JOURNAL OF LAWS

OF THE REPUBLIC OF POLAND

Warsaw, on 2 April 2024

Item 487

NOTICE
OF THE MARSHAL OF THE SEJM OF THE REPUBLIC OF POLAND
of 20 February 2024

on the publication of the consolidated text of the Act on the Bank Guarantee Fund, the Deposit Guarantee Scheme and Resolution

1. Pursuant to Article 16 paragraph 1, first sentence of the Act of 20 July 2000 on the Promulgation of Normative Acts and Certain Other Legal Acts (Journal of Laws of 2019, item 1461), the consolidated text of the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (Journal of Laws of 2022, item 2253) is promulgated in the appendix to this notice, including the amendments introduced by:

1) the Act of 14 April 2023 on amending the Act on Investment Funds and Management of Alternative Investment Funds, the Act on Bonds, the Act on the Bank Guarantee Fund, the Deposit Guarantee Scheme and Resolution and Certain Other Acts (Journal of Laws item 825),

2) the Act of 26 May 2023 on the Participation of Employees in the Company Resulting From a Cross-border Transformation, Merger or Division of Companies (Journal of Laws item 1784),

3) the Act of 7 July 2023 on Pan-European Personal Pension Products (Journal of Laws item 1843),

4) the Act of 16 August 2023 amending the Act – Commercial Companies Code and Certain Other Acts (Journal of Laws item 1705)

and amendments resulting from the provisions promulgated before 13 February 2024.

2. The consolidated text of the Act specified in the Appendix to this notice shall not include:

1) articles 24 and 26 of the Act of 14 April 2023 on amending the Act on Investment Funds and Management of Alternative Investment Funds, the Act on Bonds, the Act on the Bank Guarantee Fund, the Deposit Guarantee Scheme and Resolution and Certain Other Acts (Journal of Laws item 825), which constitute:

‘Article 24. The provisions of Article 285 paragraph 1 of the Act amended by Article 3, as amended by this Act, and Article 285 paragraph 1a of the Act amended by Article 3 shall apply to the distribution of the net profit of the Bank Guarantee Fund for 2022.’

‘Article 26. The Act shall enter into force on 1 October 2023, except for:

1) Article 16, Article 19 and Article 20, which shall enter into force on the day following the day of promulgation;

2) Article 18, which shall enter into force on 22 May 2023;

3) Articles1, 3, 4, 9 points 1, 2 and 7, 10 sub-points b and c and point 12, Article 11 points 1 and 5, Article 15,

Article 17, Article 21, Article 22
and Article 24, which shall enter into force 14 days from the date of the promulgation.';

2) Article 60 of the Act of 26 May 2023 on the Participation of Employees in the Company Resulting From a Cross-border Transformation, Merger or Division of Companies (Journal of Laws item 1784), which constitutes:

Article 60 The Act shall enter into force on 15 September 2023';

3) Article 52 of the Act of 7 July 2023 on Pan-European Personal Pension Products (Journal of Laws item 1843), which constitutes:

'Article 52 The Act shall enter into force after 14 days from the date of the promulgation, except for:

1) Article 39 which shall enter into force on the day following the day of promulgation;

2) Article 27, paragraph 2, point 1, which shall enter into force 3 months from the date of the promulgation;

3) Article 46, which shall enter into force on 1 October 2023;

4) Article 37, point 13, which shall enter into force on 1 January 2024;

5) Article 37 point 7 in the scope of Article 16e paragraph 4 point 1 sub-point b and point 9 in the scope of Article 26 paragraph 7 points 4 and 5, which shall come into force on 1 January 2032';

4) Article 16 of the Act of 16 August 2023 amending the Act – Commercial Companies Code and Certain Other Acts (Journal of Laws item 1705), which constitutes:

'Article 16 The Act shall enter into force on 15 September 2023, except for:

1) Article 11, which shall enter into force on 1 January 2024;

2) Article 13, which shall enter into force on the day following the day of promulgation.'.

Marshal of the Sejm: *S. Hołownia*

Appendix to the notice of the Marshal of the Sejm of the Republic of Poland of 20 February 2024. (Journal of Laws item 487)

ACT

of 10 June 2016

on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution[1]

DIVISION I
General Provisions

Chapter 1
Scope of the Act and definitions

Article 1. 1. The Act defines:

1) the purpose of the activities, tasks and organisation of the Bank Guarantee Fund, hereinafter referred to as the 'Fund';

2) the rules of the mandatory deposit guarantee scheme;

3) the principles of write down or conversion of capital instruments;

4) the principles of preparing and carrying out resolution;

4a)[2] the rules for the performance of the tasks of the Central Counterparty resolution authority as referred to in Regulation No 2021/23;

5) rules on the collection and use of information for the purpose of carrying out the Fund's tasks.

2. The provisions of the Act shall not apply to Bank Gospodarstwa Krajowego.

3. The provisions of division II, division V, chapter 2, part 1, Article 318, Article 319, Article 330, paragraph 3, point 1, Article 331 and division IX, chapter 1 shall not apply to mortgage banks.

Article 2. The terms used in this Act shall mean:

1) bank – a domestic bank within the meaning of Article 4 paragraph 1 point 1 of the Banking Act;

2) bank under restructuring – bank with reference to which a competent authority for resolution has issued the decision referred to in Article 101 paragraph 7;

2a) affiliating bank – a bank referred to in Article 2 point 2 of the Act on the functioning of cooperative banks;

2b) Central Counterparty – a Central Counterparty referred to in Article 2 point 1 of Regulation No 648/2012;

2c)[3] Central Counterparty in resolution – a Central Counterparty for which the Fund has issued a resolution decisio

3) depositor – person or entity entitled to a pecuniary benefit referred to in Article 20 and Article 21;

3a) brokerage house applying Regulation No 575/2013 – a brokerage house:

a) against which the decision referred to in Article 110ac paragraph 1 of the Act on Trading in Financial Instruments has been issued, or

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[1] This Act implements:
- Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU of the European Parliament and of the Council and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (OJ L 173, 06.12.2014, p. 190)
- Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on Deposit Guarantee Schemes (OJ L 173, 06.12.2014, p. 149)

[2] Added by Article 3 point 1 of the Act of 14 April 2023 on amending the Act on Investment Funds and Management of Alternative Investment Funds, the Act on Bonds, the Act on the Bank Guarantee Fund, the Deposit Guarantee Scheme and Resolution and Certain Other Acts (Journal of Laws, item 825); entered into force on 13 May 2023.

[3] Added by Article 3 point 2 sub-point a of the Act referred to in reference 2.

b) referred to in Article 1 paragraph 2 sub-point a or b or paragraph 5 of Regulation No 2019/2033;

4) parent mixed financial holding company in a Member State – a mixed financial holding company which:

a) is not a subsidiary of a bank, credit institution or investment firm as referred to in Article 4 paragraph 1 point 22 of Regulation No 2019/2033 that is subject to a registered capital requirement of EUR 750,000 and is authorised in the same Member State in which the company is established; and

b) is not a subsidiary of a financial holding company, an investment holding company or a mixed financial holding company established in the same Member State as that company;

5) parent financial holding company from a Member State – a parent financial holding company from a Member State as referred to in Article 4 paragraph 1 point 30 of Regulation No 575/2013;

5a) parent investment holding company from a Member State – an investment holding company which:

a) is not a subsidiary of an investment firm as referred to in Article 4 paragraph 1 point 22 of Regulation No 2019/2033 that is subject to a registered capital requirement of EUR 750,000 is authorised to carry out brokerage activities in the same Member State in which the company is established; and

b) is not a subsidiary of an investment holding company or a mixed financial holding company established in the same Member State as that company; and

c) is not a parent financial holding company of a Member State;

6) (repealed)

7) banking business – performing transactions referred to in Article 5 or Article 6 of the Banking Act

8) brokerage business – business referred to in Article 69 paragraph 2 of the Act on Trading in Financial Instruments, as well as business referred to in Article 69 paragraph 4 thereof if it is carried out jointly with the business referred to in Article 69 paragraph 2 thereof;

8a) resolution activity – a decision made by the Fund to initiate a resolution, as referred to in Article 101 paragraph7 or Article 102 paragraph 1, the application of at least one of the resolution instruments referred to in Article 110, or the exercise by the Fund of an authority in a resolution;

9) working day – a day from Monday to Friday, excluding public holidays;

10) day of fulfilment of the guarantee condition:

a) in the case of a bank – the date of suspension of the bank's operations designated in the decision of the Polish Financial Supervision Authority referred to in Article 158 paragraph 1 or 2 of the Banking Act and the establishment of conservatorship, unless it has been established previously, and filing a petition for bankruptcy to the competent court or the date where the Fund files a petition for bankruptcy to the competent court referred to in Article 230 paragraph 2 point 1,

b) in the case of a branch office of a foreign – the date of the court decision on the recognition of the ruling to initiate foreign bankruptcy proceedings referred to in Article 379 point 1 of the Act – Bankruptcy Law towards a foreign bank which operates in the territory of the Republic of Poland through a branch or the day of the initiation of bankruptcy proceedings involving the assets of a foreign bank located in the territory of the Republic of Poland,

c) in the case of a credit union – the date of suspension of credit union business designated in a decision of the Polish Financial Supervision Authority referred to in Article 74k paragraph 1 or 2 of the Act on Cooperative Savings and Credit Unions and the appointment of the conservator, unless it has been previously established and filing a petition for bankruptcy to the competent court or the date where the Fund files a petition for bankruptcy to the competent court referred to in Article 230 paragraph 2 point 2;

11) European Banking Authority – European Banking Authority referred to in Regulation No 1093/2010;

12) financial holding company – financial holding company referred to in Article 4 paragraph 1 point 20 of Regulation No 575/2013;

13) mixed financial holding company – a mixed financial holding company referred to in Article 4 paragraph 1 point 21 of Regulation No 575/2013;

14) investment firm – brokerage house within the meaning of the Act on Trading in Financial Instruments which holds a permit to operate in the scope referred to in Article 69 paragraph 2 point 3, 7 or 9 thereof;

15) investment firm under restructuring – investment firm towards which a competent authority for resolution has issued

the decision referred to in Article 101 paragraph 7;

16) own funds – own funds referred to in Article 4 paragraph 1 point 118 of Regulation No 575/2013, in the case of investment firms which are not brokerage houses applying Regulation No 575/2013, own funds as referred to in Article 9 of Regulation No 2019/2033;

17) critical functions – services, operations or other business of an entity or group, the cessation of which could result in interference in the operation of the economy or threaten financial stability in one or more Member States of the European Union because of the size of an entity or group, their market share complexity, cross-border business, economic or financial ties, in particular taking into account the ability to perform these services, operations or other business by other entities;

17a) global systemically important institution – the entity referred to in Article 4 paragraph 1 point 133 of Regulation No 575/2013;

18) main line of business – part of business separated for the needs of management, which constitutes an important source of revenue, profit or goodwill for an entity or a group which includes an entity;

19) group – parent entity and subsidiaries referred to in Article 4 paragraph 1 point 16 of the Regulation No 575/2013;

19a) group subject to resolution:

a) the entity subject to resolution and its subsidiaries, provided that none of those subsidiaries:

- is an entity subject to resolution,
- is a subsidiary of other entities subject to resolution,
- is an entity established in a third party country that according to the resolution plan is not part of the group subject to resolution, nor is a subsidiary of that entity established in a third party country, or

b) central authority, a bank or a credit institution permanently affiliated to a central authority, as well as their subsidiaries, if the central authority or one or more banks or credit institutions are entities subject to resolution;

20) group resolution plan – a plan drawn up by a competent authority for the resolution of a group defining the way in which that authority intends to restructure the group;

21) mixed activity holding company – mixed activity holding company referred to in Article 4 paragraph 1 point 22 of Regulation No 575/2013 or a mixed activity holding company within the meaning of Article 110a paragraph 1 point 6c of the Act on Trading in Financial Instruments;

22) derivatives – derivatives referred to in Article 2 point 5 of Regulation No 648/2012;

22a) additional Tier 1 instruments – capital instruments which meet the conditions stipulated in Article 52 paragraph 1 of Regulation No 575/2013;

23) financial instruments – financial instruments referred to in Article 2 of the Act on Trading in Financial Instruments;

23a) Common Equity Tier 1 instruments – capital instruments which meet the conditions stipulated in Article 28 paragraphs 1–4 , Article 29 paragraphs 1–5 or Article 31 paragraph 1 of Regulation No 575/2013;

23b) Tier 2 instruments – capital instruments or subordinated loans which meet the conditions stipulated in Article 63 of Regulation No 575/2013;

24) financial institution – the financial institution referred to in Article 4 paragraph 1 point 26 of Regulation No 575/2013 or a financial institution referred to in Article 4 paragraph 1 point 14 of Regulation No 2019/2033;

25) credit institution – credit institution referred to in Article 4 paragraph 1 point 1 of Regulation No 575/2013 established in the territory of a Member State other than the Republic of Poland;

26) bridge institution – an entity having the Fund as its sole shareholder or the parent company created to assign rights attached to shares of an entity under restructuring, its business or property rights or liabilities of an entity under restructuring with a view to continuing in full or in part of business pursued by an entity under restructuring;

26a) investment holding company – investment holding company referred to in Article 4 paragraph 1 point 23 of Regulation No 2019/2033;

27) major branch:

a) in the case of a branch of a credit institution – branch office considered major in accordance with Article 141f

paragraph 13 of the Banking Act,

b) (repealed)

c) in the case of a branch of a domestic entity operating outside the territory of the Republic of Poland - branch considered major by the authorities of a host State;

27a) material subsidiary – material subsidiary entity as referred to in Article 4 paragraph 1 point 135 of Regulation No 575/2013;

27b) Common Equity Tier 1 capital – Common Equity Tier 1 capital calculated in accordance with Article 50 of Regulation No 575/2013;

28) credit union – cooperative savings and credit union;

29) National Association of Credit Unions – National Cooperative Savings and Credit Union;

30) credit union under restructuring – credit union towards which the competent authority for resolution has issued the decision referred to in Article 101 paragraph 7;

31) resolution college – collective body established pursuant to Article 127 paragraph 1;

32) (repealed)

33) domestic parent entity:

a) a bank that is an EU parent institution or an investment firm that is an EU parent investment firm,

b) an EU parent financial holding company, an EU parent mixed financial holding company or an EU parent investment holding company if they are subject to consolidated supervision, supervision of a group of investment firms on a consolidated basis or supervision of compliance with the group capital test referred to in the provisions of Division IV, Chapter 1, Section 2a of the Law on Trading in Financial Instruments, exercised by the Polish Financial Supervision Authority;

33a) domestic subsidiary entity – a subsidiary entity established in the territory of the Republic of Poland;

33b) total amount of risk exposure – the amount calculated in accordance with Article 92 paragraph 3 of Regulation No 575/2013;

34) a mandatory deposit guarantee scheme – a system of guarantees of funds operating hereunder;

35) branch of a foreign bank – a branch of a foreign bank within the meaning of Article 4 paragraph 1 point 20 of the Banking Act;

36) officially recognised deposit guarantee scheme – a system of guarantees of funds, created and officially recognised in a Member State;

36a) central authority – the entity referred to in Article 10 paragraph 1 of Regulation No 575/2013;

37) Member State – a member state of the European Union or the European Economic Area;

38) third state – a State other than a Member State;

39) resolution plan – a plan drawn up by the competent authority for resolution, defining a manner in which the authority intends to restructure an entity, including the use of instruments of resolution;

39a) parent company – the entity referred to in Article 4 paragraph 1 point 15(a) of Regulation No 575/2013;

40) domestic entity – a bank, investment firm or credit union;

41) entity covered by the deposit guarantee scheme – subject to the mandatory deposit guarantee scheme:

a) bank, with the exception of a mortgage bank,

b) branch of a foreign bank, unless it is a participant of the deposit guarantee scheme or a deposit guarantee scheme in which it participates provides a guarantee of funds at least to the extent and in the amount specified in the Act,

c) credit union;

41a) entity subject to resolution:

a) a bank, a credit institution or an investment firm that is not part of a group subject to consolidated supervision according to the rules of a Member State and for which a resolution action is foreseen in a resolution plan

drawn up pursuant to Article 73,

b) a legal entity established in a Member State that has been identified in a resolution plan drawn up pursuant to Article 77 paragraph 2 or a group resolution plan drawn up pursuant to Article 74 paragraph 1 as an entity for which a resolution action is foreseen;

42) residual entity – an entity under restructuring towards which the Fund has issued a decided to liquidate or entered a petition for a declaration of bankruptcy;

43) the entity authorised to represent – in the case of:

a) bank – management board, conservatorship, liquidator, administrator or attorney appointed by the Fund, and if a bank has been declared bankrupt – receiver,

b) branch of a foreign bank – branch manager or foreign administrator referred to in Article 379 point 4 of the Act – Bankruptcy Law,

c) credit union – management board, conservator, liquidator, administrator or attorney appointed by the Fund, and if a credit union has been declared bankrupt – receiver;

44) entity under restructuring – entity with reference to which a competent authority for resolution has issued the decision referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4;

45) subsidiary:

a) subsidiary referred to in Article 4 paragraph 1 point 16 of Regulation No 575/2013;

b) bank or credit institution permanently linked to the central authority, the central authority and their related entities, to the extent that the provisions of Articles 70–72, 82, 91–95, 97–99, 132–134 apply to the group subject to resolution referred to in point 19a sub-point b, taking into account the manner in which they meet the requirements set out in Article 98 paragraph 2a, and the provision of Article 141n of the Banking Act;

46) asset management company – an entity having the Fund as its sole shareholder or a parent company created to transfer property rights and related liabilities of an entity under restructuring or a bridge institution with a view to managing those rights, including their sale or liquidation;

47) major entity – an entity which individually satisfies one of the conditions:

a) the total value of its assets determined as per the most recently approved financial statements exceeds the PLN equivalent of EUR 30,000,000,000 as per the average exchange rate of the last working day of the previous year, announced by the National Bank of Poland,

b) the ratio of the total value of its assets to gross domestic product of the Member State where it is established, exceeds 20%, unless the value of its assets determined as per the most recently approved financial statements are lower than the PLN equivalent of EUR 5,000,000,000 as per the average exchange rate of the last working day of the previous year, announced by the National Bank of Poland;

47a) subordinated eligible instruments – instruments meeting the criteria set out in Article 72a of Regulation No 575/2013, excluding instruments referred to in Article 72b paragraphs 3–5 of that Regulation;

48) rights attached to shares – stocks and shares, rights issue, rights to shares, subscription warrants and other negotiable securities incorporating property rights corresponding to rights arising from shares and other negotiable property rights which arise as a result of issues, incorporating the right to purchase or assume securities referred hereinabove;

49) sale of business – an instrument of resolution involving acquisition of:

a) undertaking operated by an entity under restructuring or

b) some or all of the property rights of an entity under restructuring or some or all of the liabilities of that entity, or

c) rights attached to shares in an entity under restructuring;

50) account with an entity covered by the guarantee scheme – a bank account with a bank or branch of a foreign bank or account with a credit union;

51) register of financial instruments – electronic register of open positions from transactions in financial instruments operated by an entity and providing an option to obtain without delay all data allowing a data recipient, in particular, the identification of the type of financial instrument, receivables and liabilities arising from transactions, transaction currency, parties to the transaction, the date of transaction, settlement method, transaction security and the law applicable to the transaction;

52) Regulation No 1093/2010 – Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing the European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331 of 15.12.2010, p. 12, as amended);

53) Regulation No 648/2012 – Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201 of 27.07.2012, p. 1, as amended);

54) Regulation No 575/2013 – Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.06.2013, p. 1, as amended[4];

54a) Regulation No 596/2014 – Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.06.2014, p. 1, as amended[5];

55) Regulation No 2015/63 – Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements (OJ L 11, 17.01.2015, p. 44);

55a) Regulation No 2017/1129 – Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing Directive 2003/71/EC (OJ L 168, 30.06.2017, p. 12);

55b) Regulation No 2019/2033 – Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on prudential requirements for investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 05.12.2019, p. 1, as amended[6];

55c)[7] Regulation No 2021/23 – Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 (OJ L 22, 22.01.2021, p. 1);

56) regulated market – regulated market referred to in Article 14 paragraph 1 of the Act on Trading in Financial Instruments;

57) fulfilment of the guarantee condition:

a) in the case of a bank, with the exception of a mortgage bank,

- the Polish Financial Supervision Authority decision to suspend the business of the bank referred to in Article 158 paragraph 1 or 2 of the Banking Act and the establishment of conservatorship, unless it has been established previously and filing the petition for bankruptcy to the competent court, or
- filing by the Fund of the petition for bankruptcy to the competent court referred to in Article 230 paragraph 2 point 1,

b) in the case of a branch of a foreign bank – issuance of a court decision on the recognition of the ruling to initiate the foreign bankruptcy proceedings referred to in Article 379 point 1 of the Act – Bankruptcy Law with reference to a foreign bank which operates in the Republic of Poland through a branch or bankruptcy proceedings involving the assets of a foreign bank located in the territory of the Republic of Poland,

c) in the case of a credit union:

- the issuance by the Polish Financial Supervision Authority of a decision on suspension of credit union business as referred to in Article 74k paragraph 1 or 2 of the Act on Cooperative Savings and Credit Unions, and the appointment of the conservator, unless it has been appointed previously, and filing the petition for bankruptcy to the competent court, or

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4 Amendments to the consolidated text of the Act were promulgated in OJ L 208, 02.08.2013, p. 68, OJ L 321, 30.11.2013, p. 6, OJ L 11, 17.01.2015, p. 37, OJ L 171, 29.06.2016, p. 153, OJ L 20, 25.01.2017, p. 4, OJ L 310, 25.11.2017, p. 1, OJ L 345, 27.12.2017, p. 27, OJ L 347, 28.12.2017, p. 1, OJ L 111, 25.04.2019, p. 4, OJ L 150, 07.06.2019, p. 1, OJ L 183, 09.07.2019, p. 14, OJ L 314, 05.12.2019, p. 1, OJ L 328, 18.12.2019, p. 1, OJ L 204, 26.06.2020, p. 4, OJ L 84, 11.03.2021, p. 1, OJ L 116, 06.04.2021, p. 25.

5 Amendments to the consolidated text of the Act were promulgated in OJ L 171, 29.06.2016, p. 1, OJ L 175, 30.06.2016, p. 1, OJ L 287, 21.10.2016, p. 320 and OJ L 254, 10.10.2018, p. 19.

6 Amendments to the consolidated text of the Act were promulgated in OJ L 20, 24.01.2020, p. 26 and OJ L 405, 02.12.2020, p. 79.

7 Added by Article 3 point 2 sub-point b of the Act referred to in reference 2.

- filing by the Fund of the petition for bankruptcy to the competent court as referred to in Article 230 paragraph 2 point 2;

58) host system – officially recognised deposit guarantee system in a Member State other than the Republic of Poland on the territory of which an entity covered by the guarantee system carries on its business through a branch;

59) home-country deposit guarantee scheme – officially recognised deposit guarantee system which affiliates the credit institution referred to in Article 4 paragraph 1 point 17 of the Banking Act in the Member State in which the credit institution has been authorised to pursue business and on the territory of which it is established;

60) institutional protection system – institutional protection system referred to in Article 113 paragraph 7 of Regulation No 575/2013;

61) payment system – payment system referred to in Article 1 point 1 of the Act on Settlement Finality;

62) compensation system – compensation system referred to in Article 133 paragraph 1 of the Act on Trading in Financial Instruments;

63) settlement system – securities settlement system referred to in Article 1 point 2 of the Act on Settlement Finality;

64) calculation system – IT system of an entity covered by the guarantee system designed to ensure the option of forthwith obtaining data to identify depositors and to determine the amount of funds guaranteed due to individual depositors;

65) guaranteed funds – depositor funds covered by the guarantee protection to the amount referred to in Article 24 paragraph 1, 3 and 4;

66) funds to finance the resolution of banks and investment firms – sums for use held in the resolution fund of banks to be used for this purpose;

67) funds to finance the resolution of credit unions – sums held for use in the resolution fund for credit unions to be used for this purpose;

68) funds covered by the guarantee protection – depositor funds protected in accordance with Article 17–19;

69) [8]funds of the deposit guarantee scheme in banks – sums for use held in the guarantee fund of banks and in the statutory fund after the deduction of:

a) the value of tangible assets and intangible assets,

b) the value of funds allocated by the decision of the Fund Council to cover the difference referred to in Article 258n paragraph 1;

70) funds of the deposit guarantee system in credit unions – sums held for use in the guarantee fund of credit unions;

71) write down or conversion of liabilities – an instrument of resolution involving write down of liabilities to cover losses or conversion of liabilities into capital instruments;

71a) financial agreements:

a) agreements which are financial instruments within the meaning of the Act on Trading in Financial Instruments,

b) agreements on trading in goods which are not financial instruments as referred to in sub-point a,

c) not being financial instruments referred to in sub-point a, options, futures, swaps, forward contract and other property rights the price or value of which depends directly or indirectly on the price or value of an asset, a service, a right or an interest,

d) inter-bank loan agreements if the loan term is three months or less,

e) framework agreements the subject matter of which is the conclusion of the agreements referred to in sub-points a to d;

72) EU parent financial holding company – EU parent financial holding company referred to in Article 4 paragraph 1 point 31 of Regulation No 575/2013;

73) parent mixed EU financial holding company – mixed EU parent financial holding company referred to in Article 4 paragraph 1 point 33 of Regulation No 575/2013 or an EU parent financial holding company as referred to in Article 4 paragraph 1 point 58 of Regulation No 2019/2033;

73a) EU parent investment firm – an EU parent investment firm as referred to in Article 4 paragraph 1 point 29b of Regulation No 575/2013 or an EU parent investment firm as referred to in Article 4 paragraph 1 point 56 of

[8] As amended by Article 3 point 2 sub-point b of the Act referred to in reference 2.

Regulation No 2019/2033;

73b) EU parent investment holding company – EU parent investment holding company referred to in Article 4 paragraph 1 point 57 of Regulation No 2019/2033;

74) EU parent institution – EU parent institution referred to in Article 4 paragraph 1 point 29 of Regulation No 575/2013;

74a) Act on the functioning of cooperative banks – the Act of 7 December 2000 on the functioning of cooperative banks, their affiliation and affiliating banks (Journal of Laws of 2022, item 1595 and of 2023, item 1723);

74b) Act on Macro-Prudential Supervision – the Act of 5 August 2015 on Macro-Prudential Supervision of the Financial System and Crisis Management in the Financial System (Journal of Laws of 2022, item 2536 and of 2023, item 1723);

75) Act on Trading in Financial Instruments – Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws 2023, item 646, 825, 1723 and 1941);

76) Act on Settlement Finality – Act of 24 August 2001 on Settlement Finality in payment and securities settlement systems and the supervision of such systems (Journal of Laws of 2022 item 1581 and of 2023 item 1723);

77) Act on Cooperative Savings and Credit Unions – Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2023 item 1278, 1394, 1407, 1723 and 1843);

78) act – Banking Act – the Banking Act of 29 August 1997 (Journal of Laws of 2023 item 2488);

79) Act – Bankruptcy Law – the Law of 28 February 2003 – Bankruptcy Law (Journal of Laws of 2022 item 1520 and of 2023 item 825, 1723, 1843 and 1860);

80) binding mediation – the procedure laid down in Article 19 of Regulation No 1093/2010;

81) owner – a shareholder, member or partner of a cooperative;

81a) relevant parent institution – a parent institution from a Member State, a parent investment company from a Member State as referred to in Article 4 paragraph 1 point 29a of Regulation 575/2013, an EU parent institution, an EU parent investment firm as referred to in Article 4 paragraph 1 point 29b of Regulation 575/2013, a financial holding company, an investment holding company, a mixed financial holding company, a mixed holding company, a parent financial holding company from a Member State, a parent investment holding company from a Member State, an EU parent financial holding company, an EU parent investment holding company, an EU parent mixed financial holding company from a Member State or an EU parent mixed financial holding company in relation to which a write down or conversion instruction has been applied;

82) competent authority for resolution – Member State authority performing tasks related to the resolution or a Single Resolution Board (SRB) established under Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.07.2014, p. 1);

83) competent authority for the resolution of a group – authority for resolution competent in a Member State, the supervisory authority of which exercises supervision on a consolidated basis, or a Single Resolution Board (SRB) established under Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010);

84) competent authority for the resolution of a major branch – competent authority for resolution in the Member State in the territory of which an entity has established a major branch;

85) competent authority for the resolution of a subsidiary – competent authority for resolution in the Member State in the territory of which a subsidiary has been established;

86) competent third-country authority for resolution – third-country authority for resolution performing tasks related to resolution;

87) collective decision – arrangement taken within the resolution college by the competent authorities for resolution;

88) separation of property rights – instrument of resolution involving a transfer of selected property rights and related liabilities of an entity under restructuring or a bridge institution to an asset management company;

88a) combined buffer requirement – the requirement referred to in Article 55 paragraph 4 of the Act on Macro-Prudential Supervision;

89) foreign proceedings of resolution – resolution initiated in a third country;

90) foreign entity under restructuring – entity registered in a third country towards which a decision has been issued to initiate resolution;

90a) eligible liabilities – liabilities that may be written down or converted that meet the conditions set out in Articles 97a–97g or Article 98 paragraph 2l point 1, and Tier 2 instruments referred to in Article 72a paragraph 1 sub-point b of Regulation No 575/2013;

90b) liabilities that may be subject to write down or conversion – liabilities and capital instruments that do not qualify as Common Equity Tier 1 instruments, Additional Tier 1 instruments or Tier 2 instruments of an entity referred to in Article 64 point 2 and that are not excluded from the write down or conversion of liabilities pursuant to Article 206 paragraph 1;

91) secured liability – a liability in respect of which the creditor's right to payment or other performance is secured by an encumbrance, in particular by a pledge, mortgage or other form of security created over the debtor's property rights, including a liability arising from a repurchase transaction and other financial security arrangements involving the transfer of title to that property right.

Chapter 2

Status, tasks and organs of the Fund

Article 3. 1. The Fund shall be a legal person performing the tasks specified in the Act.

2. The seat of the Fund shall be based in Warsaw.

3. The Fund is not a state legal person nor an entity of the public finance sector.

4. The Minister competent for financial institutions shall, by way of a regulation, establish the statute of the Fund which define in detail the tasks, organisation and rules of creation and use of own funds, on considering the smooth operation of the Fund and the objectives of its operation.

Article 3a. 1. The provisions of Article 35, Article 42 paragraph 2, Article 49, Article 92 and Article 93 of the Act of 27 August 2009 on Public Finance (Journal of Laws of 2023, item 1270, as amended[9)] shall not apply to the Fund.

2. The provisions of the Act of 16 December 2016 on the rules of state property management (Journal of Laws of 2024, item 125) shall not apply to the Fund.

Article 4.[10] The objective of the operation of the Fund is taking measures to ensure the stability of the domestic financial system, in particular by ensuring the operation of the mandatory deposit guarantee scheme and the conduct of resolution of Central Counterparties.

Article 5. 1. The Fund shall be engaged in the following tasks:

1) performance of the obligations arising from the deposit guarantee, in particular, paying guaranteed funds to depositors;

2) control of the data contained in the calculation system of the entities covered by the deposit guarantee scheme;

3) restructuring of entities referred to in Article 64 point 2 by write down or conversion of capital instruments;

4) carrying out resolution;

4a)[11] performance of the tasks of the Central Counterparty resolution authority as referred to in Regulation No 2021

5) preparation, update and feasibility study of resolution plans and group resolution plans;

6) collection and analysis of information on entities covered by the deposit guarantee scheme, in particular for the preparation of analyses and forecasts for concerning the banking sector and credit union sector and individual banks and credit unions;

7) pursuit of other duties in favour of the stability of the domestic financial system.

2. The tasks of the Fund as regards the restructuring of credit unions where a risk of insolvency occurs shall include the following:

[9] Amendments to the consolidated text of the aforementioned Act were promulgated in the Journal of Laws of 2023, item 1273, 1407, 1429, 1641, 1693 and 1872.
[10] As amended by Article 3 point 3 of the Act referred to in reference 2.
[11] Added by Article 3 point 4 of the Act referred to in reference 2.

1) granting refundable financial assistance;

2) purchase of receivables of credit unions;

3) granting support for entities acquiring credit unions, acquiring selected property rights or selected liabilities of credit unions or support for acquirers of the undertaking of a credit union under liquidation, its organised part or selected property rights to the acquiring entity or purchaser;

4) controlling the adequate use of assistance and support referred to in points 1 and 3 and monitoring the economic and financial situation and the management system of:

   a) a credit union receiving assistance,

   b) the entity acquiring the credit union, selected property rights or selected liabilities of the credit union,

   c) purchaser of the credit union undertaking in liquidation, its organised part or selected property rights.

2a. The tasks of the Fund with regard to the restructuring of banks in which the danger of insolvency has arisen, except for mortgage banks, include:

1) granting support for the activities of the restructured bank to the acquiring banks;

2) controlling the correct use of the support referred to in point 1 and monitoring the economic and financial situation and the management system of the bank participating in the restructuring of the bank for the activities of which the Fund has granted support.

3. The Fund shall cooperate with other entities operating for the stability of the national financial system, entities operating deposit guarantee schemes, as well as with the competent authorities for resolution, the European Banking Authority and the competent authorities for resolution for a group, the competent authorities for resolution for a major branch, the competent authorities for resolution for a subsidiary and the competent authorities for resolution of a third country.

4. To the extent referred to in paragraph 1 and 3 the Fund may conduct publishing, information, promotional and educational activities.

5. The Fund may provide services to a bridge institution and an asset management company.

6. At the request of the Fund, the Polish Financial Supervision Authority shall appoint the Fund the trustee referred to in Article 144 paragraph 1 of the Banking Act or Article 72c paragraph 1 of the Act on Cooperative Savings and Credit Unions. The Fund shall not be entitled to the remuneration referred to in Article 144 paragraph 8 of the Banking Act or the Article 72c paragraph 11 of the Act on Cooperative Savings and Credit Unions.

7. Following the consultation with the President of the National Bank of Poland and the Chairman of the Polish Financial Supervision Authority, the Minister competent for financial institutions may determine, by way of a regulation, additional operations of the Fund for the stability of the domestic financial system and the mode and manner of their execution, in response to the need to ensure stability of the domestic financial system.

8. The Minister competent for financial institutions shall define, by way of a regulation, the detailed conditions, scope and mode of trading by the Fund of the receivables referred to in paragraph 2 point 2, on considering the need to ensure the effectiveness of the ongoing restructuring of credit unions.

Article 5a. The Fund shall process personal data within the scope necessary to perform the tasks set out in Article 5 paragraph 1–6.

Article 6. 1. The organs of the Fund shall be the Fund Council and the Fund Management Board.

2. Persons performing functions in the organs of the Fund and employees of the Fund may not undertake actions that could give rise to suspicion of bias, in particular:

1) acquiring, disposing of and holding stocks and shares:

   a) a domestic entity,

   b) a parent company of a domestic entity or a subsidiary of a domestic entity,

   c) an entity related to an entity referred to in sub-point c or b by virtue of belonging to the same group as the entity;

2) acquiring, disposing of and holding bonds issued by the entity referred to in point 1 or the National Association of Credit Unions;

3) acquiring, disposing of and holding financial instruments the issuer of which is a domestic entity, as well as derivative instruments with securities issued by the entity referred to in point 1 or the National Association of Credit

Unions as their underlying instrument; and

4) perform functions in the entity referred to in point 1 or the National Association of Credit Unions or take up employment in the entity referred to in point 1 or the National Association of Credit Unions on the basis of an employment contract or perform work on them on the basis of a contract of mandate, specific work contract, agency contract or any other contract of a similar nature.

3. Persons holding functions in the bodies of the Fund and employees of the Fund may:

1) take up employment in a bridge institution or perform a function in the bodies of a bridge institution;

2) take up employment with an asset management entity or serve in its bodies;

3) take up employment with an entity under restructuring or an entity related to an entity under restructuring by remaining with that entity in relations referred to in Article 4, paragraph 1, points 14–16 of the Banking Act, or remaining with that entity in the same group;

4) perform a function in the bodies of the entities referred to in point 3.

4. The provisions of paragraph 2 shall not apply to:

1) compulsory shares in the fund in connection with the accumulation of funds in the fund, loans or credits received in the fund, financial settlements carried out in the fund and insurance agreements concluded through the fund under the rules set out in the Act of 15 December 2017 on insurance distribution (Journal of Laws of 2023, item 1111 and 1723);

2) securities issued by the State Treasury;

3) securities issued, guaranteed or underwritten by governments or central banks of Member States or countries that are members of the Organisation for Economic Co-operation and Development;

4) investment fund participation units within the meaning of the Act of 27 May 2004 on investment funds and management of alternative investment funds (Journal of Laws of 2023, item 681, 825, 1723 and 1941).

5. Members of the Fund Council, members of the Fund's Management Board and employees of the Fund shall be obliged to comply with the requirements referred to in paragraph 2 within 7 months from the date of assuming the mandate of a member of the Fund Council or a member of the Fund's Management Board, respectively, or entering into an employment relationship.

Article 7. 1. The Fund Council shall consist of six members.

2. A person who satisfies all of the following conditions may be a member of the Fund Council:

1) enjoys full legal capacity;

2) has completed higher education;

3) has not been finally convicted of an intentional crime or a financial crime;

4) has gained knowledge and professional expertise in the financial market.

3. A representative of the Minister competent for financial institutions shall be the Chairman of the Fund Council.

4. The Fund Council shall comprise the following members:

1) three representatives of the Minister competent for financial institutions, including the Chairman of the Fund Council;

2) two representatives of the National Bank of Poland seconded by the President of the National Bank of Poland;

3) one representative of the Polish Financial Supervision Authority seconded by the Chairman of the Polish Financial Supervision Authority.

5. The term of office of the Fund Council shall be 3 years, in which case the mandates of all its members expire at the end of the term of office.

6. A mandate of a member of the Fund Council shall expire at the end of the term of office of the Fund Council, as a result of death, resignation or dismissal from the Fund Council.

7. Where a mandate of a member of the Fund Council expires during the term of the Fund Council, a new member shall be seconded for the period until the end of the term of office of the Fund Council.

8. Following the expiration of the term of office of the Fund Council, its members shall perform their duties until the day of appointment of a new Fund Council.

9. Members of the Fund Council shall be entitled to a monthly remuneration. The remuneration shall consist of a fixed part and a variable part, the amount of which is contingent upon the participation of a member of the Fund Council in its meetings and upon the frequency of convening the meetings of the Fund Council in the month.

10. The amount of monthly remuneration of a member of the Fund Council shall be determined as a multiple of the average monthly salary in enterprise sector excluding payments from profit in the fourth quarter of the previous year, as announced by the President of the Central Statistical Office.

11. Following the consultation with the President of the National Bank of Poland and the Chairman of the Polish Financial Supervision Authority, the Minister competent for financial institutions will determine, by way of a regulation, the maximum amount of monthly remuneration of the members of the Fund Council, including:

1) the amount of the fixed part of the remuneration,

2) the method of determining the variable part of the remuneration

– having regard to their function and participation in the meetings of the Fund Council.

Article 8. 1. The tasks of the Fund Council shall include:

1) exercising supervision over operations of the Management Board of the Fund;

2) adoption of the activity plan and the financial plan of the Fund;

3) approval of the annual financial statements of the Fund developed by the Management Board of the Fund and the annual activity report of the Fund and submitting them to the Council of Ministers;

4) approval of quarterly reports on the Fund activities developed by the Management Board of the Fund and submitting them to the Minister competent for financial institutions, not later than 40 days from the last day of the quarter for which they were issued;

5) acceptance, at the request of the Management Board of the Fund, of receiving a loan or a credit by the Fund, or of issuance of debt securities by the Fund;

6) acceptance, at the request of the Management Board of the Fund, of a loan provided by the Fund to the deposit guarantee scheme officially recognised in a Member State other than the Republic of Poland or to an entity managing resolution funds in Member States;

7) taking, at the request of the Management Board of the Fund, the decision to transfer funds between own funds of the Fund;

8) taking, at the request of the Management Board of the Fund, the decision to allocate an amount higher than 50% of the target level of funds of the deposit guarantee scheme of banks or the target level of the deposit guarantee scheme of credit unions to finance the resolution;

8a) lowering, at the request of the Management Board of the Fund, the target level of the deposit guarantee scheme funds in banks;

9) determining, at the request of the Management Board of the Fund:

a) the amount of mandatory contributions to the guarantee fund of banks and the guarantee fund of credit unions as referred to in Article 286 paragraph 1, to the resolution fund of banks and the resolution fund of credit unions as referred to in Article 295 paragraph 1 and 3, the date of their payment and the share of contributions paid in the form of a payment commitment,

b) the amount of extraordinary contributions to the guarantee fund of banks, the guarantee fund of credit unions, the resolution fund of banks and the resolution fund of credit unions as referred to in Article 291 paragraph 1, Article 292 paragraph 1, Article 299 paragraph 1 and Article 300 paragraph 1, and the date of their payment,

c) the rules for postponement of payment terms of extraordinary contributions to the resolution fund of banks and the resolution fund of credit unions,

d) the rules of development and approval of resolution plans and group resolution plans and of evaluation of their feasibility,

e) detailed internal rules of conduct of resolution by the Fund;

f) rules and forms of granting support, security and recovery of funds related to support in resolution,

g) rules for carrying out valuations for the purposes of resolution,

h) rules of granting by the Fund loans referred to in point 6 from the guarantee fund of banks, the guarantee fund of credit unions, the resolution fund of banks and the resolution fund of credit unions,

i) reduction in the frequency of reviews of resolution plans for certain entities and group resolution plans,

j) rules and forms for the provision of aid and support and recovery of aid or support granted in connection with the restructuring of credit unions,

k) rules and forms for the provision of support and recovery of funds for the provision of support in connection with the restructuring of banks,

l) [12] the internal rules for the performance of the tasks of the Central Counterparty resolution authority as referred to in Regulation No 2021/23;

10) exemption, at the request of the Management Board of the Fund, of an entity from keeping a register of financial instruments;

11) determination of remuneration of the members of the Management Board of the Fund;

12) representation of the Fund in its legal relations with the members of the Management Board, in particular their appointment, suspension and removal;

13) adoption, at the request of the Management Board of the Fund, of the regulations defining the organisation of work and the manner of operation of the Management Board of the Fund.

1a. The Fund Council, at the request of the Management Board of the Fund, adopts rules for determining the target level of resources referred to in paragraph 1 point 8a. The rules shall be posted on the Fund's website.

2. The Fund Council may authorise the Management Board of the Fund to take a decision on the reverse transfer of resources between own funds in cases specified by the Fund Council.

Article 9. 1. The Fund Council adopts resolutions by majority of votes, in the presence of at least three of its members. In the event of a tie, the vote of the Chairman of the Fund Council shall prevail.

2. The Minister competent for financial institutions shall establish, by way of a regulation, the rules defining the organisation of work and the manner of operation of the Fund Council, on considering the objectives of the Fund, its tasks and the specificity of its activities.

Article 10. 1. The Management Board of the Fund shall consist of three to five members, including the President and his Deputy.

2. Members of the Management Board of the Fund shall be appointed and dismissed by the Fund Council.

3. A person who satisfies all of the following conditions may be a member of the Management Board of the Fund:

1) is a Polish citizen;

2) enjoys full legal capacity;

3) has completed higher education;

4) has not been finally convicted of an intentional crime or a financial crime;

5) possesses at least five-year professional experience in a managerial position in the functioning of the financial market.

4. The Fund Council shall select the following from among the members of the Management Board of the Fund:

1) President of the Management Board of the Fund;

2) Deputy President of the Management Board of the Fund at the request of the President of the Management Board of the Fund.

5. The term of office of the Management Board of the Fund shall be 5 years from the date of appointment.

6. The Fund Council dismisses before the end of the term of office a member of the Management Board of the Fund, including the President or his/her Deputy, in the event of:

1) final conviction for an intentional crime or fiscal crime;

2) resignation from the position;

3) loss of Polish citizenship;

4) loss of full legal capacity;

5) failure to ensure due performance of the entrusted duties.

6a. The Fund Council may dismiss before the expiry of the term of office a member of the Management Board of the Fund, including the President or his/her Deputy, in the event of incapacity to fulfil the duties entrusted to them due to

[12] Added by Article 3 point 5 of the Act referred to in reference 2.

an illness lasting longer than 3 months.

7. A mandate of a member of the Management Board of the Fund shall expire on:

1) expiry of the term of office of the Management Board of the Fund;

2) death of a member of the Management Board of the Fund;

3) removal from office.

8. The President of the Management Board of the Fund shall serve until the appointment of his successor.

9. Following the expiration of the term of office of the Management Board of the Fund, its members shall perform their duties until the day of appointment of the new Management Board.

Article 11. 1. The Management Board of the Fund shall manage the activities of the Fund and represent it outside.

2. Other tasks of the Management Board of the Fund include:

1) development of draft activity plans and financial plans of the Fund;

2) management of the assets of the Fund, subject to the powers of the Fund Council;

3) submission of quarterly and annual activity reports to the Fund Council;

4) submission of applications to the Fund Council on the matters referred to in Article 8 paragraph 1 points 5–10 and 13;

5) performance of other tasks of the Fund that are not reserved for the Fund Council.

3. The Management Board of the Fund shall adopt resolutions by a majority of votes in the presence of at least a half of the members included in its composition. In the event of a tie, the vote of the President of the Management Board of the Fund shall prevail.

4. The decisions regarding:

1) initiation of resolution referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4,

2) write down or conversion of capital instruments or eligible liabilities,

3) measures referred to in Article 72 paragraph 5 and Article 95 paragraph 1 required to remove the obstacles that prevent or hinder the conduct of resolution,

4) implementation of instruments of resolution,

4a) the imposition on the entity or its relevant parent company of an obligation to issue new rights attached to shares,

5) the appointment and removal of an administrator or a deputy administrator,

6) appointment and removal of attorney referred to in Article 214 paragraph 1,

7) cancellation of the rights issue, or rights to acquire other instruments of ownership,

8) suspension of business of an entity under restructuring referred to in Article 155 paragraph 1,

9) suspension of performance of the due liabilities of an entity under restructuring referred to in Article 144 paragraph 1,

9a) suspension of the performance of payment or delivery obligations referred to in Article 144a paragraph 1,

10) suspension of the right to enforce the security referred to in Article 142 paragraph 1,

11) amendments to the conditions of the agreements referred to in Article 150 paragraph 1,

12) amendments to the repayment conditions of debt instruments and other liabilities referred to in Article 206 paragraph 1, including extension of maturity or payment date or suspension of the repayment of these liabilities,

13) suspension of the right of unilateral termination of contracts concluded with the entity under restructuring referred to in Article 143 paragraph 1 and with the subsidiary of the entity under restructuring referred to in Article 143 paragraph 2,

14) requiring the acquirer to provide services to the extent necessary to carry out tasks related to the transferred: undertaking of an entity under restructuring, the rights attached to the shares of an entity under restructuring, selected or all of the property rights or selected or all of the liabilities of an entity under restructuring,

15) recognition and enforcement of foreign proceedings of resolution in the Republic of Poland,

16) [13]imposing by the Fund of the fine referred to in Article 79 paragraph 1 or Article 95 paragraph 6, Article 336 paragraph 1, Article 337a paragraph 1 or Article 337b paragraph 1 points 4 and 5,

17) liquidation of a residual entity in the cases referred to in Article 230,

18) change in the level of write down or conversion of capital instruments or liabilities referred to in Article 138 paragraph 3 point 1,

19) transfer back of the undertaking, selected property rights, selected liabilities or rights attached to shares referred to in Article 174 paragraph 4,

20) transfer back of the rights attached to the shares in the entity under restructuring, transfer of the undertaking, selected property rights or liabilities referred to in Article 188 paragraph 2,

20a) reverse transfer of selected property rights or selected liabilities as referred to in Article 225 paragraph 2,

21) ordering an entity to dispose of the rights attached to shares within the prescribed period pursuant to Article 175 paragraph 4,

22) determining the date on which an acquiring entity must not be excluded from participation in a regulated market or other organised system of trading in financial instruments, in a payment system, the system of settlement or compensation scheme, pursuant to Article 176 paragraph 2,

23) determining the date within which a bridge institution must not be excluded from participation in a regulated market or other organised system of trading in financial instruments, in a payment system, the system of settlement or compensation scheme, pursuant to Article 191 paragraph 5,

24) extension of the deadline for the sale of a bridge institution undertaking, its shares or stock pursuant to Article 181 paragraph 3,

25) exercise of powers, transfer and suspension of the exercise of the right to cancel, terminate the agreements referred to in Article 256 paragraph 1 or bring forward their execution date,

26) exercise of powers referred to in Article 257

27) impose a prohibition on distribution of profits in excess of the maximum distributable amount referred to in Article 96a paragraph 2,

28) revoke the prohibition on distribution of profits in excess of the maximum distributable amount referred to in Article 96a paragraph 2,

29) related to the application of government financial stabilisation instruments referred to in Chapter 3a of the Act of 12 February 2010 on Recapitalisation of Certain Institutions and the Government Financial Stabilisation Tools (Journal of Laws of 2022, item 396 and of 2023, item 825),

30) [14] reserved in the provisions of Regulation No 2021/23 for the resolution authority of the Central Counterparty

– are taken by the Management Board of the Fund in the form of a resolution.

5. [15] To the extent not regulated by the Act or Regulation No 2021/23, the provisions of the Act of 14 June 1960 shall apply accordingly to the decisions referred to in paragraph 4 points 1–15 and 17–30. – Code of Administrative Procedure (Journal of Laws of 2023, item 775 and 803), hereinafter referred to as the 'Code of Administrative Procedure', excluding Article 9, Article 10, Article 13, Article 31, Article 35 § 2–5, Articles 36–38, Article 391, Article 48, Article 49, Article 61 § 4, Article 66a, Article 73, Article 78, Article 79, Article 81, Articles 89–96, Article 105 § 2, Article 106, Article 109 and Articles 127–140 of that Act.

5a. [16] The Fund shall handle the cases on the issuance of decisions referred to in paragraph 4, with the exception of the cases, the time limit for disposal of which is set out in the provisions of the Regulation No 2021/23, without undue delay, but no later than within 6 months from the date of the initiation of the proceedings, and in particularly complicated cases – no later than within a year from the date of the initiation of the proceedings.

6. [17] The provisions of the Act of 30 August 2002 shall apply accordingly to the proceedings on complaints against the decisions referred to in paragraph 4, to the extent not regulated by the Act or Regulation No 2021/23 – Law on Proceedings before Administrative Courts (Journal of Laws of 2023, item 1634, 1705 and 1860), with the exception of Article 61 § 2 and 3 of that Act.

7. The procedure for imposing fines by the Fund shall be governed by the provisions of the Code of

[13] As amended by Article 3 point 6 sub-point a first indent of the Act referred to in reference 2.
[14] Added by Article 3 point 6 sub-point a second indent of the Act referred to in reference 2.
[15] As amended by Article 3 point 6 sub-point b of the Act referred to in reference 2.
[16] As amended by Article 3 point 6 sub-point c of the Act referred to in reference 2.
[17] As amended by Article 3 point 6 sub-point d of the Act referred to in reference 2.

Administrative Procedure.

8. The decisions referred to in paragraph 4 shall be final and immediately enforceable.

9. The decisions referred to in paragraph 4 shall be signed by the President of the Management Board of the Fund or his Deputy on behalf of the Management Board of the Fund.

10. In matters concerning public information, the Management Board of the Fund may authorise the President, Deputy President, other members of the Management Board or employees of the Fund to issue administrative decisions.

Article 12. 1. The following persons shall be entitled to make statements on behalf of the Fund:

1) two members of the Fund Management Board acting jointly;

2) President of the Management Board of the Fund acting independently;

3) attorney acting jointly with a member of the Fund Management Board;

4) attorney acting individually or jointly with another attorney.

2. The President of the Management Board of the Fund shall perform procedures in the field of labour law vis-à-vis the employees of the Fund.

Article 13. The Management Board of the Fund in agreement with the Fund Council shall determine the organisational rules of the Fund Office.

Article 14. 1. The Minister competent for financial institutions shall supervise the activities of the Fund in keeping with the criterion of legality and compliance with the statutes.

2. The issuance of a decision by the Fund, which may trigger direct fiscal consequences or effects of a systemic nature shall require the consent of the Minister competent for financial institutions.

3. The statutory bodies of the Fund shall provide the Minister competent for financial institutions with the copies of the decision referred to in Article 11 paragraph 4 within 7 days from the date of their adoption.

4. Should it be determined by the Minister competent for financial institutions that the tasks of the Fund are carried out in violation of the law, the Minister competent for financial institutions as part of exercising the supervision referred to in paragraph 1, may:

1) require the removal of irregularities within the prescribed period;

2) request the Fund Council to remove a member of the Management Board of the Fund liable for the irregularities from his office.

Article 15. 1. The Fund shall not be liable:

1) for the disbursement of guaranteed funds in accordance with the list of depositors referred to in Article 41 paragraph 1:

a) to an unauthorised person,

b) in an inadequate amount;

2) for a failure to disburse guaranteed funds in accordance with the list of depositors to an unauthorised person undisclosed on the list.

2. In the case referred to in Article 61 paragraph 1, the Fund shall not be liable:

1) for the disbursement of guaranteed funds in accordance with the data referred to in Article 61 paragraph 2, submitted to the Fund by a home-country deposit guarantee scheme:

a) to an unauthorised person,

b) in an inadequate amount;

2) for a failure to disburse guaranteed funds in accordance with the data referred to in Article 61 paragraph 2, to an authorised person undisclosed in these data.

2a. In the case referred to in Article 47a, the Fund shall not be liable for the payment of the funds referred to in Article 48, paragraph 2 of the Act of 20 May 2021 on the protection of the rights of the purchaser of a residential premises or a single-family house and the Developer Guarantee Fund (Journal of Laws item 1177 and of 2023 items 1114, 1688 and 1843).

3. The Fund shall not liable for any failure to perform the tasks specified in the Act, including the failure to disburse guaranteed funds within the time limits specified by law, if it was caused by force majeure.

4. The members of the statutory bodies of the Fund acting with due diligence shall not be liable for damages

resulting from inadequate implementation of disbursement of guaranteed funds.

5. [18] The Fund and persons acting on its behalf or for its benefit shall not be liable for any loss arising from lawful acts or omissions that are in connection with the powers and tasks of the Fund as a resolution authority or a Central Counterparty resolution authority, in particular for loss caused by the choice of resolution instruments referred to in Article 110 paragraph 1 or resolution instruments referred to in Article 27 paragraph 1 of Regulation No 2021/23.

6. The liability for the acts or omissions referred to in paragraph 5 shall be limited to the amount of actual damage.

7. The liability to third parties for any act or omission of the Fund shall be borne solely by the Fund.

Article 16. The financial liability of employees of the Fund shall be exempt from the provisions of the Act of 20 January 2011 on Financial Liability of Public Officers for Gross Violation of Law (Journal of Laws 2016, item 1169).

DIVISION II

Deposit Guarantee Scheme

Chapter 1

General Provisions

Article 17. 1. In the case of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme the following assets shall be covered by the guarantee protection:

1) funds held by the depositor in the bank accounts where the depositor is a party to the bank account agreement, regardless of the legal defect of this agreement and its invalidity, and in the cases referred to in Article 26 paragraph 2 and 3;

2) other depositor claims arising from banking operations referred to in Article 5 paragraph 1 points 1, 2 and 6 of the Banking Act;

3) amounts referred to in Article 55 paragraph 1 point 1 and Article 56 paragraph 1 of the Banking Act, subject to Article 52, as long as they become due prior to the date of fulfilment of the guarantee condition;

4) depositor claims arising from bank securities, supported by registered documents issued by the issuer or registered deposit certificates referred to in Article 9 paragraph 1 of the Act on Trading in Financial Instruments if they were issued prior to 2 July 2014.

2. The guarantee protection referred to in paragraph 1 shall not include:

1) funds paid by way of shares, entry fee and membership contributions to a cooperative;

2) depositor funds, if these are deposited in bank accounts which posted no trade in the period of 2 years prior to the date of fulfilment of the guarantee condition beyond the accrual of interest or collection of fees or charges, and their amount is lower than the PLN equivalent of EUR 2.5 – if they were the only depositor funds covered by the guarantee protection;

3) electronic money within the meaning of the Act of 19 August 2011 on Payment Services (Journal of Laws of 2024 item 30) and funds received in exchange for electronic money as referred to in Article 7 paragraph 1 of the Act.

3. The average exchange rate as of the day of fulfilment of the guarantee condition announced by the National Bank of Poland shall apply to determine the euro value in the PLN referred to in paragraph 2 point 2.

Article 18. 1. In the case of a credit union covered by the mandatory deposit guarantee scheme the following funds shall be covered by the guarantee protection:

1) [19] funds held by the depositor in the credit union where the depositor is a party to the account agreement, regardless of the legal defect of this agreement and its invalidity, and in the cases referred to in Article 26 paragraph 2;

2) other depositor claims arising from the operation by a credit union of the depositor accounts referred to in point 1;

3) depositor claims arising from the financial settlements carried out by the credit union;

4) the amounts referred to in Article 14 paragraph 1 point 1 and 2 of the Act on Cooperative Savings and Credit Unions, subject to Article 52, as long as they become due prior to the day of fulfilment of the guarantee condition.

2. The guarantee protection referred to in paragraph 1 shall not include:

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[18] As amended by Article 3 point 7 of the Act referred to in reference 2.

[19] As amended by Article 40 item 1 sub-point a of the Act of 7 July 2023 on the Pan-European Personal Pension Products (Journal of Laws item 1843), which entered into force on 26 September 2023.

1) [20] funds paid to the credit union by way of membership shares, investor shares, entry fee and member contributions;

2) depositor funds, if these are deposited in accounts which posted no trade in the period of 2 years prior to the date of fulfilment of the guarantee condition beyond the accrual of interest or collection of fees or charges, and their amount is lower than the PLN equivalent of EUR 2.5 – if they were the only depositor funds covered by the guarantee protection;

3) electronic money within the meaning of the Act of 19 August 2011 on Payment Services and cash received in exchange for electronic money as referred to in Article 7 paragraph 1 of the Act.

3. The average exchange rate as of the day of fulfilment of the guarantee condition announced by the National Bank of Poland shall apply to determine the euro value in the PLN referred to in paragraph 2 point 2.

Article 19. 1. The funds covered by the guarantee protection referred to in Article 17 and Article 18 shall be denominated in PLN or foreign currency.

2. The value of funds covered by the guarantee protection increased by the interest accrued to the date of fulfilment of the guarantee condition, as per the interest rate specified in the contract, regardless of their maturity shall be determined as of the beginning of the day of fulfilment of the guarantee condition.

3. The exchange rate used to determine the balance of accounting ledgers as of the day of fulfilment of the guarantee condition shall apply to determine the PLN value of the funds in a foreign currency.

Article 20. In the case of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme the following persons shall be eligible to a pecuniary benefit referred to in Article 35 paragraph 2, subject to Article 22:

1) natural persons;

2) legal persons;

3) non-incorporated organisational units awarded with legal capacity under a separate law;

4) saving unions for school students;

5) employee cash assistance and loan funds.

6) parents' association.

Article 21. In the case of a credit union covered by the mandatory deposit guarantee scheme the following persons shall be eligible to a pecuniary benefit referred to in Article 35 paragraph 2, subject to Article 22:

1) natural persons;

2) non-governmental organisations within the meaning of Article 3 paragraph 2 of the Act of 24 April 2003 on Public Benefit and Volunteer Work (Journal of Laws 2023, item 571);

3) organisational units of a church or religious association being legal persons;

4) cooperatives;

5) trade unions;

6) housing associations.

7) [21] general partnerships, professional partnerships and limited partnerships.

Article 22. 1. The guarantee protection shall not cover the following funds and claims of:

1) State Treasury;

2) National Bank of Poland;

3) banks, foreign banks and credit institutions referred to in the Banking Act;

4) credit unions and the National Fund;

5) the Fund;

6) financial institutions;

7) investment firms referred to in Article 4 paragraph 1 point 2 of Regulation No 575/2013 and recognised investment firms from a third country referred to in Article 4 paragraph 1 point 25 of that Regulation;

8) persons and entities that have not been identified by an entity covered by the deposit guarantee scheme;

9) domestic and foreign insurance undertakings and domestic and foreign reinsurance undertakings referred to in the

[20] As amended by Article 40 point 1 sub-point b of the Act referred to in reference 19.

[21] Added by Article 40 point 2 of the Act referred to in reference 19.

Act of 11 September 2015 on Insurance and Reinsurance Business (Journal of Laws 2023, item 656, 614, 825, 1723, 1843 and 1941);

10) investment funds, investment funds societies, foreign funds, management companies and branches of investment societies referred to in the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds;

11) open-end pension funds, occupational pension funds, pension societies and employee pension societies referred to in the Act of 28 August 1997 on the Organisation and Operation of Pension Funds (Journal of Laws of 2023 item 930, 1672 and 1941);

12) local self-government units;

13) public authorities of a Member State other than the Republic of Poland and a third country, in particular, central governments, regional and local self-government units of these countries.

2. The identification referred to in paragraph 1 point 8 shall involve determining the following data:

1) in the case of natural persons – name, surname and number of the Universal Electronic System of Population Register (PESEL), or the name, surname, date of birth and characteristics of the identity document in the case of a person holding no PESEL number, or name, surname and number of identity document of a foreigner, and where the identification was made prior to 23 June 2001 – name, surname and the PESEL number or the name, surname and date of birth and the features of the identity document;

2) in the case of legal persons – name (of a company), organisational form, registered office, address and the number in the relevant register;

3) in the case of non-incorporated organisational units awarded with legal capacity under a separate law, saving unions for school students and employee cash assistance and loan funds – name, organisational form, registered office, address and the number in the relevant register, if applicable.

Article 23. The provision of Article 22 paragraph 1 point 8 shall not apply in the cases where the funds or receivables were included in the list of debt claims developed in bankruptcy proceedings, and also in the case of claims due in respect of funds or receivables that were confirmed by a final court decision. The provision of Article 51 shall apply accordingly.

Article 24. 1. The funds referred to in Article 17 and Article 18 shall be covered by the guarantee protection in an entity covered by the deposit guarantee scheme from the day they are transferred to the account in this entity, but not later than on the day preceding the date of fulfilment of the guarantee condition, and in the case of receivables arising from banking operations or financial settlements carried out by a credit union, as long as this transaction or settlement has been made prior to the date of fulfilment of the guarantee condition, up to the PLN equivalent of EUR 100,000 – in its entirety.

2. The average exchange rate as of the day of fulfilment of the guarantee condition announced by the National Bank of Poland shall be applied to determine the euro value in the PLN.

3. Where the funds or receivables referred to in Article 17 paragraph 1 point 1 and 2 or Article 18 paragraph 1 point 1–3 of a depositor being a natural person originate from:

1) paid disposal of:

   a) property built up with a single-family residential building within the meaning of the Act of 7 July 1994 – Construction Law (Journal of Laws of 2023, item 682, as amended[22]), part of it or interest in such property,

   b) (repealed)

   c) self-contained living premises within the meaning of the Act of 24 June 1994 on the Ownership of Residential Premises (Journal of Laws of 2021 item 1048 and of 2023 item 1688) constituting a separate property or interest in such premises, land or interest in the land, or the right of perpetual usufruct of land or interest in the right relating to the said premises,

   d) cooperative ownership right to the premises of residential purpose or interest in such a right

   e) if the sale did not take place in the course of business,

2) performance on behalf of the depositor contractual or judicial distribution of property following the expiry of matrimonial property,

[22] Amendments to the consolidated text of the aforementioned Act were promulgated in the Journal of Laws 2023, item 553, 967, 1506, 1597, 1681, 1688, 1762, 1890, 1963 and 2029.

3) acquisition of inheritance by the depositor, execution of legacy for the benefit of the depositor or acquisition of legitim,

4) payment of the sum insured under life insurance agreement further to the death of the insured person or reaching the specific age by that person,

5) payment of the sum insured under the agreement of insurance against accidents due to injury, health disorder or death of the insured person as a result of an accident,

6) severance payment under the conditions and in the amount specified in separate provisions,

7) retirement or disability severance payment referred to in Article 92^1 § 1 of the Act of 26 June 1974 – Labour Code (Journal of Laws of 2023 item 1465), hereinafter referred to as the 'Labour Code' or other legislation on the conditions and in the amount specified therein

– they shall be covered by the guarantee protection for 3 months from the date of receipt of funds in the account or arising of receivables up to the amount of the difference between twice the limit set out in paragraph 1 and the sum of the remaining funds and receivables of a depositor referred to in Article 17 paragraph 1 or in Article 18 paragraph 1, but not higher than the limit laid down in paragraph 1, in which case the provision of paragraph 7 shall not apply. Following this date, the funds and receivables shall be covered by the mandatory deposit guarantee scheme under the terms laid down in paragraph 1.

4. Where the funds and receivables of a depositor being a natural person referred to in Article 17 paragraph 1 point 1 and 2 or Article 18 paragraph 1 point 1 and 2 are derived from the payment of compensation for damage caused by a crime or compensation for harm, compensation or reparation, as referred to in Article 552 of the Act of 6 June 1997 – Code of Criminal Procedure (Journal of Laws 2024 item 37), they shall be covered by the guarantee protection for 3 months from the date of receipt of funds into the account or the date that a receivable arises – in entirety, in which case the provisions of paragraph 7 shall not apply. Following this date, the funds and receivables shall be covered by the mandatory deposit guarantee scheme under the terms laid down in paragraph 1.

5. A claim for the payment of guaranteed funds owed to the depositor over the limit determined in paragraph 1 in the cases referred to in paragraph 3 and 4 shall arise, once the depositor has provided the Fund with a declaration about the occurrence of such an event along with the documents in evidence thereof, and once an entity authorised to represent has confirmed that the funds or receivables of the depositor for which the depositor has made this declaration were due to the depositor on the day of fulfilment of the guarantee condition.

6. With a view to the verification of the claims referred to in paragraph 5, the Fund shall be authorised to access the data on the depositors, property, residential buildings and living premises, contained in the collections held by entities or third parties, in particular the data contained in the register of land and buildings. The Fund shall be also entitled to inspect the records of the Land and Mortgage Register relating to property or right whose sale triggered a claim of the depositor.

7. The amount referred to in paragraph 1 shall determine the maximum amount of depositor claims towards the Fund, regardless of the amount of funds the depositor held with one entity covered by the guarantee scheme and in how many accounts, or regardless of the number of receivables in respect of which the depositor may pursue claims towards an entity covered by the guarantee scheme.

8. The guarantee claims shall lapse following 5 years from the date of fulfilment of the guarantee condition.

9. If the depositor's funds covered by the guarantee, as a result of the application of the instrument for the acquisition of an undertaking or the bridging institution instrument, have been transferred to another entity or to a bridging institution, the depositor shall not be entitled to claim under the guarantee in respect of the remaining funds accumulated on accounts with the entity under restructuring, provided that on the date specified in the decision pursuant to which the transfer takes place, the value of the funds transferred corresponds to the limit referred to in paragraph 1, 3 or 4, or is higher than it.

10. In the case referred to in paragraph 9, the calculation of the euro value in the PLN is based on the average exchange rate announced by the National Bank of Poland on the date specified in the decision of the Fund on the application of the instrument for the acquisition of an undertaking or the instrument of the bridge institution, and in the absence of such determination – on the date of the commencement of the resolution.

Article 25. A branch of a foreign bank shall be covered by the mandatory deposit guarantee scheme to the extent that the deposit guarantee scheme in the state of its residence does not ensure payment of guaranteed funds within the limits specified in the Act.

Article 26. 1. If an entity covered by the guarantee scheme operates one account for several persons (collective account), each of those persons shall be a depositor – within the limits specified in the account agreement, and in the absence of contractual provisions or regulations in this area – in equal parts.

2. If an entity covered by the guarantee scheme operates a trust account, each of the entrusting parties shall be a depositor within the limits of their share in the amount held in the account, whereas a trustee shall be a depositor within the limits of the remaining amount.

3. If an entity covered by the guarantee scheme operates an account of the investment firm referred to in Article 4 paragraph 1 point 2 of Regulation No 575/2013 or of the recognised third-country investment firm referred to in Article 4 paragraph 1 point 25 of the Regulation, where the customer funds are deposited further to entrusting the firm with the pursuit of brokerage services in accordance with Article 73 paragraph 5a of the Act on Trading in Financial Instruments, each of the customers shall be a depositor within the limits of their share in the amount held in the account.

4. Customer claims unsatisfied under the terms referred to in paragraph 3 shall remain the customer receivable towards the investment firm.

Article 27. A depositor shall be entitled to seek claims from an entity covered by the guarantee scheme over and above the amount referred to in Article 24 paragraph 1 or 3.

Chapter 2

Systems of calculation and control of the accuracy of the data

Article 28. 1. An entity covered by the guarantee scheme shall maintain a system of calculation.

5. A system of calculation and data produced and processed therein must not be situated outside of the territory of the Republic of Poland.

Article 29. 1. A system of calculation shall contain data of depositors possessing receivables from an entity covered by the guarantee scheme.

