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New trends in the system regulating the market of bank services

The severity of the last financial crisis for the European financial markets, the economy, and society, which lasts almost 8 years, makes the scientists and financial analysts start to seek answers with great openness not only to the question of how to reduce its negative effects in the future, but also to consider how the system regulating financial institutions will look like in the future.

The article presents three options of the positions on the future regulatory tendencies: theoretical alternative, the option presented in reports and expert studies, and the version arising from observations of the current practices of functioning of the European banks.

The aim of the article is to confront the views on the future trends in the regulation of the banking sector from the theoretical, consulting point of view, and the view formulated on the basis of evaluation of banking practices. The elaboration presents a working hypothesis that the implemented financial innovations will be the main force driving and influencing concepts, methodology, and the operation of regulatory institutions of the banking sector.

The article consists of four, logically related sections. The first assumes that the vision of the regulatory system for bank institutions will result from the interactions of banks and the actions of the regulators. Therefore, a synthetic assessment of the changes that have taken place in the bank regulatory system is presented. The second part highlights the changes in the post-crisis regulations, as the crisis had a strong impact on the shape of the new regulatory architecture. The third part of the elaboration presents the scenarios of the future development of the banking sector and the directions of changes to its regulations. The last part exposes the expectations of the bankers in relation to the key actions of the regulators in the perspective of the nearest 10-15 years.

Visions of regulating the banking sector

The issue of predicting trends in regulating the banking sector is a serious scientific and research challenge, yet highly troubling and controversial [Gosee, Philon, 2014]. From the nature and characteristics of the regulations, especially those taking the form of legal acts, it appears that the regulators aim at organising and developing the economic life in the longer time. In turn, the changes that presently take place in the conditions of management and on the market of the banking services, are extremely dynamic, and are accompanied by high uncertainty, instability, complexity, and discontinuity. On the one hand, regulations strongly affect the evolution of the market of the banking services, its structure, forms of competition, position of the customer, offered products, risk management. Not to mention one of the basic functions – the impact of regulations on the stability and security of the financial sector and the entire social and economic system [Marcinkowska, 2014; Marcinkowska, Wdowiński, Flejterski, Bukowski, Zygierewicz, 2014]. On the other hand, the features of the market, and especially its imperfections and objectives formulated by the political and economic authorities, are usually an essential prerequisite for the development of new regulations.

The interdependencies between the trends of the banking services market development and the system of their regulation affect the multidimensional consequences of legislation. Regulations can stimulate the development of the banking sector, become its inhibitor to the development, or contribute to its long-term stagnation, or even lead to its fast destruction. Therefore, it is so important to examine the future regulatory trends, in particular, which regulations are needed, how to develop them efficiently, and how to evaluate their quality, so that the effort of numerous legislative institutions would not turn out to be an irreparable loss of the used resources and the loss of alternative developmental opportunities.

Starting point

In comparison to the last century, in the foundations and in practice of regulating the banking system, there has been a number of breakthrough and favourable changes in the theoretical, methodical, and institutional area.

Theoretical foundations of regulation in the banking sector have developed. The key trends of the theory of regulations are developed: public, private, normative, and positive [see Baldwin, Cave, Lodge, 2012; Maloney, Ferran, Payne, 2015; Harnay, L. Scalon, 2016]. Concepts to develop new regulations are described fairly well. Interesting presentations of these concepts can be found in numerous studies [de Weers, 2011; Kasiewicz, 2016; Masiukiewicz, Morawska, 2015].

When applying these concepts, regulators can refer to ideas, principles, mechanisms, and instruments, within these concepts. They include:

- Vertical Enforcement
- Horizontal Regulation
- Responsive Regulation
- Risk-based Regulation
- Smart Regulation
- Self-Regulation.

Evaluating the characteristics of the present conditions of development of the banking sector, there is no doubt that the concepts that provide flexible possibilities to pursue regulatory purposes are useful, and most appropriately reflect the dynamics and threats of the most effective directions of competing of banks. These concepts surely include the concept based on the use of the regulatory risk, which boosts the entire process of elaboration of legislation, concentrates on the responsibility of the regulator, gives the possibility to react to unexpected positive and negative events, and opens wide possibilities to improve the process of regulation for a vast number of stakeholders. It is the most mature concept.

