

Joanna ADAMSKA-MIERUSZEWSKA  
Magdalena MOSIONEK-SCHWEDA\*

## FOREIGN INVESTMENTS IN THE PORTFOLIO OF THE POLISH OPEN PENSION FUNDS IN 1999-2016

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The main obligation of open pension funds (OPF), established in Poland in 1999, was to collect and multiply the pension savings of their participants. For this reason, the legal rules governing the investment activities of funds are crucial not only for the functioning of the OPF but also for its members. The aim of this contribution is the revision of changes in the legal regulations governing the foreign investment policy of the Polish open pension funds from the moment they were established in 1999 till the end of 2016 as well as the evaluation of the impact of these changes on investment activities of pension funds and their investment portfolios. The article is based on the analysis of legislation documents and statistics on investment activities of open pension funds published by the Polish Financial Supervision Authority and particular pension funds.

**Keywords:** pension funds, pension system in Poland, foreign investments

### 1. OPEN PENSION FUNDS IN POLAND - LEGAL BACKGROUND

#### 1.1. Origin and development of open pension funds

The legal basis for the operation of open pension funds (OPF) in Poland is the 1997 Act on the Organization and Operation of Pension Funds (Act of 17 August 1997). The Act belongs to a package of laws that introduced a new pension system based on three pillars – a common pay-as-you-go (PAYG) pillar (operated by State Social Insurance Institution ZUS), a capital pillar (OPF) and voluntary insurance and savings. The Act defines the rules for the creation and operation of pension

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\* University of Gdansk, Faculty of Economics.

funds aimed at the collection and placement of funds for the payment of retirement benefits (Act of 17 August 1997, Article 2).

Over the 15 years since the reform of the pension system in Poland, the principles of its functioning have changed numerous times. By June 2014, the Pension Funds Act had been amended more than 40 times, and four uniform texts had been published by the end of 2016 (Adamska-Mieruszewska, Mosionek-Schweda, 2014). The first major change was implemented in 2011. As a result of the lack of funds in the Social Insurance Fund and the growing public debt generated, among other things, by transfers from the budget to OPF, it was decided to reduce the contribution to OPF by 5 percentage points to 2.30%. According to the amendment, this division was to be maintained for two years – 2011 and 2012, and then gradually increased to stabilize at the level of 3.5% in 2017. The remaining part of the contribution under the second pillar was transferred to a ZUS subaccount. The 2011 reform initiated the process of change that was a response to the situation in financial markets, including in particular the financial and debt crisis, and it was complemented by changes implemented in 2014 when participation in OPF ceased to be mandatory. Since that year, each insured person may decide to split the second pillar contribution between OPF (2.92% of the salary) and ZUS (4.38%) or decide to pay the entire contribution to the ZUS sub-account. It should be noted, however, that OPF continue to hold assets accumulated by their members before 1 July 2014, regardless of the decision of the insured to transfer funds to ZUS. Therefore, the number of the OPF members has not changed significantly and remains at 16.5 million. The consequence of the reform implemented in 2014, however, transpires in a significant reduction in the net asset value of OPF, from over PLN 290 billion in 2013 to PLN 150 billion in 2015 (OPF Market Review 2015).

Since 2014, pension funds may not invest in government bonds, and the funds previously placed in that group of instruments, equivalent to 51.5% of the settlement units entered into the account of each OPF member, were transferred to ZUS and redeemed. As a consequence, in 2014, OPF transferred more than PLN 153 billion to ZUS, reducing net assets by 50% between December 2013 and 2014 and by another PLN 9 billion by the end of 2015. As announced, the reform of 2014 was not the last. According to the information provided by the government, OPF will be liquidated in 2018 and the accumulated funds distributed: 75% will be transferred to Individual Retirement Accounts or Individual Retirement Insurance Accounts, and the remaining 25% will be transferred to the Demographic Reserve Fund governed by the Polish Development Fund (Ministry of Economic Development, 2016; Kosiński, 2017).

The introduced changes are not without effect regarding the OPF investment policy. Some of the changes in the structure of the OPF investment portfolio are a direct result of the introduction of new regulations, while some are a response of open pension funds to changes and a search for more efficient investments of a higher return rate.

The aim of this contribution is the revision of changes in the legal regulations governing the foreign investment policy of the Polish open pension funds from the moment they are established in 1999 until the end of 2016 as well as the evaluation of the impact of these changes on investment activities of pension funds. The article is based on the analysis of legislation and data on investment activities of open pension funds published by the Polish Financial Supervision Authority and particular pension funds.

