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Poland

Miller Canfield provides legal services to businesses, governments and nonprofit organizations in Poland, as well as multinational companies doing business in the E.U.

Since Miller Canfield expanded into Eastern Europe in the early 1990s, the lawyers in the Polish offices—located in north, central and southern Poland in Gdynia, Warsaw and Wroclaw—have successfully combined their expertise in the Polish legal, economic and cultural environment with the global reach of an international law firm.

Real Estate + Construction

Miller Canfield provides comprehensive legal advice in matters relating to the acquisition, leasing and development of real estate in Poland. In particular, we provide the following services to clients:

- Due diligence investigation of the property's legal status
- Prepare and negotiate the contract of sale, including contracts with communal organizations and the State Treasury
- Supervise the course of proceedings to obtain the necessary permits and decisions to commence construction
- Provide legal opinion on construction agreements (according to the FIDIC regulations)
- Structure optimal solutions to foreign investors to acquire real property in Poland
- Provide assistance to foreign investors during administrative proceedings to obtain the necessary permissions from Polish authorities to purchase real property
- Structure and manage the steps necessary to acquire real property, including the creation of investment trusts and special purpose vehicles

Mergers + Acquisitions

We provide advice to clients participating in global, E.U. and local mergers and acquisitions. Additionally, we structure and manage the transformation, consolidation and restructuring of companies and joint ventures. In particular our attorneys provide the following services:

- Real Estate

Global Reach

- Canada
- China
- India
- Mexico

- Due diligence investigations of a target company
- Structure the acquisition strategy and negotiate agreements
- Prepare all required transactional documentation
- Apply for and obtain the necessary permits and clearances
- Assist in all stages of a classic corporate merger, as well as in the sale of particular assets or transfer of an enterprise
- Prepare the merger plan
- Manage the registration procedures (judicial and administrative)

We are able to provide extensive advice in all aspects of outsourcing – in matters related to the transfer of employees, maintaining/change of brand, competition clauses, continuous performance of services and market presence.

Competition + Consumer Protection

Our lawyers have broad experience in providing legal assistance in both Polish and E.U. competition and consumer protection law. We are not only able to opine on the compliance of our clients' activities with national and E.U. competition and anti-monopoly regulations, but also with respect to our clients' use of standardized forms and agreements vis-a-vis consumer protection law. Our expertise includes the following services:

- Preparing the required notification materials as a prerequisite to obtain government approval, including preliminary assessment if such notice is required
- Analysis of distribution schemes in relation to competition law, including in particular dealership, franchising and distribution agreements
- Representation before the Office of Competition and Consumer Protection
- Assessment of commercial practices and promotions, including rebate schemes, in comparison to practices restricting competition and the abuse of a dominant position
- Pursuing claims resulting from unfair competition

- Review and management of standardized contractual forms to ensure compliance with applicable consumer protection regulations (consumer sale contracts, off-site contracts and distance contracts)
- Product liability assessment and protection (guarantee, warranty, non-conformity and hazardous risks)
- Review of marketing and promotion schemes to ensure compliance with antitrust and unfair competition regulations

E.U. Law

Each of our offices in Poland provide expertise on E.U. regulations affecting our clients' business activities. We constantly monitor the progress of E.U. draft regulations during the legislation process, in addition to the verdicts handed down by the European Court of Justice and the Court of First Instance. We also are expert in identifying potential issues with respect to the implementation of E.U. regulations by the Polish authorities, including potential and actual conflicts between E.U. and Polish regulations. Our lawyers are very familiar with the *Acquis Communautaire*, the body of E.U. law.

