AmCham.Pl QUARTERLY

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AMERICAN CHAMBER OF COMMERCE IN POLAND

COVER STORY

LIVING ON THE EDGE

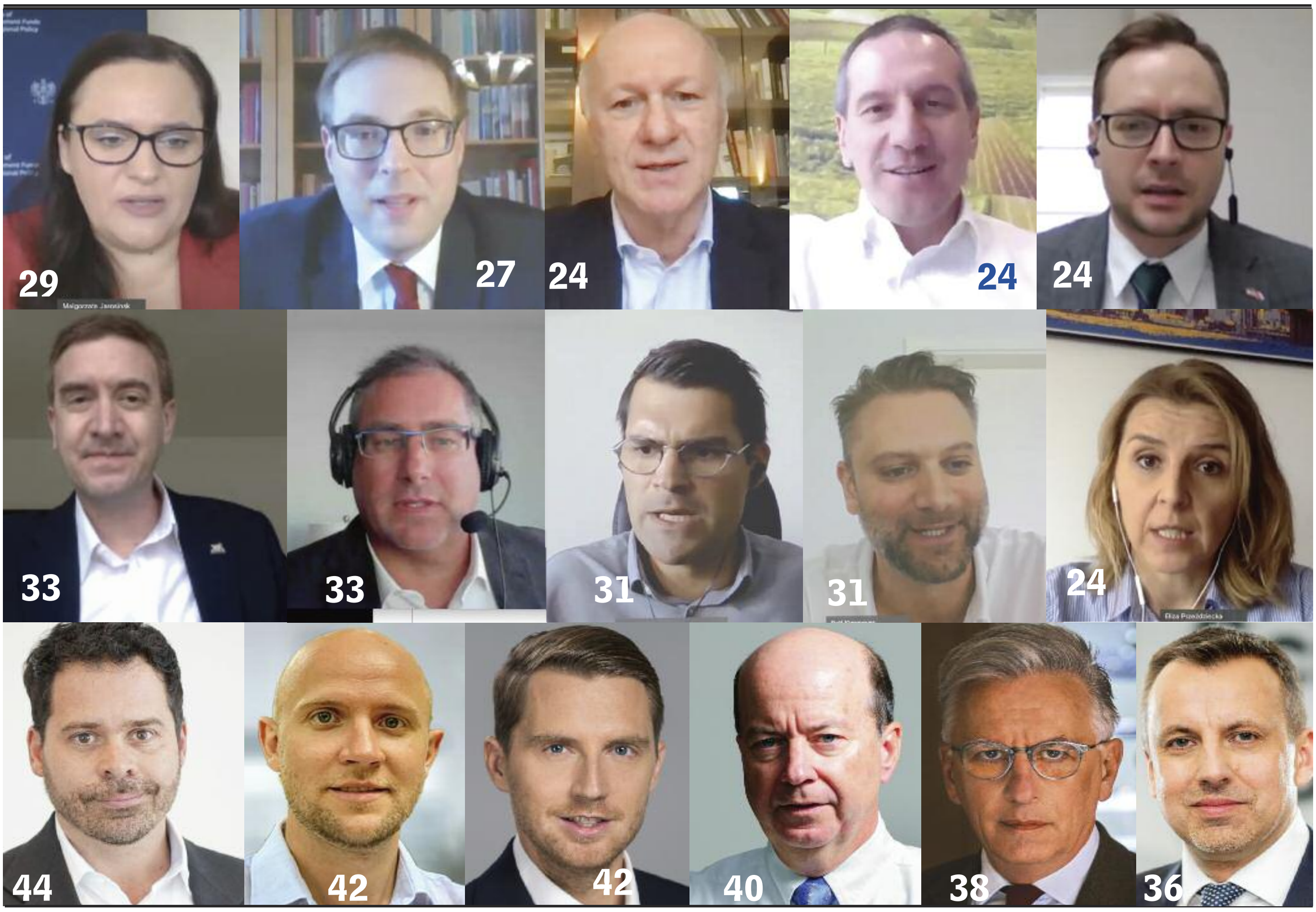
An efficient and pandemic-proof national healthcare system can not do without the private sector, innovative medical products and drugs, and money. And the creation of such a system is in Poland's national interest

MONTHLY MEETINGS

COMPANY PROFILES

EXPERTS

It's your AmCham...



It's your debate...

The cooperation between the public and private sectors in developing innovative drugs and therapies is essential as it offers new opportunities and benefits to all sides concerned.

DR. JACEK GRALIŃSKI, AMCHAM PHARMA COMMITTEE CHAIR, **p. 12**

While the Ministry of Finance aims to safeguard a smooth collection of tax revenue for the government, it is also fully aware that, to quote Finance Minister Tadeusz Kościński, "companies are the clients of the ministry".

JAN SARNOWSKI, UNDERSECRETARY OF STATE, THE MINISTRY OF FINANCE, **p. 26**

Poland is a crucial point on 3M's investment map—we have been developing our investments in manufacturing, R&D, and BPO operations here for many years now, and we are certainly far from being done.

RADEK KASKIEWICZ, 3M VICE PRESIDENT & MANAGING DIRECTOR, EAST EUROPE REGION, **p. 36**

AmCham.pl Quarterly is the official publication of the American Chamber of Commerce in Poland. It is a voice for foreign investors and the business community in Poland. The magazine strives to keep our members and other readers up to date by following chamber news and reporting on the leading trends in business and policy.

Data shows that patients' health conditions in telemedicine programs did not suffer during the pandemic. This is why it is clear that telemedicine solutions should be implemented on a large scale today.

DOROTA OLSZEWSKA, VICE-CHAIR OF THE MEDICAL DEVICES WORKING GROUP AT AMCHAM POLAND, **p. 12**

The implementation of the aid programs in the National Development Plan will use similar methods as EU programs have in the past.

MAŁGORZATA JAROSIŃSKA-JEDYNAK, SECRETARY OF STATE AT THE MINISTRY OF FUNDS AND REGIONAL POLICY, **p. 28**

The best possible planning today is contingency planning—if travel rebounds to at least 50 percent over any upcoming 4-5 week period, we will need to hire additional highly-qualified staff.

TIM HYLAND, CO-CHAIR OF THE AMCHAM TRAVEL & TOURISM COMMITTEE, **p. 40**

The Amazon platform can be viewed as a huge interactive ecosystem supporting sellers across all functions that are vital for their business.

CYPRIAN IWUĆ, OWNER OF RAINBOW SOCKS, A PRODUCER OF DESIGNER SOCKS, **p. 31**

YOUR AMCHAM

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ADVOCACY OF AMCHAM POLAND

Our top issues include:

AmCham Poland supports the collective interests of its members by working to affect changes that improve the business environment in Poland through:
• the close monitoring of Polish and EU regulations;
• position papers, policy statements, and advocacy letters;
• direct and frequent interaction with policy-makers;
• active participation in the rule-making process.

All AmCham Poland's position papers are available at http://amcham.pl/advocacy.

"POLISH DEAL"

On May 15, 2021, the government presented a new socio-economic program called the "Polish Deal" to introduce many changes to the tax system, health care system, housing, and support investments, including the social area. The Polish Deal announced many positive changes, which AmCham has been promoting for a long time, e.g., IPO; relief for automation and robotization of production; a combination of IP Box and R&D relief; and health insurance contribution for the self-employed proportional to income.

The estimated cost of implementing the program is approximately PLN 651.6 billion. The program is to be fully implemented by 2030. However, many regulations will be introduced in the upcoming months and at the beginning of 2022.

The Polish Deal also announces changes that may be troubling for American companies that employ mainly on an employment contract and offer a competitive salary on the market. An example of this would be the lack of the possibility of deducting health insurance contributions from taxes. This means that people earning over PLN 10,000 gross on a contract of employment will receive a lower net amount, and it would be a more significant burden for companies employing such staff.

AmCham Poland is active in the legislative process and the legal environment in Poland. Bearing in mind the importance and tremendous scope of the planned reforms, we intend to actively participate in the dialogue with the public party and monitor legislative processes to develop the best possible solutions for conducting business in Poland through the expert voices of our member companies.

COVID-19 ECONOMIC RECOVERY

The pandemic created an unprecedented situation for all business entities operating in Poland, affecting their economic activity and further development progress. Support for companies and the creation of recovery programs is crucial to ensure a quick return to growth and preserve the economic potential of the most disadvantaged industries.

The Reconstruction Fund is the European Union's response to the latest threats and challenges caused by the pandemic. The fund aims to rebuild and restore the EU economies' resilience to possible crises and help prepare them for future unforeseen circumstances. The Ministry of Funds and Regional Policy worked on the National Reconstruction Plan (KPO) and launched a public consultation. The plan will be the basis for obtaining money from the fund. Thanks to this, financial support will go towards the economy for various sectoral branches.

Bearing the above in mind, AmCham has presented its position paper to the National Reconstruction Plan with a wide range of postulates for the most effective allocation of funds in the Polish economy. The AmCham position paper is available on our website.

REMOTE WORK REGULATIONS

The Polish government is working on regulations introducing remote work into the Labor Code, which are highly anticipated by the labor market, especially in today's challenging times of the Covid-19 pandemic and the progressive digitization of work.

AmCham supports the direction of the draft regulations and appreciates their flexibility. Nevertheless, to work out the most favorable solutions for the efficient functioning and development of the labor market for employers and employees engaged in this form of work, we have presented our position paper with comments and suggestions regarding:
• Clarification of the definition of remote work;
• Settlements between the employee and the employer for remote work;
• Lump-sum and equivalent exemption from public and legal burdens;
• Health and safety issues.

The AmCham position paper is available on our website.

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LETTER FROM THE CHAIRMAN

DEAR AMCHAM MEMBERS AND FRIENDS,

As we complete the first half of 2021, all our companies are seeking the optimal method to return to a new type of normal for our operations, employees, partners, and families. With the rapid progress of the vaccination process in the last several months, there is finally light at the end of the tunnel of Covid-19 disruption.

During this unprecedented time, AmCham has engaged in a wide range of advocacy issues, pandemic related and otherwise. We continue to provide policy comments and recommendations on legislation and critical business issues—ranging from taxes and tax administration (including digital advertising tax), treatment of US investors, healthcare policy and finance, Covid support programs, remote working regulations, and EU recovery funds.

Our dialogue with policymakers is also robust during the spring. We have had discussions—all virtual—with Minister of Finance Tadeusz Kościnski, Undersecretary of State for Finance Jan Sarnowski, Secretary of State of the Ministry of Development Funds Małgorzata Jarośinska-Jedynak, numerous MPs, Directors and political leaders from a range of parties.

The close cooperation with the US Embassy continues. The Board and Advisory Council both held briefings with the Chief of the US Mission to Poland, Charge d' Affaires B. Bix Aliu, as well as acting Deputy Chief of Mission and Economic Counselor Heather Rogers and Commercial Counselor Cindy Biggs. This partnership is important in our work, and their investment of time and energy to support our member companies and the US-Poland economic relationship is much appreciated.

In this issue, you will find reporting on our monthly meetings, updates by our sectoral Committees, news from the American Investor Desk, and the cover story focusing on the contribution, opportunities, and challenges of private companies in the modern healthcare sectors. You have the opportunity to learn more from our expert commentators and become familiar with several member companies profiled.

The AmCham team looks forward to getting back into meetings with the membership and key market stakeholders in the months ahead. We have all learned how to live and work in the Zoom/Teams/Skype/WebEx world—but in-person meetings play an important part in our communications, advocacy, and our B2B efforts. It is our plan to return to hybrid meetings following the summer, subject to health and safety guidance and clear documentation of vaccinations. More on this to follow.

To the Board, Advisory Council, and Membership, and particularly the AmCham staff—thank you for the continued support and active participation as we move toward the new market reality and post-pandemic operations.

Stay well, healthy, and hopefully, we will meet soon.

TONY HOUSH
AMCHAM CHAIRMAN

NEWSLINE

NEWS FROM AMCHAM AND ITS MEMBERS

Air Products
Industrial gas company Air Products has signed a long-term virtual power purchase agreement (VPPA) in Poland with Ścieki Wind Farm, owned by Macquarie's Green Investment Group (GIG).
Poland aims to generate 23 percent of its power from renewables by 2030, with wind energy making a significant contribution. Air Products' drive to increase renewable electricity sourcing through a VPPA with one of the world's largest teams of green infrastructure developers and investors complements the country's transformative Energy Policy.

AmCham
AmCham was appointed as a member of the Artificial Intelligence Working Group of the Prime Minister's Office (GRAI). The AmCham representatives are Piotr Beńke, CTO & Technical Sales Leader at IBM, and Mr. Rafal Kuklinski, Director, Text-to-Speech at Amazon.
The working group was created to intensify activities related to artificial intelligence in the public and private sectors by ensuring it is developed and used appropriately. The working group is in force to ensure we conduct proper scientific research and create an educational campaign on new technologies in Poland. AmCham aims to encourage the GRAI to support the development of Artificial Intelligence and ensure the transformation of Polish industries, businesses, and public services into the most up-to-date technologies and solutions, strengthening the return to economic growth after the COVID-19 pandemic.

Baker McKenzie
Law firm Baker McKenzie advised People Can Fly, a video game developer, on the legal aspects of the acquisition of 100 percent shares in Canada-based Game On Creative, Inc. The transaction provides for a share swap with PCF shares and the reinvestment of Game On's founder in PCF.
The Baker McKenzie team was led by Professor Pawel Wajda, Of Counsel, Radzym Wójcik, Senior Associate at the firm's office in Warsaw, and Nancy Hamzo and Evgeniya Shagarina at the Baker McKenzie office in Toronto.
People Can Fly is a public company listed on the Warsaw Stock Exchange that develops blockbuster video games. The studio's newest title, "Outriders," premiered on April 1, 2021. PCF is known for its popular games, including Painkiller and Bulletstorm.

Cushman and Wakefield
Global real estate services firm Cushman & Wakefield has been included in Diversity IN Check's list of leading companies. This is a survey conducted by the Responsible Business Forum and partner organizations to highlight companies with the highest levels of maturity in terms of diversity management and building an inclusive organization. It consists of two parts: a survey and a list to diagnose the maturity of employers in building inclusive organizations and managing diversity. The questionnaire-based survey addresses five areas: management fundamentals, programs and activities, building engagement, result indicators, and additional activities related to Covid-19. Cushman & Wakefield is among 31 companies with the highest levels of maturity.

Dentons
Law firm Dentons has advised Heimstaden Bostad AB (Heimstaden), the third-largest residential property owner and operator in Europe, on the acquisition of 13 build-to-rent (BTR) projects comprising 2,496 apartments with a total area of 131,806 square meters, from Budimex Nieruchomości. This is the largest transaction completed so far in the residential sector in Poland.
The acquisition of the project from Budimex Nieruchomości is Heimstaden's third transaction completed in Poland, and this forward funding deal is worth approximately EUR 310 million. It involves the purchase of apartments at various stages of construction in five key locations in Poland; Warsaw, Kraków, Wrocław, Poznań, and Gdańsk. The acquired portfolio will also offer 5,202 square meters of retail area and 2,870 parking spaces.

PepsiCo
PepsiCo has announced new goals in its Positive Farming program aimed at creating sustainable and regenerative food production. The company plans to introduce regenerative farming methods on 2.8 million hectares of farmland worldwide by 2030. This will enable the company to reduce greenhouse gas emissions by 3 million tons. The new policy will affect 80 farms in Poland that produce potatoes for the company using 100 percent sustainable farming methods on a total farming area of 5,800 hectares.

PwC
Over 8,000 children and young people participated in the third edition of the educational program initiated by PwC in Poland entitled "Business vs. Smog." The program is conducted by volunteers from dozens of partnering companies and provides online courses on combating air pollution for children and young people.
PwC operates the program in cooperation with 26 companies, an initiative to combat air pollution called the Kraków Smog Alert, and the ASPIRE Association. Kraków Smog Alert trains volunteers to run courses tailored to different age groups at schools and kindergartens throughout Poland. Participants interactively learn about what smog is, how it is formed, the threats it poses to human health and life, and, among other things, what can and should be done to clean the air.

Wardyński & Partners
Law firm Wardyński has launched a new video series called "News from Poland—Business & Law." The show is addressed to foreign directors of Polish companies, foreign investors in Poland, and their foreign lawyers. It is a roundup of important current events in the Polish economy and changes to Polish law, especially those that may concern management board members.
Konrad Grotowski, head of the firm's Restructuring & Bankruptcy practice, hosts the show. Each episode contains a summary of the general picture of the Polish economy and an additional current subject discussed by Konrad or a guest. Three episodes have been released so far.

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For the most recent information about the AmCham Committees and upcoming events visit AMCHAM.PL

AGENDA

INTELLIGENCE FROM AMCHAM COMMITTEES

DIGITAL ECONOMY

In March, the committee held a meeting with Wojciech Pawlak, Director of NASK, the government agency charged with the administration of the internet in Poland, as well as overseeing the development of the country's information and telecommunications networks. The speaker talked about the need for businesses competing in the fast-paced marketplace to embrace digital information, modern technologies, and cybersecurity. In particular, the development of cybersecurity solutions is key, as it has transformed this IT field from just a tool for managing risk to a comprehensive area of expertise driving business growth and consumer loyalty.

The speaker talked about the main challenges in cybersecurity management, including artificial intelligence and G5 networks. He presented the NASK recommendations for IT companies involved in ensuring effective cybersecurity levels for all users and talked about business opportunities in this area.

The speaker said that NASK is a serious player in the digital transformation of the Polish economy, administration, and society. Supervised by the Ministry of Digital Affairs, NASK is an IT think-tank engaged in various activities combining business with science. Its research involves Artificial Intelligence, Big Data analysis, and critically important projects to the country's digital transformation, such as the Electronic Documentation Management and the Polish Education Network.

HR

In April, the committee discussed how the pandemic impacted the transformation of HR departments at companies. The speakers were Beata Jaźwiec, Country HR Head of Citi Handlowy; Barbara Kaleta, Member of the Board and HR Director of CMC Poland; and Magdalena Kowalczewska, HR Manager, IBM BTO Business Consulting Services.

Anna Wicha from Adecco Poland moderated the meeting. In her introductory remarks, she said that as the pandemic continues to unfold, businesses are exploring whether their old operating ways are fit for the future. HR departments have to adapt first and lead other departments in new ways of talent management and successful operating models involving recruitment and inductions, training and talent management, benefits and bonuses, and safety and legal risks.

In her presentation, Magdalena Kowalczewska said that the company has reacted to remote work during the pandemic by launching a number of initiatives, including online chats with employees, webinars explaining the pros and cons of the "new normal" and the mental problems that people may experience when living in isolation for too long, online workout breaks, and other online events aimed at integrating the company's staff. The program yielded the desired results. At the end of 2020, an employee survey revealed that many workers felt they were better informed about the company's internal affairs than when they had worked at the office. Many appreciated the interactive formula of the online events, which allowed them to express themselves and share their viewpoints with other colleagues effectively.

Kowalczewska presented the recruitment functions in the company that had moved to virtual reality and gave an overview of HR challenges in the "new normal." These included on-boarding and off-boarding process adjustments and how HR documentation is processed with annexes to contract, employment contracts, and telework agreements being sent by traditional post, which offers a higher risk of data privacy incidents and complicates the logistics.

She also said that there are issues with team integration in the long run as many workers have tired of online events and are eager to return to traditional integration meetings.

Beata Jaźwiec said that when the pandemic began, Citi Handlowy moved 80 percent of its employees to the home-office mode in Poland, adapting to Zoom and WebEx platforms. Team managers received online support in a range of key issues, including managing teams in crisis, building trust in the team, engaging new employees, time management, leading effective meetings on Zoom, and managing the performance of remote teams.

Jaźwiec said that one of the most critical effects of dispersed work models might be the deterioration of trust among an organization's employees. Other unwelcome results include low employee motivation and engagement, lack of team integrity and identification with the organization, longer decision-making processes, increased costs, a constant rotation of employees, and difficulties in acquiring new candidates.

The last speaker, Barbara Kaleta, represented CMC, a metallurgical company whose HR department encountered completely different challenges than those faced by "office-based" organizations, because most of their employees worked on the production line. The company faced challenges

such as communicating internal safety rules and standards regarding the pandemic to its employees, as well as actions they need to take in case of illness and quarantine. CMC's HR department also had to communicate rules regarding the National Vaccination Program and update information based on government sources. The department also offered support and advice to managers regarding Covid-19 cases within teams and what actions they needed to take.
When it comes to the recruitment process, only 1 percent of interviews were held as face-to-face meetings during the pandemic, compared to 99 percent before the pandemic. The company adapted to conducting phone and video interviews. This was a huge challenge for HR because video-conferencing is not very popular among the target group that CMC recruits. Many prospective workers find it difficult to manage the required technology, hence the extensive use of phone interviews. The speaker said that the phone interview model proved quite effective, and only a small fraction of new workers who were interviewed on the phone and hired for a trial period were not employed full-time after.

INDUSTRY & ENERGY

In March, the committee held a meeting with Jacek Ozdoba, Secretary of State at the Ministry of Climate and Environment, who talked about simplifying the regulatory regime governing waste management and environment protection. The speaker discussed such regulations as the obligation to monitor waste storage areas as well as waste deposition. He also talked about shortening the red tape for investors in obtaining environmental permits.
The speaker said that creating real incentives for enterprises that adhere to the circular economy principles as well as maintaining effective dialogue with business and other stakeholders is a priority for the ministry. The proper handling of regulations governing the protection of the environment in Poland is key for helping the Polish economy increase its efficiency and competitive edge.
The guest expressed his appreciation for the involvement of AmCham representatives in the activities of the working group at the Ministry of Climate and Environment. He encouraged the American business community to get involved with the ministry by providing feedback on the issues currently on the working groups' agenda.

MARKETING

In May, the committee held an online meeting devoted to the challenges for e-commerce in the "new normal" with guest speaker Rafał Bauer, Group Commerce Design Director at Publicis Commerce. The meeting was moderated by Łukasz Kowalski, Committee Co-Chair (MSL Group).
In his presentation, Rafał Bauer said that e-commerce sales increased by almost 20 percent in just the first three months of 2020, escalating e-commerce trends by ten years.
E-commerce driven by consumers using their mobile devices had already been growing for some years before the pandemic. Still, it positively surged during the pandemic, with 65 percent of all e-commerce traffic being generated by mobile devices and only 35 percent by desktop computers.
Yet, traffic analysis suggests that many online retailers do not make an effort to enhance the user experience for their visitors on mobile devices. While more and more of them visit retail sites, there is a significant gap between the numbers of visitors who just browse and those who make purchases.
The same goes for people with disabilities. While most people can find what they need and do their shopping online, some people with disabilities can struggle with even navigating a website. People with disabilities make up a huge number of potential customers (135 million in Europe and 61 million in the US) and are excluded from shopping online in many ways.
Another potential target group that is disadvantaged in accessing e-commerce sites is people aged 70 and over. Many are still not used to navigating the internet, and their online experience is not the universally expected one.
E-commerce companies should make their digital content accessible for everyone using technologies, tools, devices, and service providers that can make accessibility fast and cost-effective.
Creating such "enhanced content" is about adding product information that has been expanded and enriched beyond the basic data. Such content seeks to resolve all the queries and info needs of users and provides thorough and easily accessible information about the product.
Among the solutions enhancing accessibility online, the speaker listed product cards and mobile-optimized product content. He referenced the GS1 standards as they create a common foundation for businesses by uniquely identifying, accurately capturing, and automatically sharing vital information about products, locations, assets, and more. Businesses can also combine different GS1 standards to streamline business processes such as traceability.
Another range of tools includes voice technology, including voice-ready content and voice-generated enhanced content.
The use of "Hero Images" is yet another way to enhance content. A Hero Image is a representation of a real-world product on any listing or product page of an e-retailer's platform. In other words, it is the main image used to illustrate a product on an e-commerce site. It is the first opportunity for a brand to showcase its products and grab the attention of online shoppers. HI is already present among e-retail services such as Amazon, Tesco, Target, Walmart, and Alibaba.

