



**REPORT ON THE ACTIVITIES
OF THE POLISH FINANCIAL
SUPERVISION AUTHORITY
IN 2009**

(short version)

CONTENTS

	LETTER FROM THE CHAIRPERSON OF THE POLISH FINANCIAL SUPERVISION AUTHORITY	5
1	POLISH FINANCIAL SUPERVISION AUTHORITY	7
2	FINANCIAL MARKET IN POLAND	9
	Overview	9
	Banking sector	11
	Pension sector	14
	Insurance sector	19
	Securities and commodities markets	22
	Licensing and authorising function	28
3	SUPERVISORY ACTIVITIES	31
	Banking supervision	31
	Supervision over pension market	35
	Supervision over insurance market	36
	Supervision over securities and commodities market	39
	Supervision over financial intermediaries	42
	Integration of regulatory activities and processes	42
4	PROTECTION OF RETAIL CLIENTS	45
	Explanatory proceedings regarding complaints	45
	Supervision over market practices by financial market participants	45
	Expert and administrative support for the Conciliatory Court at the PFSA	47
5	EDUCATIONAL AND INFORMATION INITIATIVES CONCERNING THE FINANCIAL MARKET	49
	Educational initiatives	49
	Information policy	50
	Cooperation with third parties	50
6	MEASURES TAKEN TO COUNTERACT MARKET ABUSE	53
	Explanatory and administrative proceedings related to supervision over the financial market	53
	Notifications of suspected offence	53
	Indictments	55
	Convictions and conditional discontinuation of proceedings	55
	Powers exercised in criminal proceedings	55
	Counteracting money laundering practices	56
7	PARTICIPATION IN LEGISLATIVE PROCESSES	57
	Acts of parliament and secondary legislation	57
8	INTERNATIONAL COOPERATION OF THE POLISH FINANCIAL SUPERVISION AUTHORITY	59
	Cooperation with international organisations	59
	Activities within European institutions	61
	Cooperation between the PFSA and foreign regulators	63
	Main areas of activity	63
9	POLISH FINANCIAL SUPERVISION AUTHORITY OFFICE	67
	Budget of the PFSA	67
	Human resources management	69
	Inspections by external bodies	69
10	ANNEX	71
	Publications and studies prepared by the PFSA in 2009	71

Letter from the Chairperson of the Polish Financial Supervision Authority

In 2009, the activities of the Polish Financial Supervision Authority (“PFSA”) were closely linked to the domestic and global macroeconomic challenges. As Poland is an open economy, the worldwide crisis had an impact both on our real economy and the financial market. All decisions made by the PFSA were in conformance with its key objective of ensuring stability and sustainable development of the financial market. The financial regulator made its own assessment of the market situation and used a set of supervisory tools best suited to address it.

In the banking and insurance sector a strong focus was placed on strengthening the capital base of financial institutions and monitoring their liquidity positions. In January 2009, the PFSA issued a recommendation urging all banks and insurance companies to retain the 2008 earnings within the domestic banking system. As a result, nearly 90% of the profits earned by commercial banks in 2008 (in total over PLN 11bn) remained within the Polish banking system. In the case of insurance companies, 65% of the 2008 profits were retained within the sector.

In 2009, the level of foreign financing of the Polish banking sector remained virtually unchanged, whereas receivables from non-residents fell by as much as 48%. As a result, financial resources available to Polish banks, expressed as a difference between the Polish banking sector’s liabilities towards and receivables from foreign institutions, rose by an additional PLN 17bn. This means that Polish - subsidiaries of international financial groups – were well capitalised and prudently managed. The PFSA also kept a close eye on the liquidity situation of the financial institutions. Some banks were required to submit daily reports on their regulatory liquidity ratios. Non-compliance with those ratios entailed additional sanctions, such as warnings, recommendations that a non-compliant bank refrains from granting housing loans denominated in foreign currencies, or notifying the non-compliance to its home country’s regulator and parent.

During the international financial crisis, the insurance sector was a provider of liquidity to banks. The policy implemented by the PFSA led to a lower concentration of deposits of insurance companies held with individual banks, as well as redistribution of liquidity sourced from the insurance sector across the entire banking sector. In an effort to ensure liquidity, the PFSA also checked whether insurance companies had any exposures to assets issued by foreign financial institutions with respect to which there a risk of default existed. Additionally, insurance companies were requested to report regularly on their basic solvency indicators and deposits. In the case of insurance companies offering life insurance products, monitoring was extended to include insurance products with embedded structures. Firms operating in the insurance sector were also subjected to internal stress tests, the results of which enabled the PFSA to identify major exposures of the entire sector, as well as individual insurers, and enhance oversight over the relevant areas.

The value of assets managed by investment fund management companies fell in the wake of declines on the Polish equity market, which lasted from November 2007 until mid February 2009. Prompted by the need to ensure security of investors’ funds, we enhanced monitoring of the financial soundness of the regulated entities. Effective regulatory measures were taken with respect to those investment firms which had failed to meet the capital requirements imposed on them. The security of the market and its participants was considerably improved as a set of new EU regulations, including a package of capital requirements directives and financial instruments directives, were implemented into the Polish law. Since mid February 2009, investors’ confidence in the Polish capital market has been picking up, as evidenced by advancing stock prices and the growing capitalisation of the Polish stock exchange. Ultimately, the value of public offerings brought to the Polish capital market in 2009 reached PLN 13.9bn – an amount comparable with the record-breaking years of 2004 and 2007, placing the Warsaw Stock Exchange as the third trading floor in Europe in terms of IPO value.

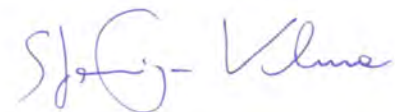
In 2009, particular attention was given to the issue of credit risk management by banks. As soon as banking supervision was taken over by the PFSA, work commenced on Recommendation T – a best-practice guideline to management of credit risk arising from exposures to households. Given that no systemic analyses had been carried out before, the situation was diagnosed and post-inspection checks were undertaken. Recommendation S, intended to mitigate the risk associated with foreign-currency loans, proved ineffective. In 2008, the value of foreign-currency housing loans expressed in Polish zloty (PLN) rose more than twofold, although the rise was driven to some extent by a steep depreciation of the PLN in the last quarter of 2008. Recommendation T will thus represent a much needed supplement to Recommendation S with respect to assessment of borrowers' creditworthiness, setting out credit rating standards for the time of economic recovery.

The crisis sweeping across the global financial markets sparked a discussion on how to reform the regulatory architecture at the EU level and how to amend the banking regulatory framework. The PFSA greeted with satisfaction the draft legislation of the European Commission whereby it proposed to set up European Supervisory Bodies, to strengthen the convergence between supervisory practices and to ensure more effective cooperation between national regulators. At the same time, the PFSA made a point that the enforcement powers pertaining to capital requirements, currently vested in local regulators (including the right to impose additional capital charges), should not be transferred to European Supervisory Authorities, since such powers are a tool for domestic regulators to ensure that banks have sufficient capital available to support sustainable development. Furthermore, the PFSA was engaged in a round of multilateral consultations to discuss possible amendments to the capital requirements directive (CRD II). As a result, a satisfactory regime was worked out, providing for the division of supervisory powers between local and group supervisors and leaving the enforcement powers relating to Pillar II capital requirements with local regulators.

In 2009, work was under way on the supervisory review and assessment methodology, which requires firms to assess the materiality of individual risks. When banking supervision was incorporated within the PFSA structures, the previously formulated supervisory review and assessment procedures had to be thoroughly reviewed and revised so as to adjust them to the current situation of the banking sector. The methodology was extended to cover additional risks and the issue of hard-to-measure risks was further elaborated. The year 2009 also witnessed continued integration of the Polish financial supervision. In pursuit of that objective, work was undertaken to establish a separate inspection division within the existing PFSA.

In line with its educational objectives provided for in relevant statutes, the PFSA delivered a series of training seminars, as part of the project designated as "Education Centre for Market Participants" (CEDUR). The focal points of the seminars organised in 2009 included new supervisory regulations, as well as risk management standards. The CEDUR seminars were attended by representatives of regulated firms, the judiciary and prosecution system, as well as consumer advocates and the media – a total of over 2.6 thousand people. This project will be continued in the future.

In 2009, the PFSA adequately responded to emerging risks, without excessively restricting the financial market. In the year which brought a number of major market challenges, Poland managed to avoid any situation which might pose a threat to the stability of its financial system, such as the collapse of a financial institution. I am confident that the Polish financial market will continue on a path of sustainable development throughout 2010.



Stanisław Kluza
Chairperson of the Polish Financial Supervision Authority

Polish Financial Supervision Authority

The Board of the PFSA is composed of the Chairperson, two Vice-Chairpersons and four members: the minister competent for financial institutions or such minister's representative, the minister competent for social security or such minister's

representative, President of the National Bank of Poland or Vice-President delegated by him or her, and a representative of the President of the Republic of Poland.

IN 2009, THE BOARD WAS COMPOSED OF:

Chairperson

STANISŁAW KLUZA

Vice-Chairperson

LESŁAW GAJEK

Vice-Chairperson

ARTUR K. KLUCZNY – UNTIL MAY 22ND 2009

MEMBERS:

Representative of the Minister of Finance

DARIUSZ DANILUK

Representative of the Minister of Labour and Social Policy

AGNIESZKA CHŁOŃ-DOMIŃCZAK – UNTIL FEBRUARY 17TH 2009

MAREK BUCIOR – FROM FEBRUARY 18TH 2009

Vice-President of the National Bank of Poland, First Deputy President

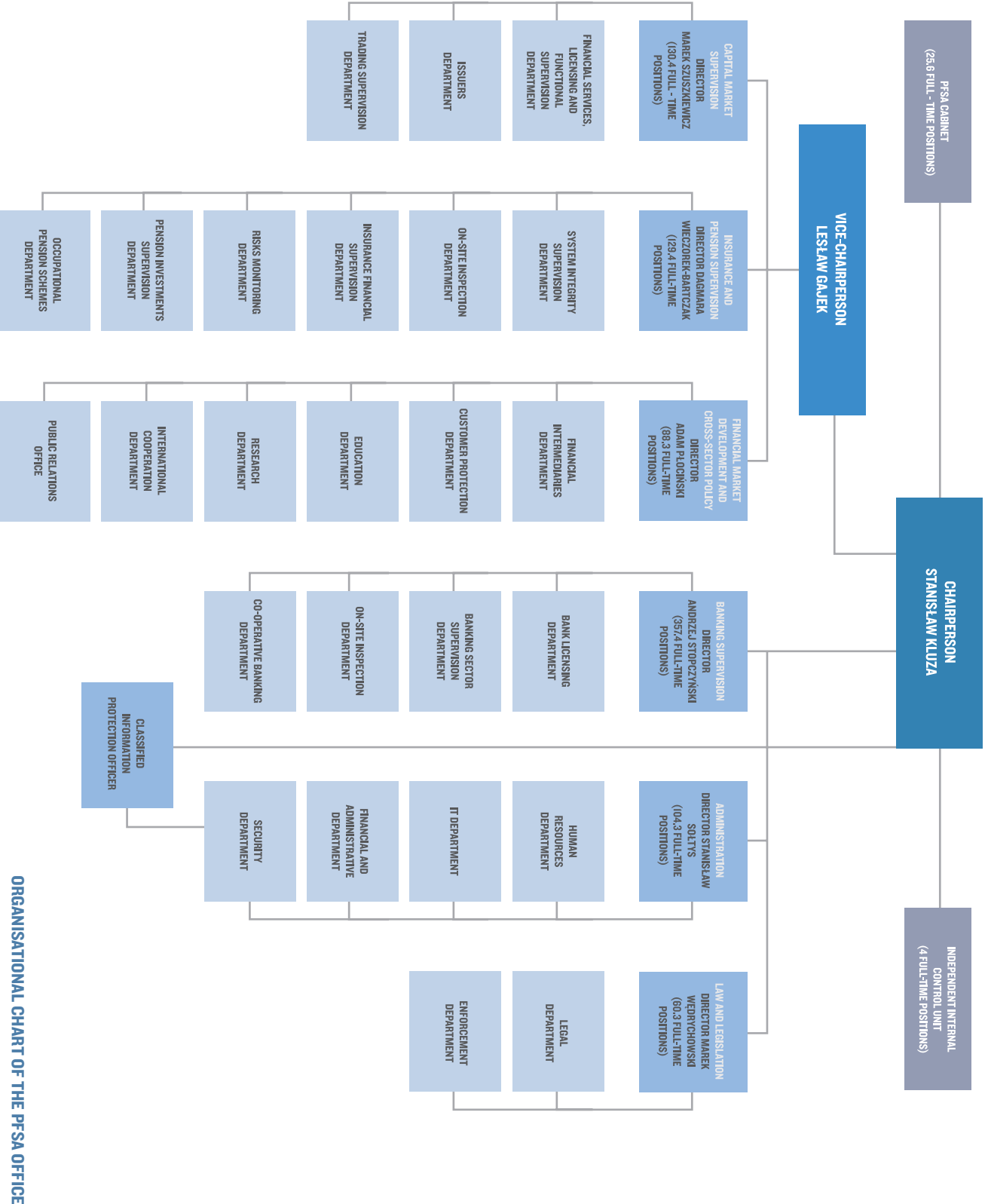
PIOTR WIESIOŁEK

Representative of the President of the Republic of Poland

DANUTA WAWRZYNKIEWICZ

The PFSA and its Chairperson perform their duties with the assistance of its office, which is led by the PFSA Chairperson,

aided by Vice-Chairpersons, heads of divisions and heads of organisational units.



ORGANISATIONAL CHART OF THE PFSA OFFICE

2

2.13

+0.05

+0.78

0%



Financial market in Poland

Overview

In 2009, financial markets were most heavily affected by the global financial crisis. Late 2008/early 2009 saw its peak, but in Q2 2009 the situation began to improve.

Poland's participation in international trade and capital flows results in the fact that the national economy is not isolated from developments on the global markets. The global financial crisis had a duplex impact on Poland's economy. It manifested itself thorough a crisis of confidence, manifesting itself mainly in withdrawals of investors' assets from the Polish market, as well as other emerging markets.¹ This resulted in a sharp depreciation of the PLN, a strong decline in share prices and an increase in the cost of financing and liquidity risk.

In 2009, trading on the interbank market slightly increased and focused mainly on short-term transactions, while higher spreads persisted throughout the year. The liquidity risk was reduced owing to a PLN 66bn increase in deposits from the non-financial sector (particularly from households – up by PLN 49bn), a PLN 17bn injection of capital for local banks by their parent companies, and the new instruments introduced by the National Bank of Poland under the “confidence package”. The sharp depreciation of the PLN resulted in losses for companies holding positions in foreign-currency derivatives, which were not covered with foreign currency income. Natural persons who incurred foreign-currency-indexed loans had to face higher instalments as a result of the weakening of the PLN.

The second channel, through which the recession on foreign markets influences the Polish economy, was foreign trade. The decline of exports, caused by the faltering demand on foreign markets, hindered Poland's economic growth, dragged on the rise of salaries and wages and contributed to higher unemployment. This resulted in a larger share of non-performing loans and increased impairment losses, with a concurrent decline of the banking sector's profitability. Retaining 90% of the 2008 profit earned by the banks significantly improved the sector's stability, and in particular its ability to absorb potential losses, helped increase the equity base and enhanced the banks' ability to expand lending. Nonetheless, in 2009 the lending growth decelerated. In 2008, the volume of loans grew by PLN 166bn

(38.8%), while in 2009 only by PLN 34.5bn (5.8%). The value of corporate loans fell by PLN 9.9bn (down by 4.4%). Ultimately, the net result of Polish banks in 2009 amounted to PLN 8.7bn.

In 2009, the insurance sector observed a lower focus on bank-assurance products (e.g. *polisokata*, a product combining the features of a life insurance policy and a bank deposit), which resulted in a year-on-year decline of gross written premium in life insurance by PLN 8.7bn (down by 22.3%). The segment of non-life insurance reported a PLN 0.7bn increase (up by 3.6%) of its gross written premium. In 2009, insurers' assets rose by PLN 0.9bn (up by 0.6%), while their net profit reached a level similar to the 2006 record high earnings, i.e. PLN 6.6bn.

For insurance companies, the policy of profit distribution became a very relevant matter in the face of the increased risk of conducting business in times of the global financial turmoil. A properly-structured dividend policy adds to enhanced security and financial stability of an insurance company as it helps build up the equity base which forms a part of the insurer's own funds and may protect the insurer against unexpected insurance and general business risks. Therefore, the Polish Financial Supervision Authority requested insurance companies to provide information on internal regulations concerning their profit distribution policies. Results of the performed analysis demonstrate that the profit distribution policies of insurance companies may be regarded as stable and prudent. As a result of these policies, insurance companies retained 65% of their earnings, which strengthened their equity base. Most of the insurance companies resolved to allocate profits to reserve funds and capital reserve.

Expansive monetary and fiscal policies in highly developed countries as well as improved prospects for the world's economic growth encouraged investors to accept higher risks and to expand their exposure to the Polish market. As a result, the PLN appreciated and the stock market indices began their advance in the second half of February. In the period from February 17th 2009, when stock market indices bottomed out, to December 31st 2009 the WIG and WIG20 indices gained 87.5% and 79.9%, respectively. Throughout 2009 the WIG

¹ In 2009, the FTSE Group included Poland into the group of advanced emerging markets, comprising upper-middle-income GNI countries with advanced market infrastructures or high-income GNI countries with less developed market infrastructures.

index grew by 46.9%, and the WIG20 index by 33.5%. This was reflected in the improved performance of investment funds and in a stronger demand for investment fund shares. These developments contributed to a 27% increase in the investment funds' assets in 2009 (as compared with a 42.7% fall in 2008).

Attractive investment opportunities offered by the equity market were also recognised by managers of open-end pension funds. As at the end of 2009, the funds increased their investments in equity instruments to 30.8% of the portfolio value (relative to 21.8% as at the end of 2008), while the weighted average rate of return reported by the open-end pension funds grew to 13.7% (compared with a negative figure of -14.3% in 2008). The value of assets of occupational pension schemes in 2009 was higher by PLN 1.4bn, which represents a 38.5% increase.

In 2009, the PFSA continued to receive notifications from appropriate supervision authorities of the member states of the European Economic Area regarding the intention of financial institutions, licensed under the laws of those countries, to conduct operations in Poland based on a single license (the European passport). In the discussed period, the PFSA

received 59 notifications from credit institutions (including 58 intending to carry out activities on a cross-border basis and one through a local branch), 52 notifications from insurance companies (including 51 intending to carry out activities on a cross-border basis and one through a local branch), 227 notifications of the intention to commence brokerage activities (including 225 intending to carry out activities on a cross-border basis and two through a local branch), 16 notifications from foreign investment funds planning to offer their shares (concerning four funds and 46 subfunds) as well as five investment fund companies.

In 2009, the PFSA received three notifications on the winding up of operations in Poland from credit institutions, seven notifications from insurance companies and 63 notifications from investment firms.

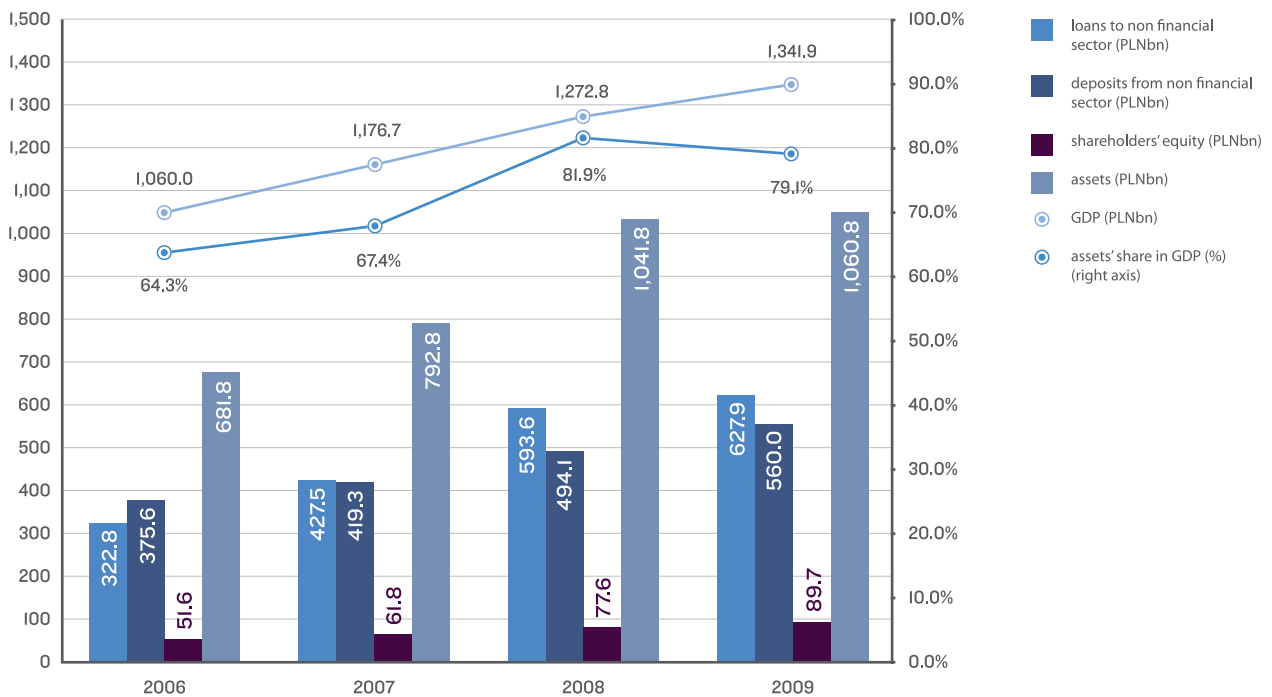
Polish financial institutions also took advantage of the opportunities offered by single license. In 2009, the Polish Financial Supervision Authority received two notifications from Polish banks regarding the establishment of cross-border operations in the member states of the EEA, 52 notifications from insurance companies and 10 notifications from investment firms.

Banking sector

The Polish banking sector, supervised by the Polish Financial Supervision Authority, is the largest and the most developed segment of the Polish financial market. In 2009, the value of the banks' assets totalled 1,060.8bn, up 2.1% on 2008, and accounted

for approximately 79.1% of Poland's GDP (2008: 81.9%). Figure 1 presents key data on the Polish banking sector in 2006–2009.

■ FIGURE 1. HIGHLIGHTS OF THE POLISH BANKING SECTOR, 2006–2009



Source: the PFSA.

