February, 2018

POLISH EMPLOYEE CAPITAL PLANS

On February 8th, 2018, the Polish Ministry of Finance released the long-awaited first draft of the bill on employee capital plans (*Ustawa o pracowniczych planach kapitałowych*). It is one of the measures implementing the governmental Strategy for Responsible Development (also dubbed *Morawiecki's plan* after the current Polish prime minister) and aims to increase the financial security of Polish citizens facing a decreasing value of pensions in the existing pension scheme. Another goal is to support the development of the Polish capital market and growth of the Polish economy. Last but not least it will complement the existing pension scheme, the future of which is uncertain due to the low value of savings and increasing life expectancy.

The employee capital plans ("**ECP**", "**Plan**") scheme introduced in the proposed bill is a voluntary and entirely private system of long-term saving which participants are entitled receive payments from after reaching the age of 60 (no gender distinction). The Ministry of Finance estimates that ECPs would cover 75% of the 11 millions employees to which the scheme is addressed.

Employers will be obliged to set up ECPs, however, employees will have the right to opt-out. The deadline for setting up Plans depend on the number of employees: (i) January 2019, for entities employing more than 250 employees; (ii) July 2019, for entities employing from 50 to 249 employees; (iii) January 2020, for entities employing from 20 to 49 employees; and (iv) July 2020, for entities employing from 1 to 19 employees.

Contributions to ECPs will consist of: (i) an employee's contribution in the base amount of 2.0% (with an option to raise it up to 4.0%) of gross salary; (ii) an employer's contribution in the base amount of 1.5% (with an option to raise it up to 4.0%) of gross salary; and (iii) public subsidies – a one-off PLN 250 (approximately EUR 60) entry premium and PLN 240 (approximately EUR 58) yearly allowances.

Raised capital will be invested in open-ended investment funds, both Polish and foreign (however, foreign funds must comply with Polish law). The draft bill refers to the general investment risk mitigation rules specified in the Polish Investments Funds Act (*Ustawa z dnia 27 maja 2004 r. o funduszach inwestycyjnych i zarządzaniu alternatywnymi funduszami inwestycyjnymi*) with a requirement to hold at least 70 percent of the funds' investments in PLN denominated assets (and the remaining in EU, EEA and OECD member states currencies).

ECPs would be operated by Polish fund management companies, supervised by the Polish Financial Supervisory Authority and admitted as participants to a portal administrated by a subsidiary of the state controlled Polish Development Fund. In order to be admitted, a fund manager must meet criteria specified in the draft bill and pay associated fees, i.e., an upfront fee of up to PLN 1,000,000 (approximately EUR 240,000) and an annual fee of up to 0.1% of ECP assets. ECPs will be operated based on management agreements between fund managers and employers.

Apart from the requirements set out in the Polish Investments Funds Act, the management companies must also comply with the requirement set forth in the draft bill pertaining to, among other things, the investment policies, limitations of marketing activities and costs for the management of the funds. The draft bill specifies the maximum levels of management fees: (i) a monthly fixed fee of 0.5% of net Plan assets under management p.a.; and (ii) a yearly incentive fee based on performance capped at the lower of: (a) 0.1% percent of the net Plan assets under management p.a.; and (b) 20% of the difference between the fund's and benchmark performances.

The draft bill is now subject to public consultation.

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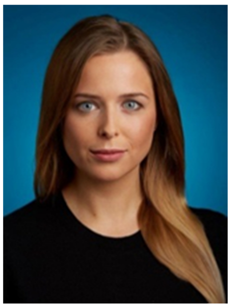

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