## **1.2. Legal rules of the pension funds investment policy**

The specific nature of the activities of open pension funds and the particular purpose of accumulating funds by the OPF members is that these funds should be invested to maximize profitability while maintaining the greatest possible security (Mosionek-Schweda, 2013). The pension system created in 1999 was supposed to provide increased security for pension savings by diversifying investment risk. Firstly, by introducing two obligatory pillars, PAYG (guaranteed by the public institution ZUS) and capital pillar (under open pension funds), secondly, under the capital pillar, pension funds were obliged to diversify their investment portfolio. The Pension Funds Act (28 August 1997) specifies in detail the most important rules regarding the investment activity and policy of open pension funds. In particular, the legislator has introduced limits on the concentration of investments in a given type of investment. Pursuant to the Pension Funds Act, these funds may invest, *inter alia*, in the following groups of instruments:

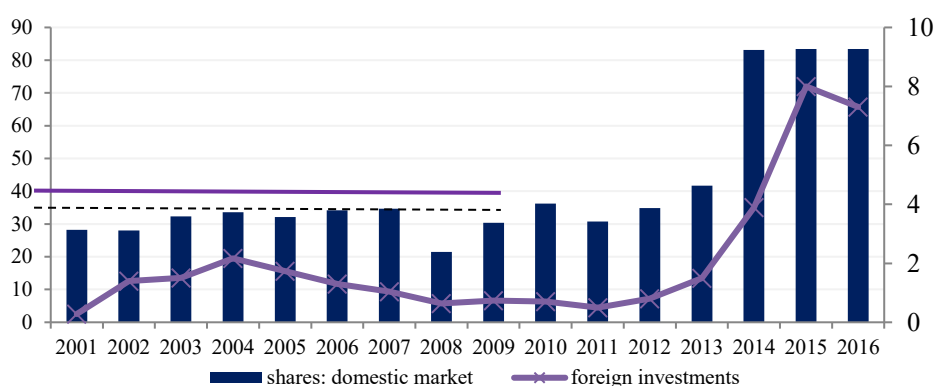
- bank deposits and bank securities;
- shares of companies listed on a regulated stock market;
- shares of companies listed on an over-the-counter market;
- investment certificates and participation units of investment funds;
- bonds and other debt securities issued by local government units;
- corporate bonds;
- mortgage bonds;
- depository receipts.

From 1 February 2014, OPF may not invest in bonds, bills and other securities issued by the Treasury and the National Bank of Poland or by other central governments or central banks, as well as in the securities guaranteed by these entities. This change is all the more significant that until the end of January 2014 the investments of open pension funds in these securities were not subject to any limits and constituted the most important part of their investment structure.

The percentage limits of open pension funds investment in particular categories of investments are set out in the Regulation of the Council of Ministers, which throughout the entire operation period of OPF in Poland was amended substantially three times in 2003, 2011 and 2014. The most important change was the abolition

of investment limits regarding shares on the regulated market and preventing OPF from investing in the Treasury securities.

Since the beginning of active operation, funds did not utilize the available limit for the most important asset classes (Figure 1.1), although it should be emphasized that it resulted not from significant portfolio diversification but lack of investment limits regarding the Treasury securities constituting 60% of the OPF assets in 2001-2013, and then the abolition of limits on the regulated stock market from 2014. As a consequence, funds were inclined to choose instruments available without limits, while other instruments were treated marginally.



--- Limit on investments in equities on regulated market; Since 2014 without limit; in the case of the Treasury bonds there was no limit until 2011, since 2012 OPF may not invest in the market of the Treasury securities (right axis).

— Limit of foreign investment, since 2014 no limit for foreign investments on the regulated equity market (right axis).

Fig. 1.1. Share of investments in the domestic regulated stock market (left axis) and foreign investment (right axis) in the OPF portfolios in 2001-2016 (%) (own elaboration based on data provided by the Polish Financial Supervision Authority)

It is worth noting that the limits in Poland did not coincide with the limits in other countries where pension systems included a mandatory capital component in the form of a defined contribution. For example, with regard to the Treasury securities and other state-guaranteed securities, the limit in 2015 was 70% in Romania, 50% in Bulgaria, 35% in Latvia (Kompa, Wiśniewski, 2015). On the regulated share market, limits were lower, although on average still higher than in Poland before the reform in 2014 – from 20% in Bulgaria to 80% in Slovakia or 75% in Estonia. Foreign investments are a special type of the OPF investment subject to separate regulations. The OPF foreign investment originally was regulated by Article 143 of the Pension Funds Act (Act of 28 August 1997) and the executive act issued in 2014. Since 2014, the limits on equity investments are governed by Article 137 of the Pension Funds Act (Article 143 has been repealed) and by the Coun-

cil of Ministers Regulation on restrictions on investment activities by pension funds (Regulation of 17 January 2014).

