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SHARE REPURCHASES AS A FORM OF PAYOUT FOR SHAREHOLDERS

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Summary

Share repurchase happens when a company repurchases its own shares for any purpose determined by the general meeting of shareholders, including their further sale. Share repurchase is like dividend payout a form of transferring profit to shareholders. However, contrary to dividends, it is quite a new legal institution, which gained importance in developed capital markets as late as in the last twenty years of the 20th century. This article presents the development of the institution of share repurchasing and changing relations between purchasing shares and paying out dividends in developed capital markets. It also presents the legal situation concerning share repurchase in Poland, pointing out that only the regulations introduced in 2008 adjusted Polish legal solutions to those valid in developed capital markets.

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Keywords: payout policy, share repurchase, dividend

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Introduction

One of the most important decisions that corporations have to make is how to distribute generated profit. We mean here the decision on what part of profit should be retained in the company and what part should be allocated for shareholders. Profit may be transferred to shareholders in form of dividend or through share repurchase. All the decisions resulting in determining the above proportions are known as payout policy (A. Cwynar and W. Cwynar, 2007, p. 174).

Payment of dividend has a 400-year-old tradition (Frankfurter and Wood, 2003, p. 41) and impressive specialist literature on this subject[2], however, share repurchase is of the 20th century origin and gained significance in the USA in 1980s and in other countries – as late as the end of the 20th century.

This paper presents the development of the institution of share repurchasing and changing relations between share repurchasing and paying out dividend in developed capital markets and the legal situation concerning share repurchase in Poland.

Share repurchase vs. dividends

The term dividend may be derived from Latin *dividendum*, which means "what is to be shared" (Dictionary of Foreign Words and Phrases, PWN, 1999, p. 263), and the dividend may be referred to the result of this share. Of course, not every result of share is identical with dividend.

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[2] During the period of nearly 60 years there have been a number of theories and hypotheses concerning both the influence of dividends on company value and the factors determining these decisions (Kowerski, 2011).

There are a number of definitions of dividend. Some of them emphasize the integral relation between dividend and company profit and points at the existence of profit as the financial condition for passing it:

1) dividend is part of profit paid out to shareholders (Mayo, 1997, p. 289),
2) dividend is part of profit to be shared per each single share (Jajuga, Kuziak, Markowski, 1998, p. 26) and (Nowak, Pielichaty, Poszwa, 1999, p. 84).
3) dividend can be defined as part of company net profit to be paid out per one share, passed in the resolution of the General Meeting of Shareholders (Frąckowiak, 1998, p. 392).

Other definitions concentrate on the relation between dividend and ownership

1) dividend is the price that the company pays its investor for purchasing the shares issued by it (Duraj, 2001, p. 130),
2) dividend is the cost of using the shareholders capital. For the shareholder it is specific reward for the risk resulting from leaving his or her capital at the company disposal. For the company, it is the price paid to the investor for purchasing the shares it issued (Sierpińska, 1999, p. 50).

Usually, the measure of the value of paid out dividend is made using two indicators (Sierpińska, 1999, p. 85 – 94):

1) Dividend Yield Ratio (DYR),

$$DYR = \frac{\text{dividend per 1 share}}{\text{share market price}} \times 100, \qquad (1)$$

2) Dividend Payout Ratio (DPR).

$$DPR = \frac{\text{dividend per 1 share}}{\text{net profit per 1 share}} \times 100, \qquad (2)$$

Share repurchase takes place when the company repurchases its own shares for any purpose determined by the General Meeting of Shareholders, including further sale.

Analogically to dividends, also share repurchase can be measured by means of:

1) Repurchase Yield Ratio (RYR)

$$RYR = \frac{\text{value of repurchased shares per 1 share}}{\text{share market price}} \times 100, \qquad (3)$$

2) Repurchase Payout Ratio (RPR)

$$RPR = \frac{\text{value of repurchased shares per 1 share}}{\text{net profit per 1 share}} \times 100, \qquad (4)$$

In developed capital markets, share repurchase can be conducted in three different ways (A. Cwynar and W. Cwynar, 2007, p. 197):

1) open market purchases, consisting in purchasing shares in stock exchange from investors willing to sell, at a current market price. This method offers the company most freedom in shaping both the scale of share repurchase and its duration,

2) self-tender offer repurchases – an offer for shareholders may be realized in two ways, in both of them shares are repurchases at a higher than current market price:
    a. fixed price self-tender offer – in this case the company fixes and announces the price and date of repurchasing before it starts,
    b. dutch auction self-tender offer, consisting in asking shareholders to state their acceptable selling price and the number of shares they could sell. In this case, the repurchasing price is established after collecting information from shareholders.
3) selectively, through negotiating sales of company shares by selected investors (off – market repurchases, open – the – counter repurchases, privately negotiated repurchases)[3].

A major theoretical and practical issue is the relation between dividends and share repurchase. Andrzej and Wiktor Cwynar (2007, p. 196 – 197) emphasize the following differences between dividend and share repurchase:

1) share repurchase changes the volume of shares in circulation and thus the ownership structure of a company (the same effect is caused by dividend in shares, whereas cash dividend does not bring such effect),
2) share repurchase is not treated – unlike raising value of common dividend – as an obligation made by the board to achieve better results in the company activity in the future,
3) share repurchase should rather be treated as a substitute of extra dividend, not as a substitute of common, regular dividend,
4) share repurchase gives the company more flexibility than dividend payout (it is possible and quite common to withdraw from the intention of repurchase, it is also possible to spread the repurchase in time). Repurchased shares can be resold,
5) share repurchase is of selective nature, allowing only the interested shareholders to take advantage of the offer, while dividend is received by all shareholders.