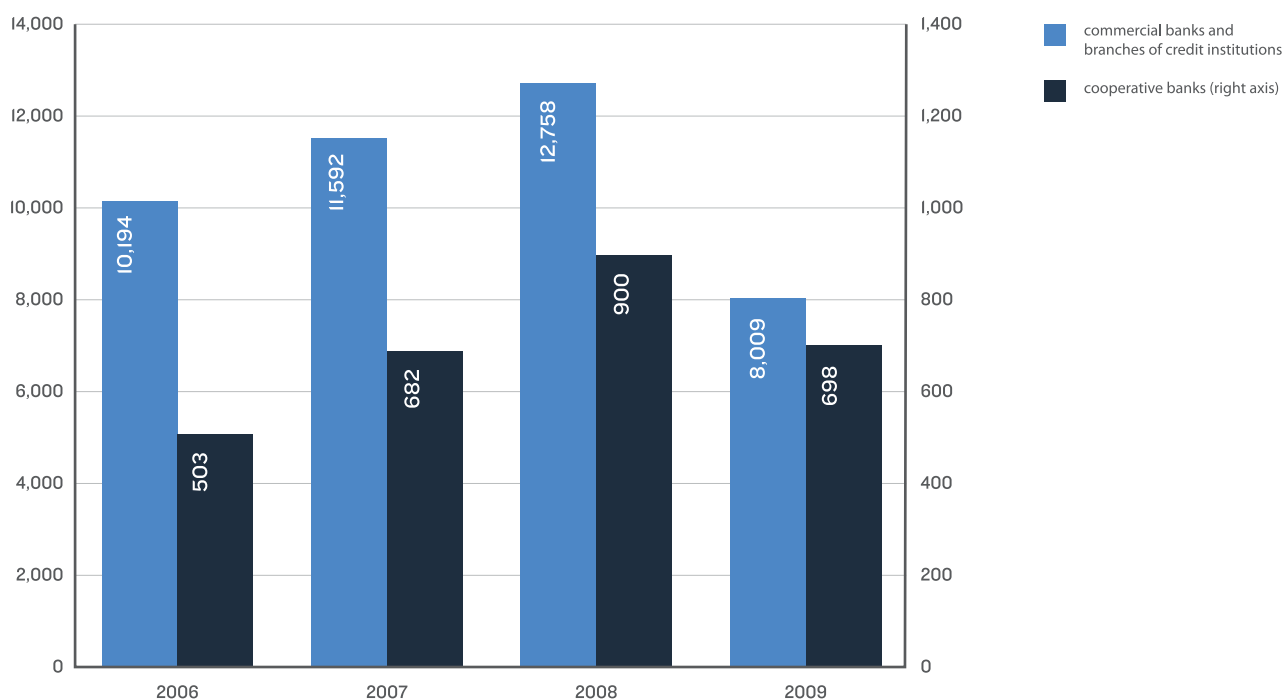
In 2009, following mergers in the banking industry, the total number of commercial banks in Poland fell by three.

The value of shareholders' equity is a key factor determining the banking system's resilience to the economic cycle, as well as to internal and external shocks. In 2009, shareholders' equity of the Polish commercial banks grew by 15.5% (PLN 11bn) and of the Polish cooperative banks – by 17.9% (PLN 0.9bn).

For commercial banks, a major source of additional equity was retained profit for 2008 and the PLN 5.125bn share capital increase at PKO BP S.A. effected through a rights issue.

In the period under review, the overall net profit earned by the banks was PLN 8.7bn, down by 36.2% relative to 2008. The aggregate net result of commercial banks and branches of credit institutions fell by 37.2%, and that of cooperative banks – by 22.4% (see Figure 2).

■ FIGURE 2. NET RESULT OF COMMERCIAL BANKS, BRANCHES OF CREDIT INSTITUTIONS AND COOPERATIVE BANKS, 2006–2009 (PLNm)



Source: the PFSA.

In 2009, a vast majority of banks acted in accordance with the recommendations issued by the supervisory authority and resolved not to pay dividends for 2008. Some banks additionally secured financial backing from their foreign owners (subordinated loans). The adequate dividend policy helped preserve the stability of the banking sector. The increase in shareholders' equity promoted growth of the entire banking sector and supported new lending. The increase was large enough to cover higher total capital requirements. As a consequence, the average capital adequacy ratio of the Polish banking sector rose from 11.2% at the end of 2008 to 13.3% at the end of 2009 (commercial banks: from 11.1% to 13.2%, cooperative banks: from 13.1% to 13.4%), well above the required minimum. As at December 2009, solvency ratios at all cooperative banks exceeded the required 8% level.

The loss of mutual confidence among financial institutions in the aftermath of the global crisis led to major shifts in the structure of the most liquid assets of the banking sector and to a reduction of liabilities towards the financial sector. Receivables from the financial sector fell by as much as PLN 34.3bn (a 32% decrease, from PLN 107.2bn at the end of 2008 to PLN 72.9bn at the end of 2009), while liabilities towards the financial sector decreased by PLN 16.8bn (a 7% decrease, from PLN 242.2bn at the end of 2008 to PLN 225.4bn at the end of 2009). At the same time, the amount of cash in hand and cash held

with the National Bank of Poland rose by PLN 11.0bn (a 28% increase, from PLN 39.4bn to PLN 50.4bn).

A particularly sharp decline was recorded in receivables from foreign financial institutions, which fell by PLN 21.2bn (a 48% decrease, from PLN 44.3bn to PLN 23.1bn). Over the same period, PLN-denominated liabilities to non-residents fell only slightly, by PLN 3.8bn (a decrease of 2%, from PLN 179.4bn to PLN 175.6bn), mainly on the back of a modest appreciation of the PLN. The figures clearly demonstrate that the funds of the Polish banks were not repatriated to their foreign parent companies, and foreign investors did not limit the financing of the Polish financial institutions. As at the end of 2009, the balance of receivables and liabilities with respect to the foreign financial sector stood at PLN -152.5bn, compared with PLN -135.1bn at the end of 2008.

The deficit arising from the excess of liabilities to the financial sector over receivables from the financial sector, which has widened in recent years, stemmed from the rapid development of small and medium-sized banks and branches of credit institutions which, due to an underdeveloped deposit base, borrowed money on the market or relied on the financing provided by their foreign parents. Some large banks, despite having access to a robust deposit base, used funds obtained on the market to scale up their new lending business and increase

market shares as well. It should be noted that capital funds of non-residents were largely sourced from their parent companies (often 50–100% of the funds) and constitute long-term investments. The majority of parent companies claim to have provided additional liquidity and financed growth of their Polish subsidiaries, which helps reduce liquidity risk.

New lending grew at a slower pace compared with prior years. In 2009, the value of loans advanced to the non-financial sector increased by 5.8%, reaching PLN 627.9bn, including a rise in loans to households by 11.9%, to PLN 412.5bn, and a decline in loans to businesses by 4.4%, to PLN 212.7bn.

The value of deposits from the non-financial sector rose by 13.4% (PLN 66.2bn). Overall, clients from the non-financial sector held over PLN 560bn worth of deposits in bank accounts, including PLN 45.8bn in the accounts held with

cooperative banks. In 2009, cooperative banks had subordinated loans worth PLN 9m, contracted from entities based outside Poland.

The banking sector remained stable in 2009. Favourable developments in the sector included recovered stability of new lending and an increase in the share of PLN-denominated loans in total housing loans. In addition, growth was recorded in the deposit base. The banks retained most of their earnings, thereby increasing the value of shareholders' equity. It should be noted, however, that the banks were also affected by certain adverse factors, such as a steep decline in economic activity, weaker financial standing of their corporate clients and the labour market crisis. As a consequence, sentiment among consumers and businesses deteriorated and the condition of the public finance sector worsened. Uncertainty and risk aversion continued to overshadow the financial markets globally.

Pension sector

Open-End Pension Funds and Pension Fund Companies

Open-end pension funds and pension fund companies form a component of the compulsory part of the Polish pension system. Open-end pension funds are special legal persons and

represent asset estates managed by pension fund companies, which are also created pursuant to the Act on Organisation and Operation of Pension Funds. As at the end of 2009, authorisations to conduct insurance activity were held by 14 open-end pension funds and the same number of pension fund companies managing the funds.

■ TABLE I. NET ASSET VALUE OF OPEN-END PENSION FUNDS AS AT YEAR END, 2006-2009 (PLNm)

OPEN-END PENSION FUND	2006	2007	2008	2009	
	NET ASSET VALUE	NET ASSET VALUE	NET ASSET VALUE	NET ASSET VALUE	MARKET SHARE (%)
AEGON OFE	2,682.5	2,945.3	5,897.3	7,275.1	4.1
Allianz Polska OFE	2,873.4	3,458.5	3,644.8	5,052.9	2.8
Amplico OFE*	9,701.3	11,467.6	11,116.8	13,702.8	7.7
Aviva OFE Aviva BZ WBK**	30,955.9	37,324.0	36,116.9	45,188.5	25.3
AXA OFE	4,881.8	6,194.1	6,557.6	9,251.4	5.2
Generali OFE	4,186.4	5,264.5	5,476.0	7,724.9	4.3
ING OFE	27,193.8	32,870.2	33,058.4	43,245.3	24.2
Nordea OFE	4,224.5	4,950.6	5,122.8	6,905.6	3.9
Pekao OFE	1,853.8	2,245.2	2,218.3	2,841.1	1.6
PKO BP Bankowy OFE***	3,706.3	4,274.6	4,030.4	4,911.8	2.7
OFE Pocztylion	2,367.4	2,826.1	2,777.5	3,477.3	1.9
OFE Polsat	1,084.1	1,276.2	1,243.6	1,689.6	0.9
OFE PZU Złota Jesień	15,987.3	19,301.4	18,952.3	24,751.3	13.9
OFE Skarbiec-Emerytura****	3,069.5	3,547.5	N.A.	N.A.	N.A.
OFE WARTA	1,809.9	2,085.2	2,048.5	2,612.6	1.5
Total:	116,577.7	140,030.9	138,261.4	178,630.1	100.0

Source: daily reports of open-end pension funds.

* Until October 8th 2009 – AIG OFE,

** Until May 31st 2009 – Commercial Union OFE BPH CU WBK,

*** Until December 23rd 2009 – Bankowy OFE,

**** November 7th 2008 saw the closing of liquidation of OFE Skarbiec-Emerytura and transfer of its assets to AEGON OFE.

The open-end pension funds' assets were in excess of PLN 178.6bn, having increased by 29.2% (PLN 40.4bn) over the year. The value of contributions transferred to the open-end pension funds by the Social Insurance Institution (ZUS) in 2009 was PLN 21.4bn, while the return on funds' investments accounted for the remaining PLN 20.7bn of the assets growth. The rates of returns reported by the open-end pension funds for 2009

ranged from 12.5% to 20.7%, while the average weighted rate of return was 13.7%.

In response to the growth of equity prices on the Warsaw Stock Exchange (the "WSE"), the structure of the open-end pension funds' portfolios changed significantly in 2009. The funds markedly increased their exposure to equity instruments, from 21.9%

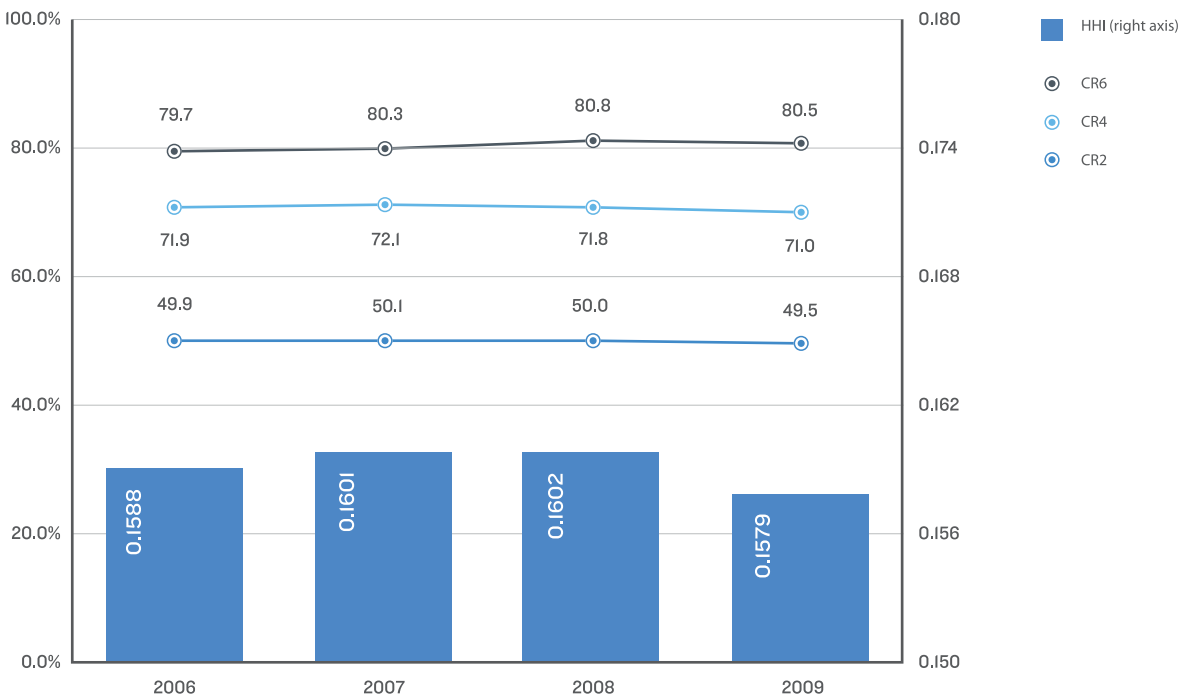
to 30.7% of the portfolio value, while reducing exposure to debt instruments, chiefly bonds and treasury bills, from 76.8% to 67.5% of the portfolio value. The share of equities in the portfolios of open-end pension funds rose by 8.8pp over the year. Strong performance of equities on the WSE (the WIG index gained 46.9%) led to very good investment results recorded by the open-end pension funds. Thus, in 2009 we saw a clear reversal of the trends seen in 2008, the year of financial crisis.

The equity investments of the open-end pension funds comprised primarily large cap stocks covered by the WIG20 index, whose share in the total portfolio was 17.3% as at the end of 2009. The debt portion of the portfolios was dominated by Polish

treasury instruments (61.6% of the total portfolio), mainly fixed-rate bonds (50.8% of the total portfolio). Pension funds' foreign investments accounted for 0.74% of the portfolio value as at the end of 2009, having grown by 0.14pp from the 2008 level. Under the Polish law, open-end pension funds may only invest up to 5% of their assets in foreign investment instruments.

The aggregate market share of the four largest pension funds (Aviva OFE Aviva BZ WBK, ING OFE, OFE PZU Złota Jesień and Amplico OFE), measured in terms of net asset value as at the end of 2008, was 71.0% (71.8% in the previous year). In 2006–2009, the market shares of the individual funds remained at a similar level and any changes did not exceed 1pp.

■ FIGURE 3. CONCENTRATION OF NET ASSETS OF OPEN-END PENSION FUNDS, 2006–2009



Source: daily reports of open-end pension funds.

As at the end of 2009, there were 14.14m members of the open-end pension funds. The aggregate share of the four largest funds

did not change significantly and as at the end of 2009 stood at 62.8%, against 63.5% in the previous year.

■ TABLE 2. NUMBER OF OPEN-END PENSION FUND MEMBERS AS AT YEAR END, 2006–2009 ('000)

OPEN-END PENSION FUND	AS AT DEC 31 2006	AS AT DEC 31 2007	AS AT DEC 31 2008	AS AT DEC 31 2009	
	NO. OF MEMBERS	NO. OF MEMBERS	NO. OF MEMBERS	NO. OF MEMBERS	MARKET SHARE (%)
AEGON OFE	370.9	351.1	770.3	764.6	5.32
Allianz Polska OFE	306.9	327.0	354.7	398.2	2.77
Amplico OFE*	1,029.1	1,070.3	1,113.2	1,101.3	7.66
Aviva OFE Aviva BZ WBK**	2,610.6	2,725.2	2,859.6	2,893.7	20.14
AXA OFE	535.8	608.5	680.2	799.8	5.57
Generali OFE	473.6	538.9	605.9	681.3	4.74
ING OFE	2,401.1	2,591.6	2,787.7	2,903.8	20.21
Nordea OFE	688.6	731.6	776.4	828.0	5.76
Pekao OFE	245.2	291.8	333.9	348.5	2.43
PKO BP Bankowy OFE***	441.5	445.9	436.5	418.0	2.91
OFE Pocztylion	362.8	431.4	445.5	467.0	3.27
OFE Polsat	267.6	301.3	328.3	322.7	2.25
OFE PZU Złota Jesień	1,894.8	1,959.1	2,018.1	2,121.9	14.77
OFE Skarbiec-Emerytura****	443.6	446.4	N.A.	N.A.	N.A.
OFE WARTA	281.3	313.9	313.4	318.7	2.22
Total	12,353.4	13,134.0	13,823.7	14,367.5	100.00

Source: Social Security Institution (ZUS).

* Until October 8th 2009 – AIG OFE,

** Until May 31st 2009 – Commercial Union OFE BPH CU WBK,

*** Until December 23rd 2009 – Bankowy OFE,

**** November 7th 2008 saw the closing of liquidation of OFE Skarbiec-Emerytura.

Revenues of pension fund companies have been growing steadily (PLN 2.17bn over the entire 2009, compared with PLN 2.07bn and PLN 1.8bn in 2008 and 2007, respectively), but at a markedly lower rate than in the previous years. In the period under review, revenues grew slower than costs, which resulted in a slight reduction of profitability of the pension fund companies. In terms of costs incurred in 2009 relative to the previous year, the cost of client acquisition grew significantly, by 19.7%. The above-average growth of the cost of payments to the Guarantee Fund, which increased by almost 50%, results from the fact that the value of that cost depends on the open-end fund's net asset value, the substantial growth of which was driven by such factors as the strong appreciation of equities on the WSE, begun in February 2009, as well as the low-base effect (in 2008, equity valuations on global stock exchanges were depressed on the back of the financial crisis).

It should be noted that almost all key cost categories rose relative to the previous year, except fees contributed to finance to the industry supervisor, which fell by almost 64% (to PLN 7m), and the cost of marketing and advertising, which decreased by 12.5% (to PLN 37m) relative to the previous year.

The analysis of individual items of the income statement shows a distinctive connection between the amounts of revenue, costs and profit and the size of open-end funds managed by a pension fund company. The strongest market position is enjoyed by the companies managing the largest pension funds which generated the highest revenue and a positive financial result (profit) and were able to leverage significant economies of scale in terms of their expenses.

Occupational Pension Schemes and Individual Pension Accounts

Pillar III, comprising occupational pension schemes (pl. PPE) and individual pension accounts (pl. IKE), is another component of the Polish pension system, which is complementary to

the obligatory part of the system. Pillar III, in which participation is voluntary, is organised on an institutional basis, unlike other forms of voluntary individual accumulation of savings for pension purposes, and funds are accumulated in it on the terms and conditions provided for in the law.

■ **TABLE 3. DEVELOPMENT OF OCCUPATIONAL PENSION SCHEMES, 2006–2009**

	2006	2007	2008	2009
Number of PPEs	976	1,019	1,078	1,099
Number of PPE members ('000)	281	312	325	334
Value of assets accumulated (PLNm)	2,793	3,806	3,608	4,998

Source: the PFSA.

As at the end of 2009, there were 333.5 thousand members of the occupational pension schemes. In the period under review, PLN 889m of base and additional contributions were transferred to the member's accounts. In 2009, the value of assets accumulated in the occupational pension schemes grew by PLN 1,391m, to reach PLN 4,998m at the year's end.

As at the end of 2009, the value of assets accumulated in the occupational pension funds (PFE) stood at PLN 1,333m. The net asset value of occupational pension funds grew by PLN 297m, or 28.7%, relative to 2008. In the period under review, PLN 166.8m of base and additional contributions were transferred to the accounts of the members of occupational pension funds.

■ **TABLE 4. NET ASSETS OF OCCUPATIONAL PENSION FUNDS, 2006–2009 (AS AT DECEMBER 31st, PLNm)**

ITEM	2006	2007	2008	2009	
	NET ASSETS	NET ASSETS	NET ASSETS	NET ASSETS	MARKET SHARE (%)
PFE TELEKOMUNIKACJI POLSKIEJ	610.70	713.70	672.92	831.06	62.36
PFE Nowy Świat	170.61	199.43	189.14	245.36	18.41
PFE Słoneczna Jesień	60.30	114.02	145.57	218.25	16.38
PFE UNILEVER POLSKA	7.84	12.61	16.26	20.28	1.52
PFE NESTLE POLSKA	7.31	9.73	11.86	17.80	1.34
Total	856.76	1,049.50	1,035.75	1,332.75	100.00

Source: Occupational pension funds (data based on the funds' statutory quarterly filings with the PFSA).

Contributions to occupational pension funds are free of any charges, and some occupational pension fund companies do not charge management fees, which – from the participants' perspective – makes this form of saving more profitable: the entire amount of contributions paid to such financial institutions is transferred to the accounts of the occupational pension fund members.

In 2009, the average rate of return reported by the occupational pension funds was 14.82% (in 2008, the rate was negative at –11.03%). The significant increase in the average rate of return (by approximately 25pp) is due to the improved situation on the financial markets.

■ **TABLE 5. INVESTMENT PERFORMANCE OF OCCUPATIONAL PENSION FUNDS, 2006-2009 (RATE OF RETURN OR PERCENTAGE INDEX CHANGE)**

ITEM	2006	2007	2008	2009
PFE average rate of return	13.40	5.54	-11.03	14.82
PFE lowest rate of return	10.60	4.52	-13.86	12.74
PFE highest rate of return	15.40	6.23	-6.34	17.41
Inflation rate	1.0	2.5	4.2	3.5
WIG change	41.60	10.39	-51.07	46.85
WIG20 change	23.7	5.19	-48.21	33.47

Source: Occupational pension funds (data based on the funds' statutory quarterly filings with the PFSA).

An individual pension account (IKE) is operated pursuant to a written agreement concluded by the saver with:

- an insurance company (unit-linked life insurance agreement),
- an investment fund,
- a brokerage entity,
- a bank.

As of December 31st 2009, entities operating IKE schemes maintained 809 thousand accounts with PLN 2,199m of assets

accumulated in the accounts. Despite the drop in the number of the IKE accounts by 45 thousand in 2009, the value of assets accumulated in IKE accounts grew by 36% (or PLN 585.6m) during the year.

In 2009, savers contributed into the IKE accounts a total of PLN 506.9m, or nearly 6% more than in 2008. In addition, in 2009 the inflows of new funds into the IKE accounts less any outflows (i.e. net inflows the into IKE accounts) amounted to PLN 310.9m, up by 13% relative to 2008.

■ **TABLE 6. ASSETS ACCUMULATED IN IKE ACCOUNTS BY TYPE OF INSTITUTION, 2008-2009**

ENTITY OPERATING IKE SCHEME	ASSET VALUE (PLN '000)				SHARE IN TOTAL ASSETS (%)
	2006	2007	2008	2009	2009
Insurance company	491,406	722,646	716,738	964,146	43.8
Investment fund	578,106	846,458	564,263	800,436	36.4
Brokerage entity	67,081	96,157	121,060	190,659	8.7
Bank	161,952	199,309	211,728	244,180	11.1
TOTAL	1,298,545	1,864,570	1,613,789	2,199,421	100.0

Source: the PFSA.

Insurance sector

As at the end of 2009, 65 domestic insurance companies and one main branch of a foreign insurance company held authorisations to conduct insurance activities in Poland. Among them, 64 domestic companies (30 life insurers and 34 non-life insurers, including one reinsurer) and one main branch conducted insurance activities. One insurance company, WÜSTENROT Życie TU S.A., is in the process of liquidation. Compared with 2008, the total number of insurance companies fell by one (AIG Polska TU S.A. discontinued operations on May 6th 2009). As at the end of 2009, notifications of intent to exercise the freedom to provide services in Poland had been submitted by 652 insurance companies from the EU and EEA Member States,

while notifications of intent to exercise the freedom to provide services in Poland through a branch had been submitted by 16 insurance companies. In 2009, the PFSA received 52 notifications of intent to conduct insurance business from foreign insurance companies, including on a cross-border basis (51 notifications) or through a branch (one notification).

