

THE IMPLEMENTATION OF EMIR (EUROPEAN MARKET INFRASTRUCTURE REGULATION) AND ITS INFLUENCE ON DERIVATIVES MARKET IN POLAND IN 2010–2014

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Abstract

The article presents the analysis of the changes of derivatives market structure in Poland before and after the implementation of regulations on OTC derivatives market, which was imposed in EU by EMIR (European Market Infrastructure Regulations). That was implemented by EU Parliament and EU Council ordinance No. 648/2012 dated on the 4th of July 2012, on the derivatives being the subjects of trade outside of the regulated market, central counterparties and transactions repository. The article describes the origin of the world financial crisis in 2008 as well as regulations which were published 2010-2012 in USA and EU aiming to reduce the possibility of critical situations occurrence in following years. Furthermore, Poland's most popular OTC derivatives and local derivatives regulations have been characterized in the paper. The assessment of introducing in 2012 regulations on OTC and its value structure has been performed.

Keywords: derivatives, OTC, CCP, Dodd Frank, EMIR.

1. Introduction

For over a dozen years a constant growth of transactions in the derivatives market has been observed, reaching in 2013 the value of approximately USD 2 trillion worth daily transactions on the global interest rates market. According to research published by the Bank for International Settlements the nominal value of derivatives traded outside of stock exchange markets reached the value of USD 700-800 trillion, which is more than the entire GDP of the whole World. Lack of transparency and insufficient regulations of the OTC (over the counter) derivatives market, caused mainly by its decentralized characteristics and the ease of signing these contracts, resulted in an incorrect assessment of

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exposure to risk for counterparties and fueled deepening disorders on financial markets in 2008–2009.

The most significant for OTC derivatives market are following regulations:

- EU Parliament and EU Council ordinance No. 648/2012 dated on the 4th of July 2012, on the derivatives being the subjects of trade outside of the regulated market, central counterparties and transactions repository in EU area as well as the local, Polish regulations:
 - the act on financial instruments trading (enacted by the Lower House of the Parliament of Poland on the 28th of June 2012, signed by the President of Poland on the 11th of July, coming into power starting from the 4th of August 2012),
 - the act changing the act on financial instruments trading enacted by the Lower House of the Parliament of Poland end of October 2012 and signed by President of Poland on the 30th of November 2012, coming into force starting from the 26th of December 2012.

Considering the importance of the subject, mentioned above regulations have been covered by the analysis in the article and presented respectively in section 2 and 3. Introduced regulations aimed, *inter alia*, to restore clients' trust to derivatives being the subject of trade outside of regulated markets. In the article the analysis of the value structure changes of derivatives in Poland has been performed by focusing on the situation before and after introducing regulations on OTC derivatives, basing on research published by Central Statistical Office (GUS). The analysis covers years 2010–2014. The primary goal of the paper is to check if, and if so how, the implementation of EMIR regulations, introduced after the financial crisis in 2008, influenced the change of derivatives' structure value compared to the situation before introducing EMIR regulations.

The article consists of following sections. Section one is an introduction. Section two is a characteristic of OTC derivatives market regulations changes caused by the financial crisis in 2008. Section three is a description of the EU's regulations implementation to Polish law. Section four presents an analysis of derivatives' value structure changes in Poland before and after introducing EMIR regulations on OTC derivatives. The last one shows benefits for Polish market participants from EMIR regulations implementation to local laws and their influence on derivatives' value structure changes in Poland in years 2010–2014.

2. The reform of regulations for derivatives

The derivative has been defined as a contract, which market price depends directly or indirectly on the price or value of securities, which are the base financial instruments for derivatives (Kudła, 2009). These are also other

contracts, which value directly or indirectly depends on the exchange rate or interest rates changes.

The derivative is a financial instrument, which is fulfilling the following criteria (Jajuga, 2009):

- its value depends on certain interest rate, security price, stock price, exchange rate, index based on price or interest rate, or other variables,
- doesn't require any initial payment or require only a little, compared to the contract value, initial investment,
- its settlement is due in the future.

