

## Polish Financial Supervision Authority working on new Recommendations U and J

*The Office of the Polish Financial Supervision Authority (UKNF) is holding consultations on proposals of Recommendation U on best practices in bancassurance and Recommendation J on the collection and processing of real estate market data by banks.*

Recommendation U is addressed to: domestic banks, branches of domestic banks outside the borders of Poland and branches of foreign banks as defined in the Banking Law (hereinafter: banks), cooperative savings and credit unions as defined in the Cooperative Savings and Credit Union Act (hereinafter: SKOK), branches of credit institutions as defined in the Banking Law, as long as their activities are regulated by the recommendation, cooperating with respect to bancassurance with domestic and foreign insurance companies. Recommendation U should be treated as a set of good practices for entities interested in offering insurance products as part of bancassuran-

ce, rather than a repeat of existing regulations or additional source of generally binding laws. Recommendation J relates to good practices in the collection and processing by banks of real estate market data contained in internal (own) and external (inter-bank) data bases, supporting the process of managing risk associated with mortgage-backed credit exposures. The recommendation stresses that when it comes to protecting the bank's operations, of particular importance is a prudent policy of financing real estate transactions, and in particular of assessing the value of collateral. Due to the large percentage of mortgage-backed credit exposures in the credit



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portfolios of banks, the dynamic growth of the real estate market in Poland and the considerable economic significance of such exposures, incorrect or insufficiently prudent acceptance by banks of mortgage collateral values may result in an increase in systemic risk. In view of this, to limit the effects of potential crisis situations, banks should know as much as possible about the real estate market.

To effectively manage the risk associated with accepting mortgage collateral established on real estate, banks need reliable and full information about the real estate market, current and historical data showing changes on that market in the long- and short-term, and in particular the market's cyclicity. These data should consider the local nature of the real estate market and the

long-term nature of the changes occurring thereon. The banks' formation and active use of data bases with information about the real estate market constitutes a significant factor in fostering the development of an effective system. Recommendation J applies to all credits secured with mortgages on real estate granted since its effective date.



# The Coal Allowance Act will make changes to the banking sector

*In its draft bill on a coal allowance the government has proposed amendments to the Banking Law and to the Act on the Bank Guarantee Fund, the deposit guarantee system and forced restructuring.*

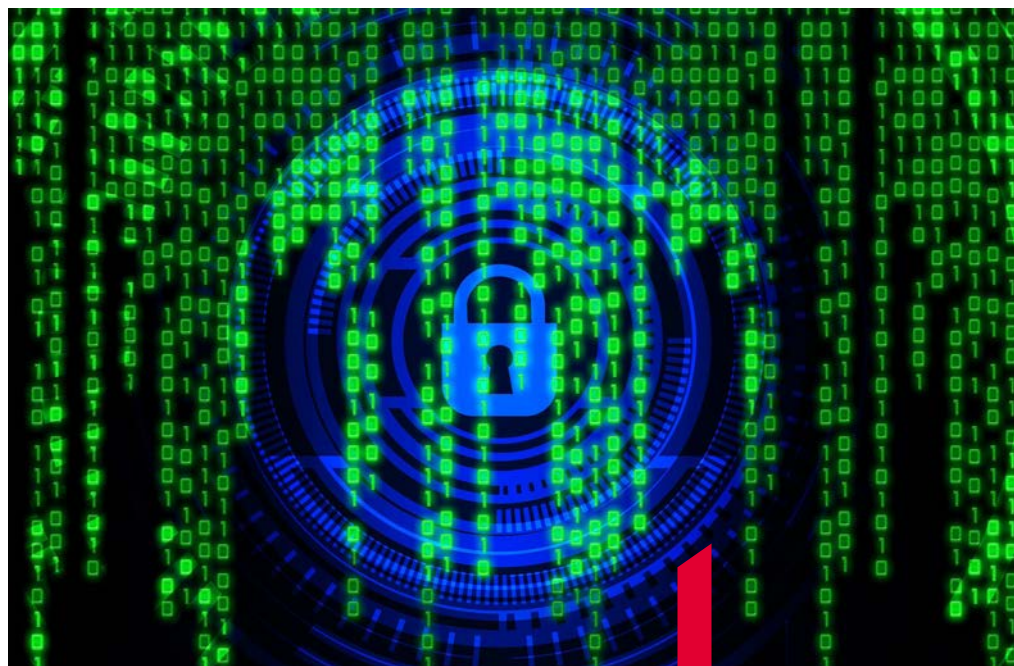
The proposed Banking Law amendments aim to broaden the scope of cases where the protection system may provide support by indicating that such support may be provided in connection with the issue by the Bank Guarantee Fund of a decision to commence forced restructuring. In consequence, support from the protection system will be able to be provided not only in cases where a decision is issued to apply the instrument of forced restructuring in the form of a takeover – asset deal and share deal.

