

## There will be changes in Recommendation A for banks

*On January 3, consultations closed on a draft amendment to Recommendation A on banks' management of risks associated with activities involving derivatives, which will replace the existing Recommendation A of 2010.*

The Office of Polish Financial Supervision Authority (UKNF) has published a draft amendment to *Recommendation A on banks' management of risks associated with activities involving derivatives*.

Recommendation A applies to all types of derivatives, including those admitted to the organized trading system within the meaning of the Act on Trading in Financial Instruments of 29 July 2005, as well as derivatives outside that system.

Since the introduction of Recommendation A, the regulatory environment that determines specific obligations regarding the conclusion and performance of transactions on derivatives has changed significantly. This makes it necessary to update the Recommendation to adjust its content to the current legal regulations. The primary objective of the amended Recommendation A is to identify best practices in the

management of risks associated with activities involving derivatives. The document supplements generally applicable laws, particularly the aforementioned (along with relevant executive acts).

The recommendations make no reference to the issue of relations with clients. As KNF stresses, this does not mean that the addressees of the Recommendation are not expected to manage that area of their business. Relations with clients have been defined in separate regulatory packages. KNF first of all points out that banks conducting activities that involve derivatives are obliged to comply with the requirements arising from the so-called MIFID system.

The new Recommendation A relates to activities involving derivatives and addresses the following areas: management and supervisory board; risk identification and assessment, including risk



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measurement/estimation; risk monitoring, mitigation and reporting; internal control system.

Recommendation A should be implemented taking into account the principle of proportionality understood as adjustment of adopted solutions to the indivi-

dual bank's specific nature and activity profile. This means that a bank conducting activities that involve derivatives should comply with regulations, and the scope of its policies and procedures should be adequate to the scale and complexity of such activities.

To increase the efficiency of the bank's risk management process and to identify potential risks in advance, banks should take into account: the purpose for which they conclude transactions involving derivatives; the specific nature of the client; and the type of derivatives.



# IFRS Standard 17 will enter into force on 1 January 2023

*On 23 November 2021, a regulation implementing International Financial Reporting Standard 17 (IFRS 17) – Insurance Contracts was published in the EU Official Journal.*

IFRS 17 "Insurance" will enter into force on 1 January 2023. It sets out the recognition, measurement, presentation and disclosures for insurance contracts covered by its scope. The new standard will replace the currently used IFRS 4 "Insurance Contracts". The objective of IFRS 17 is to ensure that an enterprise pre-

sents appropriate information in its financial statements that faithfully reflects insurance contracts. This information provides the users of financial statements with a sound basis for assessing the impact of insurance contracts on the enterprise's financial standing and performance as well as cash flows. IFRS 17 applies to insurance contracts, reinsurance contracts and investment contracts with discretionary participation. Under the new standard, insurance contracts are to be valued based on three basic principles: discounted probability-weighted cash flows; explicit risk adjustment; and the contractual service margin ("CSM"), which represents the unrealized profit on a contract that is spread evenly. Historical data such as discount

rates and unrealized gains will be needed for valuation. One of the new standard's elements is the requirement for annual cohorts. However, the EU has allowed this requirement not to apply (until the end of 2027) to, among other things, intergenerationally-mutualized and cash-flow matched contracts issued within one year. For example, this includes the traditional individual profit-sharing products: life or death, dowry, and whole life insurance. The essence of such products is the policyholder's right to a share in the profit derived from the insured persons excess return on investment of assets to cover technical provisions over the guaranteed technical rate used in the product design to calculate premiums.





# A delegated regulation to Taxonomy has been published

*New EU rules have established the technical conditions under which an economic activity qualifies as making a significant contribution to climate change mitigation or adaptation.*

The Official Journal of the European Union of December 2021 published Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing technical eligibility criteria for determining the conditions under which an economic activity qualifies as making a significant contribution

to climate change mitigation or adaptation, and for determining whether that economic activity does not cause significant harm to any other environmental objective. It should be reminded that Regulation (EU) 2020/852 (the so-called Taxonomy Regulation) establishes a general framework for determining whether an economic activity qualifies as environmentally

sustainable for the purposes of defining the extent to which a specific investment project is environmentally sustainable. The Regulation relates to measures adopted by the EU or Member States, which specify the requirements for financial market participants or issuers with respect to financial products or corporate bonds made available as environmentally sustainable to a financial market participant and companies subject to the obligation to publish a statement of non-financial information or a consolidated statement of non-financial information.

The Delegated Regulation will be essential for implementation of the disclosure requirements set out in Articles 5, 6, 7 and 8 of the Taxonomy in the case of financial products within the meaning of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on disclosure of information relating to sustainability in the financial services sector (OJ L 317 of 9 December 2019, pp. 1–16) and for companies subject to the obligation to publish non-financial information.