In 2009, insurance and reinsurance companies reported a profit of PLN 6.58bn, which is an increase of PLN 0.78bn (13.52%) as compared to 2008. The balance on technical accounts reported by the entire sector is positive at PLN 3.97bn, yet it represents a decline of PLN 0.22bn (5.16%) relative to the 2008 figure.

■ TABLE 7. HIGHLIGHTS OF THE OVERALL PERFORMANCE OF THE INSURANCE SECTOR, 2006–2009 (PLNm)

INCOME STATEMENT HIGHLIGHTS				
	2006	2007	2008	2009
Gross written premium	37,581.1	43,801.8	59,366.9	51,404.6
Gross claims paid	16,866.0	19,664.5	29,629.7	40,229.6
Net operating expenses	7,575.3	9,014.1	10,166.1	11,308.8
Client acquisition cost	4,762.7	6,088.5	7,324.8	8,098.9
Administrative expenses	3,406.1	3,499.3	3,479.4	3,689.0
Balance on technical accounts	4,794.8	4,700.3	4,182.7	3,966.8
Net profit/(loss)	6,652.8	5,306.3	5,794.8	6,578.1
BALANCE-SHEET HIGHLIGHTS				
Investments (item B under assets)	72,139.3	81,251.0	99,642.3	95,058.3
Capital and reserves	26,248.3	32,827.6	35,710.0	29,008.5
Subscribed capital	4,785.4	4,972.3	5,231.6	5,440.6
Gross technical provisions	77,768.3	89,989.7	97,994.1	100,132.4
Balance-sheet total	108,631.5	126,965.5	137,994.6	138,881.1
SELECTED FINANCIAL RATIOS (%)				
Net operating expenses, net of reinsurance	21.46	21.64	18.02	23.43
Balance on technical accounts to gross written premium	12.76	10.73	7.05	7.72
Net profit/(loss) to capital and reserves	25.35	16.16	16.23	22.68
Net profit/(loss) to assets	6.12	4.18	4.20	4.74

Source: the PFSA. The 2009 data was sourced from quarterly financial statements of the insurance companies (unaudited).

The net profit of Segment I companies (life insurance) was record-high, totalling PLN 3.99bn (up by PLN 1.48bn, or 59.18% compared to 2008). The balance on technical accounts was also the highest ever, at PLN 4.24bn, and represented an increase of PLN 0.79bn (22.73%) year on year. For the first time in history, the balance on technical accounts of Segment I exceeded PLN 4bn, rising by 21.03% (PLN 0.74bn) in Q4 2009 alone. The net profit from insurance operations in Segment I was chiefly driven by the strong result in Group 1 (life insurance) of PLN 2.26bn, which grew by PLN 0.76bn (50.79%) year on year.

In 2009, gross written premiums reported by life insurers were down by PLN 8.70bn (22.33%) compared to 2008, totalling PLN 30.28bn. The most substantial decrease of PLN 9.16bn (32.28%) was reported in Group 1. This reflects lower revenue from bank-assurance products (e.g. polisolokata, a product combining the features of a life insurance policy and a bank deposit, or other types of products serving to avoid CGT) as a consequence of phasing out this type of product by insurance companies from their portfolios due to high credit risk, interest rate cuts and low profitability, with tight capital requirements set under the existing and future regulations on deposit concentration at the same time.

■ TABLE 8. HIGHLIGHTS OF THE PERFORMANCE OF LIFE INSURANCE COMPANIES (SEGMENT I), 2006–2009 (PLNm)

INCOME STATEMENT HIGHLIGHTS				
	2006	2007	2008	2009
Gross written premium	21,108.6	25,509.4	38,986.0	30,281.0
Gross claims paid	8,462.5	10,429.9	19,359.6	27,716.4
Net operating expenses	3,451.6	4,376.0	4,931.8	5,435.5
Client acquisition cost	2,085.3	2,962.3	3,595.8	3,853.1
Administrative expenses	1,397.2	1,519.5	1,532.5	1,609.8
Balance on technical accounts	3,223.4	3,450.5	3,453.5	4,238.6
Net profit/(loss)	2,882.3	3,285.4	2,506.3	3,989.5
BALANCE-SHEET HIGHLIGHTS				
Investments (item B under assets)	36,949.6	40,408.7	54,462.5	52,015.8
Net life insurance assets, where investment risk is borne by the insuring party	28,139.5	36,031.4	26,345.9	31,659.5
Capital and reserves	8,659.4	11,297.9	11,460.1	13,491.2
Subscribed capital	2,243.1	2,335.2	2,504.4	2,649.3
Gross technical provisions	55,575.8	65,724.8	71,004.3	71,217.8
Balance-sheet total	67,435.3	79,619.0	85,091.0	87,772.1
SELECTED FINANCIAL RATIOS (%)				
Net operating expenses to written premium, net of reinsurance	16.52	17.36	13.07	18.60
Balance on technical accounts to gross written premium	15.27	13.53	8.86	14.00
Net profit/(loss) to capital and reserves	33.29	29.08	21.87	29.57
Net profit/(loss) to assets	4.27	4.13	2.95	4.55

Source: the PFSA. The 2009 data shown in the table was sourced from quarterly financial statements of the insurance companies (unaudited).

In 2009, non-life insurance companies (Segment II) turned PLN 2.59bn in profit, which decreased by PLN 0.70bn (21.8%) comparing to 2008. The balance on technical accounts (loss) of Segment II amounted to PLN 0.27bn (a PLN 1.00bn decline compared with 2008), caused chiefly by a loss on automobile insurance operations of PLN 1.04bn. In 2009, gross premiums

written of non-life insurance companies totalled PLN 21.12bn, which represents an increase of PLN 0.74bn (3.64%) year on year. The increase stems mainly from a rise in gross written premiums under insurance policies against various financial risks (Group 16, up by PLN 0.32bn, or 59.36%) and insurance policies against natural disasters (Group 8, up by PLN 0.29bn, or 15.21%).

■ TABLE 9. HIGHLIGHTS OF THE PERFORMANCE OF NON-LIFE INSURANCE COMPANIES (SEGMENT II), 2006-2009 (PLNm)

INCOME STATEMENT HIGHLIGHTS				
	2006	2007	2008	2009
Gross written premium	16,472.5	18,292.4	20,381.0	21,123.6
Gross claims paid	8,403.4	9,234.6	10,270.1	12,513.1
Net operating expenses	4,123.7	4,638.1	5,234.2	5,873.3
Client acquisition cost	2,677.4	3,126.2	3,729.0	4,245.7
Administrative expenses	2,008.9	1,979.8	1,946.9	2,079.1
Balance on technical accounts	1,571.4	1,249.8	729.2	-271.8
Net profit/(loss)	3,770.5	2,020.9	3,288.5	2,588.6
BALANCE-SHEET HIGHLIGHTS				
Investments (item B under assets)	35,189.7	40,842.4	45,179.8	43,042.5
Capital and reserves	17,588.9	21,529.8	24,249.9	15,517.3
Subscribed capital	2,542.3	2,637.1	2,727.2	2,791.3
Gross technical provisions	22,192.5	24,264.8	26,989.8	28,914.7
Balance-sheet total	41,196.2	47,346.5	52,903.6	51,109.0
SELECTED FINANCIAL RATIOS (%)				
Losses to gross written premium	57.17	60.68	60.97	66.48
Net operating expenses to written premium, net of reinsurance	28.62	28.22	28.01	30.84
Balance on technical accounts to gross written premium	9.54	6.83	3.58	-1.29
Net profit (loss) to capital and reserves	21.44	9.39	13.56	16.68
Net profit (loss) to assets	9.15	4.27	6.22	5.06

Source: the PFSA. The 2009 data shown in the table was sourced from quarterly financial statements of the insurance companies (unaudited).

Securities and commodities markets

Investment Firms and Banks Operating Securities Accounts (Custodian Banks)

Domestic investment firms include brokerage houses and banks conducting brokerage activities. To conduct brokerage activities, it is necessary for the aforementioned institutions to acquire an authorisation from the PFSA. Moreover, brokerage activities in Poland may also be conducted by foreign investment firms under the single licence rule (the European passport), and foreign legal persons domiciled in a member state of the Organisation for Economic Co-operation and Development (OECD) or the World Trade Organization (WTO). Under the

single licence rule, an investment firm (or any other institution) domiciled in an EU member state, which has been authorised to provide services in its home state, may also operate in other EU countries, both in the form of cross-border operations and through a branch.

The group of institutions specialised in brokerage services on the securities market, licensed by the PFSA, also includes custodian banks. Such entities hold a PFSA authorisation to record and safekeep financial instruments cleared for organised trading. In practice, the role of custodian banks is to safekeep assets of large financial institutions.

■ TABLE 10. NUMBER OF ENTITIES CONDUCTING BROKERAGE ACTIVITIES AND OPERATING SECURITIES ACCOUNTS, 2006-2009

TYPE OF ENTITY	2006	2007	2008	2009
Brokerage houses	37	41	45	46
Banks conducting brokerage activities	10	12	13	13
Custodian banks	14	13	13	13
Total	61	66	71	72

Source: the PFSA.

Table 11 contains key data on clients of brokerage houses and clients of banks conducting brokerage activities through brokerage offices.

■ TABLE 11. BROKERAGE HOUSES AND BANKS CONDUCTING BROKERAGE ACTIVITIES, 2006-2009

ITEM	2006	2007	2008	2009	
NUMBER OF CLIENT ACCOUNTS	Brokerage houses	568,440	646,652	614,328	812,954
	Banks conducting brokerage activities	606,821	555,434	547,422	532,325
VALUE OF CLIENTS' ASSET DEPOSITED IN ACCOUNTS (PLNm)	Brokerage houses	85,859	113,230	63,447	98,825
	Banks conducting brokerage activities	35,594	39,652	25,949	39,443
VALUE OF CLIENTS' ASSET UNDER MANAGEMENT (PLNm)	Brokerage houses	91,613	117,512	73,589	79,045
	Banks conducting brokerage activities	275	313	294	329

Source: the PFSA. Data derived from monthly financial statements as at December 31st 2006, December 31st 2007, December 31st 2008 and December 31st 2009.

Organised Securities Markets

Warsaw Stock Exchange

The year 2009 saw a significant growth of the main indices of the WSE. However, there were two distinctive trends in the performance of the WSE indices in 2009: a downward trend which lasted from the beginning of the year until around mid-February² and the subsequent upward trend which continued

until the end of the year. The recovery of the equities market began in mid-February 2009 – a development, which in its initial stages was generally considered a correction of the overall downward trend triggered by the outbreak of the global financial and economic crisis – was an effect of the gradual recovery from the recession of the world's largest economies. The scale of these developments is well illustrated by the year-end rates of return on the WIG20 and WIG indices, which reached 79.9% and 87.5%, respectively, relative to the lows recorded in mid-February.

■ TABLE 12. RATES OF RETURN OF THE WARSAW STOCK EXCHANGE INDICES, 2006–2009 (%)

ITEM	2006	2007	2008	2009
WIG	41.60	10.39	-51.07	46.85
WIG20	23.75	5.19	-48.21	33.47
mWIG40	69.10	7.90	-62.48	55.24
sWIG80	132.42	25.17	-56.95	61.85
WIG-PL	42.76	9.23	-50.62	44.93

Source: the PFSA.

In 2009, despite a clearly improved sentiment on the stock exchange, potential issuers continued to show relatively little interest in raising capital through primary or secondary equity offerings on the regulated market. However, despite the small number of stock-exchange debuts in 2009, their value was

significant. The total value of the two large public offerings completed in 2009, i.e. the IPO of PGE shares and the share capital increase by PKO BP, reached approximately PLN 11bn. The total value of cash public offerings was PLN 13.9 bn, reaching the record levels seen in 2004 and 2007.

■ TABLE 13. NUMBER OF INSTRUMENTS TRADED ON THE WARSAW STOCK EXCHANGE, 2006–2009

ITEM	2006	2007	2008	2009
Equities	284	351	374	379
Including foreign equities	12	23	25	25
Number of IPOs	38	81	33	13
Number of delistings	9	14	10	8
Bonds	65	57	51	51
Including foreign bonds	4	4	3	3
Futures	48	42	40	37
Options	154	98	138	110

Source: the PFSA.

In 2009 the strong growth in equity valuations, with the number of listed companies remaining relatively stable, led to a substantial year-on-year increase in the total market capitalisation of the WSE-listed companies, both domestic and foreign.

The capitalisation increase was also fuelled by new offerings. However, as at the end of 2009 the market capitalisation was significantly lower compared with the end of 2007, when it reached its all-time high.

² At the close of the trading session on February 17th 2009, the WIG and WIG20 indices stood at 21,274.3 points and 1,327.6 points, respectively, reaching their lowest levels since the beginning of the bear market which started in the middle of 2007.

■ **TABLE 14. WARSAW STOCK EXCHANGE'S CAPITALISATION AS AT THE YEAR END, 2006-2009 (PLNm)**

ITEM	2006	2007	2008	2009
Polish companies	437 719	509 887	267 359	421 178
Foreign companies	198 190	570 370*	197 756	294 643
Polish bonds	323 556	348 535	362 704	411 018
Foreign bonds	720	719	586	586
TOTAL	960 185	1 429 511	828 405	1 127 425

Source: the PFSA.

* A substantially higher capitalisation of foreign companies as at the end of 2007 compared with the other years was driven mainly by two factors: a substantially higher share price of UNICREDIT S.P.A. as at the end of 2007 as compared with the later periods (the company released its shares on the Warsaw Stock Exchange at the end of 2007; since then its shares have accounted for approximately half of the total capitalisation of all foreign companies listed on the WSE), and the delisting of Bank Austria Creditanstalt AG shares in May 2008.

In 2009, the total volume of trading (on-session and block transactions) in the equities segment was approximately 6% higher than in 2008, while in the bonds and futures segments the trading volumes were down. In the options segment, the trading volume remained broadly flat.

■ **TABLE 15. TRADING VOLUME ON THE WARSAW STOCK EXCHANGE, 2006-2009 (PLNm)**

ITEM	2006	2007	2008	2009
Equities	338,696	479,480	331,316	351,885
Bonds	5,536	3,495	4,999	2,951
Futures	380,939	674,132	613,495	517,366
Options	19,453	28,511	16,590	16,781

Source: the PFSA.

Multilateral Trading Facility (NewConnect)

In addition to the regulated market, the Warsaw Stock Exchange operates an organised equity market in the form of a multilateral trading facility ("MTF") under the name of NewConnect. The operator's intent was to create a market dedicated to start-up businesses active in the new technologies sectors (IT, electronic media, biotechnology, etc.) whose market capitalisation is expected to stay relatively low (up to ca. PLN 20m). The market entry is simplified and the IPO costs are lower compared with the regulated market. Moreover, the scope of information required to be disclosed by issuers is less extensive (e.g. in a majority of cases the publication of quarterly reports is not obligatory and semi-annual reports are exempt from the audit require-

ment). Also the entry process is much faster compared with the regulated market and takes about three months to complete.

In 2009, the main NewConnect index NCIndex was behaving broadly in line with the indices of the WSE's regulated market. Its rate of return for the whole year was close to 30%, a result on a par with that of the WIG20 blue-chip index. This translated into a nearly 76% increase in the aggregate capitalisation of the NewConnect market, also on the back of new entries (although 2009 saw a sharp year-on-year drop in the number of IPOs). Other noteworthy positive trends recorded by the NewConnect market in 2009 were significant (over 30%) advances of two parameters: the annual value of trading and the daily average number of trades.

■ TABLE 16. HIGHLIGHTS OF THE ALTERNATIVE TRADING FACILITY NEWCONNECT, 2007-2009

ITEM	2007	2008	2009
NCIndex at year end	144.17	38.19	49.70
Rate of return of NCIndex in current year (%)	44.17	-73.51	30.14
Capitalisation of Polish companies at year end (PLNm)	1 185	1 396	2 457
Capitalisation of foreign companies at year end (PLNm)	-	41	97
Number of companies at year end	24	84	107
Number of debuts	24	61	26
Number of sessions	83	251	252
Trading volume (PLN '000)	302,566	840,000	1,162,000
Number of trades per session	719	980	1,285
Average trading volume per session (PLN'000)	3,645	3,347	4,611

Source: the PFSA.

BondSpot S.A.

In the reported period, MTS-CeTO S.A. changed its name to BondSpot S.A. ("BondSpot") and the change was registered in September 2009. The company operates the Polish Regulated OTC Market ("ROTC") and is supervised by the PFSA. Although one of the objectives behind the establishment of the Polish OTC market was to give smaller companies access to a market through which they would be able to raise capital, thanks – among other things – to lower costs, time savings and more lax disclosure requirements, the market has ceased drawing much interest from prospective issuers (shares of only four companies were listed as of the end of 2009). The foremost instruments traded on the ROTC are treasury bonds and other debt securities, listed as part of the Catalyst system³ since September 30th 2009. Trade is organised through investment firms, who are members of the market. Other entities may also be allowed to participate in the market, provided that they act exclusively in their own name and for their own account. As at

the end of 2009, shareholders in BondSpot S.A. were the WSE, the State Treasury, as well as banks and brokerage houses.

Public Offerings of Financial Instruments Other than Investment Certificates

In the wake of the turmoil on the global capital markets triggered by the worldwide financial crisis, which culminated in Q3 and Q4 2008 and Q1 2009, the climate on the Polish market of public offerings deteriorated significantly. The number of public offers carried out on the primary market (rising capital through public offerings) decreased visibly, however in terms of value, the year 2009 was one of the best. This was due to two large equity offerings: the rights issue carried out by Bank PKO BP SA and the privatisation of Polska Grupa Energetyczna SA – whose aggregate value exceeded PLN 11bn.

In 2009 issuers carried out 88 public offerings, the structure of which is shown in table 17.

³ Catalyst is the name of an authorisation and trading facility for debt instruments, launched on September 30th 2009. It is run via the WSE's and BondSpot's trading platforms and comprises four individual markets. Two of them – operated by the WSE in the form of a regulated market and a Multilateral Trading Facility – are dedicated to retail investors, whilst the corresponding two markets operated by BondSpot are dedicated to wholesale clients. All of them are markets for non-government debt securities, i.e. municipal and corporate bonds, as well as mortgage bonds.

■ TABLE 17. PUBLIC OFFERINGS CARRIED OUT IN 2009

88 PUBLIC OFFERINGS INCLUDING: 45 OFFERINGS CARRIED OUT BY FOREIGN ISSUERS				
83 PUBLIC CASH OFFERINGS INCLUDING:				5 public non-cash offerings
54 public equity offerings		8 public bond offerings	21 public offerings of structured products	
20 public sale offerings	34 public subscriptions	including: 4 offerings exempt from the requirement to prepare and seek approval of the prospectus	all of which were carried out by foreign issuers	
including: 26 offerings exempt from the requirement to prepare and seek approval of the prospectus, 24 offerings carried out by foreign issuers				

Source: the PFSA.

The aggregate value of public cash offerings executed in 2009 amounted to PLN 13,915.3m, including PLN 12,310.9m in equity subscriptions, PLN 1,077.8m in bond issues, PLN 112.1m in equity sale offerings and PLN 414.5m in public offerings of structured products.

Undertakings for Collective Investment

As at December 31st 2009, PFSA authorisations were held by 43 investment fund companies, which managed a total of 369 investment funds⁴, including 95 open-end investment funds, 47 specialist open-end investment funds, and 227 closed-end investment funds.

After a period when the value of assets managed by investment fund companies soared to reach its peak level at the end

of 2007, from the end of 2008 it started to decline sharply, reflecting the meltdown in the financial markets. In 2009, as the markets took a turn for the better, the value of assets managed by investment fund companies returned on its upward path.

During 2009, the value of assets managed by investment fund companies grew by PLN 24.3bn, to PLN 103.5bn as at the year's end.

Despite the recovery in capital markets, which drove up the value of investment funds' assets, the aggregated financial result posted by investment fund companies in 2009 was PLN 366m⁵, down by PLN 213m from the 2008 figure. Table 18 shows the amounts and structure of operating costs incurred by investment fund management companies in 2008-2009.

■ TABLE 18. REVENUES, AGGREGATED EXPENSES AND NET FINANCIAL RESULTS OF INVESTMENT FUND COMPANIES, 2006-2009 (PLNm)*

	2006	2007	2008	2009	
Total revenue	2,568	4,515	2,677	1,975	-
Total expenses, including	1,912	3,254	1,957	1,525	100.0%
- fixed costs	256	418	399	436	28.6%
- variable costs, including:	1,656	2,836	1,558	1,089	71.4%
- variable distribution costs*	1,198	2,123	1,079	735	48.2%
Net financial result	527	1,020	579	366	-

Source: the PFSA.

* Costs related directly to acceptance and execution of orders for sale, redemption and conversion of units in investment funds or acceptance of subscription orders for investment certificates and allotment of investment certificates, representing the distributor's fees or incurred in connection with the funds' promotion or marketing.

⁴ The number of operating (registered) funds. However, if established on the basis of the number of decisions issued by the PFSA, the number would be 390.

⁵ Based on monthly reports filed by the investment fund companies. Such reports are not audited or reviewed by qualified auditors, and so they may be subject to later revisions.

Commodities Market

Apart from the capital market, there is also a commodity market in Poland, though its breadth is limited. Since the middle of 2000, an electricity exchange has been operated by Towarowa Gielda Energii SA (“TGE”). TGE operates four markets, where the traded commodities include mainly electricity, certificates and CO2 emission allowances. TGE also settles transactions executed by its members on the individual markets, as well as off-session trades. Transactions on the exchange may only be executed by entities which have concluded membership agreements with the exchange and have been admitted to the exchange by TGE’s Management Board.

TGE has seventeen shareholders, the largest of which is the State Treasury (with a 22.3% interest). TGE is supervised by the PFSA.

As at December 31st 2009, 47 power utilities held authorisations to keep commodity accounts or registers.

In the period covered by this Report as well as in previous years, the number of authorisations issued for keeping commodity accounts and registers was stable, which may suggest that the number of power utilities is sufficient to accommodate the demand for their services, making for an increasingly more efficient market.

Licensing and authorising function

The overriding objective of the PFSA's licensing policy is to foster the stability of the financial sector. This objective is pursued mainly by:

- ensuring that founding shareholders, members of governing bodies (especially management boards) ensure a prudent and stable management of a financial institution,
- investigating whether the funds used to subscribe for or purchase shares do not come from loans or undocumented sources,
- defining the minimum founding capital of a newly established undertaking, taking into account the nature and scope of its envisaged business activities,
- ascertaining whether the laws in force in the place of registration or residence of the founder or shareholder enable the PFSA to exercise effective supervision,
- ascertaining whether the links between the undertaking's founders and other institutions do not prevent the PFSA from exercising effective supervision.

The PFSA's licensing and authorising of regulated entities has mainly a preventive and informational role. By checking all applications relating to regulated entities for compliance with the law and responding to any queries made by such entities, in particular queries concerning the application of the law, the PFSA aims to counteract any irregularities in the operations of regulated entities at the earliest possible stage.

Banking sector

The PFSA's key tasks related to licensing for the banking sector in 2009 included consideration of applications and notifications concerning such matters as:

- establishment of banks and launch of their operating activities,
- amendments to banks' articles of association,
- changes in the composition of banks' management boards,
- exercise of voting rights at the general shareholders meetings of banks incorporated in the form of joint stock companies,
- bank mergers,
- operation through branches or as part of cross-border activities,
- opening of representative offices of foreign banks and credit institutions.

