

Possibility of Utilizing Resources of Open Pension Funds in Cooperation with The Bank Gospodarstwa Krajowego in Scope of The Realization of The „Polish Investments” Programme

Introduction

The current macroeconomic situation in Europe gives rise to the phenomenon called the equity gap. This phenomenon is a consequence of the aversion of commercial banks to risk and the limitations of enterprises' own resources and it hinders the performance of many economically justified investment projects. With regard to the above, government programmes aimed at supporting economic growth by stimulating investments were created in countries such as France and Great Britain.

In France a government loan guarantee programme for public-private partnerships constitutes a part of the anti-crisis package [*Plan de relance...*, 2009]. The guarantee specified in the programme amounts to EUR 10 billion. Guarantees are granted based on market conditions and serve to cover up to 80% of the value of financing of a project from private sources. The administrator of the programme is the government public-private partnership centre acting within the Ministry of Finance. The scope of the aforementioned programme includes granting guarantees to e.g. four large high-velocity railway construction projects, including the largest project, the Tours-Bordeaux (LGV SEA) line of the length of 302 km and total value of EUR 7,8 billion. One of the members of the investors consortium of the same project (25,4% of own capitals of the project) is the company CDC Infrastructures, a branch of the public development bank Caisse des Depots et Consignations [www.msp.gov.pl].

The British programme supporting public and private investments in scope of infrastructure, announced by the Government in July 2012, specifies the guarantee limit amounting to GBP 40 billion. The programme is directed by Infrastructure UK, a unit of HM Treasury responsible for the Government's financial policy in scope of infrastructural

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investments. Guarantees may be used for supporting projects which fulfil the following five criteria [www.msp.gov.pl]:

- projects need to be of a national significance, in accordance with the definition included in the National Infrastructure Plan 2011,
- projects need to guarantee the commencement of the investment stage within 12 months of being granted the guarantee,
- projects need to be financially credible in order to limit the risk of a possible future restructuring programme funded from public resources,
- projects which would probably not be granted bank loans in the short term without a Government guarantee,
- projects which HM Treasury evaluates as having positive influence on the economic growth.

The aim of the hereby publication is to attempt to indicate the manner of utilization of resources accumulated in the Polish open pension funds optimal for the economy, as well as to identify the barriers in scope of investment possibilities in open pension funds along with the author's suggestions on how to remove them. While preparing this publication, the Author utilized the descriptive method and comparative analysis of legal acts currently in force. The hereby article is concluded with findings with view to the future law in scope of the author's suggestions of changes along with the reasoning.

The reform of the pension scheme introduced by the Act on Organization and Operation of Pension Funds of 28th August 1997 [ustawa, 1997] has specified a new entity conducting activity on the financial market — the pension fund. Currently a discussion takes place on the future of the operation of this system in the specified form and/or amount of resources transferred to the system. There is no doubt that currently pension funds administer a significant portfolio of financial instruments, most of them being debt instruments.

1. „Polish Investments” Programme

On 12th October 2012 the Prime Minister presented the Sejm with a plan of actions aiming at stimulating economic growth in Poland. One of the elements of this plan is the „Polish Investments” Programme. The aim of this Programme is the assurance of financing in the amount of PLN 40 billion provided for the realization of infrastructural investments until 2015, and in total in the amount of PLN 90 billion in the six-

year-period. At the same time the performance of the Programme should enable the acceleration of privatization and the utilization of resources it yields for infrastructural investment purposes. The „Polish Investments” Programme aims at supporting the realization of chosen infrastructural investments in an economically reasonable manner, which would not increase the national public debt and at the same time liberate the long-term private capital [*Motion...*, p. 4].

The Program should in particular be oriented towards creating conditions for long-term financing of profitable investment projects in scope of energy and gas infrastructure, management of hydrocarbon reservoirs, transport, self-government, industrial and telecommunications infrastructure. The Programme is directed at ventures with growth potential and based on long-term financing of investments significant for the national economy and strategic interests of the State [www.bgk.pl/program]. The realization of the Programme is based on two pillars which are to provide financing for investment ventures — Bank Gospodarstwa Krajowego and the new institution — Polskie Inwestycje Rozwojowe SA Each of these institutions may be recapitalized with shares of State Treasury companies of the value of up to PLN 10 billion. The recapitalization of the Polskie Inwestycje Rozwojowe SA will allow among others to invest in special purpose vehicles responsible for preparing and conducting infrastructural projects. The recapitalization of the Bank Gospodarstwa Krajowego will enable to extend lending and guarantee campaigns related to the needs of long-term financing of the mentioned investments. The predicted outcome of the recapitalization of the bank is the achievement of a financial leverage effect up to the amount of circa PLN 40 billion in the first few years of the Programme’s operation. The means for the recapitalization of the two aforementioned entities constituting the pillars of the „Polish Investments” Programme shall come from the sales of blocks of shares of some companies [www.bgk.pl/program].

