

**LEGAL OPINION  
ON THE ASSESSMENT OF THE ADEQUACY OF INTERNAL REGULATIONS CONCERNING  
THE FUNCTIONING OF THE SUPERVISORY BOARD OF PKO BP S.A. WITHIN THE  
MEANING OF RECOMMENDATION 8.9 OF THE PFSA**

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**Client:** Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna with its registered office in Warsaw ("PKO" or "Bank")

**Date:** 06.04.2023

**I. Subject matter of the Opinion**

1. The subject matter of this legal opinion (hereinafter referred to as: "**Opinion**") is the assessment of the adequacy of the internal regulations concerning the functioning of the Bank's Supervisory Board, which should be subject to self-assessment by the Supervisory Board and (subsequently) to assessment by the General Meeting, in accordance with Recommendation 8.9 issued by the Polish Financial Supervision Authority (hereinafter referred to as: "**PFSA**") in October 2020 as part of *Recommendation Z regarding internal governance in banks* (hereinafter referred to as: "**Recommendation 8.9**").
2. In particular, the Opinion answers the following question:

*Are the internal regulations concerning the functioning of the Bank's Supervisory Board, which should be subject to self-assessment by the Supervisory Board and assessment by the Bank's General Shareholders' Meeting, adequate within the meaning of Recommendation 8.9?*

**II. Conclusions**

- 1) The scope of internal regulations concerning the functioning of the Bank's Supervisory Board which has been assessed for adequacy by the Law Firm in accordance with Recommendation 8.9 is as follows:
  - a) Articles of Association of PKO Bank Polski;
  - b) Bylaws of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna;
  - c) Rules of participation in a meeting of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna by means of direct remote communication;
  - d) Bylaws of the Audit Committee of the Supervisory Board;
  - e) Bylaws of the Risk Committee of the Supervisory Board;
  - f) Bylaws of the Nominations and Remuneration Committee of the Supervisory

Board;

- g) Bylaws of the Strategy Committee of the Supervisory Board;
  - h) Policy concerning the assessment of the suitability of candidates for members and members of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski S.A.
- 2) The regulations are comprehensive and enable the Supervisory Board to operate effectively and efficiently in light of the “**commitment**” and “**independence**” requirements incumbent on the Supervisory Board members and the premise of proper “**management of conflicts of interest**” in the Supervisory Board, in the narrow sense of the term, i.e. primarily by introducing rules governing the Supervisory Board members’ allocation of adequate time resources for the performance of tasks and duties related to their function in the Supervisory Board, which in the Laws Firm’s view demonstrates the adequacy of the regulations.

### III. Factual basis of the Opinion

3. PKO is a bank operating on the basis of generally applicable laws, the Bank’s Articles of Association and in accordance with the market standards adopted by the Bank for use, while maintaining the national character of the Bank. The founder of the Bank is the State Treasury.
4. In October 2020, the Polish Financial Supervision Authority, pursuant to Article 137 section 1(5) of the Banking Law Act of 29 August 1997 (consolidated text: Journal of Laws of 2022, item 2324, as amended) (hereinafter referred to as: “**Banking Law**”), issued *Recommendation Z regarding internal governance in banks* (hereinafter referred to as: “**Recommendation Z**”). Recommendation Z is a set of good practices with respect to the principles of internal governance.
5. Recommendation Z provides for an approach based on the principle of proportionality. This means that its provisions should be applied by banks taking into account the scale, complexity and nature of their activities.
6. Banking sector entities, including the Bank, should apply Recommendation Z starting from 1 January 2022.
7. In accordance with Recommendation 8.9:
 

