

Financial institutions will be offered the possibility to choose taxation of their services with VAT

The tax provisions included in the Polish Deal will introduce the possibility to choose taxation of financial services provided to business with the tax on goods and services. Taxation is to be voluntary. However, it will not be available to providers of insurance services.



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The VAT Act currently in force provides for obligatory objective exemption of widely understood financial services. This obviously affects the scope of the right to deduct VAT on expenses incurred by business operators of the financial sector. The necessity to settle the share of taxable activities in total sales by means of a coefficient (the so-called VAT

index) results in a situation where such institutions can only deduct a small part of the VAT they pay. The package of tax changes under the Polish Deal, which has already been submitted to parliamentary proceedings, provides for the possibility of voluntary taxation (based on a choice of that specific form) of selected financial services, such as: transactions, agency included,

concerning currencies, banknotes and coins used as legal tenders; fund management; the services of granting credit facilities or cash

loans as well as related agency services and the management of credit facilities or cash loans by the lender; the services of granting sureties, guarantees and any other forms of security for financial and insurance transactions, as well as related agency services and the management of loan guarantees by the lender; services relating to cash deposits, holding of cash accounts, all kinds of payment transactions, money orders and transfers, debts, checks and bills of exchange, as well as related agency services; services, brokerage included, involving shares

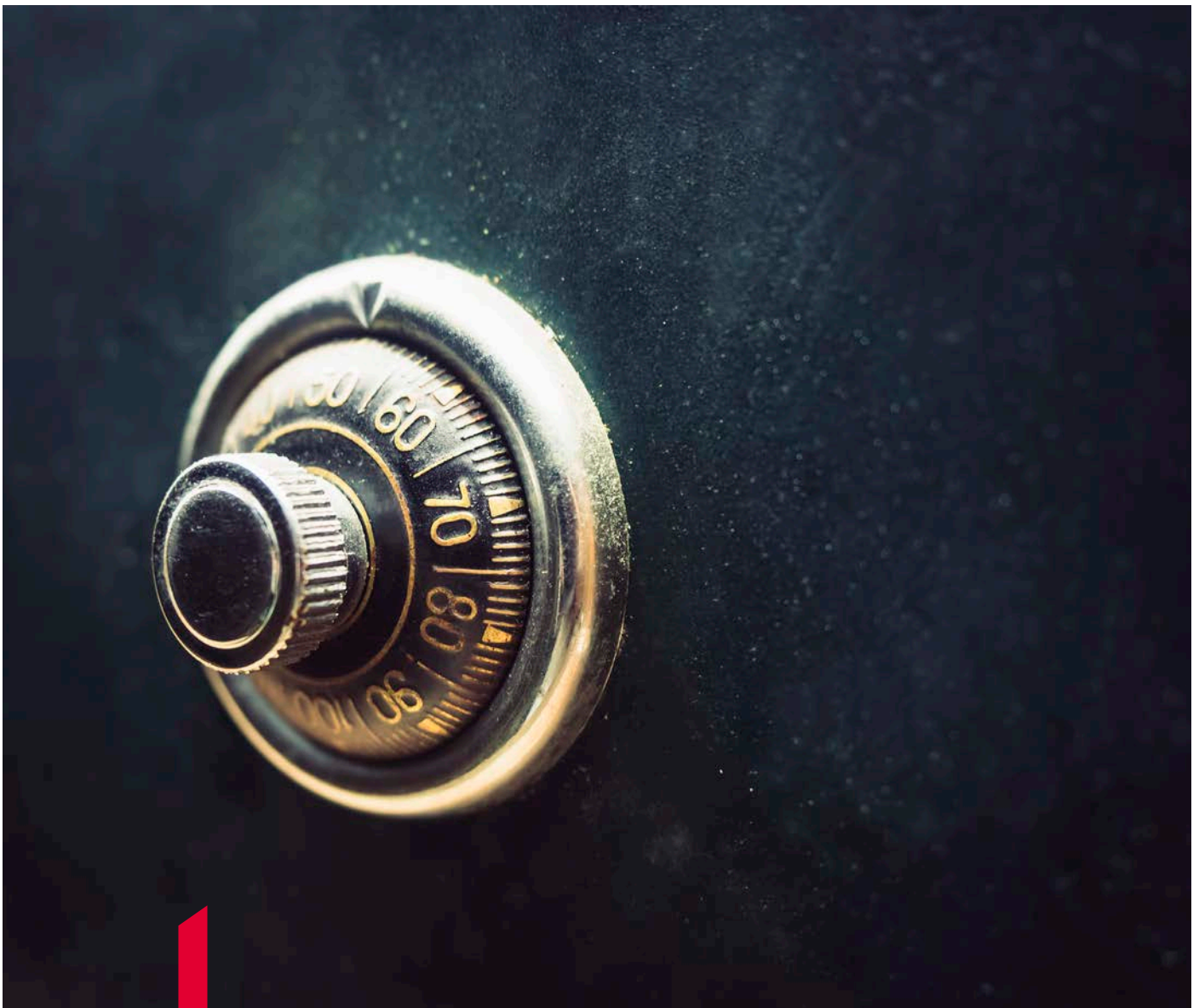
in companies or entities other than companies if incorporated; services involving financial instruments as well as related agency services.