Also, a progress in the area of the methods of evaluation of the regulations results, both *ex-ante*, as well as *ex-post*, is visible. Next to the two key methodologies: Benefit-Cost Analysis and Impact Assessment, two additional methodologies of complementary nature appeared, which deepen the regulation quality evaluation: the methodology of Regulatory Risk Assessment [Black, 2010; Kasiewicz, 2016], and of Respecting the Principle of Proportionality [Kasiewicz, Kirkliński, Szpringer, 2014]. There is also an almost revolutionary progress in the area of systemic risk modelling [Acharya, Engle, Richardson, 2012; Brunnermeier, 2009]. For centuries, the unquestionable domination of lawyers has been established in the legislative process, and perhaps this is why the aspects of perception and the role of regulatory risk, as the financial and economic category, were completely overlooked or treated as some additional, supplementary piece, which had to be taken into account for theoretical or methodological reasons. An important component of this attitude was also the fact that regulators were and still are convinced – not on the basis of their formal powers, but the real practice – that they have power, which is accompanied by the knowledge, experience and tools at their disposal to be almost certain that they act reasonably and in the interest of the society. Economic realities have changed dramatically and in the conditions of high uncertainty and complexity, in all areas of operation of financial institutions, there is a definite shift towards uncertainty and high-risk management. As a result of these processes, the role of regulators gets weaker, and they do not have either sufficient knowledge or necessary resources, or any special desire as an administrative institution, to create regulations that would be adequate to the existing and future changes of the market. From the perspective of risk management, the position of regulators becomes anachronistic. For these reasons, the introduction of the methodology of regulatory risk management becomes an urgent necessity.

The principle of proportionality, as one of the key principles of European lawmaking, has been known for a long time, but in practice, the stipulations of the EU directives and regulations rarely used it. The rule *one size fits all* has been absolutely dominant for decades. Both European and American regulators are beginning to increasingly raise the aspect of proportionality [Letter, 2017]. Although a quantitative-qualitative model of respecting the principle of proportionality has been developed, the scope of its application in practice is still very low. Its essence boils down to the requirement that the expected regulatory objectives are not achieved by increasing excessive weights (loads) imposed on the regulated entities. What is important, the principle of proportionality does not differentiate the regulations depending only on the scale of operation of the banks (small *versus* large), but it extends the principle by taking into account the differentiation of effects in relation to the three basic categories: benefits, costs, and risks. What is more, it is postulated to take into account the effects of regulations in sectoral, international, global terms or even in a breakdown of the key stakeholders. There is a belief that too large diversity of the effects of the regulation is the first step to seek easier solutions, to seek escape in regulatory arbitrage, and results in degradation of legislation.

Moreover, widely promoted regulatory programmes appeared: *Better Regulation*, *Regulatory Sandbox* or the solutions adopted in the concepts of the *Banking Union* and *Capital Markets Union*. The importance of the regulation is influenced also by institutional changes in the system of supervision at the global, international, and national level. There are also numerous, permanent or occasional, rankings concerning the evaluation of the quality of the implemented regulations (e.g. Doing Business, World Government Indicators, Index of Economic Freedom). The evolution of regulating of the banking sector was quite slow; initially, until the end of 1960s, a trend of regulations focusing on pursuing public objectives was dominant. From this period, a clearer approval for the trend aiming at achieving private objectives, using the so-called micro-prudential regulations, followed. The last financial crisis brought about significant changes in the approach to regulating financial institutions, which is the subject of further considerations of this article.

Post-crisis regulations

The causes of the outbreak of the *subprime* financial crisis and drastic costs, that were necessary for its limitation, became a major challenge for the search for effective mechanisms and instruments, to avoid the situation from the years 2007/2008. B. Young [2014] provides that in the years 2007-2009, the governments of the EU member states, to rescue banks, raised expenditure at the level of 22% of the Gross National Product (GDP). In the publication of J. Armour, et al., [2014], the Authors report that the costs of the crisis of 2007-2009 are estimated at the level of 1.5 billion dollars, which is 20% of the annual world production, where the losses of the United Kingdom in this period were at the level of 140 billion pounds.

The discussion on the sources of crisis somewhat weakened, but it is not finished. The list of factors is enormous, but what is important is that the negligence in the sphere of regulations of the financial markets (negative impact of the deregulation process) and the blatant weaknesses in the management system of the systematically relevant institutions are commonly indicated. Moreover, at the level of individual banks, risk management was also an important factor generating the financial crisis, due to the excessive trust of the management boards in the results of the advanced risk models, application of aggressive motivational systems, occurrence of the low level of responsibility of the employees at all levels of management and the use of low lending standards, especially mortgage, and in the observance of ethical principles [Kasiewicz, 2015]. The infamous role of the credit rating agencies and some consulting firms and the extensive use of securitisation and OTC derivatives cannot be omitted as well [Belka, 2013]. The causes of the crisis are also seen in the factors arising from the structural, income inequalities, and in behavioural activities (e.g. herd behaviour of investors, opportunistic attitudes of the national supervisors).