In order to evaluate the policy of payouts for shareholders, we can apply two indicators.

1) Total Yield Ratio (TYR)

$$TYR = \frac{\text{dividend and value of repurchased shares per 1 share}}{\text{share market price}} \times 100\,, \qquad (5)$$

2) Total Payout Ratio (TPR)

$$TPR = \frac{\text{dividend and value of repurchased shares per 1 share}}{\text{net profit per share}} \times 100\,, \qquad (6)$$

[3] Apart from the USA, in most countries this form of share repurchase is forbidden (Cwynar, Cwynar, 2007, p. 199).

Share repurchases in developed capital markets

Share repurchases in the USA

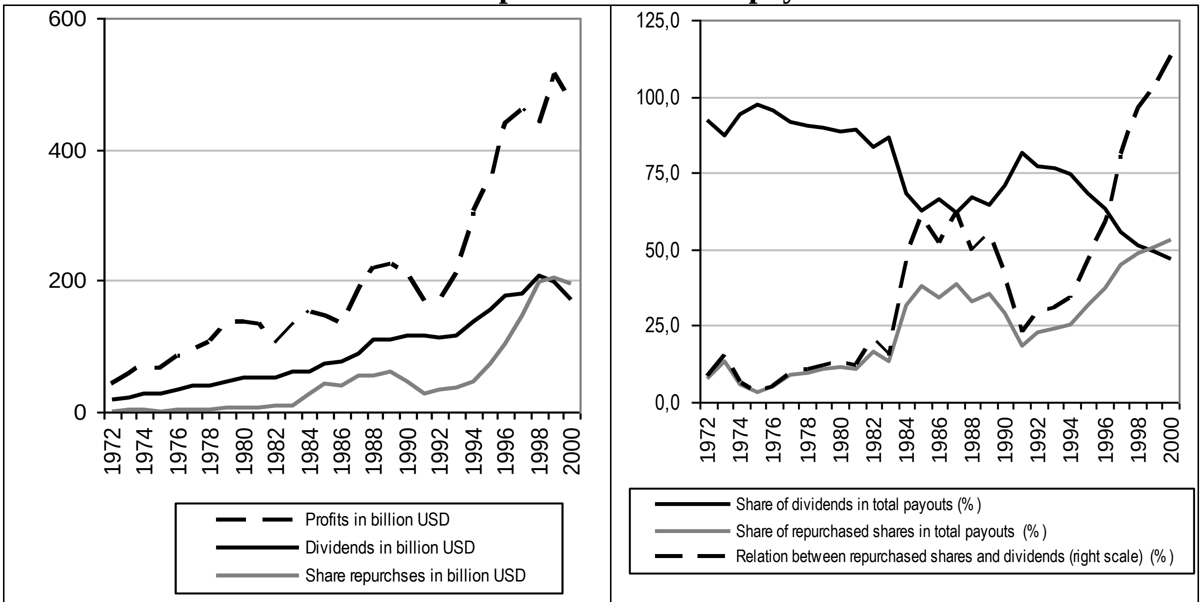
In the USA, since the beginning of 1980s, the second form of payouts from profits for shareholders, namely share repurchases, has gained popularity.

Gustvo Grullon and Roni Michaely (2002, p. 1653), using the Compustat base, from which they selected 15843 industrial companies with 134646 observations[4], analyzed the changes in values of paid out dividends and share repurchases in the USA in 1972-2000.

In the USA in 1972-1983, the value of repurchased shares amounted on average to 10.9% of the value of paid out dividends. However, since mid-1980s, we can observe dynamic growth of the value of share repurchases. In 1973-1983, average annual growth rate of profit payouts (in current prices) was 12.4%, while the value of paid out dividends increased annually by 11.7%, and the growth rate was slightly above the level of generated profits growth (11.0%), while the value of share repurchases grew by 18% annually. In 1984-2000 the value of dividends grew by 6.4% annually while the growth rate was lower than the profit growth rate and three times lower than the growth rate of share repurchases. As a result, in 1984-2000 the value of repurchased shares equaled 57.7% of the value of dividends, and in 2000 it reached 113.1% of the value of dividends (Grullon and Michaely, 2002, p. 1656).

[4] The final set consisted of only these companies for which the database contained some information on their profits, market value, dividends and share repurchases defined as expenditure on purchasing ordinary and preference shares. Such information was unavailable for banks, insurance companies (financial companies) and public service companies, therefore they were not included in the set.

Figure 1: Changes in values of profits, dividends and share repurchases and shares of dividends and share repurchases in total payouts in the USA



Changes in values of profits, paid out dividends and repurchased shares in billion USD

Changes in share of dividends and share repurchases in total payouts (%)

Source: Own elaboration, on the basis of Table 1 (Grullon and Michaely, 2002, p. 1655)

In 1998, the value of share repurchases for the first time exceeded the value of dividends. And even though the research conducted by David Denis and Gohar Stepanyan (2009, p. 56) shows that in 2001-2003 paid dividends again slightly exceeded the value of share repurchases, in 2004 the relation of the value of share repurchases to dividends was 116.8%, while in 2005 it reached 125.6%, which indicates a stable tendency of higher value of share repurchases than value of dividends.

