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**THE ROLE OF THE AUDIT COMMITTEE, THE INTERNAL AUDITOR
AND THE STATUTORY AUDITOR AS THE BODIES SUPPORTING
EFFECTIVE CORPORATE GOVERNANCE IN BANKS**

Introduction

In recent years the global financial crisis has proven that the corporate governance used in American and European banks is not effective enough. At present financial supervision authorities and various international organizations are trying to increase the effectiveness of corporate governance in banks. There has been a lot of discussion on the international scene about increasing the effectiveness of risk management and adequacy of internal control systems in banks, and about the role and purpose of the bodies responsible for the supervision and assessment of these areas. Attempts are also made to extend the competences and responsibilities of supervisory boards and their committees. In particular, the problem of the role, competences and responsibilities of the audit committee and the risk management committee is much reflected on. The role, the aims, the independence and the professionalism of internal audit are also debated. Unsolved problems have also been identified in the area of assuring effective external control, and in particular of shaping the scope and quality of financial supervision on a global scale. In recent years, upon the introduction of regulations on trusting statutory auditors with greater independence of the banks in which they audit financial statements, a new problem was identified, namely that of increasing the quality and usefulness of the information which management boards could receive from statutory auditors upon inspection and examination of interim reports and annual financial statements. Therefore, it should be noted that the role and aims of audit committees, internal audit and statutory auditors have become an essential subject of a world-wide discussion with reference to corporate governance in banks.

The purpose of the present article is to discuss the role and tasks of audit committees, internal audit and statutory auditors in banks operating in Poland. It describes the impact of the amendment of laws and other regulations on the development of the present internal and external control systems in commercial banks and in banks which promote cooperation between cooperative banks. It draws attention to the need for a new structure of the internal control system, and the role and purpose of internal audits as a tool for supporting effective supervision in banks.

Audit committees, internal audit and external audit in bank corporate governance in the light of international laws and regulations

It should be mentioned that it was not the recent events in the banking sector that inspired discussion on corporate governance, since the issues in corporate governance have been researched for over 30 years. As has already been mentioned, audit committees, internal audit, internal control procedures, as well as external audit and financial supervision currently constitute key elements of monitoring public interest institutions, including banks. The abovementioned issues have been addressed by organizations such as: the Organization for Economic Cooperation & Development (OECD)¹, the stock exchange commissions in the USA (SEC, NYSE) and Europe (LSE)², as well as other organizations³, including the associations of statutory and internal auditors. Various issues related to corporate governance have been included in the stock exchange guidelines, financial review standards⁴, internal control standards⁵ and internal audit standards.⁶

The first AICPA standards and SEC and NYSE guidelines in this respect were created in the USA for companies quoted on the stock exchange in the '70s of the 20th century. The Report of the Blue Ribbon Committee (1999)⁷ and the Report of NACD Blue Ribbon Commission (2000)⁸ defined in detail the role and tasks of the committee as a body supporting the supervisory board in a company.⁹ However, it was not until 2002 that the Sarbanes Oxley Act (SOX) on the implementation and assessment of internal control systems and the aims of internal and external audits in companies quoted on American stock exchanges, was enacted. The SOX law applies to all banks (including Polish banks), provided that they operate within international corporations quoted on American stock exchanges. At present the banking sector in the USA is supervised by the following bodies: the Federal Reserve Board of Governors, the Office of the Controller of the Currency (OCC), the Office of Thrift

¹ OECD and the World Bank established the Global Corporate Governance Forum. In 2004 a new version of „OECD Principles of Corporate Governance” was published, www.oecd.org.

² The Securities and Exchange Commission (SEC), the New York Stock Exchange (NYSE) and London Stock Exchange (LSE).

³ The Committee of Sponsoring Organizations of the Treadway Commission – COSO, The American Institute of Certified Public Accountants – AICPA, The American Accounting Association – AAA, The Financial Executives International – FEI, The Institute of Internal Auditors – IIA, The Institute of Management Accountants – IMA (USA), The Canadian Institute of Chartered Accountants – CICA (Canada), and The International Auditing Practices Committee – IAPC, The International Federation of Accountants – IFAC.

