from the Polish co-operative banking sector perspective were included in EBA works.

In 2012, the KNF continued consultations with co-operative banking sector representatives preparing assumptions for the amended Act on Co-operative Banks Functioning. The KNF representatives partook in several meetings with representatives of the Inter-Union Team for Amending Regulations established in 2011 at the National Union of Co-operative Banks. Correspondence was exchanged as regards providing advice on subsequent proposals of assumptions for future regulations concerning co-operative banks and the concept of the

institutional protection system (IPS). As a result of these works, the Inter-Union Team developed assumptions about the new act on co-operative banks, which were initially approved by the KNF during meeting held on November 20th 2012.

As part of works on banking system preparation for implementation of CRD IV/CRR package 114 applications were addressed to other entities and interested institutions.

## 4.2. SUPERVISION OVER CREDIT UNIONS (SKOK)

On November 5th 2009 (Dz. U. of 2012, item 855) the Republic of Poland Sejm adopted the Act on Credit Unions whereunder the Commission started supervision over credit unions as of October 27th 2012 after the Act was analysed by the Constitutional Tribunal.

The *Working Team for Development and Implementation of the Polish Financial Supervision Authority's Supervision System Over Credit Unions* established under the KNF Chairman's Ordinance within the KNF conducted works aimed at developing the concept of the off-site, inspection and licence supervision system of the Polish Financial Supervision Authority over credit unions and the National Association of Credit Unions. As the Act became effective, the works related to coordination of actions as regards supervision over credit unions are conducted by the *Team for Implementation of the Polish Financial Supervision Authority's Supervision System Over Credit Unions and the National Association of Credit Unions*.

Additionally, the KNF representatives partook in works of the *Special Subcommittee for examining the parliamentary bill amending the Act on Credit Unions and certain other acts*.

In order to develop the supervisory system for credit unions and the National Association the *Working Team for Development of Reporting System for Credit Unions* has been established in the Polish Financial Supervision Authority. System implementation was divided into 3 phases. In 2012, works were finalised on the first phase which allowed for approving credit unions' financial statements submitted in line with the Regulation of the Ministry of Finance issued in 2013 concerning credit unions' reporting. Subsequent phases will be conducted in 2013 and 2014.

In the period covered by the report, the KNF developed, among others:

- 75 applications to the National Association,
- 548 remaining applications to the credit unions (applications requesting additional information, documents, explanations).

## 4.3. SUPERVISION OVER PAYMENT SERVICES PROVIDERS

Year 2012 was the first year when the KNF performed desktop supervision over providers of payment services, i.e. domestic payment institutions and payment service offices specified in the Act on Payment Services of August 19th 2011.

While in the case of domestic payment institutions the works concentrated mainly on the substantive analysis of the requests submitted to the KNF by entities applying for KNF's authorisation to conduct activity as domestic payment institutions (at the end of the year such licences were issued to three entities), in the case of payment service offices first statements for Q2 and subsequent quarter of 2012 have been submitted. As at the end of 2012, 1129 offices were entered into the register maintained by the KNF.

In Q3 2012, payment service offices executed 7.5m remittance services amounting to PLN 1,168.3m, with transaction average value amounting to PLN 155.80.

The KNF enforced also the requirement concerning protection of users' funds by the payment service offices in the form of guarantee or insurance contract. Agreements not meeting the requirements specified by the provisions of law were sent back with indicated errors and request to provide correct agreements as soon as possible.



## 4.4. SUPERVISION OVER INSURANCE MARKET

As part of supervision based on risk analysis over insurance and reinsurance companies, the KNF conducts researches among companies with regard to risk analysis in their operations and risk management. The most important ones include cyclical research covering: stress tests, own risk and solvency assessment and risk management in the company's operations, disaster reinsurance programme analysis.

In 2012, the KNF conducted additional actions specifically targeted at preparation of the regulator and provision of support in terms of insurance sector preparation for the Solvency II project covering survey regarding self-assessment performed by the insurance and reinsurance companies of their preparation for operating in line with provisions of the Solvency II system (gap analysis) as well as mandatory quantitative research for insurance and reinsurance companies. Important supervisory action executed in 2012 was also performance of the so-called pre-application processes and development of the draft of the national specificity reporting scope.

### STRESS TESTING OF THE INSURANCE SECTOR

In 2012, work was continued to employ stress tests in the supervision over the insurance and reinsurance companies, in particular as regards Polish insurance sector resistance to extreme but still probable events, improvement of the quality of risk management at insurance and reinsurance companies and their preparation for the implementation of the proposed Solvency II regime.

Since the beginning of 2012, works have been conducted at the KNF with regard to verification of the methodology of performing stress tests in the insurance sector, in particular the calibration model of shocks' intensity for interest rate risk and share price risk, and development of the methodology for stress tests performance for 3 new risk types: credit risk - assets concentration, credit risk - reinsurer's bankruptcy and the risk of reviewing the benefit amount. On May 31st 2012, the methodology for performing stress tests for 2011 was published on the KNF's website. At the same time as the stress tests were performed by the companies, the KNF performed internal stress tests on the basis of hold data. Basing on the submitted stress tests' results as at December 31st 2011 and internal stress tests' results a report "Results of Stress Tests of the Insurance and Reinsurance Sector for 2011" was developed. One of the test results was identification of higher-risk insurance companies, i.e., companies that did not pass positively stress tests and the explanations provided by them were insufficient, that were requested to conduct stress tests on data from selected quarters of 2012 in the area of risk types being at risk.

### OWN RISK, SOLVENCY AND RISK MANAGEMENT ASSESSMENT

In 2012, works were also continued in the area of analysis of risk occurring in the current operations of the insurance/reinsurance companies and assessment of advancement of works on the development of effective risk management system, inclusive of principles of conducting own risk and solvency assessment (ORSA) in these companies. Despite the lack of detailed provisions of law in that regard in the Act on Insurance Activity in the Directive, the issue of effective risk management system is vital from the perspective of conducting supervision on the basis of risk analysis and in the Solvency II regime and thus the KNF seeks implementation to the Polish law of the requirements related to risk management in the insurance/reinsurance companies at the earliest possible date.

On the basis of responses provided by insurance/reinsurance companies to the survey concerning own risk and solvency assessment as well as risk management in the insurance/reinsurance company operations a report was developed containing results of the

“Results of survey concerning own risk, solvency and risk management assessment (ORSA) in the operations of insurance and reinsurance companies conducted as at December 31st 2011”. As a result of the analysis, the degree to which the insurance/reinsurance companies are prepared to fulfil Article 44 of the Solvency II Directive was assessed.

## DISASTER REINSURANCE

Due to significant impact of disaster-related events on the operations of insurance companies from segment II and results of the performed stress tests, the KNF assesses the insurance companies' protection against effects of occurrence of losses due to disasters. Performing the aforesaid task the KNF requested two times the insurance companies from segment II to present additional information concerning:

- disaster reinsurance plans for 2012 and description of the reinsurance policy together with information what risks are not covered with the reinsurance protection,
- disaster events that occurred in 2011 and which were covered with insurance by the given company and settlements of the said events as part of established reinsurance programme (losses on own share and losses on individual reinsurance agreements/reinsurers).

2011 and 2012 disaster events indicate the growth of significance of natural disasters other than flood or hurricane. Losses caused by spring slight frost and overwintering in 2011 and 2012 are comparable with losses caused by medium strength hurricanes. Remaining natural disasters with potential great losses in Poland are hailstorms and droughts.

## INTERNAL MODELS PRE-APPLICATION PROCESSES

Solvency II system provides the insurance and reinsurance companies with the option to determine the solvency capital requirement (SCR) in a manner adequate to their risk profile and scale of operations. A set of tools, systems and procedures which were to provide the said constitute the so-called internal model. The said model should fulfil a number of strict requirements indicated in the Solvency II Directive and its use must be approved by the regulator. Verification of and advising on the model constitute a complex process requiring highly specialised knowledge of many domains. In 2012, the KNF continued actions aimed at preparing both the KNF and the insurance market entities to the forthcoming tasks related to assessment and approval of internal models. In 2012, the most important undertaking in that regard was continuance of the so-called pre-application models initiated last year.

By conducting the pre-application processes the KNF continues its mission to support stable functioning and secure development of the financial market as well as to develop dialogue between the insurance market and the regulator. The said process has many advantages related above all to early diagnosis of gaps and identification of problematic areas of the internal model, whereby it facilitates acceleration of the internal models implementation rate as well as solutions concerning Solvency II system at companies. Additionally, insurance or reinsurance companies have the option to familiarise themselves with the supervisor's expectations as to internal models.

As at December 31st 2012, the KNF conducted pre-application processes for 11 domestic insurance companies (4 from segment I and 7 from segment II, in total 52.4% of the market measured with the 2011 gross premium written). In 2012, the KNF conducted in total 43 domestic study visits. In the case of foreign insurance groups the pre-application processes conducted by the KNF are executed as part of group pre-application processes. In 2012, the KNF representatives partook in 48 international meetings, inclusive of 24 study visits and supervisory colleges as well as 24 meetings of EIOPA (IMC, ISM, FinReq TPSG) and ESRB working groups.

Further works (both domestic and international) will be continued in 2013. Works completion date as part of pre-application processes scheduled earlier for June 2013 was rescheduled on account of delay caused by rescheduling the date on which the provisions of the Solvency II Directive will become effective and schedule changes at individual companies. Schedule of works as regards pre-application processes concerning internal models closely depends on the Solvency II general schedule of works.

## GAP ANALYSIS

In January 2012, the KNF performed among domestic insurance/reinsurance companies analysis of their preparation for executing individual elements of the Solvency II. The assessment was performed as at December 31st 2011. The Insurers highly assessed their preparation for Solvency II system requirements in the area of investment operations and minimum capital requirement calculation. Preparation in the area of management system and capital solvency requirement calculation with the use of standard formula was assessed slightly worse. The weakest preparation was observed in the area of reporting submitted to the regulator and public disclosures. Lack of publicly available and stable versions of European acts in law from second or third level or EIOPA or KNF guidelines were indicated as the main reasons behind the weakest grades in all areas. Comments and problems submitted by insurance companies with the answers to the survey are used by KNF to organise training courses for the market, prepare information materials as well as works on the internal preparation of the KNF for exercising supervision over Solvency II system.

## MANDATORY QUANTITATIVE STUDY

From September 1st to October 17th 2012, the KNF performed mandatory quantitative study the so-called QIS 2012 among domestic insurance/reinsurance companies. The study main goal was to analyse the solvency and capital demand of individual insurance/reinsurance companies in line with Solvency II principles. The study was performed according to the financial statements developed as at December 31st 2011. The said study was for the first time independently organised and supervised by the KNF (previously the quantitative studies were carried out together with EIOPA/CEIOPS).

For the purpose of the quantitative study, the KNF prepared the following materials for the insurance/reinsurance companies:

- study technical specifications developed in Polish language,
- questionnaire (spreadsheet) to report quantitative results with the option to select either Polish or English version,
- auxiliary spreadsheet to set capital requirement for risk of non-performance of obligation by the counterparty, premium and provision risk, disaster risk, operational risk and minimum capital requirement risk.

The survey technical specifications covered guidelines concerning, among others, balance-sheet items valuation inclusive of technical and insurance provisions, determination of own funds, minimum capital requirements and capital solvency requirements with the use of standard formula of solo insurance. The study did not cover determination of capital solvency requirement with the use of internal model and analysis of the financial position of the insurance capital groups.

All domestic insurance/reinsurance companies participated in the study. The quantitative study resulted in new action taken by the KNF, which is vital in the context of good preparation of both the regulator and market for Solvency II. In November 2012, discussions were initiated with insurers' representatives aimed at developing cohesive for the Polish market interpretation/guidelines concerning quantitative requirements of the Solvency II system, wherefor there are no explicit provisions in the EU acts in law or their current drafts. Works will be continued in 2013.

## PREPARATIONS FOR REPORTING IN THE SOLVENCY SYSTEM (NATIONAL SPECIFICITY)

In the Solvency II system insurance/reinsurance companies will be obliged to provide the regulator with statements harmonised on European level and determined in the technical standard, as well as additional financial and statistical statements covering information specific for the Republic of Poland not subject to harmonization in the European Union and information indispensable for the purpose of public statistics (the so-called *national specificity*). The KNF preparing for Solvency II implementation developed in 2012 a proposal of set of forms comprising the national specificity in Poland. The above proposal was consulted with insurance/reinsurance companies and the Polish Insurance Association. Works will be continued in 2013. More information on preparation to Solvency II system implementation is provided in Chapter 7.3.

## NATCAT FORUM

Establishment of the NatCat Forum, i.e., market co-operation forum devoted to solving problems related to disaster risk modelling against flood risk is one of the new initiatives of the KNF undertaken in 2012 that were positively welcomed by the market. NatCat Forum-related works will be continued in 2013.

## MONITORING OF THE FINANCIAL STANDING OF INSURANCE COMPANIES

The key objective in the area of analytical supervision is to ensure ongoing monitoring and safeguard the financial stability of the market, and take appropriate remedial measures in the event of any identified threats. The overall goal of those activities is to guarantee that insurance companies have the ability to pay benefits due to insurers, the insured, the beneficiaries or the entitled persons under insurance agreements.

Assessment of the financial standing of the companies and their solvency in particular relies chiefly on their quarterly and annual financial statements and monthly reports on solvency ratios filed with the regulator.

As a result of analyses carried out it was stated that the insurance market is stable.

In 2012, the KNF continued to analyse the degree of investment concentration in bank deposits and to assess the level of protection of insurance companies against the risk of excessive investment concentration, taking into account their surplus solvency margins and guarantee capital. The above analysis and assessment were performed based on the quarterly and annual financial statements and information submitted to the regulator under maintenance in 2012 of the obligation imposed on insurance companies in 2008 to file monthly reports on key solvency ratios.

The regulator continued actions taken by the insurance companies as regards reduction of excessive concentration of investments in a single entity or a single asset class. As a result of supervisory actions taken by the KNF it was stated that the companies execute actions aimed at limiting concentrations in credit institutions.

Other actions taken in 2012 aimed at monitoring risk of insurance companies' operations:

- verification of the correctness of determining by the insurance companies assets and provisions under deferred income tax and analysing the way of executing the recommendations issued in that regard,
- compliance analysis as regards planned and executed dividend payout for 2011 with recommendation of the Chairman of the Commission and their impact on insurance companies' results.

## SUPERVISION OVER COMPLIANCE OF INSURANCE COMPANIES' OPERATIONS WITH LAW AND PERFORMANCE OF DISCLOSURE AND REPORTING REQUIREMENTS

Each of the financial and statistical statements submitted by the companies is subject to a separate analysis the results whereof are published in uniform reports constituting the basis for taking further individual regulatory decisions.

In 2012, as part of analysis of the submitted financial and statistical statements, the KNF requested the companies to adjust or supplement the missing information in the submitted statements in 437 cases.

Regulations governing the insurance business place companies under various disclosure requirements towards the regulator and the insurers. The duty of the regulator in this respect is to verify whether a disclosure was actually made and to verify its content. The timely and full performance of disclosure requirements constitute one of the key duties of companies, which ensures that the regulator and users of insurance services are given access to selected operational data.

With reference to performance of the mandatory disclosure requirements by the companies, the following were adopted and analysed in 2012:

- information on selection or change of the qualified auditor - 56 cases,
- information on selection of the actuary - 8 cases,
- information on selection of the person entrusted with accounting book keeping - 3 cases,
- information on authorising other entity to submit declarations of will as regards claims - 31 cases,
- information on change to premium rate structures in mandatory automobile insurance (motor TPL insurance) and mandatory agricultural insurance (farmers TPL insurance and farm buildings insurance) - 66 cases,
- publication of annual statements of Capital Insurance Funds (hereinafter referred to as CIF) as at December 31st 2011 (24 companies, 1221 CIF) and semi-annual statements of CIF as at June 30th 2012 (24 insurance companies, 1451 CIF) on the companies' websites,
- information on Individual Pension Accounts as at December 31st 2011 (28 companies from segment I),
- information on Individual Pension Accounts and Individual Pension Security Accounts as at June 30th 2012 (28 companies from segment I).

The results of analysis performed suggest that companies, save for rare exceptions, fulfil the disclosure requirements as stipulated under applicable laws. The instances of non-compliance with disclosure requirements are considered on a case by case basis to determine whether the imposition of fines provided for under the law is justified. In 2012, under proceedings conducted by the KNF, a fine was imposed on three insurance companies.

In 2012, compliance with disclosure requirements by the insurance companies towards the Insurance Guarantee Fund was also analysed. The analysis indicated a significant improvement in the area of provision of required data to the Insurance Guarantee Fund. Additional supervisory actions, which resulted in imposition of fines, were taken with regard to three companies.

In exercise of ongoing supervision over the insurance sector compliance of insurance companies with provisions of law was monitored through analysing the manner of performing requirements and internal regulations:

- internal regulations in place at companies (including rules governing the establishment of technical provisions and premium rate structures) were analysed in 75 cases,

- performance of requirements issued to companies following inspections carried out by the regulator was reviewed in 29 cases (in 18 cases the recommendation was ultimately considered as performed),
- performance of recommendations to bring the operations of insurance companies in compliance with applicable laws as part of ongoing supervision was reviewed in 5 cases (in 4 cases the recommendation was ultimately considered as performed).

## PROCESSING OF REQUESTS SUBMITTED BY INSURANCE AND REINSURANCE COMPANIES

Apart from supervision over companies' operations, the Polish Financial Supervision Authority processed also their requests to be granted certain rights or to be granted authorisations for certain activities being under management of financial supervision. In 2012, companies' requests considering the following were processed:

- granting consent to recognize certain assets as assets for covering technical provisions - as a result of instituted 107 proceedings 85 decisions were issued as regards granting relevant consent and 1 decision to dismiss the proceedings, 21 proceedings were not completed in 2012 - it concerns proceedings the term within which they should be dealt with as mentioned in Article 35 §3 of the Act on Code of Administrative Proceedings of June 14th 1960 (consolidated text Dz. U. of 2000, No. 98, item 1071, as amended) did not expire on December 31st 2012,
- granting consent to recognize under own assets the subordinated loan (as a result of 1 proceedings 1 decision was issued to grant a relevant consent),
- granting consent to amend the subordinated loan agreement (as a result of 1 proceedings 1 decision was issued to grant a relevant consent),
- dismissing proceedings concerning consent to recognize under company's own assets the provision made as a result of underestimation of assets' value (as a result of 1 proceedings 1 decision was issued to dismiss the said proceedings).

## SUPERVISORY REVIEW AND ASSESSMENT (BION) OF INSURANCE COMPANIES

The aim of the Supervisory Review and Assessment (BION) of insurance/reinsurance companies developed by the KNF is to systematize the criteria applied to assess the regulated entities. The main aims of the BION performed by the regulator are as follows:

- assessment of the insurance sector standing, inclusive of identification of risk areas material from system-oriented perspective,
- assessment of insurance/reinsurance company risk, inclusive of:
  - identification of areas of operations of the insurance/reinsurance company of increased or high risk,
  - assessment of the quality of the process of managing insurance/reinsurance company,
  - assessment of the financial standing of insurance/reinsurance company,
  - assessment of compliance of insurance/reinsurance company operations with relevant laws and internal regulations,
- determination of mutual links and dependencies among insurance/reinsurance companies or other entities of the financial market,
- efficient allocation of the KNF resources, which will be assigned to areas and entities with the highest risk profiles, inclusive of appropriate allocation of regulatory actions with respect to a given insurance/reinsurance company,
- preparation for "Solvency II", including in particular "*Supervisory Review Process*" as provided for in Article 36 of the "Solvency II" Directive.

In 2012, BION methodology was amended to limit the weaknesses and improve the strengths of the BION methodology as well as facilitate the process of granting grade on the basis of, among others, gathered experience when conducting BION for 2010. The amendments



concerned the ratios applied for quantitative assessment as well as the manner of conducting qualitative assessment. Moreover, amendments were introduced to the adjustment of management qualitative assessment and BION grades which aimed at considering correctly important events when performing the assessment as well as increasing the nonlinearity of the final management qualitative assessment and BION assessment.

In 2012, the third edition of the Supervisory Review and Assessment (BION) covering 61 companies was performed.

## 4.5. SUPERVISION OVER PENSION MARKET

Offsite supervision over the pension market covers the financial standing as well as operating and investment activities of pension fund companies and pension funds (the so-called 2nd and 3rd pillar of the pension system inclusive of individual pension security accounts). The KNF also monitors the above institutions in terms of compliance with applicable laws and their charter as well as in terms of fulfilment of disclosure requirements. The goal behind the supervisory efforts in that regard is to protect the interests of pension fund members.

### MONITORING OF THE FINANCIAL STANDING OF PENSION FUND COMPANIES AND INVESTMENT ACTIVITY OF PENSION FUNDS

Tasks related to the ongoing supervision over financial operations and investment policy of open-end, occupational and voluntary pension funds as well as activity of universal and occupational pension fund companies were performed through systematic analysis of reporting data submitted by the regulated entities to the KNF in electronic form:

- daily and quarterly financial reports of pension funds including funds' balance sheet with explanatory notes, lists of investment portfolios, income statements with explanatory notes, lists of concluded transactions and important orders as well as information on the value and number of settlement units,
- monthly, semi-annual and annual structures of funds' assets,
- funds' operational reports on concluded fund membership agreements, paid contribution, external and internal transfer payments, payment of periodic capital pension, number of members and number of maintained accounts,
- financial statements of pension fund companies, inclusive of balance sheet, income statements, information on fees in universal pension fund companies, universal pension fund companies' obligations and capital links of pension fund companies.

The following activities, among others, were undertaken as part of the monitoring of financial standing of pension fund companies and investment policies of pension funds:

- analysis of capital market transactions in terms of profitability and risk related to the acquisition of a given financial instrument, resulting from structure of the instrument and the financial standing of its issuer;
- monitoring of investment activity of pension funds with respect to compliance with the overriding principle of investment profitability and security;
- review of the valuation of financial instruments held in pension funds' investment portfolios;
- analysis of the structure of pension funds' investment portfolios and its changes over time, as well as of accepted risk levels;
- assessment of the effectiveness of the investment activity of pension funds considering the conditions prevailing on capital markets and macroeconomic environment;
- analysis of internal procedures and declared rules of conducting investment activities at regulated entities.

An important task of the KNF is to review pension funds' detailed valuation methodologies applied to financial instruments for which there is no market or it is impossible to value them on the arm's length basis, while observing the principle of conservative valuation. During the

reported period, 442 valuations submitted by open-end pension funds, voluntary pension funds and occupational pension funds were subject to approval by the supervision authority. The KNF issued 38 ctions to change the valuation methodology.

**Table 39. Valuation methodologies submitted by open-end pension funds for the Commission approval, 2009-2012**

Open-End Pension Fund	Number of submitted methodologies			
	2009	2010	2011	2012
Amplico OFE	18	30	33	60
Allianz Polska OFE	12	12	17	32
Aviva OFE Aviva BZ WBK	23	19	19	43
OFE WARTA	24	6	26	15
ING OFE	13	33	72	81
Nordea OFE	19	6	25	41
AEGON OFE	10	7	16	33
Pekao OFE	12	14	6	16
PKO BP Bankowy OFE	19	6	17	7
OFE Pocztylion	5	5	7	10
OFE POLSAT	2	1	1	2
OFE PZU "Złota Jesień"	9	19	9	34
AXA OFE	12	22	10	27
Generali OFE	19	10	9	19
<b>Total:</b>	<b>197</b>	<b>190</b>	<b>267</b>	<b>420</b>

Source: in-house materials by KNF

As financing provided by employers accounts for a high share of current financing of occupational pension fund companies, supervision over occupational pension fund companies is largely exercised on an indirect basis. This supervision is necessary to ensure the financial security and business continuity of the companies. It was found that shareholders in occupational pension fund companies cover the operating costs of the companies on an ongoing basis, and balances of amounts due at the end of particular quarters result directly from the adopted settlement systems. Another characteristic feature of occupational pension fund companies is that they rely to a larger extent on outsourced processes compared with pension fund companies. As a result, supervision activities partly cover entities other than occupational pension fund companies.

In the period covered by this Report, the KNF calculated and published the average weighted rates of return of all open-end pension funds twice - for the periods March 31st 2009 - March 30th 2012 and September 30th 2009 - September 28th 2012. In both periods, all open-end pension funds achieved rates of return above the required minimum.

**Table 40. Statutory rates of return of open-end pension funds calculated and published by the Commission in 2012(%)**

Open-end pension fund	Rates of return for the period (%)	Open-end pension fund	Rates of return for the period (%)
	from		from
	March 31st 2009		September 30th 2009
	to		to September



	March 30th 2012		28th 2012
ING OFE	33.765	Nordea OFE	21.319
Amplico OFE	32.378	ING OFE	21.311
Aviva OFE Aviva BZ WBK	32.115	Allianz Polska OFE	21.013
PKO BP Bankowy OFE	31.747	Amplico OFE	20.325
Generali OFE	31.712	Aviva OFE Aviva BZ WBK	19.819
OFE PZU "Złota Jesień"	31.692	OFE WARTA	19.538
OFE WARTA	31.334	AXA OFE	19.268
Nordea OFE	31.151	PKO BP Bankowy OFE	19.093
Allianz Polska OFE	30.752	Pekao OFE	17.764
AXA OFE	30.548	OFE PZU "Złota Jesień"	17.634
OFE POLSAT	30.457	Generali OFE	17.512
Pekao OFE	29.843	AEGON OFE	17.413
AEGON OFE	28.792	OFE Pocztylion	16.343
OFE Pocztylion	27.558	OFE POLSAT	11.966
<b>Weighted average rate of return</b>	31.628	<b>Weighted average rate of return</b>	19.284
<b>Minimum rate of return</b>	15.814	<b>Minimum rate of return</b>	9.642

Source: in-house materials by KNF

#### SUPERVISION OVER LEGAL COMPLIANCE BY PENSION FUND COMPANIES AND PENSION FUNDS

The supervision exercised by the KNF in the area of monitoring compliance of operations of pension funds and pension fund companies with provisions of law included, among others:

- fulfilment of capital requirements specified by provisions of law by pension fund companies,
- checking compliance of exposure of pension funds' assets to investment categories determined by the provisions of law,
- analysis of costs covered by the pension funds' assets,
- regulated entities' compliance with disclosure requirements towards the regulator.

**Table 41. Provisions of law in the scope of investment limits breached by Open-End Pension Fund in 2012**

Provision of law	Number of breaches*	<i>inclusive of involuntary breach**</i>
Article 142 section 1 item 5 of the Act on Organisation and Functioning of Pension Funds	1	1
Article 143 section 1 of the Act on Organisation and Functioning of Pension Funds	605	594
paragraph 2 section 1 of the Regulation of the Council of Ministers on additional limitations as regards conducting investment activities by pension funds ( <i>in case of investment of fund's assets into shares, rights to shares, pre-emptive rights and depositary receipts as referred to in Article 141 section 1 items 4-6 and 13c of the Act on Organisation and Functioning of Pension Funds, the said cannot exceed more than 10% of one issue and when the share of company securities in the fund's assets does not exceed 1% they can constitute more than 20% of one issue of company shares</i> )	359	356
paragraph 6 of the Regulation on additional limitations as regards conducting investment activities by pension funds	78	78

Source: in-house materials by KNF

\* Infringement of the same provision of law by one fund as regards the same financial instrument or group of instruments occurring on subsequent valuation days are for reporting purposes treated as subsequent overruns of the investment limit.

\*\* Infringements of laws occurred as a result of change to market prices being the basis for fund's assets and liabilities valuation, estimation of exchange rates and organisational- or capital-related links between entities whose financial instruments were basis of the investment of fund's assets or as a result of any other circumstances whereon the fund has no direct impact.

As part of supervision over fulfilment of disclosure requirements, the KNF verified the timeliness and correctness of daily and quarterly financial reports of pension funds, operational reports of open-end pension funds and voluntary pension funds, financial statements of pension fund companies as well as monthly, semi-annual and annual assets structures published by open-end pension funds. Acceptance of and verification of the correctness of submitted daily reports and other information was performed on an ongoing basis, together with simultaneous explanation of any potential errors stated in the submitted data.

**Table 42. Reports with adjustments submitted and verified as part of fulfilment of the disclosure requirements of pension funds and pension fund companies submitted in 2012**

Type of submitted reports	Correct reports	Erroneous reports
Open-end pension funds financial reports	61,600	1,057
Voluntary pension funds financial reports	1,268	64
Occupational pension funds financial reports	80	16
Open-end pension funds operational reports	5,252	208
Universal pension fund companies reports	480	63
Occupational pension fund companies reports	20	9
<b>Total</b>	<b>68,700</b>	<b>1,417</b>

Source: in-house materials by KNF

## SUPERVISORY REVIEW AND ASSESSMENT (BION) OF UNIVERSAL PENSION FUND COMPANIES

Supervisory Review and Assessment (BION) is a comprehensive process using all available information acquired by the regulator when performing direct supervision as part of supervisory activities performed at head offices of the regulated entities and indirect supervision executed through activities related to licensing, analysis of reporting data and additional enquiries addressed to Universal Pension Fund Companies in the form of supervisory requests or surveys.

In 2012, BION assessment process was conducted in universal pension fund companies for the year 2011. Supervisory grades were assigned to all 14 Universal Pensions Fund Companies and the results thereof were provided for the management boards of individual entities.

## SUPERVISION OVER OCCUPATIONAL PENSION SCHEMES

Employer offering occupational pension scheme has a duty to annually submit to the regulator information on execution of the occupational pension scheme for the given calendar year. This way, the regulator obtains vital information on the functioning of individual occupational pension schemes and after statements aggregation - market data, important phenomena and trends.

As at the end of 2012, there were 1094 occupational pension schemes while some occupational pension schemes are of intercompany nature wherein more than 1 employee participates. It means that the duty to submit statements on the conducted occupational pension scheme for the year 2012 lies with 1138 employers who at the end of December 31st 2012 conducted the occupational pension scheme.

In 2012, the regulator conducted 26 proceedings in the form of direct supervision with respect to employers offering occupational pension scheme and 163 proceedings with respect to employers who did not fulfil the duty to submit statements on the conducted occupational pension scheme for the year 2011 within the said time limit.

## 4.6. SUPERVISION OVER CAPITAL AND COMMODITY MARKET

Ongoing supervision over the capital and commodity markets is performed mainly through:

- monitoring standing of regulated entities on the basis of statements, reports and information submitted by the entities,
- supervising trade on regulated market as regards detection of use of inside information and manipulation involving financial instruments,
- checking compliance with capital requirements,
- preparing opinions on materials for supervisory board meetings and general meetings of the companies operating the regulated market, the depository for securities, and the commodity market, as well as participating in the meetings,
- checking regulated entities' compliance with disclosure requirements.

### SUPERVISION OVER ENTITIES OPERATING ON THE SECURITIES MARKET

#### Ongoing supervision over investment firms

The Commission supervises the operations and financial standing of investment firms by analysing their periodic and current reports, inclusive of financial statements submitted in accordance with applicable laws. Moreover, meeting the obligations specified by the provisions of the Regulation of the Minister of Finance on the performance of supervisory review and assessment of brokerage houses of November 20th 2009, the process of supervisory assessment of brokerage houses (BION process) is being conducted.

In 2012, as part of supervision over operations of investment firms annual financial statements for the year 2011, semi-annual financial statements for H1 2012, monthly and current reports of 54 brokerage houses as well as monthly and current reports of 11 brokerage offices were reviewed. In 2012, consolidated financial statements for the year 2011 and reports concerning the consolidated capital adequacy requirements submitted in accordance with binding laws were also reviewed.

The main report used for exercising supervision over financial position of investment firms is the monthly MRF-form statements with information on fulfilment of capital adequacy requirements specified in the Act on Trading in Financial Instruments, of July 29th 2005 (Dz. U. of 2012, No. 211, item 1384, as amended) and the Regulation of the Minister of Finance on the scope and detailed rules for determination of the total capital requirement, including capital requirements, for brokerage houses, and on the maximum ratio of loans and debt securities issued debt securities in relation to capital of November 18th 2009 (Dz. U. No. 204, item 1571, as amended). Table 43 presents the fulfilment of capital adequacy requirements by brokerage houses.

**Table 43. Average capital requirements (PLNm) and average capital requirements coverage ratios at brokerage houses, 2009-2012**

Item	2009	2010	2011	2012
Average regulated capital	33.53	46	46.49	42.42
Average total capital requirement	5.41	19.63	35.51	13.14
Average internal capital	-	20.24	38.51	15.84
Average coverage of total capital requirement with regulated capital*	6.2	2.34	1.31	3.23
Average coverage of internal capital with regulated capital*	-	2.27	1.21	2.68

Source: in-house materials by KNF

Data sourced from monthly MRF-form statements as at December 31st 2009, December 31st 2010, December 31st 2011 and December 31st 2012.

\* Data expressed in abstract units, representing the average quotient of the regulated capital to the individual capital requirements.

**Table 44. Basic data from balance sheet of brokerage houses (PLNm)**

Balance sheet	2009	2010	2011	2012
I. Cash and cash equivalents	4,608.01	5,408.74	5,485.61	4,981.91
II. Short-term receivables	2,173.28	2,132.98	2,031.96	2,827.19
III. Financial instruments held for trading	483.81	492.15	1,062.14	363.21
IV. Short-term prepayments	15.10	19.25	20.62	19.45
V. Financial instruments held to maturity	92.55	36.34	276.68	84.50
VI. Financial instruments available for sale	599.67	740.87	577.45	320.56
VII. Long-term receivables	41.15	43.75	28.40	29.19
VIII. Long-term loans granted	2.30	5.62	6.21	2.82
IX. Intangible assets	43.78	45.03	68.81	79.32
X. Property, plant and equipment	106.42	107.91	110.42	108.54
XI. Long-term prepayments	133.19	125.82	165.15	146.48
<b>Total assets</b>	<b>8,299.27</b>	<b>9,158.47</b>	<b>9,833.46</b>	<b>8,963.17</b>
I. Short-term liabilities	5,383.08	5,978.82	6,601.96	6,163.11
II. Long-term liabilities	7.91	27.58	83.98	10.70
III. Prepayments	157.06	158.25	129.76	126.96
IV. Provisions for liabilities	63.93	89.82	76.11	51.64
V. Subordinated liabilities	0.84	0.87	0.70	0.36
VI. Equity	2,686.44	2,903.14	2,940.95	2,610.41
<b>Total liabilities</b>	<b>8,299.27</b>	<b>9,158.47</b>	<b>9,833.46</b>	<b>8,963.17</b>

Source: in-house materials by KNF

Data for the years 2009-2011 sourced from audited financial statements, data for the year 2012 sourced from monthly MRF-form statements as at December 31st 2012.

Data does not cover data of 2 brokerage houses the financial year whereof does not coincide with the calendar year.

**Table 45. Basic data from the income statement of brokerage houses (PLNm), 2009-2012**

Income statement	2009	2010	2011	2012
I. Income on brokerage activity	1,251.18	1,484.96	1,388.85	1,074.07
II. Cost of brokerage operations	1,004.93	1,162.20	1,263.75	1,143.34
III. Profit (loss) on brokerage activity (I-II)	246.25	322.76	125.10	-69.27
IV. Income on financial instruments held for trading	800.27	941.26	1,632.84	700.31
V. Costs due to financial instruments held for trading	598.11	687.53	1,328.98	576.05
VI. Profit (loss) on operations with financial instruments held for trading (IV-V)	202.17	253.72	303.85	124.26
VII. Income on financial instruments held to maturity	3.33	3.06	5.53	10.49
VIII. Costs due to financial instruments held to maturity	0.00	0.00	0.00	0.00
IX. Profit (loss) on operations with financial instruments held to maturity (VII-VIII)	3.33	3.06	5.53	10.49
X. Income on financial instruments available for sale	316.16	199.78	202.30	193.26
XI. Costs due to financial instruments available for sale	6.40	4.63	1.78	0.25
XII. Profit (loss) on operations with financial instruments available for sale (X-XI)	309.77	195.15	200.53	193.01
XIII. Other operating income	25.32	20.98	17.92	40.34
XIV. Other operating costs	22.95	15.64	13.39	26.25
XV. Difference in value of provisions revaluation charges on receivables	-3.67	-21.16	-14.72	-18.97
XVI. Profit (loss) on operating activity (XIII+VI+IX+XII+XIII-XIV+XV)	760.21	758.87	624.82	253.60
XVII. Financial income	250.52	210.89	278.77	253.31
XVIII. Financial costs	63.07	75.55	312.48	307.56
XIX. Profit (loss) on economic activity (XVI+XVII-XVIII)	947.66	894.21	591.11	199.34
XX. Extraordinary gains	0.05	0.00	0.00	0.00
XXI. Extraordinary losses	0.00	0.00	0.00	0.00

XXII. Gross profit (loss) (XIX+XX-XXI)	947.71	894.21	591.11	199.34
XXIII. Income tax	115.65	135.47	74.14	84.09
XXIV. Other mandatory profit decrease (loss increase)	-0.14	-0.32	0.13	-0.32
XXV. Net profit (loss) (XXII-XXIII-XXIV)	832.20	759.06	516.85	115.58

Source: in-house materials by KNF

Data for the years 2009-2011 sourced from audited financial statements, data for the year 2012 sourced from monthly MRF-form statements as at December 31st 2012.

