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FINANCIAL INSTITUTIONS – NORMATIVE REGULATIONS AND MARKET PRESENCE

ФІНАНСОВІ УСТАНОВИ – НОРМАТИВНІ ПОЛОЖЕННЯ ТА ПРИСУТНІСТЬ НА РИНКУ

ANNOTATION

The financial institutions are trade associations, which accomplish actions in favor with normative regulations, and for their realization an allowance is necessary and entry of the public register of the Bulgarian National Bank (BNB). They are different from the credit institutions (banks), although they complete similar activities to them. One of their activities is giving credits with own funds, i.e. allowance of the so-called in the public area Fast credits. They represent transactions for selling money, which is documented in a credit contract. The presentation of the financial institutions in the market, which complete such kind of activity is increasing, in spite of the complicated registration, economic and bureaucracy conditions, which they must answer from normative point of view. They exactly are the object of attention of the present treatment.

Keywords: financial institution, trade transaction, selling, normative requirements, fast credits, market.

АНОТАЦІЯ

Фінансові установи є компанії, які здійснюють регульовану діяльність на законних підставах, які необхідні дозволи та реєстрації в державному реєстрі Болгарського національного банку (БНБ). Вони відрізняються від кредитних установ (банків), але виконують подібні заходи. Однією із заходів є надання кредитів власними коштами, тобто надання так званих швидкі позик. Вони є транзакцією, що продає гроші, яка задокументована кредитним договором. Присутність на ринку фінансових установ, що беруть участь в такій діяльності, в останні роки, незважаючи на збільшення обтяжливих реєстрації, економічні і бюрократичні вимоги, які пред'являються до юридичної точки зору. Саме вони є предметом уваги у цій роботі.

Ключові слова: фінансова установа, комерційна угода, продаж, нормативні вимоги, швидкі позики, ринок.

АННОТАЦИЯ

Финансовые учреждения являются коммерческими компаниями, которые осуществляют предусмотренные законом действия, для которых требуется разрешение, и внесение в государственный реестр Болгарского национального банка (БНБ). Они отличаются от кредитных организаций (банков), но выполняют аналогичную деятельность. Одним из видов деятельности является предоставление кредитов собственными средствами, т.е. предоставление так называемые быстрые кредиты. Они представляют собой транзакцию, связанную с продажей денег, которая задокументирована кредитным соглашением. Рыночное присутствие финансовых учреждений, осуществляющих такую деятельность, выросло в последние годы, несмотря на обременительные регистрационные, экономические и бюрократические условия, которые должны соблюдаться с нормативной точки зрения. Именно они являются предметом внимания в настоящей работе.

Ключевые слова: финансовое учреждение, коммерческая сделка, продажа, нормативные требования, быстрые кредиты, рынок.

Formulation of the problem. During the last few years at the financial market appeared so-called in the public area Fast credits. They are not granted by credit institutions (banks), but from financial institutions instead, which presence at the market is getting more and more notable. The most common of the Fast credits are Consumption credits. They are permitted small size amounts of sums for a short period of time, without proving of the income with a great risk and interest rate, which is considerably higher than those from the banks. They are given by financial institutions, which operate with own funds and are due to a normative regulation and registration in BNB. They can be determined as selling money transactions. The present treatment is dedicated to the normative challenges, which the trade companies have to answer, in order to accomplish activities that are inherent to the financial institutions, according to the Law of Credit Institutions (LCI) [2] and Ordinance № 26 for financial institutions [4].

Analysis of the latest examinations, studies and articles in the press. The problems, concomitant the trade associations, who wish to gain the statute of financial institution and to grant credits with their own money, i.g. fast credits, are badly examined in the literature. This is one of the activities, which financial institutions can perform, according to the Law of Credit Institutions LCI. There are not many science researches, studies and articles in that area. The chosen object of research in this present treatment is not extensively examined from a science point of view.

Identification of not cleared before parts of the total problem. As a whole, the problems attendant the financial institutions, from their preparation for regulation of such institutions until the realization of their activity, they are badly studied in the science literature. They are mainly concerned in the normative regulations. The attention is focused on the problems, inherent mainly to the companies that give fast credits, because of their strengthening attendance on the market during the last years. The present treatment is pointed

toward the normative requirements, which financial institutions have to meet, in order to achieve allowance for accomplishment of the activity.

