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## The scope of the Bank Guarantee Fund's activities and its potential for extension<sup>1</sup>

### Abstract

The Bank Guarantee Fund (BGF) is a basic element of the Polish financial safety net. In recent years, the shape of its activity has undergone significant modifications. Therefore, questioning the completeness of the new BGF business model becomes justified. The purpose of the article is to identify fields in which the BGF's activities could be developed. The Fund's tasks were identified and then compared with the results of an analysis of 109 deposit guarantee systems around the world. Based on the international experience, several areas can be identified where the BGF's operations can be improved. They include introducing the possibility of providing financial assistance to banks whose situation has worsened, increasing the level of diversification of investments made by the Fund, and strengthening the BGF's information and education activities through a presence in social media.

**Key words:** deposit insurance, Bank Guarantee Fund, resolution

**JEL:** G18, G21, G28, G33, G35

### Zakres działalności Bankowego Funduszu Gwarancyjnego i potencjał jego rozszerzenia

#### Streszczenie

Bankowy Fundusz Gwarancyjny (BFG) stanowi podstawowy element polskiej sieci bezpieczeństwa finansowego. W ostatnich latach kształt jego działalności podlegał znacznym modyfikacjom. Zasadne staje się pytanie o kompletność nowego modelu działalności BFG. Celem artykułu jest zidentyfikowanie zadań, o które mogłaby zostać rozwinięta działalność BFG. Dokonano identyfikacji zadań Funduszu, a następnie porównano je z wynikami analizy

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funkcjonowania 109 systemów gwarantowania depozytów na świecie. Na bazie doświadczeń międzynarodowych wskazać można kilka obszarów, na których działalność BFG może zostać udoskonalona. Obejmują one m.in. wprowadzenie możliwości udzielania pomocy finansowej dla banków, których sytuacja pogorszyła się, zwiększenie poziomu dywersyfikacji inwestycji dokonywanych przez Fundusz lub wzmocnienie działalności informacyjno-edukacyjnej BFG przez obecność w mediach społecznościowych.

**Słowa kluczowe:** gwarantowanie depozytów, Bankowy Fundusz Gwarancyjny, resolution

## Introduction

The Bank Guarantee Fund (the BGF, the Fund) is one of the core components of the Polish financial safety net<sup>2</sup>. In recent years, the structure of its activities has been subject to significant revamping – under the influence of EU regulations (e.g., the BRR Directive<sup>3</sup>, the DGS Directive<sup>4,5</sup>), in response to the national experience gained while fulfilling the tasks previously assigned to the BGF, as well as during the operational preparation for performance of its new functions. The main change in this respect was entrusting the BGF with responsibility for conducting resolution in banks<sup>6</sup> in 2015<sup>7</sup> – formally effective in 2016 – which was a significant expansion of the Fund's scope of operations primarily in terms of the ability of the BGF to intervene

<sup>2</sup> M. Zaleska, *System gwarantowania depozytów [Deposit guarantee systems]*, [in:] M. Zaleska (ed.), *Świat bankowości [World of Banking]*, Difin, Warszawa 2018.

<sup>3</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 Establishing a Framework for the Recovery and Resolution of Credit Institutions and Investment Firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (Official Journal of the European Union L 173/190).

<sup>4</sup> Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on Deposit Guarantee Schemes (Official Journal of the European Union L 173/149).

<sup>5</sup> Apart from the DGS Directive, a formal proposal was made to establish the European Deposit Insurance Scheme for the Member States participating in the Banking Union. More on that topic in *Pożądaný kształt europejskiego, zintegrowanego systemu restrukturyzacji i uporządkowanej likwidacji banków oraz gwarantowania depozytów [Desired shape of the European, integrated system of bank resolution and deposit guarantee]*, [in:] M. Zaleska (ed.), *Unia bankowa*, Difin, Warszawa 2013. Moreover, national modifications were introduced in numerous countries M. Zaleska, *Zmiany zasad gwarantowania depozytów w odpowiedzi na globalny kryzys finansowy [Changes in the rules of deposit guarantees as an answer to the global financial crisis]*, [in:] J. Nowakowski (ed.), *Instrumenty i regulacje bankowe w czasie kryzysu [Instruments and regulations during crisis]*, Difin, Warszawa 2010.

<sup>6</sup> This article is focused on the BGF's powers within the banking sector, but it should be noted that the BGF assumed responsibility for preparing and conducting the resolution of credit unions (so-called SKOK) and investment companies, neither of which are discussed in this article.

<sup>7</sup> Formally, the BGF has acted as a resolution authority since November 2015, pursuant to the Act of 5 August 2015 on Macroprudential Supervision of the Financial System and Crisis Management in the Financial System (OJ 2015 item 1513, as amended). Comprehensive solutions associated with conducting resolution activities by the Fund were implemented by the Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee System and Forced Restructuring (OJ 2016, item 1937, as amended), effective as of 9 October 2016.

in banks on the verge of bankruptcy. The establishment of the Fund as a resolution authority was accompanied by limitations on its so-called assistance activities (the supportive function), while the BGF's principles of deposit guarantees were modified to strengthen depositor safety. These changes were introduced primarily as a consequence of European crisis experience with deposit protection. After the implementation of these reforms within the Polish statutory framework, the regulations governing the Fund's activities were modified several times introducing solutions to adapt the BGF's powers to the specifics of the domestic banking sector.

Bearing in mind the nature and scale of the implemented changes, questions about the adequacy of the BGF's new operational model become justified. The reforms of the Fund's operations concerned only a few areas of its activities and are, therefore, strongly selective. There was no debate in Poland on the optimal, comprehensive structure of the BGF's set of responsibilities, which might also require rethinking the architecture of the entire financial safety net. Moreover, the subject of the effective and successful functioning of individual safety net institutions is becoming less and less urgent as time passes and the lessons from the past crisis are forgotten. At the same time, threats to the stability of the Polish financial system and the nature of the BGF's involvement in their mitigation<sup>8</sup> encourage reflections on the integrity of the Fund's operating model. Therefore, it seems reasonable to compare the BGF with the way its international peers operate, which may provide suggestions as to the functional shape of the BGF. The hypothesis is that the functional scope of the BGF's tasks could, and in some areas even should, be expanded.

This article aims to review all functions of the BGF (i.e. not limited only to the deposit payout) and identify tasks by which the BGF's activities could be strengthened or expanded<sup>9</sup> (based on the juxtaposition with other deposit insurance institutions from other countries). For this purpose, the Fund's functions and tasks were first identified and then compared with the functions of 109 reviewed deposit guarantee schemes from around the world. Based on this juxtaposition, recommendations were formulated regarding areas in which the BGF's operations could be strengthened. It should also be emphasised that the aim of this article is to assess the completeness of the functional scope of the BGF's activity. Another issue is to evaluate the features and details of each function. It seems that in every functional area, further, detailed discussion is needed to establish the technicalities of its fulfilment. This should be treated as a direction for further analysis.