Data does not cover data of 2 brokerage houses the financial year whereof does not coincide with the calendar year.

## SUPERVISORY REVIEW AND ASSESSMENT (BION) OF BROKERAGE HOUSES

In Q3 2012, the second formal process of supervisory assessment of brokerage houses which started in September 2011 was finalised. The process covered 50 entities. The process of supervisory assessment of brokerage houses was summed up as part of the educational project CEDUR addressed to brokerage houses' representatives. In Q3 2012, the third formal process of supervisory assessment of brokerage houses was initiated.

### Companies conducting regulated market and depository for securities

Polish Financial Supervision Authority supervisory duties over companies conducting regulated market and depository for securities include:

- performing inspections at the Head Offices of the supervised entities such as Giełda Papierów Wartościowych w Warszawie SA, BondSpot SA, Krajowy Depozyt Papierów Wartościowych SA,
- developing protocols on the performed inspections,
- supervising fulfilment of the post-inspection recommendations,
- providing opinion on materials for the supervisory board meeting and general meetings of the supervised institutions,
- participating by the KNF's representative in the supervisory board meeting and general meetings of the supervised institutions.

The KNF's representatives partook in 30 Supervisory Boards' meetings and 3 General Meetings, including:

- 11 meetings of GPW SA Supervisory Board,
- 1 General Meeting of GPW SA,
- 6 meetings of KDPW SA Supervisory Board,
- 1 General Meeting of KDPW SA,
- 4 meetings of KDPW\_CCP SA Supervisory Board,
- 9 meetings of BondSpot SA Supervisory Board,
- 1 General Meeting of BondSpot SA.

### SUPERVISION OVER TRADE ON REGULATED MARKET AS REGARDS DETECTION OF USE OF INSIDE INFORMATION AND MANIPULATION INVOLVING FINANCIAL INSTRUMENTS

On account of the supervision exercised by the Polish Financial Supervision Authority over trade on regulated market as regards detection of use of inside information and manipulation involving financial instruments, the Commission issued two decisions concerning demand for suspension of trading in shares of a public company by Giełda Papierów Wartościowych w

Warszawie S.A. (under Article 20 section 2 and Article 78 section 3 in conjunction with Article 16 section 3 of the Act on Trading in Financial Instruments).

Moreover, the regulator adopted a resolution with regard to making public information on circumstances of occurrence of manipulation referred to in the Act on Trading in Financial Instruments and resolution with regard to making public information on circumstances of occurrence of manipulation and submission of notification regarding suspicion of committing a crime.

## SUPERVISION OVER SECURITIES ISSUERS OTHER THAN INVESTMENT FUNDS

The activities performed by the KNF in 2012 as part of supervision over reporting by securities issuers other than investment funds included, among others:

- review of 182 financial statements (including consolidated financial statements) of 87 issuers in terms of their compliance with applicable accounting standards, especially International Accounting Standards/International Financial Reporting Standards (“hereinafter referred to as IFRS), selected based on the selection rules referred to in Standard No. 1 of CESR (Committee of European Securities Regulators; at present ESMA: European Securities and Markets Authority) on Financial Information “Enforcement of Standards on Financial Information in Europe”. The results of the review are used to prepare a report, which is then published on the KNF’s website,
- preparation and delivery of 113 positions and opinions, including 52 for external entities, concerning, among other things, application of IFRS, correctness of fulfilment by issuers of disclosure requirements related to interim reports, and in connection with proceedings conducted by the KNF with respect to reporting by securities issuers as well as historical financial information presented in prospectuses.

The competency-based tasks of the Polish Financial Supervision Authority include supervision over the performance of disclosure requirements stipulated in the Public Offering Act and the Act on Trading in Financial Instruments by issuers whose securities are admitted to trading on the regulated market.

In 2012, the KNF reviewed for compliance with the applicable laws approximately 31 thousand current and interim reports as well as inside information filed by public companies, and 2750 notifications submitted by buyers and sellers of major holdings of shares in public companies, pursuant to Article 69 of the Public Offering Act as well as 4184 notifications submitted by obliged entities under Article 160 of the Act on Trading in Financial Instruments of July 29th 2005 (Dz. U. of 2012, No. 211, item 1384, as amended) - persons who are members of issuers’ management and supervisory bodies or who are issuers’ commercial proxies and other persons who hold management positions in the organisational structure of an issuer, have permanent access to inside information related, whether directly or indirectly, to the issuer, and are authorised to make decisions concerning the issuer’s development and economic prospects.

In the period covered by the report, the CommissionF issued the following decisions:

- 6 concerning demand for suspension of trading in shares of a public company by Giełda Papierów Wartościowych w Warszawie SA on account of failure to timely meet disclosure requirements - Article 20 section 2 of the Act on Trading in Financial Instruments,
- 1 negative decision regarding request for release from the obligation to disclose information other than inside information - Article 62 section 1 of the Public Offering Act,
- 3 concerning the demand to amend the request - Article 78 of the Public Offering Act.

In 2012, approx. 500 interventions were conducted if undue fulfilment of the disclosure requirements was stated in the case of public companies which resulted in disclosure of current and period reports compliant with binding laws.

One of the KNF's duties is to oversee formal and legal compliance of announcing and carrying out tender offers to acquire or exchange shares in a public company in connection with shareholders exceeding particular thresholds of total vote. If an announced tender offer does not meet statutory requirements, the KNF may demand that the terms of the offer be changed or supplemented, or may require explanations regarding the offer.

In 2012, 29 tender offers to acquire or exchange shares in a public company were announced. From the above total number of tender offers, 9 were announced in connection with exceeding the 33% threshold of total vote in public companies, and another 14 tender offers were announced in connection with all remaining shares in the said companies. Moreover, 6 tender offers were announced under Article 72 of the Public Offering Act.

The value of shares under tender offers announced in 2012 totalled more than PLN 7.3bn. For comparison, in 2009 the total value of shares under tender offers amounted to approx. PLN 3.2bn, in 2010 the value of acquisitions totalled approx. PLN 6bn while in 2011 the value totalled more than PLN 17bn. In 2012, in the case of 3 tender offers the KNF demanded introduction of indispensable changes thereto.

## SUPERVISION OVER UNDERTAKINGS FOR COLLECTIVE INVESTMENT

The supervisory duties of the KNF in relation to investment fund companies and investment funds, once they receive the required authorisations, include, among others, monitoring of their current condition through analysis of current reports, current information, and periodic statements and reports.

Current reports and information of investment funds can be divided into two groups:

- current reports and information of open-end investment funds, specialist open-end investment funds and closed-end investment funds provided exclusively for the KNF,
- current reports of public closed-end investment funds provided for the KNF and made public.

Apart from semi-annual and annual financial statements of investment funds, the following are also included in the group of periodic statements submitted mandatorily:

- quarterly statements of open-end investment funds, specialist open-end investment funds and closed-end investment funds issuing investment certificates which are provided exclusively for the KNF,
- quarterly reports of public closed-end investment funds provided for the KNF and made public.

Current reports (inclusive of collective current reports), information and periodic statements of investment fund companies are provided exclusively for the KNF.

Periodic statements of investment fund companies include:

- monthly statements,
- annual financial statements,
- semi-annual financial statements for the collective securities portfolio,
- annual financial statements for the securities portfolio,
- annual statements on internal control functioning.

Performing its supervisory tasks in relation to investment fund companies and investment funds, the KNF also regularly reviews the information sent by investment fund depositaries under Article 231 of the Act on Investment Funds of May 27th 2004 (Dz. U. No. 146, item 1546, as amended).

### **Table 46. Number of reviewed current and interim reports of investment funds and investment fund companies, and information from depositaries, 2009-2012**



Type of report/information	Number of reports			
	2009	2010	2011	2012
Current and interim reports of investment fund companies	3291	2361	2952	4019
Current and interim reports of investment funds	13381	12957	15068	17238
Information from depositaries	2437	2421	3446	3978
<b>Total</b>	<b>19109</b>	<b>17739</b>	<b>21466</b>	<b>25234</b>

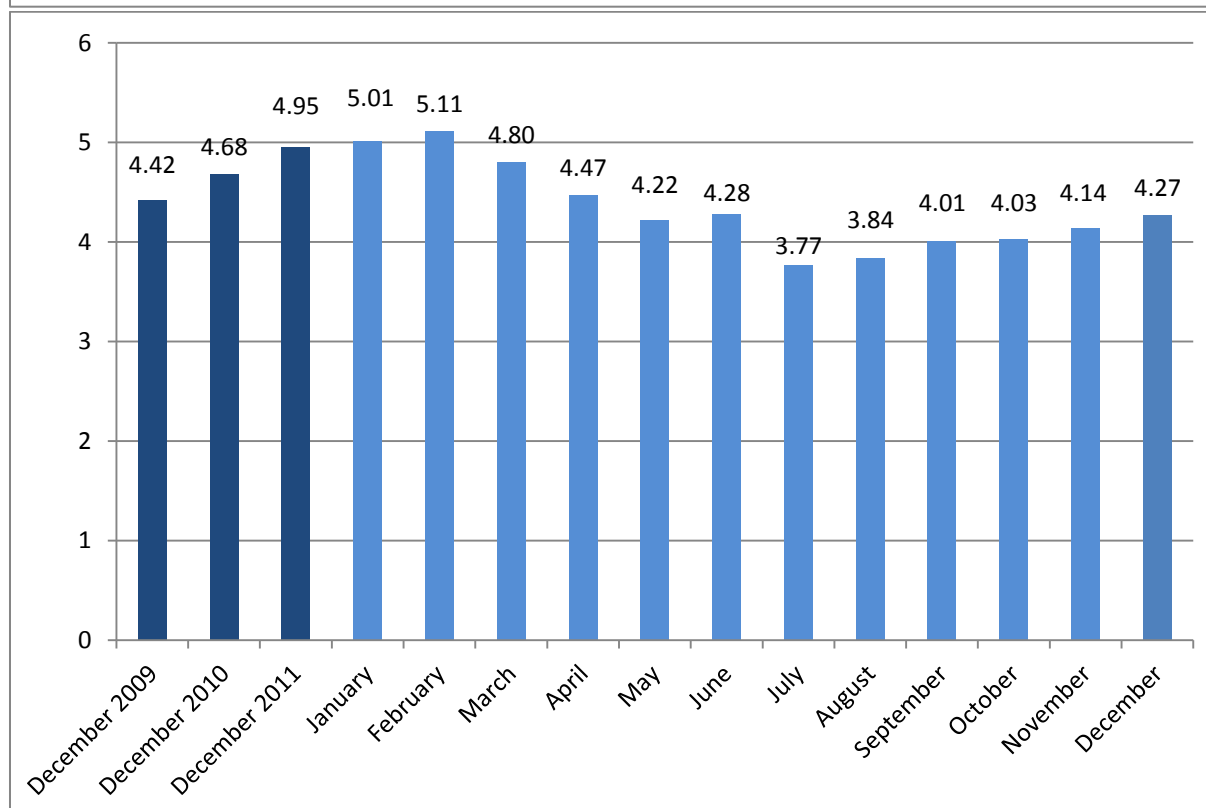
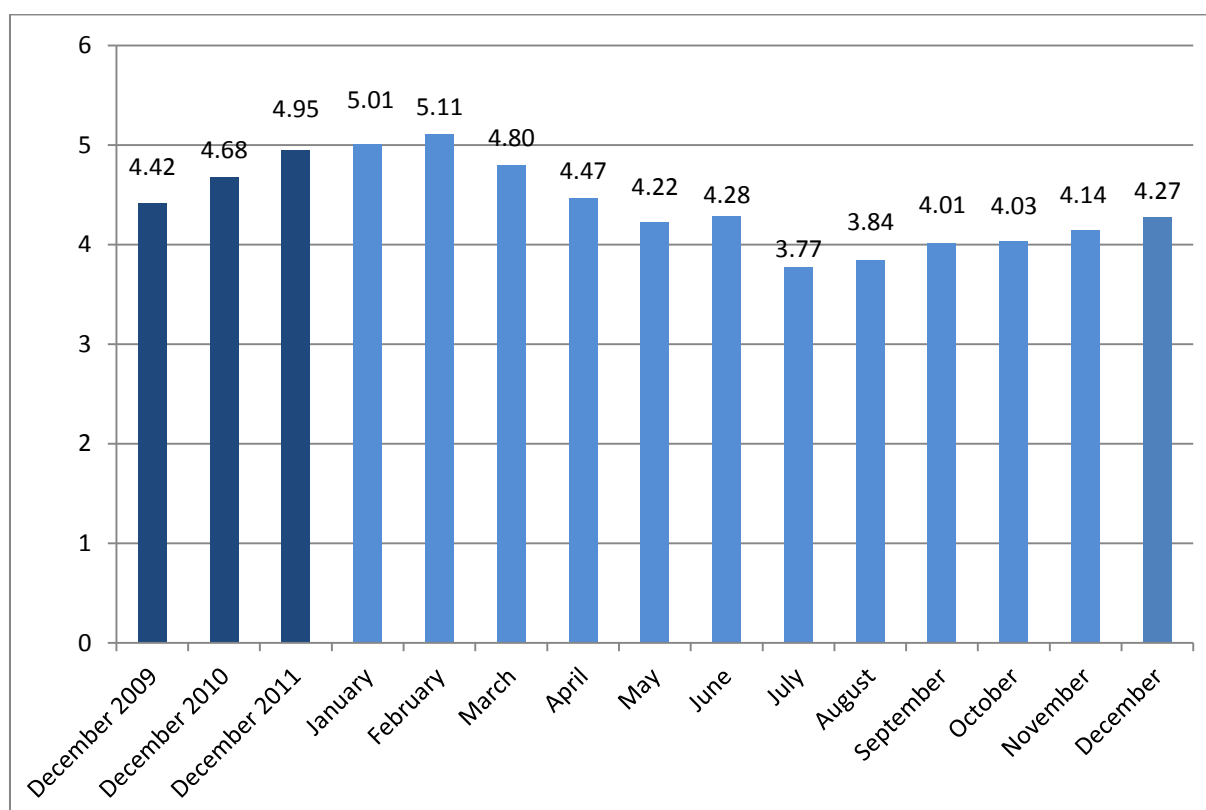
Source: in-house materials by KNF

Supervisory activities related to analysis of information included in current and interim reports of investment funds and investment fund companies, may result in commencement of administrative proceedings and application of administrative sanctions provided for in the Act on Investment Funds should any irregularities be found.

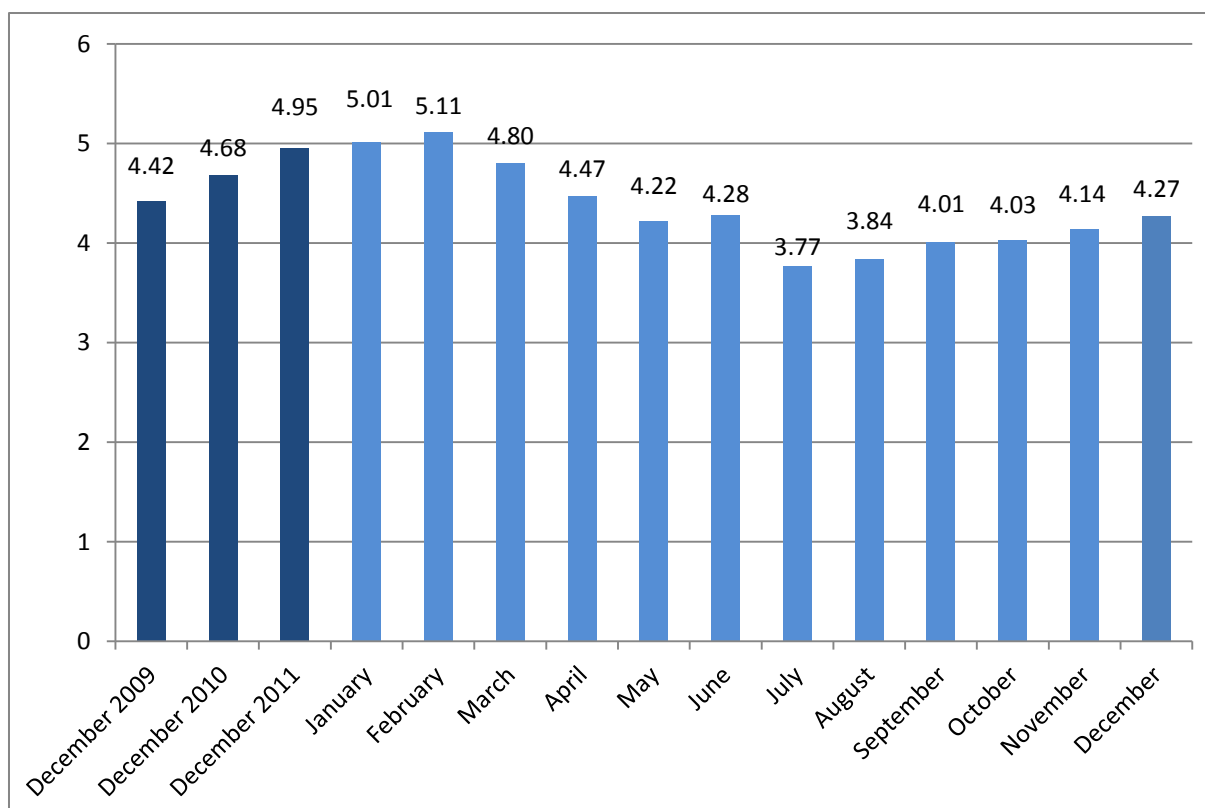
As part of its annual activities, the KNF also prepares reports on such matters as the financial standing and capital position of investment fund companies and distribution activity of foreign investment funds in Poland. The reports are published on the KNF's website.

The KNF also supervises the fulfilment of capital requirements by the investment fund companies.

**Fig. 21 Average capital coverage ratios of the investment fund companies at year end in 2009-2011 and in 2012 (equity to minimum capital requirement)<sup>14</sup>**



<sup>14</sup>Based on monthly reports filed by the investment fund companies. Such reports are neither audited nor reviewed by qualified auditors, and so they may be subject to later revisions.



Source: in-house materials by KNF

The presented data indicate that in 2012 the average capital coverage ratio for the entire sector of investment fund companies decreased against 2011; however, it remained on the level from approx. 3.7 to 5.1. It means that the equity of the investment fund companies was on average four times higher than the minimum obligatory equity required under the Act on Investment Funds. After drops of the average ratio in H1 2012, during H2 it started to grow again.

## SUPERVISORY REVIEW AND ASSESSMENT (BION) OF INVESTMENT FUND COMPANIES

In line with the BION process assumptions with respect to investment fund companies, four BION assessments were performed in 2012. In Q1 2013, scores will be assigned to the entities which underwent the BION assessment at the end of Q4 2012 (12 investment fund companies).

**Table 47. Number of investment fund companies subject to BION assessment in 2012**

Quarter	Q4 2011	Q1 2012	Q2 2012	Q3 2012
<b>Number of investment fund companies</b>	12	13	13	12

Source: in-house materials by KNF

The assessment's general methodology did not change over 2012, i.e., the assessment covered still three areas relating to:

- the risk exposure of investment fund companies,
- the capital held by investment fund companies,
- the quality of management at investment fund companies.

In 2012, we have started to provide the investment fund companies with information on the obtained BION grade as well as grades for the aforesaid three areas starting with grades as at the end of Q1 2012.

#### SUPERVISION OVER ENTITIES OPERATING ON THE SECURITIES MARKET

As regards the supervision over the securities market, the Polish Financial Supervision Authority tasks consist in:

- performing inspections at the Head Offices of the supervised entities such as Towarowa Giełda Energii SA (hereinafter referred to as “TGE”), Izba Rozliczeniowa Giełd Towarowych (hereinafter referred to as “IRGiT”),
- developing protocols on the performed inspections,
- supervising fulfilment of the post-inspection recommendations,
- providing opinion on materials for the supervisory board meeting and general meetings of the supervised institutions,
- participating by the KNF’s representative in the supervisory board meeting and general meetings of the supervised institutions.

In the period covered by the report the KNF’s representatives partook in 12 Supervisory Boards’ meetings and 6 General Meetings, including:

- 8 meetings of TGE Supervisory Board,
- 4 General Meetings of TGE,
- 4 meetings of IRGiT Supervisory Board,
- 2 General Meetings of IRGiT.

## 5. INSPECTION TASKS

### 5.1. BANKING SECTOR

#### INSPECTIONS AT BANKS

In 2012, inspection activities at banks<sup>15</sup> were performed under the regulations and prudential recommendations of the KNF, considering the EBA and BCBS guidelines, based on uniform standards and procedures of the review as set out in the Inspection Handbook and supplementary specific methodologies.

Inspection activities comprised comprehensive and problem-oriented inspections as well as explanatory proceedings.

**Table 48. Inspection tasks performed by the KNF in banks in 2012**

Inspection activities	Number
Comprehensive inspections, including:	20
– inspections at commercial banks	14
– inspections at co-operative banks	6
Problem-oriented inspections, including	63
– inspections at commercial banks *	14
– inspections at co-operative banks	49
Explanatory proceedings at commercial banks	2
Problem-oriented inspection at a credit institution branch	1
Explanatory proceedings at a credit institution branch	1

\*Including 4 inspections to assess banks' applications for approval of use of statistical methods to calculate capital requirements.

Source: in-house materials by KNF

As part of the co-operation between the KNF and the National Bank of Poland, inspections designed to check the correctness of calculating and transferring the amount of mandatory reserves required for commercial banks were performed (as part of 13 comprehensive inspections).

The activities falling within the scope of comprehensive inspections centred on investigation into the risk management process at banks, and notably into management of credit, liquidity, market and operational risks as well as assessment of the bank's capital adequacy and bank management, considering observance of regulations governing banking operations, the charter and satisfaction of terms and conditions specified in the banking licence.

In 2012, the following significant areas of bank operations received particular attention during inspection activities:

- strategic planning,
- creditworthiness assessment for business entities and retail clients,
- long-term liquidity management,
- stable deposit base determination,
- correctness of calculation of regulatory liquidity norms, notably as regards estimation and declaration of the amount of stable external funds and amount of limited-liquidity assets,
- bancassurance products,
- satisfaction of disclosure obligations by banks, and

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<sup>15</sup>They included inspection activities as at review dates: December 31st 2011; March 31st 2012; June 30th 2012 & June 30th 2012.

- correctness of functioning of the presentation systems for the entities covered with the deposit guarantee scheme - under Article 38i section 1 of the Act on the Bank Guarantee Fund of December 14th 1994.

Fulfilment of earlier post-inspection recommendations of the KNF was yet another aspect assessed during the inspection activities.

Inspection findings were described in the inspection report; the results of the review of a bank with foreign capital were also provided to the regulator of the bank's parent entity.

The selected most important and recurring inspection findings for commercial banks which were inspected in 2012 were discussed hereinbelow. The reviews conducted in 2012 in commercial banks showed that their operations did not pose threat to safety of funds accumulated in accounts. Nonetheless, for each bank reviewed there were identified instances of breach of laws and prudential regulations as well as risk management gaps.

There were the following risk management process-related irregularities that occurred most frequently at the banks reviewed (by risk type):

**Table 49. Most frequent irregularities identified in the course of inspection activities at banks in 2012 for credit risk area**

<b>Credit risk</b>	
1.	Too liberal rules of creditworthiness assessment for retail clients (loans were granted without considering certain provisions of Recommendation T <i>concerning best practices related to managing risk under retail loan exposures</i> , in particular as regards determination of the minimum household costs and verification of income declared by natural persons in their income declarations) and business entities (for example: cases where loans were extended to entities without creditworthiness without satisfying the requirements under Article 70 section 2 of the <i>Banking Law Act</i> of August 29th 1997 at the same time <i>and cases of failure to obtain the information necessary to assess creditworthiness in reliable manner</i> )
2.	Partial adaptation of internal regulations to the requirements under the Commission Regulation No 1126/2008/WE of November 3rd 2008 <i>adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council and Recommendation R concerning the rules for identification of impaired balance-sheet credit exposures, calculation of impairment losses on balance-sheet credit exposures and provisions for off-balance-sheet credit exposures</i> , in particular irregularities as regards estimation of discounted cash flows on current operations of the borrower and established credit collateral as well as IBNR losses and their back-testing, valuation of financial assets as well as definition of restructuring of a balance-sheet credit exposure
3.	Irregularities as regards review and classification of credit exposures being: failure to identify or too late identification of impairment conditions for credit exposures/ errors in the specific provisions basis calculation, classification of credit exposures not in compliance with the Regulation of the Minister of Finance <i>on the principles for establishing general banking risk provisions</i> of December 16th 2008
4.	Irregularities as regards stress-testing, in particular irregularities as regards failure to perform specific tests (for geographical and sectoral concentration, for example) and irregularities as regards development of stress-testing assumptions (failure to match the stress-testing assumptions with the specific nature of business pursued or failure to consider significant risk factors inherent to the banking activity, for example)
5.	Partial adaptation of the internal limits system to the risk level and profile of the bank, irregularities occurred in managing internal limits for sectoral and geographical concentration of exposures and collateral concentration, in particular
6.	Failure to fully consider the Commission Recommendation S <i>concerning best practices in managing credit exposures financing real estate and mortgage-backed credit exposures</i> , in particular as regards the appraisal process for real estate used as credit collateral
7.	Ineffective internal control mechanisms for credit risk, the fact which was shown by cases of breach of regulations (Articles 69-71 of the <i>Banking Law Act</i> , among others), internal

	regulations and external reporting errors (for example, the ones relating to completion of the reporting form B0300 <i>List of clients with significant Bank's exposure and clients subject to notification to the Polish Financial Supervision Authority</i> <sup>16</sup> ), among others
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Source: in-house materials by KNF

**Table 50. Most frequent and most significant irregularities identified in the course of inspection activities at banks in 2012 for liquidity risk area**

<b>Liquidity risk</b>	
1.	Instances of breach of provisions of the Commission Resolution No 386/2008 as regards definition of deposit base, contingent liquidity planning, in-depth long-term liquidity analyses, calculation of basic liquidity reserves and supplementary liquidity reserves and estimation of stable external funds
2.	Instances of breach of provisions of the Commission Resolution No 258/2011 as regards liquidity risk limitation and back-testing
3.	Insufficient supervision of liquidity risk management by the supervisory board, including failure to determine the liquidity risk appetite or failure to approve the risk appetite by the supervisory board
4.	Irregularities as regards long-term liquidity risk management; lack of equivalent funding sources for real estate lending; lack of a long-term plan to obtain stable funding sources or planning-related irregularities
5.	Insufficient scope and quality of in-depth long-term liquidity analysis, including lack of detailed analysis of lending portfolio in terms of its FX structure, assessment of renewability and FX structure of funding sources
6.	Errors in regulatory liquidity measures calculation process, including the ones concerning: <ul style="list-style-type: none"> <li>– calculation of basic liquidity reserves and supplementary liquidity reserves,</li> <li>– mode of deposit base determination,</li> <li>– determination of stable liabilities,</li> <li>– determination of potential growth in receivables due to payment of off-balance sheet liabilities by clients.</li> </ul> Failure to satisfy some conditions of determination of external funds as a stable funding source
7.	Failure to define detailed rules for stability analysis of the deposit base or irregularities as regards the mode of determination of stable external funds, including: <ul style="list-style-type: none"> <li>– failure to consider the outcomes of analyses of deposit concentration or deposit withdrawal and renewal,</li> <li>– failure to back test the methods applied,</li> <li>– insufficient length of time sequences used by banks to estimate the stability of the deposit base,</li> <li>– recognition of external funds as stable funds without satisfying the conditions set out in the Commission Resolution No 386/2008, including: <ul style="list-style-type: none"> <li>○ lack of approved long-term plan of obtainment of funds considered as a stable funding,</li> <li>○ failure to consider a significant drop in stable external funds in contingency planning scenarios,</li> <li>○ lack of definition of external funds considered as a stable funding source and rules for stability analysis and determination of minimum amount of stable external funds to be maintained for the subsequent 30 days as well as for 3 and 6 months,</li> </ul> </li> <li>– failure to determine stable external funds per category of liabilities,</li> <li>– failure to use FX fluctuation adjustments in deposit base calculations</li> </ul>
8.	Insufficient quality of internal procedures governing the liquidity risk management process as regards liquidity gap determination, liquidity measures calculation process, long-term liquidity analyses, estimation of deposit base stability and liquidity risk limitation, in particular
9.	Irregularities as regards liquidity measurement methods, including the ones concerning

<sup>16</sup>NBP Board of Directors Resolution 53/2011 of September 22nd 2011 *on special principles of preparation and transmission to the National Bank of Poland data necessary for monetary policy setting and for periodical assessment of banks' financial standing and banking sector risk.*

	concentration analyses of the deposit base, the rules for adjustment of cash flows to real terms or failure to consider renewal and withdrawal phenomena
10.	Irregularities as regards internal liquidity limits system, including the ones being failure to define mismatch limits for maturities and the long-term liquidity. Irregularities as regards the procedure in case of limit overrun and performance of analyses used to define limits
11.	Insufficient quality of stress-tests made by banks, including insufficient scope of scenarios (failure to correlate scenarios with regulatory liquidity norms), failure to integrate scenarios with contingent liquidity planning and failure to use test results to manage liquidity
12.	Insufficient quality of the contingent liquidity planning, including failure to consider a significant drop in stable external funds, improper determination of reserve liquidity sources, lack of estimates of outflows and inflows of funds for various event scenarios under stress, improper definition of planning activation criteria

Source: in-house materials by KNF

**Table 51. Most frequent irregularities identified in the course of inspection activities at banks in 2012 for market risk area**

<b>Market risk (interest rate risk and FX operations risk)</b>	
1.	Instances of breach of the Commission Resolution No 258/2011 being, among others: failure to ensure independent organisational framework of risk measurement, monitoring and control functions from the banking operations, failure to approve market risk appetite, failure to verify the measurement methods and models applied or the limits applied
2.	Irregularities as regards offering of derivative products, including failure to adapt to the provisions of Recommendation A being failure to advise clients of the amount of the limit granted, its utilization and valuation of derivative deals, among others
3.	Setting of too high limits, not matching the risk assumed
4.	Deficiencies in internal procedures as regards assumptions adopted for the measurement methods and models used or stress-testing rules
5.	Errors in measurement methods used or failure to measure certain market risk areas
6.	Partial effectiveness of the internal control system in the market risk area; among others, there were identified cases where internal audit neither exercised functional control over nor audited the market risk area as well as examples of material errors in market risk measurement and monitoring, whereby the internal control system was made considerably less effective
7.	Operative IT systems did not ensure full automation of the market risk measurement process
8.	The scope, quality and frequency of management reporting were insufficient

Source: in-house materials by KNF

**Table 52. Most frequent irregularities identified in the course of inspection activities at banks in 2012 for operational risk area**

<b>Operational risk</b>	
1.	Instances of breach of the Commission Resolution No 258/2011 being, among others: absence of internal regulations for monitoring operational risk losses and control of risk of entrusting performance of activities to third parties (outsourcing risk)
2.	Absence of operational risk management processes adapted to the scale and profile of risk
3.	Incomplete internal procedures for information security policy
4.	Absence of business continuity plans tailored to the effective organizational framework of banks and identified critical processes
5.	Failure to define operational risk heatmap development rules
6.	Inadequate scope and frequency of management information presentation for the operational risk area
7.	Failure to consider the presentation systems for the entities covered with the mandatory deposit guarantee scheme in the overview of critical applications and their omission in business continuity plans
8.	Failure to define red flags for all KRIs used



9.	Determination of too high cut-off points for registration of operational risk incidents/ losses
10.	Failure to stress-test, whereby comprehensive operational risk assessment would be ensured

Source: in-house materials by KNF

**Table 53. Most frequent and most significant irregularities identified in the course of inspection activities at banks in 2012 for capital adequacy**

Capital adequacy	
1.	Breach of provisions of Commission Resolution No 76/2010 as regards classification of exposures to proper risk classes and risk weighting
2	Breach of provisions of the Commission KNF Resolution No258/2011 as regards internal capital estimation and capital planning
3	Breach of provisions of the Commission Resolution No 385/2008 as regards satisfaction of disclosure obligations
4.	Inconsistent capital management-related internal documents (strategy, capital planning and budget), including various assumptions as regards structure, amount of own funds and solvency ratio; failure to define the preferred capital structure, long-term capital goals or dividend payout policy in the capital management policy; reservations to effective accomplishment of the assumptions adopted
5.	Insufficient quality of capital planning, including organisational solutions, evidencing of assumptions, sufficient degree of details like for the definition of the situation where the plan is to be activated, for example
6.	Irregularities in the calculation process of capital requirements for credit risk comprising, among others, incorrect segmentation of assets, incorrect risk weighting, irregularities in defining exposure classes and incorrect determination of value of the exposure used to calculate the requirement - of no material impact on the capital requirements calculated; application of the standard approach for operational risk without analysing satisfaction of the criteria qualifying for method application
7.	Irregularities in the identification process of material risks, including lack of written procedures therefor, failure to evidence the rationale for the materiality criteria and omission of certain risks
8.	Defective internal capital valuation method, including: <ul style="list-style-type: none"> <li>- use of data sources not ensuring correct calculations,</li> <li>- failure to define the method of capital estimation for certain material risks in procedures,</li> <li>- the capital estimated for certain risks did not cover the risk inherent to the banking activity,</li> <li>- internal capital estimations were made based on the methods used by the parent entity without adequate adaptation, whereby they were inadequate to risk,</li> <li>- failure to evidence or perform, or insufficient scope of the review of the internal capital estimation process,</li> <li>- insufficient frequency of internal capital estimations,</li> <li>- mismatch of risk-based key performance indicators,</li> <li>- lack of stability analyses for estimated correlations between individual risks</li> </ul>
9.	Insufficient scope of capital limits used by the bank or the limits not being red flags
10.	Failure to stress-test or insufficient stress-testing due to failure to cover all material risks with stress-tests; failure to correlate test results with the potential need to additionally capitalize for a given risk, for example
11.	Insufficient scope of internal audit, in particular; failure to audit or review the internal capital estimation process
12.	Improper satisfaction of disclosure obligations, including lack of Supervisory Board approval for the disclosure policy rules, insufficient scope of capital adequacy-related information disclosed, failure to include some risks in the internal regulations
13.	Failure to observe the Commission decisions concerning maintenance of the recommended

	solvency ratio
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Source: in-house materials by KNF

**Table 54. Most frequent irregularities identified in the course of inspection activities at banks in 2012 for management process**

Management process	
1.	The instances of breach of laws as regards management process at commercial banks were primarily related to the Commission Resolution No 258/2011 and regarded: <ul style="list-style-type: none"> <li>– duties imposed on the supervisory board and management board,</li> <li>– risk management system,</li> <li>– supervision of compliance risk management process,</li> <li>– launch of new products, or</li> <li>– internal control system</li> </ul>
2.	Insufficient supervision of the supervisory board, for example: failure to accept the business strategy, the organisational structure or the risk appetite by the supervisory board or provision of the supervisory board with insufficient information
3.	Unclear segregation of duties and responsibilities among individual management board members and too strong impact of the parent entity on risk management at certain banks with dominant foreign capital
4.	Insufficient quality of the strategic planning process: lack of a formal process; inconsistent strategy and budget assumptions; unrealistic strategy assumptions; failure to consider the elements of material impact on the financial standing of the bank in the strategy; failure to determine strategy accomplishment indicators and lack of monitoring
5.	Procedural deficiencies (outdated procedures frequently) for the risk management process, including for business risk and compliance risk, for example
6.	Lack of sufficient risk analysis, including reputation risk for new products and bancassurance products in particular, for example: offering of life insurance to clients who at the time of credit agreement conclusion did not satisfy the terms and conditions of full insurance coverage
7.	Ineffective compliance risk management by banks, visible in a large number of instances of breach of laws and internal regulations, instances of lack of that function independence; lack of at least annual assessment of that function effectiveness by the supervisory board
8.	Not fully effective internal control system as regards both the internal audit unit and controls; instances of failure to execute or untimely execution of internal audit recommendations indicating insufficient supervision of their execution process by the management board and audit committee/ supervisory board, failure to cover significant areas of business by internal audit (like presentation systems for the entities covered with the deposit guarantee scheme of BFG, for example)
9.	Lower quality of the management information system: insufficient scope of information for the management board and supervisory board or expert committees as regards the risk borne, untimely or incorrect information provision
10.	Instances of breach of laws, errors in the reports developed for the banking supervisor, insufficient scope of mandatory disclosures under KNF Resolution No 385/2008 amended by KNF Resolution No 259/2011

Source: in-house materials by KNF

When instances of breach of laws and prudential regulations as well as risk management-related irregularities were identified for a given bank, the said bank was required to develop and deliver to the KNF a detailed schedule of works to execute the Commission recommendations.