REAL ESTATE

In April, the committee met online to discuss the requirements the pandemic has brought companies in terms of new organizational structures and how organizations can function to become more efficient in the new reality. The speakers were Grzegorz Grela, EMEA Senior Facility Manager, Rockwell Automation; Mikołaj Sznajder, Director and Head of Advisory & Transaction Services, CBRE; Jarosław Pilch, Head of Tenant Representation, Savills; and Bartłomiej Bochenek, Investment Associate, Griffin Real Estate.
The speakers discussed how the experience of remote work changed company demand for office space during the pandemic and whether this will continue once the situation is "back to normal." They also discussed new concepts such as moving corporations to the internet cloud and what the new perspectives mean for office space operators and management, taking into account the pros and cons of long exclusive lease contracts compared to newer, more flexible approaches.
Jared Bator, committee co-chair (Echo Investment) and moderator of the meeting, said that the total stock of office space available in the market reached nearly 12 million square meters in 2020. However, most offices remained empty, with staffers working from home. The pandemic made offices less indispensable for office workers, and this trend will continue beyond 2020, thereby making the supply extend the demand.
Grzegorz Grela presented the perspective of a manufacturing company that has an unchanging need for office space.

Agenda

He said that the trends seen in 2020-21 were nothing new. Rather, they were an acceleration of market trends that had been visible before the pandemic. The efficiency of organizational structures is key for companies. If the work-from-home model suits them well, it will stay. Polling of workers at Rockwell Automation revealed that some 50 percent did not have a preference regarding working from home or in the office. For 40 percent of the workers, however, working from home seemed more productive.

Mikołaj Sznajder said that the drop in demand for office space was not a surprise for real estate companies, as trends to make organizations more flexible with the use of home office solutions were budding before 2020. Still, offices play important functions in team building that cannot be replaced by home-office solutions. Companies are eager to apply new solutions involving home office and hybrid work models.

Bartłomiej Bochenek noted that the ease with which companies adapt home-office solutions depends on their embedded cultures. While small technology companies can do without real office space, larger and more traditional organizations need to combine office space with other flexible work models that are adjusted to their individual needs and development strategies.

Jarosław Pilch noted that there is a lot of uncertainty in the market, as tenants are finding it difficult to estimate their office space needs from a short-term perspective. The concept of "flex" office space is gaining a strong foothold, and all major landlord companies have begun to offer flex office solutions.

SUSTAINABILITY

In March, the committee held an online meeting devoted to sharing best practices in achieving and maintaining carbon neutrality. The speakers were Tomasz Gasiński, Director at Deloitte, Risk Advisory; Mariusz Mielczarek, Head of Public Policy & Government Affairs CEE, Amazon; Małgorzata Skonieczna, Public Policy/Government Affairs & Communications Director, Central Europe at PepsiCo Consulting; and Marek Zaleski, Government Affairs Specialist and Philanthropies Lead at Microsoft.

The meeting was moderated by committee Co-Chair Mariusz Wawer (Head of Governmental Relations at 3M Poland & East Europe Region), who said that climate change issues have become not just a scientific question but a business issue as well. Businesses must respond to regulatory and social pressures from the perspective of their business strategy and business models across the entire value chain. It is essential to develop a risk-based management approach in the long run to address the impact of climate change and uncertainty lingering on its effects. The climate-related risks that companies create should be mapped out, including the company's effects on the climate as well as the effects on the company.

The first speaker, Tomasz Gasiński, gave a presentation outlining the EU Green Deal's regulatory context and possible approaches to mitigating climate risks. Concluding his presentation, Galiński said that identifying climate-related risks and opportunities is not only a matter of business intelligence but a key to enhancing the transition to a low-carbon economy and adopting business models that will fit into the future economic context. Business organizations need to understand the risks and social and business context of the change to seize the opportunities offered by a transition to low-carbon.

PepsiCo Consulting's Małgorzata Skonieczna outlined the company's philosophy regarding climate neutrality. She said that Poland is the company's production hub for 16 export markets in Europe and is in sync with the company's global commitment to climate leadership, which calls for achieving net-zero emissions by 2040 and 100 percent renewable energy use in company-owned sites across Europe by 2022. The company has made significant steps forward in a number of areas in Poland specifically. It has changed the production of Lipton Iced Tea and Pepsi and Miranda bottles to 100 percent recyclable polyethylene. All farms cooperating with PepsiCo have been certified by the Sustainable Farming Indicative, and 100 percent of the electricity that the company uses for manufacturing and its headquarters has come from renewable sources in four plants since 2018. When it comes to the company's supply chains, it has shortened delivery distance by approximately 3 million kilometers, cutting the carbon dioxide emissions of its delivery trucks by 20 percent. The company has also replaced 2,500 refrigerated cabinets at the point of sale, achieving a significant reduction in power consumption. In addition, PepsiCo has reduced the energy consumption of its production plants by 42 percent and water consumption by 25 percent over the last ten years.

Another speaker, Mariusz Wawer, outlined 3M's new environmental goals, which include reaching carbon neutrality by 2050 and reducing carbon emissions by 50 percent by 2030. 3M plans to source 50 percent of its electricity needs from green energy sources and to reduce its water usage by 2.5 billion gallons by 2030. The company is also replacing its car fleet with hybrid engines and investing in e-mobility solutions and sustainable transportation for its employees. Over the next 20 years, 3M expects to invest approximately USD 1 billion to accelerate new climate goals globally.

Amazon's Mariusz Mielczarek said that the company's goal is to have 100 percent renewable energy use by 2025 and net-zero emissions by 2040. The company's ambition is to be a pioneer in driving change in the corporate world and co-founded the Climate Pledge Fund, a body advising its members on science-based policies to reach the climate goals defined by the Paris Agreement. So far, 53 companies have joined, including Coca-Cola, IBM, Microsoft, Siemens, Uber, and many more.

The last speaker, Microsoft's Marek Zaleski, highlighted the strategic policy areas in which Microsoft plans to make the largest advancement in the years to come. This includes taking responsibility for the company's carbon footprint, including across its supply chain. The company plans to invest in high-efficiency carbon reduction and removal solutions and support and empower its suppliers and customers around the world. Microsoft will also work to advance transparency for reporting on emission/removals.

TRAVEL AND TOURISM

In March, the committee held an online meeting with Paweł Niewiadomski, President of the Polish Chamber of Tourism (PCT), who met with AmCham members to discuss the pandemic's effects on travel and tourism.

The meeting's moderator was Frank Wagner, Committee Co-Chair (Lufthansa Group), who said that the tourism industry was hit by travel restrictions imposed by governments worldwide, including Poland.

The travel industry in Poland generates nearly 10 percent of the country's GDP, so it is vital for the government to find solutions for the industry's continued functioning, despite the pandemic

threats that will continue to exist.
The guest said that since the pandemic outbreak in Poland, PCT members have sought guidance from the organization on new rules and regulations that would allow them to remain business during the pandemic. Since the travel industry in Poland is a huge sector involving many sub-sectors such as tour operators, travel agents, hotels, transportation companies, the PCT had to look for solutions that would fit all of the sub-sectors, not just one selected area. It seems that the concept of a Covid-19 passport or certificate is the best answer to the problems of the tourism industry mentioned earlier. Such a certificate (issued in an electronic form) would include information on the vaccination status of its holder and additional Covid-19 related tests that are required to enter a given area. The PCT has advocated for additional testing available for unvaccinated people at entry points so they are not excluded from traveling altogether.
The speaker said that the PCT, along with 16 other trade organizations in the EU, has prepared a plan for restarting business travel, including a call for a coordinated approach to travel restrictions across the EU.
When it comes to travel between Poland and the US, the speaker said that the US government expected that a huge portion of the US population would be vaccinated against Covid-19 by May. In Poland, the level of vaccination may be similar, which bodes well for the prospect of lifting travel restrictions between the two countries by the end of summer 2021.
In discussing market trends in Poland, Niewiadomski said that Poland was doing very well in the charter flight sector, a can be seen by comparing the outgoing market in Poland (tourists traveling out of the country) to some of the EU markets. This is a good sign for the outgoing sector, which, the speaker said, will revive in the summertime.
In turn, the speaker noted that the drop in incoming tourism to Poland amounted to a "complete disaster." Some of this could be attributed to the government's heavy restrictions on foreign travelers entering the country regarding Covid-19 testing. The PCT has worked with government experts on Covid-19 to advocate lifting those impractical restrictions. These restrictions have mostly affected group travel to Poland and the bulk of total incoming tourism to Poland.
Leisure hotels in Poland are expected to be fully booked for travel, though, as they mainly cater to individual tourists. Niewiadomski said that the youth travel sector (boot camps, school trips, and the likes) would suffer this year due to government restrictions on such travel in light of new Covid-19 virus variants that spread faster than earlier virus variants and pose more of a risk of infection to young people than the older virus strains had.
The speaker said there are many difficult questions about how travel will look beyond 2021. Poles are very eager to travel despite the situation and are looking into options created by the so-called "travel bubbles," which are countries or areas open for incoming tourism despite the pandemic. The speaker said that many Polish travelers would be interested in these bubbles regardless of their geographic location—in Mexico, Zanzibar, or other exotic destinations. Another trend will be the so-called "ad hoc" destinations—tourists will pick areas that are open to incoming tourists with Covid-19 passports.
Government restrictions will determine the amount of incoming tourism to Poland. The speaker said he hoped that the government would relax some restrictions to enable a massive inflow of foreign tourists, perhaps in summer 2021 and beyond.

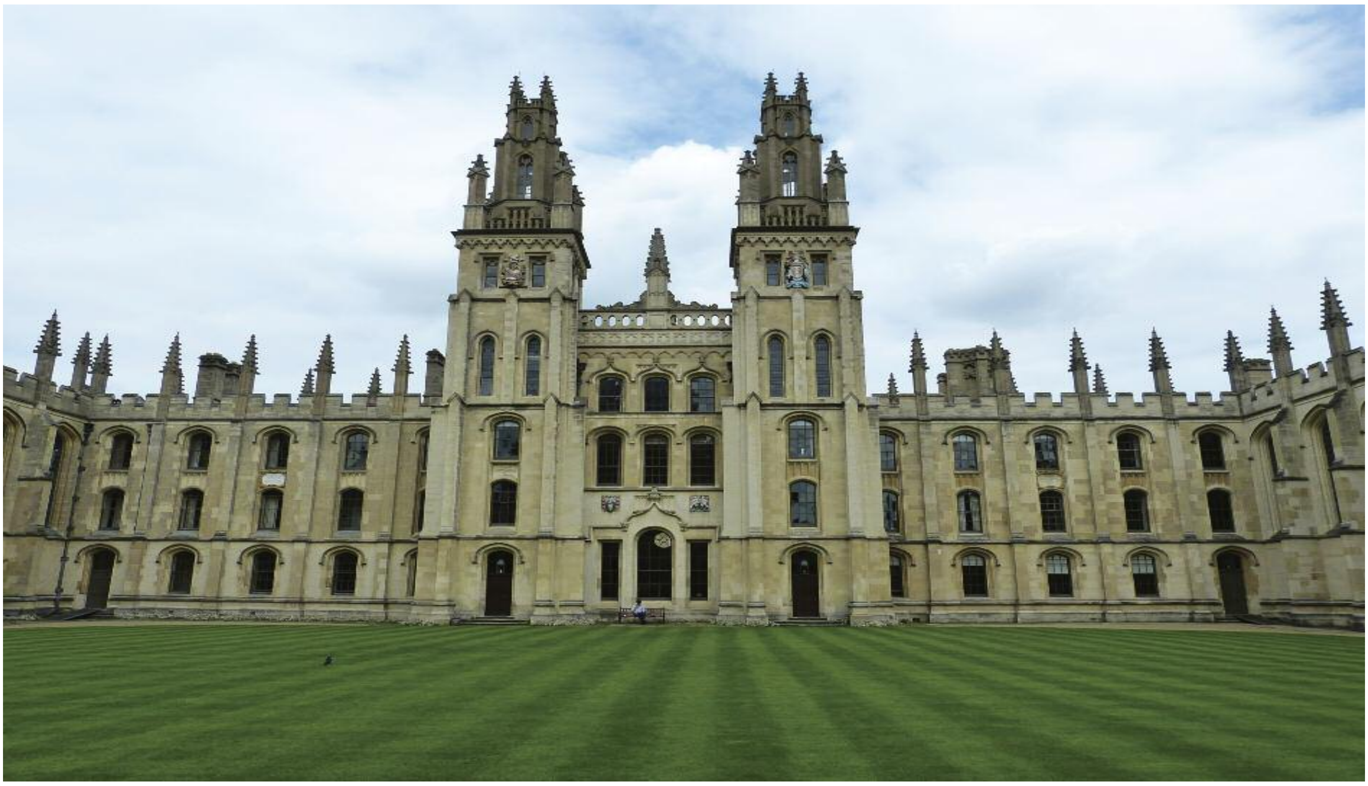
OFF COMMITTEE MEETING

In March, law firm DLA Piper held an online session with AmCham members to discuss the problem of counterfeit products and the infringement of intellectual property rights that arose following the outbreak of the pandemic.
Because of the broad nature of the topic, the meeting was not prepared to support any particular AmCham committee agenda.
The speakers were DLA Piper experts, Ewa Kurowska-Tober, Partner at DLA Piper and Head of the IPR team; Krystian Maciaszek, Counsel and Alicja Wolny, Associate.
In her presentation, Ewa Kurowska-Tober said that the counterfeit industry has been doing well, and the pandemic only afforded it new opportunities. The market for counterfeit products affects every sector and branch of consumer goods and is not exclusive to top-end products. All sorts of goods are counterfeited, including cosmetics, toys, drugs (including antibiotics, cancer treatments, and Viagra). The speaker said that even counterfeit Covid-19 vaccines could appear on the market in a few years.
The problem with fighting counterfeit products is not just about protecting owners' intellectual property rights. It is also about consumer rights protection and consumer safety, including health safety and protection against injuries. Counterfeiting is often linked with a range of other crimes, including money laundering, slave and child labor, and work in hazardous conditions that are unacceptable by EU and US standards. For organized crime groups, counterfeiting is viewed as a low-risk activity that can make money to finance their other criminal activities. This is because there are no efficient legal mechanisms that would impose severe punishment for the crime of counterfeiting alone.
Another problem on the consumer side is that there is a relatively low understanding of the importance of protecting intellectual property. Many consumers simply do not realize that when they buy pirated products, the owners of the property rights are not able to benefit from the sale of the products. A poll conducted among consumers in Europe a few years ago revealed while over 90 percent of the sample agreed that stealing intellectual property rights is wrong, over 10 percent admitted to having bought a counterfeit product.
Ewa Kurowska-Tober also said that purchases of pirated content (movies, audio content) dropped among younger consumers over the last three years. However, the purchases of other goods categories, such as clothing, did not decrease among younger consumers. The polling revealed that young consumers buy legal products in one product category to find an excuse for themselves when they purchase pirated goods in other categories.
The speaker presented data for 2019 compiled by the European Union, which showed that 6.8 percent of products imported to the EU are counterfeit goods and valued at a total of EUR 121 billion. These numbers translated into a 6.4 percent loss in sales of original products, totaling EUR 83 billion. This subsequently amounts to a loss of over 670,000 jobs, and EU governments thus lose an estimated EUR 15 billion annually in unpaid social security taxes.

COVER STORY

LIVING ON THE EDGE

AN EFFICIENT AND PANDEMIC-PROOF NATIONAL HEALTH-CARE SYSTEM CANNOT DO WITHOUT THE PRIVATE SECTOR, INNOVATIVE MEDICAL PRODUCTS AND DRUGS, AND MONEY. AND THE CREATION OF SUCH A SYSTEM IS IN POLAND'S NATIONAL INTEREST.



The collaboration between Astra Zeneca and Oxford University (pictured) led to the delivery of an inexpensive and easy-to-store Covid-19 vaccine just in time.

Ever since the outbreak of the Covid-19 pandemic, the public all over the world waited for a drug or vaccination against the virus. To the relief of millions, it came a few months later when US pharma company Pfizer announced its affiliated company in Germany, Bioton, had developed a promising new vaccine. Soon after that announcement came others from companies about their own promising vaccines—among them Moderna, Astra Zeneca, and Johnson & Johnson.

But in the case of Pfizer and Moderna, we witnessed a breakthrough in the history of modern medicine—the first application of an mRNA vaccine to humans. One year into the pandemic and millions of people have received Pfizer or Moderna vaccinations. Never in the history of pandemics has an innovative solution been applied to humans on such a large scale and in such a short time since the outbreak of the infectious disease.

INNOVATIVE MEDICINE

It all starts with the genetic code. RNA is a part of genetic code, a bit less known than the DNA portion of the code. A part of the RNA may be modified into messenger RNA (mRNA), a genetic material that contains instructions for making proteins by the human body. To put it simply, after mRNA is injected into the human body, its cells churn out mRNA to build, maintain and repair body cells. As a result of the information embedded in mRNA, cells begin to build blocks of amino acids that look exactly like Covid-19 amino acids. With this, a mechanism is established which prevents the virus amino acids from entering human cells. Today, scientists can design mRNA that compels cells to produce identical proteins to those found in specific viruses. The vaccines against SARS-CoV-2 and Covid-19 were developed using mRNA technology.

According to Dr. Jacek Graliński, Chair of the AmCham Pharma Committee (Amgen), ever since scientists managed to decipher the genetic code—which was practically some 20 years ago—medicine has made a series of huge leaps forward. More and more diseases today are understood in terms of genetics, which is why therapies can be devised for them with such a precision that offers nearly 100 percent chances of success. With such a "genetics-based approach," modern medicine is becoming "personalized medicine," with therapies and technologies adjusted to the needs of specific patients suffering specific diseases.

The mRNA technology, Dr. Graliński explained, which uses a virus part that is synthetically altered and becomes a medium for creating the desired response of the human immune system, is a milestone development because it uses laboratory conditions at nearly all stages of vaccine production without the need to use biological material—viruses or bacteria. It is a technology that allows us to develop desired vaccinations quickly—something which took place in the case of Pfizer and Moderna.

COLLABORATION ESSENTIAL

The development of mRNA technology is a significant success of both private and public sectors, which collaborated on it side by side. The public side provided the financing for the mRNA research, while the private companies provided the science, scientists, and laboratory equipment and took the risk of failing to deliver a product that the market demanded.

Doing business in the sector of medical/pharmaceutical innovations is a very risky business. This is because the final "consumer" of medical and pharmaceutical products is the human body. It is a living organism that reacts to drugs in complex and often unpredictable ways. Multilayered processes, some of which are not yet understood by science, are behind reactions to drugs. But scientists explain that biology is not "programmed" in such a way that the same action performed upon a biological organism will always result in a 100-percent predictable reaction; that the same cause will have the same effect in all similar organisms. In fact, the human body is so complex that it would not be a huge overstatement to say that it is a "miracle" that there are drugs

Cover Story

As more types of illnesses are mapped along with the genetic code, innovative medicine allows doctors to design therapies for the specific conditions of patients and the specific state of the illness. With this, modern healthcare systems can be reimbursed for delivering desired results and not just healthcare services.

that perform the same way on different people.

And this is why the outcome of developing innovative therapies and drugs is so unpredictable. You can spend months or even years pursuing one way of developing a product to reach a roadblock at a certain point of the process that eventually kills the entire program. What you are left with is science—data and scientific experience, and your scientific team—but it is not enough to sell in the market as a product. So the money that has gone into that program is irretrievably gone.

This is why there is room for the start-up concept—a special organizational structure for developing innovative, experimental drugs and therapies. Such a structure is most typically set up to minimize the risk of failure in business terms. They deal with advanced lab and IT technology, which is costly. They employ scientists and researchers who are not low-wage earners. Even with super-efficient organizational structures and logistics, which are tailor-made for the project, maintaining an R&D program as long as it takes to deliver on its goal (or close to it) may take huge amounts of money. But startups are made to serve just that purpose.

Experience teaches us that failure in the process of developing innovative drugs is something that may happen, explained Dr. Graliński. Statistically speaking, the chance that a development program will be successful is within reason yet the chance of failure is an immanent part of the development process. In other words, developing innovative drugs and therapies is not a very intriguing proposition when looking at it from a business perspective.

Yet, there are private companies that take the risk. In developing the Covid-19 vaccination, Pfizer cooperated with a little-known German company called BioNtech. Moderna, a company that has been focused on developing mRNA technologies since 2010, teamed up with the National Institute of Health to develop Moderna's mRNA1273 vaccination. In both cases—Pfizer and Moderna—public funds were used to finance Covid-19 vaccination development programs.

For Dr. Graliński, the cooperation between the public and private sectors in developing innovative drugs and therapies is essential as it offers new opportunities and benefits to all sides concerned. In addition to Pfizer and Moderna, there are more examples of such cooperation bringing the desired results during the Covid-19 pandemic (for example, the collaboration between AstraZeneca and Oxford University).

This is why major scientific centers, such as Oxford University and Boston University (a private university), are filled with technology startups where advanced, experimental, and innovative science is tried out with commercial potential in mind. Public funds often finance these programs.

Conducting advanced science development programs aimed at commercial ends can hardly be achieved by the public sector alone. Even though the public sector may have the science, it lacks the business acumen, manufacturing know-how, and technological advancement characteristic of the private sector. This is why no country's government in the world would take upon itself the commercial risks of developing, commercializing, manufacturing, and launching an innovative drug to the market. The whole process is the domain of the private sector.

GOVERNMENT PLAN

In spring 2021, the government presented a new scheme for Poland's economic revival in the post-Covid era. The plan, dubbed the National Reconstruction Plan (NPO), uses EU funds assigned to Poland in the European Union's 2021-27 multiannual financial framework.

One of the plan's components aims to create the right conditions in the country to produce all drugs necessary for a modern national healthcare system. Their production in Poland, the government argues, would ensure the medical safety of the Polish population.

The plan aims to produce both chemical drugs and bio-drugs that are no longer under patent protection. Such drugs—both chemical and biological—that can be manufactured as "generic" drugs are collectively known as Active Pharmaceutical Ingredients or APIs.

The idea that governments should safeguard the production of components used for the manufacturing of APIs originated with the European Commission a few years back, explained Dr. Graliński, following major disruptions with the supply chain from India and China, where the base was produced. The base was purchased by generic drug producers in Europe and manufactured under different brand names. With the right incentives for investors, companies will be ready to produce such bases for many generic drugs in Poland. However, this is an offer for API producers and not the producers of innovative drugs and therapies. The beneficiaries will be the domestic drug producers, some of them big companies that have developed significantly over the years by manufacturing popular drugs. When other brands of generic drugs enhance their production capacity, it may indeed lead to improving the competitiveness of the Polish economy vis-a-vis such markets where the bases are not produced but where the drugs are sold. And at the same time, they will ensure the safety of supply for some popular drugs in the domestic market.

But increasing the range of generic drugs available in Poland is not going to solve the problems of patients with different rare diseases such as hepatitis C, leukemia, solid tumors, autoaggressive diseases of the immune system, and a number of nervous system diseases. The numbers of patients with such diseases are on the rise year on year in Poland, and they all require innovative therapies and drugs.

This is why Dr. Graliński said he would have been happier if the government Economic Recovery Plan had included a component offering investor incentives to innovative companies in the medical sector. "This is why the AmCham Pharma Committee and the Coalition of Trade Chambers for Healthcare are lobbying the government; so it can create aid mechanisms not only for companies that may invest in the production of generic drugs but also for those who are ready to develop new innovative pharmaceutical solutions."

POLICYMAKERS AND STAKEHOLDERS

In the second edition of the white paper entitled "Healthy Legislation" prepared by experts from the employers association Pracodawcy RP in 2021 for AmCham Poland, healthcare sector representatives—prof. Dr hab. med. Andrzej Matyja from the Supreme Medical Council; Mariola Łodzińska, vice-Chair of the Supreme Chamber of Nurses and Midwives; and Irena Rej, Chair of the Polish Pharmacy Chamber—shared their views on the quality of the legislative process regarding healthcare and acts affecting prescription drugs, which the parliament passed during the pandemic. Among other critical opinions, Prof. Matyja said that the government's Covid-19 task team, put together to prepare "anti-pandemic legislation," did not include any representative of the medical establishment who would represent medical professionals. The professor also noted that the opinions of the medical sector submitted to the legislators during the consultation process were seldom reflected in the final acts the legislators passed to the parliament. Prof. Matyja also complained that in drafting major bills affecting the healthcare system in Poland, the deadlines set by the legislators for summating comments from the medical side were so short that it was practically impossible for doctors' organizations to discuss their positions and offer comprehensive advice to the legislators.