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<sup>8</sup> The main area of the BGF's activity was the payment of guaranteed deposits and support for the takeover of credit unions in case of bankruptcy.

<sup>9</sup> "Strengthening" should be understood as complementing, expanding or enlarging the operations, which could facilitate the fulfilment of the BGF's mandate. The appropriateness of "strengthening" is assessed based on its potential to support the accomplishment of the BGF's goal.

## 1. Functional scope of the deposit guarantee schemes' activities – literature review, best practices and legal frameworks

Analysis of the range of tasks of the deposit insurance schemes is not a popular trend in the literature. Most of the research concerns the scope (form) of the deposit guarantees<sup>10</sup> or their impact on bank shareholders<sup>11</sup>. The functional shape of the institutions constitutes a marginal part of the subject literature<sup>12</sup>.

The key recommendations regarding the effective construction of deposit guarantee institutions are included in the document of the IADI (2014). However, in terms of the functional shape of the DGSs, they indicate only that:

- 1) There should be a formal and comprehensive framework for cooperation between the DIS and other safety net institutions (principle 4).
- 2) The DGS should have contingency planning in place to be able to effectively manage bank failures (principle 6).
- 3) The public should be kept informed about the benefits and limits related to the DGS activities (principle 10).
- 4) The DIS should be part of a system allowing for the early identification of ailing banks (principle 13).

The above-mentioned principles are supplemented by more detailed recommendations for the selected areas of guarantor activity<sup>13</sup>.

<sup>10</sup> The following could be enumerated: A. Demircuc-Kunt, E. Kane, L. Laeven, *Deposit Insurance Database*, IMF Working Paper 2014, WP/14/118; B. Bernet, S. Walter, *Design, Structure and Implementation of a Modern Deposit Insurance Scheme*, SUERF Studies: 2009/5; S.H. Talley, I. Mas, *Deposit Insurance in developing countries*, Policy Research Working Paper WPS 1990, 548; G. Garcia, *Deposit Insurance: A Survey of Actual and Best Practices*, IMF Working Paper 1999, WP/99/54; Ch. Kahn, J. Santos, *Allocating bank regulatory powers: lender of last resort, deposit and supervision*, BIS Working Papers 2001 No 102.

<sup>11</sup> For example: L. Laeven, *The Political economy of Deposit Insurance*, World Bank Policy Research Working Paper 2004, 3247; A. Demircuc-Kunt, E. Detragiache, *Does Deposit Insurance Increase Banking System Stability? An Empirical Investigation*, Policy Research Working Paper 1999, 2247; R. Gropp, J. Vesala, *Deposit Insurance, Moral Hazard and Market Monitoring*, Working Paper Series 2004, No. 302; R. Cull, L. Senbet, M. Sorge, *Deposit Insurance and Financial Development*, Policy Research Working Paper 2001, 2682; V. Ioannidou, J. de Dreu, *The Impact of explicit Deposit Insurance on Market Discipline*, DNB Working Paper, 2006, No. 89; A. Angkinand, C. Whilborg, *Deposit Insurance Coverage, Ownership, and Bank's Risk-Taking in Emerging Markets*, Journal of International Money and Finance, 2010; K. Dewenter, A. Hess, J. Brogaard, *Institutions and Deposit Insurance: Empirical Evidence*, Journal of Financial Services Research, 2017; K. Jackowicz, Ł. Kozłowski, O. Kowalewski, *Depositor Discipline Through Interest Costs During Good and Bad Times: The Role of The Guarantor of Last Resort*, Journal of Financial Services Research, 2016, 54, Issue 2.

<sup>12</sup> The list of the main publications includes: G. Garcia, *Deposit Insurance: A Survey of Actual and Best Practices*, IMF Working Paper 1999, WP/99/54; E. Kane, A. Demircuc-Kunt, *Deposit Insurance Around the Globe: Where Does It Work?*, NBER Working Series, Working Paper 2001, 8493; B. Bernet, S. Walter, *Design, Structure and Implementation of a Modern Deposit Insurance Scheme*, SUERF Studies 2009/5. Nevertheless, they concern mainly the deposit insurance part of the guarantors' activity.

<sup>13</sup> E.g. IADI (2019), *Deposit Insurers' Role in Contingency Planning and System-wide Crisis Preparedness and Management*. Retrieved from: <https://www.iadi.org/en/assets/File/Papers/Approved%20>



On a world scale, each country lays in practice its own concrete rules and legal framework for the functioning of the deposit insurance system, what contributes to the diversity of its models and provides a valuable basis for the comparisons and assessments.

As mentioned in the introductory part, the activity of deposit guarantee schemes in the EU is based on the common legal framework – the DGS Directive – which sets the rules for the functioning of deposit insurers. Although it was not the first European document setting the regime of guarantors' activity (the first was Directive 94/19/WE), DGSD's implementation brought important reinforcement in the protection of depositors, since it confirmed the higher and harmonised level of deposit protection (100,000 euros<sup>14</sup> with the possibility to settle higher protection only for temporary high balances resulting from residential property transactions or other socially important events), as well as strengthened the unification of the way the guarantors are established and run.

The most critical change was, however, the introduction of the obligation to build *ex-ante* financing mechanisms (at the target level of at least 0.8%<sup>15</sup> of covered deposits from 3 July 2024) for possible future activation in a crisis. The created deposit guarantee funds were set to be filled by bank contributions, which are calculated based on the risk profile of the institutions. Also, the range of depositors that can benefit from the guarantee was harmonized.

Apart from the organisational issues connected with the framework of the guarantors' activity, DGSD also provided a harmonised set of possible tasks performed by the schemes, which embraces:

- 1) deposit payout in case of the bank's bankruptcy,
- 2) support of the deposit book transfer within the insolvency procedure,
- 3) support of the resolution procedure,
- 4) implementation of preventive measures aimed at preventing the collapse of a bank.

The framework established by the DGSD was assessed by the International Association of Deposit Insurers<sup>16</sup> as mostly matching its Core Principles<sup>17</sup>.

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Guidance%20Papers/IADI%20Guidance%20Paper\_DI%20role%20in%20contingency%20planning%20&%20crisis%20management.pdf

<sup>14</sup> With the possibility to establish higher protection only for temporary high balances resulting from residential property transactions or other socially important events.

<sup>15</sup> Exceptionally, the DGS fund is allowed to be established at the level of 0.5% of covered deposits if the Member State proves that the national banking sector is highly concentrated and it is unlikely that the fund will be activated, since the target way of resolving banks' problems will be resolution. An example of a country where such a lowered level of the deposit guarantee fund is applicable is France. Source: <https://eba.europa.eu/regulation-and-policy/recovery-and-resolution/deposit-guarantee-schemes-data> (access 05.11.2019).

