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CONSUMER PROTECTION IN FACE OF MISSELLING: INSTITUTIONAL GAPS REVEALED BY THE RESTRUCTURING AND BANKRUPTCY OF IDEA BANK S.A.

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Purpose: The purpose of the publication is to examine the effectiveness of consumer protection for individuals who suffered losses due to misselling in the context of bank restructuring and bankruptcy. The publication focuses on the institutional framework of protection and the actual actions taken by state institutions.
Design/methodology/approach: The study draws upon the analysis of academic publications, decisions and communications issued by state institutions, national court rulings, press articles, and a case study based on the documentation of a bank client who fell victim to misselling.
Findings: Consumer protection for those harmed by misselling proves inadequate in the context of bank restructuring and bankruptcy. The current framework for consumer protection seems poorly adapted to such circumstances, while the established procedures present considerable barriers for affected individuals.
Research limitations/implications: Both the analyzed decisions of state institutions and the documents included in the case study are partially basing on statements from consumers, who may present events in a manner that is legally more advantageous to them. Additionally, the projection of the final loss in the case study lacks basis in measurable data, and therefore should be approached with great caution.
Practical implications: The publication can serve as a valuable resource for organizations dedicated to consumer protection, as well as for entities involved in shaping and drafting legislation related to consumer rights.
Social implications: The research findings highlight the variation in the strength and quality of protection among consumers, depending on the financial situation of the bank and the legal assessment of their circumstances. Utilizing these insights could contribute to the development of more equitable solutions.
Originality/value: The study reveals gaps in the protection of financial services consumers who have been harmed by misselling in cases of bank restructuring and/or bankruptcy. It also highlights the scale of the phenomenon and the extent of losses that consumers are exposed to.
Keywords: financial market, financial consumer protection, misselling, GetBack, Idea Bank.
Category of the paper: research paper, case study.

1. Introduction

The pursuit of profits by the financial sector, including banks, often leads to the phenomenon of widespread misselling. This involves the exploitation of the stronger position of financial institutions to offer consumers products that are not tailored to their needs and frequently expose them to above-average risks.

The state should not only counteract such phenomena but also provide instruments enabling consumers to recover lost funds after damage has occurred – especially if the misselling is carried out by institutions widely trusted by the public, and consumers have approached them seeking safe products.

A variety of consumer protection instruments are available, enabling the recovery of lost funds directly from the financial institution providing them. Academic publications predominantly explore the responsibility of financial institutions and the state's role in influencing their operations. However, there is a noticeable gap in research addressing the consumer's situation in the event of the bankruptcy of an unreliable institution.

Therefore, this publication aims to address how such protection is structured for bank clients in situations where the bank undergoes mandatory restructuring, ultimately leading to its bankruptcy. Idea Bank S.A. was not only the first major bank in Poland to be subjected to both the compulsory restructuring and bankruptcy procedures, but also widely offered investment products to consumers (related to GetBack S.A.) in a manner that raised serious concerns.

Consequently, publication focuses on the analysis of the situation of Idea Bank's clients (consumers), allowing for an evaluation of the effectiveness of consumer protection against an unreliable financial institution, as well as identifying potential law and institutional changes to improve such protection.

2. Methodology and adopted research hypotheses

The study was designed with two key stages in mind: 1) an analysis of available scholarly and source texts on consumer protection, misselling, and the operations of Idea Bank S.A. and 2) an examination of a specific case involving a client affected by misselling by a financial institution that declared bankruptcy.

As a first stage of the conducted research, a review of the literature and applicable legal regulations was first carried out in order to define the phenomenon of misselling in the context of financial consumer protection. Subsequently, the misselling of investment products associated with GetBack S.A. by Idea Bank was meticulously reconstructed, drawing upon academic publications, decisions and communications from state institutions, national court

rulings, and press articles. The focus was placed not only on the offering of these products by Idea Bank itself, but also on the behavior of other entities (particularly supervisory institutions), the consequences of these actions for the bank's clients (including the actions they could have taken), and the impact of this scandal on the financial market. The establishment of a theoretical and historical foundation paved the way for the next stage of research.

