

The following document is not an official translation of the Act.

Dz.U.2015.1513

ACT

of 5 August 2015

on Macroprudential Supervision of the Financial System and Crisis Management

(Dz. U. [Journal of Laws] of 1 October 2015)

Chapter 1

General Provisions

Article 1. 1. Macroprudential supervision of the financial system, hereinafter referred to as "macroprudential supervision", covers the identification, assessment and monitoring of systemic risk arising in the financial system or its environment and actions aimed at eliminating or reducing this risk with the use of macroprudential instruments.

2. The objective of macroprudential supervision is, in particular, to strengthen the resilience of the financial system in the event of materialisation of systemic risk, and, in consequence, to support long-term and sustainable economic growth of the country.

Article 2. 1. Crisis management in the financial system, hereinafter referred to as "crisis management", includes action to maintain or restore financial stability in the event of a direct threat to this stability.

2. The objective of crisis management is, in particular, effective cooperation of the members of the Financial Stability Committee, hereinafter referred to as "the Committee", including the coordination of entities represented by those members, in order to maintain or restore stability of the financial system as well as exchange of information, opinions and assessments.

Article 3. 1. The Committee shall be the competent authority responsible for macroprudential supervision and crisis management.

2. The authority designated for the purposes of Article 458 (1) of Regulation 575/2013 shall be the Committee, and in the area of application of national measures referred to in Article 458 (2) (d), paragraphs 5 and 10 of Regulation 575/2013 – the Minister of Finance.

Article 4. Whenever the Act mentions:

- 1) the investment firm – it shall mean the investment firm referred to in Article 4 (1) (2) of Regulation 575/2013;
- 2) the group – it shall mean the capital group referred to in Article 3(1)(44) of the Accounting Act of 29 September 1994 (Dz. U. [Journal of Laws] of 2013, item 330, as amended);
- 3) the institution – it shall mean the institution referred to in Article 4 (1) (3) of Regulation 575/2013, which has been granted authorisation by the Polish Financial Supervision Authority to conduct banking or brokerage activities, with the exception of:
 - a) investment firms that do not have authorisation to conduct brokerage activities

including activities consisting in buying or selling financial instruments on their own account, or providing services in the performance of firm commitment underwriting agreements, or conclusion and performance of other agreements of a similar nature, if they relate to financial instruments,

b) Bank Gospodarstwa Krajowego,

c) credit unions;

- 4) the financial institution – it shall mean the institution and other entity supervised by the Polish Financial Supervision Authority referred to in the Act of 21 July 2006 on Financial Market Supervision (Dz. U. [Journal of Laws] of 2015, item 614, as amended);
- 5) Common Equity Tier 1 capital – it shall mean the element of institutions' own funds referred to in Articles 26 to 50 of Regulation 575/2013;
- 6) Additional Tier 1 capital – it shall mean the element of institutions' own funds referred to in Articles 51 to 61 of Regulation 575/2013;
- 7) Tier 2 capital – it shall mean the part of institutions' own funds referred to in Articles 62 to 71 of Regulation 575/2013;
- 8) the Minister of Finance – it shall mean the competent minister responsible for the budget, the minister responsible for public finance or the minister responsible for financial institutions;
- 9) Member State – it shall mean a member state of the European Union or the European Economic Area;
- 10) third country – it shall mean a state which is not a Member State;
- 11) subsidiary – it shall mean a subsidiary undertaking as referred to in Article 4 (1) (16) of Regulation 575/2013;
- 12) Regulation 575/2013 – it shall mean the Regulation of the European Parliament and of the Council (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ EU L 176 of 06.27.2013, p. 1, as amended);
- 13) Regulation 1092/2010 – it shall mean the Regulation of the European Parliament and of the Council (EU) No 1092/2010 of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ EU L 331 of 15.12.2010, p. 1);
- 14) Regulation 1093 / 2010 – it shall mean the Regulation of the European Parliament and of the Council (EU) No 1093/2010 of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ EU L 331 of 15.12.2010, p. 12, as amended);
- 15) systemic risk – it shall mean the risk of disruption in the functioning of the financial system, which, if materialised, interferes with the operation of the financial system and the national economy as a whole, the sources of which might be in particular trends associated with excessive lending or debt growth and the related imbalances in terms of asset prices, unstable funding models, distribution of risk in the financial system, linkages between financial institutions or macroeconomic and sectoral imbalances;
- 16) financial system – it shall mean the financial system referred to in Article 2 (b) of Regulation 1092/2010;
- 17) EU parent financial holding company – it shall mean the EU parent financial holding company referred to Article 4 (1) (31) of Regulation 575/2013;
- 18) EU parent mixed financial holding company – it shall mean the EU parent mixed financial holding company referred to in Article 4 (1) (33) of Regulation 575/2013;
- 19) EU parent institution – it shall mean the EU parent institution as referred to in Article 4 (1) (29) of Regulation 575/2013;
- 20) the Act on Freedom of Economic Activity – it shall mean the Act of 2 July 2004 on Freedom of Economic Activity (Dz. U. [Journal of Laws] of 2015 item 584, as amended);
- 21) the Banking Act – it shall mean the Banking Act of 29 August 1997 (Dz. U. [Journal of

Laws] of 2015 item 128, as amended);

- 22) competent entities – it shall mean the Bank Guarantee Fund, the Polish Financial Supervision Authority, the Ministry of Finance and Narodowy Bank Polski, in terms of measures to eliminate or reduce systemic risk;
- 23) individual basis – it shall mean an individual basis referred to in Articles 6 to 10 of Regulation 575/2013;
- 24) consolidated basis – it shall mean a consolidated basis referred to Article 4 (1) (48) of Regulation 575/2013;
- 25) sub-consolidated basis – it shall mean a sub-consolidated basis referred to in Article 4 (1) (49) of Regulation 575/2013.

Article 5. The Committee's tasks in macroprudential supervision shall include:

- 1) the application of macroprudential instruments, including presenting statements and issuing recommendations;
- 2) identification of financial institutions posing a significant risk to the financial system;
- 3) cooperation with the European Systemic Risk Board, other bodies of the European Union, macroprudential supervision authorities of Member States or third countries as well as international institutions;
- 4) ensuring the proper flow of information between the members of the Committee needed to complete its tasks.

Article 6. 1. The Committee's tasks in crisis management shall include:

- 1) developing and adopting of procedures for cooperation in the event of an imminent threat to the stability of the financial system;
- 2) coordinating the actions taken by the members of the Committee in the event of a direct threat to the stability of the financial system or identifying of a financial institution, whose present or forecasted financial situation may pose a threat to the continued functioning of the institution;
- 3) ensuring the proper flow of information between the members of the Committee needed to complete its tasks.

2. The procedures referred to in paragraph 1 (1) shall be transferred to the Minister of Finance, Narodowy Bank Polski, the Polish Financial Supervision Authority and the Bank Guarantee Fund.

3. In the case referred to in paragraph 1 (2), the Committee shall be presented the opinions of:

- 1) the President of Narodowy Bank Polski – on banking sector liquidity in relation to the financial institution referred to in paragraph 1 (2);
- 2) the Chairman of the Polish Financial Supervision Authority – on solvency of the financial institution referred to in paragraph 1 (2);
- 3) the Minister of Finance – on the ability to support the financial institution referred to in point (2) of paragraph 1, from public funds;
- 4) the President of the Bank Guarantee Fund – on possible payout of guaranteed funds and the ability to support the financial institution referred to in paragraph 1 (2), from the resources of the Bank Guarantee Fund.