*“The adequacy of internal regulations concerning the functioning of the supervisory board and the management board and the effectiveness of the functioning of these bodies should be subject to regular self-assessment, as well as assessment: by the supervisory board - as regards the management board, and by the general meeting (meeting of representatives) - as regards the supervisory board. The assessment may be carried out with the support of external advisors*
8. On 31 March 2023, the PFSA Office issued the PFSA Office’s position addressed to banks operating in the form of a joint-stock company regarding compliance with the requirements for assessing the adequacy of internal regulations concerning the functioning and effectiveness of the supervisory board arising from the PFSA’s *Recommendation Z on the principles of internal governance in banks* (hereinafter referred to as: “**PFSA Position**”).
9. The PFSA Position indicates that, in accordance with Recommendation 8.9, the Bank’s Supervisory Board should first self-assess the adequacy of the internal regulations concerning its functioning and the effectiveness of its functioning, and then an assessment of the adequacy of these internal regulations and the effectiveness of the Supervisory Board’s functioning should be carried out by the General Meeting. As indicated by the PFSA in the Position, a self-assessment by the Supervisory Board does not replace an assessment carried out by the General Meeting, and an assessment carried out by the General Meeting does not release the Supervisory Board from carrying out a self-assessment.

10. According to the PFSA Position, in the event that certain internal regulations and documents concerning the functioning of the Supervisory Board cannot be made available to shareholders due to business secrecy under Article 428 § 2 of the Code of Commercial Companies, their adequacy should be assessed on the basis and scope of all information and documents that can be made available to the General Meeting, including on the basis of expert opinions, audit reports or opinions on the functioning of the Supervisory Board, prepared at the Bank's request by external advisors in cases where the Bank does not make all internal regulations available to the General Meeting.

#### IV. Internal regulations concerning the functioning of the Bank's Supervisory Board which have been assessed for adequacy by the Law Firm

11. As part of the assessment of the adequacy of the internal regulations concerning the functioning of the Supervisory Board, the Law Firm assessed the following regulations (hereinafter referred to as: **“Regulations”**):
- a) Articles of Association of PKO Bank Polski (hereinafter referred to as: **“Bank's Articles of Association”**);
  - b) Bylaws of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna (hereinafter referred to as: **“Bylaws of the Supervisory Board”**);
  - c) Rules of participation in a meeting of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna by means of direct remote communication (hereinafter referred to as: **“E-meeting Rules”**);
  - d) Bylaws of the Audit Committee of the Supervisory Board;
  - e) Bylaws of the Risk Committee of the Supervisory Board;
  - f) Bylaws of the Nominations and Remuneration Committee of the Supervisory Board;
  - g) Bylaws of the Strategy Committee of the Supervisory Board;
  - h) Policy concerning the assessment of the suitability of candidates for members and members of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski S.A. (hereinafter referred to as: **“Policy”**).

#### V. Criteria for the adequacy assessment followed by the Law Firm

12. Recommendation Z does not contain any definition of *adequacy*. As defined in the PWN Dictionary of the Polish Language<sup>1</sup>, the term *adequate* means *compliant with something*. Therefore, the Law Firm assessed the adequacy of internal regulations concerning the functioning of the Supervisory Board in light of their compliance with the law, in particular the Code of Commercial Companies, the Bank's Articles of Association and Recommendation Z of the Polish Financial Supervision Authority.
13. The adequacy assessment was carried out primarily in light of Recommendation 8 of Recommendation Z:

*“Each member of the bank's supervisory board and management board should perform his/her duties actively, exercising due diligence and commitment. He/she should make evaluations on the basis of his/her own independent judgment, as well as objective and substantive arguments, and take decisions in accordance with those evaluations. Members of the supervisory board and the management board and persons holding key functions in the bank should have a thorough understanding of the bank's governance arrangements and of their role”*, found in Item 6 of

<sup>1</sup> <https://sjp.pwn.pl/szukaj/adekwatny.html>, access date: 06.04.2023

Recommendation Z, entitled “*Commitment, independence and management of conflicts of interest in the supervisory board and the management board*” (“**Item 6**”).