On 27th December 2012 the Council of Ministers has consented to the contribution of shares of the following companies for the purposes of the „Polish Investments” Programme [*Motion...*, p. 3]:

- up to 203 048 534 common bearer shares of the company acting under the business name PGE Polska Grupa Energetyczna SA with its seat in Warsaw, of the nominal value of PLN 10,00, constituting 11,39% of the share capital;

- up to 104 473 620 common bearer shares of the company acting under the business name Powszechna Kasa Oszczędności Bank Polski SA with its seat in Warsaw, of the nominal value of PLN 1, constituting 8,36% of the company's share capital;
- up to 8 721 587 common bearer shares of the company acting under the business name Powszechny Zakład Ubezpieczeń SA, of the nominal value of PLN 1, constituting 10,10% of the company's share capital;
- up to 19 972 900 common bearer shares of the company acting under the business name Ciech SA, of the nominal value of PLN 5, constituting 37,90% of the company's share capital.

A key activity which aimed at increasing the capital capabilities of the Bank Gospodarstwa Krajowego was the sales of shares of PKO BP SA in possession of the Bank Gospodarstwa Krajowego in January 2013. The success of the transaction caused the increase of own funds of the Bank Gospodarstwa Krajowego from around PLN 1,9 billion to circa PLN 6 billion, which enabled the growth of the limit of potential financial involvement of the Bank with a single entity or a group of equity linked entities from around PLN 0,47 billion to PLN 1,5 billion.

The activity of the Bank Gospodarstwa Krajowego will include, in particular, fulfilling the role of an entity offering complementary services on market conditions to other commercial entities (provision of the „final penny” needed to finance a project).

An additional advantage of the Bank Gospodarstwa Krajowego is the possibility of acquiring long-term financing cheaper than in case of other domestic commercial banks, as the change of legal environment of the Bank Gospodarstwa Krajowego between 2009 and 2011 enabled it to be granted a long-term credit rating of A- (according to Fitch) within an international scale on the same level A-, i.e. on the level of the State Treasury.

In accordance with a preliminary simulation of the National Bank of Poland (simulation on the basis of the prognostic model NECMOD, with assumption of 10 billion for investments of the Programme annually between 2013 and 2016), the Programme may accelerate the total investments by 2,2 percentage points and 0,2 percentage points in 2013 and 2014, which should lead to the increase of the real Gross Domestic Product appropriately by 0,4 percentage point and 0,1 percentage point [*Motion...*, p. 16].

Table 1 compares the key issues of BGK and PI Programme.

Table 1. „Polish Investments” Programme vs Bank Gospodarstwa Krajowego

Specification	Bank Gospodarstwa Krajowego	Polskie Inwestycje Rozwojowe SA
Offered products to be used independently or jointly	Credits, bond acquisition guarantees, guarantees	Stocks or shares, mezzanine capital (group of instruments filling the gap between debt and equity, similar to capital investments)
Projects	Only profitable projects: energy (production and distribution) and gas infrastructure (distribution network, extraction and storage), development of hydrocarbon reservoirs (including shale gas), transport infrastructure; self-government infrastructure (waste disposal, communication), industrial and telecommunications infrastructure	
Value of involvement	Up to the amount of concentration limits set forth in article 71 of the Bank Law Act (up to 25% of own funds) for an entity or a group of equity linked entities	Between PLN 50 million to PLN 750 million with a share no greater than 50% in a special purpose vehicle of a given project (preferred share is PLN 250 million)
Period of involvement	Accordant with the financial model of the project	No longer than time of construction and debt repayment; preferred quickest possible disinvestment
Availability of products	Available in the bank's offer	2nd Quarter of 2013

Source: [www.bgk.pl/program].