Purpose of the article. The basic purpose of the science treatment is to analyze and render systematic the normative requirements, which the trade associations have to meet, in order to accomplish their activity as financial institution. The accent falls into these financial institutions, which grant credits with their own capital – fast credits, i.g. these, who make deals for selling of money. The achievement of the purpose is realized through solving of the following problems: to be systemized the normative requirement for the achievement of this activity by profession; to draw a general conclusion for the requirements, which is obliged to answer a trade association, in order to be registered into the public register of financial institutions in BNB; to be cleared the order and documents for regulation and including into the public register; to be represented the market presence of the financial institutions, which grant fast credits, in support of the actualization of the researched problems.

Representation of the basic researching material. The Law of Credit institutions LCI determine the financial institution as „a person, different from the credit institution and investment mediator, which main activity is accomplishment of one or more of the following activities: 1. By clause 2, paragraph 2, points 1, 2, 6–13; 2. Acquisition of participation in the credit institution; 3. Allowance of credit with resources, which are not gathered by public attracting of bank deposits and other restored resources.“ [2, clause. 3, paragraph. 1] The financial institutions may be determined as retail dealers of financial resources. The objects of attention in the present treatment are the Bulgarian financial institutions, which accomplish the last above mentioned activity, which is identified in the public area mainly with granted of so-called fast credits. They are most commonly small consumption credits by size, granted by own resources of the financial institution for a short period of time, without proving of incomes and with a great risk, against incredibly higher interest rate from those of the credit institutions such as banks. The fact that these credits are granted from their own resources of the financial institution, is the reason why their activity to be defined as a commercial activity, in the basement of which are dealing transactions for selling money, which are formed documental through conclusion of credit contract. According to the Law of Credit institutions LCI „ Financial institution is financial holding, financial holding with mixed activity, paying institution and managing association. The insurance holding and the insurance holding with mixed activity are not financial institution.“ [2, clause 3, paragraph 2] These financial institutions are not in the scope of our attention.

A financial institution in order to grant credits with own resources, i.g. in order to have the

permission to make deals for selling money, has to answer a number of normative clear determined requirements. They are given in regulations in the Law of Credit institutions LCI and in the Order № 26, issued by BNB – Order of Financial institutions [4], which later in the text is called as The Order.

In order to accomplish by profession the regulated activities to them, the financial institutions have to observe determined requirements. One of them is allocation of credits with own resources. Bulgarian National Bank (BNB) support a public register, in which they must be included, if the activity is essential. The substance of the activity is determined by the criteria, which are regulated in Order № 26 of the BNB. According this Order essential activity is available, when the relative percentage of the activities, which are regulated from The Law of Credit institutions LCI and that are done by the financial institution, „ is not lower than 30 per cent of the total activity of the jurisdiction personality according with the financial report.“ [4, clause 13, paragraph 1] For new founder and registered in BNB financial institutions the substance of the activity is determined on the base of the first two financial reports for the period of three months, after the registration date. The form and consistence of the reports are determined by BNB. Each financial institution prepare three months and annual financial reports, which they represent in the BNB until the twentieth day of the month, which follows the end of the respectively report. The Order has two ways of regulations, which shows whether the activity is essential or not [4, clause 13, paragraph 2]:

- As a ratio of net incomes from essential activity in relation to all incomes of the activity;
- As a ratio of balance value of the credit side, related to the essential activity, in relation to the total sum of the assets.

The Law of Credit institutions LCI requires the financial institutions to be registered in the Republic of Bulgaria into one of the following association forms: Association with Limited Responsibility; a Joint-stock company; a Limited joint-stock company with stocks. This requirement reach a conclusion by interpreted way as an argument by clause 4 of the Order, which put the availability of necessary minimal capital. It is inherent precisely for capital trade associations. [1, clause 64, paragraph 3] It is consequently to be accepted that the activity as financial institution may accomplish also an European association (SE) by the meaning of the Regulations (EO) № 2157/2001. In order to accomplish the activities, which are normatively regulated for them and are inherent to the banks, in particularity – allotment of credits, they have to be included in the public register of BNB. Besides at the trade regulation it must be specifically pointed out in the object of activity that such kind of activity will be put into practice.