14. Therefore, the Law Firm assessed the adequacy of the Bank’s internal regulations governing the Supervisory Board’s operation in light of the “**commitment**” and “**independence**” principle applicable to the Supervisory Board members, as well as the Supervisory Board members’ avoidance of a “**conflict of interest**”, in the narrow sense of the term, i.e. primarily through allocation of adequate time resources to the performance of tasks and duties related to their function in the Supervisory Board.
15. The adequacy assessment criteria adopted by the Law Firm follow the rationale used in Recommendation Z. Recommendation 8.9 can be found in Item 6. Consequently, it should be considered that the concept of “adequacy of internal regulations” should be interpreted in light of the aforementioned principles indicated in the title of Item 6. However, the conflict of interest management referred to in that item relates only to a narrow understanding of the concept of “conflict of interest” because, in this case, the concept should be interpreted in accordance with recommendations 8.7 and 8.8, which stipulate that members of the Supervisory Board should concentrate on the bank’s core business and that the performance of other functions should not interfere with their professional activities at the bank. Conflicts of interest at the bank level (and not just at the level of individual governing bodies), in the broader sense of the concept, are addressed in Recommendation 13 of Recommendation Z, to which Recommendation 8.9 will not apply.

## **VI. Results of the Law Firm's assessment of the adequacy of internal regulations concerning the functioning of the Bank’s Supervisory Board**

### ***(i) Organisation and composition of the Supervisory Board***

16. The Supervisory Board exercises continuous supervision over the Bank’s activities in all areas of its operations.
17. The Bank’s Supervisory Board operates on the basis of generally applicable laws, the Bank’s Articles of Association and the Bylaws of the Supervisory Board passed by the Supervisory Board and approved by the General Meeting.
18. The Supervisory Board consists of 5 to 13 members appointed for a three-year joint term of office. The number of Supervisory Board members is set by the Eligible Shareholder (State Treasury), also in the case of putting forward a motion for electing the Supervisory Board by voting in separate groups.

### ***(ii) Members of the Supervisory Board***

19. Candidates for members of the Supervisory Board, in the number specified in accordance with the formula described in § 11 section 3 of the Bank's Articles of Association, can only be proposed by a shareholder who, independently and in his/her own name, is entitled to exercise the largest number of votes attached to the shares in the Bank’s share capital at the General Meeting electing members of the Supervisory Board, hereinafter referred to as: “Eligible Shareholder”. Candidates for the other seats in the Supervisory Board may be proposed by all shareholders, including the Eligible Shareholder.
20. Members of the Supervisory Board are appointed and dismissed by the General Meeting. The process of their selection must ensure the appointment of competent persons and guarantee their suitability and proper performance of their duties.
21. In accordance with the Policy, the suitability of a candidate for a member and a member of the Supervisory Board means, among other things, that the person, individually or together with others, has an adequate level of knowledge of the Bank’s activities and the risks involved, as well as the skills and experience to perform the duties entrusted to them. Suitability also includes int.

al. independence of judgement of each candidate for a member and a member of the Supervisory Board and their capability to dedicate sufficient time to the performance of their duties, taking into account limitations as regards the undertaking of other activities and the ability to discharge duties in periods that require particularly intense effort, including, but not limited to, duties arising from restructuring, transfer of institutions, purchase, merger, acquisition and/or crisis situations.

22. A member of the Supervisory Board is also obliged to submit to the Management Board, not later than on the date of his/her appointment to the Supervisory Board, int. al. a declaration as to his/her meeting the independence criteria referred to in the Best Practice for WSE Listed Companies 2021 and to promptly inform the Management Board of the occurrence of events that result in a change in the information contained in the declaration.
23. In order to enable members of the Supervisory Board to fully understand the nature of the Bank's business and the risk involved, as well as the role of a Supervisory Board member in the Bank, the Policy provides for an obligation to introduce members of the Supervisory Board to their duties each time, no later than within 6 months from the date on which they take up their function.
24. Additionally, all newly appointed members of the Supervisory Board are provided with key information related to their position no later than within 1 month from the date of their appointment and, as part of the Supervisory Board meetings, all members of the Supervisory Board are provided with information on issues relevant to the Supervisory Board, including those related to changing regulatory requirements, new areas of activity, strategic objectives and risks specific to the Bank's business, thus ensuring the continuous development of the knowledge, skills and competences of the Supervisory Board members.