Table 1: Change ratios, average annual growth rate of the value of profits, dividends and share repurchases and the dividend and share repurchases payout and yield ratios in the USA in 1972-2000 (%)

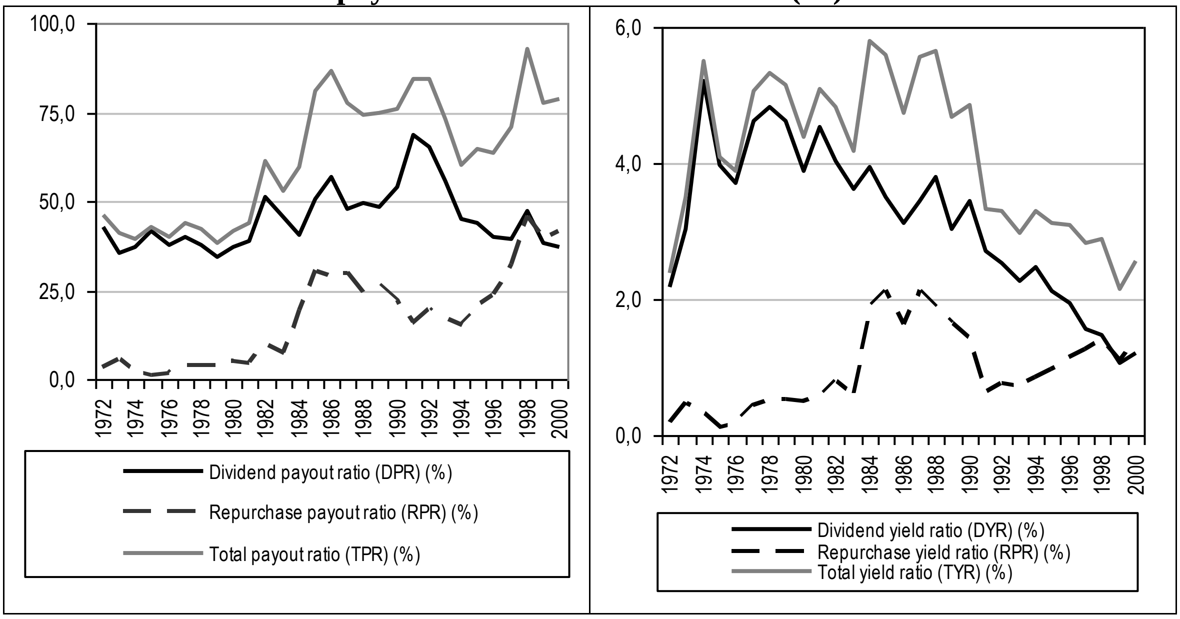
	The coefficient of variation (CV)* (%)	Average annual change rate (%)		
		1973 – 2000	1973 – 1983	1984 – 2000
Profits	66.3	9.0	11.0	7.8
Dividends	61.5	8.5	11.7	6.4
Share repurchase	121.4	19.0	18.0	19.7
Total payouts	80.4	11.1	12.4	10.3
Dividend payout rate (DPR)	18.9	-0.5	0.7	-1.2
Repurchase payout ratio (RPR)	74.2	9.2	6.3	11.0
Total Payout Ratio (TPR)	27.5	1.9	1.2	2.4
Dividend yield ratio (DYR)	35.1	-2.1	4.7	-6.3
Share repurchase yield ratio (RYR)	60.7	7.3	10.3	5.4
Total yield ratio (TYR)	27.0	0.3	5.3	-2.8

**The coefficient of variation (CV) is defined as the ratio of the standard deviation to the mean in the years 1972 – 2000*

Source: Calculations on the basis of data from Table 1 (Grullon and Michaely, 2002, p. 1655)

It should be noticed that in the analyzed period share repurchases change ratio was twice as high as the dividend change ratio.

Figure 2: Payout ratios and yield ratios of dividends, share repurchases and total payouts in the USA in 1972-2000 (%)



Source: Own elaboration on the basis of data from Table 1 (Grullon and Michaely, 2002, p. 1655)

According to Grullon and Michaely (2002, p. 1651), a significant growth of the value of share repurchase in the USA happened at the cost of much lower growth of paid dividends. This share repurchases "helped" to keep the total payout ratio on the same level in 1980s, even though the dividend payout ratio fell.

Moreover, since mid-1980s, more and more companies have been deciding to start payouts in form of share repurchase rather than in form of dividend. The share of companies initiating payouts in form of share repurchase in the total number of companies initiating payouts grew from 26.2% in 1972 to 84.2% in 2000. In authors' opinion this is the proof that share repurchase in the USA is becoming a preferred form of payouts (Grullon and Michaely, 2002, p. 1651).

Table 2: The dependence of payout policy on the characteristics of companies (average values for 1972-2000)

	Dividend = 0, Share repurchase = 0	Dividend > 0, Share repurchase = 0	Dividend = 0, Share repurchase > 0	Dividend > 0, Share repurchase > 0
Company capitalization (million USD)	167.5	1076.2	359.0	1803.6
Value of assets per company (million USD)	162.3	1723.4	311.3	2962.1
Return on assets (ROA) (%)	-3.8	14.1	5.0	14.5
The coefficient of variation (CV)* of return on assets (%)	9.4	3.6	7.5	3.4
Share of companies listed on stock exchange for more than 8 years	26.5	56.1	34.1	68.4
Share in total value of paid out dividends (%)	0.0	31.0	0.0	69.0
Share in total value of share repurchases (%)	0.0	0.0	12.1	87.9

**The coefficient of variation (CV) is defined as the ratio of the standard deviation of ROA to the mean of ROA in the years 1972-2000*
Source: Table 2 (Grullon and Michaely, 2002, p. 1657)

Grullon and Michaely also characterized companies depending on their payout policy. Companies which pay dividends and repurchase their own shares have the highest capitalization and the biggest assets, they are also the most profitable and their profitability shows relatively little variation: there is a high share of companies listed on stock exchange for a long time. The companies which perform both forms of payouts, pay out 69% of all dividends and allocated as much as 87.9% of all resources for share repurchase. On the other hand, companies which do not pay dividends or repurchase their own shares are small and relatively young with negative and very high variability of return on assets. Companies which pay dividends but do not repurchase their shares are above the average (as far as capitalization and value of assets are concerned) and more profitable, with longer presence in stock exchange then companies which do not pay dividends but repurchase their own shares. Simultaneously companies exclusively repurchasing their shares have more variable return returns on assets than companies which only pay dividends. (Grullon and Michaely, 2002, p. 1657). This could be an argument for the thesis that dividends are usually realized from regular (ordinary) profits, while the appearance of extraordinary profits may prompt companies to repurchase their own shares. Taking into account the age of analyzed companies, we can venture a thesis that shares are repurchased mostly by young companies, with relatively high profits volatility.

