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EUROPEAN UNION POLICY IN RELATION TO THE SECTOR OF INSURANCE – THE CONSEQUENCES FOR THE POLISH MARKET

The sector of insurance as an integral part of the European financial market is an important area of European Union policy including all the member countries. This policy aims at shaping the conditions for the development of this sphere of economic activity which is the insurance. The significance of insurance is connected with its crucial functions, not only economic but also social, which are realised as insurance coverage offered on the market by insurance companies. Faced with various threats, which in the modern world result from economic and civilisation development, insurance is used not only to compensate for the negative results of acts of God but it can also be a crucial stimulus to undertake innovative economic projects or it can be used to alleviate negative results of social phenomena. Thus the aim of the policy led by the EU with reference to insurance sector has to be not only ensuring optimum conditions for the development of this market but also establishment and execution of specific safety standards for its participants.

The foundations of EU policy directed towards the financial market entities, including the sphere of insurance, are based on the resolutions of the Treaty of Rome, signed on 25th March 1957 [*Treaty Establishing*...]. This Treaty started the realisation in practice of the idea of European integration. Next significant achievements on the way to complete integration, namely signing the Single European Act in 1986 and then accepting Maastricht Treaty signed in 1992, led to the appearance of the European Union, based on the previously functioning European Economic Community ["Treaty on European..." 1992; Gawlikowska-Hueckel, Zielińska-Głębocka 2004].

In this way the idea of building united Europe was consistently realised and within it also was realised the idea of harmonising the common market. Insurance sector is an integral part of this market. The accession of Poland to the European

Union was connected with the necessity to adjust the economic mechanisms to the rules of the functioning of the European market structures. They were the subject of standardisation practically from the very beginning of the integration processes.

The basis for building the uniform economic structure of the European Union was defining the economic freedom concerning movement of goods and people, freedom of establishment, movement of services and capital. With reference to the sphere of insurance, the regulations concerning free movement of services and freedom of establishment have special significance. It turned out to be very difficult to realise in practice the integration assumptions including the implementation of basic economic freedoms on insurance market. One of the main obstacles was the necessity to unify the rules of supervision processes connected with insurers activity, in order to ensure basic safety standards [Müller 2002, pp. 51-55]. Financial markets as the foundation of economic systems of all the countries undergo particular state control, which means the necessity to assign certain level of freedom in decision making for the entities providing insurance services and the necessity to implement controlling mechanisms thanks to which a supervisory institution has the possibility to intervene when the rights of consumers are in danger. EU policy at the initial phase of the integration process aspired to unify the legal regulations of member countries to an extent ensuring equal level of insurance services consumers' protection and to remove all the barriers of competitiveness. However, a full unification on the European market was not achieved in this way. Finally, in the areas so far not unified, the rule of mutual acceptance of other countries' regulations has been accepted. With reference to these aspects where national regulations could breach the freedom of competition, it has been accepted to issue directives which are treated as guidelines for legal regulations in respective member countries.

The main insurance directives, setting the direction of European market integration, were taken since the beginning of the 1970s. They became the sign of the common EU policy, setting the conditions for the development of the insurance sphere. The first directive of 1973 introduced the basic standards concerning insurance activity. In particular, they removed limitations in freedom of establishment in the range of direct insurance (with the exception of life insurance and mutual insurance) ["First Council Directive..." 1973]. The implementation of recommendations of this directive meant among others the freedom of establishment by insurers from EU member countries and also the introduction of activity separation in the fields of life insurance and non-life insurance and exclusion of other forms of activity except the insurance one. Next step on the way to liberalisation of the European market was the introduction of cross-border services supply in the scope of the so-called big risk, under the supervision of the mother country ["Second Council Directive..." 1988]. This solution, relating among others to marine, air and transport insurance lost its significance when in 1992 the rule of uniform insurance licence was accepted, which authorised companies to carry out economic activity and provide services on the area of any EU member country also from the abroad ["Council Directive 92/49/EEC..."]. Thus, it can be assumed that after nearly twenty years since the legislation changes process had been initiated, European insurance market became open space for carrying out economic activity for the entities able to conform to the requirements indispensable for obtaining permission to carry out the economic activity in the field of insurance in their mother country.