The possibility of taxation of such services with VAT will be available on the business services market only. What is more, once made, the choice will mean taxation of all services covered by the new regulation. It will not be possible to select only a part of them as taxable.

Financial services provided to consumers (non-taxable persons) will continue to be obligatorily exempt from VAT.

It will not be possible, either, to choose taxation of (all) insurance services with VAT. Their obligatory exemption from that tax will continue.

It should be added that the EU VAT Directive provides as a rule that financial services should be exempt from that tax. However, it also stipulates that Member States may, to an extent they determine, allow taxpayers to opt out of the exemption and to choose taxation of their financial services. Eight Member States, including France and Germany, currently apply such a derogation to varying extents.



The Polish Financial Supervision Authority (KNF) wants to regulate the use of social media by financial institutions

The Office of Financial Supervision Authority has published a draft position paper on uniform rules for the use of social media by financial institutions. In addition to clarifying the understanding of the relevant regulations, the position also contains practical examples relating to typical situations of social media use.

At the end of August the Office of Financial Supervision Authority (UKNF) published a draft Position on the use of social media by supervised entities and persons employed in these entities. The Position is the Office's response to the increasing use of social media in the activities of supervised entities. Concerned here in

particular is the sharing of information about the entities' services and products. The use of a communication channel – social media – includes both messages generated from the accounts of the supervised entities themselves and those published by persons employed in those entities.

The document covers what the Office sees as the most characteristic issues related to the use of social media, including the use of specialized agencies and the so-called influencers. The Position also refers to issues such as e.g. archiving of activity in such media, cyber security and the role of compliance.

As follows from the document, within proper use of social media and for the purposes of monitoring that activity by the supervised entity, the following issues should particularly be taken into account: the scope of social media use within supervised activity; possible performance via the social media, on complementary basis, of various information duties defined by the relevant legislation (it is



stressed that social media cannot replace information channels required by law); recording and storing content published or shared in social media; constructing the message content taking into account the legal requirements and specific restrictions that arise from the functionality or rules of social networking sites; exercising internal supervision over information messages published and shared in social media; further sharing by the supervised entity of information published by

another entity and showing support (acceptance) to specific phenomena, claims or other information published by a third party (so-called “likes”); involvement of third parties in the development or publication of social media content, including when automated mechanisms are used for this purpose. According to the Position, the supervised entity should perform, as a documented process, comprehensive risk assessment of its own and its employees' use of social media. Risk assessment

is a process that should be performed on an ongoing basis and take into account the specific legal requirements relating to risk management that are applicable to the supervised entity. The supervised entity should also develop and implement a policy on the use of social media by that entity and its employees. In addition, it should consider publication on its own website and on each social media site where it posts the basic policy on the use of social media in its business.



KNF has issued a position paper on the requirements to be met by Key Information Documents (KIDs)

KIDs should be drawn up in accordance with the provisions of both Regulations, including the literal wording of titles, formats, explanatory notes or explanatory statements where indicated.

Office of the Polish Financial Supervision Authority (UKNF) published a document on the application of Article 8 clauses 3 and 5 of the PRIIP Regulation addressed at the authors of PRIIPs.

