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Current Problems of Banking Sector Functioning in Poland and in East European Countries

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Current Problems of Banking Sector Functioning in Poland and in East European Countries ISSN 1899-3192

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ETHICAL ISSUES IN THE CONTEXT OF BANKS AS PUBLIC TRUST ORGANIZATIONS

Summary: The principles and ethical values have an impact on how a financial institution is perceived by stakeholders and whether they will trust it and entrust their funds. Banks also see benefits in running a business in an ethical way – honest and reliable approach to the client pays off in terms of his or her trust and long-term cooperation. Ethical action is a way of functioning that provides a competitive advantage that cannot be substituted in any way. In the context of the debate on the ethical side of banks the question arises whether it is possible to reconcile the realization of bank's economic goals with the observance of moral values?

Keywords: banking sector, ethics, ethical dilemma, public trust organizations.

1. Introduction

Modern economy is characterized by a high degree of uncertainty, higher risk and crisis of confidence in financial institutions. For banks these are difficult times, in which almost every customer decides about organization's survival. The events of recent years show that not every agent acts in the best interest of the client, and some of them immorally use public trust.

The problem of ethics is particularly important for banks – these institutions should base their operations, customer relations, and other functional areas, such as the policy of dividend payments, the mission of the institution, the obligations of employees, etc., on moral principles. The question is whether banks can afford to meet these exceptions concerning these rules for the benefit (even disposable)? On the other hand, what about the institutions that make this mistake – they will be condemned to the status of *persona non grata* in the financial industry, and customers will abandon their services? Finally, is it possible to define rules which would not create space for any offense? These and many other questions are particularly important in the context of potential financial crises, especially when honesty becomes the most important value.

The issue of ethics in banking is a multilayered problem. Because of the multidimensional nature of this phenomenon, it is possible to consider here only some aspects. Nevertheless, areas described in the publication, which are connected with an ethical problem, are the most important for the functioning of the banks whose operations are based on the balance between economic efficiency and compliance with ethical principles that build the image of public institutions.

The aim of this publication is to analyze the banking activity from the perspective of ethics and to identify areas where there may be problems with respect to ethical principles.

2. Ethics in banking

Business ethics (the banking ethics) can be defined as "considering the ways and lines of action in the economic life, which can be or not to be defended from a moral point of view".[1] From the practical perspective, there is a need to pay attention to the principles by which economic activities should be carried out in order to prevent fraud, detriment and neglect. In the context of banking ethics, this involves the use of some very general ethical principles to specific and often unique situations and conflicts.[2]

Running a business has always been associated with ethical dilemmas, but with the development of financial markets and globalization, this relationship has been subjected to the processes of intensification and took on a new meaning.[3] Historically, ethical dilemmas were more black and white; however, now they often become a problem of distinguishing acts contrary to moral principles. Due to technology development and implementation of new innovation, the line between ethical and unethical behavior is often blurred[4] and over time it can be seen as the gradual movement toward breaking the law. Apart from the classic theft, deception and lies, there are many other acts on the verge of breaking the law.[5] It should be emphasized that committing an offense have a much greater range of actions, and they are connected with using modern technology, including information technology.[6]

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[1] M. Nowak, *Etyka w biznesie, czyli jak wyglądają oszustwa biznesowe*, Wydawnictwo Publikacji Elektronicznych Escape Magazine, Toruń 2006, pp. 3–5.

[2] R.C. Solomon, Etyka biznesu, [in:] P. Singer (ed.), *Przewodnik po etyce*, Książka i Wiedza, Warszawa 2009, pp. 401–402.

[3] For more see: G. Simmel, *Filozofia pieniądza*, Wydawnictwo Fundacji Humaniora, Poznań 1997; L.V. Ryan (ed.), *Etyka biznesu. Z klasyki współczesnej myśli amerykańskiej*, Wydawnictwo „W drodze", Poznań 1997; G.D. Chryssides, J.H. Kaler, *Wprowadzenie do etyki biznesu*, PWN, Warszawa 2008; B. Klimczak, *Etyka gospodarcza*, Wydawnictwo Akademii Ekonomicznej we Wrocławiu, Wrocław 2007.

[4] Ch.P. Kindleberger, *Szaleństwo, panika, krach. Historia kryzysów finansowych*, WIG-Press, Warszawa 1999, p. 130.

[5] S. Flejterski, *Współczesne finanse i etyka. Sfera formalna i nieformalna*, www.piu.org.pl/public/upload/browser/15_Wsp_fin_i_styka_S_Flejterski.pdf [accessed: 13.11.2012].