2. A system of calculation shall ensure readiness to draw up a list of depositors in accordance with the data contained therein while also offering the possibility to identify depositors and to determine the amount of funds guaranteed due to individual depositors under Article 24 paragraph 1, as at the day-end.

3. An entity covered by the guarantee system for the purposes referred to in Article 32 paragraph 1, Article 33 paragraph 1 and Article 42 paragraph 1 shall provide both the Fund and Polish Financial Supervision Authority with access to the data in a system of calculation.

4. An entity covered by the guarantee system shall apply the relevant safeguards that ensure the adequate operation of the system of calculation.

5. An entity covered by the guarantee system shall test the system of calculation at least once every 12 months, in particular as regards determining whether the conditions for performance of duties have been satisfied in case of fulfilment of the guarantee condition and to establish whether an entity covered by the guarantee system is capable of making a correct list of depositors. The test results shall be held by an entity covered by the guarantee system in the form of reports for 2 years from the date of their preparation and made available at the request of the Fund or the Polish Financial Supervision Authority.

Article 30. Following the consultation with the Polish Financial Supervision Authority and the Fund Management Board, the Minister competent for financial institutions shall determine by way of a regulation:

1) minimum requirements to be met by a system of calculation,
2) detailed scope and structure of the data contained in the system of calculation, as well as the technical standard of their preparation and storage,
3) format and mode of transmitting data to the Fund, taking into account their protection against unauthorised access,
4) manner of determination of guaranteed funds covered by the procedures concerning the matters referred to in Article 165a or Article 299 of the Act of 6 June 1997 – Criminal Code (Journal of Laws 2024, item 17),
5) mode and method of controlling the accuracy of the data contained in the system of calculation

– having regard to the need to ensure receipt by the Fund of adequately prepared and verified data for the implementation of the statutory tasks of the Fund and the conditions for carrying out factual actions related to banking business or the business of a credit union.

Article 31. The entity authorised to represent is responsible for the implementation and maintenance of a correctly functioning system of calculation, compliance of the data referred to in Article 29 paragraph 2, with the balances of the accounts of the general ledger and subsidiary ledgers, as well as for providing the Fund with this data.

Article 32. 1. The Fund shall be authorised to control the accuracy of the data contained in a system of calculation:

1) obtained in accordance with paragraph 2, as a result of an inspection carried out at the seat of the Fund;
2) under an inspection carried out at the entities covered by the guarantee scheme.

2. An entity covered by the guarantee system shall forthwith forward to the Fund, at its request, the data stored in the system of calculation.

3. With a view to carrying out the inspection referred to in paragraph 1, the Fund, in accordance with the data collected in the PESEL register, shall verify the personal data of depositors included in the calculation systems. The verification effected by the Fund shall provide for the confirmation of the compliance of reported dat a with the data collected in the PESEL register, and in the case of non-compliance or incompleteness resulting in the inability to identify depositors – providing the Fund with the verified data from the PESEL register.

Article 33. 1. The Polish Financial Supervision Authority shall supervise the adequate performance of the systems of calculation.

2. In an event of non-performance or inadequate performance by an entity covered by the guarantee scheme of the duties referred to in Article 31, the Polish Financial Supervision Authority may:

1) apply supervisory measures identified in:
   a) Article 138 paragraph 3 points 1–3 and 4 of the Banking Act – in the case of a bank or branch of a foreign bank,
   b) Article 71 paragraph 2 of the Act on Cooperative Savings and Credit Unions – in the case of a credit union;
2) fine an entity with a penalty of up to 0.2% of the basis of the required reserve for the month, when non-performance or inadequate performance of these duties was identified, and if the entity is not subject to reserve requirements – up to PLN equivalent of EUR 1,000,000, determined as per the average exchange rate announced by the National Bank of Poland on the date of the decision on the fine.

3. In an event of non-performance or inadequate performance of the duties referred to in Article 31 by the person referred to in paragraph 5, the Polish Financial Supervision Authority may:

1) in the case of a bank or branch of a foreign bank – impose the fines referred to in Article 141 paragraph 1 of the Banking Act;
2) in the case of a credit union – fine this person with a penalty of up to six times the gross monthly salary determined as per the salary for the last 6 months prior to the date of the penalty imposition, and if the person draws no salary – up to six times the average monthly gross salary in the national economy published by the President of the Central Statistical Office.

4. The Polish Financial Supervision Authority shall pay the amount recovered under the penalties referred to in paragraph 2 point 2 and paragraph 3, to the Fund. These amounts shall feed into the guarantee fund of banks or the guarantee fund of credit unions, as the case may be.

5. An entity covered by the guarantee system shall advise the Polish Financial Supervision Authority of a board member of a bank or a credit union or a director of a branch of a foreign bank whose duties include ensuring the implementation and operation of the system of calculation.

6. The Fund may request the Polish Financial Supervision Authority to take inspection activities or measures under supervision with regard to the adequate operation of the system of calculation.

Article 34. 1. The Fund shall test the effectiveness of its systems in terms of ability to pay guaranteed funds at least once every 3 years or at the request of the Minister competent for financial institutions.

2. The results of the tests referred to in paragraph 1 shall be submitted to the Minister competent for financial institutions within 14 days of their completion.

3. While running the tests referred to in paragraph 1, the Fund shall take recourse to the information required to carry them out only for this purpose and keep this information for no longer than necessary for this purpose.

Article 34a. 1. In the event that an entity covered by the guarantee scheme, despite the Polish Financial Supervision Authority's application of supervisory measures referred to in Article 33 paragraph 2 or 3, Article 138 paragraph 3 of the Banking Act or Article 71, paragraph 2 or Article 72, paragraph 1 of the Act on Cooperative Savings and Credit Unions to it, continues to fail to fulfil its obligations under the Act arising from participation in the mandatory deposit guarantee scheme, the Fund may, with the consent of the Polish Financial Supervision Authority, notify the entity covered by the guarantee scheme of its intention to exclude that entity from participation in the mandatory deposit guarantee scheme.

2. In the notification referred to in paragraph 1, the Fund shall indicate which obligations have not been fulfilled and set a deadline for their fulfilment. The deadline for complying with the obligations indicated in the notification shall not be less than one month.

3. In the event that an entity covered by the deposit guarantee scheme fails to fulfil the obligations indicated in the notification referred to in paragraph 2 within the deadline specified therein, the Fund shall take a decision to exclude the entity from participation in the mandatory deposit guarantee scheme.

4. As of the date of delivery of the decision referred to in paragraph 3, the entity shall be excluded from the

mandatory deposit guarantee scheme.

Article 34b. 1. In the event that the Fund issues the decision referred to in Article 34a paragraph 3:

1) the depositor's receivables referred to in Article 17 paragraph 1 and Article 18 paragraph 1, which arose before the date of delivery of the decision on exclusion, shall remain funds covered by the guarantee protection;

2) persons or entities referred to in Articles 20 and 21 shall be entitled to the pecuniary benefit referred to in Article 35 paragraph 2 to the extent specified in point 1;

3) receivables other than those referred to in point 1 are not covered by the guarantee protection.

2. From the date of service of the decision referred to in Article 34a paragraph 3, an entity excluded from participation in the compulsory deposit guarantee scheme may not accept funds covered by the guarantee protection referred to in Article 17 paragraph 1 and Article 18 paragraph 1.

Chapter 3

Payments of guaranteed funds

Article 35. 1. The following entities shall be subjects of the guarantee protection relation:

1) the Fund;

2) depositor.

2. The claim of a depositor in the amount corresponding to the guaranteed funds in respect of which the depositor acquires entitlement to pecuniary benefit vis-à-vis the Fund as of the date of fulfilment of the guarantee condition shall be the subject of the guarantee protection.

3. The pecuniary benefit referred to in paragraph 2 shall be payable in PLN within 7 working days from the date of fulfilment of the guarantee condition.

4. Where the guarantee condition has been fulfilled following the initiation of the resolution of an entity covered by the guarantee scheme, the pecuniary benefit referred to in paragraph 2 shall be deemed executed in part in which a depositor has been afforded the opportunity to collect the guaranteed funds within the period referred to in paragraph 3 by taking recourse to the instruments of resolution referred to in Article 110 paragraph 1.

Article 36. 1. The time-frame referred to in Article 35 paragraph 3 shall not apply with respect to all or part of the benefit, where:

1) reasonable doubts arise as to the specific data in the list of depositors or as to whether the depositor is entitled to receive guaranteed funds or if the guaranteed funds are the subject of litigation;

2) entitlements derived from the guaranteed funds arise from an agreement of a bank account held in the form of individual retirement accounts or individual retirement security accounts referred to in the Act of 20 April 2004 on Individual Retirement Accounts or Individual Retirement Security Accounts (Journal of Laws 2022 item 1792 and of 2023 item 1843 and 1941), hereinafter referred to as the "Act on IKE and IKZE";

2a) [23] entitlements in respect of guaranteed funds arise from the bank account agreement maintained in the form of pan-European personal pension products referred to in the Act of 7 July 2023 on Pan-European Personal Pension Products (Journal of Laws, item 1843), hereinafter referred to as the "PEPP Act";

3) the payment of guaranteed funds referred to in Article 24 paragraph 3 and 4 is made beyond the limit set in Article 24 paragraph 1;

4) payment of guaranteed funds is made in the case referred to in Article 59 paragraph 1.

2. The pecuniary benefit referred to in Article 35 paragraph 2 shall be payable:

1) in the case referred to in paragraph 1 point 1 – as soon as the Fund has been advised of the termination of the grounds referred to in this provision;

2) in the case referred to in paragraph 1 point 2 – as soon as the Fund has been advised of confirmation concerning the conclusion by the depositor of an agreement to operate individual retirement accounts or individual retirement security accounts with another financial institution or receipt of confirmation of entry by the depositor to the pension scheme, as provided for in the Act on IKE and IKZE, except that in the event of failure by the depositor on any of the duties referred to in Article 14 paragraph 3 of the Act on IKE and IKZE, if the depositor does not satisfy the conditions for payment referred to in Article 34 paragraph 1 point 1 or in Article 46 or Article 34a paragraph 1 point 1 of this Act, the pecuniary benefit shall be payable as soon as the Fund has been advised of this fact by an entity

[23] Added by Article 40 point 3 sub-point a of the Act referred to in reference 19.

authorised to represent and as soon as the Fund has been provided with other information necessary to maintain the condition of the payment referred to in Article 14 paragraph 4 of the Act on IKE and IKZE;

2a) [24] in the case referred to in paragraph 1 point 2 – as soon as the Fund has been advised of confirmation concerning the conclusion by the depositor of an agreement to operate a pan-European personal pension product with another provider referred to in Article 2 point 1 of the PEPP Act, or confirmation that the depositor has concluded an agreement for the operation of a pan-European personal pension account, as referred to in Article 8 paragraph 1 of the Act on IKE and IKZE, with another financial institution, except that in the event of the depositor's failure to comply with any of the obligations referred to in Article 18 paragraph 3 of the PEPP Act, if the depositor does not fulfil the conditions for withdrawal referred to in Article 14 paragraph 1 point 1 of the PEPP Act, the pecuniary benefit shall be payable immediately after the entity authorised to represent the Fund has informed the Fund of this and after the entity has provided the Fund with other information necessary to fulfil the condition for this withdrawal referred to in Article 18 paragraph 5 of the PEPP Act;

3) in the case referred to in paragraph 1 point 3 – as soon as the Fund has been provided by the depositor with declaration, along with the documents referred to in Article 24 paragraph 5, and as soon as the Fund has received confirmation from the entity authorised to represent referred to in this provision;

4) in the case referred to in paragraph 1 point 4 – within the deadline set in the agreement referred to in Article 60.

Article 37. The Fund shall forthwith notify an entity entitled to representation on the payment of guaranteed funds referred to in Article 36 paragraph 1 point 3 and the amount thereof.

Article 38. The rules on the transfer of funds referred to in:

1) Article 56 paragraph 1 – in the case of a bank or branch of a foreign bank,

2) Article 57 paragraph 1 – in the case of a credit union

– shall apply accordingly if the Fund makes payments of the guaranteed funds referred to in Article 36 paragraph 1 point 3, Article 44 and Article 51.

Article 39. 1. On the day of fulfilment of the guarantee condition, the Fund shall become entitled to a claim to the entity with reference to which the guarantee condition has been fulfilled, in the total amount of guaranteed funds. The Fund shall be entitled to a claim also following the declaration of bankruptcy of the entity for which the guarantee condition has been fulfilled.

2. The Fund shall be entitled to the claim referred to in paragraph 1 notwithstanding the amount of actually made payments of guaranteed funds.

3. As of the date of fulfilment of the guarantee condition, the depositor shall have a claim to the entity covered by the guarantee scheme only for payment of amounts in excess of the value specified in Article 24 paragraph 1 or 3 and the equivalent of the funds referred to in Article 48 paragraph 2 of the Act of 20 May 2021 on the protection of the rights of the purchaser of the purchaser of a residential premises or a single-family house and the Developer Guarantee Fund.

4. Further to the occurrence of the liability of the Fund to the depositor in respect of guaranteed funds, individual receivables of the depositor being the basis of the calculation of the guaranteed funds owed to the depositor shall be reduced *pro rata*.

Article 40. The guaranteed funds shall be paid in accordance with the data in the calculating system of the entity covered by the guarantee system, following the transfer of the list of depositors referred to in Article 43.

Article 41. 1. In the case of fulfilment of the guarantee condition, following the determination of the balance of the accounting ledgers of the entity covered by the guarantee system on the day of fulfilment of the guarantee condition, the entity authorised to represent shall draw up a list of depositors in accordance with the data contained in the system of calculation of the entity covered by the guarantee system as of the day of fulfilment of the guarantee condition.

2. The entity authorised to represent shall be responsible for drawing up a list of depositors in accordance with the regulations issued pursuant to Article 30.

3. The responsibility for the data contained in the system of calculation being consistent with the data in the accounting ledgers of the entity covered by the guarantee system and with the legal status shall be borne, for the period of acting in its capacity, by the entity authorised to represent, where it was acting in its capacity as on the day where the guarantee condition was fulfilled or in the period during the current financial (accounting) year or the financial (accounting) year preceding the date of fulfilment of the guarantee condition.

[24] Added by Article 40 point 3 sub-point b of the Act referred to in reference 19.

Article 42. 1. The Management Board of the Fund shall perform ongoing inspection of drawing up the list of depositors as at the date of fulfilment of the guarantee condition by the entity authorised to represent, except when the fulfilment of the guarantee condition was the result of the decision referred to in Article 155 paragraph 1.

2. The control referred to in paragraph 1 shall include in particular the data of depositors.

3. With a view to carrying out the inspection referred to in paragraph 1, the Fund, in accordance with the data collected in the PESEL register, shall verify the personal data of depositors included in the calculation systems. The verification effected by the Fund shall provide for the confirmation of the compliance of reported dat a with the data collected in the PESEL register, and in the case of non-compliance or incompleteness resulting in the inability to identify depositors – providing the Fund with the verified data from the PESEL register.

4. (repealed)

5. The Fund shall forthwith notify the Polish Financial Supervision Authority of any irregularities revealed during the inspection referred to in paragraph 1 and shall call on the entity authorised to represent to remove them.

Article 43. The entity authorised to represent forthwith, within 3 working days from the date of fulfilment of the guarantee condition, shall provide the Fund and the General Inspector of Financial Information with the list of depositors in accordance with the data from the system of calculation.

Article 44. In the case of reasonable doubt as to the correctness of the individual data referred to in Article 43, the Fund shall make appropriate payments forthwith upon the confirmation of the correctness of the data by an entity authorised to represent.

Article 45. 1. Payments of guaranteed funds may be made on behalf of and for the account of the Fund by the entity authorised to represent or another entity with which the Fund entered into an agreement on making payments of guaranteed funds. The decision in this regard shall be taken by the Management Board of the Fund. In selecting the method of payment of guaranteed funds, the Management Board of the Fund shall take into account the need to protect the interests of depositors, including the timeliness of payments, and the level of costs envisaged to be incurred for the payment of guaranteed funds.

2. The Fund shall provide the entity referred to in paragraph 1 with the list of payments containing the data necessary to make payments.

2a. The entity referred to in paragraph 1 shall process personal data to the extent necessary for the execution of the disbursement of the guaranteed funds.

3. With a view to the implementation of the payment of guaranteed funds the Fund may transfer the selected data acquired by the Fund during the inspection referred to in Article 32 and Article 42 paragraph 1 to an entity with which it intends to enter into an agreement on the payments of guaranteed funds.

4. The Fund shall perform ongoing control of payments of guaranteed funds. The provision of Article 42 paragraph 5 shall apply accordingly to the payments made by the entity authorised to represent.

Article 46. For the purpose of payments of guaranteed funds, the depositor's identity shall be verified in the field of the identification data referred to in Article 22 paragraph 2. The data of a natural person shall be verified against the data set out in the identity document.

Article 47. 1. The Management Board of the Fund shall determine by way of a resolution:

1) information about the entity through which the payments of guaranteed funds will be made;

2) method of the payments;

3) number of depositors entitled to receive the payments;

4) amount being the sum of guaranteed funds owed to depositors eligible for payments forwarded to the entity referred to in paragraph 1, for the payments of guaranteed funds;

5) amount of the funds corresponding to the payment commitments referred to in Article 56 paragraph 1 and Article 57 paragraph 1 to be provided to the Fund by the entities covered by the guarantee scheme.

2. The content of the resolution referred to in paragraph 1 shall be made public by the Fund on its website or through a notice in a daily newspaper of nationwide circulation and shall be communicated to entities covered by the guarantee scheme obliged to transfer funds corresponding to the payment obligations, the entity through which the guaranteed funds shall be disbursed and the entity in relation to which the guarantee condition has been fulfilled, in order to make the content of the resolution available at the entity's facilities.

Article 47a. 1. As soon as the resolution referred to in Article 47 paragraph 1 is made public, the Fund shall request

the entity authorised to represent it to provide information on:

1) the amount of the depositor's total claims in respect of the depositor's share of the amount held in an open housing trust account or a closed housing trust account;

2) the amount of the claim due to the depositor by virtue of the depositor's share in the amount accumulated on the open housing trust account or the closed housing trust account, not covered by the guarantee protection under the rules of the Act;

3) name(s) and surname as well as the PESEL number of the depositor referred to in points 1 and 2, and in the case of a person without a PESEL number – the date of birth as well as the series, number and type of the identity document.

2. The information referred to in paragraph 1, consistent with the factual and legal state established by the entity entitled to representation, shall be provided by the Fund without delay to the Insurance Guarantee Fund referred to in Chapter 7 of the Act of 22 May 2003. on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau (Journal of Laws of 2023, item 2500), for the purpose of making the payment referred to in Article 55 paragraph 5 of the Act of 20 May 2021 on the protection of the rights of the purchaser a residential premises or a single-family house and the Developer Guarantee Fund.

3. Responsibility for the conformity of the data referred to in paragraph 1 or 2 with the entries in the accounting ledgers of the entity covered by the guarantee scheme and with the legal situation shall be borne by the entity entitled to representation.

Article 48. The amounts for the payment of guaranteed funds transferred to the entity referred to in Article 45 paragraph 1 must not be used for a purpose other than the payment of guaranteed funds. These funds shall not be included in the bankruptcy estate and shall not be subject to court or administrative enforcement.

Article 49. 1. In the case of making payments by the entity authorised to represent, the costs of activities related to the preparation and making payments of guaranteed funds shall be charged to the entity covered by the guarantee system towards which the guarantee condition has been fulfilled.

2. In the case of making payments by the entity with which the Fund entered into an agreement to make payments of guaranteed funds, the costs of activities related to the preparation and making payments of guaranteed funds shall be charged to the Fund.

3. In respect of the costs referred to in paragraph 2, the Fund shall be eligible to a claim to the entity covered by the guarantee scheme towards which a guarantee condition has been fulfilled.

4. Following the declaration of bankruptcy of an entity covered by the guarantee scheme, the provisions of paragraph 3 shall apply accordingly.

Article 50. 1. Following the completion of payments, the entity referred to in Article 45 paragraph 1 within 5 working days from the last day of payment, shall make the settlement of performed payments while providing the Fund, in particular, with the following:

1) list of payments including identification of paid and outstanding benefits;

2) evidence of making payments;

3) outstanding amounts.

2. The provisions of Article 7 paragraph 2 of the Banking Act shall apply to the documentation referred to in paragraph 1 point 2.

Article 51. The claims of depositors under the guarantee undisclosed within the list of depositors transferred to the Fund pursuant to Article 43, with the exception of the cases referred to in Article 36 paragraph 1 shall be settled by the Fund within 7 working days of receipt of the data supplementing the list of depositors, prepared by the entity authorised to represent, especially following the determination of the list of claims drawn up in bankruptcy proceedings of the entity covered by the guarantee scheme, or following the issuance of a final ruling of the court establishing the claims against the entity covered by the guarantee scheme towards which the guarantee condition has been fulfilled.

Article 52. 1. f on the day of fulfilment of the guarantee condition the entitlements derived from the guaranteed funds were vested with legal successors of the depositor and the persons referred to in Article 55 paragraph 1 point 1 and Article 56 paragraph 1 of the Banking Act or Article 14 paragraph 1 point 1 and 2 of the Act on Cooperative Savings and Credit Unions, and notwithstanding the legal or factual cause they have been recognised in the system of calculation of the entity covered by the guarantee scheme as the powers of the legal predecessor, the Fund shall be required to provide the pecuniary benefit derived from the guaranteed funds representing the amount calculated for the legal predecessor in accordance with Article 24.

2. In the case referred to in paragraph 1:

1) the amount of benefit shall be determined without regard to guaranteed funds which may be due to legal successors and the persons referred to in Article 55 paragraph 1 point 1 and Article 56 paragraph 1 of the Banking Act or the Article 14 paragraph 1 point 1 and 2 of the Act on Cooperative Savings and Credit Unions in respect of the activities carried out separately from the operations underlying the creation of guaranteed funds of the legal predecessor;

2) the entitlements to receive guaranteed funds shall be determined in accordance with the provisions determining the effects of a particular type of legal succession and the principles of disposition of the property which belonged to the legal predecessor.

Article 53. If on the day of fulfilment of the guarantee condition the depositor was entitled to the guaranteed funds which were next included in the property to which the titles are vested with the legal successors of the depositor, the entitlements to receive guaranteed funds shall be determined in accordance with the provisions determining the effects of a particular type of legal succession and the principles of disposition of the property which belonged to the legal predecessor.

Article 54. 1. In the event that the funds deposited in the account have been blocked pursuant to the provisions on the prevention of money laundering and terrorist financing or the account of a qualified entity has been blocked within the meaning of Article 119zg point 2 of the Act of 29 August 1997 – Tax Ordinance (Journal of Laws of 2023, item 2383 and 2760), the payment of guaranteed funds shall be suspended for the duration of the blocking.

2. If the funds deposited in the account are considered in whole or in part by a final court judgement as the subject coming directly or indirectly from the crime provided for in Article 165a or Article 299 of the Act of 6 June 1997 – Criminal Code or as a benefit of such an offense or as its equivalent, the funds deposited in the account or the relevant parts thereof shall not be taken into account in calculation of the benefit derived from guaranteed funds. These funds shall not be covered by the guarantee protection in part with reference to which forfeiture was ordered.

3. The court is required to notify the Fund of the judgement referred to in paragraph 2 relating to the entity covered by the guarantee scheme towards which the guarantee condition has been fulfilled if the judgment became final following the date of fulfilment of the guarantee condition.

4. The Minister competent for financial institutions shall define by way of a regulation:

1) detailed terms and procedures of suspension of the payment of guaranteed funds to depositors in the case referred to in paragraph 1,

2) data to be contained in the notice of the Fund of the pending criminal proceedings and notice of its completion,

3) date and manner of sending the notice,

4) data which should be included in the information on suspension of the payment of guaranteed funds sent to the depositor, date and manner of sending the information referred to in point 4,

5) data which should be included in the register of the suspended payments of guaranteed funds run by the Fund

– on considering the need to ensure that the payments are made only to authorised depositors.

Article 55. 1. The correspondence between the Fund and the depositors for the purpose of payment of guaranteed funds shall be conducted in Polish.

2. In the case of depositors of a bank branch covered by the guarantee scheme established in a Member State other than the Republic of Poland the correspondence shall be conducted in the official language of the European Union institutions used by the entity for the correspondence with the depositor, or in the official language of the State in the territory of which the branch was formed and, in the case of an entity covered by the guarantee scheme conducting cross-border activities on the territory of a Member State other than the Republic of Poland, correspondence between the Fund and the depositors using the services offered across borders shall be conducted in the language used by the depositor while using these services.

3. The provisions of paragraph 1 and 2 shall not exclude the option of correspondence between the Fund and the depositor in a language other than the language specified in these regulations, if both parties have given their consent.

Article 56. 1. In the case of fulfilment of the guarantee condition towards the bank or branch of a foreign bank, the Fund shall call on banks and branches of foreign banks for transferring funds corresponding to the payment commitments in the manner specified in Article 305 paragraph 2.

2. (repealed)

3. Where the amount of liabilities derived from the guaranteed funds exceeds the receivables arising from the call referred to in paragraph 1, the Fund shall cover the remaining amount of the liabilities from the guarantee fund of banks at the disposal for use.

4. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraph 1 and 3, the Fund shall cover the remaining amount of the liabilities from the extraordinary contributions referred to in Article 291.

5. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraph 1, 3 and 4, the Fund shall cover the remaining amount of the liabilities from other own funds with the exception of funds for resolution on terms specified by the Fund Council.

6. In the case referred to in paragraph 5, the Fund may request the credit unions, in the manner set out in Article 47 paragraph 2, to transfer funds corresponding to the liabilities to be paid to the guarantee fund of the credit unions in the amount necessary to maintain the proportion referred to in Article 303 paragraph 2.

Article 57. 1. In the case of fulfilment of the guarantee condition towards a credit union, the Fund shall call credit unions to transfer the funds corresponding to the payment commitments in the manner specified in Article 305 paragraph 3.

2. (repealed)

3. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the receivables derived from the call referred to in paragraph 1, the Fund shall cover the remaining amount of the liabilities from the guarantee fund of credit unions at the disposal for use.

4. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraphs 1 and 3, the Fund shall cover the remaining amount of the liabilities from the extraordinary contributions referred to in Article 292.

5. Where the amount of liabilities derived from the guaranteed funds exceeds the sum of the amounts referred to in paragraphs 1, 3 and 4, the Fund shall cover the remaining amount of the liabilities from its other own funds, with the exception of funds for resolution on terms specified by the Fund Council.

6. In the case referred to in paragraph 5, the Fund may request banks and branches of foreign banks, in the manner set out in Article 47 paragraph 2, to transfer funds corresponding to the liabilities to be paid to the guarantee fund of the banks in the amount necessary to maintain the proportion referred to in Article 303 paragraph 2.

Article 58. In the case of making payments of guaranteed funds referred to in Article 36 paragraph 1 point 3, Article 44 and Article 51, the decision to use the funds for that purpose:

1) referred to in Article 56 – in the case of a bank or a branch of a foreign bank,

2) referred to in Article 57 – in the case of a credit union

– shall be made by the Management Board of the Fund.

Chapter 4

Cross-border payments of guaranteed funds

Article 59. 1. The guaranteed funds shall be paid to the depositors of a bank branch covered by the guarantee system, established in a Member State other than the Republic of Poland by a host system on behalf and for the account of the Fund.

2. The Fund shall provide a host system which shall pay the guaranteed funds with the list of the payments and funds required to make the payments.

3. The payment of the guaranteed funds shall be performed in PLN, unless the agreement referred to in Article 60 provides otherwise.

Article 60 In order to allow the performance of the duties referred to in Article 59 paragraph 1 the Fund shall enter with a host system into an agreement defining the terms of cooperation regarding the payment of guaranteed funds.

Article 61. 1. The Fund may make payments of guaranteed funds to the depositors of a branch of a credit institution within the meaning of Article 4 paragraph 1 point 18 of the Banking Act, on behalf and for the account of the host system of the institution.

2. The payments referred to in paragraph 1 shall be executed upon receipt from the home-country deposit guarantee scheme of the credit institution within the meaning of Article 4 paragraph 1 point 18 of the Banking Act of the data and funds required to make such payments.

3. The guaranteed funds shall be paid in the currency specified in the agreement referred to in Article 62.

4. The provisions of Chapter 3 relating to the payment of guaranteed funds shall be applied accordingly.

Article 62. In order to allow the performance of duties referred to in Article 61 paragraph 1, the Fund shall enter with the home-country deposit guarantee scheme system into an agreement defining the terms of cooperation regarding the payment of guaranteed funds.

Article 63. 1. The agreements referred to in Article 60 and Article 62 should commit the parties to process information provided on a confidential basis, in particular they should include the pertinent provisions on the protection of personal data.

2. The Fund shall notify the European Banking Authority of the agreements concluded pursuant to Article 60 and Article 62.

DIVISION III
Resolution

Chapter 1
General Provisions

Article 64. As used in this Division, the following terms shall mean:

1) institution – credit institution or investment firm referred to in Article 4 paragraph 1 point 22 of Regulation No 2019/2033 falling within the initial capital requirement of EUR 750,000;

2) entity – a domestic entity and, if it is covered by consolidated supervision, supervision of a group of investment firms on a consolidated basis or supervision of compliance with the group capital test referred to in the rules of division IV, chapter 1, section 2a of the Act on Trading in Financial Instruments, exercised by the Polish Financial Supervision Authority:

   a) institution other than a domestic entity,

   b) financial institution if it is a subsidiary of a domestic entity or of the entity referred to in sub-point c and d,

   c) financial holding company, mixed-activity holding company, mixed financial holding company established in the territory of a Member State, investment holding company,

   d) a parent financial holding company from a Member State, an EU parent financial holding company, an EU parent mixed financial holding company from a Member State, an EU parent mixed financial holding company, an EU parent investment holding company from a Member State and an EU parent investment holding company;

3) extraordinary public support – State aid in the meaning of Article 107 paragraph 1 of the Treaty on the Functioning of the European Union (OJ L 2012 C/326 of 26.10.2012, p. 47) or other public financial support on a transnational level, which, if granted at the national level, constitutes State aid granted in order to maintain or restore the profitability, liquidity or solvency of the entity or group which includes the entity, including those referred to in the Act of 12 February 2010 on Recapitalisation of Certain Institutions and the Government Financial Stabilisation Tools.

Article 65. The Fund shall be the resolution authority.

Article 66. The resolution shall seek to meet the following objectives:

1) maintain financial stability, in particular through the protection of confidence in the financial sector and ensure market discipline;

2) limit the involvement of public funds or the likelihood of their exposure to the financial sector or its individual entities to achieve the objectives referred to in point 1 and 3–5;

3) ensure the ongoing performance of the critical functions carried out by an entity;

4) protect depositors and investors covered by the compensation system;

5) protect funds entrusted to the company by its customers.

Article 67. 1. The Fund shall pursue the objectives referred to in Article 66 by way of:

1) developing plans for the resolution of a group and resolution plans, including the determination of the minimum level of own funds and eligible liabilities subject to write down or conversion;

2) write down or conversion of capital instruments;

3) carrying out resolution.

2. While pursuing the aims of the resolution, the Fund shall seek to reduce the costs of the resolution and, if possible, on considering the objectives of resolution, reducing the loss of undertaking value of an entity towards which the resolution is carried out.

3. If a domestic entity is part of a group, the Fund shall pursue the objectives referred to in Article 66 in a way that limits the impact of actions taken by the Fund as part of resolution on other entities of the group and the entire group and the stability of the Member States, in particular countries in which the group entities operate.

Article 68. 1. The exercise of the Fund powers:

1) shall not limit the rights of the entity being a conducting entity or participant in a payment or settlement system in favour of whom security has been established further to the participation in this scheme;

2) shall not limit the rights of the National Bank of Poland, a central bank in another Member State within the meaning of the Act on Settlement Finality or the European Central Bank, due to security of the operations with those banks established for them;

3) shall not affect the legal consequences of a settlement order arising from its entrance into a payment or settlement system and the effects of netting under those schemes.

2. The provisions of this division which provide for the invalidity of legal actions or their ineffectiveness to an entity under resolution shall not apply to the legal relationships referred to in paragraph 1.

Article 69. The provisions of this division apply to entities and accordingly to the branches of a foreign bank, taking into consideration Article 101 paragraph 2, 9, 10 and 12.

Chapter 2

Write down or conversion of capital instruments or eligible liabilities

Article 70. 1. The Fund may perform write down or conversion of capital instruments or eligible liabilities:

1) independently of an action under resolution, without a decision to initiate resolution, or

2) under resolution along with one or several instruments referred to in Article 110 paragraph 1.

2. The Fund shall perform write down or conversion of capital instruments in the case referred to in paragraph 1 point 1 if:

1) conditions referred to in Article 101 paragraph 7–9 or the circumstances referred to in Article 102 paragraph 1 or 4 have occurred, or.

2) an entity fails to satisfy the conditions for ongoing operation if no write down or conversion of capital instruments were made, or

3) ongoing operation of an entity requires extraordinary public support.

2a. The Fund shall write down or convert eligible liabilities in the case referred to in paragraph 1 point 1 if the eligible liabilities meet the conditions referred to in Article 98 paragraph 2l point 1, and:

1) conditions referred to in Article 101 paragraph 7–9 or the circumstances referred to in Article 102 paragraph 1 or 4 have occurred, or.

2) without the write down or conversion of eligible liabilities, the entity does not meet the conditions for ongoing operation, or

3) ongoing operation of an entity requires extraordinary public support.

2b. In the event of write down or conversion of capital instruments or eligible liabilities, the amount reduced as a result of such write down or conversion shall be taken into account in determining the thresholds set out in Article 274 and Article 275, point 1 and set out in Article 19a, paragraph 2, point 2 of the Act of 12 February 2010 on Recapitalisation of Certain Institutions and the Government Financial Stabilisation Tools.

3. In the case referred to in paragraph 2 point 2 and paragraph 2a point 2, it is considered that an entity fails to satisfy conditions for ongoing operation, including where all of the following conditions have been satisfied:

1) an entity is at risk of bankruptcy in accordance with Article 101 paragraph 3;

2) there is no evidence that feasible supervisory measures or the measures of an entity will remove the threat of bankruptcy in due time.

4. The public aid granted under separate regulations to a solvent entity in order to prevent a serious disturbance in the economy and maintain financial stability in the form referred to in Article 101 paragraph 13 point 3 shall not be considered the extraordinary public aid referred to in paragraph 2 point 3 and paragraph 2a point 3, if the support is proportional to the scale of disruption, is of a preventive and temporary nature and does not serve to cover the losses that the entity has incurred or will incur in the near future.

5. The Fund shall perform write down or conversion of an capital instrument if the instrument is classified as the own funds of a domestic parent entity at the individual and consolidated basis, and in the opinion of the Fund the group will be at risk of bankruptcy if capital instruments are not written down or converted.

6. If a capital instrument or eligible liabilities are classified as the own funds or eligible liabilities of a subsidiary of a domestic parent entity on an individual level as well as own funds or eligible liabilities on a consolidated level, the Fund may agree with the competent authority for resolution or the competent authority for the supervision of s subsidiary on the write down or conversion of the instrument by the authority if in the opinion of the Fund and of the said authority the group will be at risk of bankruptcy if capital instruments are not written down or converted.

7. If a capital instrument or eligible liabilities are classified as the own of funds of a domestic subsidiary or eligible liabilities of an EU parent institution on an individual level as well as the own funds or eligible liabilities on a consolidated level, the Fund may agree with the competent authority for the resolution of a group or with the competent supervisory authority of a group on performing write down or conversion of the instrument if in the opinion of the Fund and of the said authority the group will be at risk of bankruptcy if capital instruments are not written down or converted.

8. In the cases referred to in paragraph 6 and 7 it shall be considered that the group will be at risk of bankruptcy if it fails or is going to fail to satisfy in the near future prudential standards on a consolidated level as to need for action in the field of early intervention by the supervisory authority, in particular in the case of incurring loss significantly affecting the own funds or a risk thereof.

9. In the cases referred to in paragraph 6 and 7, the Fund and the competent authorities for resolution or supervisory authorities shall take into account the impact of write down or conversion of an capital instrument on the financial stability

of the countries in which group entities operate.

10. While taking the decisions referred to in paragraph 6 and 7, the Fund and the competent authorities for resolution or supervisory authorities shall determine whether it is possible to take measures other than write down or conversion of capital instruments or eligible liabilities, in particular the implementation of supervisory instruments of early intervention measures or capital support from the parent entity, if this measure is feasible - if they can be easily taken and whether it is likely that it shall remove the threat of bankruptcy within a reasonable time.

11. If measures referred to in paragraph 10 may be undertaken, the Fund in the cases referred to in paragraph 6 and 7 shall request the Polish Financial Supervision Authority for the adoption thereof within the framework of exercised supervision.

12. Prior to the write down or conversion of the capital instruments or eligible liabilities referred to in paragraph 2, 2a, 5 and 6, the Fund shall arrange for the estimate referred to in Article 137 paragraph 2 and 3 with a view to the determination of the amount of loss to be covered and the amount of conversion necessary to recapitalise an entity or group.

13. In the cases referred to in paragraph 6 and 7, write down or conversion of a capital instrument or eligible liabilities of a subsidiary must not be made on terms worse than write down or conversion of similar capital instruments or eligible liabilities of a parent company.

Article 70a. 1. In the case of entities operating in the form of a capital company, the decision on the write down or conversion of capital instruments or eligible liabilities shall contain:

1) an indication of the amount by which the share capital is to be reduced and, if capital instruments or eligible liabilities are subject to conversion into stocks and shares that are established or issued on the basis of the Fund's decision, the amount by which the share capital is to be increased;

2) an indication of the number, series and number or other designation of the capital instruments or eligible liabilities subject to write down or conversion and, if these instruments or liabilities have a separate designation as referred to in Article 55 of the Act on Trading in Financial Instruments, also an indication of this designation;

3) an indication of the number, series, number and nominal value of the newly created stocks and shares issued, or the amount by which the nominal value of the existing stocks and shares is increased;

4) an indication of whether the shares resulting from the conversion are registered or bearer shares;

5) an indication of the persons who subscribe to the increased share capital or to whom the shares are issued or stocks are established, together with an indication of the capital instruments or eligible liabilities whose holders are entitled to subscribe to such shares and stocks;

6) determination that the acquisition of shares or stocks in the increased share capital shall be made with the exclusion of pre-emptive right or rights issue;

7) determination of the issue price of the new shares or the price of the stocks taken up;

8) indication of the date from which the shares or stocks resulting from the conversion shall participate in dividends;

9) indication of the method allowing for the identification of the capital instruments or eligible liabilities subject to write down – if the number or value of the capital instruments or eligible liabilities subject to write down specified in the decision is lower than the number or value of such instruments or liabilities marked with a separate designation referred to in Article 55 of the Act on Trading in Financial Instruments.

2. The decision referred to in paragraph 1 shall replace the provisions of the Act of 15 September 2000 – Commercial Companies Code (Journal of Laws of 2024, item 18 and 96), hereinafter referred to as the ‘Commercial Companies Code’, the Banking Act and the articles of association or the deed of company shall replace the actions related to the reduction or increase of the share capital, loss coverage, joining the company, taking up shares or stocks, making contributions and amending the Articles of Association or the Deed of Company Foundation.

3. The capital instruments and eligible liabilities indicated in the decision referred to in paragraph 1, being financial instruments registered in a securities depository, shall be written down or converted as at the end of the day on which the decision referred to in paragraph 1 or information about the decision was posted on the Fund's website. The date on which the decision or information about the decision was posted on the Fund's website is the date on which the persons authorised to write down or convert financial instruments are determined. Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna performs settlement of transactions in financial instruments which written down or converted until the end of

the day on which the decision or information about the decision is posted on the Fund's website, and all settlement orders entered into the settlement system concerning unsettled transactions in those financial instruments expire at the end of that day.

4. The posting of the decision referred to in paragraph 1 or information about this decision on the Fund's website shall replace the transmission of a copy of the decision to:

1) shareholders or partners who have taken up shares in the increased share capital on the basis of that decision;

2) shareholders or partners whose shares have been redeemed on the basis of this decision;

3) bondholders or holders of other equity or financial instruments which are subject to write down or conversion on the basis of this decision.

5. The Fund, for the purpose of disclosing in the National Court Register the reduction or increase of the share capital of the company, shall immediately inform the competent court of registration of the issuance of the decision referred to in paragraph 1, providing it with a copy of that decision without assessment and justification, taking into account the obligation to observe the secrets referred to in Article 320, paragraph 2, and the secrets referred to in Article 104 of the Banking Act, Article 9e of the Act on Cooperative Savings and Credit Unions and Article 147 of the Act on Trading in Financial Instruments.

6. A copy of the decision referred to in paragraph 1 constitutes grounds for entry of the reduction or increase in the company's share capital in the National Court Register. The increase or reduction of the company's share capital shall take place upon delivery of the Fund's decision to the entity referred to in paragraph 1.

7. If the instruments subject to redemption or resulting from conversion are subject to registration in a securities depository or in the register of shareholders, the Fund shall immediately inform the Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or the entity keeping the register of shareholders of the issuance of the decision referred to in paragraph 1, providing them with a copy of that decision to the extent necessary to disclose the redemption of shares in a securities depository or in the register of shareholders or for the purpose of registering, respectively, in a securities depository or in the register of shareholders the shares issued as part of the increase in the company's share capital.

Article 70b. 1. In the case of cooperative banks and credit unions, the decision on the redemption of capital instruments or eligible liabilities shall include:

1) the amount by which the funds included in own funds are to be reduced;

2) indication of the capital instruments or eligible liabilities to be written down, their number and the nominal value or the value by which the nominal value of those capital instruments or eligible liabilities is reduced.

2. The decision referred to in paragraph 1 shall replace those set out in the Act on the functioning of cooperative banks, the Act of 16 September 1982 – Cooperative Law (Journal of Laws of 2021, item 648 and of 2023, item 1450), the Banking Act, the Act on Cooperative Savings and Credit Unions and the Articles of Association of a cooperative bank or a credit union shall replace the actions related to the reduction of own funds, redemption of shares and loss coverage.

3. The redemption of all membership shares held by a member shall result in the termination of membership in the cooperative.

4. The posting of the decision referred to in paragraph 1 or information about this decision on the Fund's website shall replace the transmission of a copy of the decision to:

1) the members of the cooperative bank or credit unions whose shares have been redeemed pursuant to that decision;

2) bondholders or holders of other capital instruments or eligible liabilities which were redeemed pursuant to that decision.

Article 71. 1. If the capital instruments or eligible liabilities are included in the own funds of a domestic subsidiary at the individual level and in own funds at the consolidated level, the Fund shall within one day, following the receipt of the information referred to in Article 101 paragraph 1, notify the receipt of that information to the competent supervisory authority exercising supervision on a consolidated basis, to the competent authority for resolution for the group and to the competent authority for resolution for entities belonging to the same group which have acquired the capital instruments or eligible liabilities, or which are parent companies of the entities which have acquired the capital instruments or eligible liabilities.

2. If the capital instruments or eligible liabilities are included in the own funds of a subsidiary of a domestic parent at the individual level and in own funds at the consolidated level, the Fund shall immediately, following the receipt of the information referred to in Article 101 paragraph 1, notify the receipt of that information to the competent supervisory authority, to the competent authority for resolution for the entity and to the competent authority for resolution for entities belonging to the same group which have issued the capital instruments or eligible liabilities, or which are parent companies of the entities which have issued the capital instruments or eligible liabilities.

Article 72. 1. The Fund shall write down or convert capital instruments or eligible liabilities in the following order and manner:

1) Common Equity Tier 1 instruments – up to the amount of the losses of the entity under restructuring;

2) Additional Tier 1 instruments – up to the amount necessary to meet the operating conditions and, in the case referred to in Article 70 paragraph 1 point 2, to achieve the purposes of resolution referred to in Article 66;

3) Tier II instruments – in the amount necessary to meet the operating conditions and, in the case referred to in Article 70 paragraph 1 point 2, to achieve the purposes of the resolution referred to in Article 66;

4) eligible liabilities – to the extent necessary to meet the purposes of the resolution or to the maximum extent necessary to enable the relevant eligible liabilities to cover losses, whichever is lower.

2. The write down or conversion of the capital instruments or eligible liabilities referred to in paragraph 1 points 2 and 4 shall follow in the reverse order of priority of claims referred to in Article 440 paragraph 2 of the Act – Bankruptcy Law.

3. In the case of redemption of an capital instrument or an eligible liability:

1) the amount of write down may be adjusted solely in the case referred to in Article 138 paragraph 3 point 1;

2) no liability arises or lasts towards the current holder of the capital instrument or an eligible liability beyond those that existed prior to the date of write down, with the exception of claims for damages that may arise as a result of a determination that the write down decision was taken in breach of the law;

3) no other claim for damages may be asserted other than the supplementary claim referred to in Article 242.

4. The Fund shall convert the instruments referred to in paragraph 1 points 2 and 4 into the instruments referred to in paragraph 1 point 1.

5. With a view to performing write down or conversion of capital instruments, the Fund may commit an entity to issue the instruments referred to in paragraph 1 point 1 for the benefit of the holders of instruments referred to in paragraph 1 point 2 and 4.

6. In the case referred to in paragraph 5:

1) instruments should be issued:

   a) by an entity or by its parent – with the consent of the authority responsible for the resolution of a parent company,

   b) prior to the issuance for the benefit of the State Treasury or public entities, in order to raise its own funds;

2) terms of issue should provide the opportunity to assume these instruments forthwith upon their conversion.

7. If the Fund intends to convert according to the differentiated rates of conversion, these should be determined in a manner specified in Article 210 paragraph 3.

8. The provisions of Article 204, Article 205, Article 208–211 and Article 217–222 shall apply accordingly.

9. In the case of write down or conversion of capital instruments or eligible liabilities, referred to in Article 70 paragraph 1 point 1, the provisions of Article 109 paragraphs 1 to 5 shall apply accordingly.

Chapter 3
Resolution plans

Article 73. 1. With a view to arranging for the resolution, the Fund, following the consultation with the Polish Financial Supervision Authority, shall develop a plan for the resolution for a domestic entity that is not a part of a group

subject to consolidated supervision in a Member State by the supervisory authorities other than the Polish Financial Supervision Authority.

1a. The Fund may include in the resolution plan for a domestic entity also entities, other than the entity for which the resolution plan is drawn up, which are part of the same group and are economically or financially linked to it.

2. In the case of a domestic entity that operates a major branch in a Member State other than the Republic of Poland, the Fund shall develop a resolution plan following the consultation with the competent authority for the resolution of the said branch.

3. The Polish Financial Supervision Authority shall express the opinion referred to in paragraph 1 within 30 days of the date of delivery of the draft resolution plan by the Fund.

Article 74. 1. The Fund, in cooperation with the competent authorities for the resolution of subsidiaries, and following the consultation with the competent authorities for the resolution for major branches of a domestic parent entity within the resolution college, shall develop a group resolution plan for a group of a domestic parent entity, wherein at least one subsidiary being an institution is established in a Member State other than the Republic of Poland.

2. While observing the principles of protection of information, the Fund may cooperate in developing a group resolution plan with the competent authorities for resolution of third countries in whose territory the group has established subsidiaries, financial holding companies or major branches.

Article 75. 1. The group resolution plan referred to in Article 74 paragraph 1 shall be adopted by the Fund and the competent authorities for resolution within the resolution college in the form of a collective decision.

1a. If the group of a national parent company includes more than one group subject to resolution, the description of possible resolution measures referred to in Article 82 paragraph 3 point 1a shall be included in the joint decision referred to in paragraph 1.

2. If within four months from the date of transfer by the Fund of the information referred to in Article 86 paragraph 2, required to develop the group resolution plan referred to in Article 74 paragraph 1, this plan fails to be adopted within the resolution college, the Fund shall adopt a group resolution plan on considering the opinions submitted by the competent authorities for resolution within the resolution college.

3. If the Fund and the competent authorities for resolution within the resolution college fail to adopt a plan of the resolution of a group prior to the date referred to in paragraph 2 and within that period the competent authority for the resolution of a subsidiary of a domestic parent entity requests the European Banking Authority for binding mediation, the Fund shall refrain from the adoption of plan of the resolution of a group pending the decision by the European Banking Authority.

4. Where the European Banking Authority has failed to take a decision within one month from the date of submission of the application for the binding mediation, the Fund shall adopt a group resolution plan in accordance with paragraph 2, and if the European Banking Authority takes this decision, the Fund shall proceed in accordance with the decision of the European Banking Authority.

5. Where the competent authority for the resolution for a subsidiary of a domestic parent company notifies the Fund that it does not consent to the adoption of a group resolution plan developed within the resolution college on account of the commitment, arising from the plan, to effect public spending of its State, the Fund and the competent authorities for resolution which are members of the resolution college shall re-evaluate the plan within the resolution college.

6. If the competent authority for the resolution of a subsidiary forming part of the resolution college has decided on the development of a separate resolution plan for the subsidiary, the Fund and other competent authorities for resolution within the resolution college may adopt a group resolution plan for other entities in the form of a collective decision.

7. The Fund may address a request to the European Banking Authority to conduct non-binding mediation between the competent authorities for resolution forming part of the resolution college in accordance with Article 31 point c of Regulation No 1093/2010 and to take binding mediation.

Article 76. While developing a group resolution plan, the Fund shall take into account the potential impact of possible measures within the framework of the resolution of the group on the financial stability of the states in which the entities of the group operate and grounds for the allocation of amounts of the resolution funds to cover the costs of the proceedings, referred to in Article 82 paragraph 4.

Article 77. 1. The Fund shall cooperate with the relevant authorities for resolution with a view to developing a group resolution plan of groups in which a domestic entity is a subsidiary or a branch of a group entity operating in the territory of the Republic of Poland is major and to assessing the feasibility of this plan and to updating it, if necessary. The provision of Article 75 paragraph 7 shall apply accordingly.

2. In the case referred to in paragraph 1, if within four months from the date of transmission by the competent authority of the resolution for the group of the information necessary to devise a group resolution plan the Fund and the

competent authorities of the resolution do not accept the group resolution plan for the reason that the Fund objects to the group resolution plan, the Fund decides to devise a resolution plan or a group resolution plan for a national subsidiary or a group of national subsidiaries, in which it may identify the entity subject to the resolution, taking into account the views expressed by the competent authorities of the resolution and the competent supervisory authorities, indicating in its reasons for not agreeing to the adoption of the group resolution plan developed within the framework of the resolution college, and shall inform the other members of the resolution college of that decision.

3. In the case referred to in paragraph 1, if prior to the date referred to in paragraph 2 the Fund and the competent authorities for resolution within the resolution college fail to adopt a group resolution plan, and the competent authority for the resolution of a group requests the European Banking Authority for binding mediation, the Fund shall refrain from the adoption of the decision referred to in paragraph 2 pending a decision by the European Banking Authority.

4. If the European Banking Authority does not take a decision within one month from the date of the request for binding mediation, the Fund shall decide on the development of a resolution plan or group resolution plan for the national subsidiary or group of national subsidiaries, in which it may identify the entity subject to resolution and, if the European Banking Authority does so, the Fund shall proceed in accordance with the decision of the European Banking Authority.

5. If the competent authority for the resolution of a subsidiary forming part of the resolution college has decided on the development of a separate resolution plan for the subsidiary, the Fund and other competent authorities for resolution within the resolution college may adopt a group resolution plan for other entities in the form of a collective decision.

6. In the case referred to in paragraph 1, if, before the expiry of the time limit referred to in paragraph 2, the Fund and the competent authorities concerned have not adopted a group compulsory resolution plan and none of those entities has approached the European Banking Authority for binding mediation, the Fund shall decide to develop a compulsory resolution plan or a group compulsory resolution plan for a national subsidiary or a group of national subsidiaries, in which it may identify the entity subject to resolution, taking into account the views expressed by the competent authorities of the resolution authority and the competent supervisory authorities, indicating in its justification its reasons for not agreeing to the group resolution plan developed within the framework of the resolution college, and shall inform the other members of the resolution college of that decision.

7. In the case referred to in paragraph 1, the Fund may develop a separate resolution plan or group resolution plan for a domestic entity that is a significant entity or group of domestic entities that is a significant entity, in which it may identify an entity subject to resolution, and a separate resolution plan or group resolution plan for an entity identified as another systemically important institution pursuant to Article 39 paragraph 1 of the Act on Macro-Prudential Supervision or a group of an entity identified as another systemically important institution pursuant to Article 39 paragraph 1 of the Act on Macro-Prudential Supervision, unless it meets the definition of a significant entity in which it may designate an entity subject to resolution.

8. In the cases referred to in paragraphs 2, 4, 6 and 7, the Fund shall draw up a resolution plan or a group resolution plan within the framework of the resolution college, applying as appropriate the provisions of this Chapter specific to the resolution plans referred to in Article 73 paragraph 1 or to the group resolution plans referred to in Article 74 paragraph 1.

Article 78. 1. The Fund shall develop a resolution plan in particular on the basis of the information obtained from the Polish Financial Supervision Authority and domestic entities.

2. The Fund may require a domestic entity to co-operate in the development and updating of the resolution plan, including the development of elements of the resolution plan on the basis of the guidelines of the Fund containing a scope of information provided, the date of their transfer and the instruction on the penalties for failure to provide the information.

Article 79. 1. In the event that within a specified period determined by the Fund, a domestic entity fails to provide information referred to in Article 85 or fails to perform the duty referred to in Article 78 paragraph 2, the Fund may, by way of a decision, fine the entity with a penalty of up to 10% of the revenue reported in the latest audited financial statement, and in the absence of such a statement – fine the entity with a financial penalty of up to 10% of the projected revenue determined on the basis of the economic and financial situation of the entity, not more than PLN 100,000,000.

1a.If it is possible to determine the amount of the benefit obtained by a domestic entity as a result of failure to provide the information or to fulfil the obligations referred to in paragraph 1, the Fund may impose on that entity the financial penalty referred to in paragraph 1, up to twice the amount of the benefit obtained by that entity.

2. The fine referred to in paragraph 1 shall account for the income of the State Budget.

3. The claims derived from the decision to impose a fine shall be enforced in the manner specified in the provisions on administrative enforcement proceedings.

Article 80. 1. The Management Board of the Fund shall adopt resolution plans and group resolution plans by way of a resolution,

2. The Fund shall forward the approved resolution plans and group resolution plans to the Polish Financial Supervision Authority and the Minister competent for financial institutions.

3. In the case that during the assessment of the feasibility of the plans the circumstances were identified which prevent or hinder the conduct of resolution, the implementation of the task to develop a resolution plan, to adopt a group

resolution plan and to make updates thereof shall be suspended pending the determination of the necessary measures to remove these circumstances, in accordance with Article 91 paragraph 5–5e and 7 or Article 92 paragraph 6–12.

Article 81. 1. The resolution plan shall envisage measures towards an entity in the case of initiation of resolution and feasibility evaluation of these activities, in particular:

1) summary of the essential elements of the plan;
2) detailed description of the possible resolution options, including the possibility of using individual instruments of resolution;
3) manner of separation of critical functions and main lines of business of an entity;
4) timetable for implementing the major objectives of the plan;
5) detailed description of the assessment of the feasibility of the resolution plan, along with the specification of the circumstances that prevent or hinder the conduct of resolution;
6) description of measures that should be applied in order to remove the circumstances that prevent or hinder the conduct of resolution;
7) description of procedures used to assess possibilities to sell the undertaking of the entity within its critical functions, main business lines and assets and to determine their value;
8) description of the internal procedures of the entity providing the Fund with the up-to-date information referred to in Article 85;
9) description of the principles of financing of possible variants of resolution;
10) analysis of the possibility of using standard instruments of the National Bank of Poland to support the liquidity of the entity and enumeration of assets eligible as security for granting such support;
11) description of significant interrelationships between legally separate organisational units resulting from:
    a) sharing of assets, services and employing the same staff,
    b) provision of capital and liquidity support and funding,
    c) provision of security, clauses of default and netting,
    d) provision of services,
    e) risk transfer, repurchase transactions and hedging transactions;
12) description of variants to maintain access to payment and settlement services and assessment of the option of transferring settlement items of a customer;
13) analysis of the impact of the plan on the rights and duties of employees of the entity, the costs involved and the extent of the anticipated consultation with employees, including under the Act of 13 March 2003 on specific rules for termination of employment for reasons not attributable to employees (Journal of Laws 2024, item 61).
14) requirements referred to in Article 97–99, and the deadlines for satisfying thereof;
15) description of material changes in the entity, which occurred after the submission of the last information for the need of the resolution plan;
16) description of the basic operations and systems ensuring the continuity of the operational processes of the entity;
17) principles of external communication;
18) opinion of an entity on the resolution plan, if the opinion has been expressed.

2. The resolution plan shall take into account the option to initiate resolution in different external conditions, including the absence of financial stability or events affecting the financial market.

3. The resolution plan may involve execution of bankruptcy proceedings of an entity.

4. The resolution plan must not assume:

1) obtaining extraordinary public support, with the exception of the use of the resolution funds;
2) emergency liquidity support from the National Bank of Poland;
3) liquidity support from the National Bank of Poland granted on conditions different from generally accepted, in particular as regards the period, interest rates and forms of security.

Article 82. 1. (repealed)

2. The group resolution plan shall define measures undertaken towards:

1) EU parent institution or EU parent investment firm;
2) subsidiary established in a Member State;
3) financial holding company, investment holding company, mixed-activity holding company and mixed financial holding company;

4) parent financial holding company in a Member State or a parent investment holding company in a Member State and the parent mixed financial holding company in a Member State;

5) subsidiary established in the territory of a third country.

2a. The group resolution plan shall identify the entities subject to resolution and the groups subject to resolution.

3. The group resolution plan shall define in particular:

1) description of the possible measures under the resolution with regard to the entities subject to resolution, taking into account the premises referred to in Article 81 paragraph 2 and the effect of those measures on other related entities referred to in Article 64 point 2 sub-point b to d, the parent company and its subsidiaries;

1a) if the group consists of more than one group subject to resolution, a description of possible resolution actions with regard to the entities subject to resolution from each group subject to resolution and the effects of those actions on other related entities belonging to the same group subject to resolution and other groups subject to resolution;

2) analysis of the possibility of parallel application of instruments of resolution and taking recourse to other powers of resolution authorities towards group entities established in the territory of the Member States, including support for third parties in the acquisition of a group, separate business lines or types of business activities pursued by several entities in the group or individual entities;

3) description of feasibility assessment of the group resolution plan referred to in Article 89 along with the specification of the circumstances that prevent or hinder the conduct of resolution

4) description of measures referred to in Article 92 paragraph 9 and Article 93 paragraph 1 that should be applied in order to remove the circumstances that prevent or hinder the conduct of resolution;

5) description of the method of cooperation and coordination with the third-country authorities competent for resolution and assessing their relevance to the resolution in the Member States, if a group includes entities established in third countries;

6) description of separation of critical functions and major business lines needed to perform the resolution of a group;

7) description of the operations of the competent authority of the resolution authority for the entities within each group subject to resolution stemming from separate provisions;

8) description of the rules governing the financing of the resolution of the group and, if the use of funds from the resolution funds is necessary, an indication of how the burden will be shared between the resolution funds from different Member States or other sources of financing of the resolution pursuant to their respective rules.

4. The manner of the distribution referred to in paragraph 3 point 8 shall take into account:

1) share in a group of:

a) risk-weighted assets of the entities of the group established in a Member State,

b) assets of entities of the group established in a Member State,

c) losses of entities of the group established in a Member State, which contributed to meeting of triggers of the resolution of the group;

2) share of funds from the resolution funds of other Member States, which can be used in favour of entities of the group in a Member State.

5. The group resolution plan must not assume:

1) obtaining extraordinary public support with the exception of the use of the resolution funds;

2) emergency liquidity support from central banks;

3) liquidity support from central banks granted on conditions different than those generally accepted, in particular as regards the period, interest rates and forms of security.

6. If in the opinion of the Fund the national public funds must be involved with a view to financing the resolution of a group, the Fund shall agree the group resolution plan solely in consultation with the Minister competent for financial institutions.

Article 82a. A group resolution plan in which the domestic entity is a subsidiary of a mixed financial holding company controlled directly or indirectly by an intermediate financial holding company or intermediate investment holding company provides for resolution against the intermediate financial holding company or intermediate investment holding company.

Article 83. The Fund Council shall determine the detailed scope of information to be included in a resolution plan, including the subject matter and scope of business of entities covered by the plan in accordance with Article 73 paragraphs

1 and 1a, in particular the performance of brokerage business, the ownership structure, the legal form of the business, the risk profile, the scale of links with other entities of the financial market and participation in the institutional protection scheme.

Article 84. The Fund shall provide a domestic entity with a summary of the essential elements of the resolution plan referred to in Article 81 paragraph 1 point 1, whereas the domestic parent entity shall notify of the adoption of the group resolution plan in writing within 30 days from the date of adoption of the resolution plan or the group resolution plan by the Management Board of the Fund.

Article 85. 1. A domestic entity shall provide the Fund with the information necessary to develop, update and assess the feasibility of resolution plans, concerning in particular the organisational structure, entities interrelated by capital or organisational linkages, the capital structure, the employment structure, the type and scope of operation, including the strategy of development and the assets and liabilities of the entity, including information from the register of financial instruments referred to in Article 88.

2. A domestic entity shall forthwith notify the Fund of a significant organisational or legal change or the occurrence of other events affecting the objectives adopted in the resolution plan and its implementation.

Article 86. 1. A parent domestic entity shall provide the Fund with the information referred to in Article 85 concerning also the subsidiaries, to the extent necessary to draw up the group resolution plan.

2. The Fund shall forward the information referred to in paragraph 1 to the following entities:

1) European Banking Authority – in the scope of the information related to its tasks in the preparation of group resolution plans;

2) competent authorities for the resolution of subsidiaries – in the scope of the information on these entities;

3) competent authorities for the resolution of the entities referred to in Article 82 paragraph 2 points 3 and 4 – in the scope of the information on these entities;

4) competent authorities for the resolution of major branches – in the scope of the information relating to these branches;

5) The Polish Financial Supervision Authority and other supervisory authorities – in the scope of the information on the entities they supervise.

3. The Fund shall provide information on the subsidiaries established in the territory of third countries only if the consent has been given to the transfer of this information by the competent third-country authorities for resolution or supervisory authorities of those countries.

Article 87. The Minister competent for financial institutions may determine, by way of a regulation, the detailed scope, manner and time for the transfer to the Fund by the entities of the information necessary to develop, update and assess the feasibility of resolution plans of and group resolution plans, taking into account the need to ensure the adequacy of the required information towards the size and risk profile of the business of the entity, its legal form and participation in the institutional protection scheme.

Article 88. 1. The entities shall be required to keep a register of financial instruments and transmit the information stored in the register to the Fund for need of the development and updating resolution plans and group resolution plans and arranging for resolution.

2. The register of financial instruments shall also include:

1) repurchase sale transactions of financial instruments;

2) resell purchase transactions in financial instruments;

3) inter-bank loans whose maturity does not exceed three months;

4) framework agreements of financial instruments and the instruments referred to in paragraphs 1–3.

3. Following the consultation with the Fund, the Minister competent for financial institutions may determine, by way of a regulation:

1) the minimum requirements to be met by a register of financial instruments,

2) detailed scope and structure of the data contained in the register and the technical standard of their preparation and recording.

3) format and procedure for transmitting the data to the Fund,

4) procedure and method of verifying the accuracy of the data stored in the register

– having regard to the need to provide the Fund with the data necessary to perform statutory tasks of the Fund and the conditions for executing factual activities involved in bank or brokerage business, as well as taking into account the protection of data from unauthorised access.

Article 89. 1. The Fund shall, at least once a year, review the plans of resolution and group plans of resolution for groups of domestic parent companies and, if necessary, update them. Articles 73 to 86 shall apply accordingly to the updating of the resolution plans and group resolution plans for groups of domestic parent companies.

1a. In the case of an entity subject to a resolution or an application of the instrument of write down or conversion of capital instruments or eligible liabilities, the Fund shall carry out an additional review of the resolution plan and update it if necessary.

2. (repealed)

Article 90. 1. On considering the limited negative impact that a bankruptcy of a domestic entity or a bankruptcy of a specific type of entities could have on the financial situation of other entities, on the stability of the financial market and the economy, the Fund Council may, by way of a resolution:

1) determine lower frequency of review and assessment of the feasibility of resolution plans than that specified in Article 89 paragraph 1;

2) exempt an entity from the duty to keep the register referred to in Article 88, if such an entity is not a major entity or has not been identified or recognised as a global systemically important financial institution or another institution of systemic importance, in accordance with the provisions of the Act on Macro-Prudential Supervision.

2. While assessing the impact which a bankruptcy of a domestic entity could have on the financial situation of other entities of the financial market, on the stability of the financial market and on the state of the economy, the Fund Council shall take into account the circumstances referred to in Article 83.

3. While making the assessment referred to in paragraph 2, the Fund Council may consult the Financial Stability Committee.

4. In the event of a change of the circumstances referred to in paragraph 1 the Fund Council may repeal or amend the resolution referred to in paragraph 1. The Fund forthwith notifies the entity concerned of any resolution being repealed or amended.

5. The Fund shall notify the European Banking Authority of the resolutions adopted in accordance with paragraph 1.

Article 91. 1. Following a significant organisational or legal change in an entity, in particular the acquisition or disposal of subsidiaries, change of the organisational structure of the entity, change of the parent company, change of domicile of the parent company and the change in business or the financial situation of the entity or upon the occurrence of another event, the Fund shall assess the feasibility of the resolution plan and, if necessary, following the consultation with the Polish Financial Supervision Authority, shall update the plan. The provisions of Article 73 paragraph 3, Article 78–81 and Article 83–85 shall apply accordingly.

2. In the case referred to in Article 73 paragraph 2, the Fund shall assess the feasibility of the resolution plan and, if necessary, shall update the plan following the consultation with the competent supervisory authorities and the competent authority for resolution for a major branch of a domestic entity.

3. The resolution plan is feasible if it allows performing liquidation of the entity through the bankruptcy proceedings or resolution of the entity by taking recourse to the instruments of resolution and exercise of the powers of the Fund within the resolution, which as far as possible reduce the negative effects of resolution on the financial stability, including the financial stability of other countries and the European Union, and ensure the execution of critical functions.

4. If following the assessment of the resolution plan the circumstances are found that prevent or hinder the execution of the resolution, the Fund shall communicate them, in writing, to an entity and the Polish Financial Supervision Authority, and in the case referred to in Article 73 paragraph 2, also the competent supervisory authorities and the competent authorities for resolution of countries in which the domestic entity operates through major branches.

5. The entity shall develop an action plan to eliminate the circumstances referred to in paragraph 4 and shall submit it to the Fund within a period of four months from the date of receipt of the information referred to in paragraph 4.

5a. In the case of:

1) an entity covered by the requirement referred to in Article 97 paragraph 1 meets the own funds requirements referred

to in Article 92 of Regulation No 575/2013 and the combined buffer requirement applied in addition to the additional own funds requirement referred to in Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3, and at the same time does not meet the combined buffer requirement applied in addition to the minimum level of own funds and eligible liabilities referred to in Article 97 paragraphs 2, 2b–2s and 16–20, Article 97c–97e and Article 97h, calculated and expressed in accordance with Article 97 paragraph 2b point 1, or

2) the entity does not comply with the requirements referred to in Article 92a of Regulation No 575/2013 or does not maintain the minimum level of own funds and eligible liabilities determined in accordance with paragraph 2, 2b–2s and 16 to 20 of Article 97, Articles 97c–97e and Article 97h

– the entity shall, within 2 weeks from the date of receipt of the information referred to in paragraph 4, submit to the Fund an action plan for the purpose of removing the circumstances preventing or impeding the resolution, together with a time limit for its implementation.

5b. The plan referred to in paragraph 5a shall set out actions to ensure that the combined buffer requirement and the maintenance of a minimum level of own funds and eligible liabilities are met simultaneously. The deadline for implementation of that plan shall take into account the reasons for any circumstances that prevent or impede resolution.

5c. The Fund, after consulting the Polish Financial Supervision Authority, shall assess the effectiveness of the action plan submitted in accordance with paragraph 5 or 5a, in particular in the event that it becomes aware of information referred to in Article 326. The provision of Article 73 paragraph 3 shall apply accordingly.

5d. If the Fund concludes that the implementation of the measures set out in the action plan submitted in accordance with paragraphs 5 or 5a shall not lead to the reduction or removal of circumstances preventing or impeding the resolution in a timely manner, the Fund shall provide the entity with a written statement containing:

1) the grounds on the basis of which the Fund has concluded that the proposed measures shall not lead to the reduction or elimination of the circumstances preventing or hindering the resolution, together with a justification;

2) proposal for alternative measures which, in the opinion of the Fund, are proportionate and shall lead to the limitation or removal of the circumstances preventing or hindering resolution, together with their justification and the proposed implementation date;

3) assessment of the impact of the measures proposed by the Fund on the entity's financial situation and its ability to continue to function in a stable manner;

4) indication of the threats to financial stability resulting from circumstances hindering the implementation of the resolution.

