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**ADMINISTRATIVE SANCTION AS A SUPERVISORY INSTRUMENT OF POLISH
FINANCIAL SUPERVISION AUTHORITY OVER THE POLISH CAPITAL MARKET**

Summary of the doctoral dissertation

prepared under the supervision of Professor Krzysztof Oplustil

The doctoral dissertation was devoted to a complex analysis of the role and importance of administrative sanction and the application of this supervisory instrument in the context of other forms of regulatory supervision exercised by the Polish Financial Supervision Authority (hereinafter referred to the PFSA) under Polish capital market. The aim of the dissertation was to thoroughly discuss various types of administrative sanctions in the Polish capital market (in terms of their coherence, completeness and effectiveness) and to assess whether they meet the primary goals and functions of capital market law, which are ensuring rising capital opportunities and, at the same time, guaranteeing an appropriate level of investors' protection.

The first chapter was devoted to the role of the PFSA's supervision over the capital market in Poland. The fact that an administrative sanction is one of the legal supervisory instrument that is granted to the PFSA was the most decisive factor influencing the choice of the subject of the first chapter. Only a comprehensive analysis of the institutions of administrative supervision may shed light on the correct interpretation and understanding of the essence of administrative sanctions as legal instruments enabling the PFSA to conduct effective supervision over the Polish capital market. This chapter discusses the following issues: the character and the role of supervision, types of supervisory legal instruments and criteria for their application. It has also been referenced to the PFSA's legal position and statutory tasks.

The second chapter deals with issues related to administrative liability for violation of capital market law. There is no doubt that the PFSA's process of imposing administrative penalties should be seen in the light of the administrative authority. Therefore, when analyzing the issues of administrative sanctions and the procedures for their imposition, it was impossible to disregard the basic legal notions governing administrative law oscillating around the institutions such as: "legal responsibility", "administrative authority", "administrative compulsion" or "sanction". This chapter also focuses on the increasing role of administrative liability as well as the differences between this type of legal regime and other (praxeologically similar) types of legal liabilities (including, in particular, criminal liability).

Two last chapters comprehensively discuss the core problem of the dissertation that is the administrative sanction which constitutes the institution of administrative supervision over the capital market in Poland.

Chapter III refers to the regulation and legal concept of administrative sanctions in the context of substantive law. Due to the insufficiently comprehensive presentation of this issue in the literature on the subject, an attempt was made to propose the definition in line with the definition adapted in legal theory. Moreover, in this chapter the author examines various types and functions of this regulatory instrument in the capital market law. The analysis also covers key issues related to this legal mechanism, such as the statute of limitation or termination of punishment, as well as issues related to the legal basis for imposing administrative penalties by the PFSA.

Chapter IV focuses on administrative sanctions in a procedural approach. In this part of doctoral dissertation the author discussed issues related to the procedure of imposing administrative penalties by the PFSA (assuming in this respect a division of this procedure, commonly accepted in the literature, into the following stages: preliminary preparatory activities – that is procedural activities taken by the PFSA in order to initiate administrative proceedings, preparatory activities and decisive activities) and court-administrative proceedings that may be initiated as a result of filing a complaint against the final administrative decision issued by the PFSA regarding the imposition of the administrative penalty. The most important aspects of these proceedings were discussed, with particular emphasis on the general features that distinguish them from other administrative proceedings which are subject to procedural regime defined by the Code of Administrative Procedure. Basic principles which may apply to the procedure of imposing administrative sanctions by the PFSA, such as *in dubio pro reo*, *ne bis in idem* or the general principle of non-retroactivity of law were also analyzed. In addition, some other issues related to enforcement of administrative sanctions has been raised, i.e. granting reliefs in the payment of penalties and (as especially interesting from a practical point of view) matters regarding the publication of the PFSA's decision imposing a financial penalty.

The dissertation closes with a brief summary of the results of the analyses carried out throughout the chapters regarding the administrative sanction as a supervisory instrument of the PFSA over the capital market in Poland, together with the presentation of *de lege ferenda* postulates.

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