Chapter 2

Organisation and Mode of Operation of the Committee

Article 7. 1. The Committee members are:

- 1) the Minister of Finance;
- 2) the President of Narodowy Bank Polski;
- 3) the Chairman of the Polish Financial Supervision Authority;

- 4) the President of the Bank Guarantee Fund.
2. The Chairman of the Committee is:
 - 1) the President of Narodowy Bank Polski – in the implementation of the tasks set out in Article 5;
 - 2) the Minister of Finance – in the implementation of the tasks set out in Article 6 (1).
3. Members of the Committee shall participate in its meetings in person. If personal participation of the chairman or another member of the Committee is not possible, they shall designate representatives who during the meeting shall have the respective powers of the represented chairman or another member of the Committee.
4. The meetings of the Committee may also be attended by persons in advisory capacity who have adequate knowledge or experience in the field covered by the tasks of the Committee, invited by the chairman of the Committee on his own initiative or designated by another member of the Committee.

Article 8. 1. Meetings of the Committee shall be summoned by the Chairman of the Committee competent for the tasks of the Committee or by a representative appointed by him, on his own initiative or at the request of another member of the Committee.

2. The request referred to in paragraph 1 shall include justification for summoning the meeting of the Committee and may indicate the proposed date of the meeting.

Article 9. 1. The Chairman of the Committee shall direct the work of the Committee and represent it outside in accordance with the division of tasks referred to in Article 7 (2).

2. The Chairman of the Committee shall present to the Sejm annual information on the activities of the Committee on the implementation of the tasks set out in Article 5, by 31 July of the year following the year to which the information relates.

Article 10. 1. The Committee may establish working groups, which include employees of Narodowy Bank Polski, the office servicing the Minister of Finance, the Office of the Polish Financial Supervision Authority and the Bank Guarantee Fund. With the approval of the Committee, the working groups may include any other person with appropriate knowledge or experience in the field covered by the tasks of the Committee.

2. The tasks of the working groups shall be specified by the Committee.

3. The results of work of the working groups shall be presented to the Committee.

Article 11. 1. Support for the Committee for the implementation of the tasks set out in Article 5 shall be provided by Narodowy Bank Polski, and in the implementation of the tasks set out in Article 6 (1) – by the office servicing the Minister of Finance.

2. The Committee shall adopt rules specifying the manner and mode of its operation in an open vote, unanimously, in the presence of all the members of the Committee.

Article 12. 1. In order to carry out tasks, the Committee shall adopt resolutions.

2. Resolutions of the Committee on the implementation of the tasks referred to in Article 5 shall be taken in an open vote by a majority of votes in the presence of at least three members of the Committee, including the chairman of the Committee. In the event of a tie, the Chairman of the Committee has the casting vote.

3. Resolutions of the Committee on the implementation of the tasks referred to in Article 6 (1) shall be taken in an open vote, unanimously, in the presence of all the members of the Committee.

4. Resolutions shall be signed on behalf of the Committee by the Chairman of the Committee competent for the tasks of the Committee.

5. Resolutions of the Committee on the implementation of the tasks referred to in Article 5 may be made public by publication in the Official Journal of Narodowy Bank Polski, or by posting on the website of Narodowy Bank Polski.

6. Resolutions of the Committee on the implementation of the tasks referred to in Article 6 (1), may be made public by publication in the Official Journal of the Minister of Finance or by posting on the website of the Ministry of Finance.

7. The decision to make a resolution public shall be taken by the Committee.

Article 13. 1. The information provided to the public shall not constitute a basis for the claims or obligations of third parties towards the State Treasury, Narodowy Bank Polski and the Bank Guarantee Fund.

2. Persons performing activities related to the implementation of the tasks of the Committee shall not be liable for damages resulting from an act or omission in accordance with the provisions of the Act, which remains in connection with the implementation of the tasks of the Committee.

Chapter 3

Collection and Exchange of Information

Article 14. The persons referred to in Article 7 (1), (3) and (4) and Article 10 (1) shall:

1) mutually exchange information, including information protected by law, necessary for the proper implementation of the tasks of the Committee;

2) be obliged not to disclose to unauthorised persons information they obtained in the course of performing the tasks of the Committee.

2. The information referred to in paragraph 1 (1) may be made available to members of the Polish Financial Supervision Authority and members of the Monetary Policy Council.

3. Access to the information referred to in paragraph 1 (1) shall be granted to authorised employees of Narodowy Bank Polski, the office servicing the Minister of Finance, the Office of the Polish Financial Supervision Authority and the Bank Guarantee Fund.

4. The provisions of paragraph 1 (2) and paragraph 5 shall apply to the persons referred to in paragraphs 2 and 3 even after termination of their membership in the bodies referred to in paragraph 2, and after termination of their employment with the entities referred to in paragraph 3.

5. The obligation referred to in paragraph 1 (2) shall continue even after the termination of the membership in the Committee or discontinued participation in the work of the Committee and shall apply to persons referred to in Article 7 paragraphs 1, 3 and 4 and Article 10 (1).

Article 15. The Committee may enter into arrangements for the implementation of its tasks with the entities referred to in Article 5 (3).

Article 16. In order to strengthen international cooperation for the implementation of the tasks set out in Article 6 (1), Members of the Committee may enter into arrangements with institutions carrying out tasks in this field in the Member States, national central banks included in the European System of Central Banks, including the European Central Bank and finance ministers and financial market supervision authorities in the Member States.

Chapter 4

Statements and Recommendations

Article 17. In the case of identifying the source of systemic risk in the financial system or its environment, the Committee may present its statement including information on the type of source, the extent of its impact and the anticipated effects for the financial system. The Committee may address its statement to the competent entities or entities comprising

the financial system or its part, including entities managing products or using the market infrastructure.

Article 18. 1. The Committee may issue a recommendation addressed to competent entities, in which it indicates the need to take action by those entities to reduce systemic risk.

2. When issuing the recommendation, the Committee may specify the time within which it is necessary, in the opinion of the Committee, to take action to reduce systemic risk by competent entities.

3. The competent entities shall take into consideration the Committee's recommendations, including informing the Committee of measures taken to reduce systemic risk or shall submit explanations of the reasons of inaction.

4. The Committee may make the information referred to in paragraph 3 public, if it is not legally protected information.

Chapter 5

Conservation Buffer

Article 19. 1. The institution shall hold the amount of Common Equity Tier 1 capital, additional to Common Equity Tier 1 capital held for the purpose of meeting the own funds requirement referred to in Article 92 (1) of Regulation 575/2013, amounting to 2.5% of the total risk exposure calculated in accordance with Article 92 (3) of the Regulation on the individual and consolidated basis (conservation buffer).

2. The additional amount of Common Equity Tier 1 capital referred to in paragraph 1 shall not count towards the fulfilment by these institutions the requirements imposed pursuant to Article 92 (1) of Regulation 575/2013 and the requirements imposed by the Polish Financial Supervision Authority under Article 138 (1) (2a) of the Banking Act and Article 110y (3) of the Act of 29 July 2005 on Trading in Financial Instruments (Dz. U. [Journal of Laws] of 2014, item 94, as amended).

Article 20. 1. The obligation referred to in Article 19 (1) shall not apply to the investment firms that are micro-, small or medium-sized businesses within the meaning of the Act on Freedom of Economic Activity.

2. The Committee shall inform the European Commission, the European Systemic Risk Board, the European Banking Authority and the authorities responsible for macroprudential supervision of the Member States concerned about the scope of the exemption referred to in paragraph 1.