<sup>16</sup> IADI (2017), "Mind the gap!" A comparative analysis between the IADI CPs and the DGSD. Retrieved from: [https://www.iadi.org/en/assets/File/Papers/Regional%20Papers/Mind\\_the\\_Gap\\_Final.pdf](https://www.iadi.org/en/assets/File/Papers/Regional%20Papers/Mind_the_Gap_Final.pdf) (access 05.11.2019).

<sup>17</sup> Ibidem.

Although the DGSD harmonised the principal area of guarantors' activity<sup>18</sup>, there are still many issues that were left to the country's design (so-called O&Ds: options and discretions). They provide for variety in the models of the functioning of deposit insurers and allow countries to structure the activity of guarantors in different ways thus contributing to the diversity of the scope of insurers' functions.

Taking into account that the EU legal framework lays only the foundation for the structure of the national deposit guarantee scheme, there is the necessity to set the concrete shape of the local (national) deposit insurer. Here, the examples of the functional organisation (i.e. the scope of the tasks) of other EU schemes, as well as non-European guarantors seem to provide a reliable basis to benchmark.

## 2. Evolution of functions and tasks of the Bank Guarantee Fund – a review of the literature and the statutory framework

As a key institution within the financial safety net, the primary task of the BGF is to foster the safety of the Polish financial system<sup>19</sup>. However, this goal was only articulated in 2013 – i.e., after the BGF had already been active for nearly 20 years – when its statutory framework was supplemented with the statement that the basic mission of the Fund is to undertake actions for the sake of the stability of the domestic financial system<sup>20</sup>. This broad range of responsibilities embraced multiple tasks, the scope of which was subject to multiple amendments<sup>21</sup>. A. Stelmach defined the scope of the BGF's activities before 2016 by grouping them into three areas<sup>22</sup>:

- 1) guarantee,
- 2) supportive,
- 3) analytical.

<sup>18</sup> However, according to the EBA assessment, there are innumerable aspects that should be subject to changes or further harmonisation. They were listed in the EBA's opinions on the functioning of deposit guarantee schemes in the EU. Source: EBA (2019a), *Opinion of the European Banking Authority on the eligibility of deposits, coverage level and cooperation between deposit guarantee schemes*. Retrieved from: <https://eba.europa.eu/taxonomy/term/448> (access 05.11.2019); EBA (2019b), *Opinion of the European Banking Authority on deposit guarantee scheme payouts*. Retrieved from: <https://eba.europa.eu/taxonomy/term/448> (access 05.11.2019).

<sup>19</sup> This is associated with financial system stability. More on that topic in, e.g. S. Flejterski and M. Ziolo, *A safe and stable banking and financial system as the basis for the development of the economy and society*, *Zeszyty Naukowe Szkoły Głównej Gospodarstwa Wiejskiego w Warszawie, Ekonomika i Organizacja Gospodarki Żywnościowej* 2015, nr 110.

<sup>20</sup> It is worth mentioning that the provision delivering the broad basis of the BGF's powers was added to the act regulating the Fund's operations at the time of the amendment to the Act on Credit Unions. Therefore, it can be assumed that it was not the result of a thorough analysis of the comprehensive scope of the BGF's operations. Source: Act amending the Act on Credit Unions and Certain Other Acts (OJ 2013 item 613).

<sup>21</sup> A. Janc, *Financial Regulation in Poland*, [in:] R. Kattel, J. Kregel, M. Tonveronachi (ed.), *Financial Regulation in the European Union*, Routledge, London 2015.

<sup>22</sup> A. Stelmach, *Zakres działania Bankowego Funduszu Gwarancyjnego [Scope of the Bank Guarantee Fund's activities]*, [in:] J. Świderska (ed.), *Współczesny system bankowy. Ujęcie instytucjonalne [Contemporary banking system. Institutional approach]*, Difin, Warszawa 2013.

Referring to the scope of the BGF's tasks after 2016, P. Zawadzka, P. Zimmerman, and R. Sura<sup>23</sup> distinguish the following functions of the Fund:

- 1) guarantee,
- 2) restructuring,
- 3) analytical and control,
- 4) stabilisation.

In some publications<sup>24</sup>, the guarantee function is associated with the stabilisation of markets by way of providing insurance. Moreover, some of the areas enumerated by these authors seem to duplicate one another. It can, therefore, be assumed that the available literature identifies these primary areas of the BGF's activities:

- 1) guarantee – related to the deposit guarantee,
- 2) restructuring – related to the possibility of supporting an entity's restructuring before it is deemed insolvent<sup>25</sup>,
- 3) intervention – related to the ability to intervene when an entity is endangered with bankruptcy,
- 4) analytical – related to the technical capacity of the Fund to pursue various tests and analyses.

From a practical standpoint, the restructuring and intervention functions are very similar in nature; therefore, it seems that they could be analysed jointly, as one area of the Fund's activity.

In the areas mentioned above, the operations of the Fund have been modified in recent years, mainly due to the need to implement EU directives. As regards the **guarantee activity**, the time frame for the deposit payout and the breadth of entities covered by the guarantee were changed, as summarised in Table 1.

Beyond the review of the scope of the BGF's guarantee activity (and its modifications), it should be noted that the issue of changes in deposit guarantee features (in multiple countries) is a relatively popular area of scientific research, in particular immediately following the banking crisis of 2008<sup>26</sup>.

<sup>23</sup> P. Zawadzka, P. Zimmerman and R. Sura, *Ustawa o Bankowym Funduszu Gwarancyjnym, systemie gwarantowania depozytów oraz przymusowej restrukturyzacji. Komentarz [Act on the Bank Guarantee Fund, deposit guarantee system and forced restructuring. Comment]*, C.H. Beck, Warszawa 2017.

<sup>24</sup> J. Pruski, J. Szambelańczyk, *Systemy gwarantowania depozytów w sieciach bezpieczeństwa finansowego na tle konsekwencji globalnego kryzysu finansowego*, Safe Bank 2014, no. 4 (57).

<sup>25</sup> The crucial issue of the guarantee and restructuring function is the financing of the deposit insurance fund. More on that topic in: M. Gospodarowicz, *System gwarantowania depozytów z uwzględnieniem indywidualnego ryzyka banku i ryzyka systemowego [Deposit guarantee systems taking into account individual bank risk and systemic risk]*, Oficyna Wydawnicza Szkoły Głównej Handlowej w Warszawie, Warszawa 2015.