Fulfilment of post-inspection recommendations for banks is monitored as part of desktop analyses and is assessed during the follow-up as well as discussed with the bank management and the regulator of the bank's parent entity.

In 2012, the KNF developed:

- 67 opinions concerning post-inspection recommendations to commercial banks,
- data for inspections at 51 co-operative banks.

#### CONTROL ACTIVITIES AND PROCEEDINGS CONCERNING SUPERVISORY VALIDATION OF STATISTICAL CAPITAL CALCULATION METHODS<sup>17</sup> AND APPLICATIONS FOR APPROVAL OF DELTA RATIO CALCULATION USING IN-HOUSE OPTION VALUATION MODELS<sup>18</sup>

In 2012, there was 1 problem-oriented inspection performed so as to analyse a bank's application for approval of IRB approach application to calculate capital requirements for credit risk and 1 supplementary problem-oriented inspection for the IRB application. Further, 2 problem-oriented inspections were performed during the post-application phase<sup>19</sup> with the aim to verify satisfaction by banks of the terms and conditions arising from the AMA approach application approval issued.

In consequence of the activities, the KNF:

- rendered the position on the option to use the AMA approach without earlier bottom limitation of the capital requirement amount calculated using the statistical method for the requirement calculated under TSA,
- provided relevant consolidating entities with 2 opinions arising from the analysis of IRB approach applications and 1 opinion on verification of terms and conditions arising from the AMA approach application decision, and
- participated in the process of decision issue - based on the opinions provided by the KNF in 2011 and 2012 - by consolidating regulators for 3 banks.

In 2012, the KNF regularly co-operated with 6 consolidating supervision institutions and 7 banks as regards statistical methods in the pre-application and post-application phases. For the post-application phase, co-operation covered satisfaction of terms and conditions arising from the decision, implementation of subsequent phases of incremental rollout plan, actions arising from the changes to the ownership structure of entities which were earlier granted approval to use the statistical methods and other matters concerning change management for statistical methods.

Since 5 banks were applying statistical methods for regulatory purposes<sup>20</sup> in the year 2012 and bearing in mind the fact that in-house models were widely used to manage the risk inherent to banking activity and that there were no sufficiently specific formal requirements for data quality management available, the KNF took action to develop and present regulatory requirements, standards and expectations for the above areas.

For statistical methods, the main actions were to formalize the change management rules for the methods used for regulatory purposes. The regulatory requirements for changes to the IRB, AMA and VaR methods were considered in the revised resolution concerning bank capital adequacy<sup>21</sup> and the relevant expectations of the KNF were presented in the document "Guidelines - the process of supervisory validation of statistical methods application for capital requirement calculation". The rules presented agree with the results of works performed by EBA working groups to develop binding standards for changing statistical

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<sup>17</sup> As referred to in Article 128d of the Banking Law Act.

<sup>18</sup> As referred to in Article 128 section 3 of the Banking Law Act and §4.2 of Enclosure 2 with PFSA Resolution No 76/2010 (as amended).

<sup>19</sup> I.e., covering the actions performed after obtainment of approval (or conditional approval) to use the statistical method to calculate the capital requirement by the bank.

<sup>20</sup> 3 banks - IRB approach, 2 banks - AMA approach.

<sup>21</sup> PFSA Resolution No 76/2010 of March 10th 2010 (as amended) on the scope and detailed procedures for determining capital requirements for particular risks.

methods, in which the KNF employees participated actively. At the same time, the solutions proposed are discussed and agreed upon in the dialogue with European regulators.

In 2012, the concept of regulatory expectations for management of models used to measure risk was formulated. Its assumptions - taking into account the purpose of models (to be used for regulatory/ internal purposes) and the proportionality principle for their inherent risk - were presented to banks during the CEDUR seminar. Relevant works will continue in 2013.

The expectations for managing the quality of data used to measure risk were addressed during works on the revision of Recommendation D<sup>22</sup>, whose draft provides for the recommendations as to such aspects like data quality analysis, data cleaning process, improvement of controls and data quality monitoring, for example.

In 2012, the Commission issued 6 approvals to banks to calculate delta ratios using in-house option valuation models and resolved to dismiss the proceedings on one application in that respect.

## 5.2. INSURANCE SECTOR

### ON-SITE INSPECTIONS AT INSURANCE COMPANIES

In 2012, inspections were carried out at 15 insurance companies (including 6 inspections at life insurance companies and 9 in non-life insurance companies) with the aim of examining their activity and assets.

The inspections focused on 10 material aspects of the insurance companies' operations and for:

- management of the insurance company - 8 insurance companies were inspected,
- accounting policies and preparation of financial statements - 7 insurance companies were inspected,
- measurement of technical provisions - 5 insurance companies were inspected,
- claims handling procedures - 5 insurance companies were inspected,
- investment policies - 4 insurance companies were inspected,
- cost of insurance activities - 3 insurance companies were inspected,
- reinsurance activities - 1 insurance company was inspected,
- Unit-Linked Life Insurance Plans - 1 insurance company was inspected,
- insurance products - 1 insurance company was inspected, and
- insurance- and reinsurance-related settlements - 1 insurance company was inspected.

Three of the inspections mentioned above were comprehensive inspections covering the main areas of the insurance company's activity. The other inspections were problem-oriented and covered from one to four aspects.

**Table 55. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for management of the insurance company**

Management of the insurance company	
1.	Inconsistent internal regulations defining conduct of insurance activity
2.	Internal regulations at variance with the actual organisational framework of the insurance company
3.	Failure to revise the effective internal regulations of the insurance company
4.	Failure to observe internal regulations, in particular as regards internal control and internal audit

<sup>22</sup> Concerning IT management and safety of IT environment at banks.

	as well as the insurance business conducted, outsourcing business included
5.	Failure to adapt the internal control regulations to the scale of business of the insurance company and the size and profile of risk inherent to its activity
6.	Unlawful extension of supervisory board's powers
7.	Development of minutes from the management board and supervisory board meetings in breach of laws and internal regulations

Source: in-house materials by KNF

**Table 56. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for accounting policies and preparation of financial statements**

Accounting policies and preparation of financial statements	
1.	Failure to revise the effective accounting principles (policy) of the insurance company
2.	Lacking documents describing the accounting principles (policy) adopted by the insurance company
3.	Empowerment of the persons other than the management board to change the principles of measurement of liabilities without requisite liability assumption in writing
4.	Presentation of incorrect data in the financial statements for assets and liabilities
5.	Verification of correctness of measurement of assets and liabilities impossible

Source: in-house materials by KNF

**Table 57. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for measurement of technical provisions**

Measurement of technical provisions	
1.	Failure to revise the effective accounting principles (policy) of the insurance company as regards measurement of technical provisions
2.	Lacking documents describing the accounting principles (policy) adopted by the insurance company to measure technical provisions
3.	Measurement of technical provisions practices in breach with the accounting principles (policy) adopted by the insurance company as at the inspection date
4.	Use of incorrect data to measure technical provisions
5.	Presentation of incorrect data in the financial statements for technical provisions, including the "Gross technical provisions and reinsurer's share of technical provisions" form
6.	Use of incorrect methods to measure technical provisions
7.	Failure to consider the actual flow of the claims handling procedure for the claims reported in measurement of technical provisions
8.	Use of negative values to calculate technical provisions

Source: in-house materials by KNF

**Table 58. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for claims handling procedure**

Claims handling procedure	
1.	Incorrect performance of the claims handling procedure activities (making delayed payments, breaching disclosure obligations, not exercising due diligence to finalise the claims handling procedure promptly and taking decisions to accept/ reject the claim with delay)
2.	Failure to observe internal regulations, in particular as regards the claims handling procedure
3.	Defective internal regulations for outsourcing of claims handling procedure or failure to observe them

Source: in-house materials by KNF

**Table 59. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for investment policies**

Investment policies	
1.	Failure to observe internal regulations, in particular as regards investing

2.	Failure to revise the effective accounting principles (policy) of the insurance company as regards measurement of financial instruments
3.	Lacking documents describing the accounting principles (policy) adopted by the insurance company to measure financial instruments
4.	Verification of correctness of measurement of financial instruments impossible
5.	Unlawful measurement of financial instruments
6.	Presentation of incorrect data in the financial statements for measurement of financial instruments
7.	Incorrect development of investing-related forms for the financial statements

Source: in-house materials by KNF

**Table 60. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for cost of insurance activities**

<b>Cost of insurance activities</b>	
1.	Failure to revise the effective accounting principles (policy) of the insurance company as regards simplifications applied
2.	Lacking documents describing the accounting principles (policy) adopted by the insurance company, including the ones concerning: description of the rules of classification of events recorded in accounts dedicated to costs of insurance activities, description of principles used to determine their amount and measure acquisition costs recognised as assets
3.	Determination of the amount of acquisition costs recognised as assets in breach of the principles adopted for forming premium/ contribution provisions
4.	Presentation of incorrect data in the financial statements

Source: in-house materials by KNF

**Table 61. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for reinsurance activities**

<b>Reinsurance activities</b>	
1.	Irregularities in maintenance of the register of passive reinsurance agreements
2.	Lacking documents describing the accounting principles (policy) adopted by the insurance company, including the ones concerning principles of measurement of the reinsurer's share of technical provisions
3.	Failure to revise the effective accounting principles (policy) of the insurance company as regards the principles of measurement of reinsurer's share of technical provisions

Source: in-house materials by KNF

**Table 62. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for Unit-Linked Life Insurance Plans**

<b>Unit-Linked Life Insurance Plans</b>	
1.	Lacking documents describing the accounting principles (policy) adopted by the insurance company for division of other investing costs
2.	Incorrect presentation of Unit-Linked Life Insurance Plans figures in the financial statements

Source: in-house materials by KNF

**Table 63. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for insurance products**

<b>Insurance products</b>	
1.	Imprecise and implicit provisions of insurance agreements (as regards the principles used to determine collection of fees, principles to establish the buyback amount and the principles of payment determination, for example)
2.	Failure to include in the insurance agreements the provisions required by the law and, in particular, by Article 13 of the Act on Insurance Activity or imprecise provisions in that respect (concerning the dates of unit-linked life insurance plan units conversion into cash, the principles applied to determine costs and any other deductions from the unit-linked life insurance plan, for example)

**Table 64. Most frequent irregularities identified in the course of inspection activities at insurance companies in 2012 for insurance- and reinsurance-related settlements**

Insurance- and reinsurance-related settlements	
1.	Failure to institute the effective accounting principles (policy) of the insurance company as regards the principles for measurement of the amounts due from the insuring parties
2	Presentation of untrue figures in accounting books and the financial statements

Source: in-house materials by KNF

In 2012, there were 74 post-inspection recommendations issued in total for the 12 insurance companies inspected; they concerned bringing the business of the insurance company into line with the laws and discontinuing to breach the interests of the insuring parties, the insured, the beneficiaries, or the entitled under insurance agreements.

#### ON-SITE INSPECTIONS AT INSURANCE COMPANIES CONCERNING USE OF INSURANCE AGENTS

In the period covered by this report, there were 11 inspections carried at insurance companies with the aim of verifying the correctness of conduct of insurance intermediation activities by them as regards use of services of insurance agents, and in particular:

- observance by insurance agents of the requirement to perform insurance intermediation activities by natural persons satisfying the statutory requirements,
- observance of effective laws by insurance agents in their business,
- correctness of conclusion of insurance intermediation agreements,
- timely submission of the application for entering into the register of insurance agents of the entity wherewith the insurance intermediation agreement was concluded,
- timely submission of the application for register entry change or removal of the entity from the register,
- correctness of insurance agents-related data delivered to the regulator by the insurance company along with the application for entering the insurance agent into the register, agent data change in the register or agent removal therefrom,
- scope of training course and examinations for applicants for insurance agents, and
- complaints made by insurance agents.

As a result of inspections performed, in 1 case there occurred the conditions to issue post-inspection recommendations, due to breach of:

- Regulation of the Minister of Finance on provision of professional training for the persons performing agency activities or brokerage activities of July 4<sup>th</sup> 2005 (Dz. U. of 2004, No 124, item 1154, as amended) - due to lack of training certificates,
- Regulation of the Minister of Finance on applications for entry or change of entry in the register of insurance agents and the list of documents enclosed therewith of September 8<sup>th</sup> 2010 (Dz. U. from 2010, No 173, item 1170) - due to lack of documents for the persons performing intermediation activities,
- Article 41 section 1 of the Insurance Mediation Act of May 22<sup>nd</sup> 2003 (Dz. U. of 2003, No 124, item 1154, as amended) - due to failure to timely report changes to the data entered into the register of insurance agents,
- Article 42 section 1 of the Insurance Mediation Act of May 22<sup>nd</sup> 2003 (Dz. U. of 2003, No 124, item 1154, as amended) - due to failure to timely submit the application for removal of the insurance agent from the register of insurance agents.

Additionally, under Article 11 section 5 of the Insurance Mediation Act (Dz. U. of 2003, No 124, item 1154, as amended), the Polish Financial Supervision Authority performed 95 inspections concerning satisfaction of the duty to conclude a TPL insurance agreement due to performance of intermediation activities under one insurance branch for more than one

insurance company. In consequence, there were 62 irregularities identified, following failure to satisfy by the insurance agent the requirements under §3 of the Regulation of the Minister of Finance of June 23th 2005 (Dz. U. of 2005, No 122, item 1154, as amended).

## ON-SITE INSPECTIONS AT ENTITIES CONDUCTING BROKERAGE ACTIVITIES

In the period covered by this report, there were 15 on-site inspections performed for brokerage activities. These were primarily aimed at verifying whether the brokerage activities of the entity conducting brokerage activities were in compliance with the law and the licence obtained, and in particular:

- satisfaction of the requirements preconditioning licence obtainment and conduct of brokerage activities,
- agreements concluded with insurance companies, and
- conclusion of causing the conclusion of insurance agreements, preparatory activities for conclusion of insurance agreements and participation in insurance agreement management and performance as well as in claims handling proceedings and organisation and supervision of brokerage activities.

The most frequent irregularities identified are the following:

- training certificates did not satisfy all the formal requirements referred to in §5 of the Regulation of the Minister of Finance on provision of professional training for the persons performing agency activities or brokerage activities of July 4th 2005,
- failure to bring the brokerage activities into line with the requirements of Article 23 section 1 of the above Insurance Mediation Act, in particular performance of brokerage activities by the persons not satisfying the requirement set out in Article 28 section 3 item 1e of the Insurance Mediation Act, and
- untimely submission with the regulator of applications for changing the entry in the register of insurance brokers following a change to the data subject to registration for insurance brokers (Article 46 section 1 of the Insurance Mediation Act of May 22th 2003).

## 5.3. PENSION SECTOR

In 2012, there were 16 inspections performed at entities operating in the pension market, including 13 inspections at universal pension fund companies and open-end pension funds and 3 in custodian banks of open-end pension funds (one inspection was performed jointly by the pension and banking inspectors).

Inspections at pension companies and pension funds cover the following areas:

- organisation and management,
- internal control system, audit and risk management,
- investing policy of the pension fund company and the pension fund,
- agreements with shareholders, members of governing bodies and other group companies, other agreements,
- outsourcing of certain activities of pension funds and pension fund companies,
- accounting policies, accounting books, and preparation of financial statements,
- transfer of members as part of asset transfers between funds,
- maintenance of fund members' individual accounts,
- handling fund members' complaints, and
- post-inspection notifications.

**Table 65. Most frequent irregularities identified in the course of inspection activities at pension market entities in 2012 for organisation and management**

<b>Organisation and management</b>
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1.	Deficiencies in Management Board meeting minutes, in particular lack of signatures of the meeting attendees
2.	Incomplete Management Board compositions
3.	Management Board decisions of the form other than a resolution
4.	Failure to hold meetings by the Supervisory Board in the number required by the charter of the pension fund company
5.	Failure to elect the Board Chairperson and Secretary from among the Supervisory Board members
6.	Entrusting the Supervisory Board with the powers of the Audit Committee under the Management Board resolution
7.	Unlawful conduct of advertising business for third parties
8.	Delays in reporting relevant changes to and filing the financial statements with National Court Register by the pension fund company and the pension fund
9.	Delays in publication of the financial statements by the pension fund
10.	Failure to report to the regulator the amendments to the organisational regulations of the pension fund company

Source: in-house materials by KNF

**Table 66. Most frequent irregularities identified in the course of inspection activities at pension market entities in 2012 for investing policy of the pension fund company and the pension fund**

<b>Investing policy of the pension fund company and the pension fund</b>	
1.	Errors in the reports delivered to the supervisor
2.	Violation of interest of pension fund members by collecting too high broker's fees
3.	Keeping funds in zero-interest accounts by the pension fund

Source: in-house materials by KNF

**Table 67. Most frequent irregularities identified in the course of inspection activities at pension market entities in 2012 for agreements with shareholders, members of governing bodies and other group companies, other agreements**

<b>Agreements with shareholders, members of governing bodies and other group companies, other agreements</b>	
1.	Signing of agreements in breach of representation principles by the pension fund company
2.	Conclusion of agreements by the pension fund company and not the pension fund

Source: in-house materials by KNF

**Table 68. Most frequent irregularities identified in the course of inspection activities at pension market entities in 2012 for accounting policies, accounting books, and preparation of financial statements**

<b>Accounting policies, accounting books, and preparation of financial statements</b>	
1.	Failure to revise the effective accounting principles (policy) of the pension fund company and the pension fund
2.	Lacking documents describing the accounting principles (policy) adopted by the pension fund company and the pension fund
3.	Incorrect principles of offsetting income and costs of various kinds
4.	Failure to present in the balance sheet of the pension fund company of financial instruments in split into long-term and short-term ones
5.	Incorrect principles of presentation in the income statement of the pension fund company of selected costs at variance with the given item content

Source: in-house materials by KNF

**Table 69. Most frequent irregularities identified in the course of inspection activities at pension market entities in 2012 for transfer of members as part of asset transfers between funds**

<b>Transfer of members as part of asset transfers between funds</b>	
1.	Errors in developing the list of persons changing the pension fund at the time of the

	subsequent asset transfer
2.	Delays in communication of transfer to another pension fund to pension fund members
3.	Delays in calling for payment of the transfer fee due to the pension fund company
4.	Failure to pay the funds due to the former member spouse during the subsequent asset transfer
5.	Division of funds falling under the statutory joint property of spouses into the amounts other than provided for by the property division
6.	Failure to pay funds from the accounts of deceased pension fund members in case when the Social Insurance Institution (ZUS) transferred the overdue contributions
7.	Making payment outside the legal rationale
8.	Failure to advise pension fund members of the errors which occurred in transfer notices for conclusion of agreement with another pension fund

Source: in-house materials by KNF

**Table 70. Most frequent irregularities identified in the course of inspection activities at pension market entities in 2012 for maintenance of fund members' individual accounts**

<b>Maintenance of fund members' individual accounts</b>	
1.	Maintenance of accounts for persons wherefor the courts pronounced that they never concluded pension fund membership agreements
2.	Delays in sending notice of refusal to register the member with the Central Register of Open-end Pension Funds maintained by the Social Insurance Institution (ZUS)
3.	Delays in sending information on disappearance of reasons for refusal of member registration with the Central Register of Open-end Pension Fund Members maintained by the Social Insurance Institution (ZUS)
4.	Failure to keep by the pension fund in the bank account the funds in the amount corresponding to at least the equivalent of one monthly payment of periodical unit-linked annuities
5.	Maintenance in the register of pension funds of the untrue status despite reporting changes to the pension fund by the member
6.	Delays in reporting new members to the Social Insurance Institution (ZUS)
7.	Delays in providing pension fund members with the balance of their pension fund account
8.	Delays in sending to the Social Insurance Institution (ZUS) the information about the funds accumulated by the pension fund, persons who applied for periodical unit-linked annuity
9.	Errors in redeeming pension fund clearing units due to payment made
10.	Delays in making one-off cash payments from accounts of deceased pension fund members
11.	Delays in reimbursing the unduly collected fees by pension fund companies

Source: in-house materials by KNF

For the “**Post-inspection notifications**” area, in 2012 there were 4 cases reported wherefor the regulator declared that the pension fund company failed to notify or provided the notification which did not result in removal of the irregularity.

In 2012, there were 11 notices of irregularities identified issued for the pension market. 4 gross irregularities and 127 unqualified irregularities were reported in total.

## 5.4. CAPITAL MARKET

### ON-SITE INSPECTIONS AT INVESTMENT FIRMS, INVESTMENT FIRMS AGENTS AND BANKS PERFORMING ACTIVITIES UNDER ARTICLE 113 OF THE ACT ON TRADING IN FINANCIAL INSTRUMENTS

In 2012, there were 12 inspections performed for regulated entities conducting brokerage business or performing brokerage activities: brokerage houses and bureaus along with the organisational units (client service points and order acceptance points), branches of foreign investment firms conducting activity within conducting activity, investment firms agents and banks performing activities referred to in Article 113 of the Act on Trading in Financial Instruments of July 29th2005 (Dz. U. of 2010 No 211, item 1384, as amended). As part of

inspection of brokerage houses, selected branches of Polish investment firms conducting activity in the territory of the European Union member states were examined as well.

Inspections were problem-oriented inspections. They covered selected aspects of licenced operations or operations subject to notification in the territory of the Republic of Poland.

The inspections focused on the following material aspects of the investment firm's operations:

- organisational structures, functioning, and technical conditions of the operations conducted, in particular for foreign branches of Polish investment firms and maintenance of transaction platforms allowing for OTC market deals (in FX or commodity derivatives, for example),
- contact with clients procedure, including as regards the activities performed by investment firms agents and banks operating under Article 113 of the Act on Trading in Financial Instruments,
- functioning of the internal control system, system for supervision of compliance with the law and internal audit system,
- supervision by the investment firm of the business of the investment firm agent and bank operating under Article 113 of the Act on Trading in Financial Instruments, and
- provision of brokerage services.

The inspections of brokerage business covered both organised trading and deals made outside the organised trading.

The topics of individual inspections depended on the scope and size of the operations conducted, considering the events reported on the capital market in the area of provision of brokerage services.

Inspection findings showed instances of breach by inspected investment firms of:

- the Act on Trading in Financial Instruments of July 29th2005 (Dz. U. of 2010 No 211, item 1384, as amended),
- Regulation of the Minister of Finance on the procedures and terms of operations of investment firms, banks referred to in Article 70 section 2 of the Act on Trading in Financial Instruments and custodian banks of November 20th2009 (Dz. U. No 204, item1577),
- Regulation of the Minister of Finance regarding the detailed technical and organisational conditions set for investment firms, banks, referred to in Article70 section 2 of the Act on Trading in Financial Instruments, and custodian banks, likewise conditions of internal capital estimation by a brokerage house of November 23th 2009 (Dz. U. No 204, item 1579), and
- internal regulations of investments firms, regulations for provision of brokerage services and agreements concerning provision of brokerage services concluded by investment firms with clients.

**Table 71. Most frequent irregularities identified in the course of inspection activities in 2012 for organisational structure, functioning and technical conditions of conducting operations**

<b>Organisational structure, functioning and technical conditions of conducting operations</b>	
1.	Failure to ensure independence and autonomy as required by the laws for performance of duties entrusted under the internal control system, system for supervision of compliance with the law and internal audit system, coupled with insufficient performance of duties as set out for the above internal systems of the investment firm by the law
2.	Failure to perform correctly the duty to employ the minimum number of brokers in securities and investment advisors relative to provision of brokerage services
3.	Failure to continuously verify and assess the knowledge plus to upgrade qualifications of employees providing clients with brokerage services
4.	Failure to duly satisfy by investment firms the duties set out for conclusion and performance of agreements whereby an entrepreneur or a foreign entrepreneur is entrusted with performing brokerage business activities (the so-called outsourcing agreements) by the law

5.	Failure to duly perform the provisions of the Act on Trading in Financial Instruments by the investment firm agent under the intermediation agreement
6.	Conduct in breach of the laws concerning the technical and organisational solutions due to failure to protect the interests of clients and information being trade secret

Source: in-house materials by KNF

**Table 72. Most frequent irregularities identified in the course of inspection activities in 2012 for contact with clients**

<b>Contact with clients procedure</b>	
1.	Failure to duly satisfy the requirements of the law as regards development and use of assessment of adequacy of the brokerage service for the client
2.	Provision of brokerage services without verifying the adequacy of the brokerage service for the client, in particular as regards investment advisory service
3.	Conduct in breach of the laws due to providing clients or prospects with unreliable, causing doubt or misleading information to advertise or promote the services provided
4.	Failure to duly satisfy the requirements of the law as regards disclosure obligations in respect of clients due to provision of the brokerage service
5.	Failure to duly satisfy the requirements of the law due to insufficient communication to clients or prospects of the risk inherent to investing in financial instruments
6.	Failure to duly satisfy the requirements of the law as regards acceptance and transfer of cash and non-cash payments by the investment firm due to provision of the brokerage service

Source: in-house materials by KNF

**Table 73. Most frequent irregularities identified in the course of inspection activities in 2012 for provision of brokerage services**

<b>Provision of brokerage services</b>	
1.	Conduct in breach of the laws due to provision of brokerage services without the obligatory licence of the Polish Financial Supervision Authority
2.	Instances of breach of the laws due to acting without due diligence or unprofessionally, at variance with fair trading practices or at variance with the best interests of clients, in particular as regards provision of investment advisory service
3.	Failure to sufficiently supervise the activities performed by the investment firm agent by the investment firm
4.	Conduct in breach of the laws due to failure to keep clients' funds in the manner ensuring their exclusion at any time and failure to take action as may be indispensable to ensure that the client's funds-related data held by the investment firm are reliable, accurate and true

Source: in-house materials by KNF

As a result of the inspections performed, inspection recommendations were issued for all the 12 regulated entities.

## ON-SITE INSPECTIONS AT INVESTMENT FUND COMPANIES AND INVESTMENT FUNDS

In 2012, the inspection activities at investment fund companies and investment funds managed by them were performed under the law and uniform review standards.

In the period covered by this report, 8 inspections were carried out at investment fund companies and investment funds managed by them.

The inspections focused on the following material aspects of operations of investment fund companies and investment funds managed by them:

- organisational structure of investment fund companies,
- capital standing of investment fund companies,
- organisation and functioning of the internal supervision and control system of investment fund companies,
- organisation and functioning of assets measurement of investment funds,
- organisation and functioning of the process of satisfaction of disclosure obligations by investment fund companies and investment funds towards the Polish Financial Supervision Authority,

- organisation and functioning of the process of monitoring of investment funds' investment limits,
- organisation and functioning of the process of confidential data and trade secret protection,
- organisation and functioning of the management process for investment funds, including for the investing portfolio of the investment funds or its part, and
- organisation and functioning of the risk management process in the management process for investing portfolios of the investment funds.

The scope of individual inspections was determined by the scope and size of operations.

Inspection findings showed instances of breach of the following regulations:

- Act on Investment Funds of May 27th 2004 (Dz. U. of 2004 No 146, item 1546, as amended),
- Act on Trading in Financial Instruments of July 29th 2005 (i.e. Dz. U. of 2010 No 211, item 1384, as amended),
- Regulation of the Minister of Finance on internal control, registration of transactions concluded, counteracting occurrence of conflicts of interest and documentation of sources used to make investment decisions by an investment fund company March 4th 2009 (Dz. U. No 45, item 364),
- Regulation of the Minister of Finance on detailed accounting principles for investment funds (Dz. U. No 249, item 1859) of December 4th 2007,
- Regulation of the Minister of Finance on interim reporting and current information concerning activity and financial standing of investment fund companies and investment funds delivered by those entities to the Polish Financial Supervision Authority (Dz. U. No 156 item 1235) of September 1st 2009,
- Regulation of the Minister of Finance on procedures of operations of investment fund companies managing portfolios comprising one or more financial instruments or rendering investment advisory services (Dz. U. No 207, item 1595) of November 20th 2009, and
- Regulation of the Minister of Finance on concluding by an open-end investment fund of agreements concerning derivative instruments, including non-standard derivative instruments (Dz. U. No 17 item 87) of January 20th 2009.

**Table 74. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisational structure<sup>23</sup>**

<b>Organisational structure</b>	
1.	Failure to develop the Supervisory Board regulations by investment fund companies
2.	Failure to approve performance of certain activities by investment fund companies and investment funds managed by them by the Supervisory Board of the investment fund company
3.	Failure to develop the report of operations by the Management Board of the investment fund company

Source: in-house materials by KNF

**Table 75. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for capital standing**

<b>Capital standing</b>	
1.	Keeping own capital of investment fund company below the requisite minimum

<sup>23</sup>It should be noted that the irregularities identified in all areas were limited to the periods, objects of investment fund companies and investment funds managed by them being reviewed in the course of inspections carried out in the year 2012.

2.	Failure to consider reliable financial standing data in the monthly report of the investment fund company
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Source: in-house materials by KNF

**Table 76. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of the internal supervision and control system**

<b>Organisation and functioning of the internal supervision and control system</b>	
1.	Failure to perform internal audits, including failure to perform regular internal audits as scheduled
2.	Failure to disclose instances of breach of law by the internal audit unit
3.	Failure to ensure exclusion of the compliance inspector from participation in performance of activities in the scope of the internal control exercised by them
4.	Failure to keep correctly the books of procedures, records of archive use, records of transactions made, the register of complaints, the register of internal audits and the internal supervision performance report
5.	Failure to deliver the internal supervision performance report to the Management Board of the investment fund company
6.	Failure to file correctly the declarations required under effective internal regulations of the investment fund company
7.	Failure to exclude within the internal organisational framework of the investment fund company of a certain person to participate in taking investment decisions
8.	Failure to consider the disclosure obligations and the duties of prevention of breach of statutory duties by the investment fund company and the investment funds managed by them in the scope of responsibilities of the internal audit unit
9.	Failure to ensure for the certain employee of the investment fund company relevant powers, measures and access to any and all indispensable items of information and rooms
10.	Failure to satisfy by the supervision inspector remuneration system the condition of objectivity, including failure to establish the direct legal relationship between the investment fund company and the supervision inspector
11.	Failure to duly supervise the complaint handling process and protect the data kept in the archives against unauthorised access
12.	Failure to correctly archive certain documents as required by the law
13.	Failure to evidence the sources used to take investment decisions

Source: in-house materials by KNF

**Table 77. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of assets measurement of investment funds**

<b>Organisation and functioning of assets measurement at investment fund companies</b>	
1.	Failure to correctly measure assets of investment funds, including failure to correctly evidence the same
2.	Failure to act to the benefit of investment funds participants due to failure to ensure for investment fund companies influence on verification of measurement of assets of investment funds or timely delivery of assets measurements
3.	Failure to consider in the accounting of investment funds all the documents required under the law
4.	Failure to agree with the depositary upon the measurement methods and models
5.	Failure to provide the depositary with documents for accounting of investment funds at statutory timelines
6.	Failure to correctly run the register of investment certificates
7.	Failure to develop the private assets measurement model designed by an independent unit rendering measuring services

Source: in-house materials by KNF

**Table 78. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of the process of satisfaction of disclosure obligations by investment fund companies and investment funds towards the Polish Financial Supervision Authority**

<b>Organisation and functioning of the process of satisfaction of disclosure obligations by investment</b>	
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<b>fund companies and investment funds towards the Polish Financial Supervision Authority</b>	
1.	Failure to report investment limit overruns
2.	Failure to timely deliver current reports, monthly and quarterly reports or interim and annual consolidated financial statements
3.	Failure to correctly develop the periodical and current reports
4.	Failure to keep receipts of acknowledgement for monthly reports

Source: in-house materials by KNF

**Table 79. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of the process of monitoring of investment funds' investment limits**

<b>Organisation and functioning of the process of monitoring of investment funds' investment limits</b>	
1.	Failure to continuously monitor overruns and investment limits adjustments
2.	Failure to observe investment limits
3.	Failure to conduct business focusing on the interest of investment funds participants due to failure to observe investment risk limitation principles and to agree on operating procedures
4.	Failure to immediately adjust the balance of assets of investment funds to the statutory requirements

Source: in-house materials by KNF

**Table 80. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of the process of confidential data and trade secret protection**

<b>Organisation and functioning of the process of confidential data and trade secret protection</b>	
1.	Failure to observe internal regulations as regards prevention of confidential data disclosure and failure to supervise observance of the said regulations
2.	Failure to supervise flow of information being trade secret, protect it against access and failure to take measures to prevent its use by the obliged persons in the manner contrary to the law or effective internal regulations
3.	Failure to protect access to confidential data and information being trade secret
4.	Failure to act to the benefit of investment funds participants due to failure to provide final and complete documents relating to fund operations

Source: in-house materials by KNF

**Table 81. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of the management process for investment funds, including for the investing portfolio of the investment funds or its part**

<b>Organisation and functioning of the management process for investment funds, including for the investing portfolio of the investment funds or its part</b>	
1.	Failure to define the methodology used to determine option exercise probability
2.	Failure to employ investment advisors in the number required by the law
3.	Failure to manage certain investment funds in the manner involving investment advisors
4.	Failure to observe the law and internal regulations when taking and executing investment decisions, and also when co-operating with the transfer agent
5.	Failure to consider the interest of certain investment funds participants, including failure to observe investment risk limitation principles set out by the law, due to incorrect management of funds and subsequent transfer of the compensation for the losses incurred by participants under the transactions of purchase and repurchase of participation units made without considering the rise in those units' price
6.	Failure to provide the depository with revised internal regulations for taking investment decisions and risk monitoring

Source: in-house materials by KNF

**Table 82. Most frequent irregularities identified in the course of inspection activities at Investment Fund Companies in 2012 for organisation and functioning of the risk**

management process in the management process for investing portfolios of the investment funds

Organisation and functioning of the risk management process in the management process for investing portfolios of the investment funds	
1.	Failure to implement the risk management system, including failure to implement and observe internal risk management regulations and failure to adjust the same to the actual state of affairs
2.	Failure to observe internal regulations for risk management-related organisational matters
3.	Failure to consider the interest of investment funds participants due to failure to monitor and measure the risk of deposits and the risk of investment funds' investing portfolios

Source: in-house materials by KNF

As a result of the inspections performed in 2012 at investment fund companies and investment funds managed by them, post-inspection recommendations were issued for all entities in that category.

## 5.5. INSPECTION REGARDING FULFILMENT OF OBLIGATIONS RELATED TO PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

Chapter 6 of the *Act on Counteracting Money Laundering and Financing of Terrorism* of November 16th 2000 (*Dz. U. of 2010 No 46, item 276, as amended*), hereinafter referred to as the Act, provides for the KNF's right to carry out inspections of the regulated entities.