Chapter 6

Countercyclical Buffer

Article 21. 1. The institution shall hold the amount of Common Equity Tier 1 capital, additional to Common Equity Tier 1 capital held for the purpose of meeting the own funds requirement referred to in Article 92 (1) of Regulation 575/2013, at the level of the total risk exposure calculated in accordance with Article 92 (3) of the Regulation, multiplied by the weighted average of the countercyclical buffer rates calculated in accordance with paragraph 4 (institution-specific countercyclical buffer).

2. The institution holds an institution-specific countercyclical buffer on an individual and consolidated basis.

3. The additional amount of Common Equity Tier 1 capital referred to in paragraph 1 shall not count towards the fulfilment by these institutions of the requirements imposed

pursuant to Article 19 (1), requirements imposed pursuant to Article 92 (1) of Regulation 575/2013 and the requirements imposed by the Polish Financial Supervision Authority under Article 138 (1) (2a) of the Banking Act and Article 110y (3) of the Act of 29 July 2005 on Trading in Financial Instruments.

4. To calculate the weighted average of the countercyclical buffer rates, the institution shall apply for all countercyclical buffer rates the total own funds requirements resulting from credit risk related to credit exposures in a given Member State or third country, divided by the total own funds requirements resulting from credit risk related to credit exposures of that institution.

5. Credit exposures referred to in paragraph 4 include all categories of exposures, with the exception of exposures referred to in Article 112 (a) to (f) of Regulation 575/2013, if they are subject to:

- 1) the own funds requirements for credit risk in accordance with Articles 107 to 311 of Regulation 575/2013;
- 2) the own funds requirements for specific risk in accordance with Articles 326 to 350 of Regulation 575/2013 or for any additional risk of default and migration risk in accordance with Articles 362 to 377 of the Regulation – when the exposure relates to the trading portfolio;
- 3) the own funds requirements in accordance with Articles 242 to 270 of Regulation 575/2013 – when it is securitisation exposure.

Article 22. 1. The obligation referred to in Article 21 (1) shall not apply to investment firms that are micro-, small or medium-sized businesses within the meaning of the Act on Freedom of Economic Activity.

2. The Committee shall inform the European Commission, the European Systemic Risk Board, the European Banking Authority and the authorities responsible for macroprudential supervision of the Member States concerned about the scope of the exemption referred to in paragraph 1.

Article 23. 1. The Committee shall calculate on a quarterly basis a buffer guide. The buffer guide is a variable that reflects the credit cycle and the risks associated with excessive credit growth in the national economy, taking into account the specificity of the Polish economy and its financial system.

2. The buffer guide is based on deviation of the ratio of credit-to-GDP from its long-term trend, and takes into account in particular:

- 1) an indicator of the growth of lending in the Republic of Poland, including an indicator reflecting changes in the ratio of loans granted in the Republic of Poland to GDP;
- 2) the recommendation of the European Systemic Risk Board on setting the countercyclical buffer rate, issued under Article 16 of Regulation 1092/2010.

Article 24. 1. The countercyclical buffer rate is calibrated as 0 or 0.25 percentage points or multiples of 0.25 percentage points and can range from 0 to 2.5% of the total risk exposure of institutions that have credit exposures in the territory of the Republic of Poland, calculated in accordance with Article 92 (3) of Regulation 575/2013. In justified cases, the countercyclical buffer rate may exceed 2.5%.

2. The minister competent for financial institutions evaluates on a quarterly basis the level of countercyclical buffer rate, taking into account the recommendation of the Committee.

3. The minister competent for financial institutions shall define, by regulation:

- 1) the countercyclical buffer rate;
- 2) the date from which institutions shall apply this rate – when the countercyclical buffer rate is increased; this date shall be determined on the first day after 12 months from the date of publication of the regulation, unless exceptional circumstances justify setting

a shorter period.

4. Issuing the regulation referred to in paragraph 3, the minister competent for financial institutions shall take into account:

- 1) the recommendation of the Committee on the level of the countercyclical buffer rate;
- 2) the buffer guide referred to in Article 23;
- 3) the recommendations of the European Systemic Risk Board on setting the countercyclical buffer rate, issued under Article 16 of Regulation 1092/2010;
- 4) other variables relevant for addressing cyclical systemic risk;
- 5) the result of the quarterly evaluation referred to in paragraph 2, and the need to appropriately respond to cyclical systemic risk.

Article 25. 1. The Committee shall publish on a quarterly basis information on the countercyclical buffer rate on the website of Narodowy Bank Polski, including information on:

- 1) the applicable countercyclical buffer rate;
- 2) the buffer guide;
- 3) the credit-to-GDP ratio referred to in Article 23 (2);
- 4) the date from which institutions shall apply the increased buffer rate – in the case of increasing the countercyclical buffer rate;
- 5) the expected duration of the reduced buffer rate – in the case of reducing the countercyclical buffer rate.

2. The Committee shall submit to the European Systemic Risk Board information referred to in paragraph 1.

Article 26. In order to calculate the institution-specific countercyclical buffer, the institution shall apply the countercyclical buffer rate for a Member State other than the Republic of Poland or a third country at the level set by the authority competent for macroprudential supervision of that Member State or that third country, if the rate is set at 2.5% of the total risk exposure calculated in accordance with Article 92 (3) of Regulation 575/2013. If the minister competent for financial institutions defines the countercyclical buffer rate in accordance with Article 29 (2), the institution shall apply this rate.

Article 27. 1. If the authority competent for macroprudential supervision of a Member State other than the Republic of Poland or a third country has set a countercyclical buffer rate for that country at a level above 2.5%, to calculate the institution-specific countercyclical buffer, the institution shall apply the rate determined in accordance with paragraph 3.

2. If the minister responsible for financial institutions:

- 1) does not specify the countercyclical buffer rate in accordance with paragraph 3 – for risk exposure in this country other than the Republic of Poland, the institution shall apply a rate of 2.5%;
- 2) determines the countercyclical buffer rate under Article 30 (2) – the institution shall apply this rate.

3. The minister responsible for financial institutions may determine by regulation:

- 1) the level of the countercyclical buffer rate established in a Member State other than the Republic of Poland or a third country for that Member State or that third country at a level above 2.5% of the total risk exposure amount, calculated in accordance with Article 92 (3) of Regulation 575/2013;
- 2) the date from which the institution shall apply this rate; this date shall be determined on the first day after 12 months from the date of publication of the regulation, unless exceptional circumstances justify setting a shorter period.

4. When issuing the regulation referred to in paragraph 3, the minister responsible for financial institutions shall take into account:

- 1) the recommendation of the Committee on the recognition of the countercyclical buffer

rate established in a Member State other than the Republic of Poland or a third country for that country at a level above 2.5% of the total risk exposure amount, calculated in accordance with Article 92 (3) of Regulation 575/2013;

- 2) the recommendations of the European Systemic Risk Board on setting the countercyclical buffer rate, issued under Article 16 of Regulation 1092/2010.

Article 28. The Committee shall post information on the countercyclical buffer rate referred to in Article 27 (3) on the website of Narodowy Bank Polski, including information on:

- 1) the applicable countercyclical buffer rate;
- 2) the Member State or third country to which this rate applies;
- 3) the date from which institutions shall apply this rate.

Article 29. 1. If the authority competent for macroprudential supervision of a third country has not set or published a countercyclical buffer rate for a that third country, in which at least one institution has credit exposures, the institution shall apply the countercyclical buffer rate determined in accordance with paragraph 2 to calculate the institution-specific countercyclical buffer.

