Dear Ladies and Gentlemen,

We have a pleasure to present another edition of “JP Weber insight”. Hereby you will find a content from the areas of law, tax, accounting, corporate finance, direct investments and renewable energy sources.

In this issue, we are introducing the changes of the Act on the National Court Register as well as the new project of the Act on renewable sources of energy. We explain the obligation of verifying financial reports for 2012 and the possible facilitations together with lower costs in the process of setting up companies. We have also strived to explicate the role of an advisor in a transaction process.

The third quarter abounded with numerous networking initiatives as well as events with the participation of our experts. Not only were we present at the trade fairs, but also conducted workshops and organized the fourth JP Weber Golf Challenge tournament. To find out more, we encourage you to look into the JP Weber Inside section.

We wish you a pleasant reading while remaining at your disposal as your trusted advisor.

Yours sincerely,
JP Weber team

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The fourth instalment of JP Weber Golf Challenge 2012 tournament was held on September 22 at Toya Golf & Country Club course near Wroclaw. This year’s challenge attracted international players and golf enthusiasts with a business background, as well as a large number of people who had their first opportunity to get to know about this sport, still enjoying little popularity in Poland.

This year’s tournament took place under the honorary auspices of the Mayor of Wroclaw, Mr. Rafał Dutkiewicz.

For the fourth time, together with Alior Bank and Audi Centrum Wroclaw, we succeeded in organizing an interesting event of both business-like and entertainment character. The event met with a lot of appreciation on the part of our clients and partners from various business backgrounds as well as it proved to be a splendid opportunity to establish new contacts or strengthen the already existing relations.

The challenge was played over 18 holes by two handicap groups. Additionally, the “Longest drive” and “Nearest to the pin” competitions were held. The Scotsman Anthony Kerr turned out to be matchless in the general ranking, boasting 76 hits. The first handicap group’s winner (hcp 0-24) was An Jung Sang. The second place was taken by Peter Lawless – the second to none winner of the “Longest drive” competition. The representatives of Signium International company – Ewa Molenda Pilecka (2nd place) and Moritz Herfert (1st place) were top of the second handicap group (hcp 24,1-36). Hiroshi Izumitani was the winner of the “Nearest to the pin” competition. We also drew for prizes in the business card raffle.

The programme of the event offered other attractions, apart from the golf challenge itself. For the golf first-timers, we organized a golf academy, where over 30 participants familiarized themselves with the ethics of golf and hitting techniques as well as put the newly acquired knowledge into practice. The automotive buffs enjoyed test drives of Audi and Volkswagen cars. There was also a presentation of Audi golf accessories.

The official media patronage was provided by the bilingual economics magazine Lower Silesia Business.

We are happy to give you a photo gallery of the event. Please follow this link to see the pictures.
Workshop: Control over Relations in Capital Groups

A workshop held by Financial Conferences company took place in Warsaw from September 26 to 27. The topic of the event was control over relations in capital groups. Tomasz Gawron – tax advisor with JP Weber Advisory firm, delivered a block of talks concerning tax consequences of transactions between affiliated business units. The audience learned about the need for establishing transaction terms at the market level. Additionally, the issues raised included questions of documentation obligations pertinent to transactions between affiliated units as well as their income tax and VAT-related consequences.

7th Foreign Trade Congress

On 13 September 2012 in Dortmund we hosted international visitors. 16 Chambers of Commerce of North Rhine Westphalia, for the 7th time organised the Foreign Trade Congress. Guests had an opportunity to visit a joint stand of JP Weber Advisory, Audalis and Giese & Partner, as well as to take part in numerous workshops. On the eve before the Foreign Trade Congress, at the premises of Audalis, our customers and business partners participated in a workshop which concerned the countries we were represented. The morning of the fairs started with an exclusive breakfast, after which we walked together to the Westfalenhallen, where the opening ceremony took place.

BrainNet acquired by KPMG

In June of 2012, Gregor Piechowiak – the Managing Partner of JP Weber Group and a member of BrainNet’s global management team, announced that the company had been acquired by KPMG. BrainNet Supply Management Group is one of the leading, international consulting firms in supply chain management (SCM). With its offices all over the world, for over 15 years BrainNet has been supporting mid-sized companies and global corporations with tailor-made solutions in the areas of research & development, operations, logistics, purchasing and strategic qualification. Gregor Piechowiak had been responsible for the company’s operations in Poland.
New rules for access to the information stored in the National Court Register and lower costs of setting up companies.

The newest amendment to the act of August 20 1997 on the National Court Register, which entered into force on January 1 2012, has considerably facilitated access to the information contained in the National Court Register. Under the new regulations, all updated information on the contents of the entries to the register can be accessible on the Internet. On June 28 2012, the Ministry of Justice launched electronic access to the National Court Register, thus executing the obligation stipulated in art. 4 section 4a of the act on the National Court Register, according to which the Central Information makes up-to-date information on entities entered into the Register accessible through widely available data communications networks free of charge. The system is available at the Ministry of Justice’s website.