Yet, the achievement of the open European insurance market did not mean cessation of further legislation activities led within common EU policy in order to improve market mechanisms and to ensure conditions of competition for all the companies carrying out insurance operational activities. Successive decisions of the EU institutions issued in the form of European Parliament and EU Council directives concerned among others the rules of insurance intermediary activities and reinsurance activity in the common market area ["Directive 2002/92/EC..."; "Directive 2005/68/EC..."]. In the course of its works European Commission undertook other aspects leading among others to the unification of the rules of taking out insurance by setting a standard of an European insurance contract [*Opinion of the European*... 2004]. The process of the unification of the European insurance market still lasts, thanks to mutual acceptance of legal regulations conforming to the minimal standards accepted by all EU member countries.

In the current phase of the integration process, the main terms of reference for the decisions within the limits of common policy concerning the insurance sector are the aspiration to ensure impulses favourable for the market development, preserve conditions of competition and secure the interests of the clients using insurance protection. These principles were stated in the document of European Commission proclaimed in 1999 under the name of *Financial Services Action Plan* (*FSAP*) [http://ec.europa.eu/internal_market/finances/actionplan]. This document set the EU acceptance schedule of applicable legal acts in the form of directives and recommendations which were to serve the development of the insurance market. This plan had been nearly completely realised by the end of 2005, what enabled the achievement of set aims such as, among others, the creation of the financial flows on unified market, the creation of the open market of retail financial services and the unification of the prudential regulations and the supervision system over the financial market. In May 2005 Commission of the European Communities issued another document on Financial Services Policy 2005-2010 (the so called "Green Paper"), which was to initiate the process of consultations and debate of the institutions interested in the issue of financial markets regulations ["Green Paper on Financial..." 2005]. In this paper the most important areas of activity in the time perspective of the following five years were pointed out:

1) to consolidate progress towards an integrated, open, competitive and economically efficient European financial market and to remove the remaining economically significant barriers;

2) to foster a market where financial services and capital can circulate freely at the lowest possible cost through the EU – with adequate and effective levels of prudential control, financial stability, and a high level of consumer protection;

3) to implement, enforce and continuously evaluate the existing legislative framework, to deploy rigorously the better regulation agenda for any future initiatives, to enhance supervisory convergence and strengthen European influence in global financial markets.

Hence, the main policy aims defined in "Green Paper" showed the necessity of financial market development as an open but simultaneously integrated activity area of the entities providing financial services. An important problem emphasised among set EU policy aims was enhancing the competitiveness level of the financial sector, in compliance with the Lisbon Strategy priorities.[1] In the same document the evaluation of the hitherto achievements on the way to the integration of the European financial market was made. It was a positive evaluation, pointing out a real progress in realising set goals, in particular in the field of legislative framework creation. The following years – up to 2010 – were to be the period of implementing previously worked out solutions ["Green Paper on Financial..." 2005].

The final shape of the EU policy concerning financial services was declared by the European Community as White Paper ["White Paper..." 2005]. The financial policy aims in the perspective of 2010 set in this paper show clearly an expected direction of changes in the European financial market. They include the following priorities ["White Paper..." 2005]:

1) to consolidate dynamically towards an integrated, open, inclusive, competitive, and economically efficient EU financial market;

2) to remove the remaining economically significant barriers so financial services can be provided and capital can circulate freely throughout the EU at the lowest possible cost – with effective levels of prudential and conduct of business regulation resulting in high levels of financial stability, consumer benefits and consumer protection;

3) implement, enforce and continuously evaluate the existing legislation and to apply rigorously the better regulation agenda to future initiatives;

4) enhance supervisory cooperation and convergence in the EU, deepen relations with other global financial marketplaces and strengthen European influence globally.

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[1] Among the Lisbon Strategy priorities referring to economic reforms such as: eEurope, The Internal Market, Enterprise, A European Research Area, A Review of Financial Instruments, a very important place was taken by the reform aim described as Financial Services. The main message of this part of the document comprised in the statement: "The Union agreed last year an ambitious action plan to transform its financial services to meet the challenges of the 21-st century: to deliver an integrated capital market and a dynamic financial services industry, that can serve investors, businesses and consumers alike" [The Lisbon European Council 2000].