⁴ Standards AICPA SAS No. 55 and SAS No. 78, www.itknowledgeexchange.techtarget.com/ and International Standards on Auditing, IFAC, www.ifac.org.

⁵ The COSO Report: Internal Control – Integrated Framework), and The COSO II Report: Enterprise Risk Management – Integrated Framework, www.sox-online.com/coso_cobit.html.

⁶ The International Standards for the Professional Practice of Internal Audit, www.iaa.org.

⁷ Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees, www.nyse.com.

⁸ Report of NACD Blue Ribbon Commission on Audit Committees: A Practical Guide, National Association of Corporate Directors, Washington (2000, 2004).

⁹ It should be emphasized that standards and guidelines are not laws.

Supervisor (OTS), and the Federal Deposit Insurance Corporation (FDIC). Some banks are subject to state supervision, while others to federal supervision.

In Europe the basic issues in corporate governance are governed, *inter alia*, by the EU Directives. Directive No. 2002/87/EC is dedicated to supplementary supervision of credit institutions. Directive No. 2003/71/EC regulates the obligations of supervisory councils and their committees in companies quoted on the stock exchange. Directive 2006/43/EC is dedicated to public supervision of the companies of statutory auditors and their independence of the audited companies. It made the assessment of internal control systems and the appointment of audit committees in banks and other public interest institutions mandatory. Directive 2006/49/EC is dedicated to the capital adequacy of investment firms and credit institutions. The following directives entered into force on January 1st, 2011: Directive 2009/27/EC on risk management, Directive 2009/83/EC on capital requirements for credit and operational risk and Directive 2009/111/EC on the organization of supervision of European banking groups.

The institutions which supervise the banking sector in the EU include: The European Central Bank (ECB), the European Banking Authority (EBA), the European Financial Stability Facility (EFSF) and the European Systemic Risk Board. Banks in the EU countries comply with the EU directives, national laws and regulations and national stock exchange regulations, including codes of good practice¹⁰. The regulations and supervisory solutions which apply in particular EU countries are similar. They differ in the degree of integration of supervision and their position in a given country.

It should be emphasized that for many years **the Basel Committee on Banking Supervision (BCBS) has played an important role in developing standards and recommendations for banks all over the world.** BCBS was created in 1974 under the auspices of the Bank for International Settlements. The Committee's member countries are represented by their central banks and also by the authorities responsible for the banking supervision (in cases when banking supervision is located outside the central bank). BCBS provides a forum for close cooperation between member countries in the field of banking supervisory issues. However, the Committee does not operate as a supranational supervisory authority and its guidelines are not legally binding. The Committee formulates technical standards, guidelines and recommendations concerning best practices in the expectation that indi-

¹⁰ The first recommendations pertaining to corporate governance in the UK appeared in the 90s of the 20th century and at the beginning of the 21st century: Cadbury Report (1992), Greenbury Report (1995), Hampel Report (1998), The Combined Code (1998), Turnbull Report (1999), Higgs Report (2002), The Smith Guidance (2003, 2006), The Combined Code (2008). Since July 2010 the companies quoted on the London Stock Exchange have also complied with the provisions of the new UK Corporate Governance Code, which takes into account the provisions of Directive 2006/43/EC. The banks in Germany comply with the German Panel Rules, while those in France – with Vienot II.

vidual supervisory authorities will take necessary steps to introduce them into national legal systems in the best manner.¹¹

The role and tasks of the audit committee and auditors in the light of Polish laws and regulations

It was many years ago that the banks in Poland established internal audit units and appointed audit committees in addition to implementing and perfecting internal control systems.