[6] For more see: W. Jasiński, *Przeciw szarej strefie. Nowe zasady zapobiegania praniu pieniędzy*, Poltext, Warszawa 2001.

Ethical issues in finance are taken in three main areas: ethical trading on financial markets, the rules of building relationships with clients and personal dilemmas of those involved in the other two areas.[7] The first category relates to the general rules prevailing in the financial markets. According to them, each participant should have the same information on the subjects and terms of the transaction and the way of making transactions should be the same for everyone. It should be emphasized that the ethical principles of the transactions are governed by the law, but in spite of determining which actions are permitted, from time to time there are breaches. The other two groups will be described in more detail in the description of banks as public institutions and in the identification of areas of banking which are exposed to ethical dilemmas.

Ethics is an area of activity whose importance for business is growing all the time. Today, there is a need for changing the rules of the existing game – financial institutions no longer compete for the price of banking products, but the latest strategies are based on quality and more specifically on ethical principles – honesty, integrity, professionalism, conscientiousness and integrity.[8]

3. Banks as public trust organizations

Banks as financial intermediaries in the financial system play a special role – they provide trading financial instruments, take risk, provide information about the amount of risk and have access to the lender of last resort.[9] In addition to these, entities realize another very important objective – they contribute significantly to the stability of the banking system, which is preventing situations when the mechanisms for evaluation, resource allocation and financial risk management are not efficient.[10] Hence, for many years there have been activities that are designed to ensure a balance between efficiency and stability. Recognition of financial stability as a public good has contributed to take action in order to build a financial safety net, such as issuing licenses and permits, prudential supervision, revocation of licenses, guarantee deposits, protection of confidence in the banking sector, acting as a lender of last resort and government interference monetary.[11]

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[7] W. Gasparski (ed.), *Uczciwość w świecie finansów*, Wyższa Szkoła Przedsiębiorczości i Zarządzania im. L. Koźmińskiego, Warszawa 2004, pp. 23–24; W. Szpringer, *Kredyt konsumencki i upadłość konsumencka na rynku usług finansowych UE*, ABC Dom Wydawniczy, Warszawa 2005, p. 119.

[8] A. Strzelecki, Moda na etykę. Współczesna refleksja etyczna w biznesie i fenomen jej popularności, *Studia i Materiały* 2005, nr 1, pp. 24–25.

[9] M. Iwanicz-Drozdowska, Typologia i tendencje rozwojowe systemów gwarantowania depozytów, [in:] M. Iwanicz-Drozdowska (ed.), *Systemy gwarantowania depozytów w Polsce i na świecie*, PWE, Warszawa 2005, p. 446.

[10] J. Osiński, Stabilność finansowa w Polsce – aspekty finansowe, *Bank i Kredyt* 2005, nr 11–12, pp. 4–5.

[11] A. Santomero, *Deposit Insurance: Do We Need It and Why*, The Wharton School, University of Pensylvania, Pensylvania 1997, pp. 11–12.

It is necessary to take into consideration activities aimed at ensuring the protection of confidence in the banking sector – these activities are crucial for functioning of all the banks, which is based precisely on the customers' trust in financial institutions.[12] The smooth operations of the banking system need to gain and maintain the faith of businesses and individuals whose savings will be provided with security. In connection with the trust which customers endow banks, they are treated as public trust organizations.[13] Providing the activity based on deposits, banks must take into account not only their own interests, but also (or rather especially) the interests of society.[14] Due to the fact that society benefits from these transactions more than the owners of a bank, the banking system is attributed to characteristics of the public good.[15] Ethical conduct of financial institutions builds customer trust, increases confidence of contractors and creates a reputation of banks. Other conditions affecting the creation of the status of banks as public trust organizations are bank secrecy, which protects the economic interests of the banks and their customers,[16] cards and codes of ethics and the rules and regulations.[17]

On the other hand, commercial banks are institutions which offer services in a manner analogous to ordinary businesses. This means that their primary objective is to maximize profits and value.[18] Many authors attempt to define the rules of activity of entities, repeatedly emphasizing the relationship between action and maximizing the benefits in the long term.[19] However, presented definitions entail the necessity of determining who is the beneficiary of these profits – on this topic opinions of scholars are also divided, because the literature both mentions: institutions and the owners or shareholders.[20] Numerous examples of the research

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[12] B. Zdanowicz, Podstawowe dylematy i kryteria wyboru formuły systemu gwarantowania depozytów w świetle teorii i doświadczeń międzynarodowych, *Bezpieczny Bank* 2007, nr 1(34), 2007, p. 12.

