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REAL ESTATE**

Real Estate for a changing world



BNP PARIBAS REAL ESTATE GUIDE TO  
**INVESTING IN POLAND**  
2014



IN COLLABORATION WITH

**DENTONS**

PARTNER



**Invest  
in Poland**

POLISH INFORMATION AND  
FOREIGN INVESTMENT AGENCY

PROPERTY DEVELOPMENT | TRANSACTION | CONSULTING | VALUATION | PROPERTY MANAGEMENT | INVESTMENT MANAGEMENT

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**More than 35.8 million sqm in commercial real estate**  
across Europe managed

**Close to €18 billion**  
of assets under management  
across Europe

**Close to 311 million sqm**  
valued

A dedicated team  
present in  
**7 Countries**  
France, Germany, Gulf, Ireland,  
Jersey, Spain, United Kingdom;



**305,000 sqm of commercial property**  
under construction

**4,200** commercial real estate  
transactions completed in 2013.  
One transaction every 15 minutes.

\* 2013 key figures

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## INTRODUCTION

# Poland by numbers

Population  
**38.5m**

The largest consumer market in Central Europe

Property market<sup>2</sup>

**6.9m sqm office<sup>3</sup>**

**12.5m sqm retail**

**8.1m sqm warehouse**

The highest volume of supply in Central Europe

Number of cities above 400,000 inhabitants

**7**

Warsaw, Kraków, TriCity, Łódź, Wrocław, Poznań, Szczecin

EU funds (2014-2020 budget)

**€67.3bn**

The largest EU funds beneficiary for the second consecutive term

Inflow of FDI (2003-2013)

**€110bn**

The most attractive market for FDI in the CE region



Top BPO/SSC/R&D location<sup>1</sup>

**470 centres**

The largest BPO/SSC/R&D location in Central Europe

Investment market

**No. 1**

In terms of volumes invested in real estate in Central Europe

Central Europe: Poland, Czech Republic, Hungary, Slovakia, Bulgaria, Romania

1. According to ABSL

2. Estimated as of end 2013

3. Warsaw, Kraków, Wrocław, TriCity, Poznań, Łódź, Katowice, Szczecin

# Foreword

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## THE LAND OF OPPORTUNITIES



**International players from the business area highlight Poland's economic and political stability, as well as the availability of highly educated personnel. These factors translate into numbers: the FDI Report 2013 prepared for the Financial Times places Poland in 6<sup>th</sup> position with respect to the top locations for FDI in Europe.**

Poland is still the largest beneficiary of funds from the EU budget, which has determined the country's economic performance. There is also steady progress in the growth of wealth with Polish society. In 2012, Polish GDP per capita amounted to 66% of the EU average, as compared to approximately 50% in 2004 at the time of Poland's accession to the EU.

It should also be pointed out that the Polish market is currently facing a transformation. A large number of existing retail premises have to undergo a refurbishment and expansion process,

and a similar trend may be observed on the office market. This creates unique market opportunities for developers and investors alike.

This guide sets out detailed reasoning and the benefits of investing in Poland, whilst providing information on the Polish economy and specific nature of real estate markets across Poland's largest cities.

Furthermore, in collaboration with Dentons, we have collated a summary of legal points to be taken into consideration during the investment process in Poland.

We hope that you find the information provided in this guide to be of use and interest.

**Patrick Delcol**

Chief Executive Officer  
Central and Eastern Europe

# Top 10 reasons to invest in Poland



## 1 A strong and stable economy of the largest country in Central Europe

Poland is the largest and the most populous country in the CE region with over 38.5m inhabitants. It has strong economic fundamentals, a solid banking system and a stable political situation, all of which play an instrumental role in the successful economic performance of new investments. Poland was the only country in Europe not dramatically affected by the economic downturn, recording positive GDP growth while EU was in recession. Large consumer market with strong domestic demand, together with infrastructure outlays allowed to keep up the economy in a good shape and it is forecast to reach 2.2% GDP in 2014.

## 2 Educated labour force at competitive costs

Investors willing to operate in Poland should have no problems in finding suitable personnel. A qualified labour force and a good educational base in both primary as well as secondary regional cities give Poland one of the greatest advantages.

The number of public and private academic centres reaches around 500. There are around 2m students in Poland, translating into 50% of the population are between 19 and 24 years old. The annual number of graduates, who have an excellent knowledge of foreign languages, is on average 450,000. Compared to Western European countries labour costs are on average 20-30% lower.

# 3

## Location, location, location

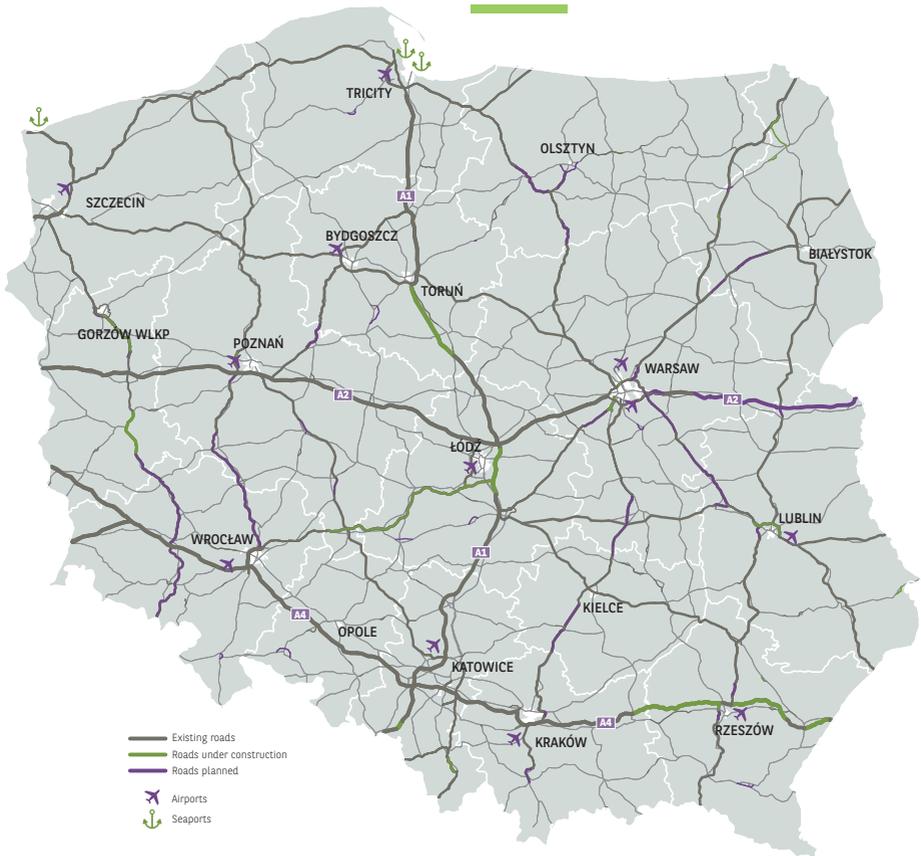
Pinpointing the golden rule of property markets, Poland has a very convenient location in the centre of Europe, making it the perfect investment destination for companies serving both Western and Eastern European clients.

The country is crossed by 4 out of 10 constantly developing trans-European routes (TEN-T).

Poland is well equipped with 12 international airports with 2 more planned within the next few years.

Poland has 4 sea ports: Gdańsk, Gdynia, Świnoujście and Szczecin.

### Map of road infrastructure in Poland



## GUIDE TO POLAND

## 4 The largest FDI destination across Central Europe

Poland, with over €110 bn invested over the last 10 years, is the leader across Central Europe in terms of number and investment volume of foreign companies, who established their operations in the region.

Thanks to transparent legal framework as well as political and economic stability, Poland managed to attract nearly 50% out of the total FDI assigned to Central European countries.



## 5 The largest BPO/SSC hub in Central Europe

Poland is one of the world's top spots worldwide when it comes to location of Business Process Outsourcing (BPO), Shared Service Centres (SSC), Research & Development (R&D), Information Technology (IT) and other back-up function offices.

According to Association of Business Service Leaders (ABSL) there are around 470 business service centres operating in these fields in several towns and cities, which provide appropriate conditions for development of this sector in Poland. The sector employs approximately 128,000 people, reaching 50% growth over the last 2.5 years.

Accenture, Coca Cola, GE, HP, Xerox, Ernst&Young, Thomson Reuters, Samsung, Unilever are only few examples of companies running their BPO/SSC or R&D operations in Poland..

## 6 Local incentives supporting business

Poland has established successful mechanisms when it comes to the functioning of Special Economic Zones (SEZs) which are of great importance for investors. SEZs aim at incentivising local economies and creating higher competition towards other CE countries when it comes to attracting foreign investments.

There are 14 SEZs today and they cover the total area of 16,143 ha. The lifespan of these areas has been recently prolonged until 2026. Firms that are willing to invest in SEZs can count on incentives such as tax exemption (CIT or PIT) and exemption from property tax. The incentive packages depend on the investment value and the number of jobs created.

Examples of companies active within SEZs include: General Motors, Volkswagen, Comarch, Indesit, Procter & Gamble, Dell, Lafarge, Bridgestone, BASF, Electrolux, Michelin.

## 7 The largest EU fund beneficiary

The country has been the greatest beneficiary of the EU funds between 2007-2013, receiving €67.3bn. Between 2014 and 2020, Poland will jointly receive €72.9bn. A substantial part of the EU funds from the cohesion policy will be dedicated to 16 regional programs and used to strengthen the attractiveness for entrepreneurs and investors.

In addition to grants, EU funds can be used by enterprises as credit instruments, such as low-interest rate loans or bank guarantees.

There are also other non-grant sources of financing in the form of EU initiatives such as JEREMIE, JASPERS and JESSICA.

## GUIDE TO POLAND

## 8 The most established property market in Central Europe

Compared with other CE countries, Poland stands out in terms of quality, volume and price of modern space across all the sectors.

At the end of H1 2014 the total modern office stock in 9 major Polish cities reached almost 7m sqm, of which 65% was located in Warsaw. The second largest market is Kraków, followed by Wrocław and TriCity. There are also emerging office locations such as Lublin, Szczecin or Bydgoszcz.

Due to population size of Poland retail has been developing very extensively over the last two decades, bringing the total volume of stock to 12.5m sqm. The retail scene has evolved from stand-alone retail warehouses into diversity of retail formats, including urban malls, factory outlets, neighborhood centres and retail parks to name a few. Large agglomerations dominate the retail market, with 55% situated in 8 major Polish agglomerations, however over the last four-five years secondary and tertiary cities have been gaining on importance.