For Dr. Graliński, some government actions can be explained by the overall emergency that the pandemic created, necessitating the government to act. However, he noted that the legislative process is aimed at "establishing an order of things" that affects citizens. This is why the provisions that new laws bring about have to be calibrated to the problem they address, and the process of "calibration" must include, by law, consulting the proposed new laws with the stakeholders. In the case of laws governing national healthcare, the group of stakeholders includes medical professionals as well as companies that produce drugs, medical equipment, run hospitals and clinics, and provide other healthcare services. This is what is meant by the "social dialogue" during the legislative process.

Dr. Graliński noted that among the 17 bills affecting healthcare in Poland that were passed between June 2019 and May 2020, only eight underwent the proper process of public consultations. In addition, out of 190 drafts of regulations only 134 were consulted with stakeholders. The average time for responding to the government-proposed bills was approximately 24 days while in the case of the proposed regulations it was nearly 19 days.

This is why, Dr. Graliński explained, the AmCham Pharma Committee is lobbying for using public consultations more extensively and allowing stakeholders more time to offer their opinions on the proposed new laws.

The inclusion of the stakeholders in the legislative process is a must, said Dr. Graliński, because healthcare is a complex multidisciplinary area that must be explored by expert knowledge. Simple-minded solutions developed in other areas of the economy may not necessarily apply. Such was the case in 2020 when, facing a lack of general practitioners during the pandemic, the government proposed to open the market to doctors from Ukraine. The logic was simple and practical—nearly 1 million migrant workers from Ukraine had been successfully working in the construction, manufacturing, and services sectors before the pandemic. The proposition was met with fierce criticism from the medical establishment and was dropped by the government. In order to attract medical personnel to work for the public sector during the pandemic, the government resorted to another simple solution—offer higher wages. This, in turn, led to disruptions on the medical

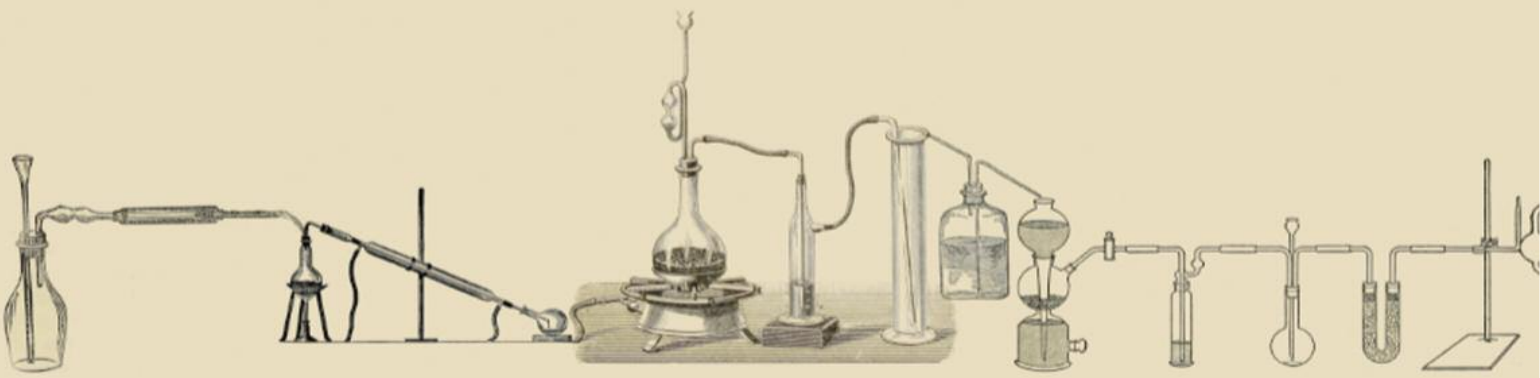
Increasing the range of generic drugs available in Poland is not going to solve the problems of patients with different rare diseases such as autoaggressive diseases of the immune system, and also those with such diseases as hepatitis C, leukemia, solid tumors, and a number of nervous system diseases.

Cover Story:

The development of mRNA technology is a major success of both private and public sectors, which collaborated on it side by side — the public side provided the financing for the mRNA research, while the private companies provided the science, scientists, and laboratory equipment and took the risk of failing to deliver a product that the market demanded.

labor market, which is something that the government should protect, not disturb.

Attracted by high wages now offered by the public sectors, many specialist doctors in the private sector moved to the public sector to work as general practitioners. According to Krzysztof Hurkacz, General Manager of DaVita in Poland, part of DaVita Inc, a network of kidney care clinics in 10 countries, the government is trying to fill in a gap in the workforce that has become evident during the pandemic. Because of the lack of adequate personnel in the public sector, it decided to recruit highly trained doctors employed in the private sector. Private clinics cannot increase the salaries of their personnel now because the money for their salaries was contracted pre-pandemic. This will lead to further problems for patients in Poland, as the private sector delivers essential medical services in a range of areas such as oncology, cardiac surgery, radiology, nephrology, among others.



Conducting advanced science development programs aimed at commercial ends can hardly be achieved by the public sector alone. Even though the public sector may have the science, it lacks the business acumen, manufacturing know-how, and technological advancement characteristic of the private sector.

Among the 17 bills affecting healthcare in Poland that were passed between June 2019 and May 2020, only eight underwent the proper process of public consultations. The stakeholders were given approximately 24 days on average to offer their comments on the proposed bills.

TALKING, NOT WALKING

Telemedicine is a technology that offers instant improvement of the efficiency of healthcare systems. During the pandemic, however, public opinion mistakenly confused telemedicine with its relatively narrow area—teleconsulting. A few popular politicians and public figures simply confused the two terms, calling for "stopping using telemedicine and letting patients see their doctors in the office."

In many cases, the quality of advice provided by doctors on the phone with their patients was not what it should have been, but this was caused by the rapid application of teleconsultation in Poland, which healthcare professionals often had to use without proper training.

According to Krzysztof Hurkacz, teleconsulting is a good tool for letting patients reach their doctors relatively quickly. Not every patient requires immediate medical assistance, and the doctor can verify whether or not the patient on the phone needs to come to the doctor's office for a checkup. The doctor is aided by software that helps verify patients' answers and match them to a set of common diseases. Some companies provide software that allows for the questioning of the patients regarding a number of diseases, and new software allowing for even more precise ferreting out of such a set of answers which may indicate some alarming health conditions of the patient.

Teleconsulting is especially handy to patients who are calling to renew their drug prescriptions. After teleconsultation tools were introduced to specialist doctors, the waiting lines shrank because many of the patients who had registered for a doctor's appointment did so only in order to renew their prescriptions. With teleconsulting tools, fewer doctors can effectively deliver advice to many patients and in a shorter timespan than if they had to meet all the patients face-to-face in the office.

INNOVATIVE TECHNOLOGY SOLUTIONS

According to Dr. Graliński, telemedicine is all technology that helps provide medical services remotely. Telemedicine can be a robotic device operated by a surgeon in Boston, M.A. performing surgery on a patient in a field hospital in Asia. It can also be a body scanning system that allows doctors to diagnose diseases by looking at 2D or 3D images and offering diagnosis back to where the patient is being treated. Telemedicine comprises all types of high-tech devices that allow doctors to monitor the health data of patients who are at home, miles away from the clinic.

Today, telemedicine is widely used with patients who have diabetes. This is a chronic illness requiring continuing medical care to prevent acute complications and reduce the risk of long-term complications. With patients hooked up to the monitoring system, their conditions can be monitored in real-time 24/7 by health professionals. If a patient is at risk, they can initiate the proper emergency procedures. There are also solutions designed for children with diabetes: their monitoring system is hooked up to their mobile phone, and data is sent to their parents' phones.

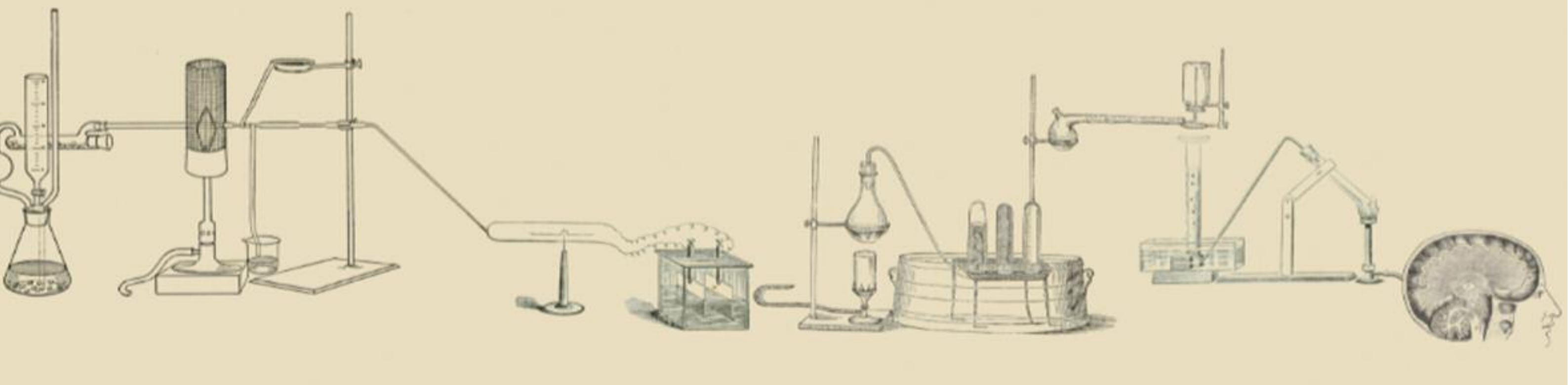
In the case of cardiovascular diseases, telemedicine allows for the monitoring of blood pressure and heart rate and can deliver an electrocardiogram to the health center where doctors will exam it. Patients with defibrillators can have their health data monitored remotely, and doctors can adjust defibrillator parameters even if the patient is sleeping.

With the development of innovative technology, telemedicine will continue to embrace new areas of healthcare, such as neurology, including brain aiding, said Dorota Olszewska, Vice-Chair of the Medical Devices Working Group at AmCham Poland (Medtronic Poland).

Olszewska noted that telemedicine has proven strategically important during the pandemic as it makes it unnecessary for patients to visit the clinic for checkups. Data shows that patients' health conditions in telemedicine programs did not suffer during the pandemic. This is why it is clear, Olszewska said, that telemedicine solutions should be implemented on a large scale today.

The government could also solve other problems that the national healthcare system is facing through telemedicine. With a deficit of qualified medical personnel, telemedicine solutions can subsidize the lack of workforce, especially since, according to all estimates, the number of patients in telemedicine-covered types of illnesses will rise in the years to come while the number of medical school graduates will slump.

Olszewska believes that telemedicine should be the staple of the transformation of the national healthcare system in Poland, and the conditions for the devel-



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The modern model of delivering healthcare services is patient-centric. Still, the debate about how to improve the national healthcare system focuses on the needs of doctors, nurses, hospitals, and clinics, while the needs of patients are nowhere near the top of the agenda.

opment of innovative telemedicine technology in Poland should have been a major policy in the National Reconstruction Plan.

The problem is that it is not. Olszewska noted that it, again, reflects the fact that policymakers perhaps could have paid more attention to the fact that innovative medical technologies can solve many pressing problems in the national healthcare system. In addition, she noted, there is no effective regulatory framework for medical devices as to what procedures they need to undergo to be allowed into the market and under what conditions the National Healthcare Fund can finance the purchase of such devices by hospitals.

OLDER AND WISER

After more than 12 months into the Covid-19 epidemic in Poland, both the public sector as well as the private have generated some know-how and observations regarding the emergency challenges that the national healthcare sector had to face. While the National Reconstruction Plan reflects the lessons learned by the government, the private sector has more nuanced conclusions. First off, the pandemic showed that private health companies could react quickly to the emergency by adequately scaling their services. Numerous companies and organizations used the services of private companies to perform Covid-19 safety checkups for their workers. The network of kidney dialysis stations, DaVita, realigned some clinics to be able to service Covid patients. Some clinics worked 18 hours in a row, necessary because patients with kidney diseases are especially prone to infections that end up in fatalities. Meanwhile, public hospitals dedicated to treating Covid patients did not have the capacity to treat patients who suffered from something other than Covid. Patients with other severe health problems who required specific medical treatment could not obtain treatment, which led to fatalities in many cases.

Dr. Graliński admitted that the fatality rate during the pandemic in Poland was surprisingly high. Approximately 400,000 people die annually in Poland. In March 2020—March 2021, the number reached nearly 500,000. It will take time for experts to verify data and analyze why this was so.

According to Dr. Graliński, part of the problem was ineffective crisis management on the part of the government. The public was receiving conflicting information. For instance, on the one hand, general practitioners in the public sector were closed, and patients were encouraged to schedule teleconsultations during which many errors were made, errors that could have been avoided had the patients been physically present in the doctor's office. On the other hand, senior citizens were told to stay at home, which led to a dramatic increase in health emergencies that could have been avoided had the patients gone to the hospital. Many other patients developed serious health conditions with low prospects for recovery, which could have been mitigated had they made the appropriate call to the hospital earlier.

The lesson from this is, according to Dr.

Telemedicine should be the staple of the transformation of the national healthcare system in Poland, and the conditions for the development of innovative telemedicine technology in Poland should have been a major policy in the National Reconstruction Plan.

Graliński, that in time of the pandemic, people's emotions should be addressed with care. Proper management of information for the public is critical in creating effective contingency plans. In turn, going from one extreme to another only confuses the public and makes it difficult for the healthcare system to cope with the emergency.

For Dr. Graliński, it is clear that the healthcare system should be organized to deliver its services to all who need them during a pandemic. The provision of continuous healthcare simply saves people's lives. Another important lesson, Dr. Graliński said, is that the emergency authorities should consider the social and economic needs of the population. People who are ordered to stay at home for too long can suffer from depression. Business owners and their teams who are deprived of the opportunities to continue to run their businesses can also suffer.

There are many unanswered questions about how to deal with the pandemic effectively, but what seems to be certain is that solutions should be science-based, including not only epidemiology but also economy, sociology, and psychology. Sometimes the so-called "lesser-evil" solution is a better solution than none.

BETTER LATE THAN NEVER

The dramatic and often traumatic experiences that the pandemic has brought upon society have made many people painfully aware of the importance of a properly functioning national healthcare system.

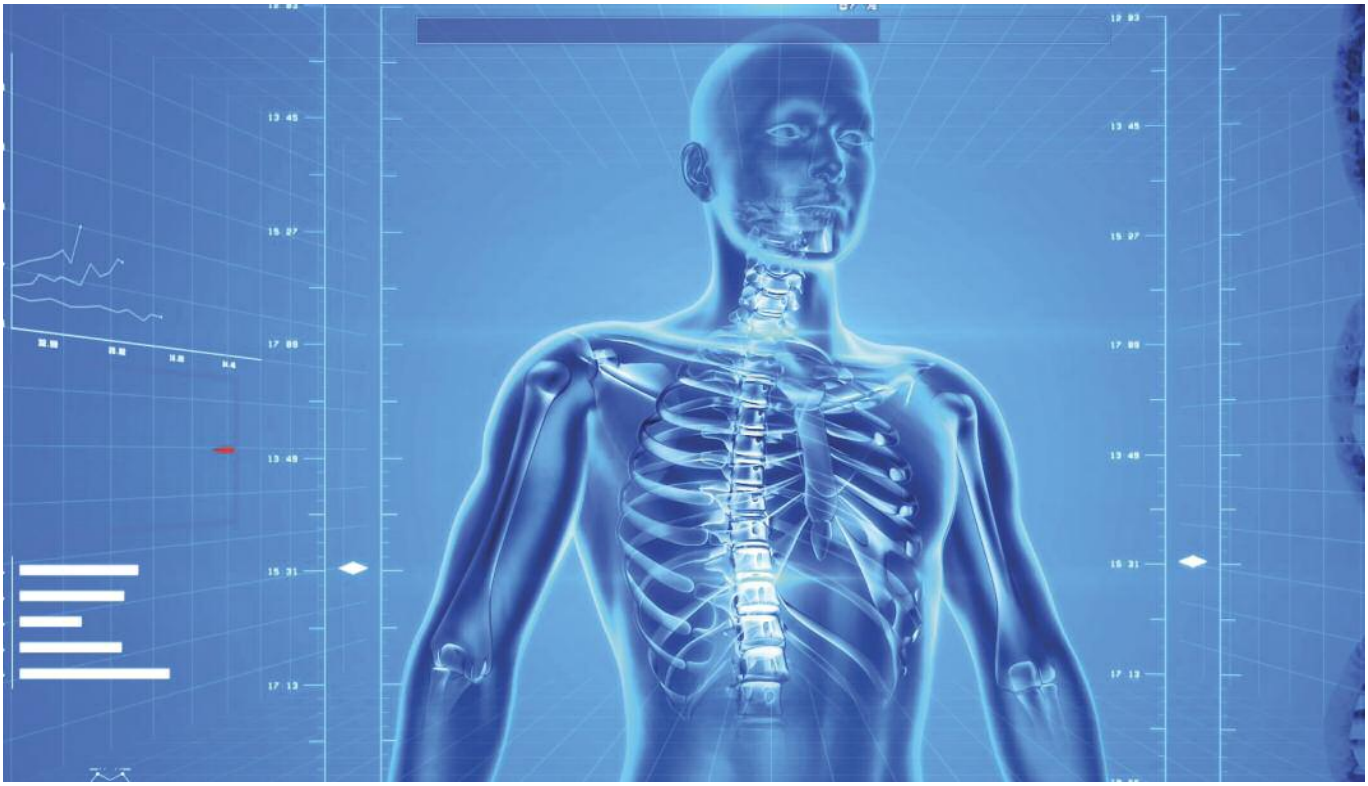
While years of negligence and indecision in bringing about structural reforms to the system have taken their toll, we can be wiser today. According to Dr. Graliński, there are a few key areas where the system needs improving. Systemic solutions must be introduced for diagnosing patients earlier because the earlier the therapy is introduced, the shorter their hospital stay is. This brings about cost cuts in the healthcare system while offering more chances for patients to return to full health, and if that is not possible, it will increase their chances to suffer less.

Another important issue, according to Dr. Graliński, is that innovative technologies in healthcare should be in dedicated centers, so the medical data and knowledge that is produced there is consolidated instead of being dispersed and inaccessible. Generating expert knowledge on certain health conditions and how they can be treated with innovative technology is essential for developing new innovative therapies and drugs.

Dr. Graliński also pointed to the importance of creating medical databases of RWE (real-world evidence), which give a picture of health conditions across different demographics and illness categories. Such data is essential in planning future healthcare potential and services that will be needed. While Poland has done some work on creating such registers, more needs to be done, given the pandemic and its effects on the population's health.

Another problem area that Dr. Graliński is concerned about is the financing of innovative medicine in Poland. The country continues to spend some 5 percent of its annual GDP on healthcare, nearly half the percentage spent by developed countries in the EU. If the expenditure in Poland is increased to 6 percent GDP, Dr. Graliński noted, it would increase the pool of money earmarked for the provisions of drugs and medical technology by one-third.

Thorough national healthcare reform should not occur without placing the patient at the center, Dr. Graliński noted. With this, the system should be accountable for its effectiveness and should be reimbursed for delivering the desired results and not just services. This is the modern



Doing business in the sector of medical/pharmaceutical innovations is a very risky business. This is because the final "consumer" of medical and pharmaceutical products is the human body. It is a living organism that reacts to drugs in complex and often unpredictable ways. In fact, the human body is so complex that it would not be a huge overstatement to say that it is a "miracle" that there are drugs that perform the same way on different people.

Cover Story:

Poland is in a historic moment due to the pandemic. The ways in which public authorities and stakeholders shape the national healthcare system will be either acclaimed or condemned by future generations.

requirement of healthcare because today, innovative medicine and therapies allow doctors to design treatments for the specific conditions of the patient and the specific state of the illness. Such an approach will only increase in the future when more types of illnesses will be mapped along with the genetic code. This is where modern medicine is going.

Dorota Olszewska agreed that the modern model of delivering healthcare services is patient-centric. This could be achieved by applying modern innovative technologies, but a major overhaul of the mentality of healthcare professionals, policymakers, and political leaders is needed to accomplish that ideal in Poland. Still, the debate about how to improve the national healthcare system is far away from focusing on the patient-centric healthcare, in which healthcare systems can establish a partnership among practitioners, patients, and their families to align decisions with patients' wants, needs, and preferences. Hardly anyone talks about Value-based Health Care (VBHC), a framework for restructuring health care systems with the overarching goal of value for patients, with value defined as health outcomes per unit of costs. With patient value as the overarching goal, VBHC emphasis systematic measurement of outcomes and costs, restructuring provider organizations, and transitioning toward bundled payments.

According to Dorota Olszewska, Poland is in a historic moment due to the pandemic. The ways in which public authorities and stakeholders shape the national healthcare system will be either acclaimed or condemned by future generations.

For Dr. Graliński, the key aspect in applying effective solutions is to abandon the illusion that there are simple solutions to complex problems. There are no simple solutions for the public healthcare system because those that do exist require knowledge, science, data, innovative technologies and drugs, analytical powers, and money. If we pretend otherwise, it will lead our society to the edge of calamity.

• *Tom Ćwiok*

The healthcare system should be organized to deliver its services to all who need them during a pandemic. The provision of continuous healthcare simply saves people's lives.

The AmCham Pharma Committee...

... and its connection to the Coalition of Trade Chambers for Healthcare.


The Chair of the AmCham Pharma Committee, **Dr. Jacek Graliński**, and Deputy Chair, **Andrzej Dziukała**.

Established over a year ago, the AmCham Pharma Committee is a relatively new addition to the AmCham committee roster. At present, 17 member companies contribute to the committee. They are all large corporations with global reach, which develop not only innovative drugs and therapies but also manufacture generic drugs across a wide range of other medical products.

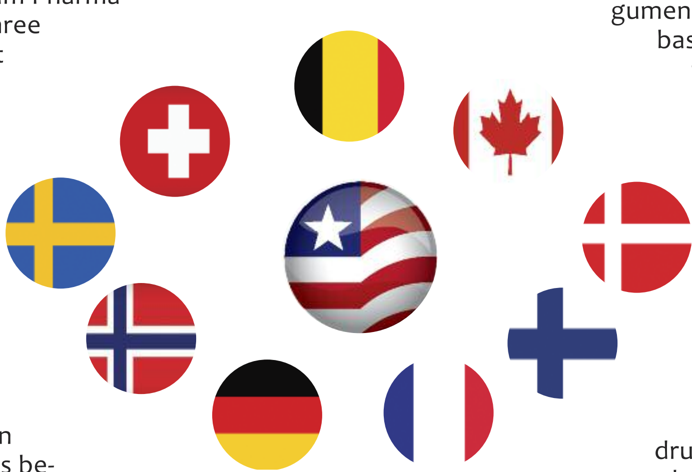
The head of the committee is Dr. Jacek Graliński from Amgen; his deputy is Andrzej Dziukała from Janssen Cilag.

The mission of the AmCham Pharma Committee is to pursue three goals: 1) the improvement of the legislative process in Poland; 2) the improvement of the financial situation of the Polish healthcare system; 3) the improvement of the systemic status of patients with rare diseases.

While points 1 and 2 are self-explanatory, the committee also focuses on patients with rare diseases because all the weaknesses of the healthcare systems come to show when dealing with such patients: the lack of access to modern diagnostics as well as innovative therapies and drugs.

The committee pursues its statutory goals by sharing expertise and knowledge on innovative medicine with the members of government, Poland's national Parliament, government aides and experts, and other decision-makers in the Polish political and economic systems. In its first year of existence, the committee was pivotal in producing two editions of a white paper entitled "Healthy Legislation," authored by experts from the Polish employers' organization Pracodawcy RP. In the second edition, the paper analyzed the healthcare sector's weak points and included opinions from healthcare sector representatives, such as prof. Dr hab. med. Andrzej Matyja from the Supreme Medical Council; Mariola Łodzińska, vice-Chair of the Supreme Chamber of Nurses and Midwives; and Irena Rej, Chair of the Polish Pharmacy Chamber.

