

DLB-DLBZ4.701.62.2023.PP

Warsaw, 4 April 2023

**Management Boards
of banks in the form of joint stock
companies, including associating banks**
(as per distribution list)

Dear Sir/Madam,

In view of the different approaches of banks to the manner in which their general meetings fulfil the obligations under recommendation 8.9 in KNF's *Recommendation Z on the principles of corporate governance in banks* (hereinafter: "Recommendation Z"), observed by the Polish Financial Supervision Authority (hereinafter: "UKNF"), in relation to the assessment of the adequacy of internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation, as well as the inquiries received concerning the proper manner of performance of the above-mentioned obligations, attached UKNF provides its position on the method of proper fulfilment of the requirements indicated in recommendation 8.9 in Recommendation Z. Banks' management boards are responsible for submitting this position to their general meetings.

This position is appropriately applicable to the assessments of the adequacy of internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation carried out in cooperative banks, therefore UKNF kindly requests that the associating banks provide the associated banks with the above-mentioned position.

With regards,

Marcin Mikołajczyk

Deputy Chair

of the Polish Financial Supervision Authority

/signed by qualified electronic signature/

31 March 2023

Position statement of the Polish Financial Supervision Authority addressed to banks in the form of joint stock companies concerning compliance with the requirements for assessment of the adequacy of internal regulations concerning the functioning and effectiveness of the supervisory board's operations from KNF's *Recommendation Z regarding the principles of corporate governance in banks*

Pursuant to recommendation No. 8.9 contained in *Recommendation Z* of the Polish Financial Supervision *regarding principles of corporate governance in banks* (hereinafter referred to as "Recommendation Z"): "*Adequacy of internal regulations regarding supervisory board and management board activities and effectiveness of these bodies in performance of their tasks should be made a subject of regular self-assessment and assessment by supervisory board relative to the management board and by general meeting (...). The assessment may be performed with support of external advisors.*"

Bearing in mind:

- 1) Observed by the Polish Financial Supervision Authority (hereinafter referred to as: "UKNF"), different approaches of banks to the manner in which their general meetings fulfil their obligations under recommendation 8.9 in Recommendation Z in relation to the assessment of the adequacy of internal regulations regarding the functioning of the supervisory board and effectiveness of its operation,
- 2) inquiries received by UKNF regarding the appropriate manner of fulfilling the above-mentioned obligations, in particular in the light of the fact that bank shareholders may not have access to all internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation due to trade secrets resulting from Article 428 § 2 of the Code of Commercial Companies, UKNF provides the following position on how to properly comply with the requirements set out in Recommendation 8.9 in Recommendation Z.

In line with this recommendation:

- 1) In the first place, the bank's supervisory board should self-assess the adequacy of internal regulations concerning its functioning and the effectiveness of its operation,
- 2) Next, the bank's general meeting should assess the adequacy of internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation.

The self-assessment by the supervisory board does not replace the assessment carried out by the general meeting, and the assessment carried out by the general meeting does not release the supervisory board from the obligation to carry out a self-assessment.

The self-assessment made by the supervisory board and the assessment made by the general meeting should take the form of appropriate resolutions of these bodies on self-assessment - by the supervisory board and assessment - by the general meeting.

Consideration or approval by the general meeting of the report on the operation of the supervisory board (even in the case of adoption of appropriate resolutions in this respect), similarly to the acknowledgement by the general meeting (even in the form of a resolution) of information on the results of the self-assessment carried out by the supervisory board, does not meet the requirement set out in Recommendation Z, as it does not indicate that the general meeting has assessed the adequacy of internal regulations concerning the functioning of the supervisory board effectiveness of its operation.

UKNF is aware that bank shareholders may not have access to all internal regulations and documents concerning the functioning of the supervisory board and its effectiveness, due to, for example, limited access to these documents due to trade secrets under Article 428 § 2 of the Code of Commercial Companies. However, this does not justify the general meeting of shareholders to waive the assessment of the adequacy of internal regulations concerning the functioning of the supervisory board and the effectiveness of its operation. This assessment should be made on the basis of and to the extent of all information and documents that can be made available to the general meeting, and in particular:

- 1) resolution of the supervisory board on self-assessment of adequacy of internal regulations with regard to the functioning of the supervisory board and effectiveness of its operation;
- 2) list of the bank's internal regulations applicable to the functioning of the supervisory board;
- 3) contents of the bank's internal regulations applicable to the functioning of the supervisory board, which, according to the bank management board, may be made available to the general meeting;
- 4) expert studies, audit reports or opinions on the bank's internal regulations with regard to the functioning of the supervisory board and effectiveness of its operation - prepared by external advisors, upon the bank's request, subject to compliance with relevant confidentiality principles and for purposes of assessment performed by the general meeting.

The bank management board should be responsible for gathering of and provision of documents necessary for performance of the assessment to the general meeting. Use of expert studies, audit reports or opinions referred to in pt. 4) above should be a standard good practice in cases when the bank does not provide general meeting with access to all internal regulations or other documents relative to the functioning of the supervisory board.

Resolution of the general meeting on assessment of adequacy of internal regulations with regard to the functioning of the supervisory board and effectiveness of its operation should clearly indicate on the basis of which information the general meeting made its assessment.

This position is appropriately applicable to assessments of adequacy of internal regulations concerning the functioning of the supervisory board and effectiveness of its operation conducted in cooperative banks. The Polish Financial Supervision Authority asks that this position statement be forwarded by the associating banks to the associated cooperative banks.