Pursuant to Article 27 clause 2 letter a) of the Taxonomy, its Articles 5, 6 and 7 as well as Article 8 clauses 1, 2 and 3 apply with respect to the environmental objectives of climate change mitigation and adaptation starting from 1 January 2022.



# Financial institutions will be offered the possibility to choose taxation of their services with VAT

*The tax provisions included in the Polish Deal have introduced the possibility of choosing taxation of financial services provided to a business with the tax on goods and services. However, no such option exists for insurance services.*

The VAT Act in force until the end of 2021 provided for obligatory objective exemption of widely understood financial services. This obviously affected the scope of the right to deduct VAT on expenses incurred by business operators of the financial sector. The necessity to settle the share of taxable activities in total sales by means of a coefficient (the so-called VAT index) resulted in a situation where such institutions could only deduct a small part of the VAT they paid.

On 1 January 2022, however, the situation changed as a result of changes introduced by so-called

Polish Deal. It has become possible to voluntarily (by choosing the specific form of taxation) decide on having selected financial services taxed with VAT, as e.g.: transactions, agency included, concerning currencies, banknotes and coins used as legal tenders; fund management; the services of granting credit facilities or cash loans as well as related agency services and the management of credit facilities or cash loans by the lender; the services of granting sureties, guarantees and any other forms of security for financial and insurance transactions, as well as related

agency services and the management of loan guarantees by the lender; services relating to cash deposits, holding of cash accounts, all kinds of payment transactions, money orders and transfers, debts, checks and bills of exchange, as well as related agency services; services, brokerage included, involving shares in companies or entities other than companies if incorporated; services involving financial instruments as well as related agency services. However, the option of taxation of such services with VAT is only available on the business services market. Choosing that option means taxation of all services covered by the new regulation. It is not possible to select only a part of them as taxable. It is not possible, either, to choose taxation of (all) insurance services with VAT.





## In short

### ***KNF took a stance on consolidation of contacts with the clients of investment firms***

Available on the website of the Polish Financial Supervision Authority (KNF) is the position of the Authority's Office on consolidation of contacts with the clients of investment firms. The published position is limited to selected aspects of client relationship maintenance and should not be treated as a comprehensive analysis in this regard. This is related to implementation of the MIFID II package, which assumes that one of the tools to protect investors in their relationship with professional market participants – investment firms – is the requirement to consolidate contacts between investors and the investment firm.

### ***In Poland, the number of compulsory insurances types increased to 246***

The Polish Insurance Association (PIU) has updated the list of compulsory insurance. According to its report, the list currently contains 246 types of compulsory insurance. It is estimated that about 68 of them are compulsory insurance within the meaning of the Act on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau. The group differs from the other items in that the terms and

conditions of insurance are determined by the legislator, usually in a regulation of the competent minister. As stressed by the PIU, the number of obligatory types of insurance is growing systematically. The legislators' tendency to cover new risks is particularly noticeable.

### ***In 2022, common standards will be developed for insurance contract distribution***

The Polish Insurance Association (PIU) plans to work on developing common standards in 2022 on topics such as: the client needs analysis (fact finder) process; fact finder documentation and archiving by the insurance company and the agent; division of responsibilities between the insurance company and the agent in the process of insurance distribution; the minimum scope of insurance companies' control over agents; principles of professional training of obliged persons; principles of supervision by insurance companies of agents in the fulfillment of training obligations by obliged persons; supervision of agents in the area of cloud computing; good practices in cooperation with brokers.

### ***Product management requirements for insurance distributors have been specified***

The Office of Polish Financial Supervision Authority (UKNF) has published a position paper to highlight important issues regarding the application of product management requirements for insurance distributors who are not product developers. The insurance distributor's obligation to use appropriate solutions ensuring that information is obtained from the insurance product developer about the product and its approval process, including information about the specific target market, is contained in the Act of 15 December 2017 on insurance distribution.

### ***UKNF launches publication of "Przegląd Rynku Finansowego"***

The Office of Polish Financial Supervision Authority launches the publication of "Przegląd Rynku Finansowego - Financial Supervision Review". The aim of publishing a scientific journal is to create a permanent, publicly available forum for the exchange of knowledge, experience and opinions of high cognitive and scientific value in the field of financial market operation in Poland and worldwide, with particular emphasis on issues related to financial market supervision. The journal will contain scientific texts, including specifically articles, glosses, reviews and scientific research reports.