Another initiative undertaken by the AmCham Pharma Committee was the creation of an advisory body called the Coalition of the Trade Chambers for Healthcare, formed in summer 2020 by AmCham along with six foreign chambers of commerce active in Poland from Belgium, Canada, France, Germany, Scandinavia, and Switzerland. AmCham performs the leading role in the committee, following the election of Dr. Graliński to lead the coalition.



The coalition's goal is to build an argument for boosting the expenditures into the Polish national healthcare system and debate it with representatives of the government policymakers and legislators. The argument employs scientific, data-based evidence. For instance, the financial value of the national healthcare system presently stands at nearly 6 percent of the value of Poland's national gross domestic product, while it reached 10 percent in other developed countries in the EU. Another area of the coalition's focus is the statutory limit that the National Health Fund (NFZ) can spend on drugs. At present, the NFZ can spend up to 17 percent of its entire budget on drugs, which the coalition argues is not enough. Increasing the NFZ budget limit to 18 percent of the entire budget will translate into an additional PLN 1 billion per annum to spend on innovative drugs and therapies, with a track record of delivering efficiency to the healthcare system and bringing positive results to patients.

MONTHLY MEETING

MARCH

GAINING NEW GROUND

WHILE POLAND'S PROSPECTS TO EMBARK ON THE PATH OF ECONOMIC RECOVERY POST-PANDEMIC HAVE STRONG MACROECONOMIC FOUNDATIONS, THERE ARE ISSUES TO ADDRESS TO MAKE FUTURE ECONOMIC GROWTH SUSTAINABLE.

As the pandemic continued, AmCham members met online for the March Monthly Meeting to discuss the prospects of the economy returning to normal later this year. The panelists were Bartosz Ciołkowski, Country Manager Poland for the Czech and Slovak markets at Mastercard Europe Sprl—the Branch Office in Poland; Adam Czerniak, Director for Research and Chief Economist at [ITALIC] Polityka Insight; Eliza Przeździecka, Head of Economic Research at AmCham Poland; and Sławomir S. Sikora, President and CEO of Citi Handlowy.

AmCham Chairman Tony Housh, Director for Poland and Central Europe and the Baltic Region at Northrop Grumman, moderated the discussion.

ECONOMIC INDICATORS

In order to assess the recovery potential of the Polish economy, the panelists first focused on the 2020 economic performance of the country, explaining why the country performed better than other similarly-sized economies in the region.

According to Adam Czerniak, the first big surprise was that the contraction of the country's GDP growth in 2020 was much less dramatic than what economists had predicted at the beginning of the pandemic.

The unemployment rate was also relatively low throughout 2020.

Czerniak noted that 2020 was not for the first time that the Polish economy exceeded expectations during a global recession, citing the 2008 global economic crisis as an example.

There are many reasons for this. The main one, Czerniak said, was that Poland's exports remained at high levels during the pandemic.

The accumulated value of Poland's exports in 2020 was below 2019 levels. However, it was still strong, and the drop was not as dramatic as in the case of Poland's 2020 imports. In other words, the country was fortunate to have had vast export networks as external demand fueled the economy.

At the same time, manufacturers in Poland were able to successfully sell their wares abroad by domestically sourcing the materials and components they needed instead of importing them from East Asia. This helped distribute profit throughout the value chain in Poland. And with this, the manufacturers based in Poland turned out to be reliable partners for foreign contractors.

According to Adam Czerniak, another critical aspect of Poland's relatively good economic performance in 2020 during the pandemic was the fact that even though foreign tourism was minuscule, domestic destinations flourished and were packed with tourists, which helped the striving tourism industry to a great degree.

Czerniak also discussed the disposable income of Polish consumers, which increased by nearly 10 percent in 2020 despite a decline in GDP growth. This was due to a relatively small increase in the unemployment rate coupled with wage

Over the last 30 years, Poland has been ranked highly by foreign investors thanks to its investment climate. However, attention must be paid to ensuring proper business legislation in the country, which is in sync with market reality and future demands, as well as to ensuring transparency and a level playing field for all players in the market.

hikes, especially in the manufacturing sector.
Czerniak also noted that the financial aid the government provided to companies delivered a positive economic stimulus. The government was able to pump an unprecedented amount of money into the economy in this way, amounting to 10 percent of the country's annual GDP.

FINANCIAL MARKETS AND M&As
Sławomir Sikora said that despite an economic decline in 2020, capital markets and the markets for mergers and acquisitions (M&As) were surprisingly active. Traders at the Warsaw Stock Exchange (WSE) were more active than the year before, placing 55 percent more orders in 2020 than in 2019, which translated to the growth of the WSE index by 12 percent year-on-year.
Sikora also noted that the debut of the shares of Allegro.pl, the largest auctioning site in Poland, amounted to the second-largest IPO in Europe in 2020.
Over 230 mergers and acquisitions took place in Poland last year, 50 more than in 2019. One of the largest takeovers was led by French investor Iliad, which bought mobile phone operator Play for PLN 2.3 billion. The telecom market was very active overall in 2020, much more active than in 2019.
Sikora noted that Poland followed global trends in that respect because the pandemic accelerated the demand for IT services and remote work and communication solutions in Poland, just as it had in other countries.
Another area with M&A activity was the financial sector, which witnessed 27 transactions. The renewable energy market was also active and involved state-owned companies in Poland as well as private players.
Sikora noted that a majority of the sellers were either private equity funds or Polish investors. In his view, this was, to some extent, a result of the 30 years of economic transformation in Poland, as apparently, people who profited from the transformation are now selling out to retire.

A FOUR-PHASE APPROACH
According to Bartosz Ciołkowski, the Polish economy's performance and the reaction of the markets could be described as a logical chain of events encompassing four distinctive phases, from the beginning of the pandemic to the end.
Phase one was containment. This was a shock phase in which daily routines were disrupted, with uncertainties popping up everywhere for ordinary people as well as business organizations and governments.
The next phase was stabilization, with numerous anti-epidemic restrictions that impeded the normal activities of ordinary people and businesses.
Normalization was the next phase: when people and businesses find new solutions to go about their business. These include IT solutions such as online meetings, online banking, and extensive use of e-commerce.
Ciołkowski noted that in Poland, this phase was characterized by increased consumer spending on DIY and home improvement, as well as electronics and pet animals.
E-commerce boomed, and new payment methods, such as BLIK, took the market by storm. According to consumer polling, at least 32 percent of Polish consumers said they started shopping online during the pandemic, while 25 percent declared they would continue shopping online even after the pandemic.
Ciołkowski noted that the fourth phase, growth, will begin once people are able to return to pre-pandemic standards in their lives. This can happen only once adequate medical solutions are in place to keep the virus at bay.

A BUMPY ROAD AHEAD?
Looking at potential scenarios for economic recovery in Poland, Dr. Eliza Przeździecka noted that the government aspired to take the leading role in the process, as it had announced a comprehensive set of economic reforms which was dubbed the "New Economic Deal" at the time, and is known today as the National Reconstruction Plan.
All government efforts to help the economy return to growth are welcome. However, from an economic point of view, there are some key issues to solve in order for the Polish economy to grow and become competitive in the years to come.
One of these issues is labor productivity. Dr. Przeździecka said that the country needs a new plan for education starting from a young age, as well as programs for adults whose jobs will be disrupted by technology. Instead of being made redundant, they will need to be re-educated on using new technological equipment in various branches. People today and in the years to come will need to work for longer because they will live longer. The population's longer lifespan will disrupt many sectoral branches, including medical, IT, and even banking, as older people need to be educated on using online resources.
Dr. Przeździecka also emphasized the importance of human capital in improving the competitiveness of the Polish economy. She said that investments and re-investments would increase the coun-

Traders at the Warsaw Stock Exchange were more active in 2020 than in 2019, placing 55 percent more orders in the last year than a year before, which translated to the growth of the WSE index by 12 percent year-on-year.

According to consumer polling, at least 32 percent of Polish consumers said they started shopping online during the pandemic, while 25 percent declared they would continue shopping online even after the pandemic.

try's capacity to train a modern labor force to work on various new projects. When it comes to sectors of the economy that will be critical for building Poland's competitive edge, Dr. Przeździecka pointed to the transformation of the Polish energy sector, which is following the EU policy to turn to "green" and renewable energy sources. Another area with room for improvement is Poland's attractiveness to foreign investors. Some parts of Poland have managed to attract significantly more foreign capital than others. Dr. Przeździecka emphasized the need to develop the country's infrastructure across many of Poland's regions, especially those in the east.

Dr. Przeździecka said that Poland has been ranked highly by foreign investors thanks to its investment climate over the last 30 years. However, she emphasized that attention must be paid to ensuring proper business legislation in the country, which is in sync with market reality and future demands, as well as to ensuring transparency and a level playing field for all players in the market.

Looking at potential economic recovery scenarios and the role of the government in facilitating the process, Adam Czerniak noted that the government should support entrepreneurs whose businesses were hit the hardest by the pandemic lockdowns within the last year. The government's priorities should include identifying the companies and entrepreneurs struggling to get through the pandemic, with no priority given to a specific sector of the economy until "we return to some form of normal."

Assessing the investment climate outlook for 2021 and beyond, Sławomir Sikora said that the government's reform of the tax system has caused concern among companies regarding Poland's future, as it creates an environment of uncertainty and reduces climate confidence.

Companies are not just concerned about the new taxes being implemented; they are also worried about the complexity of the tax system.

Sikora noted that the pandemic is an external factor that companies have no direct control over but find ways to adapt to. However, he said that anything in the legislature related to implementing new taxes in an already complicated tax system is something that needs to be kept an eye on.

A PRICE TO PAY

Keeping in mind how markets behaved during the pandemic, Sławomir Sikora warned that not everyone would emerge stronger after the coronavirus crisis. The medical and telecom sectors did very well during the pandemic as people adapted to technology, and more money was designated to medical research during the pandemic to fight and vanquish the coronavirus. But some sectors have seen trends of a decline in expenditure. These include industries such as travel and tourism, which can take a much more extended period to recover as people regain confidence in traveling safely. Furthermore, Sikora said that what was keeping companies from increasing credit loans was the complexity of government regulations as well as new waves of the pandemic. Ultimately, Poland needs to increase its vaccination capacity to vaccinate as much of its population as the UK and Israel have before any signs of "normality" can be seen.

MEET THE SPEAKERS

BARTOSZ CIOŁKOWSKI

Appointed Mastercard General Manager for Poland in January 2014, and in September 2019, he took over additional responsibilities of managing the company's business on the Czech and Slovak markets as well. Prior to this, he was the head of the sales department, responsible for developing Mastercard's business in Poland.

ADAM CZERNIAK

Chief Economist at Polityka Insight, where he heads the Macroeconomic Desk and conducts research on wealth, consumers, and the housing market. Czerniak is also an Assistant Professor at the Warsaw School of Economics (SGH).

Dr. ELIZA PRZEŹDZIECKA

Chief Economist at the AmCham Poland and Professor at the SGH Warsaw School of Economics. She is a Member of the Board of Directors, Polish-U.S. Fulbright Commission. Authored publications on foreign direct investment, global value chains, international trade, and trade policy. Research scholar and visiting lecturer at a number of educational institutions including Duke University, ZHAW School of Management and Law in Switzerland.

SŁAWOMIR S. SIKORA

AmCham Board Member and CEO of Bank Handlowy S.A in Warsaw since 2003. He has extensive board experience, including current roles as a member of the Supervisory Regulations Advisory Committee at The Polish Banks Association, Vice President of the Board of the Polish Confederation of Private Employers Lewiatan, and a member of the Emerging Markets Advisory Council at the Institute of International Finance in Washington, D.C.

AmCham Advisory Council

The Advisory Council of the American Chamber of Commerce in Poland is engaged in shaping our advocacy for better investment, creating policies, and working with key policy-makers in order to address important and highly relevant issues. The crucial role of companies gathered in the Advisory Council is emphasized by the special client care we provide to these premium members and the opportunity they have to cooperate at the highest level, including business to government dialogue, special networking events, as well as priority at our events.

MONTHLY MEETING

APRIL

NO TAXATION WITHOUT REPRESENTATION!

WHILE THE GOVERNMENT PLANS A MAJOR OVERHAUL OF THE TAXATION SYSTEM IN POLAND, IT ASSURES COMPANIES THAT THEY ARE THE GOVERNMENT'S STRATEGIC PARTNERS AND ARE INSTRUMENTAL IN GIVING THE FINAL SHAPE TO SPECIFIC REGULATORY AND IT SYSTEM SOLUTIONS.

The government's reform of the taxation system in Poland was on the agenda of the April Monthly Meeting with guest speaker Jan Sarnowski, Undersecretary of State and the Minister's Plenipotentiary for International VAT Cooperation at the Ministry of Finance. Along with the guest, the online meeting was joined by Aleksander Łożykowski, Director of the Income Tax Department at the Ministry of Finance, and Paweł Selera, Director of the Tax Department of Goods and Services at the Ministry of Finance.

The meeting was opened by AmCham Chairman Tony Housh, Director for Poland and Central Europe and the Baltic Region at Northrop Grumman, and was moderated by Co-Chair of the AmCham Tax Committee Piotr Pikuła, Central Europe Tax Director at Procter & Gamble.

The business sector generally views the government's overhaul of the taxation system in Poland warily, as it creates uncertainty for companies at a time when the pandemic has already created market disruptions and business-related uncertainties.

The business sector is not just concerned about the new taxes being implemented; it is also worried about the complexity of the tax system.

As Piotr Pikuła emphasized, companies tend to dislike being surprised with new tax regulations, especially when they require the introduction of new IT solutions. They also worry that new tax regulations may be subject to different interpretations, making it difficult for taxpayers to fulfill their tax obligations in such a way that will not be questioned by tax authorities.

UNDERSTANDING BUSINESS

Undersecretary Sarnowski addressed these concerns by saying that ministry experts were fully aware of the difficult situation companies had to face due to the pandemic, which was why some of the ministry's reforms announced at the beginning of 2020 were postponed. Those which were implemented were calibrated to the needs of the business sector "to a lesser or higher degree" in the pandemic situation.

The undersecretary said that while the Ministry of Finance aims to safeguard a smooth collection of tax revenue for the government, it is also fully aware that, to quote Finance Minister Tadeusz Kościński, "companies are the clients of the ministry." This means that they expect to be treated fairly, and their voice and opinions about new tax instruments should be taken into consideration by the ministry's experts. This is why the ministry prepares drafts of proposed legislations and presents them to the business sector for consultations, whose feedback is then used to draft better final acts.

The undersecretary said that the ministry is planning a round of consultations with the business sector regarding new tax solutions. This has not been legislated in a draft form because the ministry plans to collect opinions from the market before it begins the official legislative process.

The Ministry of Finance plans to use expert opinions on how certain taxes and cases need to be interpreted in practice and implement those opinions in tax regulations to be legally binding as reference for tax officers.

Undersecretary Sarnowski also said that the ministry plans to change the routine of offering tax interpretations through Q&As published on its website, as those are only of "informative character" and are not legally binding. Instead, the ministry plans to use expert opinions on how certain taxes and cases need to be interpreted in practice and implement those opinions in tax regulations to be legally binding as reference for tax officers.
Undersecretary Sarnowski noted that as the pandemic subsides, the ministry is ready to launch new tax reforms it had discussed before the pandemic. These reforms aim to make the Polish economy more competitive vis-a-vis other economies of comparable size in the region and to make Poland a better place for investors. In fulfilling the latter goal, the undersecretary said that Polish firms would benefit by gaining access to business partners abroad.
The undersecretary said that the ministry plans to present new tax tools in a few weeks in a series of presentations for the stakeholders. The ministry will also gather feedback from the business sectors and use "pilot programs" in which companies test out specific IT solutions provided by the Ministry of Finance for trial to ensure that the final "products" are in sync with companies' expectations and requirements.
Undersecretary Sarnowski admitted that the ministry had issued many new tax regulations during the pandemic, and some of them were new solutions introduced to the Polish tax system for the first time. This is why many companies feel uncertain about the tax reform and fear it will negatively impact their business perspectives and plans.
The VAT regulations have changed significantly, as the ministry has taken steps to drop the JPK file and instead use a solution that combines JPK with VAT declaration. New VAT tools aimed at simplifying certain procedures have also been introduced. They all required intense focus from companies which, as the undersecretary said, "could have taken them out of their comfort zone."

TWO NEW SOLUTIONS AHEAD

The months to come will bring two new solutions regarding VAT connected with implementing the E-Commerce Directive from the European Union.
The undersecretary said that some of those solutions aim at simplifying trade via the internet, especially when it comes to paying VAT across the union's single market.
Another new solution that Undersecretary Sarnowski called "a game-changer for the market as well as for the tax administration" will come with the introduction of the national e-invoice system. The system will open up new tax bonuses for some companies.
The ministry plans to launch "e-invoices" in the fourth quarter of 2021, but the undersecretary was not sure if such a deadline was feasible given the pandemic's disruptions to the work of ministerial experts. Nevertheless, Undersecretary Sarnowski said that he hoped the majority of companies would welcome "e-invoicing." This system will become the market standard by 2023, and paper invoices will disappear from the market within the next 2-3 years.
Sticking to the AmCham-proposed agenda of the meeting, Undersecretary Sarnowski explained the legislative process to establish the national e-invoice system. He said that the ministry is working on this project in two areas simultaneously—the legislative proper and the IT. The ministry intends to present the IT tools for e-invoicing a few months before the legislative process has finished allowing the business sector to get acquainted with the new requirements and offer feedback on how the system works. If all goes well, a "test" version of the system will be ready in early September.

SLIM VAT

Before the pandemic, the government introduced a set of VAT regulations aiming to simplify VAT-related procedures. Another component of the "slim VAT" reform is scheduled for submission to the Parliament in September. If the parliament debates the bill quickly enough, it may become law in the fourth quarter of 2021. The Ministry of Finance plans to present the third component of "slim VAT" for public consultation at about the same time.

JAN SARNOWSKI

Appointed Undersecretary of State at the Ministry of Finance in November 2019, Sarnowski is an expert in Polish and German tax law with professional experience in law and tax consultancy in Berlin and Warsaw. In October 2019, Sarnowski was appointed Plenipotentiary of the Minister of Finance, Investment, and Development for international cooperation in the field of VAT. He served as an adviser to the Minister of Economic Development and Finance from 2016-2018 and was responsible for coordinating the sealing process of the Polish tax system. He has served as Deputy Director of the Income Tax Department and Head of the comparative law team at the Ministry of Finance since June 2018. Sarnowski graduated from the Faculty of Law and Administration at the Warsaw University of Cologne (LL.M.) and completed postgraduate studies in tax law at Warsaw University and Common Law at WWU Münster and Thomas M. Cooley Law School.

According to the Ministry of Finance, the "electronic invoicing" system will become the market standard by 2023, and paper invoices will disappear from the market within the next 2-3 years.

MONTHLY MEETING

MAY

A BRAND NEW WORLD

THE GOVERNMENT PLANS TO TRANSFORM THE POLISH ECONOMY AND SOCIETY WITH THE USE OF EU FUNDS, AND PRIVATE INVESTORS ARE WELCOME

The speaker at the AmCham Monthly Meeting in May was Małgorzata Jarosińska-Jedynak, Secretary of State at the Ministry of Funds and Regional Policy. She met with representatives of the American business community in Poland online to highlight government programs designed to utilize the funds earmarked by the European Union for Poland from the 2021-2027 long-term EU budget. Poland is entitled to receive a total of EUR 159 billion, out of which EUR 124 billion is to be distributed to beneficiaries as grants and EUR 34 billion as loans.

Nearly EUR 70 billion will be available to beneficiaries through the operational programs of the EU Cohesion Fund. The remaining amount, with extra funds added by the Polish government, will be available through a government-controlled program called the National Reconstruction Plan (NPO).

THE EU COHESION POLICY

The EU cohesion policy aims to bridge the gap in infrastructural development between the "old" and new EU member states. Poland was the largest beneficiary of the previous EU financial framework policy and remains so in the current one.

The funds for Poland through the EU Cohesion Fund are made available to beneficiaries through a number of structural funds aimed at areas including regional development, social development, maritime economic development, among others. These are divided into operational programs. The goals of each specific program are defined on central and local levels in Poland, along with the naming of the government agencies responsible for overseeing the execution of the programs, and are subject to EU consent. Once the European Commission accepts the solutions developed in Poland, the programs will enter the execution phase.

At the time of AmCham's May meeting, the proposals drafted by the Polish authorities were being considered by the European Commission, which limited the area of how specific Małgorzata Jarosińska-Jedynak could be in regard to certain operational programs.

She said, however, that Poland will execute nine programs on the national level and 16 on the regional level from 2021-2027. Central government agencies will supervise the national-level programs, and the execution of each regional fund will be assigned to the head of each regional parliament. There will be no major changes in the criteria regarding how the funds will be granted or in the ways in which beneficiaries will be supervised vis-a-vis proper use of the money granted.

A SMOOTH TRANSITION

The speaker said that while most programs are just an extension of the programs already known to beneficiaries, there is a new operational program devoted to supporting the smooth transition of 6 regions (and their industries) to meet the EU green energy policy goals. The largest beneficiary of the fund will be the region of Upper Silesia. Beneficiaries in Upper Silesia will be able to use EUR 2 billion out of the 3.8 billion total earmarked for the six regions. The speaker explained that the focus on Upper Silesia was a must because of the region's intense concentration of coal-based industries, which need to be restructured. This means that a large number of workers in those industries will need to be retrained to work in new industries. The money from the program will also be used to create new jobs and help companies transform to renewable and green energy.

The total amount of the Just Transition Fund is EUR 4.4 billion, including EUR 600 million to be distributed on the national level.

YOUR ABCs

Another mechanism for distributing EU funds in 2021-2027, called the National Development Plan, combines funds from the EU as well as domestically sourced

The criteria for granting money to investors in the National Reconstruction Plan are a bit different than the criteria beneficiaries have gotten accustomed to dealing with in EU aid programs.

funds earmarked by the government. As much as 57 percent of the funds available in the NDP will be spent on meeting goals defined by the EU, and 43 percent will be spent by the Polish government.
The program is comprised of 5 components. Component A is aimed at boosting the competitive edge of Poland's key economic sectors. It will recruit beneficiaries from companies investing in robotics and work automation, innovative solutions, the digital transformation of business processes, applications using artificial intelligence, and transformations regarding Industry 4.0.
Component B of the NDP will offer grants to investors in green energy as well as energy efficiency and thermal insulation. The government hopes the component will be especially attractive to investors in renewable hydrogen technologies, including hydrogen production, transportation, as well as distribution, including pipelines. The program will also offer grants to investors in the production of hydrogen as a necessary component of other chemical processes used to produce synthetic fuels.
Component C of the National Reconstruction Plan is devoted to supporting investors in the digital transformation. It aims to attract private investors interested in projects for the public sector such as e-government and public services as well as other e-solutions aimed at increasing digital resources for society.
The speaker said that the government is especially interested in investment projects that would increase the scope of public services available to citizens online. In addition, money from component C will be spent on helping investors develop groundbreaking technologies to increase the potential of digitization in the area of citizen services.
Investors in healthcare and medical solutions should eye component D. This component is designed to help the Polish pharmaceutical and medical sectors achieve self-reliance, so the country can domestically produce everything necessary to safeguard the security of its population in terms of healthcare. The program's focus is on the production of generic chemical drugs as well as generic biological drugs.
The final component of the National Development Plan is focused on developing green and smart mobility solutions.

