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## **ORGANIZATIONAL MODEL OF POLISH COOPERATIVE BANKS IN THE POST-CRISIS REGULATORY ENVIRONMENT**

**Abstract.** Even though the Polish cooperative banks were affected by the global crisis only indirectly, yet after the crisis their condition has begun to deteriorate. This was the result of numerous changes taking place within the macroeconomic and regulatory environment. This paper is to define the impact of crucial post-crisis regulations passed by the EU – CRDIV/CRR package, the directives on DGS and BRR – on the directions in which the organizational model of domestic cooperative banking should evolve.

CRDIV/CRR is a regulatory package implementing the provisions of Basel III (Third Capital Agreement, Basel III). As part of the package, changes were made in two main areas determining banks' security: the first one is capital adequacy, the second – liquidity and liquidity risk. Implementation of the provisions of the CRD IV/CRR package regarding banks' capital base policy into the Polish legal regime began in mid-2015 on the back of the act on macro-prudential supervision of the financial system and crisis management in the financial system dated 5 August 2015.

Directive 2014/49/EU of the European Parliament and of the Council concerning Deposit Guarantee Schemes (DGS) essentially increases the protection of depositors' savings and one of its main provisions is harmonizing the methods of financing deposit-guarantee schemes ex ante. The Directive of the European Parliament and Council 2014/59/EU (BRRD) defines the principles of establishing national recovery and resolution mechanisms. The DGS and BRR Directives were introduced into the Polish legal regime by means of the act on the bank guarantee fund, deposit guarantee scheme and resolution of 10 June 2016.

Based on an analysis of the impact of selected EU and national post-crisis regulations on the cooperative banking sector in Poland, two final conclusions were reached. First and foremost, in the hitherto existing regulatory environment imposing additional burdens on all banks, privileges were foreseen mainly for Institutional Protection Schemes (IPSs) members, while in the new legal regime the proportionality rule was applied to a limited extent. Secondly, due to the privileges arising from existing regulations, the evolution of the organizational model of Poland's cooperative banking sector towards IPS seems to be inevitable.

**Keywords:** apex bank, associate banks, BRRD, CDRIV/CRR, directive on DGS, cooperative banks, IPS

**JEL Classification:** F360, G210, G280

Formulas: 0; fig.: 1; tabl.: 3; bibl.: 34

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## **ОРГАНІЗАЦІЙНА МОДЕЛЬ ПОЛЬСЬКИХ КООПЕРАТИВНИХ БАНКІВ В ПОСТ-КРИЗОВОМУ РЕГУЛЯТОРНОМУ СЕРЕДОВИЩІ**

**Анотація.** Незважаючи на те, що польські кооперативні банки постраждали від глобальної кризи лише частково, але після кризи їх стан погіршувався. Це стало результатом численних змін, що відбуваються в рамках макроекономічного та регуляторного середовища. Цей документ визначає вплив вирішальних посткризових правил, прийнятих у пакеті ЄС -

CRDIV / CRR, директиви щодо DGS та BRR - щодо напрямків розвитку організаційної моделі вітчизняного кооперативного банкінгу.

CRDIV / CRR є регуляторним пакетом, який реалізує положення Базель III (Третя столична угода, Базель III). У рамках пакету були внесені зміни у двох основних сферах, що визначають безпеку банків: перша - достатність капіталу, друга - ризик ліквідності та ліквідності. Реалізація положень пакету CRD IV / CRR щодо політики розрахункової бази капіталу у польському правовому режимі розпочалася в середині 2015 року на тлі акту про макропруденційний нагляд за фінансовою системою та врегулювання кризових ситуацій у фінансовій системі від 5 серпня 2015 року.

Директива 2014/49 / ЄС Європейського Парламенту та Ради щодо схем гарантування вкладів (ДГС) суттєво підвищує захист заощаджень вкладників, і одним із основних положень є гармонізація методів фінансування схем гарантування депозитів ex ante. Директива Європейського Парламенту та Ради 2014/59 / ЄС (BRRD) визначає принципи створення національних механізмів відновлення та регулювання. Директиви DGS та BRR були введені в правовий режим Польщі шляхом акту Банківського гарантійного фонду, схеми гарантування вкладів та постанови від 10 червня 2016 року.

На підставі аналізу впливу окремих посткризових правил ЄС та національних посткризових заходів на кооперативний банківський сектор у Польщі було досягнуто двох остаточних висновків. Перш за все, в існуючому в даний час регуляторному середовищі, що створює додатковий тягар для всіх банків, пільги передбачалися в основному для членів Інституціональних схем захисту (ІПС), тоді як в новому правовому режимі застосовувалося обмеження пропорційності. По-друге, через привілеї, що випливають з існуючих правил, еволюція організаційної моделі кооперативного банківського сектора Польщі до IPS, здається, неминуча.