2. The minister responsible for financial institutions may determine by regulation:

- 1) the countercyclical buffer rate for a third country which did not set or publish this rate;
- 2) the date from which the institution shall apply this rate; this date shall be determined on the first day after 12 months from the date of publication of the regulation, unless exceptional circumstances justify setting a shorter period.

3. When issuing the regulation referred to in paragraph 2, the minister responsible for financial institutions shall take into account:

- 1) the recommendation of the Committee on the necessity to determine the countercyclical buffer rate and its level for that third country;
- 2) the recommendations of the European Systemic Risk Board on setting countercyclical buffer rate, issued under Article 16 of Regulation 1092/2010.

Article 30. 1. To calculate the institution-specific countercyclical buffer, the institution shall apply the countercyclical buffer rate set by the minister responsible for financial institutions:

- 1) in accordance with paragraph 2 (1) – if the minister responsible for financial institutions considers that the countercyclical buffer rate set by the third country is not sufficient to duly protect institutions against the risk of excessive credit growth in that third country;
- 2) in accordance with paragraph 2 (2), but at a level no lower than 2.5% – if the countercyclical buffer rate for a third country determined by the competent authority for macroprudential supervision of the country is higher than 2.5% of the total risk exposure amount of institutions that have credit exposures in that third country.

2. The minister responsible for financial institutions may, by regulation, determine:

- 1) the countercyclical buffer rate for a third country above the level set by the authority competent for macroprudential supervision of the third country, if he considers that the countercyclical buffer rate set by the third country is not sufficient to duly protect institutions against the risk of excessive credit growth in that third country, or
- 2) the countercyclical buffer rate for a third country below the level set by the authority competent for macroprudential supervision of a third country, where this ratio is above 2.5% of the total risk exposure amount of institutions that have credit exposures in that third country;
- 3) the date from which the institution shall apply this rate; this day shall be determined on the first day after 12 months from the date of publication of the regulation, unless exceptional circumstances justify setting a shorter period.

3. When issuing the regulation referred to in paragraph 2, the minister responsible for

financial institutions shall take into account:

- 1) the recommendation of the Committee on the necessity to set the countercyclical buffer rate and its level;
- 2) the recommendations of the European Systemic Risk Board on setting countercyclical buffer rate, issued under Article 16 of Regulation 1092/2010.

Article 31. The Committee shall post information on the countercyclical buffer rate for a third country on the website of Narodowy Bank Polski, including information on:

- 1) the applicable countercyclical buffer rate;
- 2) the date from which institutions shall apply this rate.

Article 32. 1. To calculate the weighted average of the countercyclical buffer rates in the cases referred to in Article 27 paragraphs 1 and 2, it shall be assumed that:

1) the countercyclical buffer rate for a Member State other than the Republic of Poland shall apply from the date set in accordance with the law of that State by the authority competent for macroprudential supervision of the Member State, if the effect of this decision is an increase in the rate of this buffer,

2) where the competent authority for macroprudential supervision of a third country determined the countercyclical buffer rate for that third country at a higher level than the previous level, it shall apply after 12 months from the date of publication as provided for in the law applicable to the third country, regardless of setting by the authority of a shorter period for institutions registered in the country,

3) the countercyclical buffer rate shall apply from the date set in accordance with the law of a Member State other than the Republic of Poland or a third country if the authorities competent for macroprudential supervision of that country determine the countercyclical buffer rate at a level lower than the current one

- with the proviso that in the case of determining the countercyclical buffer rate in the regulations issued on the basis of Article 27 (3), Article 29 (2) or Article 30 (2), to calculate the weighted average of the countercyclical buffer rates, the rate determined in accordance with those provisions shall apply.

2. To calculate the weighted average of the countercyclical buffer rates applicable in the Member States or third countries with credit exposures of institutions, institutions shall determine the geographical location of a relevant credit exposure in accordance with regulatory technical standards adopted by the European Commission under Articles 10 to 13 of Regulation 1093/2010.

Chapter 7

Systemically Important Institution Buffers

Article 33. 1. An EU parent institution, EU parent financial holding company, EU parent mixed financial holding company or an institution may be a global systemically important institution.

2. An institution which is a subsidiary of an EU parent institution, EU parent financial holding company or an EU parent mixed financial holding company may not be a global systemically important institution.

Article 34. 1. Global systemically important institution shall hold the amount of Common Equity Tier 1 capital additional to Common Equity Tier I capital held for the purpose of meeting the own funds requirement referred to in Article 92 of Regulation 575/2013, at the level of 1-3.5% of the total risk exposure amount calculated in accordance with Article 92 (3) of the Regulation in accordance with the category to which it was assigned (global systemically important institution buffer).

2. Global systemically important institution shall be required to hold global systemically important institution buffer on a consolidated basis.

3. A global systemically important institution assigned to:

- 1) the first category – shall hold global systemically important institution buffer at the level of 1%;
- 2) the second category – shall hold global systemically important institution buffer at the level of 1.5%;
- 3) the third category – shall hold global systemically important institution buffer at the level of 2%;
- 4) the fourth category – shall hold global systemically important institution buffer at the level of 2.5%;
- 5) the fifth category – shall hold global systemically important institution buffer at the level of 3%;
- 6) the sixth category – shall hold global systemically important institution buffer at the level of 3.5%.

Article 35. 1. After consulting the Committee, the Polish Financial Supervision Authority shall, by decision, identify global systemically important institutions, and assigns them to one of the categories referred to in Article 34 (3), defining the systemic importance of global systemically important institutions.

2. In justified cases, the Polish Financial Supervision Authority may, by decision, after consulting the Committee, assign a global systemically important institution to a category which corresponds to a buffer of a higher level.

3. To the issued opinions referred to in paragraphs 1 and 2, Article 106 of the Act of 14 June 1960 – Code of Administrative Procedure (Dz. U. [Journal of Laws] of 2013, item 267, as amended) shall apply, except that the decision may not be appealed against.

4. Decisions referred to in paragraphs 1 and 2 shall be immediately enforceable.

Article 36. 1. The Polish Financial Supervision Authority shall identify global systemically important institutions and assign them to one of the categories referred to in Article 34 (3) based on the following equivalent criteria:

- 1) the size of the group of which the global systemically important institution is a part;
- 2) the interconnectedness of the group with the financial system;
- 3) the substitutability of the services or the financial infrastructure provided by the group;
- 4) the complexity of the group;
- 5) cross-border activities of the group, including cross-border activities between Member States and between a Member State and a third country.

2. The Polish Financial Supervision Authority, taking into account the statement of the Committee, shall adopt identification procedures referred to in paragraph 1, based on the Commission Delegated Regulation (EU) No 1222/2014 of 8 October 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions (OJ EU L 330, 11.15.2014, p. 27).

Article 37. A systemically important institution other than global systemically important institution, hereinafter referred to as "other systemically important institution" (O-SII), can only be an EU parent institution, an EU parent financial holding company, an EU parent mixed financial holding company or an institution.

Article 38. 1. Other systemically important institution shall hold the amount of Common Equity Tier 1 capital additional to Common Equity Tier 1 capital held for the purpose of meeting the own funds requirement referred to in Article 92 of Regulation

575/2013, in the amount specified in the decision referred to in Article 39 (1), not exceeding 2% of the total risk exposure amount calculated in accordance with Article 92 (3) of the Regulation (other systemically important institution buffer).

2. Other systemically important institution shall be obliged to hold the other systemically important institution buffer on an individual, sub-consolidated or consolidated basis.

Article 39. 1. After consulting the Committee, the Polish Financial Supervision Authority shall, by decision, identify other systemically important institution and imposes on it the other systemically important institution buffer.