### **1.3. Legal basis for OPF foreign investment**

The formal and legal possibility for OPF to invest abroad had been envisaged in the original text of the Act on the Organization and Operation of Pension Funds, but in practice, the possibility of including foreign investment in the OPF investment portfolios was not granted until 22 March 2000. The legal basis for foreign investment of OPF was the Regulation of the Minister of Finance of 18 February 2000 on the general authorization to invest the assets of pension funds abroad (Regulation of 18 February 2000). The value of the foreign investment has been set by the Regulation at the highest level permitted by the Act: 5% of the value of the OPF assets. The legislator emphasized that restrictions were formulated to maximize the security of the foreign investment process by OPF (UNFE Bulletin, 2001).

Expanding the authorized investment index by foreign investment for OPF was a source of controversy. The main objecting body to pension funds investment on foreign markets was the Pension Fund Supervisory Authority, as, according to its opinion, it increases the risk for the OPF clients. It was indicated that in the case of Poland it was allowed too early to invest abroad. This solution is unfavorable for the insured as it significantly reduces the achievable rate of return with increased risk. For many years, domestic investments may prove more profitable than foreign ones. In addition, apart from lower return, foreign investment is subject to exchange rate risk. Furthermore, investments outside of the country generate costs not provided for in the statutes of pension funds, and moreover, in the case of such investments, there may be attempts to transfer profits within capital groups from a general pension fund to a foreign entity affiliated to a shareholder of that pension fund (UNFE Bulletin, 2001). It was also emphasized that since membership in pension funds was compulsory and social security contributions were part of the public finances, they should first serve the development of the Polish economy by supplying the domestic capital market and increasing the liquidity of domestic financial markets.

According to Marek Góra, the co-founder of the reformed retirement system, the OPF assets should be invested abroad as it serves the economic interests of the fund members. Foreign investments allow to diversify the portfolio, which results in the OPF investment becoming safer. In addition, funds may use the opportunity to achieve higher rates of return that appear on other markets from time to time to enable higher pensions. The existence of such restrictions is a very unfavorable signal for foreign investors from the point of view of Poland's credibility as a place to invest capital (Karpiński, 2001).

Foreign investment of OPF did not exceed 2% of the value of assets in their initial years and 5% till 2014. According to the survey conducted by the PFSA among OPF in 2010, the low interest of OPF in foreign investments resulted not only from low limits but mainly from the lack of possibility to hedge currency risk. Less important was the need for the pension company to cover the costs equivalent to the fees charged by foreign settlement institutions above the appropriate costs of domestic clearing houses. The high cost of analytical studies and the increased risk of deviation of the OPF rate of return from the weighted average rate of return of all open pension funds were further indicated. A relatively unimportant factor in limiting decisions on such investments concerned the limit for foreign investment (PFSA, 2010).

Currently, the OPF funds may be invested in assets denominated in PLN or in currencies of countries where OPF are allowed to invest in – members of the European Union or parties to the agreement on the European Economic Area or members of the Organization for Economic Co-operation and Development. In these countries, the OPF may invest in the, inter alia, following categories of investments (Act of 28 August 1997, Article 137):

- bank deposits in Polish currency in foreign banks or credit institutions;
- deposits denominated in the currencies of the abovementioned countries in banks or credit institutions;
- shares, preemptive rights and rights to shares of listed companies or other publicly traded companies
- deposit receipts issued outside the Republic of Poland;
- shares issued by closed and open joint venture institutions;
- bonds and other debt securities in public or private offerings issued by regional or local authorities;
- revenue bonds;
- secured bonds issued in countries other than those indicated above.

Pension funds may not in turn invest in bonds and other debt securities issued or guaranteed by governments or central banks.

Out of these groups, the largest exposure of open pension funds is observed on the bond and equity market. These two asset classes will be the subject of further analysis.

The foreign investment limit of 5% was in force until the end of 2013. According to the original assumptions, this limit was to systematically grow: to 10% in 2014, then to 20% in 2015 and 30% in 2016. Eventually, the limits on investment in the stock market, both domestic and foreign, have been lifted. The regulation on determining the maximum amount of assets of an open pension fund that may be placed in individual categories of investment does not introduce any restrictions on the acquisition of shares, preemptive rights and rights to shares and bonds convertible into shares of companies listed on regulated markets and outside the regulated market but in public offering, outside the Republic of Poland. However, a limit on

investments in depository receipts admitted to trading on a regulated market outside Poland was introduced at 10% of assets (Regulation of January, 17, 2014). Additional restrictions on acquiring shares refer to the maximum amount of OPF investments in a single issue: up to 20%, and if the share of securities of a company exceeds 2% of the fund's assets - up to 10%. In the case of bonds the limit is dependent on the issuer and the type of security. For bonds being the subject of a public offering issued by regional or local authorities, up to 40% of assets. In the case of municipal bonds outside the public offering, up to 20%, as in the case of revenue bonds excluding corporate bonds. In the case of corporate bonds, OPF may invest up to 40% in covered bonds in public offerings and up to 10% concerning private placement. Unsecured bonds may represent a maximum of 5% of the OPF assets (Pension Funds Act 1997; Regulation of January, 17, 2014). A detailed breakdown of the limits is shown in Table 1.