MILESTONES AND MORE

The speaker noted that the criteria for granting money to investors in the National Reconstruction Plan are a bit different than the criteria beneficiaries have gotten accustomed to dealing with in EU aid programs. Instead of being scrutinized as to how investment projects submitted to the programs meet the program's goals, investment projects in the NDP will be evaluated as to how well they align with government reforms and how they supplement their objectives. If a project meets such defined "milestones," it will receive financial support.
The implementation of the aid programs in the National Development Plan will use similar methods as EU programs have in the past. Particularly, projects for which beneficiaries are already defined will engage in the bidding process.
The speaker noted that projects in the NDP are of strategic significance to the Polish economy as they impact the energy sector and are meant to set the foundations for the transition to a sustainable, closed-cycle economy.
The undersecretary said that while drafting the rules and criteria for bidding processes, the government plans to use best practices developed by the private sector whenever it is possible and does not contradict EU regulations.
She also noted that unlike in the case of EU funds, in which the bidding process and supervision of investment project execution are assigned to local governments, the grants issued by the NDP will be administered by the central government. The government will decide whether or not the projects submitted for prospective financial aid meet the government policy "milestones."
The funds available through NDP programs will cover investment projects that were initiated as early as February 2020.

MAŁGORZATA JAROSIŃSKA-JEDYNAK

Appointed Secretary of State at the Ministry of Funds and Regional Policy in 2020. From November 2018 to November 2019, she served as the Undersecretary of State in the Ministry of Investment and Economic Development.
Her brief involved the implementation of EU funds for innovation (Smart Growth Program), digitization (Digital Poland Program), and human capital (Knowledge Education Development Program). She was also responsible for supervising the Accessibility Plus program and co-authored the Act on Accessibility.
She coordinated the implementation of programs co-financed by Norwegian and Swiss funds.
From the beginning of her career, she has focused on local governments dealing with EU funds, regional development, and entrepreneurship support. She has ten years of experience working in the Marshal's Office of the Podkarpackie Province, where she served as Director of the Department of Entrepreneurship Support.
She is a graduate of the Faculty of Construction and Environmental Engineering at the Rzeszów University of Technology, where she obtained a Master of Science in Environmental Engineering. She also completed post-graduate studies in Management of Health and Safety at Work at the same university. She speaks English and can communicate in sign language.

The National Development Plan combines funds from the EU and domestically sourced money earmarked by the government.

FOCUS

E-commerce

SELLING IN THE US, SELLING GLOBAL

For a few years now, Poland-based company Rainbow Socks has been using sea cargo transportation to ship their goods to the US.

AMAZON OFFERS SIMPLE WAYS TO REACH BUYERS WORLDWIDE

In March, AmCham American Investor Desk and Amazon held a workshop devoted to how the trading platform can help companies expand their business abroad, including the US markets. The speakers were Rolf Kimmeyer, Manager of Global Selling at Amazon; and Cyprian Iwuć, owner of Rainbow Socks, a Polish company specializing in socks that has been growing its sales in the US through the Amazon Services platform since 2017. The online meeting was moderated by Mariusz Mielczarek, Public Affairs Director for CEE at Amazon.

EXCELLENT PROSPECTS

In speaking about the pros of using Amazon, Rolf Kimmeyer said that the company's vision is to bring all sellers and buyers from around the world into one business area, thus creating a truly global trading platform. With over 300 million buyers and hundreds of thousands of sellers supporting both B2C and B2B transactions, the company is slowly but surely heading in that direction. The company has a support program for its selling partners, who presently generate 50 percent of all purchases on Amazon globally. The company has selling partners—small and medium-sized companies—in 130 countries worldwide and ships its products to over 200 countries and territories worldwide.

Amazon provides a wide array of infrastructure solutions to its sellers. By using these solutions, a company in Poland can start selling in Australia or the US and use Amazon logistics to have its products shipped to those markets ahead of transactions. It takes 1-2 days of the delivery time for the products sold in those markets to reach the buyers and is a cost-effective solution for sellers, as Amazon

takes care of the logistics in foreign markets.
Amazon invests in its partners because the company needs their expertise and practical market knowledge.
Rolf Kimmeyer added that e-commerce has excellent prospects, with global sales growing from the estimated USD 4.629 trillion in 2021 to USD 6.821 trillion in 2024, according to market analyst eMarketer.

A SUCCESS STORY

The pros of using Amazon as a business platform were also covered by Cyprian Iwuć, owner of Rainbow Socks, a producer of designer socks with a product range of gift socks and socks registered as medical products for people with diabetes. All Rainbow Socks products are manufactured in Łowicz, Poland.
The company has been in business since 2016 and reached the desired critical mass of its salesforce in 2017. All members are trained to work with Amazon's Marketplace. Today, the company sells its products to 80 countries worldwide. As much as 99 percent of its sales are generated through Amazon, including the US selling platform, Amazon.com.

SHIPPING AND LOGISTICS

Companies that plan to sell bulk amounts of their products in the US also need to consider shipping and logistics costs. Rainbow Socks began doing business in the US by sending their products via the air shipping service UPS. This type of delivery is reliable and fast but costly. For a few years now, the company has been using sea freighter cargo transportation, which is very cost-efficient when shipping large amounts of products. However, there are times when seaports are closed, which can cause massive shipping delays.
Delivering containers to the US by sea is also subject to substantial price fluctuations.
Another issue with using sea freighter cargo is timing. Door-to-door delivery usually takes approximately six weeks. However, during the sales season in Q4, there may be some delays. To avoid this, Iwuć advised executing shipping well ahead of time. There is no problem finding an Amazon fulfillment center across the US. Rainbow Socks ships its goods to a large Amazon logistics center near Chicago, Illinois.
Iwuć added that UPS is a reliable shipping partner that delivers directly to all Amazon centers across the US.

CONVENIENCE

Another convenient aspect of using Amazon.com is the company's new system of clearing local sales taxes on transactions executed by its selling partners. With this solution, sellers are no longer required to register in the US as sales taxpayers.
Before beginning to sell in the US, vendors need to consider the legal forms of their commercial activity in the US. Iwuć said that he established a company in the US before his company began selling on Amazon.com. It was a good solution because bookkeeping and accounting procedures are very simple in the US compared to Europe and relatively inexpensive. If his company decides to expand its sales to Amazon platforms in Canada, Japan, or Australia, it is very easy to do so formally, having already a company registered in the US.

PATENT PROTECTION

While the US market is enormous and competitive, many dishonest companies try to copy original products and sell them illegally. Before launching its products in the US, Rainbow Socks registers its designs with the US Patent Office.
Iwuć noted that Amazon has an efficient reporting system for counterfeit products. "Once such a product is identified," Iwuć said, "it is blocked across the entire Amazon platform for good."

HIGH INTEGRATION

Amazon is a highly integrated platform across all geographic areas it caters to. Those who learn to use Amazon to sell goods in European markets will find it very easy to use Amazon.com. It has the same functions for listing products, using Excel spreadsheets, and creating advertising campaigns. The interface is the same, and there is practically no need to learn anything from scratch.
Iwuć also said that because Rainbow Socks operates as two separate companies (in Poland and in the US), both companies could be integrated within the Amazon Seller Central dashboard.

Cyprian Iwuć said that Amazon could be viewed as a huge interactive ecosystem supporting sellers across all functions that are vital for their business.

Rolf Kimmeyer said that Amazon's vision is to bring all sellers and buyers from all around the world into one business area, thus creating a truly global trading platform.

Iwuć noted that Amazon is definitely the only company today that offers sellers such a wide variety of interactive tools for areas such as sales, logistics, marketing, and client service. The Amazon platform can be viewed as a huge interactive ecosystem supporting sellers across all functions that are vital for their business.
For instance, companies with product sales histories on the European Amazon platforms may find it easy to expand in the US if they sell the same products in the US that they have been selling in Europe. Their product review histories generated in Europe also appear on the US platform, which helps vendors better position those products in the US.

LARGE AND CHALLENGING MARKET

The US market is huge and cannot be compared to any market in the EU in categories such as product range available or the number of transactions generated daily. For instance, a keyword search for "pizza socks" in the UK will generate one or two pages of product offers, while the same search on Amazon.com will result in several pages of available products. This shows how competitive the US market is.
The speaker said that when beginning to sell on Amazon.com, vendors need to consider how to market their products in terms of what makes them attractive or different on the US platform. It is very difficult to get noticed and start selling without a clearly defined competitive edge for the US platform. Competitive products with rich histories of customer reviews will overshadow others, making them extremely hard to sell.
Iwuć noted that one way of differentiating Rainbow Socks in the US is marketing the socks as quality products made in Europe, a fact which is often appreciated by American customers.

FOCUS

FDI

WITH A LITTLE HELP

The US is the world's largest single consumer market because the country has had a stable economy for years, and its population has a relatively high disposable income.

DEMYSTIFYING INVESTMENT IN THE US: STEPS FOR SUCCESS

In April, AmCham held a session with the Council of American States in Europe (CASE) and SelectUSA, two organizations that help companies and investors from outside the US start doing business in the country.
Introductory notes were delivered by Vanessa Goshl, Managing Director, Europe Office at the South Carolina Department of Commerce and Vice-Chair of the Council of American States in Europe, followed by Patrick Slowinski, US Consul General at the US Consulate General in Kraków, and Tony Housh, AmCham Chairman (Northrop Grumman).

The event was joined by CASE representatives in Europe from Georgia, Illinois, Indiana, Kentucky, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, and Wisconsin.

MAKING A CASE FOR CASE

The first speaker was Joshua Seeberg, Director of the European Representative Office for the State of Kentucky. He highlighted the many ways in which investors from Europe can use CASE to demystify the investment process in the American market for the soft landing.

CASE was established 50 years ago in Brussels and brings together official representations of 17 US states which account for over half of the US population. Using the services of the organization is free of charge, with confidentiality guaranteed and no obligations.
To make the most of CASE, potential investors should provide some basic information regarding their planned investment scheme in the US. It is best if investors approach CASE with their business plan and any relevant information about their situation in the US, their footprint in the market, who their cus-

tomers are, and what kind of growth they are looking at.
Details on the scope of the planned project are essential as well. Different investors have different needs, and CASE experts can help, especially when it comes to figuring out sites and any possible incentives that potential investors might be eligible for when setting up their operations, depending on whether they plan to buy the site or lease it–– seeking greenfield investment or office space.
Information about the planned capital expenditure (CAPEX) is also important as well as information about the planned full-time employees (FTEs), such as what kind of personnel will be needed and how much they will be paid.
The investment timeline is also essential for CASE experts so they know if the planned investment project is urgent or is planned to extend into 2023 or beyond.
One of the pros of CASE is that it has relationships with the representatives of all counties in its member states. Regardless of the type of investment, a huge part of the investment planning process will have to be dealt with at the local county or community level. This includes selecting a site for a building, a greenfield for a factory, or looking into the individual permitting or incentive packages.
"America is a big place," Joshua Seeberg said. "Start at the CASE website, contact someone at CASE, and do not be afraid to reach out to any of us. No matter what your company is doing and how large it is, CASE can help."

Joshua Seeberg, Director of the European Representative Office for the State of Kentucky at CASE, said that the CASE website is the best starting point for making contact with the organization.

DATA-BASED INTELLIGENCE

Another presentation came from Neil Pickett, the Deputy Senior Commercial Officer at the US Embassy in Warsaw, who talked about SelectUSA, a federal government agency that can help companies looking to expand their business to the US.
SelectUSA promotes investment in the US and is a neutral agency, which means it can offer guidance and help anywhere in the US, including all US states and territories such as Puerto Rico.
SelectUSA can conduct due diligence and provide data and other information to help investors make decisions regarding the viability of the planned investment's success.
The agency can also help companies navigate the American tax system. It cannot provide any specific tax guidance to potential investors as SelectUSA is not an accounting service, but can link potential investors with the appropriate lawyers and accountants in the areas relevant to the planned investment.
The agency can help potential investors navigate federal rules and regulations and understand the incentive schemes available to them. SelectUSA can also connect investors with local and regional economic offices in the states or territories that are relevant to the planned investment.
In addition, SelectUSA advises investors on how to register their company in the US, provides state-by-state guides on minimum wage laws across all states, and can help investors determine whether they will need to obtain any specific licenses and permits.
SelectUSA is a data-driven organization and uses interactive tools, including Assess Costs Everywhere (ACE), which provides detailed information on calculating the cost of doing business. Another of SelectUsa's tools, the Total Cost of Ownership Estimator (TCOE), enables companies to compare the costs and risks of manufacturing their products in the US versus other countries.

Neil Pickett, the Deputy Senior Commercial Officer at the US Embassy in Warsaw, is the best point of contact for companies that are looking at opportunities to invest in the US.

COME TOGETHER

Companies eyeing opportunities for expanding their business to the US should also look into the SelectUSA Summit, a high-profile event dedicated to promoting foreign direct investment in the US. The annual event, held online this year due to the pandemic, brings together companies from all over the world, economic development organizations from across the US, and other parties working to facilitate business investment in the US. Featuring senior government officials, C-Suite business executives, and other business leaders, each summit focuses on a timely theme related to the US investment environment, industry trends, and new opportunities.
Participants will have access to seminars, investor guides, industry spotlights, and workshops where they can engage with experts.
Closing his presentation Neil Pickett said that the US is the world's largest single consumer market, which is an important factor for investors looking for new markets. "You can invest anywhere you want," Neil Pickett said, "but if you want to sell your products or services, the US is the country for your investment because it has a stable economy and a population with a relatively high disposable income."

Companies eyeing opportunities for expanding their business to the US should also look into the SelectUSA Summit, a high-profile annual event dedicated to promoting foreign direct investment in the US.

FOCUS

Business support

THE PROS OF STATE AID

STATE-AFFILIATED ARP AND BGK HAVE SUPPORT TOOLS FOR ALL TYPES OF COMPANIES.

In March, the American Investor Desk had its second online event devoted to financial support for companies involved in foreign trade, available from the Agency for Industrial Development (ARP) and the National Development Bank (BGK). ARP was represented by speakers Monika Konofał, Director of the Entrepreneur Services Department in Wrocław, and Jarosław Łokietko, Expert from the department. Speakers representing the BGK were Ewa Nowak-Iskra, Lower Silesia Regional Director; Joanna Mularczyk, Expert in Financing Export Trade; and Krzysztof Jeziorny, Project Development Expert for Lower Silesia.

According to **Monika Konofał**, ARP is not constrained by banking laws, which allows the agency much more flexibility than commercial banks when it comes to servicing companies in need.

THE ARP OFFER

Monika Konofał spoke about ARP's financial instruments available to companies that need to restructure their operations and are not eligible for commercial bank loans for various reasons. ARP offers solutions for small, medium-sized, and large companies. As a government agency, ARP is not constrained by banking laws, which allows the agency much more flexibility than commercial banks in servicing companies in need. She explained the conditions under which the agency can provide financial assistance and detailed the requirements for companies seeking help from the agency through the Anti-Crisis Shield program sponsored by the government.

In turn, Jarosław Łokietko talked about ARP's strategic goals, which included assisting companies that are developing renewable energy.

The financial products that the agency offers come in four groups: financial loans, lease services, factoring (turnover financing in which ARP pays for the invoices issued by its client companies and shoulders the risk that a payer could go under before they are able to pay) and financing clients' exports.

Łokietko said that ARP is focused on offering investment loans. The agency supports investment projects because it believes that post-pandemic economic prospects are excellent in Poland and the European Union.

The agency offers loans for up to 10 years to all types of companies investing in innovative projects and projects that boost the Polish economy's competitive edge, including projects in renewable energy.

The agency may offer loans to companies that generated 2020 operational profits below 2019 levels, as they recognize the blow many companies took due to the pandemic and economic lockdown.

ARP's financial services are not competitive with commercial banks, and a company on ARP's client roster is not required to limit its relationship with any commercial bank or private financial institution.

THE BGK OFFER

Ewa Nowak-Iskra from BGK Lower Silesia Region branch talked about how the bank supports the development of regional entrepreneurship. BGK's strategic task is to support Polish enterprises' development in the international arena.

The BGK offer comes in two sections: financial support for exports and financial support for a company's foreign expansion. BGK offers short-term financing, including foreign letters of credit (confirmation, discounting, and post-financing). BGK also offers long-term financing such as equity instruments, structured loans intended to finance the foreign expansion of Polish enterprises, and the pre-financing of exports.

The Anti-Crisis Shield program issued loans totaling nearly PLN 200 billion, including over PLN 50 billion to small and medium-sized companies.

In turn, Joanna Mularczyk said that BGK participates in a government-sponsored program of supporting the exports of Polish companies and explained how the bank can help hedge risks regarding foreign buyers by cooperating with a range of foreign banks.

Ewa Nowak-Iskra said that BGK issued loans totaling nearly PLN 200 billion through the Anti-Crisis Shield program, including over PLN 50 billion to small and medium-sized companies.

The bank also supports companies expanding abroad as investors in greenfield and brownfield schemes. In doing so, the bank aims to use the investor's foreign assets to hedge risk, thus helping to keep a good financial balance sheet for the investor's Poland-based company.

The bank specializes in supporting Polish investors in high-risk investments, such as in Belarus, Ukraine, Russia, and other Eastern states.

The bank also helps clients with cash flow problems if they experience a delay in payment from foreign contractors.

Another speaker, Krzysztof Jeziorny, showcased the bank's offer for supporting domestic trade and investment and highlighted the aid tools the bank offers through the Anti-Crisis Shield.

FOCUS
Business support

YOU ARE NOT ALONE

SANTANDER BANK KNOWS HOW TO FACILITATE COMPLEX CONTRACTS BETWEEN POLISH AND US COMPANIES.

In April, the American Investor Desk held an online presentation for companies interested in selling goods to the US market. The speakers were Magdalena Kusa, Head of the UK/US-Poland corridor at Santander Bank Polska; Anna Wierzbicka, Trade Finance Team Manager at Santander Bank Polska; Dorota Szcześniak, International Factoring Manager at Santander Factoring; and Bogusia

Anna Wierzbicka showcased several Santander tools that help bank's clients create relationships with partners in the US and minimize risk.

Jarzębowska, Communication and Partnership Manager at Google responsible for the Future Companies program executed by Google with the Polish Development Fund.

A WIDE OFFER

Anna Wierzbicka showcased several Santander tools that help clients create relationships with partners in the US and minimize risk, available through the bank's online service called the Santander Trade Club.
Club members can measure the potential of clients' export offerings to the US, among other things. New members can also participate in "Warm Welcome" meetings held by the bank to get to know other bank clients and learn about their business focus. More help from the bank rendered to club members includes assistance in finding trade partners for export and import, intermediating with other banks that Santander cooperates with. The bank also helps club members organize trade missions online and in-person, and helps set up B2B meetings at trade fairs and other business events in the US.

SUCCESS STORIES

Dorota Szcześniak presented the bank's programs to help clients choose the optimal financing method for their business with US partners. She said that given differing legal frameworks for business as well as different business cultures and market realities, such programs are essential for companies seeking the most optimal payment solutions for contracts with clients in the US market. She presented four case studies that show how Santander facilitated important and successful sales deals in the US for four Polish companies.
The first case study involved a luxury yacht producer in Poland that received a multi-million dollar order from a client in Florida. Santander helped the Polish company with financing, as the client insisted on delaying the payment for the order. With Santander's help, the company was able to enter the competitive American market by delivering for this high-profile client.
Another successful deal that Santander facilitated for a Polish client was a contract involving a chocolate and candy producer from Poland that sells to multiple partners in the US. The bank helped the Polish firm meet the very challenging payment deadlines set by its US partners and secure its cash flow. Santander worked with its parent bank in the US to safeguard the successful execution of the contracts on the American side as well.
Another case study involved a Polish producer of intelligent air conditioning systems that secured a long-term deal with a San Francisco-based client. To execute the contract, the Polish company had to purchase components in China. The bank secured the transaction with the US company and financed the purchase of the components in China, acting as a financial intermediary between the Polish firm and its two contractors.
The bank also facilitated a deal between US-based partners and Poland-based producers of premium bathroom fittings, bathtubs, shower stalls, and Jacuzzis. Because the payment was delayed, Santander worked to restructure the deal. Thanks to this, the Polish firm was able to receive part of the payment before delivery time and purchase the required components for the order, and protect its cash flow.

Dorota Szcześniak presented bank programs that help clients find the best financing methods for bank's clients with their partners in the US.

IN THE FAST LANE

Another speaker, Magdalena Kusa, talked about the practical aspects of starting a business in America, such as opening a bank account in the US and how Santander can coordinate the process between the client and the US bank.
With Santander's assistance, Polish clients can complete the entire process remotely without traveling to the US to sign any documents.
Kusa listed the formal requirements that a foreign company needs to meet to open a bank account in the US and explained each point from a practical point of view.
The last speaker, Bogusia Jarzębowska, talked about the Future Companies program, which aims to teach 15,000 Polish companies how to take advantage of cloud solutions following the pandemic outbreak.

Company Profile: 3M

EMBRACING THE WORLD

AmCham.pl Quarterly Editor Tam Ćwiok talks with **Radek Kaskiewicz**, 3M Vice President & Managing Director, East Europe Region, about how the company has evolved in Poland business-wise and continues to sharpen its R&D and technological edge during the pandemic.

Could you tell us about some relevant milestones when it comes to the development of 3M in Poland?
3M has been operating in Eastern Europe since 1991. That is precisely when long-term investment started in one of the most strategic locations in our region—in Poland. Ten years later, in 2001, we started a manufacturing operation in Wrocław. In 2006 we opened the Superhub, which now is not only recognized as Europe's largest and most rapidly-developing production facility but is among the ranks of the world's leaders in its field as well.
Another important point in the development of our business is the start of the Global Services Center in Wrocław, which provides operational support to our EMEA locations. The essence of our activities and initiatives lies in our innovative approach and constant knowledge-sharing, with which we have created a space to facilitate collaboration and open discussions around science—the 3M Innovation Center. This facility has been operating in Wrocław since 2013 and enables us to show our clients and stakeholders the whole range of technologies we use. This is not the end of the story, though. We wanted to show how our customers may apply those technologies to life, which led us to the creation of the 3M Customer Technical Center in 2017. The facility supports our clients in improving their skills and qualifications and is the spot for many industrial events.
Over the last 30 years, we have changed quite a bit as an organization, always keeping sustainable development in mind. We have matured into not only following trends but, in several cases being the ones who actually create them.

What is the importance of Poland and the CEE region vis-a-vis the company's global operations?
Poland and Eastern Europe are essential for the global development of 3M's operations. It is precisely here, in Wrocław, that we have launched the Superhub, which enables us to produce over 12,000 innovative products that we export with the "Made in Poland" label all over the world. The capital of Lower Silesia is also home to our R&D Center, where more than 200 engineers and scientists work to develop 3M innovations. These innovations are then used in our products all over the world and support manufacturing processes. The 3M Global Shared Service center, which provides services for key centers across three continents, employs over 1,200 professionals. They support processes including data management of master data, customer service, as well as financial analytics, and IT design and implementation.

What is the role of technology in developing the 3M business?
3M has used science and state-of-the-art technologies in its operations since the beginning. Science is our core value. 3M's technologies and the extensive scope of their application are fundamental for the company. This is something that differentiates us from other companies. Our ability to creatively combine the broad range of available technologies enables us to create over 60,000 unique, different products. We create innovations based on 51 different technology platforms and are constantly working on expanding this list.
However, technology and innovation are not only about new products. It is also a question of digitization and automation of our manufacturing operations in the context of Industry 4.0. 3M's facilities in Wrocław serve as the best example of this. We implement state-of-the-art Industry 4.0 technological solutions there, such as virtual and augmented reality, modern ways of presenting data in real-time, the Internet of Things, as well as digital platforms for creating elec-

tronic instructions. These innovative enhancements streamline our processes and enable us to conduct business in an optimal and advanced way.

Are there any laws and regulations in Poland that impede business development and which you believe need amending or changing altogether?

There are various factors supporting the investment climate. The list includes the stability of the legal system, and legislative processes that are transparent and involve dialogue with the public, including entrepreneurs. These factors give a sense of stability and allow us to simply focus on business development. That is why they are appreciated by many companies, with 3M among them. On the other hand, dialogue conducted by organizations such as AmCham plays an important role in the process of developing optimal legal solutions. This way, the state can address its economic and public goals while taking the voices of entrepreneurs into account.

What are the 3 top reasons to invest in Poland, in your opinion?