Warehouse and logistics market in Poland totals 8.1m sqm. In terms of locations, it follows the major transportation corridors. The 7 major regions are: Warsaw (Zone 1-2), Central Poland, Upper Silesia, Poznań, Lower Silesia, TriCity and Kraków.

## 9 Range of opportunities for property investors

Poland is a leader in Central Europe in terms of property investment volume, liquidity and availability of debt financing. Total transaction volume at the end of 2013 reached €3.3bn, which is the highest level since 2006. In the first six months of 2014 over €1.4 billion was transacted. With a couple of transactions pending, the year can close with around €3.5 billion of investment volume.

Yields in Poland are still more attractive than in Western European countries by 2-3 basis points for prime properties.

In addition to institutionally sound products, there are plenty of non-core assets, both existing and planned, which can be a target for more opportunistic players, looking for risk-adjusted yields. There are plenty of interesting offers representing all property sectors within primary and secondary Polish towns and cities. These include existing schemes requiring active asset management and often redevelopment and repositioning but also planned projects, seeking alternative sources of financing.

# 10

**Strong position**  
in rankings



A number of international reports and rankings highlight the economic and political stability of Poland, an educated and competent human capital and a large domestic market. These include:

- UNCTAD: *World Investment Report 2012* – Poland ranks 4<sup>th</sup> in Europe and 14<sup>th</sup> worldwide in terms of the most attractive economy.
- FDI Intelligence: *European Cities and Regions of the Future 2012/2013*.
- In the main ranking, Warsaw scored 3<sup>rd</sup> place in the CEE countries and 3<sup>rd</sup> in terms of the greatest investment potential in Europe, Kraków was 9<sup>th</sup> in the same category. Małopolska ranked 1<sup>st</sup> and Opolszczyzna 2<sup>nd</sup> across the CEE markets for strategy for attracting foreign investments
- FDI Intelligence: *FDI Report 2013* – Poland ranked 6<sup>th</sup> in a listing of top FDI destinations in Europe.
- Ernst & Young: *Top 500 Central Europe 2013* – 167 out of 500 companies were registered in Poland. In the top 10, there were 6 Polish companies.
- Bloomberg: *Bloomberg Rankings 2013* – Poland ranked the best CEE country for business and 20<sup>th</sup> worldwide, up two places compared with 2012.
- Deloitte: *Global Manufacturing Competitiveness Index 2013* – Poland scored 2<sup>nd</sup> in Europe.
- Thalons: *Top 100 Outsourcing Destinations 2013* – Poland ranked the 10<sup>th</sup> place in the world for outsourcing.
- Brand Finance Journal: *Nation Brand 100 Issue, 2012* – Poland named the winner in the ratings of the 20 most valuable national brands the highest percentage increase (75%) in brand value in 2012.

# Poland: Big Seven

One of the key strengths of Poland is its policentric structure, exhibiting strong regional hubs with vivid business environment

## ***Warsaw***



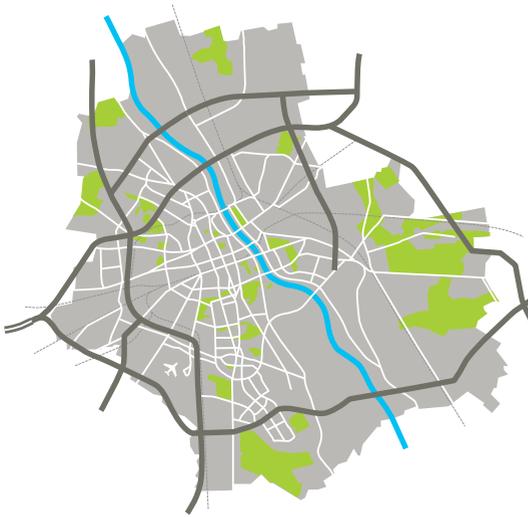
Warsaw has radically transformed over the past two decades and can be called the capital of Central Europe region due to its economic strength, business environment and political power.

The city has attracted numerous international companies, which have established their headquarters here. Every third company registered in Poland is based in Warsaw.

The Warsaw Stock Exchange is the largest bourse within CE markets, recording the highest number of IPOs in Europe in 2012 (105) and it was the 3<sup>rd</sup> concerning IPO value.

Warsaw is the largest labour market in Poland with an unemployment rate lower than 5% and salary levels three times higher than the national average but still much lower than in Western European countries.

Infrastructure improvements have contributed substantially to the city development. The major ones include: integrated public transport system, construction of further sections the Southern ring road, new bridge (Most Północny), railway line to the airport and progress made on the second metro line, which should be finished by 2014.



### Key facts\*

**Population**  
**1,726,600**

**Unemployment rate**  
**4.5%**

**Average monthly salary  
in enterprise sector**  
**PLN 5,142**  
**(€1,231)**

The Warsaw office stock amounts 4.11m sqm, with over 500,000 sqm due for delivery over the next 12-18 months. Most of international companies operating in Poland have their headquarters in the capital city.

The city scores high in international rankings, including Moody's Investors granting A2 with stable outlook rating, while Fitch awarded Warsaw with long term AAA with stable outlook rating.

The property market in Warsaw is the most mature one across the CE capitals in all of the property sectors. It offers the largest modern office, retail and logistics stocks and provides a solid occupier base for all property types.

Given the number of inhabitants and the highest purchasing power in Poland, Warsaw agglomeration has the highest volume of modern retail space reaching 1.9m sqm, including all kinds of retail formats.

It is also the largest single market for logistics and warehouse space, located within Warsaw Zone 1-2, totalling 2.8m sqm.

Warsaw is also a key market on the radar screens of investment funds and private equity companies, interested in property sector in Poland.

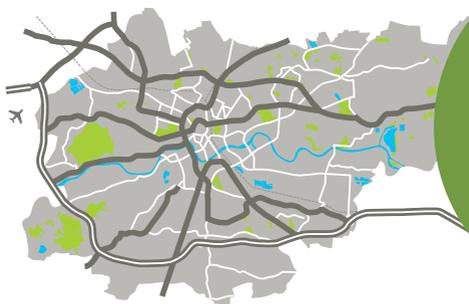
## KEY FACTS ABOUT PROPERTY MARKET IN WARSAW (H1 2014)

	Office	Retail <sup>1</sup>	Warehouse <sup>2</sup>
Total modern stock (sqm)	4.3 million	1.8 million	2.8 million
Prime headline rents city centre / non central (sqm/mth) <sup>1</sup>	€22-24 €14-16	€90-100 €60-70	€5.5 €4.0
Average headline rent city centre / non central (sqm/mth) <sup>1</sup>	€17-19 €11-13	€60-70 €50-60	€4.0 €3.5
Prime yield (%)	6.00-6.25	6.00-6.25	7.25-7.75

Source: BNP Paribas Real Estate, Retail: rent in shopping centres; Notes: 1. Warsaw agglomeration, 2. Warsaw Zone 1-2

\*Source: GUS, Statistical Bulletin of the City of Warsaw: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

## GUIDE TO POLAND

**Kraków****Key facts\***

**Population**  
759,144

**Unemployment rate**  
5.6%

**Average monthly salary  
in enterprise sector**  
PLN 4,059  
(€972)

Kraków combines historical tradition with a vivid business environment. The A4 motorway provides a fast link to the Upper Silesian region and Germany to the west, whereas in the near future it will also link Kraków with Ukraine to the east. Kraków Balice International Airport is the second most important airport in Poland.

Tourism has always played an important role for Kraków, being one of the top tourist destinations in Central Europe. This is why hospitality and complementary services are so well developed.

Kraków, due to its strong academic base successfully competes as service centre in many fields, especially in modern technologies. In the 2013 Tholons' Top 100 Outsourcing Destinations report Kraków was ranked as the best location for modern services in Central and Eastern Europe. The city has been acknowledged by companies such as: Amway, Capgemini, Cisco, Electrolux, Genpact,

Heineken, HSBC, Motorola, Nokia Siemens Networks, Philip Morris, Shell, which opened their operations here.

Another advantage of the city, contributing to its investment attractiveness is the presence of Kraków Special Economic Zone. Investors include: Arcelor Mittal, Delphi, MAN, Schneider Electric and Teva.

In terms of property sectors, Kraków is high up when it comes to provision of modern office space, which totals nearly 650,000 sqm.

Kraków has also a well-developed retail market (nearly 750,000 sqm) offering a wide range of formats and full spectrum of retailers.

The logistics and warehousing market is the least developed one with total supply around 189,000 sqm.

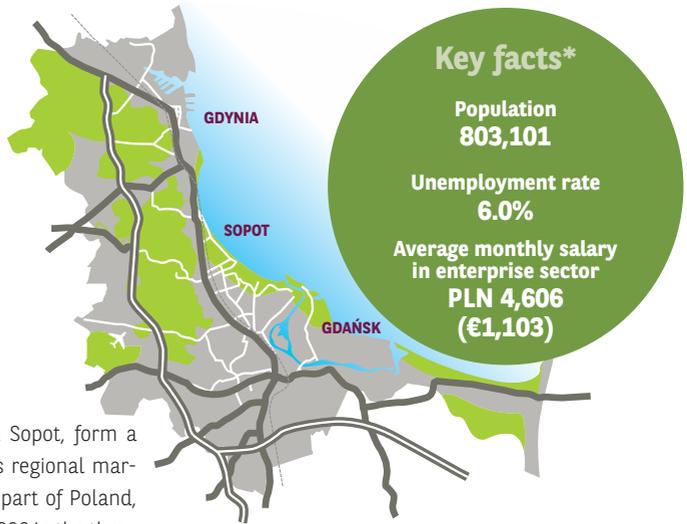
**KEY FACTS ABOUT PROPERTY MARKET IN KRAKÓW (H1 2014)**

	Office	Retail	Warehouse
Total modern stock (sqm)	651,000	750,000	189,000
Prime headline rent (sqm/mth)	€14-15.5	€65-75	€3.75-4.50
Average headline rent (sqm/mth)	€12-14	€40-50	€3.00-3.25
Prime yield (%)	7.50-7.75	6.50-6.75	9.00-9.25

Source: BNP Paribas Real Estate, Retail: rent in shopping centres

\*Source: GUS, Statistical Bulletin of the City of Kraków: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

## TriCity



The cities of Gdynia, Gdańsk and Sopot, form a conurbation known as TriCity. This regional market is the biggest in the northern part of Poland, having a population of almost 750,000 in the three cities themselves and nearly 1.3m in the conurbation.