<sup>26</sup> As an example, see the research: E. Ślęzak and A. Dunaszewska, *Zmiany w unijnych systemach gwarantowania depozytów, dokonane w odpowiedzi na kryzys finansowy [Changes in the EU deposit guarantee schemes implemented as an answer to the financial crisis]*, "Bezpieczny Bank" 2008 no 2 (37), and M. Zaleska, *Zmiany zasad gwarantowania depozytów w odpowiedzi na globalny kryzys finansowy [Changes in the rules of deposit guarantees as an answer to the global financial crisis]*, [in:] J. Nowakowski (ed.),

**Table 1. Basic features of the deposit guarantee system in Poland**

Features of the deposit guarantee	Rules applicable to the Polish deposit guarantee
guarantee limit	Equivalent in PLN of EUR 100,000 – unchanged from 2010 * Compensation is not paid if the account has not been actively used and the balance on the account is less than the equivalent of EUR 2.50.
types of bank liabilities covered by the guarantee	Receivables and cash deposited in accounts – a separate limit for each depositor * Guarantee protection also covers receivables arising from securities issued before 2 July 2014. * Shares, registration fees, and membership fees as well as electronic money are not subject to the guarantee.
extent of coverage	Physical people; legal entities; organisational units that are not legal entities (which a separate law grants legal status); school savings and credit unions; employee loan unions – In 2016, the scope was extended to include deposits of management staff, while deposits of local government units were excluded.
payout time frame	7 business days from the date of fulfillment of the guarantee condition, i.e., suspension of the entity's activity – The period was shortened from 20 business days in 2016.

Source: own study based on: Act of 14 December 1994 on the Bank Guarantee Fund (OJ 1995, no 4, item 17 and 18, as amended), Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee System and Forced Restructuring (OJ 2016, item 996), (NBP 2017).

Literature regarding the BGF's **restructuring and intervention functions** is much more limited. Until 2016, this included the Fund's implementation of its so-called assistance activities (the supportive function). It encompassed the ability to provide financial aid to banks threatened with bankruptcy (in the form of a loan, a guarantee, or the purchase of receivables financed from the BGF's assistance fund) and to support the consolidation process in the cooperative bank sector (in the form of financial aid from the cooperative bank restructuring fund)<sup>27</sup>. Since 2016, the BGF's non-guarantee activities have been significantly reorganised with its designation

*Instrumenty i regulacje bankowe w czasie kryzysu [Instruments and regulations during crisis]*, Difin, Warszawa 2010.

<sup>27</sup> The purpose of the supportive activity was to provide assistance in the restructuring activities of banks threatened with insolvency – i.e., those which incurred a loss but were not considered insolvent. In accordance with the BGF Act, such aid could take the form of loans, guarantees, or the purchase of receivables of banks on the verge of bankruptcy. The source of financing for this activity was funds accumulated in the support fund. Source: BGF (2015), *2014 Raport roczny Bankowego Funduszu Gwarancyjnego [2014 Annual report of Bank Guarantee Fund]*. Retrieved from <https://www.bfg.pl/wp-content/uploads/raport-roczny-2014.pdf>

as the national resolution authority for both banks (commercial and cooperative) and credit unions. The key change in this area was assuming responsibility for the preparation and execution of resolution actions regarding credit institutions. At the same time, its previous assistance activities (the supportive function) were restricted to only credit unions, and its restructuring aid for the cooperative sector was gradually eliminated<sup>28</sup> from the scope of the BGF's powers<sup>29</sup>.

This arrangement of the crisis management structure within the banking sector led to the situation where the potential costs of the bankruptcy of smaller entities increased. Due to their non-systemic nature, the standard resolution could not be triggered, so the only way to solve their problems was the payout of insured deposits. The sum that the deposit guarantee scheme was required to utilise to settle covered deposits was usually higher than the financial aid that could have been provided to support the acquisition of the ailing bank by another entity – in which case, the BGF's involvement would have been limited to financing only the difference between the value of the transferred assets and the liabilities (i.e., the guaranteed deposits) as was the case within its previously performed assistance activities. This was a decisive factor contributing to the next expansion of the scope of the BGF's powers in 2019. This amendment gave the BGF the ability to apply an alternative measure instead of the deposit payout, namely support of a bank takeover<sup>30</sup>. It should be emphasised, however, that the amendment to the BGF's competencies does not allow it to provide financial assistance to prevent a bank from going bankrupt. The aim of the change is to permit the application of an alternative to the payment of guaranteed deposits, thereby ensuring the continuous access of depositors to their funds, which is the primary task of the BGF.

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<sup>28</sup> <https://www.bfg.pl/dla-instytucji-finansowych/fundusz-restrukturyzacji-bankow-spoldzielczych/> (access 03.06.2019).

<sup>29</sup> Since the establishment of the BGF as a resolution authority, the provisions entitling it to provide assistance to commercial and cooperative banks on the verge of bankruptcy have been removed from its statutory framework. This action would be justified by implementing other forms of interventions towards banks. In this way, bank resolution became the mechanism that was supposed to replace financial support for commercial banks in danger of bankruptcy (typically larger than cooperative banks). In principle, the resolution process is triggered when the bank is "failing or likely to fail". In the face of one of the formulated conditions for launching a resolution, the BGF's supportive activity was seen as duplicating its new powers. As regards cooperative banks, it is worth noting that the provisions of the CRR Regulation and amendments to the Act on the Functioning of Cooperative Banks, their Associations and Affiliating Banks established in Polish law a new entity in the institutional protection system (IPS), created by the cooperative banks themselves. Its obligatory elements include joint and several liability of the banks forming the scheme, as well as liquidity and capital support mechanisms. It can, therefore, be concluded that the IPS took over the BGF's supportive function in relation to cooperative banks.

<sup>30</sup> It should be noted that the alternative measures are permissible according to the DGS Directive. Nevertheless, they are allowed when the ailing bank is declared bankrupt. In regard to the powers granted to the BGF, the support of a bank takeover takes place without declaring the bank bankrupt. This may raise concerns as to whether the Fund's new powers are compatible with EU law.

**Table 2. The evolution of the BGF's restructuring and intervention functions.**

The BGF's restructuring and intervention activities	before 2016	between 2016 and 2019	after 2019
financial support to prevent a bank from collapse	x	–	–
financial support to prevent a credit union from bankruptcy	x	x	x
bank resolution	–	x	x
credit union resolution	–	x	x
alternative measure to the payment of bank deposits: financial support to facilitate the takeover of an ailing bank	–	–	x
alternative measure to the payment of covered deposits in a credit union: financial support to facilitate the takeover of an ailing credit union	–	–	–

X – the ability to take the specified action.

Source: own study based on an analysis of: the Act of 14 December 1994 on the Bank Guarantee Fund (OJ 1995, no 4, item 17 and 18, as amended), the Act of 10 June 2016 on the Bank Guarantee Fund, the Deposit Guarantee System and Forced Restructuring (OJ 2016, item 996), and the Act of 9 November 2018 on Amending Certain Acts in Connection with the Strengthening of Supervision over the Financial Market and Protection of Investors on this Market (OJ 2018, item 2243).

