

POLAND



## Flocking To Green Island

Big players in emerging markets are taking notice of an impressive Polish economy. But what are the implications as foreign business gets to grip with its growth?

By Steve Hall

**N**o European country embodies quiet sureness in the way Poland does. While neighbors far and wide became tangled in recession and recrimination as the effects of the global financial crisis took hold across the continent, the Polish economy has deepened and broadened over the past decade. Today, consistent growth and optimism have brought stability and prosperity to a range of sectors and turned the heads of overseas investors.

Boosted by EU membership, a mature legal system,

proximity to Germany, a well-educated workforce and lower employee costs than Western Europe, Polish business has enjoyed growing investment and earned the nickname of the 'green island' given its seeming immunity to the turmoil. The gross capital investment increased in 2014 by approximately 9% and the Polish economy became the 7th largest economy (by GDP quarterly) in the EU leaving Sweden and Belgium behind.

It is telling, then, that the conflict in neighboring Ukraine, a powder keg of uncertainty for the

region, has not so much disrupted Poland, from a wider economic perspective, as it has prompted a degree of caution. In the sense that the Polish authorities are expected to spend significant sums on military upgrades, the financial outcome of the dispute may yet do little to dent commercial prospects. In a similar fashion, while the stagnation that has characterized several European states has cooled the prospects for the export market, foreign investment has continued to grow, optimistic of the underlying drivers that have eluded other regions.

"We don't see dramatic changes in Poland," comments Ronald Given, partner at Wolf Theiss, a full-service firm with a large stable of international clients. "The competition for investors throughout the Central-Eastern Europe (CEE) remains intense [but] Poland is trying harder. The increased use of Special Economic Zones (SEZs) is an example of these efforts. Most indications are that Poland will continue to succeed."

#### WHOEVER WINS...

That assuredness and lack of drama could perhaps be attributed in some stead to the fact that whoever has been at the helm of the Polish state for the past 25 years, business has continued to flourish. It's a point worth keeping in mind given that, at time of writing, the country is in the middle of an unpredictable election runoff. "The elections in the fall that will determine the Prime Minister will also be watched very carefully by investors throughout Europe and the rest of the world," notes Given.

While different victors would present different scenarios for investors, Poland is unlikely to be perceived as anything other than an attractive investment destination, claims Arkadiusz Rumiński, associated partner in the Warsaw offices of international law firm Noerr. He predicts sustained growth "both for the manufacturing sector (such as automotive and pharmaceutical) due to its SEZs as well as in the trending financial technology space, broader IT sector, outsourcing and co-outsourcing."

One key factor that has driven a portion of these deals is those aforementioned SEZs, an administratively separated part of the country where investors may run their business activity based on specific preferential conditions, including exemption in corporate income tax for legal entities or personal income tax for non-legal entities.

Those measures have created a consistent flow of investment and experts are suggesting that whichever way the electorate votes in 2015, the stability in parliament is likely to contribute to GDP growth of around 3-4%. "Although some investors might still express their concerns, activity on the CEE market as well as stable economic growth seem to be the convincing factors," says Rumiński. "Another tendency which we have noticed in the past months is that

western investors would more often invest their profits in the ventures already operating in the CEE rather than engage in greenfield or brownfield projects."

#### ACQUIRING A STAKE

Still, there's been an increasing appetite from large western corporations who want to tap into the Polish market. Google opened its start-up campus in Warsaw in the first half of 2015, while Volkswagen set the precedent for a stream of automotive deals in the coming months; in 2014 the manufacturer decided to move the entire production of a new Crafter model to Poland to be manufactured in an all-new plant in Września (Poznań).

Meanwhile, in the financial services space, western businesses saw potential in the fast maturing local businesses and the enterprising financial services technology sector, creating acquisitions and providing a chance for local experts to bring their knowledge to bear. "At the same time, a few of the leading domestic players adopted modernization strategies

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to keep them at the front of the pack," notes Greenberg Traurig managing partner Jarosław Grzesiak. "Transaction activity over the past few years has continued the consolidation trend, with opportunities driven by regulatory and commercial pressure resulting from the financial crisis."

For example, Schoenherr Poland's managing partner Katarzyna Terlecka advised EVO Payments International (a card payment acquirer and payment service provider operating throughout the United States, Canada and Europe) on the acquisition of a majority stake in eService from PKO BP S.A. (the largest bank in Poland). The deal involved complex post-closing arrangements between future alliance partners both from the corporate governance as well as commercial perspective, but ultimately provided a foothold for EVO into the CEE jurisdictions.