The TriCity is the location of two major ports – Gdańsk and Gdynia. Deep Water Container Terminal in Gdańsk is Baltic's second most important hub after St. Petersburg.

The conurbation's economy, which used to be dominated by industries such as shipbuilding, petrochemical industries as well as food processing, has been gradually transforming into a larger share of know-how based sectors such as electronics, telecommunication, IT engineering and financial services.

The region enjoys strong presence of BPO/SSC and IT foreign companies including: Thomson Reuters, Nordea, Asseco, GE Money Bank, Masterlease, Ergo, IBM, Sony Pictures, Fineos, PZU, Intel, Compuware and Lufthansa Systems.

Real estate market in TriCity is well developed with nearly 460,000 sqm of office, 380,000 sqm of retail and 210,600 sqm of warehouse and logistics space.

The region has recently developed into Polish silicon valley with many ICT companies locating their operations in Gdańsk or Gdynia.

### KEY FACTS ABOUT PROPERTY MARKET IN TRICITY (H1 2014)

	Office	Retail	Warehouse
Total modern stock (sqm)	459,000	380,000	210,600
Prime headline rent (sqm/mth)	€14-15	€60-70	€3.00-3.50
Average headline rent (sqm/mth)	€11-13	€35-45	€2.80-3.00
Prime yield (%)	7.25-7.75	6.50-6.75	9.00-9.25

Source: BNP Paribas Real Estate, Retail: rent in shopping centres

\*Source: GUS, Województwo pomorskie – podregiony, powiaty, gminy; data for Gdańsk, Gdynia and Sopot: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

## GUIDE TO POLAND

## Łódź



## Key facts\*

Population  
**709,757**

Unemployment rate  
**11.6%**

Average monthly salary  
in enterprise sector  
**PLN 3,594**  
(€861)

Łódź is an important academic centre and intensively developing city supported by strong industrial traditions. Its central location close to the major motorway junction (A2 with A1) is one of the city's key advantages. Strength of the city also lies in its competitive costs of labour as well as rates for leasing office space.

Various types of incentives are available for investors, especially for those, willing to set up business in Łódź Special Economic Zone. Due to the influx of foreign investments, the region has become Europe's largest household-appliance cluster, with headquarters of BSH and Indesit.

By 2015-2016 the city will have a new railway station Łódź Fabryczna, which is one of the largest infrastructure investments in Europe, turning it into the most modern multimodal

railway station in Poland. EU funds will cover 55% of the total project value, estimated at €1.8bn.

Considering modern real estate market, the city offers quality space across all property sectors. Supply of office space reached 300,000 sqm by H1 2014.

Retail market in Łódź is well developed with 630,000 sqm of existing stock, of which 17% is located in Manufaktura, a multifunctional centre, a masterpiece of urban regeneration.

Due to its location, at the junction of A2 and A1 motorways, Łódź region has been also very popular among logistics and warehouse developers and operators. With over 1m sqm of total stock, Central Poland area is the third largest hub in the country.

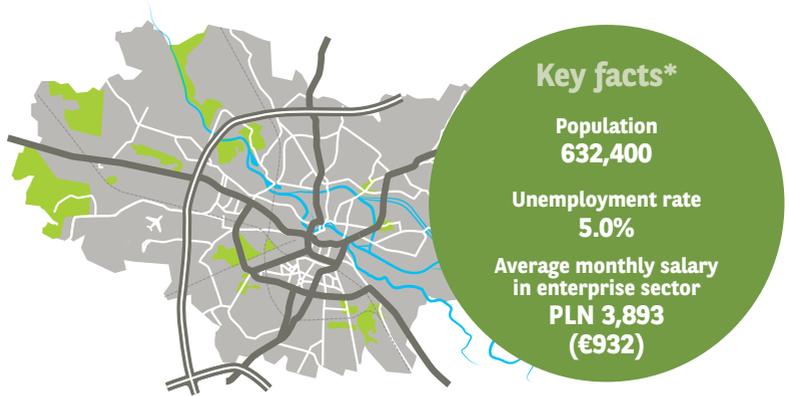
## KEY FACTS ABOUT PROPERTY MARKET IN ŁÓDŹ (H1 2014)

	Office	Retail	Warehouse
Total modern stock (sqm)	300,000	630,000	1.06 million
Prime headline rent (sqm/mth)	€13-14	€60-70	€2.50-3.00
Average headline rent (sqm/mth)	€10-12	€35-45	€1.80-2.00
Prime yield (%)	8.50-8.75	6.50-6.75	8.75-9.25

Source: BNP Paribas Real Estate, Retail: rent in shopping centres, Warehouse: Central Poland Region

\*Source: GUS, Statistical Bulletin of the City of Łódź: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

## Wrocław



Wrocław is one of the key regional cities, and quickly becoming one of the most attractive travel destinations in the CE. The city will be the host of European Culture Capital in 2016.

The basis of economic development have been convenient transport links to Western Europe close proximity to the Czech Republic and Germany, together with a well-educated population and the continuity of local authorities, which consequently invest and develop the city infrastructure, enhance the quality of public space and show investors' a friendly approach.

The city is Poland's third largest academic centre, which is the reason why it is so popular among BPO/SSC, IT and R&D. Companies, which decided to operate there in Wrocław in this fields include: Capgemini, HP, Google, McKinsey, IBM, Siemens, Volvo, Whirlpool, Nokia Siemens Networks.

Apart from service companies, the Wrocław agglomeration has attracted a numerous manufacturing facilities for international companies such as: LG Electronics, Siemens, Teta, LG Electronics, Whirlpool, Fagor Mastercook, Electrolux, Toyota, Volvo, Bosch, Faurecia, Bombardier.

In order to assist investors and facilitate business activities, there are several Special Economic Zones within the voivodship, which are located in Legnica, Wałbrzych, Kamienna Góra and Tarnobrzeg.

The property market is well developed in Wrocław, providing quality modern office space (541,000 sqm), variety of retail offer (670,000 sqm) as well as conveniently located warehouse and logistics hub (895,000 sqm).

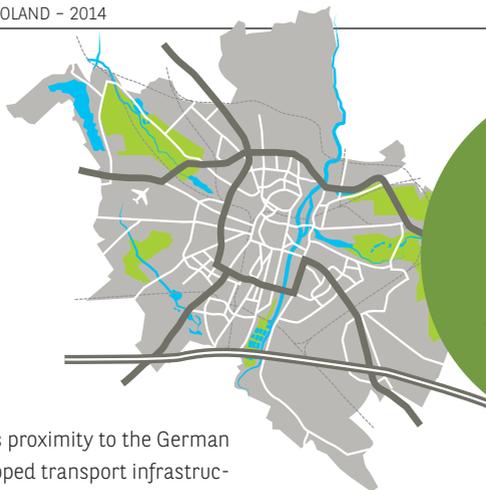
### KEY FACTS ABOUT PROPERTY MARKET IN WROCLAW (H1 2014)

	Office	Retail	Warehouse
Total modern stock (sqm)	541,000	670,000	895,000
Prime headline rent (sqm/mth)	€14-16	€65-75	€2.90-3.30
Average headline rent (sqm/mth)	€11-13	€35-45	€2.50-2.80
Prime yield (%)	7.75-8.00	7.00-7.25	8.75-9.25

Source: BNP Paribas Real Estate, Retail: rent in shopping centres

\*Source: GUS, Statistical Bulletin of the City of Wrocław: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

## GUIDE TO POLAND

**Poznań****Key facts\***

**Population**  
547,161

**Unemployment rate**  
3.6%

**Average monthly salary  
in enterprise sector**  
PLN 4,569  
(€1,094)

Poznań benefits from its proximity to the German border as well as developed transport infrastructure including A2 motorway, railway connections and Poznań Ławica international airport. The city is well known for its high level of entrepreneurship and work efficiency, which is reflected in high regional GDP.

The city and the wider agglomeration is known as an automotive cluster with companies such as: Volkswagen, MAN, Bridgestone/Firestone, Solaris, Delphi Automotive Systems, Honda.

Poznań's International Fairs hosts the largest exhibitions and events in Central Europe, which is spurring the hotel and service industry.

The city is a seat of 38 universities. A high number of qualified employees at lower costs compared with Warsaw allow for a solid background for modern services BPO/SSC as well as R&D.

Among others the following companies are active in these fields there: GlaxoSmithKline, Grace Performance Chemicals, Microsoft Innovation Center, Telcordia, Unilever.

The property market in the city is relatively well developed with 334,000 sqm of existing office space.

When analysing modern retail accommodation totalling 705,000 sqm, the city has one of the highest density of retail space per capita among the cities with population above 400,000.

Poznań is also an important warehouse and logistics market, accommodating 986,000 sqm of space.

**KEY FACTS ABOUT PROPERTY MARKET IN POZNAŃ (H1 2014)**

	Office	Retail	Warehouse
Total modern stock (sqm)	334,000	705,000	986,000
Prime headline rent (sqm/mth)	€14-15.5	€70-80	€3.20-3.50
Average headline rent (sqm/mth)	€11-13	€35-45	€2.60-3.00
Prime yield (%)	8.25-8.50	6.75-7.00	8.75-9.25

Source: BNP Paribas Real Estate, Retail: rent in shopping centres

\*Source: GUS, Statistical Bulletin of the City of Poznań: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

## Katowice



### Key facts\*

Population  
**307,233**

Unemployment rate  
**5.0%**

Average monthly salary  
in enterprise sector  
**PLN 4,723**  
**(€1,131)**

Katowice is forms a part of Silesia conurbation, which is the largest conurbation in Poland with a population of around 2.1m. As there are no distinct boundaries between many of the towns and cities and due to good communication network, the area is often considered a single market.

The attractiveness of the Silesia region results also from its location at the cross roads of main transportation corridors A4 and A1 motorways, well-developed internal road infrastructure, qualified workforce and large consumer market.

The image of Katowice has been gradually transforming from heavy coalmining-led region into a vibrant, modern city, with ambitious city centre urban regeneration plan, having a healthy economy sector split. In 2013 Fitch Ratings revised Katowice's Outlook to Positive 'A-' from Stable 'A-'.

Compared with other regional cities, the Katowice office market is smaller, offering about 352,000 sqm of modern space.

When analyzing the retail space, after completion of Galeria Katowicka the total retail space within Silesia agglomeration reaches nearly 1.3m sqm.

With over 1.49m sqm of modern warehouse and logistics space, Upper Silesia is the second largest warehouse market in Poland after Warsaw. Given the region's strategic location and efficient road network it one of the major industrial hubs in Central Europe.