Table 1. Limits of the OPF foreign investment by individual asset classes

Full name of investment category	Investment limit since 2014
Shares, subscriptions rights, share rights issued by companies listed on public regulated market and the OTC market	100%
Bonds convertible into shares of companies listed on the regulated market	100%
Deposit receipts admitted to trading on a regulated market outside Poland	10%
Bonds and other debt instruments issued by regional and local authorities in a public offering	40%
Bonds and other debt instruments issued by regional and local authorities in a non-public offering	20%
Income bonds issued outside the Republic of Poland by credit institutions, regional authorities, utilities	10%
Corporate bonds secured, in public offer	40%
Corporate bonds secured, not in public offer	10%
Other bonds	5%

Source: Own study on the basis of the Act on OPF (Act of 28 August 1997) and the Regulation of the Council of Ministers of 17 January 2014.

For comparison, as indicated by Kompa and Wiśniewski (2015), foreign investment limits already in 2014 were significantly higher in other countries with mandatory capital regime. In Bulgaria, this was 15% of the value of assets, 70% in Slovakia and 100% in Estonia, Latvia and Romania.

The change of foreign investment limits for funds results primarily from the need to implement the judgment of the European Court of Justice (ECJ) of December 2011 which ruled that Poland violated the free movement of capital laid down in Article 63 of the Treaty on the Functioning of the European Union. The ECJ ruling was a consequence of the actions of the European Commission, which in

July 2009 questioned the provisions of the Polish Act of 1997 on the organization and functioning of pension funds, concerning the 5% limit on foreign investment. Poland in response to the European Commission argued that the provisions of the EU Treaty on the free movement of capital do not apply in this case as pension funds are "public entities that may be identified with the Polish state". However, the Court ruled that the provisions of the Polish Act challenged by the EC are covered by the provisions of the Treaty on the free movement of capital. The ECJ recalled that pension funds, despite their social purpose and mandatory access to the second pillar of the pension system, pursue economic activity (Forbes, 2013).

## 2. OPEN PENSION FUNDS FOREIGN INVESTMENTS ACTIVITY

### 2.1. Foreign investment share in the OPF portfolio

The share of foreign investment in the OPF portfolios has grown dynamically since 2012. According to the data of 30 September 2016, OPF placed funds worth nearly PLN 10 billion abroad, which accounted for 7% of the value of the entire portfolio. Higher level of investment in foreign markets was observed only in 2015 (PLN 11.3 billion, representing an 8% share in the investment portfolio). Foreign investment in 2016 included 312 financial instruments of issuers from 26 countries. For comparison, in 2014, the total value of foreign assets amounted to PLN 5.7 billion (3.9% share in the OPF portfolios) and in 2013, foreign investment reached PLN 4.3 billion, representing 1.5% of the portfolios and covered 65 instruments from 12 countries (Figure 2.1).

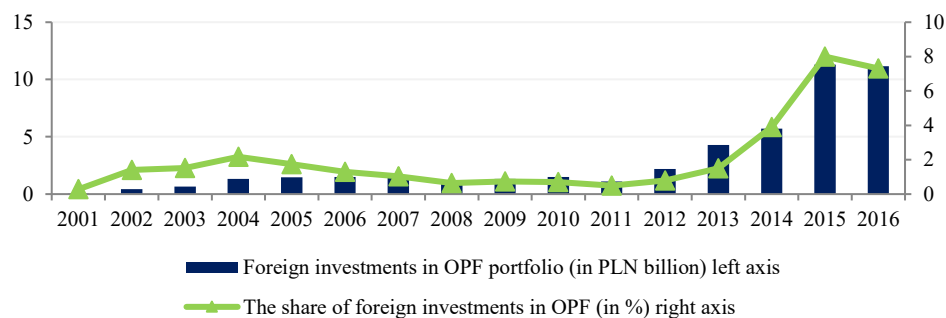


Fig. 2.1. Foreign investments value as of valuation day and the share in the OPF portfolio (own elaboration based on data provided by the Polish Financial Supervision Authority)



Such a dynamic increase in the share of foreign investment observed since 2015 is a consequence of changes in legal regulations and attempts to diversify the portfolios by their management. One of the major amendments to the Pension Funds Act, a catalyst for increasing the exposure of funds on foreign markets, was the increased limit on foreign investment from 5% before 2014 to limits equal to the domestic instruments in 2014. It is true that in their history, funds had not used the available limit, but already in 2015 the share of foreign investment was higher than the maximum limit before 2014 and amounted to 8%. The relatively better situation on foreign exchanges was also a factor in comparison with the Warsaw Stock Exchange and greater liquidity of acquired foreign instruments. In 2016, almost 98% of foreign investments were equity instruments (company shares, depository receipts and dividends from stock exchange shares). In 2015, the share of equity instruments reached 96%, compared to 44% in equity instruments in 2011 and 33% in 2010 (Figure 2.2). The average share of equity instruments in the OPF portfolios in 2003-2011 was 47%. Such a significant reduction in debt instruments is also the result of the changes in the legal regulations relating to investment limits in treasury securities.