That capacity to provide clients with expertise spanning CEE has proved a vital differentiator for Polish firms competing for instructions from those businesses looking for wider representation in the region. By way of example, Arkadiusz Rumiński led law firm Noerr's work advising Deutsche Telekom on Polish aspects of the EUR 546 million takeover of the GTS Central Europe Group.

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In fact, the legal market is thriving on this influx of deals. Greenberg Traurig senior partner Lejb Fogelman explains: "As the market in Poland matured, transactions have become more complex and domestic and cross-border transaction sizes have become substantially larger. This has created the need for a select number of law firms to have larger legal teams with a full range of integrated real estate, finance, corporate, tax, and capital markets experience."

Given the confidence in the market and the prevalence of these kinds of initiatives, private equity has been relatively slow to spy an opportunity in Poland. In the last 12 months, that's changed: Wojciech Szczepaniak, partner at Spacryński, Szczepaniak i Wspólnicy, notes that, in fact, "half of the investments [from private equity in the past year] were made in Poland and, in fact, Warsaw might be called CEE private equity center." He points to the example of PLN 400 million sale of Polish healthcare provider Lux Med to UK healthcare firm Bupa; or Warburg Pincus, a global fund, taking a minority stake in INEA, a Polish cable operator as examples of key deals here.

While 2014 saw significant transactions including acquisition of Wirtualna Polska by PE fund Inova Capital together with Grupa o2 and the acquisition of Emitel by PE fund Alinda Capital Partners, Szczepaniak isn't alone in suggesting that the possibilities that the Polish market provides to PE investors are still to be fully realized.

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#### CHINESE INFLUENCE

That sense of untapped potential perhaps gives some explanation to the increased interest in Poland by Chinese investors. "Poland is increasingly seen as a good bridging point between their markets in Europe and Russia," says Wolf Theiss' Given. "Improved rail links from China to Poland and then beyond to the west to Europe—and to the east; to Russia—will bolster this role for Poland."

And while Chinese investment had been hampered in Poland by the legacy ill-will of the disastrous Covec



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2011 road deal, in which the Chinese construction firm ran into financial difficulties while building key sections of Poland's east-west highway, forcing the cancellation of the contract, today's landscape is different and the deals that are expected to dominate the coming years have more of an M&A flavor.

"There is no doubt that the Chinese are now coming to play," says Given.

Unsurprisingly, investments from emerging markets have centered on the key growth sectors in Poland, with outsourcing, IT and real estate having become notable beneficiaries. "The big boom of Chinese investments in CEE is related to mainly M&As," says Noerr's Rumieński. "It definitely stems from the fact that China tends to take over European know-how in different sectors."

Such increase of Chinese activity in Poland has been reflected especially in the last year, when CEE Equity Partners, the advisor of the China-CEE Fund focusing on energy and infrastructure, invested in Polenergia, an energy group controlled by Kulczyk Investments. Further, the China-Central and Eastern Europe Investment Cooperation has also been active with three investments in Poland.

That same China-CEE Fund, announced last year that it plans to invest PLN 1.3 billion in wind parks development in Poland. According to Katarzyna Terlecka, managing partner, Schoenherr Poland, "China-CEE, which is already an investor in the wind parks developer Polenergia, recently announced that it wants to buy the Polish construction company Electronic Control Systems. [It] has stated that it plans to invest around USD 500 million in Poland over the course of the next 2-3 years." Meanwhile, according to market rumors, China's largest private investor, Fosun, appears to have made one of the highest bids to purchase the Polish networks of cardiology clinics American Heart of Poland from the private equity firm Advent International; that sales process is still ongoing at time of writing.

Legal outfits have been adapting in expectation



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NOERR

of a greater emphasis on providing Chinese investors with European investment know-how. Noerr, for example, has launched a ‘Chinese desk’ composed of European and Chinese lawyers with direct experience on transactions involving Chinese investors. Elsewhere, developing Chinese language skills and opening conversations with overseas businesses to build an international reputation are both high on the list of priorities to those firms focused on growing their transactional practices.