In the face of the global crisis that started in the middle of 2007, which especially affects financial sector, the aims set within EU Financial Policy have to be somewhat modified. For many financial institutions, including insurance companies active on the European market, a short-term and priority task is to survive in crisis conditions, whereas for the state authorities and the EU decision-making bodies the most important task in the nearest time perspective is not to allow for the financial market breakdown, to restore the trust in financial institutions, to search for stimuli which could enhance economic growth. Another important matter is – based on the analysis of financial crisis reasons – to create a more infallible and effective supervisory formula over the financial markets. It does not mean, however, that the before crisis strategy of integration and development of the European financial market has lost its meaning. The foundations and aims of this strategy have a long term character and as such they will be realised in the long run.

Part of FSAP referring directly to insurance sector is among others the project to introduce a new, uniform insurance companies solvency system, named Solvency II, whose foundations were declared by European Commission in 2003 [*Solvency II*]. It is a new standard to estimate insurance companies' solvency. It takes into account not only simple quantitative criteria (used since the beginning of the 1970s) described as the solvency margin, but also includes qualitative factors referring to risk management in an insurance company. Solvency II also anticipates the introduction of uniform reporting standards and the duty to publish information concerning insurance companies' situation. As a result of European Commission works and broad consultations, in 2007 a project of a new directive Solvency II was announced ["Proposal for a Directive..." 2007]. This directive was scheduled to be accepted in the middle of 2009. The implementation into national legislation systems of the foundations worked out within Solvency II will significantly influence operating conditions of insurance companies and in particular will modify the supervision rules over the insurance market in the EU countries.

Integration policy led by the EU for more than 50 years set the path that also the Polish market had to take, but in a much shorter time. The decisions taken by Polish state authorities were influenced by the necessity to adjust the rules governing Polish economy to the conditions dominant in the EU. Already in the 1990s, so in the period preceding Poland's accession to the EU, a deep reform of Polish insurance law had been carried out, which was indispensable to start market mechanisms. Legal regulations were successively adjusted to the requirements resulting from insurance directives. The crowning point of this legislative process was the acceptation of insurance acts packet in 2003 which enabled actual inclusion of the Polish insurance market into the European structures [Ustawa z dnia 22 maja 2003...].[2]

[2] It is a packet of regulations concerning: insurance activity, obligatory insurance, The Insurance Guarantee Fund, Polish transport Insurers' Bureau, supervision of insurance and pension, and the Insured Spokesman, insurance intermediation.

A special sign of this new reality that the Polish market entered on 1st May 2004 was the implementation of freedom of providing insurance services all over the EU.

In view of these legislative facts, it is still an open question how to estimate the influence of EU financial markets policy on the development of the Polish insurance sector. This evaluation is not unambiguous in some aspects. On the one hand, it is easy to find evidence proving that even the perspective of Poland's accession to the EU was a factor strongly stimulating the development of the Polish insurance market (Figure 1). Gross written premiums were characterised by high dynamics during all the development period. At the end of 2008 this ratio in life insurance section was nearly 39 billion złoty and in the section of other personal insurance and property insurance – over 20 billion złoty.

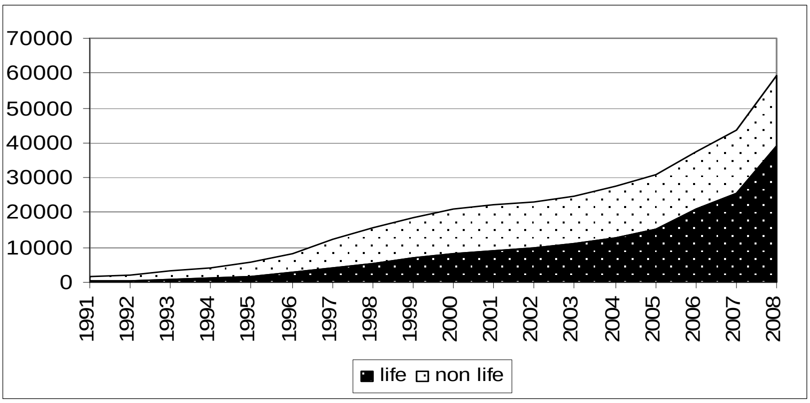

Figure 1. Gross written premiums in the Polish insurance sector according to sections in the years 1991-2008 (in millions złoty)

Source: author's own calculations based on Polish Financial Supervision Authority (PFSA) data, http://www.kpwig.gov.pl/.