As early as in 1992 the National Bank of Poland (NBP) made internal control in banks obligatory, upon which banks established internal control or internal review departments. In the following years the said departments were transformed into internal audit departments, as a result of the enactment of new laws and regulations. NBP in consultation with banking supervision institutions¹² developed a number of standards and recommendations for banks on the basis of the Basel Committee's principles. The most important recommendations pertaining to corporate governance include guidelines for developing the structure of the internal control systems, the functioning of the audit committee and internal audits, the review of financial statements, the operational risk management and the other so-called "prudence" guidelines.¹³ The banks operating in Poland today are obliged to comply with a significant number of revised national laws and regulations, including the Bank Law Act, the Act on statutory auditors (...) and on public supervision¹⁴; the resolutions of the Polish Financial Supervision Authority (KNF). Bank's management boards should also take into consideration KNF recommendations and guidelines developed on the basis of BCBS recommendations; Internal Auditing Standards (IIA); COSO internal control reports, as well as Good Practice of WSE-listed Companies, if a given bank is quoted on the Warsaw Stock Exchange.

¹¹ There are twenty seven member countries: Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. www.bis.org/bcbs/index.htm.

¹² The Polish Banking Supervision Authority (KNB) and the General Inspectorate of Banking Supervision (GINB) operated in Poland until 2007. KNB and GINB cooperated with the Polish Institute of Internal Auditors of the Polish Bank Association, which developed the guidelines for control and auditing in banks. In 2007 the Polish Financial Supervision Authority (KNF) took on the responsibilities of KNB and GINB.

¹³ The most important ones include: Recommendation D on the management of banks' IT and telecommunication systems risks (1997, 2002), Recommendation H on banks' internal audit (1999, 2002), Recommendation L on the role of statutory auditors in the bank supervision process (2001), Recommendation M on the operational risk management in banks (2004), Recommendation P on the bank's financial liquidity monitoring system (2002), Recommendation S (II) on good practice in mortgage loans (2008) and Recommendation T on good practice in consumer credits risk management (2010). Currently the Polish Financial Supervision Authority is revising recommendations H, M, P and S.

¹⁴ The Act on Statutory Auditors made it mandatory to appoint an audit committee and to hold financial reviews in banks as public interest institutions.

The abovementioned regulations and standards govern many aspects of corporate governance. The amended Bank Law Act of 2007 and 2008 contains provisions which normalized the most important issues related to appointing audit committees and their functioning, the tasks of the internal audit department and the internal control procedures. As per the said regulations a bank is obliged to have a management system being a collection of rules and procedures pertaining to bank's decision-making processes and to the assessment of its business activity. The management system must at least be composed of: a risk management system and an internal control system.

As per the provisions of the Banking Law Act, the purpose of the internal control system is to support the decision-making processes thus contributing to: the effectiveness and efficiency of bank's operations, the reliability of financial reporting and compliance of bank's operations with the laws in force and the internal regulations. The internal control system comprises: risk control mechanisms, internal control procedures, including procedures for assuring that the bank's operations abide by the laws and internal regulations as well as internal audit¹⁵. The internal audit department is responsible for an independent and objective examination and assessment of the risk management system and the internal control procedures' adequacy and effectiveness. The information about the discovered irregularities and the conclusions of the internal audit as well as the actions taken in order to repair them are provided on a regular basis to the bank's supervisory board.

It should be emphasized that KNF adopted resolutions No. 4/2007 and No. 383/2008, which contained guidelines for appointing various committees at the bank supervisory boards and management boards, including the audit committee, the remuneration committee, and the risk committee. Moreover, the resolutions contained detailed guidelines for the functioning of the audit committee, the internal audit department, the risk management and the internal control system.

Audit committees were to be appointed and operate in banks since December 9th, 2009. This obligation resulted from the provisions of the amended act on statutory auditors. Only cooperative banks were discharged from this obligation, since audit committees were appointed in the head banks of cooperative bank federations¹⁶. Article 86 of the act lists the principal tasks of the audit committee, taking into account the guidelines of Article 41 of Directive No. 2006/43/EC. As per the act the audit committee recommends to the supervisory board a statutory auditor who will audit the bank's financial statement. The statutory auditor is, inter alia, obliged to: submit declarations confirming his or her independence of the bank as well as information on the services which he or she provides to the bank to the audit committee on a yearly basis (Article 88). The key statutory auditor may audit financial statements of a given bank for no more than 5 years. Moreover, the statutory auditor may

¹⁵ The definition of internal control in Polish regulations was modeled on the definition provided in the COSO Report.