Douglas Skinner (2008) analyzed the structure of companies listed on American stock exchanges in 1980-2005[(5)], depending on the frequency of paid dividends and share repurchases, the analysis was conducted in two sub-periods: 1985 – 1994 and 1995 – 2004.

[5] Skinner in 1985 – 1994 analyzed 6622 industrial companies and in 1995 – 2004 7595 companies. Of course, a large number of these companies were analyzed in both periods. In 25 years their number reached 10675.

Table 3: The structure of companies listed on American stock exchanges in 1985-2004 depending on the frequency of paid out dividends and share repurchases (%)

Number of years of repurchases	1985 - 1994					1995 - 2004				
	Number of years of dividends					Number of years of dividends				
	0	from 1 to 4	from 5 to 9	10	Total	0	from 1 to 4	from 5 to 9	10	Total
share in total number of companies (%)										
0	43.2	8.2	1.7	1.1	54.3	43.2	5.7	0.6	0.5	50.0
from 1 to 4	20.1	7.3	4.2	5.4	36.1	24.9	7.6	2.7	2.5	37.7
from 5 to 10	2.4	1.0	1.5	4.7	9.6	3.9	2.0	1.6	4.8	12.3
total	65.8	16.5	7.4	10.3	100.0	72.0	15.4	4.9	7.8	100
	share in total value of payouts (%)									
0	0.0	1.3	1.6	2.1	5.0	0.0	1.0	0.2	0.5	1.7
from 1 to 4	1.1	4.3	4.9	32.1	42.5	3.1	4.3	5.5	12.8	25.7
from 5 to 10	0.4	0.8	2.9	48.5	52.6	4.8	3.5	2.7	61.6	72.6
total	1.5	6.4	9.4	82.7	100.0	7.9	8.7	8.5	74.9	100.0

Source: Table 1 (Skinner, 2008, p. 588 – 589)

On the basis of the results presented by Skinner we can make the following conclusions:

1) companies which did not make any payouts from profit in both sub-periods accounted for 43.2% of all analyzed companies,
2) in 1985 – 1994 companies which regularly paid dividends and organized from 5 to 10 share repurchase procedures in 10 years accounted for 4.7% of all analyzed companies while in 1995-2004 – 4.8%, but the share of payouts (total from dividends and share repurchase) realized by these companies in total value of payouts grew from 48.5% in the first period to 61.6% in the second period. As Alon Brav, John R. Graham, Campbell R. Harvey and Roni Michaely (2005, p. 500 – 501) showed, some companies pay big dividends due to historical reasons (some have been doing this for many years or even decades) and are generally "sentenced" to continue this practice. However, recently, companies regularly paying dividends have also repurchased their own shares, allocating their extraordinary profits and surplus of ordinary profits for this purpose. These results also indicate very strong concentration of the value of payouts made by a small number of companies,
3) companies which occasionally repurchased their own shares (from 1 to 4 such procedures in 10 years) and did not pay any dividends in 1985-1994 constituted 20.1% of all companies, but realized only 1.1% of total payouts, while in 1995-2004 their share grew to 24.1% and the share in total payouts to 3.1%,
4) companies which regularly repurchased their own shares (between 5 and 10 such procedures in 10 years) and did not pay any dividends in 1985-1994 accounted for 2.4% of all companies and realized only 0.4% of payouts, but in 1995-2004 their share grew to 3.9%, and their share in payouts to 4.8%,
5) the share of companies that paid dividends but did not repurchase their own shares was falling. In 1995-2004 the companies which did not repurchase their shares at all and at least once paid dividends accounted for 11% of all companies and realized 6.8% of total payouts. In 1995 – 2004 the figures were respectively 6.8% and 1.7%. The share of companies which paid dividends every year and did not repurchase their own shares

fell from 2.1% in 1985-1994 to 0.5% in 1995-2004. Skinner (2008, p. 582) believes that such companies are "on the verge of extinction".

The proof that recently companies have been repurchasing their shares and paying dividends regularly can be found in the data of companies constituting the on Dow Jones Industrial Average Index in 2006-2007. In this period all companies belonging to Dow Jones Industrial Average Index paid dividends and only one declared not to have purchased its own shares. It should also be noted that the declared value of repurchased shares was three times the value of annually paid dividends[6].