So far, in order to obtain information from the Register or a copy of a registered entity’s entry, one had to visit one of the branches of the Central Information Retrieval System attached to registry courts, submit an application, pay a fee and then wait for the document. It is worth pointing out that according to art. 4 section 4aa of the Act on the National Court Register, the documents in electronic form have a force of evidence equal to those issued by the Central Information Retrieval System on paper. Thanks to that, apart from having access to up-to-date information on business entities, we may also use the documents obtained to perform legal transactions. However, electronic access to the National Court Register has its drawbacks. One of the most significant ones is that only up-to-date information on entities entered into the Register is available. A full copy, containing historic information related to e.g. personnel changes within an entity or its previous partners, is available only at a request submitted with the Central Information Retrieval System, at a fee of PLN 60.

Changes to the act on the National Court Register result from actions aimed at quickening and securing trade. The practical outcomes of the regulation may be seen even today, as six weeks after the online access to the Register was launched, exactly 522,454 copies have been downloaded.

Lower Costs of Setting up Companies

According to the directive of April 30 2012 of the Minister of Justice changing the directive on organization, the manner of issuing and distributing, the grounds for establishing the price of issues of the „Monitor Sądowy i Gospodarczy” („Court and Economy Monitor”) and the charges for placing an advertisement or announcement in it, lower rates have been in force since May 18 2012 for an announcement of the first entry of a trade company in the National Court Register. The cost of an announcement of a company’s entry into the Register on the pages of the „Monitor Sądowy i Gospodarczy” has been brought down from PLN 500 to 100. In case of reporting an application for a company’s registration in the National Court Register before the day the Directive became effective (May 18 2012), the hitherto charge is applicable irrespective of the date of payment. Bringing down the fee is another reduction of the expenses paid with a view to establishing companies, whose aim is to simplify business operation in Poland. It is worth mentioning that in June 2012, the total cost of reporting a trade company to the register and announcing it in the „Monitor Sądowy i Gospodarczy” amounted to PLN 1500. Now it is an expense of PLN 600 – the sum of PLN 100 is charged for the announcement in the „Monitor Sądowy i Gospodarczy”, while the remaining PLN 500 is a court fee charged for registration in the National Court Register.

Another regulation which significantly reduces the cost of setting up an enterprise, in this case a lim-
Limited liability company, is a possibility, introduced this year, to register a company online. By setting up a company in this way one avoids visiting a notary public and making a deed of company foundation since as far as online registration is concerned, a template for the deed is available. However, a disadvantage of this solution lies in that one cannot include their own provisions in the template of the deed.

Summing up, it can be said that the solutions implemented this year do contribute to economic growth. Online access to the information registered in the National Court Register improves the security of economic activity as it offers a possibility of faster verification of information on particular entities. Lower costs and a more convenient way to set up companies encourage a wider range of entities to undertake business operation.

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Accounting
Verifying financial reports for 2012.

Under the Polish regulations, the mandatory verification performed by a chartered auditor will apply to the following documents pertaining to the year 2012, if the condition of the concerned entity’s continuity of business operation is met:

1. annual consolidated financial reports of capital groups,

2. annual reports of banks, insurance and reinsurance companies,

3. annual reports of entities operating under the regulations on trading in securities, regulations on trust funds as well as those operating under the regulations on organization and operation of pension funds,

4. annual reports of joint stock companies, with the exclusion of companies being organized as of the balance sheet date of 2012,

5. financial reports for 2012 of all other entities which in 2013 will continue their operation and in 2011 met two of the following three conditions:

   a. annual average employment expressed in full time equivalents in 2011 amounted to at least 50 people,

   b. the sum of balance assets as of the balance sheet date of 2011 amounted to an equivalent of at least EUR 2,500,000, in Polish Zlotys,

   c. net receipts from sales of goods and products as well as financial operations for 2011 amounted to an equivalent of EUR 5,000,000, in Polish Zlotys.

The above conditions also apply to aggregate annual financial reports for 2012.
Also liable to the mandatory verification are the following documents pertinent to the year 2012:

1. financial reports of acquiring and newly established companies, if the merger took place in 2012,
2. aggregate annual financial reports of trust funds with separate subfunds as well as annual individual reports of subfunds,
3. annual financial reports made in compliance with International Accounting Standards.

The body approving an organization’s financial report chooses an entity entitled to verify financial reports, unless a statute, agreement or other regulations binding the organization stipulate otherwise. The managing board cannot make such a choice.

The organization’s manager concludes an agreement of verification. It should take place within a time-frame allowing for a chartered auditor to participate in stocktaking of assets.

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Corporate Finance
The role of an advisor in a transaction process

The complexity and the specificity of any merger and acquisition process require a comprehensive approach to each project.

A sale of a company may constitute an element of its development strategy, instead of being merely the owners’ tool used to close and leave the business. At every stage of a business’ development, there are potential investors who, together with the current owners, are interested in the company’s growth as well as building up its value.

An acquisition transaction may also stem from a few motives: obtaining know-how and development of the technological base, building up a client / supplier network, building up a portfolio of own companies, strengthening the position on the market, or getting a foothold on new markets.