¹⁶ Pursuant to Article. 41 of Directive No. 2006/43/EC.

not hold a managerial position in the bank. He or she may resume financial review activities in the bank after a 2-years break. The statutory auditor is obliged to inform the audit committee in writing about any relevant issues identified in the course of the financial review, including any significant irregularities in the bank's internal control system with reference to the financial reporting process.

In most banks internal audits are carried out in compliance with The International Standards for the Professional Practice of Internal Audit, developed by IIA. Commercial banks operating within the structures of foreign groups were the first banks to incorporate the IIA standards into their internal auditing practices. The banks with Polish capital, including the head banks of cooperative banks federations, still do not abide by the IIA standards. The said banks have their own internal audit standards, which take into consideration the national regulations and the recommendations of financial supervision authorities in this respect.

Contemporary internal control and supervision models in banks operating in Poland

It should be emphasized that an effective internal and external control system is an indispensable element of a bank management process. The purpose of the internal control system is to support bank management, and in particular to ensure: effectiveness and efficiency of bank's operations, reliability of bank's financial reporting and compliance of bank's operations with the laws and internal regulations.

A bank's internal control system comprises two elements:

1. **functional control** – which is exercised by each employee within the scope of the quality and accuracy of his/her work, as well as control exercised by their immediate superiors or the bank's specialized control units (e.g. the internal control unit),
2. **institutional control** – exercised by the internal audit department, the audit committee and the supervisory board.

In principle the internal control system of many banks comprises three levels:

- **Level 1 (functional control)**: internal control procedures implemented into particular banking processes, including control activities built into particular banking processes aimed at reducing the risks identified in the processes (e.g. written control procedures, self-assessment, manual and automatic controls of the IT systems, etc.),
- **Level 2 (functional control)**: ongoing monitoring of internal control procedures, used on a regular basis by the bank's management and the selected administrative units (the risk management department, the internal control unit, the law department, etc.) appointed for management of specific types of banking risks. The purpose of this type of control is to assess the effectiveness of control at level 1.
- **Level 3 (institutional control)**: periodic monitoring of control exercised through internal audit, which involves the assessment of the risk and the bank's internal

control procedures and their practical application. The purpose of periodic control monitoring is to assess the effectiveness of level 1 and level 2 control.

A bank's internal control system should correspond to the scale and complexity of the bank's operations. The management board and the managerial staff should establish control procedures reducing the bank's credit and operational risk. Operational risk is associated with the breach of the bank's principles, policies, procedures, fixed limits or decision-making rights or the possibility of employee error. The internal audit system must have an internal audit department to function properly. The basic purpose of an audit is to assess the adequacy and efficiency of internal control procedures in relation to the credit and operational risk associated with the bank's operations. The audit department is under direct supervision of the management board or the audit committee. The audit committee appointed from among the members of the bank's supervisory board supervises the functional and institutional control.

External control exercised by a statutory auditor in the form of review of financial statements and KNF's¹⁷ supervision of banks are important ways of supplementing internal control.

Due to the different nature of operations of the two types of banking institutions in Poland, i.e. commercial banks and head banks of cooperative banks federations, currently there are two models of internal and external control with reference to corporate governance. Figure 1 presents the model of internal and external control in commercial banks as far as corporate governance is concerned.

Currently in Poland there are three cooperative banks federations. They bring together the total of 600 cooperative banks. Audit committees and internal audit departments have been appointed only in the head banks. In cooperative banks which are federation members, internal audit is carried out periodically from the level of the head bank. In some larger cooperative banks one or more internal control positions are established. An internal controller develops internal control procedures in a cooperative bank, provides ongoing monitoring in a bank, thus supporting the management board, and cooperates with the internal audit department in the head bank of the cooperative banks federation.