2. After consulting the Committee, the Polish Financial Supervision Authority may, by decision, consider an O-SII as a global systemically important institution and assign it to one of the categories referred to in Article 34 (3). The Polish Financial Supervision Authority, through the Committee, shall inform the European Banking Authority of any decision issued, presenting at the same time its justification.

3. To the issued opinions referred to in paragraphs 1 and 2, Article 106 of the Act of 14 June 1960 – Code of Administrative Procedure shall apply, except that the decision may not be appealed against.

4. Decisions referred to in paragraphs 1 and 2 shall be immediately enforceable.

5. The Polish Financial Supervision Authority shall assess the systemic importance of other systemically important institutions on the basis of:

- 1) the size;
- 2) the importance for the economy of the Republic of Poland or of the European Union;
- 3) the importance of cross-border activities;
- 4) the interconnectedness of the institution or group with the financial system.

6. When performing the assessment referred to in paragraph 5, the Polish Financial Supervision Authority shall take into account the guidelines of the European Banking Authority issued in consultation with the European Systemic Risk Board in accordance with Article 16 of Regulation 1093/2010 and the recommendation of the Committee on the systemic importance of other systemically important institutions.

Article 40. When issuing the decision referred to in Article 39 (1), the Polish Financial Supervision Authority shall take into account whether the other systemically important institutions buffer will not exert a disproportionate and adverse effects for the whole or part of the EU financial system by creating obstacles to the functioning of the internal market of the European Union.

Article 41. In the event that an O-SII is a subsidiary of a global systemically important institution or an O-SII which is an EU parent institution, and is subject to the other systemically relevant institutions buffer on a consolidated basis, the buffer referred to in Article 38 (1), which applies on an individual or sub-consolidated basis, shall not exceed the higher of the following levels:

- 1) 1% of the total risk exposure amount calculated in accordance with Article 92 (3) of Regulation 575/2013;
- 2) global systemically important institution buffer rate or other systemically important institution buffer rate applicable to the group on a consolidated level.

Article 42. The additional amount of Common Equity Tier 1 capital, which shall be held by global systemically important institutions and other systemically important institutions in order to meet the requirements referred to in Article 34 (1) and Article 38 (1), shall not count towards the fulfilment by these institutions of other requirements imposed pursuant to Article 19 (1) and Article 21 (1), requirements imposed pursuant to Article 92 (1) of Regulation 575/2013 and the requirements imposed by the Polish Financial Supervision Authority pursuant to Article 138 (1) (2a) of the Banking Act and Article 110y (3) of the Act

of 29 July 2005 on Trading in Financial Instruments.

Article 43. 1. In the case that a group on a consolidated basis shall be subject to global systemically important institutions buffer and other systemically important institutions buffer or global systemically important institutions buffer , other systemically important institutions buffer and systemic risk buffer referred to in Article 47, the highest buffer shall apply subject to Article 49.

2. In the case that an institution on an individual or sub-consolidated basis shall be subject to other systemically important institutions buffer and systemic risk buffer referred to in Article 47, the higher of them shall apply.

3. In the case referred to in paragraphs 1 or 2, the institution that is part of the group of the global systemically important institution or the O-SII, shall be subject to the combined buffer referred to in Article 55 (4), applicable to it on an individual basis, which may not be less than the sum of the conservation buffer, countercyclical buffer and – the higher of the two buffers – the other systemically important institutions buffer or the systemic risk buffer, applicable to it on an individual basis.

Article 44. 1. The Polish Financial Supervision Authority shall immediately notify, through the Committee, the European Commission, the European Systemic Risk Board and the European Banking Authority about:

- 1) global systemically important institutions and other systemically important institutions;
- 2) the categories assigned to individual global systemically important institutions.

2. The Polish Financial Supervision Authority shall publish the information referred to in paragraph 1 on its website.

3. The Polish Financial Supervision Authority shall immediately notify, through the Committee, the European Commission, the European Systemic Risk Board, the European Banking Authority and the authorities responsible for macroprudential supervision of the Member States concerned of its intention to impose the other systemically important institutions buffer.

4. The notification referred to in paragraph 3 shall include:

- 1) justification for the introduction of the other systemically important institutions buffer as an effective and proportionate instrument to reduce risk;
- 2) assessment of the expected impact of the other systemically important institution buffer on the internal market of the European Union;
- 3) the other systemically important institution buffer rate imposed by the Polish Financial Supervision Authority.

Article 45. 1. The Polish Financial Supervision Authority shall once a year review the identification of global systemically important institutions and their assignment to the appropriate categories.

2. The Polish Financial Supervision Authority shall immediately notify, through the Committee, the European Commission, the European Systemic Risk Board, the European Banking Authority and global systemically important institutions about the outcome of the review referred to in paragraph 1.

3. The Polish Financial Supervision Authority may, as a result of the review referred to in paragraph 1, repeal or change the decision referred to in Article 35 (1) and (2) and Article 39 (2). In the event of a change of this decision, the Polish Financial Supervision Authority shall assign a global systemically important institution to one of the categories referred to in Article 34 (3).

4. The Polish Financial Supervision Authority shall, after the review, publish information about global systemically important institutions and the categories of their assignment on its website.

Article 46. 1. The Polish Financial Supervision Authority shall, at least once a year, review the adequacy of the other systemically important institution buffer rate.

2. As a result of the review referred to in paragraph 1, the Polish Financial Supervision Authority may repeal or change the decision referred to in Article 39 (1), specifying the other systemically important institution buffer rate.

Chapter 8

Systemic Risk Buffer

Article 47. If an institution poses non-cyclical systemic risk or is exposed to it, it shall hold an additional amount of Common Equity Tier 1 capital in relation to Common Equity Tier 1 capital held for the purpose of meeting the own funds requirement referred to in Article 92 of Regulation 575/2013, in order to prevent long-term non-cyclical systemic risk not covered by this Regulation (systemic risk buffer) and reduce this risk, in the amount specified in the regulations issued on the basis of Article 50 (8).

Article 48. The additional amount of Common Equity Tier 1 capital held by the institution to meet the requirements referred to in Article 47, shall not count towards the fulfilment of the institution's requirements imposed pursuant to Article 19 (1) and Article 21 (1), requirements imposed pursuant to Article 92 (1) of Regulation 575/2013 and the requirements imposed by the Polish Financial Supervision Authority under Article 138 (1) (2a) of the Banking Act and Article 110y (3) of the Act of 29 July 2005 on Trading in Financial Instruments. The provisions of Article 43 (1) and (2) shall apply accordingly.

Article 49. 1. If the systemic risk buffer applies to all exposures which are located exclusively in the Republic of Poland, the buffer shall be applied in combination with the global systemically important institutions buffer or other systemically important institutions buffer.

2. In the case referred to in paragraph 1, the institution which is part of a group of global systemically important institutions or an O-SII, shall be subject to the combined buffer referred to in Article 55 (4), applicable to it on an individual basis, which may not be lower than the sum of the conservation buffer, the countercyclical buffer, the other systemically relevant institutions buffer and the systemic risk buffer applicable to it on an individual basis.

Article 50. 1. The systemic risk buffer shall be calculated in accordance with Article 92 of Regulation 575/2013 in relation to the amount of risk exposure of institutions to which the systemic risk buffer is to be applied in accordance with paragraph 8, on an individual, consolidated or sub-consolidated basis.