The second stage of the research focused on a case study involving a client of Idea Bank, who had been offered typical products tied to GetBack. To ensure a thorough analysis, various materials were utilized, including bank documents, the client's correspondence with the bank and other entities in the financial market, exchanges with the Bank Guarantee Fund, an opinion issued by the Financial Ombudsman during an amicable proceeding initiated at the client's request, selected documents from court cases involving the client (understood to include their legal representative), and, where specific data was unavailable, information directly obtained from the client. As part of the case study, the course of fund allocation, the invested amounts, the received payouts, the client's actions aimed at recovering the funds, and an attempt to estimate the final loss were outlined.

The following research hypotheses were presented:

- the actions of financial market institutions proved insufficient in ensuring the safety of financial service consumers in cases of bank restructuring and bankruptcy (hypothesis 1),
- the procedures related to bank restructuring and bankruptcy do not effectively protect the interests of financial service consumers (hypothesis 2).

The verification of the indicated hypotheses will allow an evaluation of the quality of consumer protection both in the context of the risk of restructuring and bankruptcy itself, as well as in terms of the procedural protection of their claims after such actions have been taken.

3. Misselling as an element of the consumer protection system for financial services in the case of bank restructuring and/or bankruptcy

Misselling occurs worldwide, including in Poland. It is understood as, in particular, the concealment or distortion of information important to the consumer, especially regarding the risks associated with a product, resulting in the sale of a financial product that is not suited to the consumer's needs. Misselling often leads to significant financial losses for consumers, including those affecting their life savings (Butor-Keler, 2017).

Under Polish law, the statutory definition of misselling is included in Article 24(2)(4) of the Act on the Protection of Competition and Consumers (2007). This regulation was introduced by the 2015 amendment to improve systemic consumer protection, limiting its scope exclusively to financial service consumers (Orlicka, 2015). The introduction of the ban on misselling exclusively in relation to financial service consumers is a result of recognizing the need for their special protection and the necessity of systematically strengthening consumer safeguards (Rutkowska-Tomaszewska, 2020).

According to this provision, offering financial products to consumers that are not suited to their needs constitutes an act of unfair competition. Financial institutions can engage in misselling in two primary ways. Firstly, a financial institution is obligated to assess the consumer's needs (for example, by obtaining information directly from the consumer) and then determine whether the offered product is suitable for those needs. Offering a product contrary to these needs would qualify as misselling. Secondly, misselling also includes offering a product in an inappropriate manner. This may involve, for instance, providing misleading information about the product's features or using inadequate means of communication, such as offering a complex product via remote communication methods (Sieradzka, 2024). In the literature, the ban on misselling is highlighted as a crucial element of consumer protection in financial services. It is also seen as a response to banks introducing sales plans that incentivize employees to unfairly offer products to consumers (Trzeciak, 2017).

Regardless of the fact that the aforementioned regulation is a result of the mentioned amendment to the act, it should be noted that the issue of misselling was not unfamiliar to Polish law even earlier. In 2012, the Polish Financial Supervision Authority addressed a letter to all supervised entities (particularly banks), in which it identified “questionable practices”. These included, among others, the sale of investment products not tailored to consumers' needs and providing unreliable information about product features (KNF, 2012).

While the literature contains numerous publications on consumer protection in financial services against misselling and the responsibility of financial institutions (such as those cited above), there is a noticeable lack of research focusing on the consumer's situation in cases of bank restructuring and/or bankruptcy. In fact, the only comprehensive publication addressing this issue in Poland is the work by Stopczyński (2024). However, it primarily focuses on systemic solutions, particularly the premises for initiating restructuring, rather than directly on the consumer's financial situation and the extent of their losses (including Idea Bank case described in the cited publication).

4. Misselling of financial products by Idea Bank S.A. and its consequences for consumers of financial services

4.1. The products connected with GetBack S.A. and offered by Idea Bank S.A

Idea Bank S.A., part of the Getin Group (owned by Leszek Czarnecki), was considered an innovative bank, building its market advantage on this reputation (Anielak, 2018). However, the bank expanded its consumer offerings to include a range of investment products, most commonly securities.