There is a requirement for the financial institutions to have a minimum amount capital and stocks have only to be name by name (at a joint – stock company). In order to be included in the public register of BNB, the minimal necessary carried capital, according to the Order is 1 000 000 leva [4, clause 4, paragraph 1] „ By the near past it was 250 thousand leva... The commented in the public area reason for this measure is, that in this way the biggest and the most serious, and from there the strictest to the Bulgarian Law making trade associations for fast credits.“ [5] The requirement is the payment fees to be money and to be made with the own resources of the partners, whose origin has to be clear and with accordance of the Law. By calculation of the own resources must be applied the requirements of the Law of Credit institutions LCI. To be achieved the aim the criteria are distinct into physical and juridical persons. „ It is accepted that the payment fees are made with own resources, when by the date of accomplishment of the payment fee:

1. For physical person – the difference between their disposable money resources on their bank accounts and the amount of their obligations is bigger than the payment fee;

2. For juridical person – the amount of the payment fee is smaller than both of the net amount of the capital, which is determine as the difference between the assets and the obligations by the book-keeping balance, and of their disposal means at hand by the bank accounts.“ [2, clause 13, paragraph 3]

For the associations that are not new established there is a requirement to dispose both own and carried capital into the normative regulated amount. The Order defines the own capital as „ the amount of regulated and carried capital, the reserves of the association, formed with the accordance of clause 246 from the Trade Law, the mount of the profit from past years, which is not distributed and the current profit toward the respectively reported period. The amount is decreased by the loss of previous years and with the present loss toward the respectively reported period.“ [4, clause 4, paragraph 5] Each regulated at the BNB financial institution have to support the minimal required amount of the own capital, which is calculated on the base of the financial reports, which are given in the BNB.

Along with the pointed requirements by the moment, in order to be included in the public register of BNB and to achieve allowance for accomplishment of the activity, namely for granted of credits with own resources, i.g for dealing contracts for selling of money. The requirement of the Law is also the place of the business activity to be at the territory of the Republic of Bulgaria.

Having in mind the specific of the activity, which is practiced, and the essential amount of the capital, which have to be managed, the Law sets requirements towards both the person, who managed and represented these associations, and

toward the person, who possess the qualified share participation. The Order regulates the specific criteria, which they have to meet.

The persons, who managed and represented the financial institution, have to „possess the necessary qualification, professional knowledge and reputation“ [2, clause 3a, paragraph 2, and point 5]. According to the Order, they have to be with a University education and at least three years experience in the area of economics, law, finance, and informatics. Furthermore they must not be convicted for a crime of common disposition, to be lacking in right to take positions, which are materially responsible, as well as not to be included in the list by clause 5, paragraph 1 from the Law of measurement against financing the terrorism [3]. Another requirement toward the people, who are candidates for managers or representatives of the financial institution, is not to be members of the administrative and control body during the last two years or inimitably responsible partners in the association which is ceased for bankruptcy, whose creditors stayed unsatisfied. Along with this there must not be available circumstances, which are put under doubt the qualification, the professional experience and the reputation of the candidates.

The physical person have to possess non questionable reliability, financial stability and reputation, which directly or by indirection way hold the qualification stock participation in the capital of the financial institution, as well as these, who are owners. They must not have been convicted of a crime as a whole, they must not be denied of the opportunity to take positions where they are responsible for valuable materials, they must not be included in the list of the people according the Law of measurements against financing the terrorism, as well as during the last two years to be members of the managing and control body or partners in the associations, which are ceased because of bankruptcy and their credits remained unsatisfied. For juridical persons there must not be circumstances, which put in doubt their financial stability and reputation. [4, clause 5]

To be included a trade company as a financial institution in the public register in the Bulgarian National Bank BNB is necessary the company to fill application form in written form and also to fill a register form by a sample of the BNB. According the requirements of the Order the registration documents are filled in paper form and at electronic form, signed with a qualified electronic sign. They present the register form and the questionnaires into form of sample by BNB declarations, which are filled from the persons, who managed and represent the applicant and by physical and juridical persons, who directly own qualified share participation in the capital of the applicant.