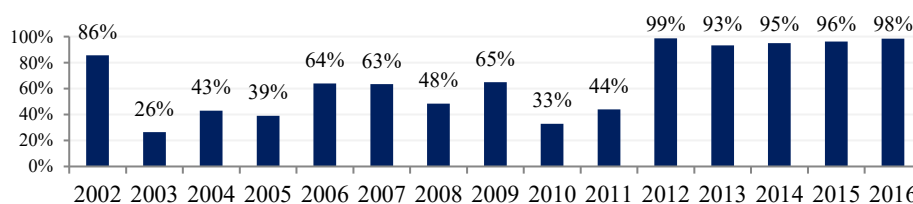


Fig. 2.2. Value of foreign equity investments in total foreign investments (%) (own elaboration based on data provided by the Polish Financial Supervision Authority)

As of the end of September 2016, the largest portion of the OPF portfolio of foreign investment was located in instruments issued by German and US issuers (in total, almost 40%) and France and Austria. OPF invest primarily in instruments of issuers from the European Union (almost 75% of foreign investment portfolio).

## 2.2. Foreign investments in debt instruments in OPF portfolio

The first debt instruments appeared in the OPF portfolios in 2002. These were zero coupon bonds issued by Deutsche Telekom AG (worth PLN 71,887,500.00) and fixed interest bonds issued by Credit Suisse Group (PLN 198,997,09). In subsequent years, the value of debt financial instruments in fund portfolios increased steadily, reaching over PLN 907 million in 2005 (Figure 2.3). It was at the same time the highest value of this category of the OPF foreign investment by the end of

2016. Since 2006, a gradual decrease in engagement of the OPF assets in foreign debt securities, with a minimum of PLN 125 million in 2013. In 2015, the value of this investment category in the OPF portfolios increased again to PLN 500 million, just to drop to PLN 149 million a year later. The largest share of investments regarded variable interest rate revenue bonds issued by entities domiciled in the EU, the EEA and the OECD (slightly over PLN 133 million).

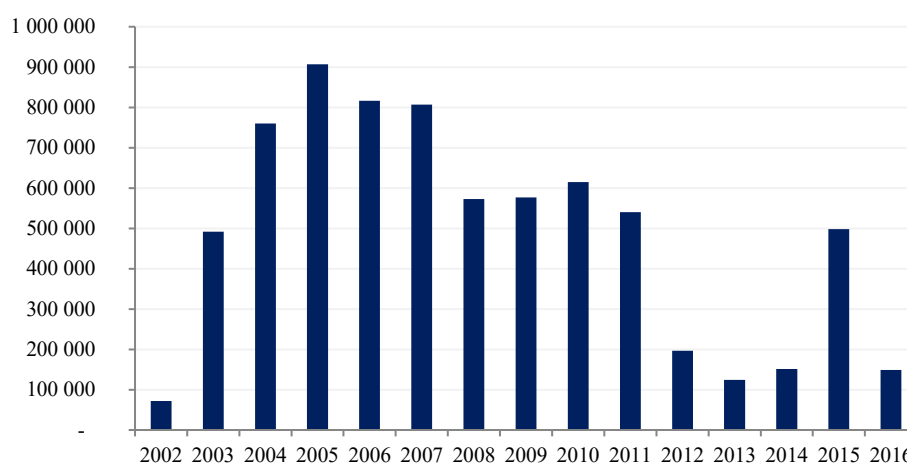


Fig. 2.3. Total value of debt financial instruments in OPF portfolios in 2002-2016 (in PLN thousand) (own elaboration based on data provided by the Polish Financial Supervision Authority)

Table 2 shows the OPF investments in foreign debt financial instruments by category. In the analyzed period (2002-2016), the funds were mostly interested, in terms of the value of invested funds, in floating interest rate bank securities issued by foreign banks and floating interest rates securities issued by European Bank for Reconstruction and Development, European Investment Bank, International Bank for Reconstruction and Development. The former appear in the investment of OPF in 2004-2008, the latter in 2003-2007. On the other hand, OPF were the least interested in fixed rate bonds issued by foreign exchange companies, present in the OPF portfolios at the beginning of their operations in 2002-2004. In 2013, when, as mentioned above, the value of the OPF investment in foreign debt securities reached historical minimum, the only debt instruments in the OPF portfolio were bonds issued by Deutsche Bank AG London classified as other than traded on a regulated market or introduced into alternative system of trading abroad debt securities with variable interest rates issued by companies listed on foreign exchanges that had not been hedged to the full face value and possible interest.