5e. In the case referred to in paragraph 5d, the entity, within 30 days of receiving the statement of the Fund, shall present a plan for the implementation of the measures determined in accordance with paragraph 5d point 2, together with a timetable of measures. The plan shall take into account the statement of the Fund.

6. (repealed)

7. If the plan referred to in paragraph 5 or paragraph 5a is insufficient in the opinion of the Fund, the Fund, following t he consultation with the Polish Financial Supervision Authority, shall determine the measures necessary to remove the circumstances referred to in paragraph 4. The provision of Article 73 paragraph 3 shall apply accordingly.

Article 92. 1. The Fund, together with the competent resolution authorities, after consulting the Polish Financial Supervision Authority and the supervisory authorities of the subsidiaries and the competent resolution authorities of the countries in which the entity operates in the form of a major branch, within the framework of the resolution college, shall assess the feasibility of a group resolution plan and, if need be, shall update the plan. The provisions of Article 74, Article 79, Article 80, Article 82, Article 84 and Article 86 shall apply accordingly.

1a. The Fund shall assess the group resolution plan for the group of a national parent company following a significant organisational or legal change to the group or its constituent entity, a change in the group's or its constituent entity's activities or financial situation, in conjunction with the relevant resolution authorities, and shall update that plan if necessary, after consulting the Polish Financial Supervision Authority and the supervisory authorities of the subsidiaries and after consulting the relevant resolution authorities of the countries where the entity operates as a major branch, within the framework of the resolution college. The provisions of Article 74, Article 79, Article 80, Article 82, Article 84 and Article 86 shall apply accordingly.

2. The group resolution plan is feasible if it allows performing liquidation of the entities of the group through the bankruptcy proceedings or resolution of these entities by taking recourse to the instruments of resolution and exercise of the powers of the Fund within the resolution, which as far as possible reduce the negative effects of these proceedings on the financial stability of the states where the entities of the group are established, and the European Union, as well as

ensures the execution of critical functions, in particular through the effective separation thereof.

2a. If more than one group subject to resolution has been identified within a group, the provisions of paragraphs 1 and 1a shall apply accordingly to each group subject to resolution.

3. If, as a result of the review of the group resolution plan, circumstances are identified that prevent or impede the resolution of the group or individual entities of the group, the provisions of Article 91 paragraph 4 and paragraphs 5–5b shall apply accordingly.

3a. The Fund and the competent authorities of resolution, within the framework of the resolution college, after consulting the college of competent supervisory authorities referred to in Article 141f paragraph 18 of the Banking Act, or the college composed of the competent supervisory authorities referred to in Article 110j paragraph 1 of the Act on Trading in Financial Instruments, and the competent authorities of resolution of the countries in which the entities of the group operate in the form of a major branch, shall assess the effectiveness of the action plans presented in accordance with paragraph 3 to remove the circumstances preventing or hindering the resolution.

3b. After consultation with the college of competent supervisory authorities referred to in Article 141f paragraph 18 of the Banking Act, or the college composed of competent supervisory authorities referred to in Article 110j paragraph 1 of the Act on Trading in Financial Instruments and the competent authorities for resolution of the countries in which the entities of the group operate in the form of a significant branch, the Fund and the competent authorities for resolution shall agree, within the framework of the resolution college, in the form of a joint decision, the measures necessary to reduce or remove the circumstances preventing or hindering the implementation of the resolution and shall notify the European Banking Authority of its decision. In the case of entities which are part of a group, the provisions of Article 91 paragraphs 4, 5 and 7 shall apply accordingly.

4. The Fund, in cooperation with the Polish Financial Supervision Authority and the European Banking Authority, after consulting the competent supervisory authorities of the subsidiaries, shall prepare information containing an analysis of the identified circumstances hindering or preventing resolution, together with an indication of the reason why the implementation of the measures set out in the action plans submitted in accordance with paragraph 3 shall not lead to their reduction or elimination, and recommendations for measures necessary to reduce or eliminate them. The Fund shall take into account the impact of those measures on the group's activities.

4a. In determining the measures referred to in paragraph 3b and in developing the information referred to in paragraph 4, the impact of the measures on the business model of the group shall be taken into account.

5. The Fund shall communicate the information referred to in paragraph 4 to the national parent company, to the competent authorities for resolution for subsidiary entities and to the competent authorities for resolution for major branches and, in the case referred to in Article 91 paragraph 5a, to the domestic parent entity.

6. The domestic parent company may, within 4 months from the date of receipt of the information referred to in paragraph 4, submit comments to the Fund on that information and a proposal for other measures for the purpose of limiting or removing in due time the circumstances indicated in the information, together with a justification.

6a. In the case referred to in Article 91 paragraph 5a, the domestic parent company shall, within 2 weeks of receiving the information referred to in paragraph 4, submit to the Fund a plan for the implementation of measures with the purpose of ensuring that the combined buffer requirement and the maintenance of a minimum level of own funds and eligible liabilities are met at the same time, or a proposal for other measures, together with a justification and the proposed deadline for their implementation.

7. The Fund shall notify the Polish Financial Supervision Authority, the European Banking Authority and the competent authorities for the resolution of subsidiaries, and in appropriate cases – the competent authorities for the resolution of major branches of the entities of the group – the proposal referred to in paragraph 6 and 6a.

8. Following the consultation with the supervisory authorities of entities of the group and the competent authorities for the resolution of major entities of the group, the Fund and the competent authorities of resolution of subsidiaries, within the framework of the resolution college, shall analyse and assess the circumstances referred to in paragraph 3 and 3a, the measures referred to in paragraph 3b, the recommendations referred to in paragraph 4 and proposals referred to in paragraph 6 or 6a, on considering the potential impact of the recommendations and proposals in the Member States in which entities of the group operate.

9. The measures necessary for the removal of the circumstances referred to in paragraph 3 and 3a shall be agreed in the form of a collective decision by the Fund and the competent authorities for resolution within the framework of the resolution college within 4 months from the date when a domestic parent entity provided the Fund with the proposals referred to in paragraph 6, or following the deadline for the submission thereof. These measures may include the recommendations referred to in paragraph 4 and the proposals referred to in paragraphs 6 and 6a.

9a. In the case referred to in Article 91 paragraph 5a the measures necessary to remedy the circumstances set out in paragraph 3 shall be agreed in the form of a joint decision by the Fund and the competent authorities for resolution within the framework of the resolution college within 2 weeks from the date on which the domestic parent company transmits the proposal referred to in paragraph 6a to the Fund.

10. If the Fund and the competent authorities for resolution fail to agree the necessary measures to eliminate the circumstances referred to in paragraph 3 within the framework of the resolution college within the period referred to in paragraph 9 and 9a, these measures shall be established by the Fund, taking into account the opinion of the other competent authorities for resolution included in the resolution college.

11. If the Fund and the competent authorities for resolution included in the resolution college fail to agree the necessary measures to eliminate the circumstances referred to in paragraph 3 prior to the deadline referred to in paragraph 9 and 9a, and the competent authority for resolution of the subsidiary requests the European Banking Authority for binding mediation, the Fund shall refrain from the determination of these measures pending a decision by the European Banking Authority.

12. If the European Banking Authority has failed to take a decision within one month from the date of filing an application for binding mediation, the Fund shall determine the measures necessary to remove the circumstances referred to in paragraph 3 in the manner specified in paragraph 10.

13. If the European Banking Authority has taken a decision following binding mediation, the Fund shall determine the measures necessary to remove the circumstances referred to in paragraph 3 in accordance with the decision of the European Banking Authority.

Article 93. 1. In the case referred to in Article 77 paragraph 1, if following the assessment of the plan of the resolution of a group, the circumstances are established that prevent or hinder the execution of the resolution of the group, the Fund shall cooperate with the competent authorities for resolution in order to agree the necessary measures to remove these circumstances. The provision of Article 75 paragraph 7 shall apply accordingly.

2. If within four months, or in the case referred to in Article 91 paragraph 5a – a period of 2 weeks, from the date of provision the competent authority of resolution of a group with the proposals of measures to ensure the removal of the circumstances referred to in paragraph 1, or on the deadline for their submission no measures are agreed upon as necessary to remove these circumstances, the Fund shall determine the measures with reference to a domestic subsidiary, on considering the opinion of the other competent authorities for resolution included in the resolution college. The Fund shall notify the decision to the competent authority for resolution of the group and the concerned domestic subsidiary.

3. If no measures are agreed as necessary to eliminate the circumstances referred to in paragraph 1 prior to the deadline referred to in paragraph 2, and the competent authority for the resolution of a group or another competent authority for resolution being a member of the resolution college requests the European Banking Authority for binding mediation, the Fund shall refrain from the determination of these measures pending a decision by the European Banking Authority.

4. Where the European Banking Authority has not taken a decision within one month from the date of submission of an application for binding mediation, the Fund shall determine the measures necessary to remove the circumstances referred to in paragraph 1, in the manner specified in paragraph 2.

5. Where the European Banking Authority has taken a decision as a result of binding mediation, the Fund shall proceed in accordance with the decision of the European Banking Authority.

Article 94. 1. If a resolution plan or a group resolution plan involves resolution an entity through the use of an instrument of write down or conversion of liabilities, as well as to ensure the option of write down or conversion of capital instruments in accordance with Article 70 paragraph 1, the Fund, following the consultation with the Polish Financial Supervision Authority may require the entity to effect the conditional share capital increase and to remove the provisions of the articles of association or the deed limiting the possibility of execution of write down or conversion of capital instruments or the use of the instrument of write down or conversion of liabilities.

2. The Fund may determine the maximum amount of exposure to an entity not included in the same group derived from the liabilities referred to in Article 206 paragraph 1.

Article 95. 1. Within the scope of application of the measures established in accordance with Article 91 paragraph 7, Article 92 paragraph 9, 10, 12 and 13, Article 93 paragraph 1, 3 and 4 and Article 94, the Fund shall adopt recommendations following the consultation with the Polish Financial Supervision Authority. The Fund shall consult the Financial Stability Committee in case a recommendation, due to the size of the entity or group, may have an impact on the stability of the national financial system or on the level of systemic risk.

1a.Before applying the measures referred to in paragraph 1, the Fund shall analyse their potential impact on the entity, the internal market in financial services and the stability of the financial system in Member States other than the

Republic of Poland.

2. While issuing a recommendation, the Fund shall indicate the reasons for which it considered a proposal or a plan of the entity insufficient to eliminate the circumstances that prevent or hinder the conduct of resolution, and shall demonstrate the proportionality of the recommended measure. The Fund shall immediately inform the Polish Financial Supervision Authority and the Financial Stability Committee of the recommendation issued, if it has expressed the opinion referred to in paragraph 1, second sentence.

3. (repealed)

4. The recommendations may concern:

1) provision of solutions for continuous and uninterrupted operation of the entity, including in the case of conducting resolution;

2) entrance into or amendment of the agreements on financial support within the group referred to in Article 141t of the Banking Act and Article 110zr paragraph 1 of the Act on Trading in Financial Instruments

3) reduction in risk exposure in particular in the scope referred to in Article 94 paragraph 2;

4) imposition of additional disclosure obligations;

5) disposal of assets of an entity;

6) restriction or termination of certain activities of the entity;

7) limitation of introduction or development of new products or lines of business;

8) change in the organisational and legal structure in order to simplify the structure or separate activities;

9) creation of a parent financial holding company from a Member State established in the territory of the Republic of Poland, a parent investment holding company from a Member State established in the territory of the Republic of Poland, an EU parent financial holding company or an EU parent investment holding company for the purpose of facilitating resolution and avoiding that the application of the resolution instruments and powers referred to in Chapter 5 is detrimental to the non-financial part of the group concerned;

10) issue of eligible liabilities for the purpose of achieving a minimum level of own funds and eligible liabilities, debt instruments convertible into equity or other capital or debt instruments that may be written down or converted;

11) pursuit of measures other than those referred to in point 10 in order to achieve a minimum level of own funds and eligible liabilities, in particular renegotiating the terms of eligible liabilities, additional Tier 1 instruments or Tier 2 instruments and the liabilities referred to in Article 206 paragraph 1, in order to ensure the effectiveness of the write down or conversion under the law applicable to that liability or instrument;

11a) change of the maturity profile of own funds instruments, with the approval of the Polish Financial Supervision Authority, and eligible liabilities referred to in Articles 97a–97g and Article 98 paragraph 2l point 1, for the purpose of ensuring that a minimum level of own funds and eligible liabilities is maintained at all times;

12) maintenance of a specific structure of liabilities.

13) submitting a plan of action to ensure that the combined buffer requirement and the maintenance of a minimum level of own funds and eligible liabilities expressed in accordance with Article 97 paragraph 2b point 1 are simultaneously met and that a minimum level of own funds and eligible liabilities expressed in accordance with Article 97 paragraph 2b point 2 is maintained;

14) preparation in the bank's accounting ledger systems of a functionality enabling the systemic reduction of principal and interest balances for all or selected liabilities on a selected date, using the calculation parameters for customers and receivables used in the system and taking into account the assignment of the liability to the category of satisfaction of claims in accordance with Article 440 paragraph 2 of the Act – Bankruptcy Law.

5. An entity shall develop an action plan on considering the recommendations, and shall submit it to the Fund within one month from the date of receipt of the recommendations.

6. In the case of default on the recommendations on the part of the entity, the Fund may, by way of a decision, fine the entity with a penalty of up to 10% of the revenue reported in the latest audited financial statement, and in the absence of such a statement – fine it with a financial penalty of up to 10% of the projected revenue determined on the basis of the economic and financial situation of the entity, not more than PLN 100,000,000.

6a. If it is possible to determine the amount of the benefit obtained by an entity as a result of the entity's failure to

comply with the recommendations, the Fund may impose on that entity the financial penalty referred to in paragraph 6, up to twice the amount of the benefit obtained by the entity.

7. While issuing the decision referred to in paragraph 6, the Fund shall consider the following:

1) gravity and duration of the infringement;

2) degree of liability of entities;

3) ratio of the amount of the financial penalty to the scale of business of entities measured in terms of revenue, profit or assets;

4) benefits achieved by an entity as a result of the infringement;

5) damage to third parties as a result of the infringement;

6) previous infringements, their scope and frequency;

7) effects of the infringement on the financial stability and the financial market;

8) cooperation of an entity with the Fund.

8. The Fund shall forthwith notify the European Banking Authority of entities towards which the circumstances referred to in Article 91 paragraph 4 and Article 92 paragraph 3 have been detected.

9. The fine referred to in paragraph 6 shall account for the income of the State Budget.

10. The claims derived from the decision to impose a fine shall be enforced in the manner specified in the provisions on administrative enforcement proceedings.

Article 96. 1. In accordance with Article 10 and Article 113 paragraph 7 of Regulation No 575/2013, subject to paragraph 3, the Fund Council may exempt domestic entities linked to a central body, and fully or partially exempt from the prudential requirements from the requirements specified by the provisions of this chapter.

2. In the case of the exemption referred to in paragraph 1, the requirements of this chapter shall apply at a consolidated level to the central body and its associated entities within the meaning of Article 10 of Regulation No 575/2013.

3. The exemption referred to in paragraph 1 must not apply to a domestic entity being a major entity.

4. In the event of receipt of a notice from a bank's management on the implementation of the recovery plan, in accordance with Article 142 paragraph 1 or 2 of the Banking Act, or the notification from the Polish Financial Supervision Authority referred to in Article 326 paragraph 1 point 2 or 3, the Fund may:

1) request an entity for information in accordance with Article 330 paragraph 1 and 2;

2) estimate the value of the assets and liabilities of an entity;

3) search for an acquiring entity in cooperation with an entity, or independently.

5. The provisions of Article 137–140 and Article 178 shall apply accordingly.

6. The Fund notifies the Polish Financial Supervision Authority of the measures taken, referred to in paragraph 4 point 3.

Article 96a. 1. An entity subject to the requirement referred to in Article 97 paragraph 1 shall conduct an internal verification process to determine whether it has own funds and eligible liabilities in an amount necessary to simultaneously meet the combined buffer requirement and to maintain a minimum level of own funds and eligible liabilities expressed in accordance with Article 97 paragraphs 2, 2b–2s and 16–20, Articles 97c–97e and Article 97h.

2. In the case referred to in Article 91 paragraph 5a point 1 the Fund, after consulting the Polish Financial Supervision Authority, may by decision prohibit an entity from distributing profits in excess of the maximum distributable amount related to the minimum own funds and eligible liabilities (M-MDA) requirement.

3. The distribution of profits referred to in paragraph 2 shall be understood as:

1) profit distribution related to Common Equity Tier 1 capital as referred to in Article 55 paragraph 3 of the Act on Macro-Prudential Supervision;

2) making commitments to pay variable remuneration components or discretionary pension benefits;

3) making payments of variable remuneration components if the payment obligation arose during a period in which the entity did not meet the combined buffer requirement;

4) making payments on Additional Tier 1 instruments.

4. The entity shall immediately notify the Fund and the Polish Financial Supervision Authority of the occurrence

of the circumstances referred to in Article 91, paragraph 5a, point 1. The entity shall provide the Fund with information on the M-MDA, upon the Fund's request, within a period determined by the Fund, which shall not be less than 5 working days from the date of receipt of the Fund's request.

5. The Fund, when issuing the decision referred to in paragraph 2, shall take into account the following circumstances:

1) the reason, duration and scale of the non-compliance, as well as its impact on the feasibility of the resolution plan or group resolution plan;

2) the likelihood that the entity will take action to increase the amount of own funds and eligible liabilities and the risk of a further reduction in the amount of own funds and eligible liabilities, including the likelihood that the entity will be at risk of insolvency as referred to in Article 101 paragraph 3;

3) the possibility of timely removal of the circumstance preventing or hindering the implementation of the resolution – in the case referred to in Article 91 paragraph 5a point 1;

4) the entity's lack of ability to replace liabilities that no longer meet the eligibility or maturity criteria set out in Articles 97a–97f or 98 paragraph 2l or set out in Articles 72b and 72c of Regulation No 575/2013, including whether the lack of ability is individual or due to market-wide disruption;

5) the adequacy and proportionality of the prohibition and its impact on the entity's funding conditions and the viability of the resolution plan or group resolution plan.

6. The Fund shall, until the date on which the circumstances referred to in Article 91 paragraph 5a point 1 cease to exist, at least once a month, assess the legitimacy of the decision referred to in paragraph 2 and the need to maintain the prohibition arising from that decision. The entity shall provide the Fund with information on the findings made pursuant to paragraph 1 and other information necessary for the assessment of the circumstances referred to in paragraph 5.

7. The Fund shall confirm the cessation of the circumstances referred to in Article 91 paragraph 5a point 1 and shall revoke the decision referred to in paragraph 2 after consulting the Polish Financial Supervision Authority.

8. The Polish Financial Supervision Authority shall express the opinion referred to in paragraphs 2 and 7 immediately, no later than within 30 days from the date of receipt of the Fund's request for such opinion.

Article 96b. 1. If after 9 months from the date of the notification referred to in Article 96a paragraph 4 the circumstances referred to in Article 91 paragraph 5a point 1 continue to exist, the Fund, having obtained the opinion of the Polish Financial Supervision Authority, shall issue the decision referred to in Article 96a paragraph 2. The provision of Article 96a paragraph 8 shall apply accordingly.

2. The Fund shall waive the decision referred to in paragraph 1 if at least two of the following conditions are met:

1) the circumstances referred to in Article 91 paragraph 5a point 1 result from serious disturbances in the functioning of the financial markets, which lead to strong tensions in many segments of the economy;

2) the disruption in the functioning of the financial markets results in increased price volatility of the entity's own funds instruments and eligible liability instruments, or in increased costs for the entity, or leads to a total or partial closure of the markets so that the entity cannot issue own funds instruments and eligible liability instruments on those markets;

3) the situation referred to in point 2 prevents the entity from issuing own funds instruments and eligible liability instruments in an amount sufficient to comply with the requirements referred to in Article 91 paragraph 5a point 1;

4) the closure of markets referred to in point 2 also applies to entities other than the entity in relation to which the circumstances referred to in Article 91 paragraph 5a point 1 occurred;

5) the Fund's issuance of the decision referred to in paragraph 1 would have a negative impact on part of the banking sector and could create risks for financial stability.

3. In the event that the Fund refrains from issuing a decision on the grounds referred to in paragraph 2, the Fund shall immediately inform the Polish Financial Supervision Authority together with a justification for the refraining.

4. The Fund shall, at least once a month, carry out an assessment of the fulfilment of the conditions referred to in paragraph 2 which constituted the basis for declining to issue the decision.

5. The Fund shall confirm the cessation of the circumstances referred to in Article 91 paragraph 5a point 1 and shall revoke the decision referred to in paragraph 1 after consulting the Polish Financial Supervision Authority. The provision of Article 96a paragraph 8 shall apply accordingly.

Article 96c. 1. M-MDA shall be the product of the figure obtained pursuant to paragraphs 2 and 3 and the value of the M-MDA coefficient determined in accordance with Article 96d, less distributions of profits referred to in Article 96a paragraph 2 made or arising after the service of the decision referred to in Article 96a paragraph 2 or Article 96b paragraph 1.

2. The figure referred to in paragraph 1 shall be the current period profits not included in Common Equity Tier 1 in accordance with Article 26 paragraph 2 of Regulation No 575/2013, after deduction of distributions of profits or payments resulting from the activities referred to in Article 96a paragraph 3 made or arising after the notification of the decision referred to in Article 96a paragraph 2 or 96b paragraph 1, increased by annual profits not included in Common Equity Tier 1 pursuant to Article 26 paragraph 2 of Regulation No 575/2013, after deduction of distributions of profits or payments resulting from activities referred to in Article 96a paragraph 3 made or arising after the service of the decision referred to in Article 96a paragraph 2 or 96b paragraph1.

3. From the amount calculated in accordance with paragraph 2, the value of the amounts due for tax shall be deducted if the profits referred to in paragraph 2 would not have been distributed.

Article 96d. 1. If an entity's Common Equity Tier 1 capital which is not used to meet any of the requirements set out in Article 97 paragraphs 2, 2b–2s and 16–20, Articles 97c–97e and 97h and set out in Article 92a of Regulation No 575/2013, expressed as a percentage of the total risk exposure amount, is in:

1) the first quartile of the combined buffer requirement expressed as a percentage of the total risk exposure amount – M-MDA shall be 0;
2) the second quartile of the combined buffer requirement as a percentage of the total risk exposure amount – the M-MDA factor shall be 0.2;
3) the third quartile of the combined buffer requirement, expressed as a percentage of the total risk exposure amount – the M-MDA ratio shall be 0.4;
4) the fourth quartile of the combined buffer requirement as a percentage of the total risk exposure amount – the M-MDA ratio shall be 0.6.

2. The lower and upper ends of the range for each quartile shall be calculated as follows:

1) lower end of quartile = ((combined buffer requirement as a percentage of total risk exposure amount)/4) x (Qn – 1),
2) upper end of quartile = ((combined buffer requirement expressed as a percentage of total risk exposure amount)/4) x Qn

– where 'Qn' denotes the ordinal number of the quartile in question.

3. The quartile referred to in paragraphs 1 and 2 shall be understood as a statistical parameter with three values dividing an ordered data set into four sets of equal size.

Chapter 4

Minimum level of own funds and eligible liabilities

Article 97. 1. Domestic entities are required to maintain a certain minimum level own funds and liabilities, as determined by the Fund, subject to write down or conversion. The Fund may determine the minimum level of own funds and liabilities subject to write down or conversion for the entities referred to in Article 64 point 2 b–d.

2. Following the consultation with the Polish Financial Supervision Authority, the Fund shall determine the minimum level of own funds and eligible liabilities that the entity shall maintain, taking into account:

1) assurance that it is possible to carry out a resolution of the group subject to resolution by applying to the entity subject to resolution the instruments of resolution, including the instrument of write down or conversion of liabilities, if the plan of resolution or group plan of resolution provides for the application of that instrument, in such a way as to ensure that the objectives of the resolution are achieved;
2) assurance that the entity subject to resolution and its subsidiaries that are not entities subject to resolution maintain their own funds and eligible liabilities at a level that enables them to absorb losses and restore their own funds of the entity under resolution, at least to a level that ensures compliance with the conditions for ongoing operation, including:
   a) the total capital ratio requirement referred to in Article 92 of Regulation No 575/2013, through the write down or conversion of liabilities or the write down or conversion of capital instruments or eligible liabilities; and
   b) the leverage ratio referred to in Article 92 paragraph 1 sub-point d of Regulation No 575/2013;
3) assurance that the entity subject to resolution maintains its own funds and eligible liabilities at a level that enables

it to absorb losses and restore its own funds to at least a level that enables it to comply with the conditions for ongoing operation, including:

a) the total capital ratio requirement referred to in Article 92 of Regulation No 575/2013; and

b) the leverage ratio referred to in Article 92 paragraph 1 sub-point d of Regulation No 575/2013

– if the resolution plan or group resolution plan provides that selected liabilities may be excluded from write down or conversion pursuant to Article 206 paragraph 3, or may need to be transferred to a purchaser or bridge institution;

4) the scale and type of business conducted, the way it is financed and its risk profile;

5) the importance of the entity for financial stability, in particular due to its links with other entities in the financial system;

6) the mitigation of contagion risk, including through the transfer of losses from one entity to another due to links with other entities of the financial system.

2a. As regards the issue of the opinion by the Polish Financial Supervision Authority referred to in paragraph 2, the provision of Article 73 paragraph 3 shall apply accordingly.

2b. The Fund shall determine the minimum level of own funds and eligible liabilities as the amount of own funds and eligible liabilities expressed as a percentage of:

1) the total risk exposure amount, and

2) the measure of total exposure, calculated in accordance with Articles 429 and 429a of Regulation No 575/2013.

2c. If a resolution plan or a group resolution plan involves the use of a resolution instrument or the write down or conversion of capital instruments or eligible liabilities, the minimum level of own funds and eligible liabilities shall be set at a level that makes it possible to:

1) cover losses (amount to cover losses),

2) restore own funds to a level that makes it possible to comply with the conditions for the continuation of operations for a period of 12 months (recapitalisation amount)

– in the entity subject to resolution and its subsidiaries subject to the requirement referred to in paragraph 1 that are not entities subject to resolution.

2d. If the resolution plan or the group resolution plan envisages insolvency proceedings for an entity, the minimum level of own funds and eligible liabilities for that entity shall be set at the amount to cover losses. The Fund may, having regard in particular to the importance of the entity for financial stability and the impact of its failure on the financial system, set the minimum level of own funds and eligible liabilities at a higher level.

2e. For an entity subject to resolution, the minimum level of own funds and eligible liabilities referred to in paragraph 2c shall be calculated:

1) to determine the amount referred to in paragraph 1 of point 2b, as the sum of:

a) the amount of losses to be covered in the event of resolution of the entity subject to resolution at the consolidated level of the group subject to resolution, corresponding to the requirements referred to in Article 92 paragraph 1 sub-point c of Regulation No 575/2013 and Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments, and

b) the amount of recapitalisation allowing the group subject to resolution resulting from the resolution to meet, following the resolution, the total capital ratio requirement referred to in Article 92 paragraph 1 sub-point c of Regulation No 575/2013 and the additional own funds requirement referred to in Article 138 paragraph 2 sub-point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments, at the consolidated level of the group subject to resolution, following the implementation of the preferred resolution strategy referred to in Article 2 paragraph 3 of the Commission Delegated Regulation (EU) No 2016/1075 of 23 March 2016. supplementing Directive 2014/59/EU of the European Parliament and of the Council as regards regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria to be assessed by the competent authority for recovery plans and group resolution plans, the conditions for the provision of group financial support, the requirements for independent valuers, the contractual recognition of write down and conversion powers, the procedures and content of the notification and suspension notice requirements and the functioning of the resolution colleges (Official Journal of the EU OJ L 184, 08.07.2016, p. 1), hereinafter referred to as the ‘preferred resolution strategy’;

2) to determine the amount referred to in paragraph 2b point 2, as the sum of:

a) the amount of losses to be covered in the event of a resolution of the entity subject to resolution at the consolidated level of the group subject to resolution, corresponding to the leverage ratio requirement referred to in Article 92 paragraph 1 sub-point d of Regulation No 575/2013, and

b) an amount of recapitalisation that enables the group subject to the resolution resulting from the resolution to meet, after the resolution, the leverage ratio requirement referred to in Article 92 paragraph 1 sub-point d of

Regulation No 575/2013 at the consolidated level of the group subject to the resolution following the implementation of the preferred strategy for the resolution.

2f. In determining the amount referred to in paragraph 2e point 2 the Fund shall take into account the thresholds referred to in Article 274 and Article 275 and the thresholds referred to in Article 19a paragraph 1 and paragraph 2 of the Act of 12 February 2010 on the recapitalisation of certain institutions and on government financial stabilisation instruments.

2g. The Fund, when determining the recapitalisation amounts referred to in paragraph 2e point 1 sub-point b and point 2 sub-point b:

1) uses up-to-date information on the amounts referred to in paragraph 2b point 1 and 2, adjusted for changes resulting from resolution measures provided for in the resolution plan;

2) after consulting the Polish Financial Supervision Authority, adjusts the amount corresponding to the current requirement referred to in Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments to determine the requirement to be applied to the entity subject to resolution, following the exercise of the power referred to in Article 70, or following the resolution of the group subject to resolution.

2h. The Fund may, after consulting the Polish Financial Supervision Authority, increase the amount of recapitalisation referred to in paragraph 2e point 1 sub-point b by the amount necessary to maintain the entity's market confidence following the implementation of the preferred resolution strategy over a period of no longer than 12 months. This amount shall be equal to the amount of the combined buffer requirement less the amount of the requirement referred to in Article 21 of the Macro-Prudential Supervision Act.

2i. The Fund may, after consultation with the Polish Financial Supervision Authority, reduce the amount referred to in paragraph 2h, if its reduction is sufficient to maintain the market confidence of the entity and ensure the continuation of the entity's critical functions and access to funding without the use of extraordinary support from public funds, following the implementation of the resolution strategy.

2j. The Fund may, after consultation with the Polish Financial Supervision Authority, increase the amount referred to in paragraph 2h if such an increase is necessary to maintain market confidence and ensure that the entity can continue to carry out its critical functions after the resolution and access to finance without recourse to extraordinary support from public funds other than the resolution fund pursuant to Article 112 and Articles 273–275 for a period not exceeding 12 months.

2k. For entities that are not entities subject to resolution, the minimum level of own funds and eligible liabilities referred to in paragraph 1 shall be calculated:

1) to determine the amount referred to in paragraph 1 of point 2b, as the sum of:

   a) the amount of the entity's losses to be covered, corresponding to the requirements referred to in Article 92 paragraph 1 sub-point c of Regulation No 575/2013 and Article 138 paragraph 2 sub-point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments, and

   b) the amount of recapitalisation enabling the entity to meet the combined capital ratio requirement referred to in Article 92 paragraph 1 sub-point c of Regulation No 575/2013 and the additional own funds requirement referred to in Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments, following the exercise of the power referred to in Article 70, or following the resolution of a group subject to resolution;

2) to determine the amount referred to in paragraph 2b point 2, as the sum of:

   a) the amount of losses to be covered corresponding to the leverage ratio requirement referred to in Article 92 paragraph 1 sub-point d of Regulation No 575/2013 for the entity concerned; and

   b) the amount of recapitalisation enabling the entity to comply with the leverage ratio requirement referred to in Article 92 paragraph 1 sub-point d of Regulation No 575/2013 following the exercise of the power referred to in Article 70 or following a resolution of the group subject to the resolution.

2l. In determining the amount referred to in paragraph 2k point 2 the Fund shall take into account the thresholds referred to in Article 274 and Article 275 and the thresholds referred to in Article 19a paragraph 2 of the Act of 12 February 2010 on the recapitalisation of certain institutions and on government financial stabilisation instruments.

2m. The Fund, when determining the recapitalisation amounts referred to in paragraph 2k point 1 sub-point b and point 2 sub-point b:

1) use up-to-date information on the amounts referred to in paragraph 2b points 1 and 2, adjusted for changes resulting

from the actions provided for in the resolution plan;

2) after consulting the Polish Financial Supervision Authority, adjusts the amount corresponding to the current requirement referred to in Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments to determine the requirement to be applied to the entity not subject to resolution, following the exercise of the power referred to in Article 70, or following the resolution of the group subject to resolution.

2n. The Fund may, after consulting the Polish Financial Supervision Authority, increase the amount of recapitalisation referred to in paragraph 2k point 1 sub-point b by the amount necessary to maintain the entity's market confidence following the implementation of the preferred resolution strategy over a period of no longer than 12 months. This amount shall be equal to the amount of the combined buffer requirement less the amount of the requirement referred to in Article 21 of the Macro-Prudential Supervision Act.

2o. The Fund may, after consulting the Polish Financial Supervision Authority, reduce the amount referred to in paragraph 2n, if its reduction is sufficient to maintain the entity's market confidence and ensure the continuation of the entity's critical functions, as well as ensure access to funding without the use of extraordinary support from public funds following the exercise of the power referred to in Article 70, or following a resolution of a group subject to resolution.

2p. The Fund may, after consultation with the Polish Financial Supervision Authority, increase the amount referred to in paragraph 2n where such an increase is necessary to maintain the entity's market confidence and ensure the continuation of critical functions performed by the entity following the exercise of the powers referred to in Article 70 or following a resolution of the group subject to resolution, and ensure that financing is available without recourse to extraordinary support from public funds other than the restructuring fund pursuant to Articles 112 and 273–275 for a period not exceeding 12 months.

2q. If due to the structure of the entity's liabilities, the Fund is more likely than not to exclude certain categories of eligible liabilities from write down or conversion of liabilities or to transfer them to the purchaser in accordance with Article 206 paragraph 3, the minimum level of own funds and eligible liabilities determined by the Fund will be met by means of own funds and non-excluded eligible liabilities to cover the amount of the excluded liabilities and to meet the conditions referred to in paragraph 2c.

2r. The Fund, when determining the minimum level of own funds and eligible liabilities referred to in paragraph 1, for the domestic entity and the entities referred to in Article 64 paragraph 2, sub-points b–d, shall assess the requirements referred to in paragraph 2 and 2c–2j or 2k–2p, and Article 97h, and justify such assessment.

2s. In the event of a change in the additional own funds requirement referred to in Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments, the Fund shall immediately review the minimum level of own funds and eligible liabilities referred to in paragraph 1, and in the event of a change in the combined buffer requirement, it may review the minimum level of own funds and eligible liabilities.

2t. In the case of credit unions for the calculation of the minimum level of own funds and eligible liabilities:

1) the solvency ratio referred to in Article 92 of Regulation No 575/2013 shall be used instead of the capital ratio referred to in Article 24 paragraph 5 of the Act on Cooperative Savings and Credit Unions;

2) the sum of the capital requirements for credit risk, operational risk and currency risk multiplied by 20, as referred to in the implementing rules issued pursuant to Article 24 paragraph 6 of the Act on Cooperative Savings and Credit Unions, shall apply instead of the total amount of risk exposure;

3) the provisions of paragraph 2 point 2 sub-point a and point 3 sub-point a, paragraphs 2b, 2c, paragraph 2e point 1, paragraphs 2g and 2u and Article 98 paragraph 1a shall apply accordingly.

2ta. In the case of an investment firm which is not a brokerage house applying Regulation No 575/2013 for the calculation of the minimum level of own funds and eligible liabilities:

1) instead of the capital ratio referred to in Article 92 paragraph 1 sub-point c of Regulation No 575/2013, a ratio which is the quotient of:

a) the requirement set out in Article 11 paragraph 1 of Regulation No 2019/2033, and

b) the product of the requirement set out in Article 11 paragraph 1 of Regulation No 2019/2033 and the number 12.5;

2) instead of the total risk exposure amount referred to in Article 92 paragraph 3 of Regulation No 575/2013, the product of the requirement in Article 11 paragraph 1 of Regulation No 2019/2033 and the number 12.5 shall apply;

3) the total exposure measure calculated in accordance with Articles 429 and 429a of Regulation No 575/2013 shall not apply.

2u. In the case of an entity subject to resolution which does not prepare consolidated financial statements, the Fund shall determine the minimum level of own funds and eligible liabilities on the basis of individual data. Paragraph 2e shall

apply accordingly.

2v. In the case of an entity referred to in paragraph 1, if the instrument of resolution has been applied to it or the write down or conversion power referred to in Article 70 paragraph 1 has been exercised, the Fund may determine, taking into account the situation of that entity, an appropriate transitional period after which the entity is obliged to comply with the requirements set out in Articles 97–99.

2w. In the case of:

1) a domestic entity other than a credit union becomes an entity subject to resolution, or

2) in the assessment of the feasibility of the resolution plan of credit unions, the conduct of insolvency proceedings is assessed as unfeasible or unreliable, or

3) an entity other than a domestic entity becomes subject to the requirement referred to in paragraph 1.

– The Fund may specify, taking into account the situation of that entity, a time limit after which that entity shall be required to comply with the requirements set out in Articles 97–99.

3. (repealed)

4. The Fund shall exempt mortgage banks which are financed through the mortgage bonds from the duty to maintain a minimum level of own funds and liabilities subject to write down or conversion if all of the following conditions have been satisfied:

1) they may not take deposits, in accordance with separate regulations;

2) they may be liquidated of in accordance with the relevant provisions of bankruptcy proceedings applicable to these banks or with the use of the procedures corresponding to the sale of business tool, the bridge institution or separation of property rights;

3) the relevant provisions of bankruptcy proceedings applicable to these banks provide for incurring losses by the creditors, including the holders of mortgage bonds in a manner consistent with the purposes of resolution.

4a.Mortgage banks that are exempted from maintaining a minimum level of own funds and eligible liabilities pursuant to paragraph 4 shall not be part of the consolidation referred to in Article 98 paragraph 1.

5. (repealed)

6. (repealed)

7. (repealed)

8. (repealed)

9. The Fund may exempt a domestic entity that is not an entity subject to resolution and that is a subsidiary entity in a group from the obligation to maintain a minimum level of own funds and eligible liabilities if all of the following conditions have been satisfied:

1) the subsidiary and its domestic parent company are established in the territory of the Republic of Poland and are part of the same group subject to resolution;

2) the domestic parent company meets the requirement set out by the Fund, as referred to in paragraph 1, on a consolidated basis;

3) in the opinion of the Fund there are no significant legal and factual obstacles to the provision of capital and liquidity support to the subsidiary entity by the domestic parent company;

4) in the opinion of the Polish Financial Supervision Authority, the domestic parent company adequately supervises the subsidiary's activities and the domestic subsidiary shall submit an approval of the Polish Financial Supervision Authority for the guarantee of the subsidiary's liabilities to be covered by the domestic parent company, or the risk of the subsidiary's activities is not significant;

5) the domestic parent company's risk management and control takes into account the subsidiary's risks;

6) the domestic parent company holds a majority of the votes in the subsidiary's bodies, including on the basis of agreements with other entities, or has the power to appoint or dismiss a majority of the members of the subsidiary's management or supervisory bodies.

9a. The Fund may also exempt a domestic entity that is not an entity subject to resolution and that is a subsidiary

entity in a group from the obligation to maintain a minimum level of own funds and eligible liabilities if all of the following conditions have been satisfied:

1) the subsidiary entity and the entity subject to resolution are established in the territory of the Republic of Poland and are part of the same group subject to resolution;

2) the entity subject to resolution meets the requirement specified by the Fund, referred to in paragraph 1, on a consolidated basis;

3) in the opinion of the Fund there are no significant legal and factual obstacles to the provision of capital and liquidity support to the subsidiary entity by the entity subject to resolution;

4) in the opinion of the Polish Financial Supervision Authority, the entity subject to resolution adequately supervises the operations of the subsidiary and the entity subject to resolution shall submit an approval of the Polish Financial Supervision Authority for the guarantee of coverage of the subsidiary's liabilities by the parent company or the risk of operation of the subsidiary is not significant;

5) the risk management and control of the entity subject to resolution takes into account the risks of the subsidiary;

6) the entity subject to resolution holds a majority of the votes in the subsidiary's bodies, including through agreements with other entities, or has the power to appoint or dismiss a majority of the members of the subsidiary's management or supervisory bodies.

10. In the case referred to in paragraph 9 point 4, the Polish Financial Supervision Authority shall issue its consent to a domestic parent entity if granting the guarantee to cover the liabilities of a subsidiary does not deteriorate the financial situation of a parent company.

11. (repealed)

12. (repealed)

13. (repealed)

14. (repealed)

15. The Fund, in consultation with the Polish Financial Supervision Authority, shall inform the European Banking Authority of the minimum level of own funds and eligible liabilities set for each entity.

16. A global systemically important institution or its subsidiary that is an entity subject to resolution shall be required to meet the minimum level of own funds and eligible liabilities referred to in paragraph 1, which shall consist of the requirement referred to in Article 92a of Regulation No 575/2013 and an additional requirement in terms of own funds and eligible liabilities for each global systemically important institution or its subsidiary that is an entity subject to resolution, to be determined by the Fund after consultation with the Polish Financial Supervision Authority.

17. A material subsidiary of a global systemically important institution not established in the territory of a Member State shall be required to comply with the requirement referred to in paragraph 1, which shall consist of the requirement referred to in Article 92a of Regulation No 575/2013 and an additional requirement in terms of own funds and eligible liabilities, to be determined by the Fund, after consultation with the Polish Financial Supervision Authority, by means of instruments in accordance with Article 98 paragraph 2g–2n.

18. The Fund shall determine the additional requirement for own funds and eligible liabilities referred to in paragraphs 16 and 17 and justify its application if the requirement referred to in Article 92a of Regulation No 575/2013 is not sufficient to meet the conditions set out in paragraph 2c.

19. For the purpose of Article 98 paragraph 2d, if more than one subsidiary of the same global systemically important institution is an entity subject to resolution, the Fund shall set the requirement referred to in paragraph 18 for:

1) each entity subject to resolution; or

2) a domestic parent company as the only entity subject to resolution of a global systemically relevant institution.

20. The Fund shall review the requirement referred to in paragraph 18 and, if necessary, update it, taking into account changes in the additional own funds requirement, in accordance with Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments.

Article 97a. 1. In order to comply with the requirement referred to in Article 97 paragraph 1, the entity, with the exception of a credit union, shall maintain:

1) own funds;

2) eligible liabilities meeting the conditions set out in Article 72a, Article 72b paragraph 1, paragraph 2 sub-points c and e–n and paragraphs 3–7 and Article 72c of Regulation No 575/2013.

2. An entity, with the exception of a credit union, may hold liabilities meeting the conditions referred to in Article 72a paragraph 1 and paragraph 2 sub-points a–k, Article 72b paragraph 1, paragraph 2 sub-points a–c and e–n and paragraphs 3–6 and Article 72c of Regulation No 575/2013 for a debt financial instrument with embedded derivatives, in particular structured financial products referred to in Article 2 paragraph 1 point 28 of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.06.2014, p. 84, as amended[25)], to count towards the minimum level of own funds and eligible liabilities if:

1) the principal amounts of the liabilities are determined at the time of issue either fixed or increasing;

2) the principal amounts of liabilities are not subject to change resulting from embedded derivatives;

3) the total amounts of liabilities, including in respect of embedded derivatives, can be determined on a daily basis by the participants by reference to the valuation in an active market where the financial instrument or class of such financial instruments is traded and in which:

   a) there are buyers and sellers entering into transactions which have as their subject matter such a debt instrument or class of such debt instruments,

   b) trading in those instruments does not result in a significant change in the valuation on that market,

   c) the amounts do not take into account credit risk in accordance with Articles 104 and 105 of Regulation No 575/2013.

3. An entity, with the exception of a credit union, may also hold liabilities in respect of debt financial instruments referred to in paragraph 2 to count towards the minimum level of own funds and eligible liabilities if the principal amounts of the liabilities are fixed at the time of issue and are either fixed or increasing and the terms of issue of those instruments provide for claims in the event of liquidation, bankruptcy or resolution of the issuer at a level not exceeding the paid issue price.

4. Liabilities referred to in paragraphs 2 and 3 shall not be set off and their value shall not be determined in accordance with the set-off clause set out in Article 207 paragraph 3 as part of the valuation referred to in Article 137 paragraph 2 and paragraph 3.

5. Liabilities from debt financial instruments shall be included in the minimum level of own funds and eligible liabilities for the part corresponding to the principal or the amount of a fixed value claim or a claim in respect of the amount determined in accordance with paragraphs 2 and 3.

6. In order to comply with the requirement referred to in Article 97 paragraph 1, the credit union shall maintain:

1) own funds within the meaning of the Act on Cooperative Savings and Credit Unions;

2) eligible liabilities meeting the following conditions:

   a) the instrument in respect of which the liability arose has been issued and fully paid,

   b) the instrument giving rise to the obligation is not held by that credit union,

   c) the performance of the obligation is not secured by that credit union,

[25] Amendments to the consolidated text of the Act were promulgated in OJ L 270, 15.10.2015, p. 4, OJ L 175, 30.06.2016, p. 1, OJ L 314, 05.12.2019, p. 1, OJ L 334, 27.12.2019, p. 1 and OJ L 22, 22.01.2021, p. 1.

d) the acquisition of the instrument giving rise to the liability has not been financed directly or indirectly by that fund,

e) the residual term of the liability is not less than one year,

f) the liability does not arise from a derivative instrument,

g) the liability does not arise from a deposit that enjoys priority in the settlement of claims in insolvency proceedings.

7. The fund may oblige the credit union to hold part of the requirement referred to in Article 97 paragraph 1, in the form of subordinated liabilities, which, on the basis of the distribution into satisfaction categories pursuant to Article 440 paragraph 2 of the Act – Bankruptcy Law, shall be satisfied after the liabilities specified in category five.

Article 97b. 1. If a subsidiary established in the territory of a Member State is part of a group subject to resolution in which the entity subject to resolution is a domestic entity or an entity referred to in Article 64 paragraph 2 sub-point c or d, liabilities issued by that subsidiary to shareholders who are not part of the same group subject to resolution shall be included in the amount of own funds and eligible liabilities of the entity subject to resolution if:

1) the liabilities meet the conditions set out in Article 98 paragraph 2l point 1;

2) the exercise of the write down or conversion powers in accordance with Articles 70–72 does not affect the control exercised over the subsidiary by the entity subject to resolution;

3) the total value of the imputed liabilities does not exceed the difference between the amount required under Article 98 paragraph 2g and 2h and the sum of the liabilities issued by the subsidiary to the entity subject to resolution and purchased by that entity, either directly or indirectly, through other entities of the same group subject to resolution as referred to in Article 98 paragraph 2l point 1 sub-point a and own funds as referred to in Article 98 paragraph 2l point 2.

2. The indirect purchase by an entity subject to resolution of a liability issued by a subsidiary referred to in paragraph 1 shall mean the purchase of a liability the issuer of which is another entity within the same group subject to resolution that has claims on that subsidiary for liabilities issued by it.

Article 97c. 1. An entity subject to resolution that is a global systemically relevant institution or an entity subject to resolution that is a subsidiary thereof or an entity subject to the requirement referred to in Article 97h paragraph 1 or 3 shall be obliged to meet part of the requirement referred to in Article 97 paragraph 1 by means of own funds, subordinated eligible instruments or liabilities referred to in Article 97b paragraph 1 of not less than 8% of total liabilities increased by own funds.

2. In the case referred to in Article 72b paragraph 3 of Regulation No 575/2013, the Fund may, at the request of an entity subject to resolution that is a global systemically important institution or an entity subject to resolution that is its subsidiary or an entity referred to in Article 97h paragraph 1 or 3, set the level of own funds, subordinated eligible instruments or liabilities referred to in Article 97b paragraph 1 at an amount less than that set out in paragraph 1, but not less than the percentage product of:

1) 8% of total liabilities, increased by own funds, and

2) number 1 minus the quotient of 3.5% of the total risk exposure amount and the sum of 18% of the total risk exposure amount and the amount resulting from the combined buffer requirement.

3. If, in the case of an entity referred to in Article 97h paragraph 1, the amount referred to in paragraphs 1 and 2 is higher than 27% of the total amount of risk exposure, the Fund shall set the minimum amount of own funds, subordinated eligible instructions or commitments referred to in Article 97b paragraph 1, up to an amount equal to 27% of the total amount of risk exposure, if in its opinion:

1) the resolution plan or the group resolution plan does not provide that the resolution may require the commitment of resources of the banks' resolution fund; or

2) the fulfilment of the requirement referred to in Article 98 paragraphs 1 and 2 also enables the fulfilment of the requirements referred to in Article 274 or Article 275.

4. In the case referred to in paragraph 3, the Fund shall take into account the risk of having a disproportionate impact on the business model of the entity subject to resolution.

5. The provision of paragraph 3 shall not apply to an entity for which the requirement referred to in Article 97 paragraph 1 has been established in accordance with Article 97h paragraph 3.

Article 97d. 1. In the case of an entity subject to resolution which is a global systemically important institution or an entity subject to resolution which is its subsidiary or an entity referred to in Article 97h paragraph 1 or 3, the Fund may, after consulting the Polish Financial Supervision Authority, set the minimum amount of own funds, subordinated eligible instruments or liabilities referred to in Article 97b paragraph 1 at a level higher than that determined in accordance

with Article 97c, up to the higher of the following amounts:

1) 8% of total liabilities, increased by own funds or

2) the sum of:

   a) twice the amount resulting from the requirement referred to in Article 92 paragraph 1 sub-point c of Regulation No 575/2013,

   b) twice the amount resulting from the requirement referred to in Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments,

   c) the amount resulting from the combined buffer requirement.

2. The Fund may determine the level of own funds, subordinated eligible instruments or liabilities referred to in Article 97b paragraph 1 for an entity subject to resolution which is a global systemically important institution or an entity subject to resolution which is its subsidiary or an entity referred to in Article 97h paragraph 1 or 3, for which the Fund determines the requirement referred to in Article 98 paragraph 1 to 2, taking into account:

1) the result of the conducted review of the resolution plan or group resolution plan, if it has found circumstances that prevent or hinder the resolution and when:

   a) the entity does not implement the recommendations referred to in Article 95 paragraph 4 within the time limits set by the Fund, or

   b) the removal of those circumstances is not possible as a result of the implementation of the recommendations referred to in Article 95 paragraph 4, and the Fund's exercise of the power referred to in paragraph 1 shall partially or fully reduce their negative impact on the resolution, or

2) the feasibility or credibility of the actions set out in the resolution plan or group resolution plan, if they are limited due to the size, legal status of the entity and ownership structure, links, nature, scope, risk profile and complexity of operations, or

3) an additional own funds requirement imposed by the Polish Financial Supervision Authority under Article 138 paragraph 2 point 2 of the Banking Act or Article 110y paragraph 3 of the Act on Trading in Financial Instruments, which indicates that the entity is in the group of 20% of entities with the riskiest activities to which the Polish Financial Supervision Authority may apply this additional requirement and in relation to which the Fund determines the requirement referred to in Article 97 paragraph 1.

3. In the case referred to in paragraph 2 point 3, the number of entities resulting from the calculation shall be rounded up to the nearest whole number.

Article 97e. 1. In the case of an entity subject to resolution which is not a global systemically important institution or an entity subject to resolution which is a subsidiary thereof, and in the case of an entity subject to resolution which is not an entity referred to in Article 97h paragraph 1 or 3, the Fund may, after consulting the Polish Financial Supervision Authority, determine that a part of the requirement set out in Article 98 paragraph 1–2, up to 8% of the total liabilities, increased by the entity's own funds, or up to the amount determined in accordance with Article 97d paragraph 1 point 2, is met by means of own funds, subordinated eligible instruments or liabilities referred to in Article 97b paragraph 1, if:

1) the liabilities referred to in Article 97a, which are not subordinated liabilities, have the same seniority in the order of payment of claims in insolvency proceedings as the liabilities excluded from the application of the write down or conversion power pursuant to Article 206 paragraph 1 or 3;

2) at least one of the following conditions is met:

   a) there is a risk that, as a result of the planning application of write down or conversion to liabilities referred to in Article 97a which are not subordinated liabilities and which are not excluded from the application of the write down or conversion entitlement pursuant to Article 206 paragraph 1 or 3, the creditors whose claims arise from those liabilities will suffer greater losses than they would have suffered in insolvency proceedings, or

   b) fulfilment of the requirement referred to in Article 97 paragraph 1 by means of own funds, subordinated eligible instructions or liabilities referred to in Article 97b shall remove the circumstances that prevent or impede the implementation of the resolution identified in the review of the resolution plan or the group resolution plan, or is necessary to ensure that the purposes of the resolution can be achieved, in particular in the case of an entity which failure would have a material adverse effect on the financial system or would pose a threat to financial stability or the economy;

3) the amount of own funds and other subordinated liabilities does not exceed the amount necessary to ensure that the

creditors referred to in point 2 do not suffer losses greater than they would have suffered in insolvency proceedings.

2. The Fund shall immediately assess the risk referred to in paragraph 1 point 2 sub-point a if it finds that, within a given category of receivables subject to satisfaction from the funds of the bankruptcy estate referred to in Article 440 paragraph 2 of the Act – Bankruptcy Law, including eligible liabilities, the share of the amount of liabilities that are excluded or may be excluded from write down and conversion pursuant to Article 206 paragraph 1 or 3, is higher than 10% of the value of a given category of receivables in the balance sheet structure of an entity subject to resolution other than a global systemically important institution, its subsidiary or the entity referred to in Article 97h paragraph 1 or 3.

3. In determining the requirement pursuant to paragraph 1, the Fund shall use the greater of:

1) 8% of total liabilities, increased by the entity's own funds, or

2) the amount determined in accordance with Article 97d paragraph 1 point 2.

Article 97f. 1. In the cases referred to in Article 97c, Article 97d paragraph 1 and Article 97e, the amount of total liabilities shall include liabilities arising from derivatives, taking into account the rights of counterparties arising from netting clauses.

2. The Fund shall express the minimum amount of own funds, subordinated eligible instruments or liabilities referred to in Article 97b paragraph 1 in the forms set out in Article 97 paragraph 2b.

3. The amount of Common Equity Tier 1 capital that an entity maintains for the purpose of meeting the combined buffer requirement shall not be simultaneously counted towards the requirements expressed as a percentage of the total risk exposure amount referred to in Article 97c, Article 97d paragraph 1 and Article 97e.

Article 97g. In the cases referred to in Article 97d paragraph 1 and Article 97e, the Fund shall take into account:

1) the presence of buyers and sellers in the market for the own funds and subordinated eligible instruments of the entity subject to resolution who are willing to enter into transactions, the availability of valuation of such instruments and the time required to complete transactions necessary for the purpose of complying with the Fund's resolution;

2) the value of instruments that arise from eligible liabilities that meet the conditions set out in Article 72a of Regulation No 575/2013 with a residual maturity of less than one year, calculated from the date on which the Fund determines the minimum amount of own funds or subordinated eligible instruments, or liabilities referred to in Article 97b paragraph 1 whose terms of issue or design provide for the possibility of quantitative adjustments to the requirements referred to in Article 97d paragraph 1 and Article 97e;

3) the availability and value of instruments that meet the conditions referred to in Article 72a of Regulation No 575/2013, other than those set out in Article 72b paragraph 2 sub-point d of that Regulation;

4) if the amount of liabilities that are excluded from the application of write down and conversion pursuant to Article 206 paragraph 1 or 3 and fall into the same seniority category as the eligible liabilities with the highest degree of seniority or the category that in insolvency proceedings is subject to subrogation pursuant to Article 440 paragraph 2 of the Act – Bankruptcy Law is significant in comparison with the amount of own funds and eligible liabilities of the entity subject to resolution;

5) the business model, method of financing, risk profile, including capital, liquidity and funding, quality of assets, business and management model of the entity subject to resolution, and potential losses of the Fund;

6) the importance of the entity for financial stability and the impact on the functioning of the economy, in particular due to its links with other entities of the financial system;

7) the impact of the potential restructuring costs of the entity identified in the resolution programme referred to in Article 214 on the level of own funds of the entity subject to resolution;

8) if the amount of liabilities excluded from the application of the write down or conversion referred to in point 4 exceeds a level of 5% of the total amount of own funds and eligible liabilities of the entity subject to resolution, below which this amount shall be considered immaterial.

Article 97h. 1. In the case of an entity subject to resolution which is not subject to the requirements referred to in Article 92a of Regulation No 575/2013, which is part of a group subject to resolution, whose total value of assets determined on the basis of the last approved financial statements exceeds the equivalent in PLN of the amount of EUR 100,000,000,000 according to the average exchange rate announced by the National Bank of Poland on the date of the preparation of those statements, the Fund shall set the level of the requirement referred to in Article 97 paragraph 1 at an amount not less than:

1) 13.5%, if the calculation is made in accordance with Article 97 paragraph 2b point 1;

2) 5% if the calculation is made in accordance with Article 97 paragraph 2b point 2.

2. The entities referred to in paragraph 1 shall be required to hold own funds, subordinated eligible liabilities or liabilities referred to in Article 97b paragraph 1 in an amount not less than that resulting from paragraph 1. The provisions of Articles 97a to 97g shall not apply.

3. The Fund may, after consulting the Polish Financial Supervision Authority, determine that the level of the requirement referred to in Article 97 paragraph 1 shall be set for an entity subject to resolution that is not subject to the requirements referred to in Article 92a of Regulation No 575/2013 under the rules set out in paragraph 1 if:

1) that entity is part of a group subject to resolution whose total assets, as determined on the basis of its last approved financial statements, are less than the equivalent amount determined in accordance with paragraph 1;

2) in the assessment of the Fund, the failure of that entity could create a systemic risk referred to in Article 4 paragraph 15 of the Act on Macro-Prudential Supervision.

4. In the case referred to in paragraph 3, the Fund shall take into account:

1) the share of deposits in the balance sheet total and the absence of debt instruments in the entity's financing structure;

2) the extent to which there is limited access to the capital market in which qualifiable liabilities are traded;

3) the proportion of Common Equity Tier 1 capital within the scope of the requirement referred to in Article 98 paragraphs 1 and 2.

Article 97i. 1. The requirements referred to in Article 97c, Article 97d paragraph 1 and Article 97h shall not apply for a period of 3 years from the day after the day on which:

1) the entity subject to resolution or the group subject to resolution of which that entity is part was identified as a global systemically important institution;

2) the entity subject to resolution has met the conditions set out in Article 97h paragraph 1 or the Fund has made a determination with respect to that entity as referred to in Article 97h paragraph 3.

2. The requirement referred to in Article 97h shall not apply during the period of 2 years following the date on which:

1) the Fund has applied the write down or conversion instrument;

2) the entity subject to resolution has introduced alternative private actions as referred to in Article 101 paragraph 7 point 2, on the basis of which capital instruments and other liabilities have been written down or converted into Common Equity Tier 1 instruments, or the Fund has written down or converted eligible capital instruments or liabilities of that entity for the purpose of recapitalising it without applying resolution instruments.

3. The occurrence of the circumstance referred to in paragraph 1 shall not affect the time limit set by the Fund for meeting the target minimum level of own funds and eligible liabilities, provided that it is at least 3 years, starting from the day following the day from which it would have been calculated if that circumstance had occurred. The occurrence of an event as referred to in paragraph 2 shall not affect the time limit set by the Fund for meeting the target minimum level for own funds and eligible liabilities, provided that it is at least 2 years, starting from the day following the date from which it would have been calculated had the event occurred.

Article 98. 1. Entities subject to resolution shall maintain a minimum level of own funds and eligible liabilities at the consolidated level of the group subject to resolution, except in the case referred to in paragraph 1a.

1a. Entities subject to resolution which do not prepare consolidated financial statements or which are not subject to supervision on a consolidated basis in accordance with Article 8 of Regulation No 2019/2033 shall maintain a minimum level of own funds and eligible liabilities at an individual level.

2. The Fund and the competent authorities for resolution for subsidiaries, after consulting the Polish Financial Supervision Authority, shall jointly determine the minimum level of own funds and eligible liabilities at consolidated level of the group subject to resolution for each entity subject to resolution and on an individual basis for each entity of the group subject to resolution that is not an entity subject to resolution in the form of a joint decision, taking into account the criteria set out in Article 97 paragraph 2.

2a. The Fund, if it is the competent authority for resolution for a group subject to resolution, shall, depending on the specifics of the solidarity mechanism referred to in Article 10 of Regulation No 575/2013 and the resolution strategy, determine which entities within the group subject to resolution shall maintain a minimum level of own funds and eligible liabilities in accordance with Article 97 paragraph 2e or paragraph 16, or Article 97h, for the purpose of ensuring that the group subject to resolution complies with the requirements set out in paragraphs 1 and 2, and how entities within the group subject to resolution are to comply with that requirement in accordance with the resolution plan.

2b. The fund shall inform the domestic parent company of the minimum level of own funds and eligible liabilities set for it. Competent authorities for resolution for subsidiaries shall inform subsidiaries of the minimum level of own funds and eligible liabilities set for them.

2c. In the case referred to in paragraph 2, the Fund and the competent authorities for the resolution for subsidiaries may decide that the minimum level of own funds and eligible liabilities shall be partially met by the subsidiary entity in accordance with paragraph 2l by means of instruments issued to and acquired by existing shareholders not belonging to the group subject to the resolution if this is consistent with the resolution strategy and the entity subject to the resolution has not directly or indirectly acquired sufficient instruments referred to in paragraph 2l.

2d. If more than one subsidiary entity of a global systemically relevant institution belonging to the same global systemically relevant institution is an entity subject to resolution, and if this is in line with the resolution strategy of the global systemically relevant institution, the Fund and the competent authorities of the resolution for the subsidiary entities shall authorise the application of Article 72e of Regulation No 575/2013 and the application of an adjustment to reduce or remove the difference between:

1) the sum of the amounts referred to in Article 97 paragraph 19 point 1 and the amounts referred to in Article 12a of Regulation No 575/2013 – for the entity subject to resolution, and

2) the sum of the amounts referred to in Article 97 paragraph 19 point 2 and the amounts referred to in Article 12a of Regulation No 575/2013.

2e. The sum of the amounts referred to in Article 97 paragraph 19 point 1 and the amounts referred to in Article 12a of Regulation No 575/2013, in the case of an entity subject to resolution, shall not be less than the sum of the amounts referred to in Article 97 paragraph 19 point 2 and the amounts referred to in Article 12a of Regulation No 575/2013, calculated for the domestic parent company as the only entity subject to resolution of the global systemically important institution.

2f. The adjustment referred to in paragraph 2d may be applied for differences in the calculation of the total risk exposure amounts between the relevant Member States by adjusting the level of the requirement set out in Article 97 paragraph 2e. That adjustment shall not be used to eliminate differences arising from exposures between groups subject to resolution.

2g. Domestic entities that are subsidiaries of an entity subject to resolution or a third country entity and are not entities subject to resolution shall comply with the requirement set out in Article 97 paragraph 2k on an individual basis.

2h. The Fund may, after consulting the Polish Financial Supervision Authority, apply the requirement set out in paragraph 2g to an entity referred to in Article 64 point 2 sub-point b–d which is a subsidiary of an entity subject to resolution and is not an entity subject to resolution.

2i. EU parent institutions and EU parent investment firms which are not entities subject to resolution and are subsidiaries of third party entities shall comply with the requirement set out in Article 97 paragraph 2c on a consolidated basis.

2j. In relation to a group subject to resolution as referred to in Article 2 point 19a sub-point b:

1) banks and credit institutions which are permanently affiliated to the central authority and are not entities subject to resolution,

2) a central authority that is not an entity subject to resolution,

3) entities subject to resolution that are not obliged to comply with the requirement referred to in Article 98 paragraph 2a

– comply with the requirement referred to in Article 97 paragraph 2k–2p on an individual basis.

2k. The requirement referred to in Article 97 paragraph 1, for an entity referred to in paragraphs 2g–2j shall be determined in accordance with paragraphs 2–2f and Article 97 paragraphs 2k–2p. The provisions of Article 99 and Article 127 shall apply accordingly.

2l. The requirement referred to in Article 97 paragraph 2c for entities that are not entities subject to resolution, as determined in accordance with Article 97 paragraph 2k–2p, may only be met by:

1) obligations that meet the following cumulative conditions:

   a) they have been issued to:

      - an entity subject to resolution belonging to the same group subject to resolution, either directly or indirectly by another legal entity belonging to the same group subject to resolution which has acquired liabilities from an entity subject to that requirement, and have been acquired by such an entity; or

      - a shareholder who is not a member of the group subject to the resolution, if the write down or conversion referred to in Articles 70 to 72 does not affect the control exercised by the entity subject to the resolution which is part of the same group subject to the resolution and was acquired by such shareholder,

   b) in insolvency proceedings, their claims are subordinated to claims arising from liabilities that do not meet the condition set out in sub-point a and are not instruments classified as own funds,

   c) meet the eligibility conditions referred to in Article 72a of Regulation No 575/2013, with the exception of the conditions referred to in Article 72b paragraph 2 sub-point b, c, k–m and paragraphs 3–5 of Regulation No 575/2013,

   d) they may be subject to the write down or conversion referred to in Articles 70 to 72 in a way that is consistent with the resolution strategy of the group subject to the resolution, and in particular does not affect the control exercised over the entity subject to that requirement by an entity subject to the resolution that is part of the same group subject to the resolution,

   e) the purchase of the instrument in respect of which the liability arises is not financed directly or indirectly by the entity subject to that requirement,

   f) the terms of issue of the instrument in respect of which the liability arises do not provide, directly or indirectly, for the possibility of a request for sale of liabilities, redemption, repayment or repurchase by the entity covered by that requirement before maturity, other than in the event of the bankruptcy or liquidation of that entity, and the entity does not otherwise disclose that possibility,

   g) the terms of issue of the instrument that gave rise to the obligation do not give the holder the right to early payment of interest or principal amount in any event other than the declaration of bankruptcy or liquidation of the entity covered by that requirement,

   h) the amount of interest or dividend payments are not revised on the basis of an assessment of the creditworthiness of the entity subject to that requirement or its parent company;

2) own funds:

   a) Common Equity Tier 1 capital,

   b) own funds other than Common Equity Tier 1 capital issued to legal entities:

      - belonging to the same group subject to resolution and acquired by those persons, or

      - not belonging to the same group subject to resolution, if the exercise of the write down or conversion powers does not affect the control exercised by the entity subject to resolution over the entity subject to that requirement, and acquired by those persons.

2m. Paragraph 2l shall apply accordingly to the terms of the agreement giving rise to the liability or own funds position for reasons other than the issue.

2n. In the case referred to in Article 97 paragraph 9 points 1 and 2, the Fund may grant authorisation for a subsidiary to fully or partially meet the minimum level of own funds and eligible liabilities by means of a guarantee provided by an entity subject to resolution if:

1) the guarantee is granted at least in an amount corresponding to the minimum level of own funds and eligible liabilities;

2) the amount of the guarantee is paid out in the event that the subsidiary fails to pay its liabilities when they fall due or the conditions for the write down or conversion of the capital instruments referred to in Article 70 paragraph 2 occur for the subsidiary, whichever occurs first;

3) the guarantee is secured by at least 50%;

4) the security is secured in accordance with the requirements referred to in Article 197 of Regulation No 575/2013 and is sufficient to cover the amount secured in accordance with point 3, after prudent reductions in the value of the security;

5) the security is unencumbered, in particular it is not used as a security for another guarantee;

6) the security has an effective maturity meeting the condition referred to in Article 72c paragraph 1 of Regulation No 575/2013;

7) there are no impediments to the transfer of the security from the entity subject to the resolution to a subsidiary if a resolution action has been taken against the entity subject to the resolution.

2o. In the case set out in paragraph 2n point 7 the entity subject to resolution shall, at the request of the Fund, provide a legal opinion or otherwise demonstrate that there are no impediments to the transfer of the security from the entity subject to resolution to the subsidiary entity.

2p. The Fund may fully or partially waive the requirements referred to in paragraph 2a–2o and Article 97 paragraph 9 point 5 and paragraph 10 with respect to a central authority or a bank permanently affiliated to it, if all of the following conditions have been satisfied:

1) the bank and the central body are subject to supervision by the same competent authority established in the same Member State and belong to the same group subject to resolution;

2) the liabilities of the central body and of banks permanently affiliated to it are joint and several liabilities or the liabilities of such banks are fully guaranteed by the central body;

3) the minimum own funds and eligible liabilities requirement and the solvency and liquidity of the central authority and the banks permanently affiliated to it shall be monitored as a whole on the basis of the consolidated financial statements of those banks;

4) The Management Board of the central authority shall have the power to issue instructions to the boards of directors of the permanently affiliated institutions - in the case of a waiver of the requirements referred to in paragraph 2a–2o and Article 97 paragraph 9 point 5 and paragraph 10, with respect to a permanently affiliated bank;

5) the central body and the permanently affiliated bank are part of a group subject to resolution which meets the requirement referred to in paragraph 1 and 2;

6) there is no material impediment or foreseen material impediment to the prompt transfer of own funds or repayment of liabilities between the central authority and the permanently affiliated banks, in the case of resolution of those entities.

3. If within 4 months from the date of transmission by the Fund of the information necessary to determine the minimum level of own funds and eligible liabilities the Fund and the competent authority of resolution for the subsidiary entities do not determine the minimum level of own funds and eligible liabilities at the consolidated level of the group subject to resolution, the Fund shall determine the minimum level of those funds and liabilities, taking into account the assessment of the entities of the group subject to resolution which are not entities subject to resolution made by the competent authority of resolution.