Poland has a large investment potential, which is why we have been developing our business here for years now. The country has an excellent geographical location and transport infrastructure that is constantly improving. But most importantly, investing in Poland gives access to talented, well-educated personnel. The *EY European Investment Monitor 2020* ranks Poland among the top ten European countries in terms of the number of foreign direct investments. All these factors mean that we certainly have no doubts about our next strategic investments. 3M Poland has concentrated its largest investments in Wrocław, which is a city that has been appreciated by investors for years.

Do you find enough talent to recruit in Poland?

One of Poland's advantages is access to young, well-educated personnel. We actively cooperate with the scientific community. We build relationships with universities and support students in the development of their initiatives, for example, by donating our products to various student clubs' projects. One of the key initiatives conducted in 2020 was the 5th edition of the 3Mind competition designed for young scientists. This is a joint initiative of 3M and the Wrocław Council of the Federation of Engineering Associations. We have also been a partner of the Perspektywy Women in Tech Summit for several years, a conference dedicated to the role of women in science, technology, engineering, and mathematics. We are committed to supporting and inspiring young women through a curriculum based on the idea of educating students in four specific disciplines—science, technology, engineering, and mathematics—in an interdisciplinary and applied approach.

What are the company's corporate culture and values?

We are a technology and manufacturing company. Our operations are based on science. We create innovative solutions intended to improve the quality of life of people worldwide by combining science-based approaches with the principles of sustainable development. We believe it is precisely science and knowledge that enable us to achieve economic growth supported by the natural and social environment.

The foundations of our strategy in regard to the natural environment and sustainable development are highly noticeable in the daily functioning of the company. We invest in modern production solutions to reduce both electricity and water consumption, as well as CO_2 emissions. Our Superhub and our offices have been obtaining 100 percent of their energy from renewable sources since the beginning of 2021. We have also managed to achieve the "zero landfills" goal in Poland, which means that no waste from 3M's factories goes to landfills. Values such as a culture of inclusion, diversity, and respect also play an important role in our innovation-driven activities. These are the foundation to build relations with our employees and form our entire business philosophy.

How has the pandemic impacted the 3M business?

The pandemic proved to be a huge challenge for all of us, including in business. For some industries, the situation was favorable, and the demand for specific products and services increased. In other industries, the demand has declined. In the case of 3M, the diversification of the product portfolio has worked well during these times of crisis.

We have fulfilled orders and delivered products used by institutions, companies, and individuals, among other things, on the front lines of the war against Covid-19. In addition to the well-known FFP2 and FFP3 3M filtration masks, we have also delivered many other personal protective equipment elements such as visors, suits, and goggles. We tripled the production of FFP2 masks globally to over 2 billion pieces. Moreover, in Wrocław, we manufacture full-face masks with replaceable filters used in industry, as well as specialized filters for liquids that are needed for producing vaccines—including for the coronavirus—and other pharmaceuticals. The lockdown was also conducive to remodeling work, so our painter's tapes and 3MTM CommandTM fasteners were in great demand.

I have no doubt that the pandemic has accelerated the digitization and automation of processes in the industry. This has improved the quality and efficiency of our work and will support further improvements in the company's productivity.

In all the measures that we have taken during the pandemic, we have put the safety of our employees first. We have implemented safety rules and procedures, as well as introduced appropriate work organization measures. A joint effort of both the employees and the company allowed us to emerge victorious from this difficult situation.

What are 3M's plans for Poland and the region in 2022 and beyond?

Poland is a crucial point on 3M's investment map. We have been developing our investments in manufacturing, R&D, and BPO operations here for many years now, and we are certainly far from being done, as we have plans to develop the Superhub. Our investments this year and in the coming years will focus on new technologies such as the digitization and automation of processes, as well as systems protecting the safety of our employees and the environment.

We are interested in making good use of Industry 4.0 solutions while focusing on tools such as virtual and augmented reality. This will also streamline supply chains and make it even easier to satisfy customer needs.

Sustainable development is always a prime element of every new investment. We have solid plans to reduce water consumption at our production plants worldwide over the upcoming decade—by 10 percent by 2022, 20 percent by 2025, and 25 percent by 2030. We also want to invest in state-of-the-art water treatment installations by 2023 and use them at all of our largest production plants starting in 2024.

As a top manager in Poland, what personal impact would you like to have on the company?

I have been with 3M for over 25 years now. Since February 2021, I have been responsible for managing and building the reputation of the 3M brand in the region, which includes Poland, the Czech Republic, Hungary, Slovakia, Ukraine, and Georgia. I previously held various managerial positions. These include being a leader of the global market development for 3M's Industrial Tapes and Adhesives Division in St. Paul, USA, leading other Regions, as well as working as business group director for Transportation and Electronics—one of 3M's four main business sectors, in the South-Eastern Europe region.

During my career here at 3M, I have had the opportunity to observe the many changes taking place in the company from both a local and a global perspective. This has been a valuable experience that I am now able to share as a manager. In my everyday work, I focus on building an international organizational culture based on ethics. This is the kind of culture that builds our competitive advantage and enables us to create top-quality products. In my work, I also put emphasis on global challenges facing managers, such as diversity & inclusion and sustainable development, which are essential to 3M. I believe the knowledge, skills, and experience that I have gained over the years will directly contribute to the further development of the company. A development that is not limited to the business itself but also expands to our relations with the environment and our people.

Company Profile: CEC Group

MAKING A DIFFERENCE

AmCham.pl Quarterly Editor Tom Ćwiok talks with **Marek Matraszek**, Chairman of CEC Group, an independent public affairs agency about the agency's brand revamp and the changing market of public affairs.

For nearly 30 years, your company—CEC Government Relations—has been known for pioneering public affairs in Poland and Central and Eastern Europe. Recently, it rebranded to CEC Group. What led to its rebranding?

The essence of our rebranding is that we have gained more maturity and added new components to our services. We have also grown in geographic terms. We have wholly-owned offices in Warsaw, Prague, Bratislava, Budapest, and partners in other countries in Central, Eastern, and Western Europe. The regional aspect has always been there, but now we want people to understand that this is a regional business at its core.

Another reason why we rebranded is that today, public affairs means doing more than just government relations. Many people wrongly understood us as a narrowly focused lobbying company. So the rebranding is about the necessity to talk about the group of services that we provide.

What are the services?

It is not just narrowly understood government relations, which is basically setting up meetings with government officials, but it is also communications and broadly understood public relations services. We have grown our capabilities in campaigning, essentially communications campaigns with the use of digital media. In today's world, it is difficult to engage in public relations without being present across digital media and social networks.

We also specialize in regulatory services and the monitoring of legislative activities. The art of successful lobbying is to understand the regulatory process and how and when to intervene, and regulatory services involve very detailed tracking of legislation.

We are also developing our intelligence services. We prepare reports and analyses on economic and market developments, as well as undertake reputational due diligence.

So this is why we rebranded, and it has given us more opportunity to talk about the services we offer and where we do them.

What is driving the market in Poland?

A lot of business is driven by the EU. There is a new regulatory environment in a number of areas, such as transportation, green energy, and this is a very important driver. Secondly, the complexity of the Polish political scene, and the fact that the government remains a very complex organism, requires monitoring government activities. This year we will see a lot of business coming as a result of the post-Covid recovery programs at the EU level and the level of the Polish government. There will be substantial new resources available for green industries, high-tech industries, and most industries that are recovering from the pandemic. That is going to drive business in Poland this and next year.

But post-Brexit, Poland's broad relationship with Europe will also drive business because of Poland's various regulatory and political challenges in Brussels. This includes the single market, energy, and the digital economy. The UK used to work with Poland on a number of those areas, but after Brexit, Poland now has to search for many other partners in the region. So, it is a much more complicated picture today shaping EU politics now, and that applies in terms of what support and monitoring needs to be done. But there are also new areas such as artificial intelligence. This is an area of policy that will not be limited to digital industries alone and will affect almost all businesses in all sectors that have moved into operating in digital environments.

Another interesting trend is that we now see increasing signs that Polish companies are much more interested in lobbying in Brussels directly for themselves or as trade associations. This is a new emerging market that, from our perspective, will be very interesting in the future.

Do these new trends change your focus on potential clients?

We have been seen as a company servicing multinationals, but now we are increasingly interested in mid-cap companies, and even in the startup sector, who want intelligence and support in regulatory issues. We are seeing a growing domestic client base within Poland itself, which is very interesting as compared to the past, when companies in Poland were not interested in EU affairs. Polish companies that need to lobby in Brussels are those from the cutting-edge technology sector, and those who want to expand to other EU markets and are taking an interest in public affairs services.

With your 30 years of experience in public relations, you have developed a certain corporate culture. How would you characterize it?

One of the things that we have always placed a premium on is transparency and ethics, which goes without saying. But what we have done successfully is that we have changed the image of public affairs companies in Poland. We have managed to show that where we add value is not in just knowing people. That is not the value we provide. The value we provide is knowing the process and knowing how rules and decisions are made.

Secondly, in order to successfully influence policy, you have to work on the level of expertise. This is why we have invested in quality, talented people who are real experts in their areas. If you are talking to us about a policy, you are talking to industry experts who can speak on equal terms with our clients and decision-makers. So, our corporate culture is obviously transparent and ethical but also professional and based on expertise aligning us much more with lawyers and other commercial consultancies, and that is the sort of spacein which we see ourselves operating.

If you look at our growth in the last couple of years, our corporate culture has been recognized and appreciated by our clients.

What are your plans for 2021 and beyond?

We continue to grow and bring on new talent in other segments in which we want to develop more areas of expertise. We are going to be active in brand building by organizing webinars, podcasts, and everything that brings policies and policy tracking much closer to a broader audience.

We are also moving into corporate training of executives in public affairs and public relations. We can teach our clients how to lobby and provide them with lobbying capabilities.

Obviously, we will also continue to focus on developing our network in the region. Strengthening our presence in the sector of events is also our priority once events resume. For instance, we are a key sponsor of the US-Central Europe Business Summit, a hybrid event that is coming up on June 17.

We also plan to work with companies from Asia. We will be taking up activities to strengthen our brand in Japan and Korea, and we are looking to attract businesses from those countries.

What is the impact of the pandemic on your team's work?

We survived and indeed flourished as did many consultancies, with clients and stakeholders also rapidly moving into the zoomsphere. But we want to move back to the office as quickly as possible. I strongly believe that if you are a creative agency—and we are a creative agency—you have to operate in the real world. I believe that the remote work culture deprives clients and consultancies of what is extremely valuable, which is human contact. So we are moving back into our offices as soon as the vaccination schedule allows. We encourage our staff to work together and feed off each other's ideas and be in place for our clients.

We add value not just by knowing people, but by knowing the process and knowing how rules and decisions are made.

Company Profile: FCM Travel Express Poland

WAITING FOR THE SUN

AmCham.pl Quarterly Editor Tam Ćwiok talks with **Tim Hyland**, President of FCM Travel Express Poland, a business travel management company, about best practices in the travel industry during the pandemic.

We spoke in 2020, right after the first lockdown, about the difficult situation in the travel industry following the outbreak of the pandemic in Europe and the US. Since then, your company has been awarded Poland's Leading Travel Management Company 2020 by World Travel Awards. Can you tell us more about your company's work that contributed to being so highly recognized by the travel industry?

We were very proud to receive this prestigious award. FCM Travel Express was nominated by powers beyond our control—we did not nominate ourselves. Votes were submitted by decision-makers in leading multinational and local corporations with important travel budgets, by major participants in our industry—such as airlines, hotels, car rentals—and by overall leaders, influencers, and media in the travel and hospitality industries. The votes were cast in 2020, reflecting efforts in 2019. Our success in being voted Poland's Leading Travel Management Company in 2020 was due to our recognized efforts to provide corporate clients with our comprehensive travel service, which is consistent, reliable, and quick. In addition, of ever-growing importance is superior travel technology such as online reservations, a dynamic proprietary mobile application, and live data reporting. Currently, only the largest travel management companies can provide such technology as it is costly to provide, costly to maintain, and requires substantial ongoing development.

What lessons, in your opinion, has the travel industry learned with the 2020 experience across different sectors, such as air travels, hotels, convention venues?

The travel industry was something we simply took for granted. There were some ups and downs, but, in general, travel was a steamroller industry that grew exponentially over the last 40 years. Now travel faces a new horizon. The influence of the main players in travel will change. Before the pandemic, the powerful airline and hotel alliances normally determined the conditions. Negotiations were, of course, possible, but generally, only the largest corporations could strike substantial cost-saving deals. Now, faced with business travel turnover below 10 percent of 2019 levels, the major players will reflect on the best path for recovery. To patiently wait for things to return could have serious financial consequences, as a return to 2019 levels is not predicted until 2023 or even 2024. By the time 2019 levels return, large losses will continue to mount unless, first, a much faster return in reservations is achieved by providing higher incentives, such as lower prices; or second, serious long-term capacity reductions are undertaken to reduce financial exposure. Most major players enjoy their dominant market positions and would rather keep than reduce long-term capacity. So, we expect the first option to become the norm for the next 2-3 years. This is good news for FCM Travel Express, as we will expand our important role to guide our corporate clients and to help them negotiate better travel proposals.

Do you think that in terms of business travel, including the MICE sec-

tor, there will be business as usual any time soon, or will the rapid development of IT conferencing tools take its toll on the MICE sector for good?

If no major change occurs on our path of recovery from the pandemic in Europe, North America, and Asia, I predict that business travel will experience a short boom in August-September, after the holidays. This "bubble" will alleviate over one long year of travel bans, lockdowns, and general frustrations we have all faced. It will then be a bit of wait and see. For vaccinated travelers, a quicker return to normalcy will occur. Note that just recently the EU announced it will open its borders to fully vaccinated travelers from selected non-EU countries which will include Americans. For those business travelers without vaccinations, companies will remain very cautious and closely follow important statistics: do employees without vaccinations become ill with Covid-19 while traveling, were adequate precautions taken in airports, hotels, and clients' offices, and which countries are "safe" to travel to? If there are no significant negatives between now and September, then business travel could well be at 40-50 percent of 2019 levels by December 2021.

Teleconferencing is here to stay. Companies should begin to set up clear guidelines while teleconferencing is preferred over traveling, but over time we will see that these guidelines will be relaxed. So, over time teleconferencing will become less used but will remain at much higher levels than pre-pandemic.

As far as the MICE sector is concerned, teleconferencing will take a back seat. MICE events inherently bring person-to-person interaction with others and physical interaction with one's immediate environment—excitement, powerful music, creative shows, live entertainment, and food and beverages. Teleconferencing cannot replace this.

One of the key aspects in budding professional experience among travel agencies' staff is letting junior people work side by side with their already experienced colleagues who share their know-how and help them acquire the essential know-how. How do you retain your best talent while business is at record-low levels?

Over the last years, we have built up a great team of loyal and talented employees. During Covid-19, they remained in close contact with each other by telephone, email, and weekly teleconferences. Our staff clearly trust us, and they firmly believe in the company's future.

I wonder if you can tell us how far into the future are travel agencies planning their business today?

In normal years, we would plan 10-12 months Into the future. Recent experience has taught us not to plan too far into the future. The best possible planning today is contingency planning—if travel rebounds to at least 50 percent over any upcoming 4-5 week period, we will need to hire additional highly-qualified staff.

Have you seen any important developments in the business travel industry over the last six months?

The downturn in corporate travel has brought consequences not only in the day-to-day operations but also in the mid-term to long-term planning for major Travel Management Companies. So, TMCs can no longer rely on past decisions of corporate clients to accept the same levels of service and technology as they did in the past. Instead, TMCs need to continue the development of their travel technology. Already in 2021, our industry has seen important consolidation among large TMCs. Recently, GBT announced its purchase of Egencia, which is a merger of the world's number one TMC with the number five. By the way, FCM is number four globally. Another merger followed recently between a very tech-oriented company, TripActions, with a TMC focused on SME corporate clients. In both cases, a long-established TMC merged with one perceived to have up-to-date travel technology to appeal to a wider base of clients. Large mergers bring immediate benefits through sharing clients and technology. But it is also important to find a good match in corporate culture and ambitions of the key stakeholders, and time will show if these recent mergers actually achieve the objectives of the purchasing party.

Our FCM has taken the approach not to purchase competitors but to introduce leading-edge proprietary technology through our in-house R&D and through investing in third-party travel technology leaders.

How have travelers benefited from the recent downturn?

Traveling employees have spent a lot of time over the last six months at their desks, glued to their computers, looking at numerous options and possibilities to travel—even though in most cases they could not actually realize their plans. The complexity of travel restrictions has increased significantly due to numerous new travel procedures. Travelers need to have the latest information. How can they travel from point A to point B with the most certainty and the least amount of risk, such as tests required, advantages of vaccines in departure, arrival, and transit countries? With more time at the computer, travelers are already savvier about how they can safely arrive at their planned destinations. These savvy travelers will help global economies recover at a faster pace.

What are your company's plans for 2021 and beyond?

We are in an envious position once business travel returns, as we have signed a substantial number of new local and global clients in the last 18 months. We anticipate a growth of up to 50 percent in 2022, using 2019 numbers, which will significantly increase our market share in Poland. To complement this growth, we will have a stronger focus on travel technology to improve our office's efficiencies and our customers' travel experience. FCM will release more proprietary technology in 2022-24, both new innovative travel technology and upgrades to existing technology. It is really exciting for us to look into our FCM crystal ball and anticipate how our corporate travel services will grow and improve over the next three years.

Travelers today have ever-higher expectations in technology. What unique travel technology does FCM Poland offer ?

Through FCM we offer very efficient unique travel technology to our local and regional clients. Arrivon is our intuitive online reservation system which incorporates significant airline-direct discounts not normally available to SME clients.

In turn, FCM Mobile is our award winning digital assistant which keeps getting better and better. It puts your travel program in your own pocket. It continually guides our clients when traveling, automatically proposes logical solutions when a flight is delayed or cancelled, announces gate changes, or simply confirms accommodation and flight details. The system proactively solves problems before our clients are even aware of them, and connects them to a travel expert when technology is not enough.

We also have Reporting—the cutting-edge, real-time, 100 percent accurate reporting and powerful analytics system on steroids for more demanding clients.

I've never asked this question before, but I was wondering, what do the letters FCM in FCM Travel Express Poland stand for?

They stand for "Flight Centre Management," which is the corporate travel business in a very large Australian-based travel company called Flight Centre Travel Group—FCTG.

To patiently wait for things to return could have serious financial consequences, as a return to 2019 levels is not predicted until 2023 or even 2024.

Company Profile: ffVC

HELPING GREAT TEAMS GROW

AmCham.pl Quarterly Editor Tom Ćwiok talks with **Mariusz Adamski** and **Maciej Skarul**, Partners at venture capital fund ffVC, about the potential of the Polish market for "smart money" investors.

What is the history of ff Venture Capital in the US—briefly—and in Poland?

Mariusz Adamski: ffVC was founded in 2008 in New York City by John Frankel, an ex-Goldman Sachs technology banker. Since then, we have invested in over 125 companies and have raised capital in excess of USD 230m.

Maciej Skarul: Back in 2008, the startup ecosystem in NYC experienced a significant boom. We believe that Poland is currently also undergoing an inflection point fueled by rapidly growing investments. This is what attracted our US colleagues who have had similar experiences.

Mariusz Adamski: I have been working together with ffVC on establishing the Polish operations for over two years. We started in Q4 2020 and officially opened the Warsaw office in January 2021. Since then, we have made two investments and are actively pursuing new deals.

What is the ffVC investment philosophy? What is the value that you deliver to the startups you invest in, in addition to the capital?

Maciej Skarul: We believe that these days, smart money is a must-have for venture capital firms. ff actually stands for "founder-friendly," so we go above and beyond in supporting our founders on their growth journey. We engage at all stages, that is, by helping source new clients and executives, ensuring optimal legal structures and reporting, and finally, leading new investment rounds to facilitate follow-on financings. Our system works, and around 60% of our seed investments raise Series B while the industry average is closer to 12 percent, so we beat the benchmark by five times.

Mariusz Adamski: The premise of the Polish fund is to take advantage of the know-how and the platform we have built and connect the best startups out of the region to our US ecosystem. We believe that Poland is not lacking in talent, but in order to grow and compete in a global environment, the businesses require access to capital pools available in the US market.

What are the conditions for startups interested in your offering?

Mariusz Adamski: Startups with global ambitions and a scalable business model are the best match for our investment philosophy. We can be flexible regarding the industry, but since we like to invest in markets that we understand well, we tend to focus on enterprise software, fintech, insuretech, proptech, cybersecurity, gaming, and solutions based on artificial intelligence and machine learning.

Maciej Skarul: We are an early-stage investor, but we also need to see clear signs of commercial traction validated by sales, preferably already on an international level. Typically we write checks between USD 0.5m to USD 2.0m, which positions us in investment rounds between seed and Series A.

It is often said that Poland has a good environment for tech startups with many "innovation hubs" across the country in major cities. Would you agree with that?

Mariusz Adamski: Poland has a good environment, and the ecosystem is experiencing rapid growth. We also have strong fundamentals in terms of local talent and a well-educated workforce. There is a number of initiatives that contribute to the overall growth of technology, "innovation hubs" being one of them. This is why we believe that Poland is poised to benefit and we will be soon seeing the emergence of fantastic global startups.

Maciej Skarul: We are seeing more and more outstanding ideas with great teams behind them. Now the challenge for them remains in execution, and this is where we can step in to support and provide guidance.

How has the pandemic impacted the market?

Maciej Skarul: Even before the pandemic, we have been saying at ffVC that the world is now flat. COVID-19 has only exacerbated this trend. On the one hand, this has made global expansion even easier for Polish startups. On the other hand, the playing field is now better suited for well-capitalized companies who can simply outspend the competition. Even more so, access to funding and being able to raise large capital is becoming a key source of competitive advantage.

Mariusz Adamski: The pandemic has generally been positive from a business perspective for the technology sector. We believe that this is a favorable moment to start the investment activities as customer needs and business models are being reformatted, and agile startups are naturally best-positioned to capitalize.

Looking at the legal framework governing business in general in Poland, would you say that the country is a good place for investors in technology companies? Is there anything that you think may be improved?

Mariusz Adamski: Although the system is improving, there is still a lot to be done in terms of the legal framework in Poland. The rules for VC funds are vastly overcomplicated and generate unnecessary paperwork and admin. The tax regime for investment activities is also unfavorable, so it comes as no surprise that we are not seeing many international investors.

Maciej Skarul: On the back of experiences from the US market, we have identified a broad array of potential solutions that could greatly improve the system. We plan to spearhead the change and take an active role in shaping the industry.

What can you tell us about the ffVC investment portfolio in Poland?

Maciej Skarul: The Polish portfolio will be focused on businesses with global potential and ones we could plug into our US platform. We also strongly believe in startups within industries that have historically neglected technology and only now are seeing the demand for a digital layer.

Mariusz Adamski: Our first two investments, SpaceOs and Respo.vision, are great examples that substantiate this approach, as they provide solutions for the real estate and sports markets. SpaceOs is a tenant experience platform providing a technology layer for commercial property. The company already operates in 19 countries, and its technology has been implemented by leading players such as Commerz Real, CPI, and Immofinanz. Respo.vision is a startup that aims to fully digitalize soccer data and extract full 3D level information from any broadcast feed based on their unique technology. The solution is already being used by the likes of Paris Saint Germain and Benfica Lisboa.

What are ffVC's plans for 2021 and beyond?

Maciej Skarul: We see that the opportunities in the market are as good as ever, so we will remain active in our investment activities. We believe that with our help and approach, we can replicate the success stories from within our US portfolio and create a handful of unicorns out of Poland.

Mariusz Adamski: We have big plans for the Polish and, more broadly, the CEE markets. Certainly, we will soon be raising new funds aimed at building truly global businesses!

The rules for VC funds in Poland are vastly overcomplicated and generate unnecessary paperwork and admin.

Company Profile: Point72

ATTRACTING BRAINPOWER

AmCham.pl Quarterly Editor Tom Ćwiok talks with **Rafa Lopez Espinosa**, Global Head of Strategy and Head of Poland, Point72, an asset management company, about its regional office in Warsaw and the goals set forth in 2021 and beyond.