Once the regulations change, such support will be possible every time a decision is issued to commence a forced restructuring, i.e. also with the use of other forced restructuring instruments, such as e.g. the bridge institution instrument. At the same time the amendments add to the group of entities that may apply to the manager of the protection system. The original regulation provided that applications for support would be filed by the entity interested in acquiring

the bank as part of the forced restructuring instrument, which was justified in situations where only the application of the forced restructuring instrument could lead to support from the protection system. Now that support from the protection system will be extended onto cases where other forced restructuring instruments are used, the Bank Guarantee Fund will also be able

to apply. As argued by the government, this is because forced restructuring processes other than the application of a forced restructuring instrument in the form of a business takeover do not involve a private entity that could apply for such support.

The amendments also aim to fully regulate the process of KNF permits for operations in the form of a bank in situations where such a permit is necessary to achieve the objectives of a forced restructuring. There will be a 6-month adjustment period to make the necessary changes in the protection system.



# Work has begun on replacing WIBOR with a new rate

*In August 2022 the National Working Group (NGR) will define the optimal course of action for changes in reference rates, which will take into account the objectives of reference rate reform, as well as the need to perform the process in a manner that ensures the safe operation of the financial market.*

The National Working Group on Reference Rate Reform (NGR), appointed in connection with the planned reform of reference rates, began its work in the middle of July. The objectives of the reform include the introduction of a new reference interest rate where the input

data consist of information representing ON (overnight) transactions.

The NGR has been tasked with preparing a “road map” and a timetable for the efficient and safe implementation of the individual components of a process that will lead to

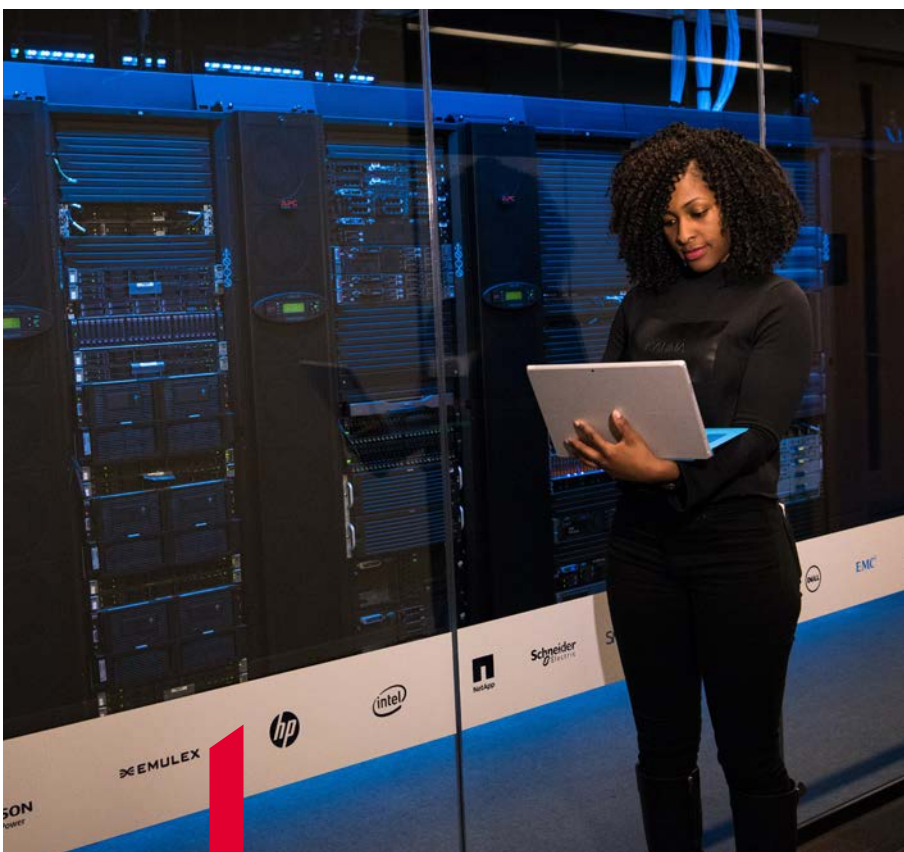
replacing the WIBOR with a new reference rate.