Concerned here are: Regulation (EU) No. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352 of 9 December 2014, p. 1 as amended, and Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No. 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment

products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (OJ L 100 of 12 April 2017, p. 1 as amended). Both Regulations establish requirements for the drawing up of key information documents (KIDs) by supervised entities. They are binding in their entirety and directly applicable in all Member States.

UKNF issued the position paper because of improper practices of supervised entities it identified, consisting in the drawing up of KIDs in a manner deviating from the literal wording of the Regulations, including in particular: the title, subtitles, individual information and the format of information presented in the KID, as well as the required terms, phrases and expressions.

UKNF reminds entities that KIDs should be drawn up in accordance with the provisions of both Regulations, including the literal wording of titles, formats, explanatory notes or explanatory statements where indicated.

As UKNF states, the requirements that follow from the

Regulations do not entitle supervised entities to modify the content of KIDs in a discretionary manner, particularly by, for example, including in the document additional information not required by the provisions of the above Regulations, or using statements which deviate literally from the content as precisely specified therein, even while retaining the same sense.

The provisions described above clearly specify the wording of the titles of individual parts of the KID, the content of the explanatory statement, as well as the scope of information that should be included in such individual parts. In the opinion of UKNF, it is not permissible for product developers to modify the contents of the KID in a manner that deviates from the requirements stated in the detailed provisions by changing certain phrases, e.g. in the title or explanatory statements. It is also unacceptable to shorten the explanatory statements or to leave out any information required to be included therein.

Work on amendments to the Act on trading in financial instruments continues

Parliamentary proceedings have started on the government draft amendments to the Act on trading in financial instruments, which introduces, among other things, the obligation to meet, on a continuous basis, the minimum capital requirement in the amount equal to the level of required initial capital.

The draft Act on amending the Act on trading in financial instruments and certain other acts has already been adopted by the government and submitted to the Parliament. The draft adapts Polish law to the provisions of the European Union regarding the requirements for investment firms.

The aim is to establish a new prudence regime and ensure that investment firms throughout the EU operate under a uniform regulatory framework. In addition, a more proportionate and adequate prudence framework for smaller investment firms will

be introduced, which should contribute to improvement of the conditions for running business and to reduction of the barriers to entry. The proposed solutions will have a positive impact on the financial sector.

The draft divides investment firms into three categories based on their size and mutual connections with other financial and economic entities.

The required level of initial capital of a brokerage house will depend on the services provided by that brokerage house and the types of activities covered by its license.

The amendment introduces the obligation to meet the minimum capital requirement on a continuous basis in an amount equal to the level of the required initial capital.

The catalog of supervisory measures available to the supervisory authority, i.e. the Financial Supervision Authority, which will set additional own funds or liquidity requirements if necessary.

Also the provision on brokerage houses' remuneration policy is to be amended. Among other things, the remuneration policy will have to be gender neutral. It has also been clarified when the obligation to appoint a remuneration committee arises, as well as the obligation to provide KNF with information on remunerations at brokerage houses.

The above notwithstanding, the amendment introduces a group capital test for simpler group structures consisting solely of investment firms, as well as provisions relating to such firms' reporting requirement, proportionate to their activities and prudence framework requirements.

The rules of cooperation between the competent authorities in the EU countries and KNF in the event of an emergency situation are also to be regulated.

Most of the new provisions are to enter into force 14 days after their promulgation in the Journal of Laws.



In short

Amendment to the Act on investment funds published in the Journal of Laws

In the Journal of Laws of 30 August 2021 (item 1595), the Act of 23 July 2021 amending the Act on investment funds and management of alternative investment funds and certain other acts has been published. Most of the new provisions are effective from 31 August 2021. Only an amendment (applicable to crowd funding providers) to the Act on trading in financial instruments will enter into force on 10 November 2021, and amendments to Article 236 of the Act on funds (extending the fee for the grant of permission or consent to registration of the second and each subsequent sub-fund) – on 1 January 2022.

A new law guaranteeing the option of making cash payments to enter into force soon

The Parliament has passed an Act amending the Act on payment services. Pursuant to the Act, it will not be permitted to make the conclusion of a contract for service or sale of goods agreement with a consumer conditional on non-cash payment or to reject a cash payment. However, there are numerous exceptions to this rule. It will not apply to online activity; at the place of business with no personnel present; during a mass event (if the relevant information has been stated in the event rules); and to a single transaction, regardless of the number of resulting payments, the value of which is equal to or higher than the average salary. The Act is to enter into force 30 days after its promulgation in the Journal of Laws.