In connection with the total criticism of the causes of the financial crisis, repairing the system of regulation of the banking market occurred in unprecedented dynamics and size. It soon became clear that the wave of regulations is so large that the scale of this phenomenon began to be called a regulatory tsunami, regulatory heat, or regulatory shock. It is almost unbelievable how huge legislative effort has been made after the outbreak of the financial crisis in the mid-2007 in the European Union. For over five post-crisis years, there were 56 regulations developed and discussed in the European Parliament or the European Commission, 37 of which were implemented [Merler, Veron, 2014]. This phenomenon does not seem to be definitely limited. Three factors will be decisive: first, the large number of existing regulations, which will result in that the deletion of their weaknesses will require corrections or developing new legislation. Second, there is no indication that the wave of innovation could expire in the next few years, some of them will be destructive, which will lead to the beginning of the works on new legal acts. Third, there will be an administrative pressure to meet the current needs, different than expected earlier. On the one hand, for the stakeholders, those are not texts that read easily, and it is even harder to interpret and evaluate their social, economic, ecological results, to achieve consensus, implement and monitor. On the other hand, there is the cascade of problems that almost every regulation implies, and this makes that there are always regulations that require changes and updates. What is more, very often, new regulations do not remove the already existing and obsolete ones, so they must be followed by adaptation to the current conditions and to a larger number of accumulated legislation.

The vision of future EU regulatory projects for the years 2015-2019 has been formulated by S. Merler, N. Veron [2014]:

1) continuation of the legislative actions associated with the repair of the financial system after the crisis;
2) aiming at creation of a single financial market;
3) insufficient development of the European financial services provided by non-banking institutions and the capital market (*shadow banking*);
4) new institutional architecture of the European Union;
5) loss of leadership in defining of standards.

This vision of the Authors opts for modification and finalizing regulatory issues, which have already been taken up in the previous years, but no sufficient, intended effects have been reached, which requires taking extensive and supporting legislative actions.

There is no doubt that after the last financial crisis the banks are over-regulated, and what is important – the number of regulations does not decrease, but rather increases. Suffice to mention the last or announced regulations, such as: SEPA, AIFMD, FATCA, automatic exchange of information, PRIIPs, MiFID II, UCITS, etc. [Szpringer, Szpringer, 2014] or the EU data protection legal framework, to become aware of the high pressure under which the bank managements are, in order to keep pace with the constantly changing regulatory or market environment, stability and achieving the expected level of profitability. A matter of urgency is cooperation and coordination of activities, not only to identify the areas of possible conflicts, duplicated areas of regulations, and to find the time for the diagnosis of the newly emerging threats. The evaluation of the results of over-regulations of the banking sector has not been sufficiently analysed yet, and is not a subject of great interest of the scientific and research circles [Blinder, 2014].

It is still worth pointing out that one of the most important arguments for the exit of the United Kingdom from the EU has been the criticised system of community law making. On the occasion of this debate, the data that shed light on the problem of over-regulation have been presented. It turns out that 2,500 reports on the evaluation of the effects of regulations since 1998 to 2013 in terms of generating costs have been examined [Top 100, 2017]. According to this study, 100 most expensive regulations cost the United Kingdom 27.4 billion pounds per year; moreover, a quarter exceeds the estimated benefits. It has been calculated that the annual net costs for the UK amount to 3 billion pounds. The results of the study of the United Kingdom illustrate a strong influence of the EU legislature on the member states. It is estimated that this impact is in a relatively wide range of 13 to 62%. [BGLN, 2016]. It seems that for the member states that joined the EU after 2004, the level of this influence is closer to this maximum size, as the scope of the changes in the legal system was much wider. What is more, it is impossible to conclude from this publication whether the scope of the research covered only the regulations of the financial sector, because if not, the influence of the EU law in the financial industry would be much higher than 62%, as most of the regulations were addressed to the financial institutions and the financial market.

To sum up these considerations, it can be stated that after the financial crisis, the approach to regulating banks changed radically. Not only the role of the trend of domination of public objectives in the system of their regulation has been restored, but also the need to apply macroeconomic instruments has been understood. The micro-prudential regulation has been enriched with new mechanisms, principles, methodologies, and institutions. The substantive scope of regulating the banking sector has been definitely expanded, and what is more – embedded within the entire financial sector. The question arises whether this trend will be maintained, or whether the banking services market will force the necessity to search for new trends and concepts of regulating banks. The next point of the article will present the projected vision of the development of banks in the next decade and the concepts of their regulation.