### KEY FACTS ABOUT PROPERTY MARKET IN KATOWICE (H1 2014)

	Office	Retail	Warehouse
Total modern stock (sqm)	352,000	1,300,000	1,490,000
Prime headline rent (sqm/mth)	€13-14	€65-75	€3.50-4.00
Average headline rent (sqm/mth)	€10-12	€35-45	€2.50-3.25
Prime yield (%)	8.25-8.50	6.25-6.50	8.50-9.00

Source: BNP Paribas Real Estate, Retail: rent in shopping centres, Upper Silesia Region; Warehouse: Upper Silesia Region  
\*Source: GUS, Województwo śląskie – podregiony, powiaty, gminy; data for Katowice: Population as of March 2014; Unemployment rate as of July 2014; Average monthly salary in enterprise sector as of May 2014

# Real-life tips for success

Poland is an unquestionable leader across CE countries in terms of property market for both developers and investors



**JEROEN VAN DER TOOLEN**  
*Managing Director CEE at Ghelamco*

## What do you consider the main strengths and weaknesses of the Polish property market?

*There are many arguments, which constitute the strength of the Polish real estate market and are also the reasons why Ghelamco has been here since 1991, successfully developing 700,000 sqm office, residential, warehouse space and disposing assets worth €1.2bn.*

*First of all, economic fundamentals are really solid, starting from its size – 38m people, through GDP growth, through healthy financial system, export and imports, infrastructure outlays, etc.*

*Warsaw is the CE capital not only because of its population size, but primarily because of its business environment. This is why the office market in the city has been developing so dynamically over the last two decades.*

*Supply should be matched with sufficient level of demand. So far, occupier market has been*

*relatively strong, which is why the rental rates for high quality properties in good locations have not fluctuated more than 7%. For a developer this is very important investment aspect.*

*Strong occupier market with sustainable rental levels in turn provides a solid argument for institutional investors, interested in purchasing sound assets in the capital of CE region. As most of developers, we are looking to exit our investments. With a number of potential buyers eyeing good office buildings, we are confident about the interest in our projects.*

*In terms of drawbacks, there are certain administrative bottlenecks, which delay investment processes. These include: planning and building permission procedure and restitution claims.*

*Additionally, infrastructure and public transport improvements are introduced too late or not at all, substantially impeding commercial*

“Long-term value will only be guaranteed when you stay on top of the trends.”

*investments and city development as a whole. Despite these disadvantages, yet advantages are far more greater.*

### **What trends do you observe on the office market in Poland?**

*The market is definitely maturing. I see both quantitative and qualitative changes occurring on the office market, which is a developers' answer to changing occupier requirements.*

*In terms of locations, I foresee the CBD cluster to move along the second metro line – towards Towarowa and in general Wola district, which due to the recently announced master plan, may transform significantly over the next 10 years into a vibrant, multifunctional office, retail and residential cluster.*

*The question remains what will happen with aging stock, which is recording ever higher vacancy rates. Some of them are undergoing grand refurbishments, some will be demolished and rebuilt larger from scratch, which would add more space to the overall stock, thus creating a supply-demand imbalance. Tenants are likely to use this situation to their advantage and trying to reduce costs, forcing landlords to offer attractive incentive packages.*

*Sustainability aspects of new developments are definitely high on the agenda for both developers, tenants as well as institutional investors. People are aware of substantial cost savings achieved by use of renewable energy sources, energy efficient measures (i.e. triple glazing, LED lighting, high level of insulation) and heat recovery. These innovative developments go much faster than 10 years ago. When looking at a pan-European scale, Warsaw shall remain the capital city for the CE and its*

*importance will grow further on the European office scene with cranes being a regular feature of the skyline.*

*Taking into consideration regional markets, Wrocław, Kraków, TriCity, Poznań and Katowice will remain the key regional office centres, attracting bulk of BPO/SSC and R&D. Yet, new spots are emerging: Lublin, Bydgoszcz or Rzeszów, offering more competitive both property and labour costs.*

### **What is your strategy in the short and medium term in the Polish market?**

*We want to stay the leader in the office market, putting a great emphasis on sustainability. Long-term value will only be guaranteed when you stay on top of the trends. We will introduce more innovative solutions in every new development, which will meet changing and more sophisticated occupier requirements. We will focus on Warsaw where we see a healthy future and where we have good ground position. Also we will continue development in other cities in Poland.*

*Ghelamco is also entering into neighborhood leisure retails centres. The first 3 projects are in or close to Warsaw. Also we are in a smaller niche active in residential.*

Ghelamco Poland, a part of Ghelamco Group, is the leading developer and general contractor active on the Polish real estate market for already 22 years. The company specializes in high quality office buildings, with almost 700,000 sqm delivered up to date and the value of sold projects exceeding 1.2bn EUR. In the next 4 years Ghelamco intends to deliver 300,000 sqm of space. Ghelamco is also the unquestionable leader in sustainable development in CEE. It is the only developer which has 7 BREEM certificates for delivered office buildings – including first with “excellent” rate and 4 buildings being partners of EU Green Building Programme.

## GUIDE TO POLAND

**MONIKA OLEJNIK-OKUNIEWSKA**

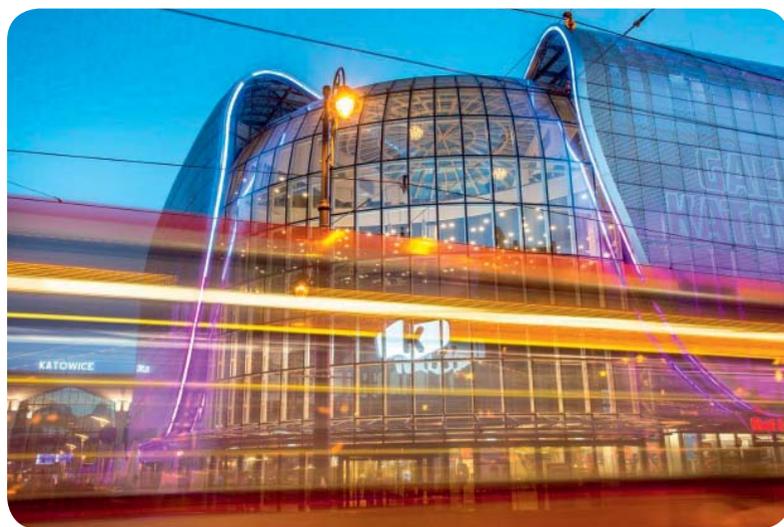
*Business Development Marketing Director, NEINVER*

**What do you consider the main strengths and weaknesses of the Polish property market?**

*The Polish retail property market has seen rapid growth over the past 10 years. Modern shopping centers with interesting architectural concepts and well-thought tenant mixes have emerged in big cities and smaller towns alike. Before that, Polish retail had been tied primarily to high streets with a limited number of brand shops. Now we cannot imagine living without malls, many of which are mixed-use projects. There is a wide selection of projects for both*

*middle-class and high-end customers. Some centers try to cater for both groups, which is definitely a challenging task.*

*In 2002, we launched one of Europe's largest and most remarkable outlet networks. Poles like buying brand products at discount prices. This is precisely what FACTORY outlet malls offer. An entirely new concept is that of an integrated transport and retail complex which combines a shopping gallery with a railway or bus station, at the same time being located close to stops of various public transport lines.*



Katowice, Galeria Katowicka

NEINVER's Galeria Katowicka with a modern railway station and an underground bus terminal is a perfect example of this concept's successful implementation.

Over the last ten years, a lot of stable relations have been established with customers, developers, shopping center administrators, tenants, banks and investment funds.

Experts claim that the CEE market (and Poland alone) still boasts vast growth potential, especially compared with other parts of Europe. We need to keep in mind, however, that any investment decisions have to be made after careful deliberation. There are already some Polish cities in which shopping retail space saturation per one resident is too high without any solid business justification. Uncontrolled growth of this segment could result in market cannibalization, with all parties finding themselves at the losing end: financing institutions, administrators, tenants and even residents.

#### **What trends do you observe on the market?**

The Polish retail market is experiencing a recovery period following a short-term slowdown. After openings of large centers in main cities, smaller towns often follow suit; from the developer's, administrator's and tenants' point of view, they are equally important.

We can also see a trend consisting in renovation and remodeling of complexes which were developed relatively long ago, i.e. in the 90s. Modernization, extension and a revamped tenant list allow these malls to stand up to younger competitors. This tendency is bound to continue over the next few years.

It is worth noting that the number of vacant units is dropping and some stores decide to rent more space. New brands, such as Adidas NEO, Clinique, Estee Lauder and M&S To Go are making their debut on the Polish market. This indicates that developers are about to remain active over the upcoming years.



Wrocław, Factory

#### **What is your strategy in the short and medium term in the Polish market?**

We are now extending FACTORY Warsaw Ursus, Poland's first outlet mall. It will have an additional 6,000 sqm of retail space and 30 new stores, incl. Rossmann, Giacomo Conti, Volcano, Geox, Digel, Gabor and Hi-Tec. The existing part will be renovated thoroughly and an underground parking lot is going to be constructed.

FACTORY network comprises five centers operating in Poland's biggest cities. Each year, the number of customers is on the rise. We intend to keep our strong position on the Polish market.

We are also working on new projects, watching market changes and looking for best investment ideas.

NEINVER is one of the key players on the European real estate market, with its operations focused on property investment, development and management. NEINVER boasts experience in the real estate market's crucial areas, running its business in Spain, Germany, Italy, Poland, France and Portugal.

Under the FACTORY brand name, NEINVER was the first to introduce an outlet center concept into Spain and Poland. The company has been a national leader on both those markets for years now, at the same time being the second largest outlet operator in Europe. In some of its projects, NEINVER successfully combines an outlet mall with a traditional commercial park.

NEINVER has been operating in Poland since 2000. The company has developed over 250,000 sqm of commercial, office and public space, incl.: Galeria Katowicka, Galeria Malta in Poznań, Futura Park Kraków, Futura Park Wrocław and a network of FACTORY outlet malls.

# Advice corner



**ERIK DRUKKER**

*Managing Director, Agency & Valuation  
BNP Paribas Real Estate Poland*

**There are certain tricks of the trade, which corporate occupiers should consider when taking the decision whether to stay or move:**

- Nowadays most developers require at least 30% of the building leased before building construction can commence. Occupiers need to be sure that they are aware what conditions for a construction are needed to commence;
- Identify and secure your preferred building and space two years ahead of your lease expiry so that you get the floors needed and achieve better terms;
- Check if the site is RPU or freehold? This has an impact on the cost of service charges;
- Understand your company's growth potential or reduction potentially needed. Build these clauses into the lease maximising flexibility and reducing the risk of unnecessary premise cost;
- Be aware how the building is measured, whether this is BOMA or TEGOVA or Polish norm. There are some major differences and some can be more costly than others.