2. The systemic risk buffer shall be set at the level of at least 1% and may be changed by 0.5 percentage points or multiples of 0.5 percentage points, except that in the case of an increase of this buffer by more than 0.5 percentage points, a schedule shall be specified in accordance with which the institutions must achieve the increased level of the buffer.

3. The level of the systemic risk buffer for the institution referred to in Article 47 may be varied depending on the posed non-cyclical systemic risk or exposure to it.

4. If the systemic risk buffer rate determined in accordance with paragraph 8 is up to 3% and applies to exposures located in Member States other than the Republic of Poland, this rate should be set at the same level for all exposures within the territory of the European Union.

5. The determination of the systemic risk buffer rate at the level from 3% to 5% may be made after:

1) receiving the opinion of the European Commission; if the opinion is negative, the

minister responsible for financial institutions shall take this opinion into account or inform the European Commission, through the Committee, about the reasons for its rejection;

- 2) issuing by the European Commission and the European Systemic Risk Board a recommendation concerning the determination of the buffer – if the requirement to hold the systemic risk buffer includes a subsidiary of the parent which is established in another Member State;
- 3) taking a decision by the European Banking Authority, in the case of referral of the case to the European Banking Authority, in accordance with Article 19 of Regulation 1093/2010 – if the requirement to hold the systemic risk buffer includes a subsidiary of the parent which is established in another Member State.

6. The determination of the systemic risk buffer at a level exceeding 5% follows the obtaining of the European Commission's approval for:

- 1) adoption of the proposed level of the systemic risk buffer rate;
- 2) coverage with the requirement to hold the systemic risks buffer of a certain type of exposures that are in Member States other than the Republic of Poland.

7. The minister competent for financial institutions shall, at least once every two years, evaluate the adequacy of the level of the systemic risk buffer rate and the types of exposures to which it applies, taking into account the recommendations of the Committee.

8. The minister responsible for financial institutions may determine by regulation:

- 1) the systemic risk buffer rate;
- 2) the types of exposures to which the systemic risk buffer applies, and the country in which they are located;
- 3) the categories of institutions to which the systemic risk buffer applies;
- 4) the date from which institutions shall apply the systemic risk buffer;
- 5) the schedule referred to in paragraph 2.

9. Issuing the regulation referred to in paragraph 8, the minister responsible for financial institutions shall take into account:

- 1) the recommendation of the Committee on:
 - a) the level of the systemic risk buffer rate,
 - b) the types of exposures to which it applies,
 - c) categories of institutions to which it applies- issued following the analysis carried out by the Committee on the extent to which the systemic risk buffer exerts adverse and disproportionate effects on the whole or part of the financial system through creating obstacles to the functioning of the internal market of the European Union;
- 2) the opinion, recommendation or decision referred to in paragraph 5, in the event of issuing thereof;
- 3) the need to prevent long-term non-cyclical systemic risk not covered by Regulation 575/2013 and reduce this risk, and the recommendation of the Committee in this regard.

Article 51. 1. If the systemic risk buffer rate specified in the regulations issued on the basis of Article 50 (8) does not exceed 3%, the minister competent for financial institutions shall, through the Committee, notify the European Commission, the European Systemic Risk Board, the European Banking Authority and the authorities responsible for macroprudential supervision of the concerned Member States other than the Republic of Poland about the intention to impose a systemic risk buffer of up to 3%, not later than one month before the date of the determination of this rate.

2. If the systemic risk buffer rate specified in the regulations issued under Article 50 (8) exceeds 3%, the minister responsible for financial institutions shall, through the Committee,

notify the European Commission, the European Systemic Risk Board, the European Banking Authority and the authorities responsible for macroprudential supervision of the concerned Member States other than the Republic of Poland about the intention to determine this rate.

3. If the systemic risk buffer applies to exposures in third countries, the minister competent for financial institutions shall, through the Committee, notify the macroprudential supervision authorities of these countries.

4. If the systemic risk buffer rate is set between 3% and 5%, and the requirement to hold the systemic risk buffer applies to a subsidiary of a parent which is established in a Member State other than the Republic of Poland, the minister responsible for financial institutions shall, through the Committee, notify the competent authorities of that Member State within the meaning of Article 4 (1) (40) of Regulation 575/2013.

5. The notification referred to in paragraphs 1 to 4 shall include:

- 1) a description of systemic risk in the Republic of Poland;
- 2) the reasons for which the size of systemic risk threatens the stability of the financial system at the national level, justifying the systemic risk buffer rate;
- 3) justification for the introduction of the systemic risk buffer rate as an effective and proportionate instrument to reduce this risk;
- 4) assessment of the likely impact of the systemic risk buffer rate on the internal market of the European Union on the basis of available information;
- 5) an explanation of why the application of the measures provided for in national legislation or in Regulation 575/2013, with the exception of Article 458 and Article 459 of the Regulation, will not prevent the indicated systemic risk, taking into account the relative effectiveness of these measures;
- 6) the systemic risk buffer rate.

Article 52. The Committee shall publish information on the systemic risk buffer rate on the website of Narodowy Bank Polski, including information on:

- 1) the applicable systemic risk buffer rate;
- 2) the categories of institutions to which the systemic risk buffer applies;
- 3) the date from which institutions shall apply the systemic risk buffer;
- 4) the types of exposures and the countries in which they are located.

Article 53. 1. Where the competent authority for macroprudential supervision of a Member State other than the Republic of Poland has established a systemic risk buffer rate for that country, the institution shall apply the systemic risk buffer rate as determined in accordance with paragraph 2 in relation to its exposure in that country.

2. The minister responsible for financial institutions may establish by regulation:

- 1) the level of the systemic risk buffer rate established in a Member State other than the Republic of Poland for that country;
- 2) the date from which the institution applies this rate.

3. When issuing the regulation referred to in paragraph 2, the minister responsible for financial institutions shall take into account:

- 1) the recommendation of the Committee on the recognition of the level of the systemic risk buffer rate as established in a Member State other than the Republic of Poland for that country;
- 2) the information contained in the notification submitted by the authority competent in matters of macroprudential supervision of the Member State referred to in paragraph 1;
- 3) the recommendation of the European Systemic Risk Board addressed to the Republic of Poland on the recognition of the systemic risk buffer rate established in another Member State.

4. The minister competent for financial institutions shall notify, through the Committee, the European Commission, the European Systemic Risk Board, the European Banking Authority and macroprudential supervision authority which has set this rate, about

determining the systemic risk buffer rate in accordance with paragraph 2.

Article 54. Once the systemic risk buffer rate has been established, the minister responsible for financial institutions may, through the Committee, ask the European Systemic Risk Board for a recommendation to reciprocate this rate, in accordance with Article 16 of Regulation 1092/2010, addressed to one Member State or more Member States.

Chapter 9

Restrictions on the Distribution of Profits

Article 55. 1. The institution shall be obliged to carry out an internal evaluation process in order to determine whether it satisfies the combined buffer requirement.

2. The institution shall not make distributions related to Common Equity Tier 1 capital to the extent that it would reduce its Common Equity Tier 1 capital to a level where the combined buffer requirement would not be met.

3. The distributions related to Common Equity Tier 1 capital shall include:

- 1) the payment of cash dividends;
- 2) the allocation of shares under Article 442 of the Act of 15 September 2000 – Commercial Companies Code (Dz. U. [Journal of Laws] of 2013, item 1030, as amended) or the allocation of other capital instruments referred to in Article 26 (1) (a) of Regulation 575/2013;
- 3) the redemption or purchase by an institution of its own shares or other capital instruments referred to in Article 26 (1) (a) of Regulation 575/2013;
- 4) the repayment of amounts paid in connection with the capital instruments mentioned in Article 26 (1) (a) of Regulation 575/2013;
- 5) the payment of the items referred to in Article 26(1) (b) to (e) of Regulation 575/2013;

4. The combined buffer requirement shall be the total Common Equity Tier 1 capital required to cover the conservation buffer extended by the institution-specific countercyclical capital buffer, global systemically important institutions buffer, other systemically important institutions buffer and systemic risk buffer (combined buffer requirement).

