

Shadow banking in the view of legal regulation

Abstract

This diploma thesis deals with shadow banking in the view of legal regulation focusing on the Czech territory. Although the shadow banking sector amounts almost to the same extent as the traditional banking, its legal regulation is barely discussed in the Czech Republic. So this work aims at stimulation of that kind of debate.

Shadow banking contributes to more effective redistribution of the financial means between investors and debtors. Nevertheless, due to its nature it involves significant systemic risks, which played a crucial role during the spread of the mortgage crisis in 2007-08. Therefore this area has to be regulated.

In the first part the thesis explains the term shadow banking including the entities and activities, which are able to be classified within this sector, and the risks, which it carries. In the second part the work deals with the current legal regulation of this area and points to the advantages and the deficiencies. Finally, in the third part it provides with the proposals regarding the deficiencies.

Particularly the thesis proceeds from study and research of the documents published by the supervision bodies of the financial stability area and from the applicable provisions relevant to the shadow banking. Concerning this I am able to introduce the first conclusion that the legal regulation in the Czech literature is deeply neglected.

The thesis resulted in some fundamental findings. Firstly, there is no unified definition of the shadow banking. Secondly, the legal regulation has been established in the last decade after the mortgage crisis. Thirdly, the regulation comes out of initiative of the global supervision bodies which conclusions are not binding. Therefore the most thoroughgoing legislation from the Czech point of view is the EU legislation. In contrast to this, the Czech legislation is superficial and it implements the most important EU rules.

And fourthly, although the shadow banking is not a common phenomenon in the context of the Czech Republic, its potential is immense and given the fact that it still grows, a massive expansion is probably only a matter of time. However, some shadow banking activities have emerged also in the Czech Republic. So it could be useful to encourage the legal regulation in time including the solution of deficiencies of the current legislation.

Key words: Shadow banking, Securitization, Legal regulation