In the appliance form of including in BNB, the person indicate the applicant company, an integrated identification code (IIC), the location and

Table 1

**Documents, which must be accompanied by the application form
for including of financial institutions into the public register of BNB**

For applicant	For people, who managed and represent the applicant	For each physical person, who directly owns qualified share participation in the capital of applicant	For each physical person, who indirectly owns qualified share participation in the capital of applicant	For each juridical person, who directly owns qualified share participation in the capital of applicant	For each juridical person, who indirectly owns qualified share participation in the capital of applicant
1	2	3	4	5	6
Legalized copy from the statute or the association contract	Names and personal data by document of identification, citizenship, permanent and present address, as well as true copy of document of identification			Names and personal data by document of identification, citizenship, permanent and present address, as well as true copy of document of identification for people who represent juridical person by law	
Evidence that executable capital is deposited	Filled questionnaire–declaration for qualification, professional experience and reputation by sample of BNB	Filled questionnaire–declaration for reliability, financial stability and reputation by sample of BNB		Filled questionnaire–declaration for reliability, financial stability and reputation by sample of BNB with data of juridical person	
List of shareholders/ partners, number of the stocks and their relatively participation in the capital	Certificate of conviction or other analogous document in case, when the physical person is not Bulgarian citizen			Certificate of conviction or other analogous document in case, when the physical person is not Bulgarian citizen for the people, who represent juridical person by law	
List of shareholders/ partners, who own indirect qualification share participation	Notarial certify copy of the diploma completed university education	Declaration about kind and size of received loan of the person with actual data by the date of accomplishment of the payment		Legalized copy from statute/ association contract and other documents of association establishing	
List of actual owners by the meaning of the Law about measures against washing out of money	Declaration, which verify that the person is not devoid from the right of taking positions with material responsibility, is not included in the list of the Law about measurements against financing terrorism and that during the last two years has not been member of management or control body or unlimited responsible partner in association, which is fallen into bankruptcy and his creditors stayed unsatisfied			Declaration, which verify that the person is not devoid from the right of taking positions with material responsibility, is not included in the list of the Law about measurements against financing terrorism and that during the last two years has not been member of management or control body or unlimited responsible partner in association, which is fallen into bankruptcy and his creditors stayed unsatisfied for the people, who represent juridical person by law	
List of the managers (members of the management body) and the people, who are authorized to manage and represent the association	Certification for lack of tax and insurance obligations				
Financial reports – balance of payment, income reports, Audit reports (when it is applicable) for the last two years of juridical person's activity	Declaration and documents for origin of the resources (money), which are used for buying the stocks, respectively the share parts or payments, that are done in the capital				

Continuation of Table 1

1	2	3	4	5	6
Document for paid supervision fee, which is 3 000 leva by the present moment.		Documents, which verify the disposable money resources of the person by the date of the accomplishment of the payment in the capital of the applicant		Financial reports – balances, income reports, Audit reports (when it is applicable) for the last two years of juridical person's activity, as well as for the fiscal year, which is previous those year in which the payment is done or the acquisition is realized	
List with addresses, where he has an intention to accomplish activity as a financial institution		Payment documents, which verify the payment of the possessed stocks/share participations of the capital		Certification for lack of tax and assurance obligations for the person, who represent the juridical person by law	
		Other Documents by the decision of the applicant or BNB, where it is visible that the payments in the capital are done with their own resources and the origin of the resources is clear and according to the law		Certification for the status of actuality	

Source: the authors (according the normative text of the clause 6 from the Order № 26 of BNB for the financial institutions)