Establishment of Banks and Launch of Their Operating Activities

The licensing procedure concerning applications for authorisation to establish a bank and launch operating activities

comprises two stages. The purpose of the first stage of the procedure, initiated upon application by the founders, is to make a comprehensive assessment of the founders' legal and financial standing and determine whether persons who are to sit on the bank's management board can guarantee prudent and stable management of the bank. If the PFSA issues a positive licensing decision, then as part of the second stage of the procedure, initiated upon application by the bank, the PFSA checks whether the bank is ready to commence operations. In 2009, the PFSA issued an authorisation to establish FM Bank S.A. of Warsaw. In addition, the PFSA upheld its decision issued in 2008, refusing authorisation to establish Bank Oszczędnościowo-Kredytowy S.A..

Pension fund sector

Open-end Pension Funds and Universal Pension Fund Companies

The operations of open-end pension funds and universal pension fund companies are subject to extensive regulation. The licensing and authorisation powers of the Polish Financial Supervision Authority in relation to entities operating under the mandatory pillar of the funded pension system include granting authorisations to:

- establish open-end pension funds and universal pension fund companies,
- amend the statutes of open-end pension funds and universal pension fund companies,
- take over the management of an open-end pension fund and merge pension fund companies,
- personnel changes in the governing bodies of universal pension fund companies,
- acquire shares in universal pension fund companies,
- change the custodian or amend the agreement with the custodian.

When deciding on the matters specified above, the PFSA is guided in the first place by the need to protect the participants of the funded pension system against adverse consequences of activities of entities which do not guarantee safe and effective management of entrusted funds.

As part of its licensing functions, in 2009 the PFSA conducted proceedings which resulted in issuing 120 administrative decisions. Most of the cases concerned amendments to the statutes of open-end pension funds and changes in the composition of the governing bodies of universal pension fund companies.

Insurance sector

Authorisation to Conduct Insurance and Reinsurance Activities

In the period covered by this Report, no new authorisations to conduct insurance and reinsurance activities were issued. The PFSA received two applications for authorisation to conduct insurance activities. By the end of 2009 no final decisions had been issued and the applications remain to be resolved in 2010. In one case, the PFSA revoked, at the request of the interested party, the authorisation to conduct insurance activities.

Capital and commodities markets

Entities Operating on the Securities Market

In 2009, the PFSA considered 42 applications for authorisation to conduct brokerage activities (of which 30 were received during the last two months of 2009). The PFSA granted one authorisation to conduct brokerage activities, to NWAJ Dom

Maklerski S.A. (on July 31st 2009), one proceeding was discontinued, and 40 proceedings were not completed (5 of which were suspended).

In the period covered by this Report, the PFSA received 227 notifications from foreign investment firms of an intention to carry out brokerage activities in Poland. Sixty-three foreign investment firms decided to discontinue their brokerage activities in Poland.

The year 2009 saw a slight decline in the number of notifications submitted by foreign investment firms, concerning an intention to carry out brokerage activities in Poland. Despite the significant number of foreign investment firms which decided to discontinue their brokerage activities in Poland in 2009 due to the overall situation on the financial markets, the fact that the level of notifications by foreign investment firms has been rather stable in the recent years proves that Poland continues to be perceived as an attractive market for the provision of brokerage services. This stems from greater financial awareness of the Polish society and higher investor confidence with respect to offered services.

■ TABLE 19. NUMBER OF NOTIFICATIONS SUBMITTED BY FOREIGN INVESTMENT FIRMS AS AT YEAR END, 2006-2009

ENTITY	2006	2007	2008	2009
Foreign investment firm operating on a cross-border basis	320	652	913	1,059
Foreign credit institution operating on a cross-border basis	108	161	203	233
Foreign investment firm operating through a branch	2	2	7	8
Foreign credit institution operating through a branch	10	14	20	20
TOTAL	440	829	1,143	1,320

Source: the PFSA.

In the period covered by this Report, the PFSA received seven notifications from Polish investment firms of their intention to carry out brokerage activities on a cross-border basis in other Member States (Austria, Belgium, Bulgaria, Greece, the Netherlands, Sweden, the United Kingdom) and three notifications of an intention to conduct operations through branches in other Member States (France, Hungary, Portugal).

Another example of efforts designed to reinforce the strong position of entities making up the capital market infrastructure is the project, initiated by the national depository for

securities (KDPW S.A.), to implement a New Depository and Clearing System ("NDCS"), which has encompassed all members of the KDPW and certain other capital market participants. These changes are part of the efforts designed to encourage foreign entities to actively operate on the Polish capital market. The PFSA issued two administrative decisions approving amendments to both the Rules of the KDPW and the Rules of the Settlement Guarantee Fund. The purpose of the amendments was to adjust the above Rules for the purposes of the NDCS implementation.

Collective Investment Undertakings

In 2009, the PFSA issued five authorisations to establish investment fund companies, to the following entities:

- Societe Generale Asset Management Alternative Investment (Poland) Towarzystwo Funduszy Inwestycyjnych S.A.,
- AgioFunds Towarzystwo Funduszy Inwestycyjnych S.A.,
- Penton Towarzystwo Funduszy Inwestycyjnych S.A.,
- Ostoja Towarzystwo Funduszy Inwestycyjnych S.A.,
- Towarzystwo Funduszy Inwestycyjnych SATUS S.A.

In 2009, the PFSA issued a total of 50 authorisations to establish investment funds, including:

- 1 authorisation to establish an open-end investment fund,
- 10 authorisations to establish specialist open-end investment funds,
- 39 authorisations to establish closed-end investment funds.

In 2009, new investment funds were established:

- based on authorisation to establish a new investment fund,
- through transformation of existing investment funds into one umbrella fund.

Financial intermediaries

The PFSA's tasks related to financial intermediation include:

- keeping registers of insurance agents, insurance brokers, persons authorised to acquire clients for pension funds and investment firm agents,
- keeping lists of securities brokers, investment advisers and commodity brokers,
- consideration of applications for:
 - authorisation to conduct insurance and reinsurance broker activities,
 - authorisation to intermediate in the sale and redemption of investment fund units,
 - entry in the register of insurance agents, register of persons authorised to acquire clients for pension funds, and register of investment firm agents,
 - entry in the lists of securities brokers, investment advisers and commodity brokers.



3.1

2.1306

0.93

4.089

95

80

1.2
0.9

12
4

20

Supervisory activities

Banking supervision

The aim of the supervision exercised by the Polish Financial Supervision Authority over the banking sector is to ensure security of funds in bank accounts and compliance of banks' operations with applicable laws and relevant authorisations.

In the face of higher risk levels reported in 2009, the banks were forced to increase their shareholders' equity in order to maintain the security of their operations. Considering the above, the PFSA encouraged the banks to retain their 2008 profit and provided support for the recapitalisation processes. One of the primary aims of the supervisory activities was to improve the quality of risk management. To achieve this objective, the PFSA issued relevant recommendations concerning

risk management and monitored, on an ongoing basis, the implementation of Recommendation S aimed at achieving the required compliance level, concurrently conducting further work on Recommendation T. The completion of research and supervisory review (BION) and a revision of liquidity requirements were also among the supervisory tasks. Additionally, the PFSA actively participated in implementing changes in the European Union regulations. Validation processes were conducted with respect to requests for application of advanced methods of assessing capital requirements. Another important activity of the PFSA consisted in verifying the implementation of the Markets in Financial Instruments Directive.

Off-Site Banking Supervision

In 2009, the PFSA continued to implement the measures taken in the previous year with respect to the regulated entities to enable continuous monitoring of their operations and, in particular, their liquidity positions. The PFSA immediately reacted to any signs of equity groups' problems which could affect the situation of their subsidiaries operating in Poland by focusing on meetings with banks' management boards, communicating with their home supervision authorities and conducting regulatory activities. Such measures were taken with respect to the whole banking sector or individual banks, depending on the nature of the problem at hand. They allowed the PFSA to monitor the banks' current liquidity positions. As a result of these efforts, the liquidity risk did not materialise at any of the regulated banks.

The PFSA paid particular attention to transactions with possible features of unjustified repatriations to parent companies. In its regular monitoring activities no such transactions were observed. In addition, the regulator issued a recommendation to assume a careful approach towards dividend payment and to allocate the largest possible part of 2008 earnings to equity.

Direct Off-Site Supervision over Banks' Operations

The supervisory activities involved ongoing monitoring and quarterly analyses of the banks' financial and economic positions. Based on the analysis results, the banks were awarded points according to the CAEL rating system⁶ and areas of potential risks that should be subject to detailed investigation during the inspection were identified. The conclusions were presented in executive summaries. Moreover, analytical and supervisory spreadsheets, containing basic information on each bank, were updated on a regular basis. According to the principle of supervision transparency, information on the CAEL ratings (along with rating justification) were communicated to the management and supervisory boards of the banks, and in the case of banks under recovery proceedings and banks using loans from the Banking Guarantee Fund ("the BGF") – also to the BGF.

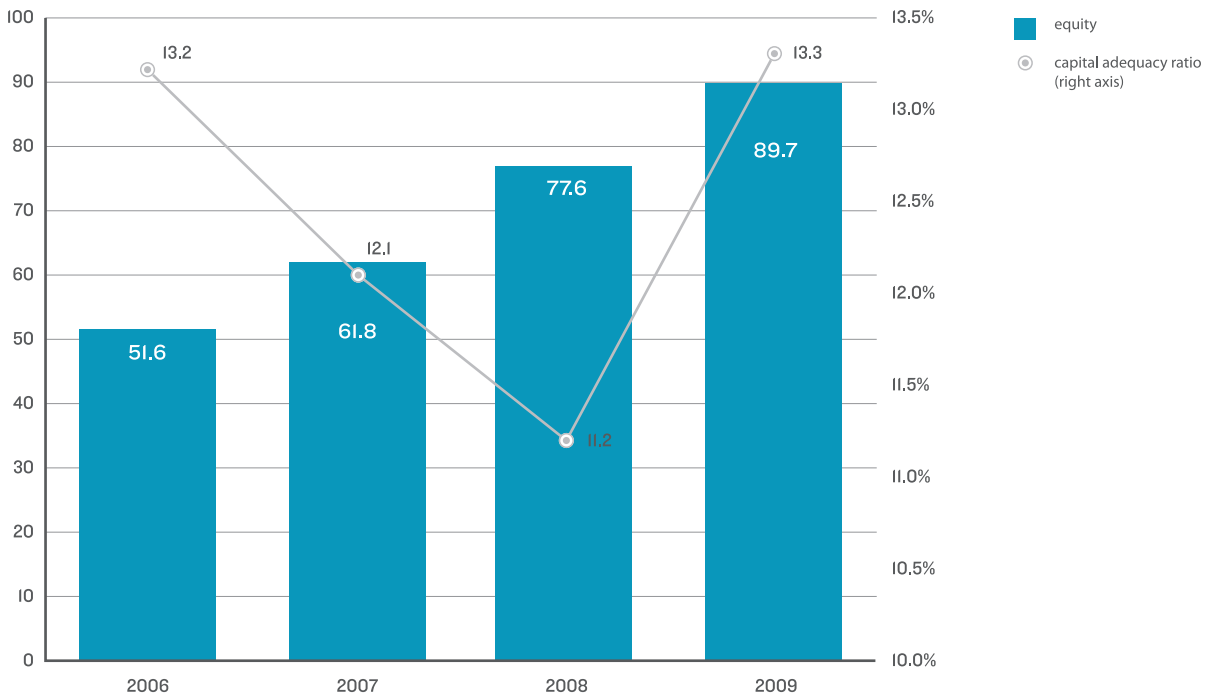
CAEL ratings are assigned on a quarterly basis. As at the end of Q1 and Q2 2009, ratings were assigned to 579 cooperative banks and 52 commercial banks, while as at the end of Q3 2009 the number of ratings assigned was 578 and 51, respectively, as compared with 579 ratings for cooperative banks and 50 ratings for commercial banks assigned in 2008.

⁶ Components of the CAEL rating system are: C – capital adequacy, A – asset quality, E – earnings, L – liquidity.

The key capital requirement for the banking sector was the credit risk requirement, which amounted to PLN 47.3bn, representing 87.2% of the total capital requirement (PLN 54.2bn).

The requirement's portion related to operating risk was PLN 6bn, which accounted for 11.0% of the total requirement. The share of the requirements relating to other types of risk was marginal.

FIGURE 4. SHAREHOLDERS' EQUITY AND CAPITAL ADEQUACY RATIO OF THE POLISH BANKING SECTOR, 2006-2009



Source: the PFSA

Supervision over Banks under Recovery Proceedings

In accordance with the provisions of the Banking Law, recovery proceedings may be taken by a bank when a balance-sheet loss occurs or is expected to occur or when the bank faces a threat of insolvency. The Polish Financial Supervision Authority's measures with respect to banks under recovery proceedings were aimed at improving their operational efficiency and quality of management. The supervisory measures taken by the PFSA with respect to the banks were adequate to the risk faced by those banks.

In 2009, ten of all commercial banks were subject to recovery proceedings (compared with 4 banks in 2008), while one bank conducted restructuring activities at a banking business acquired from another bank (which was also the case in 2008). In the group of ten banks under recovery proceedings, two banks merged in the discussed period and developed a joint

recovery programme for the consolidated bank. In 2009, only one recovery programme was approved by the Polish Financial Supervision Authority.

Moreover, in 2009 the PFSA monitored four liquidation and one bankruptcy proceedings, commenced in the previous years.

Towards the end of 2008, 14 cooperative banks were subject to recovery proceedings and their recovery programmes involved "stand-alone" recovery. In 2009, five cooperative banks implemented the approved recovery programmes, of which two were approved by the PFSA and three by the Commission for Banking Supervision. The programmes were implemented in line with the adopted plans, however, the PFSA resolved to appoint a plenipotentiary to supervise the implementation of the rehabilitation programme at a specific bank, for reasons concerning that particular bank. The programmes of four banks are being prepared for approval by the PFSA.

Inspection Tasks

Inspections at Banks

In addition to analytical activities designed to monitor a bank on an ongoing basis, and in addition to regulatory and licensing supervision, on-site inspections at banks are a key element of the banking supervision model adopted in Poland. The model complies with the key principles of effective banking supervision defined by the Basel Committee on Banking Supervision, according to which an effective banking supervision system should include on-site inspections.

Inspections at banks in 2009⁷ were carried out based on applicable laws and uniform investigation standards and procedures defined in the “On-site Inspection Handbook” and in supplementary inspection methodologies. The scope of inspection activities depended on the situation of a given bank and focus was placed on the most important – for the system’s and the bank’s security – types of risk inherent in the business of particular banks.

Standard activities falling within the scope of comprehensive inspections included investigation into the following areas: asset quality, liquidity, market risk (including the interest rate and currency risks), operating risk, financial performance, capital base, management in compliance with the laws governing banking activities and articles of association, and fulfilment of conditions specified in the authorisation to establish a bank. The principal goal of investigations carried out as part of comprehensive inspections is to establish whether the main criteria of stability and financial security of a bank, i.e. criteria related to quality of the management process, financial performance and capital base, are adequate in view of the risk undertaken by the bank. During on-site inspections, particular attention is devoted to the management process, including management of risks inherent in the bank’s business and adequacy of the internal audit system.

In 2009, the banking regulator carried out the following inspections:

- ▶ 59 comprehensive inspections, including:
 - 11 inspections at commercial banks,
 - 48 inspections at cooperative banks,
- ▶ 9 problem-oriented inspections, including:
 - 6 inspections at commercial banks,
 - 3 inspections at cooperative banks,
- ▶ 18 problem-oriented inspections at cooperative banks, on the basis of the Act on Counteracting Money Laundering and the Financing of Terrorism (Dz.U. of 2003, No. 153, item 1505, as amended),

- ▶ 5 explanatory proceedings, including:
 - 2 at commercial banks,
 - 3 at cooperative banks.

Validation of Applications for Consent to Use Advanced Methods for Assessing Capital Adequacy Requirements

In 2009, the PFSA – as the host supervisor – issued an opinion (a conditional consent) for a consolidating supervisor regarding an application filed by one bank, concerning the use of the advanced measurement approach to assess capital requirement for operating risk. The PFSA issued also two consents for the use by one bank of its own models for determining option deltas.

In 2009, the PFSA also cooperated with banks and consolidating supervisors with respect to:

- ▶ analysis of applications and planned applications (and required documentation) for issue of a decision / opinion on approval of the use of statistical methods to assess capital requirements for:
 - credit risk – internal ratings based approach
 - operating risk – advanced measurement approach,
 - market risk, including: delta calculation models used to calculate an equivalent for option contracts entered into on the OTC market, and sensitivity models used to measure underlying positions on instruments in the trading book to assess the capital requirement for general interest rate risk,
- ▶ determination whether the bank fulfils the conditions specified in the decision on application of statistical methods to assess capital requirement for credit risk,
- ▶ change of the manner (in relation to the manner defined in an earlier decision) of applying statistical methods to assess capital requirements for credit risk.

Regulatory and Prudential Tasks

September 2008 saw a strong depreciation of currencies of many emerging countries, including the Polish currency, which drove up corporate liabilities to banks, related to positions on derivative instruments. Companies exceeded limits set on derivative transactions, which in many cases caused banks to demand additional margins in amounts which frequently exceeded the financial (liquidity) capabilities of their corporate customers. The PFSA analysed the situation and concluded that the scale of the problem was much smaller than suggested by the media and posed no threat to the banking sector.

⁷ Includes inspection activities as at the following dates: December 31st 2008, March 31st 2009, June 30th 2009; September 30th 2009.

Recommendation A, concerning management of risk related to derivative transactions executed by banks, and Recommendation I, concerning management of currency risk at banks and rules of execution by banks of transactions carrying currency risk

Amendments to Recommendation A and Recommendation I were proposed by the PFSA in response to the condition in which the financial sector found itself as a consequence of the global financial crisis. Adverse trends in the Polish banking sector were caused by such factors as shortcomings of the systems employed by the banks to manage currency risk and risks related to currency derivative transactions. Following its analyses and inspections, the PFSA sent to banks' CEOs a letter outlining its conclusions drawn from the analysis of corporate clients' exposures to currency derivative transactions, as well as recommendations regarding sale of such instruments and management of the related risks. The elements which gave rise to the drafting of amendments to Recommendation A and Recommendation I include:

- policies and procedures – method of determining clients' ability to enter into such transactions,
- risk monitoring and control – management of risk related to currency derivatives,
- risk management system – further development of systems/procedures facilitating enhanced flow of information between units responsible for risk management,
- risk monitoring process – examination of the overall client exposure and the ability to meet liabilities on client-by-client and portfolio bases,
- documentation and exchange of information with the client.

Recommendation T introducing best practices in managing credit risk related to exposures to households

In the period covered by this Report, the PFSA continued work on Recommendation T, designed to improve the standard for assessing the creditworthiness of retail clients. In 2009, the

outlook for Poland's economy was marked by uncertainty and it was difficult to foresee and assess effects of applying such instruments as Recommendation T. The timing for putting Recommendation T in force was discussed at the meetings of the Financial Stability Committee on January 14th 2009 and February 12th 2009, and the committee members unanimously agreed to withhold issuing the Recommendation. As banks were changing their lending policies, an opportunity arose to complete the necessary consultations with the banking sector, prepare a thorough impact analysis and select a more convenient date for issuing the Recommendation. At the same time, additional analytical research was carried out and a series of consultations with the banking industry were performed, resulting in the achievement of a common position.

The analysis covered in particular the development of living expenses (especially the spending structure) and supervisory practices in other countries. Portfolio quality and excessive credit-taking were monitored on an ongoing basis. In connection with the maximum level of the ratio of household debt to net income proposed in the draft Recommendation, the supervisor carried out additional research concerning the debt service coverage ratio of households.

The principal objective of Recommendation T is to improve the management of risk related to retail exposures at banks in order to curb bad loans and thus credit losses. This plan does not apply to loans which become non-performing as a result of changes in borrowers' situation which could not be predicted at the time of lending. The goal is to introduce changes which would prevent granting loans which, based on objective information gained without undue effort during a lending process, should not be granted.

Recommendation T should also curb cyclical impact of changes in banks' lending policies and enhance clients' awareness of the risk they assume. A potential drop in the level of non-performing loans following the introduction of Recommendation T may bring welcome changes in loan margins (covering the cost of risk) and thus improve credit availability, thereby offsetting the potential negative effect of more stringent lending criteria.

Supervision over pension market

In the period covered by this Report, the PFSA calculated and published the average weighted rates of return of all open-end pension funds twice – for the periods March 31st 2006 – March

31st 2009 and September 29th 2006 – September 30th 2009. In both periods, all open-end pension funds achieved rates of return above the required minimum.

■ TABLE 20. STATUTORY RATES OF RETURN OF OPEN-END PENSION FUNDS CALCULATED AND PUBLISHED BY THE PFSA IN 2009 (%)

OPEN-END PENSION FUND	RATES OF RETURN FOR THE PERIOD MAR 31 2006 – MAR 31 2009	OPEN-END PENSION FUND	RATES OF RETURN FOR THE PERIOD SEP 29 2006 – SEP 30 2009
OFE Allianz Polska	-0.045	Generali OFE	10.385
Generali OFE	-0.245	AXA OFE	10.025
Pekao OFE	-0.755	Amplico OFE	9.801
AXA OFE	-1.060	OFE Allianz Polska	9.536
Amplico OFE	-1.932	Pekao OFE	8.541
Nordea OFE	-2.202	OFE PZU “Złota Jesień”	8.489
AEGON OFE	-2.227	AEGON OFE	8.354
OFE Pocztylion	-2.828	OFE Pocztylion	7.966
OFE PZU “Złota Jesień”	-2.911	OFE POLSAT	7.246
OFE Polsat	-4.080	Nordea OFE	6.766
PKO BP Bankowy OFE	-4.257	PKO BP Bankowy OFE	6.680
ING OFE	-4.628	ING OFE	6.138
Aviva OFE Aviva BZ WBK	-4.766	Aviva OFE Aviva BZ WBK	6.075
OFE WARTA	-5.544	OFE WARTA	5.369
Weighted average rate of return	-2.930	Weighted average rate of return	7.909
Minimum rate of return	-6.930	Minimum rate of return	3.909

Source: the PFSA.

The PFSA’s supervisory activities with respect to open-end pension funds and pension fund companies managing the funds are complemented by cross-sectional analyses looking into the effectiveness of investment activities undertaken by the pension funds. The following reports on activities of the pension providers were submitted to the PFSA:

- ▶ Investment Activities of the Pension Funds in the Period March 31st 2006 – March 31st 2009,
- ▶ Investment Activities of the Pension Funds in the Period September 29th 2006 – September 30th 2009.

As part of its duties to monitor and assess the potential risk of pension funds incurring a deficit, the PFSA monitored, on an ongoing basis, the capital buffers held by open-end pension funds and recognised under capital reserves and the additional portion of the Guarantee Fund, as well as the manner of replenishing the additional portion of the Guarantee Fund. The PFSA’s analyses found no irregularities with regard to the level or the manner of replenishing the additional portion of the Guarantee Fund.

Supervision over insurance market

Supervision over the Financial Standing and Investment Policies of Insurance Companies

As part of its remit to exercise ongoing supervision over the financial market, the PFSA's key objective is to safeguard the financial stability of the market, by continuously monitoring the standing of insurance and reinsurance firms, and taking appropriate remedial measures in the event of any identified threats. These activities are geared towards the primary objec-

tive of ensuring that insurance companies have the financial capability to cover their liabilities towards policy holders.