**Ключові слова:** апекс-банк, асоціативні банки, BRRD, CDRIV/CRR, директива DGS, кооперативні банки, IPS

Формули: 0; рис.: 1; табл.: 3; бібл.: 34

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## **ОРГАНИЗАЦИОННАЯ МОДЕЛЬ ПОЛЬСКИХ КООПЕРАТИВНЫХ БАНКОВ В ПОСТ-КРИЗИСНОЙ РЕГУЛЯТОРНОЙ СРЕДЕ**

**Аннотация.** Несмотря на то, что польские кооперативные банки пострадали от глобального кризиса лишь частично, но после кризиса их состояние ухудшалось. Это стало результатом многочисленных изменений, происходящих в рамках макроэкономического и регуляторной среды.

На основании анализа влияния отдельных посткризисных правил ЕС и национальных посткризисных мер на кооперативный банковский сектор в Польше было достигнуто двух окончательных выводов. Прежде всего, в существующем в настоящее время регуляторной среде, создает дополнительное бремя для всех банков, льготы предусматривались в основном для членов институциональных схем защиты (ИПС), тогда как в новом правовом режиме применялось ограничение пропорциональности. Во-вторых, из-за привилегии, вытекающие из существующих правил, эволюция организационной модели кооперативного банковского сектора Польши в IPS, кажется, неизбежна.

**Ключевые слова:** апекс-банк, ассоциативные банки, BRRD, CDRIV/CRR, директива DGS, кооперативные банки, IPS

Формулы: 0; рис.: 1; табл.: 3; библи.: 34

**Introduction and formulation of the problem.** The global financial crisis of 2008 – 2009 affected Polish cooperative banks in an indirect way. The absence of stronger ties with the interbank market, focusing on accepting deposits and granting credit to local clients proved to be advantageous, allowing increasing the profitability of assets and equity capital and improving solvency of that sector [1, p. 252]. Adverse tendencies became apparent when EU Member States were experiencing regulatory shock attributable to the implementation of Basel III and other legal acts poised to reinforce the financial system of EU and increase protection against systemic risk. The basic financial data of Polish cooperative banks in the years 2011-2017 are presented in table 1.

The author aims to describe the impact made by the most significant post-crisis EU regulations on the directions in which the organizational model of domestic cooperative banking sector should evolve. The analysis covered the years 2011-2017, unless for lack of data the decision was made to use secondary sources, which might have had a different timeframe. The considerations concerned selected post-crisis EU regulations, such as CRDIV/CRR [3,4] package, directive on DGS [5] and BRRD [6].

**A review of post-crisis EU regulations – CRDIV/CRR, directive on DGS and BRRD.** CRDIV/CRR is a regulatory package implementing the provisions of Basel III (Third Capital Agreement, Basel III), whose regulations in their main part have already become a binding standard, yet they will become fully enacted on 1 January 2019. As part of the package, changes were made in two main areas determining banks' security; the first one is capital adequacy (raising the coefficient, changes in the definitions of own funds); the second – liquidity and liquidity risk (implementation of standards simulating stable financing). The solutions adopted by CRDIV/CRR package imply additional reporting and administrative regulations for all banks which result from the need to inform proper supervisory bodies about exposure to particular types of risk.

In the case of cooperative banks, apart from stricter capital adequacy requirements, crucial importance is attached to the stipulations of the package regarding the conditions for recognizing capital instruments by credit institutions to Tier 1 basic fund [4, Art. 28].

Changes within currently binding liquidity standards stipulated by CRDIV/CRR package consist mainly in the introduction of short term liquidity ratio (Liquidity Coverage Ratio; LCR) and structural liquidity ratio (Net Stable Funding Ratio; NSFR). The objective of introducing LCR standard was, among others, such restructuring of banks' balance sheets that to avoid overloading the central bank at a time of liquidity tensions. Pursuant to Commission Delegated Regulation (EU) 2015/61 [7], commencing with 01.01.2018, credit institutions should maintain LCR liquidity ratio at 100% (previously the following ratios were in effect: as of 01.10.2015 – 60%, as of 01.01.2016 – 70%, and as of 01.01.2017 – 80%). The NSFR standard aims to change the structure of financing banks from short-term retail market to medium and long-term debt securities, *quasi* equity and equity instruments. Pursuant to the most recent Basel Agreement, NSFR standard [8, p. 2] should have been implemented by 1 January 2018. However, the CRR did not define the minimum levels of that indicator nor the dates of its enforcement and, as of the end of October 2018, it did not become a binding standard for EU countries. Changing approaches to financing sources affect cooperative as well as associate banks at least for two reasons: firstly, pursuant to the change of regulations, cooperative banks may no longer list the deposits placed with the associate banks as liquid assets; secondly, both cooperative and associate banks must assign high outflow weights to funds coming from the wholesale market (for interbank funds, the outflow weight is 100%) [4, Art. 420-424; 7, Art. 23-31].