4. If the competent authority for resolution for a subsidiary has requested binding mediation from the European Banking Authority before the date referred to in paragraph 3, the Fund shall not set the minimum level of own funds and eligible liabilities until the European Banking Authority has made a decision.

5. If the European Banking Authority does not take a decision within one month from the date of the request for

binding mediation, the Fund shall determine the minimum level of own funds and eligible liabilities at the consolidated level as set out in paragraph 3.

6. If the European Banking Authority takes a decision following binding mediation, the Fund shall determine the minimum level of own funds and eligible liabilities at consolidated level of the group subject to resolution in accordance with the decision of the European Banking Authority.

7. If, within 4 months of the date of transmission by the Fund of the information necessary to determine the minimum level of own funds and eligible liabilities, the Fund and the competent authorities of the resolution authority for subsidiary entities fail to determine the minimum level of own funds and eligible liabilities at an individual level for any entity, other than the entity subject to resolution, belonging to the group subject to resolution, the competent authority of the resolution authority for subsidiary entities shall determine the minimum level of such funds and liabilities for the entity concerned, taking into account its written opinions and observations:

1) the resolution authority competent for the entity subject to resolution;

2) the Fund, if the competent authority for resolution for the group is different from the resolution authority for the entity subject to resolution.

8. If, before the expiry of the deadline referred to in paragraph 7, the Fund or the competent resolution authority for the entity subject to resolution has requested binding mediation by the European Banking Authority, the competent resolution authorities for the subsidiaries shall not determine the minimum level of own funds and eligible liabilities until the European Banking Authority has taken a decision.

9. If the European Banking Authority does not take a decision within one month from the date of the request for binding mediation, the competent authorities for resolution for the subsidiaries shall determine the minimum level of own funds and eligible liabilities at individual level in the manner set out in paragraph 7.

10. If the European Banking Authority takes a decision following binding mediation, the competent authorities for resolution for subsidiary entities shall determine the minimum level of own funds and eligible liabilities at individual level in accordance with the decision of the European Banking Authority.

11. The fund or the resolution authority responsible for the entity subject to resolution shall not request binding mediation from the European Banking Authority if the minimum level of own funds and eligible liabilities at the individual level as determined by the competent resolution authority for the subsidiaries:

1) does not exceed 2% of the total risk exposure amount of the minimum level of own funds and eligible liabilities set for the entity subject to resolution;

2) is determined by the competent authority for resolution for the subsidiary entity in accordance with the provisions of a Member State other than the Republic of Poland, implementing Article 45c paragraph 7 of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014. establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU of the European Parliament and of the Council and Regulations of the European Parliament and of the Council (EU) No 1093/2010 and (EU) No 648/2012 (OJ L 173, 12.06.2014, p. 190, as amended[26)].

12. In the cases referred to in paragraphs 3 and 7, if the failure to determine the minimum levels of own funds and eligible liabilities within 4 months of the date of transmission by the Fund of the information necessary to determine the minimum level of own funds and eligible liabilities results from the absence of an agreement on those levels for the group subject to resolution at the consolidated level and for the entities comprising that group at the individual level, the determination of the minimum levels of own funds and eligible liabilities at the level of:

1) consolidated for a group subject to resolution – shall be made in accordance with paragraphs 3 to 6;

2) individual for a non-entity subject to resolution belonging to a group subject to resolution – shall be made in accordance with paragraphs 7 to 10.

13. The joint decision of the Fund and the competent authorities for resolution for subsidiary entities and the decision of the Fund taken in the absence of a joint decision shall be regularly reviewed by the competent authorities for resolution, including the Fund, and updated if necessary.

Article 99. 1. The Fund, the competent authority for resolution for the group and the competent authorities for resolution for subsidiaries shall jointly determine the minimum level of own funds and eligible liabilities at consolidated level of the group subject to resolution for each entity subject to resolution and on an individual level for each entity of the group subject to resolution that is not an entity subject to resolution in the form of a joint decision, taking into account

[26] The amendments to the said Directive were announced in OJ L 349, 05.12.2014, p. 68, OJ L 150, 07.06.2019, p. 296, OJ L 203, 01.08.2019, p. 10 and OJ L 328, 18.12.2019, p. 29.

the criteria set out in Article 97 paragraph 2. The provisions of Article 98 paragraphs 2c and 2d shall apply accordingly.

2. The fund shall inform the domestic subsidiary of the minimum level of own funds and eligible liabilities set for it.

3. If, within 4 months of the date of transmission by the competent authority of the resolution for the group of the information necessary to determine the minimum level of own funds and eligible liabilities, the Fund, the competent authority of the resolution for the group and the competent authority of the resolution for the group do not determine the minimum level of own funds and eligible liabilities for a domestic subsidiary of an EU parent institution or an EU parent investment firm, the Fund shall determine the minimum level of own funds and eligible liabilities for a domestic subsidiary of an EU parent institution or an EU parent investment firm, taking into account:

1) the opinion of the competent authority for resolution of the entity subject to resolution;

2) the opinion of the competent authority for the resolution of the group, if the competent authority for resolution for the group is different from the resolution authority for the entity subject to resolution.

3) an assessment by the competent authorities of the resolution authority of entities of the group subject to resolution which are not entities subject to resolution if a domestic subsidiary is an entity subject to resolution.

4. If, before the expiry of the time limit referred to in paragraph 3, the Fund, the competent authority for group resolution and the competent authorities for resolution for subsidiaries of an EU parent institution or an EU parent investment firm shall not set a minimum level of own funds and eligible liabilities for subsidiaries of an EU parent institution or an EU parent investment firm, and any such competent resolution authority has requested binding mediation by the European Banking Authority, the Fund shall not set a minimum level of own funds and eligible liabilities for a domestic parent company subsidiary of an EU parent institution or an EU parent investment firm until the European Banking Authority has taken a decision. The provision of Article 75 paragraph 7 shall apply accordingly.

5. If the competent authority of resolution for a subsidiary that is part of a resolution college has not proceeded to a joint decision setting the minimum level of own funds and eligible liabilities for subsidiaries of an EU parent institution or an EU parent investment firm, the Fund may proceed to a joint decision setting the minimum levels of own funds and eligible liabilities for the remaining subsidiaries of the EU parent or EU parent investment firm together with the other competent authorities of resolution within the resolution college.

6. If the European Banking Authority does not take a decision within one month from the date of the request for binding mediation, the Fund shall determine the minimum level of own funds and eligible commitments for the domestic subsidiary of the EU parent institution or EU parent investment firm.

7. If the European Banking Authority takes a decision following binding mediation, the Fund shall determine the minimum level of own funds and eligible liabilities for a domestic parent company subsidiary of an EU parent institution or an EU parent investment firm in accordance with the decision of the European Banking Authority.

8. If the Fund is the competent authority for a domestic parent company subsidiary of an EU parent institution or an EU parent investment firm which is an entity subject to resolution, it shall not apply to the European Banking Authority for binding mediation if the minimum level of own funds and eligible liabilities at an individual level, as determined by the competent authority for resolution for a domestic parent company subsidiary of a domestic subsidiary of the same group subject to resolution which is not an entity subject to resolution:

1) does not exceed 2% of the total risk exposure amount of the minimum level of own funds and eligible liabilities set for the entity subject to resolution;

2) is determined by the competent authority for resolution for the subsidiary entity in accordance with the provisions of a Member State other than the Republic of Poland, implementing Article 45c paragraph 7 of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014. establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU of the European Parliament and of the Council and Regulations of the European Parliament and of the Council (EU) No 1093/2010 and (EU) No 648/2012.

9. The provision of Article 98 paragraph 13 shall apply accordingly.

Article 99a. 1. An entity for which the Fund has determined the minimum level of own funds and eligible liabilities as referred to in Article 97 paragraph 1 shall provide the Fund with information on:

1) the amounts of own funds and the amounts of eligible liabilities, including those determined in accordance with Article 97 paragraph 2b, after application of deductions in accordance with Articles 72e–72j of Regulation No 575/2013;

2) the amounts of liabilities other than those referred to in point 1 that may be written down or converted;

3) in relation to the own funds and liabilities referred to in points 1 and 2:

a) the components, including the maturity profile,

b) the degree of seniority in insolvency proceedings,

c) the extent to which they are governed by the laws of a third country, taking into account the contractual provisions referred to in Article 222 and the contractual provisions referred to in Article 52 paragraph 1 sub-points p and q and Article 63 sub-points n and o of Regulation No 575/2013.

2. The provision of paragraph 1 point 2 shall not apply to an entity for which the amount determined in accordance with paragraph 1 point 1 on the date of the information transmission is at least 150% of the amount resulting from the minimum requirement referred to in Article 97 paragraph 2b.

3. In performing the obligation referred to in paragraph 1:

1) the credit union, instead of the information referred to in paragraph 1 point 1, shall provide information on the amount of own funds referred to in Article 97a paragraph 6 point 1 and the amount of eligible liabilities meeting the conditions referred to in Article 97a paragraph 6 point 2 and paragraph 7;

2) an entity that is not subject to resolution shall, instead of the information on the amounts of own funds and eligible liabilities referred to in paragraph 1 point 1, provide information on the amounts of own funds meeting the conditions set out in Article 98 paragraph 2l point 2 and liabilities meeting the conditions set out in Article 98 paragraph 2l point 1.

4. The information shall be provided at least once every:

1) 6 months – in the case of the information referred to in paragraph 1 point 1 and paragraph 3;

2) year – in the case of information referred to in paragraph 1 points 2 and 3.

5. The Polish Financial Supervision Authority or the Fund may oblige entities to provide information more frequently than the dates specified in paragraph 4.

6. The entity shall, at least once a year, post on its website, as at the end of the preceding year, information on:

1) the amounts of own funds and eligible liabilities;

2) the components of the items referred to in point 1, including their maturity profile and the extent to which they have been subject to insolvency proceedings;

3) the requirement referred to in Articles 97 and 98, expressed in accordance with Article 97 paragraph 2b.

7. The entities referred to in paragraph 3 shall, instead of the information referred to in paragraph 6 point 1, include the information referred to in paragraph 3.

8. If the Fund has undertaken an action under resolution or has issued a decision in advance of the write down or conversion of capital instruments or eligible liabilities referred to in Article 70 paragraph 1 point 1, the information referred to in paragraph 6 shall be posted on the website on the day following the date on which the deadline for the entity to comply with the requirements set out in Articles 97 and 98 has expired.

9. The provisions of paragraphs 1 and 6 shall not apply to an entity for which the resolution plan assumes bankruptcy proceedings.

10. The Fund shall provide the Polish Financial Supervision Authority with the information referred to in paragraphs 1 and 3. Detailed rules for cooperation and exchange of information shall be set out in the Agreement concluded between the Fund and the Polish Financial Supervision Authority referred to in Article 17 of the Act of 21 July 2006 on financial market supervision (Journal of Laws 2024, item 135).

11. The Minister competent for financial institutions shall determine, by way of a regulation, after consultation with the Fund and the Polish Financial Supervision Authority:

1) the manner and procedure for entities to provide the Fund with the information referred to in paragraphs 1 and 3,

2) the deadlines for information referred to in paragraphs 1 and 3 to be provided to the Fund by the credit unions

– with the purpose of ensuring uniformity of the information transmitted and taking into account the legal form of the entity and its participation in the system of institutional protection.

Chapter 5

Resolution

Article 100. The Fund shall conduct resolution.

Article 101. 1. The Polish Financial Supervision Authority shall forthwith notify the Fund of the following:

1) a threat of bankruptcy of an entity;

2) lack of indication that the feasible supervisory measures or the measures of this entity will allow a timely removal of this threat.

2. The Polish Financial Supervision Authority shall forthwith notify the Fund of the following:

1) cessation of compliance by a branch of a foreign bank with its operating conditions or the threat of cessation of compliance by a branch of a foreign bank with its operating conditions, and that there is no indication that possible supervisory measures or measures by that entity will remove the threat or comply with those conditions in a timely manner;

2) cessation by a branch of a foreign bank of settling liabilities or a threat thereof;

3) the initiation by a third country authority competent for resolution of resolution or similar proceedings, or an intention to initiate it towards a foreign bank.

3. An entity shall be considered at risk of bankruptcy if at least one of the following circumstances occur:

1) indications occur that it will fail to satisfy the operating business conditions to the extent justifying the repeal or revocation of a license to establish a bank or to pursue brokerage business by an investment firm;

2) the assets of an entity are not sufficient to cover its liabilities or the indications occur that the assets of the entity are not sufficient to cover its liabilities;

3) an entity fails to settle its due liabilities or indications occur that it will fail to do so;

4) continuation of business of an entity requires involvement of extraordinary public funds.

4. The Polish Financial Supervision Authority shall assess fulfilment of the conditions referred to in paragraph 1on the basis of:

1) the results of supervisory review and assessment;

2) the results of the recovery plan, the application of supervisory measures, including the measures of the early intervention;

3) the results of testing the quality of assets;

4) the notices of the entity management board;

5) other information collected under supervisory procedures.

5. While assessing fulfilment of the conditions referred to in paragraph 1, the Polish Financial Supervision Authority shall take account in particular of:

1) infringement or a risk thereof by an entity of the requirements concerning own funds, liquidity and financial leverage;

2) assessment of an entity following the supervisory review and assessment indicative of an adverse financial situation of an entity;

3) loss or risk of loss significantly depleting own funds;

4) infringement of the minimum level of own funds and eligible liabilities, as specified by the Fund;

5) operation of an entity in violation of the law or the articles of association which can lead to insolvency or loss of liquidity by an entity;

6) failure to implement the recommendations of the Polish Financial Supervision Authority.

6. The Polish Financial Supervision Authority shall provide the information referred to in paragraph 1 also to:

1) National Bank of Poland;

2) Minister competent for financial institutions;

3) supervisory authorities competent for branches of an entity at risk of bankruptcy and the parent company;

4) supervisory authorities exercising consolidated supervision, if an entity is at risk of bankruptcy or its parent company

is subject to consolidated supervision;

5) competent authorities for the resolution of branches of an entity at risk of bankruptcy and the competent authorities for the resolution of a group, where a domestic entity is a subsidiary;

6) management authority of a recognised deposit guarantee scheme in the state in the territory of which the parent entity is established;

7) management entities of resolution funds in the state in the territory of which the parent entity is established, if the fund is not managed by the competent authority for resolution of a group;

8) Chairman of the Financial Stability Committee;

9) European Systemic Risk Board.

7. If all of the following conditions have been satisfied:

1) a domestic entity is at risk of bankruptcy,

2) there are no reasonable indications that actions by the domestic entity or the institutional protection scheme or supervisory actions, including early intervention measures, will remove the threat of bankruptcy in a timely manner,

3) measures towards a domestic entity are required in view of the public interest

– the Fund issues a decision on the initiation of resolution towards a domestic entity or a decision on write down or conversion of capital instruments or eligible liabilities as referred to in Article 70 paragraph 1 point 1.

8. In the case referred to in paragraph 2 point 1 or 3, if the measures towards a branch of an entity established in a third country or a foreign bank are required in view of the public interest, the Fund shall issue a decision on the commencement of resolution towards the said branch.

9. In the case referred to in paragraph 2 point 2, if no resolution or bankruptcy proceedings have been initiated towards an entity established in a third country or a foreign bank, or those proceedings are not going to be initiated, and the measures towards a branch of this entity or a foreign bank are required in view of the public interest, the Fund shall issue a decision to initiate resolution towards this branch of the foreign bank.

10. The measures shall be taken in the public interest, if they are necessary to ensure implementation of at least one of the objectives of resolution laid down in Article 66, and these objectives may not be attained to the same extent under the supervision or bankruptcy proceedings.

11. Prior to the decision referred to in paragraph 7, the Fund shall consult the fulfilment of the conditions referred to in paragraph 7 points 1 and 2 with the Polish Financial Supervision Authority. The Polish Financial Supervision Authority shall issue an opinion within 5 working days. If in the opinion of the Fund, the conditions referred to in paragraphs 7 and 8 or 9 have failed to be satisfied, the Fund shall notify the Polish Financial Supervision Authority.

12. The decisions referred to in paragraphs 7–9 shall include the estimate referred to in Article 137 paragraph 1.

12a. Decisions on the write-off or conversion of capital instruments or eligible liabilities and on the application of resolution instruments shall include an estimate of the entity's assets and liabilities.

12b. In the decision to initiate resolution, the Fund may:

1) write down or convert capital instruments or eligible liabilities;

2) determine the scope and conditions for the application of resolution instruments;

3) appoint an administrator or a substitute administrator;

4) suspend the activities of the entity under restructuring;

5) suspend the performance of the maturing liabilities of the entity under restructuring;

6) suspend the rights to exercise any security;

7) make changes to the terms of agreements to which the entity under restructuring is a party;

8) make changes to the terms of repayment of debt instruments and other liabilities;

9) suspend rights of unilateral termination of agreements concluded with the entity under restructuring and with a subsidiary of the entity under restructuring;

10) liquidate the entity under restructuring, pursuant to the procedure set out in Article 230 paragraph 1.

12c. In the decision referred to in paragraph 7, issued in the case referred to in Article 70 paragraph 1 point 2, the Fund may impose an obligation on the entity or its relevant parent company to issue new rights attached to shares.

13. No extraordinary commitment of public funds referred to in paragraph 3 point 4 shall be deemed to occur in the case of granting assistance to a solvent entity under separate regulations in order to prevent a serious disturbance in the economy and maintain financial stability in the form of:

1) the State Treasury guarantees in order to secure the liquidity support provided by the National Bank of Poland,

2) the State Treasury guarantees of the repayment of liabilities arising from newly issued debt instruments,

3) recapitalisation on the conditions not divergent from the average market conditions where it is necessary to cover the capital shortfall estimated by stress testing or the asset quality review held by the Polish Financial Supervision Authority, the European Central Bank or the European Banking Authority

– provided that it is proportionate to the scale of risks, it is of a preventive and temporary nature and must not be used to cover losses that the entity incurred or will incur in the near future.

14. The domestic entity or entities referred to in Article 64 paragraph 2 sub-points a, c or d, shall be liquidated on the rules set out in separate legislation if the conditions set out in paragraph 7 points 1 and 2 are met, but the condition set out in paragraph 7 point 3 is not met.

Article 102. 1. The Fund shall make a decision to initiate resolution against:

1) a financial institution referred to in Article 64 point 2 sub-point b, if the prerequisites set out in Article 101 paragraph 7 are met with respect to that institution and its parent company;

2) an entity referred to in Article 64 point 2 sub-points c and d, if the conditions set out in Article 101 paragraph 7 are met in relation to that entity;

3) the central authority and banks permanently affiliated to it belonging to the same group subject to resolution, if the conditions set out in Article 101 paragraph 7 are met in relation to the whole group subject to resolution.

2. In the cases referred to in paragraph 1, the provisions of Article 101 paragraph 12 shall apply.

3. In the case referred to in paragraph 1 point 2, if the domestic entity is a subsidiary of a mixed financial holding company controlled directly or indirectly by an intermediate financial holding company or an intermediate investment holding company, the Fund shall make a decision with respect to that intermediate financial holding company or intermediate investment holding company.

4. If the conditions set out in Article 101 paragraph 7 are not met in relation to an entity referred to in Article 64 point 2 sub-point c and d, the Fund may issue the decision referred to in Article 101 paragraph 7 in relation to that entity if:

1) the entity is subject to resolution;

2) the conditions referred to in Article 101 paragraph 7 are met with respect to one or more subsidiaries of the entity subject to resolution that are institutions and are not entities subject to resolution;

3) due to the property rights and liabilities of the entities referred to in item 2, their failure would jeopardise the group subject to resolution and the resolution of the entity subject to resolution would be necessary to carry out the resolution of the subsidiaries that are institutions or to carry out the resolution of the entire group subject to resolution.

5. In the case referred to in paragraph 1 point 2 and point. 4 the Fund and the competent authority for resolution of a subsidiary being an institution may agree that no transfer of capital and losses between group entities, including the write down or conversion of liabilities is accounted for examining the compliance with the conditions set out in Article 101 paragraph 7.

Article 103. 1. The Fund shall serve an entity with the decision referred to in Article 101 paragraphs 7–9 and Article 102 paragraphs 1 and 4.

2. The entity referred to in Article 101 paragraph 7–9 and Article 102 paragraphs 1 and 4 shall be a party to the proceedings to initiate resolution.

3. The Fund shall develop the statement of reasons for the decision referred to in Article 101 paragraphs 7–9 and Article 102 paragraphs 1 and 4 within 14 days of its service to an entity under restructuring.

4. The statement of reasons for the decision shall be served on an entity under restructuring also in an electronic form.

5. The supervisory board of an entity under restructuring may make a complaint against the decision to the administrative court within 7 days of the receipt of the statement of reasons for the decision to this entity. Any person

whose legal interest has been infringed upon by the decision shall also be entitled to submit a complaint to the administrative court.

6. The Fund shall forthwith notify the decision referred to in Article 11 paragraph 4 points 1, 2, 4–14, 17–20 and 22–26 to the entities mentioned in Article 101 paragraph 6 and:

1) European Commission;

2) European Central Bank;

3) respectively the European Securities and Markets Authority, European Insurance and Occupational Pensions Authority or the European Banking Authority;

4) if an entity at risk is the institution referred to in Article 1 point 5 sub-points c, d and h–j of the Law on Settlement Finality – operators of payment systems or settlement systems of which the entity is a participant and Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna;

5) Polish Financial Supervision Authority.

7. The notice referred to in paragraph 6 shall be accompanied by a copy of the decision to implement the instruments of resolution. The notice shall state the date from which the decision becomes enforceable.

Article 104. 1. In the case referred to in Article 103 paragraph 5, the complaint shall be submitted through the Fund. The Fund shall forward the complaint to the complete administrative court, along with a complete and orderly documentation of the case and the response to the complaint within 14 days of its receipt.

2. The administrative court shall examine the complaint within 30 days of its receipt along with the case file and the response to the complaint.

3. The Supreme Administrative Court shall examine the cassation appeal within 2 months from the date of its receipt.

4. The time limits laid down in paragraph 2 and 3 shall not include the time limits provided by law to make certain procedures, periods of suspension of the proceedings and periods of delay caused by the fault of a party or for reasons beyond the control of the court.

Article 105. 1. The court shall issue a ruling on the basis of the legal and factual conditions prevailing at the date of the decision.

2. In the cases referred to in Article 145 of the Act – Law on Proceedings before Administrative Courts the court, while taking into account the complaint against the decision, shall declare the issue thereof in violation of the law.

3. A final judgment of the Administrative Court confirming the issuance by the Fund of a decision in violation of the law shall not affect the validity of the legal acts issued hereupon and does not prevent the conduct of activities by the Fund on the basis thereof, in the case that the cessation of these activities posed a threat to the undertaking value of the entity, continuity of settling liabilities the protection of which is the purpose of resolution, financial stability or the rights of third parties acquired in good faith, in particular persons who have acquired property rights or liabilities as a result of the Fund's decision to use the instruments of resolution.

4. Liability for damage for issuance by the Fund of a decision in violation of the law shall be limited to the amount of the loss suffered.

5. The compensation shall be limited to a pecuniary benefit.

Article 106. 1. In the matters referred to in this chapter documentation of the case can be created and processed by using information technology.

2. The provision of paragraph 1 shall also apply to service, notifications and transmission of documents and information. In this case, confirmation of data transfer shall be a proof of the delivery.

Article 107. The provisions of Article 103–106 shall apply accordingly to the decisions on the matters referred to in Article 11 paragraph 4 points 4–15, 17–20 and 22–26.

Article 108. If in the assessment of the National Bank of Poland or the Minister competent for financial institutions, economic situation of the domestic entity can adversely affect:

1) performance of critical functions,

2) financial stability, in particular confidence in the financial sector and market discipline,

3) protection of the interests of depositors,

4) protection of the funds or assets of customers entrusted to an entity

– these entities shall notify the Fund and the Polish Financial Supervision Authority of this fact.

Article 109. 1. The Fund shall forthwith publish on its website:

1) the decision on the commencement of resolution and the decisions issued under resolution referred to in Article 11 paragraph 4, points 2, 4–8, 11, 12 and 17–26, or information on those decisions and the reasons and effects of those decisions, in particular for individual customers;

2) the decisions referred to in Article 142 paragraph 1, Article 143 paragraph 1 and 2, Article 144 paragraph 1 and Article 144a paragraph 1, along with information about the conditions of the suspension of settlement of liabilities, suspension of the right to security and suspension of the right to terminate.

1a. The decisions or information referred to in paragraph 1 shall be posted in observance of the secrecy referred to in Article 320 paragraph 2, the banking secrecy referred to in Article 104 of the Banking Act, the secrecy referred to in Article 9e of the Act on Cooperative Savings and Credit Unions, and the secrecy referred to in Article 147 of the Act on Trading in Financial Instruments.

2. The Fund shall promptly transmit, in paper or electronic form, the decisions or information referred to in paragraph 1 to the Polish Financial Supervision Authority, the European Banking Authority and the entity under restructuring for the purpose of posting them on the websites of those entities, taking into account compliance with the obligation to preserve the secrets referred to in paragraph 1a.

3. The decisions referred to in paragraph 1 may be published with no explanations of the grounds.

4. The Polish Financial Supervision Authority and the entity under restructuring shall post the decisions or information referred to in paragraph 1 on their websites as soon as they are received from the Fund, taking into account the obligation to keep the secrets referred to in paragraph 1a.

5. If the rights attached to shares or debt instruments issued by an entity under restructuring are admitted to trading on a regulated market in accordance with the provisions of Regulation No 2017/1129 or the Act of 29 July 2005 on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading and Public-owned Companies (Journal of Laws of 2022 item in 2554 and of 2023 item 825 and item 1723), hereinafter referred to as the 'Act on Public Offering' or introduced to the alternative trading system, the decisions and information referred to in paragraph 1 shall be published forthwith in a manner specified in the regulations on the disclosure of information on issuers whose securities are admitted to trading on a regulated market or in the provisions of the rules of the alternative trading system.

6. If the rights attached to shares or debt instruments are not admitted to trading on a regulated market, the Fund shall provide a copy of the decision referred to in paragraph 1 to the stockholders, shareholders, members and creditors of an entity under restructuring registered in the records of an entity under restructuring to which the Fund has access.

Article 110. 1. Within the resolution the Fund may use the instruments of resolution, including:

1) sale of business;

2) bridge institution;

3) write down or conversion of liabilities;

4) separation of property rights.

2. Separation of property rights may be used only in conjunction with another instrument of resolution.

3. The Fund shall select instruments of resolution, on considering in particular:

1) the need to achieve the objectives of resolution;

2) facts of the case;

3) rules of loss coverage of an entity under restructuring in the first place by the owners of rights attached to shares;

4) principles of bearing the consequences of losses by creditors in the order of satisfying claims, as defined in the Act and the Act – Bankruptcy Law;

5) duty to protect the guaranteed funds and funds covered by the compensation scheme;

6) principles of the protection of the rights of owners and creditors laid down under Chapter 21;

7) expected effects of instruments for other group entities and financial stability in their home countries, where the resolution is carried out towards an entity under restructuring being a member of a group.

4. If resolution instruments are applied to:

1) credit unions – the provisions of Articles 10 and 11 of the Act on Cooperative Savings and Credit Unions shall not

apply;

2) cooperative banks – the provisions of Articles 16 and 17 of the Act of 16 September 1982 – Cooperative Law shall not apply.

5. Where a cooperative bank is a purchaser or an acquiring entity within the resolution, the provisions of Article 5 paragraph 3 and 4 of the Act on the Operation of Cooperative Banks shall apply accordingly.

6. The Fund shall write down or convert capital instruments or eligible liabilities or ensure that other actions are taken which would cause losses to the owners or creditors of those instruments, before or at the same time as the resolution instruments are applied, if, as a result of the application of those instruments, the creditors would suffer losses or their liabilities would be converted.

Article 111. The resolution shall be initiated on the date of service of the Fund's decision to the entity referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4.

Article 112. 1. In the framework of resolution the Fund may use the resolution funds to:

1) grant loans or guarantees to an entity under restructuring, its subsidiaries, bridge institution, asset management vehicle and the acquiring entity;

2) acquire property rights of an entity under restructuring.

3) grant guarantees to third parties for the repayment of the liabilities of:

   a) the entity under restructuring, its subsidiaries, the bridge institution, the asset management entity and the acquiring entity – on account of a loan or a credit,

   b) an asset management entity in respect of bonds issued by that entity and purchased by those third parties.

2. The Fund may provide loans or guarantees referred to in paragraph 1 points 1 and 3 if:

1) funds derived from them are necessary to maintain the liquidity or solvency of an entity under restructuring, its subsidiaries, a bridge institution and asset management vehicle or an acquiring entity or.

2) they are connected with the use of instruments of resolution, in particular, with the aim to support the process of acquisition of rights attached to shares, undertaking, selected property rights or liabilities of an entity under restructuring.

3. The Fund may provide support from the resolution funds with a view to the acquisition of the undertaking or transfer referred to in Article 188 paragraph 1 or a transfer referred to in Article 225 paragraph 1 consisting in:

1) the provision of a guarantee to cover, in whole or in part, losses arising from risks associated with all or selected property rights or liabilities of the entity under restructuring, its subsidiaries, a bridge institution or an asset management vehicle;

2) grant of a subsidy for the purpose of covering the difference between the value of the liabilities and the value of the property rights of the entity under restructuring, determined on the basis of the assessment referred to in Article 137 paragraphs 2 and 3, in the part not covered by the measures referred to in Article 179 or Article 188 paragraphs 5 and 5a.

3a. The Fund may grant, from the resolution funds, a guarantee to fully or partially cover losses arising from risks associated with all or selected property rights or liabilities of the bridge institution, for the purpose of disposing of the bridge institution's rights attached to shares or its undertaking.

4. While providing the guarantee referred to in paragraph 3 point 1 or paragraph 3a, the Fund may reserve the right to share in revenue arising from property rights and liabilities covered by the guarantee.

5. Covering losses as a result of enforcement of the guarantee referred to in paragraph 3 point 1 or paragraph 3a shall constitute the cost of resolution referred to in Article 235 point 5.

6. With a view to securing the claim resulting from the loans and guarantees referred to in paragraph 1 point 1 and 3, the Fund shall require the establishment of security.

7. The Fund may provide the National Bank of Poland with a guarantee for the repayment of loans referred to in Article 42 paragraph 1 and Article 43 paragraph 2 of the Act of 29 August 1997 on the National Bank of Poland (Journal of Laws of 2022, item 2025). The provisions of Articles 80–84 of the Banking Act shall apply accordingly.

8. Unless otherwise agreed, on the date of the Fund's performance under the guarantee referred to in paragraph 1

point 3 or paragraph 7, the Fund acquires by operation of law a repaid receivable arising from a loan, a credit or issued and covered bonds up to the amount of the payment made, together with the object of the collateral established by the loanee, borrower or asset management entity and other rights related to the acquired receivable.

9. The guarantee referred to in paragraph 1 point 3 or paragraph 7 may also cover the repayment of a loan, a credit or the redemption of bonds, together with contractual interest and other costs related to the loan, the credit or bonds. Payments from the Guarantee shall be reduced by the loan repayments made by the loanee or the borrower or the amount of payments made in respect of the bonds issued and by the amounts received by the lender, the borrower or the entity which purchased the bonds as a result of satisfaction from the collateral of that loan, credit or from the collateral of those bonds.

Article 113. 1. Upon the initiation of resolution:

1) the right to adopt resolutions in matters reserved by law and the articles of association or the deed to the competence of bodies of an entity under restructuring shall devolve to the Fund;

2) the powers of the supervisory board shall be suspended, subject to Article 103 paragraph 5;

3) the Management Board shall be dismissed, and the mandates of its members shall expire;

4) previously granted commercial proxies and powers of attorney shall expire;

5) conservatorship shall be terminated;

6) the following decisions shall expire:

   a) on the appointment of the liquidator,

   b) on the appointment of the conservator for a credit union,

   c) on the appointment of the trustee for a credit union pursuant to Article 72c paragraph 1 of the Act on Cooperative Savings and Credit Unions,

   d) on the appointment of the trustee pursuant to Article 144 paragraph 1 of the Banking Act,

   e) on the appointment of the trustee for a brokerage house in accordance with Article 110zza of the Act on Trading in Financial Instruments;

7) the competence of other bodies of an entity under restructuring shall be suspended, subject to Article 175 paragraph 5a and Article 216 paragraph 6;

8) the rights of the members of the bodies of the entity under restructuring to severance payments and to remuneration for the period from the date of commencement of the resolution under employment contracts and agreements of a civil law nature shall expire, as well as the rights of such persons to payment of variable components of remuneration and other benefits of a similar nature and to compensation under non-competition agreements after the expiry of the mandate or termination of the employment relationship;

9) the rights of persons holding managerial positions in the entity under restructuring to payment of variable remuneration components and to compensation under non-competition agreements upon termination of the employment contract expire;

10) if a separate non-competition agreement has been entered into, pursuant to which:

   1. an employee may not engage in any activity that competes with the employer or provide work under an employment relationship or on any other basis to an entity engaged in such activity; or

   2. an employee with access to particularly sensitive information has undertaken not to disclose such information after the termination of the employment relationship

   – the legal relationship is terminated, the non-competition agreement expires and the compensation paid is reimbursed in an appropriate proportion to the remaining contractual period of the need to refrain from competitive activities, to provide employment or other services to the entity carrying out such activities, or to the remaining contractual period of the commitment not to disclose the sensitive information.

1a. In the case referred to in paragraph 1 point 1, the Fund shall represent the entity under restructuring. The provisions concerning the adoption of decisions and resolutions by the bodies of the entity under restructuring shall not apply.

1b. The Fund may appoint the Management Board of an entity under restructuring. If such a Management Board is appointed, the decision to appoint an administrator, a deputy administrator or attorneys referred to in Article 114 paragraph 1, shall become null and void. In this case, the powers to take decisions and resolutions reserved by the Act and the articles of association or the deed to the Management Board shall be transferred to the Management Board of the entity under restructuring.

1c. The appointment of the Management Board of the entity under restructuring shall cease to have effect if the Fund decides to appoint an administrator, a deputy administrator or attorneys referred to in Article 114 paragraph 1. In this case, the powers to take decisions and resolutions reserved by the Act and the articles of association or the deed to the Management Board shall be transferred to an administrator, a deputy administrator or attorneys.

1d. In the cases referred to in paragraphs 1b and 1c, the provisions of Article 22b paragraph 1 of the Banking Act, Article 21 paragraph 1 of the Act on Cooperative Savings and Credit Unions and Article 102a paragraph 1 of the Financial Instruments Trading Act shall not apply.

1e. The Fund may issue instructions to the management board of the entity under restructuring concerning the implementation of activities necessary for the purpose of resolution.

1f. The Fund shall immediately post on its website the resolutions of the Management Board of the Fund on the appointment of the management board, the supervisory board, the amendment of the articles of association or the deed of the entity under restructuring. The resolutions enter into force as soon as they are posted on the website.

1g. In the event of a decision on the assumption of rights attached to shares by the acquiring entity, as referred to in Article 174 paragraph 1 point 3, the provision of paragraph 1 point 2 shall not apply. In this case, the supervisory board shall be dissolved and the mandates of its members shall expire, except that it may file a complaint with an administrative court, as referred to in Article 103 paragraph 5, and shall retain its judicial and procedural capacity in such proceedings before administrative courts.

2. The decision of the Fund referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4 shall determine the organisation and operation of an entity under restructuring.

3. The initiation of resolution shall not result in expiry of powers of attorney granted by an entity under restructuring further to its participation in a payment system or settlement system, authorising:

1) placing of settlement orders to the payment system or settlement system or taking measures leading to the settlement of liabilities arising in connection with the introduction of a settlement order to such a system;

2) closure of derivative contracts and determining the net value of the liabilities arising from such instruments in the case referred to in Article 207 paragraph 2 and 3, including the actions specified in the procedures referred to in Article 48 paragraph 1 of Regulation No 648/2012;

3) undertaking measures specified in the procedures in the event of default, if it takes place for reasons other than initiation of resolution or a decision by the Fund in these proceedings, in particular, where the relevant obligations of an entity under restructuring are not fulfilled, including the commitment to payment and delivery, as well as the obligation to provide security.

4. The powers of attorney shall expire upon the completion of the measures referred to in paragraph 3.

5. To enter the orders referred to in paragraph 3 point 1:

1) the provisions of Article 80 paragraph 2 of the Act – Bankruptcy Law shall apply;

2) the provisions of Article 136 and Article 137 of the Act – Bankruptcy Law and Article 6a of the Law on Settlement Finality shall apply accordingly.

Article 114. 1. The Fund may exercise the powers referred to in Article 113 paragraph 1 point 1, by the administrator, referred to in Article 153 paragraph 1, the deputy administrator referred to in Article 154a or attorneys.

2. The remuneration of the administrator, the deputy administrator and attorneys shall be determined by the Fund.

3. Costs of activity of the administrator and the deputy administrator shall be charged to an entity under restructuring, subject to Article 153 paragraph 10.

4. If necessary, the administrator and the deputy administrator shall be granted unpaid leave for the term of its office. The period of the unpaid leave shall be counted into the periods of work which determines the acquisition of employee rights.

5. Appointment of the administrator and the deputy administrator shall be notified to the National Court Register.

Article 115. 1. Legal transactions performed in violation of Article 113 shall be invalid.

2. The reimbursement of benefit made on the basis of the legal transaction referred to in paragraph 1 in favour of an entity under restructuring shall be granted if the legal transaction was effected following the initiation of resolution and prior to giving the information about the Fund's decision referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4 to the public, unless the party knew of the initiation of these proceedings.

Article 116. The Fund shall forthwith notify the court of registration of the initiation of resolution.

Article 117. The Fund shall draw up the opening balance sheet of the resolution on the day of the decision referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4 on the basis of the valuation referred to in Article 137 paragraph 2 and 3.

Article 118. 1. The persons who served as a member of the management board referred to in Article 113 paragraph 1 point 3, conservator of a credit union or exercised conservatorship as referred to in Article 113 paragraph 1 point 5 shall be required to forthwith identify and surrender to the Fund all assets of an entity under restructuring that are at their disposal not later than 3 days from the date of the initiation of resolution and also surrender the documents relating to its business, assets and settlements, in particular accountancy ledgers, other records kept for tax purposes and correspondence. They shall confirm performing this duty in a written statement which they submit to the Fund.

2. Paragraph 1 shall apply accordingly to the members of the supervisory board referred to in Article 113 paragraph 1 point 2.

Article 119. The initiation of resolution shall not limit the consumer's right to cancel an agreement concluded on the basis of separate regulations.

Article 120. At the request of the Fund the entities operating trade repositories shall make available the information they hold, necessary for the preparation of resolution plans, group resolution plans, write down or conversion of capital instruments or conducting resolution.

Article 121. To the resolution:

1) conducted towards entities under restructuring being commercial companies the following shall not apply:
   a) [27] the provisions of Article 212, Article 223, Article 233, Article 236, Article 237, Article 255 paragraph 1, Article 397, Article 399 § 3, Article 400, Article 401, Article 430 paragraph 1 and the provisions of Title IV of Chapters I and II and Chapter 4^1 of Chapter III of the Commercial Companies Code,
   aa) the provisions of Article 258 paragraph 1 and Articles 311–312^1 in conjunction with Articles 431 paragraph 7 and 433 paragraph 1 of the Commercial Companies Code, to acquire rights attached to shares on the basis of a decision to redeem or convert capital instruments or eligible liabilities, or a decision to apply resolution instruments,
   b) to convening the shareholders' meeting or general meeting of an entity under restructuring – the terms referred to in Article 238 paragraph 1 and Article 402 paragraph 1 and 3 as well as Article 402^1 paragraph 2 of the Code of Commercial Companies,
   ba) provisions of Chapters 4a and 4b of the Act on Public Offering,
   c) [28] the provisions of the Act of 26 May 2023 on the Participation of Employees in the Company Resulting From a Cross-border Transformation, Merger or Division of Companies (Journal of Laws item 1784)
2) conducted towards entities under restructuring being banks the provisions of Article 34 paragraph 2, Article 124, Article 124a and Article 124c of the Banking Act shall not apply;
3) conducted towards entities under restructuring being cooperatives the provisions of Article 12a paragraph 3, Article 36 paragraph 8, Article 39, Article 40 paragraph 2, Article 42 paragraph 3–7, and the provisions of Part I of Title I of Divisions VIII, IX and XI of the Act of 16 September 1982 – Cooperative Law, as well as the provisions of the cooperative's statutes governing the rules of convening general meetings, deliberating at them and adopting resolutions shall not apply.
4) conducted towards entities under restructuring being cooperative banks the provisions of Article 5 paragraph 2,

[27] As amended by Article 10 of the Act of 16 August 2023 amending the Commercial Companies Code and Certain Other Acts (Journal of Laws item 1705), which entered into force on 15 September 2023.

[28] As amended by Article 57 of the Act of 26 May 2023 on the participation of employees in a company resulting from a cross-border transformation, merger or division of companies (Journal of Laws item 1784), which entered into force on 15 September 2023.

Article 5a, Article 6 paragraph 2, Article 7, Article 8 paragraph 1, Article 9 and Article 23 of the Act on the Operation of Cooperative Banks shall not apply;

5) conducted towards entities under restructuring being credit unions the provisions of Article 74a and Article 74b of the Act on Cooperative Savings and Credit Unions shall not apply.

6) The following shall not apply to entities under restructuring which are affiliating banks:

   a) the requirements referred to in Article 2 point 2 of the Act on the functioning of cooperative banks, concerning the establishment of an affiliating bank by cooperative banks and the possession of initial capital amounting to at least four times the amount specified in Article 32 paragraph 1 of the Banking Act, or two times this amount in the case of a bank whose activities are limited exclusively to the provision of services to affiliated banks,

   b) the requirement for affiliated cooperative banks to hold or acquire at least one share in the affiliating bank referred to in Article 16 paragraph 1 of the Act on the functioning of cooperative banks,

   c) the provisions of Article 21 of the Act on the functioning of cooperative banks.

Article 122. 1. The resolution shall be completed:

1) on the date of issuing the court ruling on declaration of bankruptcy of an entity under restructuring;

2) in the case referred to in Article 174 paragraph 1 point 3 – on the date specified in the decision of the Fund on the assumption of rights attached to shares of the entity under restructuring;

3) on the date of completion of the liquidation of the residual entity referred to in Article 230 paragraph 4 or paragraph 5, or

4) on the date of consent as referred to in Article 22b paragraph 1 of the Banking Act

2. The resolution must not be completed prior to:

1) liquidation of a bridge institution, and in the case referred to in:

   a) Article 196 paragraph 2 – on the day of restricting the operation of a bridge institution,

   b) Article 200 – on the date of the court ruling on declaration of bankruptcy of a bridge institution;

2) sale of shares in a bridge institution in accordance with Article 181 paragraph 3;

3) sale or enforcement of property rights separated in accordance with Article 225 of the entity under restructuring.

Article 123. If the application of an instrument of acquisition of undertaking, bridge institution or separation of property rights towards an entity under restructuring triggers the transition of an undertaking or a part thereof to another employer as referred to in Article 23^1 of the Labour Code, the acquiring entity, bridge institution or asset management vehicle shall not be liable for the liabilities of an entity under restructuring deriving from the employment relationship arising prior to the date of transition of this undertaking or a part thereof. The existing employer shall be liable for liabilities arising from the employment relationship arising prior to the transfer of the undertaking or part thereof to another employer The provision of Article 23^1 paragraph 2 of the Labour Code shall not apply.

Article 124. 1. In connection with the transfer of the undertaking or a part thereof to another employer, in the event of the initiation of resolution, the existing employer and the new employer shall immediately communicate the information referred to in Article 23^1 paragraph 3 of the Labour Code in a manner that allows the employees to become familiar with the information The communication of the information shall be deemed effective if the information has been placed in a publicly accessible place of the employees' workplace, sent to the company e-mail or communicated through another communication channel generally accessible to the employees or in another manner agreed in advance with the employee.

2. In connection with the transfer of the undertaking or a part thereof to another employer, the existing employer and the new employer shall immediately communicate the information referred to in Article 26^1 paragraph 1, of the Trade Union Act of 23 May 1991 (Journal of Laws of 2022, item 854) in a manner that allows the undertaking or inter-company trade union organisation to become familiar with the information. The transmission of the information shall be deemed effective if the information was sent to the e-mail address of the trade union organisation's chairman or was transmitted through another communication channel available to the trade union organisation. Irrespective of informing the trade union organisation, the information shall be communicated to the employees in the manner set out in paragraph 1, but the communication of the information to the employees shall not affect the running of the period referred to in the first sentence.

3. If resolution is initiated, the provision of Article 41^1 of the Labour Code shall apply accordingly to the entity under restructuring.

Article 125. The Fund, when applying the instruments of resolution and exercising the powers referred to in Article

113 paragraph 1:

1) shall take into account the entitlements of employees to participate in the management or supervisory bodies of the entity under restructuring resulting from separate provisions;

2) if necessary, informs and consults employees of the entity under restructuring about the actions taken.

Article 126. The Fund may request the Minister competent for financial institutions to implement the government financial stabilisation tools referred to in the chapter 3a of the Act of 12 February 2010 on the Recapitalisation of Certain Institutions and Government Financial Stabilisation Tools.

Chapter 6

Resolution of groups

Article 127. 1. The Fund shall establish a resolution college for the entities subject to the consolidated supervision exercised by the Polish Financial Supervision Authority.

2. The resolution college shall be established to perform the following tasks:

1) exchange of information necessary for the development of group resolution plans and the preparation and conduct of the resolution of groups;

2) development and updating of group resolution plans;

3) feasibility assessment of group resolution plans;

4) determination of the circumstances that prevent or hinder the conduct of resolution and agree on the measures needed to remove them;

5) agreement on the need of development of a resolution scheme;

6) agreement on a resolution scheme;

7) agreement on the communication manner;

8) agreement on the use of resolution funds;

9) agreement on the minimum level of own funds and liabilities at the consolidated level and for subsidiaries at the individual level pursuant to Articles 97–99;

10) cooperation and coordination of the measures with the competent authorities for resolution in third countries.

3. The composition of members of the resolution college shall include:

1) the Fund;

2) competent authorities for the resolution of subsidiaries;

3) competent authorities for the resolution of the entities referred to in Article 82 paragraph 2 point 4;

4) competent authorities for the resolution of major branches;

5) supervisory authorities of the states whose competent authorities for resolution are the members of the resolution college;

6) ministers competent for financial institutions of the states whose competent authorities for resolution are the members of the resolution college, unless they are competent authorities for resolution;

7) governing bodies of recognised deposit guarantee schemes of the states whose competent authorities for resolution are the members of the resolution college, unless they are the competent authorities for resolution;

8) European Banking Authority.

4. If the supervisory authority referred to in paragraph 3 point 5 is not a central bank, a central bank's representative may participate in the resolution college without voting rights with the consent of the supervisory authority. The European Banking Authority shall participate in the resolution college with no voting rights.

5. The competent authority for resolution of a subsidiary and the competent authority for resolution of a major branch established in the territory of a third country may participate in the resolution college at its request if in the opinion of the Fund it ensures the protection of information in accordance with the principles set out in the Act.

6. If other colleges or groups pursue the same functions and tasks and provide the same participation for the authorities and entities referred to in paragraph. 3, as a resolution college, the Fund shall not establish a separate resolution college. The provisions of this Act shall apply accordingly to such collective bodies and groups to the extent to which they perform the functions and tasks specified in the Act.

Article 128. 1. The Fund shall chair the resolution college, coordinates its activities, ensures timely exchange of

information and determines, following the consultation with the other members of the college, the detailed rules and mode of its operation.

2. The Fund shall convene meetings of the resolution college, while notifying its members sufficiently in advance of the dates and places of the meetings and the issues which are the subject matters of the meetings.

3. The Fund may invite to participate in the meeting of the resolution college, as observers, the competent authorities for the resolution of third countries in whose jurisdiction a subsidiary or a significant branch of a domestic parent entity or of another entity of the group established in a Member State, at their request. To be invited, these bodies must satisfy the requirements laid down in Article 127 paragraph 5.

4. The Fund shall designate the members and entities referred to in Article 127 paragraph 3 and 5 to be invited to participate in a meeting of the resolution college, on considering the circumstances of the issues being discussed during the meeting of the resolution college, including the importance of these issues for the authorities and entities and their potential impact on financial stability in the Member States.

5. The authorities referred to in Article 127 paragraph 3 points 2 and 3 attend the meeting of the resolution college, if the meeting covers the matters related to the entities established in the Member States of these authorities, in particular when arrangements relating thereto are made in the form of collective decisions.

6. The Fund shall notify the members of the resolution college of the arrangements determined at the meeting.

Article 129. The Fund shall participate in the resolution colleges created by the competent authorities for the resolution of the group which includes a domestic entity or a significant branch operating on the territory of the Republic of Poland.

Article 130. 1. Where a competent authority for resolution or the supervisory authority of a Member State requests the Fund for information relevant to the performance of their tasks related to the resolution, which the Fund received from the competent authority for resolution of a third country, the Fund shall request the competent authority for resolution of a third country for consent to the transfer of the said information.

2. Where a competent authority for resolution of a third country does not give its consent to the transfer of the information referred to in paragraph 1, the Fund may refuse to transmit the information.

3. Where a competent authority for resolution of a third country has given its prior consent to the transfer of information, the provisions of paragraph 1 and 2 shall not apply.

Article 131. 1. If a parent company established in a third party country has subsidiaries that are institutions or significant branches in more than one Member State, including the territory of the Republic of Poland, the Fund and the competent authorities for resolution for the subsidiaries and the competent authorities for resolution from the Member States in which the third party entity operates in the form of a significant branch shall establish a European college for resolution in order to carry out the tasks set out in Article 127 paragraph 2.

1a. The Fund shall chair the European resolution college if the subsidiaries referred to in paragraph 1 are included in consolidated supervision by the Polish Financial Supervision Authority. The Polish Financial Supervision Authority may also supervise the subsidiary with the highest balance sheet total of all subsidiaries established in Member States.

1b. The members of the European resolution college shall take account of the global strategy for resolution for the group adopted by the competent authorities of third countries for the purposes of the task referred to in Article 127 paragraph 2 point 9.

2. (repealed)

2a. In the case of:

1) in accordance with the global strategy on resolution for the group, subsidiaries established in Member States or an entity that is an EU parent institution, an EU parent investment firm, an EU parent financial holding company, an EU parent investment holding company or an EU parent mixed financial holding company and its institutional subsidiaries are not entities subject to resolution,

2) the members of the European resolution college accept a global resolution strategy

– subsidiary entities established in Member States and an entity which is an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company, on a consolidated basis maintain a minimum level of own funds and eligible liabilities pursuant to Articles 98 paragraph 2i and paragraph 2l.

2b. The requirement referred to in paragraph 2a may be met by liabilities and own funds as defined in Article 98 paragraph 2l which are subscribed by:

1) the ultimate parent company within the meaning of Article 92b paragraph 2 of Regulation No 575/2013,

2) subsidiaries of the entity referred to in point 1 established in the same third party country as that entity, or

3) legal entities other than the entities referred to in points 1 and 2 if the conditions set out in Article 98 paragraph 2l point 1 sub-point a or point 2 sub-point b are met.

3. If subsidiaries are controlled by a financial holding company established in the territory of a Member State or an investment holding company established in the territory of a Member State, the Fund shall agree with the other competent authorities for resolution which of them is to chair the European resolution college.

4. If other colleges or groups perform the same functions and the same tasks and provide the same participation for the authorities referred to in paragraph 1 as the European resolution college, the authorities may collectively decide not to establish a distinct European resolution college. The provisions of this Act shall apply accordingly to such colleges and groups to the extent to which they perform tasks specified by the Act.

5. Paragraphs 1–4 as well as Articles 127–130 and Articles 132–134 shall apply accordingly to the activities of the European resolution college chaired by the Fund.

Article 132. 1. The Fund shall notify the competent authority for resolution of a group and other members of the resolution college that the conditions to initiate resolution of a subsidiary have been satisfied.

2. In the case referred to in paragraph 1 the Fund shall notify of the measures which, in its opinion, should be taken towards this subsidiary.

3. If following the consultation with the other members of the resolution college, the competent authority for resolution of a group considers that the measures indicated by the Fund will not lead to fulfilment of the conditions to initiate resolution towards other group entities, the Fund may take the decision referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4 towards a subsidiary.

4. The Fund may also take the decision referred to in paragraph 3 in the case that the competent authority for resolution of a group failed to provide the assessment within 24 hours of receipt of the notice or such longer period as agreed by the Fund with this authority.

5. If following the consultation with the other members of the resolution college, the competent authority for resolution of a group considers that the measures indicated by the Fund will meet the conditions to initiate resolution towards other group entities, within 24 hours of receipt of the notice, or such longer period as agreed with the Fund, shall propose a resolution scheme.

6. In an event of a receipt of a notice from the competent authority that conditions to initiate resolution are met for a subsidiary of a domestic parent company, the Fund, following the consultation with the members of the resolution college, shall assess whether the measures indicated by that authority can provide for compliance with the conditions to initiate resolution of other group entities.

7. If the Fund considers that the measures indicated by the competent authority for resolution referred to in paragraph 6 will fail to provide for compliance with the conditions to initiate resolution of other group entities, it shall notify the competent authority for resolution.

8. If the Fund considers that the measures indicated by the competent authority for resolution, referred to in paragraph 6, will meet the conditions to initiate resolution towards other group entities, it proposes a resolution scheme within 24 hours of receipt of the notice, or such longer period as agreed with this authority.

Article 133. 1. The resolution scheme shall:

1) include measures identified in the group resolution plan, unless the objectives of resolution, on considering the current conditions, are attained to a greater extent through the measures not specified in the plan;
2) specify the measures to be taken towards a parent company and its subsidiaries;
3) define the coordination of the measures referred to in point 2 and the method of financing thereof on considering the principles of cost-sharing defined in the group resolution plan.

2. The method of financing referred to in paragraph 1 point 3 shall specify:

1) the results of the valuation referred to in Article 137 paragraph 2 and 3 performed for the entities of the group covered by the resolution scheme;
2) the total amount of losses to be covered, suffered by the entities of the group covered by the resolution scheme;
3) the amount of losses suffered by the entities of the group covered by the resolution scheme, which are required to be covered by the owners and individual classes of creditors;
4) the amounts of the guarantee fund for banks and guarantee fund for credit unions transferred in accordance with Article 272 paragraph 3;
5) the total amount of required funding, its purpose and form;
6) the manner of distribution of the amount of required funding for the resolution funds of the individual Member States of the entities covered by the resolution scheme;

7) the amount of the required funding from the resolution funds of the individual Member States of the entities covered by the resolution scheme;

8) the amount of required funding, to be acquired by resolution funds of the individual Member States of the entities covered by the resolution scheme in the form of loans from other market sources of financing of funds;

9) the terms of using the resolution funds of the individual Member States of the entities covered by the resolution scheme.

3. The Fund shall determine the division of the required funding between the resolution funds of the individual Member States of the entities covered by the resolution scheme on the basis of the principles defined in the group resolution plan, unless the Fund and the competent authorities for resolution stipulate otherwise in the collective decision referred to in paragraph 5.

4. If a group resolution plan does not specify the principles of the division of the amount of required funding between the resolution funds of the individual Member States of the entities covered by the resolution scheme, the Fund, while making the determination of this division, shall take into account the criteria set out in Article 82 paragraph 3.

5. A resolution scheme shall be agreed by the Fund in the form of a collective decision with the competent authorities for the resolution of entities covered by the scheme.

6. Where a resolution scheme may result in financial consequences for the public finances of the Republic of Poland, the Fund may agree such a scheme only in consultation with the Minister competent for financial institutions.

7. If in the opinion of the Fund the measures indicated in the resolution scheme presented by the competent authority for resolution of a group are inadequate or in the assessment of the Fund, measures other than those specified in this scheme must be taken in order to safeguard financial stability, the Fund shall notify the competent authorities for resolution of the entities covered by the resolution scheme along with the statement of reasons.

8. In the case referred to in paragraph 7 the Fund shall consider the impact of its position on the financial stability of the Member States of entities covered by a group resolution plan and on the situation of entities of a group.

9. In the case of agreeing the resolution scheme in the manner specified in paragraph 5 the Fund shall take measures including the adoption of a decision to initiate resolution, in line with the agreed scheme.

10. In the case referred to in paragraph 7 the Fund shall collaborate with the members of the resolution college with a view to coordinating measures undertaken towards the entities of the group being at risk of bankruptcy.

11. In the case referred to in paragraph 7 the Fund shall forthwith notify the members of the resolution college of the measures undertaken within the framework of resolution towards a domestic subsidiary entity.

Article 134. 1. Where in the opinion of the Fund the conditions have been satisfied for the initiation of resolution towards a domestic parent entity, the Fund shall notify the Polish Financial Supervision Authority and other members of the resolution college, as well as shall notify on the measures towards the entity, the initiation of which it deems necessary and adequate.

2. The Fund shall propose a draft resolution scheme if:

1) undertaking measures towards a domestic parent entity can satisfy the conditions for the initiation of resolution towards subsidiaries in the Member States;

2) undertaking measures towards a domestic parent entity is not sufficient to remove the threat of bankruptcy or fails to provide the fullest possible attainment of the objectives of resolution;

3) the conditions for the initiation of resolution are satisfied at least towards one subsidiary in a Member State;

4) undertaking measures towards a domestic parent entity will bring benefits to subsidiaries justifying the agreement on resolution scheme.

3. If the measures proposed by the Fund do not contain proposals for the agreement on the resolution scheme, the Fund shall take decisions, including the decision to initiate resolution, following the consultation with the members of the resolution college.

4. In the cases referred to in paragraph 2 the Fund shall include the measures identified in the group resolution plan in the resolution scheme, unless given the current conditions, the objectives of resolution are going to be attained to a greater extent through the measures not specified in this plan, on considering the expected impact of these measures on the financial stability of the Member States in which the subsidiaries operate.

5. If the Fund proposed the draft resolution scheme, agreement on this scheme with the competent authorities for the resolution of the subsidiaries covered by the scheme shall be effected in the form of a collective decision. In this case the Fund shall act in accordance with that scheme.

5a.If the resolution scheme has not been agreed in the manner indicated in paragraph 5 for the reason that the

competent resolution college has not agreed, the Fund and the other competent resolution authorities may adopt, in the form of a joint decision, a resolution scheme for the remaining entities.

6. If a resolution scheme has not been agreed upon in the manner indicated in paragraph 5 and 5a, the provisions of Article 133 paragraph 10 and 11 shall apply accordingly.

Chapter 7

The impact of resolution on other proceedings

Article 135. 1. The enforcement proceedings or the procedure for precautionary measures addressed to the assets of an entity under restructuring instituted before the commencement of the resolution shall be discontinued.

2. Termination of enforcement proceedings shall not preclude adjudicating the property of real estate if the adjudication was granted before the commencement of the resolution, and the buyer under enforcement proceedings pays the purchase price on time.

3. The amounts obtained in the terminated proceedings and not released shall be reimbursed to an entity under restructuring, unless they have been obtained from the sale of assets encumbered in rem. Termination of enforcement proceedings shall not preclude making the distribution of amounts received from the sale of assets encumbered in rem by an authority responsible for enforcement proceedings.

4. During the resolution no enforcement proceedings nor the procedure for precautionary measures may be initiated towards an entity under restructuring.

5. The provisions of paragraph 1–4 shall not apply to the enforcement of maintenance payments and pensions in respect of compensation for causing illness, disability, injury or death and due to the conversion of allowances covered under life estate rights into life annuity.

Article 136. 1. If no arbitration has been initiated as of the date of the initiation of resolution proceedings, the Fund may withdraw from the arbitration agreement, effected by an entity under restructuring, if the pursuit of the claim before an arbitration court hinders the conduct of resolution.

2. At the request of the opposing party submitted in writing, the Fund within 30 days shall declare in writing whether it withdraws from the arbitration agreement. Failure to submit the declaration by the Fund within this period shall be deemed waiver from the arbitration agreement.

3. The opposing party may withdraw from the arbitration agreement if the Fund, despite absence of its withdrawal from the arbitration agreement, refuses to participate in the costs of proceedings before an arbitration court.

4. As a result of the withdrawal, an arbitration agreement shall be repealed.

5. The proceedings before arbitration courts shall be governed by the provisions of Article 176 paragraph 2 and Article 181 paragraph 2 of the Act of 17 November 1964 – Code of Civil Procedure (Journal of Laws of 2023 item 1550 as amended[29]), hereinafter referred to as the 'Code of Civil Procedure'.

Chapter 8

Powers of the Fund during resolution

Article 137. 1. Prior to the decision to initiate resolution, the Fund shall provide a valuation of assets and liabilities of an entity.

2. The valuation shall be made on behalf of the Fund by an entity independent of public authorities, the Fund, an entity whose assets and liabilities are subject to valuation, the parent company of the entity whose assets and liabilities are subject to valuation, or other entities of a group which includes an entity whose assets and liabilities are to be subject to valuation.

3. If no valuation can be made before the decision referred to in paragraph 1 is issued, the Fund or the independent entity referred to in paragraph 2 shall make a preliminary valuation of the value of the entity's assets and liabilities.

4. The provisional valuation shall be a sufficient basis for the decision referred to in paragraph 1 until a valuation has been made in the manner set out in paragraph 2, if such a decision is necessary to achieve the purposes of the resolution or to remove the threat of insolvency.

5. Where the valuation is performed in order to apply the instrument of write down or conversion of liabilities, and derivative instruments constitute the subject of write down or conversion of liabilities, this valuation shall be provisional valuation pending the result of the settlement of derivative instruments.

6. The Fund shall commission the valuation referred to in paragraph 2, regardless of the performance of the preliminary valuation.

7. The valuation referred to in paragraph 2 and 3 can be challenged solely in the complaint against the decision to apply the instrument of resolution or a decision on write down or conversion of capital instruments.

[29] Amendments to the consolidated text of the aforementioned Act were promulgated in the Journal of Laws 2023, item 1429, 1606, 1615, 1667, 1860 and 2760.

Article 138. 1. The valuation referred to in Article 137 paragraph 1 shall be effected in order to:

1) verify the premise of risk of bankruptcy, in particular satisfying the conditions of conducting business covered by a licence issued by the Polish Financial Supervision Authority;

2) determine the losses of the entity, impairment of property rights and liabilities of the entity, in particular in respect of items referred to in paragraph 5;

3) select an instrument which will provide the most complete achievement of the objectives of resolution;

4) determine the amounts referred to in Article 202 paragraph 1, and the categories of own funds or liabilities subject to write down or conversion;

5) determine the scope of the acquired property rights or liabilities in the case of applying the instrument of bridge institution or separation of property rights and remuneration for acquisition;

6) determine the acquired property rights or liabilities in the case of applying the instrument of acquisition of undertaking and the assessment of the conditions offered by the entities interested in the acquisition.

2. If the Fund made a provisional valuation in accordance with Article 137 paragraph 3, the valuation referred to in Article 137 paragraph 2 shall seek the final determination of the value of property rights and verification of the correctness of the determination of the amounts referred to in Article 202 paragraph 1, the scope of write down or conversion and the remuneration referred to in paragraph 1 point 5, determined on the basis of the provisional valuation in order to decide the case referred to in paragraph 3.

3. If the estimated net asset value is higher than the net asset value in the provisional valuation, the Fund may:

1) change the level of write down or conversion of capital instruments or liabilities;

2) adjust the remuneration for the transfer of assets or liabilities to a bridge institution or asset management vehicle.

4. In a provisional valuation the Fund shall take into account a reserve for additional losses unidentified due to the required period of time to perform the valuation.

5. The valuation shall take into account claims which the Fund may address to an entity under restructuring in respect of the costs of applying the instruments of resolution, transfers from the fund for the guaranteed deposits' disbursement, support granted to an entity under restructuring and to an acquiring entity and the use of public funds.

6. The valuation must not take into account prospective granting extraordinary public financial support for an entity nor emergency liquidity support provided by the National Bank of Poland or another central bank on non-standard conditions relating to security, time or interest rates.

7. The valuation should contain:

1) assessment of the value of assets and liabilities of an entity;

2) balance sheet and profit and loss account taking into account an assessment made and the amounts referred to in paragraph 4 and 5;

3) assessment of the financial situation of an entity;

4) a list of the balance sheet liabilities and off-balance sheet liabilities of an entity by category of settlement of claims in accordance with the provisions of the Act – Bankruptcy Law and estimation of the anticipated level of satisfaction of claims which would have taken place if the court ruling on the declaration of bankruptcy had been issued towards an entity under resolution.

8. Where the valuation is performed in order to apply the instrument of write down or conversion of liabilities, the valuation should include a determination of the value of the instruments of ownership issued as a result of the conversion in order to determine the conversion rates.

9. The valuation may include an estimation of the market value of assets and liabilities.

10. A provisional valuation should indicate the value of assets and liabilities and the amounts referred to in paragraph 4 and 5.

Article 139. 1. The valuation in the scope specified in Article 138 paragraph 1 point 1 shall be based on an objective and realistic assessment of the assets and liabilities, including the law applicable to the preparation of financial statements and the requirements as regards own funds referred to in Article 92–98 of Regulation No 575/2013, and rules for determining the capital necessary to cover the risk inherent in the business of an entity.

2. A valuer may, where appropriate, adopt different assumptions and use other methods of valuation than those that were accepted and applied by the entity while preparing financial statements or performing duties in the field of supervisory reporting, in particular, it can take note of supervisory guidelines.

Article 140. 1. The valuation in the scope specified in Article 138 paragraph 1 point 2–6 shall be made on the basis of an objective, realistic and prudent assessment of the expected cash flows derived from the use of instruments of resolution, on considering a resolution plan or a group resolution plan and a resolution scheme, if it has been developed.

3. Following the consultation with the Fund, a valuer may, where due to the current conditions, the objectives of the resolution are going to be attained to a greater extent by the measures not specified in the plans referred to in paragraph 1, estimate expected cash flows arising from the instruments of resolution other than those specified in those plans.

4. In the scope specified in Article 138 paragraph 1 point 2, a valuer shall take into account the results of the estimation in the estimation of the expected cash flows.

5. The estimation of the expected cash flows shall be effected with the use of discount rates to determine the present value of future cash flows.

6. The members of the Management Board and the Supervisory Board of the entity whose assets and liabilities are subject to the valuation, performing their duties in the year in which the resolution was initiated or the valuation was carried out, and in the period of 3 years preceding the initiation of the resolution, and the key statutory auditor performing the audit or review of the financial statements in the year in which the resolution was initiated or the valuation was commenced, and in the period of 3 financial years preceding the initiation of the resolution, are obliged to provide information to the Fund and the entity carrying out the valuation. If the commencement of valuation occurred in the year preceding the year in which resolution was initiated, the period of 3 financial years preceding the commencement of resolution shall be counted until the date of commencement of valuation.

Article 141. 1. The Fund may close the accounting ledgers of an entity under restructuring on a selected date. The closing of the accounting ledgers may also be made on the day preceding the day of the resolution.

2. The day on which the accounting ledgers are closed shall be a balance sheet day within the meaning of the Accounting Act of 29 September 1994 (Journal of Laws 2023, item 120, 295 and 1598. The financial statements prepared as at that date are not annual financial statements within the meaning of that Act.

3. Profits or losses determined on the basis of the financial statements referred to in paragraph 2 may be distributed or covered accordingly.

Article 142. 1. The Fund may suspend the right to enforce the collateral from the assets of an entity under restructuring, but for no longer than the end of the working day following the date of publication of the Fund's decision to suspend this right.

2. The Fund may not suspend the right of collateral enforcement by:

1) an entity being an entity conducting or a participant of a payment or settlement system, for which collateral has been established in respect of participation in this system;

1a) Central counterparty;

2) the National Bank of Poland, a central bank of another Member State within the meaning of the Act on Settlement Finality or the European Central Bank in respect of the collateral established for their benefit for the transactions with these banks.

3. In its decision referred to in paragraph 1, the Fund shall take into account its impact on the functioning of the financial market.

4. The Fund shall seek to provide a level playing field for the suspension of the right to enforce securities of entities of a group towards which resolution measures are taken.

Article 143. 1. The Fund may suspend the right of unilateral termination of agreements concluded with an entity under restructuring, but for the period not longer than until the end of the working day following the publication date of the Fund's decision on suspension of this right.

2. The Fund may also suspend the right of unilateral termination of agreements concluded with a subsidiary of an entity under restructuring, but for the period not longer than until the end of the working day following the publication date of the Fund's decision to suspend the right of termination or withdrawal if all of the following conditions have been satisfied:

1) performance of the obligations under an agreement is secured by an entity under restructuring;

2) contractual reasons of the termination or withdrawal apply solely to the financial situation of an entity under restructuring;

3) in the case of a transfer:

a) property rights and liabilities of a subsidiary connected with an agreement shall be acquired by an acquiring entity or

b) the Fund shall provide another adequate manner to collateralise the performance of the obligations under an agreement.

3. The provisions of paragraph 1 and 2 shall not apply if the party to the agreement has been notified by the Fund that the rights and obligations arising from the agreement are not subject to the transfer to a bridge institution, asset management vehicle or a third party, or they will not be subject to write down or conversion.