Future market of banking services

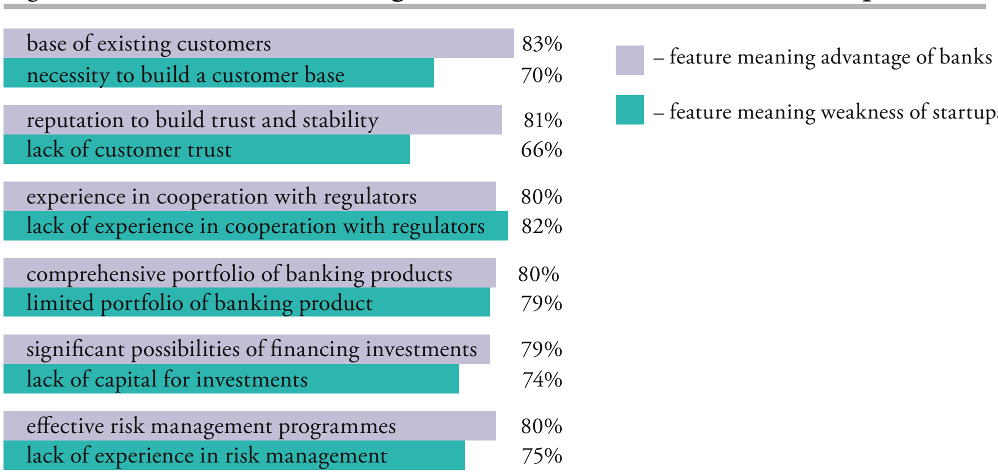
The future trends of the banking sector are predicted in many publications, which take the form of permanent or occasional reports. In this area, valuable are the reports of the consulting firms such as: Ernst & Young, Deloitte, McKinsey, or Capegimini. It is also worth mentioning about the publications connected with the World Economic Forum, the operation of EBA, or financial portals (e.g. of Chris Skinner).

To simplify the discussion about a possible banking model in the perspective of 2020 or 2030, we will limit ourselves to some of its selected dimensions: centres of banking services, competition and the issues of risk management.

Centres of banking services

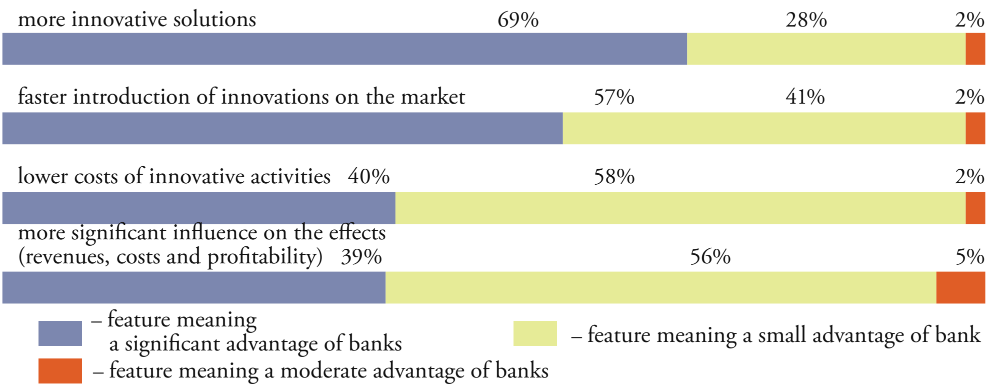
The role of financial centres is underestimated in the source literature, maybe because so far they were stable. It is hard to deny that the financial centres influence the competing system of the banks, set standards of consumer service, affect the directions and priorities of regulating the activities of commercial banks. If new centres of financial services were created or a change in the structure of existing ones took place, it could cause turmoil on the market of financial institutions, in the system of competing of the banks, and in regulations. In these areas, the largest European and American banks play a decisive role. In the publication BGLN [2016], a position is formulated that assuming a growing integration of European banks and capital markets, and with the United Kingdom leaving the EU, the centre of banking services will gradually move from London to Paris or Frankfurt. It is not expected that a "champion" will emerge on the European market. Furthermore, it is foreseen that the European banks will experience the effect of adverse factors affecting their future development. J-B. Gosse and D. Philon [2014] form a more general vision of financial centres. They see the positive impact of development of Islamic finances in the Middle East, the possibility

Figure 1 **Self-assessment of strengths of banks and weaknesses of startups**



% – refers to respondents recognising a given feature as very important or less important
Source: Kony, December 2015, p. 13.

Figure 2 **Benefits of cooperation of banks with startups**



Source: Kony, December 2015, p. 15.

of creating new financial centres in developing countries, and the possibility to create an important financial centre in Hong Kong on the Asian market.

Competition and tools of competition

Many reports indicate that in the near future, banking will function and compete in the digital space [Kony, 2015, WEF, 2017]. A consulting firm Deloitte [2016] finds that by 2030 customers will contact banking institutions only virtually. This will change all elements of management: strategies, business models, organizational structures, customer communication systems, product distribution and environment. It is clearly proven by the identified ten trends in retail banking [Kony, 2015]:

1) Use of digital platforms in the provision of banking services (*Platformification of banking*)

The provision of banking services on a common platform means that to a lesser extent the banks will compete directly with the new service institutions (e.g. fintechs, startups), but more efficiently operate in a partnership relation. It is mostly because of the advantage of the banks over these institutions (Figure 1) and of the potential benefits resulting from cooperation (Figure 2).