The link between derivatives value and the value of base financial instruments is considered as the main feature of derivatives (Tarczyński & Zwolankowski, 1999), however, determining derivative value by the value of a base instrument is key for this dependency. Everything that has a value can be the underlying asset provided that the value is changing over the time. The underlying asset variation over the time is linked with the necessity of uncertainty occurrence when it comes to the value of an underlying asset at a certain time in the future. Hence, the underlying asset for derivatives can be securities, currencies, interest rates, stock exchange indexes and stocks.

Certain derivatives vary from each other due to features representing. When selecting certain criteria you can obtain different classifications of derivatives. The most famous distinction of derivatives based on the content of rights and obligations implicated by certain derivative enables to distinguish forward contracts, options, and swaps (Gorzelał, Barciszewska, Barciszewska & Rogalski, 2011, p. 58). The most popular in Poland derivatives include forward contract, futures contract, swaps and options (Goławska-Witkowska & Rzczycka, 2009, p. 45).

The reform of legislation on derivatives was one of the consequences of the global crisis in 2008. The immediate cause was the collapse of the functioning of the global financial system, which has occurred since mid-2007, due to earlier upbeat trend in the mortgage market in the United States. Banks in the United States were lending at high risk of repayment, even to those with insufficient financial credibility (subprime mortgage – in Polish naming without having creditworthiness). These loans were used as insurance for structured bonds and massively sold for investment and speculative purposes by private financial institutions, including the largest US and European banks. Awareness of the risks associated with the functioning of these bonds was low because an artificially induced increase in real estate obscured the true real picture, and the leading rating institutions did not signal the danger, assessing these bonds highly safe. This lack of creditworthiness of some debtors was reflected in the lack of repayment of their liabilities in a high proportion (9.2%), which consequently led to a lack of cash in the credit market and resulted in

instability of these institutions. Other causes included the use of securitization and credit derivatives for the distribution of risk and a significant amount of market transactions excluded from the supervision, creating an alternative banking system (shadow banking system). The importance of derivatives was revealed at the beginning of the mentioned financial crisis in 2008. According to economists, OTC derivatives, especially credit ones, played an important part in the dissemination of the last financial crisis. The reason for that was their bilateral nature and a high degree of complexity, and above all the lack of transparency in the primary exposure of market participants. As a consequence of above facts, banks announced job reductions – for example in the UK only between the year 2008 and 2009 tens of thousands of financiers lost their jobs. In the second half of 2008, the decrease of lending by banks influenced on the collapse of car retail, financed mainly by loans. The biggest car manufacturers such as Chrysler, General Motors, Ford, and Volkswagen reduced their staff significantly. Thus, the financial crisis caused economic crisis overall. Predictions of upcoming recession have deepened the shares price drop on all stock exchanges.

Although the global crisis of 2008 did not create such severe consequences in Poland, Polish banks fearing of falling real estate prices have significantly reduced lending. Declines in stock prices occurred on the local stock exchange. Losses on currency options market in Poland contributed to reducing the interest and involvement of non-financial companies on the derivatives market. In 2009 most of the previously concluded agreements for currency options already expired, and entering new transactions was substantially reduced. According to the data (Polish National Bank, 2011), the value of currency derivatives trading in 2009 dropped by 40% compared with 2008, while the value of currency options transactions fell by nearly 70%.

Responding to the global crisis, leaders of G-20 countries participating in the summit, taking place in Pittsburg on September 2009, called to reform the infrastructure of OTC derivatives markets, in order to introduce supervision over the systemic risk which can be caused by those instruments and limitations of the risk. Lehman Brothers collapse had a direct influence on taking mentioned actions.

The United States as the first responded to the Pittsburg summit participants' call and within less than a year issued new regulations, gathered in the act written by congressmen Chris Dodd and Barney Frank, known as Dodd-Frank Act. The law was signed by the President of USA in July 2010, and its command was introduced until the end of 2011. The purpose of the act is to regulate Banks and Financial Institutions operations including (Staszewska, 2014):

- limitations of banks' risky activities,

- creating a new agency responsible for consumers' protection from so-called "predatory lending" (unjust and unfair crediting practices) and other unfair practices,
- derivatives market regulations,
- agreeing on the lead role of Federal Reserve in supervising law compliance,
- obligation towards banks to meet more strict capital requirements,
- introduction of regulations enabling regulators to take over as well as liquidate huge banks which could fall into trouble.