Table 2. Value of investments in foreign debt securities by investment category in 2002-2016 (in PLN)

Full name of investment category	Total value
Floating interest bank securities issued by foreign banks	1 513 013 201
Floated interest bonds issued by EBRD, EIB, IBRD	1 493 250 266
Other non-traded floating interest debt securities traded on a regulated market or introduced to an alternative trading system abroad, issued by companies listed on foreign exchanges that have not been hedged at the full face value and interest rate	1 046 891 967
Floating interest bonds issued by EIB	465 436 364
Zero-coupon bonds issued by foreign listed companies	434 000 430
Other non-traded zero-coupon debt securities traded on a regulated market or introduced to the alternative trading system abroad, issued by companies listed on foreign exchanges that have not been hedged to the full face value and possible interest rates	426 844 785
Discount bank securities issued by foreign banks	387 814 394
Floating interest rate revenue bonds issued by entities domiciled in EU, EEA and OECD	380 144 983
Unsecured bonds and other fixed-rate debt securities of companies listed on a regulated market in countries other than the Republic of Poland	378 554 494
Indexed bonds issued by EBRD, EIB, IBRD	280 000 000
Zero-coupon debt securities issued by companies listed on foreign exchanges traded on a regulated market or introduced to an alternative trading system abroad, which have been hedged at the full face value and possible interest rate	203 687 835
Fixed interest bonds and other debt securities issued by foreign governments	178 019 240
Indexed bonds issued by foreign banks	50 000 000
Non-publicly-issued bonds and other fixed-rate debt securities issued by entities other than the competent regional or local public authorities of the EU, EEA and OECD countries	15 127 179
Unsecured bonds and other fixed-rate debt securities of non-listed companies on the regulated market within the EU, EEA and OECD, which are the subject of public offering.	14 777 518
Fully secured bonds and other debt securities with fixed interest issued by entities other than the competent regional or local public authorities of the EU, EEA and OECD countries, which are the subject of public offering	10 068 482
Fixed interest bonds issued by foreign listed companies	762 927
<b>Total</b>	<b>7 278 394 063</b>

Source: Own elaboration based on data provided by the Polish Financial Supervision Authority

In 2016, pension funds invested their assets in three categories of foreign debt instruments: floating interest rate revenue bonds issued by entities based in the EU, the EEA and the OECD (approximately PLN 133 million), unsecured bonds and other fixed-rate debt securities of companies not listed on the regulated market in the EU, the EEA and the OECD in public offering (less than PLN 15 million) and fully-secured bonds and other fixed-rate debt securities issued by entities other than the competent regional or local public authorities of the EU, the EEA and the OECD countries in public offering (slightly over PLN 1 million). The issuers most often selected by OPF include such entities as Procter & Gamble Co, Wal-Mart Stores Inc., BASF SE, Vodafone Group Plc, The Coca-Cola Co., Warimpex Finanz-Und Beteiligungs AG, Deutsche Post AG, Svenska Cellulosa AB, Royal Mail Plc, and Statoil ASA.

### 2.3. Foreign investments in equity in OPF portfolio

The involvement of pension funds in the equity instruments market has been growing dynamically since 2012, the first year the rules for investment funds were changed to prevent investment in the Treasury securities. Particularly clear dynamics has been observed since 2014, when foreign investment limits were increased.

By the end of 2013, the only equity instrument appearing in foreign investment portfolios of open pension funds were shares of companies listed on the regulated market. Since 2015 OPF have also invested in depository receipts admitted to trading on a regulated market outside Poland. In 2015, the value of investment in this asset class amounted to approximately PLN 43 million, in 2016 (Figure 2.4).

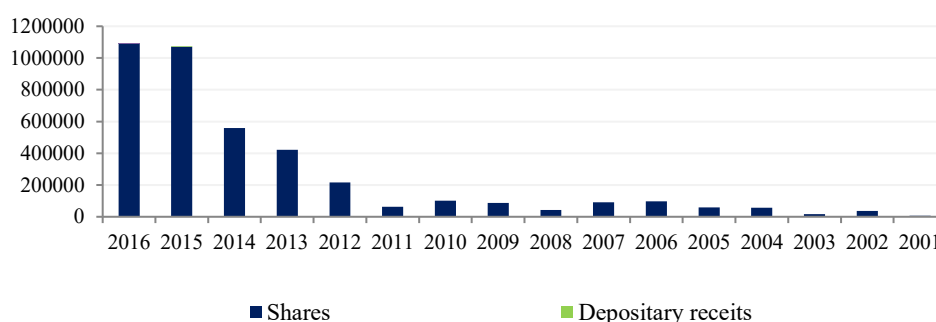


Fig. 2.4. Value of foreign equity investments in total foreign investments (in million PLN) (own elaboration based on data provided by the Polish Financial Supervision Authority)