The final but not less important sphere of the BGF's activities identified in the domestic literature is the **analytical one**. Its purpose is to monitor the state of the domestic banking sector (which results in the Fund's preparation of the composite review of the financial status of banks which is published on the BGF's website). However, the BGF's analytical capabilities are concentrated in the area of designing and developing an early warning system that aims to identify entities for which the risk of bankruptcy has increased. Owing to such a scheme, the BGF can start preparations more rapidly for potential intervention in a problematic bank. Moreover, the systems for analysing the situation of banks are also developed to constantly monitor the use of the financial support provided by the BGF – as part of its restructuring and intervention function<sup>31</sup>. Moreover, the BGF's analytical capabilities are used in the course of normal operations, for example, to estimate the level of contributions that banks should transfer to the respective BGF funds<sup>32</sup>. It is worth noting that due to the significant expansion of financial institutions' reporting obligations to the Fund<sup>33</sup>, the analytical capabilities of the BGF have significant development potential.

<sup>31</sup> A. Stelmach, *Zakres działania Bankowego Funduszu Gwarancyjnego [Scope of the Bank Guarantee Fund's activities]*, [in:] J. Świdorska (ed.), *Współczesny system bankowy. Ujęcie instytucjonalne [Contemporary banking system. Institutional approach]*, Difin, Warszawa 2013.

<sup>32</sup> Zawadzka P., Zimmerman P. and Sura R., *Ustawa o Bankowym Funduszu...*, *op. cit.*

<sup>33</sup> This results from assuming responsibility for running the resolution process, and is defined in numerous national and EU regulations. The list of information requirements applicable to institutions



Although the literature does not identify any additional BGF tasks beyond those already discussed, the Fund itself draws attention to at least two additional functions (i.e., areas of potential activity) that are essential to the BGF and need at least to be flagged. These are **investment activities** in the management of contributions collected from banks (for the steady build-up of the BGF's guarantee and resolution funds) and **information and educational activities**<sup>34</sup>. Moreover, it should be emphasised that the statutory framework regulating the BGF's activities also indicates **powers of a supervisory nature**, which consist of<sup>35</sup>:

- 1) examination of banks' systems identifying depositors and the level of their guaranteed funds at the time that the guarantee condition is met (the so-called calculation systems),
- 2) the establishment of the Minimum Requirement for its own funds and Eligible Liabilities (MREL) under which banks are to cover their losses and recapitalise themselves in the event of a crisis (especially within the resolution process).

### 3. Comparison of the scope of the Bank Guarantee Fund's activities with international practice

To determine the adequacy of the operating model of the Polish deposit guarantee scheme, an analysis was performed regarding the functions of 109 deposit insurance systems worldwide<sup>36</sup>. The tasks performed by the BGF were then compared with the areas of activity identified for foreign guarantors. Considering that the payment of covered deposits is a standard (i.e., common to all) element of deposit guarantee systems, the greatest added value for the BGF comes from identifying other complementary functions that could augment or support its primary operations. For this reason, the dominant part of the analysis comprises a comparison between the BGF's and other guarantors' activities in areas other than the deposit payout. By

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is detailed by the BGF on its website. Source: <https://www.bfg.pl/dla-instytucji-finansowych/obowiazki-informacyjne/> (access 30.05.2019).

<sup>34</sup> BGF (2018), *2017 Raport Roczny Bankowego Funduszu Gwarancyjnego [2017 Annual report of Bank Guarantee Fund]*. Retrieved from <https://www.bfg.pl/wp-content/uploads/raport-roczny-2017.pdf>

<sup>35</sup> Act of 10 June 2016 on the Bank Guarantee Fund, the Deposit Guarantee System and Forced Restructuring (OJ 2017 item 1937, with later amendments).

<sup>36</sup> The group included deposit guarantee systems in the following countries: Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, the Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bermuda, Bosnia and Herzegovina, Brazil (2 systems), Brunei, Bulgaria, Canada, Chile, Columbia (2 systems), Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Ghana, Great Britain, Greece, Guatemala (2 systems), Guernsey, Honduras, Hong Kong, Hungary, Iceland, India, Indonesia, Iran, Ireland, Italy (2 systems), Jamaica, Japan, Jersey, Jordan, Kazakhstan, Kenya, Korea, Kosovo, Kyrgyzstan, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, North Macedonia, Malaysia, Malta, Morocco, Mexico, Moldova, Mongolia, Montenegro, the Netherlands, Nicaragua, Nigeria, Norway, Palestine, Paraguay, Peru, the Philippines, Poland, Portugal, Romania, Rwanda, Russia, Serbia, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Taipei, Tajikistan, Tanzania, Thailand, Trinidad and Tobago, Turkey, Uganda, Ukraine, Uruguay, the United States, Uzbekistan, Vietnam, WAEMU, Yemen, Zimbabwe.

scrutinising the activities of the Polish Fund against that of the guarantors in other countries, recommendations are provided as to how the BGF's operating model could be enhanced concerning the BGF's functions already identified, as well as to how it could be expanded into completely new areas.

The following functions were identified for the world DGSs (apart from the deposit payout): restructuring, investment, supervisory, disciplinary, cooperative, analytical and social. They constitute the consecutive areas of the comparison with the BGF.

The assessment of the BGF's functions follows the hierarchical taxonomy according to which the core areas of activity (deposit payout) are analysed first. In the following step, the functions are evaluated that might be complementary to its basic activity (restructuring measures). At the end, other – judged as supplemental – functions are investigated.

### 3.1. Deposit payout

In comparison with the reviewed group of guarantors, the maximum payout of the BGF guarantee stands at a relatively high level – EUR 100,000 against the average of EUR 54,000 for all of the analysed schemes<sup>37</sup>. Also, in terms of the payment time frame, the position of the BGF lies within the leading group of European Union countries, where the deposit payout must be concluded within 7 business days compared to the world average of around 43 days<sup>38</sup>. It should be emphasised, however, that the Polish rules are the result of the need to meet EU standards, which, according to the European Banking Authority (EBA) assessment, are adequate and should not be changed<sup>39</sup>.

Nevertheless, the BGF is not able to transfer deposit payouts of covered accounts directly to an account designated by the depositor<sup>40</sup>. That direct method of payment was

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<sup>37</sup> The average level of insurance is reduced by the low maximum payouts of African countries, where it typically amounts to no more than EUR 15,000. In some countries, the insurance equals just several hundred euros (e.g., in Zimbabwe, Sudan, Tanzania, Rwanda and Uganda). The high level of deposit coverage results from the implementation of the DGSD, where the limit was harmonised for all EU countries (including the highly developed western Member States). The aim of such a solution was to hamper potential regulatory arbitrage, which could arise in the world of free capital movement and single bank licenses – deposits could flow from countries where the deposit coverage is lower to those where it is higher, potentially destabilising domestic banking systems. It should, however, be emphasised that the implemented coverage in the amount of EUR 100,000 is common for all EU countries – large and highly developed, as well as smaller or developing ones. This raises the question to what extent the agreed level of coverage is appropriate for the particular countries. Nevertheless, assessment of the coverage level does not fall within the scope of this article, which aims to assess the functional shape of the BGF's activity (not the technical and prudential one). Another issue that is not part of the analysis of the functional shape of the BGF is the scope of eligible depositors.