The three most important competitive advantages of the banks include: having customer databases, confidence in banks, and experience in relations with regulators. In contrast, the weaknesses of startups are expressed in: the lack of experience in cooperation with regulators, small number of offered products, and limited experience in the scope of risk management.

What is important for the tools of competition between the banks and startups are the potential benefits that can be achieved by banks, and most of all: achieving innovative solutions, faster, therefore less costly entrance on the innovation market, lowering of the costs of the implemented innovations, and achieving important business effects of the highly regarded shareholders.

2) Elimination of disputes in customer service

The market of services will be won by the banks that can offer products making daily lives of their customer easier. The customers appreciate these banking services that provide such features as: speed, intuitiveness, and comfort during their provision [Kony, 2015]. Traditional bank branches loose in the areas where the services are delivered to customers via the Internet or mobile applications.

3) Use of Big Data

It turns out that a great opportunity for the achievement of competitive advantage is obtaining information from social networking websites. They allow for a better understanding of customers at all stages of their contacts with the bank. This leads to a reduction of the costs of customer services, achieving higher revenues from sales, and an increase of customer loyalty.

4) Use of multi-channel provision of services (*optichannel*)

Banks appreciate actions that lead to optimisation of channels of service distribution, both traditional and new. The customers are not limited to only one distribution channel (see Figure 3). What is puzzling, though, is the fact that now up to 84% of the customers still visit a bank branch at least once a month.

5) Development of digital payments

Despite the introduction of many new technologies (cloud, Big Data, mobile applications) in the payment system, it is claimed that the progress in digitisation will be moderate, because the share of cash transactions will still be significant – about 25%. Great expectations are connected with dissemination of transactions using the mobile wallet.

According to the Authors of the report, customers require the payments to meet at least three key conditions: ease and comfort of use, individualisation, and access unlimited in time (24/7) [Kony, 2015].

6) Implementation of innovations

The possibility of non-financial institutions to enter the market of banking services on a wider scale (technological companies, startups, new banking organisations) makes the banks concentrate on pursuing innovative strategies. According to this report, the number of banks that realise innovative strategies increased almost twice in the years 2009-2015, from 37 to 73%. [Kony, 2015]. What is important, the increase of investments is made in the following areas: channels of distribution, customer service, and the use of their knowledge and experience, processes, products, sales, and marketing.

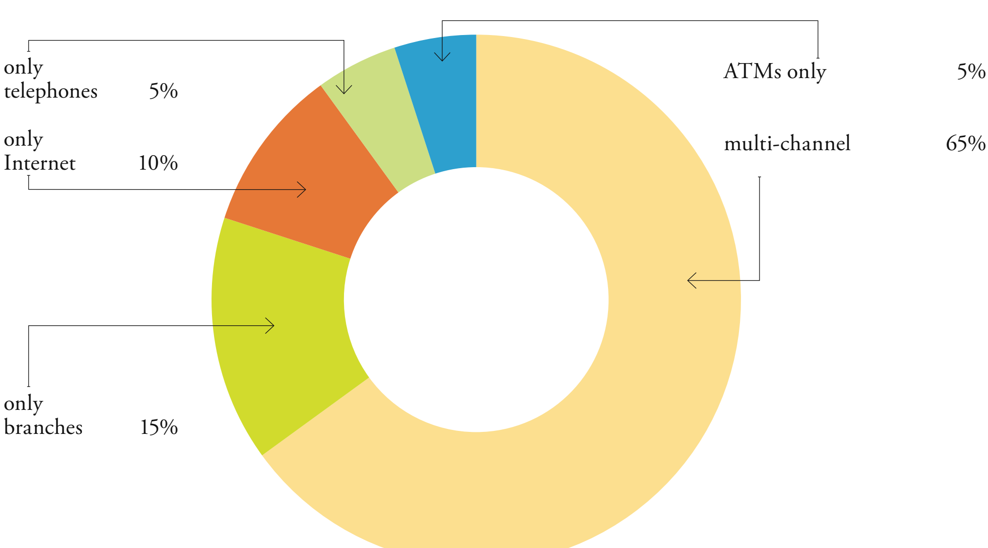
7) Application of advanced technologies

The number of advanced technologies that can be used directly by the banking sector or have a significant influence on its operation is enormous. Surprisingly, it is foreseen that a "turning point" for their application will be before 2025. The technologies that will mostly influence this process include: robots, Internet of things, block-chain, 3D printing, remotely-controlled car.