One of the entities whose securities were widely placed among non-institutional buyers was GetBack S.A., operating in the debt collection market. The company was established in 2012 within the Getin Group, and in 2016 it was acquired by the Abris fund (Rogowski, Gemra, 2018). As the fund's president stated in an interview for Forbes Poland, the existing management board was retained, as they believed in its competence and integrity (Gieryński, 2018).

In 2017, the company made its debut on the Warsaw Stock Exchange, backed by favorable recommendations from brokerage firms (Adamczyk, 2019). Following its debut, GetBack continued to be perceived as a trustworthy and appealing entity. Brokerage houses maintained buy recommendations for its shares, while its bond ratings consistently hovered around a B grade (Kaczmarczyk, 2018).

GetBack alternated between issuing public and non-public bonds with a total value of 2.59 billion PLN (Adamczyk, 2019). Notably, only a small portion of these issuances was public, amounting to 256.4 million PLN, which allowed the company to avoid significant reporting obligations (Moser, 2020). Consumers with no prior experience with bonds tended to mistakenly perceive them as risk-free products (Martysz, 2020).

Later proceedings revealed criminal activities committed within GetBack, including those harming individual holders of its securities (Adamczyk, 2019). The president of Abris also stated in an interview for Forbes Poland that while GetBack operated as a legitimate business at the time of its acquisition, the subsequent actions of its management aimed to mislead the fund (Gieryński, 2018).

The case of GetBack is cited in the literature as an example of fraud and manipulation in the Polish capital market (Iczetkin, Hernik, 2019), as well as a reason for the decline in consumer interest in the capital market (Czech, 2020). The company's securities, particularly its bonds, lost value within a relatively short period, after which trading was suspended (Kaczmarczyk, 2018).

Idea Bank was the main distributor of GetBack bonds, operating in collaboration with Polski Dom Maklerski S.A. (PDM). This cooperation involved Idea Bank employees persuading consumers to purchase GetBack bonds by presenting the offer in a manipulated manner. Consumer data expressing interest in the product was forwarded to PDM for the purpose of

finalizing the transaction (Kubacki, 2022). Additionally, Idea Bank offered its clients investment certificates for funds from the Trigon TFI group, also connected to GetBack, in a similarly manipulated way (Kosiński, 2019).

The inspection conducted by the Polish Financial Supervision Authority (Polish FSA) confirmed that Idea Bank was improperly involved in the sale process of GetBack bonds (Moser, 2020). Subsequently, due to irregularities related to the offering and sale of GetBack bonds, the Polish FSA on 13th November 2018 added Idea Bank to its public warning list for conducting capital market activities without the necessary authorizations (KNF, 2018).

In response to numerous reports of irregularities in the process of offering GetBack bonds, the President of the Office of Competition and Consumer Protection, in a decision dated 4th February 2019 also found that the contractual templates prepared by PDM included abusive clauses (UOKiK, 2019a). Subsequently, in a decision dated 1st August 2019, it was determined that the actions of Idea Bank violated collective consumer interests by misleading consumers during the bond offering process. This included disseminating false information about the guaranteed returns and safety of these bonds, as well as creating an impression of exclusivity and time-limited availability of the offer (UOKiK, 2019b).

On 3rd February 2020, the President of the Office of Competition and Consumer Protection issued another decision, determining that the practices of Idea Bank violated collective consumer interests. These practices involved offering GetBack bonds to consumers holding bank deposits, despite the fact that the risks associated with these products did not align with the consumers' needs, based on their previously purchased products and declarations made during the acquisition process. As a result, the bank was obligated to pay compensation amounting to 20% of the funds invested (UOKiK, 2020a). On 27th April 2020 a similar decision was made regarding GetBack itself. The company was found to have engaged in unfair market practices, such as misleading consumers about its financial situation, the risks associated with its bonds, and creating an impression of exclusivity and time-limited availability of the offer (UOKiK, 2020b).