The largest exposure on the foreign equity market in 2016 was shown by OFE Aviva BZ WBK and OFE PZU "Złota Jesień". The value of foreign equity instru-

ments of these two funds represented 39% of the total exposure of open pension funds in foreign equity instruments. The next two funds to be indicated are Nationale-Nederlanden (14.8% of total the OPF portfolio in foreign investment) and MetLife (9.75%). Depository receipts listed on regulated markets outside Poland appeared only in the portfolios of two funds in 2016: Aegon OFE and Nordea OFE.

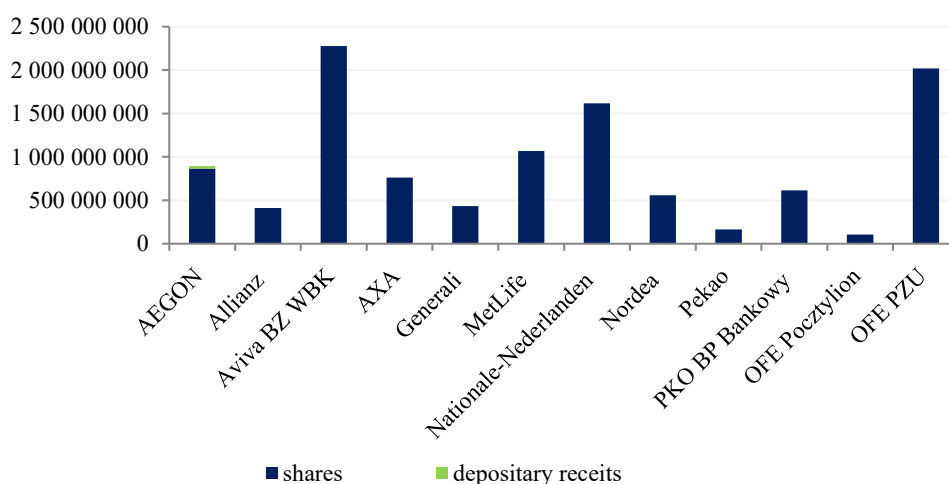


Fig. 2.5. Share of foreign equity instruments (shares, including subscriptions rights, share rights, convertible bonds and depository receipts) on the regulated market outside the Republic of Poland in the portfolios of open pension funds in 2016 (in PLN) (own elaboration based on data provided by the Polish Financial Supervision Authority)

At the end of 2016, open pension funds included in their portfolios shares of 576 foreign companies with a total value of PLN 16 billion. The OPF investment in foreign companies may be divided into: investments in foreign companies listed on the WSE and investments in companies listed on regulated markets outside the Republic of Poland.

As for the value of investment, the first category is much larger. In 2015, there were more than 30 foreign companies listed on the WSE in the OPF portfolio, totaling PLN 117.7 billion. OPF invested the most in Amrest Holdings SE, CEZ S.A., Unicredit S.P.A, Global City Holding N.V, Mol Magyar Olajes Gazipari RT., Kernel Holding S.A (over PLN 4.58 billion). The largest share of OPF in the capitalization of foreign companies in total concerned Amrest (over 40%). Open pension funds also control over 10% of shares in several Ukrainian food companies and two Lithuanian companies.

In the second category, OPF invested more than PLN 10.5 billion (10 times less than in foreign companies listed on the WSE) in over 300 foreign companies. OPF invested the most in banks and financial sector: Erste (PLN 865 million; 1.6% share in company market capitalization), Komercni Banka (PLN 650 million that is

2.6% of company capitalization), Intesa Sanpaolo Bank (PLN 422 million and 0.2% market capitalization), OTP Bank (PLN 196 million) and automotive: Daimler (PLN 386 million that is 0.1% of market capitalization), BMW (PLN 119 million), Volkswagen (PLN 114 million) – figure 2.6. In 2016, OPF most often invested in companies from Germany (10 out of 20 companies with the biggest OPF assets, inter alia: Daimler, BMW, Siemens, Airbus), Austria (Erste, Raiffeisen, Uniqa Insurance Group), Central and Eastern Europe (Czech Republic: Komerční Banka, Hungary: OTP Bank) and United States (inter alia: Freeport, Alphabet, General Electric) (Annual information on asset structure of OPF in Poland, 2016).