Table 4: Regular dividends payments in 2006-2007 and declarations concerning share repurchase made by companies constituting Dow Jones Industrial Average Index in the middle of 2008

Company	Regular dividends in billion USD		Share repurchase	
	2006	2007	year announced	value in billion USD
3M	1.4	1.4	2007	7.0
Alcoa	0.5	0.6	2007	3.2
American Express	0.7	0.7	2006	11.6
American Intl	1.7	2.0	2007	8.0
AT&T	6.1	8.9	2007	16.6
Bank of America	9.6	10.7	2007	14.0
Boeing	1.0	1.1	2007	7.0
Caterpillar	0.8	0.9	2007	7.5
Chevron	4.4	4.8	2007	15.0
Citigroup	9.8	10.7	2006	10.0
Coca-Cola	2.9	3.1	2006	15.0
DuPont	1.4	1.4	2005	3.0
Exxon Mobil	7.6	7.6	2006	6.0
General Electric	10.7	11.7	2005	7.0 to 9.0
General Motors	0.6	0.6	1998	4.0
Hewlett-Packard	0.9	0.8	2004	3.0
Home Depot	1.4	1.7	2007	22.5
Intel	2.3	2.6	2005	25.0
IBM	1.7	2.1	2007	15.0
Johnson&Johnson	4.3	4.7	2007	10.0
JP Morgan Chase	4.9	5.2	2006	8.0
McDonalds	1.2	1.8	2007	10.0 to 12.0
Merck	3.3	3.3	2004	–
Microsoft	3.6	3.8	2006	40.0
Pfizer	7.3	8.2	2005	5.0
Procter&Gamble	3.6	4	2007	8.0 to 10.0

[6] This does not mean, however, that declared share repurchase was performed in 2006-2007, as the execution terms were sometimes longer, and the American practice shows that some announced repurchases never happen. Linda Allen, Aron Gottesman, Anthony Saunders and Yi Tang (2009, p. 3) state that in the USA around 20% of announced repurchases do not materialize.

Company	Regular dividends in billion USD		Share repurchase	
	2006	2007	year announced	value in billion USD
United Technologies	1.0	1.1	2007	1.5
Verizon	4.8	4.8	2006	1.5
Wal-Mart	2.8	3.6	2007	15.0
Walt Disney	0.6	0.7	2006	13.6
Total	102.9	114.6		from 313 to 319

Source: Table 4.4. (DeAngelo, DeAngelo, Skinner, 2008, p. 135 – 136)

We may also ask why companies were so late to repurchase their shares of substantial value. Grullon and Michaely attribute it to unclear regulations of the American Securities and Exchange Commission (SEC) before 1982. Although share repurchase has never been forbidden in the USA, the regulations made company boards doubt whether such repurchases are legal. In individual cases, SEC, using the 1934 Act, treated share repurchase as an activity aiming at manipulating prices. It was only in 1982 that SEC issued its commentary to the right to repurchase own shares in open market (*Rule 10b – 18*), in which it stated explicitly the principles governing the use of this instrument, which resulted in considerable growth in the value of repurchased shares (Grullon and Michaely, 2002, p. 1678).

Share repurchase in other countries

In other countries the institution of share repurchase appeared even later than in the USA. Share repurchase was legally limited in France, Germany and Japan until late 1990s (Denis and Osobov, 2008, p. 75). In Great Britain it was forbidden until the beginning of 1980s and unfavorable taxed in comparison to dividends until mid-1990s (Andres, Betzer, da Silva, Goergen, 2009, p. 47).

The research team composed of Sö hnke Bertram, Philips Brown, Janice How and Peter Verhoeven (2007), using the collection of 194.6 thousand observations made in 1984-2006 in companies coming from 43 countries[7] conducted research on share repurchase. The analyzed collection also comprised 459 observations from Polish companies.

In 1984 – 2000, the average share of companies repurchasing their shares in total number of surveyed companies in 43 analyzed countries was only 6.3%, while the median equaled 3.5%, with the biggest shares in the USA (39.4%) and Canada (31.3%). Major increase in the number of companies repurchasing their shares outside the USA and Canada was visible as late as at the turn of the century.

[7] Data comes from Thomson Financial's Worldscope database. From the original collection covering 1596622 cases from 1984 – 2006, those with negative financial result and negative cash-flow were eliminated. Also companies with incomplete data and those for which dividends exceeded sales revenues were eliminated. Also companies from countries where the number of observations was lower than 100 and countries with obligatory dividend payout ratios exceeding 25% (Brazil, Colombia, Greece, Uruguay, and Venezuela) were eliminated. To minimize the influence of incorrect data and outstanding information observations for which the values of payouts and other variables were below the 1st and above the 99th percentile were removed. All this accounts for the fact that the obtained results are slightly "inflated" compared to other surveys, as among eliminated companies was significant fraction of the companies that paid dividends and or repurchases their shares less frequently than the companies in sample.

Table 5: Average share of companies repurchasing their shares in selected countries in 1984-2006 (%)