A new website dealing with benchmarks has been launched

The Office of Financial Supervision authority (UKNF) has launched a new website dedicated to benchmarks. The website contains the most important information concerning the practical aspects of using benchmarks, including the positions of UKNF and other institutions that exert influence on the benchmarks used in the domestic financial market. As an important element, the website contains economic data collected by UKNF on the scale of application of selected benchmarks by supervised entities. We plan to update the economic data section of our Alert periodically.

The banking sector's results as at the end of July 2021 have been published.

On 7 September 2021, the Financial Supervision Authority published monthly results of the banking

sector as at 31 July 2021. They show that as at the end of July 2021, there were: 30 commercial banks, 521 cooperative banks, 37 branches of credit institutions. The net financial result as at the end of July 2021 amounted to PLN 7.7 billion and was higher by PLN 3.3 billion (74.5% y/y) than the result achieved as at the end of July 2020. The monthly result for July 2021 amounted to PLN 1.6 billion and was higher by PLN 1.3 billion (PLN 0.3 billion) than the June result. As at the end of July 2021, 23 banks (6 commercial and 17 cooperative) reported a total loss of PLN 612.6 million. They accounted for about 7.9% of the sector's assets. The remaining banks showed a total profit of PLN 8,471.4 million.

KNF joins the appeal of European supervisory authorities regarding Basel III

The Polish Financial Supervision Authority supported the appeal regarding proper implementation in the European Union of the guidelines regarding the prudence standards developed by the Basel Committee on Banking Supervision under the collective name of Basel III. KNF is among the signatories of a letter in which supervisory authorities and central banks stress the necessity of complete, consistent and fast implementation of the Basel III package in the EU. The letter is addressed to the European Commission which is currently working on a proposal of provisions introducing appropriate changes to the Community's legal order. Beside Poland, support for the initiative has been declared by institutions from: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Greece, Spain, the Netherlands, Ireland, Lithuania, Latvia, Malta, Germany, Portugal, Slovakia, Slovenia, Sweden and Italy.

Postponement of the effective date of regulatory technical standards (RTS)

The European Supervisory Authorities: ESMA, EIOPA and EBA report on their websites that the European Commission has decided to set the effective date of the regulatory technical standards (RTS) to Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on disclosure of information relating to sustainability in the financial

services sector (OJ L 317 of 9 December 2019, pp. 1-16) - SFDR, as 1 July 2022. The European Commission plans to regulate in a single legal act all RTS implementing the SFDR, on which ESMA, EIOPA and EBA have worked and are still working today.

A position paper on investment firm's supervision of its agent has been published

The Office of KNF has published its position paper on the supervision exercised by an investment firm over its agent. The purpose of the position paper is to clarify the nature of the relationship between an investment firm and its agent; to show how the agent's actions affect the legal situation of the investment firm; and to present facts illustrating good and bad practices in the area of investment firm's supervision over the agent's activity. The position paper is intended to help investment firms properly regulate their contractual relations with an agent, so that they have the necessary tools to verify the agent's activity, and also to present practical ways to use these tools.

Provisions on immediate return of funds from the VAT account by the bank will soon enter into force
On 1 October 2021, most of the provisions of the Act of 11 August 2021 amending the Act on goods and services

tax and the Act – Banking law (Journal of Laws of 2021, item 1626) come into force. The changes in the banking law concern, among other things, immediate debiting of the VAT account if, upon taxpayer's request, the head of the tax office consents, by way of a decision, to a transfer of funds accumulated on the VAT account indicated by the taxpayer to another indicated account. The maximum amount so debited will be the balance of the VAT account.

Whole life insurance payouts have increased as a result of the pandemic

In the first half of 2021, insurers paid out PLN 19.9 billion PLN of indemnities and insurance benefits to claimants, according to the data of the Polish Chamber of Insurance (PIU) published on 16 September 2021. Payments on account of whole life insurance increased to the greatest extent. This results from increased mortality caused by the pandemic. Insurers paid out almost PLN 20 billion to claimants, including: PLN 9.3 billion from life insurance (among other things, payments from whole insurance higher by 34 percent); PLN 7.4 billion from automobile insurance (OC+AC); about PLN 3.2 billion from other insurance. The Polish people spent PLN 34.4 billion on insurance (gross premium written), that is 9 percent more than a year before.