In July 2020, President of Office of Competition and Consumer Protection issued two further decisions related to the misselling of investment certificates from funds within the Trigon group. In decision dated 10th July 2020, it was established that Idea Bank offered these certificates in the same manner as GetBack bonds, leading to the imposition of a requirement to provide compensation equal to 20% of the invested funds (UOKiK, 2020c). Additionally, in a decision dated 22th July 2020, it was found that the fund had misled consumers by providing false information about “full capital security” (UOKiK, 2020d). Finally, on 23th October 2020, a penalty was imposed on Getin Noble Bank S.A. for identical violations related to GetBack bonds. Getin Noble Bank operated within the same capital group as Idea Bank (UOKiK, 2020e).

In the literature regarding the GetBack case, it is emphasized that the protection of bondholders – both in legal and market terms – has proven insufficient, and there is a need to strengthen these mechanisms (Lepczyński, Pisarewicz, 2018a). One of the methods suggested for improving this protection is enabling the imposition of higher penalties, as well as penalizing employees who sell financial products in an unreliable manner (Czaplicki, 2021).

It is also significant that, as early as 19th December 2017, a whistleblower submitted a report to the Polish Financial Supervision Authority (Polish FSA), the Office of Competition and Consumer Protection, and the Warsaw Stock Exchange (WSE), indicating data manipulations in GetBack's reports and the characteristics of a financial pyramid. Only the Polish FSA reacted to this report by initiating an investigation, while the WSE awarded GetBack a prize in February 2018 for leveraging market opportunities offered by the stock exchange, which maintained the company's positive image (Moser, 2020). However, the first actual measures were only taken by the Polish FSA ex post, after GetBack published a false report regarding further financing (Lepczyński, Pisarewicz, 2018b).

4.2. Restructuring and bankruptcy of Idea Bank S.A.

Following GetBack's liquidity crisis, on 6th June 2019, the District Court in Wrocław approved a restructuring arrangement under which bondholders were to receive only 25% of their invested funds over an eight-year period (District Court in Wrocław, 2019). As a result, GetBack bondholders lost at least 75% of their capital. Problems also affected investors who had funds in securitization vehicles managed by GetBack, including those handled by Trigon, Altus, Boble, and Saturn (Rogowski, Gemra, 2018). In the case of Trigon funds, consumers were not only unable to recover their investments (Rudke, 2019), but on 5th November 2019, the Polish Financial Supervision Authority revoked Trigon TFI's license (operating under the name Lartiq at the time). The funds were subsequently transferred to other entities, primarily Ipopema TFI (KNF, 2020). Despite an appeal, this decision was ultimately deemed valid (KNF, 2024).

In this situation, consumers started filing claims directly against Idea Bank, with a particular focus on allegations of misselling practices. The most notable (and likely the first) judgment was issued by the Regional Court in Kraków on 20th July 2020. In this ruling, the court awarded compensation to the consumer, defined as the difference between the funds invested and the amount the consumer was expected to recover from GetBack under the restructuration arrangement. The consumer, an elderly individual, was led by Idea Bank to believe that GetBack bonds were zero-risk products with characteristics equivalent to a bank deposit (Regional Court in Kraków, 2020).

It should be noted that, over time, a more pro-consumer jurisprudence has emerged in cases involving banks. According to this approach, the misselling of a financial product may lead to the nullification of such an agreement. In such cases, the bank either bears joint liability with

the issuer (Court of Appeal in Kraków, 2022) or is responsible for the invested funds to the extent that they cannot be recovered from the issuer (District Court in Jastrzębie-Zdrój, 2023).

By a decision dated 30th December 2020, the Bank Guarantee Fund initiated forced restructuring proceedings against Idea Bank, citing the threat of bankruptcy as the basis. Following this decision, the majority of Idea Bank (particularly its deposit and credit operations) was taken over by Bank Pekao S.A., while selected part (including claims related to misselling) were transferred to a separated entity (BFG, 2020). It is indicated that such a division was a conscious decision by BGF, which was aware of the negative reception of this decision by consumers (Stopczyński, 2024). On 26th July 2022, the court declared the bankruptcy of this separated part of Idea Bank (KRZ, 2022). For clarity, it is worth noting that Leszek Czarnecki (the former principal shareholder of Idea Bank) has argued that there were no basis for initiating the restructuring of Idea Bank and that these actions were solely aimed at taking over the bank (Czarnecki, 2025). However, it should be mentioned that earlier academic publications had already identified Idea Bank as an entity at risk of bankruptcy (Firlej, Stanuch, 2020).