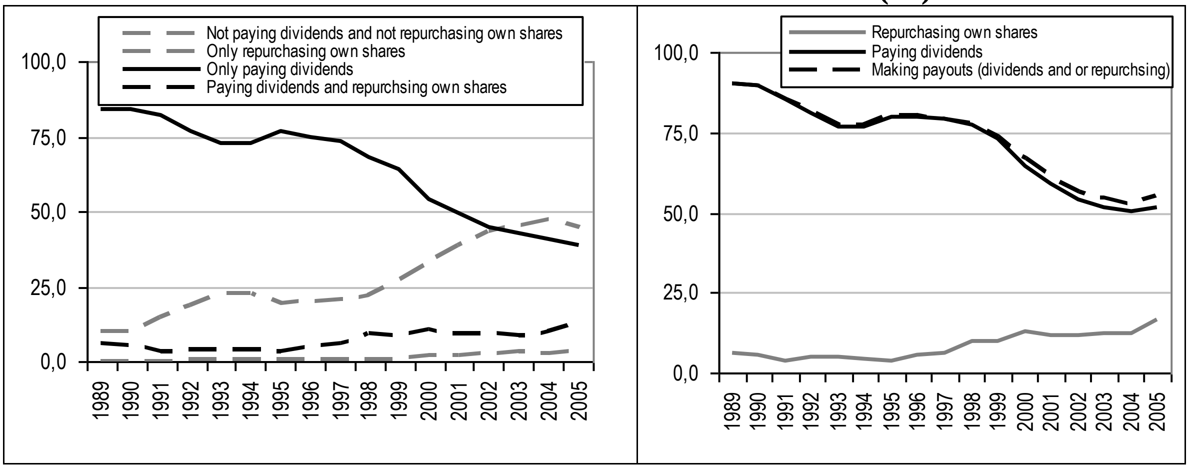
Country/legal system	**Average share of companies repurchasing their shares (%)**		**Country/legal system**	**Average share of companies repurchasing their shares (%)**	
	1984-2000	**2001-2006**		**1984-2000**	**2001-2006**
Japan	6.8	59.1	United States	39.4	41.6
Portugal	11.8	44.7	Canada	31.3	29.9
Spain	12.6	38.7	South Africa	13.3	25.8
Switzerland	1.8	37.2	Great Britain	5.6	23.8
Mexico	14.0	34.5	Ireland	1.5	12.9
Korea	7.5	34.3	New Zealand	6.1	12.9
Luxemburg	12.2	31.1	Australia	4.3	12.3
Denmark	6.1	30.4	India	11.0	10.8
Norway	2.9	29.1	Hong Kong	8.4	9.3
Netherlands	5.2	27.5	Malaysia	0.6	9.2
Hungary	19.7	27.1	Sri Lanka	1.1	5.0
Russia	8.4	26.3	Singapore	3.2	4.9
Taiwan	0.8	20.8	Thailand	0.0	0.8
Belgium	1.7	20.7	Pakistan	0.4	0.0
France	3.6	20.2	Median in countries of common law	4.3	12.2
Sweden	1.0	18.8	Average in countries of common law	**8.6**	**14.4**
Israel	3.5	16.6	Total median	3.5	15.3
Poland	0.8	13.5	**Total average**	**6.3**	**18.8**
Philippines	8.1	13.3			
Germany	0.1	12.7			
Finland	3.6	11.6			
Italy	1.1	9.6			
Czech Republic	1.4	8.8			
Austria	0.9	8.7			
Peru	3.4	6.5			
Argentina	2.8	4.7			
Indonesia	0.1	0.9			
China	0.3	0.6			
Turkey	0.5	0.0			
Median in countries of codified law	3.2	18.5			
Average in countries of codified law	**5.0**	**21.1**			

Source: Own elaboration on the basis of Table 2
(Bartram, Brown, How, Verhoeven, 2007, p. 30 – 32)

The United States has stopped to be the country with the highest share of companies repurchasing their own shares – it was overtaken by Japan (with average share of 59.1% in 2001-2006) and Portugal (44.7%). At this time the average share of companies paying dividends in the US increased only by 2.4% to 41.6%. In 2001-2006, the average share of companies purchasing their own shares grew to 18.8%[(8)].

A significant increase in the share of companies repurchasing their shares at the end of 1990s in 15 countries of the so-called "old European Union" was also noted by Henk von Eije and William Megginson (2008). Until 1997 this share was below 6.5%. In 2000 it over 10% while in 2005 it reached 16.9%. It was also attributed to the fact that in some countries in 1990s companies did not repurchase their own shares at all. In Ireland the process of share repurchase took place for the first time in 1992, in Luxemburg in 1995, in Austria in 1999 and in Greece in 2000. In Belgium companies performed repurchase of small value shares in 1993, and then in 2000 (von Eije and Megginson, 2008, p. 356).

Figure 3: Changes in share of companies paying dividends and repurchasing their shares in the "old Union" states in 1989-2005 (%)



Notice: Calculations cover only those companies for which data was available on both dividend payouts and share repurchase.

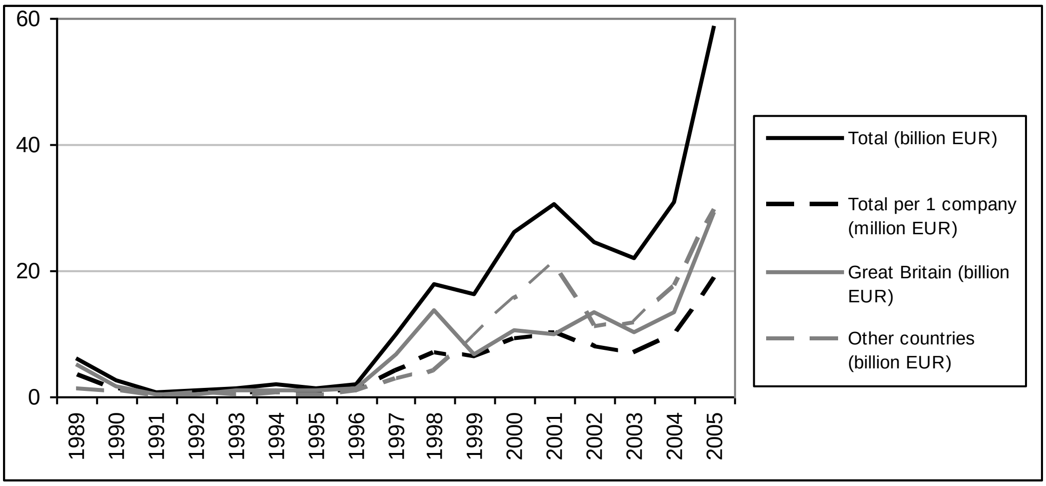
Source: Own work on the basis of data from Table 1(von Eije and Megginson, 2008, p. 354)

In the period analyzed by Eije and Megginson (2008, p. 354) we could observe:

1) radical fall of the share of companies only paying dividends from 83.9% in 1989 to 38.5% in 2005, although contrary to what is happening in the USA (Grullon and Michaely, 2002) this group is losing importance but "not becoming extinct",
2) dynamic growth of the share of companies which neither pay dividend nor repurchase their shares from 9.8% in 1989 to 44.7% in 2005,
3) slow growth of the share of companies only repurchasing their own shares, from 0.3% in 1989 to 3.9% in 2005,
4) increase in the share of companies paying dividends and repurchasing their own shares, from 6.0% in 1989 to 12.9% in 2005.