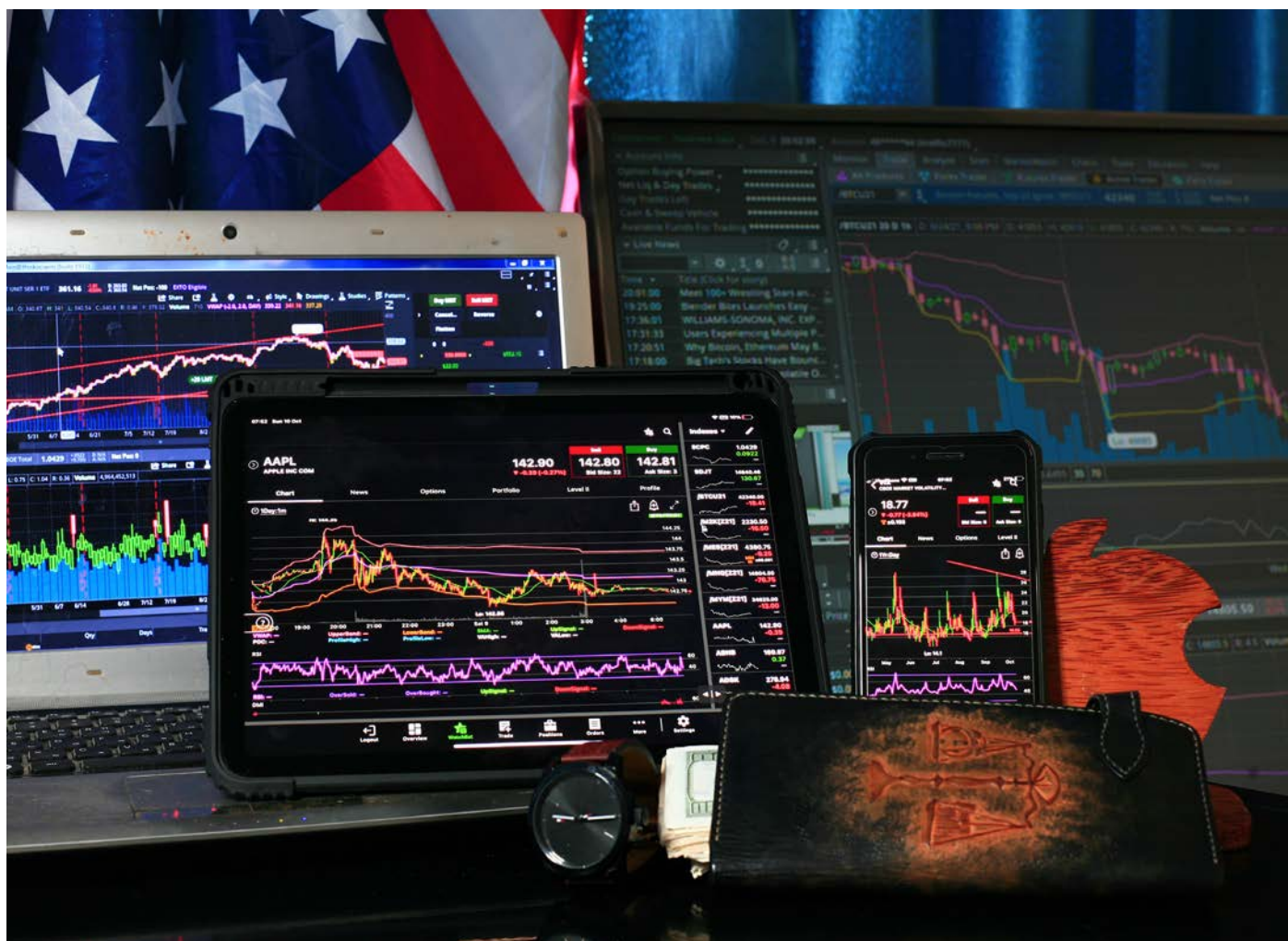
## *New regulations on the amount of KNF supervision fees have been published*

Journal of Laws (of 2021, item 2466) contains Regulation of the Minister of Finance of 23 December 2021 amending the Regulation on fees to cover the costs of capital market supervision. The Regulation entered into force on 1 January 2022. The amendment supplements, among other things, the provisions of Regulation on fees for entry in the relevant register and annual fees related to cross-border activities of collective investment institutions, and specifies the amount of fee for the grant by KNF of permission to withdraw shares from

trading on a regulated market or in an alternative trading system.

## *There will be new recommendations on motor vehicle claims adjustment*

The Polish Financial Supervision Authority has published draft Recommendations for motor insurance claims adjustment to replace the current Guidelines for motor insurance claims adjustment adopted on 16 December 2014 as part of its 246th session by Resolution No. 414/2014. The draft has been submitted for consultation. The public consultation will continue until 21 February 2022.



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- The 2020 rankings prepared by the Rzeczpospolita and Parkiet dailies:
  - 1<sup>st</sup> Most Active Firm on the Stock Exchange
  - 3<sup>rd</sup> Best Auditor of Listed Companies
  - 5<sup>th</sup> Best Audit Firm