4. A party to the agreement concluded with an entity under restructuring may not terminate or withdraw from an agreement due to the initiation of resolution or the performance by the Fund of powers under the Act towards an entity under restructuring if the principal supplies of services arising from the agreement are effected, and the contractual obligations in the field of the established collateral are performed.

5. If the rights and obligations under an agreement concluded with an entity under restructuring have been transferred to a bridge institution or a third party, the party of such an agreement may terminate it or withdraw from it solely if following the transfer the conditions are satisfied for opening of court proceedings aimed at the pursuit of a claim from the agreement.

6. A party to an agreement concluded with an entity under restructuring may not terminate or withdraw from the agreement, if the obligations under the agreement are subject to write down or conversion of liabilities.

7. The Fund may not suspend the right to terminate am agreement concerning the participation in a payment system or settlement system, as well as agreements concluded in connection with the participation in such a system, vested with the entity operating the system, a participant of this system, a central counterparty, the National Bank of Poland or a central bank of a Member State other than the Republic of Poland.

Article 144. 1. The Fund may suspend enforcement of due liabilities of an entity under restructuring for a period not longer than until the end of the working day following the publication date of the Fund's decision to suspend the enforcement of liabilities.

2. The provision of paragraph 1 shall not apply to the liabilities:

1) to depositors – in respect of guaranteed funds;

2) to investors – in respect of funds under protection of a compensation scheme;

3) due to participation in a payment system or a settlement system of securities, as defined in the Law on Settlement Finality, including to the entity operating the system;

4) to a central counterparty;

5) to the National Bank of Poland, a central bank of another Member State within the meaning of the Act on Settlement Finality or the European Central Bank.

3. In its decision referred to in paragraph 1, the Fund shall take into account its impact on the functioning of the financial market.

4. Where the term of performance of the obligation falls during the suspension period, the liability shall become due on the working day following the period of suspension.

5. Where the performance of a liability of an entity under restructuring under the agreement or other legal relationship has been suspended on the basis of the decision referred to in paragraph 1, the performance of the liability under the agreement or under the said legal relationship by the other parties shall be suspended for the same period.

Article 144a. 1. The Fund may, by way of a decision, after consulting the Polish Financial Supervision Authority, suspend the performance of payment or delivery obligations by an entity if all of the following conditions are met:

1) an entity is failing or likely to fail;

2) with respect to the entity it is not possible to take measures referred to in Article 101 paragraph 7 point 2, which would remove the threat of bankruptcy;

3) the suspension is necessary for the purpose of avoiding deterioration of the entity's financial situation;

4) the suspension is necessary to:

a) establish the grounds referred to in Article 101 paragraph 7 point 3, or

b) determine resolution measures or to ensure the effectiveness of the application of one or more resolution instruments.

2. The Polish Financial Supervision Authority shall promptly issue the opinion referred to in paragraph 1.

3. Paragraph 1 shall not apply to the entity's obligations towards:

1) a payment system or a securities settlement system within the meaning of the Act on Settlement Finality, including an entity operating such a system;

2) Central counterparty;

3) The National Bank of Poland, a central bank of another Member State within the meaning of the Act on Settlement Finality or the European Central Bank.

4. The Fund may suspend the performance of payment or delivery obligations by an entity for a period not longer than until the end of the working day following the day on which the Fund's decision on the suspension was posted on the website.

5. When issuing the decision referred to in paragraph 1, the Fund shall take into account its impact on the functioning of the financial market, in particular it shall assess the adequacy of the suspension of funds covered by guarantee protection, including guaranteed funds belonging to natural persons, micro-entrepreneurs, small and medium-sized entrepreneurs. The Fund shall also take into account separate provisions, in particular those concerning supervisory and judicial powers to ensure the protection of creditors' rights and their equal treatment in the event of the entity's liquidation in accordance with the provisions of the Act – Bankruptcy Law in connection with the failure to fulfil the premise referred to in Article 101 paragraph 7 point 3. The provisions of Article 135 paragraph 4, Article 156 and Article 157 shall apply accordingly.

6. If the performance of an entity's payment or delivery obligations arising from an agreement or other legal relationship is suspended on the basis of the decision referred to in paragraph 1, the performance of the payment or delivery obligations of the other parties to the agreement or other legal relationship shall be suspended for the same period.

7. Where the term of performance of the obligation falls during the suspension period, the liability shall become due on the working day following the period of suspension.

8. In the case referred to in paragraph 1, the Fund shall immediately communicate the decision to the entity threatened with bankruptcy. Prior to the decision to initiate resolution, the Fund shall immediately inform the Polish Financial Supervision Authority and the entities referred to in Article 101 paragraph 6 of the decision.

9. The power referred to in paragraph 1 shall be vested in the Fund irrespective of powers provided for in separate regulations to suspend the performance by an entity of payment or delivery obligations.

10. The Fund may, during the period of suspension of performance by an entity of its payment or delivery obligations, suspend:

1) the enforcement of securities from the entity's assets for the period of suspension of the entity's performance of its payment or delivery obligations;

2) the power to unilaterally terminate agreements concluded with the entity for the period referred to in Article 143 paragraph 1.

11. If, in the case referred to in paragraphs 1 and 10, the Fund decides to initiate resolution, the provisions of Article 142 paragraph 1, Article 143 paragraph 1 and Article 144 paragraph 1 shall not apply to the suspension of rights by the Fund in the manner set out in those provisions.

12. The Fund shall promptly serve the decision referred to in paragraph 1 on the entity whose payment or delivery obligations have been suspended.

Article 144b. 1. A financial agreement to which an entity is one of the parties and the applicable law is the law of a third party country shall contain a proviso that the Fund shall have the powers referred to in Articles 142–144a and the provisions of Article 156 shall apply to the parties to that agreement.

2. Paragraph 1 shall apply to financial agreements:

1) for which the Fund would have the powers referred to in Articles 142–144a or to which the provisions of Article 156 would apply, if the applicable law would be the law of a Member State;

2) under which obligations of the entity arise, including off-balance-sheet and contingent liabilities arising from

financial agreements.

3. A domestic parent company established in the territory of a third country shall ensure that financial agreements governed by the law of a third country entered into by its subsidiary contain the reservation referred to in paragraph 1.

4. Paragraph 3 shall apply if the subsidiary established in the territory of a third country is:

1) a credit institution within the meaning of Article 4 paragraph 1 point 1 of Regulation No 575/2013;

2) an investment firm within the meaning of Article 4 paragraph 1 point 2 of Regulation No 575/2013 or an entity that would be such an investment firm if it is established in the territory of a Member State;

3) a financial institution.

5. The Management Board of the Fund may, at the request of the domestic parent company, by resolution, having regard to the limited impact on the assessment of the feasibility of the resolution plan or the group resolution plan, exempt that entity from the obligation referred to in paragraph 3 if the domestic parent company and the subsidiary established in the territory of a third party that is party to the financial agreement consider that its implementation is not possible due to the provisions of the third country to which the agreement is subject. The request by the domestic parent company shall state the reasons. The Fund may request a legal opinion from the applicant.

6. Failure to include in the financing agreement referred to in paragraph 1 or paragraph 3 the contractual reservations set out in paragraph 1 shall not affect the Fund's ability to exercise the powers referred to in Articles 142 to 144a and to apply the provisions of Article 156 to the parties to that agreement.

Article 145. 1. In the cases referred to in Article 142 paragraph 1, Article 143 paragraphs 1 and 2, Article 144 paragraph 1 and Article 144a paragraph 1, the provisions of Article 4 and Articles 8–10 of the Act of 2 April 2004 on Selected Financial Security (Journal of Laws of 2022, item 133 and of 2023, item 1723) shall not apply.

2. The provision of paragraph 1 shall not apply to the security referred to in Article 142 paragraph 2.

Article 146. 1. The Fund may, by way of a decision, commit an entity belonging to a group of an entity under restructuring to the provision of services to the extent necessary to perform activities related to the transferred: undertaking of an entity under restructuring, rights attached to the shares of an entity under restructuring, selected or all of the property rights or selected or all of the liabilities of an entity under restructuring by an entity to which they are transferred, particularly if they had been rendering the said services to an entity under restructuring prior to the date of initiation of resolution. The period of rendering services may not be longer than 12 months from the date of the decision of the Fund to implement the instrument of acquisition of undertaking, bridge institution or separation of property rights.

2. Entities of a group shall be required to render the services referred to in paragraph 1 under the existing contractual conditions, and if these entities had not concluded agreements in the subject matter of those services with an entity under restructuring – on average market conditions on the basis of an agreement concluded with the entity to which the services are rendered.

3. The services referred to in paragraph 1 may not include financial support.

Article 147. The Fund may, by way of a decision, cancel the pre-emptive rights attached to shares, or rights to assume other equity instruments vested with the owners of an entity under restructuring.

Article 147a. The Fund may suspend, until the date of completion of the resolution, the reimbursement of payments made by the owners of the entity under restructuring for the shares of the entity under restructuring which is a cooperative.

Article 148. The Fund may request a company operating the regulated market or an investment firm organising an alternative trading system referred to in Article 78 of the Act on Trading in Financial Instruments:

1) for the exclusion of financial instruments from organised trading under the provisions thereof, in particular in the case of the application of the instrument of write down or conversion of liabilities;

2) for the suspension of trading in financial instruments for a period not longer than 3 months.

Article 149. 1. The Fund may entrust the performance of transactions of a bank under restructuring referred to in Article 5 and Article 6 of the Banking Act to another bank. The provisions of Article 6a paragraph 2, paragraph 3 point 2 and paragraph 4–8 and Article 6c–6d of the Banking Act shall not apply.

2. The Fund may, by way of a written agreement, entrust the performance of intermediation in terms of the activities enumerated in Article 5 and Article 6 of the Banking Act and factual activities related to banking business on behalf and for the benefit of the bank under restructuring to an entrepreneur or a foreign entrepreneur. The provisions of Article 6a paragraph 2, paragraph 3 point 2 and paragraph 4–8 and Article 6c–6d of the Banking Act shall not apply.

3. The Fund may entrust the performance of transactions related to the business carried out by an investment firm

under restructuring, including the pursuit of its brokerage business, to an entrepreneur or a foreign entrepreneur. The provisions of Article 81a paragraph 2 point 1, Article 81b paragraph 1 point 6–10 and paragraph 2, Article 81d and Article 81g paragraphs 2–5 of the Act on Trading in Financial Instruments shall not apply.

4. The Fund shall forthwith notify the Polish Financial Supervision Authority on the conclusion of the agreements referred to in paragraph 1–3.

Article 150. 1. The Fund may, by way of a decision, amend the terms of an agreement to which an entity under restructuring is a party, and may settle the agreement, transfer the rights from the agreement to a third party or substitute for a party to the agreement.

2. The provision of paragraph 1 shall not apply to agreements:

1) for participation in a payment or settlement system;

2) concluded in connection with participation in a payment or settlement system;

3) related to the granting of the guarantee of the State Treasury referred to in Article 4 paragraph 1 of the Act of 12 February 2009 on granting support to financial institutions by the State Treasury (Journal of Laws of 2023, item 776).

4) concluded with the National Bank of Poland, a central bank of another Member State within the meaning of the Act on Settlement Finality or the European Central Bank.

Article 151. 1. If the Fund amends the terms of the agreement, transfers a part of the property rights of an entity under restructuring to another entity or transfers thereof from the asset management vehicle or bridge institution to another entity, property rights or liabilities related to or resulting from the same legal transaction should be transferred in whole or altered or be subject to termination, so as not to restrict their aim or rights of parties to a legal transaction and to maintain:

1) the degree of securing the performance of obligations under the established security and in particular not to effect:

   a) transfer of property rights constituting security for performance of the obligation or benefits from the rights which constitute the security of performance without the transfer of this obligation,

   b) transfer of benefits from the collateral without making transfer of the collateralised liability,

   c) transfer of the obligation without a transfer of property rights constituting security for the performance of the said obligation or benefits from the property rights constituting security for the performance of the obligation,

   d) amendments to the conditions of collateral agreements which lead to the cancellation or limitation of rights to the enforcement of collateral;

2) option of set-off or compensation.

2. The provisions of paragraph 1 shall apply to:

1) agreements and contracts:

   a) on the establishment of financial collateral within the meaning of the Act of 2 April 2004 on Selected Financial Security.

   b) on the establishment of the security other than that referred to in sub-point a,

   c) including the parties' right to set-off or agreements containing a compensation clause, including those providing, in the case of breach of contractual provisions or another event, for a forthwith set-off or compensation of receivables of the parties,

   d) securing receivables,

   e) repurchase agreements,

   f) structured finance, in particular securitisation;

2) mortgage bonds or other collateralised instruments.

Article 152. If necessary to provide depositors with access to the guaranteed funds, the Fund may in particular:

1) transfer of liabilities derived from guaranteed funds without a transfer the associated property rights or liabilities;

2) transfer property rights or liabilities, amend the conditions or settle the agreement without the relevant transactions of a transfer or amendment of related liabilities derived from guaranteed funds.

Chapter 9

Administrator

Article 153. 1. The Fund may, by way of a decision, appoint an administrator for an entity under restructuring.

1a. The administrator may be a person who has appropriate qualifications, skills and knowledge to perform the functions entrusted to him, in particular the activities referred to in Article 154 paragraph 1.

2. The Fund publishes information on the appointment of the administrator on its website.

3. The Fund provides information on the appointment of the administrator in writing or with the use of information technology to the Polish Financial Supervision Authority and an entity under restructuring, in order to publish it on their websites.

4. The Polish Financial Supervision Authority and an entity under restructuring shall publish the information on the appointment of the administrator forthwith upon the receipt thereof from the Fund.

5. The administrator shall be entrusted with the powers of the Fund referred to in Article 113 paragraph 1 point 1 The Fund may by way of the decision on their appointment limit the scope of powers vested in the administrator.

6. The administrator shall exercise the powers referred to in paragraph 5 under the supervision of the Fund.

7. In a decision to appoint the administrator the Fund shall determine the manner of performing supervisory tasks, the administrator's actions that require the prior consent of the Fund and the scope and frequency of notification to the Fund of the financial situation of an entity under restructuring and undertaken measures.

8. The Fund shall appoint the administrator for a maximum period of one year. Wherever necessary for the pursuit of the objectives of resolution, the Fund may extend this period to 2 years.

9. The Fund may remove the administrator at any time.

10. In the decision to appoint the administrator the Fund may specify which costs linked to the performance of duties of the administrator will account for the costs of resolution, on considering the financial situation of an entity under restructuring.

11. The Fund may amend the decision to appoint the administrator at any time.

Article 154. 1. The administrator shall take the measures required to attain the objectives of the resolution referred to in Article 66 in accordance with decisions of the Fund. These shall include, in particular capital increase, change of the ownership structure of an entity under restructuring or its acquisition by another entity stable in financial and organisational terms, with the use of the instruments of resolution referred to in Article 110 paragraph 1.

2. The measures under the powers referred to in paragraph 1 shall take precedence over actions arising from the performance of duties within the competence of statutory bodies of an entity under restructuring under the statutes, articles of association, internal regulations of an entity under restructuring or other regulations.

3. The administrator shall provide the Fund with information referred to in Article 153 paragraph 7 at the dates specified in the decision on their appointment, in particular on the day of the appointment and removal from office.

Article 154a. 1. The Fund may, by decision, appoint a deputy administrator of an entity under restructuring. The provisions of Article 153 paragraph 1a–11 shall apply accordingly.

2. The deputy administrator shall have the powers set out in Article 154 paragraphs 1 and 2 as indicated in the decision on his appointment. The provision of Article 154 paragraph 3 shall apply accordingly.

Chapter 10

Suspension of business activities of an entity under restructuring

Article 155. 1. If it is necessary to implement the instruments of resolution, the Fund may issue a decision to suspend business activities of a bank under restructuring, or a credit union under restructuring or suspension of execution in whole or in part of the brokerage business by an investment firm under restructuring.

2. The provisions of Article 159 paragraph 3 of the Banking Act, Article 74l paragraph 3 of the Act on Cooperative Savings and Credit Unions and Article 167 of the Act on Trading in Financial Instruments shall apply accordingly.

Chapter 11

Effects of suspension of performance and resolution on the liabilities of the entity or entity under restructuring

Article 156. 1. The suspension of the performance of obligations referred to in Article 144a, the initiation of resolution, decisions taken by the Fund within the framework of resolution, as well as the consequences of such decisions towards the agreements concluded by an entity under restructuring shall not be considered the basis of the enforcement of the collateral within the meaning of Article 3 point 4 of the Act of 2 April 2004 on Selected Financial Security nor a declaration of bankruptcy within the meaning of Article 1 point 14 of the Act on Settlement Finality, if the material commitments of an entity under restructuring under the agreement, including the commitment for payment and delivery, as well as the commitment to provide security, subject to Article 142, Article 144, Article 161 and Article 213 are performed.

2. If the relevant provisions of the agreement, in particular in terms of delivery, payment and security are performed by an entity under restructuring or entities of the group which includes an entity under restructuring, the suspension of the performance of obligations referred to in Article 144a, neither the initiation of resolution, nor the decisions taken by the Fund within the framework of the resolution, nor the consequences thereof shall serve as basis for the other party of the agreement to:

1) terminate, withdraw, suspend or amend the agreement and effect a set-off or compensation in the case of the agreements concluded by an entity or an entity under restructuring, as well as agreements concluded:

   a) by a subsidiary of an entity under restructuring, if an entity or an entity under restructuring collateralises the satisfaction of obligations under an agreement,

   b) by an entity of a group, if these provisions relate to default on obligations by another entity of a group;

2) exercise of rights deriving from the collateralisation of performance of obligations under these agreements, including provisions relating to default on obligations by another entity of a group;

3) restriction or requiring the restriction on the rights of an entity under restructuring or entities of a group arising from the agreements, including the provisions of an agreement relating to default on obligations by another entity of a group.

3. The contractual provisions contradictory to paragraph 2 shall be invalid.

4. The provisions of paragraphs 1 and 2 shall not infringe the right to undertake the measure referred to in paragraph 2 if the implementation of this right takes place for reasons other than in connection with the suspension of the performance of obligations referred to in Article 144a, commencement of the resolution, taking a decision by the Fund within the framework of resolution, or consequences thereof.

5. The provisions of paragraph 1 and 2 shall be considered to be overriding mandatory provisions within the meaning of Article 9 of Regulation of the European Parliament and Council (EC) No 593/2008 of 17 June 2008 on the law applicable to contractual obligations (Rome I) (EU OJ L 177, 04.07.2008, p. 6).

Article 157. 1. The provisions of an agreement to which an entity under restructuring is a party that prevent the attainment of the objectives of the resolution, in whole or in part, shall be ineffective towards an entity under restructuring.

2. The provisions of an agreement which reserve the change or termination of the legal relationship in the case of conducting resolution towards an entity under restructuring shall be invalid.

3. The provisions of paragraph 1 and 2 shall not apply to contractual provisions which grant to a party the right to terminate or change the legal relationship further to an event other than the initiation of the resolution, taking a decision by the Fund within the framework of resolution or a consequence of such a decision.

Article 158. 1. The Fund may terminate the following agreements without observing the period of notice and without compensation:

1) contract of mandate agreement or commission contract where an entity under restructuring was the contractor or consignee;

2) agency contract where an entity under restructuring was an agent;

3) contract of lending for use;

4) on loan or credit, if the subject of the loan or credit has not been made available to the borrower;

5) on access to safe deposit boxes or storage agreement;

6) on a bank account, securities account, on the operation of an omnibus account or agreement on property insurance;

7) lease agreement where an entity under restructuring is the lessee;

8) leasing or letting of the real estate if the subject of the agreement has not been surrendered.

2. The provision of paragraph 1 shall apply to agreements concluded prior to the initiation of resolution.

3. Termination may also occur if the termination of the agreement by the entity under restructuring was unacceptable.

Article 159. 1. Where the implementation of the agreement concerning leasing or letting real estate hinders attainment of the objectives of resolution or the rent of leasing or letting real estate differs from the average rent of leasing or letting real estate of the same kind, the Fund may, irrespective of notice periods reserved in the agreement, terminate the agreement concerning leasing or letting real estate of an entity under restructuring with a 3-month notice period, if the subject matter of leasing or letting has been surrendered.

2. The Fund may terminate an agreement concerning leasing or letting real estate surrendered to an entity under restructuring with a 6-month notice period, if the agreement concerns the real estate where the business of an entity under restructuring was operated, and in other cases – within the period prescribed by law, unless the notice periods provided in the agreement are shorter.

3. Termination may also occur if the termination of the agreement by the entity under restructuring was unacceptable.

4. The termination of the agreement must not take place prior to the deadline for which the rent has been paid in advance. The Fund may terminate an agreement concerning leasing or letting prior to that date, if the continuance of the agreement hindered the conduct of resolution, in particular when it leads to an increase in the costs of resolution.

5. The claim for the loss suffered as result of a notice effected prior to the end of the notice period may be pursued against an entity under restructuring, but for a period not longer than 2 years, under the liquidation or bankruptcy proceedings of a residual entity and, in the case referred to in Article 174 paragraph 1 point 3, Article 188 paragraph 1 point 1 and Article 201 paragraph 1 point 1 – in accordance with Article 242 paragraph 1.

Article 160. 1. Within resolution conducted towards an affiliating bank, the Fund may, with a 3-month notice period, terminate the association agreement, agreement of an institutional protection scheme, agreement of an integrated association and agreement on cooperation, referred to in the Act on the Operation of Cooperative banks.

2. Upon the expiry of the notice period of the association agreement, the association council shall be dissolved.

3. Within resolution conducted towards an affiliated cooperative bank, the Fund may terminate, without observing the period of notice, the association agreement, agreement of an institutional protection scheme, agreement of an integrated association agreement and agreement on cooperation, referred to in the Act on the Operation of Cooperative Banks.

4. The provisions of Article 16 paragraph 4, 4a and 4aa, Article 22b paragraph 2, Article 22c Article 22j, Article 22l, Article 22o paragraph 3 and Article 22w of the Act on the Operation of Cooperative Banks shall not apply in the cases referred to in paragraph 1 and 3.

Article 161. The Fund may, by way of a decision, amend the terms of repayment of debt instruments and performance of other obligations referred to in Article 206 paragraph 1, and extend the maturity or payment period or suspend payment in accordance with Article 144 and Article 213.

Article 162. 1. The decision to initiate the resolution shall not affect the bank account agreements concluded with an entity under restructuring nor the agreements on the basis of which securities accounts are operated for this entity, as well as omnibus accounts, or cash accounts, if an entity under restructuring performs significant liabilities arising from such agreements.

2. During the period of conducting resolution, the lessor may not terminate an agreement concerning leasing or letting real estate where an entity under restructuring operates its business, unless an entity under restructuring fails to comply with the obligations specified in the agreement.

3. The provision of paragraph 1 shall apply accordingly to lease agreements, property insurance, agreements of bank sureties and guarantees and letters of credit, as well as agreements involving licenses granted to the entity under restructuring.

Article 163. 1. If by the date of service of the decision of the Fund referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4, the obligation derived from a reciprocal agreement has failed to be performed in whole or in part, the Fund may perform this obligation and demand from the other party the provision of the agreed consideration or may withdraw from the agreement with effect from the date of initiation of resolution.

2. At the request of the other party made in writing with a certified date, the Fund, within 3 months from the date of initiation of the resolution, shall declare in writing whether it withdraws from the agreement or requests its execution. Failure to submit the declaration within this period shall be deemed withdrawal from the agreement.

3. The other party, which is required to perform the benefit first, may withhold the performance thereof until the performance or collateralisation of the agreed consideration.

4. The provisions of paragraph 1–3 shall not apply to agreements which cover futures and forward financial transactions, loans for financial instruments or sale of financial instruments with a commitment to repurchase them.

5. If on the date of initiation of resolution an entity under restructuring was a party to an agreement other than a mutual agreement, the Fund may withdraw from the agreement, unless the law provides for another effect.

Chapter 12

Ineffectiveness of actions against an entity under restructuring

Article 164. The owners, creditors or other persons affected by the transfer of rights attached to shares, undertaking, property rights or liabilities, must not sue a decision on this transfer in a manner other than that specified in Article 11 paragraph 6, in particular under the law of a Member State other than the Republic of Poland, where rights attached to shares, business, property rights or liabilities are situated or by the law of which they are governed.

Article 165. Subject to Article 151 and Article 156 paragraph 2 and 3, the receivables which correspond to the liabilities being the subject of a transfer to a bridge institution, asset management vehicle or a third party must not be written down by offsetting.

Article 166. 1. The legal transactions performed by an entity under restructuring within a year prior to the initiation of resolution, whereby it disposed of its property shall be ineffective towards its assets if the transactions have been made, whether or not in return for payment, whereas the value of the benefit of the entity sorely exceeds the value of a benefit received by the entity or a benefit reserved for the entity or a third party.

2. The provision of paragraph 1 shall apply to a court settlement, recognition of the lawsuit and waiver of a claim.

3. Security and payment of debt other than due debt, effected by an entity within 6 months prior to the initiation of resolution towards it shall be ineffective. Nonetheless, the one which received the payment or security may by way of a petition for legal action demand these activities to be deemed effective, if the one was unaware of the threat of bankruptcy of the entity at the time of performing them.

4. The provisions of paragraphs 1–3 shall not apply to security established prior to the date of initiation of resolution in respect of futures and forward financial transactions, loans for financial instruments or repurchase transactions on financial instruments concluded in the context of the implementation of the framework agreement on the basis of specific agreements, if the framework agreement stipulates that each of the specific agreements which cover futures and forward financial transactions, loans for financial instruments or repurchase transactions on financial instruments, will be concluded in the context of the implementation of the framework agreement and that the termination of the framework agreement causes the termination of specific agreements concluded in the context of the implementation hereof.

Article 167. 1. Legal acts against payment performed by the entity within 6 months before the resolution is initiated are void if they are carried out with:

1) its owners, their representatives or their spouses,

2) its representatives or their spouses,

3) the parent company referred to in Article 4 paragraph 1 point 8 of the Banking Act, a subsidiary, an affiliated entity by remaining with the entity in relations referred to in Article 4 paragraph 1 point 14–16 of the Banking Act, or remaining with the entity in the same group,

4) owners, representatives or their spouses who are in such a relationship with the entity referred to in point 3

– if, as a result of this activity, the entity against which the Fund issued a decision on the commencement of resolution has been wronged.

2. (repealed)

3. The transfer of a future receivable shall be ineffective if the receivable arises following the initiation of the resolution.

4. Where an agreement on the transfer of receivables has been concluded in writing with a certified date not later than 6 months prior to the initiation of the resolution, the provision of paragraph 3 shall not apply.

Article 168. 1. The encumbrance of the property with mortgage, pledge, registered pledge or maritime mortgage shall be ineffective if an entity has not been a personal debtor of a secured creditor, whereas the encumbrance has been

established in the year prior to the initiation of resolution, and in respect of its establishment the entity has received no benefits.

2. The provision of paragraph 1 shall apply accordingly if the security in rem has been established in exchange for a benefit that is disproportionately low compared to the value of the fixed security.

3. Regardless of the amount of the benefit received by the entity, the encumbrance referred to in paragraph 1 and 2 shall be ineffective if it collateralises the liabilities of the persons or entities referred to in Article 167 paragraph 1.

Article 169. The provisions of Article 4 and Articles 8–10 of the Act of 2 April 2004 on Selected Financial Security shall not apply in the cases referred to in Articles 166–168.

Article 170. 1. The agreement on the transfer of ownership title to an object, receivable or another property right of an entity concluded in order to secure claims shall be ineffective if it is has not been concluded in a written form with a certified date.

2. The agreement establishing financial collateral under the provisions of the Act of 2 April 2004 on Selected Financial Security shall not need to be made in writing with a certified date for the effectiveness thereof towards an entity under restructuring.

Article 171. 1. If the remuneration for work of the entity representative, an employee of the entity performing the tasks in the scope of management of the undertaking or the remuneration of a person providing the services related to the management or supervision of the undertaking of the entity specified in the employment agreement, service agreement or a resolution passed or adopted by a statutory body of the entity prior to the initiation of resolution is sorely higher than the average remuneration for such work or services and is not attributable to the amount of workload, the remuneration or part thereof attributable to the period prior to the initiation of resolution, but not longer than 6 months prior to the date of service of the Fund's decision referred to in Article 101 paragraph 7–9 and Article 102 paragraph 1 and 4 shall be subject to return, and if it is not paid, a claim for its payment shall be ineffective towards an entity under restructuring.

2. The provision of paragraph 1 shall apply accordingly to benefits payable in connection with the termination of employment or agreement for the provision of services related to management of the undertaking of the entity.

Article 172. 1. In cases not regulated in Articles 166–171, the provisions of book three of Title X of the Act of 23 April 1964 shall apply accordingly to challenge the legal acts of an entity in restructuring performed before the commencement of resolution to the detriment of creditors – Civil Code (Journal of Laws of 2023, item 1610, 1615, 1890 and 1933).

2. Solely the Fund may file a petition for a legal action. The Fund may join a pending case.

Article 173. 1. No action may be claimed ineffective following 2 years from the initiation of the resolution, unless this power has expired before.

2. If a transaction of an entity is ineffective by operation of law or has been deemed ineffective towards an entity under restructuring, all the decrease in the assets of an entity under restructuring following this transaction or the items which did not enter therein shall be returned to an entity under restructuring, and if no return may be effected in kind, an entity under restructuring should be paid the equivalent in cash. The agreed consideration shall not be returned before the subject of the benefit is transferred to an entity under restructuring.

Chapter 13

Sale of business

Article 174. 1. The Fund may issue a decision on the acquisition by the acquiring entity, without the consent of the owners, debtors or creditors of an entity under restructuring of:

1) undertaking of an entity under restructuring;

2) some or all of the property rights or some or all of the liabilities of an entity under restructuring;

3) rights attached to shares in an entity under restructuring.

2. More than one entity may be an acquiring entity. The Fund may decide on the acquisition to the extent specified in paragraph 1 point 1 and 2, on condition that an acquiring entity holds or has obtained a permit to engage in those transactions required to continue the acquired business.

3. If the entitlement referred to in paragraph 2 is necessary to obtain a permit from the Polish Financial Supervision Authority, the Polish Financial Supervision Authority shall examine the application for a permit in terms that do not delay the acquisition process to the extent restricting or hindering the attainment of the objectives of resolution.

3a. If this is necessary to achieve the purposes of resolution, the authorisation of the Polish Financial Supervision Authority referred to in paragraph 3 may concern the operation of the acquiring entity as a bank.

3b. In the proceedings for granting the authorisation referred to in paragraph 3a, the provisions of the Banking Act concerning the establishment and organisation of banks in the form of a joint-stock company and the provisions of the Act on Trading in Financial Instruments concerning the obtaining of a brokerage activity authorisation shall apply accordingly.

3c. In the case referred to in paragraph 3a, the request for authorisation shall be submitted by the acquiring entity, through the intermediary of the Fund. The request shall also be accompanied by:

1) undertakings concerning the bank to be established or the prudent and stable management thereof, as referred to in Article 30 paragraph 1b of the Banking Act, submitted by the original and direct parent company of the acquiring entity;

2) an undertaking by the acquiring entity to conduct banking activities using the regulations and procedures of the entity under restructuring and to notify the Polish Financial Supervision Authority in advance of any deviations from this rule and any dismissals of employees involved in the process of providing banking activities.

3d. If the authorisation referred to in paragraph 3a is granted, the provisions of Article 36 paragraph 1–3 of the Banking Act shall not apply to the commencement of the bank's activities.

3e. The acquiring entity shall commence its activities as a bank as soon as the enterprise of the entity under restructuring or selected or all property rights or selected or all liabilities of the entity under restructuring are transferred to it on the basis of a decision of the Fund.

3f. The decision of the Polish Financial Supervision Authority referred to in paragraph 3a may specify the date by which the business of the entity under restructuring or selected or all property rights or selected or all liabilities of the entity under restructuring are to be acquired. If this deadline is not met, the decision shall expire. The provision of Article 162 of the Code of Administrative Procedure shall not apply.

4. The Fund may, with the consent of the acquiring entity, decide to transfer back an undertaking, selected property rights, selected liabilities or rights attached to shares acquired by an acquiring entity to an entity under restructuring or to the original holders of rights attached to shares in an entity under restructuring.

5. An acquiring entity is required to pay compensation for the undertaking being acquired, property rights or rights attached to shares. The payment may be made in particular by the assumption of liabilities of an entity under restructuring of the corresponding value of the acquired: undertaking, property rights, rights attached to shares or through cash settlement.

6. In the case referred to in paragraph 1 point 3 the Fund shall notify the decision to the Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or the entity keeping the shareholder register for the entity under restructuring.

7. The service of the decision or notification of the decision referred to in paragraph 1 point 3 shall constitute the notice referred to in Article 69 paragraph 1 of the Act on Public Offering and Article 106 paragraph 1 of the Act on Trading in Financial Instruments.

Article 175. 1. In the event of issuing a decision by the Fund, as referred to in Article 174 paragraph 1 point 3, the Polish Financial Supervision Authority shall issue a decision on the objection to the acquiring entity referred to in Article 25h paragraph 1 of the Banking Act or the Article 106h paragraph 1 of the Act on Trading in Financial Instruments within 14 working days from the date of receipt of the notification, along with the required information and documents, and in the case of an objection it shall notify the Fund in writing.

2. In the event that there are no grounds to objection, the Polish Financial Supervision Authority shall issue the decision referred to in Article 25h paragraph 4 of the Banking Act or the Article 106h paragraph 4 of the Act on Trading in Financial Instruments. The provision of paragraph 1 shall apply accordingly.

3. Prior to the expiry of the tenth working day of the term for a decision the Polish Financial Supervision Authority may, in writing, commit an entity submitting the notification to provide additional information or documents within 14 working days of receipt of a request. In this case, the period referred to in paragraph 1 shall be extended by 14 working days.

4. In the case of notification of objection by the Polish Financial Supervision Authority, the Fund may, by way of a decision, order the entity to sell rights attached to shares within the prescribed period, on considering the situation in the financial sector and the capital market.

5. By the date of receipt of the decision of the Polish Financial Supervision Authority or disposal of rights attached to shares, the exercise of the voting rights arising from the rights attached to the shares by the acquiring entity shall be

suspended. During the suspension period, the Fund may exercise their voting rights arising from these rights.

5a. If a general meeting of shareholders, a shareholders' meeting or a general meeting of members is convened for the purpose of dismissing the existing Management Board and appointing a new Management Board and the appointment of the Management Board of the entity under restructuring, the provisions of Article 216 paragraphs 6 and 7 shall apply accordingly.

6. If the rights attached to the shares are not disposed of within the period referred to in paragraph 4, the Polish Financial Supervision Authority may, at the request of the Fund or *ex officio*, award a fine of PLN 10,000,000 on an acquiring entity.

7. The application of the instrument of an undertaking acquisition shall be preceded by a consultation with the President of the Office of Competition and Consumer Protection on the impact of the acquisition on competition. The provision of Article 13 of the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 2023, item 1689 and 1705) shall not apply.

8. (repealed)

9. The fine referred to in paragraph 6 shall account for the income of the State Budget.

10. The enforcement of receivables arising from the fine referred to in paragraph 6 shall follow under the provisions on administrative enforcement proceedings.

Article 175a. If the decision referred to in Article 174 paragraph 1 point 3 is issued, the Fund's entitlements set out in Article 113 paragraph 1 point 1 and paragraph 1e shall cease on the date specified in that decision.

Article 176. 1. From the date specified in the Fund's decision referred to in Article 174 paragraph 1 point 1 and 2 an acquiring entity shall succeed an entity under restructuring as regards the acquired property rights and related liabilities, including judicial and administrative proceedings.

2. In the event that an acquiring entity fails to satisfy the conditions for participation in a regulated market or another organised system of trading in financial instruments, payment system, system of settlement or compensation scheme, whose an entity under restructuring was a member, and the participation of an acquiring entity in such a system is essential for the continuation of the acquired business of an entity under restructuring, the Fund may determine by way of a decision a period not longer than 24 months, in which an acquiring entity must not be excluded from the participation in the said system for the reasons of failure to satisfy those conditions if it carries out important commitments arising from their participation, including the commitment to payment and delivery, and also provides the security required in the system. This time limit may be extended by the Fund at the request of an acquiring entity.

3. An acquiring entity shall not be liable for the tax liabilities of an entity under restructuring, including those which occurred following the initiation of resolution.

4. To the extent specified in the decision referred to in Article 174 paragraph 1 point 1 and 2, permits, licenses and reliefs awarded to an entity under restructuring under the provisions in force in the territory of the Republic of Poland in respect of its establishment or business shall devolve to an acquiring entity on the date specified in the decision, unless separate legislation or decision to grant a permit, license or relief provide otherwise.

5. Disclosure in the land registers or other records of the acquisition by the acquiring entity of an undertaking of an entity under restructuring or its property rights, disclosed in these registers or records, shall follow at its request, in accordance with the decision of the Fund, as referred to in Article 174 paragraph 1.

Article 177. 1. Where the subject of acquisition are dematerialised rights attached to the shares referred to in the Act on Trading in Financial Instruments, the entity running the securities accounts or omnibus accounts of an entity under restructuring, where those rights are recorded, following the receipt from Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna of information of the decision referred to in Article 174 paragraph 1 point 3 shall block them in the account from the date of receipt of the decision to the date of the execution of order by an entity conducting brokerage business in the territory of the Republic of Poland, being a participant of Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna through which the transfer is made of dematerialised shareholders' rights (intermediary).

2. The intermediary shall submit instructions to Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna for the transfer of the dematerialised rights attached to shares to the intermediary's deposit account, which shall comply with the requirements of the agreement on the participation of that entity in Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna as to form, scope, manner and timing of their submission.

3. On the day the instruction is executed, Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna shall transfer the dematerialised rights attached to shares to the deposit account of the intermediary if, in time for such settlement on the day the instruction is executed, settlement is to take place against payment of the remuneration referred to in Article 174 paragraph 5, at least in part in:

1) cash, and Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna has received information from the Fund on the amount of remuneration due for the acquisition of each dematerialised share right, or

2) non-cash, and Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna has received confirmation from the Fund of the payment of that remuneration.

4. The transfer of dematerialised rights attached to shares shall take place by making, on the date of execution of the instruction, an entry of those rights in the securities account of the acquiring entity in return for payment of the remuneration referred to in Article 174 paragraph 5, provided that it is in cash.

5. (repealed)

5a. If the object of the acquisition is rights attached to shares issued by an entity under restructuring and registered in the shareholder register, the entity operating the shareholder register, upon receipt of information from the Fund on the decision referred to in Article 174 paragraph 1 point 3, shall block them in the shareholder register from the date of receipt of the decision until the date of execution of the instruction to enter the acquiring entity as the holder of those rights attached to shares.

5b. The acquiring entity shall deposit with the entity maintaining the shareholder register of the entity under restructuring an instruction to enter its details as the holder of the rights attached to shares by the entity under restructuring.

5c. The transfer of the rights attached to shares referred to in paragraph 5a shall be effected by the entry in the register of shareholders of the acquiring entity as a shareholder of the entity under restructuring or as a holder of other rights attached to shares against payment of the remuneration referred to in Article 174 paragraph 5, provided that such remuneration is in cash.

6. The Fund shall transfer the rights attached to shares to an entity acquiring the rights attached to shares.

Article 178. 1. The Fund shall select an acquiring entity in a manner that ensures:

1) openness;

2) transparency;

3) equal treatment of potential acquiring entities;

4) no conflict of interest;

5) expediency of proceedings;

6) selection of an entity offering the most favourable terms taking into consideration the resolution objectives in the prevailing market conditions.

2. Sending a tender enquiry by the Fund to selected entitles which, by virtue of their range and scale of operations and of an assessment of their safety and stability, carried out by the Fund or the Polish Financial Supervision Authority, are likely to acquire an entity under restructuring, while attaining the objectives of resolution, is without prejudice to the requirements set out in paragraph 1.

3. In the case referred to in Article 174 paragraph 1 point 1 the Fund shall take into account in particular the declaration of an acquiring entity with reference to:

1) scope of the acquired business of an entity under restructuring;

2) payment through the acquisition of liabilities in respect of the guaranteed funds in the acquired accounts of depositors of an entity under restructuring;

3) financial terms of the acquisition, in particular the price for the undertaking of an entity under restructuring and the amount of expected support;

4) date of acquisition;

5) feasibility of assuming and continuing the acquired business of an entity under restructuring, in particular ensuring the safety of the acquired guaranteed funds and guaranteed funds held in an acquiring entity.

4. In the case referred to in Article 174 paragraph 1 point 2 the Fund shall take into account in particular the declaration of an acquiring entity with reference to:

1) scope of the acquired business of an entity under restructuring, in particular the liabilities resulting from guaranteed funds in the acquired accounts of depositors of an entity under restructuring;

2) financial terms of the acquisition, in particular the price for property rights and liabilities being acquired and the amount of expected support;

3) date of acquisition;

4) feasibility of assuming and continuing the business of an entity under restructuring, in particular ensuring the safety of the acquired guaranteed funds and guaranteed funds held in an acquiring entity.

5. In the case referred to in Article 174 paragraph 1 point 3 the Fund shall take into account in particular the declaration of an acquiring entity with reference to:

1) financial terms of the acquisition, in particular the price for rights attached to shares of an entity under restructuring and the amount of expected support;

2) date of acquisition;

3) possibility of liquidity and capital support for an entity under restructuring, in particular ensuring the safety of the guaranteed funds held in an entity under restructuring.

6. The Fund may waive the requirements set out in paragraph 1, if their satisfaction hindered attainment of at least one of the objectives of resolution, and if it deems it necessary to prevent risks to the financial stability posed by the situation of an entity under restructuring and reduction in the effectiveness of the instrument of acquisition of an undertaking for the evasion of material adverse effects on financial stability.

7. The public disclosure of information on the search for acquisition offers, which would otherwise be required pursuant to Article 17 paragraph 1 of Regulation No 596/2014, may be delayed pursuant to Article 17 paragraph 4 or 5 of that Regulation.

Article 179. 1. The Fund may transfer to the acquiring entity and, in the case of the acquisition of rights attached to shares, to the entity under restructuring or to the acquiring entity, funds from the guarantee fund of banks or from the guarantee fund of credit unions up to the difference:

1) between the value of the taken-over liabilities of the entity under restructuring and the value of the taken-over undertaking or the taken-over property rights of the entity under restructuring – in the case of an acquisition of an undertaking pursuant to Article 174 paragraph 1 points 1 and 2 or an acquisition of property rights pursuant to Article 174 paragraph 1 point 2;

2) between the value of the liabilities of the entity under restructuring and the value of the enterprise of the entity under restructuring – in case of acquisition of rights attached to shares of the entity under restructuring pursuant to Article 174 paragraph 1 point 3.

2. The amount of funds transferred pursuant to paragraph 1 may not be higher than the difference between the value of the liabilities of the entity under restructuring on account of guaranteed funds as at the date of commencement of resolution and the value of the amounts envisaged on the basis of the valuation referred to in Article 137 paragraph 1 for satisfaction of claims on account of payment of guaranteed funds in bankruptcy proceedings, in the event that, as at the date of the decision on commencement of resolution, the court has issued a decision on declaration of bankruptcy of the entity under restructuring.

Article 180. The owners, debtors and creditors of an entity under restructuring whose property rights or liabilities have not been assumed following the decision referred to in Article 174 paragraph 1 shall not be entitled to claims with reference to an acquiring entity, its assets and the members of its bodies.

Chapter 14

Establishment of a bridge institution

Article 181. 1. The Fund may establish a bridge institution in the form of a limited liability company or a joint stock company in order to:

2. In order to establish a bridge institution, the Fund may purchase shares or interests of a bank operating as a joint stock company or investment firm in a number sufficient to obtain the status of a parent company. The provisions of Article 25–25r of the Banking Act, Article 106–108 of the Act on Trading in Financial Instruments and Article 73 and Article 74 of the Act on public offering shall not apply.

3. An undertaking of a bridge institution, its shares or interests should be sold within 2 years from the date of commencement of business referred to in Article 188 paragraph 1. The Fund may extend this time limit, on its request or *ex officio*, for a year, where it is necessary to:

1) sell shares or interests of a bridge institution;

2) sell an undertaking of a bridge institution or its selected property rights or selected liabilities;

3) liquidate a bridge institution;

4) guarantee continuity of provision of essential financial services.

4. While issuing the decision referred to in paragraph 3, the Fund shall take account of an assessment of market conditions and the forecast of their changes. The deadline may be re-extended.

5. The business of a bridge institution shall be subject to supervision exercised by the Polish Financial Supervision Authority in the scope and on the terms specified in the Banking Act or the Act on Trading in Financial Instruments, unless the provisions of those laws provide otherwise.

6. The provisions of Article 36 paragraphs 2 and 4, Article 38, Articles 141m–142a, Articles 144–147, Articles 153–157f and Article 158 paragraphs 4, 5 and 7 of the Banking Act, the provisions of Article 84 paragraph 1a, Article 89 paragraph 1 point 1, Article 110zc–110zzd and Article 167 paragraph 1 point 4 of the Act on Trading in Financial Instruments and Article 129 paragraph 3 of the Act on Statutory Auditors, Audit Firms and Public Supervision of 11 May 2017 (Journal of Laws of 2023, item 1015, 1723 and 1843) shall not apply to the establishment and operation of a bridge institution. A request for authorisation by the Polish Financial Supervision Authority to start operations of a bridge institution shall be submitted by the Fund.

6a. A bridge institution that is a bank to which the business of an entity under restructuring that is an affiliating bank has been transferred pursuant to a decision of the Fund shall become an affiliating bank for the cooperative banks affiliated to the entity under restructuring. The requirements referred to in Article 2 point 2 of the Act on the functioning of cooperative banks concerning the establishment of an affiliating bank by cooperative banks and the possession of initial capital amounting to at least four times the amount specified in Article 32 paragraph 1 of the Banking Act, or twice that amount in the case of a bank whose activities are limited exclusively to the provision of services to affiliated banks, as well as the requirement that affiliated cooperative banks hold or acquire at least one share in the affiliating bank referred to in Article 16 paragraph 1 of the Act on the functioning of cooperative banks, shall not apply.

7. Disclosure of information covered by banking secrecy referred to in Article 104 paragraph 1 of the Banking Act, or respectively professional secrecy, as referred to in Article 147 of the Act on Trading in Financial Instruments shall be admitted if necessary for the conclusion and execution of an agreement on the sale of shares of a bridge institution, an undertaking of a bridge institution or its property rights or liabilities. Disclosure of confidential information referred to in Article 154 of the Act on Trading in Financial Instruments, and the trade secrets in the meaning of Article 11 paragraph 2 of the Act of 16 April 1993 on Unfair Competition (Journal of Laws of 2022 item 1233) shall be admitted within the same limits.

8. Upon the sale of all shares or interests of a bridge institution or the loss of the status of the parent company by the Fund the provisions hereof shall cease to apply to its operations.

Article 182. 1. The Fund shall contribute the initial share capital to a bridge institution from the resolution funds.

9. The Fund shall cover the operating costs of a bridge institution from the resolution funds as necessary, unless it generates sufficient revenue from management or manages no transferred property rights.

Article 183. Where a bridge institution is a bank, the initial share capital of a bridge institution contributed by the Fund must not be less than the equivalent of EUR 1,000,000 in PLN converted as per the average exchange rate announced by the National Bank of Poland, effective on the date of a permit to establish a bridge institution.

Article 184. 1. A bridge institution shall maintain a sum of own funds at the level not lower than the higher of the following values:

1) value arising from satisfaction of the requirements of the own funds referred to in Article 92 of Regulation No 575/2013;

2) amount necessary to cover the identified significant risks in its operations and changes in the economic environment estimated by a bridge institution on considering the expected level of risk.

2. If a bridge institution holds solely shares or interests in an entity under restructuring, that latter is required to maintain the total of own funds as referred to in paragraph 1. The Polish Financial Supervision Authority may authorise an entity under restructuring, upon its request, not to comply with these requirements. The provisions of Article 185 shall apply accordingly.

Article 185. 1. Where necessary to attain the objectives of resolution, the Polish Financial Supervision Authority, at the request of the Fund, may authorise the establishment of a bridge institution notwithstanding the failure to satisfy the requirements laid down in the provisions of Regulation No 575/2013, the Banking Act, the Act on Trading in Financial Instruments or the Act on Macro-prudential Supervision.

1a. In the event that an authorisation is granted for the establishment of a bridge institution despite failure to meet the requirements referred to in paragraph 1, the provisions of Article 36 of the Banking Act shall not apply to the commencement of operations by a bridge institution that is a bank.

2. The provisions of the Banking Act concerning the establishment of a bank in the form of a joint stock company

and the provisions of the Act on Trading in Financial Instruments relating to obtaining a permit to conduct brokerage business shall not apply to the proceedings for permit referred to in paragraph 1.

3. In the permit referred to in paragraph 1, the Polish Financial Supervision Authority shall determine, at the request of the Fund, the duration and scope of exemption of application with reference to a bridge institution of the requirements laid down in Regulation No 575/2013, the Banking Act, the Act on Trading in Financial Instruments or the Act on Macro-prudential Supervision.

4. The Polish Financial Supervision Authority shall consider the applications for permit referred to in paragraph 1 within no more than 3 days of its receipt.

5. The provisions of Article 34 paragraph 1 of the Banking Act or the provisions of Article 84 paragraph 2 points 1 and 2 of the Act on Trading in Financial Instruments shall apply accordingly to the permit referred to in paragraph 1.

6. The period referred to in paragraph 3 must not be longer than 3 years from the date of the establishment of a bridge institution.

Article 186. Following the period referred to in Article 185 paragraph 3, but not longer than within one year following the commencement of business referred to in Article 188 paragraph 1 by a bridge institution established under the permit referred to in Article 185 paragraph 1, the requirements stipulated in the provisions of Regulation No 575/2013, the Banking Act, the Act on Trading in Financial Instruments or the Act on Macro-prudential Supervision shall apply to the said institution.

Article 187. 1. Subject to Article 31 paragraph 3 and Article 34 paragraph 2 of the Banking Act, in the event that the Fund is not the sole shareholder or partner of a bridge institution, the Funds shall hold exclusive powers to:

1) approve the articles of association or the deed of a company;

2) select or approve the members of corporate bodies of a bridge institution;

3) determine the rules of remuneration of the members of corporate bodies of a bridge institution;

4) approve the strategy and risk profile of a bridge institution.

2. The statutes of a bridge institution shall lay down the detailed rules and procedures of the exercise of the powers referred to in paragraph 1 point 1–4.

3. Amendment of the articles of association or the deed requires a written approval by the Fund.

4. In the period of operating business by a bridge institution, powers of the general meeting of shareholders or meeting of partners shall be exercised by the Fund.

5. The remaining shareholders or partners of a bridge institution shall not be entitled to claim damages towards a bridge institution or the Fund in respect of restrictions referred to in paragraph 1 and 3. Neither may they bring action for revocation of the resolution referred to in Article 249 and Article 422 of the Code of Commercial Companies, action for annulment referred to in Article 252 and Article 425 of the Code of Commercial Companies, as well as action for redressing the damage inflicted on the company referred to in Article 295 and Article 486 of the Code of Commercial Companies. The provision of Article 189 of the Code of Civil Procedure shall not apply.

Chapter 15
Business of a bridge institution

Article 188. 1. A bridge institution shall commence operations at the moment of a transfer to it, on the basis of the decision of the Fund of:

1) rights attached to shares in an entity under restructuring;

2) undertaking;

3) selected property rights or liabilities of an entity under restructuring.

2. The Fund may transfer back the rights attached to shares in the entity under restructuring, the transfer of the business or selected property rights or liabilities that were the object of the transfer referred to in paragraph 1 from the bridge institution to the original holders of the rights attached to shares in the entity under restructuring or the entity under restructuring, respectively, if one of the following circumstances occurs:

1) such a possibility is provided for in the transfer decision, or

2) they do not fall within the categories of the rights attached to shares, property rights or liabilities specified in the transfer decision or do not meet the conditions for transfer specified in that decision.

3. Detailed conditions and mode of a transfer and a back transfer shall be established by a decision of the Fund.

4. The value of the transferred liabilities may not exceed the total value of the property rights transferred and the property rights transferred to the bridge institution or the funds from other sources.

5. The Fund may transfer to the bridge institution, and in the case of a transfer of the rights attached to shares, to the entity under restructuring or to the bridge institution, funds from the guarantee fund of banks or from the guarantee fund of credit unions up to the difference:

1) between the value of the transferred liabilities of the entity in restructuring and the value of the transferred enterprise or transferred property rights of the entity in restructuring – in the case of a transfer of an enterprise or part thereof pursuant to paragraph 1 points 2 and 3 or a transfer of property rights pursuant to paragraph 1 point 3;

2) between the value of the liabilities of the entity under restructuring and the value of the enterprise of the entity under restructuring – in case of transfer of rights attached to shares of the entity under restructuring pursuant to paragraph 1 point 1.

5a. The amount of funds transferred pursuant to paragraph 5 may not be higher than the difference between the value of the liabilities of the entity under restructuring on account of guaranteed funds as at the date of commencement of resolution and the value of the amounts envisaged on the basis of the valuation referred to in Article 137 paragraph 1 for satisfaction of claims on account of payment of guaranteed funds in bankruptcy proceedings, in the event that, as at the date of the decision on commencement of resolution, the court has issued a decision on declaration of bankruptcy of the entity under restructuring.

6. In the case of a transfer and back transfer of rights attached to shares in an entity under restructuring, the provisions of Article 73 of the Act on Public Offering shall not apply.

7. A bridge institution, in the case of commencement of its activities, may entrust a bank, an entrepreneur or a foreign entrepreneur with the activities referred to in Article 5 and Article 6 of the Banking Act. The provisions of Article 149 shall apply accordingly.

8. In the case of acquisition of shares in an affiliating bank by a bridge institution, the provision of Article 17 paragraph 2 of the Act n the functioning of cooperative banks shall not apply.

9. A bridge institution may acquire the rights attached to shares of an entity under restructuring.

Article 189. A fund may transfer to a bridge institution rights attached to shares in one or more entities under restructuring, or a business or selected property rights or liabilities from more than one entity under restructuring. In this case, a bridge institution is required to manage the assets transferred from each entity under restructuring separately or keep records of business in a way that allows the separation of their assets and liabilities and results of management thereof.

Article 190. If the value of transferred property rights determined in accordance with Article 137 paragraph 2 and 3, exceeds the value of transferred liabilities, the transfer shall be made for consideration, in the amount of difference between the value of the transferred property rights and the value of transferred liabilities.

Article 191. 1. From the date specified in the decision referred to in Article 188 paragraph 1 points 2 and 3 a bridge institution shall succeed an entity under restructuring with reference to the acquired property rights and related liabilities, including the right to court proceedings.

2. A bridge institution shall not be liable for the tax liabilities of an entity under restructuring, including those which occurred following the initiation of resolution.

3. Permits, licenses and reliefs awarded to an entity under restructuring under the provisions in force in the territory of the Republic of Poland in respect of its establishment or business shall devolve to a bridge institution on the date specified in the decision of the Fund, unless separate legislation or decision to grant a permit, license or relief provide otherwise.

4. Disclosure in the land registers or other records of the acquisition by a bridge institution of property rights, disclosed in these registers or records shall follow at its request, on the basis of the decision of the Fund, as referred to in Article 188 paragraph 1.

5. In an event that a bridge institution fails to satisfy the conditions for participation in a regulated market or another organised system of trading in financial instruments, payment system, system of settlement or compensation scheme, in which an entity under restructuring was a participant, whereas the participation of a bridge institution in such a system is essential for the continuation of the acquired business of an entity under restructuring, the Fund may determine by way of a decision a period not longer than 24 months, in which a bridge institution must not be excluded from the participation in the said system for the reason of failure to satisfy those conditions if it performs important commitments arising from the participation, including the commitment to payment and delivery, and also provides the security required in a given system. This time limit may be extended by the Fund at the request of a bridge institution.

6. In the case of transfer to a bridge institution of rights attached to shares, including those issued by an entity under restructuring, the provisions of Articles 25–25s of the Banking Act and Articles 106–106n of the Act on Trading in Financial Instruments shall not apply.

7. In proceedings relating to the transferred undertaking, selected property rights or selected liabilities, initiated by an entity under restructuring and not completed before the date of delivery of the decision referred to in Article 188 paragraph 1 points 2 and 3, under the final administrative decision, order or judgment a bridge institution shall succeed an entity under restructuring at the date of notification of the decision.

Article 192. 1. The transfer shall not require the consent of the owners, debtors or creditors of an entity under restructuring.

2. The owners, debtors or creditors of an entity under restructuring whose rights or liabilities have not been transferred to the bridge institution shall not be entitled to claims towards a bridge institution, its assets or the members of its statutory bodies.

Article 193. 1. The fund shall dispose of its participation rights in the bridge institution in accordance with the rules set out in Article 178.

2. The bridge institution shall dispose of its:

1) undertaking or

2) selected or all property rights, or

3) selected or all liabilities

– under the rules laid down in Article 178.

3. The disposal referred to in paragraph 2 shall not require the consent of the creditors and debtors of the bridge institution.

Article 193a. 1. In the case of the disposal of rights attached to shares in a bridge institution to which, in the resolution, the enterprise of an entity under restructuring, by means of which the activities of the affiliating bank are performed for the benefit of cooperative banks, the requirements referred to in Article 2 point 2 of the Act on the functioning of cooperative banks, concerning the establishment of an affiliating bank by cooperative banks and the possession of the initial capital amounting to at least four times the amount specified in Article 32 paragraph 1 of the Banking Act, or double that amount in the case of a bank whose activities are limited exclusively to the provision of services to affiliated banks, shall not apply.

2. For a period of 5 years from the date of disposal of participation rights referred to in paragraph 1, the provisions of Article 16 paragraph 1, second and third sentences, and Article 17 paragraph 2 of the Act on the functioning of cooperative banks shall not apply.

3. For a period of 5 years from the date on which a bridge institution has disposed of the rights attached to shares in an affiliated bank in restructuring, the provisions of Article 16 paragraph 1, second and third sentences, and Article 17 paragraph 2 of the Act on the functioning of cooperative banks shall not apply.

Article 193b. In the cases referred to in Article 193a paragraph 1 and paragraph 3, the entity that acquired the rights attached to shares shall ensure that the activities of the affiliating bank are performed for a period of not less than 5 years from the date of acquisition of those rights.

Article 194. 1. The employees of the Fund or persons designated by the Fund may participate in the performance of inspection activities in a bridge institution undertaken by employees of the Polish Financial Supervision Authority referred to in Article 133 paragraph 3 of the Banking Act or Article 26 paragraph 1 of the Act of 29 July 2005 on Financial Market Supervision (Journal of Laws of 2023. item 188 and 1723).

2. The Polish Financial Supervision Authority by way of a resolution at the request of the Fund shall determine the scope of inspection activities for which the employees of the Fund or persons designated by the Fund are eligible.

Chapter 16

Termination of business of a bridge institution

Article 195. A bridge institution shall terminate its business upon:

1) commencement of liquidation;

2) disposal of an undertaking of a bridge institution or all property rights related to business and the acquisition by a third party of all liabilities other than liabilities towards the Fund.

Article 196. 1. The Fund shall resolve on the liquidation of a bridge institution if the period referred to in Article

181 paragraph 3 has expired and not all property rights linked to operating business have been disposed of or transferred. The provision of Article 156a of the Banking Act shall not apply.

2. In the case referred to in Article 189 the Fund shall issue a decision to limit the business of a bridge institution in the scope in which the condition referred to in paragraph 1 has been met. The provisions of Article 197 paragraph 4 shall apply accordingly.

3. In the case of a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint stock company, the Fund may request the Polish Financial Supervision Authority for the revocation of the permit to establish a bridge institution. The provision of Article 155 of the Code of Administrative Procedure regarding the obligation to obtain the consent of the party shall not apply.

4. In the case of a bridge institution operating under the provisions of the Act on Trading in Financial Instruments, the Fund may request the Polish Financial Supervision Authority for the revocation of the permit to conduct brokerage business. The provision of Article 155 of the Code of Administrative Procedure regarding the obligation to obtain the consent of the party shall not apply.

5. The Fund may resolve on the liquidation of a bridge institution where the majority of property rights and liabilities related to the performance of business has sold or transferred.

6. In an event of disposal or transfer of all property rights of a bridge institution, the Fund may reduce the own funds of a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint stock company to the level specified in Article 183.

Article 197. 1. The Fund-appointed liquidator shall assume the management of assets of a liquidated bridge institution, to whom all the rights reserved by law and the articles of association or the deed for the statutory bodies of a bridge institution shall devolve.

2. The liquidator represents a bridge institution.

3. On the day of assuming the management of assets of a liquidated bridge institution by the liquidator:

1) bridge institution's management board and supervisory board shall be dissolved, whereas mandates of their members shall expire;

2) powers of attorney and proxies shall expire.

4. The provisions of the Code of Commercial Companies apply to the liquidation of a bridge institution, provided that:

1) no dividends or interest shall be paid during the period of liquidation;

2) the opening balance of the liquidation, the liquidation programme and the account of the conducted liquidation shall be subject to approval by the Fund;

3) the provisions of Article 474 paragraph 1 of the Code of Commercial Companies shall not apply;

4) The liquidator, at least once a month, shall provide the Fund with the reports on the course of the liquidation.

5. The Fund shall notify the Polish Financial Supervision Authority of the course of liquidation on a quarterly basis.

Article 198. 1. Following the completion of the liquidation, the liquidator shall make a liquidation report and communicates it to the Fund, the Polish Financial Supervision Authority and the court of registration, along with a request for removal of a bridge institution from the register.

2. The Fund shall approve the liquidation report.

Article 199. The Fund may remove a liquidator if they conduct liquidation in a way which endangers attainment of the objectives of resolution.

Article 200. 1. If, in line with the balance sheet made at the end of the reporting period, the assets of a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint-stock company are not sufficient to cover its liabilities, or a bridge institution fails to settle its liabilities towards depositors in the scope of the payment of funds under guarantee protection for the reasons directly related to the financial situation of a bridge institution, the management board of a bridge institution or liquidator shall forthwith notify the Fund.

2. In the case referred to in paragraph 1 the Fund shall request the Polish Financial Supervision Authority for the suspension of business of a bridge institution and for filing a petition to the competent court for a declaration of its bankruptcy. The provisions of Article 158 paragraph 1 and 2 of the Banking Act shall apply accordingly.

3. The Fund may request the Polish Financial Supervision Authority to revoke the permit to establish a bridge institution operating under the provisions of the Banking Act concerning a bank in the form of a joint stock company also where the circumstances have arisen posing a threat of insolvency or of a reduction in the total own funds to the extent

triggering non-compliance with the requirements for the establishment of a bridge institution. The provision of Article 155 of the Code of Administrative Procedure regarding the obligation to obtain the consent of the party shall not apply.

Chapter 17
Write down or conversion of liabilities of an entity under restructuring

Article 201. 1. The Fund may, without the consent of the owners and creditors of an entity under restructuring:

1) write down or convert liabilities with a view to recapitalising an entity under restructuring;

2) write down or convert liabilities transferred to a bridge institution with a view to equipping it with own funds;

3) write down or convert liabilities transferred under an instrument of separation of property rights;

4) write down liabilities under an instrument of acquisition of an undertaking.

2. Write down or conversion of liabilities with a view to recapitalising an entity under restructuring shall be admitted if it brings an entity under restructuring in conformity with requirements of operation defined under other provisions and there are reasonable indications that following the restructuring referred to in Article 214, it will attain a long-term financial stability.

3. The Fund's write down or conversion of the liabilities referred to in paragraph 1 may lead to a change in the legal form of the entity under restructuring.

Article 202. 1. Prior to write down or conversion of liabilities, the Fund, on the basis of the valuation referred to in Article 137 paragraph 2 and 3, shall determine the amount of losses to be covered and the amount by which own funds of an entity under restructuring should increase in order to enable it to satisfy the conditions stipulated in Article 201 paragraph 2, or the amount necessary to provide a bridge institution or asset management vehicle with own funds.

2. While determining the amount of the necessary own funds, the Fund shall take into account the expected capital needs of an entity under restructuring, bridge institution or asset management vehicle for at least 12 months.

3. If the arrangements were made on the basis of a provisional valuation, whereas following the final valuation, the volume of losses to be covered diverges from that determined in the provisional valuation, the Fund shall re-determine them.

4. The Fund may transfer to an entity under restructuring from the guarantee fund of banks or from the guarantee fund of credit unions if coverage of the loss of the entity under restructuring, resulting from the valuation referred to in Article 137 paragraph 1, would require the cancellation of liabilities on account of guaranteed funds up to the amount necessary to cover the amount of the loss of the entity under restructuring.

5. The amount of funds transferred pursuant to paragraph 4 may not be higher than the difference between the value of the liabilities of the entity under restructuring on account of guaranteed funds as at the date of commencement of resolution and the value of the amounts envisaged on the basis of the valuation referred to in Article 137 paragraph 1 for satisfaction of claims on account of payment of guaranteed funds in bankruptcy proceedings, in the event that, as at the date of the decision on commencement of resolution, the court has issued a decision on declaration of bankruptcy of the entity under restructuring.

Article 203. The Fund shall write down or convert capital instruments or eligible liabilities in accordance with Article 72 before or at the same time as write down or conversion.

Article 204. The creditors whose receivables are subject to conversion shall assume the rights attached to shares in the number resulting from the value of the converted receivables and the issue price determined in the resolution on the application of the write down or conversion instrument. The value of these rights shall be determined by the Fund in such a way as to cover losses and increase the own funds of the entity under restructuring in accordance with Article 202 paragraph 1.

Article 205. 1. If an entity under restructuring has issued financial instruments which provide for the reduction of the amount of the liability or the conversion of the liability into rights attached to shares or other items of own funds in the event of an event related to the financial situation, solvency, capital position or level of own funds, such liability shall be written down or converted in accordance with the terms of the issue, before the other liabilities referred to in Article 209 paragraph 3 point 3 are written down or converted.

2. The instruments whose terms of issue provided for their write down or conversion into capital in the case of deterioration of the situation of an entity shall be subject to write down or conversion in the first place.

3. The Fund may effect write down or conversion of liabilities towards the rights attached to the shares created as a result of the conversion and towards instruments that were not subject to write down or conversion in their the full amount.

Article 206. 1. The liabilities of an entity under restructuring may be subject to write down or conversion of liabilities, with the exception of liabilities:

1) derived from guaranteed funds;

2) collateralised, including liabilities arising from mortgage bonds and liabilities in the form of financial instruments which are an integral part of the collateralised pool in accordance with the applicable law in a manner similar to the mortgage bonds;

3) arising from the property rights or funds belonging to customers and held by an entity under restructuring, including those deposited on their behalf by investment funds or alternative investment funds, provided that such property rights or funds are protected under the Act – Bankruptcy Law;

4) arising from the trust relationship between an entity under restructuring and another entity, provided that such a liability is subject to protection under the Act – Bankruptcy Law or the Act of 23 April 1964 – Civil Code;

5) due to domestic banks, foreign banks, other credit institutions and investment firms, with the original maturity of less than 7 days, with the exception of liabilities between entities included within the same group;

6) arising from participation in payment systems, settlement systems or obligations to system operators or participants of such systems arising from such participation or to central counterparties authorised in the European Union in accordance with Article 14 of Regulation No 648/2012 and to third country Central Counterparties recognised by the European Securities and Markets Authority in accordance with Article 25 of Regulation No 648/2012 which fall due less than 7 days after the date of write down or conversion;

7) to employees, in particular arising from remuneration and pension benefits due, with the exception of liabilities arising from variable components of remuneration:

   a) not regulated by a collective agreement or

   b) employees whose professional activity has a significant impact on the risk profile referred to in Article 9ca paragraph 1 of the Banking Act and Article 110v paragraph 1 of the Act on Trading in Financial Instruments;

8) due to creditors arising from the supply of goods and provision of services, which are essential for the current operation of an entity under restructuring, including IT services, public utility services, rental services, servicing and maintenance of buildings and premises;

9) due to tax authorities and liabilities from the social security;

10) in respect of contributions to the Fund and other officially recognised guarantee schemes.

11) to entities belonging to the same group subject to resolution which are not entities subject to resolution, regardless of the maturity of these liabilities.

1a. In the case referred to in Article 1 paragraph 1 point 11, the competent authority of the resolution for the subsidiary not being the entity subject to resolution shall determine whether the amount arising from the liabilities and own funds referred to in Article 98 paragraph 2l is sufficient to carry out the resolution.

2. Write down or conversion of liabilities may cover liabilities referred to in paragraph 1 point 2, in the part exceeding the value of established security.

3. The Fund may exempt from write down or conversion of liabilities in whole or in part the liabilities whose:

1) write down or conversion are not possible within the term necessary from the point of view of the objectives of resolution;

2) exemption is necessary to achieve continuity of critical functions and major business lines so as to preserve the ability of an entity under restructuring to continue the key operations, services and transactions;

3) the exemption is necessary and proportionate for the purpose of avoiding a wide spread of contagion risks, in particular by transferring losses from one institution to another due to existing interconnectedness, in particular threatening the payment of covered funds belonging to individuals, micro, small and medium sized enterprises, which could seriously jeopardise the functioning of the financial market, including its infrastructure, in a way which could seriously disturb the economy;

4) write down or conversion would lead to losses of other creditors to a greater degree than if they had been exempt from the write down or conversion.