**(iii) Vacancy in the Supervisory Board**

25. A member of the Supervisory Board should not resign from the function during his/her term of office if this could render the functioning of the Supervisory Board impossible and, in particular, if this could prevent the timely passing of an important resolution.
26. As long as the Supervisory Board is composed of at least 5 (five) members, the Supervisory Board is capable of taking all actions provided for by law and the Bank's Articles of Association. If the number of Supervisory Board members falls below 5, the Management Board is obliged to immediately convene a General Meeting in order to complete the composition of the Supervisory Board.
27. If the office of a Supervisory Board member falls vacant otherwise than a result of a decision of the General Meeting, in particular due to a sudden and unexpected situation, the Supervisory Board immediately carries out a self-assessment of its collective suitability, including an assessment of the impact of the vacancy on the continued functioning of the Supervisory Board and its committees and, if necessary, initiates an additional suitability assessment with a view to the General Meeting taking steps to ensure the collective suitability of the Supervisory Board.

**(iv) Meetings of the Supervisory Board**

28. Meetings of the Supervisory Board are held at least once a quarter.
29. Members of the Supervisory Board are obliged, among other things, to attend meetings of the Supervisory Board and to perform the activities for which they have been seconded by the Supervisory Board.
30. Meetings of the Supervisory Board may be convened with the possibility of participation (and passing resolutions) via remote communication channels, in accordance with the E-meeting Rules adopted by the Supervisory Board.
31. With the exception of matters specified in the Bank's Articles of Association, the Supervisory Board may also pass resolutions outside the meeting in writing (by circulation) or using means

of direct remote communication, in particular e-mail.

32. In the performance of its duties, the Supervisory Board may use the services of external advisors, experts or consultants.

(v) *Conclusions*

33. The Regulations are comprehensive and enable the Supervisory Board to operate effectively and efficiently in light of the “**commitment**” and “**independence**” requirements incumbent on the Supervisory Board members and the principles for “**managing conflicts of interest**” in the Supervisory Board, which in the Laws Firm's view demonstrates the adequacy of the Regulations.
34. The Regulations ensure the proper functioning of the Supervisory Board, which is organised in a transparent and well-structured manner that takes into account the scale, complexity and nature of the Bank’s activities.
35. In order to enhance the work of the Supervisory Board, 4 specialised committees have been established within the Supervisory Board: Bylaws of the Audit Committee of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna, Bylaws of the Risk Committee of the Supervisory Board, Bylaws of the Nominations and Remuneration Committee of the Supervisory Board and Bylaws of the Strategy Committee of the Supervisory Board, which operate on the basis of bylaws established by the Supervisory Board.
36. The Regulations ensure the effective flow and protection of information and thus contribute to the Supervisory Board’s effective implementation of its tasks.
37. The solutions adopted in the Regulations guarantee that members of the Supervisory Board meet the criterion of “commitment” and “independence”; the Regulations also establish the principles for “managing of conflicts of interest”, in the narrow sense of the term, i.e. primarily by introducing rules governing Supervisory Board members’ allocation of adequate time resources for the performance of tasks and duties related to their function in the Supervisory Board, thus ensuring an adequate composition of the Supervisory Board.
38. In particular, the Regulations ensure that members of the Supervisory Board are properly selected in terms of their competences, skills and experience, and also ensure the continuous development of the Supervisory Board members’ knowledge, skills and competences.
39. The Regulations also provide members of the Supervisory Board with sufficient time to prepare for meetings.
40. The possibility of participation in meetings of the Supervisory Board (including passing of resolutions) remotely, as well as the possibility of passing most resolutions outside the meeting in writing (by circulation) or by means of direct remote communication (in particular by e-mail) should also be assessed positively.
41. The adopted principles for managing conflicts of interest, in the narrow sense of the term, in particular ensure that the time resources at the disposal of the Supervisory Board members in connection with the performance of their functions are allocated proportionately to the scope of the tasks and responsibilities associated with their function.
42. The rules for determining the minimum time to be devoted by members of the Supervisory Board are also established correctly.
43. Last but not least, the Bank has adopted a correct policy for the introduction of members of the Supervisory Board to their duties, as well as the rules to ensure the continuity of functioning of the Supervisory Board.