Notably, the very initiation of restructuring proceedings can influence ongoing legal cases. Firstly, it is not possible to initiate enforcement proceedings against a bank undergoing restructuring, and any previously initiated proceedings are discontinued. Secondly, court proceedings are also suspended at the request of the restructured bank (Stefańska, 2022). The announcement of bankruptcy leads to even more far-reaching consequences. The declaration of bankruptcy obligatory suspends legal proceedings against the bank, and a new issue can be started only once the bankruptcy procedure will be completed (Chrapoński, 2021). After the liquidation of the bankrupt entity's assets, the funds obtained will be distributed according to specified categories, meaning that some claims may not be satisfied at all or only to a minimal extent (Janda, 2023). It is important to emphasize that both the restructuring and subsequent bankruptcy have serious consequences for consumers of financial products, particularly resulting in the loss of the majority of their invested funds (Kaczmarczyk, 2024).

It should be noted that clients of a bank undergoing restructuring have the right to file a complaint against the decision of the Bank Guarantee Fund. As a result of the court's review of such a complaint, it may rule that the decision was made unlawfully (Mikliński, 2022). If such a verdict is issued, the Bank Guarantee Fund bears liability for damages up to the extent of the incurred loss (Chojecka, 2019). In a similar case concerning Getin Noble Bank, the Court of Justice of the European Union emphasized the need to address all submitted complaints and to examine whether conflicts of interest exist within the structure of the Bank Guarantee Fund (CJEU, 2024). Following the described ruling, the Supreme Administrative Court resumed proceedings regarding complaints about the forced restructuring of Idea Bank, but the case remains unresolved (Supreme Administrative Court, 2025).

5. Case study – client of Idea Bank S.A.

The case study focuses on a client of Idea Bank, operating under the Lion's Bank brand, who had a history of using the bank's services. The client, a young individual, used bank deposits or structured deposits (it is unclear whether the client was aware of the differences between these products), where they invested their life savings. Importantly, in the investment questionnaire valid for the analyzed period, the client indicated that they "accept a loss of up to 10% of the invested funds", although the manner in which this document was prepared is unknown.

In December 2016, a bank employee (the client's advisor) contacted the client and informed them of a more advantageous method of investing capital compared to their existing deposits. The capital was said to be fully guaranteed and withdrawable at any time, though the offer was very time-limited. As a result, on 21th December 2016, the client subscribed to an investment certificate in Trigon Profit XXIII Non-Standardized Securitization Closed-End Fund for a total amount of 193,800.00 PLN. At the end of March, since part of the client's funds were held in traditional deposits, the same employee contacted them again, presenting an allegedly better opportunity to invest their money (describing the product in the same manner as before). As a result, on 30th March 2017, the client subscribed to GetBack bonds with a total value of 50,000.00 PLN (referred to as "A"). This situation repeated a few months later, when, on July 13, 2017, the client subscribed to additional GetBack bonds, also valued at 50,000.00 PLN (referred to as "B"). Each time the client purchased these products, they either terminated an existing deposit or used funds from a recently matured deposit. The timeline of fund acquisitions is presented in Table 1.

Table 1.
Investing funds in products recommended by the bank in analyzed case

Date	Type of product	Value
21.12.2016	investment certificates – Trigon	193.800,00 PLN
30.03.2017	bonds – GetBack A	50.000,00 PLN
13.07.2017	bonds – GetBack B	50.000,00 PLN
	Total	293.800,00 PLN

Source: own work.