In keeping with reporting requirements, both the CRR [4, Art. 99.5] and technical standards [9, Foreword] emphasized the need for relevant supervisory authorities to consider the nature and complexity of the institution's activities (the size of the trading book and banking book, methods used to estimate credit risk) when enforcing the reporting obligation and the possibility of quantitative application materiality thresholds in the implementation of individual reporting models. Although this means less complicated procedures for small entities, representatives of the cooperative banking community have repeatedly emphasized the excessive administrative costs in this area.

Table 1

The basic financial data of Polish cooperative banks (CBs) over the period December 2011-June 2017

Financial data/Years	2011	2012	2013	2014	2015	2016	IIQ 2017
The number of CBs	574	572	571	565	560	558	556
Total assets of CBs (PLN bn)	78.4	85.8	96.5	100.8	107.9	120.7	123.3
The share of CBs' assets in the overall banking assets (%)	6.1	6.4	6.9	6.6	6.7	7.1	7.0
CBs' own funds (PLN bn)	7.7	8.7	9.7	9.9	10.5	10.9	11.5
The share of CBs' own funds in own funds of the banking sector (%)	7.0	6.7	7.0	6.8	6.6	6.2	6.3
CBs' receivables from non-financial entities and the local government sector (PLN bn)	47.9	52.6	57.2	60.7	64.2	66.4	68.0
The share of CBs' receivables from non-financial entities and the local government sector in the receivables of the banking sector (%)	5.8	6.3	6.6	6.6	6.5	6.4	6.0
CBs' deposits from non-financial entities and the local government sector (PLN bn)	66.2	72.9	82.9	86.6	93.5	105.7	107.9
The share of CBs' deposits from non-financial entities and the local government sector in deposits of the banking sector (%)	8.9	9.3	10.0	9.5	9.5	9.7	9.6
The CBs' financial result (PLN bn)	898.0	967.0	745.0	761.0	462.8 <sup>a)</sup> (- 1184.0) <sup>b)</sup>	583.0	439.0
The share of the CBs' financial result in the financial result of the banking sector (%)	5.8	6.3	4.9	4.8	4.1 <sup>a)</sup> (-10.6) <sup>b)</sup>	4.2	6.4
The negative balance of write-offs and provisions in CBs' to the CBs' balance sheet total (%)	0.4	0.4	0.3	0.4	1.9	0.5	0.2
The negative balance of write-offs and provisions in the banking sector to the banking sector balance sheet total (%)	0.7	0.7	0.6	0.6	0.6	0.5	0.2
CBs' capital adequacy ratio (%)	13.4	13.8	14.3	15.8	13.7	17.1	17.5
ROA in the banking sector (%)	1.3	1.2	1.1	1.1	0.7	0.8	0.8
CBs' ROE (%)	11.6	11.1	7.8	7.4	4.4 <sup>a)</sup> (-11.2) <sup>b)</sup>	5.4	7.4

<sup>a)</sup> Without Bank Spółdzielczy in Lesznowola that - due to its financial problems - was taken over by SGB-Bank, and Spółdzielczy Bank Rzemiosła i Rolnictwa (SBRzR) in Wolomin that went bankrupt.

<sup>b)</sup> Including financial results of BS in Lesznowola and SBRzR in Wolomin.

Source: Author's on the basis of [2].

The participation in the Institutional Protection Scheme (IPS) [4, Art. 113.7]<sup>1</sup>, provided by the CRR, which is a contractual or statutory agreement on liability that protects member institutions, and in particular guarantees their liquidity and solvency to avoid bankruptcy, helps in solving problems related to meeting capital adequacy standards and liquidity standards. The system assumes close links between the members of associations, consisting in ensuring mutual satisfaction with liquidity and solvency of its participants. Certain concessions - both with regard to prudential requirements and reporting requirements - should also be brought by the expected amendment of the CRDIV/CRR package [10; 11]. The changes proposed in November 2016 by the European Commission, as well as the Simon report drawn up in the course of the discussion on the changes, include the definition of a small bank (an entity whose assets are less than EUR 1.5 billion) and provide for such an entity simplified reporting principles and simplified rules for determining the long-term liquidity standard.