Insurance sector in Poland developed faster than the rest of the economy (Figure 2). High gross written premiums increase dynamics especially in the section of life insurance results in the increase of insurance share in GDP (Figure 3). It is worth noticing that until 2005 gross written premiums in the section of other personal insurance and property insurance (non life) had a greater share that that of life insurance (2005: section I – 1.57%, section II – 1.60%). Since 2006 these relations have reversed because of a particularly dynamic development of life insurance (2008: section I – 3.08%, section II – 1.6%).

Gradual opening of the Polish market for foreign investors (since the beginning of the 1990s) led in a very short time to strengthening the role of this sector in the national economy (Figure 4).

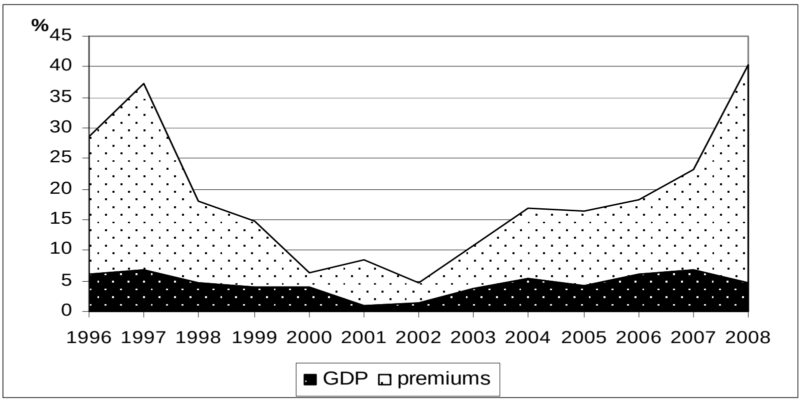

Figure 2. GDP increase dynamics and gross written premiums increase dynamics (in relation to the previous year) in the years 1996-2008

Source: author's own calculations based on PFSA data, http://www.kpwig.gov.pl/ and Central Statistical Office (CSO) data, http://www.stat.gov.pl/.

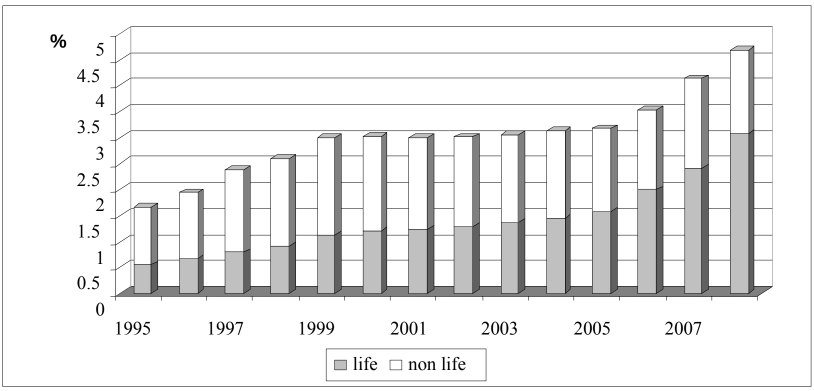

Figure 3. Gross written premiums share in GDP according to sections (life and non life) in the years 1995-2008

Source: author's own calculations based on PFSA data, http://www.kpwig.gov.pl/ and Central Statistical Office (CSO) data, http://www.stat.gov.pl/.