In assessing the financial standing of both life and non-life insurers, and in particular their solvency, the PFSA relied chiefly on their quarterly and monthly financial statements filed with the supervisor. The financial statements are subject to a review, whose results are then compiled into uniform reports intended to facilitate further decision making by the regulator.

■ TABLE 21. STATUTORY REQUIREMENT COVER RATIOS (%)

	2006	2007	2008	2009
LIFE INSURANCE COMPANIES				
Own funds to solvency margin	299.87	347.33	285.77	349.50
Own funds covering guarantee fund to guarantee fund	882.98	897.92	789.08	946.45
Assets covering provisions to technical provisions	112.4	108.8	108.6	109.0
NON-LIFE INSURANCE COMPANIES				
Own funds to solvency margin	632.34	667.05	642.71	364.11
Own funds covering guarantee fund to guarantee fund	1844.60	1729.86	1712.29	976.36
Assets covering provisions to technical provisions	148.7	153.9	154.8	116.5
ALL INSURANCE COMPANIES				
Own funds to solvency margin	453.78	499.90	449.50	356.49
Own funds covering guarantee fund to guarantee fund	1330.26	1294.16	1220.68	960.83
Assets covering provisions to technical provisions	122.7	120.9	121.2	111.2

Source: the PFSA.

Following a review of the financial statements filed by the insurance companies, it was established that the own funds were below the mandatory minimum prescribed by law (i.e. the higher of the required solvency margin and guarantee fund) in three cases. The PFSA issued three decisions approving short-term solvency plans submitted by the relevant insurers, and then monitored how the plans were implemented to bring the insurers into conformity with the legal requirements pertaining to own funds. As at the end of 2009, all the insurance companies brought themselves into conformity with the legal requirements pertaining to own funds.

As symptoms of the worldwide financial crisis became apparent in 2008 and 2009, the PFSA requested the insurance companies to provide information whether they had any exposures to assets issued by financial institutions threatened by a risk of default. The information obtained was used to assess the potential threat of illiquidity in the Polish insurance sector. As the crisis on the international financial markets deepened, the PFSA requested the insurance companies to report regularly on their basic solvency indicators and placements, as well as to provide quarterly information on transactions executed in their groups, along with the list of acquired investment

instruments and names of their issuers. On top of that, life insurance companies were requested to provide information on any offered insurance products with embedded structures. The requirement to provide the information was upheld in 2009.

Based on the information provided, the PFSA undertook an investigation aimed at assessing the degree of bank deposit concentration and the level of protection of insurance companies against the risk of excessive investment concentration, taking into account their surplus solvency margins. The work has not been concluded in 2009.

On-Site Inspections at Insurance Companies

In 2009, inspections were carried out at 17 insurance companies with the aim of examining their operations and assets. The inspections focused on the material aspects of the insurance companies' operations, including:

- ▶ corporate matters,
- ▶ implementation and application of accounting standards and preparation of financial statements,
- ▶ measurement of technical provisions,
- ▶ investment policies,
- ▶ compliance with disclosure obligations vis-a-vis the insuring parties and the insureds,
- ▶ claims handling procedures,
- ▶ reinsurance.

In 2009, the PFSA carried out three comprehensive inspections at insurance companies, covering a major part of their operations. Nearly a half of all the inspections performed addressed three or more different issues.

Use of Stress Testing in Insurance Supervision

In June 2009, the Report on the Use of Stress Tests in Supervision over Insurance Companies was completed and published on the PFSA's website. The Report was produced with the purpose of developing a recommendation for insurance and reinsurance companies to perform mandatory stress tests designed to enhance their risk management processes and prepare them to implement the solutions prescribed by the Solvency II directive. The Report includes a description of the theoretical assumptions underlying stress testing, the experience with the design and performance of stress tests (gathered internationally, as well as in other segments of the financial market), as well as proposed stress tests tailored specifically for insurance and reinsurance companies.

In the second half of 2009, internal stress tests of the insurance industry as at December 31st 2008 were undertaken, based on the reporting data available to the regulator. A report detailing the methodology and findings of the stress tests was presented at a meeting of the Polish Financial Supervision Authority.

Another stage in the work related to the use of stress testing in supervision over the insurance sector was the performance of diagnostic stress tests by the insurance and reinsurance companies. To accomplish that objective, three meetings were held from September to November 2009 between the regulator and representatives of the insurance industry to work out a stress testing methodology for insurance and reinsurance companies. Once the methodology was agreed upon, the companies were requested to perform diagnostic stress tests in November and December 2009 and submit the results to the PFSA by January 15th 2010.

Concurrently, the Europe-wide stress testing exercise was carried out by large or significant insurance groups as at June 30th 2009. The exercise included also the PZU Group. For more detailed information on the Europe-wide stress tests, see "International Cooperation of the Polish Financial Supervision Authority" (CEIOPS *Stress Test Task Force*), further in this Report.

Approval of Internal Models Used by Insurance Companies to Assess Solvency Capital Requirements under the Proposed Solvency II Regime

In the period covered by this Report, the PFSA prepared a report on approval of internal models used by insurance companies and insurance groups to assess solvency capital requirements under the proposed Solvency II regime. The report was based on:

- ▶ an analysis of the process of internal models approval recommended to the European Commission by CEIOPS,
- ▶ the experience of selected foreign regulators and the banking sector with respect to internal models approval,
- ▶ the information provided by insurance and reinsurance companies as part of an internal models survey carried out in November 2009 among 64 domestic insurance and reinsurance companies, as well as one foreign branch of an insurance company.

The purpose of the survey was to evaluate the progress made by insurers and reinsurers in preparations to implement the Solvency II regime with respect to internal models. The survey's results indicate that about 60% domestic insurance companies intend to rely on the internal models approach in assessing solvency capital requirements (SCR) under the proposed Solvency II regime (some internal models will be designed by the insurance group to which a given company belongs). Accordingly, the regulator should be prepared, among other things, to undertake initiatives designed to prepare the domestic insurance companies and insurance groups for the implementation of the proposed Solvency II solutions, and to the process of internal models approval, once the Solvency II directive is implemented. The information obtained from the

survey will serve as the basis for further steps that the PFSA will take with regard to the internal models approval process, which should be aligned with the PFSA's work on the Solvency II project and with the schedule of that work.

Cooperation between Regulators in Supervision over Insurance Groups

Directive 98/78/EC of October 27th 1998 on the supplementary supervision of insurance companies in an insurance group highlights the need for (and outlines the general principles of) closer cooperation between the competent authorities of EU member states responsible for supervision over insurance groups operating in those member states. The detailed principles of such cooperation are set down in the Helsinki Protocol, concluded between the EU member states' supervisors on May 11th 2000. The Helsinki Protocol states (Par. 1.5) that in exercising supervision over insurance groups the regulators should cooperate closely within the so-called coordination committees, whose organisation and rules of procedure are defined in Par. 22 *et seq.* of the Helsinki Protocol.

In particular:

- ▶ a coordination committee should be set up by the regulator responsible for the supervision of the institution, which dominates the group,
 - ▶ all regulators supervising individual members of the group have the obligation to cooperate with one other within the coordination committee;
- ▶ meetings of the coordination committee should be attended by members of the regulators' staff responsible for the day-to-day supervision of a given institution,
 - ▶ members of the coordination committee may select the key supervisor;
 - ▶ meetings of the coordination committee may be held as frequently as its members see fit.

In 2009, representatives of the PFSA attended 13 meetings of coordination committees, at which they presented overviews of the financial standing and manner of operation of the Polish members of the insurance groups to which the meetings related. In addition, they had an opportunity to hear similar presentations delivered by other supervisors and take part in discussions about the risk factors and threats associated with the operations of the insurance groups concerned. The experience sharing helped the PFSA to deepen its understanding of the processes taking place at domestic insurance companies in connection with their membership in insurance groups.

Supervisory Review and Assessment (BION)

In 2009, work started on the development and implementation of the supervisory review and assessment methodology, including the preparation of handbooks describing the scoring model to be applied to insurance companies regulated by the PFSA. The regulator also prepared a handbook entitled "The Supervisory Review and Assessment Methodology for Insurance Supervision Staff".

Supervision over securities and commodities market

Entities Operating on the Securities Market

Investment Firms and Custodian Banks

As part of supervision over the activities of investment firms,

the annual financial statements for 2008 and the semi-annual financial statements for the first half of 2009 of 45 brokerage houses and seven banks conducting brokerage activities were put under review. In 2009, four brokerage houses filed their 2008 consolidated financial statements with the PFSA.

■ TABLE 22. AVERAGE CAPITAL REQUIREMENTS (PLNm) AND AVERAGE CAPITAL REQUIREMENTS COVERAGE RATIOS AT BROKERAGES HOUSE, 2006-2009

	2006	2007	2008	2009
Average regulated capital	24.38	28.33	33.83	33.53
Average total capital requirement	4.84	5.71	4.78	5.41
Average deviation of regulated capital from total capital requirement	19.54	22.44	28.98	28.07
Average fixed cost capital requirement	3.43	3.99	5.06	7.03
Average deviation of regulated capital from fixed cost capital requirement	20.95	24.18	28.70	26.45
Average deviation of regulated capital from minimum founding capital	21.96	25.73	31.44	30.47
Average coverage of total capital requirement with regulated capital*	5.04	4.96	7.07	6.20
Average coverage of the fixed cost capital requirement with regulated capital*	7.10	7.10	6.68	4.77
Average coverage of minimum founding capital with regulated capital*	11.44	14.07	15.67	15.25

Source: the PFSA. Data derived from monthly financial statements as at December 31st 2006, December 31st 2007, December 31st 2008 and December 31st 2009.

* Data expressed in abstract units, representing the average quotient of the regulated capital to the individual capital requirements.

TABLE 23. AVERAGE CAPITAL REQUIREMENTS (PLNm) AND AVERAGE CAPITAL REQUIREMENTS COVERAGE RATIOS AT BANKS CONDUCTING BROKERAGE ACTIVITIES, 2006-2009

	2006	2007	2008	2009
Average regulated capital	68.32	51.11	44.06	43.40
Average total capital requirement	2.97	3.81	2.68	3.08
Average deviation of regulated capital from total capital requirement	65.34	47.30	41.38	40.32
Average fixed cost capital requirement	5.80	6.78	5.26	4.37
Average deviation of regulated capital from fixed cost capital requirement	62.52	44.33	38.80	39.03
Average deviation of regulated capital from minimum founding capital	64.99	47.91	41.23	40.49
Average coverage of total capital requirement with regulated capital*	22.97	13.41	16.46	14.10
Average coverage of the fixed cost capital requirement with regulated capital*	11.78	7.54	8.38	9.93
Average coverage of minimum founding capital with regulated capital*	20.55	17.79	17.26	16.86

Source: the PFSA.

The presented data suggests that investment firms generally have capital reserves exceeding the capital limits currently required under the regulations in effect until the end of 2009. This is important, in particular, in the context of the coming into force as of January 1st 2010 of the regulations implementing the Capital Requirements Directive (CRD) with respect to investment firms, as the existing capital requirements assessed based on the regulations in effect until the end of 2009 are expected to be raised.

In 2009, as part of the development of the methodology for Research and Supervisory Review (BION), the PFSA carried out test supervisory reviews at 18 brokerage houses, which were assigned a supervisory score. These reviews were aimed at calibrating the BION procedure.

Trading Supervision System (TSS)

In the period covered by this Report, the PFSA implemented the Trading Supervision System ("TSS"). The aim of the project was to provide IT and analytical support to the PFSA in the area of supervision over trading on the regulated market in Poland. The TSS is a safe and efficient environment which supports execution of the supervision processes by the PFSA through collecting, processing and presenting information on trading on the regulated market, obtained from the WSE, the KDPW and other sources. With respect to the reporting function, the system creates a flexible reporting environment for organising

transaction data derived from different sources, and produces reports facilitating analyses of such data.

In order to ensure compliance of the TSS's operations with the regulations and standards of the European Union, MiFID transactions as well as information derived from Instrument Reference Data (IRD) and Market Calculation were incorporated into the system's database. Transaction reports are acquired from investment firms as part of MiFID transactions in performance of the PFSA's obligation provided for in Art. 25.3 of Directive 2004/39/EC of the European Parliament and of the Council of April 21st 2004 whereby investment firms are required to provide to the competent regulatory authorities statements of transactions in financial instruments admitted to trading on regulated markets, regardless of whether the transactions were concluded for the investment company's own account or for the clients' account.

As part of the IRD project, a common database was created to collect new and regularly updated reports and to automatically exchange information on instruments for which the individual regulatory institutions are the competent authority. Liquid shares are designated (Market Calculation) in the performance of the PFSA's obligation under Art. 22.6 of Commission Regulation (EC) No. 1287/2006 implementing Directive 2004/39/EC, under which each regulatory authority ensures the maintenance and publication of a statement of all liquid shares for which it is the competent authority.

Issuers

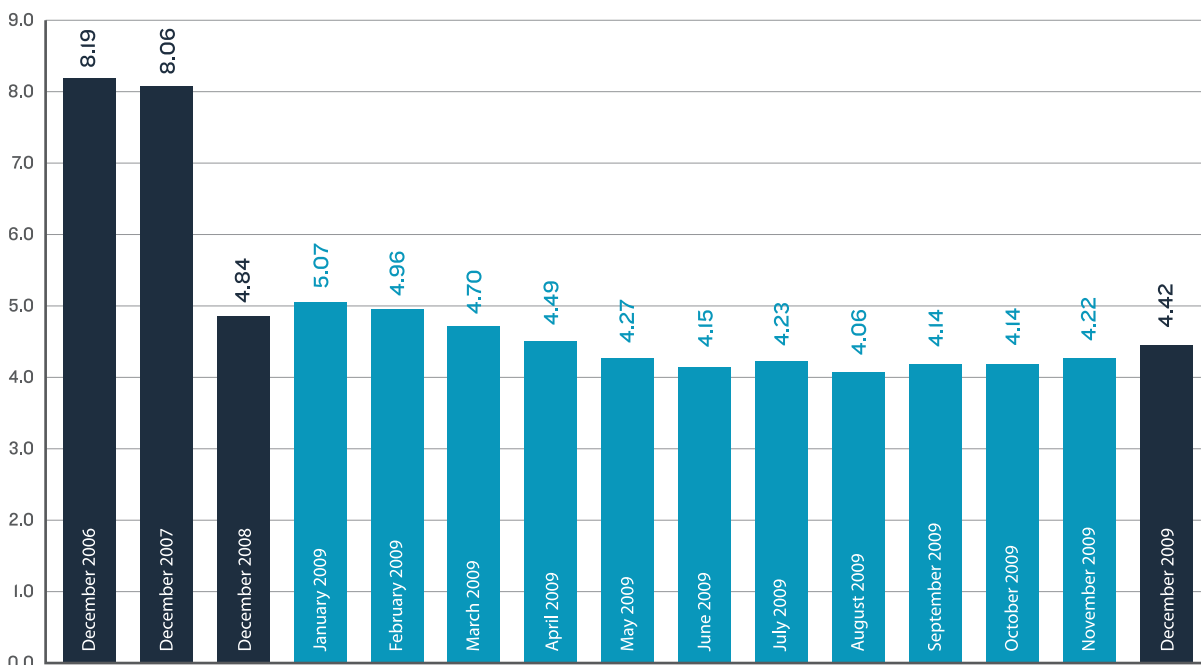
In 2009, the regulatory authority reviewed for compliance with the applicable laws approximately 27 thousand current, periodic and confidential reports filed by public companies, and approximately 2.5 thousand notifications submitted by buyers and sellers of significant blocks of shares of public companies, pursuant to Art. 69 of the Public Offering Act, as well as approximately 2.5 thousand notifications submitted by obliged entities under Art. 160 of the Act on Trading in Financial Instruments (persons who are members of the issuer's management and supervisory bodies or who are issuer's proxies and other

persons who hold management positions in the organisational structure of the issuer, have permanent access to inside information related, whether directly or indirectly, to the issuer, and are authorised to make decisions concerning the issuer's development and economic prospects).

Collective Investment Undertakings

The PFSA also supervises the fulfilment of capital requirements by the investment fund companies. Figure 5 presents the average values of the capital coverage ratio for the sector as at year end in 2006-2008 period and in each month of 2009.⁸

■ FIGURE 5. AVERAGE CAPITAL COVERAGE RATIOS OF THE INVESTMENT FUND COMPANIES AS YEAR END IN 2006-2009 AND IN 2009 (EQUITY/MINIMUM CAPITAL REQUIREMENT)



Source: the PFSA.

The data presented in Figure 5 show that in 2009 the capital standing of the investment fund companies was stable. The average capital coverage ratio for the entire sector of investment fund companies exceeded 4, which meant that the capital

of investment fund companies were on average four times higher than the minimum obligatory equity required under the Investment Fund Act.

⁸ Based on monthly reports filed by the investment fund companies. Such reports are not audited or reviewed by qualified auditors, and so they may be subject to later revisions.

Supervision over financial intermediaries

The PFSA's regulatory tasks in the area of supervision over financial intermediaries include controls with respect to the:

- use of insurance agent services by insurance companies;
- fulfilment of the obligation to hold civil liability insurance policies by insurance agents;
- insurance and reinsurance brokers;
- investment firm agents;
- client acquisition activities of pension funds and activities of entities engaged by pension funds to carry out client acquisition activities;
- intermediaries in selling and redeeming investment fund units;
- practice of the profession of securities brokers, investment advisers and commodity brokers.

Integration of regulatory activities and processes

Research and Supervisory Review (BION) and Risk-Based Supervision System (SONAR)

In 2009, based on the Second Pillar of the New Capital Accord and the Research and Supervisory Review (BION) methodology applied to banks, the PFSA prepared handbooks presenting the scoring model for assessing the regulated entities. As part of the process, common risks and sector-specific risks were mapped and all material risks were identified. The PFSA established uniform definitions of particular types of risk (credit, market, liquidity, operational, business and model risks) and a framework of ratios and criteria for risk assessment. The PFSA also designed quality metrics for risk management (involving risk identification and monitoring and internal audit), including heard-to-measure risks.

The PFSA developed a uniform model of aggregating component scores, to determine the final score of the BION review. The scoring scale ranges from 1 to 4 (1 being the highest score and 4 – the lowest) with scores being measured to the first decimal place. The assigned scores will take into account the risks inherent in a given entity's business and the entity's compliance with relevant regulations and prudential guidelines. The PFSA decided that the scores for risk management and exposure will account for 70% and 30% of the total score, respectively. In the final score, the weight of net risk score is 50%, the weight of capital adequacy score is 30%, and the weight of risk management score is 20%. The model also provides for a descriptive assessment and recommended supervisory activities for particular ranges of the final score assigned as part of the BION review.

The general methodology model was adjusted to individual sectors of the financial market regulated by the PFSA. Moreover, a general model handbook on the BION review was prepared and is intended to be used in further work on the development of the Risk-Based Supervision System (SONAR).

In the banking sector, a BION review was carried out at 372 banks as part of a pilot review process. From 2010, using a modified approach and the experience gained during the pilot review process, BION reviews will be launched at all banks. Test reviews were carried out at 18 brokerage houses leading to assignment of supervisory scores. These reviews were aimed at calibrating the BION procedure. In the insurance and pension sectors, test reviews are planned to be carried out by the end of 2010.

Expected further activities aimed at developing the SONAR system include:

- Analysis of the outcome of test reviews aimed at establishing a final approach to be applied in day-to-day regulatory activities,
- Standardisation of methods for assessment of capital requirements under the Second Pillar,
- Relevant changes in methodologies, handbooks and inspection procedures,
- Full coordination of inspection and BION procedures,
- Coordination of changes, if any, to the model handbook.

Integration of Inspection Activities and Procedures

On July 7th 2009, the PFSA appointed the Inspection Committee responsible for preparation of the organisational integration of inspection activities and procedures carried out by the PFSA. The main duties of the Inspection Committee include:

- Development of a concept for the organisational integration of inspection activities and procedures carried out by the PFSA and unification of the inspection methodologies within the PFSA,
- Establishment of rules for coordination of inspection plans and exchange of information on the inspection activities and their results within the PFSA.

The Committee prepared the concept for organisational integration of the inspection procedures. In the past, such procedures were carried out by separate supervision authorities, which were combined in 2008 to form the present Polish Financial Supervision Authority. Although the PFSA is a single supervision authority regulating the entire financial market, it performs its duties based on separate regulations specified in acts pertaining to individual sectors of the financial market. However, compared with other areas, legal regulations governing the inspection activities are relatively similar across all regulated sectors of the market. Therefore, the creation of a stand-alone Inspection Division, responsible for all the sectors, within the PFSA's existing organisational structure is a natural consequence of establishing the single financial supervision authority and the progressive integration of the supervisory procedures and activities.

The creation of a single Inspection Division will improve the effectiveness of financial market supervision, ensuring more effective control over groups of financial institutions operating in different sectors of the financial market. Given the tight links and cooperation between such financial institutions, ensuring closer cooperation between inspectors is a necessity. In particular, the creation of the Inspection Division will allow for a more efficient exchange of information on inspection findings.

The standardisation of inspection procedures is beneficial for regulated entities – it will contribute to reducing the average duration of inspections and minimising their inconvenience. The creation of the Inspection Division will enhance coordination of inspection activities and practically eliminate the risk of inspections being carried out within a short period by two independent inspection teams previously operating within separate organisational units.

14%

+0.0008

23%

9%

+0.05



Protection of retail clients

One of the statutory objectives of the supervision is to ensure protection of interests of the market participants. The PFSA's supervisory activities in this respect involve monitoring of market practices on an ongoing basis and intervention measures with particular emphasis on those areas of the regulated entities' operations which are exposed to the risk of law infringement or abuse of rights held by non-professional clients.

The PFSA monitors market practices by exercising its supervisory powers, which allow inter alia to demand information and clarifications directly from the regulated entities, and by obtaining relevant data on its own account. The supervisory activities are undertaken as a reaction to problems identified on the market, and in response to requests for intervention, queries and complaints filed with the PFSA.

Explanatory proceedings regarding complaints

As part of the task of protecting the interests of the insuring, the insured, holders of rights under insurance policies, pension fund members, banks' clients, as well as retail investors in securities, the PFSA receives complaints and responds to other individual interventions concerning various irregularities revealed in the operations of the regulated entities. The information thus gathered on disputes between the regulated entities and their clients is a source of valuable knowledge of market developments.

After receiving a complaint, the PFSA investigates the conduct of a supervised entity in the given case. As part of the proceedings, the regulator may decide to take steps intended

to establish the facts and legal aspects of the case with a view to applying (if required) supervisory measures and notifying the party concerned of how it can enforce its claims under the applicable laws if the PFSA determines that a given dispute is based on the civil law.

In 2009, a total of 8,975 complaints were filed with the PFSA by clients of insurance companies, entities operating in the capital market, banking sector participants and open-end pension funds. In response to analysed complaints and in order to counteract identified irregularities, the PFSA exercised a number of supervisory measures aimed at eliminating practices which infringed the interest of retail clients.

Supervision over market practices by financial market participants

The PFSA's activities conducted in 2009 focused on identifying and eliminating market practices violating the law or infringing interests of non-professional clients in particular areas. To achieve this objective, the PFSA undertook relevant supervisory measures, encouraged self-regulation of the market and implemented educational initiatives.