3a. The Fund shall determine whether liabilities to entities of the same group subject to resolution which are not entities subject to resolution and which were not subject to an exemption pursuant to paragraph 1 point 11 should be excluded in whole or in part pursuant to paragraph 3 for the purpose of resolution.

4. Prior to the exemption referred to in paragraph 3 the Fund shall notify the European Commission.

5. Where an exemption referred to in paragraph 3 requires the use of funds from the resolution funds, the Fund shall make exemption if the European Commission does not object to the exemption within 24 hours, or such longer period as agreed with the Fund. If the European Commission determines the conditions for the exemption, the Fund may

effect it upon satisfying these conditions.

Article 207. 1. While assessing the appropriateness of the exemption from the write down or conversion of liabilities arising from derivative instruments or the repurchase sale of financial instruments, the Fund shall take into account the assessment of the impairment resulting from the closure of derivative contracts or sales transactions in relation to the size of the losses which may be covered through the cancellation of liabilities arising from derivatives or sale transaction.

2. If derivatives or the repurchase sale of or financial instruments have not been exempt from write down or conversion, the Fund shall make write down or conversion of liabilities arising therefrom. The Fund shall close derivative instruments' contracts or repurchase sale transactions of financial instruments prior to write down or conversion of these liabilities.

3. Where a derivative instrument or a repurchase sale transaction of financial instruments includes a compensation clause, within the valuation referred to in Article 137 paragraph 2 and 3, the value of the net liability derived from this instrument or transaction shall be determined for the purpose of write down or conversion of these liabilities.

Article 208. 1. Write down or conversion shall cover liabilities in respect of the principal amount and interest due.

2. If write down or conversion covers commitment or a right attached to the shares in part, contractual terms and conditions in the remaining scope shall be unchanged, except for the basis of calculation of interest.

Article 209. 1. The amount of written down or converted liabilities shall be determined as the difference of the sum of the amounts determined in accordance with Article 202 paragraph 1 and the losses covered under Article 203.

2. Liabilities in the amount referred to in paragraph 1 shall be subject to write down up to the amount of losses not covered in accordance of Article 203, and in the remaining amount – they are subject to conversion into the rights attached to the shares.

3. Write down and conversion shall proceed in the following order:

1) capital instruments in accordance with the order laid down in Article 72 paragraph 1;

2) other subordinated liabilities, if the amount of write down or conversion of receivables referred to in point 1 is less than the required amount of write down or conversion;

3) other liabilities if the amount of write down or conversion of receivables referred to in points 1 and 2, is less than the required amount of the write down or conversion.

4. Write down or conversion of liabilities referred to in paragraph 3 point 3 shall follow the order of priority reverse towards the order of satisfaction of claims referred to in Article 440 of the Act - Bankruptcy Law.

5. The Fund shall redeem or convert liabilities in accordance with the order set out in paragraph 3, taking into account the exclusions referred to in Article 206 paragraph 3.

Article 210. 1. If no complete write down or conversion of liabilities of a specific category referred to in Article 209 paragraph 3 is required to attain the required amount of write down or conversion, liabilities in this category shall be subject to write down or conversion *pro rata* to the value of the liability, unless the Fund has made an exemption as referred to in Article 206 paragraph 3.

1a. If the Fund has made the exemption referred to in Article 206 paragraph 3, it may write down the remaining liabilities in the category in question to a greater extent than in proportion to the value of the liability or convert them to a greater extent than in proportion to the value of the liability, including by applying differentiated conversion rates, provided that the condition referred to in Article 242 paragraph 1, is not met.

2. If not all of the rights attached to the shares of existing owners of an entity under restructuring have been written down in order to cover the losses determined in accordance with Article 202, the Fund may diversify the rates of conversion of liabilities into the rights attached to the shares in order to proportionately reduce the share of the existing owners.

2a. The Fund may apply a differentiation in conversion rates if the valuation of the ownership instruments issued as a result of the conversion referred to in Article 138 paragraph 8 differs from the amount by which the own funds of the entity under restructuring should increase in accordance with Article 202.

2b. If the differentiation of conversion rates referred to in paragraphs 2 and 2a is applied, the conversion rate may amount to zero.

3. In the case referred to in paragraph 2, differentiation of the conversion rates should take into account the ranking of claims referred to in Article 440 paragraph 2 of the Act – Bankruptcy Law.

4. Following the consultation with the Fund, the Minister competent for financial institutions may determine, by way of a regulation, the detailed rules for determining differential conversion rates, taking into account the principles of resolution, referred to in Article 110 paragraph 3 points 3 and 4.

Article 211. 1. (repealed)

2. The right to exercise voting rights from the rights attached to shares acquired as a result of the conversion shall remain suspended until the resolution is completed.

3. The provisions of Article 34 paragraph 2 of the Banking Act, Article 37a, Article 37b and Articles 69–69b of the Act on Public Offering and Article 19 paragraph 1 point 2 and Article 86 of the Financial Instruments Trading Act and Article 3 paragraphs 1 and 3 of Regulation No 2017/1129 shall not apply to the conversion of liabilities.

Article 212. (repealed)

Article 212a. 1. The decision on the application of the instrument of write down or conversion of liabilities concerning entities operating in the form of a capital company shall contain:

1) an indication of the amount by which the share capital is to be reduced and, if capital instruments or liabilities are subject to conversion into stocks and shares that are established or issued on the basis of the Fund's decision – the amount by which the share capital is to be increased;

2) an indication of the number, series and numbers or other designation of the capital instruments or liabilities subject to write down or conversion and, if these instruments or liabilities have a separate designation as referred to in Article 55 of the Act on Trading in Financial Instruments, also an indication of this designation;

3) an indication of the number, series and nominal value of the newly created stocks and shares issued, or the amount by which the nominal value of the existing stocks and shares is increased;

4) an indication of whether the shares resulting from the conversion are registered or bearer shares;

5) an indication of the persons who subscribe to the increased share capital or to whom the shares are issued or stocks are established, together with an indication of the capital instruments or liabilities subject to conversion whose holders are entitled to subscribe to such shares and stocks;

6) determination that the acquisition of shares or stocks in the increased share capital shall be made with the exclusion of pre-emptive right or rights issue;

7) determination of the issue price of the new shares or the price of the stocks taken up;

8) indication of the date from which the shares or stocks resulting from the conversion shall participate in dividends;

9) indication of the method allowing for the identification of the capital instruments or liabilities subject to write down – if the number or value of the capital instruments or liabilities subject to write down specified in the decision is lower than the number or value of such instruments or liabilities marked with a separate designation referred to in Article 55 of the Act on Trading in Financial Instruments.

2. The decision referred to in paragraph 1 shall replace the actions specified in the Commercial Companies Code, the Banking Act and the articles of association or the deed of company of the company related to the reduction or increase of the share capital, loss coverage, joining the company, taking up shares or stocks, making contributions and amending the Articles of Association or the Deed of Company Foundation.

3. The capital instruments and liabilities indicated in the decision referred to in paragraph 1, being financial instruments registered in a securities depository, shall be written down or converted as at the end of the day on which the decision referred to in paragraph 1 or information about the decision was posted on the Fund's website. The date on which the decision or information about the decision was posted on the Fund's website is the date on which the persons authorised to write down or convert financial instruments are determined. Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna performs settlement of transactions in financial instruments which written down or converted until the end of the day on which the decision or information about the decision is posted on the Fund's website, and all settlement orders entered into the settlement system concerning unsettled transactions in those financial instruments expire at the end of that day.

4. The posting of the decision referred to in paragraph 1 or information about this decision on the Fund's website shall replace the transmission of a copy of the decision to:

1) shareholders or partners who have taken up shares in the increased share capital on the basis of that decision;

2) shareholders or partners whose shares have been redeemed on the basis of this decision;

3) bondholders or holders of other equity or financial instruments which are subject to write down or conversion on the basis of this decision.

5. The Fund, for the purpose of disclosing in the National Court Register the reduction or increase of the share capital of the company, shall immediately inform the competent court of registration of the issuance of the decision referred to in paragraph 1, providing it with a copy of that decision without assessment and justification, taking into account the obligation to observe the secrets referred to in Article 320, paragraph 2, and the secrets referred to in Article 104 of the Banking Act, Article 9e of the Act on Cooperative Savings and Credit Unions and Article 147 of the Act on Trading in Financial Instruments.

6. A copy of the decision referred to in paragraph 1 constitutes grounds for entry of the reduction or increase in the company's share capital in the National Court Register. The increase or reduction of the company's share capital shall take place upon delivery of the Fund's decision to the entity referred to in paragraph 1.

7. If the instruments subject to redemption or resulting from conversion are subject to registration in a securities depository or in the register of shareholders, the Fund shall immediately inform the Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or the entity keeping the register of shareholders of the issuance of the decision referred to in paragraph 1, providing them with a copy of that decision to the extent necessary to disclose the redemption of shares in a securities depository or in the register of shareholders or for the purpose of registering, respectively, in a securities depository or in the register of shareholders the shares issued as part of the increase in the company's share capital.

Article 212b. 1. The decision to write down the liabilities of an entity under restructuring which is a cooperative bank or a credit union shall contain:

1) indication of the amount by which the funds included in own funds are to be reduced;

2) an indication of the instruments or liabilities and their value to be written down or the value by which the nominal value of those instruments or liabilities is reduced.

2. The decision referred to in paragraph 1 shall replace those set out in the Act on the functioning of cooperative banks, the Act of 16 September 1982 – Co-operative Law, the Banking Act, the Act on Cooperative Savings and Credit Unions and in the articles of association of a cooperative bank or a credit union the actions related to the reduction of own funds, redemption of shares and loss coverage.

3. The redemption of all membership shares held by a member shall result in the termination of membership in the cooperative.

4. The posting of the decision referred to in paragraph 1 or information about this decision on the Fund's website shall replace the transmission of a copy of the decision to:

1) the members of the cooperative bank or credit union whose rights attached to shares have been redeemed pursuant to that decision;

2) the creditors whose receivables have been redeemed on the basis of that decision.

Article 213. Where an entity under restructuring is required to repay the subordinated debt which satisfies the conditions referred to in Article 63 of Regulation No 575/2013, interest or other payments in respect thereof, the Fund may suspend payment of those liabilities in the part thereof not being subject to write down or conversion of liabilities, until the entity satisfies the requirements of conducting business specified in separate regulations.

Article 214. 1. The administrator, the deputy administrator or the attorney appointed by the Fund, within one month from the date of delivery of the decision of the Fund on write down or conversion of liabilities, shall develop a restructuring programme and shall oversee its implementation. The Fund may extend the deadline to develop the programme to 2 months of the delivery of that decision, in particular in the case of the notification of state aid for an entity under restructuring.

1a. The restructuring programme referred to in paragraph 1 shall not be drawn up if the Fund assesses that the purpose of the resolution is made possible by the resolution plan, and in addition:

1) the Fund has decided to write down or convert of capital instruments or eligible liabilities in accordance with Article 110 paragraph 6; or

2) the write down or conversion of capital instruments or eligible liabilities is only carried out for the purpose of ensuring that the terms and conditions of the support are compatible with the State aid rules of the European Union.

2. The objective of the restructuring programme shall be to attain long-term financial stability by an entity under restructuring.

3. The programme should include at least:

1) analysis of the causes of the current situation of an entity under restructuring;

2) assumptions made in the preparation of the programme regarding the economic and financial market conditions in which the entity will operate and their statement of reasons;

3) assessment of the current situation of an entity under restructuring, including its market (competitive) position;

4) description of actions to be taken in order to restore long-term financial stability of an entity under restructuring;

5) physical and financial resources necessary to implement the programme and the manner of provision thereof;

6) schedule of activities and responsibility sharing for the implementation thereof.

7) description of the current and projected state of the financial markets in an optimistic and pessimistic scenario, taking into account extreme conditions to identify the areas of greatest vulnerability of the entity in restructuring to changes in external conditions.

4. The measures referred to in paragraph 3 point 4 may include:

1) cessation of activities generating losses or associated with an elevated risk;

2) sale of assets, lines of business, or part of business of an entity under restructuring;

3) reorganisation of an entity under restructuring;

4) changes in the operational solutions;

5) operational restructuring of an entity under restructuring aimed at restoring competitiveness or profitability;

6) changes in the method of financing activities and capital support for an entity under restructuring.

5. The assumptions referred to in paragraph 3 point 2 shall be compared with the assumptions adopted by other entities of the sector or average forecasts for the sector.

Article 215. 1. If write down or conversion of liabilities has been applied to more than one entity of a group, a parent entity shall develop a restructuring programme specifying measures towards the entities of the group.

2. A domestic parent entity shall provide the Fund with a restructuring programme. The Fund shall forward the plan to the competent authorities for the resolution of subsidiaries and to the European Banking Authority.

Article 216. 1. Following the consultation with the Polish Financial Supervision Authority, the Fund shall assess the restructuring programme within one month from the date of receipt thereof. The Polish Financial Supervision Authority shall forward its opinion on the programme within 10 working days from the date of receipt of the request of the Fund to issue such an opinion.

2. On considering the opinion of the Polish Financial Supervision Authority, the Fund shall accept a restructuring programme, if it deems the programme likely to attain the objective and determines at the same time the deadlines for reporting on the implementation of the programme, or provides comments and objections in order to supplement or amend it.

3. The administrator, the deputy administrator or the attorney appointed by the Fund shall provide the Fund with a revised plan within 14 days from the date of receipt comments and objections to the programme. Within 7 days from the date of receipt of the revised programme, the Fund shall re-assess it.

4. The administrator, the deputy administrator or the attorney appointed by the Fund shall provide the Fund with reports on implementation of the restructuring programme at intervals not longer than semi-annual.

5. Following the consultation with the Polish Financial Supervision Authority, the Fund may require the administrator, the deputy administrator or the attorney to amend or re-develop the restructuring programme if its implementation is not adequate or the objective of the programme is not feasible to be attained.

6. If the objectives of the restructuring programme have been achieved, the Fund shall convene the general meeting of shareholders, meeting of partners or a general meeting of members in order to remove the existing supervisory board and to appoint a new supervisory board.

7. A supervisory board shall appoint a management board of an entity under restructuring. In the case of a bank under restructuring, the appointment shall be effective on the date of consent as referred to in Article 22b paragraph 1 of the Banking Act.

Article 217. 1. Write down of rights attached to shares and write down or conversion of liabilities shall be effective towards an entity under restructuring and concerned owners and creditors, regardless of limits and restrictions on assumption of the rights attached to shares and on investing funds.

2. Where following write down or conversion of liabilities, an entity whose receivables have been converted into the rights attached to the shares, or another creditor of an entity under restructuring exceeds the limits and restrictions on

assumption of the rights attached to shares and on investing funds, the Polish Financial Supervision Authority in consultation with the Fund shall determine the term for attaining their adequate level.

3. If the creditor referred to in paragraph 2 is not subject to supervision by the Polish Financial Supervision Authority, it should ensure compliance with any applicable limits and restrictions on assumption of the rights attached to shares and on investing funds, not later than 12 months from the date of publication of the decision of the Fund on write down or conversion of liabilities.

Article 218. The creditor referred to in Article 217 paragraph 2, who following the conversion of liabilities exceeds the percentage thresholds referred to in Article 25 paragraph 1 of the Banking Act, is required to submit the notification referred to in Article 25 paragraph 1 of the Act within the period specified in Article 25 paragraph 5 of the Act. The provisions of Article 25 paragraph 7–9 and Articles 25a–25o of the Banking Act and Article 175 paragraph 4–6 shall apply accordingly.

Article 219. The creditor referred to in Article 217 paragraph 2, who as a result of the conversion of liabilities exceeds the thresholds referred to in Article 106 paragraph 1 of the Act on Trading in Financial Instruments, is required to submit the notification referred to in Article 106 paragraph 1 of the Act within the period specified in Article 106 paragraph 5 of this Act. The provisions of Article 106 paragraph 7–9 and Article 106a–106n of the Act on Trading in Financial Instruments and Article 175 paragraph 4–6 shall apply accordingly.

Article 220. If the threshold of 50% of the total number of votes in a public company has been exceeded as a result of conversion of debt into the shares of a company under restructuring, the duty to announce a call for subscription for the sale of shares or exchange of shares within the meaning of Article 73 of the Act on Public Offering shall be applicable in the case where, following such acquisition of shares, the share in the total number of votes increases further. The time-frame for the performance of the obligation shall count from the date of the event causing an increase in the share in total number of votes.

Article 221. Upon an entry into the register of an increase or decrease in the share capital of an entity under restructuring, the procedure for precautionary measures and enforcement proceedings pending against the said entity with a view to the satisfaction of the claims covered by write down or conversion of liabilities shall be terminated, whereas the enforcement orders underlying the conduct of such proceedings shall become unenforceable.

Article 222. 1. When issuing a financial instrument or incurring an obligation for which the law of a third party is applicable, the entity issuing a financial instrument or incurring an obligation that has not been excluded from write down or conversion under Article 206 paragraph 1 and does not belong to category two of the receivables subject to satisfaction from the funds of the bankruptcy estate of a bank or the funds of the bankruptcy estate of a credit union shall:

1) include a disclaimer in the terms of issue or the agreement to the effect that the write down or conversion instrument may be applied to such instrument or obligation in such a manner as to ensure that the purchaser of the financial instrument or the party to the agreement under which the entity incurs the obligation is aware of the disclaimer;

2) obtain the consent of the purchaser of the financial instrument or the party to the agreement under which the entity is incurring the obligation to recognise the effect of the decision to apply the write down or conversion instrument.

2. The Fund may, either at the request of an entity or *ex officio*, exempt an entity from the obligation referred to in paragraph 1 in the event that the applicable law or an agreement to which a third party is a party provides for unconditional recognition of the effects of the Fund's decision to write down or convert liabilities. The Fund may request a legal opinion from this entity on the legal effectiveness and enforceability of the contractual provision referred to in paragraph 1.

3. The Fund may relieve an entity from the obligation set out in paragraph 1 also in the event that the minimum level of own funds or eligible liabilities that the entity is obliged to maintain, as determined by the Fund, has been reduced in accordance with Article 97 paragraph 2d to an amount that allows for the coverage of losses, and financial instruments or liabilities meeting the conditions set out in paragraph 1 are not included in the minimum level of own funds or eligible liabilities maintained by the entity.

4. If an entity issuing a financial instrument or incurring an obligation governed by the law of a third party finds that it cannot comply with the obligation set out in paragraph 1, it shall immediately notify the Fund, including a justification. At the request of the Fund, the entity shall provide, within no more than 7 days, the information necessary to assess the reasonableness of the waiver of the obligation, in particular concerning

1) the creditor;

2) date of issue of the financial instrument or conclusion of the agreement;

3) the nominal value of the obligation and the currency in which it was contracted;

4) the country under whose law the issue or agreement giving rise to the obligation is governed.

5) (repealed)

5. The Fund may require the entity to provide a legal opinion on the legal impossibility of performing the obligation referred to in paragraph 1.

6. On the date the Fund receives the notification referred to in paragraph 4, the obligation referred to in paragraph 1 shall be suspended.

7. If the Fund considers that there are no grounds for waiving the obligation referred to in paragraph 1, it shall order the entity to comply with the obligation within the period indicated. The Fund may also instruct the entity to change the rules for assessing the ability to fulfil the obligation referred to in paragraph 1.

8. The obligations referred to in paragraph 4 shall not include:

1) additional Tier 1 instruments;

2) Tier II instruments;

3) bonds, other negotiable debt instruments as well as instruments creating or recognising a credibility and instruments giving rights to acquire debt instruments, if the obligations arising therefrom are not secured obligations;

4) receivables referred to in Article 440 paragraph 2 points 6–10 of the Act – Bankruptcy Law.

9. The Fund shall promptly assess the impact of the non-performance of the obligation referred to in paragraph 1 on the possibility of resolution, including the risk of liability claims against the Fund referred to in Article 242 paragraph 1, if, in a given category of receivables in accordance with Article 440 paragraph 1 2 of the Act – Bankruptcy Law, the share of the value of liabilities arising from the issue of financial instruments and concluded agreements for which the obligation set out in paragraph 1 has been suspended pursuant to paragraph 6, increased by the value of liabilities that are excluded from the application of the write down and conversion powers pursuant to Article 206 paragraph 1 or paragraph 3, exceeds 10% of the total value of that category. If a material impediment to resolution is found, the provisions of Article 80 paragraph 3, Article 91 paragraphs 3, 5 and 7, Article 92 paragraph 3 and Article 95 paragraph 1, second sentence, paragraphs 1a, 2 and 4 shall apply accordingly.

10. Instruments and liabilities referred to in paragraph 4 shall not be counted towards the entity's minimum level of own funds or eligible liabilities. Liabilities suspended in accordance with paragraph 6 shall not be included in the entity's minimum level of own funds or eligible liabilities.

11. In the event that an entity breaches the obligation referred to in paragraph 1, the Fund shall not lose its authority to write down or convert the liabilities.

12. The Fund may, by means of a resolution, specify a list of categories of financial instruments or liabilities in the case of which there may be grounds for exemption from the obligation referred to in paragraph 1. The adoption of a resolution does not relieve the entity from the obligation to notify the Fund referred to in paragraph 4, and does not relieve the Fund from the obligation to assess the impact of non-compliance with the obligation referred to in paragraph 1 on the possibility of implementing a resolution plan or a group resolution plan.

Chapter 18

Separation of property rights

Article 223. Property rights may be separated if:

1) liquidation of property rights could have a material adverse effect on the market situation, in particular on prices of such property rights;

2) transfer of property rights to an asset management vehicle is necessary for continuation of operation of an entity under restructuring or a bridge institution or

3) transfer of property rights to an asset management vehicle will increase revenue from these rights.

Article 224. 1. The Fund may establish an asset management vehicle or a greater number of them in the form of a capital company.

2. An asset management vehicle shall manage the property rights and liabilities transferred thereto from one or several entities under restructuring or from a bridge institution, including their disposal.

3. An asset management vehicle may also render to the Fund management services of other property rights under an agreement.

4. The Fund shall contribute the initial share capital of an asset management vehicle from the resolution funds.

5. The Fund shall cover the operating costs incurred by an asset management vehicle from the resolution funds, to the extent necessary, if it does not generate sufficient revenue from management or does not manage the transferred property rights.

6. If the Fund is not the sole stockholder or shareholder of an asset management vehicle, it shall be vested with the powers to:

1) approve the articles of association or the deed of a company;

2) select members of corporate bodies of an asset management vehicle or approve their appointment;

3) determine the rules of remuneration of members of corporate bodies of an asset management vehicle and the scope of their duties;

4) approve the strategy and risk profile of an asset management vehicle.

Article 225. 1. The transfer of property rights and liabilities shall follow under a decision of the Fund.

2. The Fund may transfer back selected property rights or liabilities which were prior to the transfer referred to in Article 223 to an entity under restructuring or a bridge institution, respectively, if one of the following circumstances occurs:

1) such a possibility is provided for in the transfer decision, or

2) they do not fall within the categories of the property rights, property rights or liabilities specified in the transfer decision or do not meet the conditions for transfer specified in that decision.

3. Detailed conditions and mode of a transfer and a back transfer shall be established by a decision of the Fund.

4. Upon the transfer an asset management vehicle shall enter into the rights and obligations of an entity under restructuring or a bridge institution in the scope of assumed property rights and related liabilities.

5. Permits shall devolve to an asset management vehicle, as well as licenses and reliefs which have been awarded to an entity under restructuring under the provisions in force in the territory of the Republic of Poland due to the establishment or business, except for a permit to establish a bank and permit to commence operations by a bank, and provided that:

1) they are associated with the transferred property rights or liabilities;

2) separate legislation or a decision to grant a permit, license or relief does not provide otherwise.

6. Disclosure in the land registers or other records of the transition to an asset management vehicle of rights related to the transferred property rights or liabilities, disclosed in these books or other registers shall follow at its request, on the basis of the decision of the Fund, as referred to in paragraph 1.

7. An asset management vehicle shall not be liable for the tax liabilities of an entity under restructuring nor those of a bridge institution.

8. In the proceedings relating to the transferred property rights and liabilities, initiated by an entity under restructuring or a bridge institution and pending on the day of service of the Fund's decision to transfer the property rights under a final administrative decision, judgement or ruling, an asset management vehicle shall succeed an entity under restructuring or a bridge institution as from the date of service of the Fund’s decision.

Article 225a. 1. In the case of collaterals covered by the instrument of resolution in the form of separation of property rights by mortgage or registered pledge, as of the date of transfer of such loans indicated in the decision referred to in Article 225 paragraph 1, mortgages or registered pledges, respectively, shall be transferred to the asset management entity. The provisions of Article 79 paragraph 1, second sentence, of the Act of 6 July 1982 on Land and Mortgage Registers (Journal of Laws of 2023, item 1984) and Article 17 paragraph 1, second sentence, of the Act of 6 December 1996 on Registered Pledge and Pledge Register (Journal of Laws of 2018, item 2017) shall not apply.

2. Until the asset management entity is disclosed in the land and mortgage register or in the pledge register, the fulfilment of the benefit to the creditor disclosed respectively in the land and mortgage register or in the pledge register has effect against the asset management entity. The creditor disclosed in the land and mortgage register or the pledge register is obliged to make an immediate settlement with the asset management entity.

3. If the mortgage or registered pledge expires before the asset management entity is disclosed in the land and

mortgage register or the register of pledges, respectively, the asset management entity is obliged to take steps to allow the mortgage to be removed from the land and mortgage register or the registered pledge to be removed from the register of pledges.

4. The asset management entity and the Fund shall post information on their websites about the effects of the Fund's decision referred to in Article 225 paragraph 1, indicating in particular the scope of the transferred property rights and liabilities.

5. Immediately after the transfer of loans secured by mortgage or registered pledge which have been subject to the instrument of resolution in the form of separation of property rights, the asset management entity shall be obliged to perform actions to disclose the asset management entity in the land and mortgage book or in the pledge register, respectively.

6. Upon notification by a court, an arbitral tribunal or an administrative proceeding authority of the application of the resolution instrument in the form of separation of property rights, the asset manager shall by operation of law take the place of the entity under restructuring in civil, administrative, judicial and administrative proceedings and before arbitral tribunals concerning mortgages or registered pledges securing loans that have been subject to the resolution instrument in the form of separation of property rights, without having to obtain the consent of the opposing party or a third party having a legal interest.

Article 226. 1. If the value of transferred property rights determined in accordance with Article 137 paragraph 2 and 3, exceeds the value of transferred liabilities, the transfer shall be made for consideration, in the amount of excess between the value of the transferred property rights and the value of transferred liabilities.

2. If the value of transferred liabilities determined in accordance with Article 137 paragraph 2 and 3 exceeds the value of the transferred property rights, the surplus of the value of transferred liabilities over the value of transferred property rights shall account for a liability of an entity under restructuring or of a bridge institution to wards an asset management vehicle.

3. The remuneration determined in accordance with paragraph 1 shall be paid by the asset management entity to:

1) the entity under restructuring, or

2) the acquiring entity, or

3) an entity that has been acquired in accordance with Article 174 paragraph 1 point 3, or

4) a bridge institution

– in the form and within the time limit set out inthe decision of the Fund on the transfer of property rights, but no later than within 3 months from the date of the transfer.

3a. Remuneration may be paid in particular by the entities indicated in paragraph 3 points 1–4 of debt instruments issued by the asset management entity.

4. The Fund shall define the method and date of performance of obligation determined in accordance with paragraph 2 in the decision on the transfer of property rights.

Article 227. The Fund may transfer property rights and liabilities of more than one entity under restructuring or a bridge institution to an asset management vehicle. In this case, an asset management vehicle is required to manage the assets transferred from each entity under restructuring and bridge institution separately or to keep records of business activities so as to be able to separate their assets and liabilities and the result of management thereof.

Article 228. 1. The provisions of Articles 25–25s of the Banking Act, Article 106–106n of the Act on Trading in Financial Instruments, Article 54–54n of the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds and Articles 82–98 of the Act of 11 September 2015 on Insurance and Reinsurance Business shall not apply in the case of a transfer of the rights attached to shares to an asset management vehicle.

2. An asset management vehicle shall be exempt from the duty of notification of the acquisition of blocks of shares in public owned companies, obtaining the consent of the competent authorities to exercise rights from the shares and announce a call for the sale of shares referred to in Article 73 of the Act on Public Offering.

Article 229. 1. The transfer referred to in Article 225 paragraph 1 shall not require the consent of the owners, debtors or creditors of an entity under restructuring or a bridge institution.

2. The owners, debtors and creditors of an entity under restructuring shall not be entitled to claim to an asset management vehicle, its property and members of its corporate bodies in connection with the transfer of property rights and asset management.

3. The Fund shall be liable for the acts and omissions of an asset management vehicle and members of its statutory bodies, under the terms of Article 241 and Article 242.

Article 229a. The asset management entity may issue bonds on the rules and in the manner specified in Chapter 18a or on the basis of separate acts.

Chapter 18a

Rules and procedure for the issue of bonds by the asset management entity

Article 229b. 1. Whenever this Chapter refers to bonds, it shall mean bonds issued by an asset management entity, the purchaser of which may only be a professional customer as referred to in Article 3 point 39b sub-point a–m of the Act on Trading in Financial Instruments.

2. The Act of 15 January 2015 on bonds (Journal of Laws of 2022, item 2244 and of 2023, items 825 and 1723) shall not apply to bonds.

Article 229c. 1. Bonds issued by an asset management entity shall be securities in which the asset management entity states that it is a debtor to the owner of such paper and undertakes to the owner of such paper to fulfil a certain pecuniary benefit.

2. Bonds:

1) may bear interest in the form of a discount or interest;

2) shall be issued either as registered bonds or bearer bonds;

3) shall be issued in dematerialised form through registration in a securities depository operated in accordance with the provisions of the Act on Trading in Financial Instruments or a securities registration system operated by a foreign entity, in particular in a central securities depository;

4) are issued on the domestic market or on foreign markets;

5) are denominated in the Polish currency or in the currencies of other countries belonging to the Organisation for Economic Co-operation and Development.

3. Registered bonds may be issued in the form of a document if this is permissible on a given market.

4. Bonds issued on the domestic market shall be admitted to trading on a regulated market unless the asset manager decides otherwise in the terms of issue.

5. The provisions of the Act on Trading in Financial Instruments shall apply to the creation and transfer of rights from bonds issued in dematerialised form, except for bonds issued on foreign markets, to which the law applicable to the issue of such bonds shall apply.

Article 229d. 1. The asset management entity shall determine the terms and conditions of the issue of bonds concerning the content of benefits arising from the bonds and the manner of their performance.

2. The terms and conditions of issue shall include in particular:

1) the date of issue;

2) a reference to the legal basis of the issue;

3) the currency in which the bonds are issued;

4) the nominal value per bond;

5) the size of the issue;

6) the issue price or the method of determining it;

7) the amount of interest or the method of its calculation, if interest on the bonds is provided;

8) determination of the dates, means and conditions of the sale;

9) the determination of the method and time limits for the payment of the principal and incidental claims;

10) the date from which interest on the bonds of the issue is calculated, if interest on the bonds is provided;

11) specification of the redemption date and conditions, and a reservation regarding the possibility of early redemption;

12) information about the bond's safeguard or lack thereof.

3. The asset management entity shall inform about the terms and conditions of the issue by:

1) making them public on the website of the asset management entity or on the website of the Fund; or

2) communicating them to the entities to which the bond issue will be addressed.

4. The issue shall be effected as of the settlement date of the bonds offered for purchase and in an amount equal to the nominal value of the bonds sold.

Article 229e. Bonds may be issued by means of:

1) public offer as referred to in Article 2 sub-point d of Regulation No 2017/1129;

2) offering to purchase bonds by means other than those specified in point 1.

Article 229f. 1. The bonds shall be redeemed upon redemption.

2. An asset management entity may purchase its own bonds only for the purpose of redemption.

Article 229g. If the day on which the obligation to perform an action under the terms and conditions of the issue falls on a public holiday or Saturday, the time limit for the performance of that action shall expire on the first working day thereafter.

Chapter 19

Liquidation of a residual entity

Article 230. 1. Where an entity under restructuring has not been sold as a result of implementation of the instrument of acquisition of undertaking, a bridge institution or separation of property rights or the implementation of these instruments was not possible, an entity shall be subject to liquidation through bankruptcy or liquidation proceedings.

3. In the case referred to in paragraph 1 if:

1) the conditions referred to in Article 158 paragraphs 1 or 2 of the Banking Act have been met with respect to a bank under restructuring, the Fund may issue a decision to suspend the operations of that bank and request that it be declared bankrupt;

2) the conditions referred to in Article 74k paragraph 1 or 2 of the Act on Cooperative Savings and Credit Unions have been satisfied towards a credit union under restructuring, the Fund may file a petition for bankruptcy of the credit union;

3) the conditions referred to in Article 10 and Article 11 of the Act – Bankruptcy Law have been satisfied towards an investment firm under restructuring, the Fund may file a petition for bankruptcy of the investment firm.

2a. During the period of suspension of a bank's operations, the provision of Article 159 of the Act – Bankruptcy Law shall apply accordingly.

2b. During the period of suspension of operations of a credit union, the provision of Article 74l of the Act on Cooperative Savings and Credit Unions shall apply accordingly.

3. Solely the Fund may file a petition for bankruptcy of an investment firm under restructuring.

4. In cases other than those referred to in paragraph 2 the Fund shall issue a decision on the liquidation of an entity.

5. The Fund shall issue a decision on the liquidation of an entity also in the case of a final rejection of its petition for bankruptcy under Article 13 paragraph 1 or 2 of the Act – Bankruptcy Law, unless the court, while dismissing the bankruptcy petition, has determined that the evidence collected in the case legitimises the termination of an entity entered into the National Court Register without the conduct of liquidation proceedings.

6. The Fund may, by way of a decision, require the entities referred to in paragraph 2 to render services to the extent necessary to perform activities related to the transferred: undertaking of an entity under restructuring or rights attached to the shares of an entity under restructuring, some or all property rights, or some or all liabilities of an entity under restructuring by an acquiring entity, in particular if they had been rendering such services to an entity under restructuring prior to the date of initiation of resolution. The service period must not be longer than 12 months from the date of the decision of the Fund on the acquisition of undertaking or a bridge institution.

7. A residual entity shall render the services referred to in paragraph 6 on market conditions, pursuant to an agreement with an entity on whose behalf the services are rendered. Those agreements must not be terminated prior to the date referred to in paragraph 6 without the consent of the Fund.

Article 231. 1. The liquidation of a residual entity operating in the form of a bank or a credit union shall proceed in accordance with the rules governing the liquidation of commercial companies or cooperatives, provided that:

1) no dividends or interest shall be paid during the period of liquidation;

2) the opening balance of the liquidation, the liquidation programme and the account of the conducted liquidation shall be subject to approval by the Fund;

3) the liquidator, at least once a month, shall provide the Fund with the reports from the course of the liquidation;

4) distribution of assets remaining after the satisfaction of creditors and their securing among the shareholders (members) must not take place within one year from the date of the last announcement of the opening of liquidation.

2. The decision referred to in Article 230 paragraph 4 shall determine the detailed conditions and procedure for the liquidation of an entity and the appointment of a liquidator.

3. The liquidator shall be entitled to request changes in the subject of the commitment referred to in Article 146g of the Banking Act or the Article 74f paragraph 1 of the Act on Cooperative Savings and Credit Unions. District commercial court with territorial jurisdiction shall examine the petition for a legal action.

4. A liquidator may offset the debt arising from a bank account or an account operated by a credit union against the receivables of a liquidated bank or a credit union, even if the terms of its repayment have not yet occurred.

5. In the case of liquidation of a residual entity operating in the form of a bank or a credit union:

1) Article 463 paragraph 1 of the Code of Commercial Companies shall not apply;

2) Article 118 of the Act – Cooperative Law shall not apply, whereas the provisions of Article 119–129 of this Act shall apply accordingly;

3) the liquidator shall assume the management of assets of a liquidated residual entity and the entitlements reserved in the Act and the statutes for the statutory bodies of a residual entity; the liquidator represents a residual entity in liquidation in and out of court;

4) the powers of the supervisory board shall be suspended, subject to Article 103 paragraph 5;

5) the provisions of Article 74h and Article 74m–74s of the Act on Cooperative Savings and Credit Unions shall apply.

6. Following the completion of the liquidation, the liquidator shall prepare a liquidation report and shall submit it to the Fund and to the court of registration along with a request for removal of a bank or credit union from the register.

7. Liquidation of another residual entity shall proceed in accordance with the rules on the liquidation of commercial companies or cooperatives, whereas:

1) the provision of Article 463 paragraph 1 of the Code of Commercial Companies shall not apply;

2) the provisions of Article 118 of the Act – Cooperative Law shall not apply.

8. The Fund shall appoint and remove liquidators of a residual entity.

Article 232. The provision of Article 146 shall apply towards a residual entity and the entities belonging to the same group as this entity.

Article 233. In the bankruptcy proceedings conducted towards a residual entity the provisions of Part I of Title III of Section III of the Act – Bankruptcy Law shall not apply to measures undertaken in the framework of resolution.

Chapter 20

Resolution costs

Article 234. 1. The Fund shall provide an entity under restructuring or a residual entity with:

1) the remuneration referred to in Article 174 paragraph 5, in the part payable in the form of the pecuniary benefit,

2) the remuneration referred to in Article 190,

3) other revenue from resolution

– following the deduction of the costs of resolution linked to the use of instruments of acquisition of undertaking to a

bridge institution.

2. The Fund shall provide the owners of rights attached to the shares with the funds obtained in respect of:

1) transfer of rights attached to the shares issued by an entity under restructuring to an acquiring entity referred to in Article 174 paragraph 1 point 3,

2) transfer of rights attached to the shares issued by an entity under restructuring to a bridge institution

– following the deduction of the costs of resolution linked to the use of instruments of acquisition of undertaking or transfer of rights attached to the shares to a bridge institution.

3. The Fund shall transfer the amounts referred to in paragraph 1 within 3 months from the date of completion of resolution.

4. Where a residual entity has been declared bankrupt, the Fund shall transfer the funds referred to in paragraph 1 to the bankruptcy estate.

Article 234a 1. If the instrument of separation of property rights is applied, the asset management entity shall transfer, through the Fund, the funds on account of the remuneration referred to in Article 226 paragraph 1 to the entities indicated in Article 226 paragraph 3 points 1–4, if such method of payment of the remuneration is indicated in the decision referred to in Article 225 paragraph 1.

5. The Fund may, with respect to the measures referred to in paragraph 1, deduct the costs of resolution.

Article 235. The costs of resolution borne by the Fund shall include:

1) court fees and the expenses necessary to achieve the purposes of resolution other than those referred to in Article 237 and Article 239;

2) cost of the valuation referred to in Article 137 paragraph 2 and 3, as well as Article 241;

3) costs of disposal of undertaking of an entity under restructuring, selected property rights, disposal of real estate and movables, the pursuit of claims from debtors and performance of other property rights or disposal thereof;

4) expenses in respect of support awarded under resolution;

5) losses in respect of granting loans and guarantees under resolution to an entity under restructuring, its subsidiaries, an entity acquiring rights attached to the shares of an entity under restructuring, its undertaking or selected property rights or liabilities;

6) expenses in respect of the acquisition of property rights in an entity under restructuring referred to in Article 112 paragraph 1 point 2, and the costs of disposal thereof;

7) costs associated with the exercise of the duties of the administrator, the deputy administrator in the case referred to in Article 153 paragraph 10;

8) expenses in respect of the subsidy referred to in Article 112 paragraph 3 point 2;

9) expenses in respect of financing resolution referred to in Article 179, Article 188 paragraph 5 and 5a, Article 202 paragraph 4 and 5, Article 237 and Article 272 paragraph 3 and 7.

10) expenses relating to the liquidation of an entity referred to in Article 230 paragraph 4 and paragraph 5.

Article 236. The benefits derived from a bridge institution and an asset management vehicle, including dividends and interest, as well as proceeds from the sale or liquidation of a bridge institution and an asset management vehicle shall account for revenues from the resolution, subject to Article 189 and Article 227.

Article 237. 1. The costs linked to the establishment of a bridge institution, expenses of the assumption of the rights attached to its shares and the costs of its business not covered by its revenues account for the costs resolution, subject to Article 189 and Article 227.

2. Costs related to the creation of an asset management entity, expenses for the acquisition of its rights attached to shares and costs of its activities not covered by its revenues shall be a cost of resolution, subject to Article 227.

Article 238. In the case where the method of required funding of resolution, defined in the resolution scheme, determines division of required funding between the individual Member States, revenues and benefits in excess of the costs of resolution shall be divided between Member States *pro rata* to the required funding.

Article 239. The costs incurred by the Fund in respect of the use of the instrument of write down or conversion of liabilities not covered by revenues of an entity under restructuring or a bridge institution shall be charged to the resolution funds.

Article 240. Upon the completion of resolution, the Fund shall make a report thereon on considering the settlement referred to in Article 234–239.

Chapter 21

Protection of the rights of owners and creditors

Article 241. 1. In order to determine whether creditors and owners were satisfied as a result of the resolution to a degree lower than they would have been satisfied in the bankruptcy proceedings in a case that on the day of the decision to initiate resolution, the court had issued a ruling on a declaration of the debtor's bankruptcy, the Fund shall commission an additional valuation. The provision of Article 137 paragraph 2 shall apply accordingly.

2. The determination referred to in paragraph 1 shall be made on the assumption that the granted state aid would be returned by the repayment or in another form and any new state aid will not be granted.

Article 242. 1. The creditors and owners, who have been satisfied as a result of resolution to a degree lower than they would have been satisfied in the procedure referred to in Article 241 paragraph 1, as a result of:

1) write down or conversion of liabilities,

2) failure to effect the transfer of their liabilities from an entity under restructuring through the use of instruments of acquisition of undertaking or a bridge institution

– shall be entitled to supplementary claim vis-à-vis the Fund.

2. Financial liability of the Fund towards creditors and owners referred to in paragraph 1, including depositors, in the scope of the transfer of guaranteed funds shall be limited to the difference between the level of satisfaction of owners and creditors estimated in accordance with Article 241 and the actual satisfaction of owners and creditors as a result of resolution.

3. The settlement with creditors and owners of liability referred to in paragraph 1 shall follow the completion of resolution.

4. The Fund shall satisfy the recognised supplementary claims from the resolution funds.

5. The provision of paragraph 2 shall also apply to the Fund’s liability for its own torts, as well as those of entities for which the Fund is liable.

6. Supplementary claims shall expire following 5 years from the date of completion of resolution.

Chapter 22

Recognition and enforcement of resolution proceedings conducted by the competent authorities of resolution

Article 243. The provisions of this chapter shall apply in the case of initiation of resolution of an entity or towards a branch of a foreign bank by a competent authority of resolution of a Member State other than the Republic of Poland.

Article 244. Resolution vis-a-vis an entity referred to in Article 243 shall be recognised by operation of law, unless it has not been initiated by the competent authority for resolution.

Article 245. 1. In the case of initiation of resolution referred to in Article 244, the competent authority for resolution which intends to perform its activities in the Republic of Poland is required to demonstrate its powers with an officially certified copy of the judgment or the decision to initiate the resolution, accompanied by a certified translation into the Polish language.

2. Attorneys and other persons acting on behalf of the competent authority for resolution referred to in paragraph 1 are required to demonstrate their powers with an officially certified copy of the judgment or the decision on their appointment, accompanied by a certified translation into the Polish language.

3. The competent authority for resolution and persons referred to in paragraph 2 shall exercise within their official duties in the Republic of Poland the same rights as those granted to them in the state in which they were established or appointed.

4. The competent authority for resolution or the persons referred to in paragraph 2 are required to apply for a disclosure of the initiation of resolution in land registers, the National Court Register and other registers kept in the Republic of Poland under a decision or judgment referred to in paragraph 1.

Article 246. 1. If the competent authority for resolution effects:

1) a transfer of instruments of ownership, property rights or liabilities,

2) write down or conversion of capital instruments,

3) write down or conversion of liabilities,

for which the applicable law is the law of the Republic of Poland or towards the owners or creditors established or residing in the territory of the Republic of Poland, this transfer, write down or conversion shall be recognised by law.

2. Owners of instruments and property rights and creditors in respect of the instruments and liabilities referred to in paragraph 1 may challenge the decisions or transactions of transfer, write down or conversion or take recourse to other forms of protection of their interests solely under the law of the Member State of the competent authority for resolution taking these decisions or transactions.

Chapter 23

Recognition and enforcement of foreign proceedings of resolution

Article 247. The provisions of this chapter shall not apply to proceedings of resolution initiated in a third country, if the European Union concluded an agreement with the third country an international agreement on recognition and enforcement of resolution proceedings within the scope regulated by this agreement, from the date of its entry into force.

Article 248. 1. The Fund shall issue a decision on the recognition and enforcement of foreign proceedings of resolution in the Republic of Poland at the request of the competent authority for resolution of a third country conducting the proceedings.

2. Application for recognition and enforcement must be accompanied by:

1) copy of the judgment or decision on the initiation of foreign proceedings of resolution or

2) certificate of the authority referred to in paragraph 1 in evidence that the proceedings are pending.

3. In the absence of the documents referred to in paragraph 2, the application must be accompanied by other reliable written record in evidence of the initiation of the foreign proceedings of resolution.

4. The authority referred to in paragraph 1 shall append the request with the information on other foreign proceedings pending towards a foreign entity under restructuring of which it is aware, as well as the information on persons authorised to act on its behalf in the event of issuing a Fund's decision to recognise and enforce foreign proceedings of resolution, while enumerating their names and places of residence, accompanied by an officially certified copy of the judgment or decision on their appointment.

5. The documents or written evidence referred to in paragraph 2 and 4 must be accompanied by their certified translation into the Polish language.

6. In case of doubt, the Fund may request authentication of the submitted documents or official confirmation of authenticity of the signature.

7. Following the submission of an application for recognition of foreign bankruptcy proceedings, the competent authority for resolution of a third country shall forthwith notify the Fund of:

1) amendment of the recognised foreign proceedings;

2) other foreign proceedings concerning a foreign entity under restructuring of which it is aware.

Article 249. 1. In the case of the establishment of a European resolution college, members of the college shall take a collective decision on the recognition and enforcement of foreign resolution proceedings towards a foreign entity under restructuring or a parent which operates:

1) subsidiaries established in at least two Member States deemed major by at least two Member States;

2) branches situated in at least two Member States deemed major by at least two Member States;

3) property rights or liabilities in at least two Member States or for which the law of the Member States is the applicable law.

2. In the case of the collective decision referred to in paragraph 1 the Fund shall issue a decision on the recognition and enforcement of foreign proceedings of resolution in the Republic of Poland in compliance with the collective decision, subject to Article 251 paragraph 2 and 3.

Article 250. The competent third country authority for resolution conducting the resolution proceedings and a foreign entity under restructuring shall be the parties to the proceedings on the recognition and enforcement of foreign proceedings of resolution.

Article 251. 1. In the absence of a collective decision of the European resolution college or a lack of creation of a European resolution college, the Fund shall issue a decision on the recognition and enforcement of foreign proceedings of resolution, on considering the interests of the Member States where a foreign entity under restructuring or a third country parent entity operates, in particular the impact of the recognition and enforcement of this procedure on the other group entities and the financial stability in the Member States.

2. The Fund shall issue a decision to refuse recognition and enforcement of foreign proceedings of resolution if:

1) proceedings cover a case that comes under the exclusive jurisdiction of Polish courts;

2) recognition and enforcement would be contrary to the fundamental principles of the legal order of the Republic of Poland.

3. The Fund may issue a decision to refuse recognition or enforcement of foreign resolution proceedings if:

1) foreign resolution proceedings could have a negative impact on financial stability in the Republic of Poland or another Member State;

2) independent proceedings of resolution towards a branch of a foreign bank is necessary to attain the objectives referred to in Article 66;

3) creditors, notably depositors residing or established in the Republic of Poland were in a worse position in foreign proceedings than other creditors, notably the depositors of the same legal situation in the country where the foreign proceedings are pending;

4) recognition or enforcement of foreign resolution proceedings would require involvement of public funds;

5) the effects of recognition and enforcement of foreign proceedings of resolution were contrary to the provisions of the Polish law.

4. In the case of the establishment of the European resolution college, the Fund shall issue a decision to refuse recognition and enforcement of foreign proceedings of resolution following the consultation with the members of the college.

Article 252. 1. The decision to recognise and enforce foreign proceedings of resolution shall enumerate:

1) business name of a foreign entity under restructuring and its registered office;

2) foreign court or a competent third country authority for resolution which has initiated the foreign proceedings;

3) persons authorised to act in the proceedings on behalf of a competent third country authority for resolution conducting foreign proceedings of resolution while naming them and enumerating their places of residence.

2. Persons referred to in paragraph 1 point 3 shall demonstrate their powers with an officially certified copy of the judgment or the decision on their appointment, accompanied by a certified translation into the Polish language.

Article 253. 1. Recognition of foreign proceedings of resolution shall include the recognition of the judgments and decisions given in their course, as well as decisions regarding the course of the proceedings of resolution and its completion.

2. The Fund may take a decision on the partial recognition or enforcement of foreign proceedings of resolution.

Article 254. 1. The decision on the recognition of foreign proceedings of resolution may be amended or repealed in the event of subsequent detection or occurrence of grounds for refusing recognition and enforcement.

2. The proceedings for repeal or amendment of a decision on the recognition of foreign proceedings of resolution may be initiated at the request of anyone who has a legal interest or *ex officio*.

3. In its decision to amend the decision on the recognition of foreign proceedings of resolution the Fund shall determine the scope of the amendments.

Article 255. 1. In the case of a decision to recognise and enforce foreign proceedings of resolution the provisions of Chapter 7 shall apply accordingly.

2. A competent third country authority for resolution shall notify the Fund of a change of persons authorised to act on behalf of that body, while naming them and enumerating their places of residence, along with an officially certified copy of the judgment or the decision on their appointment, accompanied by a certified translation into the Polish language.

Article 256. 1. In the case of a decision to recognise and enforce foreign resolution proceedings, the Fund may, *ex officio* or at the request of the authority conducting foreign resolution proceedings:

1) exercise the powers vested in it in the course of resolution towards:

   a) property rights of a foreign entity under restructuring for which the Polish law is the applicable law,

b) property rights or liabilities which are entered in the accounts of a branch of a foreign entity under restructuring in the Republic of Poland for which the Polish law is the applicable law, or where they are subject to enforcement in the Republic of Poland;

2) perform the transfer, including by ordering the transfer, of shares of a subsidiary of a foreign entity under restructuring with its seat in the Republic of Poland;

3) suspend the enforcement of the right to cancel, terminate or bring forward the execution date of the agreements with a foreign entity under restructuring, towards which the European resolution college took a collective decision on the recognition and enforcement of foreign proceedings of resolution, if these rights derive from the activities undertaken under these proceedings, whereas the relevant provisions of these agreements are satisfied, including the provisions in terms of delivery, payment and security.

2. In the case referred to in Article 251 paragraph 4, the provisions of Article 143 and Article 144 apply to the parties to agreements with a foreign entity under restructuring, if it is essential for the adequate conduct of foreign proceedings of resolution in a third country.

Article 257. If the public interest so requires, the Fund may exercise the powers vested in it in the course of the resolution towards a foreign entity being a parent entity, if the competent third country authority for resolution deems that the conditions have been satisfied to initiate resolution towards this entity in this third country.

Article 258. Recognition or enforcement of foreign proceedings of resolution shall not affect the pending bankruptcy proceedings.

Article 258a. If the Fund applies one of the resolution instruments referred to in Article 110 paragraph 1 to a credit institution, a bank, a financial institution, an investment firm or a dominant entity, the provisions of Articles 460–466 and Articles 468–470 of the Act - Bankruptcy Law shall apply accordingly.

DIVISION IIIA[30]

Resolution of a Central Counterparty

Article 258b. 1. The resolution authority referred to in Article 3 paragraph 1 of Regulation No 2021/23 for a Central Counterparty established in the territory of the Republic of Poland shall be the Fund.

2. The ministry referred to in Article 3 paragraph 8 of Regulation No 2021/23 shall be understood as the minister responsible for financial institutions.

Article 258c. The Management Board of the Fund shall adopt resolutions on matters related to the planning of the resolution of Central Counterparties in accordance with Article 14, Article 16 and Article 17 of Regulation No 2021/23.

Article 258d. 1. If the Fund issues a decision to take a resolution action in respect of a Central Counterparty as referred to in Article 2 point 11 of Regulation No 2021/23, the Management Board of the Central Counterparty in restructuring, a member of the Management Board of the Central Counterparty in restructuring, the Supervisory Board of the Central Counterparty in restructuring and a member of the Supervisory Board of the Central Counterparty in restructuring and the persons referred to in Article 74 of Regulation No 2021/23 may lodge a complaint with the administrative court within 7 days of service of the Central Counterparty's decision.

2. In the case referred to in Article 23 paragraph 1 sub-point f of Regulation No 2021/23, the power referred to in paragraph 1 shall be vested in the member of the Management Board of the Central Counterparty in restructuring and the member of the Supervisory Board of the Central Counterparty in restructuring who was in office at the time of the Fund's decision to take a resolution action against the Central Counterparty as referred to in Article 2 point 11 of Regulation No 2021/23.

3. The provisions of Article 104, Article 105 paragraph 1 and paragraph 2 and Article 106 shall apply accordingly to the decisions referred to in paragraph 1 and Article 11 paragraph 4 point 30.

4. The publication referred to in Article 72 paragraph 3 of Regulation No 2021/23 shall be made taking into account the obligation to keep the secrets referred to in Article 320 paragraph 2 and the secrets referred to in Article 104of the Banking Act, Article 9e of the Act on Cooperative Savings and Credit Unions and Article 147 of the Act on Trading in Financial Instruments.

Article 258e. The Fund shall promptly notify the court of registration that the Central Counterparty has been placed under resolution in accordance with Article 22 of Regulation No 2021/23 and that the resolution of Central Counterparty has been completed.

Article 258f. The appointment, removal and change by the Fund of the special manager referred to in Article 50 of

[30] Division added by Article 3 point 8 of the Act referred to in reference 2.

Regulation No 2021/23 shall be notified to the National Court Register.

Article 258g. 1. In connection with the transfer of the undertaking or a part thereof to another employer, in the event of the Central Counterparty subject to resolution, the existing employer and the new employer shall immediately communicate the information referred to in Article 23^1 paragraph 3 of the Labour Code in a manner that allows the employees to become familiar with the information. The communication of the information shall be deemed effective if the information has been placed in a publicly accessible place of the employees' workplace, sent to the company e-mail or communicated through another communication channel generally accessible to the employees or in another manner agreed in advance with the employee.

2. In connection with the transfer of an undertaking or part thereof to another employer in the case referred to in paragraph 1, the existing employer and the new employer shall immediately communicate the information referred to in Article 26^1 paragraph 1 of the Act of 23 May 1991 on trade unions in such a way as to enable the workplace or inter-company trade union organisation to become familiar with the information. The transmission of the information shall be deemed effective if the information was sent to the e-mail address of the trade union organisation's chairman or was transmitted through another communication channel available to the trade union organisation. Regardless of informing the trade union organisation, the information shall be provided to employees in the manner specified in paragraph 1.

3. If a Central Counterparty is subject to resolution, the provision of Article 41^1 of the Labour Code shall apply accordingly to a Central Counterparty to which one or more resolution instruments have been applied.

Article 258h. 1. Ownership instruments and debt instruments in respect of which the Fund has issued a decision to apply the instrument referred to in Article 33 paragraph 1 of Regulation No 2021/23, which are financial instruments registered in a securities depository, shall be redeemed or converted as at the end of the day on which the decision or information about the Fund's decision was posted on the Fund's website. The provisions of Article 212a paragraphs 1 and 2 shall apply accordingly.

2. The date on which the decision referred to in paragraph 1 or information about this decision was posted on the Fund's website is the date on which the persons authorised to write down or convert financial instruments are determined. Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna performs settlement of transactions in financial instruments which written down or converted until the end of the day on which the decision referred to in paragraph 1 or information about this decision is posted on the Fund's website, and all settlement orders entered into the settlement system concerning unsettled transactions in those financial instruments expire at the end of that day.

3. The posting of the decision referred to in paragraph 1 or information about that decision on the Fund's website in accordance with Article 72 paragraph 3 of Regulation No 2021/23 shall replace, subject to Article 72 paragraph 4 of Regulation No 2021/23, the transmission of a copy of that decision to:

1) shareholders or partners who have taken up shares in the increased share capital on the basis of that decision;

2) shareholders or partners whose shares have been redeemed on the basis of this decision;

3) bondholders or holders of other equity or financial instruments which are subject to write down or conversion on the basis of this decision.

4. The Fund, for the purpose of disclosing in the National Court Register the reduction or increase of the share capital of the Central Counterparty, shall immediately inform the competent court of registration of the issuance of the decision referred to in paragraph 1, providing it with a copy of that decision without assessment and justification, taking into account the obligation to observe the secrets referred to in Article 320, paragraph 2, and the secrets referred to in Article 104 of the Banking Act, Article 9e of the Act on Cooperative Savings and Credit Unions and Article 147 of the Act on Trading in Financial Instruments.

5. A copy of the decision referred to in paragraph 1 constitutes grounds for entry of the reduction or increase in the Central Counterparty's share capital in the National Court Register. The increase or decrease of the Central Counterparty's share capital shall take place upon delivery to the Central Counterparty of the Fund's decision referred to in paragraph 1.

6. If the instruments subject to redemption or resulting from conversion are subject to registration in a securities depository or in the register of shareholders, the Fund shall immediately inform the Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or the entity keeping the register of shareholders of the Central Counterparty of the issuance of the decision referred to in paragraph 1, providing it with a copy of that decision to the extent necessary to disclose the redemption of shares in a securities depository or in the register of shareholders or for the purpose of registering, in a securities depository or in the register of shareholders the shares issued as part of the increase in the Central Counterparty's share capital.

Article 258i. 1. In the case referred to in Article 40 paragraph 1 sub-point a of Regulation No 2021/23, the Fund shall notify Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or the entity maintaining the register of

shareholders of the Central Counterparty of the transfer referred to in Article 40 paragraph 1 sub-point a of Regulation No 2021/23.

2. The service of the decision referred to in paragraph 1 or the notification of the issuance of that decision shall constitute the making of the notification referred to in Article 69 paragraph 1 of the Act on Public Offering.

Article 258j. In the cases referred to in Article 40 paragraph 1 and Article 42 paragraph 1 of Regulation No 2021/23, the provision of Article 176 paragraph 5 shall apply accordingly.

Article 258k. In the case referred to in Article 40 paragraph 1 or Article 42 paragraph 1 of Regulation No 2021/23, the transfer shall be made free from obligations or encumbrances relating to the financial instruments, property rights or liabilities transferred, subject to Article 67 of Regulation No 2021/23.

Article 258l. If a Central Counterparty is placed under resolution, the Fund may, by resolution of the Management Board of the Fund, exercise one or more of the powers referred to in Article 48 paragraph 1 sub-point a and m, Article 49 paragraph 1 sub-points c, e and f or Article 58 of Regulation No 2021/23.

Article 258m. In the resolution of a Central Counterparty, the following shall not apply:

1) the provisions of Articles 212, 223, 233, 236, 237, 397, Article 399 paragraph 3, Articles 400 and 401 and the provisions of Title IV of Divisions I and II of the Commercial Companies Code;
2) the provisions of Article 258 paragraph 1 and Articles 311–312[1] in conjunction with Articles 431 paragraph 7 and Article 433 paragraph 1 of the Commercial Companies Code, for the acquisition of participation rights on the basis of the decision to apply the instrument referred to in Article 33 paragraph 1 of Regulation No 2021/23;
3) the time limits referred to in Article 238 paragraph 1, Article 402 paragraphs 1 and 3 and Article 402[1] paragraph 2 of the Commercial Companies Code – to convene a shareholders' meeting or a general meeting of a Central Counterparty under restructuring;
4) provisions of Chapters 4a and 4b of the Act on Public Offering,
5) the provisions of the Act of 25 April 2008 on employee participation in a company resulting from a cross-border merger.

Article 258n. 1. In the case referred to in Article 62 of Regulation No 2021/23, the amount of the difference found on the basis of the valuation referred to in Article 61 of Regulation No 2021/23 shall be borne by the Fund from the statutory fund.

2. In the case referred to in Article 64 of Regulation No 2021/23, the Fund shall transfer to the Statutory Fund the amount of the recovery of expenditure incurred in respect of the payment referred to in Article 62 of Regulation No 2021/23.

DIVISION IV

Restructuring of credit unions

Article 259. 1. The Fund may undertake and carry out the actions referred to in Article 5 paragraph 2 point 1, or acquire the debts referred to in Article 5 paragraph 2 point 2, if the total of the following conditions have been satisfied:

1) it has undertaken no measures related to resolution towards a credit union;
2) restructuring costs of a credit union do not exceed the cost of the tasks performed by the Fund under the law in the scope of the operation of the mandatory deposit guarantee scheme;
3) credit union taking recourse to the assistance referred to in Article 5 paragraph 2 points 1 or 2, provides depositors with access to the guaranteed funds;
4) The Polish Financial Supervision Authority confirmed the ability of a credit union to pay extraordinary contributions referred to in Article 292 paragraph 1, including the contributions deferred pursuant to Article 292 paragraphs 4 and 5, subject to Article 263 paragraph 2.

2. The Fund shall consult the measures in the field of restructuring and the obligations imposed on a credit union with the Polish Financial Supervision Authority.

Article 260. 1. While performing the task referred to in Article 5 paragraph 2 point 1, the Fund may provide credit unions covered by the guarantee scheme with loans, guarantees or sureties.

2. The funds received by the credit unions covered by the guarantee scheme as a result of the award by the Fund of loans, guarantees or sureties referred to in paragraph 1 may be used only to remove the insolvency threat if the conditions referred to in Article 261 have been satisfied.

3. The Fund may grant a loan to a credit union solely to include the funds obtained in this way to the own funds.

4. The provisions relating to guarantees provided by banks shall apply accordingly to the guarantees referred to in paragraph 1.

Article 261. Granting by the Fund the aid referred to in Article 5 paragraph 2 points 1 and 2 shall be contingent in particular on:

1) recognition by the Fund Management Board of the results of an audit of financial statements presented by a credit union covered by the guarantee scheme which requests assistance as regards its business;

2) provision of the Fund Management Board by a credit union which requests assistance with a favourable opinion issued by the Polish Financial Supervision Authority as regards the programme of recovery proceedings;

3) demonstration that the amount of loans, guarantees, sureties and funds spent by the Fund for redemption of receivables requested by a credit union covered by the guarantee scheme would not exceed the total maximum amount in respect of the guarantee in the said credit union calculated as the sum of guaranteed funds in the accounts of depositors of the credit union;

4) the credit union requesting aid uses its existing own funds to cover losses;

5) in the case of the assistance referred to in Article 5 paragraph 2 point 1, collateralisation of the receivables in respect of the granted assistance in order to guarantee repayment of the full amount of the assistance plus interest.

Article 262. 1. The Polish Financial Supervision Authority shall forthwith notify the Fund Management Board of the necessity to initiate by the credit union management board of recovery proceedings referred to in Article 72a paragraph 1 of the Act on Cooperative Savings and Credit Unions.

2. At its request addressed to the Polish Financial Supervision Authority, the Fund, shall be appointed a trustee referred to in Article 72c paragraph 1 of the Act on Cooperative Savings and Credit Unions towards a credit union covered by the guarantee scheme. The Fund shall not be entitled to remuneration referred to in Article 72c paragraph 11 of this Act.

3. The provisions of the Act of 23 April 1964 – Civil Code and other laws providing for the types and methods of securing receivables of banks shall apply the Fund's receivables deriving from granting assistance and support referred to in Article 5 paragraph 2.

4. Civil law transactions through which implementation of the tasks referred to in Article 5 paragraph 2 takes place shall be free of stamp duty and civil law transactions tax.

Article 263. 1. A credit union covered by the guarantee scheme and taking recourse to the assistance from the Fund shall provide at the request of the Fund the information required to perform the activities referred to in Article 5 paragraph 2 point 4.

2. If the financial resources of the guarantee fund of credit unions are used for restructuring, credit unions shall forthwith provide the Fund with funds, if need be in the form of extraordinary contributions referred to in Article 292 paragraph 1, in the amount of funds used for restructuring in the event that, after the minimum level of resources referred to in Article 288 paragraph 1 has been reached for the first time:

1) the guarantee condition has been fulfilled, whereas the level of funds held in the guarantee fund of credit unions fell below 2/3 of the minimum level referred to in Article 288 paragraph 1;

2) the level of funds held in the guarantee fund of credit unions is lower than 25% of the minimum level referred to in Article 288 paragraph 1.

Article 264. 1. While performing the tasks referred to in Article 5 paragraph 2 point 3, the Fund may, if it has not taken any resolution measures in relation to the credit union, provide financial support for the activities of the credit union in the event of its acquisition, acquisition of its selected property rights or selected liabilities or in the event of the acquisition of the enterprise of that credit union in liquidation, its organised part or selected property rights to the acquiring entity or purchaser. Support may also be granted if the Fund acquires shares in the acquiring bank.

2. The support referred to in paragraph 1 may be granted by way of:

1) acquiring shares of the acquiring bank;

2) granting a loan or a guarantee,

3) granting a guarantee of the total or partial coverage of losses resulting from the risk associated with the assumed or

acquired property rights or assumed liabilities;

4) granting a subsidy to cover the difference between the value of the assumed or acquired property rights and assumed liabilities derived from guaranteed funds in the accounts of depositors of a credit union up to a total maximum amount resulting from the guarantee in the credit union calculated as the sum of guaranteed funds in the accounts of depositors of the credit union where the risk of insolvency was detected.

3. In the case referred to in paragraph 2 point 1, the provision of Article 25 paragraph 1 of the Banking Act shall not apply.

4. The Fund may provide the support referred to in paragraph 1 if the costs of restructuring of credit unions do not exceed the costs of the tasks performed by the Fund under the Act with regard to the operation of the obligatory deposit guarantee scheme.

Article 265. Granting by the Fund of the support referred to in Article 5 paragraph 2 point 3 shall be contingent in particular on:

1) the Fund's Management Board recognises the results of an audit of the financial statements presented by the acquirer or the purchaser regarding its activities;

2) providing the Fund Management Board by an acquiring entity or a purchaser with a favourable opinion issued by the Polish Financial Supervision Authority as regards the advisability of the acquisition and the absence of risk to the safety of depositors' funds collected at a credit union with towards which the Polish Financial Supervision Authority has taken a decision on the acquisition or liquidation, and at an assuming or acquiring bank or a credit union;

3) demonstration that the amount of funds committed by the Fund to the support for an acquiring entity or a purchaser would not be higher than the total maximum amount under the guarantee in a credit union towards which the Polish Financial Supervision Authority has issued a decision on the acquisition or liquidation, calculated as the sum of guaranteed funds in the acquired accounts of depositors of the said credit union;

4) own funds of the credit union being acquired or liquidated have been used to cover losses;

5) collateralisation of the receivables in respect of the granted support in order to guarantee repayment of the full amount of the support plus interest in the case of the support in the form referred to in Article 264 paragraph 2 point 2.

Article 266. An entity acquiring the credit union benefiting from the support, taking over selected property rights or selected liabilities of the credit union, or the purchaser of a credit union enterprise in liquidation, its organised part or selected property rights, shall, at the request of the Fund, provide the information necessary to assess the risk of repayment of the support provided or losses related to the property rights or liabilities acquired or assumed.

Article 267. In respect of the support referred to in Article 264 paragraph 2 point 3 and 4, the Fund shall be entitled to claim on a credit union towards which the Polish Financial Supervision Authority has issued a decision on the acquisition of selected property rights or selected liabilities or on liquidation, and in the case of a declaration of bankruptcy of the credit union also on its bankruptcy estate.

Article 267a. 1. In the event that the Fund provides assistance referred to in Article 5 paragraph 2 points 1 and 2, or support referred to in Article 264, capital instruments and subordinated liabilities of the credit union which the Fund has provided assistance to, as well as capital instruments and subordinated liabilities of the acquired or liquidated credit union which the Fund has provided support to, shall be redeemed up to the amount of the losses of the credit union:

1) to which the Fund has granted support,

2) acquired,

3) liquidated

– identified respectively on the date specified in the decision of the Fund to provide assistance, the date of the acquisition of the credit union or the date of the acquisition of the enterprise of the credit union in liquidation, its organised part or selected property rights not covered so far by own funds.

2. The redemption shall be effected to the extent that it is necessary to ensure that the conditions for granting the support comply with the rules on state aid applicable in the European Union.

3. Redemption takes place in the event of:

1) support referred to in Article 5 paragraph 2 points 1 and 2 – from the date specified in the Fund's decision on granting

the support;

2) support referred to in Article 264 – from the date of acquisition or purchase.