It is clear that a sale or acquisition transaction may be carried out on one’s own, based on one’s experience and knowledge of the line of business. However, in order to increase the effectiveness of the process and secure optimization of the terms on which it will be performed, it is worth considering separating the business – as an area of the owners’ operation, from the process – as a professional activity of a transaction advisor.

Then, what added value does the transaction process advisor have?

Participation of a consultancy makes it possible, first and foremost, to increase the transaction’s effectiveness as well as it constitutes an added value in the whole process.

The advisor supports the process from the very beginning by developing documentation (long list of investors, teaser, informational memorandum, confidentiality agreement, price estimate, letter of intent, preliminary offer, business provisions in the agreement…) and carrying out procedures (developing the parameters for the transaction, communication standards, preparation and verification of the long list, supervision or performing due diligence procedures, monitoring as well as supervision and administration of relations).

Sometimes it occurs that a company is unprepared for the planned transaction. The advisor, by developing a strategy or through processes for monitoring and streamlining, can improve the company’s tender strength, thus creating its market value. That will make it possible to choose the optimal time to perform the sale/acquisition transaction.

The advisor will also provide a price estimate which is unbiased and in mind with the market realities. This in turn will help choose a business strategy contributing to the company’s value. Identification of the key factors to the company’s value is extremely important in the process as it aims to build up the new owners’ expectations.

Each stage of both a sale and acquisition process may be actively supported by a consultancy. Through in-depth market analyses and selection of the right investor base, it secures the best matched business partner to a potential candidate for sale. Moreover, appropriate presentation of financial projections will secure a maximum price for the seller, whereas the investor who intends to buy the entities, while fully anonymous, will be provided with an extensive list of potential businesses to be acquired.
Corporate Finance
and Direct Investments

Newsletter

Renewable Sources Of Energy
The new project of the Act on renewable sources of energy versus the changes to the Building Law and the Environmental Law

Another version of the Act on renewable sources of energy, published by the Ministry of Economy in the last days of July 2012, apart from significant changes to the main scope of the regulation, also contains modified provisions as to the changes to the laws in force, including the Building Law and the Environmental Law. They are to constitute a supplement to the system facilitating the state’s aim related to the participation of energy and fuels from renewable sources in the usage for the needs of the energy sector and transportation.

The changes, as intended by the legislator, are to stimulate activities orientated towards increasing renewable energy sources’ participation in energy consumption as well as improvement of energy efficiency, while at the same time facilitating fitting micro photovoltaic installations, heat pumps as well as development of relevant infrastructure.

Inclusion of art. 4a in the Law, according to which “In new buildings and existing buildings undergoing redevelopment or operations aimed at improvement of energetic efficiency, within the meaning of the regulations on energy efficiency, which are used by entities of the public finance sector, within the meaning of the regulations on public finance, devices applying energy from renewable sources and passive building technology are used” will undoubtedly increase the number of projects carried out with use of renewable sources of energy, most notably micro sources, as well as it will increase demand for solutions aimed at improving energy efficiency. Nonetheless, it must be pointed out that a much farther fetched proposal, included in the previous project of the act, has been abandoned. It stipulated that all new and existing buildings under thorough renovation were to reach a 13% participation level of energy from renewable sources in their total energy market and competition, on the other hand – any transaction may capitalize on the advisor’s independence, objectivity, knowledge, professionalism in handling transactions, their network of contacts and prestige.

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consumption balance.

Furthermore, regulations were included in the Environmental Law, art. 401c, section 5, aiming at systemizing and strengthening the operations of the National Fund for Environmental Protection and Water Management through allocation of income from compensatory payments in favour of activities related to energy efficiency improvement, including combined heat and power cogeneration, thermomodernization undertakings as well as promotion of generating energy from renewable sources or using energy generated in this way.

However, the proposed changes to the scope of the planned facilitations and simplification of the investment process through widening the range of the catalogue of undertakings which do not require a building permit, stated in the Construction Law, may prove to be less efficient than it was assumed, due to the fact that construction or fitting of the following items was added to the catalogue mentioned above: ground-source heat pumps; photovoltaic devices and installations up to 40 kW as well as electroenergetic, water supply, sewer, heat and telecommunication installations.

It seems that so far, the regulations of the Construction Law applicable to construction or fitting photovoltaic installations have been clear and simple enough, which was also reflected by the recently published legal interpretation of the Main Construction Supervision Office. According to the act, a building permit for photovoltaic installations is essential if they are developed on solid foundation. In the event photovoltaic installations are fitted on existing buildings – on roofs or walls of existing buildings - it is required that the construction works entailing fitting devices more than 3 metres tall be reported to the starost (city mayor). Fitting collectors whose height does not exceed 3 metres does not make it mandatory to report such operations to the office or obtain other permits. Inclusion in the Construction Law of an additional provision on the lack of necessity to obtain a building permit for photovoltaic installations up to 40 kW may give rise to doubt as to whether more powerful installations do not require a permit, as intended by the legislator, even though they will not be developed on solid foundation in the case of standalone installations or they will be taller than 3 metres in the case of installations developed on structures.