The provision of misleading information about the offered products was not the only fault in Idea Bank's actions in the analyzed case. Although the Trigon investment certificates were guaranteed, it is important to note that GetBack served as the guarantor – thus, there was unquestionably no genuine risk diversification. The client was sold products that were not only unsuitable for their needs (exposing them to greater risk than they found acceptable) but also largely reliant on the solvency of a single entity (GetBack). Undoubtedly, this case involved the misselling of investment products. Until GetBack's liquidity was lost, the client received regular payments, specifically 33,707.96 PLN from the Trigon fund and a total of 4,254.14 PLN

in interest from GetBack bonds. At the time payments ceased, the client had recovered only approximately 13% of the invested amount, with details presented in Table 2. It is worth noting that, in this case, the formal issuer was PDM, not Idea Bank. However, the client obtained the IP address used for the subscription on 13th July 2017 (earlier data was no longer stored), which pointed to directly Idea Bank.

Table 2.
Amount of payments received and the nominal loss before Idea Bank's bankruptcy in analyzed case

Type of product	Sum of all payments received	Nominal damage amount
investment certificates – Trigon	33.707,96 PLN	160.092,04 PLN (82,61%)
bonds – GetBack A	3.029,18 PLN	46.970,82 PLN (93,94%)
bonds – GetBack B	1.224,96 PLN	48.775.04 PLN (97,56%)
Total	37.962,10 PLN	255.837,90 PLN (87,08%)

Source: own work.

The client undertook a series of actions related to the threat to their invested funds, including submitting multiple complaints (on 07.02.2019, 04.03.2019, and 13.03.2019), as well as later issuing a declaration to withdraw from the effects of a statement made under error (on 19.10.2019). Following GetBack's submission of a restructuring application and its subsequent approval, resulting in a 75% loss in bond value, the client approached the Financial Ombudsman seeking an amicable resolution of the dispute with Idea Bank regarding the funds lost due to investments in GetBack bonds. The proceedings took place between 13th May 2019, and 27th May 2020, but did not result in a settlement. The Financial Ombudsman, in their opinion, highlighted several potential irregularities in the offering of the bonds. As a result, on 4th November 2020, the client filed a civil lawsuit against Idea Bank seeking the return of funds from GetBack bonds not included in the restructuring[1]. However, following the initiation of compulsory restructuring of Idea Bank, the proceedings were suspended at the request of the Bank Guarantee Fund on 19th February 2021.

Following the initiation of compulsory restructuring of Idea Bank, on January 4, 2021, the client submitted a complaint to the Provincial Administrative Court in Warsaw against the decision of the Bank Guarantee Fund. This complaint was not upheld as part of a collective judgment encompassing all complaints. The client did not file an appeal against the decision of the Provincial Administrative Court. Following the declaration of bankruptcy by a separated part of Idea Bank, the client, within the statutory 30-day period, submitted a free claim notification to the trustee. However, a year later, the trustee requested the client to supplement the notification by providing the case file reference number pending before the court. Due to the client's failure to provide the required information, the notification was ultimately

[1] It should be noted that, at the time, the prevailing view was that cases related to misselling did not fall under banking activities. Consequently, the court required the client to pay a lawsuit fee amounting to 5% of the claimed amount (over 3,700.00 PLN). Currently, the dominant view is that such cases pertain to banking activities, meaning the fee cannot exceed 1,000.00 PLN.

returned. It should be emphasized that the online bankruptcy system requires separate activation of an email address to receive notifications, which most consumers are unaware of. As a result, they are often not conscious of the deliveries made to them (as was in analyzed case). The client may submit the claim again; however, this involves a fee of 1,239.95 PLN. Furthermore, it should be noted that if the trustee acknowledges the claim (regardless of previous return), the client will not recover the costs of the civil proceedings, which will be discontinued.