[13] E. Fojcik-Mastalska, *Prawo bankowe. Komentarz*, LexisNexis, Warszawa 2005.

[14] L. Góral, *Nadzór bankowy*, Warszawa 1998, p. 29.

[15] J. Szambelańczyk, Kapitał społeczny jako warunek stabilności systemu bankowego, [in:] J. Szambelańczyk (ed.), *Globalny kryzys finansowy i jego konsekwencje w opiniach ekonomistów polskich,* ZBP, Warszawa 2009, pp. 97–106.

[16] J. Majewski, Prawo karne gospodarcze, [in:] O. Górniok (ed.), *Prawo karne gospodarcze. Prawo gospodarcze i handlowe*, C.H. Beck, Warszawa 2003, p. 296.

[17] P.H. Dembiński, Wyzwania etyczne w działalności finansowej, [in:] W. Gasparski (ed.), *Uczciwość w świecie finansów*, Wyd. Wyższej Szkoły Przedsiębiorczości i Zarządzania im. L. Koźmińskiego, Warszawa 2004, p. 25.

[18] A. Janiak, O przywilejach bankowych, cz. III, *Prawo Bankowe* 2000, nr 11, p. 59.

[19] For more see: E. Stenberg, *Czysty biznes. Etyka w działaniu,* PWN, Warszawa 1998; J. Sekuła, Uprawomocnienie tzw. etyki biznesu w systemie etyki graduacyjnej, [in:] A. Węgrzecki (ed.), *Etyczne fundamenty gospodarowania*, Oficyna Cracovia, Kraków 1999, p. 37.

[20] J. Bocheński, Filozofia przedsiębiorstwa, [in:] J. Bocheński (ed.), *Sens życia i inne eseje*, Antyk, Kraków 1993, p. 72.

studies show that a large part of economists primarily recognized their own profit as a motive of action, and therefore management based on the principles of rationality, not ethics.

However, in the literature one can find the opposite opinion, according to which the maximization of profit or value should not be the only or the most important criterion for the owner, because it is not the most important value – the objective of enterprises (including banks) is to satisfy the substantive (and indirectly the spiritual) needs of society, both present and future.[21] This point of view is less frequent in the literature, but shows that the discussion on the value – moral judgment of the motivation of the owners – focused not solely on profit. The idea of value for stakeholders is the best evidence of the possibility of a compromise between the economic order and compliance with ethical principles, because to some extent, it is necessary to recognize the expectations of a particular group of eligible stakeholders to generate financial results and value for owners.[22]

The financial system should not be only effective, but also fair and stable and between these features there exists a two-way relationship – the financial system is effective when is fair and stable (because customers have confidence in banks and entrust their deposits), but on the other hand it must be effective, so they should carry on their business in a fair and stable way. Each of these features is dependent on other elements of the banking system – stability depends on the efficiency, universality of bank clearing system, the effectiveness of supervision and the effectiveness of the optimization of costs and incomes, the degree of involvement of financial institutions in the allocation of available capital and the degree of openness of the domestic financial system. The integrity is affected by such factors as the provision of adequate competition, ensuring protection against the use of consumers' ignorance and preventing conflicts of interest.[23]

4. Banking areas particularly vulnerable to ethical dilemmas

Reflections on ethics in banking are necessary to start discussing mission and strategy of banks. In the majority, these are based on the achievement of designated competitive position, obtaining a certain number of customers or estimating an appropriate level of incomes. When forming a mission statement, entities define

[21] J.W. Gałkowski, Zasady etyki zawodowej – etyka biznesu, [in:] M. Borkowska, J.W. Gałkowski (eds.), *Etyka w biznesie*, TN KUL, Lublin 2002, p. 42.

[22] M. Marcinkowska, *Kapitał relacyjny banku. Kształtowanie relacji banku z otoczeniem*, t. 1, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2013, p. 55.