Article 56. 1. An institution that does not meet the combined buffer requirement shall calculate the maximum distributable amount (MDA) and shall immediately notify the Polish Financial Supervision Authority of its value. In this case, the institution cannot make the payments referred to in paragraph 3, in excess of MDA.

2. MDA shall be established exclusively in relation to the commitments which shall decrease Common Equity Tier 1 capital if this limitation does not result in default or an improper performance of existing obligations of the institution.

3. Before calculating MDA the institution:

- 1) shall not make distributions related to Common Equity Tier 1 capital;
- 2) shall not assume any obligation to pay variable remuneration components or discretionary pension benefits;
- 3) shall not make payments of variable remuneration components if the obligation to pay them was created in the period in which the institution failed to meet the combined buffer requirement;
- 4) shall not make payments relating to Additional Tier 1 instruments referred to in Article 52 of Regulation 575/2013.

Article 57. 1 MDA is the product of a numerical value obtained on the basis of the calculations referred to in paragraphs 2 and 3, and the value of the MDA factor, established in accordance with Article 58, less the amounts referred to in Article 56 (3).

2. The numerical value referred to in paragraph 1 shall be obtained by adding up the

interim profits not included in Common Equity Tier 1 capital, in accordance with Article 26 (2) of Regulation 575/2013, which were obtained from the date of the most recent decision on the distributions referred to in Article 56 (3), and annual profits not included in Common Equity Tier 1 capital in accordance with Article 26 (2) of Regulation 575/2013, which were obtained from the date of the most recent decision on the distributions referred to in Article 56 (3).

3. The amount due from the tax shall be subtracted from the amount calculated in accordance with paragraph 2 if the profits referred to in paragraph 2 are not paid out.

Article 58. 1. If Common Equity Tier 1 capital maintained by an institution which is not used to meet the own funds requirement under Article 92 (1) (c) of Regulation 575/2013, expressed as a percentage of total risk exposure amount calculated in accordance with Article 92 (3) of the Regulation, is located within:

- 1) the first quartile of the combined buffer requirement – MDA factor is 0;
 - 2) the second quartile of the combined buffer requirement – MDA factor is 0.2;
 - 3) the third quartile of the combined buffer requirement – MDA factor is 0.4;
 - 4) the fourth quartile of the combined buffer requirement – MDA factor is 0.6.
2. The upper and lower bounds of each quartile shall be calculated as:
- 1) the lower bound of the quartile – $((\text{combined buffer requirement}) / 4) \times (Q_n - 1)$
 - 2) the upper bound of the quartile – $((\text{combined buffer requirement}) / 4) \times Q_n$
- in which "Qn" means the ordinal number of the quartile.

3. A quartile referred to in paragraphs 1 and 2 shall be the statistical parameter, whose three values divide an ordered set of data into four sets of equal numbers.

Art. 59. 1. If an institution which fails to meet the combined buffer requirement intends to make the distributions referred to in Article 56 (3), it shall immediately notify the Polish Financial Supervision Authority about:

- 1) the amount of capital held by it, subdivided as follows:
 - a) Common Equity Tier 1 capital
 - b) Additional Tier 1 capital,
 - c) Tier 2 capital;
- 2) the amount of the interim and annual profits;
- 3) the MDA calculated in accordance with Article 57;
- 4) the amount of distributable profits it intends to earmark for:
 - a) dividends payment,
 - b) shares buybacks
 - c) the payment of Additional Tier 1 instruments , referred to in Article 52 of Regulation 575/2013,
 - d) the payment of variable remuneration or discretionary pension benefits, whether by creation of a new obligation to pay them, as well as payments resulting from the obligation to pay created in the period in which the institution failed to meet the combined buffer requirement.

2. The institution is developing a method that shall allow to calculate the amount of distributable profits and the MDA accurately, and shall submit it to the Polish Financial Supervision Authority upon request.

Chapter 10

Capital Conservation Plan

Article 60. 1. In the case when an institution fails to meet the combined buffer requirement, it shall prepare a capital conservation plan which is then submitted to the Polish Financial Supervision Authority within 5 working days from the day when it is

identified that the institution does not fulfil this requirement.

2. The Polish Financial Supervision Authority may allow for submitting the capital conservation plan at a later date, no longer than a total of 10 days, taking into account an individual situation of the institution.

Article 61. 1. The institution's capital conservation plan shall include:

- 1) projected revenues and expenses, and a forecast balance sheet;
- 2) measures to increase the capital ratios;
- 3) a plan and timeframe to increase its own funds in order to achieve compliance with the combined buffer requirement.

2. The Polish Financial Supervision Authority shall assess the capital conservation plan and approve it, if it deems that its implementation will help to maintain or raise sufficient capital to enable the institution to meet its combined buffer requirement within the deadlines specified by the Authority. The Polish Financial Supervision Authority may request to supplement the capital conservation plan with information it deems necessary to properly assess the plan.

3. If the Polish Financial Supervision Authority does not receive such a plan within the period referred to in Article 60, or does not approve the capital conservation plan by way of decision, it shall impose on the institution requirement to increase own funds within specified period set by the Authority, to the level necessary for prudent and stable functioning of the institution.

Chapter 11

Administrative Sanctions for the Infringement of Provisions

Article 62. 1. In the event of establishing that an institution infringes the provisions of Article 19 (1), Article 21 (1), Article 34 (1), Article 38 (1), Article 47, Article 55 (1) and (2), Article 56 (1) or Article 61 (3), the Polish Financial Supervision Authority may:

- 1) apply to the appropriate bodies of the institution for the recall of the president, vice president or another member of the board of the institution directly responsible for the irregularities found;
- 2) by way of decision:
 - a) suspend from office the members of the board referred to in point (1) until the adoption of a resolution on the application for their dismissal by the supervisory board at the next meeting; suspension from duties involves exclusion from decision-making for the institution in terms of its property rights and liabilities,
 - b) limit the scope of activities of the institution or its organisational units, or reduce the network of these units,
 - c) impose a fine of up to 10% of the revenue reported in the latest audited financial statements on the institution, and in the absence of such statements – a fine of up to 10% of the projected income referred to on the basis of economic and financial situation of the institution,
 - d) impose a fine on a natural person, referred to in point (1), in an amount no greater than PLN 20,000,000,
 - e) revoke an authorisation to establish an institution and decide on its liquidation or withdraw the authorisation for the institution to operate.

2. The Polish Financial Supervision Authority shall transfer to the Bank Guarantee Fund amounts obtained from fines referred to in paragraph 1 (2) (c) and (d), imposed on the institution engaged in banking activities or a natural person referred to in paragraph 1(1) who is a member of the board of this institution.

3. The fine referred to in paragraph 1 (2) (c) and (d) shall be enforced under the provisions on administrative enforcement proceedings.

4. In the case of application towards the institution conducting banking activities the sanctions referred to in paragraph 1 (2) (e), the provisions of Article 147 (3) and Articles 153 to 156 of the Banking Act shall apply accordingly.