Compensation Payment Contingent upon Presentation of Proof of Insurance

In 2009, the PFSA's investigations revealed a common practice among insurance to demand that the insuring parties, the

insured or the entitled persons present (or submit) a proof of insurance (insurance policy) for compensation to be paid. The practice was employed by the insurance companies operating in both Segment I and Segment II, and usually involved adding relevant provisions to the general terms of insurance. The PFSA is of the opinion that such practice infringes the interests of the insuring parties, the insured and the entitled persons, however, it must be noted that no legal regulations forbid the companies to demand proof of insurance. In particular cases, for instance when many years have passed since the date of concluding the insurance agreement, presenting a proof of insurance may pose a serious difficulty for the enti-

tled person. This may result in the compensation payment being delayed or refused.

In an effort to counteract such practice, the PFSA requested all insurance companies to provide information and explanations regarding this issue.

Satisfaction of Claims for Reimbursement of Costs of Renting Substitute Vehicles under Motor TPL Insurance

The PFSA investigated the practice of handling claims for reimbursement of costs of renting substitute vehicles. The analysis revealed discrepancies in the treatment of claimants who bring such claims against insurance companies. The differences were identified mainly with respect to the rules of reimbursing costs related to the use of substitute vehicles in cases when the claim was filed by a private individual. No legal grounds were also found that would justify reductions in benefits dues in connection with the use of substitute vehicles.

In order to systematise the market practice, the PFSA developed a set of model rules for the treatment of claims for reimbursement of costs incurred in connection with renting substitute vehicles. The model was subsequently communicated to the insurance companies in the form of recommendation.

Analysis of Implementation of Recommendation S (II) with respect to the Possibility of Repaying Currency Loans in the Loan Currency

Although the banks have already implemented Recommendation S (II) and allow their clients to repay loans in foreign currencies, the analysis conducted in 2009 revealed a number of factors which hinder the repayment of currency loans and adversely affect their economic viability. The banks have no settlement system for foreign currency payments (such as the EuroELIXIR system) that would enable settlement of foreign currency transfers in currencies other than the euro. This forces them to use the services of foreign correspondent banks also in handling domestic currency transfers (i.e. currency transfers between accounts at different domestic banks), which results in a significant increase in payment execution costs (banks' charges for domestic currency transfers amount even to a few hundred PLN). Findings of the analysis indicated that not all the banks allow their clients to repay loans directly at their branches, while the ones which offer such service impose additional limitations with respect to the number of branches where such payments can be made, the currency and the type of money that is accepted (for instance, the banks may refuse to accept coins or introduce additional fees for coin payments).

Banks' Practices Towards Clients with Consumer Status, Who Do Not Fully Repay Their Credit Liabilities (i.e. non-performing loans)

An analysis of the problem revealed irregularities related to the so-called hard debt collection. The identified malpractice involved unlawful threats by banks' representatives, duress and violation of personal rights. The PFSA believes that the irregularities related to the banks' debt collection activities could be avoided if the banks placed greater emphasis on standards of creditworthiness assessment prior to granting loans and borrowings. The banks' good practice in this respect may prevent the need to conduct collection proceedings and thus eliminate any potential irregularities.

The PFSA will continue to pay close attention to the banks' practice related to debt collection procedures, internal audit systems and the process of creditworthiness assessment, as well as banks' compliance with the recommendations of the PFSA in these respects.

Supervision over Fairness of Advertising Communication by Financial Institutions

In order to protect interests of non-professional financial market participants against unreliable advertising information, the PFSA monitors advertising communication, i.e. it reviews information and advertising materials published at the request of, for or by the regulated entities.

The purpose of the reviews is to establish whether the reviewed content complies with the law and respects the interests of non-professional financial market participants – in particular whether these communications do not mislead the target audience at the pre-contractual stage. Advertising communications are assessed from the perspective of a consumer of financial services. The fairness of advertising communications was assessed globally, within the context of advertising campaigns, and taking into consideration the manner and form of presentation of advertising information, which affects perception of its content.

The monitoring conducted in 2009 indicated that many irregularities related to advertising information published by financial market participants had been successfully eliminated. This is primarily attributable to the activities carried out by the Polish Financial Supervision Authority, which involved a number of supervisory measures forbidding dissemination of unfair advertising information and relied on resolutions adopted in the previous years that formulated the rules for preparing advertising communications for the banking and insurance markets, and investment funds.

In order to improve the quality of advertising communications related to the financial market, the PFSA implemented educational initiatives in the form of meetings, workshops and presentations for financial market participants, during which the PFSA informed the participants of its expectations

regarding advertising communications by the financial market participants. At these meetings the PFSA emphasised the role of advertising in the process of communicating with potential customers and discussed the information requirements imposed on the regulated entities.

Expert and administrative support for the Conciliatory Court at the PFSA

In February 2009, in response to the situation on the financial market, the Conciliatory Court at the PFSA extended its functions to include mediation. The Rules were amended to allow parties to a dispute to consent only to mediation proceedings, and if such proceedings are inconclusive, the Conciliatory Court may not resolve the dispute unless a relevant consent of the parties is obtained. In addition, following the change, the list of mediators was extended by 11 persons with relevant mediation qualifications and experience.

To promote and disseminate information on the Conciliatory Court, the PFSA took steps aimed at including the Court in the European Commission's database of alternative dispute resolution (ADR) systems put in place to resolve consumer disputes, as well as in the FIN-NET network⁹. The systems submitted for inclusion in the ADR database must meet the standards specified in two recommendations of the European Commission. The database of systems notified by the Member States is primarily used in cross-border dispute resolution. In accordance with the notification procedure, application forms and the required documentation were sent to the European Consumer Centre and the Office of Competition and Consumer Protection in October 2009. The process of including the Conciliatory Court at the PFSA in the FIN-NET network has been completed

and the Court will be included in the ADR database in 2010.

Handling Requests Filed with the Conciliatory Court at the Polish Financial Supervision Authority

By December 31st 2009¹⁰, the Court received a total of 183 requests to ask the other party for consent to resolve the dispute before the Conciliatory Court or to commence mediation proceedings (the majority of the requests were submitted by consumers of financial services, one request was submitted by a shareholder in a listed company).

In 2009, the Conciliatory Court received a total of 138 requests as part of court and mediation proceedings, including 59 requests as part of mediation proceedings (since February 11th 2009) and 79 requests as part of court proceedings, i.e. 34 more than in 2008.

In ten cases, institutions consented to settlement of disputes before the Conciliatory Court – as at December 31st 2009, three cases were closed and seven cases were pending. In addition, the Court was notified that in 16 cases the dispute was resolved in favour of the plaintiff without instigating proceedings or the parties reached a settlement.

⁹ FIN-NET is a European network of bodies responsible for out-of-court settlement of disputes of clients of financial institutions. FIN-NET was launched by the European Commission in 2001. The role of the network is to allow non-professional financial market participants to have easy access to out-of-court settlement of cross-border disputes. The conditions of membership in FIN-NET are set out in the European Commission's Recommendation, dated March 30th 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

¹⁰ Data for the period since the launch of the Conciliatory Court at the PFSA, i.e. March 31st 2008.

Abc



(0.08)

(0.03)

5.0



<http://www.ma>

(0.72)

Educational and information initiatives concerning the financial market

Educational initiatives

The PFSA's statutory task is to educate the public in financial matters and it fulfils its role by performing an array of tasks aimed at promoting and disseminating financial literacy and understanding of how the financial market operates. Due to the cyclical nature of the PFSA's educational activities, in particular training seminars, in 2009 the PFSA launched the CEDUR brand (Educational Centre for Market Participants). All educational initiatives carried out under the CEDUR brand are to promote the brand's positive image and recognition in target groups.

The PFSA's educational activities are targeted at:

- ▶ Professional financial market participants (representatives of the regulated entities),
- ▶ The judiciary, prosecutors and law enforcement officers,
- ▶ Local and regional consumer advocates,
- ▶ Members of the media,
- ▶ Scholar and academic communities,
- ▶ Consumers of financial services.

The key areas of the PFSA's interest with respect to financial education are:

- ▶ Promotion of financial literacy and building confidence in the financial market among prospective consumers of financial services,
- ▶ Support of initiatives of higher education institutions designed to improve the quality of financial-market-related conferences, seminars and workshops,
- ▶ Enhancement of professional qualifications of teachers of Basic Entrepreneurship at secondary schools in the area of economics and finance as well as protection of financial services consumers,
- ▶ Enhancement of the knowledge of the financial market among non economics students,
- ▶ Promotion of understanding financial market mechanisms among professional market participants.

The key elements of the CEDUR initiative include organising training seminars for both professional and non-professional financial market participants, which are the continuation of similar seminars hosted by the PFSA since 2008. The seminars offer are an opportunity to share unique knowledge and experience in regulatory activities in an easily understood form. By organising such seminars, the PFSA not only fulfils its statutory task of educating the public on the operation of the financial market, but also help the PFSA to perform its financial market regulatory and other tasks, including:

- ▶ Ensuring proper operation of the financial market (in particular by organising seminars for the judiciary, prosecutors and law enforcement officers, as well as seminars for representatives of the regulated entities on new market regulations),
- ▶ Ensuring stability of the financial market (in particular by organising seminars on risk management standards: capital requirements with respect to banks, investment firms and – as part of the Solvency II project – insurance companies),
- ▶ Ensuring protection of interests of financial market participants (in particular by organising seminars for local and regional consumer advocates).

In the period covered by this report, the PFSA organised 39 CEDUR seminars, which attracted a large number of participants – a total of 2.6 thousand. In a survey, the participants described the seminars as being of high quality, both in terms of content and form. One of the key advantages of the seminars highlighted by their participants was the opportunity of exchanging views directly with the regulator's representatives. The information gained from the survey is also used to plan themes of future educational events addressing the needs of the respondents.

In 2009, the PFSA designed and launched the ManyMany.info website (www.manymany.info) addressed to secondary school

and academic students. Thanks to its user-friendly design, the website explains, in simple terms, the mechanisms of household budgeting, pensions, credit cards and other financial products. Apart from its educational content, the website allows its users to ask questions to the PFSA's experts and use advanced calculators, including pension, household budget, mortgage, credit and investment fund fees calculators. Moreover, the website offers multimedia content, namely five short videos promoting the website, a blog and an interactive quiz. The website was advertised in the media and the Internet, in particular on community websites.

Information policy

The information on the PFSA acting in the capacity of the financial market supervisor presented on the website includes: the PFSA's statutory tasks and composition, official communiqués of its meetings, description of the organisational structure of the PFSA, scope of duties of the individual departments, contact details, public procurement announcements, career opportunities, and public warnings. In addition, the website provides general information on the regulated markets, including: an up-

The PFSA was also an expert partner of "Financial Mechanisms", a 24-episode TV series on economy and finance, where it actively contributed to writing script for the series. The programme has been broadcast on television and the Internet since September 2009 (the final episode is planned to be broadcast in February 2010).

In 2009, the PFSA published six educational brochures on the capital market. The brochures are distributed to libraries, secondary schools, colleges and financial market institutions.

to-date list of entities operating in particular markets, financial data and statistics, publications (reports and thematic papers), legal acts, including the EC legislation, and information on the PFSA's activities as part of the EU institutions.

The website is addressed mainly to those seeking information on the activities of the supervisor, as well as data and analyses on the regulated markets. In 2009, almost 8.9m visits were recorded.

Cooperation with third parties

Cooperation with Financial Market Participants

In 2009, regular meetings of the PFSA's senior personnel with heads of financial trade organisations were held in four thematic groups: banking sector, pension market, insurance and capital market. The main purpose of this project is to improve the standards of communication and cooperation with the market organisations. The meeting participants discuss the most recent problems of the market.

In the period covered by this Report, the PFSA organised 16 rounds of "Market Meetings".

Financial Stability Committee

The Financial Stability Committee (FSC) operates pursuant to the Act of November 7th 2008 (Dz. U. of 2008, No. 209, item 1317). The purpose of the Committee is to ensure effective cooperation in the area of promotion and preservation of the Polish financial system's stability by exchanging information, opinions and assessments pertaining to the condition of the financial system, and by coordinating related activities.

The establishment of the Financial Stability Committee in

Poland reflects the current global trends of strengthening cooperation between central banks, government administration authorities and market regulators to ensure a coordinated and quick response to market challenges.

The members of the Financial Stability Committee include the Governor of the National Bank of Poland, the Minister of Finance and the Chairman of the PFSA. The FSC meetings were also attended by the PFSA's experts responsible for both the individual sectors of the financial market as well as intersectoral and legal matters. In 2009, FSC meetings were held once every two months. Working meetings were also held in addition to the main FSC meetings.

In 2009, the PFSA prepared data and information for the Financial Stability Committee, which covered mainly the current situation on the financial market, particularly in the banking sector, and the actions taken by the PFSA, which affected the condition of the Polish financial market and the market outlook. The covered topics included:

- currency options,
- Polish banks' liquidity positions,

- ▀ a bill on saving-and-loan cooperatives,
- ▀ stress tests conducted by foreign institutions (CEBS and the IMF).

The strengthening of confidence in financial market mechanisms and infrastructure, which are safeguarded by the institutions represented in the Financial Stability Committee, should be considered the most important effect of the FSC's work in 2009. It directly contributes to consolidation of the financial

system's stability, which was particularly important during the global financial crisis. The FSC also provides an efficient platform for exchange of information between the National Bank of Poland, the Ministry of Finance and the PFSA; effective communication is important both in emergency situations, requiring prompt and adequate response, as well as during calm periods, contributing to the development and modernisation of the Polish financial market.



6

+((0.03))

+0.008

+0.06

Measures taken to counteract market abuse

Explanatory and administrative proceedings related to supervision over the financial market

In 2009, the PFSA conducted 11 explanatory proceedings in order to determine whether there were grounds for filing a notification of a suspected offence concerning offences specified in the acts regulating the financial market in Poland, or for instigating administrative proceedings concerning violation of the law, to the extent falling within the scope of the PFSA's supervision. The proceedings pertained to:

- ▶ disclosure and misuse of inside information,
- ▶ manipulation involving a financial instrument,
- ▶ failure to discharge or improper discharge of obligations relating to significant blocks of shares,
- ▶ failure to discharge or improper discharge of disclosure obligations.

In the period covered by this Report, the PFSA conducted 88 administrative proceedings relating to violation of the following acts:

- ▶ Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies – 42 proceedings,
- ▶ Act on Investment Funds – 8 proceedings,
- ▶ Act on Insurance Activity – 5 proceedings,
- ▶ Act on Compulsory Insurance – 12 proceedings,
- ▶ Act on Organisation and Functioning of Pension Funds – 2 proceedings.
- ▶ Act on Trading in Financial Instruments – 19 proceedings,

Notifications of suspected offence

In 2009, the PFSA filed 42 notifications of suspected offences with the Regional Public Prosecutor's Office of Warsaw, relating to violation of the following acts:

- ▶ Act on Trading in Financial Instruments (Dz. U. of 2005, No. 183, item 1538, as amended): 31 notifications,
- ▶ Act on Counteracting Money Laundering and the Financing of Terrorism (Dz. U. of 2003, No. 153, item 1505, as amended): 1 notification,
- ▶ Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies (Dz. U. of 2009, No. 185, item 1439): 4 notifications,
- ▶ Act on Investment Funds (Dz. U. of 2004, No. 146, item 1546, as amended): 2 notifications,
- ▶ Banking Law (Dz. U. of 2002, No. 72, item 665, as amended): 3 notifications,
- ▶ Penal Code: 1 notification.

■ TABLE 24. NOTIFICATIONS FILED IN 2006-2009 BY TYPE OF OFFENCE

TYPE OF VIOLATED REGULATION	NUMBER OF NOTIFICATIONS			
	2006	2007	2008	2009
Art. 183 of the Act on Trading in Financial Instruments (manipulation involving a financial instrument)	6	8	11	10
Art. 180 and 181 of the Act on Trading in Financial Instruments (disclosure and misuse of inside information)	1	8	13	16
Art. 295 (unlicensed conducting of activities referred to in Art. 32.2, Art. 45.1 or 45.2 or Art. 209) and Art. 296 of the Act on Investment Funds (unauthorised use of the name referred to in Art. 14.4 of the Act)	-	14	2	2
Art. 100 of the Public Offering Act (misrepresentation and concealment of facts in an issue prospectus)	1	4	7	3
Art. 178 of the Act on Trading in Financial Instruments (unlicensed trading in broker-traded financial instruments)	2	4	1	4
Other*	-	9	8	7
Total	10	47	42	42

Source: the PFSA. The data for 2006 cover the period from September 19th 2006 to December 31st 2006.

* Regulations violated:

- Art. 99 of the Public Offering Act (public offering of securities without authorisation),
- Art. 103 of the Public Offering Act (failure to deliver a supplement to a prospectus or information memorandum),
- Art. 179 of the Act on Trading in Financial Instruments (disclosure or misuse of professional secret),
- Art. 171 of the Banking Law (activity involving taking deposits from third parties – natural persons, legal persons or unincorporated organisational entities – in order to extend loans, cash advances or to otherwise impose risk on such funds),
- Art. 35.1 of the Act on Counteracting Money Laundering and the Financing of Terrorism (failure to fulfil the requirement to register transactions subject to the registration obligation),
- Art. 57 of the Commodity Exchange Act (unlicensed operation of a commodity exchange),
- Art. 47.1 of the Act on Insurance Brokerage (unlicensed conducting of intermediation activities).

The effectiveness of the PFSA's supervision efforts in the area of prevention of financial market abuse depends largely on the nature of offences committed. The largest number of notifications, out of 141 filed by the PFSA in 2006–2009, related to the violations of Art. 180 and 181 of the Act on Trading in Financial Instruments, i.e. disclosure and use of inside information (38 notifications), and violations of Art. 183 of the Act on Trading in Financial Instruments, i.e. manipulation involving a share price (35 notifications).

Offences involving disclosure and misuse of inside information are acts where it is extremely difficult to gather evidence to draw up an indictment. Inside information is circulated among a few persons only, which is the nature of the offence. The evidence in such cases is usually circumstantial and may lead to the construction of an indictment on its basis only when the chain of circumstantial evidence gathered in the course of the proceedings is complete. Otherwise, in accordance with the instruction contained in Art. 5 of the Polish Penal Code, any doubts that cannot be completely dispelled should be resolved in favour of the potential offender. In the case of offences involv-

ing a share price manipulation, evidence is largely based on analytical work carried out by experts in the field of trading in financial instruments who issue their opinion on the nature of the investment specified in a notification.

It should be noted that it is not possible to fully evaluate the effectiveness of the notifications of a suspected offence filed in 2006–2009, as the proceedings conducted on the basis of notifications filed by the PFSA are lengthy (proceedings instigated under the notifications filed by the former Polish Securities and Exchange Commission in 2004–2005 are still pending). The majority of the cases listed in Table 24 are pending.

The effectiveness of the PFSA's efforts in the area of prevention of financial market abuse is also affected by the Police's inability to conduct operations with respect to offences defined in the acts regulating the operation of the financial market. However, the Ministry of Internal Affairs and Administration has recently commenced a legislative initiative to empower the Polish law enforcement agencies to conduct operations related to capital market offences.

Indictments

In 2009, the PFSA was notified that 13 indictments were filed by the prosecutor's office with common courts of law based on the notifications of suspected violation of the law received from the PFSA.

■ TABLE 25. INDICTMENTS FILED WITH COURTS IN 2006–2009, BY TYPE OF OFFENCE

OFFENCE	INDICTMENTS			
	2006	2007	2008	2009
Violation of Art. 183 of the Act on Trading in Financial Instruments (financial instrument manipulation)	3	3	4	9
Violation of Art.181 of the Act on Trading in Financial Instruments (misuse of inside information)	-	3	1	1
Other*	-	-	4	3
Total	3	6	9	13

Source: the PFSA. The 2006 data covers the period from September 19th to December 31st 2006

* Violation of:

- Art. 100 of the Public Offering Act (misrepresentation or concealment of facts in an issue prospectus),
- Art. 178 of the Act on Trading in Financial Instruments (unlicensed trading in financial instruments),
- Art. 296 of the Act on Investment Funds (unauthorised use of the name referred to in Art. 14.4 of the Act),
- Art. 270 of the Penal Code (document forgery),
- Art. 296.1 and Art. 296.2 of the Penal Code (abuse of power; breach of duty),
- Art. 47.1 in conjunction with Art. 48 of the Insurance Brokerage Act (unlicensed insurance brokerage; unauthorised use of the name “insurance broker”),
- Art. 585 of the Commercial Companies Code (acting to the detriment of a company) in conjunction with Art. 296.1 and Art. 296.2 (abuse of power; breach of duty).

Convictions and conditional discontinuation of proceedings

In 2009, five convictions were issued in court proceedings initiated on the basis of notifications of suspected violation of the law filed by the PFSA, including:

- ▶ four convictions for the violation of the Act on Trading in Financial Instruments, and
- ▶ one conviction for the violation of the Polish Securities Act.

Powers exercised in criminal proceedings

In exercise of the PFSA's statutory powers, attorneys duly authorised by the Chairman of the PFSA act as plaintiff's attor-

neys or as auxiliary prosecutors in criminal proceedings.

Counteracting money laundering practices

Chapter 6 of the Act on Counteracting Money Laundering and the Financing of Terrorism provides for the PFSA right to carry out inspections of the obligated institutions. Under Art. 21.3.2 of the Act, the PFSA is designated as the body responsible for monitoring the discharge of obligations arising under the anti-money laundering and terrorism financing regulations by the obligated institutions, either as part of its primary supervisory functions or otherwise in the manner and on the terms set out in separate provisions. The obligated institutions which are subject to the anti-money laundering and terrorism financing regime include entities operating on the capital market and in the banking and insurance sectors.

In 2009, the PFSA carried out 38 inspections prescribed by the Act, including:

- ▶ 6 inspections at commercial banks,
- ▶ 18 inspections at cooperative banks,
- ▶ 7 inspections at branches of credit institutions,
- ▶ 4 inspections at insurance companies,
- ▶ 3 inspections at capital market participants.

+0.45

+0.31

nr 162

Dz.U. 2009 nr 166

2009

nr 154

nr 160 Ustawa 7

Participation in legislative processes

The tasks of the Polish Financial Supervision Authority include participation in drafting laws regulating supervision over the financial market. In 2009, the PFSA took part in preparing and

issuing opinions on numerous bills concerning the financial market.

Acts of Parliament and secondary legislation

Act Amending the Act on the Banking Guarantee Fund and the Banking Law, dated July 16th 2009 (Dz.U. of 2009, No. 144, item 1176)

The amendment was prepared in connection to the need to finally harmonise the Act with the EU law, as well as in view of the call to strengthen the main scope of activities of the Banking Guarantee Fund, i.e. protection of client deposits. In the period covered by this Report, the laws effective in Poland generally complied with the EU standards in the area of deposit guarantees, as specified in Directive 94/19/EC of the European Parliament and of the Council of May 30th 1994 on deposit-guarantee schemes. Pursuant to the Directive, the primary obligation of the Member States is to ensure common availability of the deposit-guarantee scheme and equal treatment of credit institutions. Moreover, the Directive stipulates that the cost of financing such schemes must be borne, in principle, by credit institutions themselves. This translates in particular into the exclusion of financing of the deposit-guarantee schemes by the Member States themselves. At the same time, the Directive provides that the financing capacity of such schemes must be in proportion to the liabilities incurred by the scheme participants towards their clients.