[23] S. Flejterski, W poszukiwaniu nowego paradygmatu zarządzania przedsiębiorstwem bankowym, [in:] A. Panasiuk, K. Rogoziński (eds.), *Zarządzanie organizacjami usługowymi*, Wydawnictwo Uniwersytetu Ekonomicznego w Poznaniu, Poznań 2009, pp. 109–110.

the most important values and a hierarchy of their implementation.[24] What is important, on the basis of the adopted mission statement rules of the institution are established, including the ethical principles to be followed by employees (so-called codes of ethics). The area in which these standards are fixed and propagated is the culture of an organization, which is defined as "a set of values that helps its members understand the organization' values, how organization works and what is important for it".[25]

While the strategies adopted by banks are not intended to conflict with the principles of ethics, measures and methods of their implementation may result in situations contrary to the moral standards. Naturally, reaching the goals of banks is understandable in the context of their function as a business, but from the point of view of ethics it can provide opportunities to abuse. Based on the adopted business strategy, banks are developing a sales plan for employees, who are required to obey them under the threat of job loss. In banks there often arise situations in which sales plans are carried out against the rules of ethics (implementation of sales plans "at all costs", selling products on the basis of incomplete or false information, the exposure sales based only on products from sales plans, instructions to purchase the product by using emotional arguments, etc.). Although it is difficult to imagine a more effective tool of division of duties among employees than sales plans, after all opinions about their achieving are divided. What is controversial is also imposing on employees obligations to sell a certain amount of banking products, especially with unattractive terms for customers and during unfavorable market conditions – in this case an employee must take responsibility for what he or she sells, and not necessarily in the way he or she does it. According to the principle of "a good product sells itself" the account manager should only help clients choose a product which best satisfies consumer's financial needs and do not sell products for which there is no demand. Thus, this is a problem that violates the second key area of ethical banking – building customer relationships on honesty and trust.

Running a banking business in an ethical manner is possible particularly by fair dealing on the financial markets and building credibility through professionalism, integrity, objectivity, thoroughness and expertise of employees. Article 17, Paragraph 1 of the Constitution of the Republic of Poland says that although the work carried out within the profession of public trust is provided in the course of employment by a legal person or an organizational unit without legal personality, it

[24] A.K. Koźmiński, W. Piotrowski (ed.), *Zarządzanie. Teoria i praktyka*, PWN, Warszawa 1998, p. 765.

[25] *Bankowość dla praktyków. Europejski Certyfikat Bankowca EFCB*, Wyd. Instytut Badań nad Gospodarką Rynkową – Gdańska Akademia Bankowa, Międzynarodowa Szkoła Bankowości i Finansów, Fundacja Warszawski Instytut Bankowości, Gdańsk – Katowice – Warszawa 2010, p. 228.

has a unique character and is associated with a person who provides a service.[26] This means that employees create confidence and, what is important, the issue of ethics applies to all employees, including management.

Factors which influence the ethical behavior of employees are: conscience, value systems, social, psychological factors, law, scientific knowledge, interests, obligations. The last three are the most important, because they are associated with a specific job in a bank. Knowledge affects the awareness of mechanisms of the financial markets and thus allows employees to perform work in a professional manner and in accordance with applicable law.

The interests that influence the formation of workers' activities may be caused by actions for the benefit of institutions or for their own good. Both cases may be signs of unethical behavior if employees undertake actions for the benefit, but contrary to the applicable standards. There is a possibility of existence of a situation in which an individual will submit private interests over the interests of an entire organization – then there will be a conflict of interest incompatible with the rules of ethics.[27] We can say that ethical problems of employees occur most frequently when justice, honesty and integrity are at conflict with the values of economics.[28]

Duty is a task that an employee must perform due to the contract with an employer. Performing tasks can lead to an immoral situation, such as insider information, providing customers with incomplete or incorrect information, using manipulative techniques for the implementation of sales plans, etc. Very often this is due to poorly conceived loyalty to an employer, which gives permission for unethical behavior for the good of an institution. On the other hand, employees may also object to the procedure which is not in accordance with their values, and then we can talk about the conflict of interests and values essential for businesses and for employees. Intolerance of violations of ethical principles is a difficult task, often ending in the loss of jobs. However, this opportunism can condemn immoral behavior, and consequently lead to the avoidance of events which not only cause short-term disruption of entities, but also can affect their good opinion, reputation and customer confidence in the long term, which is simply not cost-effective for them. It can be said that the responsibilities of staff should be connected with doing tasks which are specified in a job contract, but – on the other hand – cannot be carried out "at any cost" and therefore contrary to the ethical principles.[29]

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[26] J. Pitera, Charakterystyka instytucji zaufania publicznego w orzecznictwie Trybunału Konstytucyjnego, Sądu Najwyższego oraz Sądów Powszechnych, *Kwartalnik Prawa Publicznego* 2007, nr 4, p. 146.