8) Occurrence of new formulae of providing services

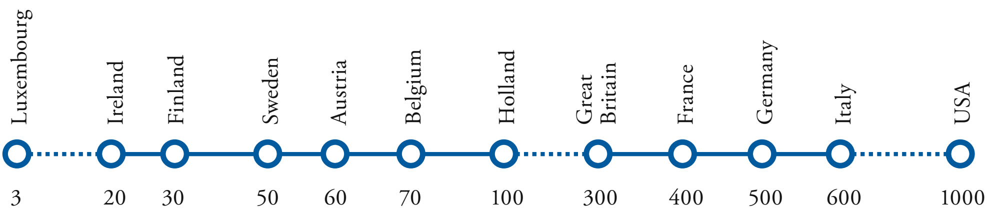
Technological possibilities will make

Figure 3 **Structure of use of service distribution channels by the customers**



Source: Kony, December 2015, p. 37.

Figure 4 **Estimated number of retail branches in the selected countries in thousand units**



Source: WEF, January 2017, p. 22.

the entrepreneurial managers to create new banking institutions from the start, e.g. in the United Kingdom, the already created Atom Bank, Monzo Bank, and Tandem.

9) Searching for new talents

A consequence of the development of implementation of advanced technologies is the necessity to search for new human resources, especially the so-called new talents, and than to use their potential effectively and to the maximum.

10) Responding to regulatory changes

The result of the study, according to which the presidents of banks find that the regulatory factor is often treated as the most important among determinants of the destruction of the banking sector, is not surprising [Kony, 2015]. It is much more important than competition, customers, or channels of distribution. It is also worth emphasising that over-regulation of the sector is leading among the factors affecting its growth.

The WEF report [2017] presents the future of retail banking in a similar tone. According to its Authors, the development of retail banking will be shaped by the three most important levers:

- the empowered consumer,
- disruptive technologies (Internet of things, self-driving cars/drones, artificial intelligence/machine learning, robots, digital traceability technologies, 3D printing, augmented/virtual reality, blockchain),
- transforming business models, and they include: a model of new generation of cooperation, model of individualization, demand model and service model.

The WEF report of 2017 pays a lot of attention to the social aspects revealed in the development of retail banking. It is foreseen, in particular, that in the next decade the role of shopping centres and central streets as places of social integration will change. The number of retail facilities will be drastically reduced (Figure 4).

This trend will be followed by the reduction in the number of people employed in the retail trade (Figure 5). The reduction of employees will relate mainly to the group of cashiers and administrative staff (*back office* employees). As a result of automation, their workplaces in the perspective of a decade may be at risk at the level of 30 to 50%. Also, the structure of employees in branch offices and in banks will change.

Risk management

The future trends in risk management in the banking sector are presented in the publication of the known consulting firm, McKinsey [Härle, et al., 2015]. The perversity of this article is that first, general trends of bank management in the perspective of the next 10 years are presented, and than, the areas and issues specific to risk management are identified. The publication describes six structural trends that will transform the bank management process, that is they will affect the changes of: priorities, scope, approach, methods, and reporting in the area of risk management. They are:

1) Continuation of the over-regulation process

Apparently, it may seem that after the wave of implementation of a lot of crisis regulations in the financial sector, the regulatory pendulum will drastically change to reduce the activity of regulators and supervisors. According to the Authors of this publication, it is not going to happen. They justify it with numerous arguments, in particular, the lack of acceptance of the current model of covering the costs of bankruptcy (insolvency) of banks by taxpayers, the need of efficient response to illegal or unethical conduct of banks, including a larger participation of the banks in supporting the police in the fight against terrorism and crime. They also notice a growing pressure from governments to increase the importance of the units responsible for the compliance with regulations, so that only "good banks" remain on the market. Additionally, they forecast that the problem of the calculation of the regulatory capital is to be solved under the prepared regulation of Basel IV. Stressing of the growing role of risk culture in risk management is also a valuable idea.

This trend will affect risk management in banks in the following areas [Härle, et al., 2015]: optimisation of the legal frameworks, increasing the role of compliance with regulatory principles (e.g. the principle of fairness), the pursuit of automation of the function of *compliance* and stronger cooperation of regulators with business entities.

2) Change of consumer expectations

New technologies and changing customer structure, in which the young generations will have a decisive influence on the increase in sales and profits of the banks, and not the customers above 40 years of age, as it used to be. This will require the implementation of two priorities: automation of instant decision-making and application of the highest level of service individualisation (*segment of one*), that is pricing and product portfolio individual for each customer.

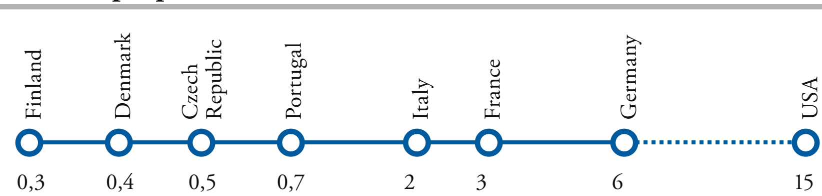
3) Technology and analytics

Financial innovations, as well as new concepts and analytical approaches are inter-related and they will be a significant element in risk management. Three innovations are distinguished: Big Data, machine learning, and the idea of open and wide formula of disaggregation of acquiring the necessary resources and the methods of implementation of tasks (*crowdsourcing*).