Draft amendment to the Banking Law regarding the outsourcing of banking activities

The draft was prepared by a working team set up to review the Banking Law, established at the Board for Financial Market Development at the Ministry of Finance, whose members include representatives of the PFSA, the Ministry of Finance, the National Bank of Poland, the Association of Polish Banks, and the banking sector. The draft provides, among other things, for expanding the range of activities whose performance for and on behalf of the bank may be outsourced to a legal person or a foreign legal person without the need to obtain the PFSA's permit.

The draft sets forth the same legal framework for outsourcing to legal persons based in Poland and legal persons who would perform outsourced activities outside Poland, in the EEA. Banks would not be required to obtain a permit of the PFSA to outsource certain activities to both types of legal persons. However, such a requirement will remain in force if a bank intends to outsource certain activities to foreign legal persons without permanent domicile in the EEA or if outsourced activities would be performed outside the EEA.

Act Amending the Act on Organisation and Operation of Pension Funds and the Act Amending the Act on Organisation and Operation of Pension Funds and certain other acts, dated June 26th 2009 (Dz.U. of 2009, No. 127, item 1048)

The Act introduced new regulations with respect to the structure of costs charged on contributions made by members of open-end pension funds and on assets accumulated in the fund. The maximum amount of the fee charged on a contribution to an open-end pension fund was set at 3.5% of paid contributions. Moreover, the regression model for charging the management fee on the fund's assets, introduced by the amended Act on Organisation and Operation of Pension Funds of 2003, ranging from 0.045% per month for open-end pension fund's assets of up to PLN 8bn, to PLN 15.5m per month on assets above PLN 45bn, was maintained.

Act Amending the Act on Insurance Activity and Certain Other Acts, dated February 13th 2009 (Dz.U. of 2009, No. 42, item 341)

The goal of the amendment was to implement Directive 2005/68/EC of the European Parliament and of the Council of November 16th 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

The absence of uniform rules governing reinsurance in the EU has given rise to material differences in the level of supervision over European reinsurance companies. The simultaneous existence of differing national regulations is a source of uncertainty for insurance companies (and the insured), disrupts exchange on the internal market, causes various problems and administrative burdens and undermines Europe's position in international trade negotiations. In order to remedy those deficiencies and protect the interests of insurance companies, insuring parties and the insured, the directive on reinsurance has been adopted with a view to establishing a legal framework imposing prudential supervision of reinsurance companies in the Community.

According to the draft act, proper reinsurance will protect insurance companies against financial losses in the event of risk accumulation or catastrophic losses. Cooperation with reinsurers enables insurance companies to minimise financial losses in periods when payments of claims and benefits under insurance contracts are high in relation to collected insurance premiums. Reinsurance also gives insurance companies financial stability through more secure investment of free funds.

Draft amendment to the Banking Law, Act on Insurance Activity, Act on Investment Funds, Act on Trading in Financial Instruments, and Act on Supervision over the Financial Market

The draft implements Directive 2007/44/EC of the European Parliament and of the Council of September 5th 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector. The draft introduces detailed procedural solutions for acquisition of shares or rights attached to shares, disposal of such shares, as well as an obligation to notify the supervisor of acquisition or

disposal of shares or rights attached to shares, and the process of prudential assessment, its criteria and duration. A prudential assessment is an important supervisory tool. It enables the supervisor to prevent the creation at supervised entities of any unwanted ownership (shareholding) structure which could potentially have an adverse effect on prudent and stable management of the entity. This power supports the implementation of the PFSA's supervision objectives: ensuring correct operation of the financial market, especially secure trade and protection for investors and other participant of the financial market, as well as ensuring compliance with fair trading rules.

Payment Services Bill

The Payment Services Bill implements Directive 2007/64/EC of the European Parliament and of the Council of November 13th 2007 on payment services in the internal market (the PSD Directive). The act will provide a uniform legal foundation for the provision of payment services and conduct of business in this area. It will define a fixed group of payment service providers, such as banks or savings-loans cooperatives. The bill will at the same introduce a new category of payment service providers, being payment institutions whose operations will be supervised by the state and which would be required to obtain a permit, whose grant would be contingent on fulfilment of prudential requirements. As a consequence of Poland applying national regulations as permitted by Article 26 of the PSD Directive, the bill also permits regulated activities in the area of payment services, conducted by payment service bureaus. Activities of payment service bureaus conducted only on the domestic market and subject to fulfilment of less strict statutory requirements would be limited with respect to the scope of provided services and the turnover.

As it is planned that the PFSA will exercise supervision over domestic payment institutions and payment service bureaus, the PFSA Office participated in the preparatory work on the bill.



+0.8

42

5.817

International cooperation of the Polish Financial Supervision Authority

Cooperation with international organisations

Cooperation with international organisations is an important dimension of the PFSA's activities. Engagement in international projects enables the PFSA to exchange information which is then effectively used to perform analytical and supervisory tasks. Long-standing presence on the international arena also enable the PFSA to discuss new regulatory and supervisory concepts.

Basel Committee on Banking Supervision (BCBS)

In 2009, representatives of the PFSA participated in the activities of two working groups of the Basel Committee on Banking Supervision:

- Standard Implementation Group on Operational Risk (SIGOR)
- Standard Implementation Group - Validation (SIGV).

Banking Supervisors from Central and Eastern Europe (BSCEE)

In 1996, at a conference held in Stockholm, 16 CEE countries signed an official agreement providing a springboard for active cooperation among banking supervisors, consisting in sharing of information and experience. Currently, the Group comprises 22 members from 21 countries: Albania, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Macedonia, Moldavia, Poland, Romania, Russia, Slovakia, Slovenia, Serbia, and Ukraine. Poland is represented by the PFSA.

The BSCEE Secretariat in Poland, run by the PFSA, was opened on January 1st 2006.

In 2009, the BSCEE Secretariat focused its efforts on organising and coordinating the XXII BSCEE Annual Conference, held in Minsk, Belarus, on May 26th–28th 2009. The conference was devoted to “Banking supervision in the context of the world financial crisis” and “Implementation of New Capital Accord - Basel II”. At the conference, the Republic of Macedonia was elected to chair the Group in 2010. The Secretariat prepared

and presented at the Conference a report on its own and the Group's activities.

The Secretariat was also involved, through organisational and technical support, in the organisation of a BSCEE regional seminar in cooperation with the Financial Stability Institute. The seminar, held in Bratislava, Slovakia, from September 2nd to September 4th 2009, was devoted to “Pillar II Implementation Issues”.

International Organisation of Pension Supervisors (IOPS)

In 2009, the PFSA Representatives participated in IOPS meetings, during which they took part in discussions concerning broad aspects of risk management in funded pension schemes, issues related to review of supervisory systems, risk-based supervision regarding pension schemes, disclosure obligations towards members (with particular focus on defined contribution plans), issues related to economic education of pension system participants, as well as the effect of the global financial crisis on pension schemes.

International Association of Insurance Supervisors (IAIS)

The main forum through which the PFSA participates in the IAIS' work is the Technical Committee, one of its key executive bodies. Adhering to the common positions and standards developed by the organisation, the PFSA representatives focused on matters relating to new standards defining the role of supervisory colleges in supervision over insurance groups, and in particular on ensuring that all regulators involved have a possibility of participating in the college's work.

The year 2009 saw the commencement of work to develop a body of standards intended to ensure the stability of financial markets and revise the Insurance Core Principles (ICP), while concurrently changing the structure of standards and guidelines by which the organisation operates.

As a member of the IAIS, the PFSA also acts as its regional coordinator for Central and Eastern Europe and the Transcaucasia. Its responsibilities in this capacity include identification of the region's training needs, coordination of educational initiatives and development of strategies designed to facilitate the achievement of educational goals within the region. The coordinator's role is also to promote the Insurance Core Principles in countries which are not yet members of the IAIS.

International Organization of Securities Commissions (IOSCO)

The PFSA is a member of the Emerging Markets Committee (EMC) and leads the EMC Working Group No 4 on Enforcement and Exchange of Information. As part of that role, representatives of the PFSA Office:

- ▶ carried on work on the WG4 mandate relating to exchange of information on the fit and proper assessment of candidates for key positions at regulated entities; *Best Practices on Exchange of Information under Fit and Proper Assessment* were prepared on the basis of the previously drafted *Report on Fit and Proper Assessment* and posted on IOSCO's website (www.iosco.org),
- ▶ commenced work on the establishment of a system of voluntary exchange of information regarding assurance of proper management of regulated entities via a Web-based portal hosted on IOSCO's website and linked with the websites of all supervisors concerned.

In addition, the PFSA representatives participated in the work of:

- ▶ Technical Committee Standing Committee No. 4 (on Enforcement and Exchange of Information),
- ▶ Technical Committee Standing Committee No. 6 (on Credit Rating Agencies) (as the only supervisor from Central and Eastern Europe),
- ▶ the Emerging Markets Committee Advisory Board,
- ▶ the Technical Committee Task Force on Corporate Governance – where they were involved in the Working Group collaborating with the OECD on a study aimed at determining the best ways to protect minority shareholders of companies whose shares have been introduced to trading on a regulated market.

Organisation for Economic Cooperation and Development (OECD)

The PFSA was actively involved in the work conducted by a number of internal OECD fora. The PFSA was represented in:

- ▶ the Steering Group on Corporate Governance, where a representative of the PFSA was appointed for another annual term and

- ▶ the Insurance and Private Pensions Committee, where representatives of the PFSA were engaged in the work of:
 - the Working Party on Private Pensions (WPPP), preparing documents related to global pension statistics, as well as regulations applicable to and risks entailed by defined contribution plans,
 - the Taskforce on Funded Pension Statistics,
- ▶ the Financial Education in Schools expert sub-group (forming part of the International Network on Financial Education - INFEE), establishing the financial education standards, analysing the various countries' curricula and laying down best practices for financial education in schools.

Apart from preparing – in line with the OECD's requirements – of current reports on the condition of the Polish financial sector, the PFSA became involved in two projects implemented by the OECD: the 11th economic survey of Poland, as part of which it provided a set of data, and – together with the OECD Secretariat and Poland's Ministry of Foreign Affairs – the *Financial Sector Reform in Transition Economies and Policies for SME Growth* seminar, organised in Warsaw for representatives of CEE governments.

International Monetary Fund (IMF) and World Bank (WB)

The PFSA was actively involved in the cooperation between Poland on the one side and the International Monetary Fund (IMF) and the World Bank (WB) on the other side. The PFSA representatives met twice with the IMF delegates and twice with the WB delegates. The purpose of the meetings was to discuss the current situation of Poland's economy and financial industry. At the same time, the PFSA representatives were seeking the endorsement of the above institutions for Poland's standpoint on the key matters relating to international regulation of the financial sector. Additionally, the Chairman of the Polish Financial Supervision Authority and members of the Banking Sector Supervision staff attended a seminar for emerging markets' supervisors, held in Washington and co-organised by the IMF, the WB and the US Federal Reserve.

The PFSA hosted meetings with research analysts from Fitch Ratings, Moody's Investors Service and Standard&Poor's in connection with the agencies' work on updating Poland's credit rating, a measure which largely determines its borrowing costs. The main subject of the talks was Poland's overall financial stability.

International Cooperation in the Area of Counteracting Money Laundering and the Financing of Terrorism (MONEYVAL)

A delegate from the PFSA attended the MONEYVAL plenaries convened to discuss the anti-money laundering initiatives implemented by the FATF, EBRD (the European Bank for

Reconstruction and Development), Egmont Group, IMF, EU and EAG (the Eurasian Group on Combating Money Laundering), to discuss reports on the evaluation of individual states as well as progress reports, and to present information on the

implementation in EU member states of Directive 2005/60/EC of the European Parliament and of the Council of October 26th 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Activities within european institutions

Engagement in the work of European institutions represents an important aspect of the PFSA's activities. Active presence on EU fora and efforts to secure that Poland's position is duly reflected in the documents being drafted is necessary to ensure that the outcome of work of the relevant European institutions is favourable to the Polish market. Participation in the EU legislative process, involvement in the work of Level 3 Committee expert and working groups, as well as contributing to the final shape of European Commission's legislative proposals help endorse solutions favourable from the regulator's perspective. It should be noted that the PFSA not only provided support, but also actively participated in discussions with the European Commission, and maintained continuous communication with the heads of regulators and central banks throughout Europe.

The PFSA's commitment to the activities on the EU arena was reflected in the appearance of Chairman Stanisław Kluza as a speaker at a public hearing concerning the future European supervisory framework on the forum of the Economic and Monetary Affairs Committee of the European Parliament, together with Mr Eddy Wymeersch, Chairman of the Committee of European Securities Regulators (CESR), and Mr Jacques de Larosière, Chairman of the EU's High Level Group on Financial Supervision. The Chairman of the PFSA gave a presentation on the future European frameworks of financial supervision, which was based, among other things, on the ideas concerning the dependence of global and regional financial stability upon the strength of local regulators, the need to establish and enforce prudential requirements at the local level, the limitation of the scale of operations conducted by branches, and macro-prudential supervision being a good response to the global turmoil on financial markets.

European Commission (EC)

CRD Working Group

The group deals with matters relating to changes in the Capital Requirements Directive, with the group's members including the representatives of finance ministries of the individual states. The role of the PFSA representatives is to provide support for the Ministry of Finance (Polish financial market regulatory body) experts where necessary, by:

- ▶ presenting comments to the proposed changes,
- ▶ monitoring the group's work on drafting amendments to the Capital Requirements Directive, focusing on the changes necessary in the domestic legislation.

Supervision over Financial Conglomerates

In the context of the growing importance of intersectoral financial groups and the satisfactory outcome of work of the Interim Working Committee on Financial Conglomerates (IWCFC), in January 2009, the European Commission decided to appoint the Joint Committee on Financial Conglomerates (JCFC) as a standing body operating at CEBS and CEIOPS. In 2009, the Financial Conglomerates Directive Review Working Group (FRWG) was formed within the IWCFC. The result of the FRWG's work conducted with the participation of the PFSA's representatives was a document entitled *The review of the Financial Conglomerates Directive*, submitted to the European Commission in October 2009.

European Central Bank (ECB)

The Banking Supervision Committee (BSC) was formed within the ECB. In 2009, through its presence on the BSC, the PFSA participated in the work of four working groups:

- ▶ Working Group on Macro-Prudential Analysis (WGMA),
- ▶ Working Group on Developments in Banking (WGDB),
- ▶ WGDB Task Force on The Future Evolution of the EU Financial Sector,
- ▶ Joint Task Force on the Impact of the new Capital Framework (TFICF).

The participation in the working groups offers an opportunity to learn about the analytical solutions and methods used in other countries. It also helps to obtain, at the working level, information which is not publicly available, and affords a chance to initiate and maintain working contacts with the experts of regulators and central banks from other countries, as well as experts from other institutions, such as CEBS, the ECB, the European Commission and research centres.

Committee of European Banking Supervisors (CEBS)

CEBS' activities in 2009 focused largely on building effective supervision and appropriate legal framework, which would be a suitable reaction and response to the financial crisis. The Polish regulator participated in the work of the following major groups:

- ▶ Groupe de Contact (GdC),
- ▶ Stress Test Task Force (STTF),
- ▶ Pillar 2 Convergence Network (P2CN),
- ▶ Expert Group on Prudential Regulations (EGPR),
- ▶ Task Force on Liquidity Risk Management (LiqTF),
- ▶ Expert Group on Financial Information (EGFI),
- ▶ External Credit Assessment Institutions Working Group (WG ECAI),
- ▶ Working Group on Supplementary Measures (WGSM).

Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

In 2009, amid the financial crisis, the intensive exchange of information on the financial standing of insurance companies operating in the European Union continued. Insurance companies' exposure to risky investments was monitored on an on-going basis. The PFSA provided CEIOPS with information on the extent of the financial exposure of Polish insurance companies to such investments. The PFSA also took part in the preparation and performance by CEIOPS of European stress tests for insurance groups.

Representatives of the PFSA participated in the Solvency II project, which covered in particular: preparation and public consultations of CEIOPS's recommendations to the European Commission concerning the secondary legislation to the Solvency II Directive, evaluation of effects of the proposed secondary legislation solutions, initial work on the future supervisory recommendations and guidelines. The Polish regulator participated in the work of the following major groups:

- ▶ Financial Stability Committee (FSC),
- ▶ Committee on Consumer Protection (CCP),
- ▶ Occupational Pensions Committee (OPC) and Solvency Sub-Committee (SSC),
- ▶ CEIOPS Review Panel.

Committee of European Securities Regulators (CESR)

In 2009, the Committee of European Securities Regulators (CESR) held broad internal discussions and maintained contacts with the European Commission (EC) concerning the matters related to the functioning of the new European supervisory structure from 2011 onwards. A number of CESR positions

were developed for the EC, containing proposals management and protection of independence of the newly created regulator, the objectives of binding mediation, proposals contained in the draft Regulation of September 23rd 2009 on establishment of the European Securities Markets Agency (ESMA) (see *Transformation of the Level 3 Committees into the European Supervisory Authorities* above).

At the same time, intensive work continued at the working group level. The representatives of the PFSA participated in the work of the majority of groups operating within CESR, including:

- ▶ Review Panel,
- ▶ Investment Management Expert Group,
- ▶ MiFID Level III Expert Group,
- ▶ Transparency Expert Group and Takeover bids Network,
- ▶ CESR-Fin,
- ▶ Prospectus Contact Group,
- ▶ CESR-Pol,
- ▶ CESR-Tech,
- ▶ CESR Corporate Governance Network.

Credit Rating Agencies (CRA)

The PFSA took part in the work on draft Regulation No. 1060/2009 of the European Parliament and of the Council of September 16th 2009 on rating agencies, which came into force on December 7th 2009. Through its engagement in the work of CESR's Credit Rating Agencies Expert Group, the PFSA is also involved in the preparation of official CESR guidelines to the Regulation.

Meetings of Supervisory Colleges

In 2009, the PFSA experts participated in 21 meetings of supervisory colleges established by host-country regulators of the banking groups operating in Poland. The meetings were organised by regulators from 11 European countries, including France, the Netherlands, Germany, Austria, United Kingdom, Denmark, Sweden, Belgium, Italy, Spain and Portugal, and involved 15 banking groups. In 2009, the representatives of the PFSA participated in 14 meetings of the coordination committees of insurance groups.

European Communities Statistical Office (EUROSTAT)

The PFSA's experts furnish Eurostat with data on the market supervised by the PFSA on a regular basis. In 2009, data on the 2008 performance of insurance companies and pension funds in Poland was drawn for the purposes of the research project "Structural Business Statistics".

Cooperation between the PFSA and foreign regulators

Bilateral Memoranda of Understanding for Banking Sector Supervision

In 2009, the Polish Financial Supervision Authority concluded or renewed agreements on cooperation and exchange of information (i.e. Memoranda of Understanding) with the following institutions:

- ▶ The New York State Banking Department – the agreement concluded between the PFSA and the NYSBD was revalidated and the terms of the 2007 MoU were extended;
- ▶ The National Bank of Ukraine – in September, during a study visit of representatives of the National Bank of Ukraine in Poland, the parties signed a Memorandum of Understanding to extend cooperation conducted on the basis of the previous MoU signed by the PFSA and NBU,
- ▶ The Banking, Finance and Insurance Commission (Commission Bancaire, Financière et des Assurances) of Belgium
- ▶ The Central Bank of Cyprus: banking supervision of Cyprus,
- ▶ The Jersey Financial Services Commission: integrated supervisory and regulatory authority of the Island of Jersey.

Multilateral Memoranda of Understanding for Capital Market Supervision

The PFSA is a signatory of two multilateral agreements on cooperation and the exchange of information: the IOSCO Multilateral Memorandum of Understanding (since November 4th 2003), signed by IOSCO members (by the end of 2009, 64 institutions supervising the financial markets in various countries became signatories of the MMoU), and the Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance of Securities Activities (since May 1st 2004), constituting the basis for cooperation and exchange of information between the institutions supervising the capital markets in the 27 countries of the EU, Norway and Iceland, associated in the Committee of European Securities Regulators (CESR). These agreements have been often used by the PFSA in 2009 to obtain supervisory information from other IOSCO and CESR members.

Main areas of activity

Discussion on the Architecture of Supervision in the European Union

In 2009, the European Union institutions launched a large scale reform of the financial supervision architecture, following a review of the Lamfalussy Procedure carried out in the previous years.

In the face of the financial crisis and in order to develop solutions aimed at strengthening the European supervision architecture, in November 2008 the European Commission (EC) appointed the High Level Expert Group on financial supervision, chaired by Mr. Jacques de Larosière. In February 2009, the de Larosière group published a report which defined the main objectives of the reform, i.e. establishment of an institution exercising macro-prudential supervision and the transformation of the Level 3 Committees into the European Supervisory Authorities competent to take measures that would be binding to the national supervisory authorities. In May 2009, the EC published a communication presenting the basic principles of the reform, formulated on the basis of the proposals contained

in the report of the de Larosière group. On September 23rd, the European Commission presented five legislative acts that constituted a foundation for a comprehensive reform of the financial supervision system in the European Union:

- ▶ three regulations establishing new European Supervisory Authorities, i.e. the European Banking Authority, European Insurance and Occupational Pensions Authority, and European Securities and Markets Authority,
- ▶ a regulation establishing the European Systemic Risk Board,
- ▶ a decision entrusting the European Central Bank with specific tasks concerning the functioning of the European Systemic Risk Board.

Moreover, on October 26th, the EC published a draft directive which amended seven directives granting powers to the new European Supervisory Authorities, referred to as the Omnibus I Directive.

The PFSA participated in a debate which was aimed at defining the final shape of the financial supervision architecture in the

European Union. This was to be achieved through cooperation with relevant national authorities, presenting comments and opinions during public consultations held by the EU institutions, and formulating a common stance in cooperation with regulators from other member states. The PFSA presented to the European Commission its own position on the proposals contained in the report of the de Larosière group and the European Commission communication of May 2009. The PFSA carried out ongoing cooperation with the representatives of national authorities involved in the process of restructuring the architecture of the European financial supervision system.

The PFSA welcomed the proposal to introduce institutional changes in the EU's financial supervision system, as they should vastly improve the convergence of supervisory activities and enhance the effectiveness of cooperation between the national supervision authorities across the European Union. At the same time, the PFSA raised a number of points that in its view needed proper solutions in order to create a fair balance between the decision-making powers of each member of the new architecture and their responsibility that should go with the powers.

Activities Related to Cross-Border Crisis Management in the Banking Sector

In the period covered by this Report, the European Commission began to prepare remedial measures to wind up the crisis and started to develop the principles of cross-border crisis management. During this period, the PFSA provided support to the Ministry of Finance in the preparation of an opinion and instructions for the Polish representatives participating in the activities carried out by the ECB's working group for early intervention. The PFSA's efforts allowed to identify the adverse effect of particular solutions on the Polish banking sector.

The PFSA was also involved in projects carried out by the working group for early intervention operating at CEBS. These projects will continue in 2010. The aim of the activities conducted under the projects is to ensure efficient and consistent cooperation of supervisory authorities in the event of financial institution's insolvency and to provide them with instruments for early identification of the problems faced by financial institutions.

Solvency II Project

In 2009, work on the Solvency II project continued in the European Union. Solvency II implements new regulatory requirements for the activities and solvency of insurance and reinsurance companies. The activities of the PFSA were focused on three areas of the project: activities of the Committee of European Insurance and Occupational Pensions Supervisors, the Council of the European Union or the European Commission, and the PFSA's own preparations to the performance of risk-based regulatory activities and analysis of the readiness of market participants to adopt the new system.