The NGR is made up of representatives of the Ministry of Finance, the National Bank of Poland, the Office of the Polish Financial Supervision Authority, the Bank Guarantee Fund, the Polish Development Fund, the Warsaw Stock Exchange, the Central Securities Depository of Poland, Bank Gospodarstwa Krajowego, GPW Benchmark, as well as leading commercial banks, banks associating cooperative banks, investment fund and insurance companies, as well as industry organizations associating financial market entities. International and foreign institutions may also be invited to take part.

The work consists primarily of developing a new reference rate, adapting clearing and trading systems and interest tables to the new reference rate, building a forward curve to enable the setting of forward interest rates, bond interest rates or bank bond issues.

The various project streams are headed by representatives of the institutions represented in the NGR from both the public and commercial sectors.

The NGR’s work is supervised and coordinated by a Steering Committee made up of the Ministry of Finance, the Office of the Polish Financial Supervision Authority, GPW Benchmark, the Polish Development Fund and ING Bank Śląski representing the financial sector.



# New obligations for payment service providers

*The draft bill amending the Value Added Tax Act and the National Tax Administration Act (UD128), implementing Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC, will introduce new requirements for payment service providers.*

The draft bill will require payment service providers (including domestic banks, branches of foreign banks, credit institutions, electronic money institutions) to: keep quarterly records of payments and of payees with regard to the payment services provided; store the records for 3 years from the end of the tax year of the date of the payment; make the records available via a standard electronic form in the xml format to the Head of the National Tax Administration by the end of the month following the end of the quarter to which the information pertains. The recordkeeping requirement will apply if two conditions are met cumulatively (at the same time). Firstly, the funds will be sent from a payer in a member state (usually the buyer of goods/services) to a payee in another member state or outside the EU (usually the seller of the goods/services). This means that the reporting obligation will only apply to so-called cross-border payments. Secondly, when the payment service provider provides more than 25 cross-border payments to the same payee in the course of a calendar quarter.

In addition, the draft bill introduces rules as to which payment service providers will have to apply the new rules in order to

determine payer and payee locations, and a detailed scope of information that the records must contain - including information that makes it possible to identify the payee and the payments the payee has received (amount, date), as well as any payment refunds. The collected data will be sent electronically to CESOP (European Union wide electronic system of payment information, managed by the European Commission).



## In short

### *Loan broker exam in September*

The Examination Committee for Mortgage Loan Brokers has announced that an exam for mortgage loan brokers will be held on 17 September 2022 at 11:30 a.m. Information about the exam, including the application form for taking the exam, can be found on the website of the Polish Financial Supervision Authority under the "For the market" tab. Due to the continuing state of epidemic threat in the country, the Financial Supervision Authority reserves the right to reschedule or cancel the exam.

### *KNF encourages borrowers to overpay their mortgages*

The Office of the Polish Financial Supervision Authority is recommending that those borrowers who choose to take advantage of the so-called credit vacation use the funds "saved" during the "credit vacation" to reduce their debt - overpay on their mortgage. This will reduce the term of the mortgage or the amount of future installments, thereby reducing the future burden on household budgets.

### *KNF to issue investment product recommendations for insurers*

The Polish Financial Supervision Authority (KNF) has begun consultations on draft Recommendations for insurance companies on assessing the suitability of

life insurance with an investment component, which will last until 16 September 2022. The KNF has stressed that it has identified numerous irregularities in such policies for a number of years. The most significant problems associated with such policies include: non-tailoring of contracts to client needs and financial situation, in particular as a result of a thorough review of those needs and situation, lack of full information about the fees and risks arising out of the contract, and above all about the resulting investment risk.