The Dodd-Frank bill imposes supervisor as well as decisions maker role regarding clearing contracts through CCP on CFTC – the federal agency in the USA controlling American forward contracts market. The Dodd-Frank bill in the area of OTC derivatives infrastructure perceives obligatory centralization of standard derivatives transactions calculations by the Central Counterparty Clearing House (CCP) and requires that all transactions, performed by CCP as well as others, are known to authorized transactions repository. The Dodd-Frank Act, apart from regulations for OTC derivatives market, introduces additional institutions for monitoring and preventing additional systemic risk – Stability Oversight Council and Office of Financial Research, and customers financial supervision as a part of Consumer Financial Protection Bureau.

In EU EMIR regulation came into force. It was introduced through ordinance of the EU Parliament and the EU Council ordinance NR 648/2012 dated on the 4th of July 2012 on the derivatives being the subjects of trade outside of the regulated market, central counterparties and transactions repository. The essential part of the new regulation is focused on derivatives. Based on point number 53 of the preamble to MFID directive and comments from European Commission articulated in concluded public consultations regarding amending the directive, we can understand this term as bilateral transactions usually exceeding the current market volumes, conducted irregularly on an ad-hoc basis between wholesale counterparties without the engagement of formalized transaction system.

It is worth to highlight records of articles 4, 9 and 14 of the quoted ordinance NR 648/2012. Article 4 introduces an obligation for clearing all derivatives contracts being subject to the OTC trade and also part of derivatives classes accepted by ESMA as due to be cleared. Article 9 puts an obligation of providing detailed information about every signed derivative contract and all changes or cancellation of the contract to the transactions repository. Article 14 introduces permission for running CCP. In case a legal entity having headquarters in EU is planning to provide clearing services as CCP, it issues an application for permission to a respective unit of EU member

state, where it is located (unit respective for CCP) following the procedure indicated by ESMA.

Other than that, EMIR recommends the increase of operational requirements and cautions for CCP and highest possible transparency of operation processes, through an introduction of procedures for identification and solving potential conflicts of interests referring to the ownership of CCP. Increasing standards of caution consists of increasing essential capital requirements, introducing necessary compensation funds (which all board members will be paying a fee to) and on an appropriate segregation of counterparties assets – these actions are due to ensure fluidity for the clearing house in case of bankruptcy of one of its members. Selected dispositions refer to CCP acting on the market for OTC derivatives, as well as clearing houses reconciling instruments being subject to trade on primary markets.

Ordinance (UE) 648/2012 – EMIR presented an obligation to clear certain classes of derivatives contracts on interest rates (Interest Rate Swap, Forward Rate Agreement), denominated in Polish PLN as well as Swedish SEK and Norwegian NOK. Two classes of forward contracts cleared in PLN were supposed to fall under obligation for central clearing: IRS fixed-to-float, for which the benchmark index is WIBOR – with maturities of 10Y and 28D-FRA contract, for which the benchmark is WIBOR – with a maturity of 3D-2Y. Based on mentioned above ordinance (UE) 648/2012 dated on the 10th of November 2015, ESMA published an appropriate project of the technical standards. The introduction of obligation for clearing is in the European Commission and European Parliament competency, and the decision should be made still in 2016. EMIR introduces an obligation for clearing some classes of OTC derivatives through specialized entities – clearing houses (CCP) and reporting about derivatives transactions to so-called transactions repositories. Clearing OTC derivatives through CCP aims to reduce the risk of default on transactions obligations by engaged parties. Because of expectations and responsibilities required from the central counterparty (CCP), EMIR Regulation puts in front of it certain qualitative and quantitative requirements. These requirements include a permanent and disposable capital of at least EUR 7.5 million and the collateral structure, set by the parties to the transaction towards securing the contract settlement, in the form of liquid assets (including cash, gold). Also to have additional funds that could constitute protection in the event of failure to comply with the terms of the contract by any of the parties.