Under Article 21 section 3 item 2 of the Act, the KNF exercises control over the discharge of obligations arising under the anti-money laundering and terrorism financing regulations by the obligated institutions, either as part of its supervisory or control functions in the manner and on the terms set out in separate regulations. The obligated institutions controlled by the KNF include entities of the banking sector, insurance sector in the aspect of life insurance, capital sector, credit unions (since October 27th 2012) as well as payment services institutions and offices.

Being the financial market supervisor, the KNF in co-operation with the Ministry of Finance participated in each phase of the evaluation process made by the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The process covered examination of compliance of the Polish system of combatting money laundering and financing of terrorism with the international standards. The KNF arranged and handled in formal and professional terms meetings with evaluators, held to discuss with the team directly responsible for the issues relating to combatting money laundering and financing of terrorism, and also employees of organisational units responsible for licencing the financial market entities. The evaluation report will be presented at the Moneyval meeting in April 2013.

**Table 83. Inspection activities performed by the KNF at regulated entities in 2012 for prevention of money laundering and financing of terrorism**

Inspection activities	Number
– inspections at commercial banks	13
– inspections at co-operative banks	11
– inspections at brokerage houses	6
– inspections at investment fund companies	6
– inspections at life insurance companies	10
– investigations proceedings at a credit institution branch	1
<b>Total</b>	<b>47</b>

Source: in-house materials by KNF



Inspection activities focused on verification of effectiveness of functioning of the system for prevention of money laundering and financing of terrorism in regulated entities, and also compliance of their operations with the law.

**Table 84. Most significant and most frequent irregularities identified in the course of inspection activities in 2012 r for prevention of money laundering and financing of terrorism**

<b>Prevention of money laundering and financing of terrorism</b>	
1.	Single cases of failure to register transactions subject to registration
2.	Failure to analyse transactions for money laundering on an ongoing basis
3.	Deficiencies in identification and verification of the ultimate beneficial owner's identity
4.	Incorrect definition of the client geographical risk criterion
5.	Failure to verify the database of clients after each change of the sanctions lists by the European Unions
6.	For correspondent relationship establishment - failure to satisfy the duties of: assessment of measures used by the correspondent to prevent money laundering and financing of terrorism, development of documents specifying the scope of responsibility of each entity, lack of management board's or management board member's approval of relationship establishment
7.	Failure to complete or incorrect completion of fields in the register of transactions
8.	Transaction registration with delay
9.	Registration as related transactions the transactions wherefor there is no evidence that they were divided into operations of lower amounts so as to avoid the registration duty
10.	Registration and delivery to the General Inspector of Financial Information (GIFI) of the information about transactions exempted from that duty under Article 8 section 1 item 6 of the Act
11.	Registration and reporting to GIFI of transactions as suspicious transactions without analysis of the conditions indicating that they could be linked with money laundering and financing of terrorism
12.	Delayed delivery to GIFI of information about the transactions registered under Article 8 section 1 item 3 of the Act

Source: in-house materials by KNF

In connection with the identified irregularities, the KNF issued post-inspection recommendations for 46 entities. Fulfilment of recommendations was monitored on an ongoing basis, with the use of the reports delivered by the entities and during follow-up inspections. In keeping with Article 21 section 4 of the Act, GIFI was informed about the results of the reviews made.

Further, there were analytical activities performed as an element of prevention of money laundering and financing of terrorism. These consisted in analysis of internal procedures of 24 entities from the banking and capital market. The quarterly reports of banks concerning delivery of information about suspicious transactions to GIFI were analysed. Moreover, independently from the above activities, the KNF was also developing positions on the matters concerning prevention of money laundering and financing of terrorism, including responses to financial institutions' enquiries.

As in previous years, the KNF continued co-operation with GIFI as regards:

- mutual transfer of results of inspections carried out at obligated institutions,
- provision opinion on the positions on performance of statutory duties, and
- participation in workshops.

## 6. REGULATORY AND PRUDENTIAL TASKS

The key regulatory and prudential regime tasks which were completed in 2012 included the preparation of the Commission resolutions and prudential recommendations.

### 6.1. RESOLUTIONS OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

In 2012, the Polish Financial Supervision Authority adopted the following resolutions:

**Resolution No 172/2012 of the Polish Financial Supervision Authority of June 19th 2012 amending the resolution on the scope and detailed rules for determining capital requirements for particular types of risk.**

The Resolution was amended:

- following the modified supervisory practice and the changes caused by implementation of EBA GL45 guidelines for AMA and the needs to make analogical changes for IRB and VaR approaches, aimed at revising and organising the regulations for the content of the applications for approval to use the internal ratings-based approach (IRB), the value-at-risk method (VaR) and advanced measurement approach for operational risk (AMA),
- to ensure consistent approach to the duty to comply by the bank with the requirements as applicable for IRB approach, VaR method, mixed method and AMA approach as well as the procedure in case a bank no longer satisfies the application requirements for those models,
- following the revision of the Resolution No 208/2011 of August 22nd 2011 on detailed rules and conditions for considering exposure when determining the observance of the exposure concentration limit and the large exposure limit- incorporation of the new title of the resolution,
- for use of delta ratios calculated using in-house option valuation models - to organise the regulations for the content of the applications filed with the KNF in that connection, in particular,
- to fully implement the more rigorous capital requirements for FX housing-backed exposures in default,
- as to determination of the change procedure for the applied IRB, AMA or VaR method.

**Resolution No 173/2012 of the Polish Financial Supervision Authority of June 19th 2012 amending the resolution on the detailed rules and conditions for taking account of exposure when determining compliance with the limit of exposure concentration and the limit of large exposures, and amending the resolution on the requirements for identifying, monitoring and controlling exposure concentrations, including large exposures.**

The Resolution amends the Resolution No 208/2011 of the Polish Financial Supervision Authority on detailed rules and conditions for considering exposure when determining the observance of the exposure concentration limit and the large exposure limit. The Resolution introduced changes in response to the need to perform the activities whereby the Polish banking sector would be prepared for the planned regulatory changes following implementation of the new EU regulations: CRR/CRD IV.

**Resolution No 307/2012 of the Polish Financial Supervision Authority of November 20th 2012 amending the Resolution on the scope and detailed rules for determining capital requirements for particular types of risk.**

The Resolution extends the applicability period for the regulations on the calculation of the total capital requirement benchmark for the year 2013 so as to ensure continuity of those regulations application, also included in the proposal for a regulation of the European

Parliament and of the Council *on prudential requirements for credit institutions and investment firms (CRR)*. Previously, the regulations were effective until December 31st 2012. The period was extended versus the one set out in the Directive 2006/48/EC, since the effective date for CRR was planned for January 1st 2013. The works on the CRR regulations have not finished yet and, in consequence, their final effective date will be later than initially assumed.

### **Resolution No 312/2012 of the Polish Financial Supervision Authority of November 27th 2012 on the mode of exercising supervision over banking activity.**

The Resolution provides for the following changes in particular, it:

- specifies the legal grounds for the resolution concerned,
- incorporates the new organisational framework of the Polish Financial Supervision Authority ,
- expands the scope of supervision over banking activity set out in the draft resolution by the Act of November 16th 2000 on Counteracting Money Laundering and Terrorism Financing, among others,
- defines the manner and scope of procedure of the KNF for candidates for custodians or members of the receivership administration of banks, and also defines the requirements set for such candidates,
- defines the procedure when the Polish Financial Supervision Authority resolves to suspend the banks' activity and appoint receivership administration,
- defines the procedure for the validation proceedings.

## **6.2. RECOMMENDATIONS OF THE POLISH FINANCIAL SUPERVISION AUTHORITY**

### **RECOMMENDATION J**

In 2012, the Polish Financial Supervision Authority adopted the Recommendation J concerning the principles of gathering and processing real estate data by banks.

Recommendation J provides the guidelines for creating and using external (interbank) real estate market databases by banks, which would contribute to improved risk management market standards for mortgage-backed credit exposures.

The main changes made to the amended Recommendation J encompass: recommendation of uniform standards for gathering, processing and making available real estate market data in reliable databases, description of the set of characteristics identifying real estates which should be gathered in the base and recommendation of use of statistical models to assess the risk of change in value of real estate-based collateral for the banks with significant mortgage-backed exposures.

### **CONSULTATIONS ON AMENDING THE RECOMMENDATION M**

In 2012, the KNF presented for consultation the draft of the new Recommendation M concerning operational risk management at banks. The amendment was aimed at systemising and popularising the best operational risk management practices among all banks, regardless of their structural complexity and processes, considering the proportionality principle.

Recommendation M was finally adopted by the Polish Financial Supervision Authority at the meeting on January 8th 2013. The main changes made to the Recommendation M encompass:

- harmonisation of the terminology used for operational risk management, including addition of definitions of the risk management policy and strategy, key and critical processes, operational risk profile or risk tolerance/ approval, among other terms,

- introduction of the document framework by dint of which subsequent stages of the operational risk management process are discussed in accordance with the best international practices, including the guidelines of the Basel Committee on Banking Supervision and the European Banking Authority (EBA),
- specification of the role of the bank management board and supervisory board as far as the operational risk management strategy is concerned and specification of the guidelines concerning duties of bank bodies as regards establishment of the operational risk management policies and procedures, including general principles of operational risk measurement (assessment), internal control organisation and compliance risk guidelines,
- putting emphasis on the need to have by the bank the structure, processes and resources adequate for scale and complexity of operations, enabling the bank to manage the operational risk in an effective manner,
- indication of the need to define the risk mitigation measures which are taken conditional on the defined operational risk versus the risk tolerance/ appetite accepted by the supervisory board,
- definition of the compliance risk expectations for development of new business models or new products - drawing attention to the fact that the products developed should not be oriented at evading the universal laws,
- indication of the need to apply compliance risk control solutions for clients and transactions such as lists of business partners wherewith the bank does not intend to establish co-operation, providing for the business partners from the countries of unclear legal and political situation, supporting terrorism, subject to sanctions, etc. or the business partners whose operations may be contradictory to the universal laws,
- specification of recommendations aimed at limiting operational risk information asymmetry for the bank and its environment - strengthening the market discipline by requiring disclosure of the information about operational losses for a given category and the remedies instituted in that connection in the annual capital adequacy-dedicated publications of banks,
- formulation of recommendations for reporting data quality control, including the quality of data used in the risk management process.

The KNF expects that the recommendations will have been implemented by June 30th 2013 at the latest, save for the recommendation under item 17.3 which should have been implemented by December 31st 2013 at the latest.

## CONSULTATIONS ON AMENDING THE RECOMMENDATION D

In 2012, the draft of the new Recommendation D concerning management of IT areas and IT environment safety at banks was presented for consultation. The amendment was aimed at improving IT management quality and safety level at banks as well as streamlining supervision over these areas. The amendment was dictated by a far-reaching development of IT technologies, constant increase of banks' dependence on the IT solutions used and the fact that more than 10 years elapsed since the publication of the Recommendation D effective to date. The Recommendation was adopted by the Polish Financial Supervision Authority at the meeting on January 8th 2013.

When compared with its previous version, the new Recommendation D was expanded with the provisions concerning data management (data quality included), principles of co-operation of business and technology areas, management information system for IT and IT safety areas and cloud computing, among other aspects. The expectations for such domains as for example: strategic planning in IT and IT environment safety areas, implementation of new IT solutions and modification of existing ones, co-operation with external service providers, and also IT environment safety risk management were revised and specified. Much emphasis was placed on the proportionality principle in the recommendations.

The KNF expects that the recommendations will have been implemented by December 31st 2014 at the latest.

## CONSULTATIONS ON AMENDING THE RECOMMENDATION T

In 2012, the KNF presented for consultation the draft of the new Recommendation T concerning best practices related to managing risk under retail loan exposures. The primary objective of the recommendation was to make the banks' approach to retail lending more flexible. The effects of its implementation will be continuously monitored for their impact on the situation of the banking sector.

Recommendation T was finally adopted by the Polish Financial Supervision Authority at the meeting on February 26th 2013. The main changes made to the Recommendation T encompass:

- separation of the content of the Recommendation T from Recommendation S,
- addressing with the Recommendation T directly all banks subject to the Polish laws and credit institution branches operating in Poland,
- discontinuance by the KNF to determine the maximum debt-to-income (Dtl) ratio; the Dtl ratio should be determined by the bank management board and defined in the risk management strategy approved by the bank supervisory board,
- introduction of the option to apply the short-track procedure for client creditworthiness assessment; a bank may apply the short-track procedure for the following exposures granted to retail clients:
  - instalment-based cash loans and credits wherefor the credit or cash loan amount does not exceed the fourfold average remuneration in the enterprise sector,
  - cash loans and credits:
    - to clients with at least 6-month history of co-operation with bank, wherefor the credit or cash loan amount does not exceed the sixfold average monthly remuneration in the enterprise sector,
    - to clients with at least 12-month history of co-operation with bank, wherefor the credit or cash loan amount does not exceed the twelvefold average monthly remuneration in the enterprise sector,
    - to other clients wherefor the credit or cash loan amount does not exceed the average remuneration in the enterprise sector,
- explicit indication of the need to always use the external databases - and in particular the interbank databases built by the institutions which under Article 105 section 4 of the Banking Law Act are authorised to gather, process and make available information like the amount and history of repayment of credit liabilities by retail clients - by the banks for retail client creditworthiness assessment; the significance of using by banks the information rendered available by credit reference agencies was also emphasized in the recommendation,
- making of the requirements for FX credit exposure extension and management more stringent,
- underlining in the client relationship area of the need for the bank to have written internal procedures defining the form and scope of information provided to each client applying for a retail loan under the Consumer Credit Act; for FX loans - retention of the recommendations stating that the bank should ensure adequate information for the client as regards the exposure-related risk and its impact as well as on impact of FX spread on the amount of the loan provided and repaid; additionally, there was a recommendation introduced that from a client applying for a retail credit exposure the bank should obtain in writing a statement confirming that:
  - the client received the information from the bank as may be needed to take a decision on the loan drawn,
  - the client received from the bank explanations to his or her doubts,
  - the client is aware of the risk related to the loan drawn.

The KNF that the recommendations will have been implemented by July 31st 2013 at the latest.

## CONSULTATIONS ON AMENDING THE RECOMMENDATION S

The KNF presented for public consultation the draft of the amended Recommendation S concerning best practices in managing mortgage-backed credit exposures.

The Recommendation took account of the FX lending-related recommendations of the European Systemic Risk Board (or ESRB), the recommendations of the National Bank of Poland, the Basel Committee on Banking Supervision, and also the recommendations of other organisations and collective bodies responsible for financial system stability matters on the international scale. In the course of drafting the regulatory changes, the regulatory solutions and international practices were reviewed. Some of them were considered when the final Recommendation was formulated.

The regulatory activities are aimed at ensuring high quality of lending generated by banks, which is in the interest of not only banks, but also of all other real estate market participants and economy on the whole.

## 6.3. GUIDELINES AND POSITIONS OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

### GUIDELINES - SUPERVISORY VALIDATION OF STATISTICAL METHODS FOR CAPITAL REQUIREMENTS CALCULATION

Since banks had to be presented the procedure for supervisory validation of statistical methods of capital requirement calculation (IRB - credit risk, AMA - operational risk and VaR - market risk), the KNF published a document "Guidelines - Supervisory Validation of Statistical Methods for Capital Requirement Calculation". The need arose from the fact that the process is complex and that the number of both banks planning to introduce statistical methods to calculate capital requirements and the banks that obtained the method use approval is systematically growing.

The document outlines the expectations of the KNF for the procedure applicable to individual validation review stages, considering the need to ensure the conditions for efficient and transparent supervisory review, both in the stages before approval of statistical methods use for regulatory purposes and when the solutions approved earlier are modified.

### KNF STAND ON FINANCIAL INSTITUTIONS' DIVIDEND

On November 27th 2012, the Polish Financial Supervision Authority took a stand on the rules regarding 2013 dividend policy of banks, insurance and reinsurance companies, universal pension fund companies, investment fund companies and brokerage houses for the year 2012.

The KNF recognized that with the increased risk environment still in place, which particularly takes the form of current situation on global financial markets and economic growth forecasts, there is still the need to continue the policy of strengthening the capital base of financial institutions in Poland as their basis for stability, security and further development.

For example, banks were recommended that dividends be paid out only by those banks which satisfy all the following criteria:

- solvency factor over 12%;
- Tier 1 coefficient over 9%;

- solvency factor forecast for the late 2013 in the stress test scenarios (base, shock I and shock II) over 12%;
- forecast Tier 1 coefficient for the late 2013 in the stress test scenarios (base, shock I and shock II) over 9%;
- supervisory review and assessment for capital level above 2.5;
- supervisory review and assessment for capital adequacy above 2.5;
- general supervisory review and assessment above 2.5.

Banks that don't meet one or more of the above listed criteria shall be obliged to retain 100% of profit made in 2012.

Other banks are entitled to pay dividends. To ensure secure and stable operation of banks, the KNF made it a rule to recommend banks that they should pay 2012 dividends not higher than 75 per cent of their profits (so in their case the level of expected retained profit amounts at least to 25% of profit made in 2012).

Each sector received recommendations in the letter from the KNF Chairman.

#### POSITION ON PROVIDING INVESTMENT ADVISORY SERVICES BY INVESTMENT FIRMS

In 2012, the KNF developed a material: *Position on providing investment advisory services by investment firms (hereinafter: Position)*. When confronted with an array of financial instruments to choose from, the entities taking investment decisions, and retail clients in particular, frequently are not able to assess on their own which instruments are adequate for them from the viewpoint of their needs and individual situation. As a result, when investing in a given financial instrument based on the recommendation provided by the entities supervised in the investing domain, clients do so trusting that the recommendation was developed in reliable manner, with due diligence and considering his or her best understood interest.

The *Position* formulated by the KNF is to clarify to the entities conducting or intending to conduct brokerage activity in that respect the aspects relative to the specified brokerage activity and focus especially on the question of correct procedure in the light of the existing legal conditions.

Besides clarification as to understanding of individual legal regulations, based on the market practice observance, there were also developed actual investment advisory cases along with their legal qualification. The KNF is of the opinion that such a formula of position presentation makes it possible for investment firms to apply it to the maximum degree in their daily routine.

#### IMPLEMENTATION OF ESMA GUIDELINES

The KNF participated in implementation on the domestic capital market of the interpretation guidelines adopted by the European Securities and Markets Authority (or the ESMA), concerning the Systems and controls in an automated trading environment for trading platforms, investment firms and competent authorities, Guidelines on certain aspects of the MiFID compliance function requirements and Guidelines on certain aspects of the MiFID suitability requirements. The KNF conducted consultations with market representatives on application of the first from the above-referred Guidelines.



## 7. OTHER ACTIVITIES

### 7.1. MEASURES TAKEN TO COUNTERACT FINANCIAL MARKET ABUSE

#### EXPLANATORY AND ADMINISTRATIVE PROCEEDINGS RELATED TO SUPERVISION OVER THE FINANCIAL MARKET

In 2012, r. the KNF conducted explanatory proceedings for 13 cases in order to determine whether there were grounds for filing a notification of a suspected offence concerning offences specified in the acts regulating the financial market in Poland, or for instigating administrative proceedings concerning violation of the law, to the extent falling within the scope of the KNF's supervision. The proceedings pertained to:

- manipulation involving a financial instrument- 1,
- failure to discharge or improper discharge of disclosure obligations - 1,
- execution of transactions during restricted periods - 1,
- failure to disclose the fact of holding public company shares - 5,
- failure to announce a subscription for sale or conversion of public company shares -1,
- manipulation involving a financial instrument and improper recommendation development - 1,
- failure to discharge or improper discharge of disclosure obligations being notice of intention to sell shares of the Investment Fund Company - 1, and
- issue of bonds in breach of the requirements set out in the law and unauthorised cash accumulation - 2.

In 2012, the KNF conducted administrative proceedings for 108 cases concerning the following acts of law:

- Act on Trading in Financial Instruments - 19,
- Act on Public Offering - 51,
- Act on Investment Funds - 7,
- Act on Insurance Activity - 4,
- Act on Compulsory Insurance, Insurance Guarantee Fund and Polish Motor Insurers' Bureau - 16,
- Act on Organisation and Functioning of Pension Funds - 3,
- Act on Insurance Intermediation - 4,
- other - 4.

The administrative proceedings conducted concerned:

- manipulation involving a financial instrument (Article 39 of the Act on Trading in Financial Instruments) - 2,
- execution of a transaction on involving issuer's shares during a restricted period (Article 159 of the Act on Trading in Financial Instruments) - 4,
- failure to notify or improper notification of transactions of persons being members of the management or supervisory bodies of the issuer or being holders of a commercial power of attorney (Article 160 of the Act on Trading in Financial Instruments) - 1,
- failure to discharge or improper discharge of disclosure obligations by the issuer (Article 56 of the Act on Public Offering and Article 56 and Article 57 of the Act on Public Offering) - 24,
- failure to discharge or improper discharge of duties concerning significant holdings of shares (Article 69 of the Act on Public Offering and Article 69 in conjunction with Article 87 of the Act on Public Offering) - 16,



- failure to discharge or improper discharge of duties concerning significant holdings of shares and acquisition of issuer's shares outside the call announcement required by the law (Article 69 and Article 72 or Article 73 of the Act on Public Offering) - 3,
- failure to discharge or improper discharge of duties concerning acquisition of issuer's shares outside the call announcement required by the law (Article 74 of the Act on Public Offering) -1,
- failure to discharge duties concerning significant holdings of shares within the statutory timelines (Article 70 of the Act on Public Offering) -1,
- imposition of fines on issuer's management board members due to a gross violation by the issuer of Article 56 of the Act on Public Offering (Article 96 section 6 of the Act on Public Offering) - 6
- failure to notify promptly of selection of the qualified auditor (Article 212 section 1 item 2 in conjunction with Article 170 section 2 of the Act on Insurance Activity) - 3,
- failure to notify of the intention to acquire shares or rights of the domestic insurance company in the number providing for exceeding 10% of the total number of votes at the general meeting or the share in the share capital (Article 35 section 1 of the Act on Insurance Activity), case dismissal - 1,
- refusal to convene the Extraordinary General Meeting of the Insurance Company as moved for by a shareholder (Article 399 section 1 item 1 in conjunction with Article 400 section 1 of the Commercial Companies Code) - 1,
- irregularities being instances of breach of law relative to the operations of investment funds and investment fund companies (Article 228 of the Act on Investment Funds, secondary legislation thereto) - 6,
- breach of law relative to the planned sale of company shares (Article 57 section 1 of the Act on Investment Funds) -1,
- breach of law by a pension fund company (Article 204 of the Act on Organisation and Functioning of Pension Funds) - 1,
- irregularities in investment operations (Article 139 of the Act on Organisation and Functioning of Pension Funds) - 2,
- failure to meet the deadline for the claims handling procedure (Article 14 of the Act on Compulsory Insurance) -13,
- breach of disclosure obligations towards the Insurance Guarantee Fund (Article 102 and Article 105 of the Act on Compulsory Insurance) - 3,
- improper supervision over the performance of the organisational unit under control (Article 126 of the Act on Trading in Financial Instruments, internal regulations of an investment firm) - 2,
- disclosure of confidential information being trade secrets at the same time (Article 156 section 2 item 1 of the Act on Trading in Financial Instruments, Article 159 section 1 item 2 of the Act on Public Trading in Securities, Article 148 section 1 of the Act on Trading in Financial Instruments, internal regulations of an investment firm) - 4,
- unauthorised action on the client's account (breach of provisions of the secondary regulation with the Act on Trading in Financial Instruments) -1,
- irregularities relative to brokerage operations of investment firms being in breach of the law, fair trade rules and principal's interests (Article 167 of the Act on Trading in Financial Instruments) - 5,
- irregularities relative to breach of law due in brokerage operations (Article 22 section 1 or Article 46 section 1 of the Act on Insurance Intermediation of May 22nd 2003) - 4
- other cases (cancellation of the administrative fine or its division into instalments - Article 67a of the Act on Tax Statute) - 3.

In 2012, the KNF conducted administrative proceedings for 65 cases remitted for reconsideration upon a party's request in respect of the following acts of law

- Act on Public Offering - 34,
- Act on Trading in Financial Instruments - 10,

- Act on Insurance Activity - 3,
- Act on Compulsory Insurance, Insurance Guarantee Fund and Polish Motor Insurers' Bureau - 4,
- Act on Investment Funds - 3,
- other - 11.

The administrative proceedings conducted concerned:

- manipulation involving a financial instrument (Article 39 of the Act on Trading in Financial Instruments) - 1,
- execution of a transaction on involving issuer's shares during a restricted period (Article 159 of the Act on Trading in Financial Instruments) - 2,
- failure to discharge or improper discharge of disclosure obligations by the issuer (Article 56 of the Act on Public Offering) - 15,
- improper recommendation development (Article 42 section 1 and Article 42 section 2. of the Act on Trading in Financial Instruments) - 1,
- failure to discharge or improper discharge of duties concerning significant holdings of shares (Article 69 of the Act on Public Offering and Article 69 in conjunction with Article 87 of the Act on Public Offering) - 8,
- failure to discharge or improper discharge of duties concerning significant holdings of shares and acquisition of issuer's shares outside the call announcement required by the law (Article 69 and Article 73 of the Act on Public Offering) - 1,
- failure to discharge duties concerning significant holdings of shares within the statutory timelines (Article 70 of the Act on Public Offering) - 2,
- imposition of fines on issuer's management board members due to a gross violation by the issuer of Article 56 of the Act on Public Offering (Article 96 section 6 of the Act on Public Offering) - 7,
- failure to discharge or improper discharge of disclosure duties relative to delayed information publication (Article 57 section 3 of the Act on Public Offering) - 1,
- irregularities relative to brokerage operations of investment firms being in breach of the law, fair trade rules and principal's interests (Article 167 of the Act on Trading in Financial Instruments) - 2,
- disclosure of confidential information (Article 156 section 2 item 1 of the Act on Trading in Financial Instruments) - 2,
- insider trading (Article 156 section 1 item 1d of the Act on Trading in Financial Instruments) - 2,
- breach of law relative the planned acquisition of company shares (Article 54 of the Act on Investment Funds) - 1,
- failure to notify of the intention to sell company shares (Article 57 section 1 of the Act on Investment Funds) -1,
- failure to ensure calculation of the amount of net assets and the value of the fund participation unit in accordance with the law (Article 72 section 1 item 4 of the Act on Investment Funds) - 1,
- breach of provisions of the law, charter, insurance agreements concluded (Article 212 section 1 item 2 of the Act on Insurance Activity) - 1,
- premium/ contribution determination in breach of law (Article 18 section 1 and Article 18 section 2 of the Act on Insurance Activity) - 1,
- failure to notify the KNF promptly of selection of the entity authorised to audit the financial statements of an insurance company (Article 170 section 2 of the Act on Insurance Activity) - 1,
- failure to meet the deadline for the claims handling procedure (Article 14 section 3a of the Act on Compulsory Insurance) - 1,
- breach of disclosure obligations towards the Insurance Guarantee Fund (Article 102 and Article 105 of the Act on Compulsory Insurance) - 3,

- breach of law by a pension fund company (Article 204 of the Act on Organisation and Functioning of Pension Funds) -1,
- failure to discharge a disclosure obligation (§4 section 1 item 23 in conjunction with §19 section 1 of the Regulation on interim reporting and current information concerning activity and financial standing of investment fund companies and investment funds delivered by those entities to the Polish Financial Supervision Authority) - 1,
- other cases (cancellation of the administrative fine or its division into instalments - Article 67a of the Act on Tax Statute, decision execution suspension) - 9.

**Table 85. Number of explanatory and administrative proceedings instituted and closed in 2009-2012**

Type	2009		2010		2011		2012	
	No of proceedings instituted	No of proceedings closed	No of proceedings instituted	No of proceedings closed	No of proceedings instituted	No of proceedings closed	No of proceedings instituted	No of proceedings closed
Administrative proceedings	7	9	6	5	9	7	9	13
Explanatory proceedings	62	64	69	64	48	44	101	96
<b>Total</b>	<b>69</b>	<b>73</b>	<b>75</b>	<b>69</b>	<b>57</b>	<b>51</b>	<b>110</b>	<b>109</b>

Source: in-house materials by KNF

In 2012, there were 60 administrative decisions issued, including:

- 53 decisions to impose a fine,
- 3 decisions to dismiss the administrative proceedings,
- 1 decisions to impose a fine and partly dismiss the administrative proceedings,
- 1 decision to remove a broker from the list of securities brokers,
- 2 decisions to suspend securities brokers.

In 2012, there were 27 administrative decisions issued following the review of the cases remitted for reconsideration upon a party's request, including:

- 19 decisions to uphold a first-instance ruling,
- 6 decisions to revoke a first-instance ruling and to lower the imposed fine,
- 1 decision to revoke a first-instance ruling and dismiss the proceedings,
- 1 decision to dismiss the appeal proceedings.

Further, there were issued 7 rulings whereby a request to suspend decision execution was declined and 1 ruling of decision execution suspension.

The imposed in the year 2012 totalled PLN 5,333,000, including the fines imposed on:

- issuers - PLN 1,265,000;
- shareholders - PLN 1,455,000;
- investment fund companies - PLN 380,000;
- insurance companies- PLN 1,113,000;
- universal pension fund companies - PLN 300,000;
- brokerage houses - PLN 510,000;
- insurance brokers - PLN 25,000;
- other (public company management board members) - PLN 285,000.

## NOTIFICATIONS OF SUSPECTED OFFENCE

In 2012, the KNF filed 59 notifications of justified suspected offences with the Regional Public Prosecutor's Office of Warsaw, relating to the following acts, among others:

- Act on Trading in Financial Instruments (Dz. U. of 2010, No 211, item 1384) - 24 notifications,
- Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies (Dz. U. of 2009, No 185, item 1439, as amended) - 8 notifications,
- Banking Law Act (Dz. U. of 2002, No 72, item 665, as amended) - 16 notifications,
- Act on Insurance Intermediation (Dz. U. of 2003 No 124, item 1154 as amended) - 1 notification,
- Accounting Act (Dz. U. of 2009, No 152, item 1223, as amended) - 3 notifications,
- Personal Data Protection Act (Dz. U. of 2002, No 101, item 926, as amended) - 1 notification,
- Payment Services Act (Dz. U. of 2011 No 199, item 1175, as amended) - 1 notification,
- Criminal Code - 5 notifications.

**Table 86. Notifications filed in 2009-2012, by type of offence**

Offence	Number of notifications			
	2009	2010	2011	2012
Breach of Article 183 of the Act on Trading in Financial Instruments (financial market manipulation)	10	6	9	13
Breach of Article 180 and Article 181 of the Act on Trading in Financial Instruments (information disclosure and insider trading)	16	6	12	8
Breach of Article 100 of the Act on Public Offering (misrepresentation and concealment of facts in a prospectus or reports)	3	14	6	1
Breach of Article 178 of the Act on Trading in Financial Instruments (unauthorized trading in broker-traded financial instruments)	4	3	2	3
Breach of Article 171 section 1 of the Banking Law Act (unauthorized banking activity)	3	4	7	16
Other *	6	20	35	18
<b>Total</b>	<b>42</b>	<b>53</b>	<b>71</b>	<b>59</b>

Source: in-house materials by KNF

\* The following were breached:

- Article 99 of the Act on Public Offering (unauthorised public offering of securities),
- Article 103 of the Act on Public Offering (failure to provide the annex to the prospectus or information memorandum),
- Article 179 of the Act on Trading in Financial Instruments (disclosure or use of trade secret),
- Article 171 section 5 of the Banking Law Act (disclosure of banking secret),
- Article 77 of the Accounting Act (keeping books of accounts in breach of the rules provided for the Act, developing the financial statements in breach of the provisions of the Act),
- Article 35 section 1 of the Act on Counteracting Money Laundering and Financing of Terrorism (failure to discharge the registration duty for the transactions subject to registration),
- Article 280 of the Act on Investment Funds (breach of trade secret),
- Article 287 of the Act on Investment Funds (unauthorised operations being depositing funds of natural persons, legal persons and organisational units without legal personality non-corporate entities, gathered

- under the proposal to conclude an agreement concerning participation in the said joint venture, in securities, money market instruments or other material rights),
- Article 295 (unauthorised operations as regards the operations referred to in Article 32 section 2, Article 45 section 1 or Article 45 section 2 or Article 209) and Article 296 of the Act on Investment Funds (unauthorised use of the term referred to in Article 14 section 4 of the Act),
  - Article 289 of the Act on Investment Funds (disclosure or use of trade secret),
  - Article 57 of the Act on Commodities Exchanges (unauthorised commodity exchange operations),
  - Article 47 section 1 and Article 48 section 1 and Article 48 section 2 of the Act on Insurance Intermediation (unauthorised intermediation operations, unauthorised use of the terms indicating insurance intermediation operations),
  - Article 54 of the Personal Data Protection Act (failure to discharge by the data administrator the duty of notification of the person concerned of his/her rights or provision thereof with the information enabling the latter to use his/her rights under the Act),
  - Article 51 of the Personal Data Protection Act (providing or granting access to data files to unauthorised persons),
  - Article 225 of the Act on Insurance Activity (unauthorised insurance or reinsurance operations),
  - Article 230 of the Act on Insurance Activity (use in the name or to define the operations or in advertising of the words indicating insurance or reinsurance operations by an unauthorised entity),
  - Article 232 of the Act on Insurance Activity (disclosure of insurance agreement-related secret),
  - Article 219 section 2 Act on Organisation and Functioning of Pension Funds (offering extra material benefits in exchange for accession to a certain open-end fund or continued membership),
  - Article 267a of the Co-operative Law Act (acting to the detriment of a co-operative),
  - Article 47 of the Electronic Signature Act (use of an electronic key by an unauthorised person)
  - Article 150 of the Payment Services Act (non-registered payment services provision-related operations),
  - Article 585 of the Commercial Companies Code Act (acting to the detriment of a company),
  - Article 191 of the Criminal Code (unauthorised threat),
  - Article 226 of the Criminal Code (insult of a shareholder),
  - Article 270 of the Criminal Code (falsification),
  - Article 276 of the Criminal Code (destruction, deletion of documents),
  - Article 286 §1 of the Criminal Code (fraud),
  - Article 296 §3 of the Criminal Code (sizeable material damage following abuse of rights of failure to discharge the duty),
  - Article 297 §1 of the Criminal Code (loan obtainment under false pretences).

Based on the notifications filed with the Public Prosecutor's Office in 2012, 51 preliminary investigation proceedings were instituted (with 3 dismissed); institution of investigation was refused in 4 cases.

Further, in 2012, the KNF notified the Public Prosecutor's Office of 20 cases of alleged breach of Article 150 of the Payment Services Act.

## INDICTMENTS

In 2012, the KNF was notified that 15 indictments were filed by the Public Prosecutor's Office with common courts of law based on the notifications of suspected offence received from the KNF.

**Table 87. Indictments filed by the Public Prosecutor's Office with courts in 2009-2012, by type of offence**

Offence	Indictments			
	2009	2010	2011	2012
Breach of Article 183 of the Act on Trading in Financial Instruments (financial market manipulation)	9	3	9	6
Breach of Article 180 and Article 181 of the Act on Trading in Financial Instruments (information disclosure and insider trading)	1	1	1	2
Other *	3	3	4	7
<b>Total</b>	<b>13</b>	<b>7</b>	<b>14</b>	<b>15</b>

Source: in-house materials by KNF

\* The following were breached:

- Article 100 of the Act on Public Offering (misrepresentation and concealment of facts in a prospectus),
- Article 99 of the Act on Public Offering (offering of securities in breach of the statutory requirements),
- Article 178 of the Act on Trading in Financial Instruments (unauthorized trading in broker-traded financial instruments),
- Article 179 of the Act on Trading in Financial Instruments (disclosure of trade secret),
- Article 296 of the Act on Investment Funds (unauthorised use of the term referred to in Article 14 section 4 of the Act),
- Article 77 of the Accounting Act (keeping books of accounts in breach of the rules provided for the Act, developing the financial statements in breach of the provisions of the Act),
- Article 171 of the Banking Law Act (unauthorised banking operations),
- Article 270 of the Criminal Code (document forgery),
- Article 286 of the Criminal Code (fraud),
- Article 296 §1 and Article 296 §2 of the Criminal Code (abuse of rights, failure to discharge duties),
- Article 297 of the Criminal Code (loan obtainment under false pretences),
- Article 302 of the Criminal Code (repayment or collateralisation of certain lenders only),
- Article 47 section 1 in conjunction with Article 48 of the Act on Insurance Intermediation (unauthorised intermediation operations and unauthorised use of the name),
- Article 585 of the Commercial Companies Code Act (acting to the detriment of a company) in conjunction with Article 296 §1 and Article 296 §2 of the Criminal Code (abuse of rights, failure to discharge duties).

