SUMMARY

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The subject of the dissertation: **„Compliance in the Polish financial cooperative sector".**

The Polish financial cooperative sector plays a special role in the national economy. Within the framework of the so-called local banking, it should provide socially responsible financial products which will counteract social exclusion. The aim of this paper is to present the specificity of compliance institutions in the Polish financial cooperative sector. The specificity is expressed in the fact that the institution should take into account the separateness of the Polish financial cooperative, the legal character of entities of this sector, which are first of all cooperatives, from the national commercial banking. The problem of compliance institutions in the Polish financial cooperative sector is therefore a complex legal issue, important in the process of ensuring compliance of the sector with legal regulations, internal regulations and market standards.

For the purposes of the thesis, the term "Polish financial cooperative" should be understood as the sector of cooperative savings and credit unions and cooperative banks. Cooperative savings and credit unions and cooperative banks are primarily cooperatives within the meaning of the provision of Article 1 § 1 Act on cooperatives, according to which a cooperative is a voluntary association of an unlimited number of people, with a variable membership and a variable share fund, which conducts joint economic activity in the interest of its members.

In the paper, taking into account the separation of the Polish financial cooperative sector from the commercial banking sector, which through legal acts and supervisory recommendations regulating the functioning of the organizational unit responsible for compliance sets a model of compliance institution in the financial market, it was indicated that in legal acts and supervisory recommendations, which do not regulate the functioning of the organizational unit responsible for compliance, the principle of proportionality should apply. If the principle of proportionality only determines the principles of functioning of the compliance unit in the sector of Polish financial cooperatives, there will be a mismatch between the compliance model and the applicable and changing legal regulations and

supervisory recommendations, and thus a real threat of taking ineffective measures to reduce the compliance risk in this sector.

Since the tasks of the organizational unit for compliance, in the light of legal regulations and supervisory recommendations, which were analyzed in chapter three and five of this paper, include identifying, assessing, controlling, monitoring and reporting the risk of non-compliance with laws, regulations and market standards, this process falls within the concept of compliance with the law. Compliance with the law must be distinguished from the application of the law itself. Compliance with a norm concerns the implementation of what defines its scope of standardization. The application of a norm means the performance of conventional activities, the definition of which includes its scope of application.

The research method used in this paper is primarily a dogmatic method, which aims to determine the validity of legal norms (interpretation of the largo sense) and to decode their content (interpretation in the strict sense).

Due to the specific nature of the compliance institution in the Polish cooperative sector, which is expressed in the fact that this institution should take into account the distinctiveness of the Polish financial cooperative from the national commercial banking, it was also justified to use the comparative method in order to establish similarities and differences between the compliance institution in the Polish financial cooperative sector and the compliance institution in commercial banking. The paper deliberately does not include a separate chapter devoted to comparative legal analysis, as it has become necessary to refer to commercial banking solutions in each of the chapters.

The paper uses different ways of interpretation in a situation where the results of literal interpretation raised doubts. Functional interpretation was used, especially purposeful one, as well as systemic interpretation. At the level of national law it was necessary to depart from the linguistic interpretation when interpreting the provisions of national law and the provisions of the supervisory recommendations concerning the sector of cooperative savings and credit unions, due to the incomplete legal framework for the functioning of the internal control system in this sector. On the other hand, it was necessary, in the case of provisions of European Union law, to give a greater role to functional interpretation, in particular the purposeful nature of secondary legislation, in particular directives.

The paper consists of five chapters. The first chapter, which describes the genesis of the compliance institution, indicates a different understanding of the compliance institution in Anglo-Saxon law and others in continental law, and that the adoption of the Sarbanes - Oxley

Act of 2002 (SOX), regulating financial practices and corporate governance, was extremely important for the development of the compliance institution. Under Section 404 of the SOX, companies must annually analyse and evaluate the effectiveness of their internal control systems.

The second chapter of the paper, which presents models of compliance in the Polish financial cooperative sector, analyses how the organisational unit responsible for ensuring compliance is located within the organisational structure of the national financial cooperative. A detailed analysis of this institution was preceded by a review of the current legal regulations and supervisory recommendations concerning the Polish financial cooperative sector, which highlights the hybrid compliance model. In this model, some of the tasks related to compliance risk management are delegated to business and operational units and ordinary employees.

The third chapter of this paper presents compliance in the Polish financial cooperative sector in terms of the subject matter. This approach has by its very nature an impact on the scope of functioning of the organisational unit responsible for compliance. It means ensuring compliance with legal regulations, internal regulations and market standards.

The fourth chapter of the paper, devoted to compliance in terms of entities, concerns the independence, characteristics and qualifications that such a unit should possess in order to be able to perform compliance risk management activities. The study was primarily based on a comparison of the level of independence of the compliance function in the Polish financial cooperative sector with that of the commercial banking sector. This chapter also presents the possible scope of legal responsibility of the supervised institution and the employees of the compliance function in case of failure to implement mechanisms ensuring the independence of such a function in the supervised institution. It also examines the granting of a specific type of immunity to the staff of the compliance function, along the lines of the "legal protection for supervisors" principle.

Chapter 5 presents the compliance function in Polish basic level financial cooperatives and their associations, the compliance function in Polish basic level financial cooperatives and their associations. This is because the function of the compliance unit in a basic level cooperative, whose clients are primarily consumers, will be different. The rights and obligations of the employees of this unit in associations of basic level cooperatives will also be different, mainly due to the different objectives they pursue, depending on the given legal

form of the association. These chapters were preceded by an introduction. They are followed by the final conclusions, taking into account the de lege lata and de lege ferenda conclusions.