Directive 2014/49/EU of the European Parliament and of the Council concerning Deposit Guarantee Schemes (DGS) was enacted on 2 July 2014 (some provisions became applicable on 4 July 2015). Member states were obliged to implement the legislative, administrative and implementing regulations necessary for its application until 3 July 2015 or until 3 July 2016. The Directive essentially increases the protection of depositors' savings, and its main provisions are: 1) maintaining the guaranteed amounts at EUR 100,000, 2) simplifying and harmonizing the arrangements for payment guarantees, 3) shortening the payment deadline, 4) harmonizing the methods of financing deposit-guarantee schemes ex-ante (the Directive also allows the introduction of ex-post contributions), 5) introducing the possibility of granting loans between deposit guarantee schemes on a voluntary basis.

Pursuant to the stipulations of the act, by 3 July 2024, the available financial means of the deposit guarantee system should amount to at least 0.8% of the total guaranteed deposits. From the perspective of cooperative banks, the way of calculating the contributions to guarantee funds has become the crucial element of the new DGS. The directive and the pursuant EBA guidelines designate the total of guaranteed deposits and the risk (weight) to which each member (credit institution) [5, Art. 4.2 and 13.1] is exposed, to become the basis for calculation of contributions. Risk is assessed in proportion to the level of capital, liquidity and the way of financing, quality of assets, business and management model, and the potential losses from the whole system of guarantees.

The Directive of the European Parliament and Council 2014/59/EU (Bank Recovery and Resolution Directive, BRRD) defines the principles of establishing national recovery and resolution mechanisms. It was enacted on 22 June 2014 and the Member States were required to pass relevant legislative and administrative acts and implementing regulation by 31 December 2014, with effect from 1 January 2015 (with some exceptions). Based on the stipulations of the BRRD, participation in national recovery and resolution mechanisms is related to, *inter alia*, charges for contributions to relevant funds established at the national level, the need for recovery and resolution plans and the need to comply with the minimum requirement for own funds and eligible liabilities (MREL)<sup>2</sup>. The contributions are adjusted to the risk profile of each institution. Details of how basic contributions are calculated and adjusted for risk are set out in Commission Delegated Regulation (EU) 2015/63 [13]. It provides for the adjustment of basic contributions (calculated on the basis of liabilities less own funds and the sum of covered deposits) by such risk elements as: risk exposure, stability and diversification of funding sources, the institution's importance to the stability of the financial system or economy, additional risk indicators determined by the resolution authority. The final contribution amounts to the basic contribution multiplied by the additional risk adjustment indicator ranging from 0.8 to 1.5 (the algorithm for determining the adjustment rate is in the Regulation). In addition

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<sup>1</sup> The aforementioned article also specifies the requirements for the institutions aspiring to IPS status.

<sup>2</sup> In November 2016, the European Commission presented a draft amendment to the BRRD, which was adopted by the European Parliament and Council in December 2017 (BRRD2) [12]. The new directive stipulates, *inter alia*, adaptation of the MREL to the TLAC (Total Loss-absorbing Capacity) standard and, to increase the feasibility of the bail-in instrument, it introduces a new category of non-preferred senior debt.

to standard solutions, the Delegated Regulation provides for the possibility of collecting lump-sum contributions (from 1 to 50 thousand euro depending on the size of the entity) from small institutions whose total liabilities reduced by own funds and covered deposits do not exceed EUR 300 million and whose total assets amount is less than EUR 1 billion [13, Art. 10]. Till 1 January 2024, member states may allow institutions whose total liabilities, less own funds and covered deposits, are above EUR 300,000,000, and whose total assets do not exceed EUR 3,000,000 000 to pay lump-sum of EUR 50,000 for the first EUR 300,000,000 of total liabilities, less own funds and covered deposits [13, Art. 20.5]. Commission Delegated Regulation (EU) envisages certain concessions for IPS members: in their case, the liabilities based on an agreement concluded with another institution that is a member of the same IPS are excluded from the basis for calculating contributions. Their exposure to additional risk factors is also reduced (provided for by "additional risk indicators to be determined by the resolution authority") [13, Art. 5.1 b), Art. 6.5 b) and Annex I].

MREL is calculated as the ratio of own funds and eligible liabilities to total liabilities and own funds of the institution [6, Art. 45.1]. Eligible liabilities (bail-inable liabilities) are liabilities or equity instruments not included in Common Equity Tier 1 instruments or additional Tier 1 or Tier 2 instruments that are not excluded from the scope of the bail-in tool and meet certain conditions [6, Art. 45.4].