How should financial institutions use social media?

On 24 August 2021, the draft Position of the Office of the Financial Supervision Authority on the use of social media by supervised entities and persons employed in these entities (hereinafter: "Position") was published. This is another action implemented under the Digital Agenda for Supervision, announced on 19 December 2019. The UKNF is trying to keep up with the rapidly digitalising society and the Position Statement is a reaction to the increasing use of social media by entities supervised by the FSA, mainly when communicating about their services and products. The position paper addresses the most important issues related to the use of social media in supervised activity, including, inter alia, cooperation of a supervised entity with third parties in the area of social media activity (with specialised agencies or so-called influencers), storage and archiving of social media activity, the role of compliance or cyber-security. The position paper contains not only an explanation of the understanding of relevant legal regulations but also practical examples referring to typical situations with the use of social media.

Purpose of the post

As it was aptly emphasized in the Position Paper, social media are now one of the primary channels of communication between entrepreneurs and the

recipients of their services. This is due to the increasing digitalisation of society, widespread access to the Internet and the development of e-commerce and social commerce. The advantages of this phenomenon include the ability of entrepreneurs to quickly reach a wide group of customers and the efficient and effective implementation of consumer needs, without having to leave home. However, it also entails threats to which the Polish Financial Supervision Authority tries to react. The aim of the publication is to present uniform principles of using social media by financial institutions. It will bring benefits not only to the supervised entities but also to the addressees of the content published by them. The former will be able to protect against legal consequences and loss of reputation while the latter against unfair practices in social media.

Addressees

The position should be taken into account in the activities of entities subject to the supervision of the Financial Supervision Authority, in accordance with Article 1(2) of the Act of 21 July 2006 on supervision over the financial market. This concerns the following areas of supervision:

- banking supervision,
- pension supervision,
- insurance supervision,
- capital market supervision,



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- Supervision of payment institutions, small payment institutions, account information only providers, payment service bureaux, electronic money institutions, branches of foreign electronic money institutions,
- the supervision of credit rating agencies within the scope of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies,
- supplemental supervision,
- supervision over the cooperative savings and credit unions and the National Cooperative Savings and Credit Fund,
- supervision of mortgage brokers and their agents,
- supervision to the extent provided by Regulation (EU) 2017/2402 of the European

Parliament and of the Council of 12 December 2017 and Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019.

The Post does not apply to the use of social media for private purposes, unrelated to the supervised entity's business, by individuals employed by supervised entities and not in the course of activities performed for the supervised entity. By way of analogy, it can be inferred that the Post will apply to the use of social media by individuals employed by supervised entities in the course of activities related to and performed for the benefit of the supervised entity.

Interestingly, although the post itself does not refer to third parties, a supervised entity or individuals employed by that entity may be liable for messages posted by other users on social media sites related to the supervised activity when it is clear from the course of action that the supervised entity explicitly or implicitly (e.g., by liking, sharing, forwarding) approves of the content or otherwise expresses an opinion about it (e.g., by posting a comment, using an emoticon).

Recommended use of social media

The supervised entity should conduct a risk assessment of the use of social media by the entity and its employees. Such assessment should be made in a documented and continuous process, taking into account specific legal requirements. To make this process more effective, it is recommended

that a policy on the use of social media by the supervised entity and individuals employed by the entity be developed and implemented. The policy should specify, among other things:

- A directory of social media and accounts used to communicate in supervised activity, as well as who is authorized to use them,
- Rules for using appropriate devices for social media activity,
- groups of persons authorized to set up social media accounts, rules for setting up accounts, and any restrictions on the scope of information that can be published,
- Principles related to keeping the information used in social media secure.

The Office of the Polish Financial Supervision Authority finds unacceptable the creation and use of fictitious accounts unrelated to entities supervised by these entities. In the opinion of the Polish Financial Supervision Authority it is a sign of unprofessional conduct and misleading the participants of social media. Such conduct may lead the supervised entity to a reputational and sometimes even legal crisis.