2. Regulative Barriers for Pension Funds in Scope of Potential Involvement in The „Polish Investments” Programme

The Author notices two potential barriers in the legislation currently in force, which prevent the possibility of wider financing of long-term investments, including those performed in scope of the „Polish Investments” Programme. These barriers are:

1. Issues of underwriting services offered by open pension funds.
2. Equalization of limits for debt securities of the Bank Gospodarstwa Krajowego with the limit of the State Treasury.

In the Author’s opinion the removal of the above mentioned barriers could influence the tightening of cooperation between open pension funds and the Bank Gospodarstwa Krajowego.

2.1. Issues of Underwriting Services Offered by Open Pension Funds

Article 141 of the Act on Organization and Operation of Pension Funds details categories of deposits in which open pension funds may allocate assets. The current wording of this article may cause interpretative doubts related to possible forms of purchasing some of the enumerated categories of assets, and in particular with regard to their purchasing on the primary market by way of participation in the organization and subscription process. In practice this means that open pension funds purchase the aforementioned assets exclusively on the secondary market.

However, it should be noted that in accordance with articles 14 and 15 of the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organized Trading, and Public Companies of 29th July 2005 [ustawa, 2005], open pension funds may fulfil the role of underwriter, both investment and service related.

In accordance with article 4 point 12 of the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organized Trading, and Public Companies an investment underwriter is an entity being party to an agreement concluded with the issuer or introducer, in which such an entity undertakes to purchase for its own account the entirety or part of securities offered in a public offering, for which no subscriptions were collected in the appropriate date [Wierzbowski et al., 2013].

Pursuant to article 4 point 13 of the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organized Trading, and Public Companies, service underwriting is understood as

an agreement concluded by the issuer or introducer, the subject of which is the purchase by a service underwriter for his own account, of the entirety or part of securities of a given issue in order to dispose of them on the primary market or by means of initial public offering [Chłopecki, Dyl, 2012, p. 70].

The basic characteristic differentiating agreements on service underwriting and investment underwriting is the fact of the obligatory involvement of the service underwriter in the process of further disposal of securities in scope of initial public offer [Romanowski, 2003, p. 403].

The Author is unable to find any substantial justification, on the grounds of security of funds accumulated in open pension funds, of exclusion of the possibility of performing transactions in which the fund would be able to influence the transactional price (as is the case in event of issue organization) with simultaneous acceptance of transactions in situations in which the fund has to accept the market price which is outside its sphere of influence. With regard to the above, the Act on Open Pension Funds should be provided with more details concerning the possibility of performing underwriting services. Some financial institutions demonstrate a legal risk of lack of provision of such details. With regard to this, the Author's empirical research shows that there have been no market transactions of underwriting with participation of open pension funds.

Notwithstanding the above it should be stated that the current situation is disadvantageous with regard to the economy as a whole. One of the many barriers hindering the development of investments is the lack of access to a long-term debt market in Poland. Debt financing is granted for periods up to around 7 years. Financing for a longer span of time is available only for some entities or projects, while the really long-term financing (more than 15 years) is practically non-existent. This may pose a problem also with regard to the concept of the „Polish Investments” Programme, which is aimed at entities interested in long-term investing. With regard to the scale of resources which have to be provided for infrastructure investments, what is desired is the participation of entities with appropriate financial means in such ventures — in the context of the scale of projects, which will have to be financed in the coming years — entities with potentially distant investment horizons. Open pension funds undoubtedly are such entities. In the current situation the available financing of projects may be limited by the fact that

issuers are banks subject to a number of supervisory limits (e.g. concentration). As an effect, the scale of securities issuing may be smaller than the optimal with regard to the project and the economy. Participation of open pension funds in the process of organization of issuing would lower the disadvantageous influence of this factor.

Potential influence of the suggested regulation on the situation of open pension funds and their participants is limited. In scope of risk management, purchasing securities on the primary market does not cause additional risk in comparison to a situation in which a pension fund makes purchases on the secondary market. This results from the fact that while participating in organizing an issue a pension fund incurs risk related to a given asset permissible by the legislator (by admitting investments in a given asset), and the limit of the scale of such involvement during the process is set (i.e. may not be higher than that resulting from the subscription declaration, which has to be accordant with the investment policy of the fund). The proposed regulation does not cause any direct effects in scope of public finances. Indirectly however, it may cause the increase of investment activity of the economy which will lead to the increase of tax inflows or lowering of expenses. In the long term it may also lower costs of functioning of the social security system. It should be noted that in case of secondary market operations investors are obliged to perform payments for the benefit of intermediaries.

