

6 POST-CLOSING TIPS

- TIP NO. 1** Pay attention to „loose ends”

- TIP NO. 2** Close all post-closing issues

- TIP NO. 3** Pay attention to leases

- TIP NO. 4** Check the amount of arrears (if needed – work on it systematically)

- TIP NO. 5** Choose your consultants optimally

- TIP NO. 6** Pay attention to the requirements specific for Poland

POST-CLOSING ISSUES STEPS TO BE TAKEN

- 1. Make sure lawyers / agents prepared for you a “transaction bible”** – a complete set of scanned transaction documents; such set will most probably include:
 - (preliminary / conditional / final) sale agreement(-s),
 - escrow agreement / notarial deposit,
 - notifications to (and acknowledgments from) tenants / banks / general contractors (etc.),
 - (if the acquisition involved third-party financing (e.g. facility agreement) you may need a separate “transaction bible” covering financing documentation).

- 2. Make sure you have taken over the original documents.**

- 3. Check the due diligence report prepared by your legal counsel** – it should include recommendations regarding dealing with certain issues; they are often described as “post-closing” or “house-keeping issues” and they commonly include:
 - transferring administrative decisions (typically planning permits, environmental decisions, building permits and water permits obtained by the seller),
 - pending proceedings (action point: join the proceedings, if applicable, and notify the relevant court / authority),
 - completion of certain works or delivery of certain documents (e.g. new bank guarantee securing the lease) by the seller
 - outdated entries in the land and mortgage registers (action point: apply to the relevant court for the removal of such entries),
 - construction-related decisions missing confirmation of their finality (action point: apply to the relevant authority for a stamp-confirmation),
 - missing documents,
 - defective / uncomplete agreements, decisions, resolutions, etc.,
 - updating details in the land register,
 - change of authorizations to the bank accounts, update of data in the commercial register (in the case of share deals).

CHECK THE AMOUNT OF ARREARS

- check the level of receivables** (total level in your projects as well as the level applicable to a given tenant; proportion of the tenant's debt to its rent / security / annual turnover is worth checking)
- verify if there is a procedure of debt collection adopted for the project** (if not – ask your legal counsel to prepare and help you implement it)
- check if you can apply tax instruments** limiting your losses (“bad debt” tax relief)
- do not wait too long with using the security instruments and taking over the premises** - if a tenant goes bankrupt, it may be impeded
- check if there are tenants in your project endangered with insolvency**; you may consider these methods:
 - **check the most recent financial statement** (publicly available in Poland)
 - **check the warning signals** (delayed payments, low stocks of goods in the premises, attempts to move the tenant's property from the leased premises)
 - **listen to the rumors** (often very useful source of information)
 - **ask your legal counsel to check information about potential problems of the tenant's mother company** and to conduct the monitoring at the bankruptcy registers

WHEN CHOOSING THE LAW FIRM IT IS WORTH ASKING

- 1.** Does it have a practice focused on assistance related to the ongoing management of the real estate projects? Does it have lawyers for whom it is a major part of work? Will it have time, experience, resources?
- 2.** Does it have a practice dealing with dispute resolutions (litigation and mediation – increasingly important in resolving disputes in Poland)? Will its team provide assistance with respect to debt collection (in and outside of courts)?
- 3.** Does it have lawyers with auxiliary specializations, including:
 - bankruptcy (to get involved in the case of tenants facing solvency problems),
 - corporate,
 - compliance,
 - areas specific for Poland?
- 4.** Does it have staffing / operational / cost structure serving well ongoing assistance?

TROUBLESOME POLISH REQUIREMENTS (SAMPLE LIST)

- GDPR regulations** – action point: implement GDPR policy, adjust your procedures, adjust your agreements, conduct periodic audits
- UBO** (ultimate beneficiary) and **AML regulations** – action point: identify your UBO, proceed with registration in the UBO register
- regulations regarding "large enterprise"** – action point: identify if you meet criteria of a large enterprise, if yes – adjust your agreements
- BDO – Waste Database** – action point: check if you qualify for mandatory registration in the Waste Database (most probably you do)
- Register of trusts and company service providers** – action point: if you qualify; you may qualify e.g. if your entity provides the office & secretarial services to your “Propcos” (companies owning specific real estate projects)
- Tax-related requirements**

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WWW.ARGON.LEGAL | OFFICE@ARGON.LEGAL



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