# Trends



## ANNA STANISZEWSKA

*Director, Research & Consultancy CEE  
BNP Paribas Real Estate Poland*

### Urban renewal

City centre regeneration will become inevitable for sustainable urban structures, and redevelopment of in-town brownfields, preventing urban sprawl and making the cities more attractive for living, doing business as well as spending leisure time. This long-term process has to be multidisciplinary, including social-economic, infrastructure, environmental as well as urban and property aspects, which all together will maximize the end effect.

Urban renewal is unlikely to succeed without involvement of private sector, since the investment outlays are very often far too much for local or central budget, even with EU support. Recent examples such as Galeria Katowicka in Katowice and Poznań City Centre in Poznań, show that cooperation between public and private entities is possible. Many areas are awaiting transformation: Plac Defilad, Ursus factory site – in Warsaw, Wolne Tory in Poznań, Łódź Fabryczna railway station in Łódź to name a few.



Warsaw, Dom Dochodowy o Trzech Frontach

### Investors

Poland will continue to attract institutional investors, who are willing to offer aggressive yields in order to acquire prime office buildings in Warsaw and/or retail schemes in key regional cities. Another active group eyeing interesting projects are opportunistic investors, counting on smart deals for distressed or development assets. There is a clear demand gap for good quality products, which are available on the market at reasonable prices. Investors' appetite for "mid-range" properties offering higher than prime but lower than opportunistic yields should increase, as there are a number of schemes with solid performance and strong covenant, which are sound investment assets.

Taking into account both the aggressive pricing for core products as well as the investors' appetite for opportunistic deals mismatching the vendors' pricing expectations, we observe the increasing importance of proper structuring of deal financing. Especially, in case of non-core assets structured deal financing becomes a key success factor for conclusion of investment transaction.

## NEED TO KNOW

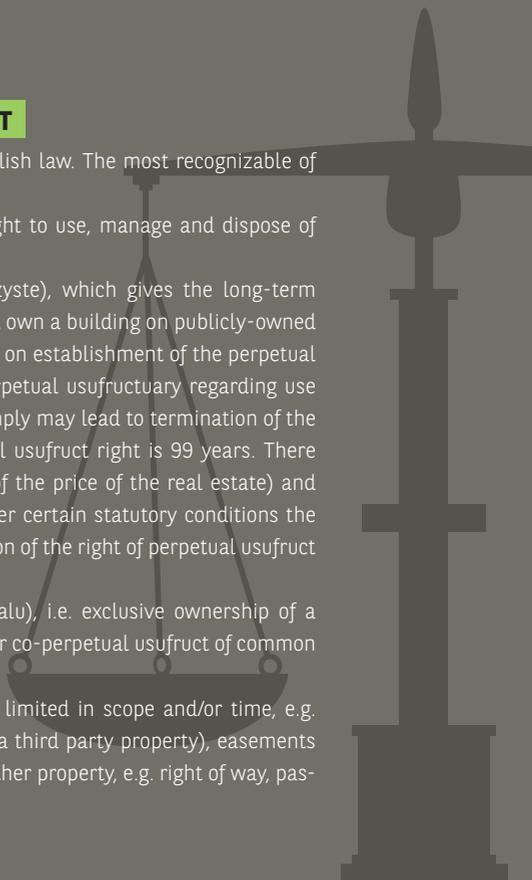
# Key legal terms

The fast growing Polish real estate market may be regarded as highly regulated and requiring continuous legal assistance, which is due to the fact that administrative regulations penetrate the investment process on many fields. Dentons Warsaw Real Estate Group lawyers Monika Sitowicz and Magdalena Osóbka-Morawska give a grasp of some key legal concepts underlying this market.

## VARIOUS TYPES OF REAL ESTATE INTEREST

There are various legal titles to real estate under Polish law. The most recognizable of them are the following:

- **freehold** (własność), which comprises the full right to use, manage and dispose of property;
- **the perpetual usufruct right** (użytkowanie wieczyste), which gives the long-term right to use and manage the land and to build and own a building on publicly-owned land (State or municipal property); the agreement on establishment of the perpetual usufruct right may impose obligations on the perpetual usufructuary regarding use or development of the property, and failure to comply may lead to termination of the agreement. In principle the term of the perpetual usufruct right is 99 years. There is an initial fee to establish the right (15 - 25% of the price of the real estate) and an annual fee (3% for commercial property). Under certain statutory conditions the perpetual usufructuary may demand transformation of the right of perpetual usufruct into ownership;
- **condominium ownership** (odrębna własność lokalu), i.e. exclusive ownership of a part of a building combined with joint ownership or co-perpetual usufruct of common parts together with the community of co-owners;
- other rights in rem over the property, which are limited in scope and/or time, e.g. right of usufruct (the right to use and benefits of a third party property), easements (which encumber a property for the benefit of another property, e.g. right of way, passage, limitation in the building capacity).



## LAND REGISTERS

Properties in Poland are registered in the land and mortgage registers (Księgi Wieczyste), which are public registers that reveal the legal status of the property. The properties are also recorded in the land register (Rejestr Gruntów), which is decisive when determining the spatial parameters and designation of land use. Based on the land and mortgage register the purchaser of a property may examine the seller's legal title and discover whether there are any encumbrances, e.g. mortgage, pre-emption rights, easements. Land and mortgage registers enjoy 'public warranty', which means that rights entered in the register are presumed to be valid and rights which are not entered are presumed to be non-existent. According to this rule a purchaser will become the owner of the property even if it transpires that the seller is not the correct owner, as long as the seller was disclosed in the land and mortgage register, and provided that the purchaser was acting in good faith.

## RESTRICTIONS ON BUYING PROPERTY

Foreigners from the European Economic Area do not need consent to purchase real estate in Poland, unless agricultural or forest land is involved. Foreigners and foreign entities from outside the EEA generally require the consent of the authorities to acquire property, but there are exceptions to the consent requirement (e.g. acquisition of undeveloped property by an entity for its statutory objectives, provided that the total area of its real estate in the country does not exceed 0.4 ha in urban areas). These exceptions must be treated carefully, because any sale without consent (if an exception was not applicable) automatically invalidates the sale agreement.

The state or local authorities have first refusal or other rights regarding some real estate, e.g. undeveloped property previously acquired by the seller from the state or local authorities, a perpetual usufruct right to undeveloped land, property entered in the register of monuments, property located in a Special Economic Zone. An unconditional sale entered into (i) in a way preventing the exercise of the pre-emption right or (ii) without consent for acquisition by a foreigner, may affect the validity of the sale agreement.

Purchase of real estate from a public entity (e.g. municipalities, the State Treasury) is generally only possible by tender. Some exceptions to this rule apply, e.g. sale of land to the holder of a perpetual usufruct right, sale of land which may improve the development of neighboring land and which may not be developed unilaterally. However, exceptions must be treated carefully, because any sale without a tender, where the exception was not applicable, may affect the validity of the sale agreement.

Certain restrictions apply to agricultural properties (e.g. the pre-emption right of its lessee or of the Agricultural Properties Agency if the area exceeds 5 ha, consent for acquisition by foreigners).

**NEED TO KNOW****FORM OF ACQUISITION OF A PROPERTY**

Undertaking to sell real estate and the very transfer of the freehold or perpetual usufruct right requires the sale and purchase agreement to be signed before a notary public in the form of a notarial deed. It is crucial to fulfill formal requirements when selling real estate in Poland since failure to do so may result in nullity. It is common to sign a preliminary or conditional sale agreement containing conditions precedent upon fulfillment of which the parties sign the final agreement.

**ENVIRONMENTAL LAWS AFFECTING THE INVESTMENT PROCESS**

Polish environmental law provides for specific rules affecting the construction process with respect to investments that may have a high impact on the environment, e.g. power plants, wind farms, natural gas production, waste treatment plants, industrial plants, housing developments, shopping centers, car parks etc. For these investments specific authorizations and/or administrative approvals are required by environmental legislation.

**AGRICULTURAL LAND**

As a rule, no development of non-agricultural character is allowed on agricultural land, except for that which is classified as agricultural land in cities. Therefore, in order to construct a building on agricultural land in a rural area, before applying for a building permit one must obtain a permit allowing for its exclusion from agricultural production. It may impose certain fees on the landowner (a one-off fee and annual fees payable for 10 years), the amount of which depends on the size, area and category (e.g. agricultural land, meadow, forest) and class of soil. The one-off fee is reduced by the land's value, thus usually it is minor. However, the annual fee may be significant (e.g. for the best quality agricultural land).

**REMNANTS OF THE COMMUNIST LEGAL SYSTEM**

After the World War II through the period of communism many private real estates in Poland were nationalized or expropriated under various regulations, decrees and/or administrative decisions, which were frequently issued in breach of the then binding law. This issue is commonly met in Warsaw, where virtually all land was nationalized after the War under the Warsaw Decree (Dekret Warszawski) issued on 26 October 1945. Some of the nationalized or expropriated properties were subsequently transferred to private or public entities under various legal basis. Legal remedies are now available to challenge in court some of the unlawful legal acts committed during the period of communist regime and many previous owners or their heirs use this path. As a consequence, a purchase of the property should be preceded by analysis the legal status of the property, including if any restitution claims were raised.

## MAIN PERMITS DURING THE INVESTMENT PROCESS

A building permit is generally required for construction, reconstruction or renovation of a building or facility. A building permit may be issued only if the application complies with the local zoning plan or zoning decision, environmental decision (if required) and after all technical, environmental (if applicable) and other requirements have been met. Most investments must be preceded by environmental impact assessments or environmental decisions, to be obtained prior to the building permit.

More complex investments as specified in law require an occupancy permit at the end of the construction process. Where investments are of a specific nature, atypically located or have other specific features, certain additional decisions may have to be obtained before commencement or upon completion of the investment. Investments completed in violation of applicable provisions, in particular those without the required building permit or which are contrary to the terms and conditions specified in the building permit, may be legalized only if the conditions set out in the Construction Law are met. In most cases, high legalization fees apply.



## PROTECTION OF HISTORIC MONUMENTS

Special regulations apply to real estate listed in the register of historic monuments. Any demolition, reconstruction or renovation of the monument requires separate approval from the historic preservation officer. The procedure of obtaining the approval is often time-consuming and can take a few months.