4. Redemption shall take place in reverse order to the order of satisfaction of debts referred to in Article 440 paragraph 2 of the Act – Bankruptcy Law.

5. Liabilities for principal and interest due shall be redeemed.

6. If it is not necessary to redeem capital instruments or subordinated liabilities in full, they shall be subject to redemption on a *pro rata* basis to the extent that it is necessary to ensure that the conditions for granting support comply with the rules on state aid applicable in the European Union.

7. If an equity instrument or subordinated debt is partially redeemed, the contractual terms of the part not redeemed shall not be altered, except for the interest basis of the capital instrument or subordinated debt.

8. If the support referred to in Article 264 is provided, the value and extent of the redemption shall be indicated:

1) on the day before the date of acquisition, in financial statements verified by an audit firm, or

2) on the day before the date of acquisition – by the liquidator of the credit union.

9. In the event that the assistance referred to in Article 5 paragraph 2 points 1 and 2 is provided, the value and extent of the redemption shall be indicated by the credit union.

10. The value and extent of redemption shall be determined on the basis of the financial statements, the audit report of which has been recognised by the Management Board of the Fund in accordance with Article 261 point 1.

11. No compensation may be claimed in the event of redemption.

12. The credit union or the entity acquiring the credit union shall announce the redemption on its website.

Article 268. The actions referred to in this Division may be taken and performed upon the European Commission's decision on the compatibility with the common market.

DIVISION IVA

Restructuring of banks

Article 268a. 1. In carrying out the tasks referred to in Article 5 paragraph 2a point 1, the Fund may provide support for the activities of a bank, in connection with its restructuring, to entities acquiring the bank.

2. The support referred to in paragraph 1 may be granted by way of:

1) acquiring shares of the acquiring bank;

2) granting a loan or a guarantee,

3) granting a guarantee of the total or partial coverage of losses resulting from the risk associated with the assumed property rights or assumed liabilities;

4) granting a subsidy to cover the difference between the value of the acquired property rights and the acquired liabilities on account of the guaranteed funds on the accounts of the acquired bank's depositors up to the amount of the acquired liabilities on account of these funds, reduced by the expected amounts of satisfaction of the Fund's claims on account of the payment of guaranteed funds in bankruptcy proceedings in the event that, as at the date of the acquisition, the court had issued a decision on the declaration of bankruptcy of the acquired bank.

3. In the case referred to in paragraph 2 point 1, the provision of Article 25 paragraph 1 of the Banking Act shall not apply.

Article 268b. Granting by the Fund of the support referred to in Article 5 paragraph 2a point 1 shall be contingent in particular on:

1) recognition by the Management Board of the Fund of the results of an audit report presented by the acquiring bank on the activities of the restructured bank drawn up as at the date preceding the date of acquisition;

2) demonstration that the restructuring costs of a bank do not exceed the cost of the tasks performed by the Fund under the law in the scope of the operation of the mandatory deposit guarantee scheme;

3) the use of the acquired bank's existing own funds to cover losses;

4) collateralisation of the receivables in respect of the granted support in order to guarantee repayment of the full amount of the support plus interest – in the case of the support in the form referred to in Article 268a paragraph 2 point 2.

Article 268c. A bank participating in the restructuring of a bank for whose activities support has been granted is obliged, at the request of the Fund, to provide information necessary to assess the risk of non-recovery of the granted support or losses connected with the acquired property rights or liabilities.

Article 268d. The actions referred to in this Division may be taken and performed upon the European Commission's decision on the compatibility with the common market.

DIVISION V

Financial management of the Fund

Chapter 1

Sources of funding, own funds of the Fund, profits distribution or loss coverage

Article 269. 1. The Fund shall conduct its financial management on the basis of the annual financial plan.

1a. The draft financial plan referred to in paragraph 1 shall be prepared by the Management Board of the Fund by 15 June of the year preceding the year to which the plan applies.

1b. The draft financial plan referred to in paragraph 1 shall be adopted by the Fund Council by 31 July of the year preceding the year to which the plan applies, and shall be forwarded without delay to the minister responsible for public finance and the minister responsible for financial institutions.

2. (repealed)

Article 270. 1. The sources of funding of the Fund are:

1) contributions referred to in Article 286 paragraph 1, paid by the entities covered by the guarantee scheme and contributions referred to in Article 295 paragraph 1 and 3, paid by domestic entities and branches of foreign banks;

2) extraordinary contributions referred to in Article 291 paragraph 1, Article 292 paragraph 1, Article 299 paragraph 1 and Article 300 paragraph 1;

3) proceeds from the Fund's financial assets, including loans and guarantees granted by the Fund;

4) funds obtained through non-repayable foreign aid;

5) funds of subsidies granted at the request of the Fund, from the state budget on the principles defined in the Act of 27 August 2009 on Public Finance;

6) funds of short-term credit granted by the National Bank of Poland in accordance with Article 306;

7) funds from loans granted from the State budget;

8) funds obtained from borrowings, loans and bond issues;

9) funds obtained from borrowings granted by officially recognised deposit guarantee schemes and entities managing the resolution funds from Member States other than the Republic of Poland pursuant to agreements concluded;

10) funds referred to in Articles 236–238;

11) funds received as a result of settlement of claims of the Fund for the payment of guaranteed funds and support granted to an acquiring entity referred to in Article 112 paragraph 1 point 1 and paragraph 3 and 3a;

12) other proceeds received by the Fund.

2. The Fund may issue bonds on the rules and in the manner specified in Chapter 7 or on the basis of separate acts.

Article 271. [31]The statutory fund is set up for the purpose of providing funds for the acquisition of tangible and intangible assets of the Fund and to cover liabilities for guaranteed funds, as well as for the financing of tasks under Regulation No 2021/23.

Article 272. 1. The guarantee fund of banks shall be created in order to cover liabilities from guaranteed funds in banks and branches of foreign banks and to cover potential losses of the Fund. In the case referred to in Article 57 paragraph 5, the funds from the guarantee fund of banks can serve to settle the liabilities derived from the guaranteed funds in credit unions. The resources of the banks' guarantee fund may also serve to fulfil the tasks of the Fund referred to in Article 5 paragraph 2a.

[31] As amended by Article 3 point 9 of the Act referred to in reference 2.

2. The guarantee fund of credit unions shall be created in order to cover liabilities derived from the guaranteed funds in credit unions. In the case referred to in Article 56 paragraph 5, the funds from the guarantee fund of credit unions can serve to settle the liabilities derived from the guaranteed funds in banks and branches of foreign banks. The funds from the guarantee fund of credit unions can also serve to perform the tasks of the Fund referred to in Article 5 paragraph 2 points 1–3.

3. The funds from the guarantee fund of banks and the guarantee fund of credit unions shall be committed to finance the resolution, insofar as they serve to ensure depositors' access to guaranteed funds within resolution, in particular in the case referred to in Article 179 and Article 188 paragraph 5 and 5a and Article 202 paragraph 4 and paragraph 5.

4. (repealed)

5. (repealed)

6. Where the funds of the guarantee fund of banks and the guarantee fund of credit unions serve to finance resolution, these funds must not finance the acquisition of rights attached to the shares by the Fund.

7. If the valuation referred to in Article 241 paragraph 1 demonstrates that the funds transferred pursuant to paragraph 3 is higher than the amount resulting from the necessity to disburse guaranteed funds in bankruptcy proceedings, less the expected amounts of satisfaction of claims for the disbursement of guaranteed funds in such proceedings, the resulting difference shall be transferred from the resolution fund to the guarantee fund of banks or to the guarantee fund of credit unions.

8. If the Fund transferred funds from the guarantee fund of banks and to the guarantee fund of credit unions to finance resolution in accordance with the resolution scheme, the Funds shall file a claim for reimbursement of those funds in the amount of a surplus of the transferred funds over the amount of expenses to finance the payment of guaranteed funds in bankruptcy proceedings, as if on the day of the decision to initiate resolution, the court had issued a ruling on a declaration of bankruptcy of an entity under restructuring, net of the expected amounts of satisfaction of claims for the payment of guaranteed funds in such proceedings.

9. The amount of the guarantee fund of banks and the guarantee fund of credit unions assigned for financing resolution must not be higher than 50% of the target level of funds of the deposit guarantee scheme of banks or the target level of the deposit guarantee scheme of credit unions, referred to in Article 287 paragraph 2 and Article 288 paragraph 2. The Fund Council may decide to allocate an amount higher than 50% of the target level of the deposit guarantee scheme of banks and the target level of the deposit guarantee scheme of credit unions to finance resolution, on considering the need for efficient utilisation of financial resources.

Article 273. 1. The Fund for the resolution of banks is created for the purpose of ensuring means for financing the Fund's tasks in the scope of resolution of banks, investment companies and branches of foreign banks, including the costs of resolution incurred after the initiation of resolution.

10. The Fund for the resolution of credit unions shall be established for the purpose of providing resources to finance the Fund's tasks in the field of resolution of credit unions, including the costs of resolution incurred after the initiation of resolution.

11. Financing tasks in the field of resolution referred to in paragraph 1 and 2 shall include in particular the financing of:

1) tasks defined in Article 112;

2) establishment of a bridge institution and asset management vehicle and equipment of those entities with own funds needed due to the scale and results of activities;

3) satisfaction of the supplementary claims referred to in Article 242;

4) exemption of liabilities from write down or conversion of liabilities referred to in Article 206 paragraph 3;

5) coverage of resolution costs in keeping with the resolution scheme agreed by the Fund and coverage of potential losses of the Fund arising from resolution.

4. Where the costs of financing the Fund's tasks in the field of resolution of banks and investment firms exceed the value of funds accumulated in the resolution fund of banks, including those originating from extraordinary contributions referred to in Article 299 paragraph 1, the funds of the resolution fund of credit unions collected from contributions referred to in Article 295 paragraph 3 may serve to finance resolution of banks and investment firms.

5. Where the costs of financing the Fund's tasks in the field of resolution of credit unions exceed the value of funds accumulated in the resolution fund of credit unions, including those originating from extraordinary contributions referred to in Article 300 paragraph 1, the funds of the resolution fund of banks, collected from contributions referred to in Article 295 paragraph 1 may serve to finance resolution of credit unions.

Article 274. In the case referred to in Article 206 paragraph 3, if as a result of the exemption of liabilities from write down or conversion of liabilities, losses of an entity under restructuring have failed to be fully covered with written down liabilities of other creditors, the Fund may allocate funds referred to in Article 273 to cover the losses of an entity under restructuring or to assume rights attached to the shares in an entity under restructuring in order to restore its own funds, if:

1) it has written down or converted rights attached to the shares or ensured that other measures are taken which will result in losses for the owners or creditors of the entity under restructuring or its recapitalisation amounting to at least 8% of the total liabilities of the entity under restructuring, plus the own funds of the entity under restructuring, as determined in accordance with the valuation referred to in Article 137 paragraph 1;
2) the amount of funds does not exceed 5% of total liabilities, increased by own funds of an entity under restructuring, determined on the basis of the valuation referred to in Article 137 paragraph 1.

Article 275. In an event that the condition referred to in Article 274 point 1 has failed to be satisfied, the Fund may allocate funds for the purpose specified in Article 274 if:

1) it has written down or converted the rights attached to the shares or liabilities in the amount not less than 20% of risk- weighted assets of an entity under restructuring and
2) the amount of funds respectively to finance resolution of banks and investment firms or funds to finance resolution of credit unions is not less than 3% of the amount of guaranteed funds in all the entities covered by the deposit guarantee scheme, and
3) the balance sheet total of an entity under restructuring at the consolidated level determined on the basis of the last approved financial statements does not exceed the PLN equivalent of the amount of EUR 900,000,000,000 as per the average exchange rate of the last working day of the previous year, announced by the National Bank of Poland.

Article 276. Expenses for the pursuit of the objective stipulated in Article 274 may be financed from the funds:

1) to finance resolution of banks and investment firms or credit unions, as the case may be;
2) which can be obtained within 3 years from extraordinary contributions;
3) obtained from other sources, as defined in Article 278.

Article 277. The Fund may allocate funds referred to in Article 273 for coverage of losses of an entity under restructuring or for assumption of the rights attached to shares in an entity under restructuring in order to restore its own funds in excess of the level referred to in Article 274 point 2, if all unsecured liabilities subject to write down or conversion, other than those covered by the guarantee protection, have been written down or converted. In order to finance these expenses, the Fund may borrow from third parties or to cover them with the funds for financing resolution of banks and investment firms or credit unions, as the case may be.

Article 278. The Fund may borrow from third parties, where funding for resolution of banks and investment firms or credit unions is not sufficient to cover the expenses, whereas no funds from extraordinary contributions to the Fund may be forthwith obtained or the funds derived from extraordinary contributions are insufficient.

Article 279. The provisions of Article 274–278 shall apply accordingly, if as a result of financing resolution with the use of instruments other than write down or conversion of liabilities, the funds of the resolution fund of banks or funds of the resolution fund of credit unions indirectly cover losses or negative own funds of an entity under restructuring.

Article 280. The restructuring fund of cooperative banks shall be created to provide funding for the objectives stipulated in Article 35 paragraph 3 and 4 of the Act on the Operation of Cooperative Banks.

Article 281. The guarantee fund of banks, the guarantee fund of credit unions, the resolution fund of banks, the resolution fund of credit unions and the restructuring fund of cooperative banks shall be divided into the utilised funds – to the extent that they have been used to finance the Fund's tasks, and funds to be utilised – in all other respects. The statutes of the Fund shall determine the detailed rules of the creation and utilisation of the own funds of the Fund.

Article 282. 1. The amounts received by the Fund from the bankruptcy estate of a credit union shall feed into the guarantee fund of credit unions.

2. The amounts received by the Fund from the bankruptcy estate of a bank or branch of a foreign bank shall feed into the guarantee fund of banks.

3. The amounts received by the Fund from the bankruptcy estate of an investment firm shall feed into the resolution fund of banks.

Article 283. Financial resources of the Fund shall serve to finance the Fund's tasks, in particular:

1) guaranteeing of pecuniary funds;

2) resolution;

2a) [32] resolution of a Central Counterparty;

3) assistance activity for banks for the purposes stipulated in Article 35 paragraph 3 and 4 of the Act on the Operation of Cooperative Banks;

4) acquisition of the property rights referred to in Article 314;

4a) [33] restructuring of banks and credit unions;

5) coverage of the costs or outlays related to the operation of the Fund.

Article 284. If the required financing referred to in Article 133 paragraph 2 point 7 is effected by granting a guarantee, the Fund may guarantee the repayment of liabilities up to the amount of the Fund's share in required financing specified in the resolution scheme.

Article 285. 1.[34] The Fund Council shall allocate net profit to increase the banks' guarantee fund or the banks' resolution fund and to increase the credit unions' guarantee fund or the credit unions' resolution fund, in the proportion determined as the ratio of the share of the sum of funds accumulated respectively:

1) in the banks' guarantee fund and the banks' resolution fund,

2) in the guarantee fund of credit unions and in the resolution fund of credit unions

to the sum of funds accumulated in all these funds on the balance sheet day of the last approved financial statements.

1a. [35] The amount of net profit allocated to the increase of individual funds, resulting from the application of the proportion specified in paragraph 1, shall be determined by the Fund Council.

2. Where the level of each of the funds referred to in paragraph 1 is zero as of the balance sheet date of the last approved financial statement, the Fund Council shall resolve on the way of allocation of the net profit for a specific fund.

3. [36] The provisions of paragraphs 1 and 2 apply accordingly to the coverage of the net loss.

4. The Fund Council may allocate all or part of the net profit of the Fund to increase the statutory fund.

5. The decision on distribution of the profit or coverage of the loss shall be taken by the Fund Council in the form of a resolution, at the request of the Management Board of the Fund.

6. The provisions of the Act of 29 September 1994 on Accounting shall apply accordingly to the profit distribution or loss coverage.

Chapter 2

Mandatory contributions to the Fund

Part 1

Financing of the mandatory deposit guarantee scheme

Article 286. 1. The mandatory deposit guarantee scheme shall be financed by the entities covered by the guarantee system with the contributions paid on a quarterly basis, subject to Article 294 paragraph 1.

2. Contributions to the mandatory deposit guarantee scheme paid by banks and branches of foreign banks shall feed into the guarantee fund of banks.

3. Contributions to the mandatory deposit guarantee scheme paid by credit unions shall feed into the guarantee fund of credit unions.

4. On the day of fulfilment of the guarantee condition, a bank, a branch of a foreign bank or a credit union shall be exempt from the duty to pay contributions as referred to in paragraph 2 or 3 accordingly.

5. An entity under restructuring shall be exempt from the obligation to pay the contributions referred to in paragraph 2 or 3 respectively.

Article 287. 1. The minimum level of funds of the deposit guarantee scheme of banks shall account for 0.8% of the

[32] Added by Article 3 point 10 sub-point a of the Act referred to in reference 2.
[33] Added by Article 3 point 10 sub-point b of the Act referred to in reference 2.
[34] As amended by Article 3 point 11 sub-point a of the Act referred to in reference 2.
[35] Added by Article 3 point 11 sub-point b of the Act referred to in reference 2.
[36] As amended by Article 3 point 11 sub-point c of the Act referred to in reference 2.

amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

2. The target level of funds of the deposit guarantee scheme in banks shall be 2.6 % of the amount of funds guaranteed in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme, but this level may be lowered by the Fund Council to a level not lower than 1.6 % of the amount of funds guaranteed in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

2a. The Fund Council, when reducing the target level of funds of the deposit guarantee scheme in banks, shall take into account in particular:

1) the current level of funds of the deposit guarantee scheme in banks;

2) the amount of funds accumulated by institutional protection schemes and protection schemes referred to in Article 4 paragraph 1 point 9a of the Banking Act;

3) the economic and financial situation of the banking sector;

4) the position of the entity managing the protection system referred to in Article 130e paragraph 1 of the Banking Act.

2b. The Fund Council shall consult the Financial Stability Committee referred to in Article 3 paragraph 1 of the Act on Macro-Prudential Supervision before setting the target level of the deposit guarantee scheme measures in banks.

3. Contributions to the guarantee fund of banks shall be determined in such an amount to attain:

1) the minimum level of funds of the deposit guarantee scheme of banks by 31 December 2016;

2) the target level of funds of the deposit guarantee scheme of banks by 3 July 2030.

4. While determining the amounts of contributions, the Fund Council may shorten the deadline for achieving the target level of funds of the deposit guarantee scheme of the banks specified in paragraph 3 point 2, on considering the current level of funds of the deposit guarantee scheme of banks and financial results of banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

5. In an event that the Fund makes total payments in excess of 0.8% of the amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by 4 years.

6. In the event that the Fund makes total payments in excess of 0.8% of the amount of guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by 4 years.

7. While determining the amounts of contributions for a given quarter, the current phase of the economic cycle shall be taken into account and the impact that the contributions may have on the financial situation of banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

8. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.8% of the guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 293 paragraph 1 point 1 for a given calendar year is not greater than 0.25% of the guaranteed funds in banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

9. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds of the deposit guarantee scheme of banks fall below the 2/3 of this level, contributions to the mandatory deposit guarantee scheme of banks shall be set at a level enabling the attainment of the minimum level of funds of the deposit guarantee scheme of banks – in a period not longer than 6 years, whereas the target level of the deposit guarantee scheme of banks – in a period not longer than 10 years.

10. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of the deposit guarantee scheme of the banks referred to in paragraph 3 point 2, on considering the level of funds of the deposit guarantee scheme of banks, the current phase of the economic cycle and the financial situation of banks and branches of foreign banks covered by the mandatory deposit guarantee scheme.

Article 288. 1. The minimum level of funds of the deposit guarantee scheme of credit unions shall account for 0.8% of the amount of guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme.

2. The target level of funds of the deposit guarantee scheme of credit unions shall account for 1% of the amount of guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme.

3. Contributions to the guarantee fund of credit unions shall be set in such an amount to attain:

1) the minimum level of funds of the deposit guarantee scheme of credit unions by 31 December 2020;

2) the target level of funds of the deposit guarantee scheme of credit unions by 3 July 2030.

4. Where the Fund makes total payments in excess of 0.8% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by 4 years.

5. Where the Fund makes total payments in excess of 0.8% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by 4 years.

6. While determining the amount of contributions for a given quarter, the current phase of the economic cycle shall be taken into account and the impact that the contributions may have on the financial situation of credit unions covered by the mandatory deposit guarantee scheme.

7. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.8% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 293 paragraph 1 point 2 for a given calendar year is not higher than 0.25% of the guaranteed funds in credit unions covered by the mandatory deposit guarantee scheme.

8. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds of the deposit guarantee scheme of credit unions fall below the 2/3 of this level, contributions to the mandatory deposit guarantee scheme of credit unions shall be set at a level enabling the attainment of the minimum level of funds of deposit guarantee scheme of credit unions – in a period not longer than 6 years, whereas the target level of the deposit guarantee scheme of credit unions – in a period not longer than 10 years.

9. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of funds of the deposit guarantee scheme of credit unions referred to in paragraph 3 point 2, on considering the level of funds of the deposit guarantee scheme of credit unions, the current phase of the economic cycle and the financial situation of credit unions covered by the mandatory deposit guarantee scheme.

Article 289. 1. The contributions to the mandatory deposit guarantee scheme of banks and branches of foreign banks, calculated for a given quarter, shall be determined on the basis of the value of guaranteed funds as at the end of the quarter immediately preceding the quarter covered by the contribution in a bank or branch of a foreign bank required to contribute.

2. The amount of contribution shall be determined in view of the risk profile of an entity liable to contribution, including in particular its participation in an institutional protection scheme, capital adequacy ratio and asset quality.

3. The Fund shall develop methods of calculation of contributions separately for banks and branches of foreign banks and submits them to the Polish Financial Supervision Authority for validation.

4. The Polish Financial Supervision Authority shall take a decision on the validation or denial of the methods referred to in paragraph 3 within 2 months from the date of the request for validation of the methods submitted by the Fund.

5. The Polish Financial Supervision Authority may refuse the validation of the methods referred to in paragraph 3, if they have been developed in violation of the regulations issued under paragraph 11. While issuing a decision to refuse the validation of the methods, the Polish Financial Supervision Authority shall provide the Fund with recommendations for their necessary amendments.

6. The Polish Financial Supervision Authority shall validate the methods of calculation of the contributions referred to in paragraph 3 in the form of resolutions.

7. The Polish Financial Supervision Authority shall notify the Fund and the European Banking Authority forthwith of validation of the methods of calculation of the contributions, not later than 5 days from the date of adoption of the resolutions referred to in paragraph 6.

8. The Fund shall modify the method of calculation of the contributions, if the current methods fail to differentiate adequately the calculated contributions according to the risk profile of the entities required to contribute and may change it in the event of an amendment to the reporting system of banks or branches of foreign banks covered by the mandatory deposit guarantee scheme.

9. The provisions of paragraph 4–7 for validation of the methods of calculation of the contributions apply in the case referred to in paragraph 8.

10. The Fund shall notify the Polish Financial Supervision Authority of introduction of acceptable modifications in the methods which do not require validation by the Polish Financial Supervision Authority, no later than one month from the date of the amendments.

11. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the method of determination of the risk profile of entities required to contribute and of taking this profile into account in the calculation of the contributions to the

guarantee fund of banks, in particular:

1) method of calculation of the contributions payable by individual entities,
2) selection of indicators of the risk profile of an entity and the method of their utilisation,
3) method of determining the risk profile of an entity,
4) minimum level of relief in the calculation of the contribution, in the case of an entity which participates in an institutional protection scheme,
5) method of taking into account belonging of an entity to the low risk sector in the calculation of contribution,
6) rules for the application of minimum contributions,
7) rules and the mode of revisions to specified contributions up to an aggregate amount of contributions in a given year

having regard to the necessity of ensuring differentiation of the contributions depending on the risk profile of the entities required to contribute.

12. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the procedure for the validation by the Polish Financial Supervision Authority of the methods of calculation of the contributions developed by the Fund and the scope of information relating to the method of calculation of the contributions made available to entities paying contributions, as well as the mode of making it available, in particular:

1) scope of the documentation enclosed by the Fund to an application for the validation of methods of calculation of the contributions,
2) scope of acceptable amendments to the methods which do not require the validation of the Polish Financial Supervision Authority

– having regard the necessity of ensuring uninterrupted and efficient cooperation between the Polish Financial Supervision Authority and the Fund, completeness of information and appropriateness of the methods of calculation of the contributions and modifications thereof, as well as of ensuring that the entities paying contributions have current access to the necessary data.

Article 290. 1. The contributions to the mandatory deposit guarantee scheme of credit unions, calculated for a given quarter, shall be calculated on the basis of the value of guaranteed funds as at the end of the quarter immediately preceding the quarter covered by the contribution in a credit union required to contribute.

2. The amount of contribution shall be calculated in view of the risk profile of a credit union liable to contribution, including in particular the capital adequacy ratio and asset quality.

3. The Fund shall develop the method of calculation of the contributions for credit unions and shall submit it to the Polish Financial Supervision Authority for validation.

4. The Polish Financial Supervision Authority shall take a decision on the validation or denial of the method referred to in paragraph 3 within 2 months from the date of the request for validation of the method submitted by the Fund.

5. The Polish Financial Supervision Authority may refuse the validation of the method referred to in paragraph 3, if it has been developed in violation of the regulations issued under paragraph 11. While issuing a decision to refuse the validation of the method, the Polish Financial Supervision Authority shall provide the Fund with recommendations for necessary amendments thereof.

6. The Polish Financial Supervision Authority shall validate the method of calculation of the contributions referred to in paragraph 3 in the form of a resolution.

7. The Polish Financial Supervision Authority shall notify the Fund and the European Banking Authority forthwith of validation of a method of calculation of the contributions, not later than 5 days from the date of adoption of the resolution referred to in paragraph 6.

8. The Fund shall modify the method of calculation of the contributions, if the current method fails to differentiate adequately the calculated contributions according to the risk profile of the entities required to contribute and may change it in the event of an amendment to the reporting system of credit unions covered by the mandatory deposit guarantee scheme.

9. The provisions of paragraph 4–7 for validation of the methods of calculation of the contributions apply in the case referred to in paragraph 8.

10. The Fund shall notify the Polish Financial Supervision Authority of the introduction of acceptable

modifications in the method which do not require validation by the Polish Financial Supervision Authority, no later than one month from the date of the amendment.

11. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister in competent for financial institutions shall determine, by way of a regulation, the method of determination of the risk profile of credit unions required to contribute and of taking this profile into account in the calculation of the contributions to the guarantee fund of credit unions, in particular:

1) method of calculation of the contributions payable by credit unions,

2) selection of indicators of the risk profile of a credit union and the method of their utilisation,

3) methods of determining the risk profile of a credit union,

4) rules for the application of minimum contributions,

5) rules and the mode of revisions to specified contributions up to an aggregate amount of contributions in a given year

– having regard to the necessity of ensuring differentiation of the contributions depending on the risk profile of credit unions required to pay them:

12. Following the consultation with the Polish Financial Supervision Authority and the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the procedure for the validation by the Polish Financial Supervision Authority of a method of calculation of the contributions developed by the Fund and the scope of information relating to the method of calculation of the contributions made available to credit unions paying contributions , as well as the mode of making it available, in particular:

1) scope of the documentation enclosed by the Fund to an application for the validation of the method of calculation of the contributions,

2) scope of acceptable amendments to the methods which do not require the validation of the Polish Financial Supervision Authority

– having regard the necessity of ensuring uninterrupted and efficient cooperation between the Polish Financial Supervision Authority and the Fund, completeness of information and appropriateness of the method of calculation of the contributions and modifications thereof, as well as of ensuring that the entities paying contributions have current access to the necessary data.

Article 290a. 1. The Fund shall make an adjustment of the contribution to the guarantee fund of banks or the guarantee fund of cash unions for a quarter in the event that the data on guaranteed funds constituting the basis for determining the contributions change after the Fund Council has determined the amount of contributions due for a given quarter.

2. The Fund may not claim the amount due for the adjustment, provided that it does not exceed PLN 10, if a bank, a branch of a foreign bank or a credit union is not obliged to pay a contribution for the quarter in which the adjustment is made.

Article 291. 1. Where the funds of the deposit guarantee scheme of banks are not sufficient to make payment of guaranteed funds, the Fund Council at the request of the Management Board of the Fund may, by way of a resolution, commit banks and branches of foreign banks covered by the mandatory deposit guarantee scheme to pay extraordinary contributions to the guarantee fund of banks, not exceeding in total in a calendar year 0.5% of the amount of guaranteed funds held with them at the end of the fourth quarter of the year preceding the year when the liabilities in respect of extraordinary contributions arise.

2. Where the funds from the extraordinary contributions referred to in paragraph 1 are insufficient to make payments of guaranteed funds, the Fund Council may, at the request of the Management Board of the Fund, with the consent of the Polish Financial Supervision Authority, by way of resolution, commit banks and branches of foreign banks to pay an extraordinary financial contribution to the guarantee fund of banks in the amount higher than that specified in paragraph 1.

3. The amount of extraordinary contributions referred to in paragraph 1 and 2 shall be determined according to the method referred to in Article 289 paragraph 3.

4. If the payment of the extraordinary contribution referred to in paragraph 1 or 2 placed the liquidity or solvency of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme at risk, the Polish Financial Supervision Authority may, at its request, postpone the date of payment in respect of all or part of this contribution, no longer than by 6 months from the date specified in the resolution of the Fund referred to in paragraph 1.

5. At the request of a bank or branch of a foreign bank covered by the mandatory deposit guarantee scheme, the Polish Financial Supervision Authority may again postpone the date of payment of the extraordinary contribution referred to in paragraph 1 or 2, no later than by a period of further 6 months.

6. The Polish Financial Supervision Authority, by way of a decision, shall determine the conditions for the postponement of payment of the extraordinary contribution referred to in paragraph 1 or 2 for the guarantee fund of banks in the cases referred to in paragraph 4 and 5.

7. The Polish Financial Supervision Authority shall take the decisions referred to in paragraph 4 and 5, following the consultation with the Fund. The Polish Financial Supervision Authority shall forthwith notify the Fund of the decisions taken.

8. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

9. The provisions of paragraph 1 or 2 shall apply if as a result of the postponement of the payment of the contributions referred to in paragraph 4 or 5, the paid extraordinary contributions are insufficient to make payments of guaranteed funds.

Article 292. 1. Where the funds of the deposit guarantee scheme of credit unions are insufficient for the payment of guaranteed funds, the Fund Council may at the request of the Management Board of the Fund, by way of a resolution, commit the credit unions covered by the mandatory deposit guarantee scheme to pay to the guarantee fund of credit unions extraordinary contributions not exceeding in total in a calendar year 0.5% of the amount of guaranteed funds held with them as at the end of the fourth quarter of the year preceding the year when the liabilities in respect of extraordinary contributions arise.

2. Where the funds from the extraordinary contributions referred to in paragraph 1 are insufficient to make payments of guaranteed funds, the Fund Council may, at the request of the Management Board of the Fund, with the consent of the Polish Financial Supervision Authority, by way of a resolution, commit credit unions to pay an extraordinary financial contribution to the guarantee fund of credit unions in an amount higher than that specified in paragraph 1.

3. The amount of extraordinary contributions referred to in paragraph 1 and 2 shall be determined according to the method referred to in Article 290 paragraph 3.

4. If payment of the extraordinary contribution referred to in paragraph 1 or 2 placed the liquidity or solvency of a credit union covered by the mandatory deposit guarantee scheme at risk, the Polish Financial Supervision Authority may, at its request, postpone the date of payment in respect of all or part of the contribution, no longer than by 6 months from the date specified in the resolution of the Fund referred to in paragraph 1.

5. At the request of a credit union covered by the mandatory deposit guarantee scheme, the Polish Financial Supervision Authority may again postpone the date of payment of the extraordinary contribution referred to in paragraph 1 or 2, no longer than by a period of further 6 months.

6. The Polish Financial Supervision Authority shall determine, by way of a decision, the conditions for the postponement of payment of the extraordinary contribution referred to in paragraph 1 or 2 to the guarantee fund of credit unions in the cases referred to in paragraph 4 and 5.

7. The Polish Financial Supervision Authority shall take the decisions referred to in paragraph 4 and 5, following the consultation with the Fund. The Polish Financial Supervision Authority shall forthwith notify the Fund of the decisions taken.

8. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

9. The provision of paragraph 1 or 2 shall apply if as a result of the postponement of the payment of the contributions referred to in paragraph 4 or 5, the paid extraordinary contributions are insufficient to make payments of guaranteed funds.

Article 293. 1. The Fund Council shall determine by way of a resolution:

1) total amount of contributions referred to in Article 286 paragraph 2 for a given calendar year, due quarterly from banks and branches of foreign banks;

2) total amount of contributions referred to in Article 286 paragraph 3 for a given calendar year due quarterly from credit unions;

3) time limits for payment of contributions.

2. In the case referred to in Article 291 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from banks and branches of foreign banks and the date or dates of the payment of these contributions.

3. In the case referred to in Article 292 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from credit unions and the date or dates of the payment of these contributions.

4. The amounts referred to in paragraph 1 point 1 and paragraph 2 shall be allocated to individual banks and branches of foreign banks in accordance with the method referred to in Article 289 paragraph 3.

5. The amounts referred to in paragraph 1 point 2 and paragraph 3 shall be allocated to individual credit unions in accordance with the method referred to in Article 290 paragraph 3.

6. Information on the amount of the contribution and the date or dates of the payment thereof shall be forwarded without undue delay to entities required to pay.

Article 294. 1. Where the level of funds of the deposit guarantee scheme of banks or where the level funds of the deposit guarantee scheme of credit unions calculated on the basis of the data available on the day of calculation of the contribution attains or exceeds, on the date of calculation of the contribution the target level specified in Article 287 paragraph 2 or Article 288 paragraph 2, contributions to the guarantee fund of banks or the guarantee fund of credit unions are not collected.

2. Information on refraining from the collection of contributions shall be communicated to the entities covered by the mandatory deposit guarantee scheme by way of its publication on the website of the Fund.

Part 2

Financing resolution

Article 295. 1. Resolution of banks, investment firms and branches of foreign banks shall be financed by these entities from the contributions paid at least once a year.

2. Contributions referred to in paragraph 1 shall feed into the resolution fund of banks.

3. Resolution of credit unions shall be financed by these entities from contributions paid at least once a year.

4. Contributions referred to in paragraph 3 shall feed into the resolution fund of credit unions.

5. (repealed)

6. A credit union which implements a programme of recovery proceedings shall be exempt from the obligation to pay the contributions referred to in paragraph 3, during the period from the date of validation of the submitted programme of recovery proceedings by the Polish Financial Supervision Authority until the date of completion of its implementation.

7. On the day of fulfilment of the guarantee condition, a bank, a branch of a foreign bank or a credit union shall be exempt from the duty to pay contributions as referred to in paragraph 2 or 4 accordingly.

8. An entity under restructuring shall be exempt from the obligation to pay the contributions referred to in paragraph 1 or 3 respectively.

Article 296. 1. The minimum level of funds for financing resolution of banks and investment firms shall account for 1% of the amount of the guaranteed funds in banks, investment firms and branches of foreign banks.

2. The target level of funds for financing resolution of banks and investment firms shall account for 1.2% of the amount of the guaranteed funds in banks, investment firms and branches of foreign banks.

3. Contributions to the resolution fund of banks shall be set in such an amount to attain:

1) minimum level of funding for resolution of banks and investment firms by 31 December 2024;

2) target level of funding for resolution of banks and investment firms by 31 December 2030.

4. Where the total disbursements by the Fund to finance resolution of banks, investment firms and branches of foreign banks exceed 0.5% of the amount of guaranteed funds held in the entities liable for contributions referred to in Article 295 paragraph 1, until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by 4 years.

5. Where the total disbursements effected by the Fund to finance the resolution of banks, investment firms and branches of foreign banks exceed 0.5% of the amount of guaranteed funds held in the entities liable for contributions referred to in Article 295 paragraph 1 until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by 4 years.

6. While calculating the amount of contributions to finance resolution of banks and investment firms, these contributions should be spread over time as evenly as possible with due regard to the current phase of the economic cycle and the impact which the contributions may have on the financial situation of banks, investment firms and branches of foreign banks.

7. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.5% of the guaranteed funds in the entities liable for contributions referred to in Article 295 paragraph 1, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 301 paragraph 1 point 1 for a given calendar year is not higher than 0.25% of the amount of guaranteed funds in the entities liable for contributions referred to in Article 295 paragraph 1.

8. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds for financing resolution of banks and investment firms fall below the 2/3 of this level, contributions shall be set at a level enabling the attainment of the minimum level referred to in paragraph 1 in a period not longer than 6 years, whereas the target level referred to in paragraph 2 - in a period not longer than 10 years.

9. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of funds for financing resolution of banks and investment firms, referred to in paragraph 3 point 2, on considering the level of funds for financing resolution of these entities following the disbursements, the current phase of the economic cycle and the financial situation of banks, investment firms and branches of foreign banks.

Article 297. 1. The minimum level of funds for financing resolution of credit unions shall account for 0.1% of the amount of guaranteed funds in credit unions.

2. The target level of funds for financing resolution of credit unions shall account for 0.14% of the amount of guaranteed funds in credit unions.

3. Contributions to the resolution Fund of credit unions shall be set in such an amount to attain:

1) minimum level of funds for financing resolution of credit unions by 31 December 2024;

2) target level of funds for financing resolution of credit unions by 31 December 2034.

4. Where of the total disbursements effected by the Fund to finance the resolution of credit unions exceed 0.5% of the amount of guaranteed funds held in credit unions liable for contributions referred to Article 295 paragraph 3, until the minimum level of funds referred to in paragraph 1 is reached for the first time, the period referred to in paragraph 3 point 1 shall be extended by 4 years.

5. Where of the total disbursements effected by the Fund to finance the resolution of credit unions exceed 0.5% of the amount of guaranteed funds held in credit unions liable for contributions referred to Article 295 paragraph 3, until the target level of funds referred to in paragraph 2 is reached for the first time, the period referred to in paragraph 3 point 2 shall be extended by 4 years.

6. While calculating the amount of contributions to finance resolution of credit unions, these contributions should be spread over time as evenly as possible with due regard to the current phase of the economic cycle and the impact which the contributions may have on the financial situation of credit unions.

7. If within the preceding 2 years before the level of funds referred to in paragraph 1 and 2 is reached for the first time, the Fund has made total payments not exceeding 0.5% of the guaranteed funds in credit unions liable for contributions referred to in Article 295 paragraph 3, the periods referred to in paragraph 3 shall be extended in such a way that the total amount of contributions referred to in Article 301 paragraph 1 point 2 for a given calendar year is not higher than 0.025% of the amount of guaranteed funds in credit unions liable for contributions referred to in Article 295 paragraph 3.

8. If following the first time when the target level of funds referred to in paragraph 2 is reached, the funds for financing resolution of credit unions fall below the 2/3 of this level, contributions shall be set at a level enabling the attainment of the minimum level referred to in paragraph 1 in a period not longer than 6 years, whereas the target level referred to in paragraph 2 - in a period not longer than 10 years.

9. The Minister competent for financial institutions may, by way of a regulation, extend the deadline for the attainment of the target level of funds for financing resolution of credit unions referred to in paragraph 3 point 2, on considering the level of funds for financing resolution of credit unions following the disbursements, the current phase of the economic cycle and the financial situation of credit unions.

Article 298. 1. Contributions to finance resolution shall be calculated on the basis of the value of liabilities net of the amount of own funds and guaranteed funds. In the case of banks and investment firms the contribution base shall be additionally reduced in a manner specified in Regulation No 2015/63, in particular Article 5 of the Regulation.

2. The amount of contribution shall be calculated on considering the risk profile of an entity liable to pay the contribution.

3. The method of calculation of contributions to finance resolution of banks and investment firms, ensuring differentiation of contributions paid, depending on the risk profile of a bank and investment firm liable to contribute shall be determined by Regulation No 2015/63.

4. The Fund Council shall establish the detailed rules for calculation of contributions to the resolution fund of banks by way of a resolution.

5. The resolution referred to in paragraph 4 shall define in particular:

1) additional risk indicators referred to in Article 6 paragraph 5 of Regulation No 2015/63, and the method of their

utilisation;

2) procedure for the contributions in the form of a lump sum.

6. The Minister competent for financial institutions shall determine, by way of a regulation, the detailed rules for calculation of risk-based contributions to finance resolution with regard to branches of foreign banks, on considering their specificity, including the reporting obligations, and ensuring their convergence with the method of calculation of contributions for banks stipulated in Regulation No 2015/63, in particular:

1) method of calculation of contributions paid by branches of foreign banks;

2) selection of indicators of the risk profile of a branch of a foreign bank, and the method of their utilisation;

3) methods of determination of the risk profile of a branch of a foreign bank;

4) rules and the procedure of adjustments of due contributions;

5) rules for collection of contributions in the form of a lump sum, including the criteria for covering branches of foreign banks with the lump sum along with calculation of the amounts of the lump sum due.

7. The Minister competent for financial institutions shall define, by way of a regulation, the detailed rules for calculation of risk-based contributions to finance the resolution of credit unions, on considering the specificity of credit unions, including related to their organisational and legal form and reporting obligations, and ensuring their convergence with the method of calculation of contributions for banks and investment firms as defined in Regulation No 2015/63, in particular:

1) method of calculation of contributions to be paid by credit unions;

2) selection of indicators of the risk profile of a credit union and the method of their utilisation,

3) method of determination of the risk profile of credit unions;

4) rules and the procedure of adjustments of due contributions;

5) rules for the collection of contributions in the form of a lump sum, including the criteria for covering credit unions with the lump sum along with an calculation of the amounts of the lump sum due.

Article 299. 1. Where the funds for financing resolution of banks and investment firms are insufficient to finance resolution, the Fund Council, at the request of the Management Board of the Fund, by way of a resolution, may commit banks, investment firms and branches of foreign banks to pay extraordinary contributions for the resolution fund of banks in the amount not exceeding three times the total amount of the contributions set for a given calendar year, and if the total amount of these contributions is not determined - in the amount not exceeding three times the total amount of contributions paid for the previous calendar year.

2. The amount of extraordinary contributions referred to in paragraph 1 shall be determined in accordance with the methods referred to in Article 298 paragraph 3 and in the regulations issued pursuant to Article 298 paragraph 6.

3. If the payment of the extraordinary contribution referred to in paragraph 1 placed at risk the liquidity or solvency of a bank, investment firm or a branch of a foreign bank liable to pay the contribution, the Fund may on their reasoned request postpone the date of payment in respect of all or part of this contribution, by no longer than 6 months from the date specified in the resolution of the Fund Council, referred to in paragraph 1 as the date of payment of the extraordinary contribution.

4. On a reasoned request of a bank, investment firm or a branch of a foreign bank, the Fund may again postpone the date of payment of the extraordinary contribution by further 6 months.

5. The Fund Council shall determine the conditions for the postponement of the payment of the extraordinary contributions referred to in paragraph 1 by way of a resolution on request of the Management Board of the Fund.

6. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

Article 300. 1. Where the funds for financing resolution of credit unions are not sufficient to finance the resolution, the Fund Council on request of the Management Board of the Fund, by way of a resolution, may commit credit unions to pay extraordinary contributions to the resolution fund of credit unions, in the amount not exceeding three times the total amount of the contributions determined for a given calendar year, and if the total amount of this contribution is not determined – in the amount not exceeding three times the total amount of contributions paid for the previous calendar

year.

2. The amount of extraordinary contributions referred to in paragraph 1 shall be determined in accordance with the method established in the regulations issued pursuant to Article 298 paragraph 7.

3. If the payment of the extraordinary contribution referred to in paragraph 1 placed at risk the liquidity or solvency of a credit union liable to pay the financial contribution, the Fund may on its reasoned request, postpone the date of payment in respect of all or part of the contribution, by no longer than 6 months from the date specified in the resolution of the Fund Council referred to in paragraph 1 as the date of payment of the extraordinary contribution.

4. The Fund may, on a reasoned request of a credit union, again postpone the date of payment of the extraordinary contribution, by no longer than further 6 months.

5. The Fund Council shall determine the conditions for the postponement of the payment of the extraordinary contributions referred to in paragraph 1 by way of a resolution on request of the Management Board of the Fund.

6. The contributions whose payment has been postponed shall be paid forthwith in the case that premises for the decision to postpone them cease to apply.

Article 301. 1. The Fund Council shall determine by way of a resolution:

1) total amount of contributions referred to in Article 295 paragraph 1 for a given calendar year, due from banks, investment firms and branches of foreign banks;

2) total amount of contributions referred to in Article 295 paragraph 3 for a given calendar year, due from credit unions;

3) date or dates of payment of contributions for a given calendar year.

2. In the case referred to in Article 299 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from banks, investment firms and branches of foreign banks and the d ate or dates of payment of these contributions.

3. In the case referred to in Article 300 paragraph 1 the Fund Council shall determine, by way of a resolution, the total amount of extraordinary contributions due from credit unions and the date or dates of the payment of these contributions.

4. The amounts referred to in paragraph 1 point 1 and paragraph 2 shall be shared by individual banks, investment firms and branches of foreign banks in accordance with the method referred to in Article 298 paragraph 3 and in the regulations issued pursuant to Article 298 paragraph 6.

5. The amounts referred to in paragraph 1 point 2 and paragraph 3 shall be allocated to individual credit unions in accordance with the method established in the regulations issued pursuant to Article 298 paragraph 7.

6. Information on the amount of the contribution and the date or dates of the payment thereof shall be forwarded without undue delay to entities required to pay.

Article 302. 1. Where the level of funds to finance resolution of banks and investment firms, or the level of funds to finance resolution of credit unions, calculated on the basis of the data available as of the day of the calculation of the contribution attains or exceeds on this date the level specified in Article 296 paragraph 2 and Article 297 paragraph 2 accordingly, no contributions to the resolution fund of banks or the resolution fund of credit unions shall be collected.

2. Information on refraining from the collection of contributions shall be communicated to the entities referred to in Article 295 paragraph 1 and 3 through its publication on the website of the Fund.

Part 3

Payment commitments

Article 303. 1. While determining the amount of mandatory contributions, the Fund Council may determine the extent to which the entities liable to the payment thereof are entitled to contribute in the form of payment commitments.

2. The share of the total amount of payment commitments for the guarantee fund of banks or the guarantee fund of credit unions may not exceed 30% of the level of a given fund to be used.

3. The share of payment commitments in the annual contribution to the resolution fund of banks or the resolution fund of credit unions may not exceed 30% of the annual contribution due.

4. The contribution in the form of a lump sum must not be paid in the form of a payment commitment.

5. The entities required to pay annual contributions shall notify the Fund forthwith, but no later than 5 working days from the receipt of the information on the amount of the contribution, of their intention to pay a part of the

contribution in the form of payment commitments.

6. Excess amounts of liabilities to be paid in excess of the share of 30% of the relevant guarantee fund level to be used shall not be included in the funds of the deposit guarantee scheme in banks and the funds of the deposit guarantee scheme in cash for the purpose of calculating the levels of funds of the deposit guarantee scheme referred to in Article 287 paragraphs 1 and 2 and Article 288 paragraphs 1 and 2.

Article 304. 1. The entities which pay contributions in the form of payment commitments are required to earmark the funds in an amount not less than their payment commitment and invest these funds in high liquidity instruments in a safe manner in order to be able to transfer funds up to the equivalent of their payment commitments on the first call of the Fund, on the dates referred to in Article 305 paragraph 1–3.

2. The entities which pay their contributions in the form of payment commitments are required to:

1) invest funds referred to in paragraph 1 in:

   a) treasury securities,

   b) money bills and bonds issued by the National Bank of Poland – if these may be traded;

2) deposit assets stipulated in point 1 in a separate account for each entity maintained by:

   a) the National Bank of Poland

   b) Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or a company it entrusted with the performance of transactions related to the tasks referred to in Article 48 paragraph 1 point 1i6 of the Act on Trading in Financial Instruments.

3. Agreements between the entities which pay their contributions in the form of payment commitments and the entities referred to in paragraph 2, point 2 shall provide for the assumption of assets constituting security of a payment commitment and the funds in respect of their redemption until the acquisition of further assets by way of an irrevocable hold for the benefit of the Fund. The agreements shall entitle the Fund to demand the transfer for its benefit of the blocked assets in the event that an entity liable to pay contributions fails to comply with the calls by the Fund referred to in Article 305 paragraph 1–3, and to irrevocable power of attorney for the Fund to collect from the account assets pledged as collateral of payment commitments and the funds from the redemption thereof. Copies of the agreements certified as true by persons authorised to represent the entity which pays contributions in the form of payment commitments along with the power of attorney shall be submitted to the Fund forthwith, but no later than 5 working days from the date of the conclusion thereof.

4. Cooperative banks which are members of associations are required to deposit the funds referred to in paragraph 1, in an earmarked bank account in an affiliating bank, whereas the credit unions – in the National Association of Credit Unions. Affiliating banks on behalf of affiliated banks, whereas the National Association of Credit Unions on behalf of credit unions, shall invest these funds in assets referred to in paragraph 2 point 1, and shall deposit them in the accounts referred to in paragraph 2 point 2. The provision of paragraph 3 shall apply accordingly.

5. The funds referred to in paragraph 1 shall not be included in liquid funds in the calculation of the liquidity standards referred to in Article 412 of Regulation No 575/2013, nor in the funds of liquid reserve referred to in Article 38 paragraph 1 of the Act on Cooperative Savings and Credit Unions, must not be the subject of pledge nor be encumbered in any way, they are not subject to judicial or administrative enforcement, nor are included in bankruptcy estate.

6. Domestic entities and branches of foreign banks shall provide the Fund with the information on the funds referred to in paragraph 1, and the assets referred to in paragraph 2.

7. In the case of affiliated cooperative banks, the tasks stipulated in paragraph 6 shall be performed by the affiliating banks, and in the case of credit unions – the National Association of Credit Unions.

8. In the case of:

1) suspension of the activity of a domestic entity,

2) commencement of resolution against a domestic entity or a foreign bank,

3) issue by the Polish Financial Supervision Authority of a decision on the acquisition of a credit union or on the acquisition of selected rights or liabilities of a credit union,

4) issue by the Polish Financial Supervision Authority of a decision on the acquisition of a bank,

5) issue by the Polish Financial Supervision Authority of a decision on liquidation of a domestic entity,

6) declaration of bankruptcy of a domestic entity or a foreign bank

– the entity entitled to representation shall transfer to the Fund funds in the amount equivalent to the liabilities to be paid

by the entities referred to in paragraph 1, no later than within 2 working days respectively from the date of suspension, initiation of resolution, issuance of a decision on the acquisition of a credit union or on the acquisition of selected rights or liabilities of a credit union, issue of a decision on the acquisition of a bank, issue of a decision on liquidation or announcement of bankruptcy.

9. Subject to Article 303 paragraph 2 and 3, the Fund may accept contributions in the form of payment commitments under separate agreements between the Fund and the entity liable to pay contributions (contractual payment commitment).

10. In the event that an entity referred to in Article 303 paragraph 5 does not meet the conditions set out in paragraphs 1–6 or 9 or in the implementing rules issued pursuant to paragraph 11 or 12, the Fund may request the entity to transfer funds corresponding to the payment obligations, indicating a deadline for doing so. The Fund may call for the funds corresponding to payment commitments within the period specified by itself. The provision of Article 316 shall be applied.

10a. In the event of a failure to transfer funds in accordance with paragraphs 8 and 10, the Fund may seize assets blocked in its favour which secure payment obligations or funds for their redemption.

10b. The Fund shall value assets safeguarding liabilities to be paid taken over in accordance with paragraphs 3 or 10a, taking into account the need to mitigate the risk of impairment of the acquired assets, at a value calculated in accordance with the implementing rules issued pursuant to paragraph 11, as at the date of their acquisition.

10c. If the value of the assets or funds determined in accordance with paragraph 10b is higher than the value of the liabilities to be paid as referred to in Article 305, paragraphs 1–4 or 4c, the Fund shall immediately return the surplus to the entity, or, if it is lower, call the entity to pay the difference within 2 working days of the delivery of the call. The provision of Article 316 shall apply accordingly.

11. Following the consultation with the Fund, the Minister competent for financial institutions, shall determine by way of a regulation:

1) additional conditions to be satisfied by the agreements referred to in paragraph 3,

2) minimum level of the ratio of assets referred to in paragraph 2 to the amount of payment commitments,

3) limits which determine the share of particular assets in the total amount of funds corresponding to payment commitments,

4) detailed scope and mode of transfer of the information referred to in paragraph 6,

5) the detailed manner of valuation of the assets constituting security of the liabilities to be paid acquired pursuant to paragraph 3 or 10a

– with a view to ensuring the Fund the ability to exercise control of fulfilment by entities of the duties in respect of the payment commitments and obtaining by the Fund of payments of funds in respect of payment commitments and on considering the guidelines of the European Banking Authority on payment commitments under a directive of the European Parliament and of the Council 2014/49/EU of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.06.2014, p. 149, as amended[37)] issued pursuant to Article 16 of Regulation No 1093/2010 and having regard to the risk of impairment of the assets acquired.

12. Following the consultation with the Fund, the Minister competent for financial institutions may determine, by way of a regulation, the conditions to be satisfied by the agreements referred to in paragraph 9, including the form and procedure of establishment of the contractual collateral of payment commitments, the minimum level of the ratio of the collateral value to the amount of the contractual payment commitment, limits defining the share of individual assets in the total amount of funds corresponding to contractual payment commitments, the detailed scope of the transfer of information on assets constituting collateral of contractual payment commitments and the timing and mode of the transfer thereof with a view to ensuring the Fund the ability to exercise control of compliance by entities with the duties concerning contractual payment commitments, payment thereof to the Fund and taking into account the guidelines of the European Banking Authority on payment commitments under a directive of the European Parliament and of the Council 2014/49/EU of 16 April 2014 on deposit guarantee schemes issued in accordance with Article 16 of Regulation No 1093/2010.

Article 305. 1. In the event that it is necessary to finance resolution tasks, the Fund may request the entities that have made contributions in the form of liabilities to pay, to transfer funds corresponding to such liabilities, no later than within 2 working days from the date of delivery of the call, indicating the amount to be transferred to the Fund.

13. The amount referred to in paragraph 1 shall be determined for each entity as the product of the amount to be

[37] The amendments to the said Directive were announced in OJ L 212, 18.07.2014, p. 47 and OJ L 309, 30.10.2014, p. 37.

paid, but not more than the total value of the liabilities to be paid, to the Fund referred to in Article 272 paragraph 1 or paragraph 2 and Article 273 paragraph 1 or paragraph 2, and the share of the value of the liabilities to be paid of that entity in the total value of the liabilities to be paid to the Fund.

14. The total value of the liabilities payable to the Fund concerned shall not include the liabilities payable to the entity under restructuring which are transferred to the Fund pursuant to Article 304 paragraph 8.

15. The value of the liabilities to be paid to a given Fund shall be determined as at the end of the day preceding the day on which the Fund decides to call entities to transfer funds corresponding to the liabilities to be paid.

2. In the case of fulfilment of the guarantee condition towards a bank or branch of a foreign bank, the Fund shall call, in the manner specified in Article 47 paragraph 2, banks and branches of foreign banks to transfer a part or all of the funds corresponding to payment commitments to the guarantee fund of banks up to the amount of liabilities in respect of guaranteed funds not later than within 2 working days from the receipt of the call.

2a. In the event that the call referred to in paragraph 2 is addressed to a bank or a branch of a foreign bank, to transfer a part of the funds corresponding to the liabilities to be paid to the banks' guarantee fund, the amount of funds to be transferred shall be determined as the product of the liabilities to be paid to the banks' guarantee fund of a given bank or a branch of a foreign bank and the percentage share of the amount of guaranteed funds due to the depositors of the bank or a branch of a foreign bank in respect of which the guarantee condition has been fulfilled in the total value of the liabilities to be paid to the banks' guarantee fund less the liabilities to be paid to the banks' guarantee fund of the entity in respect of which the guarantee condition has been fulfilled. The values of the liabilities to be paid to the banks' guarantee fund are determined as at the date of fulfilment of the guarantee condition with respect to a bank or a branch of a foreign bank.

3. In the case of fulfilment of the guarantee condition towards a credit union, the Fund shall call credit unions in the manner specified in Article 47 paragraph 2, to transfer a part or all of the funds corresponding to payment commitments to the guarantee fund of credit unions up to the amount of liabilities in respect of guaranteed funds not later than within 2 working days from the receipt of the call.

3a. In the event that the call referred to in paragraph 3 is addressed to the credit union to transfer a part of the funds corresponding to the obligations to pay to the guarantee fund of the credit unions, the amount of funds to be transferred shall be determined as a product of the obligations to pay to the guarantee fund of the credit unions of a given credit union and the percentage share of the amount of guaranteed funds due to the depositors of the credit union in respect of which the guarantee condition has been fulfilled in the total value of the obligations to pay to the guarantee fund of the credit unions less the obligations to pay to the guarantee fund of the credit union in respect of which the guarantee condition has been fulfilled. The values of the liabilities to be paid to the guarantee fund of the credit unions shall be determined as at the date of fulfilment of the guarantee condition against the credit union.

4. The Fund may call the banks to transfer, no later than 2 working days after delivery of the call, funds corresponding to the obligations to pay to the banks' guarantee fund, in the event of a financing for the restructuring of banks pursuant to Article 5 paragraph 2a point 1, up to the amount of such financing.

4a. The Fund shall specify in the call referred to in paragraph 4 the amount to be transferred to the Fund, determined for a given bank as the product of the amount to be paid by the Fund, not exceeding the total value of the liabilities to be paid to the banks' guarantee fund, and the share of the value of the individual banks' liabilities to be paid to the banks' guarantee fund in the total value of the liabilities to be paid to the banks' guarantee fund. The total value of the liabilities payable to the banks' guarantee fund referred to in the preceding sentence shall not include the liabilities payable by banks subject to transfer to the Fund pursuant to Article 304 paragraph 8.

4b. The value of the liabilities to be paid to the banks' guarantee fund shall be determined as at the end of the day preceding the day on which the Fund decides to call entities to transfer funds corresponding to the liabilities to be paid.

4c. In the case of financing the restructuring of credit unions, the Fund may request the credit unions to transfer, no later than within 2 working days from the date of service of the request, funds corresponding to the payment obligations to the credit unions' guarantee fund, up to the amount of such financing.

4d. In the request referred to in paragraph 4c, the Fund shall indicate the amount to be transferred, determined for the individual credit unions' as the product of the amount to be paid by the Fund, which shall not be greater than the total value of the liabilities to be paid to the credit unions' guarantee fund, and the share of the value of the liabilities to be paid by the individual credit unions to the credit unions' guarantee fund in the total value of the liabilities to be paid to the credit unions' guarantee fund. The total liabilities payable to the guarantee fund of the credit unions shall not include the liabilities payable by the credit union subject to transfer to the Fund pursuant to Article 304 paragraph 8.

4e. In the case of the call referred to in paragraph 4c, the value of the liabilities to be paid to the guarantee fund of

the credit unions shall be determined at the end of the day preceding the day on which the Fund decides to call the entities to transfer the funds corresponding to the liabilities to be paid.

5. If a bank, a branch of a foreign bank or a credit union cease to be a member of the mandatory deposit guarantee scheme or join another deposit guarantee scheme, they are required to transfer, for the benefit of the Fund, the whole amount of funds corresponding to payment commitments respectively to the guarantee fund of banks or the guarantee fund of credit unions immediately, not later than within 2 working days.

6. If a bank, investment firm, branch of a foreign bank or credit union cease to be an entity referred to in Article 64 point 2, they are obliged to transfer, for the benefit of the Fund, the whole amount of funds corresponding to payment commitments respectively to the resolution fund of banks or the resolution fund of credit unions.

7. The funds referred to in paragraph 1–6 and Article 304 paragraph 8 and 10a shall become the property of the Fund on the date of the transfer or acquisition.

Article 306. Where a risk to the financial stability occurs and in order to satisfy urgent needs of the Fund related to the payment of guaranteed funds within the time limit under Article 35 paragraph 3, the National Bank of Poland, at the request of the Management Board of the Fund approved by the Fund Council may provide the Fund with short-term credit provided that adequate security has been established.

Part 4

Payment of contributions

Article 307. 1. The duty to pay a contribution determined in accordance with Article 293 paragraph 1, 4 and 5 by a domestic entity or branch of a foreign bank shall arise on the first day of a quarter.

2. The duty to pay a contribution determined in accordance with Article 301 paragraph 1, 4, 5 by a domestic entity or branch of a foreign bank shall arise on the first day of the third quarter.

3. The duty to pay an extraordinary contribution by a domestic entity or branch of a foreign bank shall arise on the date when the Fund Council determines the total amount of extraordinary contributions.

4. Where a bank, a branch of a foreign bank or a credit union becomes covered by the mandatory deposit guarantee scheme during the quarter, the obligation to pay a contribution to the guarantee fund of banks or the guarantee fund of credit unions for the quarter shall arise from the date of commencement of operations.

5. bank or investment firm established in the course of the year shall pay a contribution to the resolution fund of banks on the terms stipulated in Article 12 paragraph 1 of Regulation No 2015/63.

6. A credit union established in the course of a calendar year shall pay a contribution to the resolution fund of credit unions on the terms corresponding to the terms stipulated in Article 12 paragraph 1 of Regulation No 2015/63.

7. A branch of a foreign bank established in the course of a calendar year shall pay a contribution to the resolution fund of banks on the terms corresponding to the terms stipulated in Article 12 paragraph 1 of Regulation No 2015/63.

8. In the case referred to in paragraph 4, the basis of calculation of the contribution shall be set at the end of the last day of the month when the duty to pay the contribution occurred. The entities referred to in paragraph 4 shall pay contributions in proportion to the number of full months of business in the quarter when they commenced business, along with the contribution for the following quarter.

9. Contributions paid by banks, investment firms, branches of foreign banks or credit unions which commence business shall be determined irrespective of the risk profile of the entity referred to in Article 289 paragraph 2, Article 290 paragraph 2 or Article 298 paragraph 2, until the data allowing for determination thereof could be collected.

10. In the case of a merger, if an entity established as a result of the merger is required to pay contributions under the Act, calculation of the contributions shall be made on considering the sum of the bases referred to in Article 289 paragraph 1, Article 290 paragraph 1 or in Article 298 paragraph 1, relevant for the merging entities and the risk profile of the acquiring entity determined on the basis of the methods referred to in Article 289, Article 290 or Article 298.

11. In the case of a merger, if merging entities have failed to pay the contribution referred to in Article 286 paragraph 1, due for the quarter when the merger took place, and an entity established as a result of the merger is not required to pay contributions under the Act, it shall pay contributions due from the merging entities in proportion to the number of full months of operating their business independently in the quarter when the merger took place. If the merging entities have paid due contributions for the quarter when the merger took place, and an entity established as a result of the merger is

not required to pay the contributions under the Act, the Fund shall reimburse a part of the contributions in proportion to the number of full months when the merging entities did not operate their business independently in the quarter when the merger took place.

12. In the case of a merger, if the merging entities have failed to pay the contribution referred to in Article 295 paragraph 1, due for the year when the merger took place, and an entity established as a result of the merger is not required to pay contributions under the Act, it shall pay contributions due from the merging entities in proportion to the number of full months when the merging entities operated their business independently in the year when the merger took place. If the merging entities have paid due contributions for the year where the merger took place, and an entity established as a result of the merger is not required to pay contributions under the Act, the Fund shall reimburse a part of the contributions in proportion to the number of full months when the merging entities did not operate their business independently in the year where the merger took place.

Article 308. 1. If a bank or a branch of a foreign bank joins a deposit guarantee scheme of a Member State other than the Republic of Poland and ceases to be a member of a compulsory deposit guarantee scheme, the contributions, with the exception of extraordinary contributions referred to in Article 291 paragraph 1 or 2, made during the 12 months preceding the termination of membership in the compulsory deposit guarantee scheme, shall be transferred to that deposit guarantee scheme.

2. The provision of paragraph 1 shall not apply if a bank or branch of a foreign bank has been excluded from the deposit guarantee scheme further to a decision of the Polish Financial Supervision Authority to repeal a permit to establish a bank or branch of a foreign bank in accordance with the provisions of the Banking Act. The postponed extraordinary contributions referred to in Article 291 paragraph 1 or 2 shall be paid to the Fund before a given entity joins another deposit guarantee scheme.

3. If a part of the business of a bank or branch of a foreign bank is transferred to a Member State other than the Republic of Poland and is accordingly subject to another deposit guarantee scheme, contributions paid by these entities within the period of 12 months preceding the transfer of the business to a Member State other than the Republic of Poland with the exception of extraordinary contributions shall be transferred to this deposit guarantee scheme in proportion to the amount of the transferred guaranteed funds. The postponed extraordinary contributions referred to in Article 291 paragraph 1 or 2 shall be paid to the Fund prior to the transfer of a part of the business of a given entity in proportion to the amount of the transferred guaranteed funds.

Chapter 3

Loans between the Fund and other deposit guarantee schemes

Article 309. 1. Having obtained the consent of the Fund Council, the Management Board of the Fund, may, by way of an agreement, grant a loan to an officially recognised deposit guarantee scheme of a Member State other than the Republic of Poland for the execution of its guarantee obligations if all of the following conditions have been satisfied:

1) officially recognised deposit guarantee scheme of a Member State other than the Republic of Poland which contracts a loan is not able to meet its obligations in respect of the payment of the guaranteed funds due to a lack of available funds;

2) officially recognised deposit guarantee scheme which contracts a loan has taken the opportunity to have recourse to the payment of extraordinary contributions;

3) officially recognised deposit guarantee scheme which contracts a loan makes a declaration that the borrowed funds will be utilised for settlement of claims of depositors in respect of the guaranteed funds;

4) officially recognised deposit guarantee scheme which contracts a loan is not required, at the time of granting it, to repay a loan granted by another deposit guarantee scheme;

5) the total amount of the loan sought by the officially recognised deposit guarantee scheme does not exceed 0.5% of the funds guaranteed by the deposit guarantee scheme which contracts a loan;

6) officially recognised deposit guarantee scheme which contracts a loan produces a document confirming that the information on the reasons for its decision to apply for a loan has been submitted to European Banking Authority and determining the amount of the requested loan.

2. The term for loan repayment must not be longer than 5 years from the date of granting thereof, whereas the loan may be repaid in annual instalments. Interest shall be payable on the maturity date.

3. The loan agreement shall determine the rules of the loan interest, whereas the interest rate on the loan may not be lower than the lombard interest rate of the European Central Bank during the period for which the loan was granted.

4. The Fund shall notify the European Banking Authority of the initial interest rate of the loan and the period for which it was granted.

Article 310. 1. Having obtained the consent of the Fund Council, the Management Board of the Fund, may apply for a loan to one or more officially recognised deposit guarantee schemes in the Member States other than the Republic of Poland for the execution of its guarantee obligations if all of the following conditions have been satisfied:

1) The Fund is not able to satisfy its obligations in respect of payments of guaranteed funds due to a lack of available funds provided for in Article 56 paragraph 5 or Article 57 paragraph 5;

2) the Fund has taken the opportunity to have recourse to extraordinary contributions referred to in Article 291 paragraph 1 or in Article 292 paragraph 1;

3) the funds from the loan will be utilized for settlement of claims of depositors in respect of the guaranteed funds;

4) the Fund is not required to repay a loan to any other deposit guarantee scheme at the time of application;

5) the total amount of the loan sought by the Fund does not exceed 0.5% of the funds guaranteed by the Fund;

6) the Fund provides the European Banking Authority with the information on the satisfaction of the conditions referred to in points 1–5 and on the amount of the requested loan.

2. The term for loan repayment must not be longer than 5 years from the date of granting thereof, whereas the loan may be repaid in annual instalments. Interest shall be payable on the maturity date.

3. While determining the total amount of contributions for the mandatory deposit guarantee scheme, the Fund Council shall take into account the necessity of timely repayment of the loan and restoration of the target level of funds of the deposit guarantee scheme.

4. The Fund shall notify the European Banking Authority on concluded loan agreements.

5. In the event of a dispute regarding the provisions of the concluded agreements, the Fund may request the European Banking Authority for binding mediation.

Chapter 4

Loans between the Fund and other entities managing resolution funds in the Member States

Article 311. 1. The Fund may grant loans from the resolution funds to other entities managing resolution funds in the Member States, if the borrower demonstrates fulfilment of the conditions referred to in paragraph 4.

2. In the case referred to in paragraph 1, the Fund shall agree the terms of the loan with entities managing resolution funds and with the entity managing the fund which requests a loan. The terms of the loan, including the interest rate and the repayment period shall be the same for all providers of the loan, unless the Fund and these entities agree otherwise. The amount of the loan granted by the Fund shall be equal to the share of the amount of the guaranteed funds in the total amount of the loan, determined as a ratio of the sum of funds guaranteed by the Fund to the amount of funds guaranteed in all Member States whose resolution funds are involved in granting the loan, unless the Fund and these entities agree otherwise.