It is also important to mention that supervised entities should bear in mind that in connection with the information and data they possess and process there are specific protection regimes resulting from legally protected secrets, including personal data protection (RODO). Therefore, any activity in social media should take place after prior analysis and verification of the possibility of using such data. When publishing content on the Internet, the supervised entity should also take into account the provisions of copyright and related rights.

Supervised entities publishing content on social media should take into account not only compliance with relevant legal regulations resulting from the obligation to exercise due diligence, but also the specific nature of a given social network and the audience the content is meant to reach (e.g. formulating information in a manner understandable for the average representative of a given audience). They should also check the quality of given publications in terms of reliability, integration and balance of information. This means that if a given entry is limited to smaller sizes, while pointing out the benefits of a given service or product, the supervised entity should adequately point out the disadvantages or risks related to the use of a given service or product. Nowadays, it is common practice to use the so-called tags, i.e. to include and mark key words or phrases for a given issue. Particularly popular is the use of hashtags in some social networks (e.g. Twitter or Instagram), i.e. highlighting words or phrases preceded by the # symbol (hash). Using this type of treatment can bring many marketing benefits, e.g. it increases the chance of other users reaching the published post. However, it should be remembered that they are a part of the information message and carry the content, thus they should be used in a reliable manner in order not to mislead the user of a given portal. Therefore, a supervised entity should not use the name of the supervisory authority in published content in a way that would indicate or suggest that such authority has approved or endorsed the supervised entity's product or service, unless this is the case under legal regulations where such approval has explicitly

occurred (e.g. approval of a prospectus). Similarly, due diligence should also be exercised when creating other content on social networking sites, such as headlines.

A sensitive issue is the handling of negative comments by a supervised entity on its website. The way in which responses are formulated is of no small importance. They should be balanced. Supervised entities should also be careful about deleting such third-party comments so as not to cause a negative reaction from the audience or create the misconception that only positive comments appear on the site. The supervised entity should store and archive all material and information distributed on social media in its original form, regardless of the form in which such material was published. This includes not only material

shared by the supervised entity, but also user comments on published information or third party posts shared or forwarded by the supervised entity and its employees under their business accounts. The storage and archiving of information disseminated in social media takes place for the period provided by law for the storage and archiving of materials published for the purpose of advertising or promotion. If the regulation governing a particular activity of a supervised entity does not set such a period, the recommended period is 5 years from the moment of publishing the information. If there is a modification of the published content, the period is counted from the moment of the modification of the content. An important element of the Report is the recognition of the need to ensure compliance of supervised entities with the law

(compliance). To this end, the Office of the Financial Supervision Authority calls for the introduction in supervised entities of control mechanisms regarding the content posted in social media. Their task would be to ensure compliance of the published content with the law, internal regulations and supervisory recommendations. Such control mechanisms should be handled by a designated person or a separate unit, if required by law.

It should be stressed that this is not the final version of the Position. It will be subject to public market consultations. Then, the collected comments will be discussed during special meetings in order to introduce them to the content of the Project. Therefore, it remains for us to follow the progress of works and possible amendments to the Position.



Tougher sanctions from the Financial Supervision Authority

What changes in the scope of sanctions are provided for in the bill on amendments to certain acts in relation to ensuring the development of the financial market and protection of investors in this market?

On 20 July 2021, a draft law on amending certain laws in connection with ensuring the development of the financial market and the protection of investors in that market (the "Draft") was published on the website of the Government Legislation Centre. As it results from the justification of the aforementioned Project, it aims at ordering and streamlining the functioning of financial market institutions, in particular through the elimination of barriers to access to financial market, streamlining the supervision over the financial market, protection of customers of financial institutions, as well as minority shareholders and increasing the level of digitization in the execution of supervisory responsibilities by the Polish Financial Supervision Authority and the Polish Financial Supervision Authority. The bill provides for amendments to 19 acts, including the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies, the Act on Trading in Financial Instruments, the Act on Capital Market Supervision, the Act on Investment Funds and Alternative

Investment Fund Management, the Act on Financial Market Supervision, the Act on Payment Services, and the Act on Insurance and Reinsurance.

The amendment also includes changes in the scope of administrative sanctions imposed by the Polish Financial Supervision Authority on entities of the financial market as part of their supervisory obligations, primarily by increasing the maximum amount of financial penalties.