[27] *Bankowość dla praktyków*…, *op. cit*., pp. 209–211.

[28] J. Maciuszek, Zarys problematyki etyki biznesu, [in:] J. Dietl, W. Gasparski (eds.), *Etyka biznesu*, PWN, Warszawa 2012, p. 74.

[29] C. Solomon, *op. cit*., p. 411.

What is important, in bank advisors' work one can see a paradox: employees, seeking to preserve their work and performing their duties, commit unethical acts. However, this is inconsistent with the obligations of employees in public trust organizations – in their actions they seek to maximize customer satisfaction with banking products while being careful to maintain the highest ethical standards. It can be said that these two aspects are mutually exclusive, and this phenomenon can be called a paradox of the bank advisor.

On the basis of the research, it can be concluded that employees behave unethically because of four fundamental reasons:[30]

- conviction that the action is within ethics and it is not immoral or illegal,
- conviction that it is in the best interests of an entity and needs to be taken for the benefit of an institution,
- conviction that the act is not detected or proven, so a person who commits it will not be punish for it,
- conviction that when an unethical act will be committed by an employee for the benefit of a financial institution, it may be expected that it will be protected.

Each of these groups of motives is equally a threat to take any unethical actions by employees. In the first case we can speak of ignorance of an employee, but on the other hand ignorance is not a sufficient justification for committing an immoral act – at the beginning of work advisors are introduced to the codes of ethics, and therefore they are required to know the rules. The second point concerns placing the financial outputs over the ethical activities, that is, implementation of financial goals regardless of the accepted norms. This group of activities is particularly dangerous because it can lead to ruin the image of banks as public trust organizations. The third type of justification of unethical conduct refers to a false sense of employees that they will avoid punishment for their unethical actions. However, in the era of globalization and rapidly developing technology to detect any violations of standards is a much simpler matter than in the past, and thus it is a matter of time to find weaknesses and human errors. The belief that whilst an employee has committed unethical acts in the interests of the financial institution, it may be expected that it will be protected is a relatively frequent belief. In this situation, the person committing immoral acts wrongly understood loyalty as the permission for the unethical behavior in the interests of the institution.

As already mentioned, the status of public trust organizations is inseparably connected with people doing the work for them. In the context of a recent study, it can be concluded that in the Polish banking sector there is a problem with the ethics of employees, because Poles do not evaluate positively their integrity and honesty. Dissatisfaction with the quality of advice, services and products is

[30] S.W. Gellerman, Dlaczego „dobrzy" menedżerowie dokonują złych etycznie wyborów, *Harvard Business Review* 1986, lipiec–sierpień, p. 5.

considered to be the second largest cause of the decline in confidence in the banking sector in Poland; however, compared to the previous year improvement can be noted (see Figure 1).[31]

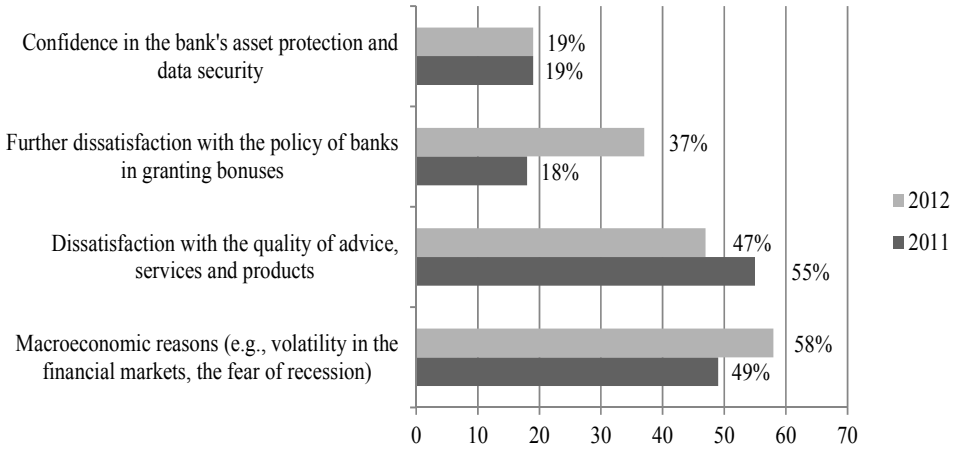

Figure. 1. The reasons for the decline in confidence in the Polish banking sector

Source: The Customer Takes Control. Global Customer Banking Survey 2012, Ernst & Young, 2012.