## CONVICTIONS AND CONDITIONAL DISCONTINUATION OF PROCEEDINGS

In 2012, common courts issued 8 convictions in cases brought under the Commission's notifications of justified suspected offences relating to the following acts:

- Act on Trading in Financial Instruments - 6 convictions,
- Banking Law Act - 1 conviction,
- Criminal Code Act - 1 conviction.

Sentence passed by the District Court of Kraków-Krowdrza in Kraków on January 19th 2012 in the case under Article 183 section 1 of the Act on Trading in Financial Instruments. The District Court sentenced the defendant to a fine of PLN 5,000 (the sentence is final). The notification was submitted on June 16th 2009.

Prescriptive sentence passed by the District Court in Częstochowa on March 5th 2012 in the case under Article 183 section 1 of the Act on Trading in Financial Instruments. The District Court sentenced the defendant to a fine of PLN 20,000 (the sentence is final). The notification was submitted on December 30th 2008.

Sentence passed by the District Court for Warszawa-Mokotów in Warsaw on April 19th 2012 in the case under Article 183 section 1 of the Act on Trading in Financial Instruments. While conditionally dismissing the criminal proceedings, the Court set a one-year probation and required the defendant to pay an allowance of PLN 5,000 (the sentence is final). The notification was submitted on December 30th 2008.

Sentence passed by the District Court for Warszawa-Wola in Warsaw on April 20th 2012 in the case under Article 296 §1 and Article 296 §2 of the Criminal Code. The Court sentenced one of the defendants to one year and six months of imprisonment with execution suspended for three years and a fine of PLN 10,000 and the other to one year of imprisonment with execution suspended for three years and a fine of PLN 4,000 (the sentence is not final). The notification was submitted on November 20th 2002.

Sentence passed by the District Court for Warszawa-Śródmieście in Warsaw on May 18th 2012 in the case under Article 181 section 1 of the Act on Trading in Financial Instruments. The Court sentenced the defendant to a fine of PLN 55,000 (the sentence is final). The notification was submitted on February 25th 2009.

Sentence passed by the District Court in Koszalin on September 13th 2012 in the case under Article 183 section 1 of the Act on Trading in Financial Instruments. The Court sentenced the defendant to five years of imprisonment with execution suspended for two years (the sentence is not final). The notification was submitted on December 29th 2010.

Sentence passed by the District Court for Warszawa-Mokotów in Warsaw on September 27th 2012 in the case under Article 178 of the Act on Trading in Financial Instruments. The Court sentenced the defendant to a fine of PLN 5,000 (the sentence is not final). The notification was submitted on February 19th 2009.

Sentence passed by the District Court in Mysłowice on February 26th 2012 in the case under Article 171 section 1 of the Banking Law Act, among others. The District Court sentenced the defendant to one year and six months and a fine of PLN 6,000 (the sentence is not final). The notification was submitted on July 29th 2011.

Details for the sentences being final or not were given as available as at December 31st 2012.

**Table 88. Convictions and conditional discontinuations in 2009-2012, by type of offence**

Legal grounds for conviction	Number of convictions			
	2009	2010	2011	2012
Article 177 of the Act on Public Trading in Securities / Article 183 of the Act on Trading in Financial Instruments (financial market manipulation).	5	5	5	4
Article 176 section 1 and Article 176 section 2 of the Act on Public Trading in Securities / Article 180 and Article 181 of the Act on Trading in Financial Instruments (information disclosure and insider trading)	-	2	-	1
Other *	1	-	2	3
<b>Total</b>	<b>6</b>	<b>7</b>	<b>7</b>	<b>8</b>

Source: in-house materials by KNF

\* Conviction grounds:

- Article 174 of the Act on Public Trading in Securities (data misrepresentation in the prospectus or other documents relative to trading-in of securities),
- Article 178 of the Act on Trading in Financial Instruments (unauthorised trading in financial instruments),
- Article 100 of the Act on Public Offering (misrepresentation and concealment of facts in a prospectus),
- Article 295 of the Act on Investment Funds (unauthorised operations as regards the operations referred to in Article 32 section 2 of the Act),
- Article 296 of the Act on Investment Funds (unauthorised in the name of the term referred to in Article 14 section 4 of the Act),
- Article 47 in conjunction with Article 48 of the Act on Insurance Intermediation (non-registered operations and unauthorised use of name),
- Article 296 of the Criminal Code (abuse of rights or failure to discharge the duty by the person obligated to handle property-related affairs or the business conducted by a natural person),
- Article 171 of the Banking Law Act (unauthorised banking operations).

## POWERS EXERCISED IN CRIMINAL PROCEEDINGS

In exercise of the KNF's powers, attorneys duly authorised by the Chairman of the KNF act as plaintiff's attorneys or as proxies for auxiliary prosecutors in criminal proceedings.

In 2012, attorneys duly authorised by the Chairman of the KNF acted as plaintiff's attorneys during preliminary investigation proceedings in 77 cases, and as proxies for auxiliary prosecutors during court proceedings in 26 cases.

The attorneys also lodged 30 appeals against the decisions of the Public Prosecutor's Office concerning refusal to start or discontinuation of preliminary investigation proceedings.

**Table 89. Number of instances of attorneys duly authorised by the Chairman of the Commission acting in criminal proceedings in 2009-2012**

	2009	2010	2011	2012
Acting as plaintiff's attorney	34	35	65	77
Acting as proxy for auxiliary prosecutor	15	15	15	26
<b>Total</b>	<b>49</b>	<b>50</b>	<b>80</b>	<b>103</b>

Source: in-house materials by KNF

## POWERS EXERCISED IN CIVIL PROCEEDINGS

In civil cases arising from the relationships involving participation in trading on the financial market or relative to the entities operating on that market, Chairman of the Commission may act in the capacity of the public prosecutor set out in Article 60 of the Code of Civil Procedure, among other laws.

In 2012, the Chairman of the KNF exercised the powers of the public prosecutor in civil proceedings.

## 7.2. PARTICIPATION IN LEGISLATIVE PROCEEDINGS

The statutory tasks of the Commission include participation in drafting laws regulating supervision over the financial market. In this process, the KNF acts as advisor and gives opinions to authorities and agencies which, under separate legal regulations, initiate and conduct legislative work. The KNF's activity includes in particular co-operation with the Minister of Finance and the Minister of Labour and Social Policy. In 2012, experts of the KNF were involved in drafting and advising on several dozen bills. This Chapter outlines the most important legislative works in which the KNF participated. For the list of regulations and draft regulations which the KNF advised on in 2012, see Annex 4.

### ACTS AND BILLS

- 1) Act amending the Act on Investment Funds and the Act on Financial Market Supervision of November 23rd 2012 (Dz. U. of 2013 item 70), implementing the below directives:
  - Directive 2009/65/EC of the European Parliament and of the Council of July 13th 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings of collective investment in transferable securities (UCITS) (OJ L 302 17.11.2009, p. 32, as amended),
  - Commission Directive 2010/44/EU of July 1st 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain



- provisions concerning fund mergers, master-feeder structures and notification procedure (OJ L 176 10.07.2010, p. 28),
- Commission Directive 2010/43/EU of July 1st 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company (OJ L 176 10.07.2010, p. 42).
- 2) Act amending the Act on Trading in Financial Instruments and Certain Other Acts of October 24th 2012 (Dz. U. of 2012 item 855). The Act implements into the Polish law the Directive 2010/78/EU of the European Parliament and of the Council of November 24th 2010 amending w Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), published in OJ L 331 15.12.2010 p. 120. The implementation deadline for the Directive was January 1st 2012. The amendments to the law passed in 2012 concern, first and foremost, flow of information and co-operation between the Polish Financial Supervision Authority (as the Polish supervision authority for the financial market) and European Supervisory Authorities.
  - 3) Bill on facilitating access to performing finance, building and transportation jobs. The bill of the Ministry of Justice provides for the proposal of passing an Act on commodity exchanges, deregulation of the profession of securities broker and commodity exchange broker, amendments to the Act on Auditors and Their Self-Governing Body, Entities Authorised to audit the Financial Statements and Public Supervision, amendments to the Act on Insurance Intermediation - for brokerage activity, amendments to the Accounting Act. The KNF took a negative position for the detailed solutions presented in the bill. The bill-related discussions by various ministries were not finalised until the 2012 yearend.
  - 4) Bill amending the Act on Investment Funds providing for changes to suspension of sale and repurchase of investment fund participation units - the bill was sent in May 2012 to the Ministry of Finance. The bill is oriented at avoiding a legal loophole being failure to define the procedure when a material part of investment fund's assets cannot be valued for more than two months for the reasons beyond control of the fund. There were also some provisions added to the bill banning investment funds *expressis verbis* from granting and receiving donations and obliging close-end investment funds to present the supervision authority with the statement by the entity authorised to audit the financial statements of compliance of the methods and principles of fund's assets valuation delineated in the charter with the accounting regulations for investment funds, of completeness and compliance of the principles of fund's assets valuation with the investment policy adopted by the fund - for private closed-end investment funds, and also similar statements in case the charter of the closed-end fund is amended as regards the methods and principles of fund's assets valuation.
  - 5) Bill implementing the Directive 2011/61/EU of the European Parliament and of the Council of June 8th 2011 on Alternative Investment Fund Managers and amending directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EC) No 1095/2010 - in 2012, the KNF started works on drafting the regulations implementing the said directive (implementation deadline is July 22nd 2013).
  - 6) Bill amending the Act on Public Offering and Introduction of Financial Instruments to Organised Trading, and Public Companies of July 29th 2005 was, first and foremost, oriented at implementing the Directive 2010/73/EU of the European Parliament and of the Council of November 24th 2010 amending the Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market. The other legislative or specifying amendments were closely related to making public

offering and the procedure of prospectus approval as referred to in the afore-referred Directives.

- 7) Bill amending Act on Public Offering and Introduction of Financial Instruments to Organised Trading, and Public Companies of July 29th 2005 was oriented at improving the effectiveness and transparency of operations of internal supervision bodies of securities issuers performing certain tasks entrusted thereto under the law and introducing solutions making it possible for the market players to familiarise themselves with results of the assessment made by the supervisory board or another supervision body under the supervision over the issuer's financial reporting exercised by them.
- 8) Bill on power and fuel exchanges drafted by the Towarowa Giełda Energii S.A. (Power Exchange) and analysed at the meetings of the Team for Amending the Exchange Commodity Market Regulations operative within the KNF . The bill is to limit the objects of a company running a power and fuel exchange only to the commodities of that type, and also to introduce the option of limited transaction clearing and settlement by the exchange directly, the option which was not provided for by the current model and which is a change when compared with the effective Act on Commodities Exchanges of October 26th 2000 (Dz. U. of 2010 No 48, item 284, as amended). The Bill provides for replacement of the current supervision authority for the power and fuel spot market - the KNF with the ERO (the Energy Regulatory Office) in case when the power and fuel exchange isolates from its structure an entity satisfying the criteria of alternative trading system. Be it the case, the entity would be supervised by the KNF as regards commodity derivatives trading.
- 9) Bill amending the Act on Organisation and Functioning of Pension Funds. The bill of the Ministry of Finance concerns, first and foremost, limitation of foreign investments made by open-end pension funds. This question is the consequence of the judgment of the European Court of Justice of December 21st 2011 on the case number C-271/09 concerning failure of a member state to fulfil obligations being non-compliance of local regulations as regards limitation on the investment of capital assets by open-end pension funds outside the member state concerned in accordance with the free movement of capital rule set out in Article 56 the Treaty establishing the European Community. Additional amendments to the Act cover determination of rates of return for open-end pension funds used to assess their investment effectiveness. The legislative process was not finalised until the 2012 yearend.
- 10) Bill amending the Act on Credit Unions of November 5th 2009. One of the aims of the bill is to introduce crisis management norms for credit unions to the effective Act, including adaptation of the rules for taking measures towards credit unions when in crisis to the measures applied for co-operative banks, outsourcing of regulated operations of the associations, covering the deposits made with the associations with the deposit guarantee scheme, financial administration of associations, including new rules for determining the amount of own funds, corporate governance at associations, including the rule of term of office for the management board members or new reporting duties of associations towards the KNF. The bill was consulted with the Banking Guarantee Fund. The Lower Chamber of the Polish Parliament (Sejm) was working on the bill until the 2012 yearend.
- 11) Bill amending the Code of Civil Procedure, the Banking Law Act, the Act on Bank Gospodarstwa Krajowego and the Act on Investment Funds. The bill was drafted by the Upper Chamber of the Polish Parliament (Senat); it regulates the issues included in the judgments of the Constitutional Tribunal of March 15th 2011 file reference P 7/09 concerning the content of Article 95 section 1 of the Banking Law Act of September 29th 1997 (i.e., Dz. U. of 2013 item 1376, as amended) and of July 11th 2011 r, file reference P 1/10 concerning the content of Article 194 of the Act on Investment Funds of May 27th 2004 (Dz. U. No 146, item 1546, as amended). The Upper Chamber of the Polish Parliament (Senat) was working on the bill until the 2012 yearend.
- 12) Bill on amending the Payment Services Act and Certain Other Acts, aimed at introducing new norms as to issue, purchase and distribution of electronic money and development, organisation and functioning of the of electronic money institution as well as supervision

over the entities in order to fully implement the requirements of the Directive 2009/110/EC of the European Parliament and of the Council of September 16th 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267 10.10.2009 p. 7). The bill also amends some provisions of the Payment Services Act as far as required by proper application of the Act in the course of the supervision exercised. The Directive 2009/110/EC was partly transposed in the year 2011 to the Act on Electronic Payment Instruments of October 12th 2002 (Dz. U. No 169, item 1385, as amended) through the Payment Services Act of August 19th 2011 (Dz. U. No 199, item 1175 and No 291, item 1707). The bill was subject to discussions by various ministries, finalised with its approval by the Standing Committee of the Council of Ministers by the 2012 yearend.

## DRAFT ASSUMPTIONS TO BILLS

- 1) Draft assumptions for the bill on amending the Act on Trading in Financial Instruments developed by the Ministry of Finance. Its aim is to:
  - adapt Polish regulations to the solutions provided for Regulation No 236/2012 of the European Parliament and of the Council of March 14th 2012 on short selling and certain aspects of credit default swaps (OJ L 86/1 24.3.2012),
  - establish administrative sanctions and measures for breach of provisions of the regulation on short selling - as recommended under Article 41 of the above-referred regulation,
  - appoint competent supervision authorities to exercise new supervision duties as provided for by the regulation on short selling, focusing on debt instruments of the State Treasury - as recommended under Article 32 of the above-referred regulation.
- 2) Draft assumptions for the bill on amending the Act on Court Fees in Civil Proceedings and the Code of Civil Procedure. The draft provided for the proposal of the KNF to amend the Act on Court Fees in Civil Proceedings as regards the Chairman of the Polish Financial Supervision Authority (exemption from court fees). The draft was submitted to the Ministry of Justice in April 2012.
- 3) Draft assumptions to the bill on insurance and reinsurance activity. In 2012, works continued on the draft assumptions made by the Ministry of Finance to the bill aimed at implementing the Directive 2009/139/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II) (OJ L 335 17.12.2009, p. 1) Directive 2009/139/EC introducing new solvency rules for insurance companies, based not only on quantitative criteria, but also on qualitative ones. Further, the Directive provides for instruction of risk assessment-based supervision system, which considerably changes the supervision model for insurance groups. In 2012, various ministries were discussing the draft, with the KNF involved. The draft was submitted to the Standing Committee of the Council of Ministers. Under the Committee's decision, the Ministry of Finance was required to agree upon the final draft with the KNF, which was not done by the 2012 yearend.
- 4) Draft assumptions for the reverse mortgage bill. In 2012, legislative works continued on regulating a new financial product which in essence provides for the situation where a bank, a credit institution branch or a foreign bank branch pays out funds to the borrower in exchange for the title to his or her real estate after death. In 2012, it was resolved that the regulation should also cover life-time annuities in exchange for the title to the real estate. Since the latter service is offered by unsupervised entities, clients are deprived of the coverage arising from prudential supervision. The content of the draft was not agreed upon by the 2012 yearend.
- 5) Draft assumptions for the bill on reduction of certain administrative charges in the economy. The draft developed by the Ministry of Economy provided for the proposals of amendments to the regulations for Individual Pension Security Accounts (in Polish: IKZE) under the voluntary pension fund whereby some requirements provided for by the law

would be eliminated. Following the comments made by the KNF, referring, among others, to the too short a period of IKZE presence in legal circulation, the issue was excluded from the bill.

## ASSUMPTIONS

Assumptions of the bill on mutual assistance for collection of taxes, customs and other public law charges (following the motion of the Minister of Finance, on July 17th 2012, the Council of Ministers adopted the said assumptions) - the KNF postulated for the regulation to cover fines imposed by the public administration authorities.

## OTHER LEGISLATIVE ACTIVITIES

In February 2012, not being in the capacity of the independent imitator of the legislative process within the government framework, the KNF drafted and submitted to competent ministers a set of legislative proposals for the financial market in scope of the matters handled by the governmental administration department for financial institutions and the social protection department. The legislative proposals delivered took into account the regulatory needs as perceived by the supervision body for the financial market from the angle of the supervision's statutory objectives. They were formulated in response to the need to create adequate legal framework for the safe growth of the financial market and ensure its stability as well as to strive to preserve the flexibility effectiveness of operations of the supervision body itself.

## 7.3. INTERNATIONAL COOPERATION

Activity of the KNF on the international arena is steered by the unique features of the Polish financial sector (dominated by entities being international capital group members) and the dynamics of global and EU regulatory processes. Co-operation with financial supervision bodies from other countries - both bilateral and through sitting on supervisory colleges - directly contributes to execution of supervisory goals. By dint of active participation in the work of the European Supervision Authorities, the KNF can exert influence on regulatory and supervisory processes initiated in the EU. As far as the most important legislative projects (like Solvency II or CRD IV) are concerned, the KNF does not limit its activities to exerting influence only, but it co-operates with the Polish government and the EU institutions to force through the solutions which are most beneficial to the Polish financial sector.

### CO-OPERATION WITH SUPERVISION AUTHORITIES FROM OTHER COUNTRIES

#### Supervisory colleges

Co-operation with supervisory authorities from other countries is a crucial element of the KNF's activity. The primary ground for that co-operation offer the supervisory colleges.

In 2012, the KNF participated in 16 meetings of supervisory colleges for cross border banking groups, and also in 4 *Crisis Management Groups* and 3 *Cross Border Stability Groups*. The goal of the above-referred colleges and groups is to coordinate supervisory actions taken towards banking groups, with preparations for potential anti-crisis measures included. Among the proposed materials were *Joint Risk Assessment and Decision, Management Letter, Recovery and Resolution Plan* or *Decisions on AMA and IRB Application*, for example.

In the period covered by this report, representatives of the KNF participated also in 30 meetings of supervisory colleges of international insurance groups. These were aimed at sharing information and experience by the regulators overseeing the insurance companies belonging to insurance groups and evaluating the financial standing of groups and the manner in which they conduct their activities. At the supervisory college meetings, the status

of preparation of individual groups and companies being their members for implementation of the Solvency II system and internal models-related topics were discussed as well. Representatives of the KNF also attended meetings of supervisory colleges dedicated to internal models and pre-application processes underway for 6 foreign insurance groups. During these meetings they strived for considering the specific nature of Polish companies in group internal models of foreign insurance groups.

### Bilateral co-operation

The KNF is engaged in on-going co-operation with other regulators. Bilateral relationships cover sharing supervisory information as well as opinions and experience and are fostered both on the working and executive levels. In autumn 2012, accompanied by other KNF representatives, the Chairman of the KNF held a series of meetings with heads of financial supervision authorities in the home states of most significance for Poland: Italy, the Netherlands, Sweden and Germany. During the meetings, first and foremost, the topics from the following two blocks were discussed: various aspects of intragroup relationships (between Polish banks and their foreign owners) and European regulations-related issues. Bilateral co-operation is facilitated by agreements on co-operation and information exchange, which the KNF already concluded with the regulators from 26 jurisdictions (besides the multilateral co-operation under IOSCO and IAIS). In 2012, there were also agreements signed with the Guernsey Financial Services Commission and the Central Bank of Armenia.

## PARTICIPATION IN THE EUROPEAN SYSTEM OF FINANCIAL SUPERVISION

The goal of the European System of Financial Supervision that has been in place for two years now is to improve financial supervision throughout the European Union. The system is underpinned by three central authorities: the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA). EBA, EIOPA and ESMA are expected to promote bringing together the supervisory practices within the EU, develop technical standards and guidelines supplementary to EU regulations, and also facilitate exercise of supervision over cross border finance groups. Further, the European Systemic Risk Board (or ESRB) deals with overall supervision of the financial system. Although these are the EU institutions, their executive bodies comprise representatives of supervision authorities from member states.

### European Banking Authority(EBA)

The European Banking Authority performs a wide array of tasks relative to the banking sector, payment and electronic money institutions, corporate governance, audit and financial reporting.

In 2012, the KNF representatives were present at each meeting of the Board of Supervisors, the principal decision-making body of the EBA. They also participated in decision-making processes carried out with the use of a written voting procedure.

Representatives of the KNF participated in the works of EBA Committees, working teams and groups involving assessment of risks and threats for the banking sector in the EU, assessment of assets quality and practice employed for loan restructuring in member states, an IT project of the EBA, development of the EBA's opinion on the legislative initiatives of the European Commission, cross border operations of the electronic money institutions and payment institutions, register of credit institutions, customer protection, anti-money laundering, liquidity monitoring, capital requirements, audit, reporting and supervisory assessment practice applied.

The most important works conducted by the EBA in 2012 included, first and foremost, preparation of numerous proposals of binding technical standards under the CRD IV/CRR package and guidelines for such aspects as supervisory assessment and corporate governance, among others; initiation of preparations for another stress test and monitoring of stability of the banking sector within the EU. In 2013, works will continue on developing

a uniform collection of regulations, supervisory activities and consumer protection in order to arrive at equal competition conditions for financial institutions and improve the quality of regulations of the financial sector as well as the overall functioning of the single market.

### European Insurance and Occupational Pensions Authority(EIOPA)

A substantial number of the KNF's activities under the EIOPA works in 2012 related to the Solvency II projects, and notably to development of proposals of binding technical standards and supervisory guidelines to Directive 2009/138/EC of November 25th 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II)<sup>24</sup>, so-called level 3 legislation. Representatives of the KNF significantly contributed to works on proposals of level 3 legislation; they coordinated development of some of those proposals, for example.

As part of these significant activities, representatives of the KNF participated in development of assumptions for another edition of European stress tests for the insurance sector and the Long-Term Guarantees Assessment (or the LTGA) which was planned to be conducted earlier, in 2013. Representatives of the KNF were also involved in development and adoption of advice for the European Commission on revision of Directive 2003/41/CE on the activities and supervision of institutions for occupational retirement provision<sup>25</sup>; guidelines for complaint handling by insurance companies as well as the report on best practices in that connection; the report on the role of insurance guarantee schemes at the EU/EEA member states in bankruptcy procedure for insolvent insurance companies; and the procedure in case of violation of the EU regulations by the local supervision authorities, among other documents.

The KNF representative was also a member of the EIOPA Management Board, the body that determines the works of that institution to a large degree.

### European Securities and Markets Authority (ESMA)

Representatives of the KNF participated in work of 9 Standing Committees and 9 working groups or task forces of the ESMA. The key results of that work are the following:

- preparation by the Post-Trading Standing Committee of proposals of technical standards for the EMIR regulation, which after approved by the Board of Supervisors were presented to the European Commission;
- preparation under the Secondary Markets Standing Committee of a proposal of amendment to the MiFID Directive and development of *Guidelines - Systems and controls in an automated trading environment for trading platforms, investment firms and competent authorities*;
- development by the ESMA-Pol Standing Committee of Technical Standards supplementing the short sale regulation<sup>26</sup>, which were later included in the Commission Delegated Regulations (EU) No 918/2012 and (EU) No 919/2012 of July 5th 2012;
- formulation by the Investment Management Standing Committee of *Guidelines on ETFs and other UCITS issues*;
- development and publication by the Corporate Reporting Standing Committee of the position on common European supervision priorities and position on forbearance actions with respect to the financial statements of issuers.
- adoption by the Investor Protection and Intermediaries Standing Committee of the *Guidelines on certain aspects of the MiFID compliance function requirements* and *Guidelines on certain aspects of the MiFID suitability requirements*;

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<sup>24</sup> (OJ L.2009.335.1 as amended)

<sup>25</sup> (OJ L.2003.235.10 as amended)

<sup>26</sup> Regulation No 236/2012 of the European Parliament and of the Council of March 14th 2012 on short selling and certain aspects of credit default swaps



- adoption by the Financial Innovations Standing Committee of three forms to gather from the supervised entities of data on *complaints, product sales, thematic work, market intelligence*.

## European Systemic Risk Board(ESRB)

Representatives of the KNF participated in meetings of the European Systemic Risk Board General Board (the primary decision-taking body of the ESRB), during which decisions were taken to issue the following recommendations: (1) recommendation on financing credit institutions (addressed to local regulators - including the Commission and the European Banking Authority) and also (2) recommendation on money market funds (addressed to the European Commission). During General Board sessions, the key areas of risk for the systemic stability within the European Union were discussed, including impact of the fiscal crisis sustained by the Eurozone states on the banking sector or the *forbearance* phenomenon (loosening the terms and conditions of credit agreements in response to the deterioration of the borrower's standing). The macro-prudential aspects of the established banking union or the LIBOR / EURIBOR reform were analysed as well.

Representatives of the KNF participated in meetings of the ESRB Advisory Technical Committee (or ATC) working on identification and assessment of the materiality of systemic risks (a quarterly analysis). Further, delegates of the KNF attended the meetings of special ATC sub-groups i.e.: CDS Market Group, Stress Testing Group, Government Debt Instruments Group and Macro-prudential Supervision Policy Instruments Group.

## PARTICIPATION IN REGULATORY REFORMS IN THE EU

The regulatory reforms continued last year within the European Union. Some initiatives like Solvency II were already in the incremental implementation phase, while other, like CRD IV, were at the final stage of the legislative process. Still other, like the banking union for instance, were formulated only in the last months of 2012. When participating in the European regulatory processes, the KNF presents such opinions and formulates such proposals as to best express the interests of Poland.

### CRD IV package

2012 was a critical year for the negotiations of the new Capital Requirements Directive (CRD IV) and the accompanying regulation<sup>27</sup>. The goal of the proposals included in the CRD IV/CRR package is to transpose the Basel III regulations into the European legal system. In 2012, the KNF worked on the above-mentioned regulations in two parallel streams. In the former, the opinions to the documents presented by EU institutions (the Council, the Commission and the Parliament) were drafted for the Ministry of Finance. In the latter, the KNF was active at the level of the European Banking Authority, where it participated in drafting binding technical standards which today constitute secondary legislation to the CRD IV/CRR package regulations. Both above streams are of significance for the final form of the regulations and subsequent regulatory practice as far as capital and liquidity requirements and actual management of credit institutions are concerned. The objective of the KNF was to promote solutions reinforcing the stability of the banking sector both locally and on the

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<sup>27</sup> Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate [COM (2011) 453], proposal for a Regulation of the European Parliament and of the Council on prudential requirements credit institutions and investment firms [COM (2011) 452].

European level. Hence, the KNF postulated keeping by the Member States the tools allowing for imposition of more stringent prudential requirements on credit institutions, and also the capacity to enforce maintenance of adequate capital base and satisfaction of liquidity norms by them.

## Banking union

In the second half of 2012, a proposal for establishment of the so-called Banking union was announced on the EU forum. The concept was formulated as such in response to the crisis which affected banking sectors of a few Eurozone states. Insufficient supervision of the banking sector in certain states, too varied regulations and supervisory approaches jurisdiction by jurisdiction, and also too strong ties of the banking sector with the local politics are seen as some of the crisis root causes. The underlying proposal which is to remedy the situation described above envisages establishment of a single supervisory mechanism, with the European Central Bank being the single regulator for all credit institutions in the Eurozone. Ultimately, the so-called banking union is to cover also common regulations concerning recovery and resolution of credit institutions and guaranteeing bank deposits.

In 2012, the KNF was strongly supporting the Ministry of Finance in the works leading to approval of the single supervisory mechanism compromise<sup>28</sup> by the European Council in December 2012. The positions and opinions plus the modifications to the proposed solutions made by the KNF were to ensure as good as possible terms and conditions of co-operation with the EBC for the countries outside the Eurozone. Additionally, the KNF endorsed any and all changes whereby member states could impose more stringent prudential requirements, whose impact on the stability of the banking sector was preserved. The joint position of the Council, adopted towards the 2012 year-end, has accounted for the KNF's postulates to some degree.

## Bank Recovery and Resolution Directive

In June 2012, the European Commission published the text of a legislative proposal concerning recovery and resolution of credit institutions and investment firms (the so-called Bank Recovery and Resolution Directive or BRRD)<sup>29</sup>. The purpose of the document is to establish the framework for overcoming crisis occurring in the above entities in such a manner as to minimise the adverse impact on the financial system and reducing the potential costs incurred in that case by the tax payers. The KNF actively participated in developing the position of the Government of the Republic of Poland on the directive, emphasising the need to assign to the local authorities the key recovery and resolution powers. The KNF also indicated the need to ensure the balance between powers and responsibilities in the directive.

Further, the KNF prepared opinions for the Ministry of Finance about the subsequent versions of compromise proposals of the directive. KNF employees also participated in the crisis management-related works of the European Banking Authority. First proposals of technical standards for recovery plans were already drafted.

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<sup>28</sup> Proposal for a regulation of the Council (EU) No .../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions [COM(2012)0511] and proposal for a regulation of the European Parliament and of the Council mending the Regulation (EU) No 1093/2010 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No.../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions [COM(2012) 512 final]

<sup>29</sup> Proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010 [COM(2012)0280 final]



## Solvency II and Omnibus II Directives

Participation in trilateral negotiations of the Omnibus II Directive<sup>30</sup> - (the co-called *trilogue*) was among the priority tasks of the KNF in the Solvency II project in 2012. The position of the European Parliament of March 2012<sup>31</sup> considerably differed from the overall approach of the Council dated September 2011, adopted during the Polish presidency. The negotiations were adjourned until completion of the Long-Term Guarantees Assessment (or LTGA). For other matters, not covered by the assessment, a preliminary agreement was reached. From the viewpoint of the KNF, absence of a mechanism of binding mediation of EIOPA for the decision on extending the period to recover solvency requirement and the decision on capital charge for companies in the group not covered with centralised risk management (or CRM) is most significant. Safe for crisis situations, acceptance of the restructuring plan for the companies covered by CRM will not be in scope of the binding mediation.

As far as reporting is concerned, a compromise which could be accepted in the opinion of KNF was preliminary reached. It ensures for regulators the option to gather the data indispensable in prudential and financial stability terms on a quarterly basis and at the same time makes it possible to limit the reporting requirement for smaller entities.

In view of the delayed negotiations, the KNF considered it reasonable to implement faster the non-controversial elements of the Solvency II regime, while keeping the current rules of technical provisions and capital requirements calculation for regulatory purposes. The KNF is of the opinion that the solutions universally seen as beneficial to improved risk management by insurance and reinsurance companies like the management system-related requirements (Articles 41-49 of the Solvency II Directive) or risk-based prospective supervision elements shall undergo early implementation. At the same time EIOPA took some measures in that respect, publishing the opinion on interim implementation measures for the Solvency II system<sup>32</sup>.

## Long-Term Guarantees Assessment (LTGA)

The most important issue to resolve under the Omnibus II Directive are still the provisions for valuation of liabilities under long-term insurance agreements providing for guarantees for the insured and entitled under insurance agreements. The issue will be covered by the quantitative and qualitative assessment to start in January 2013.

The KNF pays special attention to the base interest rate methodology used to determine liabilities and the manner of matching adjustment calculation, since through application of the above solutions the risk of "artificial volatility" of balance-sheet items of insurance companies, caused by short-term ineffectiveness of the mark-to-market valuation, can be avoided.

Absence of mechanisms reducing the artificial volatility combined with legal requirements for mark-to-market valuation of assets and annual horizon as the basis for capital requirement calculation in the Solvency II system can result in a considerable decline of demand of domestic insurance companies for long-term debt instruments and shorter average maturities of instruments held by them. These requirements disagree with the long-term perspective of insurance operations, based on the risk assumed by that sector, notably the risk of demographic processes.

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<sup>30</sup> Proposal for a Directive of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority, COM(2011)0008.

<sup>31</sup> Report of the Committee on Economic and Monetary Affairs of March 28th 2012 on the proposal for a directive of the European Parliament and of the Council amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority, A7-0077/2012, PE466.970v03-00.

<sup>32</sup> Opinion of the European Insurance and Occupational Pensions Authority of December 20th 2012 on interim measures regarding Solvency II, EIOPA-12-388, [http://www.knf.gov.pl/Images/EIOPA\\_Opinion-Interim-Measures-Solvency-II\\_tcm75-32885.pdf](http://www.knf.gov.pl/Images/EIOPA_Opinion-Interim-Measures-Solvency-II_tcm75-32885.pdf)

The KNF will coordinate the Long-Term Guarantees Assessment in Poland. Since the fundamental changes to the valuation methods of assets and liabilities in the Solvency II system will be tested, the KNF would like as many domestic insurance and reinsurance companies to participate in the assessment as possible. The scope of products where under long-term liabilities with guaranteed benefits arise will be also assessed (not defined yet). It seems wider than suggested by the English name of the assessment.

## Proposals of capital market regulations

In 2012, representatives of the KNF participated in consultative works on the proposal of changes to the Markets in Financial Instruments Directive (MiFID)<sup>33</sup> and the European Market Infrastructure Regulation (EMIR)<sup>34</sup>.

Further, representatives of the KNF partook in legislative works on amending the so-called *Transparency Directive*<sup>35</sup>, which provides for introduction of the regime of the maximum harmonisation of directive provisions for quarterly/ half-yearly management reports and notification of acquisition/ disposal of major holdings of shares as well as recommends rendering into the public domain of the reports disclosing payments to governments.

Representatives of the KNF also participated in legislative works on the proposal of the Regulation on Market Abuse (MAR)<sup>36</sup>, which provides for extending the scope of market abuse framework to cover any and all financial instruments admitted to trading on multilateral trading facilities (or MTF) or organized trading facilities (or OTF), and also any and all related financial instruments traded outside the regulated market which can impact on the primary market covered by the Regulation. The proposal of the Regulation provides for prohibited actions, while the issue of sanctions will be regulated by the Directive of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation (MAD).

With regard to the above proposals of legislative acts negotiated on the EU forum, the KNF provided the Ministry of Finance with professional support within its competence, representing the Polish Government in the EU negotiations between institutions, and also rendered individual opinions on public consultations conducted by the European Commission.

## Shadow Banking

2012 was the year which saw the conceptual works pursued by the Financial Stability Board translate into the first discussions on regulating the shadow banking system within the European Union. In that respect, the notion of shadow banking is understood as all the entities and services related to credit intermediation outside the regular banking system. This definition is met by money market funds, some hedge funds and other investment funds or special purpose vehicles established for securitization purposes, but also financial enterprises making use of financial leverage and accepting clients' funds, transferring credit risk or transforming liquidity or maturities, among others. Although these entities frequently generate high losses for clients and through their ties with the banking sector can negatively affect its stability, they are subject to limited regulatory requirements. The KNF supports covering the parallel banking system with indispensable regulations. In 2012, the KNF participated in public consultations of the European Commission that published the so-called Green Paper on Shadow Banking, and also of the Financial Stability Board.

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<sup>33</sup> Directive 2004/39/CE on markets in financial instruments.