It should be noted that the EMIR regulation, in principle, will not apply to non-financial counterparties (corporate), except in cases where their positions on OTC derivatives will be considered significant, or when they have systemic importance. Publication Ordinance EMIR took place on 27 July 2012 and entered into force on 16 August 2012.

3. Implementation of the solutions to Polish law order

The arrangements set out (imposed) by the EMIR regulation has been introduced in a very short period to Polish legislation, namely the Parliament on 28 June 2012 passed the amendment to the Act on trading in financial instruments and to many other laws, including the Civil Code. This law, signed by the Polish President on 11 July 2012, was published on 20 July 2012 and came into force on 4 August 2012. This Act introduces the Polish law the institution of the so-called novation settlement.

The concept of "novation" (Latin *novatio*), otherwise called the "renewal," operates in the Polish legislation and is contained in the Article 506 in section obligations of the Civil Code. The said Article 506 §1 states: "if for obligations' release purposes the debtor agrees, with the consent of the creditor, to satisfy other obligation or even the same obligation, but based on a different legal basis, current obligation expires (renewal)." The purpose of an requirement is to meet the interests of the creditor. Renewal, known as novation, is one of the ways for expiration liabilities. As a rule, liability is extinguished when performed in line with its contents. However, the obligation may terminate in other means, including by satisfying the interests of the creditor (may also be terminated without his satisfaction, e.g. relief from debt). One of those ways for an expiration of the liability is renewal (novation).

In relation to trading in financial instruments, clearing novation consists of the settlement of the previously, already concluded, transactions by a third party, i.e. a central counterparty (CCP), that enters in the liabilities of the original parties to the transaction. Thus, already known in Western Europe accounting standards took effect in Polish law, adapting them to the requirements of the Regulation of EMIR in the area of settlement of OTC transactions.

Based on the new regulations a central counterparty in settlement of transactions, will be ascending to the rights and obligations of the parties to the transaction while quenching created mutual obligations of the parties. In practice, this means that instead of a single contractual relationship, two relationships of requirements exist and in each one, one of the parties will be central counterparty (Stanek, 2012). For the buyer, it will be a party to the customer, while for the retailer it will be a buying party. Central counterparty will be responsible for the settlement of the contract, which should, on the one hand, reduce individual credit risk, on the contrary, should guarantee the smooth settlement.

Another legislative action in the field of trading in financial instruments was the amendment of the Act on Trading in financial tools and other acts passed by the Parliament at the end of October 2012, which on November 30,

2012, the President of Poland signed. The new rules apply from 26 December 2012.

The Act implements Directive 2010/78 / EU, which increases the integration of financial supervision in Europe and the security of the financial market. It designs cooperation and exchange of information between the Financial Supervision Commission (KNF) and the European System of Financial Supervision (ESFS) responsible for the following sectors: banking, insurance, occupational pensions, and securities. ESFS is functioning in the EU since 1 January 2011. It consists of the European Banking Authority, European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority. The law, among other things, imposes on the KNF obligation in particular to notify the competent European supervisory authority, about issued or withdrawn authorizations concerning the pursuit of activities in the financial market and the cases of refusal to issue such a permit. In addition, the KNF will provide the European Supervisory Authority Securities and Markets Authority and the supervisory authorities of the regulated markets in the other Member States with a list of the regulated markets operating on Polish territory.

In the framework of consolidated supervision, KNF will also be able to take over the tasks of the other surveillance authority of EU Member State or delegate them towards the other authority. To protect the public interest, KNF will be able to suspend (for a period not longer than one month) the ability to perform, in whole or in part, the brokerage or custody on Polish territory by a foreign investment firm. At the same time informing the European Commission, the European Supervisory Authority Securities and Markets Authority and the competent supervisory authority in another Member State which granted the authorization to a foreign investment company. The law also allows the Financial Supervision Authority to conclude agreements with the competent supervisory authorities of other countries specifying the scope and mode of cooperation in the exercise of consolidated supervision over banks operating in groups, supervision of important branches of domestic banks and the relevant branches of credit institutions, while informing the European Banking Authority on the concluded agreements and their contents.

