

Stance of the Office of the KNF addressed to banks with a joint stock company status on compliance with the requirements regarding assessment of the adequacy of internal regulation concerning the functioning of the supervisory board and of its operation resulting from *Recommendation Z of the KNF on corporate governance at banks*

Pursuant to recommendation 8.9 in *Recommendation Z* of the Polish Financial Supervision Authority *on corporate governance at banks* (hereinafter “*Recommendation Z*”): *The adequacy of internal regulations concerning the functioning of the supervisory board and the management board and the effectiveness of their operation should be regularly self-evaluated and assessed by the supervisory board with respect to the management board, and by the general meeting with respect to the supervisory board (...). The assessment may be carried out with the support of external advisors.*”

Having regard to the following:

- 1) the different approaches, as observed by the Office of the Polish Financial Supervision Authority (hereinafter “Office of the KNF”), adopted by banks to the manner of fulfillment by their general meetings of the obligations resulting from recommendation 8.9 in Recommendation Z of the KNF as regards assessment of the adequacy of internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation,
- 2) enquiries received by the Office of the KNF about the proper fulfillment of the above obligations, considering especially the fact that banks’ shareholders may not have access to all internal regulations concerning functioning of the supervisory board and the effectiveness of its operation due to company secrets resulting from Article 428 § 2 of the Code of Commercial Companies,

the Office of the KNF hereby presents the following stance on the proper fulfillment of the requirements specified in recommendation 8.9 of Recommendation Z.

Pursuant to this recommendation:

- 1) in the first place, supervisory board of a bank should make a self-assessment of the adequacy of internal regulations concerning its functioning and the effectiveness of its operation,
- 2) then, general meeting of a bank should assess the adequacy of internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation.

Self-assessment by the supervisory board shall not replace assessment by the general meeting, and the assessment by the general meeting shall not relieve the supervisory board from of its obligation to make self-assessment.

Self-assessment made by the supervisory board and assessment made by the general meeting should result in relevant resolutions of these bodies – resolution of the supervisory board on the self-assessment, and a resolution of the general meeting on the assessment.

Examination or approval by the general meeting of the report on the activities of the supervisory board (even with adoption of relevant resolutions), or acknowledgement by the general meeting (even by resolution) of information about the results of the self-assessment of the supervisory board shall not be tantamount to fulfilling the requirement set forth in Recommendation Z, as it does not prove that the general meeting has assessed the adequacy of internal regulations concerning functioning of the supervisory board and the effectiveness of its operation.

The Office of the KNF is aware that shareholders of banks may not have access to all internal regulations or documents concerning functioning of the supervisory board and the effectiveness of its operation due to, for example, access to these documents being restricted under business secrets resulting from Article 428 § 2 of the Code of Commercial Companies. However, this shall not be a sufficient reason for the general meeting to refrain from assessing adequacy of internal regulations concerning functioning of the supervisory board and the effectiveness of its operation. This assessment should be made based on and in the scope of all information and documents that can be made available to the general meeting, and in particular:

- 1) resolution of the supervisory board on the self-assessment of adequacy of internal regulations concerning functioning of the supervisory board and the effectiveness of its operation;
- 2) list of the bank's internal regulations concerning functioning of the supervisory board;
- 3) contents of the bank's internal regulations concerning functioning of the supervisory board which the bank's management board deems appropriate to make available to the general meeting;
- 4) expert opinions, audit reports or opinions, prepared by external advisors and commissioned by the bank, regarding the bank's internal regulations concerning functioning of the supervisory board and the effectiveness of its operation, provided that they are kept confidential and are used only for the purposes of the assessment made by the general meeting.

The bank's management board shall be responsible for collecting documents necessary to make the assessment and for making them available to the general meeting. The expert opinions, audit reports and opinions referred to in section 4) above should be used as a standard best practice applied whenever the bank may not make available to the general meeting the full contents of the internal regulations or other documents concerning functioning of the supervisory board.

Resolution of the general meeting on the assessment of adequacy of internal regulations concerning functioning of the supervisory board and the effectiveness of its operation should clearly state the information taken into account by the general meeting in making such an assessment.

This stance shall apply as appropriate to the assessments of adequacy of internal regulations concerning functioning of the supervisory board and the effectiveness of its operation carried out at cooperative banks. The Office of the KNF would like to kindly ask affiliating banks to share this stance with their affiliated cooperative banks.