It is currently not possible to determine the final amount of the loss incurred by the client, as the future payments they will receive are unknown. For this reason, an attempt has been made to estimate their amount. According to the available statements from GetBack (now Capitea S.A.), payments to bondholders are being made in accordance with the restructuring arrangement, and therefore it can be assumed that the client will receive amounts of 12,500.00 PLN each. It is more difficult to determine the potential amount the client could receive for the investment certificates they hold. Assuming it would also amount to 25% of the nominal value (190,000.00 PLN), this would correspond to an additional amount of approximately 47,500 PLN (variant I). However, based on data from similar cases (such as the previously cited judgment of the District Court in Jastrzębie-Zdrój), the total payout amount for funds holding so-called bad debts typically hovers around 33% of its nominal value. Therefore, in such a scenario, the client could expect to receive approximately PLN 62,700 in total, meaning an additional amount of about PLN 29,000 (variant II). Of course, it cannot be ruled out with certainty that the fund no longer holds any real assets, in which case the client would not receive any further payout (variant III). These data are presented in Table 3; however, it should be emphasized that due to the lack of adequate information regarding investment certificates, these are very imprecise estimates that should be approached with great caution.

Table 3.
Estimated final payments and nominal loss in the analyzed case involving Idea Bank

Type of product	Sum of all payments received	Nominal damage amount
investment certificates – Trigon (variant I)	81,207.96 PLN	160.092,04 PLN (82,61%)
investment certificates – Trigon (variant II)	62.700,00 PLN	131.100,00 PLN (67,65%)
investment certificates – Trigon (variant III)	33.707,96 PLN	160.092,04 PLN (82,61%)
bonds – GetBack A	15,529.18 PLN	34.470.82 PLN (68,94%)
bonds – GetBack B	13,724.96 PLN	36.275,04 PLN (72,55%)
Total (variant I)	110,462.10 PLN	183,337.90 PLN (62,39%)
Total (variant II)	91,954.14 PLN	201,845.86 PLN (69,72%)
Total (variant III)	62,962.10 PLN	230,837.90 PLN (78,54%)

Source: own work.

Thus, regardless of the limitations of the presented projection, it is quite likely that the client's nominal loss will amount to between 60% and 80% of the allocated funds. However, it should be emphasized that this is only a nominal loss, which does not account for lost interest (or inflation, or changes in the value of money over time), nor the range of additional costs incurred by the client due to legal actions.

6. Conclusions

First and foremost, it should be emphasized that most state institutions have taken appropriate measures concerning the misselling of investment products linked to GetBack. In particular, the Office of Competition and Consumer Protection properly identified such practices and issued relevant decisions, while the Financial Supervision Authority included Idea Bank on the list of public warnings. Moreover, courts adjudicating in individual disputes applied the law in a manner favorable to consumers, and in light of GetBack's insolvency (and entities associated with it), ruled on the financial liability of the actual issuer.

Thus, clients of banks that offered them products ill-suited to their needs and exposing them to excessive risk could ultimately hope to recover their entrusted funds (most often following a court dispute). However, the situation is different for clients of the analyzed Idea Bank. Shortly after the first, non-final verdicts, the bank underwent a forced restructuring and division. Regarding the part related to claims arising from misselling, compulsory restructuring was initiated, followed by bankruptcy. In such circumstances, clients of this bank effectively lost the ability to assert their rights for many years, as all civil proceedings cannot be conducted until the bankruptcy proceedings are concluded.

Undoubtedly, one may get the impression that all procedures and solutions aimed at protecting consumers from the effects of misselling focus solely on assigning responsibility to the offering entity, in this case, the bank. However, these solutions appear to entirely overlook the possibility of restructuring or bankruptcy of such an entity, thereby creating a significant gap in the consumer protection system in such situations. For this reason, the first hypothesis has been positively verified.

Serious concerns arise, in terms of consumer protection for financial services, regarding the possibility of isolating only a part of a bank, essentially destined for bankruptcy. It should be emphasized that, as evidenced by the analyzed decisions and rulings, at least a significant portion of Idea Bank's clients believed they were using traditional banking services, particularly deposits covered by the Bank Guarantee Fund. Undoubtedly, it was not their intention to choose products lacking such a guarantee.

The division of Idea Bank carried out by the Bank Guarantee Fund consequently led to significant disparities in the legal situation of consumers who expected the same service from the bank. At the same time, the protection of actual deposits, aimed at reducing systemic costs, was achieved at the expense of the bank's other clients, including those who became victims of misselling. The separation of the “healthy” part of the bank resulted in leaving primarily questionable-quality assets and claims of other clients in the bankrupt segment.

