

**Resolution No. 378/2008
of the Polish Financial Supervision Authority
of 17 December 2008**

**on the amount and conditions for inclusion in the own funds of cooperative banks a
specific part of the additional amount of responsibilities of cooperative bank members**

Pursuant to art. 127 Sec.5 Item 1 of the Act of 29 August 1997 - The Banking Act (consolidated text Journal of Laws of 2002, No. 72, item 665, as further amended)¹ it is resolved as follows:

§ 1. Cooperative bank, affiliated in affiliating bank includes in the additional own funds, with the consent of the Polish Financial Supervision Authority, a part, no more than half of the additional amount of responsibilities of members, referred to in Art. 10 Sec. 2 of the Act of 7 December 2000 on the functioning of cooperative banks, their affiliation and affiliating banks (Journal of Laws, No. 119 item 1252, as further amended)², subject to § 2.

§ 2. The consent of the Polish Financial Supervision Authority, referred to in § 1 may be issued at the request of the cooperative bank, made through the relevant affiliating bank, under the following conditions:

- 1) general meeting (meeting of representatives) of a cooperative bank adopted a Resolution to increase the responsibilities of the members of the bank to double amount of shares contributed by them in the event of the bank making a loss,
- 2) the articles of association of cooperative bank define the responsibilities of cooperative bank members for losses incurred by the bank, referred to in Item 1,
- 3) each member of the bank submitted a written commitment to participate in covering the losses of the bank up to twice the value of shares they hold,
- 4) the exposures arising from the commitments referred to in Item 2 have been secured through the issuance by each bank member a blank promissory note, accompanied by a corresponding promissory note declaration.
- 5) the promissory notes referred to in Item 4 have been deposited in the relevant affiliating bank,
- 6) on the day of application all shares declared by the bank members have been supplemented to the amount specified in the articles of association of a cooperative bank.

§ 3. Affiliating bank within 30 days of receipt of the application referred to in § 2, assesses the fulfilment by a cooperative bank of the conditions set out in § 2 and with its own opinion shall send to Polish Financial Supervision Authority.

¹ Amendments to the consolidated text of this Act were published in the Journal of Laws of 2002, No. 126, item 1030, No. 141, item 1138, No. 144, item 1208, No. 153, item 1231, No. 169, item 1385, and 1383 and No. 241, item 2034, 2003, No. 50, item 424, No. 60, item 535, No. 65, item 594, No. 228, item 2260, No. 229, item 2276, 2004, No. 64, item 594, No. 68, item 623, No. 91, item 830, No. 96, item 959, No. 121, item 1264, No. 146, item 1546, No. 133, item 1808, of 2005, No. 83, item 319, No. 85, item 323, No. 163, item 1398, No. 183, item 1538, of 2006, No. 104, item 308, No. 153, item 1119, No. 190, item 1401 and No. 245, item 1335, of 2003 No. 42, item 232 and No. 112 item 369, of 2008 No. 131, item 1056, No. 192, item 1139, No. 209, item 1315.

² Amendments to the text of this Act were published in the Journal of Laws of 2001, No. 111, item 1195, of 2002 No. 141, item 1138 and No. 216, item 1824, of 2003 No. 133, item 1303 and No. 228, item 2260, of 2004 No. 91, item 830, 2006 No. 153, item 1110 and of 2003 No. 52, item 344.

§ 4. To the application referred to in § 2 the cooperative bank shall attach:

- 1) copy of the Resolution referred to in § 2 Item 1,
- 2) statement of the Management Board of cooperative bank confirming that on the day of application all declared shares have been paid,
- 3) statement of the Management Board of cooperative bank confirming that on the day of application the bank has all security measures provided for in § 2 Item 4.

§ 5. Cooperative bank may apply additional security measures of the additional amount of responsibilities of members included in the additional own funds, regardless of those stated in the Resolution.

§ 6. The Polish Financial Supervision Authority in the decision on inclusion in the additional own funds of cooperative banks a specific part of the additional amount of responsibilities of members, defines the date of the inclusion.

§ 7. If any of the conditions laid down in § 2 ceased to be met, the cooperative bank notifies the Polish Financial Supervision Authority. This notification should occur within three days from the date on which the condition ceases to be met.

§ 8. The Resolution of the Bank Supervisory Authority No. 8/2001 of 12 December 2001 on the amount and conditions for inclusion in the own funds of cooperative banks a specific part of the additional amount of responsibilities of bank members expires (Official Journal NBP(National Bank of Poland) No. 22, item. 46).

§ 9. The Resolution enters into force on 1 January 2009.

For and on behalf of the Polish Financial Supervision Authority Chairman of the Polish
Financial Supervision Authority
Stanisław Kluza