In brief, what is the history of Point72?

Point72 is a global asset management firm with more than 25 years of investing experience. We invest using multiple strategies, such as Discretionary, Systematic, Macro, but primarily specialize in Long/Short Equity investments, using deep fundamental research to predict whether stocks will rise or fall. We seek to create returns for investors by building market-neutral or the so-called "hedged portfolios" that have the ability to make money whether the markets move up or down.

Our firm had USD 22.1 billion in assets under management as of April 1, 2021, and employs more than 1,650 people across 12 offices worldwide. It is headquartered in the US, with offices in New York City and Connecticut, Palo Alto, San Francisco, London, Paris, Hong Kong, Tokyo, Singapore, Sydney, and now, Warsaw.

This year the company decided to expand its operations by opening an office in Warsaw. What led you to this move?

We decided to open an office in Warsaw because we were attracted by the talent in this market. Talent is at the core of what Point72 does. People who live here know this, but Warsaw is becoming an increasingly important hub for talent in Central and Eastern Europe. Similar to cities like Berlin and London, it is attracting talent from its region and beyond. As the Polish capital, Warsaw has some of the leading technical and engineering universities in the region, which not only produce well-trained graduates but attract companies—like ours—looking for a deep pool of top talent. It's a really vibrant place to work.

We also had the opportunity to become the first and only major alternative asset management firm in the region. Being first in the market allows us to create a dialogue with that talent pool, and we believe we have compelling opportunities for people who want to be innovative and have an impact on the future of our firm and the industry.

What is the impact of the new office on the workforce in the US?

Our office in Warsaw is part of our global workforce. Our teams in Poland collaborate closely with international colleagues, including in the US. We want to build a team of world-class, subject-matter experts who will bring innovation and fresh perspectives to many of our firm's key processes.

We do not see ourselves as a US team and a Warsaw team, and that's not how we're organizing ourselves, either. For example, say we have a technology team, and it is comprised of developers in the US and developers in Warsaw. They are all part of the same team; the location doesn't really matter.

Another thing we liked about Warsaw is that we have six or seven hours of overlap with business hours in the US, so it's easy to connect and communicate. It's a very good partnership in the sense that we can make the days longer, and productivity increases a lot as a result.

What type of professional jobs are you creating in Poland?

Our Warsaw office plays a key role in the core operations of the company. We are recruiting for strategic positions on teams including technology, finance, operations, and data science, which are all essential to our firm's success.

I'd encourage anyone who's interested in learning more about the firm and open positions to visit careers.point72.com.

In what way is your offer compelling in today's competitive Warsaw job market?

At Point72, our employees get the opportunity to learn new skills, deepen their expertise, and advance their careers. Our firm is focused on the professional development of our employees and works to provide global, long-term opportunities to top talent. We hire highly motivated people with big ideas who want to make an impact and who will help drive a culture of integrity and excellence.

For people who want to take the next step in their careers, an asset manager like Point72 is a great place to learn new skills and tackle different challenges. The dynamic nature of our firm provides opportunities for our people to constantly broaden and deepen their expertise and skillsets and to take on new and greater roles over time, sometimes in different locations.

Our Investment Services team members, who support our business operations, make up more than half of our firm's workforce and are critical to our success. Everyone has the ability, and expectation, to make an impact on our business. They are continually challenged to solve new, sophisticated problems and innovate in their solutions.

How many people do you plan to hire by the end of 2021?

We have already hired more than 65 people in our Polish office. We plan to grow the Warsaw office to about 150 employees by the end of 2021 and to be our biggest office outside of the US within 2-3 years.

What can you tell us about the company's corporate culture and values?

In Poland, we have been working to create an office culture that reflects our Point72 culture while also incorporating the unique experiences of our Warsaw employees, and I am impressed with the results so far.

As part of these efforts, we are enhancing the onboarding of new employees. Everyone's first day is an onboarding day, in which newcomers learn about the firm and its benefits, undergo compliance training, and meet the team for the first time. We also have a buddy program, where every newcomer is paired with another employee to help them get acclimated to the office and the firm.

When I think about Point72 as a whole, there are a few things that stand out that we're trying to emphasize in Warsaw.

We are meritocratic. Great ideas can, and have, come from everyone within our firm. Individual performance dictates opportunities. We value diversity of thought and have built a platform where all voices can be heard—having diverse perspectives and styles prevents groupthink and leads to better outcomes.

We encourage collaboration across teams because we believe it enables new ideas, mentorship and reinforces the culture of our firm.

We adhere to the highest ethical standards. We expect ethical behavior at a higher standard than the law requires. We have a "see something, say something" culture with multiple avenues for reporting concerns. Compliance is embedded in all aspects of our business, including the hiring and investment process, and all employees are trained on compliance risks relevant to their position.

We are committed to diversity at Point72 and across the industry. Attracting the industry's brightest talent and providing development and growth opportunities throughout their careers is essential to our success. Our Office of Inclusion and Engagement leads our efforts to foster a diverse culture and ensure inclusive recruitment, retention, and promotion practices.

Globally, we sponsor a variety of professional groups dedicated to the promotion of women, minorities, and the LGBT+ community. For example, in Poland, we are already partnering with IT for She to help empower women, encourage girls to choose STEM-related faculties, and create a passion for technology among youth in underprivileged communities.

What is the role of technology in your company?

We see integrating data and technology into the fundamental research process used by our investment professionals as an opportunity. It's a way for us to evolve and get better, the same way you see other industries and professions innovating and changing.

On the operational side, we see a lot of opportunities to automate manual processes and to take better advantage of our internal data. This not only improves efficiency but also frees up our team members to focus more on strategic initiatives that create value rather than spending time performing rote tasks.

The most successful companies will be the ones that create interdisciplinary teams that understand, maintain, and leverage data better than any standalone team of data or technology professionals.

There are places where technology excels and places where people excel, and combining those strengths will help us innovate and make us a better firm.

What are the company's plans in Poland beyond 2021?

We see the Warsaw office as integral to Point72's continued success. As aforementioned, we expect Warsaw will become our largest office outside of the US within two to three years. Our teams here are going to play an important role in our strategic plan to expand existing teams, explore new asset classes, and develop new strategies.

The dynamic nature of our firm provides opportunities for our people to constantly broaden and deepen their expertise and skillsets and to take on new and greater roles over time, sometimes in different locations.

EXPERT Business leadership

PREPARING FOR THE FUTURE

By **Andrew Harding**, *FCMA, CGMA, Chief Executive, Management Accounting at the Association of International Certified Professional Accountants, representing AICPA & CIMA*

How finance and accounting professionals can support their organizations in the post-Covid era

Over the past twelve months, the coronavirus pandemic has caused large-scale disruption for individuals, businesses, and societies across the world. At the inception of the crisis, organizations needed to act quickly to protect their employees, customers, suppliers, and balance sheets.

Throughout the crisis, finance and accounting professionals provided vital support and guidance to business leaders to help address immediate concerns about safety and survival, stabilize the business in the short- to medium-term, reduce uncertainty, and position it for recovery.

Now we are in a transition period—one where we have an opportunity to learn the lessons from the past year and prepare for the future. As we move into the post-pandemic world, we will find the world has changed forever, and organizations, as well as the profession, must change with it.

HELPING ACHIEVE ESG OBJECTIVES

The coronavirus pandemic has brought organizations' environmental, social, and governance (ESG) agenda into sharp focus. Investors, shareholders, and customers alike are now asking for organizations to step up their game on climate-related and wider environmental, social, and governance challenges.

Organizations have started looking at how to incorporate sustainable practices into their business models. Finance teams have a key role in driving sustainable strategic and operational decisions, including risk management. They do this by providing reliable and relevant accounting and management information, including financial and non-financial measures, to ensure that organizations can confidently make important decisions and deliver their ESG strategy.

PROVIDING BUSINESS INTELLIGENCE

Finance and accounting professionals can help their organizations understand the scale of the challenge lying ahead, come up with viable solutions, ensure they are properly implemented, and accurately measure results. From creating an ESG framework to revamping the organization's pricing policy, they have a pivotal role in providing business intelligence to support strategy and influence decision making. Without the rigor and business acumen of finance teams, it may prove impossible to truly embed sustainability and responsible business practices into "business as usual."

HARNESSING THE POWER OF DIGITAL TRANSFORMATION

The rapid spread of new technologies accelerated by the pandemic has forced many businesses, including their finance teams, to adapt their digital capabilities for the post-pandemic future. Many finance leaders are now further investing in technology to automate some of their organization's finance processes and improve efficiency. This gives finance teams the opportunity to spend less time on transactional work and free up time for finance, and accounting professionals play a more influential role within the business, support strategic decision-making, and impact business results.

BRIDGING THE SKILLS GAP

Digital transformation is not solely about upgrading IT systems and working faster; it is also about people and their ability to adapt to change. The pace of change is not showing any sign of slowing down, so finance and accounting professionals must keep up to stay relevant. They now need to continually learn and upskill themselves, from keeping their digital skills sharp to enhancing their soft skills—this will be critical to truly capitalize on the potential of digital transformation and better manage challenges ahead. All of that requires a culture change. Finance and accounting professionals of the future must cultivate curiosity, utilize strategic and critical thinking skills to solve complex problems and manage ever-evolving risks.

MAINTAINING THE AGILITY, FLEXIBILITY AND PACE

Going forward, finance teams should look to maintain the agility and creativity they demonstrated during the Covid-19 crisis. They also need to support their companies' efforts to innovate—for example, by developing new products or services or selling directly to consumers when they previously used indirect channels to market.

THE "VALUED PARTNER"

Even before the coronavirus pandemic struck the world, the role of finance and accounting professionals was quickly evolving to encompass new responsibilities, moving from controllers to strategic business partners. Finance and accounting professionals have been drawn to the center of decision-making as business leaders pulled in all available resources to keep their organizations afloat. Other departments have also proactively sought support from the finance team to help develop new partnerships, manage risks, restructure the business, and respond to changing customer expectations so that their organizations can thrive in the post-pandemic world.

In recent months, the finance team has truly become the "valued partner" that businesses desperately needed. And this trend is likely to accelerate further as the recovery gathers pace.

Even before the coronavirus pandemic struck the world, the role of finance and accounting professionals was quickly evolving to encompass new responsibilities, moving from controllers to strategic business partners.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EXPERT Competition law

TAKING ACTION

By **Adrian Bielecki***, Senior Associate, Competition Practice, Dentons*

The war against payment delays enters a new era

The new Payment Delays Law has been in effect since January 1, 2020. However, it was only in February 2021 that the Chairperson of the Office for Competition and Consumer Protection imposed the first fines for excessive payment delays. Now, the war against payment delays will likely enter a new phase.

Under the Payment Delays Law ("Law"), the Chairperson of the Office for Competition and Consumer Protection ("UOKiK") has the power to impose fines for excessive payment delays. The Law mandates UOKiK to target entities whose delayed payments in a 3-month period amount to more than PLN 5 million (EUR 1.1 million). In 2022, this threshold falls to PLN 2 million (EUR 440,000).

Early 2020 was marked by capacity-building to implement the Law. In June 2020, armed with data provided by the tax authorities, the UOKiK started proceedings against 51 undertakings. This was followed by further enforcement actions that triggered proceedings against 100 undertakings in 2020. The UOKiK was able to bring the first few cases to a conclusion in February 2021.

ACTION AND REACTION

The UOKiK chair imposes fines for excessive payment delays. These fines are calculated by an algorithm that primarily factors in the value and length of the delay. The first two fines imposed by the UOKiK came in at over PLN 470,000 (EUR 104,000).

Yet, undertakings can make use of special mitigation rules under the Law. First, the UOKiK is obliged to waive any fine if the value of delayed payments related to the undertaking's receivables in a given time period equals or is higher than the value of delayed payments related to its liabilities. In the first batch of decisions by the UOKiK—issued in February 2021—undertakings avoided fines on this basis in two cases (of a total of four cases closed in this period). In both cases, the undertakings that had difficulties meeting their own obligations were also victims of payment delays.

The Law obliges the UOKiK chair to waive a fine if the delay is caused by *force majeure*. The UOKiK also has the option to waive a fine in other justified cases. In this context, it remains to be seen whether the UOKiK will waive fines in cases that, for instance, involve the victims of payment delays who do not meet the above conditions related to the value of receivables, or cases that involve undertakings whose troubles with meeting their own obligations were caused by the Covid-19 pandemic.

OVER THE HORIZON

In the weeks and months ahead, we expect developments on many fronts in the war against payment delays. These are early days, and the UOKiK is still building its know-how in order to be more effective in dealing with cases. It is hiring new people and refining its data analysis techniques.

The UOKiK will finalize the proceedings that snowballed in 2020 and will launch new proceedings in the near future. To this end, the UOKiK will likely use data provided by tax capital groups and major CIT taxpayers in reports on payment practices. The undertakings were required to submit such reports for 2020 to the Ministry of Economy by February 1, 2021. The data in the reports will be made publicly available, and a statement by public officials intimated that this data would be put out in the public domain in the near future.

The courtroom may be another battleground. This is because some of the undertakings fined by the UOKiK chair will likely launch appeals to the courts and challenge the authority's decisions. In this context, it will be interesting to see whether the courts will share UOKiK's views on some issues which are subject to varying interpretations, such as how to apply the Law to payments that are subject to factoring in its various forms.

LEGISLATIVE CHANGES

Last but not least, the UOKiK announced that it is already working on amendments to the Law on Payment Delays. Based on statements from UOKiK officials, the amendments will seek to tighten up existing rules.

For example, the UOKiK will target intra-group transactions. Currently, provisions obliging the UOKiK to waive fines in the case of victims of payment delays do not exclude intra-group transactions from the scope of analysis. For example, a subsidiary with major arrears whose business purpose is to procure goods for the corporate group from external contractors may escape a fine if its own parent company delays payments.

Furthermore, the UOKiK aims to bring in new rules to give it the power to impose fines on victims of payment delays that are in good financial condition. However, the draft legislation is yet to be published, and it remains to be seen whether—and how—these aims will be transferred into law.

The UOKiK has imposed the first fines for excessive payment delays, calculated by an algorithm that primarily factors in the value of the payment and length of the delay. The first two fines came in at over PLN 470,000 (EUR 104,000).

A PRICE TO PAY

By **Andrzej Bundyra**, *Associate, Łaszczuk & Partners*

Parent companies to pay for the infringements of competition law by their subsidiaries.

The implementation of the ECN+ Directive [Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market] has provided an opportunity to change some far-reaching aspects of Polish antitrust law.
In January 2021, a bill amending the Competition and Consumer Protection Act was presented for public consultation in Poland. Apart from implementing Directive (EU) 2019/1, the bill also aims to extend liability under Polish competition law.
How would this be done? Most importantly, parent companies would pay for infringements of competition law by their subsidiaries.
So far, this topic has been a key difference between Polish and EU competition law. In general, Polish law has recognized discrete natural or legal persons only as an undertaking, regardless of their real autonomy, in determining the course of their business. Consequently, only the specific undertaking could be held liable for breach of competition law and subjected to fines.
However, the EU has formulated the concept of a "single economic unit," under which multiple persons could be treated as a single undertaking if they do not experience autonomy in pursuing their business. In practice, parent companies and subsidiaries are often treated as a single economic entity under EU competition law. Thus, undertakings forming a single economic unit might share responsibility for infringements of the competition law.

DECISIVE IMPACT

According to the bill, an infringement of competition law by a single undertaking would also be treated as a breach by undertakings having a decisive impact on that undertaking.
Consequently, an undertaking in immediate breach of competition law and one or more undertakings having a decisive impact on that undertaking could be held jointly liable for the breach.
According to the bill, a decisive impact is exercised when economic, legal, and organizational links between undertakings cause the undertaking on whom a decisive impact is exerted to execute or comply with instructions given by the undertaking exerting a decisive impact, limiting or preventing independent determination of behavior on the market. A decisive impact is presumed if the parent company holds over 90 percent of the capital of the undertaking over which it has a decisive impact.
The explanatory memorandum to the bill states that this provision should also be understood to mean that in the case of a subsidiary, the parent company, "grandparent" company, or further companies along the line could exert a decisive impact on the company and thus might be held jointly liable for a breach of competition law.

PENALTIES

In general, an undertaking that violates the most serious provisions of competition law is subject to a fine of up to 10 percent of its turnover generated in the financial year preceding the year in which the fine is imposed.
The adoption of the proposed amendment will mean that the Polish competition authority will, in a single proceeding, prosecute the single undertaking for a breach of competition law as well as its affiliates having a decisive impact over it. However, the explanatory memorandum to the bill suggests that the Polish competition authority may, at its discretion, select the parties to be pursued in the proceeding, depending on the circumstances of the specific case and the nature of the violation.
In the event of a violation by an undertaking exercising a decisive impact over another undertaking, the Polish competition authority will be able to impose a total fine on that undertaking and the undertakings over which it exerts impact. As the amount of the fine depends on the undertaking's annual turnover, the fine would be calculated according to the combined turnover of all of the undertakings. The liability of the undertakings would be joint and several, which means that all or any one of them would be liable up to the full amount of the penalty.

MANAGING PERSONS' LIABILITY

Currently, a managing person of an undertaking may face a fine of up to PLN 2,000,000 if, in the identified infringement of competition law, the person intentionally allows the undertaking to infringe competition law through an act or omission.
The bill also provides for liability of managing persons of parent companies, but this only applies in case of the most serious infringements of the competition law—the prohibited agreements.
In late 2020, the Polish competition authority imposed its first penalties on managing persons of undertakings for competition law infringements. It seems likely that it may also impose penalties on managing persons of undertakings exercising a decisive impact in the future over another undertaking.

SUMMARY

Infringement of competition law can be subject to very high fines. Taking the amendment under consideration would mean that the undertaking in immediate breach of law, and its parent companies would face the same penalties. The penalty might also apply to managing persons of the company in breach and its parent companies.
If adopted, the proposed changes to the Competition and Consumer Protection Act will have a great impact on the market, including on foreign investors in Poland operating as parent entities of Polish-based companies. The adoption of the amendment in its current form would establish the basis for a significant increase in penalties imposed by the Polish competition authority in the future.

EXPERT Commercial real estate

SO FAR, SO GOOD

By **Daniel Czarnecki**, *Head of Landlord Representation, Office Agency, Savills*

How the office market has survived the pandemic

Over the year, since the Covid-19 pandemic arrived in Poland, the Warsaw office market has seen a decrease in occupier demand and office stock under construction amid rising vacancy rates. Although the past 12 months have been challenging for the office sector, it is clear to see that companies are no less keen to have an office of their own.

With more than 167,000 square meters of new office space coming on stream in the first quarter of 2021, Warsaw's total office stock surpassed the 6 million square meter mark. Office supply was boosted by the completion of two office towers near Daszyńskiego Roundabout: Skyliner (48,500 square meters) and Generation Park Y (44,200 square meters).

PROJECTS IN THE PIPELINE

According to Savills's data, the office development pipeline stands at 407,000 square meters, the lowest figure in 10 years. More than 180,000 square meters are expected to be delivered by the end of this year, mostly in projects that broke ground in the pre-pandemic environment. Increased caution with regard to commencing new projects is likely to result in a supply gap in late 2022 and 2023.

OFFICE TAKE-UP

In the first quarter of 2021, Warsaw's office take-up climbed to 109,250 square meters, down by 20 percent on the same period in 2020, when the impact of the pandemic had not been fully felt yet. According to Savills's latest report, "Market in Minutes: Office Market in Warsaw," the total leasing activity amounted to 574,000 square meters in the past 12 months, the lowest figure since 2011.

PRE-LEASE AGREEMENTS

Due to Covid-19, the share of pre-lease agreements plunged from 20 percent during the pandemic period from April 2020 to the end of March 2021 to just 10 percent in the first quarter of 2021 alone. Despite this, the largest transaction to complete in the first three months was the Warsaw Transport Authority (ZTM) pre-lease of 9,800 square meters in Fabryka PZO for its head office. The share of regears stood at a high of 32 percent in the first quarter of 2021, a trend that had been expected to intensify due to the pandemic. Still, the increase was weaker than originally anticipated. Regears accounted for 37 percent of the total leasing volume over the past 12 months.

VACANCIES

At the end of the first quarter of 2021, Warsaw's vacancy rate stood at 11.4 percent, representing a 3.9 percentage point increase over the past 12 months. Despite this, it was well below the 14.2 percent recorded during the previous supply peak in 2016.

Although office occupancy costs have come under pressure due to subdued occupier activity, headline rents remain stable for the time being. Companies looking for ready-to-occupy office space under shorter leases can now choose from a wide range of sublease listings. To attract tenants, office landlords are scaling up lease incentive packages that will include rent-free periods and fit-out contributions.

NEW DYNAMICS

The working from home model has introduced new dynamics in the organization of companies. This necessitates companies and office building owners to rethink their spaces and adapt to the new reality guided by the concepts of flexibility and mobility, ensuring the positive, safe, and rewarding return of their employees to the workplace.

SUBLEASES

The wave of sublease listings that flooded the market in 2020 is now likely to be followed by a focus on searching for alternative locations to optimize occupancy costs. This may work to the advantage of older office buildings located in non-central locations in particular and commanding lower rents, as well as buildings that have been refurbished during the pandemic to provide quality similar to that of new office developments. If developers continue to exhibit caution with regard to commencing new projects in the longer term, the trend of tenants returning to older office buildings will intensify in a few years' time due to the risk of an undersupply.

IMPACTS OF THE PANDEMIC

An analysis of the past 12 months provides some insight into the impact of Covid-19 on the office market. However, vaccination rates and the risk of further waves of infection are causing a great deal of uncertainty regarding what lies ahead. The pandemic continues to shape the office market. Some companies are withholding their decisions regarding office leases or exploring opportunities for savings and more flexibility. At the same time, there is growing confidence in the office. Despite a high level of remote work, companies are unlikely to give up on the idea of having a physical office altogether. The office market appears to have survived the pandemic and will continue to grow soon, while office landlords and developers now better understand tenants' new needs.

Despite a high level of remote work, companies are unlikely to give up the idea of having a physical office altogether.

EXPERT E-commerce

LIQUIDATING RETURNS

By **Mike Barnes**, *Associate, European Research, Savills*

How our relationship with online shopping is causing long-lasting environmental impacts

Fuelled by necessity, consumers' relationship with online shopping has only become more ardent in the last year. In the UK alone, online spending reached 28 percent of total retail sales during 2020. While this figure is slightly lower across Western Europe at an average of 16 percent, the trend is anticipated to continue on an upwards trajectory.
This spree's impact on real estate has consequently caused one of the biggest booms in history in the logistics market: take-up increased by 12 percent year on year, and investment followed a similar course with record levels recorded.
According to a recent "Spotlight: European reverse logistics" report from Savills, an additional 8.6 million square meters of warehouse space is required by parcel companies in Europe between 2021 and 2025 to keep up with growing e-commerce demand. We have seen a huge surge in online shopping throughout 2020, fueled largely by the impact of the Covid-19 pandemic. While we anticipate retailers' omnichannel strategies will become more streamlined in order to reduce the number of returns, it is clear that the level of demand for warehouse space used for both new stock and returns will be significant.

ANTICIPATING A RIPPLE EFFECT

Data analyzed by Savills shows that, based on a report from Effigy Consulting, a total of 12.3 billion parcels were delivered in Europe during 2019. Applying data from OFCOM's parcel delivery, which shows an annualized growth of 9.1 percent in the number of UK parcels, the next five years in Europe will require a significant development pipeline. Assuming that 20 percent of goods bought online are returned over this period, an estimated 1.7 million square meters of this space will be required to accommodate and process returns from parcel delivery companies. Rather than a like-for-like relationship between parcel returns and logistics demand, this is more likely to be in the form of a ripple effect for new demand from associated trading partners.