4) Additional (non-financial) emerging risks

A general increase in financial risk in the last 20 years is identified, and, surprisingly – increasing share of the non-financial risks. Reporting and controls of bank activities record an increase in penalties, and costs, particularly related to operational risk management and respecting legal provisions (*compliance risk*). Unexpectedly, the McKinsey's article does not see the treats resulting from the implementation of PSD 2 Directive. It recommends the need of analysis and assessment of: the risks of contagion, risks of models, cyber-attacks on financial institutions.

Figure 5 **Approximate number of employees in the retail trade in selected countries (in million of people)**



Source: WEF, January 2017, p. 24.

5) Improvement of risk-related decision making process by elimination of unrecognised prejudices

It must be admitted that the elements of the risk culture have been poorly recognized so far. Excessive trust of customers in the level of their financial knowledge, prejudice arising from the phenomenon of "*anchoring*", herd behaviours, have important implications for the performance of banks and the perception of bankers by customers. Therefore, it is proposed to introduce risk management in banks: to recognise the negative effects of the phenomena connected with prejudice, to apply techniques to eliminate prejudice of analytical, organisational, and training nature.

6) Necessity to obtain greater cost savings

In the conditions of low level of interest rates in the recent years, banks experience a significant decline in margins and financial performance. Hence, the visible trend of increasing the prices of financial services is natural, if the competition allows for it, a more difficult operation often remains – aiming at reduction of costs. Future tendencies in the scope of regulation of the banking sector is also outlined in the reports of the world consulting firm Deloitte [2015, 2016].

The directions of regulations investigated from the perspective of 2015-2016, are highly similar. In 2016 (Table 1), the issue of culture and risk, and model risk disappear, the effect of the impact of the election of Donald Trump for President, liquidity, and fintechs is introduced. Also the issues of digital risk management are highlighted more (threats, fighting against digital financial crimes), and the priorities change. Regulatory priorities set by Deloitte do not designate a breakthrough in the manner of regulating the banking sector, although it might seem that in the new emerging civilisation, it is extremely needed.

The trends presented on the market of the banking services point to the emerging of a new model of competing of entities on an open digital platform, in which, next to the banks, there will be new non-banking institutions, or institutions that are scarcely visible on the market. The key role of destruction in this process will be played by the market of payments and financial innovations, which accompany these changes. It seems that it is not a foregone regulatory issue, whether the legislation will go in the direction of intensification of control of the operation of banks, or whether it will attempt to restore a more active role of market mechanisms. This will depend on the extent to which the regulatory priorities made by the banks and their representatives are taken into account. Identification of these expectations will be discussed in the next section of this article.

Regulatory priorities arising from observation and analysis of the banking practice

The priorities presented below in the area of banking regulations may sound too conservative, but they can be an important factor in rebuilding the dynamics of the development of the banking sector. They include the phenomenon of over-regulation, system of financial innovation selection, and the fight for quality of regulations by means of numerous institutional activities.

Over-regulation

An excess of regulations on the banking sector, which is expressed both in the prepared and consulted drafts, as well as in the implemented legislation, creates a huge hump of regulations, which cannot be reasonably acquired, implemented, and adjusted to their requirements. Over-regulation becomes the biggest obstacle to the development of the banking sector, as the bank's managements are not able to concentrate on the search for the best strategies, tactics and policies, are constantly late in the process of implementation of regulations, bear excessive costs associated with their adaptation, continuously lose time on contacts with regulators and the media, to convince about their reservations and arguments. Undoubtedly, the over-regulation generates chaos, high costs and new risks, which are usually undervalued or overlooked.

The new directions of regulations related to digitalisation of banking services and the development of the new business model of a digital bank, perceived by analysts and managers of banks, undoubtedly strengthen the phenomena of over-regulation, as creation of numerous, needed new provisions is not accompanied by deleting of the outdated ones. The British apply the "one in, one out" rule. The new American President Donald Trump announces the introduction of the rule – one new regulation with the exclusion of two already inadequate. In Poland "cleaning of the outdated regulations" is more of a domain of wishes than a real action of regulatory and legal institutions. Employees and customers of banks find themselves in an uncomfortable trap of unnecessary provisions. Introducing cosmetic modifications to individual legal acts, making their corrections or additions, will not make the provisions on the operation of banks more transparent, readable, and understandable. Therefore, it is necessary to use more radical actions to create a clearer field for the entry of the digital banking on the highway of sustainable legislation. For example, activation of the procedure of contesting acts and establishing a short time of three months for a decision to be made by legislative institutions, may allow for their removal or making a radical cutting of applicable provisions, to create a free space for activation of efficiency-oriented activities.