Chapter 12

Macroprudential Instruments under Article 458 of Regulation 575/2013

Article 63. The minister responsible for financial institutions may determine, by way of regulation, the measures regarding the institution referred to in Article 458 (2) (d), paragraphs 5 and 10 of Regulation 575/2013, taking into account the recommendations of the Committee in this regard and an increase in systemic risk in the financial system, which may have negative consequences for the financial system and the economy of the Republic of Poland.

Article 64. 1. In the case referred to in Article 458 (5) of Regulation 575/2013, the institution which operates in another Member State in the form of a branch, shall apply measures specified in the regulations issued under paragraph 2.

2. The minister responsible for financial institutions may determine, by way of regulation, the measures referred to in Article 458 of Regulation 575/2013, established in another Member State, for branches of the institution located in that state, taking into account the recommendation of the Committee on recognising the systemic risk buffer rate as established in a Member State other than the Republic of Poland for that state, and the recommendation of the European Systemic Risk Board addressed to the Republic of Poland, concerning the recognition of the systemic buffer rate established in another Member State.

Chapter 13

Amendments to the existing provisions

(...)

Article 67. In the Act of 29 August 1997 on Narodowy Bank Polski (Dz. U. [Journal of Laws] of 2013, items 908 and 1036 and of 2015, item 855) shall be amended as follows:

1) in Article 3 paragraph 2:

a) point (6a) shall read as follows:

"6a) acting for the stability of the financial system in terms of a financial institution within the meaning of point (4) of Article 4 of the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management (Dz. U. [Journal of Laws] item 1513);"

b) after point (6a) the following point (6b) shall be added:

"6b) acting to eliminate or reduce systemic risk referred to in point (15) of Article 4 of the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management;"

2) in Article 23:

a) in point (2) of paragraph 2, the full stop shall be replaced by a semicolon and the following point (3) shall be added:

"3) shall submit to NBP, at its request, the necessary data for analysis of systemic risk."

b) paragraph 2c shall read as follows:

"2c. The minister competent for financial institutions, after consulting the President of NBP and the Chairman of the Polish Financial Supervision Authority, shall determine, by regulation, the manner, the detailed scope and deadlines for submission by the entities referred to in paragraph 2, other than banks, data necessary for determining

the monetary policy, periodic assessments of the monetary condition of the state and analysis of systemic risks, taking into account the position, share in the financial market and the importance for the analysis of monetary operations of these entities and the need to provide NBP with the information necessary to perform its obligations under the Act, and tasks resulting from its participation in the European System of Central Banks and the European Systemic Risk Board."

c) after paragraph 3 the following paragraph 3a shall be added:

"3a. The Central Securities Depository of Poland and the company to which the Central Securities Depository of Poland transferred the performance of its activities within the scope of its tasks referred to in Article 48 (1) points (1) to (6) or paragraph 2 of the Act of 29 July 2005 on Trading in Financial Instruments (Dz. U. [Journal of Laws] of 2014, item 94, as amended), clearing houses and settlement houses referred to in Article 68a of the Act, and the central counterparty (CCP) within the meaning of Regulation of the European Parliament and of the Council (EU) No 648/2012 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ EU L 201 of 27.07.2012, p. 1, as amended), shall transmit, at the request of the President of NBP, information necessary to perform the tasks referred to in Article 3 (2) points (6a) and (6b) relating to the participants within the meaning of Article 45a (2) of this Act, for the purpose of assessing the financial situation of the participants and the stability of the financial system and the risk of the financial system."

d) paragraph 6 shall read as follows:

"6. Statistical compilations, elaborations and assessments containing individual data referred to in paragraphs 2, 2a, 3 and 3a, allowing linking it to a specific entity or identifying a specific entity, particularly if the preparation of the compilation, elaborations and assessment involved data on fewer than three entities or the share of data on a single entity, used in the compilation, elaboration or assessment is greater than three quarters of the total – it cannot be disclosed to third parties."

e) in paragraph 7, the introduction to the list shall read as follows:

"Individual data referred to in paragraphs 2, 2a, 3 and 3a, as well as statistical compilations, elaborations and assessments referred to in paragraph 6, shall be made available by NBP:"

f) after paragraph 8, the following paragraph 8a shall be added:

"8a. Individual data referred to in paragraphs 3 and 3a, as well as statistical compilations, elaborations and assessments referred to in paragraph 6, shall be made available by NBP to the Financial Stability Committee referred to in the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management, to the extent necessary for the implementation of the Committee's tasks."

g) paragraph 9 shall read as follows:

"9. The provisions of paragraphs 8 and 8a shall apply accordingly to data containing information protected under separate laws, including information subject to banking secrecy;"

3) after Chapter 4, the following Chapter 4a shall be inserted:

"Chapter 4a

NBP and the Financial Stability Committee

Article 30a. NBP shall made available to the Financial Stability Committee:

- 1) information and data, including also protected under separate laws, necessary to assess systemic risk;

- 2) analyses, elaborations and opinions on the assessment of systemic risk, financial stability and macroeconomic imbalances, including NBP periodic reports on the stability of the financial system and reports on macroeconomic imbalances;
- 3) information on the actions taken by the competent entities referred to in point (22) of Article 4 of the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management, related to the follow-up to the recommendations of the Financial Stability Committee;
- 4) information on consultations with the European Commission, the European Systemic Risk Board, the European Banking Authority and the macroprudential authorities of the other concerned Member States referred to in Article 4 point (9) of the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management, and the opinions issued by these bodies concerning the activities of the Financial Stability Committee.

Article 30b. NBP shall provide support for the Financial Stability Committee in the implementation of the tasks set out in Article 5 of the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management, in particular:

- 1) shall organise meetings of the Financial Stability Committee and run its secretariat;
 - 2) shall prepare draft resolutions of the Financial Stability Committee. "
- 4) in Article 54 (1) point (2), the full stop shall be replaced by a semicolon and the following point (3) shall be added:
- "3) the resolutions of the Financial Stability Committee referred to in Article 12 (5) of the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management."

(...)

Chapter 14

Transitional and Final Provisions

Article 81. Identified global systemically important institutions shall maintain:

- 1) 25% of the global systemically important institution buffer in 2016;
- 2) 50% of the global systemically important institution buffer in 2017;
- 3) 75% of the global systemically important institution buffer in 2018;
- 4) 100% of the global systemically important institution buffer from 2019.

Article 82. The Financial Stability Committee, acting pursuant to the provisions of the Act referred to in Article 95, shall become the Committee.

Article 83. The countercyclical buffer rate referred to in Article 24 (1) shall be 0% in the period to the day preceding the day from which the institution shall be obliged to apply the rate provided in the regulation issued pursuant to Article 24 (3).

Article 84. 1. In the period from 1 January 2016 to 31 December 2017, the conservation buffer shall consist of Common Equity Tier I capital equivalent to 1.25% of total risk-weighted exposure amounts relating to institutions, calculated in accordance with Article 92 (3) of Regulation 575/2013.

2. In the period from 1 January 2018 to 31 December 2018, the conservation buffer shall consist of Common Equity Tier I capital equivalent to 1.875% of total risk-weighted exposure amounts relating to institutions, calculated in accordance with Article 92 (3) of Regulation 575/2013.

(...)

Article 95. The Act of 7 November 2008 on the Financial Stability Committee shall expire (Dz. U. [Journal of Laws] No. 209, item 1317 and of 2013, item 1012).

Article 96. The Act shall come into force 30 days from the date of its promulgation, with the exception of:

- 1) Articles 19 to 46, Articles 55 to 62, Article 81 and Article 83, which shall come into force on 1 January 2016;
- 2 (...)