What is also worth noting is the Polish public dissatisfaction with the policy of banks in granting bonuses. This factor is closely related to the decisions of the management (and therefore also with the ethical attitudes of employees – executives of banks).

It is important to note that due to the fact that public confidence in the banking sector is based on the belief that the savings entrusted will be safe, and therefore any situation that undermines this belief (e.g. abuse or irregularities in the banking system) is judged more severely and more emotionally than in the case of other businesses.[32] Therefore, customers expectation that banks' employees will provide them with professional service and greater accountability are completely justified.[33] Confidence in financial institutions is the feature on which banks have to constantly work. In the situation of high uncertainty and risk, trust is the basis for decisions of consumers and therefore it is essential to build a strategy of financial institutions precisely on it.

[31] The Customer Takes Control. Global Customer Banking Survey 2012, Ernst & Young, 2012.

[32] M. Dąbrowska, *Bank jako instytucja zaufania publicznego*, www.nbportal.pl/library/pub_auto_B_0100/KAT_B4871.PDF [accessed: 02.11.2012].

[33] A. Janiak, *op. cit.*, p. 26.

5. Conclusions

The smooth operations of the banking system need to gain and maintain the confidence of individuals and businesses, which is directly related to the way they run their business – based on ethics and focused on building long-term relationships with customers. It is said that in the modern banking security is achieved through "appropriate banking facilities, providing a high level of professional and ethical management, compliance with prudential norms, proper selection of borrowers and secured loans, strict system of banking supervision, mandatory guarantee scheme contributions".[34] The primary tool to protect the interests of clients is law – established regulations to ensure the safety of deposits, but on the other hand they prevent banks from operating a pure profit maximization and performing without the supervision of the state. However, the law is not a sufficient tool for building the status of banks as public trust organizations – it is also necessary to create ethical behavior of all the employees in the banking sector and to build an organizational culture based on honesty and morality.

Ethical behavior in the banking sector is also reasonable from the point of view of rationality. This is due to the fact that society, having increasing awareness of financial markets, seeks to eliminate unethical behavior in business and enterprises which are not complying with the rules and as a consequence an institution will be punished by losing confidence – the foundation of their business. On the other hand, institutions increasingly take an ethical way of doing business, because they see growing benefits in this – honest and reliable approach to the client pays off in terms of his or her trust and long-term cooperation. Ethical action is a way of functioning that provides a competitive advantage that could not be substituted in any way – institutions which do not follow these rules are not able to compensate customers for it in another way, because in a long time a conscious consumer will choose an entity that guarantees its professionalism, honesty and integrity. What is important, over the years the institution will be punished by losing the confidence for the traditional policy of competition based on prices, to the strategy based on building relationships with customers. It can be said that by running a business in an ethical manner consumer is no longer just a recipient of banking products, but also becomes an important partner in the dialog.

It should be noted that ethical rules are not in conflict with the economic objectives of financial institutions, but rather they show a right way to achieve them. Suitable, which means the one that allows for enrichment, but in a responsible manner and not hurting others. The current form of banking (recognizing ethical standards, but not adhering to them in every aspect of operation) is not acceptable; it is necessary to have a stronger attachment to

[34] *Ibidem*.

organization's objectives with moral principles. The best solution in this case would not be to choose: the purpose of economic or ethical principles, but rather: to implement economic objectives in an ethical manner and this is an idea that should guide any bank as a public trust organization.

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WARTOŚCI ETYCZNE BANKU JAKO INSTYTUCJI ZAUFANIA PUBLICZNEGO

Streszczenie: Zasady i wartości etyczne mają wpływ na to, jak instytucja finansowa jest postrzegana przez interesariuszy oraz czy będą jej oni ufać i powierzać swoje środki. Banki także dostrzegają korzyści w prowadzeniu swojej działalności w etyczny sposób – uczciwe i wiarygodne podejście do klienta procentuje jego zaufaniem i długotrwałą współpracą. Etyczna działalność jest sposobem funkcjonowania zapewniającym przewagę, która nie może być zastąpiona w jakikolwiek inny sposób. W kontekście debaty na temat etycznej strony bankowości powstaje pytanie, czy możliwe jest pogodzenie realizacji celów ekonomicznych banków z poszanowaniem wartości moralnych?

Słowa kluczowe: sektor bankowy, etyka, dylematy etyczne, instytucje zaufania publicznego.