[8] It should once again be stressed that in this research the authors took into consideration only companies with positive financial results and positive cash-flow.

Figure 4: Changes in total value of repurchased shares in "old Union" countries (in billion EUR) and total values of repurchased shares per one company (in million EUR) in 1989-2005 at fixed prices from 2000



Source: Own elaboration on the basis of data from Table 2 (von Eije and Megginson, 2008, p. 356)

The changes in value of repurchased shares reflect the changes in the number and share of companies repurchasing their own shares. Von Eije and Megginson (2008, p. 356) estimated changes in the value of repurchased shares in 1989-2005 at the prices from 2000 in EUR. In 1989 the value of repurchased shares bought by companies from "old Europe" countries equaled 6.1 billion euro. In 1990-1996 it was below 2.5 billion euro, and in 1997 it began to grow dynamically. In 2005 it amounted to 58.8 billion euro and was 30 times higher than in 1996. This growth also resulted from the development of European stock exchanges and enlargement of the sample on which calculations were made[9].

Therefore changes in repurchasing own shares are better reflected by their value per one company. In 2005, in fixed prices, it was 22 times higher than in 1996. This data shows that at the end of 1990s, the European Union countries experienced a quality change concerning share repurchasing, which, just like in the USA, is gaining significance in companies' payout policy. Unlike in the USA, where the value of repurchased shares exceeds the value of paid out dividends, in the European Union states it is still below the value of dividends (in 2005 the value of repurchased shares equaled 52.0% of the value of paid dividends). Initially, shares of the great biggest value were repurchased by British companies[10]. In 1989, the value of own shares repurchased by British companies was 80.8% of all repurchased shares in the "old Union" countries. In the next years the share of British companies in total value of repurchased shares was subject to considerable fluctuations, but a downward trend could be observed. Since 1999, with the exception of 2002, it has not exceeded the level of 50%; in 2005 it amounted to 49.9%. In this time we could observe a significant growth of the value of own shares repurchased by companies from other countries. For example in Gremany until 1998 the value of repurchased shares did not exceed 210 million euro annually (at the prices

[9] In 1989 1698 companies were analyzed whereas in 2005 the analysis covered 3142 companies (von Eije and Megginson, 2008, p. 354).

[10] It was also due to the fact that London Stock Exchange is the biggest European stock exchange and as a result, British companies accounted for around 40% of all analyzed companies (von Eije and Megginson, 2008, p. 352).

from 2000), only to skyrocket to 1601 million euro in 1999 and in 2005 to reach the peak of 3508 million euro. In France until 1998, share repurchases did not exceed the level of 900 million euro, but in 1999 the figure jumped to 5019 million euro and in 2005 to 6184 million euro.

Table 6: Companies repurchasing their own shares and the value of repurchased shares in relation to valid legal systems in 1992-2006 in the "old Europe" countries

Years	Number of companies repurchasing shares						Value of repurchased shares in million € at the prices from 2000			
	common law system			civil law system			common law system		civil law system	
	total number of companies	number of companies repurchasing shares	share of companies repurchasing shares (%)	total number of companies	Number of companies repurchasing shares	share of companies repurchasing shares (%)	total	per 1 company	total	per 1 company
1992 - 1996	2481	97	3.9	2416	109	4.5	1619	16.7	1633	15.0
1997 - 2001	3451	372	10.8	4243	518	12.2	33878	91.1	42954	82.9
2002 - 2006	5485	694	12.7	6316	1210	19.2	99376	143.2	82466	68.2
1992 - 2006	11417	1163	10.2	12975	1837	14.2	134873	116.0	127053	69.2

Source: Table 1 (Von Eije and Megginson, 2009, p. 20)

Von Eije and Megginson (2009) also analyzed the changes in the share and value of repurchased shares in the "old Union" countries in 1992-2006, depending on legal systems functioning in them. As in the research of Bartram's team, the share of companies repurchasing their own shares was higher in the civil law system than in the common law system, although companies in the common law system realized much higher value of repurchased shares per one company.

The relation between dividends and share repurchase

We may ask whether share repurchase replaces dividends or just supplements them as an additional form of payout. Opinions vary, though most experts believe that share repurchase is pushing aside dividends. Such a thesis was proposed on the basis of the analysis of American companies by Grullon and Michaely (2002, p. 1651) and Skinner (2008, p. 383). Also von Eije and Megginson (2008, p. 355) concur with this opinion as far as the "old Union" countries are concerned, although their emphasize the fact that this process began in Europe ten years later than in the USA.

An opposite thesis, on the basis of the analysis of companies from six countries, is advanced by David Denis and Igor Osobov (2008, p. 74). They believe that the fall in the share of companies paying dividends in six analyzed countries cannot be attributed to replacing dividends by share repurchase or the growing significance of options.

Table 7: Percentage points changes in the share of companies paying dividends in selected countries in 1994-2002

Country	1994-2002	1994-1999	1999-2002
United States	-27.4	-25.5	-1.9
Canada	-21.6	-18.3	-3.3
Great Britan	-28.8	-3.0	-25.8
Germany	-19.5	3.2	-22.7
France	-9.5	4.7	-14.2
Japana	-2.5	-2.7	0.2

Source: Own calculations on the basis data from Table 5 (Denis and Osobov, 2008, p. 70)

However, it seems that Denis and Osobov are wrong because the data from their research concerning the 1990s – the time when unfavorable legal solutions regarding share repurchase were valid in France, Germany, Japan and Great Britain, the share of companies paying dividends in these countries changed only slightly (in France and Germany it even increased). Only at the turn of the century, when no legal restrictions concerning share repurchase existed, these shares in three European countries dramatically fell. In the USA the share of companies paying dividends has been falling since the end of 1970s, whereas the legal situation of share repurchase was clarified at the beginning of 1980s.