RE-COMMERCE

Nevertheless, despite the increased ease of purchasing for consumers, e-commerce is starting to negatively impact the process of returns and their effect on the environment.
US reverse logistics operator Optoro estimates that 20 percent of e-commerce returns are destroyed or end up on landfills as unsellable inventory. As a result, Boston Consulting Group estimates that EUR 7 billion of returned goods are destroyed every year in Germany alone.
In order to combat this, we have seen policymakers start to implement sanctions on reoffending retailers. In 2020, France committed to outlaw the destruction of unsold products, including clothing and electricals, by 2023. Retailers will be forced to repair, re-use, resell, or recycle goods instead. According to *Bloomberg*, the German environmental ministry is reportedly visiting various e-commerce merchants to gain a sense of the proportion of goods that are thrown out in anticipation of new regulation being introduced.
This has consequently created opportunities for the emergence of "re-commerce," with companies such as blinq.com acting as a returns liquidator for resale to consumers in order to reduce waste. We are also seeing the implementation of augmented reality (AR) by some retailers in order to help customers visualize the product before purchase, therefore reducing returns and, subsequently, waste.
For consumers, resale platforms, including Depop and Thrift, are becoming more and more popular as the idea of re-using clothing becomes increasingly digital.

SEEKING MORE SUSTAINABLE WAYS

On a practical level, parcel delivery companies are also seeking more sustainable ways to deliver goods across Europe. Over the past three years, the annual number of electric vehicle sales has almost tripled to 742,000 in order to reduce carbon footprints, according to EV-Vehicles. Amazon's fleet of electric vehicles is now making deliveries in Los Angeles. Amazon plans to expand this to 100,000 vehicles by 2030 to meet the company's climate pledge of net-zero carbon emissions by 2040.
What is increasingly apparent is that the negative environmental impact of online shopping is not one to be borne solely by the retailer, consumer, packaging, or delivery companies; it must be a collective effort. With the issues surrounding this topic very much a global concern, we anticipate further regulation across all parts of the sector in order to combat further negative impacts.

The negative environmental impact of online shopping is not one to be borne solely by the retailer, consumer, packaging, or delivery companies; it must be a collective effort.

EXPERT Commercial code

REGULATING SOVEREIGNTY

Business Judgement Rule—opportunity or necessity?


By **Marcin Wnukowski**, *Partner at Squire Patton Boggs, and* **Justyna Świnka**, *Lawyer at Squire Patton Boggs*

The draft amendment to the Polish Commercial Companies Code (CCC), developed by the Commission for Corporate Governance Reform appointed by the Minister of State Assets, has recently become a hotly debated issue in Poland. The draft amendment of July 20, 2020, introduces significant changes to Polish corporate law with far-reaching legal and business consequences for corporate entities operating on the market. It features nascent holding law as a response to the changing economic and business reality and constant transformations of business operations. In the wake of very dynamic changes to the economy and the business environment, a change in Polish commercial law has been proposed to regulate the relationships among groups of companies, thus heralding the new holding law. The proposal features, among others, the adoption of the Business Judgment Rule, indicated in Article 21(12) § 3 of the draft.

A GLOBAL LOOK

The Business Judgement Rule is a case law-derived doctrine in corporate law whereby courts defer to the business judgment of corporate executives in charge of the main operations and decisions of the corporate bodies. This approach is present in most common law jurisdictions, such as the US, Canada, and England. However, one may also find it in European countries like Spain, Germany, Austria, and others. Looking at the State of Delaware in the US, one can see that under the Delaware General Corporation Law, the business judgment rule is the offspring of the fundamental principle, codified in Del. Code Ann. tit. 8, § 141(a), in which the business and the affairs of a Delaware corporation are managed by or under its board of directors. The consequent approach is that in executing their managerial roles, directors are charged with an unyielding fiduciary duty to the corporation. The rationale for the rule is the acknowledgment by courts that, in the inherently risky business environment, boards of directors must be free to take risks without the constant fear of lawsuits affecting their judgment.

POLISH LEGAL PERSPECTIVE

The draft, which involves numerous changes to CCC regulations, seeks to introduce the liability of a parent company in relation to a subsidiary, which carries out binding orders imposed on it by the parent company. The adopted model of liability is that of presumed fault liability expressed in Article 21(12) of the draft. However, in connection with Article 21(12)(3), the parent company will not be held liable if it acted within the limits of justified economic risk, including the basis of the information, analyses, and opinions that should be taken into account under the given circumstances when making a careful assessment.

The Business Judgement Rule introduced in the provision mentioned above is, in a way, a response to the recently changing line of judicial decisions. The problem of assessing the liability of members of bodies is related to the practice of applying criminal liability to such persons arising from Article 296 of the Criminal Code. The problem encountered by the courts consisted of the situation in which a corporate officer or supervisory body acted in a certain manner within the scope of its mandate and caused damage to the company, even though it did not directly violate a legal norm. In principle, the possibility of holding corporate officers liable was determined by a formal breach of a legal norm. However, at a later stage (e.g., the Supreme Court judgment of July 24, 2014, II CSK 627/13), such officers also began to be held liable in situations in which they failed to exercise due diligence resulting from the professional nature of their activities and derived from Articles 293§2 and 483§2 CCC. In response to this, the draft proposes to amend these articles in the CCC, which consists of repealing §2 and introducing §3 in which a member of the management board, supervisory board, audit committee, or liquidator does not breach their duty to exercise due diligence if they "act towards the company within the limits of reasonable economic risk, including on the basis of the information, analyses, and opinions which ought to be taken into account under given circumstances when making a careful assessment."

A SOLUTION IN POLAND

The purpose of the proposed regulation is to provide a defense against board members whose actions, meeting certain criteria, cause damage to the company.

Risk is an inevitable element of business on the one hand, and on the other hand, is a factor owing to which companies can profit. It introduces newer and better means and mechanisms in their operations and can help them branch out. The introduction of a business assessment of a situation in the case of actions taken by corporate officers is a necessary element of corporate law. According to the proposed regulation, members of the bodies who have shown diligence and loyalty in the performance of their duties and have decided to take a business risk may count on legal protection if it transpires, *ex post facto*, that their decision has caused damage to the company.

Retroactive evaluation of management board actions from the point of view of the consequences of management board decisions does not correspond to the realities of conducting business, in which unforeseen situations often occur and "economic risk" is an inherent part of them. It is, therefore, necessary to adopt an approach in which the assessment of management bodies' actions should be examined at the moment a business decision is made. Certain factors must also be taken into account, such as whether the procedure of making such a decision was correct, whether members of management bodies complied with a higher measure of due diligence resulting from the professional nature of their activities, and whether their decisions complied with the duty of loyalty, which is also required of them.

Such an approach has a key impact on the functioning of business entities and constitutes an incentive to undertake such activities in general. The regulations adopted in corporate law must not contribute to inhibiting business decisions and causing them to fear liability.

Despite their knowledge and experience, managers of economic entities cannot foresee every possible consequence of their decisions, if only because the business world experiences a variety of changes at a very dynamic pace. For this reason, members of governing bodies should be provided with as much decision-making sovereignty as possible.

EXPERT Commercial code

INCREASING TRANSPARENCY

Poland follows the EU regulations governing the anti-money laundering laws.

By **Katarzyna Saganowska**, *EMEA Head of Compliance, TMF Group*

In recent years, few pieces of legislation have affected the non-financial sector as much as the Anti Money-Laundering and Countering the Financing of Terrorism Law (the AML act). The newest and long-awaited amendment to the AML act was signed by the President on April 8 this year. The amendment implements significant modifications resulting from EU regulations. Its aim is primarily to increase the transparency of financial flows and support the effectiveness of the authorities responsible for the detection of funds derived from criminal activity or used for terrorist financing purposes.
The most important changes include, in my view, the following ten areas.

ONE
Further extension of the catalog of obliged institutions includes entrepreneurs whose main business activity is rendering services related to preparing declarations, keeping tax books, or providing advice, opinions, or explanations regarding tax or customs laws. An interesting development is that it also embraces entrepreneurs who deal, trade, or act as intermediaries in trading in works of art and antiques.

TWO
The changes introduced to the definitions of the beneficial owner (UBO) and politically exposed person (PEP) will obligate institutions to adjust their internal AML processes and dedicate extra focus to the information collected at the time of client onboarding, as well as the range of persons examined when identifying UBOs and PEPs.

THREE
New prerequisites for the application of financial security measures to existing clients means that from now on, financial security measures must always be applied in cases when there has been a change in the previously established data related to the beneficial owner or the client itself.

FOUR
The changes in the scope of data collected regarding a client's identity verification is another interesting new obligation. It requires that obliged institutions document why it is not possible to verify certain information about the client and take that into account when performing their client risk assessment. We will also see the growth of the importance of the KYC process—a set of standards and requirements that investment and financial services companies use to verify the identity of their clients and any risks associated with the customer relationship. It is more than certain that the administrative workload within the KYC team will increase.

FIVE
Additional guidelines regarding proper verification of the beneficial owner mean that the verification of the beneficial owner cannot rely solely on data verification in the Central Register of Beneficial Owners. Reliance on the Central Register is a supportive solution, but it must not be the primary one. What is more, the process of verifying the UBO and documenting the process has been further formalized. The additional procedure for clarifying discrepancies between the client's CRBR record and the result of the obliged institution's verification has also been defined now.
Further, the catalog of entities that must report details of beneficial owners has been expanded. A larger number of companies will now have to register their UBOs in the Central Register of Beneficial Owners.

SIX
Changes in the application of enhanced financial security measures mean that, in practice, this amendment of the law increases the number of situations in which it is necessary to apply enhanced KYC measures. It further introduced a list of mandatory information that an obliged institution must obtain when applying enhanced financial security measures in the case of higher-risk countries.

SEVEN
The new law announces that the Ministry of Finance will publish a list of positions that should be classified as politically exposed persons, which should hopefully facilitate the decision process around PEP risk.

EIGHT
The new mandatory elements of the internal AML framework mean that there is a new provision that creates a clear obligation to include personal data protection aspects into AML training and awareness sessions. They also explicitly require obliged entities to review and update their AML policies on a regular and ongoing basis.

NINE
The changes in the rules regarding whistle-blowing impose an active obligation for institutions to protect whistleblowers. The catalog of prohibited negative actions against whistleblowers has been expanded. This extends beyond employees and includes other persons performing activities for the benefit of the obliged institution.

TEN
An obligation to register certain obliged institutions means that entrepreneurs conducting activities on behalf of companies or trusts and activities in the field of virtual currencies will be subject to entry in the relevant registers. The deadline for entry is six months from the effective date of the law, that being November 8, 2021. Obtaining an entry into the register is a condition for being able to provide the above services.

SUMMARY
Most of the above-reported changes result from the need to make the often ineffective anti-money laundering and counter-terrorist financing system more coherent and sealed. In my view, this is also an attempt to make the heterogeneous legal systems of EU Member States more coherent. These changes are probably not the last ones to put the system in order, and there are more and more discussions at the EU level about EU regulations directly applicable in the EU Member States and about an EU supervisory authority for the regime steaming from the Anti Money-Laundering and Countering the Financing of Terrorism Law.

EXPERT M&A market

OPPORTUNITIES RISING

By **Krzysztof Wójcik**, *Head of Legal and Corporate Secretarial Services, Vistra Poland*

Investors' prospects in mergers and acquisitions in Poland are good

Over a year ago, when the entire world was facing lockdown, many of us thought that Covid-19 would dramatically change the face of the economy, bringing a world crisis on the scale of the 1920s one, with huge social unrest and a technological collapse, among others. Such a forecast affected acquisitions, mergers, and other types of transactions. Doomsday doctors predicted capital outflow from Poland or along with a complete stoppage of the inflow of foreign investment. After over twelve months of observations, we can already verify these predictions. For sure, we cannot say that the pandemic has not left its mark on the economy. We see its negative effects on macroeconomic indicators. The condition of many companies operating within those industries that have been particularly affected, not to mention our homes.

GETTING REAL

At the same time, from today's perspective, it seems that some of the forecasts were far too alarmist and pessimistic. One might be tempted to say that the range of services we provide allows us to see trends in the economic movements of our clients. Thanks to the fact that most of our clients are international funds or companies that invest in Poland, we can clearly see that Poland is still a very popular investment destination. What is more, *CEO Magazine* ranked Poland as the third-best country to invest in the post-Covid era.

RISING INTEREST IN SHELF COMPANIES

One of our core business activities in Poland is the sale of ready-made shelf companies, which serves as a bridge between an international investor and the Polish target. Clients purchase stakes in Polish companies that have no history but are ready to start operations, usually treating them as a real estate vehicle to purchase land for development or participate in asset deals in the case of existing projects and their business expansion to Poland. We are also happy to assist our clients with corporate services (accounting & payroll) and observe the growth of our shelf companies under the new investor. To our great surprise, 2020 was a record year in terms of interest in shelf companies. After the initial slowdown in March and part of April last year, the demand for ready-made companies increased dramatically. This trend continued into the first quarter of 2021 and is still alive.

MORE TRADE

It is worth mentioning that in 2020, the value of M&A transactions in the region of Central and Eastern Europe (CEE) decreased overall, while in Poland, the number of such transactions and their total value increased. There is also a noticeable revival of trade at the Warsaw Stock Exchange, which is currently noticing significant increases in indices after a long period of stagnation and is seeing interesting new IPOs. Certainly, the Allegro IPO carried out last year was of great importance. Traders also look forward to seeing the planned debut of the Pepco store chain's owner.

WHERE THE MONEY GOES

From our perspective, most of the investments are being made in the IT, TMT, and real estate sectors, with warehousing and logistics definitely leading the way. However, there have also been significant investments in other sectors, such as medical, pharmaceutical, and even fitness. Certainly, the financial market enjoys an almost constant interest. We have noticed a general large investment trend: companies are increasingly getting rid of cash reserves, and reserve capitals from previous years' profits are being liquidated. This trend is much greater than ever before because of the financial unprofitability of cash accumulation resulting from the lack of interest in funds accumulated on bank accounts and the bank fees.
The negative interest rates on deposits unquestionably had an impact on the money supply, hence the high investment activity of funds of various types, mainly PE or VC, in which financing is acquired from investors unwilling to accumulate cash.

GOING RELATIVELY STRONG

Poland's investment attractiveness is also a result of the continuously positive macroeconomic indicators, such as the recently announced huge growth in industrial production. Poland remains an attractive market in terms of the availability of both employees as well as consumers. Other important factors are the development of infrastructure, the openness to certain innovations, such as in banking or fintech in general, as well as other factors specific to particular industries or individual investors.

GOOD PERSPECTIVES

Looking into the future is never an easy task. Yet, with the increasing numbers of inquiries we receive about shelf companies and the number of entities already booked for specific projects, we tend to think that the interest in Poland as a target for M&A transactions will not stop in the near future. Moreover, based on many years of my cooperation with Polish and international entrepreneurs, I think that Poland may remain a long-term destination for investors due to the large supply of potential investment targets.
The generation of the early capitalist sharks is currently struggling with the problem of succession. Often the only solution they have is to sell their family business they have run for many years, usually with an established position in the market but with huge optimization potential. A well-thought-out consolidation of Polish family businesses may prove to be the *spécialité de la maison* of the M&A market in the years to come, and the conditions of money supply continue to determine the competitiveness of the Polish investment market. Poland is full of investment gems that will be on investors' radars as soon as they notice their consolidation potential.

EXPERT Labor law

EMPLOYEES DISCONNECTED

The right to disconnect—a new employee privilege?

By **Szymon Kubiak**, *Ph.D. LL.M. (Harvard), Attorney-at-Law, Partner and Co-Head of Employment Practice, Wardyński & Partners; and* **Katarzyna Magnuska**, *Attorney-at-Law, Senior Associate in Employment Practice, Wardyński & Partners*

On 21 January 2021, the European Parliament called on the European Commission to begin legislative work on a law allowing employees not to engage in work or work-related communications by means of digital tools outside working hours—the so-called right to disconnect. According to the members of the European Parliament (MEPs), the right to be offline needs to become a fundamental right of EU citizens and requires additional statutory protection.

ALWAYS ON STANDBY

The digital revolution in the workplace has brought many advantages for both companies and their staff. For many professions, it has become possible to work from anywhere in the world and, in many industries, to extend recruitment to the whole globe. The home office has become the new normal, allowing employers to save costs on office space and allowing their workforce to maintain their desired work-life balance.

However, digital tools have created an "always-on" culture in which employees are expected to immediately, or no later than within 24 hours, respond to work e-mails or phone calls, including outside working hours or on days off. More "responsive" employees are perceived as more engaged in their work or even favored by firms compared to those who, for family or health reasons, are not always reachable after hours.

All this has a negative impact on employee work-life balance. The distinction between working time and private life has blurred, and employees increasingly suffer from mental and physical issues resulting from irregular or longer, usually uncompensated, working hours. It is no coincidence that the European Parliament's resolution on the right to disconnect was passed during the Covid-19 pandemic. According to Eurofund—the EU agency for the improvement of living and working conditions—in April 2020, some 37 percent of European respondents worked from home due to the spread of coronavirus (compared with 5.4 percent of home office workers in the EU back in 2019). The surveys show that after defeating the pandemic, home office work will still be widely used as a regular way of performing work or combined with office work. This means that more employees may potentially suffer from an imbalance between their professional and private life, and from the health consequences connected with this.

NO EUROPEAN STANDARDS

The right to disconnect is not currently defined by EU law, and the European Parliament wants to change this. Except for the urge to protect working Europeans' right to rest, MEPs raised that EU Member States' laws on remote work significantly vary. Some EU countries have regulations on remote work, but only a few of these have a legal framework for the right to disconnect (such as Belgium, France, Italy, and Spain; and Ireland only recently adopting a non-binding Code of Practice on the Right to Disconnect effective 1 April 2021). Such employee rights being introduced in these few EU countries potentially open new fields of social dumping as global corporations may move their business to such countries where there are no limitations on contacting staff after hours.

The European Parliament intends to introduce minimum standards of protection for all EU employees who use digital tools for work purposes. Adopting EU-wide regulations that would effectively protect employee rights and not jeopardize the benefits of the digital workplace may be a challenge.

The proposals of the EU Parliament include the following key points:

- All employees using digital tools for work (irrespective of whether in the private or public sector, the form of employment and work organization, industry, or size of the employing organization) will have the right not to engage in work or work-related communication after working hours, without fear of facing negative consequences. Any discrimination or other forms of retaliation for employees executing their right to disconnect will be prohibited and subject to sanctions.
- Employers should not require workers to be available outside their working time and will be obligated to adopt measures for the employees' right to disconnect being enforced. These measures will include adopting an objective, reliable and accessible system for measuring working time that will not infringe on employee privacy (which means that GPS tracking may be excluded as the data collected could potentially reveal the employee's political and religious beliefs or even sexual orientation).
- Employers will need to include a right to disconnect in health & safety procedures and adopt practical arrangements for switching off digital tools. Companies will be free to choose organizational and technical measures for ensuring that the right to disconnect is being followed. Still, it appears that tools allowing for being fully offline will be preferred.
- Employers will have to undertake awareness-raising measures, including in-work training and informing employees in writing of their right to disconnect.
- Any exemptions from the right to disconnect will be allowed only in exceptional situations. Each such case would need to be justified by an employer in writing and adequately compensated.

WHAT IS IN POLAND?

Poland has not expressly adopted the right to disconnect. Such protection results from statutory provisions on standards of working time, minimum rest, and annual holidays supported by Polish Supreme Court judgments.

Employees are generally not obligated to answer work-related e-mails or phone calls after working hours or during days off unless they are on duty. Engaging employees in work after hours may result in overtime work that must be compensated with time-off or additional remuneration and, in some situations–an infringement on an employee's right to rest, subject to a criminal fine. If an employee is on vacation, she/he may claim that the employer has called him off to work and demand reimbursement for canceled vacation and the granting of outstanding vacation time at a later date.

Public opinion in Poland has only recently looked into the right to disconnect. This issue may be expected to command more public and governmental attention closer to the EU law being adopted, as the EU directive is to be adopted in Poland this year.

EXPERT Competition law

RESTRAINTS TO AGREEMENTS

By **Marcin Rudnik***, Counsel at Wolf Theiss*

How far can you go in restricting business partners?

Commercial cooperation may require some limitations to the business activities of the parties. However, it is important to remember that certain restrictions may constitute a breach of competition law that can have a serious impact on business. Mutual arrangements and synergies arising from cooperation and common goals of business partners must always take into account the limitations of competition law.

A breach of antitrust law may result in the agreement being considered null and void, reputational damage, fines to the firm based on global turnover, and even penalties for the firm's directors.

MEASURING EFFECTS

As a general rule, competition law provides that agreements with an object or effect of eliminating, limiting, or otherwise distorting competition on the relevant market are prohibited. Agreements that can have such an object or effect include those which, among others, limit or control production, markets, technical development, or investment. Importantly, the conclusion of such an agreement is forbidden without the necessity of it even becoming effective. However, agreements between companies in the same corporate group are generally not covered under competition law restrictions.

Whether an arrangement violates competition law is always assessed based on its objective or (potential) effect on competition. It is worth mentioning that the agreement does not need to be in the form of a written contract to breach competition law. It can be an oral arrangement or even a concerted practice. Clauses that may limit the business of any party must always be agreed upon and drafted according to the characteristics of the specific case (e.g., whether the agreement is vertical or horizontal), freedom of contract, and criteria of reasonableness and proportionality.

HORIZONTAL AGREEMENTS

Cooperation between businesses at the same level of production or supply is considered horizontal. The general rule is that directly competing businesses must act independently as much as possible, determining their respective business strategy and competitive activity individually. In such relations, there is very little (if any) room to agree on provisions that have an anti-competitive nature, as such provisions per se might be forbidden. The most significant examples of the so-called hardcore restrictions on the horizontal level include price-fixing, market allocation, or restriction of the quantities of goods or services.

Only very few horizontal agreements limiting competition are permitted, as they may have beneficial effects for the market. For example, agreements between competitors related to R&D, production, and marketing can reduce costs for companies or improved products whose ultimate benefits are passed on to consumers. The challenge always remains how to assess these agreements, balancing the advantages against the anti-competitive effects which have a potential to distort the market.

M&A deals or joint venture agreements containing non-compete clauses may also be exempted from the general rule in certain cases. The so-called ancillary restraints imposed on a business partner are allowed if they are not excessive and aim to protect the recently acquired or newly set-up business.

VERTICAL RESTRAINTS

Unlike horizontal agreements, vertical restraints (i.e., restraints between companies operating at different levels of the production, supply, and distribution chain for the purposes of that agreement) do not always exert a negative effect on the market. Vertical agreements include distribution (exclusive and selective), franchising, supply, and agency arrangements between non-competitors. There are instances in vertical cooperation in which certain limitations and restrictions on a business partner may enhance the effectiveness and benefit consumers. Therefore, the introduction of such limitations can be possible. Some agreements may therefore be exempted under the so-called "block exemption" (EU law or domestic). Each sets out certain conditions that must be satisfied, e.g., relating to types of restrictions or market shares (below 30 percent) to benefit from the exemption. It is worth mentioning that an agreement that contains hardcore restrictions, called black clauses, such as resale price maintenance, can never benefit from block exemptions. They are always prohibited, even in vertical relations.

EU and domestic jurisprudence heavily shape the exceptions in vertical arrangements. For instance, in its ruling in the Coty case, the Court of Justice of the EU held that luxury brands may prohibit authorized distributors in a selective distribution system from using third-party online platforms (such as Amazon or Allegro) to sell a certain type of goods.

SANCTIONS

Apart from the invalidity of the contract, which violates competition law, parties can be sanctioned with a fine of up to 10 percent of the turnover they achieved in the last financial year. A competition law infringement is also a legal basis to claim damages by affected parties, usually other market players, and is known as private enforcement. Lastly, fines imposed upon individuals holding management positions who were responsible for the infringement are no longer only a theory—as confirmed by the recent case law of the Polish Authority. They can amount to up to PLN 2 million.

SUMMARY

It is relatively easy to even unintentionally violate competition rules and expose one's business to potential risks and serious consequences. Thus, it is recommended to ensure that employees receive appropriate training regarding competition law and have all arrangements that may limit your business partner reviewed from the perspective of competition law. Such precautions will not only limit the risk of competition law infringement but, in the event of such a violation, may also serve as an argument for a lower fine. One should be aware that if competition could be distorted even potentially, the infringements become time-barred only after five years from the end of the year in which the infringement took place, and the company remains exposed to antitrust proceedings during this time.

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