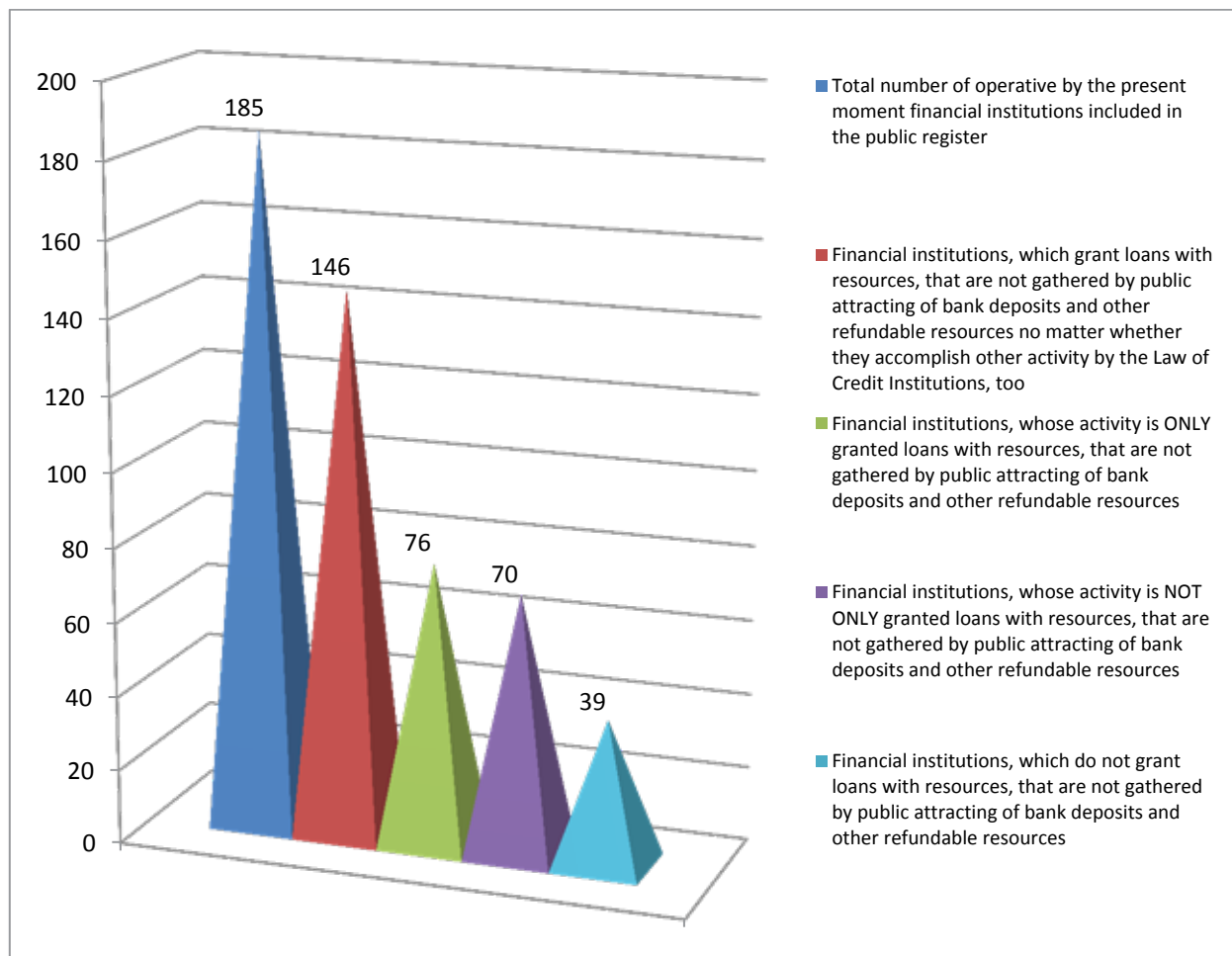


Figure 1. Market attendance of the financial institutions, which grant credits with their own resources, by the end of month October 2017

Source: the authors (by data of BNB)

the address of management and the activities by the Law of Credit Institutions LCI [2, clause 3a, paragraph 1], which they are willing to accomplish. [4, clause 6, paragraph 2] The Sample of the Application form and the Registration form are available in the internet site of BNB, section „Bank supervision“, partition „Financial institution by clause 3a from the Law of Credit Institutions LCI“. [6] Together with the Application Form must be applied the relevant documents for applicant, for managers and representatives of the applicant, for the physical and juridical person, who own direct or indirect qualified share participation in the capital and for the actual applicant owners. This information is classified into Table 1.

Although the strict normative requirements, which the trade statements have to answer, in order to be included in the public register of financial institutions of BNB and to achieve permission, their presence at the market increases. As we noted before, an object of our attention are financial institutions, whose activity or part of activity is to grant credits with their own resources.

