Global Financial Services Regulatory Guide - Poland

2. What are the main sources of regulatory laws in your jurisdiction?

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Much of the relevant laws concerning Poland's financial and capital markets derive from EU directives and regulations. Polish domestic legislation and rules therefore give effect to European legal requirements in many respects. However, since many European directives only set minimum standards, the way in which directives are implemented across Europe can vary considerably. Poland has introduced domestic laws that exceed European-level requirements (e.g., gold plating at the national level).

The Act on Financial Market Supervision of 21 July 2006 (Act on Financial Market Supervision) is the main law concerning the supervision of the financial market in Poland. The FMS defines the extent of KNF supervision, its competences, as well as rules concerning proceedings conducted before the KNF. Furthermore, the Act on Capital Market Supervision of 29 July 2005 (Act on Capital Market Supervision) contains specific regulations regarding the supervision of the capital market. These include, in particular, rules for the exchange of information between national and European financial supervisory authorities, as well as rules for the fulfilment of obligations resulting from the European regulations by competent national supervisory authorities.

The national laws considered to be crucial for the substantial regulation of financial services in Poland are as follows:

The Banking Law of 29 August 1997 (Banking Law) sets out, among other things, principles for conducting banking activities; establishing and organizing banks, branch offices and representative offices of foreign banks, and branch offices of credit institutions; principles for the exercise of banking supervision; and main principles governing recovery and resolution, winding up and bankruptcy proceedings with respect to banks (resolution proceedings are regulated in detail by the Act on the Bank Guarantee Fund, deposit guarantee system and resolution of 10 June 2016).

The Insurance and Reinsurance Activity Act of 11 September 2015 (Insurance Activity Act) sets out, among other things, principles for conducting insurance and reinsurance activities; establishing and organizing insurance and reinsurance entities, branch offices and representative offices of foreign insurance entities and branch offices of foreign reinsurance entities; principles for the exercise of insurance sector supervision; and for the winding up and bankruptcy of insurance and reinsurance entities.

The Act on Trading in Financial Instruments of 29 July 2005 (Act on Trading in Financial Instruments) governs the principles, procedures and conditions for undertaking and conducting business operations involving trading in financial instruments, and establishes the rights and duties of entities engaging in such trading, including investment firms and banks conducting brokerage services, and supervision in that respect.

The Payment Services Act of 19 August 2011 "Payment Services Act) sets out the principles for providing payment services as well as issuing and re-purchasing of electronic money, including the rights and obligations of the parties under payment service contracts and the scope of liability of payment service providers in respect of the performance of payment services. The Payment Services Act also sets out basic market principles for domestic payment card transactions.

The Investment Funds and Management of Alternative Investment Funds Act of 27 May 2004 (Investment Funds Act) sets out principles for the establishment and operation of investment funds registered in Poland as well as principles for the operation of foreign funds and foreign management companies in Poland. The Investment Funds Act also defines operational rules for alternative investment fund managers seated in Poland and rules for the conduct of operations in Poland by alternative investment fund managers seated in an EU member state or third country.

It should be noted that 2024 will see Poland adopt new laws in connection with the entry into force of the Markets in Crypto-Assets Regulation (Regulation (EU) 2023/1114), which aims to provide certain domestic instruments needed for the proper execution of the regulation.

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