Figure 2 presents a model of internal and external control in head banks of cooperative banks federations.

¹⁷ As per § 28 of the resolution No. 2/2008 KNF, KNF is responsible for analyzing the data and information obtained from banks, including the data on banks' strategies, risk management system, internal control system, internal audit reports, annual management board reports for the supervisory board; data and reports submitted by banks to the National Bank of Poland, banks' annual financial statements along with the statutory auditor's opinion; financial reports of the entity which heads the bank, as well as reports on the implementation of recovery proceedings, if the bank was obliged to engage in such proceedings.

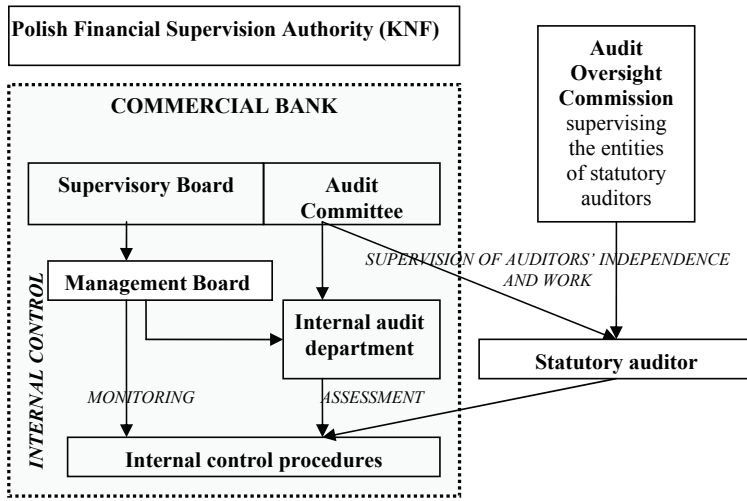


Fig. 1. The model of internal and external control with reference to corporate governance in commercial banks

Source: own work.

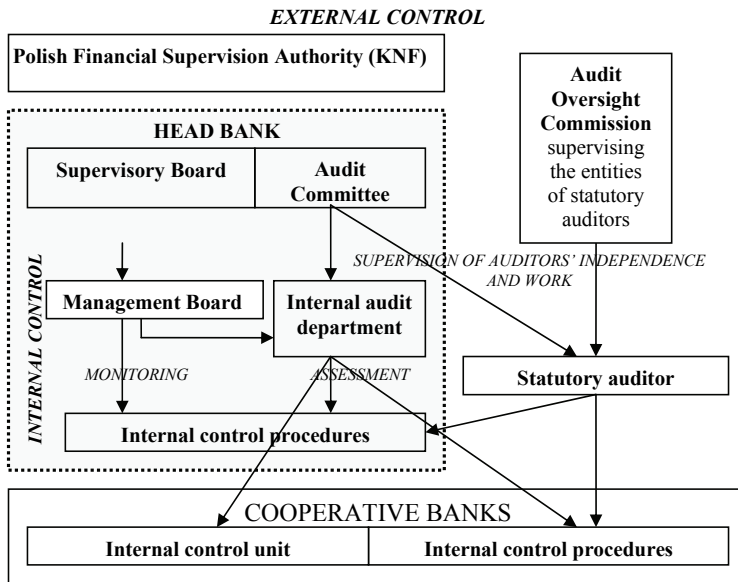


Fig. 2. The model of internal and external control with reference to corporate governance in head banks of cooperative banks federations

Source: own work.