By the present moment, the operative and included in the public register of BNB financial institutions are 185, and part of them 146 grant credits with their own resources. From these 146 financial institutions, more than a half (76) make a deal only by selling money, i.g. the grant fast credits. Their attendance at the market is shown at Figure 1.

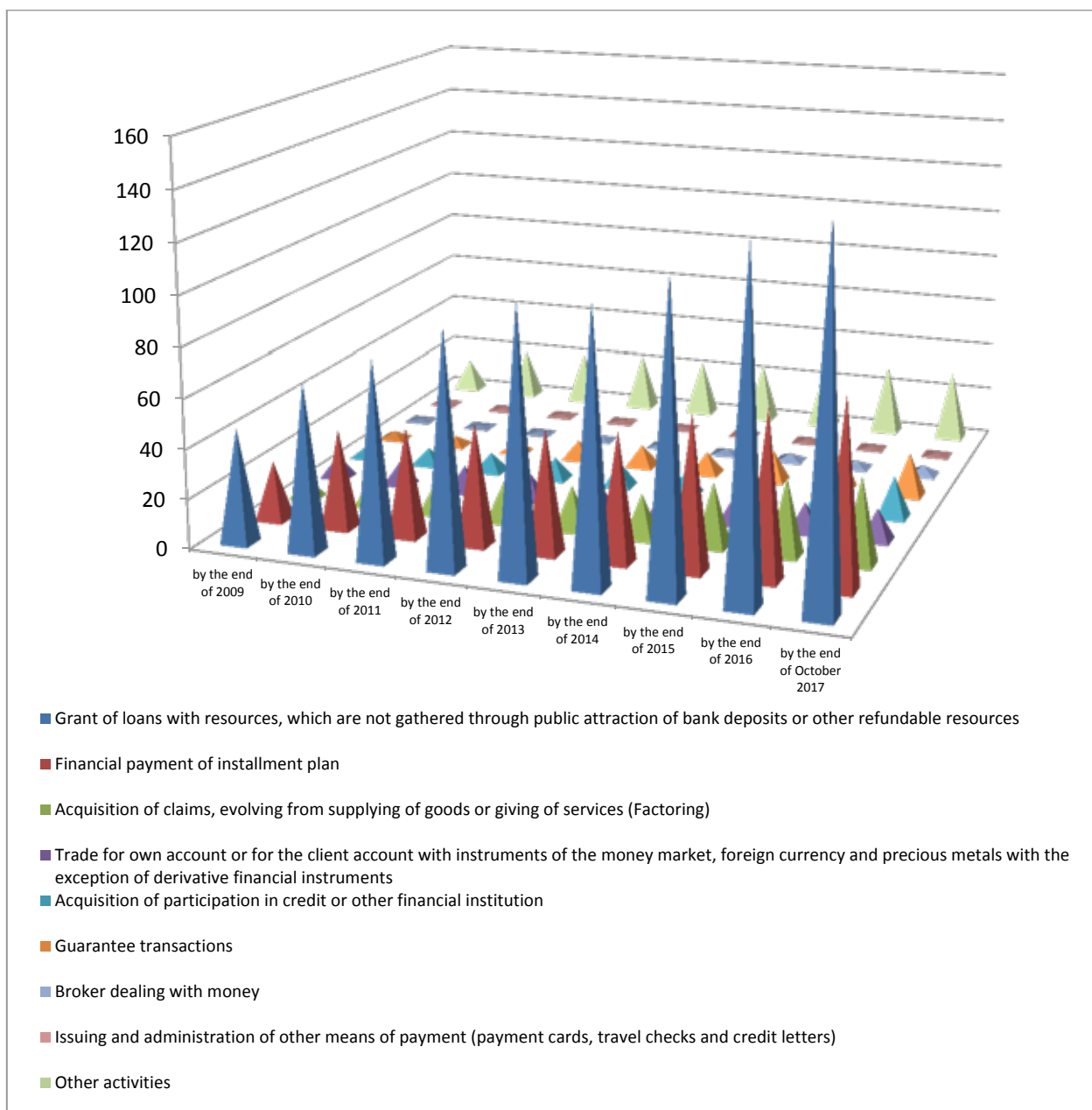


Figure 2. Financial institutions, included in the Public register of BNB, which practiced the respectively activity by the Law of Credit institutions, represented with accumulation by the particular moment
 Source: the authors (by data of BNB)