In some cases, the municipality has a pre-emption right with respect to real estates entered into the register of monuments.

## BUILDING PROCESS

If there is a local zoning plan, the design must be (i) in strict compliance with the terms and conditions set out in the plan and (ii) the building permit should be issued directly on the basis of the plan. If there is no zoning plan, zoning decisions must be obtained for (i) construction of the building or facility; (ii) modification of the use of the investment or any of its parts; (iii) carrying out other major construction works. The zoning decision specifies the investment type, planning conditions and detailed rules for planning. During its term of validity, the decision is binding upon the authorities responsible for issuing building permits.

An investor usually signs a construction works contract, in which the contractor undertakes to render services in accordance with all of the design and the technical requirements specified in the contract. The investor must prepare and deliver the site, deliver the designs and permits and pay the agreed fee. The construction works contract must itemize the scope of work to be performed by the contractor and the work to be subcontracted. FIDIC model contracts can be used in Poland.

## NEED TO KNOW

**SPECIAL ECONOMIC ZONES (SEZ)**

There are 14 special economic zones situated near major industrial, academic and transportation hubs and in outlying regions offering qualified workforces and optimization of costs. The activity of Special Economic Zones has been extended until 2026. A SEZ permit provides a corporate income tax exemption up to a certain proportion of the eligible costs (capital expenditure or 2 years' payroll). The aid intensities applicable since July 1, 2014, which are considerably diminished as compared to those previously available, would typically range between 20% (15% or 10% in Warsaw) and 35% of the eligible costs, with the exception of four eastern regions which allow for 50% aid intensity. In addition, the relevant aid intensity may be increased by 10% or 20% in case of medium or small enterprises, respectively. Special Economic Zones also offer real estate tax exemptions, provided by local authorities based on capital expenditure or employment targets. These benefits do not require any individual permit from the authorities and often provide significant cash relief for investors wishing to own the title to real property and infrastructure rather than lease such assets.

**(I) TERM**

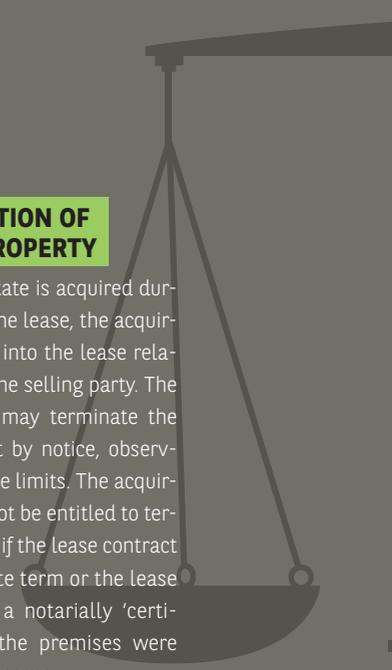
Lease agreements may be for a fixed or indefinite term, whereas commercial leases are generally for a fixed term. An indefinite lease can be terminated by either party with statutory notice, but this is more problematic with residential leases due to many compulsory tenant protection provisions. A fixed term lease may be terminated as a rule only in cases provided for in the lease (subject to statutory termination rights). The maximum term of a fixed lease is 30 years for businesses and 10 years for others. Any lease that oversteps these limits transforms into an indefinite term lease.

**LEASES**

There are two main lease types, commercial leases and residential leases. Residential leases are in principle largely regulated by tenant protection law with the clear objective of protecting tenants as the weaker party to the contract, whereas commercial leases are more based on market principles and they are often concluded business-to-business. If the parties choose not to specify the terms and conditions of the lease in detail, they will be bound by a statutory set of rules.

**(II) ACQUISITION OF A LEASED PROPERTY**

If leased real estate is acquired during the term of the lease, the acquiring party enters into the lease relation in place of the selling party. The acquiring party may terminate the lease agreement by notice, observing statutory time limits. The acquiring party shall not be entitled to terminate as above if the lease contract is for an indefinite term or the lease agreement had a notarially 'certified date' and the premises were released to the lessee.



### **(III) FORM OF LEASES**

A lease agreement may be made in any form, even oral. However, if a lease is concluded for a term exceeding one year then it should be at least in a simple written form, otherwise it will be deemed an indefinite term lease. The simple written form is a widely-accepted standard.

Making a lease agreement in the form with a certified date gives protection against termination in the event a third party acquires the leased real estate during the term of validity. Signing the lease agreement with certified signatures enables information on the lease agreement to be entered in the land and mortgage registers (Księgi Wieczyste).

### **(IV) SUBLEASE & ASSIGNMENT**

Under Polish law as a rule the tenant cannot sublease or allow third party use of the leased premises without the landlord's consent. Under the Civil Code, assignment of the tenant's obligations under a lease agreement requires the landlord's consent.

### **(V) MAINTENANCE AND REPAIRS**

Under the Polish law it is the landlord who is generally responsible for repairs to the premises. The tenant should maintain the premises in good working condition, look after their appearance and perform only minor repairs. In commercial leases it is common practice to deviate from this rule and to shift responsibility for maintenance and repair onto the tenant.

### **(VI) RENT REVIEW**

Rent may be paid in foreign currencies, e.g. EUR or USD. The market standard is that commercial leases include provisions on automatic adjustment of the rent (usually annually) according to the percentage change of a previously agreed index (e.g. Consumer Price Index or index published by the Polish Central Statistical Office). There are no statutory provisions limiting the parties' right to include provisions on indexation in the lease agreements. Notwithstanding the contractual clauses, the Polish law provides for a provision entitling the landlord to increase the rent, serving the tenant a notice at least one month in advance with respect to commercial leases, and 3 months in advance with respect to residential leases, effective at the end of the calendar month. Commercial leases include collaterals as security for payment of rent and other payments due under the leases (e.g. service charges). There is also a statutory right of pledge on the tenant's movables placed in the subject of lease.

## NEED TO KNOW

# Acquisition – specifications in Polish law compared to its European neighbours

<b>How can real estate be held?</b>	<ul style="list-style-type: none"> <li>• Freehold ownership;</li> <li>• Condominium ownership;</li> <li>• Perpetual usufruct right, which gives the long-term right to use and manage the land and to build and own a building on a publicly-owned property.</li> </ul>
<b>What rights over real property are required to be registered</b>	Rights <i>in rem</i> over real estate require registration in the land and mortgage registry book in order to be binding on third parties, including ownership rights, perpetual usufruct, encumbrances (e.g. easements, pre-emption rights, usufruct rights) and security rights (e.g. mortgages).
<b>What property documentation do you need to register?</b>	In order to register a respective right in the land and mortgage register documents transferring or encumbering real estate (agreements, decisions or statements) must be presented to the land and mortgage registry court.
<b>Are there nationality restrictions on land ownership?</b>	As a matter of general principle under Polish law, acquisition of a real property by foreigner requires a permit from the Minister of Internal Affairs. However, there are numerous exceptions to this rule, in particular concerning foreigners from the European Economic Area, who do not need consent to purchase real estate in Poland, unless agricultural or forest land is involved.
<b>Who usually produces the documentation in real estate transactions?</b>	Usually legal counsel of one of the parties prepares the first draft, which is subsequently negotiated between the parties and notarized by a notary public.
<b>What are the main usual documents in real estate acquisition?</b>	<ul style="list-style-type: none"> <li>• Heads of terms / LOI;</li> <li>• Due diligence report, including verification of legal, environmental, technical, tax and commercial aspects of the real estate done by advisors of the investors;</li> <li>• Preliminary (or conditional) sale agreement;</li> <li>• Final sale agreement.</li> </ul>
<b>What different types of real estate leases exist?</b>	<ul style="list-style-type: none"> <li>• Commercial leases, including warehouses;</li> <li>• Tenancy agreements;</li> <li>• Residential leases.</li> </ul>
<b>Are commercial lease provisions freely negotiable?</b>	In principle commercial leases are freely negotiable, subject to certain mandatory provisions that cannot be excluded by the parties.
<b>Is there a maximum term for commercial leases?</b>	Commercial leases between businesses have a max. term of 30 years, whereas in non-commercial leases it is 10 years. If a lease provides for a longer term, after lapse of the respective 10 or 30-year term it shall be deemed an indefinite term lease and may be terminated by observing the statutory notice period.
<b>How are commercial rents reviewed?</b>	Commercial rents may include provisions on automatic annual indexation.
<b>What are usually the basic obligations of landlords?</b>	<ul style="list-style-type: none"> <li>• Delivery of the premises to the tenant;</li> <li>• Ensure that the tenant may use the premises in accordance with the agreed use throughout the entire lease term;</li> <li>• Repair the premises, excluding minor repairs;</li> <li>• Insure the premises/property;</li> <li>• Perform tenant fit-outs (market standard in office leases, however, costs are usually divided between landlord and tenant).</li> </ul>
<b>What are usually the basic obligations of tenants?</b>	<ul style="list-style-type: none"> <li>• Pay rent and service charges</li> <li>• Provide relevant collaterals;</li> <li>• Keep the premises in good working condition and look after their appearance and perform only minor repairs (unless agreed otherwise);</li> <li>• Insure its belongings, merchandise and goods in the lease of premises.</li> </ul>

## ENERGY PERFORMANCE REQUIREMENTS FOR BUILDINGS

Following EU legislation Poland adopted regulations on energy performance requirements, under which an energy performance certificate is to be created following the construction or significant redevelopment of a building. When selling or leasing the building, this certificate should be presented to the other party of the agreement. In specific situations Polish law provides for exceptions to the energy performance requirements, e.g. for historic monuments, churches and the like.

### KEY LEGAL TERMS AUTHORS



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## NEED TO KNOW

# Tax clinic

Karina Furga-Dąbrowska and Tomasz Krasowski, tax advisors from Dentons Warsaw, present comments on key tax aspects of investing on the Polish real estate market.



**Legal persons investing in Polish real estates may generally be subject to the following taxes in Poland:**

- Corporate Income Tax (CIT)
- Value Added Tax (VAT)
- Real Estate Tax (RET)
- Tax on Civil Law Transactions (TCLT)

Additionally, entities hiring employees are subject to withholding obligations with respect to personal income tax (PIT), social security and healthcare contributions on employee remunerations.

## 1. INVESTMENT VEHICLES IN POLAND

### Companies

A company is a Polish tax resident if it has its registered office or place of management in Poland.

A resident company is subject to 19% Polish Corporate Income Tax (CIT) on its worldwide income.