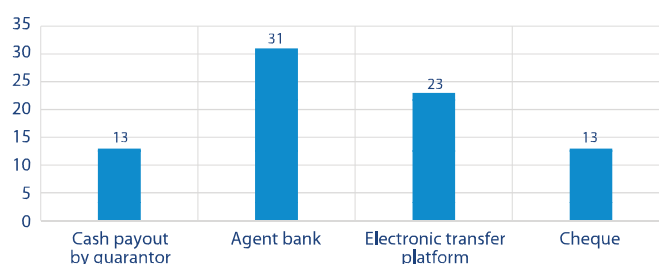
<sup>38</sup> The shortest period is in Malaysia (3 days) and the longest is in Kenya (720 days).

<sup>39</sup> EBA (2019b), *Opinion of the European Banking Authority on deposit guarantee scheme payouts*. Retrieved from: <https://eba.europa.eu/taxonomy/term/448>

<sup>40</sup> In Poland, transmitting the deposit payout directly into an account indicated by the depositor is possible only through an agent, and requires depositors to appear in person at the agent's office to verify their identity and provide the data for the transfer (e.g., the account number).

identified as available in 23 foreign systems. Due to the growing popularity of electronic channels for the provision of banking services, it can be expected that this method of making deposit payouts may gain importance (it is currently the second most popular method of deposit payout in the world – see Figure 1). Such a solution also excludes the necessity to engage agent banks, which is usually associated with additional costs.

**Figure 1. Guarantors' methods of deposit payouts**



Cash payout by guarantor – payout of the deposits in cash directly by the insurer (at its premises).

Agent bank – transfer of deposits to the agent bank and then payout by agent in cash or via bank transfers.

Electronic transfer platform – direct transfer by the guarantor to the deponents via electronic transfers using special platforms.

Cheque – payout by cheques issued by the guarantor.

Source: own study.

The BGF's activities also follow the global trend of collecting deposit guarantee funds in advance of crisis events – the model present in 102 of the 109 systems. Also, the target level of deposit guarantee funds (2.6% of the total guaranteed deposits in the system vs. the EU minimum of 0.8%) is relatively high, although there are countries where this level is even higher (e.g., in Kyrgyzstan, 15% of deposits are covered by guarantees)<sup>41</sup>. Such high levels of guarantee funds are exceptional, but the BGF should be encouraged to constantly monitor the adequacy of its funds, especially taking into account the possibility of using them not only for the purpose of the plain deposit payout. The target level of funds might be raised together with the potential broadening of the BGF's scope of duties. It should, however, be noted that some of the potential additional tools that could be entrusted to the BGF have a preventive nature (more in point 3.2.) – they limit the probability of bank failure and thus reduce the amount of the fund that would have to be used. Moreover, imposing levies on banking sector impacts its profitability and consequently its ability to attract investors and further support the economy (via lending). Therefore constant monitoring of the appropriateness of the level of the BGF's funds is necessary.

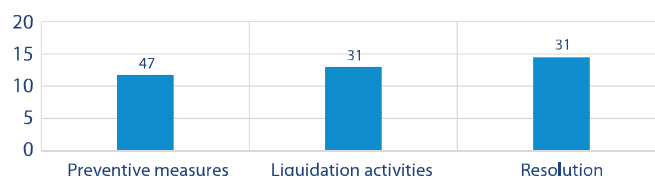
<sup>41</sup> It should, however, be noted that in Poland, banks are obliged to fulfill the MREL requirement, according to which banks have to maintain an appropriate level of own funds and so-called eligible liabilities (mainly bonds), which create a “cushion” for loss absorption and recapitalisation of the bank. Therefore, it may be less probable that the deposit guarantee funds are used, which could justify a not so high target minimum level. It seems however that this issue requires further analysis.

### 3.2. Restructuring and intervention functions

Among the group of 109 deposit guarantee systems, three types of actions were identified that can be taken by guarantors within the scope of restructuring and intervention tasks:

- 1) Preventive measures – e.g., the guarantor performs in a bank administrator or conservator capacity, providing financial assistance to bolster the financial state of an ailing entity – 47 systems in the world may undertake such actions,
- 2) Liquidation activities – e.g., the guarantor performs in a liquidator or receiver capacity, which may include measures aimed at reducing the cost of a guaranteed deposit payout (e.g., the transfer of assets and guaranteed deposits<sup>42</sup> from a collapsing bank to another institution) – such actions may be taken by 52 systems worldwide,
- 3) Resolution – the guarantor participates by supporting the resolution procedure with the deposit guarantee fund – acceptable in 58 systems.

**Figure 2. Restructuring and intervention functions of deposit guarantors around the world**



Source: own study.

In terms of the adopted division of deposit guarantee schemes' restructuring and intervention activities, the BGF performs all of the aforementioned functions. It is worth adding, however, that in the area of preventive measures, it does not have the power to provide financial assistance to banks – only to credit unions. Within the Polish banking sector, the systemic importance of banks is more significant (in terms of the value of assets and accumulated deposits) than that of credit unions<sup>43</sup>. Therefore, it is more likely that the payment of guaranteed deposits to banks (not credit unions) may exceed the financial capabilities of the BGF. This justifies the expansion of the BGF's purview with mechanisms that may mitigate

<sup>42</sup> Guaranteed deposits are of a main concern for the deposit insurers. However, there are also schemes that are allowed to engage in the transfer of uninsured deposits (e.g. Canada, Colombia, Indonesia, Italy, Jamaica, Mexico, Mongolia, Morocco, Nigeria, the USA) or even other liabilities (e.g. Canada, Colombia, Italy, Jamaica, Mexico, Mongolia, the USA). The results of the study are confirmed by the Bank for International Settlements's analysis of the guarantors' role in the management of the bank crisis (P. Baudino, R. Defina, J.M.R. Fernandez, K. Hajra, R. Walters, *Bank failure management – the role of deposit insurance*, BIS FSI Insights on policy implementation 2019, No 17).