### *Ministry of Finance intends to change the Bond Act*

A draft bill amending the Bond Act and certain other acts (UC32) was published in July. The bill's objective is to define the rules for the issue of capital instruments that qualify as regulatory capital of banks and brokerage houses or equity funds of insurance and reinsurance companies, including the issue of new capital bonds by those financial market entities, in compliance with the relevant provisions of European Union law.

### *Consolidated text of the Act on Trading in Financial Instruments published*

The new consolidated text of the Act on Trading in Financial Instruments has been published in the 2022 Journal of Laws, item 1500. The relevant announce-



ment has been in effect since 18 July 2022. The act regulates the rules, manner and conditions for commencing and conducting business operations that involve trading in financial instruments, the rights and obligations of entities engaged in such trading, as well as oversight thereof. The act does not apply to bills of exchange or checks.

### *The Act on crowdfunding and credit vacations goes into effect*

The Act of 7 July 2022 on crowdfunding for business undertakings and assistance to borrowers has been published in the 2022 Journal of Laws, item 1488. The act sets out the special requirements for business operations involving the provision of crowdfunding services for business undertakings, as well as the organization and manner in which the providers of such services are supervised. The act also provides for the introduction of so-called credit vacations for mortgages denominated in Polish zlotys. The new regulations go into effect as of 29 July 2022.

### *Sejm to limit collection of fees by banks while entry in land and mortgage register pending*

The Sejm is working on a government bill amending the Act on mortgage loans and on the oversight of mortgage brokers and agents. The bill will introduce a change that will prevent banks from charging excessive fees while waiting for the mortgage securing a loan taken out for the purchase of the real property to be entered in the land and mortgage register, when the application for such entry was valid.

### *EU changes for insurers to go into effect 6 months later*

Commission Delegated Regulation (EU) 2022/975 extending the effective date of the changes to the PRIIPs KID documents from 1 July 2022 to 1 January 2023 has been published in the Official Journal of the European Union. This gives more time for life insurance companies that offer investment products subject to the PRIIPs regulation (unit-linked life insurance and participating life and annuity con-

tracts) to comply with the necessary changes in KID documents for current PRIIPs products.

### *Submission of papers for the FinReg Financial Markets Regulation Congress*

End of July is the end date of the call for papers for the jubilee FinReg 2022 Financial Markets Regulation Congress. The Congress will take place on 12 October on the Warsaw Stock Exchange's Trading Floor and on 13 October at the offices of the UKNF. The organizers are particularly interested in papers that raise the current problems of law and oversight practice of the capital, banking and insurance market.

### *UOKiK charges five banks with violation of collective interests of consumers*

The President of the Office of Competition and Consumer Protection (UOKiK) has been investigating unauthorized transactions for a year. The evidence collected thus has now allowed 5 banks to be charged with violating the collective interests of consumers. They are: Bank Millennium, BNP Paribas Bank Polska, Credit Agricole Bank Polska, mBank and Santander Bank Polska. The charges are for unlawful refusal to refund the value of unauthorized transactions and for misleading consumers in responses to complaints.

### *UOKiK files charges for promoting brokerage services*

Lack of relevant information about investment risks and failure to label advertising content in training materials - these are the charges filed by the President of the UOKiK against 3P Consulting Group. The company offers financial and investment training courses. During those courses, as well as in the educational materials posted on, for example, a public YouTube channel, 3P Consulting Group promotes brokerage services provided by the investment company Vantage Global Limited with its registered office the Republic of Vanuatu, as well as through the Klimex Capital Markets platform.

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by its Audit and Tax Advisory Departments, including most recently:

The last distinctions for the company are related to the Rankings: Companies and Tax Advisors of Dziennik Gazeta Prawna for 2021:

- ▶ 1<sup>st</sup> place The Best Tax Advisor in the category of medium-sized companies

The 2021 rankings prepared by the Rzeczpospolita and Parkiet dailies:

- ▶ 3<sup>rd</sup> Most Active Firm on the Stock Exchange

- ▶ 4<sup>th</sup> Best Audit Firm

- ▶ 5<sup>th</sup> Best Auditor of Listed Companies