Practical aspects of establishing the tasks of the audit committee as new corporate governance bodies in banks operating in Poland

The basic aim of a bank's audit committee is to assist the supervisory board in fulfilling its control and supervision tasks, including ensuring top quality internal and external audit, independence of internal auditors and statutory auditors, supervision of the risk identification and management system as well as effectiveness and adequacy of the internal control system. As per the laws in force the committee should comply with the rules of the supervisory board or the rules of the audit committee. The rules should determine in detail the scope of the committee's competence and the principles of accessing documents, information and other materials associated with the bank's operations by the committee members. Moreover, the rules should define the principles of organization and the strategy of the committee's operations, including the manner and frequency of summoning meetings, the manner of conducting the meetings and adopting resolutions, the manner of documenting the meetings and performing specific tasks, and the conditions for participation of third parties in the meetings. The rules should also define the principles of cooperation between the committee and internal and external auditors. They should govern the cooperation of the committee members with managers and employees of the bank, their branches or the united banks.

It should be emphasized that the introduction on new laws and regulations forced the supervisory boards and audit committees to revise the procedures on the basis of which they operated and to ensure:

1. adequate participation of independent members in the audit committee; at least one independent member must be a qualified accountant or financial reviewer,
2. engagement of the members in the operations of the supervisory board and the audit committee, at the same time limiting the number of positions they can hold in a bank,
3. formalization of the annual assessment of the committee's performance and effectiveness,
4. tools and procedures for the functioning of the committee, which will ensure that the examined areas are complete and that their assessment in a bank is detailed enough,
5. implementation of formal procedures for adequate monitoring and assessment of internal control systems and risk management; in order for these procedures to be implemented, a corporate supervision system must be defined, internal control procedures and risk management procedures must be defined and implemented by the management board and the managers, and the aims of internal audit must be fulfilled.

The bank's organizational rules were also adequately amended in order to oblige all the administrative units (departments, branches, cooperative banks) to cooperate with the committee.

Upon analyzing the rules and regulations of supervisory boards and audit committees in several commercial banks and head banks of cooperative banks federations, it becomes evident that most of the rules still fail to define in detail the tasks, competences, manner of operation and responsibilities of these committees. In many banks the committees' tasks are not formulated precisely enough or omit many areas of supervision and control (e.g. the operational risk management systems or elements of the internal control system) required by the law. Some focus mainly on financial reporting and on relations with the statutory auditor. Having analyzed the rules the present author arranged the main areas of the audit committee's activity in table 1 and suggested exemplary detailed tasks in these areas.

Table 1

The main areas of activity and exemplary detailed tasks of audit committees in banks

Area	Detailed tasks of the audit committee
1	2
Supervision of the internal control system	<p>The audit committee supervises:</p> <ol style="list-style-type: none"> 1) the adequacy of the risk factors and business threats identification systems implemented by the management board, 2) the internal control systems, the including compliance of bank's operations with the laws in force, the internal procedures, the Code of Ethics, the Articles of Association, and the principles of corporate governance, 3) the effectiveness of internal audit works, access to sources of information and statutory auditor's opinions and recommendations, 4) adherence to procedures and the operation of the systems which reduce the risk of irregularities arising in the bank (cooperative bank), 5) the consistency and implementation of the abuse exposure policy, 6) the assessment of the impact and the manner of implementation of new regulations, including KNF's regulations, the recommendations of auditors, 7) the work of the risk management department, the KNF's recommendations and the position of the management board regarding the said recommendations.
Supervision of the risk management system	<ol style="list-style-type: none"> 1) It comment on the draft principles of careful and stable management as well as the acceptable levels of risk in the areas of the bank's activity, 2) comments on draft principles of internal capital assessment, capital management and capital planning procedures, 3) assesses adherence to compliance rules on the basis of the reports submitted by the relevant bank units and gives recommendations in this respect, 4) comments on draft regulations and amendments to bank regulations on the principles of adherence to standards, including the risk policy, 5) assesses the procedure for exposing irregularities in the bank as implemented by the relevant units.