<sup>43</sup> NBP (2018), *Financial System in Poland 2017*. Retrieved from: [http://www.nbp.pl/en/systemfinansowy/fsd\\_2017.pdf](http://www.nbp.pl/en/systemfinansowy/fsd_2017.pdf)

the risk of the total depletion of the BGF's funds and any shortfall in the event of subsequent payouts (preventive measures). Such mechanisms may comprise various means of supporting a bank's recovery process (e.g. loans). However, it is necessary to ensure the greatest possible commitment of the banks themselves to independent self-restructuring and to establish appropriate conditions for the Fund's assistance that galvanise the banks to recover as soon as possible and return the granted assistance<sup>44</sup>. Otherwise, an extension of the BGF's powers to support banks may result in the banking sector assuming more risk. Also, an enlargement of the BGF's functions by enabling support for banks (usually via loans) has the potential mainly to support banks' liquidity (which may ultimately require support from central banks due to its specificity) and may have limited impact on improving banks' solvency.

### 3.3. Analytical function

In the realm of their analytical activities, three main tasks were identified as being performed by deposit guarantee systems in international practice: system testing (testing the operational and financial capacity of the fund to payout deposits under various scenarios), monitoring the current state of banks, and developing early warning systems. An analysis of the BGF's annual reports suggests that it performs all of these tasks. It should be noted, however, that according to the reports, the Fund tested its ability to payout deposits less than once a year<sup>45</sup> – the latest information on effectiveness tests was included in the 2015 report, although the report for 2017 indicated that the BGF had a permanent task force for stress testing of the Fund's systems, which may indicate continuity in the task being performed.

Moreover, according to the guidance paper of IADI<sup>46</sup>, the BGF does not test the adequacy of its funds. However, taking into account the possibility of using the BGF's funds not only for deposit payouts, it seems necessary to adequately monitor the level of its resources.

In view of the above, it appears unnecessary to expand the BGF's tasks within the scope of its analytical activities, although they must be constantly improved, especially

<sup>44</sup> Such a solution mitigates the legal risk for the financial safety net institutions, since they do not have to intervene deeply in the functioning of a bank, which may result in lawsuits from the bank's shareholders in which they may accuse the financial safety net of too stringent measures employed towards the bank. More about such a risk in: Kozińska M., *Ryzyko prawne w zarządzaniu kryzysowym – wnioski z upadłości Banco Popular Espanol [Legal risk in crisis management – conclusions from the Banco Popular Espanol's collapse]*, Safe Bank 2017, no. 3 (68).

<sup>45</sup> This complies with the requirements placed on the BGF, which obliges it to perform stress tests at least once every 3 years. Source: "Act of 10 June 2016 on the Bank Guarantee Fund, Deposit Guarantee System and Forced Restructuring" (OJ 2017 item 1937, with later amendments).

<sup>46</sup> IADI (2019), *Deposit Insurers' Role in Contingency Planning and System-wide Crisis Preparedness and Management*. Retrieved from: [https://www.iadi.org/en/assets/File/Papers/Approved%20Guidance%20Papers/IADI%20Guidance%20Paper\\_DI%20role%20in%20contingency%20planning%20&%20crisis%20management.pdf](https://www.iadi.org/en/assets/File/Papers/Approved%20Guidance%20Papers/IADI%20Guidance%20Paper_DI%20role%20in%20contingency%20planning%20&%20crisis%20management.pdf)

in the field of self-testing (operational and financial). It should be noted that the scope of the BGF's activities was subject to substantial amendments within previous years, however these did not correspond with the parallel enhancement of the scope of the BGF's stress-testing of its operational preparation to fulfill the modified set of tasks (at least according to the BGF's reporting). Also, as suggested in the last paragraph of point 3.1., it is necessary to monitor the adequacy of the BGF's funds.

### 3.4. Investment function

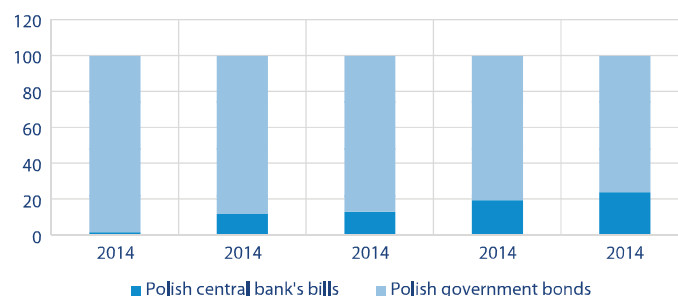
As the BGF points out in its annual reports, provisions of its statutory framework oblige it to invest the funds accumulated as contributions in specific forms of securities and financial instruments. This statutory obligation seems to be reasonable since it allows the BGF to earn additional money on the investment, but at the same time, it requires that the BGF perform another function – an investment function, which is not a standard component of guarantors' activities (identified in only 42 systems worldwide). As part of these investment activities, the BGF is allowed to purchase primarily securities issued or guaranteed by the national government, the Polish central bank, and the central governments or the central banks of EU member states. It may also acquire participation units in money market funds and make term deposits with the National Bank of Poland. Comparing the investment range of the BGF with what is acceptable for other guarantors around the world, the range is relatively broad, as some of the analysed foreign systems allow investments only in their government's debt (e.g., Ukraine). Nevertheless, there are guarantors which have even broader investment options. For example, the Kazakhstan guarantee system can invest in high-rated securities of issuers operating internationally, while the Armenian guarantor can purchase gold.

In practice, however, the BGF's investment activity comes down to investing in government bonds and the Polish central bank's bills<sup>47</sup>.

For this reason, the BGF's investment portfolio seems to be insufficiently diversified, and – due to the amount of government bonds managed by the BGF which could require quick liquidation – it also has the potential to destabilise the financial markets and, consequently, have a negative impact on the country's financial stability. Considering this, it is recommended that the portfolio of the Fund's investments be expanded by also investing in the other securities that are legally allowed. This however should be carefully considered, since the scope of sufficiently safe and liquid assets (from the point of view of the BGF) may be limited (especially at the time of a crisis on the financial markets). Nevertheless, together with the development of the financial markets, greater diversification should be taken into account. In this regard, the positive trend in the management of the BGF's resources should be noted, which consists in the permanent departure from the complete reliance on government bonds (Figure 3).