Equally important, as already indicated above, under the applicable regulations, the initiation of restructuring grants the Bank Guarantee Fund the right to unilaterally suspend all ongoing court proceedings, thereby preventing consumers from asserting their rights in

an impartial process. Such an opportunity only becomes available at a later stage, after bankruptcy is declared and the consumer has exhausted the complex procedure of filing claims.

Additionally, as demonstrated by the analyzed client's case study, the system requiring the filing of claims is also unintuitive, and a lack of professional knowledge in its operation can result in the rejection of the submitted claim. Furthermore, the regulations granting the trustee broad right to reject such a filing appear absurd, as in the examined case, the claim was rejected due to the absence of a court case number, in which the trustee's representative participates (and the trustee themselves is a party). This is information that trustee undoubtedly possessed.

Although consumers harmed by misselling may, in the future, have a potential claim against the State Treasury (Bank Guarantee Fund) for damages due to the issuance of unlawful decisions by the Bank Guarantee Fund, but firstly, no final verdict on this matter has been issued yet. Secondly, there is a lack of reliable case law on this issue (for instance, whether such compensation is only available to consumers who were parties in administrative court proceedings). Finally, such liability will be limited solely to the extent of the damage caused by the restructuring. Therefore, it will be necessary to hypothetically determine what funds the consumer would have received if the restructuring had not occurred, which may pose significant evidentiary challenges.

Thus, both the systemic assumptions of bank restructuring and bankruptcy can be assessed as being shaped in a way that is unfavorable to financial services consumers, and individual procedures seem burdensome and unintuitive for consumers, which can often lead to a limitation of their rights. For these reasons, the second hypothesis should also be regarded as positively verified.

One of the key methods for mitigating the effects of such events remains the increased education of financial service consumers, including raising awareness (especially among older individuals) of the necessity to verify claims made by financial institutions. It is also essential to explore solutions that enable state institutions to respond more swiftly to detected market irregularities and improving the effectiveness of these activities (for example, the FSA's public warning list, which is often overlooked by consumers).

In the author's opinion, also modifications of regulations on forced bank restructuring and bankruptcy are necessary to ensure greater protection for consumers who were only interested in safe financial products. Such protection could be enhanced by establishing a dedicated fund or extending deposit guarantee coverage to consumers who merely intended to deposit their savings but, due to the bank's actions, ended up acquiring a different type of financial product. Unfortunately, such solutions would likely entail significant costs for the banking sector.

7. Summary

In the final period of GetBack's operations, securities based on its activities were offered to clients of Polish banks (particularly those within the Getin group) on a massive scale. In the majority of cases, the sales were mismatched to the consumers' needs, representing a typical instance of misselling. Following GetBack's loss of liquidity and subsequent restructuring, consumers lost a significant portion of the funds they had invested in these products. For GetBack bondholders, in accordance with the approved arrangement, the recovery rate will be 75% (assuming full implementation). In other cases, the typical loss is expected to be approximately 60-80% (estimated according to the methodology adopted by the author in the publication).

In the case of Idea Bank's clients, it turned out that the restructuring of the offering entity, followed by its subsequent bankruptcy, effectively deprived consumers within foreseeable timeframes of the ability to recover funds beyond those disbursed in connection with the securities they held. It is not yet known whether the decision of the Bank Guarantee Fund will be deemed unlawful, and if so, what actual protection consumers affected by misselling will obtain as a result. Regardless, it must be acknowledged that in the event of a bank's bankruptcy, consumer protection has proven insufficient. At the same time, systemic solutions may prove too costly for the financial sector.

Further research is also necessary to monitor the situation, both in the case of those harmed by the misselling of GetBack products (including the extent of their final losses) and in evaluating the evolving regulations and their ability to prevent such incidents in the future. It is also desirable to seek systemic solutions that reduce the described risk while maintaining an acceptable cost for the sector.

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