2.2. Equalization of Limits for Debt Securities of The Bank

Gospodarstwa Krajowego with The Limit of The State Treasury

Currently article 141 point 15 of the Act on Organization and Operation of Pension Funds enumerates the names of bonds of the Bank Gospodarstwa Krajowego intended for financing expenses of the National Road Fund as an instrument available for investments of open pension funds. What is more, pursuant to article 50 section 2 point 1 a of this act, such bonds may be subject to investments of the general pension societies. In accordance with data published by the Polish Financial Supervision Authority for the 1st quarter of 2013, the value of investments of open pension funds in bonds of a set interest rate issued by the Bank Gospodarstwa Krajowego on conditions specified in the Act on Paid Motorways and the National Road Fund, guaranteed or warranted by the State Treasury amounted in circa PLN 17 888,5 million (table 2).

Table 2. Investment Portfolio of Open Pension Funds, Status as of 31st March 2013 (in Thousands of PLN)

No.	Description of deposit categories	Total:
1.	Shares of companies listed on the exchange-regulated market, as well as exchange-regulated market company pre-emptive rights, allotment certificates and bonds convertible into shares of these companies	103 013 136
2.	Dematerialized shares of companies listed on the regulated OTC or companies not listed on the exchange-regulated market or regulated OTC as well as dematerialized pre-emptive rights, allotment certificates and bonds convertible into shares of these companies which are listed or not listed on the exchange-regulated market.	224 962
3.	Investment certificates issued by closed investment funds	259 254
4.	Bank deposits and bank securities in currencies of member states of the OECD and other countries with which the Republic of Poland concluded bilateral investment treaties	179 918
5.	Bank deposits and bank securities in the Polish currency	14 259 238
6.	Bonds other than dematerialized bonds as well as other securities issued by entities other than local government units, their associations or the capital city of Warsaw, which have been secured in the amount corresponding to the nominal value along with possible interest	51 464
7.	Bonds and other securities amounting in cash considerations, guaranteed or warranted by the State Treasury or the National Bank of Poland, as well as deposits, credits and loans guaranteed or warranted by these entities	362 770
8.	Bonds other than dematerialized bonds as well as other debt securities issued by local government units, their associations or the capital city of Warsaw	339 455
9.	Dematerialized bonds as well as other debt securities issued by local government units, their associations or the capital city of Warsaw	1 119 395
10.	Bonds, bills and other securities issued by the State Treasury, National Bank of Poland or EIB, as well as loans and credits granted to these entities	122 976 716
11.	Bonds and other debt securities issued by public companies, other than securities listed in points 6 and 16	7 429 695
12.	Dematerialized bonds and other debt securities, other than those listed in points 9 and 16	2 971 541

13.	Other foreign securities	125 906
14.	Letters of lien	1 162 964
15.	Bonds issued by the Bank Gospodarstwa Krajowego on the terms and conditions set forth in the Act on Paid Motorways and the National Road Fund of 27th October 1994	17 888 850
16.	Dematerialized bonds issued by entities other than local government units, their associations or the capital city of Warsaw, which have been secured in the amount corresponding to the full nominal value and possible interest	102 013
17.	Revenue bonds	158 558
	Total:	272 625 842

Source: [www.knf.gov.pl/opracowania].

The above securities are not subject to limits resulting from article 142, section 2 of the Act on Organization and Operation of Pension Funds; however other debt securities of the Bank Gospodarstwa Krajowego (other bonds, bank securities or letters of lien) have to adhere to specific limits.

Regulatory changes concerning the rules of functioning and security of the Bank Gospodarstwa Krajowego between 2009 and 2011 seem to be a premise for changing the above approach. The statutory rank of the Bank Gospodarstwa Krajowego, the lack of insolvency capacity and the necessity of ensuring appropriate means for retaining liquidity norms and capital requirements by the State Treasury cause the inclination to amend regulations in scope of investment limits of open pension funds.