<sup>47</sup> BGF (2018), *2017 Raport Roczny Bankowego Funduszu Gwarancyjnego [2017 Annual report of Bank Guarantee Fund]*. Retrieved from <https://www.bfg.pl/wp-content/uploads/raport-roczny-2017.pdf>



**Figure 3. The BGF's investment portfolio**

Source: own work based on: BGF (2015), *2014 Raport roczny Bankowego Funduszu Gwarancyjnego [2014 Annual report of Bank Guarantee Fund]*. Retrieved from <https://www.bfg.pl/wp-content/uploads/raport-roczny-2014.pdf>; BGF (2017), *2016 Raport roczny Bankowego Funduszu Gwarancyjnego [2016 Annual report of Bank Guarantee Fund]*. Retrieved from <https://www.bfg.pl/wp-content/uploads/raport-roczny-2016.pdf>; BGF (2019), *2018 Raport Roczny Bankowego Funduszu Gwarancyjnego [2018 Annual report of Bank Guarantee Fund]*. Retrieved from: <https://www.bfg.pl/wp-content/uploads/bfg-rr-2018-pl.pdf>

### 3.5. Information and educational functions

Citizens' awareness of the protection offered by the deposit guarantee system lies at the foundation of the effectiveness of deposit insurance in preventing bank runs (outbreaks of bank panic). Consequently, many guarantors strongly embrace information and educational activities, sometimes including propagation of knowledge about deposit guarantees as one of the formal goals of their activity (e.g., Albania, the Bahamas, Jordan, and Ukraine). In international practice, guarantee systems employ various methods to promote their activities, including: publishing standard Q&As (Questions & Answers) or FAQs (Frequently Asked Questions) dealing with the most important issues related to the guarantee, preparing information brochures, placing advertisements in newspapers, on the radio or TV, and providing on-line deposit guarantee calculators. The most state-of-the-art guarantors extend their information policy via social media (14 systems in the world).

Analysing the foregoing forms of guarantor promotion, the BGF does not utilise advertising in the media or calculators, nor is it active on social media. Although information on the Fund's activities are clearly and extensively presented on its website, it is worth noting that the growing role of social media in contemporary society will require the BGF to develop its activities in this field. Dissemination of messages via services such as Facebook, Instagram, and Twitter is becoming a basic channel of communication, particularly among young clients of the banking sector. Nevertheless, it is worth noting the activities of the BGF in the field of science. Comparing the Fund to foreign guarantors, the development of *Safe Bank*, a scientific journal dedicated to the banking sector and financial stability, is a positive action. This type of activity is rare on a global scale; more typically, guarantors organise conferences, workshops, or courses on topics complementary to their activities – an undertaking currently absent at the BGF (although present in the past).

### 3.6. Supervisory function

Certain powers of the BGF (the control of calculation systems, the setting of the MREL) are examples of activities of a supervisory nature. Although the literature does not identify such a guarantor function (in Poland or abroad), it may be noted in operational practice. The international review suggests that this function is performed by 69 of 109 analysed deposit guarantee systems. The guarantors' supervisory function focuses on monitoring the aspects of banks' activities related to deposit insurance. Among these there are two worth mentioning as they are not performed by the BGF:

- 1) monitoring banks' compliance with the criteria for participation in the system,
- 2) defining requirements related to advertisements for deposit products.

In the first case, since participation in the guarantee system in Poland is compulsory, banks are not subject to any requirements conditioning their involvement in the scheme<sup>48</sup>. So, additional functional rights for the Fund in this regard are unnecessary. The second issue, related to advertising for bank deposits, has not yet provoked controversy due to the relatively stable state of liquidity in the Polish banking sector. It could appear if the situation were to deteriorate, and banks would then be forced to compete with each other for their clients' funds to maintain an adequate level of liquidity. This, in turn, could raise the risk of abuse in advertising deposit products<sup>49</sup>. It is, therefore, worth considering supplementing the Fund's powers in this regard, while also factoring in the potential role of the Office of Competition and Consumer Protection (UOKiK), the main authority responsible for the protection of consumer rights in Poland.

Moreover, it should be emphasised that those supervisory powers that are already held by the BGF (and were mentioned previously) are usually shared with the Polish Financial Supervisory Authority (PFSA), the main entity responsible for prudential supervision. This arrangement, however, leads to a duplication of authority and blurring of the lines of responsibility. Meanwhile, the BGF has no power to discipline banks that do not fulfill certain obligations – worldwide, disciplinary powers granted to guarantors are rare, with only 18 of 109 analysed systems indicating such authority. In Poland, this is the prerogative of the PFSA, so it seems advisable to

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<sup>48</sup> It should be added, however, that the BGF can exclude a bank from the guarantee system if it does not fulfill its obligations resulting from participation, for example, it does not pay contributions or does not create and maintain the so-called calculation systems. Source: Act of 10 June 2016 on the Bank Guarantee Fund, deposit guarantee system and forced restructuring (Journal of Laws of 2017, item 1937, as amended).

<sup>49</sup> It should, however, be noted that this issue is partially addressed in the national legal framework, which requires that banks inform their clients about their financial standing. Moreover, the law clearly states that the information on the participation in the obligatory deposit insurance scheme must not be a part of any deposit advertisements. Source: Act of 10 June 2016 on the Bank Guarantee Fund, deposit guarantee system and forced restructuring (Journal of Laws of 2017, item 1937, as amended).

consider an appropriate reshaping of the division of powers between the BGF and the PFSA so that each institution would be fully responsible for a well-defined area.

Another area of consideration is connected with the overlaps between the BGF's restructuring and resolution powers, and the PFSA's early intervention powers. The responsibilities in this regard are usually shared between the two mentioned institutions.

## Conclusions and recommendations

Recently, the scope of the Banking Guarantee Fund's functional activities has been subjected to numerous changes resulting from the need to implement EU regulations as well as (though to a lesser extent) to incorporate lessons learned from the Polish domestic experience. These reforms to the activities of the financial safety net institution are, however, a good incentive to assess the adequacy of its current architecture. For this reason, it was decided to conduct an analysis of the Fund's powers in order to evaluate the adequacy of the range of its statutory activities. Based on international experience, it was determined that at least several areas of the BGF's activities could be improved. The list of suggested changes includes five proposals, which can be divided into two groups: fundamental and supplemental changes. The first group embraces the following recommendations:

- 1) Allow the BGF to fulfill its obligation to pay out deposits in a liquidated bank by means of the direct transfer of funds into accounts indicated by depositors (bypassing a payment agent),
- 2) Supplement the BGF's powers with the ability to provide financial support to banks whose financial situation has deteriorated (to avoid their bankruptcy or resolution),
- 3) Increase the diversification of the investment portfolio of the contributions collected for the BGF funds,
- 4) Establish a distinct range of rights and responsibilities within the supervisory function between the BGF and the PFSA

The last recommendation proposes the development of the BGF's information and educational function via an active presence on social media. This change seems to be of lesser importance and therefore can be assessed as a supplemental one.

It should be noted that these recommendations primarily supplement or modify the range of existing BGF powers, as the current scope of the Polish guarantor's rights appears to be broadly developed. Nevertheless, there is one function that the BGF does not perform at all – a disciplinary one. The need to supplement the Fund's activities with such powers depends on the reshaping of the financial safety net framework and the division of duties between the participating institutions. Apart from the disciplinary function, there is no other area of activity (such as restructuring, intervention, or analytical), which is lacking a place among the

Fund's powers. In this regard, the BGF's operating model is viewed as broad and well-developed, although improvement by implementing the changes mentioned above is still recommended.

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