National Depository for Securities (KDPW) for several years carried out projects aiming to improve the safety of the Polish market and create conditions to make it competitive. As a result in 2010 KDPW created the so-called "Guarantor settlements", which was provided with the capital of PLN 60 million, with the task of supporting the liquidity of the system of settlements. After that, in 2011, on the basis of the Guarantor settlement, a clearing house called KDPW_CCP was established, characterized by a new settlement guarantee system. The clearing house had equity of PLN 100 million. In 2012,

the house' capital was increased by another PLN 100 million to PLN 200 million. On 19 December 2012 Financial Supervision Commission approved the terms of the settlement of transactions (turnover unorganized). The content of the regulations was made available on the website of the National Depository for Securities (KDPW). Regulations came into force on 2 January 2013. From that day onwards clearing KDPW_CCP launched the settlement of transactions in OTC clearing system and applied for authorization under EMIR to the Financial Supervision Commission.

With the introduction of accounting services for derivatives and OTC transactions Polish market is ready to meet the requirements of the Regulation of the European Parliament and the Council on derivatives traded outside the regulated market, central counterparties and trade repositories (EMIR). KDPW_CCP is a modern clearing house for settlement of transactions and performs clearing using a number of mechanisms to reduce the systemic risk of default parties from obligations transactions. Novation will make KDPW_CCP enter into the rights and obligations arising from transactions accepted for settlement. As a result of using new tools – in particular – netting in financial instruments, the development of the clearing guarantee system and the participation of KDPW_CCP in securities lending as a guarantor for repayment of the loan, KDPW_CCP is prepared to take effective competition with other clearing houses operating at the moment in Europe. The use of standardized solutions to the functioning of the clearing house KDPW_CCP enables dynamic development of both the scope and area of services.

Creation of KDPW_CCP affected the position of the Polish capital market internationally and has been positively assessed by the rating agencies (in particular due to reduced counterparty risk) due to the implementation by Poland of international standards in this field. The changes have also been strongly supported by the environmental infrastructure of the Polish financial market. The result is an improvement in the perception of Polish capital market infrastructure by foreign and Polish financial institutions. Creation of KDPW_CCP was preceded by the release of the Financial Supervision Commission decision, approving the location of the KDPW_CCP capital in the system of clearing liquidity transactions and limiting obligations of the clearing, following the additional payments to the settlement fund. The capital of KDPW_CCP can be used to support the liquidity of the clearing of transactions concluded on the regulated market. At the moment of creating KDPW_CCP, important features were provided by the entity, which acts as a clearing house.

KDPW_CCP is legally separate, as according to international standard and due to the different nature of the risks associated with the provision of CCP clearing, and risks arising from the core business of the central securities

depository (KDPW). It was necessary to isolate it as a separate legal entity, which tasks will be to provide services of settlement house.

An significant advantage of KDPW_CCP has assets that can be used as part of the clearing guarantee system, thus improving the security of settlements. KDPW_CCP is equipped with a capital of PLN 200 million (approx. EUR 50 million), which can be used as part of the clearing guarantee system, becoming one of the system resources.

Calling KDPW_CCP allowed limiting the maximum additional contributions to the clearing fund at the level of 110% of the fundamental contribution of a participant. The limit allows participants to assess the risk associated with participation in the clearing guarantee system.

Settlement of OTC derivatives by clearing them through CCP aims primarily to reduce the risk of default.

Transaction clearing through a CCP concerns both financial institutions and non-financial institutions, yet for non-financial institutions determines the so-called materiality threshold, which, depending on the type of transaction is EUR 1 to 3 billion (Baranowska-Skimina, 2012). Certain thresholds are on the one hand to ensure control of the derivatives market, on the other hand however not to impose on the enterprises labor-intensive and costly requirements that are not adequate to the scale of operations.