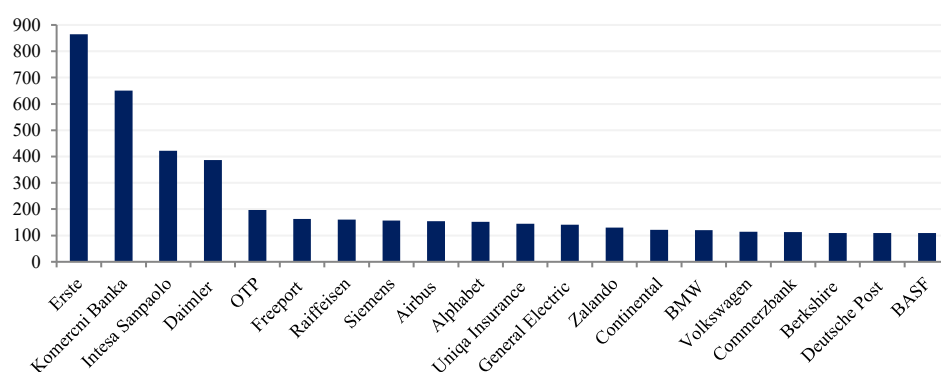


Fig. 2.6. The value of OPF investment in foreign companies listed on the regulated market outside the Republic of Poland in the portfolios of open pension funds in 2016 (in million PLN) (own elaboration based on data provided by open pension funds operating in Poland)

The structure of foreign investments in OPF portfolios is particularly important in the context of further reforms aimed at the liquidation of open pension funds from the beginning of 2018. According to governors declaration, public institutions will not acquire shares in foreign companies listed on the WSE, what may result in the process of growing share of polish public institutions in foreign companies listed on foreign stock exchanges. As the reform is the political decision that leads to partial nationalization of OPF, acquiring foreign assets may be treated as controversial.

## 2.4. Summary

Open pension funds were granted the right to invest assets abroad more than a year after their inception (March 2000). Considering the fact that the shareholders of most pension funds were financial institutions familiar with foreign markets who had been investing there for years, expectations for foreign investment were high. In fact, in 2000, none of the funds utilized this opportunity and the first foreign financial instruments appeared in the OPF portfolio only in September 2001, when

OPF Nationale-Nederlanden invested about PLN 65,000 (only 0.002% of its assets) in shares quoted abroad. In December 2001, Nationale-Nederlanden was followed by PTE PZU investing abroad 0.58% of its assets, a month later PTE Aviva BZ WBK became a shareholder of 10 European companies investing approximately 0.5% of its assets. Most pension funds expressed the view that proper portfolio diversification, by incorporating foreign assets, is beneficial for profit, and that foreign investment reduces geographic risk and partly detracts from the return rate of the Polish economy, but at the same time transaction costs on foreign exchanges are incomparably higher than in Poland. The following years showed an upward trend in the share of foreign investments in the OPF portfolios, although their scale was rather insignificant and far from the statutory limit of 5%. The jump in the involvement of open pension funds in foreign financial instruments was accompanied by the decrease and then the partial abolition of legal restrictions in this area. It is also noteworthy that the situation on foreign exchanges was better in comparison to the slump in stock exchange in Poland, especially in the context of the ban for pension funds on investing in the Treasury securities, which had been predominant in their investment portfolios since the beginning of the OPF functioning. Since 2015 OPF invest more than 7% of assets in foreign instruments, out of which over 90% is located in equity instruments, mainly shares. OPF choose instruments issued in European Union, often in neighboring countries (Germany, Hungary, Czech Republic), by companies from, inter alia, automotive and financial sector. The future planned reforms are to eventually eliminate open pension funds – entities that were to become one of the most important institutional investors on the Polish capital market. This, political decision, may result in the growing share of the state in foreign companies, what may significantly change the ownership structure in particular companies and foreign stock exchanges.

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#### INWESTYCJE ZAGRANICZNE W PORTFELACH OTWARTYCH FUNDUSZY EMERYTALNYCH W LATACH 1999-2016

Głównym zadaniem powstałych w Polsce w 1999 roku otwartych funduszy emerytalnych było gromadzenie i pomnażanie oszczędności emerytalnych ich uczestników. Z tego względu, zasady prowadzenia działalności inwestycyjnej funduszy są kluczowe nie tylko dla funkcjonowania OFE, ale także dla ich członków. Celem niniejszego artykułu jest przegląd zmian przepisów prawnych regulujących zagraniczną politykę inwestycyjną polskich otwartych funduszy emerytalnych od momentu ich utworzenia w 1999 roku do końca 2016 roku, a także ocena wpływu tych zmian na działalność inwestycyjną funduszy oraz skład ich portfeli inwestycyjnych. Artykuł powstał na podstawie analizy ustawodawstwa, jak również danych o działalności inwestycyjnej otwartych funduszy emerytalnych publikowanych przez Komisję Nadzoru Finansowego oraz poszczególne fundusze emerytalne.

**Słowa kluczowe:** fundusze emerytalne, system emerytalny w Polsce, inwestycje zagraniczne