In May 2016, the Commission published regulatory technical standards regarding the rules for the determination of this requirement by the resolution authorities [14], allowing them to introduce transition periods necessary for adapting the structures of the balance sheets of entities covered by the MREL. According to the adopted standards, the MREL amount should be calculated so that in case of restructuring, write down or conversion of eligible liabilities would allow restoring the institution's ability to meet the relevant capital requirements provided by the CRDIV/CRR package and market confidence, taking into account the business model, funding model and risk profile. It may be stipulated from the methodology established by the Commission that for cooperative banks, the amount of eligible liabilities should not exceed the sum of basic capital requirements; in some cases, it may be zero (if the resolution authority finds that the liquidation of the institution under ordinary bankruptcy proceedings is feasible and credible and there are no additional reasons to determine the amount of a potential capital injection) [14, Art. 2.2].

**Results: The impact of post-crisis regulations on the model of functioning of cooperative banks in Poland.** Implementation of the provisions of the CRD IV/CRR package regarding banks' capital base policy into the Polish legal regime began in mid-2015 on the back of the act on macro-prudential supervision of the financial system and crisis management in the financial system dated 5 August 2015 [15] whose major part came into effect on 1 November 2015. Pursuant to the act, references to relevant provisions of Regulation 575/2013 were incorporated into the Polish banking act, and additionally rules governing the creation of capital buffers (capital conservation, countercyclical, systemically important institutions) were formulated. Regulations adjusting the operating principles of cooperative banks to the provisions of the CRD IV/CRR package came into force on 13 September 2015 enforced by an amendment to the act on the functioning of cooperative banks, their association and associating banks [16]. The amendment resulted, among others, in a change in the rules underlying the creation by cooperative banks of their own funds and the option for cooperative and associating banks to set up Institutional Protection Schemes or Integrated Associations (one of the conditions that must be met by these schemes and associations is the creation of an aid fund providing support to its participants in the event of solvency issues; the general rules governing the foundation of Integrated Associations are, however, less restrictive). The amendment allowed managements to restrict or even suspend withdrawal of members' contributions (voluntary dissolution) as long as certain conditions are met. Such an arrangement had a negative impact on Polish cooperative banks' own funds and capital adequacy ratios, as a finite catalogue of reasons for blocking or declining to return members' contributions did not justify enlisting these contribution as EBA instruments meeting the eligibility criteria of CET1 funds. According to CRR, member shares issued in 2012-2013 could not be recorded as cooperative banks' own funds, and the participation funds issued before 31 December

2011 were subject to depreciation from 1 January 2014 to 31 2021 (by 20% in 2014 and by 10% in the subsequent years) [4, Art. 484 and 486].

Inclusion of the participation fund into CET1 became possible only after the next amendment to the act on the functioning of cooperative banks in 2016 [17, Art. 10c with a wording on the strength of 18, Art. 351.2)], when, pursuant to appropriate provisions in the Articles of Association, a bank's management board was unconditionally empowered to restrict or suspend the return of contributions. Enlisting members' contributions in Polish cooperative banks on the EBA list [19] on 1 December 2016 confirmed that such instruments may meet the requirements of the CRR regulation, but did not mean that they may automatically be included in CET1 for each bank. Since the EBA's decision, those cooperative banks which, with the consent of the Financial Supervision Commission (KNF), make relevant amendments to their Articles of Association and file these changes with the National Court Register (KRS), are eligible to include in their own funds their own contributions made up to and including 28 June 2013, without having to seek KNF's prior approval. A similar recognition of contributions made after this date requires the consent of the Polish regulator, though [4, Art. 26.3]. The change in the way EBA treats members' contributions caused a large part of Poland's cooperative banks to restate their Articles of Association and credit the entire participation fund contributed prior to 28 June 2013 solely to CET1 funds. This necessitated certain adjustments (zeroing) in the fund itself subject to depreciation and an increase in banks' own funds and sector's capital adequacy ratios in 2016 and H1 2017 (in the above-mentioned periods, co-operative banks allocated to CET1 PLN 78.5 million and PLN 69.5 million respectively) [20, p. 32].

In accordance with EU regulations and provisions of sectoral law, the establishment of an Institutional Protection Scheme enabled cooperative banks to e.g. [21, p. 28]:

- determine and report a single LCR measure for the entire IPS association;
- stop reducing banks' own funds by amounts exceeding capital involvement limits across the entire IPS association;
- apply a 0% credit risk weight for intra-association exposure, i.e. reduce members banks' capital requirement.