1	2
Supervision of reporting	1) Analyzes information about important changes in accounting or financial reporting presented by the management board, and in estimated figures and assessments crucial for financial statements, 2) analyzes annual financial statements and the results of their audit along with the management board and statutory auditors, 3) gives recommendations for the approval of the financial statement audited by a statutory auditor to the supervisory board.
Relations with other entities	1) Gives recommendations regarding the decision approving the conclusion of an important agreement by and between the bank and its associated entities or other external entities (e.g. new IT systems), 2) monitors the agreements concluded by and between the bank and external entities, including the adequacy of remuneration for the services provided.
Powers of the committee, including those pertaining to the statutory auditor	1) Recommends a statutory auditor and their change to the supervisory board, assesses his/her performance and independence, taking into consideration the applicable regulations and corporate governance rules, 2) comments on the delivery of services other than financial statements auditing by the statutory auditor, presents the bank's position on this subject, 3) gives recommendations for the amount of remuneration due to the statutory auditor for auditing financial statements or other services provided to the bank and assesses the amount of remuneration paid to the statutory auditor, 4) monitors the independence of the statutory auditor and his/her objectivity in auditing financial statements and reviewing interim reports, 5) assesses the effectiveness of the reviews of interim reports and the audits of financial statements, the response of the management board to the statutory auditor's recommendations expressed in the letter to the management board.

Source: own work.

The author believes that increasing the effectiveness of supervision and control exercises by the audit committee may help to develop and implement an integrated audit program. The program should cover coordination of internal and external audit activities, including:

1. presentation of the principles of operation and the structure of the internal control system to internal and external auditors,
2. analysis of audit results in order to perfect the internal control and the risk management systems,
3. relations of internal and external auditors,
4. decision about the methodology of internal and external audits,
5. principles of cooperation between auditors in risk assessment,
6. principles of using the reports of statutory auditors from past audits by internal auditors,
7. principles of making internal audit reports available to statutory auditors.

Both external and internal auditors should be able to directly and freely contact the audit committee and the supervisory board at any time. Moreover, the committee should be subject to self-assessment in the light of the rules and regulations in force at least twice a year.

Final remarks

Due to the financial crisis further supervisory actions and regulations have been introduced worldwide in the banking sector. It was noted that supervisory actions and new regulations must be implemented on an international scale. They should take into consideration the new risks taken on a global scale, including operational risk and intangible risk. Macro-risk which could lead to further breakdown of the financial market in the future should be monitored at the highest levels of the EU, the International Monetary Fund or the G-20 group, with the assistance of national supervisory bodies, such as e.g. KNF. In the future, the new regulations and standards should be coordinated and harmonized on a global scale in order to avoid regulatory arbitrage with reference to international financial groups. The issues in operational risk management, the construction of the internal control system, the role of the audit committee, the internal audit and the statutory auditor in a bank still remain the basic unsolved problems of corporate governance. They call for further refinement of the Basel Committee's standards and recommendations and for harmonization of national laws and regulations with international regulations.

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Ustawa z 7 maja 2009 r. o biegłych rewidentach i ich samorządzie, podmiotach uprawnionych do badania sprawozdań finansowych oraz o nadzorze publicznym, DzU nr 77, poz. 649.

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Summary

It describes the impact of the amendment of laws and other regulations on the development of the present internal and external control systems in commercial banks and in banks which promote cooperation between cooperative banks. It draws attention to the need for a new structure of the internal control system, and the role and purpose of internal audits as a tool for supporting effective supervision in banks.

ROLA KOMITETU AUDYTU, AUDYTORA WEWNĘTRZNEGO I BIEGŁEGO REWIDENTA W BANKACH JAKO ORGANÓW WSPOMAGAJĄCYCH EFEKTYWNY *CORPORATE GOVERNANCE*

Streszczenie

W opracowaniu opisano wpływ nowelizacji przepisów prawnych i innych regulacji na tworzenie obecnych modeli systemu kontroli wewnętrznej i zewnętrznej w bankach komercyjnych oraz bankach zrzeszających banki spółdzielcze w Polsce. Zwrócono uwagę na wymaganą nową strukturę systemu kontroli wewnętrznej, a także na funkcję i zadania audytu wewnętrznego jako narzędzia wspomagającego efektywny nadzór w bankach.