It happened by capitalising insurance companies and then (since 1999) through creating new entities on the market. Significant, though difficult to measure, effect of the presence of the foreign capital resulted in transferring insurance know-how on the Polish market, especially in its initial phase of development. The presence of foreign insurers resulted in their impact on the demand side of the market, by building insuring consciousness of the Polish society. Membership in the EU structures is also

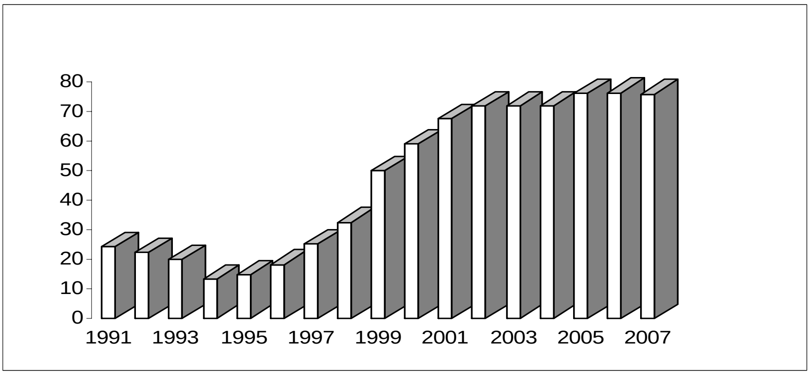

Figure 4. Share of foreign investments in subscribed capital (in %), 1991-2007

Source: author's own calculations based on PFSA data, http://www.kpwig.gov.pl/.

a chance for the national insurance companies to expand their activity to the territory of other countries.[3] These effects of market opening, according to EU policy, were undoubtedly favourable for the development of the Polish insurance sector. In 1993 the size of the Polish insurance market measured by the value of gross written premiums was barely 0.33% of the EU-15 market (and 0.1% in relation to the OECD countries). In 2007 the same ratio increased up to 3.47% in relation to the EU-15 countries (and up to 0.76% in relation to the OECD countries).[4] It indicates that, if the high growth dynamics of the Polish market development will be continued, the disproportions in its development level in relation to highly developed countries will be gradually and effectively alleviated.

On the other hand, some threats arising from subordinating insurance policy to the EU decisions can be perceived. Removing the access barriers to the Polish market for foreign companies caused a significant competition increase and consequently the role of the Polish capital has been marginalized.[5] Market opening caused its higher susceptibility to the effects of the globalisation processes taking place in the financial sector. Thus in Poland, like in many other countries, free cross-border capital flows lead to the creation of complicated conglomerate structures, which are relatively difficult to control by state supervisory institutions. The lack

[3] At the end of March 2009, 17 national insurance companies had notification to run business in the EU/EEA countries, http://www.kpwig.gov.pl/.

[4] The author's own calculations based on OECD data, http://stats.oecd.org/WBOS/Index.aspx?DatasetCode=INSIND#.

[5] According to PFSA data for the IV quarter of 2008: out of 66 companies running insurance activity on the Polish market, national capital dominates only in 19 companies, whereas in 38 the foreign capital share is 90-100% (PFSA, http://www.kpwig.gov.pl/Images/A%2E%20Informacje_IV_2008_k_tcm20-9947.xls).

of organisational transparency forces to use special regulations which are to ensure the safety of the clients served by financial conglomerates.[6]

EU policy carried out in relation to financial markets can be a threat also for Poland, what is proved by the creation process of the directive Solvency II. Realising the foundations of this project could lead to limiting the role of the national supervision in defining the amount of the capital securing the solvency of the insurance companies staying in hands of foreign owners. This in turn could mean diminishing the security of financial institutions. The project of the directive conceded the possibility to transfer the capital among various companies by the dominating entity, which on the Polish market is usually a foreign shareholder (a similar threat is also noticed by other Central and Eastern European countries, e.g. Hungary or Lithuania). Such a situation could directly lead to endangering the interests of Polish clients in the case of financial difficulties of a foreign parent company. The example of this directive shows how much the standpoint of EU member countries in economic matters can differ. Final decisions, which constitute EU policy, are always a resultant of clash of various options. In such a situation it is vital that Polish representatives in EU bodies passing new legal solutions were able to actively and effectively secure the interests of our country and region. Poland is still very often perceived through the perspective of Central and Eastern European countries. Foreign investors base their evaluation of economic attractiveness of particular countries on the whole region development rate. That is why it is so crucial to create favourable conditions for the development of financial markets, insurance market included, on the area of Central and Eastern European countries. An expected result of such accelerated development should be the diminishing of present, still very clear, disproportions in the level of development of insurance markets in the countries that acceded to the EU in 2004 and the countries of EU-15.