<sup>34</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of July 4th 2012 on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs) (EMIR)

<sup>35</sup> Directive 2004/109/CE on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC

<sup>36</sup> Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse).

## Building Coalitions with Regulators from Host States

To strengthen its position in the negotiations concerning the regulatory initiatives discussed hereinabove, the KNF co-operates with partners having a similar vision of the regulatory and supervisory architecture within the European Union. These are, first and foremost, the financial supervision bodies from “new” EU member states. The CEE Forum - an informal forum of regulators from ten Central and Eastern Europe states established in 2010 upon the initiative of the KNF - is the most important ground for co-operation. Its primary objective is to bring closer the positions of members towards proposals of the EU regulations so as to secure as far as possible the interest of host states.

In 2012, there were three high level meetings of the CEE Forum held. During the one in Tallinn in January the joint address of six states to the Dutch Presidency of the EU Council with the proposal of detailed amendments to the CRD IV package was approved. At the May meeting in Bratislava the decision was taken to commence works on aligning positions on the draft bank recovery and resolution directive. In November in Warsaw, various aspects of the banking union were discussed and the priorities for the CEE states for the negotiations underway were agreed upon.

## CO-OPERATION WITH INTERNATIONAL ORGANISATIONS

### International Association of Insurance Supervisors (IAIS)

As part of Association’s works, KNF participated first and foremost in the activities of the Technical Committee focusing on developing the insurance supervision rules and standards. In addition, representatives of the KNF partook in the works of the subcommittee of insurance groups and cross-sectoral issue centring around: the Common Framework initiative aimed at developing common framework for the group-wide supervision of internationally active insurance groups; functioning of supervisory colleges and financial conglomerates; cross border operations of insurance companies as branches; insurance groups of significance on the global market.

In 2012, the KNF proved compliance of the Polish regulations with the requirements set for accession to the Multilateral Memorandum of Understanding (or MMoU), thus obtaining the status of the MMoU signatory.

Under the IAIS, the KNF acts as the regional coordinator for Central and Eastern Europe and Transcaucasia. The tasks of the coordinator include, among others: analysis of training needs, coordination of relevant initiatives, and propagation of basic insurance principles in the countries that have not joined the IAIS yet.

### International Organisation of Securities Commissions (IOSCO)

In 2012, representatives of the KNF participated in works of 9 standing committees and working groups of the IOSCO.

While participating as an IOSCO representative in the Financial Action Task Force (or FATF), an employee of the KNF partook in developing the latest 40 FATF Recommendations on combating money laundering and the financing of terrorism which were adopted by FATF during the meeting in February 2012.

While participating in the Screening Group, the representative of the KNF verified fulfilment of requirements of the Multilateral Memorandum of Understanding (or MMoU) by the Latvian supervision authority, and thus the number of the MMoU signatories increased to 93 regulators.

The MMoU forms the basis for exchanging supervisory information by the KNF.

### International Organisation of Pension Supervisors (IOPS)

The IOPS works encompass analysis of pension system functioning-related matters, including supervision based on risk analysis and its practical application by regulators. As

regards the works conducted by IOPS in 2012, the KNF was involved in those dedicated to establishing best practices for internal management of pension regulators and determining current supervision practices for the systems with defined premium and defined benefit, for example.

### Basel Committee on Banking Supervision

The KNF is not a member of the Committee that groups banking regulators from 27 states of most significance for the world financial system. Nonetheless, the KNF participates in public consultations conducted by that institution, and also in three Committee working groups. Further, the KNF is a member of the BSCEE - a regional organisation gathering banking regulators and co-operating with the Basel Committee.

### Banking Supervisors from Central and Eastern Europe (BSCEE)

Since 2006 the KNF has been running the Secretariat of the BSCEE Group - an organisation gathering banking regulators from 22 Central and Eastern Europe countries with the aim to share information and experience. In contrast to the CEE Forum, the BSCEE is focused on supervisory and not regulatory matters.

In 2012, the Secretariat of the Banking Supervisors from Central and Eastern Europe (BSCEE) run by the KNF helped organise the 25th Group Members' Conference held in Vienna on April 23rd-26th (topics: *Cross border co-operation - theory versus practice and Basel III*); the regional seminar of the BSCEE in Tallinn on May 22nd-24th in collaboration with FSI (*Application of Basel III and supervision of systemically important banks*); high level meetings on May 24th-25th in Warsaw (*Strengthening Financial Sector Supervision and Current Regulatory Priorities*); and the 17th ICBS world conference on September 10th-14th in Istanbul (*Crisis: What Did We Learn? Perspectives of Emerging Countries and Developed Countries*).

### IMF, WORLD BANK, OECD

The KNF renders available information to competent foreign institutions assessing the Polish financial sector. 2012 saw meetings held with the International Monetary Fund and the World Bank. Representatives of the KNF were also meeting rating agencies analysts updating credit ratings for Poland.

As part of the accounting and audit system review in Poland, made by the World Bank, experts of the KNF held meetings with the Bank's delegation and were involved in the process of developing responses for individual forms.

In 2012, the International Monetary Fund and the World Bank started preparations for conducting a comprehensive assessment of Poland (the so-called Financial Sector Assessment Program or FSAP) where such aspects as standing of banks and other financial sector entities, quality of financial supervision or the degree of the sector's development would be analysed, inter alia. The assessment will take place in the 2013 and will involve the KNF, the Ministry of Finance, the Bank Guarantee Fund and the National Bank of Poland.

Throughout 2012, the co-operation of the KNF with the OECD was limited to filling in the questionnaires provided by the latter and sitting on three Committees (Financial Markets, Insurance and Private Pensions as well as Corporate Governance - dealing with accession of Russia to the OECD first and foremost) and two working groups (dealing with pension funds).

## ASSISTANCE AND EDUCATIONAL PROJECTS

### Training Initiative for Financial Supervision (TIFS)

The Training Initiative for Financial Supervision (or TIFS), established by the KNF in 2009 is a training centre for regulators of all financial market sectors from the European countries. The purpose of the TIFS is to create capacity for upgrading professional expertise and sharing experience by regulators' employees.

In 2012, there were three seminars held under the TIFS: the first one addressing the capital sector topics and titled *Supervision of public offers and prospectus - regulations, standards and practice* was held on April 11th-13th; the second one addressing insurance supervision topics was held on September 24th-26th and covered *Risk Assessment Framework (RAF) in Poland - risk-based and prospective approach to insurance supervision*; and the third one, held on November 14th-16th, covered the banking supervision topics and focused on *Dealing with problem banks and resolution*. Seminars hosted 61 attendees from 36 countries.

### Twinning Project for Capital Supervision in Azerbaijan

With the decision of the EU Delegation to Azerbaijan of January 18th 2012, the KNF was selected to carry out the twinning project for the State Committee for Securities of the Republic of Azerbaijan (SCS) under the assistance instrument ENPI<sup>37</sup>. Later, on August 23rd 2012, the EU Delegation to Azerbaijan and the KNF signed a twinning contract. The project - with the budget of almost EUR 1 million - will be implemented from September 2012 to July 2014.

The twinning project has three components whereunder the following activities are expected to be carried through in close co-operation with the SCS employees:

- review and analysis as well as support in adaptation of national securities market regulations in Azerbaijan to the EU legislation;
- familiarisation of SCS employees and market players with relevant EU directives and regulations as well as best practices and standards used by the regulators;
- preparation and development of guidelines, manuals, templates of forms and working papers, including for regulation, control and supervision of the securities market in Azerbaijan;
- support in review of SCS framework and development of SCS procedures;
- support in information activities dedicated to the securities market and its regulations in Azerbaijan;
- delivery of training courses in Baku for SCS employees and securities market players; and
- study visits and internships of SCS employees at EU member states' regulators'.

In Q4 2012, the first blocks of project activities concerning financial market abuse and takeover practices were carried out successfully.

### Technical Assistance under TAIEX

Upon request of the EC Directorate-General for Enlargement and regulators of the states being beneficiaries of the technical assistance instrument TAIEX<sup>38</sup>, experts of the KNF

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<sup>37</sup> *European Neighbourhood and Partnership Instrument* - is an initiative of the European Commission, primarily aimed at developing cooperation between the European Union and partner countries outside the EU through ensuring integrated and sustained regional development. The global ENPI coverage: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Libyan, Libya, Moldavia, Morocco, the Palestinian Authority, Syria, Tunisia, the Ukraine.

<sup>38</sup> TAIEX (Technical Assistance and Information Exchange) is a technical assistance instrument financed by the European Commission and addressed to public institutions of the EU member states remaining the beneficiaries of post-accession assistance (Bulgaria, Romania), of EU member candidates (Croatia, the former Yugoslav Republic of Macedonia, Turkey) as well the states with status of potential candidates (Albania, Bosnia and

actively participated in the missions for Moldavia, the Ukraine and the Turkish Republic of Northern Cyprus.

## 7.4. PROTECTION OF FINANCIAL MARKET PARTICIPANTS

### BASIC AREAS OF OPERATION

One of the statutory objectives behind the financial market supervision is to ensure protection of interests of the market participants. The supervisory activities of the KNF in this respect involve monitoring of market practices on an ongoing basis and intervention measures, focusing in particular on those areas of the regulated entities' operations which are exposed to the risk of law infringement or abuse of rights of non-professional market participants.

The KNF monitors market practices by exercising its supervisory powers, which allow it to demand information and clarifications directly from the regulated entities, and by obtaining relevant data on its own. The supervisory activities are taken in response to the current problems on the market identified, among other things, on the basis of the information provided in complaints.

The tasks performed by the KNF to protect non-professional participants of the financial market include in particular:

- performing analytical and explanatory activities as regards signals reported in complaints of non-professional financial markets participants about regulated entities,
- monitoring advertising communication concerning regulated entities,
- supervision over market practices by financial market participants,
- analytical activities regarding agreement templates and products structure,
- educational activities,
- expert and administrative support for the Conciliatory Court at the KNF.

In the course of the performed activities, based on the issues reported in complaints, the regulator performed analytical activities. The detailed information in this regard is presented in Table 5.1 in Annex 5.

### EXPLANATORY PROCEEDINGS FOLLOWING COMPLAINTS

Complaints about regulated entities sent to the KNF by non-professional financial market participants are an important source of information on the occurrence of unfavourable phenomena as regards practices applied by financial institutions. The analysis of the information provided in complaints consists in, in particular, verification of actions taken by regulated entities in the context of their compliance with the law. Following the findings of analytical and explanatory actions there may be supervisory actions taken towards the regulated entities in order to eliminate the doubtful market practices.

In 2012, the KNF received a total of 8,342 complaints of clients of insurance sector entities, capital market entities, banking sector entities, open-end pension funds, payment service providers and credit unions. When compared to 2011, when the KNF received 8,034 complaints, there was a 4% growth of complaints in the reporting period. In 2012, a new problem reported in the complaints concerning practices applied by regulated entities as regards offering insurance products of investment nature appeared.

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Herzegovina, Montenegro, Kosovo, Serbia), and also public institutions in the states being the beneficiaries of the European Neighbourhood and Partnership Instrument (ENPI) and Russia.



## Complaints concerning the functioning of banking sector entities

In the reporting period the KNF received 4,268 letters concerning incorrect functioning of the banking sector.

Against 2011 the number of complaints concerning banking sector went up by approx. 19%. In 2012, there was a number of complaints with reservations as to the practices applied by regulated entities as regards offering insurance products of investment nature.

The most frequently reported issues concerned, among other things:

- quality of service provided,
- improper or incomplete service provided by bank employees,
- lack of reliable information on bank products/ services, no response to complaints, no extension of time for their consideration,
- improper sales practice applied when offering insurance products of investment nature,
- granting and servicing loans and cash loans as well as mortgage loans (irregularities as regards execution of instruction of total loan repayment, overdue loan repayment, reservations as to due verification by banks of credit capacity prior to loan extension and the mode of debt collection exercised by banks or establishing legal collaterals),
- maintaining bank accounts (overdue execution of instructions or lack of their execution, irregularities related to account blockade as a result of judicial debt enforcement proceedings, erroneous settlement of operations in accounts, exercise of heirs' rights),
- credit card handling (incorrect settlement of transactions made with the use of the card, settlement of credit card debt, issuing cards on the bank's initiative to persons that have not applied therefor and issues related to fees for card issue or use).

**Table 90. Number of complaints about the banks activity, 2011-2012**

Complaints sent to KNF	2011	%	2012	%
Commercial banks	3,522	98.16	4,180	97.94
Co-operative banks	66	1.84	88	2.06
<b>Total</b>	<b>3,588</b>	<b>100.00</b>	<b>4,268</b>	<b>100.00</b>

Source: in-house materials by KNF

The list of complaints about commercial banks and co-operative banks sent to the KNF in 2011-2012 broken by subject is presented in Tables 6.1 and 6.2 in Annex 6.

## Complaints about the activity of insurance companies

In 2012, the KNF received the total of 3,354 complaints about activity of the insurance sector, including 372 complaints against life insurers and 2,731 complaints against non-life insurers, as well as 3 complaints regarding brokerage activity, 5 complaints concerning the operations of insurance agent and 243 complaints about the operations of branches of insurers from the EU-member states. The number of complaints about the operations of insurance companies in 2012 dropped slightly (by 1%) when compared to 2011.

**Table 91. Number of complaints about the activity of insurance companies in 2011-2012**

Complaints sent to KNF	2011	%	2012	%
Segment I - Life insurance	222	6.48	372	11.12
Segment II - Non-life insurance	3,108	90.69	2,731	81.62
Branches of insurance companies of EU member states	97	2.83	243	7.26
<b>Total</b>	<b>3,427</b>	<b>100.00</b>	<b>3,346</b>	<b>100.00</b>

Source: in-house materials by KNF

As regards life insurance, the issues most frequently reported by clients involved:

- no proper information on characteristics of insurance products, in particular the mode of their presentation by a representative of the entity at the stage of agreement conclusion (service-related irregularities at the “sales” stage - preceding agreement conclusion were reported and they consisted in providing by the entities offering the said products only some information on material features of the product or providing this information in a way that may be misleading and structuring insurance conditions in a complicated and incomprehensible manner),
- issues related to refusal to pay the claim and the insurance policy purchase amount in case of early agreement termination or tardiness in claims handling.

As far as non-life insurance is concerned, the most frequently reported issues included: untimely claims handling, tardiness in claims handling mainly as regards automobile insurance (in particular motor TPL insurance), the amount of compensation and benefits paid, refusal to pay the compensation or benefits, refusal of an insurance company to make the loss files available, exercise of right to terminate insurance agreement (in particular motor TPL insurance agreement by vehicle buyers), absence of proper information as regards characteristics of insurance products as well as the refusal to reimburse the insurance premium for the unused insurance coverage term.

The list of complaints about life insurance companies sent to the KNF in 2011-2012 broken by subject is presented in Table 6.3 in Annex 6 and the list of complaints about non-life insurance companies - in Table 6.4 in Annex 6. Moreover, Table 6.5 in Annex 6 presents the list of complaints about branches of insurance companies of the European Union member states received by the KNF in the reporting period, broken by subject.

#### Complaints about the operations of open-end pension funds

In 2012, the KNF received 359 complaints alleging irregularities in the operation of open-end pension funds. A drop of 55% in the number of complaints was recorded against 2011 which seems to be a consequence of eliminating acquisition activity of funds due to amended legal regulations.

The biggest number of complaints about the activity of open-end pension funds received by KNF concerned irregularities in making transfers to other funds. The great majority of those complaints was related to lack of execution or delayed execution of transfers to other open-end pension funds after the change of legal regulations in this regard.

The complaints in that scope, broken by subject are presented in Table 6.6 in Annex 6.

#### Complaints concerning the functioning of capital market entities

In the reporting period the KNF received 277 letters concerning incorrect functioning of the capital market. Against 2011 the number of complaints went up by approx. 28%. The growth was mainly due to complaints related to the quality of services provided by investment firms and the investment policy pursued by investment funds.



In case of investment fund companies the reservations most frequently concerned irregularities as regards execution of investment policy and valuation of open-end investment fund units and the rules of executing purchase and redemption of fund units.

The remarks made as to the operations of investment firms concerned the quality of service provided, including but not limited to the execution of orders and issue of recommendations in that regard.

In case of public companies the most frequently reported problems referred to the exercise of the shareholders' corporate rights and fulfilment of disclosure requirements by the companies.

**Table 92. Number of complaints about the activity of capital market entities, 2011-2012**

<b>Complaints sent to KNF on capital market operations</b>	<b>2011</b>	<b>%</b>	<b>2012</b>	<b>%</b>
Investment fund companies	48	22.22	75	27.08
Public companies	8	3.70	10	3.61
Investment firms	63	29.17	92	33.21
Stock-exchange operators	2	0.93	4	1.44
Conduct of market participants/ Other capital market participants	95	43.98	96	34.66
<b>Total</b>	<b>216</b>	<b>100.00%</b>	<b>277</b>	<b>100.00%</b>

Source: in-house materials by KNF

The list of complaints about capital market entities sent to the KNF in 2011-2012 broken into individual market segments is presented in Annex 6 in Tables 6.7, 6.8 and 6.9, respectively.

#### The complaints regarding payment services provided by entities other than banks

In 2012, the KNF received 49 complaints concerning irregularities as regards payment services provision. The issues signalled in those complaints included: execution of transactions made with payment cards, not effecting a transfer order, blocking payment for services.

#### Complaints about credit unions

In the reporting period, the KNF received 35 complaints about credit unions. The issues complained about included, among other things, servicing loans and cash loans, including repayment problems and settlement of liabilities, placing data in the Credit Information Bureau, debt collection and sales of amounts due.

#### SUPERVISORY ACTIVITIES OVER MARKET PRACTICES BY FINANCIAL MARKET PARTICIPANTS

The KNF's monitoring of market practices employed by the regulated entities and directly affecting their clients results from the comprehensive approach to the protection of interests of non-professional financial market participants.

The activities of the KNF conducted in 2012 focused on identifying and eliminating market practices generating material legal risk for financial institutions, in particular the practices violating the law or infringing interests of non-professional financial market participants in particular areas. To achieve this objective, the KNF undertook relevant supervisory measures and encouraged self-regulation of the market. The measures undertaken by the KNF were targeted, among other things, at the following market practices of regulated entities:

### **Banks' practices of organising promotions and structuring terms and conditions of banking services promotions**

A number of irregularities was identified in this area. In some cases individual supervisory measures were taken. Nevertheless, taking into account the importance of the problem, a request was sent to the Polish Bank Association and the National Association of Co-operative Banks to reprimand the associated banks as to the necessity to maintain proper due diligence in the process of structuring the promotion conditions, including but not limited to ensuring explicitness and comprehensibility of agreement templates governing the promotion rules.

### **Analysis of banks' practice regarding compliance of their activity with the provisions of the Consumer Loan Act of May 12th 2011**

The said analysis revealed irregularities in the operations of some banks as regards application of provisions of this Act and varying practice in application thereof due to interpretation doubts. The KNF sent a letter expressing the regulator's expectation to take account of the effective legal provisions in the banks' advertising activity and pointed out to the Office of Competition and Consumer Protection analogical practices of entities outside the supervision of the Polish Financial Supervision Authority.

### **Sales practices of regulated entities related to offering products of investment nature**

There was a material growth in the number of signals reported to the KNF on doubtful sales practices of offering different products of investment nature applied by employees of financial institutions and financial intermediaries.

The KNF sent a letter to the regulated entities stating the regulator's expectations as to the correct mode of offering products of investment nature.

### **Verification of the implementation process of a single procedure for handling clients' complaints by financial institutions**

The analysis revealed that a great majority of reviewed entities adjusted their internal regulations to the Commission recommendations as to complaints handling.

### **Issuing recommendations on the offer to conclude accident insurance agreement included in the form of premium payment for motor TPL insurance**

The reason for issuing recommendations was the procedure of one of the insurers which sent to its clients the proposal to continue the mandatory motor TPL insurance and at the same time offered conclusion of the accident insurance agreement. In line with the content of this offer, if the addressee when paying the premium for a motor TPL insurance also paid the premium for the accident insurance, the insurer could have assumed that the addressee also accepted the accident insurance offer. The offer itself was formulated in such a defective manner that the client paying the premium for accident insurance could still think that he only paid the premium to renew his motor TPL insurance.

### **Other activities aimed at eliminating the market practices infringing the interest of financial institutions' clients concerned among others:**

- bank's practice related to making annexes to mortgage loan agreements;
- bank's practice related to demanding from local/ regional consumer ombudsmen authorisation to receive the information being banking secret certified by a notary public;
- practice of debiting bank accounts with the amounts of unauthorised transactions made with the use of payment cards;
- practice of banks consisting in offering prepaid cards without identification of a buyer or card user;
- initiation of reminder proceedings due to the application by a foreign insurance company operating in Poland of provisions incompliant with Articles 815§1 and 816 of the Civil Code;
- intervention concerning reduction of the flood-related compensation by the amount of government aid;
- practice of some banks consisting in making it impossible for an account holder to deposit or withdraw money from a bank account in foreign currency coins.

### **Analysis of fairness of advertising communication by the regulated entities**

The KNF monitored advertising communication, i.e. it reviewed information and advertising materials published at the request of, for or by the regulated entities. The purpose of the reviews of advertising communications was to establish whether the reviewed content complied with the law and respected the interests of non-professional financial market participants - in particular whether these communications did not mislead the target audience at the pre-contractual stage.

In 2012, the KNF questioned 15 potentially misleading advertising communications published by financial institutions. In 8 cases the supervisory interventions concerned improper fulfilment of obligations imposed by the provisions of law as regards advertising banking services, in particular by the Consumer Loan Act of May 12th 2011 (Dz. U. of 2011, No. 126, item 715). In view of the above, at the end of Q1, the regulator sent a circular letter to the Polish Bank Association and National Association of Co-operative Banks drawing their attention to the need for compliance of the banking sector entities regulated by the KNF with the law. At the same time, the Office of Competition and Consumer Protection was informed about doubtful advertising communications regarding consumer loans and popularised by the entities not regulated by the Polish Financial Supervision Authority.

#### SUPPORT FOR THE CONCILIATORY COURT AT THE KNF

In 2012, the works concerning the Conciliatory Court at the KNF covered expert and administrative support therefor.

**Table 93. Handling petitions filed with the Conciliatory Court (CC) at the KNF in 2012.**

Detailed list	Total	Arbitration proceedings	Mediation proceedings
Requests	126	40	86
Consents*	8	3 (including 2 cases pending)	5 (including 3 cases pending)
Cases adjudicated for the petitioner without starting a dispute (settlement or settlement proposal was made)	9	3	6
Refusals	85	33	52
Other (no competence of CC, not supplementing the petition by the petitioner)	5	2	3
Pending (no response from the entity)	20	1	19

\*applies to consents received in the reporting period  
Source: in-house materials by KNF

On September 28th 2012 the first General Assembly of Arbitrators of the second term of office of the Conciliatory Court was held; during the Assembly, the Commission Chairman emphasised the need to promote the activity of the Conciliatory Court at the KNF and seek new, effective solutions enhancing interest of financial institutions in resolving disputes before the Conciliatory Court at the KNF. In view of the above, works on the reform of the Conciliatory Court at the KNF were started and will be continued in 2013.

## 7.5. EDUCATIONAL AND INFORMATION INITIATIVES

The KNF, fulfilling its statutory task of a regulator as regards popularising knowledge of financial market functioning, since 2009 has been carrying out the Educational Centre for Market Participants project (CEDUR) whereunder it performed training and publishing initiatives in the reporting period. In 2012, 47 seminars and training workshops were held; they were attended by almost 3 thousand participants and addressed to: representatives of

regulated entities, judiciary, prosecutors and law enforcement officers, consumer protection institutions and teachers of *Basic Entrepreneurship* at secondary schools.

Moreover, the representatives of the KNF participated as speakers in 126 external events, such as panels, congresses and conferences.

The KNF employees also held 60 presentations and lectures as part of external educational initiatives such as:

- nationwide cycle of meetings with investors as part of the 2nd edition of *Akcjonariat obywatelski* (Civic shareholding) programme, *Inwestuj świadomie* (Conscious investment), launched by the State Treasury Ministry,
- meetings with academic circles organised by universities,
- meetings with secondary school and academic students during the 16th Science Festival,
- meetings with primary school students as part of *Warszawski Program Lato w Mieście* (Summer in the City Warsaw Programme),

attended by a total of 3 thousand students.

In the reporting period 4 educational brochures were published and distributed under the Financial services client guide cycle: *Prosta droga do kredytu na własne „M”* (Simple way to a loan for your own apartment), *Ubezpieczenia z głową, czyli ubezpieczeniowe ABC dla myślących przed szkodą* (Sound insurance - the ABC for the prudent), *Piramidy i inne oszustwa na rynku finansowym* (Pyramids and other frauds on the financial market), *Pomyśl o swojej emeryturze już dziś* (Start thinking about your pension today) and *Pracowniczy program emerytalny. Czy to się opłaci?* (Occupational pension scheme. Will it pay off) brochure addressed to employers considering introduction of an additional pension security for their employees. Other forms of educational initiatives carried out in 2012 included organisation of the Commission Chairman's Award for the Best Ph.D. Thesis of the financial market and participation in the *XVI Piknik naukowy*, (16th Science Picnic), the largest event of this type in Europe.

The main tool used by the KNF to disseminate information is its official website with over 8m views in 2012.

In 2012, the media released 66,192 publications containing references to the KNF or the KNF, of which 54,683 were on-line publications (including approximately 31 thousand ESPI reports) and 5,318 were press publications, 1,905 references were made on the radio, and 4,286 on television.

When co-operating with the media, the KNF pursues open communication policy. The tasks in this area include, but are not limited to:

- presentation of positions and results of work of the KNF and the KNF to the public,
- informing the public of activities, initiatives and programmes managed by the KNF and the KNF ,
- commenting on financial market developments,
- responding to questions of the media representatives.

As required by the Act on Access to Public Information, dated September 6th 2001 (Dz. U. No. 112, item 1198, as amended) and the accompanying regulation of the Ministry of Internal Affairs and Administration, the KNF is obliged to publish certain information on the web pages *Biuletyn Informacji Publicznej* (BIP, Public Information Bulletin) assigned to particular entities, representing an autonomous part of the KNF on-line service. In execution of the provisions of the Act on Access to Public Information, 83 requests for access to public information were considered in 2012.

## 7.6. CO-OPERATION WITH THIRD PARTIES

### CO-OPERATION WITH FINANCIAL MARKET PARTICIPANTS

In 2012, meetings of the KNF 's senior personnel with representatives of regulated entities and financial trade organisations were continued. The main purpose of the initiative is to improve the standards of communication and co-operation with the market and to facilitate the assessment of satisfaction of all market participants.

#### SOCIAL CAMPAIGN “*NIE DAJ SIĘ NABRAĆ. SPRAWDŹ, ZANIM PODPISZESZ*” (DON'T GET FOOLED, CHECK BEFORE YOU SIGN)

Since November 2012, the KNF is a co-organiser of the social campaign “Nie daj się nabrać. Sprawdź, zanim podpiszesz” (Don't get fooled, check before you sign).

The aim of the campaign is to draw the attention of the society to the risk involved with conclusion of financial agreements, mainly taking out high-interest bearing short-term cash loans, the so-called “*chwilówki*” and using financial services that are not regulated by the state. The social campaign is organised by seven public institutions: Bank Guarantee Fund, Polish Financial Supervision Authority, Ministry of Finance, Ministry of Justice, National Bank of Poland, Police and Office of Competition and Consumer Protection.

The website [www.zanim-podpiszesz.pl](http://www.zanim-podpiszesz.pl) provides basic information on security in financial market, presents four principles of secure loan taking, provides financial calculators and warns about dangerous loopholes applied in agreements; the website also provides access to key legal acts. The KNF also operates a free helpline where one can get information whether a given entity is covered with the KNF supervision.

### CONSULTATIONS AS TO THE MODEL OF FINANCING SUPERVISION OVER CAPITAL MARKET

Due to inadequacy of the currently effective regulations regarding the financing system of supervision costs over capital market, the issue raised both by the KNF and capital market participants, in 2012 the works on the change of the model of financing supervision over capital market were accelerated. The to-date model does not correspond to the actual scale and scope of the regulator's exposure on the capital market. The basic shortcoming of the currently effective provisions is that the costs of supervision are not equally allocated to individual groups of entities and the provisions do not cover some categories of entities operating on the capital market. Disproportions in allocating costs of supervision are reflected in the discussion between brokerage houses and the Warsaw Stock Exchange (WSE) about the trading fees. The loopholes on the other hand are reflected by the fact that brokerage houses not operating on the regulated market and organising internet trading platforms as part of forex, among other entities, do not take part in financing the costs of supervision. There are more such loopholes and disproportions. The current model of financing supervision over capital market was developed ten years ago, under other market circumstances and is no longer up-to-date.

The amendments proposed by the KNF were subjected to consultations with the WSE, Polish National Depository for Securities and commercial chambers of entities operating on the capital market. On May 28th 2012 and October 2nd 2012 two panels were held with individual groups of entities operating on the capital market. Also the Ministry of Finance was involved in the process of developing new solutions. In the course of consultations, the proposed solutions were preliminarily approved and some elements were modified taking into account the remarks made.

The aim of the proposed amendment is mainly to evenly distribute the supervision costs between individual categories of entities covered with the KNF supervision. The proposed model of financing supervision over capital market better suits the current capital market structure and when compared to the current legal regime, it is more fair and transparent due to ensuring proportional charging of entities with supervision costs to the nature and scale of supervised activity. The proposed amendment takes account of the recently visible development of the capital market in Poland, including but not limited to a growth in the number of public companies listed on WSE, closed-end investment funds and a greater interest of brokerage houses in cross-border activity or domestic OTC markets whose trading volumes are currently bigger than the volumes on regulated markets.

In the current model, the costs of funding supervisory activities are mainly borne by WSE and the Polish National Depository for Securities - two infrastructural entities of the Polish capital market, and indirectly the entities being stock exchange members. In such a setting there is a huge disproportion of fiscal charges which adversely impacts competitiveness of individual entities. At the same time, a number of different categories of entities operating on the capital market and covered by supervision in the current legal situation does not bear any charges thereunder or bears them in a scale that is inadequate to the scale of operations. Introduction of the proposed changes will enable significant reduction of the scale of current fiscal charges borne by WSE and the Polish National Depository for Securities. Currently the costs of supervision over the capital market are covered in approx. 87% by those two companies. Upon introduction of changes the value of deposits due from both companies would fluctuate around 42% of the costs of supervision over the capital market. The KNF expects that the reduction of fees paid towards the costs of supervision by WSE and the Polish National Depository for Securities should in turn lead to a permanent reduction of the fees borne for WSE and the Polish National Depository for Securities by entities operating on the capital market, in particular by brokerage houses. Further, the proposed change would provide the basis for reduction of commissions charged by brokerage houses from stock exchange investors, both institutional and individual, which would contribute to further development of the capital market in Poland.

A bill on amendment of some acts in relation to changes in the system of financing costs of supervision over the capital market and a draft regulation of the Minister of Finance on fees paid for the KNF by regulated entities operating on the capital market were submitted to the Ministry of Finance.

#### WORKING TEAM FOR DEVELOPMENT OF PUBLIC MARKET OF LONG-TERM BANKING DEBT SECURITIES

In May 2012, upon the initiative of the Chairman of the Commission, the Working Team for Development of Public Market of Long-Term Banking Debt Securities, composed of the following three working groups started operating:

- working group for mortgage bonds,
- working group for securitisation of bank debts,
- working group for issue of own bonds by banks.

The aim of the Team is to identify the barriers for development of individual segments of the public market of long-term instruments and to propose statutory, regulatory and supervisory solutions aimed at activation of this market.

The Team is composed of the representatives of state and market institutions responsible for the security and infrastructure of financial markets as well as chambers of commerce representing institutional investors. By the end of 2012, there were 20 meetings of working groups constituting the Team were held and they were attended by several dozen of experts from the KNF, National Bank of Poland, Ministry of Finance, Ministry of Justice, Warsaw Stock Exchange, BondSpot SA, Polish Bank Association, Polish Insurance Association,

Polish Chamber of Pension Funds, Chamber of Fund and Asset Management, Mortgage Credit Foundation and Conference of Financial Enterprises in Poland.

#### PARTICIPATION OF THE KNF IN WORKS OF INTER-INSTITUTIONAL ORGANISATIONAL STRUCTURE FOR EURO CHANGEOVER IN POLAND

In 2012, the representatives of the KNF actively participated in works of the inter-institutional organisational structure responsible for preparation of Poland to euro changeover, established by the Council of Ministers in November 2009<sup>39</sup>. They attended the meeting of the National Euro Co-ordination Committee and meetings of the following four Working Teams and one Task Force:

- in Working Team for Legislative Alignment (ZRDP),
- in Working Team for Legislative Alignment (ZRDP),
- in Working Team for Financial Sector,
- in Working Team for Consumer Protection (ZROK),
- in Task Force for Financial Stability (GZSF).

The operations of the abovementioned collective bodies focused on active submitting of remarks and opinions to the presented studies and documents, and on formulating lists of questions and commentaries to foreign experts sharing experience of other countries that have already introduced euro as part of study visits (twinning).

#### CO-OPERATION WITH THE AUDIT OVERSIGHT COMMISSION AND THE CIRCLE OF QUALIFIED AUDITORS

There is a Committee for Relations with Qualified Auditors established by the KNF Chairman within the KNF .

In 2012, the Committee for Relations with Qualified Auditors took the following actions within its powers:

- co-operation with representatives of the KNF being members of the Committee for Relations with Qualified Auditors;
- development of comments to the bill on facilitating access to performing finance, building and transportation jobs and draft regulation of the Minister of Finance amending the regulation of the Minister of Finance on qualification proceedings for qualified auditors;
- organising meetings with representatives of the KNF with qualified auditors auditing financial statements of securities issuers, banks, insurance companies and investment funds;
- advising on the proposed Directive amending the Directive on statutory on statutory audits of annual accounts and consolidated accounts as regards auditing accounts and Regulation of the European Commission on specific requirements regarding statutory audit of public-interest entities.

#### CO-OPERATION WITH OTHER INSTITUTIONS

In the period covered by the report, the KNF co-operated with the following institutions, among others:

- Chamber of Brokerage Houses and other participants of the capital market to explain and properly understand the provisions governing functioning of investment firms in Poland,

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<sup>39</sup>Regulation of the Council of Ministers dated November 3rd 2009 on establishment of the National Euro Co-ordination Committee, Co-ordination Council and Inter-Institutional Working Teams for Euro Changeover in the Republic of Poland (Dz. U. of 2009 No. 195, item 1505, as amended).

- Polish Insurance Association by participation of the KNF employees as speakers in conferences organised by the Association as well as in works of groups operating therein:
  - Subcommittee for Audit and Internal Control and Working Group for development of co-operation standards of internal and external auditors which developed and published a set of best practice as regards mutual relations of an internal auditor with a qualified auditor,
  - Prevention of Insurance Fraud Committee working on specific types of frauds and specific phenomena, including but not limited to operation of some compensation offices,
- Accounting Standards Committee whose tasks involve, among other things, issuing Polish Accounting Standards, advising on legal acts in the accounting area and the analysis and advising on drafts of the Polish and International Accounting Standards and drafts of amendments thereto,
- Commission for Offers Verification operating at the Ministry of Agriculture and Rural Development dealing with formal verification whether the agreements on subsidies to premiums under insurance agreements against agricultural accidents meet the conditions set forth in Article 9 section 4 of the Act of July 7th 2005 on Insurance of Agricultural Crops and Livestock (Dz. U. No. 150, item 1249, as amended), in particular whether the opinion of the Polish Financial Supervision Authority on financial standing of an insurance company guarantees that the offer will be effective,
- Examination Board operating at the National Chamber of Statutory Auditors established under the Act of May 7th 2009 on Qualified Auditors, Their Self-Government, Entities Qualified to Audit Financial Statements and on Public Supervision whose tasks include in particular holding examinations for candidates for qualified auditors, including a diploma examination.