Corporate + Commercial

Our attorneys provide everyday legal assistance to our corporate clients, advising on the structure and execution of contractual agreements, including complex and innovative contracts and business practices and the participation in negotiations between Polish and foreign-based entities. Our scope of competence includes:

- Creation and registration of commercial companies
- Organizing and chairing ordinary and special shareholder and supervisory board meetings
- Reviewing and opining on a corporate client's internal by-laws in comparison to legal requirements, including the adequacy of internal corporate governance policies
- Preparing shareholder agreements
- Creation of branches and agencies of foreign entities
- Preparing legal opinions on draft business agreements (Polish and international)

- Supervising and managing the liquidation (winding up) of a corporate entity
- Representing creditors during a corporate debtor's bankruptcy proceedings

Banking Law

Miller Canfield provides legal advice on banking law, including consumer finance, as well as on financial services, foreign exchange regulations, the issuance of commercial paper and the creation of financial instruments, including real property finance schemes. Our team of banking lawyers has extensive experience in the following areas:

- Formal establishment and acquisition of banks and other financial institutions
- Representing clients before the Banking Supervisory Commission
- Creation of legal structure of various financial instruments (including factoring)
- Implementing outsourcing schemes, including IT
- Creation of internal bank policies regarding consumer operations
- Draft financing structure of several real property investment projects
- Draft investment arrangements based on project finance structure
- Creation and review of a bank's operational structure and execution of liabilities

Additionally, we are expert in structuring project financing schemes with the participation of both private and public financial institutions, including the provision of formal legal opinions of such financing. We also provide legal advice on projects undertaken by public-private partnerships, multi-stage construction projects and commercialization. All of our financial legal advice takes into consideration applicable tax regulations.

Pharmaceutical Law

Miller Canfield provides legal advice on Polish and E.U. law regulating the sale and distribution of pharmaceutical products in Poland. In particular we prepare legal opinions on the following

issues essential for anyone planning to conduct pharmaceutical activities in Poland:

- Regulatory issues (marketing authorization and changes to such authorization, classification and data exclusivity)
- Distribution of pharmaceutical and medical products (distribution channels, relevant authorizations)
- Distribution schemes in comparison to relevant anti-competition regulations
- Parallel imports
- Intellectual property (license agreements, trademarks)
- Comparison of Polish and E.U. regulations
- Advertising and marketing restrictions imposed on pharmaceutical products

Labor Law

Our attorneys provide comprehensive legal advice in all aspects of Polish labor, employment and social security law. Our experts provide in-depth expertise on Poland's labor regulations, while at the same time taking into account all relevant E.U. regulations and the specific needs of each individual client, including foreign-based companies operating in Poland.

Our labor and employment law specialists provide our clients with recurring and assignment specific legal assistance on all aspects of Poland's Labor Code and employment regulations, including:

- Drafting employment and management service contracts
- Non-competition clauses
- Drafting and negotiating collective labor agreements, social pacts, working rules and other related internal rules of employment
- Transfer of undertakings, including all labor and employment issues related to the merger, divestment and transformation of a corporate entity
- Termination of employment contracts
- Legal opinions and expertise on labor law

- Collective bargaining agreements
- Labor disputes, including representation before labor courts
- Issuance of work permits
- Employee benefits, stock options and pension plans
- International tax and working regulations

The Labor and Employment Group advises on terms and conditions of employment, administrative issues and tax efficient methods of employment. Miller Canfield lawyers have exhaustive experience in structuring employment agreements between Polish entities and foreign nationals, including the issuance of work permits for the executive staff of our clients. We help our clients in establishing non-conflict employment relationships.

Miller Canfield is the only Polish member of the Employment Law Alliance (www.employmentlawalliance.com), an international association of recognized leaders in the area of employment law.

Intellectual Property

Miller Canfield offers detailed legal assistance in all areas of intellectual property law. Our attorneys are expert in analyzing and preparing comprehensive solutions to our clients engaged in the intellectual property business, as well as resolving conflicts that arise in interdisciplinary projects. Our team of attorneys is able to offer the following services to our clients facing intellectual property issues:

- Provide expert advice on the legal instruments available to protect an owner's copyright, patent, trademark or utility design
- Draft licensing and other related agreements to transfer use of an owner's intellectual property rights
- Provide advice on the procedure to register an owner's intellectual property right at both the national and international levels (including European patents)
- Provide advice related to copyright law vis-a-vis advertising campaigns
- Due diligence into a target company's intellectual property rights portfolio

- Prosecution of infringement proceedings

Personal Data Protection

We provide legal advice to our corporate clients on the use of personal consumer data, having regard to the issues of cross-border processing of personal data and to the specificity of particular branches (e.g. sale of consumer goods). Our attorneys provide legal assistance in the following areas:

- Review of a company's procedures to collect and manage consumer data for the purpose of conducting on-going or one-off marketing campaigns (banks, television broadcasters, Internet providers)
- Due diligence of a company's internal policies regarding the collection and processing of personal data and registration of each database in which consumer data is stored and comparison with compliance with Polish regulations
- Due diligence of a company's consumer data collection and storage procedures at the E.U. and global level (including application of Safe Harbor Rules)
- Analysis of the legal and technological aspects of personal data protection on the Internet
- Representation in proceedings before the General Inspector for Protection of Personal Data and administrative courts

Tax Law

Miller Canfield provides tax law analysis of each transaction contemplated by a client in advance of its implementation. In particular our team of tax experts provides the following services:

- Analysis of the most tax efficient structure of a proposed transaction, taking into account the payment of corporate income tax, personal income tax and VAT
- Creation of tax efficient legal structures in order to reduce overall investment costs
- Provide tax-law related support to our team of real estate attorneys and mergers and acquisitions specialists
- Representation before tax authorities, including during the conduct of a tax control and at all stages of judicial proceedings

Litigation + Arbitration

We are also expert in drafting required tax reporting documentation evidencing transactions between affiliated entities and minimizing as much as possible potential disputes with the tax authorities. Our tax law experts also consult with our labor law specialists to achieve optimal employment relationships with foreign nationals on behalf of our clients.

Many of our attorneys have extensive experience in representing clients in judicial proceedings and before arbitration panels. Our specialists have a strong background in representing clients in litigations as well as conciliation and mediation proceedings, in addition to fashioning effective litigation strategies in consultation with the client. Through our contacts with legal offices in Europe and the U.S., we are able to coordinate proceedings before foreign courts. And, with the international reach of Miller Canfield, we are able to provide legal assistance in proceedings before state and federal courts in both the U.S. and Canada.

Franchising + Distribution Agreements

We provide detailed advice regarding the establishment, development and modification of franchise and distribution systems in Poland, taking into account the most recent trends in business cooperation. We also provide complex legal service for franchisees and distributors (dealers). Specifically, we:

- Prepare franchise agreements and franchise license documentation, including restrictions governing the use of a company's name, trademark and know-how, as well as additional services provided by the franchisor and list of franchise fees
 - Draft and prepare all documentation necessary to close a transaction
 - Ensure that operation of the franchise system complies with all applicable E.U. and Polish regulations, as well as with the European Code of Ethics for Franchising and International Treaties
 - Structure the internal operation procedures amongst the franchisor and individual franchisees, including preparation of an internal operations manual to be used by each franchisee, to include applicable employment procedures, particularly confidentiality agreements, product and service standards and
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customer complaint procedures

- Provide complex legal services to the franchisees, including assistance to obtain required governmental approvals necessary to commence business activity, the preparation of standardized agreements and procedures, in addition to providing legal representation before judicial and administrative authorities
- Prepare and opine on product distribution agreements, provide periodic reviews of the business activities of identified distributors, in particular any judicial and administrative proceedings to which a distributor is a party if such activity may have a potential impact on our client
- Structure and implement a systematic approach within the franchise system to maximize tax reduction strategies and ensure the protection of intellectual property rights

Infrastructure + Environmental Protection

We provide legal advice at all stages of infrastructure development, including the possible impact of applicable environmental regulations in advance of commencement of construction. We provide the following services to our clients:

- Representation before all administrative agencies and courts related to compliance with all applicable environmental regulations
- Secure the issuance of all required consolidated and sector permits
- Analysis of potential liability resulting from breach of environmental regulations, including the failure to comply with all waste management regulations

We draw on the experience gained by our attorneys after years of experience providing legal assistance in the development of retail shopping centers and public utility projects across Poland, in addition to legal restructuring of water treatment and sewage plants. We provide legal advice on selecting the appropriate financial support scheme to undertake infrastructure investments, including the creation of private-public partnerships, the issuance of bonds (including revenue bonds) and securitization of receivables, covered from E.U. funds (including ISPA funds and the Cohesion Fund) and from European Bank for Reconstruction and Development.