India’s influence, meanwhile, is most evident in the outsourcing sector, even if overall Indian investors haven’t yet made the same splash as the Chinese. Poland is already the country’s largest trading partner in CEE and both commercial communities continuously seek to develop and upgrade their relationship. Rumiński points to the outsourcing sector and the branches of Infosys (BPO), HCL Technologies (global technical support), Genpact (BPO), WIPRO (BPO) and Tata Consultancy Services (consulting) as key players in Poland. In other sectors, Arcelor Mittal Steel Poland SA holds 70% share of the steel market in Poland, while Essel Propack, the world’s largest manufacturer of laminated tubes, has located one of its manufacturing units in Poland.

### BUILDING GROWTH

No surprise, then, that the outsourcing sector has been a key source of growth for Polish business. Low-cost, well-educated labor has made for an appealing proposition for European companies looking to engage in nearshoring of services. Wolf Theiss’ Given points to Lufthansa’s operation in Kraków as one example of the wider trend. “It’s more than call centers and tech-oriented companies,” he says. “Payment and other business processes are involved. For example, Commerzbank covers worldwide payment processing from Poland and the UBS service center in Kraków directly supports the business decision-making processes throughout the bank.”

The growth of this sector has had the knock-on

effect of bolstering the real estate market demand for office space outside of the nation’s capital Warsaw; especially in Kraków, Gdańsk, Wrocław, Łódź, and Szczecin, demand has rocketed.

Thus, though Warsaw has attracted a great deal of instructions for full service and boutique firms alike, the high profile deals haven’t been limited to the capital. As an example, Wolf Theiss advised ImmoPol, the private partner in the proceedings regarding the revitalization of the northern part of Granary Island (Wyspa Spichrzów) in Gdańsk, a project considered to be one of the most attractive real estate development projects in Poland, implemented in the form of a public-private partnership.

Yet, the most dynamic commercial real estate investment market in Poland is in the capital, points out Magdalena Szwarc-Brozyna, head of real estate practice, Laszczuk & Partners. “The investors, both domestic and foreign, are focused mainly on the office space, and the largest transactions covered of-

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office buildings, but some purchases also covered retail space. There is also some regional investors’ activity, mainly in Wrocław, Kraków and Poznań,” she says.

### DIVERSE OPPORTUNITY

For firms, the landscape presents the possibility to gain instructions on high profile M&A and financing transactions, as well as expanding into the ongoing work generated by these investments. “From our perspective, the main inflow of work from emerging market clients is still in the M&A and general corporate and market entry area, although we have in the past also assisted with financing matters for such clients”, says Paweł Halwa, managing partner, Schoenherr Poland. “We expect that as the trend continues, we will see more assignments related to the operations and development of the acquired businesses, in particular on the compliance side, as clients’ awareness of such matters has been increasing recently. Since there is continued interest in offering construction services in Poland, we hope that this will translate into increased workflow in public procurement and construction law advice.

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Also, as many of the areas of business in which the investments are made require significant workforces, employment law should also gradually gain importance.”

Given the maturity of the Polish market, inbound investment has flowed to businesses that have already undergone the ‘honeymoon phase’ of their development. Rotation sometimes flows to private equity and strategic investors with resulting work for the local law firms.

“This phase of investment is the point that disagreements and failures arise,” points out Wolf Theiss’ Given. “Such an environment supports a robust disputes practice in firms like [ours]. Although no one ever wants a dispute, Poland is not a bad place to find yourself in a dispute. There is rule of law here.”

Similarly, restructuring and playing a role in cross-border restructurings in particular, has been a fruitful source of work, even as the economy has



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grown. SSW’s Szczepaniak highlights his role restructuring Bioeton Group (a group of companies active on the market of renewable energy sources) by way of example of the kind of high profile engagements in this area.

Looking forward, changes in legislation signal

the possibility of an even more attractive setting for companies in the coming years. A significant amendment to the Polish Commercial Companies Code is planned, but it is still at the early stage of discussion. In May 2014, Polish Council of Ministers passed the assumptions to the bill amending the Commercial Companies Code. “The amendment aims to reduce the minimum share capital in Polish limited liability companies from the current PLN 5,000. Apart from this, the amendment introduces a possibility of registration of general partnerships and limited partnerships via the Internet (based on the current legislation only limited liability companies may be registered online),” explains SSW’s Szczepaniak.

The World Bank’s annual report released last year ranked Poland in 32nd place (out of 189 countries) in terms of its attractiveness for doing business. Given the pace of development and the market’s readiness to adapt to the needs of foreign investors, even that may not do justice to Poland’s trajectory. ■