4. The analysis of derivatives' value structure changes in Poland before and after introducing EMIR regulations on OTC derivatives

The introduction of the settlement of OTC transactions through a central counterparty has lead in micro scale to minimize the individual credit risk of the participating parties, while at the macro scale to defend systemic risk, resulting in the lack of settlements for this type of transactions. Analysis of changes in the structure of the derivatives in Poland covers the years 2010-2014. Selected years of exposure include two years (2010 and 2011) preceding the implementation of the EMIR regulation on OTC derivatives, and two years (2013 and 2014) after the introduction of this regulation.

According to the Central Statistical Office (GUS) records of derivatives held by non-financial institutions (Non-financial Counterparties), the research conducted in the years 2010 and 2011 involved 1,292 entities. Indicator of the analysis completeness (i.e. the ratio of the number of reports and the number of companies required to testify) amounted to 96.6%. Among the companies participating in the survey was 461 subsidiaries in the group, that did not file a detailed report and in accordance with the methodology of the study were not included in further analysis. The analysis included 831 entities, of which 566 parent companies in the group, and 265 enterprises operating independently.

As of 31 of December 2011 on the side of the nominal value of the assets and balance sheet derivatives showed 148 enterprises, of which 96 parent companies in the group and 52 companies operating independently. On the liabilities side – respectively 177 entities, of which 117 the parent companies in the group and 60 companies acting alone.

According to GUS records, providing data for 2013, 1382 subjects participated in, of which 521 companies were operating alone, 330 parent organizations in the group, 349 subsidiaries and 182 both dominant and dependent. Indicator of the analysis completeness (the ratio of the number of reports to the number of entities required to testify) amounted to 97.6%.

According to GUS data on derivatives of non-financial enterprises for 2014 from 1404 entities (of which 501 companies operating alone, 306 parent companies in the group, 403 subsidiaries and 194 both parent and subsidiaries) surveyed. The value of derivative instruments in assets at the end of the year 2014 presented 306 entities, and in liabilities – 340. Indicator of the analysis completeness (the ratio of the number of reports to the number of entities required to testify) amounted to 98.5%.

Table 1 presents the value of derivative instruments held by companies participating in the study in years: 2010 and 2011 as well as 2013 and 2014.

Table 1. The value of derivative instruments of companies in Poland participating in the study Central Statistical Office (GUS) in 2010, 2011, 2013 and 2014

	Derivatives in year							
	2010		2011		2013		2014	
Detailed	[PLN m]	[%]	[PLN m]	[%]	[PLN m]	[%]	[PLN m]	[%]
Assets total , out of which:	2857.7	100.0	4230.1	100.0	5 671.3	100.0	5 792.5	100.0
forward contracts	969.3	34.0	1356.4	32.1	2 852.0	50.3	3 843.8	66.4
futures contracts	4.3	0.1	9.2	0.2	11.8	0.2	97.0	1.7
options	1470.9	51.4	2223.4	52.6	958.9	16.9	540.3	9.3
swap contracts, out of which:	393.7	13.8	606.4	14.3	1 803.1	31.8	1 255.1	21.7
CIRS	73.3	2.6	181.8	4.3	29.2	0.5	377.2	6.5
Other derivatives	19.6	0.7	34.7	0.8	45.4	0.8	56.3	1.0
Liabilities total , out of which:	5262.7	100.0	6255.3	100.0	3 510.2	100.0	7 740.5	100.0
forward contracts	623.5	11.8	1772.9	28.3	1 730.3	49.3	3 268.9	42.2
futures contracts	41.3	0.8	28.7	0.5	20.8	0.6	9.0	0.1
options	2124.9	40.4	1058.4	16.9	93.4	2.7	251.3	3.2
swap contracts, out of which:	2406.9	45.7	3319.2	53.1	1 501.1	42.8	3 754.9	48.5
CIRS	1771.7	33.7	2730.7	43.7	355.8	10.1	156.6	2.0
Other derivatives	66.3	1.3	76.0	1.2	164.7	4.7	456.4	5.9

Source: Own study based on GUS survey conducted for the years 2010 and 2011, and 2013 and 2014 (Central Statistical Office, 2015).