## VII. Legal basis for the opinion

44. The legal opinion is based on the following legal acts:
- a) Act of 15 September 2000 – Code of Commercial Companies (consolidated text: Journal of Laws of 2022, item 1467, as amended), hereinafter referred to as: **“C.C.C.”**;
  - b) Act of 29 August 1997 – Banking Law (consolidated text: Journal of Laws of 2022, item 2324, as amended), hereinafter referred to as: **“Banking Law”**;
  - c) Recommendation Z regarding internal governance in banks, issued by the Polish Financial Supervision Authority in October 2022, hereinafter referred to as: **“Recommendation Z”**;
  - d) Articles of Association of PKO Bank Polski, hereinafter referred to as: **“Bank’s Articles of Association”**;
  - e) Bylaws of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna, hereinafter referred to as: **“Bylaws of the Supervisory Board”**;
  - f) Rules of participation in a meeting of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna by means of direct remote communication, hereinafter referred to as: **“E-meeting Rules”**;
  - g) Diagram of the Bank’s Organisational Structure;
  - h) Bylaws of the Audit Committee of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski Spółka Akcyjna;
  - i) Bylaws of the Risk Committee of the Supervisory Board;
  - j) Bylaws of the Nominations and Remuneration Committee of the Supervisory Board;
  - k) Bylaws of the Strategy Committee of the Supervisory Board;
  - l) Policy concerning the assessment of the suitability of candidates for members and members of the Supervisory Board of Powszechna Kasa Oszczędności Bank Polski S.A., hereinafter referred to as: **“Policy”**;
  - m) The PFSA Office's position addressed to banks operating in the form of a joint-stock company regarding compliance with the requirements for assessing the adequacy of internal regulations concerning the functioning and effectiveness of the supervisory board arising from the PFSA’s Recommendation Z on the principles of internal governance in banks dated 31 March 2023, hereinafter referred to as: **“PFSA Position”**.

### VIII. Assumptions and disclaimers

45. The legal opinion is based on the assumption that the information and documents provided to the Law Firm are up-to-date, complete and accurate. The misinterpretation or omission of any circumstance, or the alteration or modification of any of the facts or assumptions on which the analysis is based may require a revision of the entire analysis or its parts, including its conclusions. The omission of any circumstance, or the alteration or modification of any of the above-mentioned documents in respect of the assumption on which the analysis is based may require a revision of the entire analysis or its parts, including its conclusions.
46. The study is not binding on public authorities, including tax authorities, courts and other entities exercising public authority, and we cannot guarantee that they will take a position identical to that expressed in this study. The Law Firm has prepared this analysis solely at the request of PKO and assumes no liability related to its content towards any other persons or entities. PKO may make the opinion available to third parties.
47. The legal opinion was prepared as at 06.04.2023. The Law Firm is under no obligation to update the opinion due to circumstances or changes in the facts or assumptions occurring after that date.

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If you have any additional questions concerning the matter covered by the opinion or any doubts that arise after reading its content, we will be pleased to provide further clarification.

Warsaw, 06.04.2023

/signature/

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