

# Acquisition of Shares in Public Companies Before Poland's SEJM

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A parliamentary bill has been submitted with Poland's Sejm, repealing an obligation to submit a tender offer in connection with the acquisition of shares giving the right to 10% of the total number of votes at the General Meeting of a public company or a smaller amount of shares, in respect of a shareholder holding more than 33% of shares.

On January 10, 2017, a group of MPs from Law and Justice (PiS) submitted to the Sejm a draft act amending the Act on Public Offerings, Conditions Governing the Introduction of Financial Instruments to Organized Trading and Public Companies. The proposed changes repeal the obligation to publish a tender offer for the sale or exchange of shares of a public company in connection with the acquisition of shares in a number resulting in an increase of 5 or 10% of votes at the General Meeting by a shareholder holding at least 33% or less than 33% respectively (art. 72 of the Public Offering Act). The amendment is aimed at the consideration of the current development of the capital market. This means some liberalization of the obligations imposed on the holders and purchasers of shares in public companies.

As referred to in the justification of the draft, the obligation, specified in art. 72 of the Public Offering Act, was introduced at a time when the Polish capital market was at a different stage of development than it is now. The purpose of such tender offer was at that time to create a mechanism for stabilization of the price of financial instruments by way of making it impossible to purchase the shares in a public company in a short period of time, as a result of which the price of the company's shares would be established in an unnatural way.

According to the authors of the draft, no grounds exist to prohibit acquisition of large blocks of shares in public companies through transactions on the regulated market. In their view, the proposed regulation would contribute to a more effective and competitive acquisition market in Poland, which would result in an increase of the economic effectiveness of public companies, and thus contribute to strengthening the competitiveness of the Polish economy. The draft does not stipulate any changes that would make the Polish regulations closer to the solutions existing in other EU countries (e.g. an obligation to announce a tender offer for all shares as early as at the stage of the intention to exceed the threshold specified in art. 73 of the Public Offering Act, decrease of the threshold to 30/25% and/or connection of its amount with the degree of dilution of the shareholding in the company).

NB: The draft act is mainly aimed at achieving the current objectives. Implementation of the act before the closing of the acquisition of the Pekao S.A.'s shares by PZU SA and PFR SA will allow the transaction to conclude in a single phase. Therefore- although the draft implements the objectives defined by the Polish Government - it has been submitted as a Members of Parliament's bill, as it considerably reduces the legislative path.

The draft act on the amendment of the Public Offering Act is available at the Polish Sejm'

s website: [http://orka.sejm.gov.pl/Druki8ka.nsf/Projekty/8-020-458-2017/\\$file/8-020-458-2017.pdf](http://orka.sejm.gov.pl/Druki8ka.nsf/Projekty/8-020-458-2017/$file/8-020-458-2017.pdf)

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