For establishment of the increasing market presence of the financial institutions, which grant credits with their own resources, respectively to the significance and development of this activity in the Republic of Bulgaria, is studied the period of the years 2009 – 2017. At Figure 2 is shown the number of the financial institutions by the end of each year of the analyzed period, and for the year 2017 the data are presented by the moment of the research, i.g. by the end of month October. The attendance of the institutions, which grant fast credits, is notable. By the end of each year from

the analyzed period their presence at the market is the most substantial and it increases by the background of the rest activities, which they may accomplish.

It is visible from the figure the increasing market attendance of the financial institutions, which grant fast credits, respectively leading to increase in making deals for selling of money.

On Figure 3 is shown more detailed information. There are presented the activities, for which accomplishment the valid financial institutions have been registered and included in the register

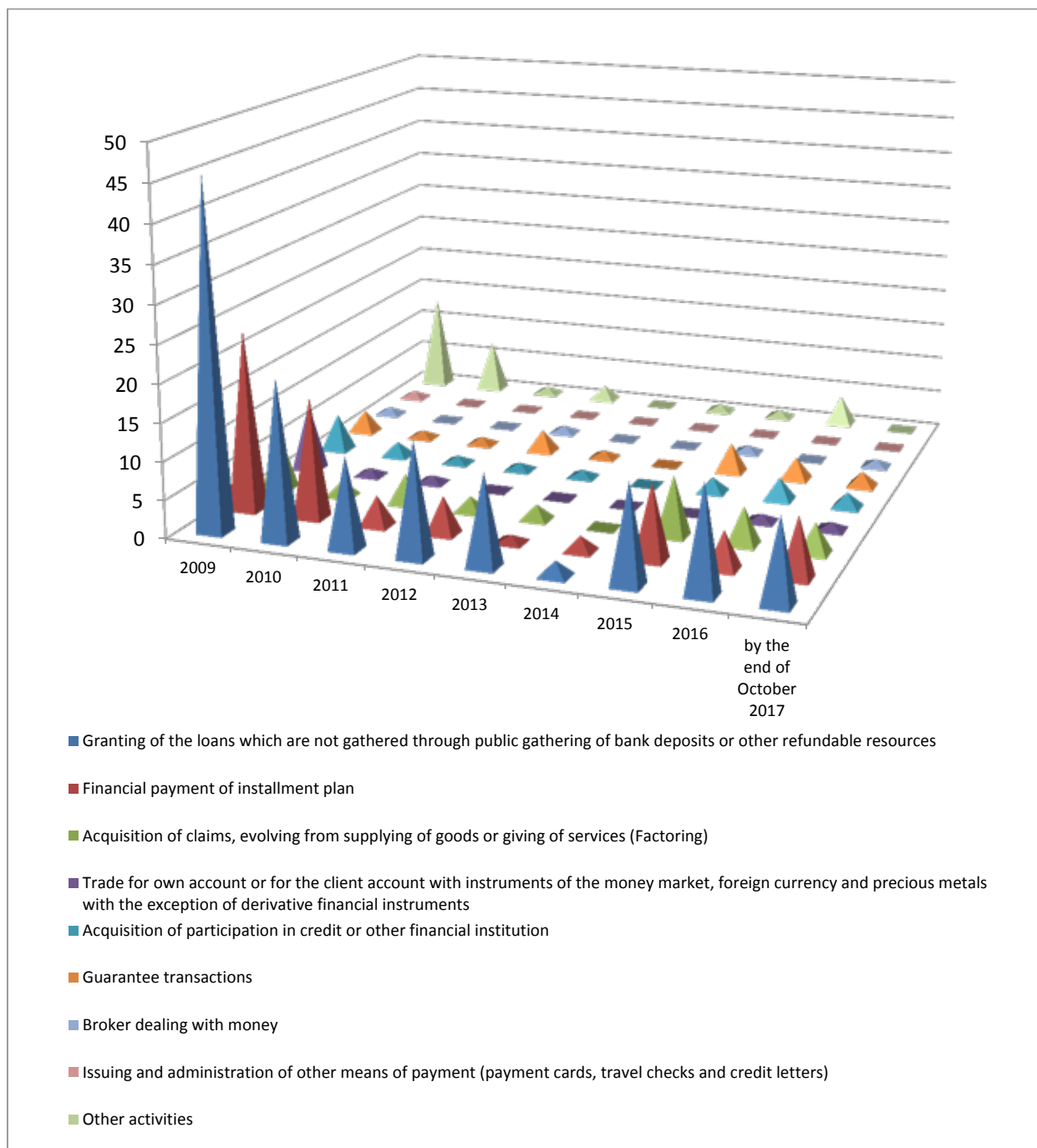


Figure 3. Activities, for which accomplishment the financial institutions have been registered and included in the public register of BNB, throughout the separately years

Source: the authors (by data of BNB)

of the Bulgarian National Bank BNB throughout the particular years.

It is obviously from the figure that the activity, in which is displayed the biggest wish for registration, is exactly granting credits with their own resources, i.e. granting of fast credits, which in substance represent deal for selling of money, with a high risk and against considerably higher interest rate from those of credit institutions (banks). During each of the years, on the background every activities, which are notified for registration, the willing of the financial institutions to achieve permission for doing such an activity is predominant. In the year 2009, when the obligation for including the financial institutions becomes operative, 46% form all notified and regulated activities are given to the activity „granting loans with resources, which are not gathered through public attraction of bank deposits or other repairable resources“. For the next years from the researched period the relative share of this activity on the background of all notified for registration activities is as following: for 2010 – 42%; 2011 – 50%; 2012 – 51,7%; 2013 – 70,6%; 2014 – 40%; 2015 – 33,3%; 2016 – 40%; and by the month of October 2017 – 33,9%. Throughout each of the years, which are studied in the analyzed period, the relative share of those, who are willing to grant credits with their own resources is considerably bigger than those of all the activities that rest, for accomplishing of which is needed registration and including in the public register of the Bulgarian National Bank BNB.