Also Murali Jagannathan, Clifford Stephens and Michael Weisbach (2000, p. 374) claim that share repurchases do not substitute dividends as the basis for dividends are ordinary profits achieved by companies in a longer period of time, whereas share repurchases are conducted when extraordinary profits appear. That is why share repurchases are more changeable and susceptible to changes in economic cycle. Such opinions are also presented by managers (Brav, Graham, Harvey, Michaely, 2005). An additional argument is the fact that boards use share repurchase to intervene when they consider the prices of their shares too low.

Share repurchase in Poland

In Poland, Article 362 § 1 of the Company Law Code[11] introduces in principle the prohibition to purchase own shares issued by the company. This stipulation then introduces "the prohibition to become a partner" in one's company. If such prohibition did not exist, this could lead to creation of artificial legal constructions giving the board privileged position in taking decisions. The rules of the Commercial Code[12] allowed only purchasing own shares for the purpose of their redemption or acquiring fully covered own shares free of charge (Kidyba, 2010, p. 323).

The catalogue of exceptions to this principle is gradually extended though. For example a possibility of share repurchase was introduced for the purpose of preventing the damage directly threatening the company (Article 362 § 1 point 1). The damage here should be understood in a broad sense – as financial and non-financial factual and legal states threatening the company operations. These may not only be material damages, such as material loss or lost benefits, but also organizational and non-financial threats (for example

[11] The Act of 15th September 2000 – The Company Law Code (Journal of Law, No 94, position 1037, with subsequent amendments).

[12] The Regulation of the President of Poland from 27th June 1934 – Regulations introducing the Commercial Code (Journal of Law, No 57, position 502, with subsequent amendments).

hostile takeover) (Kidyba, 2010, p. 325). Also a possibility of purchasing own shares was introduced in order to offer them to employees or people employed in the partnership or in related partnership for at least three years (Article 362 § 1 point 2 of the Company Law Code), purchasing fully covered own shares through enforcement to satisfy company claims when they cannot be satisfied in any other way from the shareholder's property (Article 362 § 1 point 3 of the Company Law Code) and purchasing own shares by a financial institution which acquires fully covered shares on behalf of someone else in order to resell them (Article 362 § 1 point 7 of the Company Law Code).

However, the change of regulations resulting from implementing the change of the II capital directive from 13 December 1976 (EU Official Journal L 26 from 1977) made by the Directive of 6th September 2006 (2006/68/EC) expanded the possibilities of purchasing own shares by Polish public companies and significantly transformed the repurchase of own shares into how it is understood in developed capital markets. These changes were implemented in Poland in the Act of 13th June 2008 on Changing the Act – Company Law Code (Journal of Law from 4th July 2008, No 118, position 747). According to article 362 § 1 point 8 of the Company Law Code "purchasing own shares may take place on the basis and within the authority granted by the general meeting of shareholders; the authorization should determine the repurchase conditions, including maximum number of shares to be repurchased, authorization period and maximum and minimum prices for purchased shares, if they are to be acquired for money". For such acquisition to take place, all the conditions from article 362 § 2 must be fulfilled:

1) purchased shares must be fully covered,
2) total nominal value of purchased shares does not exceed 20% of the share capital of the company, taking into account the nominal value of the remaining shares which were not sold by the company,
3) total price for share repurchase, increased by the cost of purchasing shares, is not higher than the reserve capital created for this purpose from the sum which, according to Article 348 § 1 may be assigned for sharing[13].

This change extended the possibilities of share repurchase, mostly in order to liquidate current cash surpluses the company has. What is of vital importance, the purpose of repurchase was changed. Currently repurchase may be conducted for any purpose set by the general meeting of shareholders, including further sales[14]. The accepted level of 20% of shares is based on the assumption that below this threshold, the risk of violating the nature of a joint stock company is minimized (the situation in which the company becomes a major partner), whereas above this level there is a risk (if we assume that privileged shares exist) that the company becomes its own dominant partner (Kidyba, 2010, p. 325). The provision of Article 362 § 2 point 3 clearly indicates the source of financing share repurchase which is the reserve fund created from resources allocated for distribution, that is resources which could potentially be allocated for dividend payout.

[13] These conditions must also be fulfilled in case of repurchase on the basis of Article. 362 § 1 points 1 and 2.
[14] By then only financial companies had the right to further sales (Article 362 § 1 point 7 of the Company Law Code).

Conclusions

The analysis of share repurchase in developed capital markets shows that this form of transferring profit to shareholders is gaining popularity and in the USA it has become more common than dividend payouts.

In Poland for many years the basic, legally sanctioned of share repurchase was their redemption. It was the Act of 13th June 2008 on Changing the Act – Company Law Code that introduced regulations allowing share repurchase for any purpose determined by the general meeting of shareholders, including their further sale, adjusting Polish legal solutions to those valid in developed capital markets. This should result in a greater number of companies repurchasing their shares and in increasing the value of such shares.

Currently, there is no empirical research in this area in Poland. Therefore it is crucial to conduct such surveys which would show how the phenomenon of share repurchase is changing, what relations can be observed between dividends and share repurchase and what factors determine the decision to repurchase own shares made by companies listed on Warsaw Stock Exchange.

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