

PRESS RELEASE

POLAND MAY SEE UP TO SEVERAL HUNDRED MILLION EUROS IN DISTRESSED M&A INVESTMENTS

Warsaw, 20 April 2020 – Funds specializing in the acquisition of assets in difficulty are already beginning to actively seek investment opportunities in Poland. It is estimated that such funds currently have between EUR 30 and 40 billion at their disposal, out of which several hundred million euros may go to Poland. However, bankruptcy and restructuring law may be an obstacle in the way of facilitating such transactions says Lech Giliciński, Partner and leader of the restructuring team at the Wolf Theiss Warsaw office.

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The COVID-19 pandemic will have a significant impact on the situation of companies and enterprises in Poland and Europe as well as on the mergers and acquisitions market. The first two months of 2020 were the weakest in terms of M&A transactions since 2005¹ despite several significant ones being announced. Thyssenkrupp signed an agreement to sell their Elevator Technology segment to a consortium of Advent, Cinven and RAG investment funds for USD 18.7 billion. In addition, in early March, Thermo Fisher Scientific Inc. agreed to acquire a molecular test supplier, Qiagen NV, for USD 11.5 billion.

In the first two months of this year, transactions worth USD 119.2 billion were announced worldwide, which means a 49% decrease compared to the same period last year².

"Many transactions have now been suspended or even cancelled. An example of this is PLL LOT's famous agreement to take over the German airline, Condor. In the coming weeks, with a strong reduction in lending, which can be expected on the banking market, there will be major changes in the valuation of companies and projects. This, in turn, will trigger the launch of entities specializing in the acquisition of assets in difficulty," says Lech Giliciński from the Wolf Theiss Warsaw office.

Funds specializing in distressed M&A transactions currently have around EUR 30-40 billion at their disposal globally, and they could play a much greater role in the acquisition market in the coming months.

"The market is very unstable at the moment, as it is very difficult to value assets. Warren Buffett has become famous for saying that only when the tide goes out do you discover who's been swimming naked, and our tide in both Poland and Europe hasn't really started yet. Therefore, I do not expect many transactions in

¹ Dealogic <https://www.financierworldwide.com/outlook-for-global-ma#.XpYKEcgzaUk>

² Refinitiv (financierworldwide as stated above)

the near future. However, the situation will change in the next few months. Of course, we need to remember that capital financing for distressed M&A transactions is one of the most expensive on the market, which is due both to it being offered when there are no other financing options available, as well as the high risk taken in cases of difficult and encumbered assets," adds and leader of the restructuring team at the Wolf Theiss Warsaw office.

Lech Giliciński emphasizes that in order not to fall prey to fraudsters or criminals interested in money laundering, it is worth betting on professional services and proven business relations.

"The security of each transaction, especially when dealing with difficult assets, is often a question of the legal environment in which a company operates. Today, Polish law, as well as the legislation adopted in the CEE/SEE region, which our law firm serves, do not help much in such transactions. The sale of unencumbered assets can only take place through a bankruptcy sale, a type of which is a pre-pack. Traditionally, it is possible to purchase assets in such a way by means of singular executions, which, however, are typical for individual assets. Polish law still allows such a sale, to a certain extent within the framework of the deep reform restructuring proceedings, but this path is rarely used. The amendment to the bankruptcy law made within the anti-crisis shield package focused on the regulations that allow managers to refrain from filing bankruptcy applications at the period of epidemic. On the other hand, no solutions have been introduced that would allow for the sale of unencumbered assets at various stages of restructuring and generally motivate entities to undertake restructuring activities in the framework of the upcoming crisis, which is something the Association of Restructuring Practitioners has been seeking. Looking towards the future, an acceleration of the restructuring process or the sale of assets may be key to attracting capital to Poland and thus to saving promising companies and jobs. Currently, much will depend on the efficiency of the courts themselves, as well as on the effectiveness of out-of-court restructuring. I also see a great deal of potential for insurers who can insure claims and assurances of parties in M&A transactions in a difficult and volatile market," concludes Lech Giliciński.

In the first quarter of 2020, the courts announced bankruptcy and restructuring decisions of 232 Polish companies (according to the data as at the end of March 2019), which is a 4% increase over the corresponding period of 2019.

ABOUT WOLF THEISS

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 offices located in Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine, Wolf Theiss represents local and international industrial, trade and service companies, as well as banks and insurance companies. Combining law and business, Wolf Theiss develops comprehensive and constructive solutions on the basis of legal, fiscal and business know-how.

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