Conclusion. On the base of presented normative requirements for registration of the financial institutions and the increasing attendance on the market, it may be conclude the following: 1. The strict normative requirements and the complicated bureaucratic order for the including of the financial institutions, which offer fast credits, in the public register of BNB, do not prevent their increasing presence on the market during the analyzed period; 2. In contrast to the credit institutions (banks), which mainly do operations

with attracted resources, the financial institutions do operations with their own resources, i.e. for granting credits they use their own capital; 3. Granting of fast credits can be identified with trade deal for selling money, which is documented by a contract for credit by the meaning of clause 9 of the Law for Consumption credit; 4. Their significant market attendance probably is conditioned by the increasing the population need of money resources, the high requirements of the banks towards the credit requester and the good profit, which can accumulate the financial institution by the availability of good management, trained and qualified staff.

The ideas for future examinations by the researching problems are pointed towards: The management structure of the financial institutions, which grant fast credits; making of recommendations for its improving; the grounds of the association to be directed toward practicing of such kind of activity; the conditions, which have to meet the credit claimers, in order to be granted a credit; the psychological adaptations of the consumers of such kind of credits; the clauses of the contract for credit; the satisfaction of the consumers of fast credits; and others.

REFERENCES:

1. The trade Law, renewed Government (State) Newspaper (GN), issue number 48/year 1991, last changed and supplement GN, issue number 62/year 2017.
2. The Law of Credit institutions, published in Government (State) Newspaper (GN), issue number 59/year 2006, last changed and supplement GN, issue number 63/2017.
3. The Law about measurements against financing the terrorism, published in Government (State) Newspaper (GN), issue number 16/2003, last changed and supplement GN, issue number 81/2016.
4. Order № 26 from April 23th 2009 for financial institutions, published in GN, issue number 36/2009, last changed and supplement GN, issue number 68/2014.
5. Trifonov, Emil. Fast credits with higher minimum capital. // <https://advokattrifonov.com>
6. <http://www.bnb.bg>