## 8. THE ORGANISATION OF THE KNF

The Polish Financial Supervision Authority and its Chairman perform their tasks with the aid of the Polish Financial Supervision Authority operating under the charter granted with Ordinance No. 172 of the President of the Council of Ministers of November 22nd 2006 (M.P. of November 24th 2006) which was amended several times. The last amendment to the charter was made with Ordinance No. 96 of the President of the Council of Ministers of November 2nd 2012 amending the Ordinance on granting the charter to the Polish Financial Supervision Authority (M.P. of 2012 item 833).

As a result of statutory changes, new tasks were imposed on the KNF in relation to covering domestic payment institutions, payment service offices and credit unions with the supervision.

The KNF is led by the Chairman of the Commission, aided by Vice-Chairmen and heads of organisational units. The tasks of the organisational units of the KNF are specified in the organisational by-law of the KNF issued with the ordinance of the KNF Chairman.

2012 was the year of implementing new, more functional organisational structure of the KNF. At the end of 2012, as a result of divisions' liquidation, the organisational structure was flattened and the middle management level was eliminated; the process of managing and segregating tasks between organisational units was simplified and the direct supervision over departments focused on the banking sector and insurance and pension sector was taken over by KNF Vice-Chairmen. The supervision over the other departments including the departments covering the capital market sector was taken over by the KNF Chairman.

The management control system defined as a set of actions to ensure that the goals and tasks are performed in accordance with applicable laws, and in a cost-effective, efficient, competent and timely manner was introduced with an ordinance of the KNF Chairman at the KNF. The aim of the management control is to ensure in particular compliance of operation with legal provisions and internal procedures as well as the effectiveness of operations, reliability of reports, protection of resources, compliance with and promotion of ethical rules, effectiveness and efficiency of information flow and risk management.

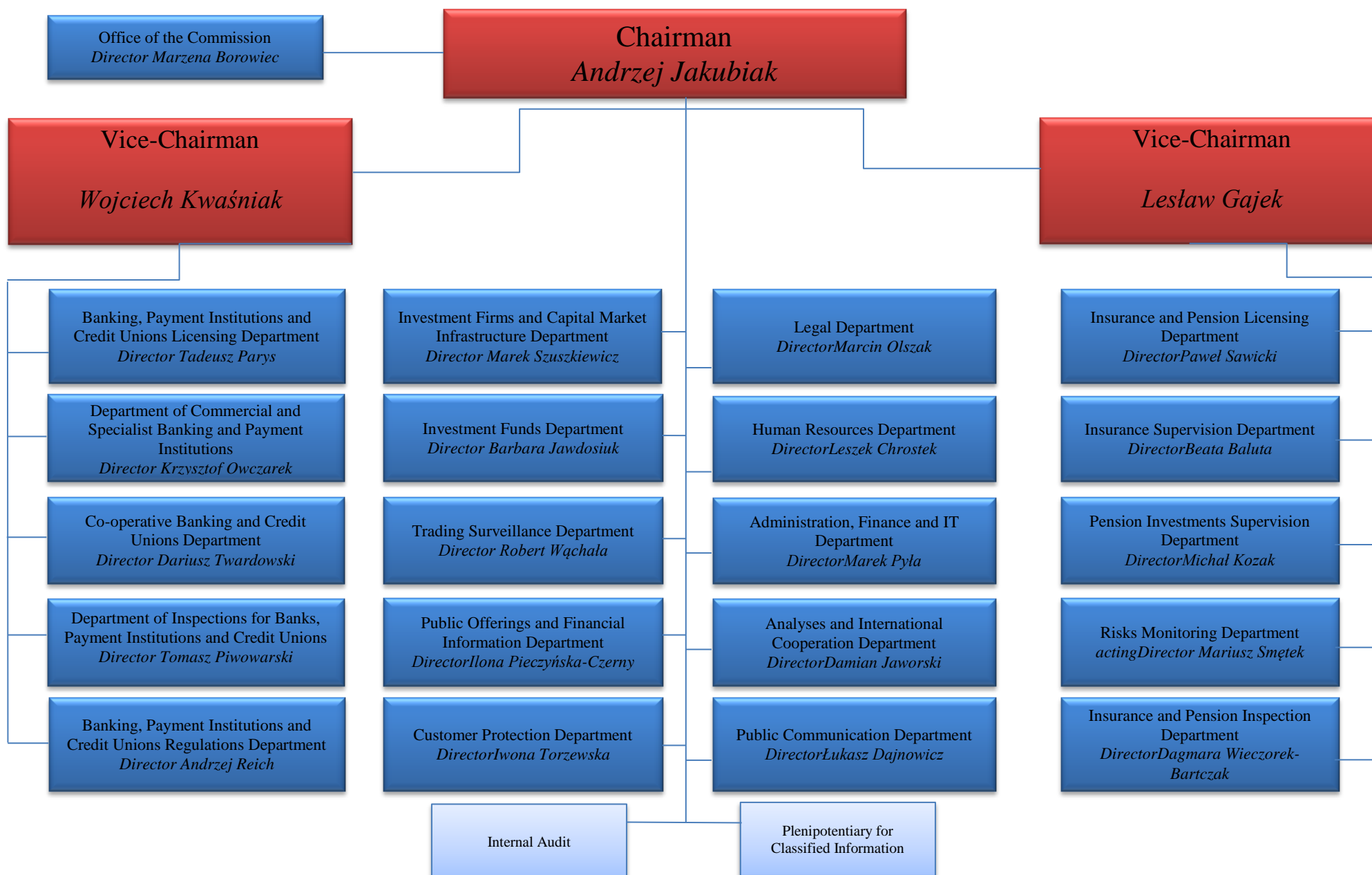
In order to ensure adequacy, effectiveness and efficiency of management control, the risk management principles were introduced at the KNF. They are aimed at providing mechanisms of identifying risks that constitute a threat to efficient, cost-effective, timely and compliant in legal terms execution of goals and tasks of the KNF, determining the results and weights of those risks and taking adequate preventive measures to mitigate the identified risks.

After the change of the organisational structure, the employees were allocated in such a way as to integrate in individual locations departments dealing with individual financial market sectors and adapt the location at Jasna 12 in Warsaw. This operation involved the movement of over 700 workplaces.

Internal regulations were also reviewed and adapted to changes due to regulatory environment and the need to execute the tasks of the KNF in the new structure.

2012 was the first year when the budget in a breakdown by activity was implemented in the KNF under the Act on Public Finance.

Diagram: Organisational structure of the Polish Financial Supervision Authority as at December 31st 2012



## BUDGET OF THE KNF

The KNF is a publicly financed entity. Expenditure of the Office is covered directly from the state budget. The KNF's revenue is the budget revenue transferred to the state budget account. As a public sector entity, the KNF manages its finances in accordance with applicable laws, in particular the Act on Public Finance of August 27th 2009 (Dz. U. of 2009, No. 157, item 1240, as amended), the Public Procurement Law Act of January 29th 2004 (consolidated text Dz. U. of 2010, No. 113, item 759, as amended), the Budget Act, as well as the annual financial plan.

Like in many other European countries, in Poland the costs of state supervision over the financial market are borne from mandatory charges paid by regulated entities.

Fees for official duties connected with examinations for brokers and actuaries represent state budget revenue not allocated to cover the costs of supervision. Fines imposed by the Polish Financial Supervision Authority on regulated entities and on members of their governing bodies for any illegal activity also count towards state budget revenue.

The budget revenue of the KNF in 2012 was planned at PLN 213,335,000, while measured on an accrual basis and cash basis it amounted to PLN 294,336,682 and PLN 194,527,061, respectively. A bulk of the revenue was derived from payments made by regulated entities to cover the costs of supervision. Fines imposed on regulated entities and paid by them as well as other revenue not classified as costs of supervision totalled PLN 6,305,700.

The expenditure allocated in the 2012 state budget for the KNF's operations amounted to PLN 208,867,000 which was 3.06% more than in the preceding year. The actual spending was PLN 173,078,807, i.e. 17% below the planned amount.

In 2012, the public funds were spent in a rational, appropriate and economical manner. It was reflected in the savings achieved on the planned remuneration fund. Also the spending on assets, in particular in terms of construction investments, was limited and the funds were invested in IT technology development. All the expenses were made in line with the public procurement procedures and notable savings were generated due to applying the mechanisms of competition in the tender procedures held. The expenses under contract for mandate and for performance of specific task were reduced. Owing to the use of the new conference and training rooms in the building at Jasna 12 in Warsaw, the costs of renting rooms from external providers were considerably cut.

In 2012, with the Ordinance of the KNF Chairman in the KNF a team for enhancing effectiveness of planning and spending the budget of the KNF was established; tasks of the team involved: development of proposals of enhancing effectiveness of planning and spending the budget of the KNF, analysis of the to-date mode of settling costs incurred by the KNF broken into individual financial market segments and development of the mechanism of monitoring spending of funds at the KNF. As a result of the team's work, the system of monitoring the costs of supervision over individual financial market sectors based on the set of controlling parameters was introduced.

In performance of the Minister of Finance's Regulation on the detailed manner, procedure and deadlines for the preparation of materials for the draft budget act for 2012, of March 9th 2011, the KNF developed, and submitted to the Minister of Finance, its draft budget for the budget year, prepared in the traditional manner and in a breakdown by activity. Tables 94 and 95 show in a traditional manner the KNF's budget expenditure and revenue for 2012 - actual and planned in the Budget Act, with a specification of key expenditure and revenue items versus the corresponding amounts for 2011.

Pursuant to Article 2 section 1 of the Act on the Supreme Audit Office, of December 23rd, performance of the state budget in part 70 - the KNF is inspected annually by the Supreme Audit Office. The results of the inspection, i.e. publicly available information on the inspection results and a post-inspection statement, are published on the website of the Public Information Bulletin of the Supreme Audit Office. Moreover, pursuant to Article 182 of the Act on Public Finance of August 27th 2009, a report on the execution of the KNF 's budget, in the form of tables and descriptions, is submitted to the Ministry of Finance, and by the end of the second quarter of each year a report on the execution of the KNF 's budget is submitted to the Public Finance Committee of the Sejm (lower chamber of the Polish Parliament) and to the Budget and Public Finance Committee of the Senate (upper chamber of the Polish Parliament).

**Table 94. Execution of the KNF's 2012 budget revenue plan**

Budget revenue	2011 planned (PLN '000)	2011 actual (accrual basis)		2012 planned (PLN '000)	2012 actual (accrual basis)		Planned 2012 vs. 2011 (%)	Actual - 2012 vs. 2011 (%)
		(PLN '000)	(%)		(PLN '000)	(%)		
1	2	3	4	5	6	7	8	9
Fees towards the costs of supervision over insurance and brokerage activities paid by insurance companies	24,321.0	27,950.7	115	24,680.0	28,198.9	114	101	101
Fees towards the costs of supervision over open-end pension funds paid by universal pension fund companies	16,214.0	18,731.4	116	16,454.0	17,643.9	107	101	94
Fees towards the costs of supervision paid by the capital market	38,508.0	41,058.8	107	39,077.0	39,729.6	102	101	97
Fees towards the costs of supervision paid by supervised banks	123,631.0	178,350.1	144	128,656.0	202,457.6	157	104	114
Fees for official duties connected with examinations for brokers, actuaries and insurance agents	350.0	449.7	128	360.0	554.3	154	103	123
Fines imposed on the industry	4,000.0	5,516.1	138	4,000.0	3,215.7	80	100	58
Other	45.0	481.6	1,070	108.0	2,535.7	2,348	240	527
<b>Total</b>	<b>207,069.0</b>	<b>272,538.4</b>	<b>132</b>	<b>213,335.0</b>	<b>294,335.7</b>	<b>138</b>	<b>103</b>	<b>108</b>

Source: in-house materials by KNF

**Table 95. Execution of the KNF's 2012 expenditure plan**

Budget expenditure	2011 planned* (PLN '000)	2011 actual*		2012 planned (PLN '000)	2012 actual		Planned 2012 vs. 2011 (%)	Actual - 2012 vs. 2011 (%)
		(PLN '000)	(%)		(PLN '000)	(%)		
Payroll, including overheads	115,292.9	112,467.5	98	119,038.0	114,990.7	97	103	102
Non-payroll expenditure	87,620.0	54,211.4	62	89,829.0	58,089.1	65	103	107
including:								
out-of-pocket expenses	57,920.0	36,824.6	64	60,129.0	42,086.0	70	104	114
spending on assets	29,700.0	17,386.8	59	29,700.0	16,003.1	54	100	92
<b>Total</b>	<b>202,912.9</b>	<b>166,678.9</b>	<b>82</b>	<b>208,867.0</b>	<b>173,079.8</b>	<b>83</b>	<b>103</b>	<b>104</b>

\*excluding expenditure on the Norwegian Financial Mechanism

Source: in-house materials by KNF

**Table 96. Costs of supervision over particular markets in 2012 vs. 2011**

Market	2011		2012		relative to previous year	
	planned (PLN '000)	actual (PLN '000)	planned (PLN '000)	actual (PLN '000)	planned (2011=100)	actual (2011=100)
Capital market	38,508	32,899	39,077	36,551	101.5	111.1
Insurance market	24,321	21,563	24,680	25,832	101.5	119.8
Pension market	16,214	14,324	16,454	12,535	101.5	87.5
Banking market	123,631	98,000	128,656	98,162	104.1	100.2
<b>Total</b>	<b>202,674</b>	<b>166,786</b>	<b>208,867</b>	<b>173,080</b>	<b>103.1</b>	<b>103.8</b>

Source: in-house materials by KNF

Act on Financial Market Supervision of July 21st 2006 (Dz. U. of 2012, item 1149, as amended) specifies the actions carried out by KNF. The actions include but are not limited to ensuring correct operation of the financial market, as well as its stability, security and transparency, building confidence in the financial market, and protection of the interests of its participants. The KNF's duties also include supporting the development of the financial market, educating the public on the market's operation, maintaining dialogue with the market participants, and ensuring the market's transparency.

In relation to the Minister of Finance's Regulation on the detailed manner, procedure and deadlines for the preparation of materials for the draft budget act for 2012, dated March 9th 2011, the Polish Financial Supervision Authority also developed draft budget in a breakdown by activity mode. For execution of the task 4.4 Supervision over the capital, insurance, pension and banking markets in 2012, in line with the "Catalogue of functions, tasks, subtasks and actions for 2012" the Polish Financial Supervision Authority allocated the amount of PLN 208,867 thousand. The KNF's budget by activity is presented in Table 97.

**Table 97. State budget expenditure by activity (part 70 - the Polish Financial Supervision Authority) in 2012 (PLN '000)**

No.	Function/activity/sub-activity	Plan for 2012 as per the Budget Act	Actual
<b>4.</b>	<b>Management of public finances</b>	<b>208,867</b>	<b>173,080</b>
4.4.	Supervision over the capital, insurance, pension and banking markets	208,867	173,080
4.4.1.	Supervision over capital market entities	39,077	36,551
4.4.2.	Supervision over insurance companies	24,680	25,832
4.4.3.	Supervision over the pension market	16,454	12,535
4.4.4.	Banking supervision	128,656	98,162

Source: in-house materials by KNF

#### Task 4.4. Supervision over the capital, insurance, pension and banking markets.

The objective of the task was to ensure compliance of operations of regulated entities with financial market regulations and ensure the protection of interests of the financial market participants. The said objective was supposed to be achieved by:

- performing control activities (comprehensive and problem-oriented inspections) in the regulated entities and the mode of performance thereof depended on the selected inspection activities in individual cases, control-related legal provisions and the problem complexity which translated into the scale of dedicated resources,
- conducting administrative proceedings consisting in considering requests filed by the regulated entities and issuing decisions the processing whereof depended on the complexity of cases and the quality and completeness of documentation submitted by the party.

The following metrics were applied to monitor execution of the task 4.4:

- the number of completed inspections - in 2012 211 inspections were completed while the planned metric was 214, which translates into 98.6% of target execution,
- percentage of completed administrative proceedings - in the reporting period the decisions were issued for 98% of requests submitted while the metric set was 85%.

#### IT DEVELOPMENT

In 2012, a multiannual plan of investment expenditure for development of IT technology for the years 2012-2016 was developed. The plan involves:

- development and implementation of the Integrated IT System for the purpose of banking supervision,
- development of an additional KNF Data Processing Centre,
- modernisation and development of the technical platform for the systems used by the KNF.

In 2012, IT systems used by the KNF supporting supervisory processes in individual markets were reviewed and analysed in terms of development needs, with special attention to:

- reporting systems,
- analytical systems,
- systems fulfilling the European Union requirements,
- registers and records,

- publication systems.

The most important tasks performed in 2012 include:

- redevelopment of ESPI (Electronic System for Information Transmission) to ensure efficient, secure and reliable process of information transmission on the capital market,
- development and implementation of the new SNARK analytical system for the purpose of supervision over capital market entities,
- development and implementation of the new reporting and analytical system for the purpose of supervision over domestic payment institutions, payment service offices and credit unions with the use of the KNF Portal.

## HUMAN RESOURCES MANAGEMENT

The priority actions taken by the KNF in 2012 in the human resources management area covered the works related to conducting organisational changes in the KNF and preparation works related to covering new entities with the KNF's supervision.

As of the effective date of the new KNF charter, the allocation of employees to organisational units changed. The employees were offered employment in the newly established units and in occasional individual cases there were changes in the positions due to liquidation or establishment of new departments or sections.

The implemented changes led to the release of some FTEs at the operational level which facilitated emergency FTE support for organisational units dealing with payment institutions and credit unions and made it possible in H2 2012 to support in terms of human resources the preparatory works related to the new supervisory obligations of the KNF.

The organisational changes made at the end of 2011 initiated the process of ordering and updating internal regulations of the KNF. The changes encompasses, among other things, the labour by-law and the remuneration by-law which were adjusted to the current structure of positions and scope of competence of organisational units. In 2012 the co-operation with trade unions was continued which translated into the conclusion in February of an agreement regulating the principles of co-operation between the KNF and trade unions.

The planned headcount for 2012 included 921 FTEs. As at December 31st 2012, the headcount included 909 FTEs.

In 2012 the employees of the KNF were prepared to perform new supervisory tasks. In 2013, the KNF will provide human resources necessary to perform supervisory tasks within the budget held by making savings as regards ongoing expenses and spending on assets using the saved funds to cover the costs of higher employment.

The employee turnover rate in 2012 was 8.24%. To compare, in 2009-2011 the rate was 17.01%, 7.1% and 9.73%, respectively. Those ratios prove that the employment was stable despite the organisational changes and the employee turnover rate was maintained at a low level of several per cent, which favours optimisation of the process of work and its organisation.

In 2012, as part of the actions aimed at improving qualifications of employees, many training initiatives raised by individual organisational units of the KNF were carried out. To meet the staff expectations and the KNF's needs as fully as possible, all training programmes were prepared based on relevant guidelines and detailed descriptions of programme assumptions and consulted with experts in a given field, and subsequently approved by the management of the organisational units which proposed subjects for the training programmes. There were group trainings held on 94 subjects held throughout the year, including 6 e-learning trainings available for all the employees. The trainings mainly covered the following areas: banking and risk, reporting and accounting, financial markets, investment funds, insurance and legal issues. In consequence of an ongoing analysis of

needs, the group training processes were supported with individual training activities attended by 517 employees in 2012, including 374 participants of local trainings and 143 participants of trainings held abroad. Over the years 2009-2011 there was a growing trend of intensified participation of employees in trainings held abroad with 94 participants in 2009, 127 in 2010 and 104 in 2011. It is of vital importance in the context of an extensive co-operation with the EU supervisory bodies and the presence of the KNF in the international forum.

The intensity of 2012 training is illustrated by the ratio of 5.4 training man-days per employee, i.e. 43 training hours per employee. To compare, this ratio in 2009-2011 was 38, 26 and 37 hours, respectively.

#### TASKS IN THE AREA OF SECURITY AND PROTECTION OF INFORMATION PROCESSED BY THE KNF

In 2012, KNF executed tasks related to security and protection of information processed thereby. The most important of them included:

- performance of obligations under provisions of acts on protection of classified information and on security of persons and property,
- performance of obligations related to defence planning and non-military defence planning,
- ongoing co-operation with Krajowe Centrum Informacji Kryminalnych (National Centre for Criminal Information),
- fulfilment of the obligation under Article 47 of the Act on Organisation and Functioning of Pension Funds,
- maintenance of the comprehensive information security system in the KNF,
- ensuring security of processing information protected under acts of law or internal KNF regulations,
- co-operation with bodies and institutions ensuring state security in the area of counteracting threats to the financial system security,
- supervising and monitoring IT security systems,
- supervising and monitoring physical security systems in KNF's premises and buildings,
- supervising and monitoring tasks in the area of emergency planning and business continuity.

As regards the above-mentioned tasks in the reporting period:

- the system of protection of classified information in the KNF was strengthened, in particular in terms of the protection zones and a special protection zone,
- a cycle of trainings concerning state's defences in the context of the tasks of the KNF was held, the Operational Plan of the KNF Functioning and the Non-Military Defence Planning Questionnaire in the KNF context were updated,
- the project of establishing a direct access point to the database of the National Centre for Criminal Information was launched,
- security audits of IT systems were performed,
- internal regulations as part of the information security and incidents handling system were developed.



## INTERNAL INSPECTIONS AND COMPLAINTS ABOUT THE OPERATIONS OF THE POLISH FINANCIAL SUPERVISION AUTHORITY OFFICE AND BEHAVIOUR OF THE EMPLOYEES OF THE POLISH FINANCIAL SUPERVISION AUTHORITY

In 2012, the KNF executed tasks related to performing internal inspections aimed, among others, at:

- ongoing checks of effectiveness of exercising functional control in the KNF ;
- control of compliance of operations of organisational units, working teams or committees with the effective legal provisions and internal regulations of the KNF ;
- review of the KNF functioning as regards lawfulness, usefulness and timeliness of the exercised tasks, and determining the procedure and measures that should be undertaken in order to correct irregularities and prevent them in the future.

Between January 1st 2012 and December 31st 2012 the internal control unit in the KNF held 11 planned problem-oriented internal inspections.

In 2012, there were also explanatory activities performed as regards handling complaints and requests concerning the work of the KNF and behaviour of the KNF employees. 100 letters from 89 persons/ entities were received in that scope.

### INSPECTIONS BY EXTERNAL BODIES

In 2012, the Supreme Audit Office audited the KNF on its state budget execution on 2012. Following the audit, the Supreme Audit Office issued a positive opinion on the state budget execution for 2011 in part 70 - the Polish Financial Supervision Authority.

## ANNEXES

### ANNEX 1. INFORMATION ON RESOLUTIONS, ADMINISTRATIVE DECISIONS AND DECISIONS ISSUED BY COMMISSION IN 2012

Table 1.1. Number of resolutions adopted by the Commission in 2012

Resolution subject	Number of adopted resolutions
<b>Issues regarding banking sector</b>	
Granting consent to appoint a management board president in a bank	33
Granting consent to appoint a management board member in a bank	5
Granting authorisation to banks' merger	5
Appointing a custodian supervising execution of rehabilitation proceedings	1
Dismissing a custodian supervising execution of rehabilitation proceedings	1
Stating that there are no grounds to raise an objection to the planned purchase of shares	4
Refusal to grant consent to appoint a management board president in a bank	1
Indicating the conditions that for the common good, in particular to protect consumer interest, ensure security of economic transactions or prevent infringement of law must be satisfied by a credit institution branch	7
Rescinding the prohibition to exercise voting rights under shares at a general meeting	1
Other	9
<b>Total:</b>	<b>67</b>
<b>Issues regarding payment services market</b>	
Granting authorisation to provide payment services as a domestic payment institution	3
<b>Total:</b>	<b>3</b>
<b>Issues regarding insurance market</b>	
Granting consent to appoint a management board member in an insurance company	15
Granting consent to appoint a management board president in an insurance company	7
Imposing a fine	16
Discontinuation of proceedings	2
Upholding the decision	3
No grounds to raise an objection to the purchase of shares in a domestic insurance company	9
Extension of the term to purchase shares in a domestic insurance company	1

Granting authorisation to amend the change the thematic scope of activity	1
Rescinding the prohibition to exercise by a shareholder a voting right under shares of a domestic insurance company	1
Objection to direct purchase of shares in a domestic insurance company	1
Other	3
<b>Total:</b>	<b>59</b>
<b>Issues regarding pension market</b>	
Entry of the occupational pension scheme to the register	1
Granting authorisation to amend the charter of a universal pension fund company	12
Granting authorisation to amend the charter of an open-end pension fund	8
Granting authorisation to accelerate the implementation date of amendments to the charter of an open-end pension fund	9
Granting authorisation to appoint a management board member in a universal pension fund company	8
Refusal to grant authorisation to appoint a management board member in a universal pension fund company	1
Determining weighted average rate of return and a minimum required rate of return of open-end pension funds and the deficit amount in open-end pension funds	2
Granting authorisation to amend the charter of an occupational pension fund	1
Granting authorisation to purchase shares of an occupational pension fund	8
Imposing fine on a universal pension fund company	2
Granting authorisation to appoint a management board member in an occupational pension fund company	3
Granting authorisation to establish a voluntary pension fund	5
Granting authorisation to purchase shares of a universal pension fund company	1
Granting authorisation to amend the charter of a voluntary pension fund	5
Granting authorisation to accelerate the implementation date of amendments to the charter of a voluntary pension fund	5
Imposing fine on an open-end pension fund	2
Imposing fine on a universal pension fund company	1
<b>Total:</b>	<b>74</b>
<b>Issues regarding capital market</b>	
Granting authorisation to convert shares into certificated form (rematerialisation of shares)	5
Rendering into the public domain of the information on the occurrence of circumstances suggesting manipulation	2
Granting authorisations to conduct brokerage activity	12
Granting authorisation to conduct commodity brokerage activity	1

No grounds to raise an objection to the purchase of shares in a brokerage house	3
Granting authorisation to conduct activity by an investment fund company	4
Imposing fines on investment fund companies	2
Imposing fines on entities	19
Imposing fines on natural persons	9
Upholding the decision	20
Revoking the decision	8
Not raising an objection to the planned purchase of shares of an investment fund company	7
Notifying a relevant regulator of another member state of the intention to conduct brokerage activity in the territory of this state	13
Granting consent to suspension of redeeming fund units	1
Granting consent to redemption of open-end or specialist fund units in instalments	1
Decision on refusal to admit a motion for evidence	1
Decision to suspend execution of the decision	1
Rendering into the public domain of the information on issue of an administrative decision	27
Granting authorisation to investment fund company to establish an open-end investment fund	2
Suspending the powers of a securities broker	2
Refusal to grant authorisation to conduct brokerage activity	1
Other	11
<b>Total:</b>	<b>152</b>
<b>Issues regarding internal organisation of the Commission works</b>	
Organisation of Commission meetings	2
Other	2
<b>Total:</b>	<b>4</b>
<b>Total:</b>	<b>359</b>

Source: in-house materials by KNF

**Table 1.2. Number of decisions and rulings issued under the authorisation by the Commission in 2012**

Subject of decisions and rulings	Number of issued decisions and rulings
<b>Issues regarding banking sector</b>	
Discontinuation of proceedings on appointment of a new president/ member of the bank management board (request withdrawal)	4
Discontinuation of proceedings in cases concerning the purchase of or subscription for the shares or share-related rights or as to becoming a dominant entity of a domestic bank	3
Granting authorisation to amend the bank's charter	280
Discontinuation of proceedings on amendments to the bank's charter	10
Decision on examination of testimonial evidence	1
Decision on correcting editorial and other obvious errors	2
Decision to resume proceedings	1
Acceptance of recovery/ merger proceedings programmes	11
Calling upon banks to develop a programme of recovery proceedings	10
Calling upon banks to develop another version of the programme of recovery proceedings	20
Calling upon banks to develop an adjusted programme of recovery proceedings	3
Decision on recognising under own funds of subordinated loan liabilities	22
Refusal to initiate the proceedings for applying supervisory measures under Article 61a §1 of the Code of Administrative Proceedings.	1
Decision on inadmissibility of a request for case reconsideration under Article 138 of the Code of Administrative Proceedings	1
Decisions on recognition as Tier 1 capital of cash under issue of long-term bonds	8
Decision on taking a stand in the case for entering the bank into the list of guarantors regulated by Article 52 section 1 of the Customs Law Act	9
Granting authorisation to open representative office by a foreign bank or credit institution	3
Stating expiry of the authorisation to open a representative office of a foreign bank and credit institution	2
Authorisation to sell registered shares of the bank within a year of the entry into the register	2
Granting authorisation to extension of the territory of operation of a co-operative bank	1
Decision on instigation of proceedings ex officio	7
Granting authorisation to early repayment of cash under the subordinated loan recognised as bank's Tier 2 capital	1
Discontinuation in other proceedings	6
Other	10

<b>Total</b>	<b>418</b>
<b>Issues regarding payment services market</b>	
Discontinuation of proceedings for entry into the Payment Services Register	62
Decision on returning the request for entry into the Payment Services Register	1
<b>Total</b>	<b>63</b>
<b>Issues regarding insurance market</b>	
Approval of amendments to the insurance company charter	31
Entry into the register of actuaries	24
Recognising qualifications to perform a regulated profession - actuary	1
Decision on suspension of the proceedings	4
Decision on setting a new date for handling the case	25
Granting consent to amend the subordinated loan agreement	1
Granting consent to recognise the subordinated loan as own funds	1
Discontinuation of proceedings	29
Granting authorisation to recognise certain assets as assets for covering provisions other than the ones defined in Article 154 section 4 of the Act on Insurance Activity	85
Granting authorisation to conduct brokerage activity as regards insurance	109
Granting authorisation to conduct brokerage activity as regards reinsurance	6
Imposing a fine	20
Upholding the decisions whereunder a fine was imposed	3
Discontinuation of proceedings held following the request for case reconsideration	1
Issuing a decision revoking an authorisation to conduct brokerage activity	38
Refusal to initiate the proceedings for applying supervisory measures under Article 61a §1 of the Code of Administrative Proceedings.	15
Decision on inadmissibility of a request for case reconsideration under Article 134 of the Code of Administrative Proceedings	1
<b>Total</b>	<b>393</b>
<b>Issues regarding pension market</b>	
Granting authorisation to appoint a supervisory board member in a universal pension fund company	14
Granting authorisation to amend an agreement with a depositary of an open-end pension fund	4
Granting authorisation to appoint a supervisory board member in an occupational pension fund company	4
Granting authorisation to appoint a supervisory board member in an occupational pension fund company	4

Entry of the occupational pension scheme to the register	32
Entry of amendments to the occupational pension scheme to the register	207
Removal of the occupational pension scheme from the register	54
Entry of the agreement on limiting the amount of calculated contributions to the register	1
Entry of the agreement on suspending calculation and payment of contributions to the register	6
Refusal to enter the occupational pension scheme to the register	2
Refusal to remove the occupational pension scheme from the register	1
Decision on resuming the suspended proceedings	6
Decision on setting a new date for handling the case	8
Imposing a fine	2
Discontinuation of proceedings	10
Decision on suspending the proceedings	8
Decision on restoring the date for correction of formal defects/ irregularities	15
Decision on refusal to restore the date for correction of formal defects/ irregularities	4
Notification of identified irregularities in the operations of the pension fund or custodian bank	10
Notification of consideration of reservations made by the pension fund company to the content of the notification of identified irregularities in the operations of the pension fund	3
Approval of the annual financial statements of the basic part of Guarantee Fund developed by the Polish National Depository for Securities.	1
<b>Total</b>	<b>396</b>
<b>Issues regarding capital market</b>	
Granting authorisation to keeping commodity registers or accounts	1
Consent to merger of two sub-funds of an open-end investment fund or specialist investment fund	4
Authorisation to manage securitised debts of the securitisation fund by an entity other than the company	7
Authorisation to transform an open-end investment fund into a new sub-fund of the existing open-end investment fund with separated sub-funds or a specialist open-end investment fund into a new sub-fund of the existing specialist open-end investment fund with separated sub-funds	2
Authorisation to transformation of open-end investment funds or specialist open-end investment funds into one fund with separated sub-funds	1
Authorisation to amend the charter of an investment fund and to accelerate the implementation date of amendments to the funds' charter	60
Authorisation to establish public closed-end investment fund which is tantamount to approval of the issue prospectus of investment certificates	5
Authorisation to establish specialist open-end investment fund	6

Authorisation to establish open-end investment fund	2
Approval of the issue prospectus of investment certificates of a closed-end investment fund	10
Approval of the annex to the issue prospectus of investment certificates of a closed-end investment fund	26
Approval of amendments to the By-law of the Polish National Depository for Securities	6
Approval of the Rules of Transaction Clearing at KDPW_CCP S.A.	1
Approval of amendments to the Rules of Transaction Clearing at KDPW_CCP S.A.	3
Approval of the Rules of the Settlement Guarantee Fund at KDPW_CCP S.A.	1
Approval of amendments to the Rules of the Compensation System	2
Approval of amendments to the Rules of the Exchange Clearing House at the Polish National Depository for Securities	1
Granting consent to amend the charter of Towarowa Giełda Energii S.A.	3
Granting consent to amend the By-law of Towarowa Giełda Energii S.A.	1
Granting consent to amend the charter of BondSpot S.A.	3
Refusal to grant authorisation to overrun the concentration limit as defined in §2 section 3 of Enclosure 10 with the Regulation of the Minister of Finance of November 18th 2009 on the scope and detailed rules for determination of the total capital requirement, including capital requirements, for brokerage houses, and on the maximum ratio of loans and debt securities issued in relation to capital	1
Granting consent to amend the Rules of Giełda Papierów Wartościowych w Warszawie S.A. (WSE)	1
Granting consent to amend the Regulations of Giełda Papierów Wartościowych w Warszawie S.A. (WSE)	2
Granting authorisation to intermediation in selling and redeeming investment fund units or shares of foreign funds	9
Entry into the register of investment firm agents	57
Recognising qualifications to perform a regulated profession - commodity broker	4
Refusal to admit motion for evidence	5
Refusal to admit motion for evidence in the second instance	7
Revoking the decision	6
Decision on stating the decision expiry	1
Decision change	16
Approval of the issue prospectus	43
Approval of annex to the issue prospectus	145
Approval of the registration document	3
Stating equivalence of information memorandum and issue prospectus	2
Suspension of administrative proceedings	32



Imposing a fine	32
Suspending the powers of a securities broker	2
Deletion from the list of securities brokers	1
Decision stating breach of the deadline to file a request for the case reconsideration	1
Decision to allow the Polish Association of Brokers and Investment Advisers (ZMiD) to act as a Party to the proceedings	1
Resumption of administrative proceedings	21
Instigation of administrative proceedings ex officio	50
Discontinuation of administrative proceedings	62
Instigating proceedings on the demand to change the content of the call	3
Demand to change the content of the call	3
Decision on the demand to suspend trading in shares of a public company	8
Decision on the request for release from the obligation to disclose information other than inside information	1
Entry into the register of qualified investors	8
Entry into the list of investment advisors	29
Entry into the list of commodity brokers	39
Entry into the list of securities brokers	125
Granting authorisation to extension of the thematic scope of operation of investment fund companies with management of portfolios comprising one or more financial instruments	2
Other	11
<b>Total</b>	<b>878</b>
<b>Cross-sectoral issues</b>	
Refusal to allow the fine to be paid in instalments	1
Refusal to withhold enforceability of the Commission decision	7
Other	11
<b>Total</b>	<b>19</b>
<b>TOTAL</b>	<b>2,167</b>

Source: in-house materials by KNF

## ANNEX 2. ISSUERS AND CLOSED-END INVESTMENT FUNDS WHOSE ISSUE PROSPECTUSES WERE APPROVED BY THE POLISH FINANCIAL SUPERVISION AUTHORITY IN 2012