Literature

"Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive)", *Official Journal* L 228, 11.8.1992, http://eur-lex.europa.eu/.

"Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council", *Official Journal* L 35, 11.2.2003.

[6] The problem of exercising supervision over financial conglomerates has been settled in the EU directive on the basis of which an appropriate act has been passed. See: ["Directive 2002/87/EC..."; "Ustawa z dnia 15 kwietnia 2005..."].

"Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation", *Official Journal* L 9, 15.1.2003.
"Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78 EC and 2002/83/ EC, *Official Journal* L 323, 09/12/2005 P, http://eur-lex.europa.eu/.
"First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance", *Official Journal* L228, 16.8.1973, http://eur-lex.europa.eu/.
FSAP – Financial Services Action Plan, http://ec.europa.eu/internal_market/finances/actionplan.
Gawlikowska-Hueckel K., Zielińska-Głębocka A., *Integracja europejska. Od jednolitego rynku do unii walutowej*, C.H. Beck, Warszawa 2004.
"Green Paper on Financial Services Policy(2005-2010)", Commission of the European Communities Brussels, 3.05.2005, *COM* (2005)177, http://ec.europa.eu/internal_market/finances/docs/action plan/index/green_en.pdf.
Müller H., "Wspólny rynek ubezpieczeniowy w Europie", [in:] J. Monkiewicz (ed.), *Ubezpieczenia w Unii Europejskiej*, Poltext, Warszawa 2002.
Opinion of the European Economic and Social Committee on the European Insurance Contract, Brussels, 15.12.2004, www.//eescopinions.esc.eu.int.
"Proposal for a Directive of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance. Solvency II (SEC2007/870, 871)", Commission of the European Communities, Brussels, 10.07.2007, *COM* (2007) 361 final, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2007:0870:FIN:EN:HTML
"Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC", *Official Journal* 172, 4.7.1988, http://eur-lex.europa.eu/.
Solvency II, http://ec.europa.eu/internal_market/insurance/solvency/index_en.htm#sol2.
The Lisbon European Council, *An Agenda of Economic and Social Renewal for Europe*, Brussels, 28 February 2000, http://ec.europa.eu/growthandjobs/pdf/lisbon_en.pdf.
Treaty Establishing the European Economic Community of 1957, The European Union Law Portal, http://www.eur-lex.europa.eu.
"Treaty on European Union of 1992", *Official Journal* C191 of 29 July 1992, The European Union Law Portal, http://www.eur-lex.europa.eu.
"Ustawa z dnia 15 kwietnia 2005 r. o nadzorze uzupełniającym nad instytucjami kredytowymi, zakładami ubezpieczeń i firmami inwestycyjnymi wchodzącymi w skład konglomeratu finansowego", *Dziennik Ustaw* 2005 Nr 83, poz. 749.
"Ustawa z dnia 22 maja 2003 r. o działalności ubezpieczeniowej", *Dziennik Ustaw* 2003 Nr 124, poz. 1151.
"Ustawa z dnia 22 maja 2003 r. o ubezpieczeniach obowiązkowych, Ubezpieczeniowym Funduszu Gwarancyjnym i Polskim Biurze Ubezpieczycieli Komunikacyjnych", *Dziennik Ustaw* 2003 Nr 124, poz. 1152.
"Ustawa z dnia 22 maja 2003 r. o nadzorze ubezpieczeniowym i emerytalnym oraz Rzeczniku Ubezpieczonych", *Dziennik Ustaw* 2003 Nr 124, poz. 1153.
"Ustawa z dnia 22 maja 2003 r. o pośrednictwie ubezpieczeniowym", *Dziennik Ustaw* 2003 Nr 124, poz. 1154.
"White Paper. Financial Services Policy 2005-2010", Commission of the European Communities, Brussels 1.12.2005, COM (2005)629, http://ec.europa.eu/internal_market/finances/docs/white _paper/white_paper_en.pdf.