On the basis of the data contained in Table 1, it can be observed that the value of derivative instruments in the assets of the analyzed companies is characterized by an upward trend throughout the period considered. Before the introduction of legislation EMIR highest share in the assets of derivatives have options – more than 51% and forward contracts – more than 32%. However, after the introduction of legislation EMIR, in the assets a significant increase in the share of forward contracts (almost double) can be observed, while an even more significant (3-5 times) drop in the participation of options. Additionally, at the outflow of the share of options, increase in the share of swap should be noted, which exceeded the share of options twice. In addition, other derivatives showed an upward trend in the coming years of exposure, although to a subtle extent. The share of derivatives in liabilities of analyzed enterprises is characterized by the occurrence of 44% drop in the first year after the introduction of regulation EMIR and 200% increase in the second year after the EMIR regulation. Before the introduction of EMIR legislation, the highest share in derivatives' liabilities were swap contracts – about 50% and options – about 30%. However, after the introduction of EMIR legislation, in the liabilities, a small (about 5%) decrease in the share of swap can be observed, while at the same time a very significant (several times more) decline in the share of options. Additionally, at the outflow of the share of options, an increase in the share of forward contracts should be noted, which exceeded more than ten times the share of options. Furthermore, several percent upward trends after the EMIR regulation showed other derivatives.

5. Conclusions

Fulfilling by Poland the requirements of the Regulation of the European Parliament and the European Council on derivatives traded outside the regulated market, central counterparties and trade repositories (EMIR) has brought positive results. For central counterparty, it enabled the collection and recording of information about market participants, transactions concluded on the market and the associated risks. This has led to defining the standards for individual products, the creation of a trade repository, that market regulators could access to make research and analysis, and ultimately take action to reduce adverse events, including reducing the risk. Another positive effect for polish clearing house was to cooperate with foreign CCPs and central depositories. Market participants from now on can obtain information from a central counterparty on other participants and market transactions, enabling business decisions to be based on the evaluation of existing risk. In addition, by guaranteeing transactions accepted for settlement by the clearing house – KDPW_CCP counterparties may increase the effectiveness of risk

management, and use the process of clearing and settlements in accordance with international standards. Market regulators have access to a trade repository, therefore, can take action to reduce adverse events, including a reduction of the risk of the transactions, thanks to the possibilities of research and analysis on the basis of information obtained from the trade repository. The introduction of the said regulation has led to the improvement of perception of Polish capital market infrastructure by Polish and foreign financial institutions, and as a consequence to increase interest in the Polish capital market. It increased Polish credibility on the international arena because of the quality of post-trading services in now present Poland.

On the basis of studying the structure of derivative in financial enterprises in the years 2010-2014, the two years before the EMIR legislation concerning the derivatives market, implemented into domestic law Two years after the introduction of these regulations, it can be stated that the implementation of EMIR regulation to the local law has contributed to changes in the structure of derivatives, including the very important (from several times in the assets to tens times in liabilities) reduction of the share of options, replacement of options by swaps in assets and forward contracts in liabilities, as well as the doubling of the share of swap transactions in assets.

Lack of implementation of the relevant services on the domestic market of derivative instruments, such as trade repository, clearing, settlement of OTC derivatives, which services can now be carried out by a domestic entity. This would lead to the need for the national market participants to use the offer of foreign entities, which would entail additional costs. KDPW_CCP clearing house settles and guarantees the settlement of transactions concluded on the Polish capital market. For example, only in 2013, the value of settled transactions exceeded PLN 616 billion, and the number of billable transactions came to the number of 20 million. Imposing on participants of the derivatives market additional duties created for them some inconvenience, but nonetheless, it will improve transparency and limit risk exposure of the main participants and transactions on the market (repository market transactions). Appointment of Polish clearing house KDPW_CCP positively influenced the position of the Polish capital market internationally and has been positively assessed by the rating agencies, in particular due to reduced counterparty risk. The result is an improvement in the perception of Polish capital market infrastructure by foreign and Polish financial institutions.

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