The DGS and BRR Directives were introduced into the Polish legal regime by means of the act on the bank guarantee fund, deposit guarantee scheme and resolution of 10 June 2016 [18]. Pursuant to the act, the Bank Guarantee Fund (BFG) became the national resolution authority in Poland. The act set out the details of resolution of banks, credit unions (SKOK) and some investment firms, including principles of cooperation between BFG and KNF, the Minister of Finance and the National Bank of Poland (NBP) and their counterparties in other countries in the case of a procedure affecting banking groups. The hitherto mandate of BFG and KNF has been extended to include prerogatives related to the process of preparing and conducting resolution. Under the act, the prudential charge payable towards a stabilization fund, previously collected from the banks, was abolished and replaced with a contribution to a resolution fund. Domestic banks (including cooperative banks), branches of foreign banks and credit unions (SKOK) were committed to make contributions to finance a deposit guarantee and resolution schemes (the obligation to contribute to the resolution fund was likewise imposed on investment firms). The new BFG act also sets out minimum and target levels of deposit guarantee and resolution funds, deadlines for achieving these target levels (in accordance with binding EU standards), as well as rules for determining the minimum requirement for banks' own funds and eligible liabilities subject to the bail-in power (MREL). MREL is determined by the BGF for each domestic entity subject to the requirement (bank, investment firm or credit union), after consulting KNF, including by giving consideration to the size and type of its business activity and risk profile [18, Art. 97.2], which implies that rules of their calculation will be more liberal for cooperative banks.

In line with EU regulations, domestic regulations in force provide for certain reliefs for IPS members, e.g.:

- permission to enjoy a reduction in the size of contributions made towards a deposit guarantee fund [18, Art. 289.2 and 289.11; 22, §6.5 and Załącznik];

- permission to enjoy a reduction in the size of contributions towards a bank resolution fund [18, Art. 298.2, 298.4, 298.5; 23, §2.1.2 and Załącznik nr 1];
- permission to develop a group recovery plans (group recovery plans may also be prepared by Integrated Associations) [24, Art. 141o.1];
- reduction in the scope and type of measures in a group recovery plan [24, Art. 141p.2.3].

Regardless of the rules underlying the grant of reductions, all cooperative banks met the criteria for lump-sum fees arising from calculation of contributions to the resolution fund in 2017 [25] (the average value of a cooperative bank's assets in Poland amounted to PLN 222 million) [author's own estimates based on 2].

In July 2017, the BFG adopted and promulgated a methodology under which Polish banks should determine MREL [26]. From the point of view of cooperative banks, the BFG decision to make the MREL level dependent on the preferred solution in the recovery and resolution plan is important: if such a plan envisages liquidation as part of the standard bankruptcy procedure (which is to be expected for a large part of cooperative banks), MREL is set at the level of applicable capital requirements [26]. Recovery and resolution plans of Poland's banks (35 commercial banks and 555 cooperative banks) were developed by BFG in October 2017 (i.e. within one year following the entering into force of the act on the bank guarantee fund, deposit guarantee scheme and resolution) [27]. These plans have never entered the public domain, according to some experts however in the case of cooperative banks, MREL is said to stand at no more than 1.5 of the capital requirement [28]. BFG's approach to the MREL calculation method will be reviewed after the implementation of BRRD2 – an appropriate draft amendments to the act on the bank guarantee fund, deposit guarantee system and resolution as well as the bankruptcy law have already been developed [29] and should be adopted by the Council of Ministers in Q3 2018.

Due to numerous the above-mentioned regulatory privileges arising from the creation of Institutional Protection Schemes, both the SGB-Bank SA and the BPS SA associations applied to the KNF with a request for consent for their establishment. Relevant permits were issued in late 2015. KNF reports indicate that accession to IPSs significantly affected liquidity ratios and capital adequacy ratios of Polish cooperative banks: their solvency ratio grew the fastest in the group of banks that joined IPSs, and at the end of June 2017 all banks participating in IPSs met the individual or group LCR standard [20, p. 31] (although in 118 Polish cooperative banks, the individual LCR index was below the regulatory minimum) [30, p. 63]. The consolidated liquidity and capital adequacy ratios of IPSs operating in Poland are presented in table 2. Higher liquidity and capital adequacy ratios were observed in IPS BPS, which was also characterised by a larger number of participants. As at 30 September 2017, there were 486 IPS participants (out of a total of 555 cooperative banks), including 288 members of IPS BPS and 198 of IPS SGB . They accounted for 87.6% of the overall number of cooperative banks and represented 80% of the cooperative banking sector's assets [20, p. 3 and 20].

Table 2

Liquidity and capital adequacy ratios of IPSs operating in Poland over the period  
December 2015-June 2017<sup>\*)</sup>

Indicator/IPS	IPS BPS			IPS SGB		
	31.12.2015	31.12.2016	30.06.2017	31.12.2015	31.12.2016	30.06.2017
LCR (%)	134.1	177.0	174.0	237.1	230.0	226.0
Solvency ratio (%)	16.2	17.7	17.8	16.0	18.0	18.3
Tier 1 capital ratio (%)	15.4	16.6	16.9	15.5	17.5	17.8

<sup>\*)</sup> Source: Author's on the basis of [21, pp. 30 and 33]; [31, pp. 30 and 31]; [20, pp. 32 and 33].