With regard to the Law on Investment Funds

The bill provides for modification of the upper limit of an administrative fine for an entity managing securitized receivables of a fund other than a company, in case the entity fails to meet the conditions set forth in the permit or exceeds the scope of the permit, as well as in case it conducts operations in violation of fair trading rules or violates the interests of fund participants. So far, the PFSA has been able to sanction those violations by imposing a fine of up to PLN 500,000 by way of a decision. After the amendment, the penalty could even amount to PLN 5,000,000. This is justified by the fact that there are no grounds to differentiate the amount of the penalty imposed for the same violations on the company itself and on the entity to which the company en-



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trusted under the agreement the performance of activities related to the activities conducted by the company. The bill also provides for an analogous change with respect to an investment fund liquidator who violates, in particular, the provisions concerning the procedure for liquidation.

As regards the Act on Financial Market Supervision

The draft provides for introduction of a new mechanism aimed at limiting the possibility of exploiting the authority and position of the Polish Financial Supervision Authority. It is the new art. 11c, which prohibits the use for advertising purposes of information about actions taken with respect to it under supervision over the financial market, e.g. answers and positions or interpretations of the PFSA obtained by this entity. This is to prevent such information from being

used, among others, to build the confidence of potential clients by publishing selective information that may misleadingly create the image of a given entity. Violation of the above ban will be threatened with a fine of up to PLN 500,000.

Within the scope of the Payment Services Act

The draft also provides for amendment of the financial penalty, which is a supervisory measure applied in case of violation of the obligation to provide the supervisory authority with information and data necessary for the realization of supervision objectives and data necessary for the assessment of financial condition of the payment institution, as well as in case of failure to comply with recommendations of the PFSA or failure to comply with orders regarding the suspension of profit distribution or creation of new organizational units. The current wording of art. 105, sec. 1, item 4 stipulates that in case of the above violations, the PFSA may impose on a manager directly responsible for the irregularities identified a penalty of

up to three times his/her monthly gross remuneration, calculated on the basis of the average gross remuneration for the last three months before imposing the penalty. After the amendment, the penalty would be up to PLN 500,000. Moreover, the subjective catalogue of persons responsible for such violation would be expanded to include not only managers directly responsible for the irregularities found, but also persons who are members of the statutory body directly responsible for supervision over the area in which the irregularities were found.

An analogous amendment applies to Article 106 of the Payment Services Act, which sets out supervisory measures to be applied to payment institutions in the event that they disseminate misleading or potentially misleading information about the institution concerned or the services it provides.

Within the scope of the Act on Insurance and Reinsurance Activity

In the aforementioned act, the Project provides for changing

the wording of art. 362 consisting in increasing the maximum amount of penalties imposed on members of the management board of an insurance or reinsurance company and proxies. Currently the administrative sanction for violation of the above mentioned provision is defined in such way that it can be imposed in the amount corresponding to three times their average monthly remuneration from the last 12 months, and if the average monthly remuneration from the last 12 months cannot be determined - up to PLN 100 000. After the amendment, it would be up to PLN 20,000,000. As a justification for such a huge aggravation of the penalty, it is indicated that the threat of an administrative fine is significantly lower in the case of managers of insurance and reinsurance companies than in the case of members of management boards of entities operating in the banking sector. On the other hand, the obligation for the supervisory authority to take into account, while establishing the amount of the indicated fines, the circumstan-



ces having impact on the gravity of the infringement, including, among others, the duration of the infringement, the scale of profits gained or losses avoided by a member of the management board or supervisory board of the insurance or reinsurance undertaking or a proxy in connection with the infringement, can be assessed positively. Moreover, the penalty may not be imposed if more than 6 months have passed since the supervisory authority obtained information about the infringement or more than 2 years have passed since committing the infringement.

Summary

As it follows from the above, the draft act on amendments to certain acts in connection with ensuring the development of the financial market and the protection of investors in that market provides for the tightening of many administrative penalties that may be imposed on entities subject to KNF's supervision. In practice, this may lead to the fact that fines will be imposed at a significantly higher level, which in turn will significantly increase the risk associated with conducting business activities subject to supervision. Therefore, it is worth keeping track of the Project, which is currently under review after public consultation.



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