An important direction is to make an intense pressure to produce a culture of writing short regulatory acts. It is possible and will not result in a smaller degree of adaptation (compliance) in the implementation of the objectives of the regulation.

System of selection of financial innovations

Long gone are the days when there were one or a few innovations per year in the banking sector. Currently, there is an invasion (frontal flood) of innovations, both those created by fintechs, technological companies, as well as banks, which largely involve their resources to create and implement innovative projects. Banking (financial) innovations are characterized by that:

- they are the most important contemporary factors of competing of banks, change the structure of the market, behaviour of customers, and to a large extent determine the rate of digital changes of the society [Aubert, 2005];
- they appear suddenly, and their economic, financial and social results are difficult to be predicted and to be integrally assessed [Nelson, Winter, 1977];
- they apply to a vast number of customers, which makes that the effects of banking innovations may turn out to be positive, but also negative on a large scale; thus, the successes are also significant risks that cannot be ignored;
- it is difficult to qualify them for patent protection, which makes them easy to be copied. If they are found to be effective for the innovative banking institution, their diffusion in a short term can spread across the entire sector [Shiller, 2013];
- they affect the dynamics of the development of the banking sector, society and the economy. If the innovation creates benefits for banks and customers, its positive effects are experienced

Table 1 **Most important directions of banking sector regulation**

Regulatory area	
2016	2017
1. Risk management and supervision	1. Impact of the election of the new President on the regulations
2. Culture and ethics	2. New age of capital planning and stress testing
3. 3. Capital planning and stress testing	3. New order in the scope of capital
4. Corrective planning and resolution system	4. Data quality, analythics and reporting system
5. Strengthening of prudential regulations for foreign banks	5. Fintechs
6. Customer protection	6. Digital threats and digital risks
7. Digital threats	7. Planned under resolution
8. Data quality, analythics and reporting system	8. Customer protection
9. Managing model risk	9. Liquidity
10. Quality of credits	10. Risk management and supervision
11. New risks arising from implementation of innovations and migration of activities	11. Strengthening of prudential regulations for foreign banks
12. Connecting regulatory strategy with business strategy	12. Quality of credits
	13. Managing model risk
	14. Risk of financial crime

Source: Deloitte & Touch LLP, 2015, p. 3.; Deloitte, United States, December 2016, p. 5.

by the economy as a whole. Innovative failures are also severe, e.g. a large-scale diffusion of new products may result in crisis situations for banking institutions, public finance or the economy, which was revealed by the last *subprime* financial crisis.

These features of innovations imply the need to change the existing methods of their regulation. One of interesting proposals for the development of friendly regulations is presented by S. Ranchordás [2015 a, b]. She identified them as sunset clauses and experimental regulations. Also the changes of the regulators and the level of bank's engagement is necessary for the new methodologies to prove effective and efficient.

An adequate system of monitoring and control of the banking products entering the market is indispensable to avoid the creation of the systemic risk or a loss of confidence of many client groups.

Increasing institutional pressure to improve the quality of regulations

One of the important future directions of regulatory activity in the European area should be exerting more institutional pressure on the quality of the regulations made. It seems that the existing reports and studies to a larger extend focus on elaboration of new regulations than on the assessment of their implementation quality and the effects actually achieved. Their weakness is that they are trying to evaluate the general features of the regulating processes at the scale of the entire economy, and do not relate to the quality of the key sectoral regulations.

The analysis of regulatory processes from the point of view of practice shows that some stages of developing regulations are subject to frequent manipulations. In particular, the sphere of public consultations still raises serious reservations (the issue of the selection of experts, evaluation quality, objectivity of media activities, cooperation between the regulators and the regulated entities, presentation of opinions of NGOs, communication of objectives and expected impact of regulations to the public).

A neglected area of financial regulations is also the fact that the cultural and political factors are poorly identified and explored, and they will be increasingly important in the future processes of effective and efficient regulation of the banking sector.

Conclusions

A central area of interest in the future regulatory actions will be the effects of financial innovations on the functioning of the banking sector, the economy, and society.

An important, and perhaps the most important barrier to the development of banks is the phenomenon of overregulation of this sector, which strongly inhibits the entry on the highway of sustainable development.

It does not seem that the achieved better effects of harmonisation of macro-prudential and micro-prudential approach to elaboration and implementation of regulations in the banking sector has changed fundamentally.

The future regulatory actions will aim at the safe stimulation of financial innovations, eliminating structural developmental imbalances, achieving effective compromises at global, national, and local levels. Thus, the known regulatory methodologies related to the concept of Risk-based Regulation, connected with the principles of: proportionality, and *one in, one out*, or the public consultations, can be an object of improvement and may gain a widespread application in the European countries.

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