

Streszczenie rozprawy doktorskiej Mgr Pawła Izdebskiego /j.angielski/pt.: „Administrative legal measures to protect consumers on the capital market within the activity of the Polish Financial Supervision Authority and the President of the Office of Competition and Consumer Protection”

The main subject of deliberations included in this thesis is presentation and analysis of administrative legal standards of consumer protection in relations with institutions providing brokerage services (investment companies) on the capital market.

Thematic approach, which is the subject of conducted research, is a complex problematic issue. Its multidimensional nature is influenced by at least two general issues. Firstly, both consumer protection laws with the central centre of interest is an individual, which is in fact the weakest – among the others – category of economic trading participants, and the capital market law, which covers the activities of institutions providing brokerage services, constitute sets of legal standards of a heterogeneous juridical nature. These regulatory areas mostly rely on administrative legal solutions, although a relatively large part of them comply with civil law norms. In addition, these areas are also characterized by fragmentary regulations of a criminal law nature, which in general implies the need to conduct research on the basis of both public and private law. Secondly, regulations governing the capital market, unlike regulations relating to other sectors of the financial market (such as the banking or payment services sector), do not explicitly cover consumer relations. However, they use separate sui generis categories of participants (recipients of services) characteristic for the capital market (e.g. investor, client of an investment company, participant of an investment fund) and for these categories they create protective mechanisms.

The main part of deliberations included in this dissertation was devoted to the legal analysis of competences, tasks and administrative legal means vested in the Polish Financial Supervision Authority and the President of the Office of Competition and Consumer Protection, as the so-called independent regulatory bodies. The author of paper, as a fundamental thesis, adopted the assumption that standards of public and legal nature, in particular standards of administrative law, in a much more effective way fill the regulatory sphere of consumer protection and the capital market in relation to regulations of private and legal nature. This is evidenced by e.g. restriction of economic freedom of entities conducting brokerage activities, or the principle of administrative supervision over the capital market, within the limits of which a number of regulatory and police functions of public administration are included. Moreover, in the area of public-private consumer protection, administrative legal instruments used by public administration bodies have a strategic role, in particular the President of the Office of Competition and Consumer Protection, as the body competent to issue administrative decisions in cases of declaring the provisions of the model contract prohibited and decisions in cases of practices infringing collective consumer interests. The status of these bodies means that tasks performed by them have a nature of acting in the public interest, and thus this action meets the needs of the whole society – in contrast to regulations of a private law nature, which effectiveness is noticeable only at the stage of contractual relations between the consumer and institution providing services. Therefore, the author assumed that effective consumer protection in the area of capital market can be guaranteed only with the use of administrative law instruments, to which he gave a leading role, at the same time reaching a conclusion that private

law instruments are characterized by low effectiveness, and thus he granted them only a complementary function.