The change proposed by the Author would consist of an introduction of limits for debt securities of the Bank Gospodarstwa Krajowego equal to the limits of the State Treasury. A consequence of such a solution would be the removal of point 15 of article 141 and amendment of article 50 section 2 point 1a of the Act on Organization and Operation of Pension Funds. Another necessary move would be the amendment of article 142 section 1 of the aforementioned act consisting in the removal of the reference to point 15 in article 141. Enabling entities which manage open pension funds to allocate means in instruments issued by the Bank Gospodarstwa Krajowego on conditions analogous to those pertaining to the remaining national instruments of no risk weight will bring benefits to the participants of open pension funds. A consequence

of the admission of the proposed solution may have a positive influence on the profitability of portfolios. Bonds issued by the Bank Gospodarstwa Krajowego are characterized in a higher spread which in turn influences their profitability levels, at the same time retaining low credit risk.

What should also be noted is the specificity of the activity of the Bank Gospodarstwa Krajowego, which is based on financing long-term projects which would not be part of the scope of interest of other commercial banks. With regard to the above, the Bank Gospodarstwa Krajowego bases its passive activity mainly on long-term financing, among other on the basis of issuing long-term securities. The above enables the adjustment of dates while allocating means of open pension funds, for which a multi-year investment horizon is natural, which favours the increase of rate of return by limiting their transactional costs. What is more, the regulation will contribute to the increase of trading in instruments issued by the Bank Gospodarstwa Krajowego, and this pertains also to those instruments which are already part of the portfolios of open pension funds. This means an improvement of the conditions of investing resources by way of increasing liquidity. A measurable effect of the increase of the scale of trading in a given instrument is usually the so called spread narrowing, which means lowering the difference between the purchase price and reselling price of the instrument, which influences the possible lowering of transactional costs in event of a necessity of disposal before maturity date.

Conclusion

The introduction of regulations may lead to increasing the demand for debt instruments issued by the Bank Gospodarstwa Krajowego. It may be expected that this increase will be generated also by actions of other investors, not only open pension funds. Extension of access to them for open pension funds may cause de facto the increase of the liquidity of the aforementioned debt instruments, which in turn may effect in additional demand of entities from outside the social insurance sector.

After the sale of shares of PKO BP SA in January 2013 the possibilities of unit involvement of the Bank Gospodarstwa Krajowego have increased significantly. However the provision of open pension funds with the ability to fulfil the role of underwriter in consortia with the

Bank Gospodarstwa Krajowego could contribute to a significant increase of the involvement in investment projects based on debt financing. The changes proposed by the Author seem to be appropriate actions with regard to directing streams of resources from open pension funds and the provision of future beneficiaries of such funds with investment security.

In the Author's opinion, the proposed changes would be advantageous with regard to business activity to both parties of the economic process, i.e. Bank Gospodarstwa Krajowego and open pension funds, with the simultaneous support of a widely understood economic policy of the State.

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Summary

The current macroeconomic situation in Europe gives rise to the phenomenon called the equity gap. With regard to the above, government programmes aimed at supporting economic growth by stimulating investments were created in countries such as France and Great Britain.

On 12th October 2012 the Prime Minister presented the Sejm with a plan of actions aiming at stimulating economic growth in Poland. One of the elements of this plan is the „Polish Investments” Programme. The aim of this Programme is the assurance of financing in the amount of PLN 40 billion provided for the realization of infrastructural investments until 2015, and in total in the amount of PLN 90 billion in the period of the next six years. The Programme is directed at ventures with growth potential and based on long-term financing of investments significant for the national economy and strategic interests of the State. The realization of the Programme is based on two pillars which are to provide financing for investment ventures – the Bank Gospodarstwa Krajowego and the Company Polskie Inwestycje Rozwojowe SA. Each of these institutions may be recapitalized with shares of State Treasury companies of the value of up to PLN 10 billion.

The Author notices two potential barriers in the legislation currently in force, which prevent the possibility of wider financing of long-term investments, including those performed in scope of the „Polish Investments” Programme. These barriers are:

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In the Author’s opinion the removal of the above mentioned barriers could influence the tightening of cooperation between open pension funds and the Bank Gospodarstwa Krajowego. The changes proposed by the Author seem to be appropriate actions with regard to directing streams of resources from open pension funds and the provision of future beneficiaries of such funds with investment security.

Keywords

long-term infrastructural investments, involvement limits