69 entities, including two independent players: Krakowski Bank Spółdzielczy and Bank Spółdzielczy in Brodnica, operated outside IPSs. The decisions not to access IPS was mostly dictated by

banks' inability to meet the requirements binding upon members of these structures as set out in Regulation (EU) 575/2013 [4, Art. 113.7], although public discourse not infrequently featured opinions arguing that protection systems limit participants' autonomy. 56 cooperative banks that decided not to join IPSs (one from the SGB association, 55 from the BPS association) declared their readiness to create an Integrated Association. On 20 October 2016, the group filed with KNF a request for permission to establish Polski Bank Apeksowy, which consent was granted on 21 November 2017 [32]. The activities of the newly established bank are to be limited and will involve provision of financial support services to the association; the bank will not conduct commercial deposit and lending activities or open branches<sup>3</sup>, although all legally enshrined services shall be provided out of its seat in Raszyn.

The possible establishment of an Integrated Association raises a lot of controversy arising mainly out of concerns about the future stability of the cooperative banking sector. Although in December 2015-June 2017 all the banks operating outside IPSs met the individual LCR standard, these banks, in comparison with entities that did join the Institutional Protection Scheme, are characterised by [21; 31; 20]:

- unfavourable structure of receivables from the non-financial and local government sector: their portfolio reveals a significantly higher share of corporate receivables, a higher share of irregular receivables and a lower level of provisions for irregular receivables (calculated on the basis of the Polish Accounting Standards),
- higher share of debt and equity instruments in the balance sheet total,
- lower level of own funds and capital adequacy ratios (accompanied by a higher share of Tier 2 supplementary funds in own funds).
- greater financial efficiency ratio (measured in terms of C/I, ROA and ROE) fluctuations.

The key financial indicators and the evolution of profitability of Polish cooperative banks are depicted in table 3 and figure 1a)-c) respectively.

The problem of the cooperative banking sector's stability seems to be all the more pressing, as the changes to the law on the functioning of cooperative banks will put an end to the activities of associations as we currently know them. Pursuant to the act, "in an association in which the Protection Scheme or an Integrated Association was established, with regard to banks that have not joined these structures the hitherto association agreement expires within 36 months from the date of the conclusion of the contract for the Protection Scheme or Integrated Association" [17, Art. 22b.12 and 22o.12]. This means that cooperative banks that are SGB-associated banks but are not IPS members have time to make a decision regarding their future strategy until 23 November 2018 and BPS associated banks have until 31 December 2018 to make that decision.

Table 3

Selected financial indicators of Polish cooperative banks divided into groups  
(as the end of June 2017; %)<sup>\*)</sup>

<b>Cooperative banks divided into groups</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>IPS BPS</b>	43.1	6.4	31.2	16.6	65.7
<b>IPS SGB</b>	34.0	4.5	36.8	2.3	67.2
<b>Outside IPS</b>	51.9	13.5	24.7	23.7	65.4
<b>Cooperative banks divided into groups</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>IPS BPS</b>	0.7	7.4	16.9	0.9	17.8
<b>IPS SGB</b>	0.7	7.1	17.8	0.5	18.3
<b>Outside IPS</b>	0.7	7.9	13.8	1.8	15.6

1 – corporate loans and loans for sole proprietorships to total loans; 2 – non-performing loans to total loans; 3 – provisions for non-performing loans to non-performing loans; 4 – debt and equity instruments to total liabilities; 5 – C/I; 6 – ROA; 7 – ROE; 8 – Tier 1 ratio; 9 – Tier 2 ratio; 10 – total capital adequacy ratio

<sup>\*)</sup> Source: Author's on the basis of [20].

<sup>3</sup> The scope of activity of apex banks is limited to activities that ensure the proper functioning of the association, and its start-up capital is twice the minimum for commercial banks as required by the Polish banking law [17, Art. 2.2)].