### Partnerships

In recent years partnerships (especially in the form of a limited partnership or a limited joint stock partnership – “LJSP”) have been used more frequently to conduct business activities in Poland. Polish partnerships are transparent for CIT purposes, with the exception of LJSPs which, beginning from January 1, 2014, are generally covered by the CIT regime (like e.g. a limited liability company). Their earnings and costs are split pro rata among the partners, who, depending on their legal status (whether they are legal persons or individuals) are then individually assessed for either 19% CIT or the applicable Personal Income Tax (PIT) rate.



A LISP is a partnership where at least one partner manages the partnership and bears unlimited liability for the partnership's liabilities (general partner) and at least one partner has the status of a shareholder and is not liable for the partnership's liabilities. It should be noted that an LISP is of a hybrid nature (combining certain characteristics of both partnerships and companies). Taxing shareholders of this type of partnership was a controversial issue before January 1, 2014. Under previous regulations (applicable till January 1, 2014) a company which was an LISP shareholder was entitled to defer payment of tax on income generated by the LISPs operations (including its operating income and income on sales of assets) until the distribution of a dividend. This approach was confirmed in a general tax interpretation issued by the Polish Ministry of Finance on 11 May 2012. Therefore, an LISP was a very attractive option for tax planning purposes as it allowed for deferral of tax on its shareholders' income until a dividend payment was made. However, as mentioned above, beginning from January 1, 2014, LISPs are covered by the CIT regime and are no longer income tax transparent. Still, pursuant to the interim provisions of the Polish CIT Law, the CIT regime applies to existing LISPs from the first day of the accounting year beginning after December 31, 2013. Therefore, some LISPs with their accounting years not overlapping with the calendar year whose accounting year started in 2013 may still be income tax transparent in 2014 and in certain situations even in 2015 and shareholders of such LISPs may defer payment of tax on income generated by such entities until the distribution of a dividend. Thus, such LISPs may be used in tax

efficient structures for operations on the Polish real estate market and tax efficient disposals of assets.

### Other forms of operations on Polish real estate market

Foreign investors may also operate in Poland through a branch. Perhaps the most tax efficient way of structuring investments in Poland currently is to use a Polish investment fund and Polish partnerships. A Polish investment fund is a legal entity regulated by the Investment Funds Act of May 27, 2004. This fund can be created and must be managed by a licensed fund management company. A Polish investment fund may be closely controlled by the investor(s). The income of the fund is exempt from CIT. Consequently, if for example the fund participates 99% in the profits in an income tax transparent Polish partnership, 99% of the income generated by the partnership and allocated to the fund is exempt from CIT. It is generally possible to repatriate funds from the fund in a flexible way. Repatriation of profits by the fund to foreign investors should not trigger Polish tax consequences provided that the investors benefit from Double Tax Treaty protection. Please note that the extension of the CIT regime to cover LISPs impacts on structures involving Polish investment funds, as LISPs were commonly used in such structures. Nevertheless, it is still possible to use structures based on Polish investment funds for operations on the Polish real estate market. One of the possible solutions is substituting LISPs in such structures with a foreign income tax transparent partnership (e.g. a Luxembourg *société en commandite spéciale* (special limited partnership)).



## NEED TO KNOW

As noted above, the most commonly used investment vehicle for investing on the Polish real estate market is a limited liability company. Thus, below we comment on investing in Poland through a Polish limited liability company (Sp. z o.o.). A Polish joint-stock company, in general, has the same tax status and characteristics, thus what follows below largely applies to joint-stock companies as well.

## 2. EQUITY FINANCING

### General Comments

For Polish tax purposes it is relevant to make a distinction between equity financing through (i) a cash contribution followed by the issuance of shares or (ii) other additional payments to a company's capital without issuing shares.

A cash contribution followed by a shares issue is generally subject to 0.5% civil law transactions tax. A cash contribution made directly to a company's share premium is not subject to the civil law transactions tax.

It is important to note that additional payments are always subject to 0.5% civil law transactions tax payable by the subsidiary. It is not possible to mitigate this tax.

### Repatriation of Cash

#### Dividends

Dividends and advance dividends distributed by a Polish company to its foreign owner are generally subject to a 19% withholding tax in Poland, unless a Double Tax Treaty (DTT) provides other-

wise. Polish withholding tax is a levy that comes under the CIT Act (it is not a separate withholding tax). Usually the withholding tax rates on dividends under DTTs signed by Poland range between 5% and 15%.

Poland has implemented the EU Parent-Subsidiary Directive 90/435/EEC, so dividends received by parent EU/EEA companies from their Polish subsidiaries are exempt from CIT, provided that at least 10% of the shares in their Polish subsidiaries are held for an uninterrupted period of two years. This two-year holding period requirement does not have to be met upfront. This exemption also applies to Swiss parent companies, provided that they have at least 25% shareholdings in their Polish subsidiaries. The Parent-Subsidiary Directive does not apply to capital gains, which means that for structuring an exit from a real estate investment through a share deal it is important to select a jurisdiction for the shareholder of the Polish limited liability company that provides for:

- capital gains tax protection under the relevant DTT and
- a flexible domestic participation exemption regime.

#### Liquidation

Liquidation proceeds paid to EU/EEA countries or to Switzerland are taxed under the same rules as dividends (although only the excess of liquidation proceeds over shares acquisition costs is taxed). It is important to note that the same potential tax exemptions may apply to liquidation proceeds as to dividends.



### 3. DEBT FINANCING

#### Civil Law Transactions Tax

Loans granted to Polish companies are subject to 2% civil law transactions tax (payable by the borrower). Many exemptions from this tax apply with respect to loans granted to companies and so in practice this tax can be avoided.

#### Withholding Tax on Interest

Interest paid from Poland to a foreign lender is subject to 20% withholding tax, unless the relevant DTT provides otherwise. The withholding tax should be remitted to the tax office by the lender when interest is paid in any form (including set-off and compounding of interest).

Usually the withholding tax rates on interest under the relevant DTT range between 5% and 10%. Some of Poland's DTTs provide for a 0% withholding rate on interest (e.g. with the United States, Spain and Sweden). In order to apply a withholding tax rate resulting from a DTT, a certificate confirming the tax residence of the foreign lender must be obtained.

Poland implemented EU Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. Therefore, interest payments between a parent and a subsidiary and between direct sister companies are free from withholding tax.

#### Thin Capitalization Restrictions

Interest on loans is generally deductible when actually paid. Polish thin capitalization rules put restrictions on limited liability and joint stock companies deducting interest on loans granted by:

- one or more shareholders holding a total of at least 25% of the voting rights – “parent company” loans or
- another company if the same shareholder holds at least 25% of the voting rights in each of these companies – “sister company” loans, if the debt-to-equity ratio exceeds 3:1 on the day interest is paid.

Interest on loans in excess of the above ratio is not tax deductible. However, because thin capitalization restrictions apply only to interest on loans granted by direct parent and sister companies, it is relatively easy to structure the financing of a transaction in a way that neutralizes thin capitalization restrictions.

Please note however that the amendments to Polish thin capitalization rules, generally to be applied starting from 1 January, provide for: (i) the inclusion of loans granted by companies also holding also an indirect 25% shareholding in the debtor's capital under the current thin capitalization regime; and (ii) the introduction of the possibility of selecting a new alternative thin capitalization “interest ceiling” regime based on the value of the debtor's assets.

Pursuant to these amendments the debt to share capital ratio of 3:1 will be replaced by the rigidly regulated debt to equity ratio of 1:1.

Whereas, under the new alternative thin capitalization “interest ceiling” regime that may be alternatively opted for by the taxpayers, the limit of interest included under tax deductible costs will be based on the product of National Bank of Poland reference rate plus 1.25 percentage points and the tax value of taxpayer's assets (excluding intangible assets) and will be limited to 50% of operating profit. Under this method,



## NEED TO KNOW

limits of deductibility of interest will be applicable to all loans (both from related and unrelated lenders).

According to the interim regulations loans paid out to borrowers prior to 1 January 2015 will be subject to the thin capitalization current regime in the version in force prior to the amendment.

## 4. ON-GOING TAXATION

### Taxable income and tax losses

With respect to a limited liability company taxable income subject to 19% CIT on lease or sale of real estate is calculated as the difference between taxable revenues and tax deductible costs. Tax losses may be carried forward for 5 consecutive years and fully set off against tax profits during that time; however, not more than 50% of the tax loss may be set off against tax profits in any one of these 5 years. Tax losses cannot be carried back.

### Tax depreciation of real estate assets

Costs incurred for the acquisition or construction of real estate including purchase price, transactions costs, constructions costs are recognized through depreciation write offs or upon sale.

Land is not subject to depreciation. Commercial buildings are subject to tax depreciation at a maximum annual rate of 2.5%. Acquired buildings (used by the former owner) can be depreciated for tax purposes during the period equal to the difference between 40 years and the number of years that have passed since the building was put into use for the first time. However, that period cannot be shorter than 10 years.

### Rental income

Rental income generated from commercial real estate is generally subject to 23% VAT. Rental of residential units for housing purposes is VAT exempt.

### Input VAT recovery

A VAT taxpayer registered in Poland is entitled to obtain a refund of the excess of input over output VAT reported in its VAT return. The standard deadline for the refund is 60 days. There is a quick refund option of 25 days provided, but in order to benefit from the quick refund, additional requirement should be met – all invoices / other documents (e.g. customs documents) showing input tax reported in a VAT return have to be paid in full.

Refund of input VAT is also available for taxpayers who did not carry on any taxable operations in the reporting period in which they apply for a refund. The standard refund deadline for these entities is 180 days. A quick 60-day refund is possible if security (collateral) is provided by the taxpayer.

### Real estate tax

Real estate tax (RET) generally applies to the owners, perpetual usufructuaries and freeholders of properties. RET applies to (i) land, (ii) buildings or parts thereof and (iii) constructions or parts thereof connected with business activity. RET is payable to local authorities, which also set the RET rates.

The maximum RET rates applicable in 2014 are as follows:

- for land – PLN 0.89 per sq.m. (i.e. PLN 8,900 per ha);



- for buildings or parts thereof used for business activity – PLN 23.03 per sq.m. of usable surface area;
- for constructions or parts thereof used for business activity – 2% of tax initial value of a construction, adopted for tax depreciation purposes.

### Tax on civil law transactions (TCLT)

Tax on civil law transactions, which is similar to “stamp duty” in other countries, is levied on certain civil law transactions, such as loan agreements, sale agreements, incorporation of a company or a partnership, increase of the share capital, etc. TCLT is levied at rates ranging from 0.5% to 2% and the tax base generally is the fair market value of the object of the transaction. TCLT is not due on transactions which are subject to VAT (either taxed with VAT or exempted from VAT, with some exceptions applicable to e.g. real estate transactions).