3. The detailed rules of granting loans, referred to in paragraph 2 shall be determined by the Fund Council.

4. The Fund may raise loans for the benefit of the resolution funds from other entities managing resolution funds in the Member States if all of the following conditions have been satisfied:

1) funds obtained from annual contributions are not sufficient to cover the expenses referred to in Article 273 paragraph 1–3;

2) funds from extraordinary contributions to the Fund may not be obtained forthwith;

3) no funds from third parties on the conditions average for the financial market may be obtained forthwith.

5. The Fund shall count the amount of an outstanding loan referred to in paragraph 1 into the funds for financing resolution and liquidation referred to in Article 296 paragraph 1 and 2 and Article 297 paragraph 1 and 2.

Chapter 5

Financial statements

Article 312. 1. In the area of accounting the Fund shall apply the provisions of the Accounting Act of 29 September 1994.

2. The Minister competent for financial institutions shall determine, by way of a regulation, specific accounting rules of the Fund, including the scope of information disclosed in the notes to the financial statements with a view to

ensuring sound financial management of the Fund.

Article 313. 1. The financial statements of the Fund shall be prepared by 31 March for the preceding financial year.

2. The financial statements of the Fund shall be audited by an audit firm, in accordance with the Act on Statutory Auditors, Audit Firms and Public Supervision of 11 May 2017, selected by tender by the Fund Council. The cost of audit shall be borne by the Fund.

3. By 30 June, the Fund Council shall provide the Council of Ministers with the activity report of the Fund for the preceding year, reviewed by the Minister competent for financial institutions, along with the attached financial statements and the results of the audit referred to in paragraph 2.

4. The Council of Ministers shall approve or refuse the approval of the reports referred to in paragraph 3 by 31 August.

5. Refusal of the approval by the Council of Ministers of the activity report of the Fund for the preceding year shall be equivalent to the expiry of the mandate of the members of the statutory bodies of the Fund, provided that they remain in office until appointment of new members of the statutory bodies of the Fund.

6. The provision of paragraph 5 shall not apply to the members of the statutory bodies of the Fund whose term of office is not covered in the activity report of the Fund.

Chapter 6

Financial assets and financial liabilities of the Fund

Article 314. 1. The Fund may purchase or sell on its own behalf solely:

1) securities issued or guaranteed by the State Treasury or the National Bank of Poland;

2) securities issued or guaranteed by the governments or central banks of the Member States or the States being the Members of the Organisation for Economic Co-operation and Development;

3) money market funds' units referred to in Article 178 of the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds.

2. The Fund may acquire or dispose of rights attached to shares, pre-emption rights, options on rights attached to shares and other assets and provide guarantees and sureties with a view to performing tasks related to resolution.

3. The Fund may purchase, sell or exercise the rights from financial assets referred to in paragraph 1 and 2.

4. The Fund may acquire or dispose of rights from the financial assets referred to in paragraphs 1 and 2 both within a financial instruments trading system, including as a participant, and outside a trading system. The provisions of Division IV of the Act on Trading in Financial Instruments shall not apply to the Fund.

Article 315. 1. Financial resources of the Fund shall be held in the current accounts, separate accounts and deposit accounts in the National Bank of Poland.

1a. The Fund may, on the basis of an agreement, invest cash in the form of a deposit with the Minister of Finance, referred to in Article 48 paragraph 1 point 4 of the Act of 27 August 2009 on public finance, under rules set out for public finance sector units referred to in Article 48 paragraph 1 of that Act.

1b. For the purpose of making the deposits referred to in paragraph 1a, the Fund may open bank accounts with Bank Gospodarstwa Krajowego.

2. The Fund may have securities accounts with Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna, the National Bank of Poland, a bank or a brokerage house and may have cash accounts, as well as be a participant in a clearing system organised by a Central Counterparty or another entity authorised to settle transactions, including as a participant referred to in Article 45b paragraph 1 point 1 of the Act on Trading in Financial Instruments, for the purpose of performing settlement or clearing, respectively.

3. With a view to the purchase or sale of securities referred to in Article 314 paragraph 1 point 2, as well as the purchase or sale of securities in order to perform the tasks referred to in Article 314 paragraph 2, the Fund may hold securities accounts in a foreign clearing house and hold a bank account to perform the related settlements.

Article 316. 1. Extracts from accounting ledgers of the Fund, signed by the authorised members of the Management Board of the Fund and bearing its seal in evidence of the existence of receivables of the Fund and appended with the statement that the claims derived therefrom are due, shall have the legal force of enforcement titles, no enforcement clauses being required.

2. The enforcement of receivables documented in the records referred to in paragraph 1 shall take place, depending on the nature of the liabilities, in the manner specified in the Code of the Civil Procedure, or in the provisions of the administrative enforcement proceedings.

3. A debtor may demand, by way of a lawsuit, termination in whole or in part of enforcement proceedings conducted by the Fund in the manner specified in the Code of the Civil Procedure, or in the provisions on administrative enforcement proceedings, if the enforced receivable does not exist or exists in a smaller amount, or if the debtor files counterclaims eligible for a set-off against the enforced receivable.

4. At the request of the plaintiff, the court may suspend the enforcement proceedings by way of issuance of injunctive relief.

Chapter 7

Rules and procedure for the issue of bonds guaranteed by the State Treasury

Article 316a. 1. The Fund, for the purpose of obtaining funds for the fulfilment of the purposes referred to in Article 5 paragraph 1 points 1, 4 and 7, may issue bonds in the domestic market and in foreign markets.

2. The Fund may also issue bonds for the purpose of refinancing obligations to raise funds from the sources referred to in Article 270 paragraph 1 points 6–9, if those funds are allocated for the purpose of performing the tasks referred to in Article 5 paragraph 1 points 1, 4 and 7.

3. The Fund's liabilities on account of the bonds referred to in paragraphs 1 and 2 are guaranteed by the State Treasury represented by the minister responsible for public finance.

4. The guarantee referred to in paragraph 3 shall not be subject to the provisions of the Act of 8 May 1997 on Sureties and Guarantees Issued by the State Treasury and Certain Legal Entities (Journal of Laws of 2023, item 926 and 1114), except for Article 43b, Article 44, Article 45 and Article 46 of that Act, which shall apply accordingly.

5. The guarantee referred to in paragraph 3 shall be granted up to 100% of the outstanding cash benefits of the issued guaranteed bonds, together with 100% of the interest due on that amount and other costs directly related to the bonds referred to in paragraphs 1 and 2.

6. The Fund shall be exempt from the obligation to provide a safeguard to the guarantee referred to in paragraph 3 and to pay a fee.

7. If recovery of State Treasury receivables arising under the guarantee is not possible, the Council of Ministers, at the request of the minister responsible for public finance, may redeem the receivables in whole or in part.

8. The provisions of Articles 39p-39s, Article 39u and Article 39w of the Act of 27 October 1994 on Toll Motorways and the National Road Fund (Journal of Laws of 2022, item 2483 and 2707 and Journal of Laws of 2023, item 760, 1193 and 1688) shall apply accordingly to the issue by the Fund of the bonds referred to in paragraphs 1 and 2.

Article 316b. 1. Upon redemption, the bonds referred to in Article 316a paragraphs 1 and 2 shall be redeemed.

2. The Fund may purchase its own bonds referred to in Article 316a paragraphs 1 and 2 only for the purpose of redemption.

3. Bonds referred to in Article 316a paragraphs 1 and 2 which are acquired by the Fund as part of conditional transactions in which the Fund agrees to the other party to repurchase or sell its own bonds referred to in Article 316a paragraphs 1 and 2 in connection with the management of the Fund's assets or liabilities shall not be redeemed.

Article 316c. 1. The issue of bonds referred to in Article 316a paragraphs 1 and 2 shall require the consent of the minister responsible for financial institutions and the approval of the terms and conditions of the issue by the minister responsible for the budget.

2. The Management Board of the Fund may, after obtaining the approval of the Fund's Board in accordance with Article 8 paragraph 1 point 5, request the consent and acceptance of the terms and conditions of issue referred to in paragraph 1 if all of the following conditions have been satisfied:

1) the issue of the bonds referred to in Article 316a paragraph 1 or paragraph 2 is necessary for the Fund to perform the tasks set out in Article 5 paragraph 1 points 1, 4 and 7 or to refinance liabilities arising from the raising of funds from the sources referred to in Article 270 paragraph 1 points 6–9, if such funds have been earmarked for the performance of those tasks;

2) raising of funds from other sources of financing of the Fund referred to in Article 270 paragraph 1 is in a given situation difficult, inefficient or would be contrary to the purposes of resolution referred to in Article 66;

3) the maintenance of financial stability requires it.

3. The Minister competent for financial institutions, when granting the consent referred to in paragraph 1, shall take into account:

1) the justification presented by the Fund with regard to fulfilment of the conditions referred to in paragraph 2;

2) the possibility of the Fund handling the bonds on its own;

3) the situation on the financial market indicating the need for the Fund to raise additional resources.

DIVISION VI

Information obligations, exchange and protection of information

Article 317. Information on the principles of operation of the mandatory deposit guarantee scheme, including the material and personal scope of protection and principles of payments of guaranteed funds shall be published on the Fund's website.

Article 318. 1. The entities covered by the deposit guarantee scheme shall inform parties using and interested in using their services of:

1) their economic and financial situation;

2) participation in the mandatory deposit guarantee scheme and the principles of the operation thereof, including the material and personal scope of protection awarded by this system, while indicating in particular:

a) maximum amount of the guarantee,

b) types of persons and entities that may be considered a depositor.

2. Where an entity covered by the deposit guarantee scheme operates under different trademarks, it shall inform parties using and interested in using its services of their entitlement to one limit of the guarantee of funds held in this entity.

3. Within performance of the duties referred to in paragraph 1 point 2 and paragraph 2, the entities covered by the deposit guarantee scheme shall provide information to parties using and interested in using their services prior to entrance into an account agreement and then at least once a year. This information shall be provided in the form of an information sheet. In the case of a transfer of the information prior to the entrance into an account agreement, the recipient of this information shall confirm its receipt.

4. The entities covered by the deposit guarantee scheme are required to inform parties using and interested in using their services of the lack of the guarantee protection if:

1) a receivable arising in respect of performance of the banking transactions or the transactions referred to in Article 3 paragraph 1 and 1a of the Act on Cooperative Savings and Credit Unions is not protected by the mandatory deposit guarantee scheme, in particular if these persons may not be considered depositors;

2) further to the performance of a transaction other than a banking transaction or the transactions referred to in Article 3 paragraph 1 and 1a of the Act on Cooperative Savings and Credit Unions an entity covered by the deposit guarantee scheme issues a registered document in evidence of its pecuniary liability;

3) in respect of services provided by an entity covered by the deposit guarantee scheme, in particular involving intermediation in concluding agreements any receivables arise or may arise of the said persons towards another entity which is not covered by the deposit guarantee scheme.

1. . In the case referred to in Article 34a paragraph 3, an entity against which a decision on exclusion from participation in the mandatory deposit guarantee scheme has been issued shall be obliged to inform the users of its services of the exclusion from participation in the mandatory deposit guarantee scheme and the effects of such exclusion within one month of service of the exclusion decision on that entity.

2. . The information referred to in paragraph 4a shall be given, in a clear and comprehensible manner, in writing and in the manner in which information on the services provided is given, including by electronic means.

5. Information on the procedure and conditions for receiving a pecuniary benefit under the Act should be made available at the request of a person using or interested in using services of an entity covered by the guarantee scheme.

6. An account statement shall include information on whether the funds held therein are protected by the mandatory deposit guarantee scheme.

7. Information made available both to persons using and interested in using services of an entity covered by the mandatory deposit guarantee scheme should be communicated:

1) in a manner in which information is disclosed on the services provided, including by means of electronic

communication;

2) in writing if requested by a person using or interested in using services of an entity covered by the mandatory deposit guarantee scheme who received information on the services provided by means of electronic communication;

3) in a clear and comprehensible manner.

8. Information on participation in the mandatory deposit guarantee scheme may not be used for advertising purposes and should be limited to the information referred to in paragraph 1 and 4.

9. The prohibition referred to in paragraph 8 shall also apply to entities not participating in the mandatory deposit guarantee scheme.

10. The Minister competent for financial institutions shall determine, by way of a regulation, a sample form of the information sheet referred to in paragraph 3, for depositors, which provides basic information on the protection of funds held in an entity covered by the mandatory deposit guarantee scheme, taking into account information concerning the scope of protection, the date and currency of payment and in order to ensure adequate satisfaction of obligations by the entities covered by the mandatory deposit guarantee scheme.

Article 319. 1. Where an entity covered by the mandatory deposit guarantee scheme intends to introduce changes which will result in termination of membership in the mandatory deposit guarantee scheme and in joining another deposit guarantee scheme, the entity shall notify the Fund at least 6 months prior to the planned change of the system.

2. During the period from the date on which the notice was given to the date of termination of membership in the mandatory deposit guarantee scheme an entity covered by the scheme shall continue to perform the duties arising from the provisions of the Act.

Article 320. 1. Members of the Fund Council and members of the Management Board of the Fund, employees of the Office of the Fund and persons employed in the Fund under a specific work contract, a contract of mandate or other agreements of similar nature shall be bound to professional secrecy.

2. The professional secrecy referred to in paragraph 1 shall include all the information obtained or produced in connection with execution of the tasks of the Fund, whose unauthorised provision, disclosure or confirmation could violate the legally protected interests of the entities to which the information directly or indirectly pertains or hinder execution of the tasks of the Fund.

3. The duty referred to in paragraph 1 shall last after termination of the legal relationship referred to in paragraph 1.

4. Subject to paragraph 7–9, without prejudice to the duty referred to in paragraph 1, the Fund shall provide information to:

1) the Polish Financial Supervision Authority, the National Bank of Poland, the minister in charge of financial institutions, the minister in charge of the budget, the President of the Office of Competition and Consumer Protection, the Committee for Financial Stability, the Statistics Poland, Krajowa Izba Rozliczeniowa Spółka Akcyjna, the entity operating a securities clearing and settlement system, including Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna to the extent necessary to perform their statutory tasks or the statutory tasks of the Fund, or obligations set out by directly applicable provisions of the European Union law;

2) [38] institutions, authorities or organisational units of the European Union, competent authorities for resolution, competent authorities for resolution of third countries, competent authorities within the meaning of Article 4 paragraph 1 point 40 of Regulation No 575/2013, authorities of third countries responsible for performing functions comparable to those of the competent authorities within the meaning of Article 4 paragraph 1 point 40 of Regulation No 575/2013, persons, bodies and entities referred to in Article 73 paragraph 5 of Regulation No 2021/23, central banks, entities operating deposit guarantee schemes, entities operating compensation schemes, entities managing resolution funds, to the extent necessary for the conduct of their proceedings or the performance of their statutory tasks, the performance of the Fund's statutory tasks or the performance of their obligations under directly applicable provisions of European Union law;

3) judge-commissioner, court supervisor, receiver or administrator or liquidator of the entity under restructuring, to the extent necessary for the conduct of bankruptcy proceedings or liquidation of the entity under restructuring;

4) at the request of a court, public prosecutor, the Police, a bailiff or an administrative enforcement authority, in connection with the proceedings conducted by these authorities or the tasks carried out by them and to the extent necessary for their proper conduct or performance;

[38] As amended by Article 3 point 12 of the Act referred to in reference 2.

5) advocate or attorney-at-law further to provision of legal assistance to the Fund and to the extent necessary for the provision of this assistance;

6) entity interested in acquisition of the undertaking of an entity under restructuring, its selected or all property rights or selected or all liabilities or rights attached to shares thereof concerning this entity with a view to application of the instrument of acquisition of the undertaking and to the extent necessary for offering by this entity an acquisition price and for issuance and execution of the Fund's decision on the acquisition;

6a) an entity interested in acquiring shares in a bridge institution, a bridge institution's enterprise or its property rights or liabilities, to the extent necessary to conclude and implement agreements on the disposal of shares in a bridge institution, a bridge institution's enterprise or its property rights or liabilities;

6b) an entity assuming or acquiring shareholding rights on the basis of a decision of the Fund to apply government financial stabilisation instruments in accordance with the Act of 12 February 2010 on recapitalisation of certain institutions and government financial stabilisation instruments;

7) bridge institution or asset management vehicle within the scope of information concerning an entity under restructuring to the extent necessary for issuance and execution of the Fund's decision to use the instrument of a bridge institution or instrument of separation of property rights;

8) an entity interested in acquiring a credit union, its business, liabilities or property rights, to the extent necessary to conduct arrangements concerning the conditions and rules for the Fund's support for the restructuring of credit unions;

9) other persons or entities to whom the Fund intends to entrust or has entrusted the performance of activities in connection with the preparation or conduct of resolution, the payment of guaranteed funds, the restructuring of credit unions, the application of government financial stabilisation instruments pursuant to the Act of 12 February 2010 on the recapitalisation of certain institutions and government financial stabilisation instruments or other statutory tasks of the Fund, to the extent necessary to perform these activities or to the extent necessary to entrust their performance, including:

   a) The administrator, the deputy administrator or the attorney to the extent necessary for the exercise of their statutory rights and duties and arising from the Fund's decision to establish them, and candidates for these functions to the extent necessary for their establishment,

   b) the entity carrying out the valuation referred to in Article 137 paragraph 2 or Article 241, to the extent necessary to carry out the valuation or to update the valuation referred to in Article 19f paragraph 8 of the Act of 12 February 2010 on the recapitalisation of certain institutions and government financial stabilisation instruments, and the entity interested in carrying out the valuation, to the extent necessary to make an offer to carry it out and to order its execution,

   c) other entities in the case referred to in Article 96 paragraph 4 point 3, to the extent necessary for the selection of the acquiring entity or the issuing and implementation of the Fund's acquisition decision,

   d) persons or entities providing consultancy services to the Fund or providing services with regard to the keeping or closing of accounting ledgers of the entity under restructuring,

   e) entities referred to in Article 45 paragraph 1, to the extent necessary for the disbursement of guaranteed funds;

10) an auditing firm auditing the financial statements of the Fund on the basis of an agreement concluded with the Fund and to the extent necessary for the audit;

11) the entity managing the protection system referred to in Article 22d paragraph 1 point 2 of the Act on the functioning of co-operative banks, within the scope of information necessary to fulfil the purposes referred to in Article 22a paragraph 1 of that Act and the support referred to in Article 22a paragraph 1a of that Act, or the tasks of the body managing the protection system specified in Article 22i paragraph 1 points 3 and 4 and paragraph 1a of that Act;

12) the entity managing the protection system referred to in Article 130e paragraph 1 of the Banking Act, within the scope of information necessary to fulfil the purposes referred to in Article 130b paragraph 1 of that Act and the support referred to in Article 130b paragraph 2 of that Act, or the tasks of the body managing the protection system specified in Article 130k paragraph 1 points 3 and 4 and paragraph 2 of that Act.

5. Information provided or exchanged in accordance with paragraph 4 points 1, 2, 6, 8 and 9 may be communicated to other persons or entities only with the consent of the Fund, unless the communication is made in the course of the performance by those entities of competences or tasks laid down in the Act or in Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU of the European Parliament and of the Council and Regulations of the European Parliament and of the Council (EU) No 1093/2010 and (EU) No 648/2012 (OJ L 173, 12.06.2014, p. 190, as amended[39)] or if the transfer is made in summary or collective form such that individual institutions or entities cannot be identified.

6. Subject to paragraph 8-10, the filing of a notification of a suspected offence and the transmission of documents in addition to the notification shall not breach the obligation referred to in paragraph 1.

7. The information in the cases referred to in paragraph 4 point 5–11 may be disclosed on condition of its protection by an entity to which it has been entrusted.

8. The information constituting both the professional secrecy and bank secrecy, as well as the secrecy referred to in Article 9e of the Act on Cooperative Savings Credit Unions, or the secrecy referred to in Article 147 of the Act on Trading in Financial Instruments may be disclosed only in the manner and under the terms of sharing information constituting such secrecy.

9. Provision of the third country entities referred to in paragraph 4 points 1 and 2 with information constituting professional secrecy may take place only if protection of this information is provided at least equivalent to the protection stipulated in this Article.

10. The information constituting secrecy protected by law and obtained from the entities referred to in paragraph 4 points 1 and 2 may be disclosed only after obtaining the consent of these entities and for the purposes established in this consent.

11. Persons other than those referred to in paragraph 1 familiarised with the information constituting professional secrecy, in particular in the cases referred to in paragraph 4 and 8 shall be committed to observe professional secrecy, unless separate provisions provide for the obligation to continue providing such information.

Article 320a. The Fund may make information which is both a professional secret and a banking secret, the secret referred to in Article 9e of the Act on Cooperative Savings and Credit Unions, or the secret referred to in Article 147 of the Act on Trading in Financial Instruments, available to:

1) other entities in the case referred to in Article 96 paragraph 4 point 3, to the extent necessary for the selection of the acquiring entity or the issuing and implementation of the Fund's acquisition decision;

2) entity interested in acquisition of the undertaking of an entity under restructuring, its selected or all property rights or selected or all liabilities or rights attached to shares thereof concerning this entity with a view to application of the instrument of acquisition of the undertaking and to the extent necessary for offering by this entity an acquisition price;

3) the entity carrying out the valuation referred to in Article 137 paragraph 2 or Article 241, to the extent necessary to carry out the valuation or to update the valuation referred to in Article 19f paragraph 8 of the Act of 12 February 2010 on the recapitalisation of certain institutions and government financial stabilisation instruments;

4) persons or entities providing advisory services to the Fund, to the extent necessary for the proper provision of such services;

5) advocate or attorney-at-law in connection with the provision of legal assistance to the Fund, to the extent not necessary for the provision of that assistance;

6) bridge institution or asset management vehicle within the scope of information concerning an entity under restructuring to the extent necessary for issuance and execution of the Fund's decision to use the instrument of a bridge institution or instrument of separation of property rights;

7) the entity managing the protection system referred to in Article 22d paragraph 1 point 2 of the Act on the functioning of co-operative banks, within the scope of information necessary to fulfil the purposes referred to in Article 22a paragraph 1 of that Act and the support referred to in Article 22a paragraph 1a of that Act, or the tasks of the body managing the protection system specified in Article 22i paragraph 1 points 3 and 4 and paragraph 1a of that Act;

8) an entity interested in acquiring shares in a bridge institution, a bridge institution's enterprise or its property rights

[39] The amendments to the said Directive were announced in OJ L 349, 05.12.2014, p. 68 and OJ L 345, 27.12.2017, p. 96.

or liabilities, to the extent necessary to conclude and implement agreements on the disposal of shares in a bridge institution, a bridge institution's enterprise or its property rights or liabilities;

9) an entity assuming or acquiring shareholding rights on the basis of a decision of the Fund to apply government financial stabilisation instruments in accordance with the Act of 12 February 2010 on recapitalisation of certain institutions and government financial stabilisation instruments;

10) the entity managing the protection system referred to in Article 130e paragraph 1 of the Banking Act, within the scope of information necessary to fulfil the purposes referred to in Article 130b paragraph 1 of that Act and the support referred to in Article 130b paragraph 2 of that Act, or the tasks of the body managing the protection system specified in Article 130k paragraph 1 points 3 and 4 and paragraph 2 of that Act;

11) [40] persons, bodies and entities referred to in Article 73 paragraph 5 of Regulation No 2021/23, to the extent specified in that provision.

Article 321. The Fund may share information and effect mutual exchange of information protected under separate laws to the entities referred to in Article 320 paragraph 4 points 1, 2 and 7, to the extent necessary for ensuring cooperation in the implementation of the objectives and tasks of the Fund, and to the extent necessary to perform their statutorily defined tasks, in particular to ensure financial stability or to establish or verify due, potential or disputed benefits to depositors or in connection with the obligation of payment of the guarantee benefits.

Article 322. 1. Information concerning resolution can be shared under the provisions on access to public information following completion of resolution.

2. The restriction referred to in paragraph 1 shall not apply to information provided to the public under the Act.

Article 323. The duty to protect information shall not apply to information provided to the public in the manner provided for by law.

Article 324. In the case of non-performance or improper performance by an entity covered by the mandatory deposit guarantee scheme of the obligations referred to in Article 318 and Article 319, the Fund shall notify the Polish Financial Supervision Authority.

Article 325. 1.[41] The Fund shall be entitled to obtain information regarding the entities covered by the mandatory deposit guarantee system, branches of foreign banks, investment firms and entities referred to in Article 64 point 2 sub-point a-d, as well as the Central Counterparty, necessary for execution of its tasks, held by the National Bank of Poland, the Minister competent for financial institutions, the Polish Financial Supervision Authority and the Supreme Audit Office.

2. [42] The Fund may use the obtained information with a view to developing analyses and forecasts for the banking sector, the sector of investment firms, the sector of credit unions or individual entities covered by the mandatory deposit guarantee scheme, as well as investment firms and the Central Counterparty.

3. Information referred to in paragraph 1 may not be disclosed by the Fund in cases other than those provided for by the Act.

4. Analyses and forecasts referred to in paragraph 2 may be published in a form which ensures protection of information and may be disclosed to the concerned entities.

Article 326. 1. The Polish Financial Supervision Authority shall provide the Fund with the information on the entities referred to in Article 64 points 1 and 2, the entities covered by the mandatory deposit guarantee scheme and branches of foreign banks, as well as the Central Counterparty necessary to perform the tasks of the Fund, in particular information concerning:[43]

1) their economic and financial situation;

2) their commitment to implement a recovery plan or to develop a programme of recovery proceedings, on receiving information on their loss, the threat of its occurrence and emergence of the danger of their insolvency or illiquidity, and on actions taken in such a case towards these entities;

3) measures of early intervention or appointment of a conservator or conservatorship in these entities;

4) consent to conclude an agreement on financial support referred to in Article 141t of the Banking Act or in Article 110zr paragraph 1 of the Act on Trading in Financial Instruments and the terms of this agreement;

5) financial support granted under the agreement referred to in point 4 and other forms of liquidity or capital support

[40] Added by Article 3 point 13 of the Act referred to in reference 2.
[41] As amended by Article 3 point 14 sub-point a of the Act referred to in reference 2.
[42] As amended by Article 3 point 14 sub-point b of the Act referred to in reference 2.
[43] Introduction to the enumeration with the change introduced by Article 3 point 15 sub-point a of the Act referred to in reference 2.

granted to them;

6) occurrence of circumstances other than those listed in points 2–5 which could result in arising of liabilities of the Fund in particular towards depositors in respect of the guaranteed funds or a threat of bankruptcy of an entity;

7) necessary to develop a resolution plan;

8) significant organisational or legal change or occurrence of another event affecting the assumptions adopted in the resolution plan and execution thereof.

2. In the cases referred to in paragraph 1, points 2, 3, 5 and 6, the Polish Financial Supervision Authority shall provide the Fund also with the information on the results of inspections conducted in an entity, recommendations issued, measures which have been taken to remove irregularities identified in the framework of supervision and their implementation by the entity.

3. The Polish Financial Supervision Authority shall provide the Fund with the information to the extent specified in paragraph 2 also when the inspections have been conducted by the National Association of Credit Unions, an affiliating bank or other authorised institutions.

4. The Polish Financial Supervision Authority shall provide the Fund with the information on the measures of early intervention or the appointment of a conservator in entities of a group of which an entity is a part and on their financial situation.

5. The Polish Financial Supervision Authority shall provide the Fund with the reporting information:

1) obtained from credit unions and the National Association of Credit Unions on the basis of regulations issued pursuant to Article 62c paragraph 4 of the Act on Cooperative Savings and Credit Unions;

2) obtained from investment firms on the basis of regulations issued pursuant to Article 94 paragraph 1 point 4 and paragraph 2 of the Act on Trading in Financial Instruments and Regulation No 575/2013.

6. The Polish Financial Supervision Authority provides the Fund with the following information:

1) [44] annual financial statements of banks and branches of foreign banks, investment firms and entities referred to in Article 64 point 2 sub-point a–d, as well as the Central Counterparty, with the auditor's opinion enclosed, within 30 days from the date of their receipt;

2) [45] analyses on the functioning of the banking sector, the sector of investment firms and the sector of credit unions, as well as the Central Counterparty.

3) 46 information on developments affecting the risk management of the Central Counterparty, in particular ownership, organisational and legal changes, as well as the results of the review and evaluation of the Central Counterparty carried out in accordance with Article 21 of Regulation 648/2012.

Article 327. 1. The Fund and the National Bank of Poland shall exchange information to the extent necessary to perform their statutorily defined tasks.

2. The information referred to in paragraph 1 may constitute classified information within the meaning of provisions on the protection of classified information. Transfer of classified information shall be effected under the conditions and the procedure specified in the Act of 5 August 2010 on Classified Information Protection (Journal of Laws 2023, item 756, 1030 and 1532).

Article 328. 1. In order to determine the principles of cooperation and transfer of information, the Fund may enter into agreements on cooperation and exchange or transfer of information specifying in particular the principles of cooperation, the scope of the exchange or transfer of information and the principles of protection of such information.

2. Subject matter, scope, procedure and deadlines for providing the information referred to in Article 99a paragraph 1 and 3, Article 325 paragraph 1, Article 326 and Article 327 paragraph 1 shall be determined by separate agreements concluded between the Fund and the President of the National Bank of Poland, the Minister competent for financial institutions and the President of the Supreme Audit Office, as well as the agreement on cooperation and exchange of information between the Fund and the Polish Financial Supervision Authority, referred to in Article 17 of the Act of 21 July 2006 on the Financial Market Supervision.

3. With a view to coordination of cooperation in execution of the tasks specified in the Act, the agreement on cooperation and exchange of information concluded between the Fund and the Polish Financial Supervision Authority

[44] As amended by Article 3 point 15 sub-point b first indent of the Act referred to in reference 2.
[45] As amended by Article 3 point 15 sub-point b second indent of the Act referred to in reference 2.
[46] Added by Article 3 point 15 sub-point b third indent of the Act referred to in reference 2.

shall define in particular:

1) detailed scope of the information transferred and the rules for its protection;

2) procedure and deadlines for the transfer of information;

3) detailed rules for the participation of employees of the Fund in inspection activities in the bridge institution undertaken by employees of the Polish Financial Supervision Authority, referred to in Article 133 paragraph 3 of the Banking Act and Article 26 paragraph 1 of the Act of 29 July 2005 on the Capital Market Supervision;

4) principles of coordination of actions undertaken towards an entity in order to prepare resolution.

Article 329. 1. The Fund shall enter into a non-binding agreement with a competent authority of a third country in accordance with the framework agreement concluded by the European Banking Authority with a competent authority of a third country.

2. The agreement referred to in paragraph 1 may specify:

1) principles of exchange of information necessary for development and updating resolution plans and group resolution plans;

2) principles of cooperation in the development of resolution plans and group resolution plans, including the principles of undertaking actions following decisions referred to in Article 101 paragraph 7 and Article 248 paragraph 1, or similar activities referred to in the law of a third country;

3) principles of early notification of the parties to the agreement or consultation with the parties to such an agreement before taking significant steps within the framework of resolution or similar proceedings under the law of a third country, affecting the entities or groups concerned by such an agreement;

4) principles of coordination in terms of informing the public in the case of joint actions within the framework of resolution;

5) procedures for exchange of information and cooperation to the extent specified in point 1–4, including the procedures and rules for appointment and operation of groups of crisis management.

3. The Fund shall forthwith notify the European Banking Authority of entrance into the agreement referred to in paragraph 1.

Article 330. 1. [47] The Fund may obtain directly from an entity the information necessary for the performance of the tasks of the Fund, in particular the information necessary to perform the valuation referred to in Article 137 paragraph 1, as well as the valuation referred to in Article 24 of Regulation No 2021/23, and the preparation of a resolution of the Central Counterparty, and request an explanation of the information obtained in the event that such an entity is obliged to implement a recovery plan, to take early intervention measures with regard to it or to establish a management board or a receiver.

2. In the case referred to in paragraph 1, the Fund shall be also vested with the right to obtain the information specified therein from a national parent entity, towards which an entity is a subsidiary.

3. The entities covered by the mandatory deposit guarantee scheme, branches of foreign banks, investment firms and the entities referred to in Article 64 point 2 sub-point a–d shall be committed to provide the Fund with information other than the information transferred to the National Bank of Poland and the Polish Financial Supervision Authority, necessary to perform the tasks of the Fund, in particular:

1) information on the value of receivables and the funds guaranteed by the Fund;

2) data and information necessary for calculation of mandatory contributions, including in the case of banks and investment firms in accordance with Regulation No 2015/63.

3a. Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna, the company to which Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna has delegated the performance of the tasks referred to in Article 48 paragraph 1 points 1-6 of the Act on Trading in Financial Instruments, and the participants of Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or that company shall provide the Fund, within the period indicated by the Fund, with the necessary information for the performance of the Fund's statutory tasks:

1) information on the number of securities recorded in the securities accounts and omnibus accounts maintained by these entities, as at the date indicated by the Fund;

2) data making it possible to identify authorised persons from securities indicated in the Fund's decision on the initiation

[47] As amended by Article 3 point 16 of the Act referred to in reference 2.

of resolution or on the write down or conversion of capital instruments of the entity under restructuring, or on the write down or conversion of liabilities of the entity under restructuring, as well as the number of such securities held by such persons, as at the date of write down or conversion specified in that decision.

3b. Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna or the company referred to in paragraph 3a shall provide the Fund, within the timeframe indicated by the Fund, with information necessary to perform the statutory tasks of the Fund, in particular information enabling the identification of participants holding securities accounts or omnibus accounts on which, as at a given date, securities indicated by the Fund were deposited.

4. In the case of cooperative banks affiliated to other banks, the information referred to in paragraph 3, relating to individual banks, is provided to the Fund by the affiliating banks.

5. In the case of credit unions, the information referred to in paragraph 3, relating to individual credit unions, is provided to the Fund by the National Association of Credit Unions.

6. Following the consultation with the Fund, the Minister competent for financial institutions, shall determine, by way of a regulation, the detailed scope, manner and time for transmission of the information referred to in paragraph 1 and 2 and a method of verification of the correctness of the information provided, having regard to the necessity of the proper execution of the tasks of the Fund.

7. Following the consultation with the Fund, the Minister competent for financial institutions shall determine, by way of a regulation, the detailed scope, manner and time for transmission of the information referred to in paragraph 3, having regard to the necessity of the proper execution of the tasks of the Fund.

8. The Council of the Fund may, by resolution, taking into account the limited negative impact that the bankruptcy of a national entity or the bankruptcy of certain types of entities could have on the financial situation of other entities and the stability of the financial market and the economy, specify a list of entities in relation to which the Fund will not exercise the power referred to in paragraph 1, or limit the scope of information required from such entities, provided that such entities are not significant entities or have not been identified or recognised as a global systemically important institution or other systemically important institution in accordance with the provisions of the Act on Macro-Prudential Supervision.

9. Members of the Board of the Fund, may provide information obtained in connection with their participation in the work of the Fund, including information protected under separate acts, to employees of the National Bank of Poland, employees of the Polish Financial Supervision Authority, employees of the office serving the minister responsible for financial institutions, to the extent necessary for the preparation of opinions or positions directly related to the work of the Fund.

10. Employees referred to in paragraph 9 may not disclose information provided by members of the Fund Council. This obligation continues even after the termination of the employment relationship.

Article 331. By 31 March, the Fund shall provide the European Banking Authority with the information on the total guaranteed funds in the entities covered by the mandatory deposit guarantee scheme and on the funds available to the Fund as of the end of the preceding year.

Article 331a. Correspondence between the Fund and the entities operating deposit guarantee schemes and their associations, the competent resolution authorities, the competent resolution authorities of a third party, the competent supervisory authorities of a Member State or a third country, the European Commission and the members of the European System of Financial Supervision may be conducted in an official language of the European Union other than Polish. Documents transmitted in that correspondence, including declarations of intent, do not need to be translated into Polish.

DIVISION VII

Provisions of the criminal law and provisions on pecuniary penalties

Article 332. 1. Whoever, being a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, gives rise to the loss for the Fund as a result of the fact that the entity has failed to separate and invest funds corresponding to payment commitments in the manner referred to in Article 304 paragraph 1,

shall be liable to a fine, restriction of freedom or imprisonment from 3 months to 5 years.

2. Whoever, being a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, gives rise to the loss for the Fund as a result of encumbering the funds referred to in paragraph 1, shall be liable to the same penalty.

Article 333. Whoever, being a member of a management board or a supervisory board of an entity covered by the mandatory deposit guarantee scheme, a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, gives rise to the loss for the Fund as a result of failure to pay the mandatory contributions by this entity, referred to in Article 286 paragraph 2 or 3 or Article 295 paragraph 2 or 4, or the extraordinary contributions referred to in Article 291 paragraph 1, Article 292 paragraph 1, Article 299 paragraph 1 or Article 300 paragraph 1, or to pay these contributions in an adequate amount despite the fact that this entity has possessed funds sufficient to pay these contributions,

shall be liable to a fine, restriction of freedom or imprisonment from 3 months to 5 years.

Article 334. 1. Whoever, being a member of a management board or a supervisory board of a bank covered by the mandatory deposit guarantee scheme, an administrative organ of a European company or a member of the management board or supervisory board of a credit union covered by the guarantee scheme or a member of a management board or a supervisory board of an affiliating bank or a member of the management board or supervisory board of the National Association of Credit Unions committed to disclose to the Fund information relating to an entity covered by the mandatory deposit guarantee scheme or its depositors to the extent specified in the Act, provides false information or conceals the true data

shall be liable to a fine, restriction of freedom or imprisonment for up to 2 years.

2. Whoever fails to provide the information referred to in Article 85, Article 86 paragraph 1 and Article 88 paragraph 1 shall be liable to the same penalty.

3. Whoever, being committed under Article 118 paragraph 1, fails to surrender all assets or documents of an entity under restructuring to the Fund shall be liable to the same penalty.

4. Whoever, being responsible for ensuring the adequate operation of the internal control of data and information required to the extent specified in the Act or for provision of information and explanations at the request of the Fund, fails to perform this obligation or performs it untimely shall be liable to the same penalty.

5. Whoever, while exercising supervision in accordance with Article 9a paragraph 2 of the Banking Act, Article 212 paragraph 1, Article 213 paragraph 1 or Article 382 paragraph 1 of the Code of Commercial Companies or Article 44 of the Act of 16 September 1982 – the Cooperative Law fails to enforce completion by a management board of a bank, investment firm or a credit union of the duty to notify the Polish Financial Supervision Authority of fulfilment of the conditions to initiate resolution in accordance with Article 157f paragraph 3 of the Banking Act or Article 110zzh paragraph 3 of the Act on Trading in Financial Instruments, or effects it in an unreliable or untimely manner shall be liable to the same penalty.

6. The same penalty shall also be imposed on a person who:

1) does not fulfil their obligation to notify the Polish Financial Supervision Authority of the fulfilment of the prerequisites for the initiation of resolution pursuant to Article 157f paragraph 3 of the Banking Act or 110zzh paragraph 3 of the Act on Trading in Financial Instruments, or performs it unreliably or untimely;

2) fails to fulfil the obligations referred to in Article 110zj paragraphs 1 and 7, Article 110zk paragraph 1, Article 110zl paragraph 1, Article 110zm paragraph 1 and Article 110zx paragraph 1 of the Act on Trading in Financial Instruments or Article 141m paragraphs 1, 4 and 5, Article 141n paragraph 1 and Article 141v paragraph 7 point 1 of the Banking Act;

3) does not fulfil the obligation incumbent on it to prepare or present to the Fund financial statements or other reports and information related to the preparation and implementation of resolution, or performs it unreliably or untimely.

7. The same penalty shall also be imposed on a person who:

1) does not perform the obligation incumbent on them referred to in Article 140 paragraph 5;

2) fails to provide the information referred to in Article 330 paragraph 1.

Article 335. 1. The Polish Financial Supervision Authority may, by way of a decision, impose a fine up to the amount of EUR 5,000,000 on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank who fails to perform the obligation to notify the Polish Financial Supervision Authority of fulfilment of the conditions to initiate resolution in accordance with Article 157f paragraph 3 of the Banking Act or Article 110zzh paragraph 3 of the Act on Trading in Financial Instruments, or effects it in an unreliable or untimely manner.

1a. If it is possible to determine the amount of benefits obtained as a result of non-performance or unreliable or untimely performance of the obligations referred to in paragraph 1 by the persons referred to in that provision, the Polish Financial Supervision Authority may impose on such persons a financial penalty referred to in paragraph 1, up to the

amount of twice the amount of the benefits obtained.

2. The Polish Financial Supervision Authority may, by way of a decision, impose a fine up to the amount of EUR 5,000,000 on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, who fails to perform the obligations referred to in Article 110zj paragraph 1 and 7, Article 110zk paragraph 1, Article 110zl paragraph 1, Article 110zm paragraph 1 and Article 110zx paragraph 1 of the Act on Trading in Financial Instruments or Article 141m paragraph 1, 4 and 5, Article 141n paragraph 1 and Article 141v paragraph 7 point 1 of the Banking Act.

2a. If it is possible to determine the amount of benefits obtained as a result of non-compliance with the obligations referred to in paragraph 2 by the persons referred to in that provision, the Polish Financial Supervision Authority may impose on such persons a financial penalty referred to in paragraph 2, up to the amount of twice the amount of the benefits obtained.

3. While issuing the decision referred to in paragraph 1 and 2, the Polish Financial Supervision Authority shall consider:

1) gravity of the infringement and its duration;

2) reasons for the infringement;

3) financial situation of a fined person;

4) willingness of the person responsible for the infringement to cooperate with the Polish Financial Supervision Authority and

5) prior violations of the law regulating the operation of the financial market committed by the person responsible for the infringement.

Article 336. 1. The Fund may, by way of a decision, impose a fine up to the amount of EUR 5,000,000 on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank who fails to perform the obligation to prepare or present to the Fund a financial statement or other reports and information related to preparation and conduct of resolution, or effects it in an unreliable or untimely manner.

1a. If it is possible to determine the amount of benefits obtained as a result of non-performance or unreliable or untimely performance of the obligations referred to in paragraph 1 by the persons referred to in that provision, the Fund may impose on such persons a financial penalty referred to in paragraph 1, up to the amount of twice the amount of the benefits obtained.

2. While issuing a decision referred to in paragraph 1, the Fund shall consider:

1) gravity of the infringement and its duration;

2) reasons for the infringement;

3) financial situation of a fined person;

4) willingness of the person responsible for the infringement to cooperate with the Fund and

5) prior violations of the law regulating the operation of the financial market committed by the person responsible for the infringement.

Article 337. In the decision to impose the penalty referred to in Article 335 and Article 336 the obligation may be imposed on a member of a management board or a supervisory board of a domestic entity, an administrative organ of a European company or a director of a branch of a foreign bank, to discontinue certain action or refrain from such an action in the future.

Article 337a. 1. The Fund may, by way of a decision, after consulting the Polish Financial Supervision Authority, in the event of a breach by a domestic entity or an entity referred to in Article 64 point 2 sub-point b–d of the minimum level of own funds and eligible liabilities referred to in Article 97 and Article 98, impose a financial penalty:

1) on the domestic entity or the entity referred to in Article 64 point 2 sub-point b-d, up to:

   a) 10% of the revenue shown in the last audited financial statements of that entity, and in the absence of such statements – a fine of up to 10% of the projected revenue as determined on the basis of the entity's economic and financial situation, but not exceeding PLN 100,000,000, or

   b) twice the amount of the benefits obtained by the domestic entity or the entity referred to in Article 64 point 2 sub-point b–d as a result of breaching the minimum level of own funds and eligible liabilities referred to in Article 97 and Article 98 – if it is possible to determine the amount of benefits obtained;

2) on a member of the Management Board or Supervisory Board of a domestic entity, an administrative body of a

European company or a director of a branch of a foreign bank who violates the minimum level of own funds and eligible liabilities referred to in Article 97 and Article 98 – up to EUR 5,000,000, and if it is possible to determine the amount of benefits obtained by such persons – up to twice the amount of the benefits obtained.

2. Notwithstanding the imposition of the fines referred to in paragraph 1, the Fund may, after consultation with the Polish Financial Supervision Authority:

1) by way of a decision, prohibit the distribution of profits in excess of the maximum amount payable in the manner referred to in Article 96a;

2) order the removal of circumstances preventing or hindering the execution of a compulsory restructuring in the manner referred to in Articles 91–95.

3. In the event that the measures referred to in paragraphs 1 and 2 would not lead to the cessation of the breach by the domestic entity or the entity referred to in Article 64 point 2 sub-point b–d of the minimum level of own funds and eligible liabilities referred to in Article 97 and Article 98, the Fund shall inform the Polish Financial Supervision Authority, which may apply:

1) supervisory measures in accordance with Article 138 of the Banking Act;

2) early intervention measures pursuant to Article 142, Article 142a and Articles 144–146a of the Banking Act;

3) supervisory measures pursuant to Article 71 paragraph 2 of the Act on Cooperative Savings and Credit Unions;

4) supervisory measures pursuant to Article 110y of the Act on Trading in Financial Instruments;

5) early intervention measures pursuant to Article 110zz of the Act on Trading in Financial Instruments.

4. When issuing the decision referred to in paragraph 1 or applying the measures referred to in paragraph 2, the Fund shall take into account:

1) gravity of the infringement and its duration;

2) reasons for the infringement;

3) financial situation of a fined person;

4) willingness of the person responsible for the infringement to cooperate with the Fund;

5) prior violations of financial market regulations committed by the person responsible for the infringement.

6) amount of profits made or losses avoided as a result of the infringement, if it is possible to determine them;

7) losses suffered by third parties as a result of the infringement, if it is possible to determine them;

8) degree of cooperation of the person responsible for the infringement with the Fund;

9) previous infringements committed by the person responsible for the infringement;

10) potential systemic effects of the infringement.

5. The claims derived from the decision to impose a fine shall be enforced in the manner specified in the provisions on administrative enforcement proceedings.

Article 337b. [48] 1. In the event of an infringement of the obligations of cooperation and provision of information referred to in Article 13 of Regulation No 2021/23, the Fund may, by decision:

1) make public information identifying the natural person, Central Counterparty or other legal entity responsible for the infringement, as well as indicating the nature of the infringement;

2) order the natural person, Central Counterparty or other legal entity responsible for the infringement to cease the conduct resulting in the infringement and to refrain from such conduct in the future;

3) temporarily prohibit the natural person responsible for the infringement from acting as a member of the Central Counterparty's body or in a managerial capacity of the Central Counterparty;

4) impose a fine on the natural person responsible for the infringement of up to:

   a) PLN 22,500,000 or

   b) twice the amount of the benefits gained or losses avoided as a result of the infringement – if it is possible to determine them;

5) impose on the Central Counterparty or other legal entity responsible for the infringement a pecuniary penalty of up

[48] Added by Article 3 point 17 of the Act referred to in reference 2.

to:

a) 10% of the revenue shown in the last audited financial statements or, in the absence of such statements, up to 10% of the projected revenue as determined on the basis of the economic and financial situation of that Central Counterparty or other legal entity, or

b) twice the amount of the benefits gained or losses avoided as a result of the infringement – if it is possible to determine them;

2. If a Central Counterparty or another legal entity referred to in paragraph 1 point 5 is a subsidiary, the calculation of revenue shall take into account the revenue resulting from the consolidated financial statements of the ultimate parent company as shown in the most recent audited financial statements or, in the absence of such statements, the projected revenue determined on the basis of the economic and financial situation of that parent company.

3. In making the decision referred to in paragraph 1, the Fund shall take into account the circumstances referred to in Article 85 of Regulation 2021/23.

4. Enforcement of receivables arising from a decision on imposing a pecuniary penalty referred to in paragraph 1 points 4 and 5 shall be carried out in accordance with the procedure laid down in the provisions on enforcement proceedings in administration.

Art. 337c.[48] In the case referred to in Article 337b paragraph 1, the Fund shall immediately make public information, in particular through publication on its website, about the content of the decision and the type and nature of the infringement, the first name and surname of the natural person or the company (name) of the entity on which the sanction has been imposed, in accordance with Article 83 of Regulation No 2021/23.

Article 338. 1. In the cases referred to in Article 335, the Polish Financial Supervision Authority may, by way of a decision, impose a pecuniary penalty on an entity managed by these persons, of up to 10% of the revenue reported in the latest audited financial statement, and in the absence of such a statement – a fine of up to 10% of the projected revenue determined on the basis of the economic and financial situation of the entity, however not higher than PLN 100,000,000.

1a. If it is possible to determine the amount of the benefits obtained as a result of the non-performance of the obligations referred to in Article 335 paragraphs 1 and 2 by an entity managed by persons referred to in those provisions, the Polish Financial Supervision Authority may impose on such persons a financial penalty referred to in paragraph 1, up to the amount of twice the amount of the benefits obtained.

2. While issuing the decision referred to in paragraph 1, the Polish Financial Supervision Authority shall consider:

1) gravity of the infringement and its duration;

2) reasons for the infringement;

3) financial situation of a fined entity and

4) prior violations of the law regulating the operation of the financial market.

Article 338a.[49] Proceeds from fines referred to in Article 335, Article 336, Article 337a, Article 337b paragraph 1 points 4 and 5 and Article 338 shall constitute income to the state budget.

Article 339. 1. In the event of a decision to impose a financial penalty referred to in Article 79 paragraph 1, Article 95 paragraph 6, Article 175 paragraph 6, Article 335, Article 336 and Article 338, the Polish Financial Supervision Authority or the Fund, as the case may be, shall immediately inform the European Banking Authority of the imposition of the financial penalty and, if a request for reconsideration or a complaint to an administrative court has been lodged against the decision, also of the lodging of the request for reconsideration or complaint to an administrative court and of the outcome of the proceedings before the reconsidering authority or the administrative court.

2. If the decision to impose the penalty referred to in Article 79 paragraph 1, Article 95 paragraph 6, Article 175 paragraph 6, Article 335, Article 336 and Article 338 is final, the Polish Financial Supervision Authority or the Fund, as appropriate, shall immediately post on its website information about the imposition of the penalty, including the type and nature of the breach of the law, together with an indication of the first name and surname of the person or the name (firm) of the entity on which the penalty has been imposed.

3. The Polish Financial Supervision Authority or the Fund, as the case may be, shall publish the information on the imposition of a penalty referred to in paragraph 2 in an anonymised form in the event that:

1) the penalty has been imposed on an individual and the disclosure of their first name and surname would be a measure disproportionate to the gravity of the infringement committed;

2) disclosure of the entity's name or the person’s first name and surname would threaten the stability of the financial

[49] As amended by Article 3 point 18 of the Act referred to in reference 2.

markets or jeopardise ongoing criminal proceedings or proceedings for fiscal offences;

3) disclosure of the name of an entity or the first name and surname of a person would cause disproportionate damage to that person or entity.

4. The Polish Financial Supervision Authority or the Fund, as the case may be, may supplement the information on the imposition of a penalty with the name (business name) of an entity or the first name and surname of a person if the reasons set out in paragraph 3 points 1-3 have ceased to exist. The supplementation shall not be made after one year from the date of publication.

5. The information referred to in paragraph 2 shall be available on the website of the Polish Financial Supervision Authority or the Fund, respectively, for a period of 5 years from the date of publication, except that the indication of the first name and surname of the person on whom the penalty has been imposed shall be available for a period not exceeding one year.

Article 340. In the cases referred to in Article 335 and Article 336 and Article 337a amounts in EUR shall be converted into PLN as per the average exchange rate announced by the National Bank of Poland on the last working day preceding issuance of the decision to impose a pecuniary penalty.

DIVISION VIII

Amendments to regulations

Articles 341-368. (omitted)

DIVISION IX

Episodic, transitory, adjusting and final provisions

Chapter 1

Episodic provisions

Part 1

Guaranteed deposit protection fund

Article 369. 1. The entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b shall create and maintain the guaranteed deposit protection fund to satisfy claims of depositors in the case of fulfilment of the guarantee condition towards any of them, until 31 December 2024.

2. The amount of the guaranteed deposit protection fund in the following year shall be determined no later than the end of the preceding calendar year as the product of multiplication of the total sum of funds collected in a bank in all accounts being the basis for computation of the amount of the minimum reserve in accordance with Article 38 paragraph 2 of the Act of 29 August 1997 on the National Bank of Poland for October and the rate determined by the Fund Council at the request of the Management Board of the Fund amounting up to:

1) 0.55% – for the guaranteed deposit protection fund created for 2017;

2) 0.5% – for the guaranteed deposit protection fund created for 2018;

3) 0.45% – for the guaranteed deposit protection fund created for 2019;

4) 0.4% – for the guaranteed deposit protection fund created for 2020;

5) 0.35% – for the guaranteed deposit protection fund created for 2021;

6) 0.3% – for the guaranteed deposit protection fund created for 2022;

7) 0.25% – for the guaranteed deposit protection fund created for 2023;

8) 0.2% – for the guaranteed deposit protection fund created for 2024;

3. While fixing the rate determining the amount of the guaranteed deposit protection fund referred to in paragraph 2, the Fund Council shall take into account in particular the amount of funds of the deposit guarantee scheme for banks, held in the form of the payment commitments referred to in Article 303 paragraph 1 of banks or branches of foreign banks covered by the mandatory guarantee scheme.

4. The guaranteed deposit protection fund is created on the last reporting day of the month in which the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-point a and b was awarded a permit to commence business, and in the case of a domestic bank established pursuant to Article 42a paragraph 1 of the Banking Act - on the last reporting day of the month in which the bank was registered in the register of companies. In the above cases, the guaranteed deposit protection fund shall be created on the basis of the amount of funds referred to in paragraph 2 for the month in which a permit to commence business was awarded or the bank was registered in the register of companies.

5. The guaranteed deposit protection fund shall not be created for assets derived from issuance of mortgage bonds and public bonds.

6. The guaranteed deposit protection fund shall be increased or decreased on 1 July each year, *pro rata* to the amount referred to in paragraph 2, being the basis for computation of the amount of the minimum reserve for April of each year. On the day of fulfilment of the guarantee condition, the entity covered by the guarantee scheme shall be exempt from the duty to create the guaranteed deposit protection fund and change its amount.

7. The entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b are required to:

1) invest assets covering the guaranteed deposit protection fund in:

   a) treasury securities,

   b) money bills of the National Bank of Poland and bonds issued by the National Bank of Poland – if these can be traded,

   c) participation units of money market funds;

2) deposit the assets referred to in point 1 sub-point 1 a and b in a separate account for each entity in:

   a) National Bank of Poland,

   b) Krajowy Depozyt Papierów Wartościowych Spółka Akcyjna,

   c) entity operating securities' accounts and cash accounts used to operate them

   d) and in the absence of this option – invest these assets in an interest-bearing current account in the National Bank of Poland.

8. Cooperative banks affiliated with the affiliating banks are required to deposit assets covering the guaranteed deposit protection fund of an association in a separate account in an affiliating bank.

9. The entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b shall provide the Management Board of the Fund with the information on the amount of deposits covered by the mandatory deposit guarantee scheme and the sum of the guaranteed deposit protection fund on the following dates:

1) by 15 December each year, in the amount in accordance with paragraph 2,

2) by 15 June each year, in the amount constituting the basis for computation of the amount of the minimum reserve for April

– in the form of the template prescribed by the Management Board of the Fund.

10. In the case of cooperative banks affiliated with affiliating banks, the latter perform the duties stipulated in paragraph 9.

11. In the case of fulfilment of the guarantee condition towards the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b in the period from 1 January 2017 until 31 December 2024 the Fund shall make payment of the guaranteed funds from the financial resources of the guaranteed deposit protection funds, following exhaustion of the funds referred to in Article 56.

12. In the case referred to in paragraph 11, the Fund shall call on the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-point a and b towards which guarantee condition has been fulfilled to transfer sums from the guaranteed deposit protection fund in the amount of the difference between the amount of the liability of the Fund in respect of the payment of the guaranteed funds and the amount of funds referred to in Article 56.

13. Where the amount transferred in accordance with paragraph 12 is insufficient to cover the liability of the Fund in respect of the payment of the guaranteed funds, the Fund shall notify the entities covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b, by an announcement in a daily newspaper of nationwide circulation of the duty to contribute for the benefit of the Fund the amounts allocated for the payment of the guaranteed funds (the total amount of the mandatory payment of the entities covered by the guarantee scheme), in the amount of the difference between the amount of the liability of the Fund in respect of the payment of the guaranteed funds and the amount of the funds referred to in Article 56, and the funds transferred in accordance with paragraph 12. In the notification the Fund shall indicate a bank account to which the payments are to be made, and the transfer title. The affiliating banks shall contribute payments to which the cooperative banks affiliated with the affiliating banks are required on behalf of those

banks.

14. The amount to be contributed by the entity covered the guarantee scheme referred to in Article 2 point 41 sub-points a and b (the mandatory contribution of an entity covered by the guarantee scheme) shall be determined as the amount being in such a proportion to the total amount of the mandatory contribution of the entities covered by the guarantee scheme as the proportion of the amount of the guaranteed deposit protection fund of an entity covered by the guarantee scheme to the amount of the sum of the guaranteed deposit protection funds of all entities covered by the guarantee scheme, excluding the entity towards which fulfilment of the guarantee condition occurred.

15. The funds derived from mandatory contributions of the entities covered by the guarantee scheme shall become the property of the Fund.

16. On the day following the day of making the mandatory contribution of an entity covered by the guarantee scheme, the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b shall reduce the guaranteed deposit protection fund by the value corresponding to the contribution payment.

17. The mandatory contribution of an entity covered by the guarantee scheme shall be tax deductible for the entity within the meaning of the Act of 15 February 1992 on Corporate Income Tax (Journal of Laws 2023, item 2805).

18. The assets covering the guaranteed deposit protection fund must not be pledged or be encumbered in any way and are not subject to court or administrative enforcement.

19. The assets which accounted for the guaranteed deposit protection fund of the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b towards which the guarantee condition has been fulfilled shall not fall within the bankruptcy estate or arrangement proceedings' estate of an entity covered by the guarantee scheme.

20. In the event that the cash constituting the basis for calculating the amount of minimum reserves referred to in paragraph 2 is transferred to another entity or a bridge institution as a result of a resolution instrument, the entity being restructured shall create, amend and maintain a fund for the protection of guaranteed funds in proportion to the amount of the cash constituting the basis for the creation or amendment of the fund remaining in that entity on the date specified in the decision on which the transfer takes place.

Part 2

Penal provision

Article 370. 1. Whoever, being a member of the management board or supervisory board of the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b causes a loss for the Fund as a result of the fact that the entity has failed to create the guaranteed deposit protection fund or has failed to create it in the adequate amount or the assets intended for the guaranteed deposit protection fund have not been invested in Treasury securities or money bills of the National Bank of Poland nor deposited in the manner referred to in Article 369 paragraph 7 and 8,

shall be liable to a fine, restriction of freedom or imprisonment for up to 2 years.

2. A member of the management board or supervisory board of the entity covered by the guarantee scheme referred to in Article 2 point 41 sub-points a and b who causes a loss for the Fund, encumbering the assets covering the guaranteed deposit protection fund with the rights of third parties shall be liable to the same penalty.

Chapter 2

Transitory and adjusting provisions

Article 371. 1. At the date of entry into force of this Act, the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become the Fund.

2. At the date of entry into force of this Act:

1) financial plan and the activity plan of the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become the financial plan and activity plan of the Fund;

2) receivables and liabilities of the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become receivables and liabilities of the Fund;

3) employees of the Bank Guarantee Fund operating under the Act repealed in Article 388 shall become employees of the Fund; the provision of Article 23^1 of the Labour Code shall apply accordingly;

4) membership of the persons referred to in Article 6 paragraph 4 point 4 of the Act repealed in Article 388 in the Fund Council shall expire.

Article 372. At the date of entry into force of this Act, in the Fund:

1) assistance fund, stabilisation fund, reserve fund and fund of recoveries from bankruptcy estates shall be liquidated;

2) guarantee fund of banks shall be increased by the value of the assistance fund and the fund of recoveries from

bankruptcy estates;

3) resolution fund of banks shall be increased by the value of the stabilisation fund and the reserve fund;

4) financial resources of the guarantee fund of credit unions created under the Act repealed in Article 388 shall be counted towards the guarantee fund of credit unions.

Article 373. 1. The hitherto effective provisions shall apply to financial assistance granted to the banks covered by the guarantee scheme under the provisions of the Act amended in Article 351[50] and the Act repealed in Article 388.

2. At the date of termination of an agreement on financial assistance to banks or reimbursement of financial assistance granted to banks under the provisions of the Act repealed in Article 388 funds obtained in this respect shall increase the resolution fund of banks.

3. The provision of paragraph 2 shall not apply to the funds obtained under financial assistance granted from the cooperative banks restructuring fund.

Article 374. The Fund shall develop the resolution plans and group resolution plans referred to in Article 73 and Article 74 no later than 12 months from the date of entry of the Act into force.

Article 375. To the proceedings pending before the date of entry into force of this Act, concerning:

1) revocation of a permit to establish a bank on the basis of Article 25n paragraph 5, Article 138 paragraph 3 point 4 and paragraph 6 of the Act amended in Article 347[51,]

2) revocation of a permit to establish a branch of a foreign bank on the basis of Article 138 paragraph 6a of the Act amended in Article 347 [51],

3) proceedings on the basis of Article 147 paragraph 1, and Article 158 paragraphs 1 and 2 of the Act amended in Article 347[51)],

4) proceedings on the basis of Article 74c paragraphs 3 and 4 and Article 74k paragraphs 1 and 2 of the Act amended in Article 363[52,]

5) revocation of a permit to conduct brokerage business on the basis of Article 106l paragraph 6, Article 108 paragraph 7 and Article 167 paragraph 1 of the Act amended in Article 359[53]

– the provisions of these laws shall apply as currently worded.

Article 376. The provisions of the Act referred to in Article 354[54] shall apply as currently worded to the cases where an application for declaration of bankruptcy under the provisions of the Part 3 of Title II of the said Act was filed prior to the date of entry into force of the present Act.

Article 377. In the cases where an application for declaration of bankruptcy under the provisions of the Part 3 of Title II of the Act referred to in Article 354[54] was filed prior to the date of entry into force of the present Act no liabilities arising from claims of the Bank Guarantee Fund referred to in Article 39 paragraph 1 shall devolve to a purchaser of an undertaking of a bank or credit union pursuant to Article 437 of the Act referred to in Article 354[54].

Article 378. In the cases where an application for opening of the arrangement procedure under the provisions of Title II of Division III of the Act referred to in Article 366[55] was filed prior to the date of entry into force of the present Act the provisions of the Act shall apply as currently worded.

Article 379. If a composition was concluded in the bankruptcy proceedings under the provisions of Part 3 of Title II of the Act referred to in Article 354[54)] or in the arrangement procedure under the provisions of Title IV of Division III of the Act referred to in Article 366[55)], the provisions of the Act referred to in Article 366[55)] shall be applied as currently worded to requests for amendment or revocation of the composition.

Article 380. Receivables of the Fund in respect of granted financial assistance and support referred to in Article 19 paragraph 1, Article 20c paragraph 1 and Article 20g paragraph 1 of the Act repealed in Article 388 shall be settled in the bankruptcy proceedings and the liquidation proceedings referred to in Article 125 paragraph 1 point 2 of the Act referred to in Article 344[56] in the second category.

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[50] Article 351 contains amendments to the Act of 7 December 2000 on the functioning of cooperative banks, their affiliation and affiliating banks.
[51] Article 347 contains amendments to the Act of 29 August 1997 – the Banking Act.
[52] Article 363 contains amendments to the Act of 5 November 2009 on Cooperative Savings and Credit Unions.
[53] Article 359 contains amendments to the Act of 29 July 2005 on Trading in Financial Instruments.
[54] Article 354 contains amendments to the Act of 28 February 2003 – Bankruptcy Law.
[55] Article 366 contains amendments to the Law of 15 May 2015 - Restructuring Law.
[56] Article 344 contains amendments to the Law of 16 September 1982 - Cooperative Law.

Article 381. 1. The banks required to develop recovery plans which were awarded a permit to pursue business prior to the date of entry into force of this Act shall develop the recovery plan not later than 3 months from the date of entry into force of the Act.

2. The brokerage houses required to develop recovery plans which were awarded a permit to pursue business prior to the date of entry into force of the Act shall develop a recovery plan not later than 6 months from the date of entry into force of the Act.

3. The entities required to develop a group recovery plan on the basis of Article 141n of the Act referred to in Article 347[51)] and Article 110zj of Act referred to in Article 359[53)] shall develop a group recovery plan not later than 6 months from the date of entry into force of the Act.

4. During implementation by a bank of the recovery proceedings referred to in Article 142 paragraph 1 of the Act referred to in Article 347[51)] as currently worded, the bank shall develop a recovery plan within 3 months from the end of recovery proceedings, a group recovery plan within 6 months from the date of termination of recovery proceedings.

Article 381a. The provisions of Article 11 paragraph 2 item 1 of the Act amended by Article 368 , as amended, shall apply to a bank subject to a resolution programme referred to in Article 142 paragraphs 1–3 of the Act amended by Article 347[51)], as amended, initiated and not completed before the date of entry into force of the Act[57.]

Article 382. The provisions of Division III shall apply to credit unions from 1 January 2017.

Article 383. 1. The contributions referred to in chapter 2 of Division V shall be collected for the benefit of the Fund for the first time for 2017.

5. The provisions of Article 4 paragraph 1d point 7 and paragraph 2 point 3, Article 7 paragraph 2 point 5 and point 5a and paragraph 3, Article 13 paragraphs 1-5, Article 13c paragraphs 1-7, Article 14 paragraphs 2-4, Article 14a, Article 14b, Article 14c, Article 15 points 1-2, Article 16a paragraph 7, Article 36, Article 38r paragraph 5 and Article 42a of the Act repealed in Article 388 shall apply until 31 December 2016.

6. The funds referred to in Article 38r paragraph 5 of the Act repealed in Article 388 should be construed as the funds of the guarantee fund of credit unions available for use referred to in Article 272 paragraph 2

7. The mandatory contributions for 2016 by banks and branches of foreign banks in respect of participation in the mandatory guarantee scheme shall feed into the guarantee fund of banks.

8. The mandatory contributions for 2016 by credit unions in respect of participation in the mandatory guarantee scheme shall feed into the guarantee fund of credit unions.

9. The prudential levies contributed for 2016 by banks and branches of foreign banks shall feed into the resolution fund of banks.

Article 384. 1. The entities covered by the guarantee scheme referred to in Article 2 point 3 of the Act repealed in Article 388 shall maintain until 31 December 2016 the guaranteed deposit protection funds referred to in Article 25 paragraph 1 of the Act, created for 2016.

2. In the event of fulfilment of the guarantee condition towards a bank or a branch of a foreign bank before 31 December 2016, the Fund shall make payments of the guaranteed funds in the first place from the funds referred to in Article 16a paragraph 1 of the Act repealed in Article 388.

3. The provisions of Article 16a paragraph 1, Article 25 paragraph 1, 1a, 3a, 5 and 6, Articles 26-26c, Article 26d paragraph 1, Article 26e and Article 42 of the Act repealed in Article 388 shall apply until 31 December 2016.

Article 385. The hitherto effective implementing provisions issued on the basis of Article 157[1] paragraph 6 of the Act referred to in Article 350[58], as currently worded, shall remain in force until the date of the entry into force of the implementing provisions issued under Article 1571 paragraph 6 of the Act referred to in Article 350[58)] as amended by the present Act, but not longer than for 3 months from the date of entry into force of the Act.

Article 386. The hitherto effective implementing provisions issued on the basis of Article 3 paragraph 4, Article 6 paragraph 6, Article 8 paragraph 2, Article 17 paragraph 8, Article 26s paragraph 3, Article 38 paragraph 7, Article 38j, Article 38zg paragraph 3, Article 38zh paragraph 9 and 38zq of the Act repealed in Article 388 shall remain in force until the date of the entry into force of the implementing provisions issued on the basis of Article 3 paragraph 4, Article 7 paragraph 11, Article 9 paragraph 2, Article 30, Article 54 paragraph 4, Article 312 paragraph 2, Article 330 paragraph 7, but not longer than for 12 months from the date of entry into force of the Act.

Article 387. The hitherto effective implementing provisions issued on the basis of Article 12 of the Act amended in

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[57] Article 368 contains amendments to the Law of 15 January 2016 on the tax on certain financial institutions.

[58] Article350 contains amendments to the Act of 15 September 2000 - Commercial Companies Code.

Article 364[59], as currently worded, shall remain in force until the date of the entry into force of the implementing provisions issued under Article 12 of the Act amended in Article 364[59)], as amended by this Act but not longer than for 12 months from the date of entry into force of the Act.

Chapter 3

Final provisions

Article 388. The Act of 14 December 1994 on the Bank Guarantee Fund (Journal of Laws of 2014 item 1866 as amended[60)] shall expire.

Article 389. The Act shall enter into force after 3 months from the date of the promulgation thereof[61], with the exception of:

1) Article 351 point 2, Article 361 point 1 and Article 363 paragraph 3 which enter into force on the day following the date of the promulgation;

2) Article 106 which enters into force on 11 February 2017.

[59] Article 364containsamendments tothe Actof 12 February 2010 on the Recapitalisation of Certain Financial Institutions.

[60] Amendments to the consolidated text of the aforementioned Act were promulgated in the Journal of Laws of 2015, item 978, 1166, 1513 and 1844 and Journal of Laws of 2016, Item 381 and 615,

[61] The Act was promulgated on 8 July 2016.