Work as Part of the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) – Direct Contribution to the Work of CEIOPS and its Working Groups

The PFSA's standing representatives participate in the work of CEIOPS's working groups delegated to implement the Solvency II project. The representatives regularly participate in the meetings of the working groups and contribute to the preparation of documents issued by the groups. They are also members of the Working Team in Charge of the Implementation of the EU's Solvency II Project appointed in 2008 at the PFSA, thus contributing to the PFSA's support to the work carried out by the Council of the European Union or the European Commission and the PFSA's own activities.

Work Conducted by the Council of the European Union (ECOFIN) and the European Commission – Technical and Expert Support for the Ministry of Finance Representing Poland in the Project

Members of the PFSA's interdepartmental Working Team in charge of the implementation of the EU's Solvency II Project participate in issuing opinions on documents and formulation of Poland's official position on matters related to Solvency II, brought up by the group of EU institutions where Poland is represented by the Ministry of Finance. In doing so, the PFSA responds to the Ministry's requests for assistance in this area.

In 2009, these tasks focused on assisting in the preparation of the final version of the framework Solvency II directive and ensuring correctness of its official translation into Polish. The PFSA was also engaged in the work on drafting secondary legislation related to the directive by the European Commission based on CEIOPS's recommendations. The European Commission's deadline to formally submit the draft secondary legislation is autumn 2010. The PFSA issued opinions on the documents provided by the Ministry of Finance and participated in one of two meetings of the European Commission's Insurance Solvency Expert Group held in 2009 where the participants discussed detailed provisions of the future secondary legislation.

Changes to the Capital Requirements Directive

In the first half of 2009, the PFSA assisted Polish members of the European Parliament at the ECON group and the representatives of the Ministry of Finance in negotiations regarding changes to the Capital Requirements Directive (CRD II) conducted in the European Parliament. Thanks to the PFSA's involvement, the negotiations were concluded with establishing satisfactory regulations concerning division of regulatory jurisdiction with respect to enforcement of capital requirements under Pillar II. Moreover, during the review of the draft directive in different language versions, on PFSA's request the draft

directive was amended to remove certain adverse substantive changes in its provisions made after completion of the work.

In its amendment of the Capital Requirements Directive (Capital Requirements Directive II) the European Commission proposed to fill the legislative gap regarding enforcement of the requirements under Pillar II. The proposed solution was to make relevant enforcement decisions on a consolidated basis with the final decision-making power granted to the consolidating supervisor. The PFSA requested to reject the European Commission's proposal on the ground of its abusive nature from the point of view of balanced division of jurisdiction and responsibilities of individual supervisory authorities and the need to grant the definitive and effective regulatory powers to local supervisory authorities. In this area, the PFSA supported the initiative to block the adoption of unfavourable provisions by the European Council. At the end of 2008, the Ecofin Council adopted a compromise solution whereby the requirements under Pillar II may be enforced individually with the final decision-making power granted to the local supervisory authority.

Other activities of the PFSA were focused on maintaining the provisions drafted by the Ecofin Council following negotiations with the European Parliament. The changes proposed by the European Parliament regarding enforcement of the requirements under Pillar II chiefly concerned establishing a deadline which would significantly limit the local supervisory authority's ability to issue a relevant decision. The European Parliament also proposed to change the wording of key provisions of the directive approved by the European Council in a manner which would make their interpretation unclear. As a result of direct assistance of the PFSA's experts as well as discussions initiated with the representatives of the French presidency, the agreed wording of individual provisions of the directive does not contain any ambiguities.

The PFSA's representatives also provided assistance during the final phase of negotiations on the draft directive. At that point, during the review of different language versions of the directive it turned out that the European Parliament changed the provisions specifying the division of powers with respect to enforcement of the requirements under Pillar II contrary to the agreement made with the Ecofin Council. Following the intervention, the draft was amended to include the agreed provisions.

Work Related to Capital Market Directives

UCITS Directive

The PFSA's experts continued to actively contribute to the work of CESR for the European Commission related to the amendment of Directive 2009/65/EC of the European Parliament and of the Council of July 13th 2009 on the coordination

of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS IV Directive). The final text of the amendment was approved without a debate by the Council of the European Union on June 22nd 2009, and was published on November 17th 2009. The directive is to be implemented in the Member States by the end of June 2011. In accordance with the mandate granted to CESR in February 2009, the European Commission requested CESR to prepare recommendations concerning secondary legislation (level 2) by the end of October 2009, to be able to issue relevant secondary legislation guidelines by the end of July 1st 2010.

The PFSA accepted the recommendations on secondary legislation related to the UCITS IV Directive prepared by CESR and provided to the European Commission. The recommendations included a number of proposals submitted by the PFSA, including:

- detailed scope of the standard exchange of information model was defined,
- the recommendations allowing investors to lodge complaints to a foreign management company, free of charge, in the official language of the Member State where the shares were sold,
- in accordance with the recommendations, the regulator of the management company (if such management company operates under a single passport) is obliged to notify any problems which may materially affect the fulfilment of obligations with respect to a UCITS operating in a different state.

Draft Directive on Alternative Investment Fund Managers (AIFMs)

In 2009, the PFSA cooperated with the Ministry of Finance in drafting the Directive on Alternative Investment Fund Managers as part of the financial services working group at the Council of the European Union. The draft published in April 2009 provides for regulating the activities of alternative fund managers at the EU level by imposing certain obligations both on such managers and relevant market regulators. The draft directive is applicable to a range of entities operating under various legal systems, some of which are already subject to state regulation (e.g. closed investment funds in Poland).

Prospectus Directive

In March 2009, the PFSA notified the European Commission, CESR and the Ministry of Finance of its position on the amendment of the Prospectus Directive (2003/71/EC). The notification was provided as part of the European Commission's public consultations concerning the amendment. The amendment's objective is to reduce the scope of obligations of the European issuers to an absolute minimum, without violating investors'

protection and interfering with proper operation of the EU securities markets.

To achieve those objectives, the PFSA proposed amendments to:

- clarify and specify the division of tasks between the issuer's home regulator and the supervision authority of another EU Member State responsible for the approval of the company's prospectus; the proposal consists in a more detailed wording of the article referring to the possibility of delegating the approval of a prospectus by the issuer's home state to another EU Member State,
- reduce certain obligations of issuers; to remove unnecessary obligations, as perceived by the PFSA's experts, applicable to both issuers and supervisory authorities, the PFSA proposed, among other things, to allow issuers to be relieved from the obligation to issue a prospectus in the case of share offerings addressed to company's shareholders and in the case of a listed company applying for admission to issue new shares to trading on a regulated market;

- clarify the provisions by, among other things, extending the definition of a public offering to include a criterion of number of investors to whom the offering is addressed, or by defining more detailed provisions concerning the validity of a registration document and a prospectus.

Collective Agreements on Regulatory Activities with Respect to the Banking Sector

Throughout the entire year, the PFSA was engaged in negotiations concerning collegial agreements which constitute the basis for cooperation in the area of supervisory activities with respect to banking groups. The PFSA's primary objective was to ensure that the provisions of the agreements reflect the division of regulatory powers specified in the Capital Requirements Directive. This objective was achieved in the case of all concluded agreements (BNP Paribas, Credit Agricole, Societe Generale, HSBC, Royal Bank of Scotland, Santander, BCP, Danske Bank). In 2010, the PFSA intends to continue its work leading to agreements for the remaining bank groups.

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PFSA Office

Budget of the PFSA

The PFSA is a publicly financed entity. Like in many other European countries, in Poland the costs of state supervision over individual markets are borne by those markets.

At the PFSA's request, the existing regulations pertaining to advance fees payable towards the costs of supervision were amended. Under the amended regulations, payment of advance fees by a given market is suspended if the proceeds from the fees in a given year are higher than the forecast revenue designated

to cover the expected costs of supervision over that market.

In 2009, the PFSA reported budget revenue of PLN 224,986.6 thousand on an accrual basis and PLN 148,035.7 thousand on a cash basis. The cash revenue derived mainly from fees paid by the industry to cover the costs of supervision of PLN 143,209.4 thousand. The fines incurred and paid by the industry and revenue other than revenue designated to cover the costs of supervision amounted to PLN 4,826.3 thousand.

■ TABLE 26. EXECUTION OF THE PFSA'S 2009 BUDGET REVENUE PLAN

BUDGET REVENUE	PLANNED IN 2008 (PLN '000)	ACTUAL IN 2008		PLANNED IN 2009 (PLN '000)	ACTUAL IN 2009 (DEFERRED BASIS)		PLANNED IN 2009 VS. PLANNED IN 2008 (%)	ACTUAL IN 2009 VS. ACTUAL IN 2008 (%)
		PLN'000	%		PLN'000	%		
1	2	3	4	5	6	7	8	9
Fees towards the costs of supervision over insurance and brokerage activities paid by insurance companies	22,438.0	30,238.4	135	21,664.0	23,281.0	103	97	74
Fees towards the costs of supervision over open-end pension funds paid by universal pension fund companies	13,940.0	15,758.1	113	13,786.0	14,963.9	105	99	92
Fees towards the costs of supervision paid by the capital market	24,762.0	16,258.8	66	23,633.0	24,329.2	110	95	160
Fees towards the costs of supervision made by supervised banks	141,633.0	172,411.9	122	137,859.0	156,737.7	114	97	91
Fees for official duties connected with examinations for brokers, actuaries and insurance agents	180.0	324.6	180	204.0	384.2	186	113	117
Fines imposed on supervised entities	2,555.0	4,199.7	164	1,810.0	3,819.2	177	71	76
Other	265.0	1,073.7	405	510.0	1,471.4	294	192	139
Fees towards the costs of supervision made by Cooperative Savings and Loan Associations (SKOK)*	0.0	0.0	0	250.0	0.0	0	0	0
Total	205,773.0	240,265.2	117	199,716.0	224,986.6	113	97	94

Source: The PFSA. * in accordance with the government's amendment to the 2009 Budget Act.

■ TABLE 27. EXECUTION OF THE PFSA'S 2009 EXPENDITURE PLAN

BUDGET EXPENDITURE	PLANNED IN 2008 (PLN '000)	ACTUAL IN 2008		PLANNED IN 2009* (PLN '000)	ACTUAL IN 2009*		PLANNED IN 2009 VS. PLANNED IN 2008 (%)	ACTUAL IN 2009 VS. ACTUAL IN 2008 (%)
		PLN'000	%		PLN'000	%		
Payroll, including overheads	100,111.0	93,314.5	93	113,451.0	104,586.7	92	113	112
Non-payroll expenditure	102,662.0	90,259.6	88	83,491.0	78,465.2	94	81	87
including:								
out-of-pocket expenses	47,664.0	44,342.4	93	54,395.0	51,623.3	95	114	117
spending on assets	54,998.0	45,917.2	83	29,096.0	26,842.0	92	53	58
Total	202,773.0	183,574.1	91	196,942.0	183,052.0	93	97	100

Source: The PFSA.

*excluding transfers from the Norwegian Financial Mechanism.

The 2008 and 2009 plans, prepared in accordance with the respective Budget Acts, do not take into account the blockage on state budget funds in the amount of PLN 9m.

The Polish Financial Supervision Authority identified five activities on which in 2009 it spent PLN 183,240 thousand out of the planned PLN 188,974 thousand, which means that the

relation between the actual and planned expenditure was 97%. Table 28 shows the PFSA's budgeted expenditure by activity.

■ TABLE 28. STATE BUDGET EXPENDITURE BY ACTIVITY (PART 70 – THE POLISH FINANCIAL SUPERVISION AUTHORITY) IN 2009 (PLN '000)

NO.	FUNCTION/ACTIVITY/SUB-ACTIVITY	PLANNED IN 2009, AS PER THE BUDGET ACT	PLANNED, AS AMENDED	ACTUAL
4.	Management of public finances	83,021	78,888	76,887
4.12.	Supervision over the capital, insurance, pension and banking markets	83,021	78,888	76,887
4.12.1.	Supervision over capital market entities	17,067	14,789	13,566
4.12.2.	Supervision over insurance companies	9,670	9,371	9,179
4.12.3.	Supervision over the pension market	6,968	6,563	6,042
4.12.4.	Banking supervision	49,316	48,165	48,100
22.	Policy development and coordination	114,953	110,086	106,352
22.1.	Coordination of statutory activities, as well as strategic and operational planning	26,735	24,500	22,432
22.2.	Back-office support	25,365	27,453	26,417
22.3	Technical support	11,365	8,345	8,093
22.4	Computerisation and development of information society	51,488	49,788	49,411
	Total:	197,974	188,974	183,240

Source: The PFSA.

Human resources management

The employment plan for the PFSA included in the 2009 Budget Act provided for 906 FTEs (60 more than in the previous year). As at the end of 2008, the PFSA had 827 FTEs and the number was rising fast, as a result of which the average staffing level for the whole 2009 stood at 891 FTEs. In the period covered by this Report, the PFSA recruited 196 staff, including:

- ▶ 38 persons replacing employees who left in 2009 (4.6% of the headcount as at the end of 2008)¹¹,
- ▶ 84 persons (83.2 tenures) who filled the vacancies at the PFSA as at the beginning of the reported period (10.1% of the headcount as at the end of 2008),

- ▶ 12 persons employed under substitution agreements (1.5% of the headcount as at the end of 2008),
- ▶ 67 interns employed for periods of three to five months.

The staff who terminated employment with the PFSA were replaced by qualified employees with professional experience in the financial industry. Of particular importance was the attraction of staff from the risk management, internal audit and controlling departments, who possessed the necessary qualifications to develop the Supervisory Review and Assessment (BION) procedures.

Inspections by external bodies

In 2009, there were six inspections at the PFSA carried out by external bodies: the Chancellery of the Prime Minister, the National Labour Inspectorate (PIP), the Archives of New Records (twice) and the Supreme Chamber of Control (NIK) (twice). The results of all the inspections carried out at the PFSA were positive. Due to the complexity and long duration of the inspections, below we discuss only those conducted by the Supreme Chamber of Control.

The first of the inspections carried out by the Supreme Chamber of Control was to review the performance of the state budget in part 70 – the PFSA. In a post-inspection statement delivered on April 20th 2009, the Supreme Chamber of Control positively assessed the PFSA's performance against the 2009 budget.

In the accompanying statement of reasons, the Supreme Cham-

ber of Control expressed an unqualified opinion as to the reliability of the PFSA's accounting records and formal correctness of its accounting evidence. In the Supreme Chamber of Control's opinion, the payments made by regulated entities towards the costs of supervision were settled in compliance with the applicable regulations. A positive assessment was issued on the collection of the state budget's receivables under fines imposed by the PFSA on financial market participants. The Supreme Chamber of Control established that the actual expenditure incurred by the PFSA was within the budget.

In the period covered by this Report, the Supreme Chamber of Control carried out another inspection to evaluate the implementation of measures designed to ensure the stability of the banking sector in 2008-2009. The results of the inspection were satisfactory.¹²

¹¹ Based on the information reported by the Financial Services Authority (FSA Annual Report 2007/08, p. 37), the annual staff turnover at the British supervision authority stood at 13% and was within the industry norms.

¹² To learn more about the results of the inspection into the implementation of measures designed to ensure the stability of the banking sector, visit the Supreme Chamber of Control's Public Information Bulletin at: http://bip.nik.gov.pl/pl/bip/wyniki_kontroli_wstep/info rm2009/p_09_026_200907081209481247047788/kbf



5.817

9.089

4.0187

1.623

20,90

19,40

10,45

4,48

2,99

1,49

0,00

10,45

100,00

0.68

0.82

0.82

16

14

13

7

3

2

2

24

119

7

67

Annex

Publications and studies prepared by the PFSA in 2009

■ TABLE 29. LIST OF PUBLICATIONS AND STUDIES ISSUED BY THE PFSA IN 2009

NO.	TITLE	SECTOR	DATE
1.	Foreign Transaction Cash Flows in the Polish Banking Sector	banking	Mar 2
2.	Report on the Situation of Banks in 2008	banking	Apr 14
3.	Financing of Real Estate by Banks in Poland (situation as at December 2008)	banking	May 7
4.	Banking Sector. Basic Data, March 2009	Banking	May 21
5.	Information on the Situation of Banks after Q1 2009	Banking	Jun 10
6.	Banking Sector. Basic Data, June 2009	Banking	Aug 5
7.	Information on the Situation of Banks after H1 2009	Banking	Sep 2
8.	Information on Opening and Implementing Recovery Programmes in the Banking Sector.	banking	Oct 16
9.	Information on the Situation of Banks after the First Three Quarters of 2009	banking	Nov 16
10.	Report on Financial and Economic Ratios Based on the Reporting Information System – non-consolidated, monthly and quarterly	banking	Nov 17
11.	User Manual for the Report on Financial and Economic Ratios	banking	Nov 17
12.	Open-end Pension Funds. Data for December 2008	pension	Jan 15
13.	Open-end Pension Funds. Data for January 2009	pension	Feb 13
14.	Quarterly Bulletin. Market of Occupational Pension Funds, April 2008	pension	Feb 23
15.	Quarterly Bulletin. Market of Open-end Pension Funds, April 2008	pension	Feb 23
16.	Changes in Membership by Members of Open-end Pension Funds – February 2009	pension	Feb 27
17.	Figures from the Market of Individual Pension Accounts in 2008	pension	Feb 27
18.	Open-end Pension Funds. Data for February 2009	pension	Mar 13
19.	Financial Standing of Universal Pension Fund Companies in 2008	pension	Mar 25
20.	Information on the Market of Individual Pension Accounts in 2008	pension	Apr 9
21.	Open-end Pension Funds. Data for March 2009	pension	Apr 15
22.	Open-end Pension Funds. Data for April 2009	pension	May 15
23.	Quarterly Bulletin. Market of Open-end Pension Funds, January 2009	pension	May 15
24.	Occupational Pension Funds in 2008	pension	May 21
25.	Quarterly Bulletin. Market of Occupational Pension Funds, January 2009	pension	May 28
26.	Investment Activities of Pension Funds in the Period March 31st 2006 – March 31st 2009	pension	Jun 10
27.	Open-end Pension Funds. Data for May 2009	pension	Jun 15
28.	Open-end Pension Funds. Data for June 2009	pension	Jul 15
29.	Quarterly Bulletin. Market of Open-end Pension Funds, February 2009	pension	Aug 5

30.	Open-end Pension Funds. Data for July 2009	pension	Aug 14
31.	Quarterly Bulletin. Market of Occupational Pension Funds, February 2009	pension	Aug 24
32.	Open-end Pension Funds. Data for August 2009	pension	Sep 15
33.	Annual Bulletin. Market of Open-end Pension Funds in 2008	pension	Oct 9
34.	Information on the Market of Individual Pension Accounts in H1 2009	pension	Oct 12
35.	Financial Standing of Universal Pension Fund Companies in H1 2009	pension	Oct 14
36.	Open-end Pension Funds. Data for September 2009	pension	Oct 15
37.	Annual Bulletin. Market of Occupational Pension Funds in 2008	pension	Oct 16
38.	Open-end Pension Funds. Data for October 2009	pension	Nov 13
39.	Quarterly Bulletin. Market of Open-end Pension Funds, March 2009	pension	Nov 20
40.	Quarterly Bulletin. Market of Occupational Pension Funds, March 2009	pension	Nov 30
41.	Investment Activities of Pension Funds in the Period September 29th 2006 – September 30th 2009	pension	Dec 9
42.	Information on Dormant Accounts of Open-end Pension Fund Members	pension	Dec 14
43.	Open-end Pension Funds. Data for November 2009	pension	Dec 15
44.	Quarterly Bulletin. Insurance Market in Q4 2008	insurance	Mar 19
45.	Obligation to Publish Semi-Annual Financial Statements of Insurance Capital Funds as at December 31st 2008	insurance	May 6
46.	Report on Solvency of Insurance companies as at December 31st 2008	insurance	May 26
47.	Quarterly Bulletin. Insurance Market in Q1 2009	insurance	Jun 19
48.	Report on the Condition of the Insurance Sector after Q1 2009	insurance	Aug 7
49.	Assessment of Insurance companies' Preparation to Apply Art. 4a of the Polish Accountancy Act	insurance	Aug 19
50.	Job Loss Insurance	insurance	Aug 19
51.	Report on the use of stress tests in supervision over insurance companies	insurance	Sep 15
52.	Report on engagement by insurance companies of other entities to perform insurance and other activities in 2008	insurance	Sep 15
53.	Distribution of 2008 profits by insurance companies	insurance	Sep 16
54.	Quarterly Bulletin. Insurance Market in Q2 2009	insurance	Sep 18
55.	Insurance companies' internal regulations and policy regarding distribution of profits for 2005-2008	insurance	Sep 21
56.	Automobile insurance in 2005-2009	insurance	Oct 2
57.	Annual Bulletin. Insurance Market in 2008	insurance	Oct 16
58.	Activities of Insurance Brokers in 2009	insurance	Dec 1
59.	Quarterly Bulletin. Insurance Market in Q3 2009	insurance	Dec 18
60.	Approval of Internal Models Used by Insurance companies and Insurance Groups to Assess Capital Requirement in the Solvency II Project	insurance	Dec 22
61.	Authorisations and Decisions Issued and Notifications Considered by the Capital Market Supervision Division of the PFSA in 2008	capital	Jan 7
62.	Report on the Analysis of Annual Consolidated Financial Statements Prepared for the Financial Year 2007 by Issuers of Securities in terms of Their Compliance with the International Accounting Standards	capital	Jan 29
63.	Information on Sale in Poland of Participation Titles of Foreign Investment Funds in the Period July 1st – December 31st 2008	capital	Apr 22
64.	Information on Operations Conducted in Poland by fund companies with Registered Office in Member States	capital	May 6
65.	Information on Sale in Poland of Participation Titles of Foreign Investment Funds in H1 2009	capital	Oct 29

66.	Operations of Brokerage Houses and Banks Conducting Brokerage Activities in 2008 and H1 2009	capital	Nov 2
67.	Operations of Investment Fund Companies in 2008 and H1 2009	capital	Nov 26
68.	“Introduction to Financial Investments, Deposits and Money-Market Instruments” by Krzysztof Jajuga – an educational brochure published as part of the series entitled “Capital Market Institutions and Principles of Operation. Anatomy of Success”	capital	Dec 29
69.	“Bonds and Shares” by Krzysztof Jajuga – an educational brochure published as part of the series entitled “Capital Market Institutions and Principles of Operation. Anatomy of Success”	capital	Dec 29
70.	“Derivative Instruments” by Krzysztof Jajuga - an educational brochure published as part of the series entitled “Capital Market Institutions and Principles of Operation. Anatomy of Success”	capital	Dec 29
71.	“Basic Investment Strategies” by Krzysztof Jajuga – an educational brochure published as part of the series entitled “Capital Market Institutions and Principles of Operation. Anatomy of Success”	capital	Dec 29
72.	“Secondary Market for Securities”, by Krzysztof Jajuga – an educational brochure published as part of the series entitled “Capital Market Institutions and Principles of Operation. Anatomy of Success”	capital	Dec 29
73.	“First Steps on the Capital Market” by Piotr Szulec and Piotr Biernacki – an educational brochure published as part of the series entitled “Investor’s Guidebook”	capital	Dec 29
74.	Crime Detection and Prosecution on the Financial Market in 2008	inter-sector	Jan 7
75.	Changes of qualified auditors at financial market entities	inter-sector	Oct 29

Source: the PFSA.