## 5. EXIT THROUGH ASSET DEAL

The sale of assets produces taxable income for the seller, being the difference between the sales price and net tax value of assets (historical cost less depreciation write-offs).

For the purpose of VAT/TCLT treatment of the transaction, the initial question arises as to whether the object of the sale constitutes:

- assets, or
- a going concern (i.e. a business of the seller or its organized part).

If the object of the transaction is classified as real estate assets, the transaction will generally be

subject to VAT (depending on the conditions, in such case a sale of commercial property is typically subject to 23% VAT or exempt from VAT with an option to elect VAT taxation at 23%; in some cases the option to elect VAT is not applicable). In principle, if the transaction is subject to 23% VAT (including upon election of VAT taxation), it is not subject to 2% TCLT, which would be otherwise due on the sale of Polish real estate. If the real estate transaction is exempt from VAT, it is subject to 2% TCLT, payable by the buyer.

On the other hand, if the object of the transaction is classified as a going concern (also involving real estate), the transaction falls outside the scope of VAT, but is subject to TCLT payable by the buyer (2% for land, buildings and other tangible property and 1% for rights).

The classification of a given transaction for VAT purposes as a supply subject to 23% VAT or exempt from VAT should always be made on a case-by-case basis, based on a detailed analysis of the underlying factual circumstances.

In line with market practice very often the seller and the buyer apply for respective tax rulings, confirming that the object of the transaction constitutes assets (and not a going concern) and that the buyer should be entitled to deduct VAT incurred on the transaction.

A tax ruling should generally be issued within three months of filing an application.

## 6. EXIT THROUGH SHARE DEAL

Capital gains on the disposal of the shares in the capital of a company may be subject to standard 19% CIT, unless DTT relief could be applied.



## NEED TO KNOW

Under certain double tax treaties (e.g. treaty with the Netherlands), capital gains from the disposal of shares in Polish companies by foreign tax residents are exempt from taxation in Poland. However, more and more DTTs (e.g. amended treaty with Luxembourg) signed by Poland provide that capital gains from the alienation of shares in a company owning mainly real estate property assets may be taxed in Poland.

Sale of shares in a Polish company is subject to 1% TCLT calculated on the fair market value of shares. This tax is payable by the buyer. Sale of shares in joint stock companies may be exempt from the 1% tax under certain conditions, e.g. if a brokerage house acts as intermediary.



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## HOT SPOTS

# Selected investment opportunities



## OXYGEN PARK

### Warsaw

- An A-class office investment opportunity consisting of two buildings completed in 2013.
- **The property has a total area of 18,474 sqm GLA and benefits from a premium location in the Business District of Warsaw.**
- Thanks to the freehold title to the land, there is a limited exposure to cost increase compared to perpetual usufruct.
- The asset has attracted prestigious and strong domestic and international tenants such as Sodexo, Fujitsu, Merck, Lionbridge, Agfa Graphics and Wirtualna Polska Polish website portal.
- Current occupancy at the level of approx. 70%; vendor master lease may be introduced for the vacant area.
- Oxygen Park was granted BREEAM certificate at the Very Good level.



<b>Total GLA</b>	18,474 sqm
<b>Parking spaces</b>	139 underground + 35 surface
<b>WAULT (years)</b>	4.27
<b>Occupancy</b>	approx. 70%
<b>NOI when fully let</b>	€3,199,012

## HOT SPOTS



## ATRIUM CENTRUM & ATRIUM PLAZA

### Warsaw

- Both buildings, with a robust parking ratio of 1:76 sqm and totaling 31,969 sqm of a modern office, retail and storage space.
- **Most recognizable assets of Warsaw's CBD benefiting from excellent public transport links and a perfect visibility with full frontage to Jana Pawła II Avenue.**
- The assets are multi-let with good covenants: UPC, Enel-Med, Medicovert, Nordea Bank, BGZ Bank and reported an occupancy ratio of 84.75% – Atrium Centrum and 73.39% – Atrium Plaza (as of end of April 2014), subject to increase depending on ongoing leasing action.
- Freehold title to the land properties.
- There is an opportunity for further increase of office area through mezzanine level conversion.
- Atrium Centrum was granted a BREEAM In-Use Certificate at the „Good” level as of May 2014, whereas Atrium Plaza is currently undergoing the certification process (status as of June 2014). There is a potential for an upgrade to a „Very Good” level.

	<i>Atrium Centrum</i>	<i>Atrium Plaza</i>
<b>Total GLA</b>	17,380 sqm	14,589 sqm
<b>Parking spaces</b>	209	203
<b>WAULT (years)</b>	4.13	3.35
<b>Occupancy</b>	84.75%	73.39%
<b>NOI when fully let</b>	€4,322,817	€3,652,695





Total GLA	40,064 sqm
Parking spaces	1,371
WAULT (years)	1.76-3.72
Occupancy	84%
NOI when fully let	€7,620,149

## WIŚNIOWY BUSINESS PARK Warsaw

- Four buildings, with an outstanding parking ratio of 1:28\* and totaling 40,064 sqm of a modern office space distributed on 4-6 above-the-ground levels, account for one of the most recognizable office park in Warsaw benefiting from a very good location within an office area and fast and easy access to Warsaw Okęcie International Airport and Fast Urban Railway stop located ca. 100 m from the complex.
- **The assets are multi-let with good covenant: Royal Bank of Scotland, Johnson & Johnson, Carlsberg and reported an occupancy ratio of 84% subject to increase depending on ongoing leasing action.**
- Freehold title to the land properties.
- Development Potential: there is an opportunity for further increase of office area of ca. 7,800 sqm of GLA. WZ application submitted.

\*Including temporary parking



## HOT SPOTS



## JANA KAZIMIERZA OFFICE BUILDING

Warsaw

- A prime A-class office investment opportunity with delivery date of November 2014.
- The property has a total area of 9,721 sqm of GLA and is located in Wola Office District – one of the fastest developing office clusters in Warsaw.
- **Great accessibility – 10 min drive time to Warsaw Central Station, 20 min to the Okęcie National Airport, close proximity to the new metro station and 5 km driving distance to the S8 ring road accounting as an access to the A2 national highway.**
- The property, 100% leased is anchored by Konsalnet Holding S.A. benefits from the WAULT of 10 years as of November 2014
- Built-To-Suit Project designed by JEMS Architekci – one of the best architectural studios in Poland with 7 above-the-ground levels and 2 levels of underground parking with special fit-out to be installed for the main tenant.



<b>Total GLA</b>	9,721 sqm
<b>Parking spaces</b>	165
<b>WAULT (years)*</b>	10
<b>Occupancy</b>	100%
<b>NOI when fully let</b>	€1,661,127

\*as of November 2014



## ORANGE OFFICE PARK

Kraków

- An A-class office investment opportunity developed in 4 stages and consisting of Amsterdam office building – already constructed scheme of 11,620 sqm of GLA with obtained occupancy permit, Rotterdam office buildings of 8,490 sqm of GLA being currently under construction with its planned delivery in Q4 2014, Den Hague office scheme (9,785 sqm of GLA) to be constructed in stage 3 and a multifunctional building to be developed in stage 4.
- **Strategic location near the central part of Kraków at Klimeckiego Street in close distance to Central Railway Station and Kraków's Old Town.**
- Balice Kraków Airport is located within 20 minutes drive time
- Strong and recognizable tenants such as Brown Brothers Harri-man, Sappi, Apply, Getinge, Piotr i Paweł supermarket.
- Current occupancy at the level of 85%.



<b>Total GLA</b>	ca. 29,000 sqm (I-III stages)
<b>Parking spaces</b>	ca. 458-478
<b>WAULT (years)*</b>	6
<b>Occupancy</b>	85%
<b>NOI when fully let</b>	€3,590,349 (I-II stages)

\*Based on the full occupancy with 5-year leases applied for the vacant areas

## HOT SPOTS

*Opportunity to invest in innovative and performing real estate products*



## marcredo PORTFOLIO FUND

Closed-ended Income Asset Investment Fund

### Poland, the land of opportunity

While the Polish market in big cities was becoming more saturated with shopping centres, the founders of marcredo concept were among the first to recognise the development potential of smaller and mid-sized cities in Poland. In Poland there are more than 380 cities with a population of over 10,000.

The choice of this investment market was one of the key elements defining the objectives of marcredo shopping centres: improved quality of the commercial offer in mid-sized cities, satisfaction of the region's retail needs and creation of a special place offering not only new shopping standards but also providing a popular meeting point for the inhabitants.

### INVESTMENT IDEA & CRITERIA

- Investment fund focused on the Polish commercial real estate market
- Investment horizon between 8–10 years with assumed sale of assets after the 7th year
- Fund volume between EUR 30–150 million
- Immediate investment of Fund in a ready-to-

go asset portfolio developed by elbfonds and put on the market in 2014

- IRR – ca. 11–12%
- Annual Rent on Equity – up to 8.5%
- Estimated nominal profitability up to 12.8% p.a.

### marcredo PORTFOLIO SUMMARY

**Assets:** marcredo Center Ciechanów, marcredo Center Kutno, marcredo Center Szczecin, marcredo Compact Józefosław, marcredo Compact Lubin, Galeria Piotr i Paweł Poznań,

option for marcredo Center Piekary Śląskie  
**Main tenants:** Intermarche, Bricomarche, Piotr i Paweł, Media Markt, Decathlon, H&M, New Yorker, Reserved, Cropp Town, House, Mohito, Jysk, Jula, CCC, Rossmann

**GLA of the portfolio:** over 63,000 sqm

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## POLISH INFORMATION AND FOREIGN INVESTMENT AGENCY (PAIIZ)



The Polish Information and Foreign Investment Agency has been helping investors for more than 20 years. Its mission is to increase Foreign Direct Investment (FDI) by encouraging international companies to invest in Poland. It guides investors through all the necessary administrative and legal procedures along the way to setting up their business in Poland.

Agency offers investors: quick access to comprehensive information about the economic and legal environment, assistance in finding appropriate partners and investment locations and support at every phase of the investment process.

The Agency promotes Polish goods and services abroad by organizing conferences, visits for foreign journalists and investment trade missions to Poland and for Polish entrepreneurs around the world.

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## THE TOP 10 REASONS TO INVEST IN EUROPE

"Investing in": practical guides containing all you need to know about real estate investment opportunities



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