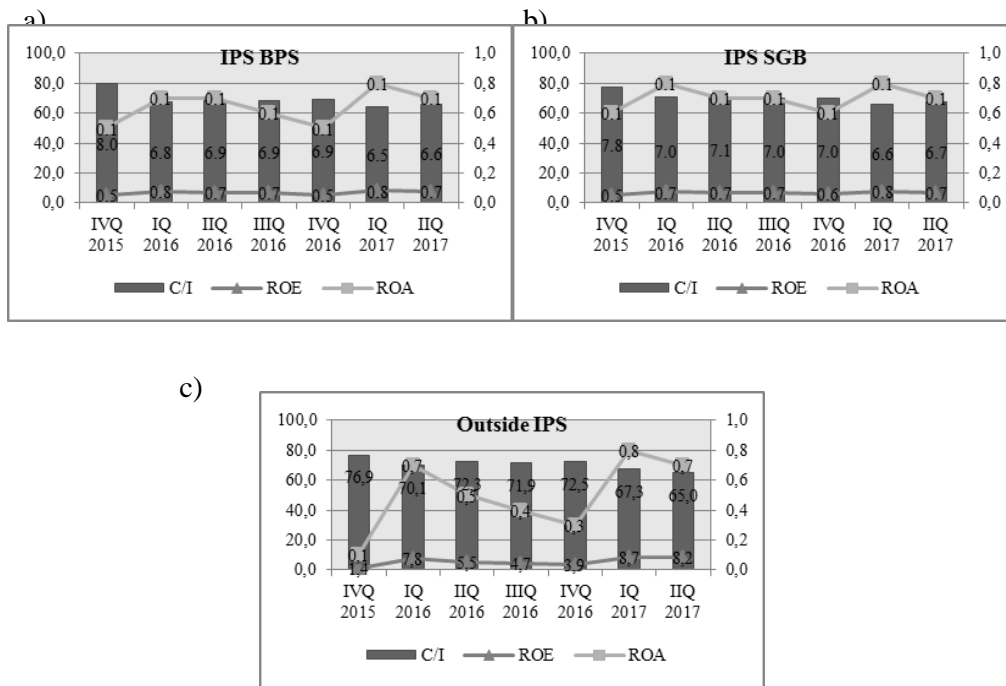


Fig. 1. a)-c). Profitability ratios of Polish cooperative banks divided into groups (IVQ 2015-IIQ 2017; %)<sup>\*)</sup>  
<sup>\*)</sup>Source: Author's on the basis of [20, p. 25].

**Conclusions.** One of the factors that has a significant impact on the directions of the evolution of the cooperative banking sector in Poland is the new legal order established in the interest of stability of the European Union's financial system. Based on an analysis of the impact of selected EU and national post-crisis regulations on the cooperative banking sector in Poland, two final conclusions can be reached.

First and foremost, in the hitherto existing regulatory environment imposing additional burdens on all banks, privileges were foreseen mainly for IPS members, while in the new legal regime the proportionality rule was applied to a limited extent. Representatives of the cooperative circles believe that the burdens have been raised out of line with risk and effectively suppress the sector's development potential<sup>4</sup>. Due to the scale of operations and relatively large employment levels, cooperative banks have only moderate flexibility in shaping cost effectiveness indicators, hence it seems desirable to extend the list of exemptions to small entities. This would have a positive impact on the financial position of those banks that choose an integration model that is alternative to an IPS and, consequently, on the stability of the entire banking sector. Certain changes in this area may be brought about by the amendment to the CRDIV/CRR package that includes the definition of a small bank (an entity whose assets are less than EUR 1.5 billion) and provides for such an entity simplified reporting principles and simplified rules for determining the long-term liquidity standard [10;11].

Secondly, due to the privileges arising from existing regulations, the evolution of the organizational model of Poland's cooperative banking sector towards IPS seems to be inevitable. Two years after the introduction of the possibility of establishing cooperative protection schemes, member institutions accounted for 87.6% of all cooperative banks and a represented a total of 80% of the cooperative banking sector's assets. Observations made to date indicate that the change in the nature of associations has benefited these banks' customers and the financial system as a whole (one of the factors negatively affecting IPS's effectiveness is the ambiguity of national tax regulations regarding the recognition of money paid towards assistance funds as a cost of income). As at the

<sup>4</sup> For example, in 2015 contributions to BFG for BPS-associated banks amounted to PLN 197.1 million, which accounted for 7.7% of their profit on banking activity and 40.0% of their gross profit. Total charges stood at PLN 317.0 million i.e. 64.0% of the group gross profit [33, p. 133].

end of September 2017, 67 entities outside IPS did not have KNF's consent to operate independently. The idea of establishing an Integrated Association around Polski Bank Apeksowy should be considered as highly risky. Its creation may weaken the sector's upward trend which began in 2017, mainly due to 1) weaker financial standing of the association's potential members 2) more liberal requirements envisaged for Integrated Associations, which results in a much smaller number of regulatory privileges, which in turn has a direct impact on financial results. Autonomous operation is not an option either (in this case some entities would have to be consolidated) as it creates serious challenges typically facing small commercial banks: autonomous cooperative banks would be one of the smallest providers of banking services. They would, however, be subject to strict regulatory requirements and would have to accept the loss of certain market segments as a result of their withdrawal from associations [34, pp. 281-282].

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*The article is recommended for printing 10.12.2018*

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