**Table 2.1. Issuers whose issue prospectuses were approved by the Polish Financial Supervision Authority in 2012**

No.	Issuer	Date of the issue prospectus approval
1.	Getin Noble Bank SA	January 20th 2012
2.	ZPUE SA	January 23rd 2012
3.	Giełda Papierów Wartościowych w Warszawie SA (Warsaw Stock Exchange)	January 27th 2012
4.	Vantage Development SA	January 31st 2012
5.	NFI Midas SA	February 8th 2012
6.	Grupa ADV SA	February 28th 2012
7.	Wojas SA	March 13th 2012
8.	MO - BRUK SA	March 15th 2012
9.	Solar Company SA	March 16th 2012
10.	Trion SA	March 30th 2012
11.	Harper Hygienics SA	March 30th 2012
12.	Bank Ochrony Środowiska SA	April 10th 2012
13.	ATM Systemy Informatyczne SA	April 16th 2012
14.	Simple SA	April 19th 2012
15.	Barlinek SA	April 27th 2012
16.	Murapol SA	May 22nd 2012
17.	Euroimplant SA	May 24th 2012
18.	Globe Trade Centre SA	May 31st 2012
19.	PCC Rokita SA	June 11th 2012
20.	SCO-PAK SA	June 13th 2012
21.	Gino Rossi SA	June 22nd 2012
22.	Getin Noble Bank SA	June 27th 2012
23.	PCC Exol SA	June 27th 2012
24.	Tarczyński SA	June 29th 2012
25.	Vistula Group SA	July 13th 2012

26.	Grupa o2 SA	July 17th 2012
27.	Gant Development SA	July 19th 2012
28.	Getin Noble Bank SA	August 22nd 2012
29.	Global Cosmed SA	September 18th 2012
30.	Voxel SA	September 21st 2012
31.	Zespół Elektrowni „Pątnów-Adamów-Konin” SA	October 8th 2012
32.	Ursus SA	October 29th 2012
33.	Marvipol SA	November 9th 2012
34.	Asseco Poland SA	November 9th 2012
35.	Alior Bank SA	November 16th 2012
36.	Rovese SA	November 20th 2012
37.	Czerwona Torebka SA	November 20th 2012
38.	Korporacja Budowlana DOM SA	December 3rd 2012
39.	Dolnośląskie Centrum Hurtu Rolno-Spożywczego SA	December 5th 2012
40.	Platinum Properties Group SA	December 12th 2012
41.	Przedsiębiorstwo Handlu Zagranicznego „BALTONA” SA	December 19th 2012
42.	Betomax Polska SA	December 20th 2012
43.	Zakłady Azotowe w Tarnowie-Mościcach SA	December 21st 2012

Source: in-house materials by KNF

**Table:2.2. Memorandums whose equivalence to issue prospectus was stated by the Commission in 2012**

No.	Issuer	Date
1.	Get Bank SA	May 10th 2012
2.	Bank Zachodni WBK SA	December 6th 2012

Source: in-house materials by KNF

**Table 2.3. Public closed-end investment funds whose issue prospectuses were approved by the Polish Financial Supervision Authority in 2012**

No.	Fund name	Date of the issue prospectus approval
1.	KBC German Jumper FIZ (A series)	January 25th 2012
2.	KBC Kapitałny Start FIZ (A series)	February 24th 2012

3.	Pioneer First FIZ (A series)	March 2nd 2012
4.	Investor Gold FIZ (AA, AB, AC, AD series)	March 15th 2012
5.	KBC Ameryka FIZ (A series)	April 10th 2012
6.	BPH FIZ Sektora Nieruchomości 2 (B series)	June 28th 2012
7.	BPH FIZ Bezpieczna Inwestycja 4 (B series)	June 29th 2012
8.	KBC Jubileuszowy FIZ (A series)	July 5th 2012
9	UniSystem FIZ (A, B, C, D, E, F series)	September 6th 2012
10	Investor Gold FIZ (AE, AF, AG, AH series)	November 20th 2012

Source: in-house materials by KNF

### ANNEX 3. THE LIST OF ITEMS OF THE OFFICIAL JOURNAL OF THE POLISH FINANCIAL SUPERVISION AUTHORITY ISSUED IN 2012

Promulgation date	Item	Title
January 19th 2012	item 1	Announcement of January 12th 2012 on Determining the Maximum Technical Rate
March 26th 2012	item 2	Announcement No. 1/2012 on Entries to the List of Securities Brokers of February 27th 2012
March 26th 2012	item 3	Announcement No. 2/2012 on Entries to the List of Investment Advisors of February 27th 2012
March 26th 2012	item 4	Announcement No. 3/2012 on Entries to the List of Commodities Brokers of February 27th 2012
March 26th 2012	item 5	Announcement No. 4/2012 on Securities Brokers Who Took Supplementary Examination of February 27th 2012
March 26th 2012	item 6	Announcement No. 29 of the Examination Board for Investment Firms' Agents of March 14th 2012 on the Date of Examination for Investment Firm Agents
March 26th 2012	item 7	Announcement No. 30 of the Examination Board for Investment Firms' Agents of March 14th 2012 on the Date of Examination for Investment Firm Agents
June 22nd 2012	item 8	Resolution No. 172/2012 of the Polish Financial Supervision Authority of June 19th 2012 Amending the Resolution on the Scope and Detailed Rules for Determining Capital Requirements for Particular Types of Risk
June 22nd 2012	item 9	Resolution No. 173/2012 of the Polish Financial Supervision Authority of June 19th 2012 amending the resolution on the detailed rules and conditions for taking account of exposure when determining compliance with the limit of exposure concentration and the limit of large exposures, and amending the resolution on the requirements for identifying, monitoring and controlling exposure concentrations, including large exposures

July 24th 2012	item 10	Announcement No. 1/2012 of the Examination Board for Securities Brokers of July 6th 2012 on Holding the Examination for Securities Brokers and the Supplementary Examination
July 24th 2012	item 11	Announcement No. 2/2012 of the Examination Board for Securities Brokers of July 6th 2012 on Determining the Thematic Scope of the Examination for Securities Brokers and the Supplementary Examination
July 26th 2012	item 12	Announcement No. 123 of the Examination Board for Investment Advisors of July 18th 2012 on Holding the First Stage of the Examination for Investment Advisors on October 28th 2012
July 26th 2012	item 13	Announcement No. 124 of the Examination Board for Investment Advisors of July 18th 2012 on Determining the Thematic Scope of the Examination for Investment Advisors
August 31st 2012	item 14	Announcement of the Chairman of the Polish Financial Supervision Authority of August 31st 2012 on the Amount of Gross Premium Written of Insurance Companies and Reinsurance Companies and the Costs of Insurance Supervision in 2011
September 21st 2012	item 15	Announcement of the Chairman of the Polish Financial Supervision Authority of September 21st 2012 on Suspending Advance Payments for Costs of Supervision Over Insurance Activity, Reinsurance Activity and Insurance Agency in 2012
October 19th 2012	item 16	Resolution No. 249/2012 of the Polish Financial Supervision Authority of September 11th 2012 on Issuing Recommendation J Concerning the Rules of Gathering and Processing by Banks of Information on Real Estate
October 19th 2012	item 17	Announcement of the Polish Financial Supervision Authority of October 10th 2012 on the Effective Base Rates of KG1, KG2, KG3, KGR1, KGR2, T1 and T2 Amounts for Insurance Companies
October 19th 2012	item 18	Announcement of the Polish Financial Supervision Authority of October 10th 2012 on the Effective Base Rates of KGR1, KGR2, and KGR3 Amounts for Reinsurance Companies
December 18th 2012	item 19	Resolution No. 307/2012 of the Polish Financial Supervision Authority of November 20th 2012 Amending the Resolution on the Scope and Detailed Rules for Determining Capital Requirements for Particular Types of Risk
December 21st 2016	item 20	Resolution No. 312/2012 of the Polish Financial Supervision Authority of November 27th 2012 on the Mode of Exercising Supervision over Banking Activity
December 21st 2015	item 21	Announcement No. 32 of the Examination Board for Investment Firms' Agents of December 17th 2012 on the Date of Examination for Investment Firm Agents
December 21st 2014	item 22	Announcement No. 33 of the Examination Board for Investment Firms' Agents of December 17th 2012 on the Thematic Scope of Examination for Investment Firm Agents

December 21st 2013	item 23	Announcement No. 130 of the Examination Board for Investment Advisors of December 17th 2012 on the Date of the First Stage of the Examination for Investment Advisors
December 21st 2012	item 24	Announcement No. 131 of the Examination Board for Investment Advisors of December 17th 2012 on the Date of the First Stage of the Examination for Investment Advisors

Source: in-house materials by KNF

## ANNEX 4. LIST OF REGULATIONS AND DRAFT REGULATIONS WHICH THE KNF ADVISED ON IN 2012

**Table 4.1. List of regulations which the KNF advised on in 2012**

Regulations	
1.	Regulation of the Minister of Finance of April 26th 2012 amending the Regulation on the scope and detailed rules for determination of the total capital requirement, including capital requirements, for brokerage houses, and on the maximum ratio of loans and debt securities issued in relation to capital (Dz. U. item 475).

The Regulation is aimed at implementation of the provisions of CRD III, i.e. the Directive 2010/76/EU of the European Parliament and of the Council of November 24th 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies (O.J. EU L 329 of 14.12.2010, p. 3). The Regulation implements the provisions of CRD III regarding among other things, re-securitisation exposures, prudential valuation of instruments at fair value, risk weights assigned to securitisation items as well as increasing the requirements concerning disclosures applicable to securitisation and capital requirements for market risk.

2.	Regulation of the Minister of Finance on the procedures and terms of operations of investment firms, banks referred to in Article 70 section 2 of the Act on Trading in Financial Instruments and custodian banks of September 24th 2012 (Dz. U. item 1078)
3.	Regulation of the Minister of Finance regarding the detailed technical and organisational conditions set for investment firms, banks, referred to in Article 70 section 2 of the Act on Trading in Financial Instruments, and custodian banks, likewise conditions of internal capital estimation by a brokerage house of September 24th 2012 (Dz. U. No 204, item 1072)

Both Regulations (referred to in items 2 and 3) are related to the entry into force as of January 1st 2012 of the Act of September 16th 2011 amending the Act on Trading in Financial Instruments and some other acts. The Act introduced to the Polish legal system the concept of collective accounts (the so-called omnibus accounts) defined as the accounts kept by the participants of the deposit and settlement system wherein securities belonging not to the persons wherefor the accounts are maintained but to another person or persons are registered. Those accounts may be maintained only by the entities authorised to keep the securities accounts since it is part of the brokerage or custodian activity. One of the consequences of these changes is a change of the statutory authorisation provided for in Article 94 section 1 item 1 of the Act on Trading in Financial Instruments whereunder it was necessary to issue new regulations superseding the ones currently in force: Regulation of the Minister of Finance of November 20th 2009 on the procedures and terms of operation of investment firms, banks referred to in Article 70 section 2 of the Act on Trading in Financial Instruments and custodian banks (Dz. U. No. 204, item 1577) and the Regulation of the Minister of Finance regarding the detailed technical and organisational conditions set for investment firms, banks, referred to in Article 70 section 2 of the Act on Trading in Financial Instruments, and custodian banks, likewise conditions of internal capital estimation by a brokerage house of November 23rd 2009 (Dz. U. No 204, item 1579).

4.	Regulation of the Minister of Finance of April 3rd 2012 amending the Regulation on the scope of information presented in the financial statements and consolidated financial statements required in the issue prospectus for issuers with their registered office in the territory of the Republic of Poland where to the Polish accounting principles apply (Dz. U. item 469)
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5.	Regulation of the Minister of Finance of April 3rd 2012 amending the Regulation on current and periodic information to be published by issuers of securities and conditions for recognition as equivalent of information whose disclosure is required under the laws of a non-member state (Dz. U. item 397)
6.	Regulation of the Minister of Finance of April 3rd 2012 amending the Regulation on detailed requirements to be met by the information memorandum referred to in Article 39 section 1 and Article 42 section 1 of the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies (Dz. U. item 449)
7.	Regulation of the Minister of Justice on the mode of submitting security in the form of securities in enforcement proceedings of May 31st 2012 (Dz. U. item 640)
8.	Regulation of the Minister of Finance on the type and scope of the document confirming conclusion of the compulsory insurance agreement of July 13th 2012 (Dz. U. item 838)
9.	Regulation of the Minister of Finance on special accounting principles and reports on operations of the Insurance Guarantee Fund of December 13th 2012 (Dz. U. item 1442)
10.	Regulation of the President of the Council of Ministers on payments for costs of supervision over insurance activity, reinsurance activity and insurance agency of August 29th 2012 (Dz. U. item 978)
11.	Regulation of the President of the Council of Ministers of August 3rd 2012 amending the Regulation on payments for costs of supervision over banks (Dz. U. item 897)
12.	Regulation of the Minister of Finance on asset categories and the maximum amount of funds invested by domestic payment institutions of August 13th 2012 (Dz. U. item 938)
13.	Regulation of the Minister of Finance on detailed scope of information as well as the type and form of documents attached to the request for granting authorisation to conduct activity as a domestic payment institution of March 13th 2012 (Dz. U. item 290)
14.	Regulation of the Minister of Finance on the minimum bank and insurance guarantee sum required in relation to effecting by the payment service office payment transactions under the agreement for providing payment services and the date when the obligation to conclude a guarantee agreement arises of April 18th 2012 (Dz. U. item 437)
15.	Regulation of the Minister of Finance on compulsory insurance of payment service offices required in relation to effecting payment transactions under the agreement for providing payment services of April 18th 2012 (Dz. U. item 434)
16.	Regulation of the Minister of Finance on quarterly and additional annual financial statements and statistical reports of a domestic payment institution of July 24th 2012 (Dz. U. item 858)
17.	Regulation of the President of the Council of Ministers on payments for costs of supervision over payment institutions and fees for some activities of the Polish Financial Supervision Authority of July 16th 2012 (Dz. U. item 843)
18.	Regulation of the President of the Council of Ministers on payments for costs of supervision over payment service offices of July 16th 2012 (Dz. U. item 844)

Source: in-house materials by KNF

**Table 4.2. List of draft regulations which the KNF advised on in 2012**

<b>Draft regulations</b>	
1.	Draft Regulation on amending the Regulation of the Minister of Finance of February 5th 2009 on the mode of keeping records of financial instruments by the Polish Financial Supervision Authority
2.	Draft Regulation on amending the Regulation of the Minister of Finance of July 6th 2007 on detailed requirements to be met by the information memorandum referred to in Article 38b section 1, Article 39 sections 1 and 2 and Article 41 section 1 of the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies
3.	Draft Regulation on amending the Regulation of the Minister of Finance of February 19th 2009 on current and periodic information to be published by issuers of securities and conditions for recognition as equivalent of information whose disclosure is required under the laws of a non-member state
4.	Draft Regulation on amending the Regulation of the Minister of Finance of March 16th 2010 on payments made for the Polish Financial Supervision Authority by regulated entities operating on the capital market
5.	Draft Regulation of the Minister of Finance on determining the mode of operation of investment fund companies and conditions that they need to satisfy in order to ensure

	protection of interests of members of investment funds or aggregate securities portfolios and clients for whom the investment fund company provides the investment advisory or portfolio management services comprising one or more financial instruments and to ensure stability of operations of the investment fund company
6.	Draft Regulation of the Minister of Finance on the scope of information that should be included in the information document of the acquiring fund and in the information document of the acquired fund
7.	Draft Regulation on amending the Regulation of the Minister of Finance of January 30th 2012 on making investments by the closed-end investment fund in derivatives and some property rights
8.	Draft Regulation on amending the Regulation of the Minister of Finance of January 20th 2009 on concluding by an open-end investment fund of agreements concerning derivative instruments, including non-standard derivative instruments
9.	Draft Regulation on amending the Regulation of the Minister of Finance of April 3rd 2009 on the operations of entities conducting activity in the scope of intermediation in selling and redeeming investment fund units and shares and investment advisory services
10.	Draft Regulation of the Minister of Finance on the requisite contents of the agreement between a feeder fund and master fund and requisite elements of internal rules of conducting activity referred to in Article 169c section 7 of the Act on Investment Funds
11.	Draft Regulation of the Minister of Finance on determining the requisite contents of the agreement referred to in Article 169e section 1 of the Act on Investment Funds and determining types of irregularities with reference to the master fund that are supposed to have adverse impact on the feeder fund
12.	Draft Regulation of the Minister of Finance on determining the requisite contents of the agreement referred to in Article 169f section 1 of the Act on Investment Funds on information prospectus of an open-end investment fund and specialist open-end investment fund as well as calculating the profit to risk ratio of an open-end investment fund and specialist open-end investment fund
13.	Draft Regulation on amending the Regulation of the Minister of Finance of October 18th 2005 on the scope of information presented in the financial statements and consolidated financial statements required in the issue prospectus for issuers with their registered office in the territory of the Republic of Poland where to the Polish accounting principles apply
14.	Draft Regulation of the Minister of Finance on mandatory TPL insurance of air carriers, entrepreneurs providing ground maintenance and institutions providing air navigation services
15.	Draft Regulation amending the Regulation of the Council of Ministers of December 20th 2011 on the manner and mode of agreement conclusion whereunder one may become a member of an open-end pension fund
16.	Draft Regulation amending the Regulation of the Council of Ministers of April 26th 2011 on determining the maximum part of assets of an open-end pension fund that may be invested in individual investment categories
17.	Draft Regulation amending the Regulation of the Council of Ministers of April 26th 2011 on additional limitations concerning conducting investment activity by pension funds
18.	Draft Regulation amending the Regulation of the Council of Ministers of March 9th 2004 on determining the rate of return of open-end pension funds
19.	Draft Regulation amending the Regulation of the Council of Ministers of April 26th 2011 on disclosure requirements of pension funds
20.	Draft Regulation amending the Regulation of the Minister of Finance of December 24th 2007 on special accounting principles of pension funds
21.	Draft Regulation of the Minister of Finance on the norms of acceptable risk in the operations of credit unions
22.	Draft Regulation of the Minister of Finance on the scope, date and mode of providing the Polish Financial Supervision Authority with the reporting information by credit unions and the National Association of Credit Unions
23.	Draft Regulation of the President of the Council of Ministers on the premium rate, payment dates, calculation and distribution between the National Association of Credit Unions and the Polish Financial Supervision Authority
24.	Draft Regulation of the Minister of Finance on detailed rules and mode of performing



	inspection activities in credit unions and the National Association of Credit Unions
25.	Draft Regulation of the Minister of Finance on the mode and detailed principles of calculation of the solvency ratio of a credit unions
26.	Draft Regulation of the Minister of Finance on the minimum qualification requirements for members of management boards of credit unions
27.	Draft Regulation of the Minister of Finance on detailed accounting principles of credit unions
28.	Draft Regulation of the Council of Ministers on the rate and detailed principles of charging the fee in proceedings before administrative courts

Source: in-house materials by KNF

## ANNEX 5. PROTECTION OF FINANCIAL MARKET PARTICIPANTS - ANALYTICAL ACTIONS TAKEN BY THE KNF

**Table 5.1. Protection of financial market participants - analytical actions taken by the KNF**

<b>Insurance sector</b>	
	Analysis of the practice applied by one insurance company consisting in the refusal to pay compensation in relation to considering by the insurer transport of a child by a vehicle driver being the child's father as a transport for politeness's sake and refusal to pay compensation
	Analysis of the practice applied by one insurance company concerning the scope of information provided to the heirs of policyholders under insurance agreements
	Analysis of the practice applied by one insurance company consisting in demanding certification of the powers of attorney submitted to the insurance company by an employee of the insurance company or a notary public
	Analysis of the practice as regards respecting the right of a policyholder to terminate the mandatory motor TPL insurance agreement after the amendment of legal provisions
	Analysis of the practice applied by one insurance company consisting in reducing the amount of the compensation due under the comprehensive motor insurance agreement by an individually set margin (10-15%)
	Analysis of the practice applied by one insurance company consisting in the refusal to pay compensation due to the fact that when the incident took place the policyholder's driving license was invalid
	Analysis of provisions of the selected general terms and conditions of comprehensive motor insurance applied by insurance companies as regards the rules of determining the compensation amount
	Analysis of the general terms of life insurance with unit-linked life insurance plans applied by the selected insurance companies as regards charging liquidation fee
	Analysis of the general terms of property insurance applied by one insurance company as regards defining insurance incidents
	Analysis of the practice of several insurance companies as regards performance of their obligations under the issued insured guarantees
	Analysis of the practice applied by selected insurance companies concerning the mode of selling insurance structured products
	Analysis of the practice applied by one insurance company as regards the correctness of applied principles with regard to providing by the agent the information about the concluded insurance agreements and related documents to the insurance company
	Analysis of the practice applied by one insurance company as regards charging high flat-rate liquidation fee under total buyout of an insurance agreement in the first and second year of agreement term in life insurance agreements with unit-linked life insurance plan
	Analysis of the practice applied by one insurance company as regards sending information to the policyholder under Article 814 §3 of the Civil Code
	Analysis of the practice applied by selected insurance companies as regards settlement of insurance applications and policies
	Analysis of the practice applied by one insurance agent as regards the mode of offering life insurance with unit-linked life insurance plans
	Analysis of the practice applied by one insurance company as regards concluding with clients group life insurance agreements, including under conditions different from the ones included in the insurance agreement application submitted by the policyholder
	Analysis of the practice applied by one insurance company as regards concluding and servicing insurance agreements (providing policy forms, sending information about default in premiums

payment)
Analysis of the practice applied by one insurance company as regards application of a simplified procedure of claims handling in terms of the possible risk of taking improper decision to pay compensation
Analysis of the practice applied by one insurance company as regards application of the expert indicator when calculating the loss

<b>Pension sector</b>
Analysis of the entities' operation due to amendments to the Act on the Organisation and Operation of Pension Funds and secondary provisions i.e. in particular Regulation of the Council of Ministers of December 23rd 2011 (Dz. U. No. 291 item 1708) on the mode and dates of informing the Social Insurance Institution by an open-end pension fund about conclusion of an agreement with a member and making transfer payment
Analysis of the practice applied by one pension fund in relation to the refusal to accept the notification about change of an open-end pension fund on the form that was effective before the provisions have been amended

<b>Banking sector</b>
Analysis of the practice applied by the selected banks as regards processing clients' applications for credit liability restructuring
Analysis of the practice applied by one bank as regards the principles of complaints handling and the scope of information provided to clients in responses to complaints
Analysis of the practice applied by two banks as regards conclusion of credit agreements for the purchase of goods and services outside of the company's premises and in co-operation with agents acting on behalf and to the benefit of the bank
Analysis of the practice applied by one bank as regards the procedure for suspicious and untypical transactions made with the use of payment card
Analysis of the practice applied by one bank as regards the principles of using by this bank the template for calculating insurance costs of the so-called low down payment wherewith the borrower was charged
Analysis of the practice applied by one bank as regards the procedure for stop-listing by a client of a proximity card - PayPass
Analysis of the problem related to the refusal to effect transactions made abroad with the use of a credit card of one bank
Analysis of the practice applied by one bank as regards generating bank account statements in the context of correctness of recording and presenting operations made with the use of a payment card in the statement
Analysis of the practice applied by one bank making it impossible to terminate bank account agreement by the client due to the judicial seizure of a bank account
Analysis of the practice applied by one bank as regards making available to the heirs the bequeather's bank account statements from before the account holder's date of death
Analysis of the practice applied by one bank as regards correctness of the data on client's liabilities provided to BIK S.A. (Credit Information Bureau)
Analysis of the practice applied by one bank as regards effecting withdrawals from the account subject to the judicial seizure within the amount free from the seizure
Analysis of the practice applied by one bank as regards the obligations under Article 60 of the Banking Law Act
Analysis of the practice applied by one bank as regards verification of the level of collaterals for credit exposures financing real estate and mortgage-backed
Analysis of the practice applied by one bank as regards processing account agreements for definite time dedicated to a specific group of clients (students)
Analysis of the practice applied by one bank as regards enabling clients to repay an FX-denominated or FX-indexed loan directly in a given currency
Analysis of the practice applied by one bank as regards offering insurance structured products

<b>Capital sector</b>
Analysis of the practice applied by one brokerage house as regards the mode of presentation in the IT system of the data about a given financial instrument
Analysis of the practice applied by one investment fund operating individual pension account as regards co-operation with a transfer agent when effecting the instruction of transfer payment to

individual pension account operated by another entity

**Payment services provided by entities other than banks**

Analysis of the service of instant transfer offered by one of the banks and effected with the participation of an external company

Source: in-house materials by KNF

## ANNEX 6. COMPLAINTS TO KNF- BY SUBJECT

**Table 6.1. Complaints to the KNF about commercial banks in 2011-2012, by subject**

Commercial banks	2011	%	2012	%
Loans and cash loans	987	28.02	948	22.68
Account maintenance	691	19.62	934	22.34
Service quality	612	17.38	1,080	25.84
Mortgage loans	527	14.96	488	11.67
Other complaints	322	9.14	382	9.14
Credit cards	218	6.19	148	3.54
Other bank operations	82	2.33	91	2.18
Payment cards	81	2.30	106	2.54
Merger	2	0.06	3	0.07
<b>Total</b>	<b>3,522</b>	<b>100.00</b>	<b>4,180</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.2. Complaints to the KNF about co-operative banks in 2011-2012, by subject**

Co-operative banks	2011	%	2012	%
Account maintenance	23	34.85	24	27.27
Service quality	17	25.76	24	27.27
Other clients' complaints	11	16.67	21	23.86
Loans and cash loans	10	15.15	16	18.18
Mortgage loans	3	4.55	0	0.00
Credit cards	1	1.52	0	0.00
Payment cards	1	1.52	0	0.00
Other bank operations/ services	0	0.00	3	3.41
<b>Total</b>	<b>66</b>	<b>100.00</b>	<b>88</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.3. Complaints to the KNF about life insurance companies in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Refusal to settle the claim	61	27.48	67	18.01
Tardiness	21	9.46	33	8.87
Claim amount	19	8.56	25	6.72
Agent negligence	18	8.11	31	8.33
Information policy of insurance companies	16	7.21	86	23.12

Repurchase date	14	6.31	36	9.68
Problems with agreement termination	12	5.41	14	3.76
Valuation of CIF units	8	3.60	23	6.18
Change of contractual conditions	8	3.60	4	1.08
Refusal to provide access to files	7	3.15	8	2.15
Amount of sum insured	7	3.15	6	1.61
Withdrawal from an agreement	7	3.15	6	1.61
Other	6	2.70	0	0.00
GCI interpretation	6	2.70	1	0.27
Premium reimbursement	4	1.80	13	3.49
Premium indexation	4	1.80	1	0.27
Questioning power of attorney by an insurance company	2	0.90	0	0.00
Agent's complaint about the insurance company	1	0.45	8	2.15
Premium amount	0	0.00	5	1.34
Refusal to insure	0	0.00	3	0.81
Personal data protection	1	0.45	2	0.54
<b>Total</b>	<b>222</b>	<b>100.00</b>	<b>372</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.4. Complaints to the KNF about non-life insurance companies in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Tardiness	1,256	40.41	1,034	37.86
Claim amount	972	31.27	867	31.75
Refusal to settle the claim	445	14.32	419	15.34
Refusal to provide access to files	164	5.28	149	5.46
Problems with agreement termination	105	3.38	98	3.59
Premium amount	40	1.29	42	1.54
Information policy of non-life insurance company	39	1.25	59	2.16
Premium reimbursement	20	0.64	35	1.28
Other	18	0.58	0	0.00
Withdrawal from an agreement	16	0.51	8	0.29
Agent negligence	10	0.32	2	0.07
GCI interpretation	9	0.29	2	0.07
Agent's complaint about the insurance company	4	0.13	2	0.07
Change of contractual conditions	3	0.10	2	0.07
Personal data protection	2	0.06	2	0.07
Questioning power of attorney by an insurance company	2	0.06	1	0.04
Refusal to insure	2	0.06	5	0.18
Amount of sum insured	1	0.03	4	0.15
<b>Total</b>	<b>3,108</b>	<b>100.00</b>	<b>2,731</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.5. Complaints to the KNF about branches of insurance companies of EU member states in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Tardiness	42	43.30	125	51.44
Claim amount	22	22.68	50	20.58
Problems with agreement termination	8	8.25	7	2.88
Refusal to settle the claim	7	7.22	16	6.58
Refusal to provide access to files	6	6.19	11	4.53
Premium amount	5	5.15	13	5.35
Information policy of insurance company	5	5.15	15	6.17
Agent negligence	1	1.03	1	0.41
Withdrawal from an agreement	1	1.03	1	0.41
Premium reimbursement	0	0.00	1	0.41
Change of contractual conditions	0	0.00	1	0.41
GCI interpretation	0	0.00	2	0.82
<b>Total</b>	<b>97</b>	<b>100.00</b>	<b>243</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.6. Complaints to the KNF about open-end pension funds in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Irregularities in making transfers to other funds	530	66.17	327	91.09
Pending	172	21.47	0	0.00
Conducting acquisition activity	49	6.12	16	4.46
Future transfer pilot*	17	2.12	0	0.00
Irregularities concerning distribution of payments of funds gathered in the account	14	1.75	3	0.84
Funds gathered in the account in open-end pension fund	7	0.87	6	1.67
Irregularities in the process of concluding membership agreements	6	0.75	1	0.28
Information activity of the fund	3	0.37	4	1.11
Complaints concerning data in the register of open-end pension fund members and changes thereto	2	0.25	2	0.56
Agents' complaints about open-end pension funds	1	0.12	0	0.00
Other	0	0.00	0	0.00
<b>Total</b>	<b>801</b>	<b>100.00</b>	<b>359</b>	<b>100.00</b>

\* complaints received by the KNF before execution of the transfer payment.

Source: in-house materials by KNF

**Table 6.7. Complaints to the KNF about public companies in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Corporate rights of shareholders	4	50.00	4	40.00
Other	2	25.00	2	20.00
Public subscription for shares	2	25.00	1	10.00
Disclosure obligations	0	0.00	3	30.00
<b>Total</b>	<b>8</b>	<b>100.00</b>	<b>10</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.8. Complaints to the KNF about investment firms in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Quality of service provided	23	36.51	27	29.35
Execution of recommendations	14	22.22	20	21.74
Other	14	22.22	7	7.61
Management result	4	6.35	2	2.17
Service provision via internet	2	3.17	4	4.35
Public issue support	2	3.17	3	3.26
Rate of fees and commissions	1	1.59	9	9.78
Charged tax rate	1	1.59	2	2.17
Distribution of units in investment firm	1	1.59	1	1.09
Distribution of investment certificates	1	1.59	1	1.09
Execution of calls	0	0.00	1	1.09
Recommendations	0	0.00	15	16.30
<b>Total</b>	<b>63</b>	<b>100.00</b>	<b>92</b>	<b>100.00</b>

Source: in-house materials by KNF

**Table 6.9. Complaints to the KNF about investment fund companies in 2011-2012, by subject**

Complaint subject	2011	%	2012	%
Quality of service provided	11	22.92	4	5.33
Implementation of investment policies	11	22.92	23	30.67
Valuation of units in investment firm	7	14.58	13	17.33
Order execution date (re. units in investment firm)	7	14.58	7	9.33
Informing a member about amendments to statutes	4	8.33	0	0.00
Charged capital gains tax rate	3	6.25	6	8.00
Other	2	4.17	3	4.00
Actions of investment fund company after the member's death	1	2.08	3	4.00

Rate of fees and commissions	1	2.08	2	2.67
Valuation of investment certificates	1	2.08	6	8.00
Fund liquidation	0	0.00	2	2.67
Service provision via internet	0	0.00	1	1.33
Quality of service provided re. individual pension accounts	0	0.00	4	5.33
Merger of investment funds	0	0.00	1	1.33
<b>Total</b>	<b>48</b>	<b>100.00</b>	<b>75</b>	<b>100.00</b>

Source: in-house materials by KNF

## ANNEX 7. BREAKDOWN OF EDUCATIONAL INITIATIVES OF KNF IN 2012

**Table 7.1. Training seminars for representatives of regulated entities (broken by sector) as part of the CEDUR (Educational Centre for Market Participants) initiative**

No.	Seminar subject	Seminar date
<b>Banking sector</b>		
1.	Banking secret - interpretation of effective provisions	March 27th 2012
2.	Banking contractual relationships - Legal aspects of bank account agreement part 1	April 24th 2012
3.	Banking contractual relationships - Legal aspects of bank account agreement part 2 (enforcement of amounts due from a bank account)	May 10th 2012
4.	Bank contractual relationships - Credit Agreement in banking practice	May 22nd 2012
5.	Banking contractual relationships - Securing bank's amounts due part 1 - personal collateral (surety, guarantee, bill of exchange)	June 5th 2012
6.	AMA validation - quantitative and qualitative aspects	June 14th 2012
7.	Banking contractual relationships - Securing bank's amounts due part 2 - material collateral (mortgage, pledge, transfer of title to secure loan)	June 19th 2012
8.	Banking contractual relationships - Enforcement of bank's claims under agreements on banking operations and collaterals	June 26th 2012
9.	Bank contractual relationships - Consumer Loan Agreement	September 9th 2012
10.	Model management at banks with special attention to internal validation	October 16th 2012
11.	Banking contractual relationships - Electronic Payment Instruments Agreements	November 6th 2012
12.	Banking contractual relationships - Legal aspects of bank account agreement part III (payment account)	November 22nd 2012
13.	Role and tasks of internal audit at banks	November 30th 2012
<b>Pension sector</b>		

14.	BION in universal pension fund companies	December 5th 2012
<b>Capital sector</b>		
15.	Confidential information and related issuers' obligations	October 12th 2012
16.	Seminar for potential debutants - regulated market	November 7th 2012
17.	What a public company should know - workshops for issuers	November 12th 2012
18.	Disclosing assets by public companies' shareholders	November 14th 2012
19.	BION in investment firm	November 16th 2012
20.	Interim reporting - compliance with effective regulations (financial framework)	November 27th 2012
21.	Price-sensitive information - what the companies should disclose to the market	November 28th-29th 2012
22.	Functioning of investment firms*	December 6th 2012
<b>Cross-sectoral</b>		
23.	Standard formula of solvency capital requirement (SCR) under Solvency regime	April 26th-27th 2012
24.	Quality standards to be met by an internal model under Solvency II regime	November 13th 2012
25.	Reporting under Solvency II regime	December 4th 2012

Source: in-house materials by KNF

**Table 7.2. Seminars for judges and public prosecutors as well as representatives of law enforcement agencies, as part of the CEDUR (Educational Centre for Market Participants) initiative**

No.	Seminar subject	Seminar date
1.	Counteracting money laundering - financial market regulator experience	February 3rd 2012
2.	Determining assets originating from illegal or undisclosed sources	March 13th 2012
3.	Banking law - selected issues with special attention to banking secret	April 17th 2012
4.	Secondary market transactions and examples of manipulation	April 18th 2012
5.	Effectiveness of declarations of intent made by the parties to banking operations also with the use of electronic means of communication, selected bank account issues	May 15th 2012
6.	Selected institutional legal solutions for bank operations, protection of confidential banking information	May 29th 2012



7.	Loan and cash loan agreements and agreements collateralising bank's amounts due	July 3rd 2012
8.	Deposit and lending activity of banks and its legal protection part 1	September 12th 2012
9.	Counteracting money laundering - scope of co-operation with the KNF ; money laundering - procedure and detection mode as well as funds flow analysis in broad terms	September 25th 2012
10.	Offences related to conducting activity without authorisation of the Polish Financial Supervision Authority with special attention to brokerage activity, banking activity and investment funds activity	September 26th 2012
11.	Legal protection of operations of banks and other financial institutions	September 26th 2012
12.	Financial pyramids in the context of conducting activity without authorisation and stock exchange offences	October 12th 2012
13.	Electronic banking	October 16th 2012
14.	Deposit and lending activity of banks and its legal protection part 2	October 17th 2012
15.	Money deposits in banks - protection of depositary	November 8th 2012
16.	Financial pyramids in the context of conducting activity without authorisation and stock exchange offences (seminar in the form of videoconference)	November 8th 2012
17.	Legal risk in banking operations	December 4th 2012

Source: in-house materials by KNF

**Table 7.3. Workshops and seminars for local and regional consumer ombudsmen and teachers of economic subjects, as part of the CEDUR (Educational Centre for Market Participants) initiative**

No.	Seminar subject	Seminar date
1.	Protection of clients using banking services in consumer relations - Consumer as a party to banking agreements - rights, agreement templates, abusive clauses	October 9th 2012
2.	Protection of clients using banking services in consumer relations - Consumer loan	October 10th 2012
3.	An outline of banking agreement issues from the perspective of bank client interests	October 11th 2012
4.	Problems raised by clients using banking services	October 19th 2012
5.	Consumer protection on the financial market with special attention to automobile insurance sector	October 23rd 2012

Source: in-house materials by KNF

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