



Sunday Trade Ban in Poland

"Maximising the trading week"

BACKROUND AND POSSIBLE IMPACTS





The Polish Retail Sunday closure ban (*The Act of retail trade limitation on Sundays and Holidays and on some other days from 10th January 2018*) has become a particularly contentious issue over the past few months. Consumers have been forced by an administrative measure to adjust their shopping habits. Apart from inherently inconvenient for shoppers and retailers, there is a wider discussion at to how this change in law might impact on property operations and even investment values.

This paper seeks to address these divergent thoughts and opinions and put some forward-looking perspective to investors in retail and leisure-based properties in Poland. Balmain Asset Management and BSC Real Estate Advisors have come together to analyse these issues utilising a 14 year retail property investment, leasing and management pedigree in Poland. We have combined our deep retailer contacts with specialist marketing, property management and asset investment management to view the changes across all possible areas of impact.

Most European Union countries have some sort of restriction on Sunday trade. Germany, Austria, France and Italy have near total bans, whilst partial restrictions applying to the UK, Belgium, France, Greece, the Netherlands and Luxembourg. The recent example of Hungary in the CEE is a particularly relevant one which saw Hungary moving to a total ban put in place for just 12 months in 2015/16 where the immediate economic and social effects were better than expected. Moreover retailers active across the region have been able to provide valuable insight to help understand the potential issues Poland could face.

All in all, Balmain and BSC seek to look holistically at the challenges ahead and seek to "Maximise the Trading Week" for customers, retailers and investors alike.

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Background and Interpretation of the law

Overview

The project of the Sunday trade ban law was brought to the Parliament by the Solidarity trade union. The purpose of the new law and implementing it to the Polish legal system was driven by social aspects, with the main aim to improve the situation of employees in the trade sector and positively influence the way of spending free time (according to the legislator, it will tighten social relationships, especially within families). The trade ban of each Sunday will be fully implemented in 2020 (up to this year the ban will be implemented partly in order to accustom customers and the market to the changes), with exception of two Sundays before 25 December, one Sunday before Easter and each last Sunday of January, April, June and August. Also, there are exceptions business trade, including restaurants, pharmacies, post office, and others.





The Act concerns a prohibition of undertaking work (including non-paid work) in trade sector by the employee between Saturday midnight and Sunday midnight and between midnight of a day preceding a Holiday and midnight of the Holiday. Also, business operation on 24th December and the Saturday preceding Easter Sunday is limited to 14:00.

To avoid doubts, shopping centres can be open on Sundays as they are not retail operators. Retail franchise operators can be open on Sunday, but the franchise owner must actually work in the store.

By 2020 retail trade of all Sundays and Holidays will be prohibited (with certain exceptions). The implementation of the full ban will be phased as follows:

- 2018: open on 1st and last Sunday of the month
- □ 2019: open on last Sunday of the month
- 2020: full ban (except: two consecutive Sundays preceding 25th December, a Sunday preceding Easter, last Sunday of January, April, June, August)

The State Labour Inspectorate monitors whether the law is respected and in the case of the breach of the ban, acts as a public accuser and the district court settles the penalty amount. Also, maliciously or persistently forcing an employee to work during the forbidden days is punishable by a fine or imprisonment. The fine described by the Act varies from PLN 1,000 to PLN 100,000.

Polish Holidays:

- 1st January New Year day
 6th January Epiphany
 Easter Sunday (moving date)
- ☐ Easter Monday (moving date)
- ☐ 1st May Labour Day
- ☐ 3rd May Constitution Day
- ☐ Pentecost (moving date)
- ☐ Corpus Christi (moving date)
- ☐ 15th August Assumption of Holy Virgin Mary
- ☐ 1st November All Saints Day
- ☐ 11st November Independence Day
- ☐ 25th December Christmas
 - Day
- ☐ 26th December 2nd Christmas Day

	2017	2018	2019	2020
lumber of Total Days	365	365	365	366
lumber of "Closed" Days	13	32	46	54
lumber of "Open" Days	352	333	319	312

Background and Interpretation of the law

Exceptions

Business* excluded from the ban concerning Shopping Centres:

Petrol Stations**

- Florists
 Pharmacies
 Press, Tobacco, Lottery shops
 Post Offices
 On-line shopping and Platforms
 Trading with a Vending machine
- Owner-operating stores***Bakeries, Confectioneries and Ice Cream shops
- Restaurants andGastronomy establishments





Other business* to be excluded from the ban:

Vet Clinics
Souvenirs and Devotional articles shops
Retail at Crisis Management establishments
Retail at Hotels
Retail at Culture, Sport, Education, Tourist and Recreation establishments
Retail organised only for the purpose of Festivals, Fairs, Themed events, Sport and Recreation events and market halls
Retail at Health Care establishments
Retail at Train/Bus Stations, Harbours, Marinas (directly related
to travel service)****
Fish Sale and Distribution centres
Retail at Airports
Duty-Free Stores
Retail at Means of Transport, including ships, airplanes, oil rigs
Retail at Penitentiary units
Retail at Military units
Agricultural Retail and Machinery Trade
Pharmacy Wholesales
Selling Flowers, Wreaths and Candles close to Cemetery
Retail at Funeral homes
Retail at agro-food wholesale markets
Cereals, sugar beet, fruits, vegetables and raw milk buying

Legislation Process of Sunday ban law:

- The project of new legislation was brought to parliament on 22th September 2016 by "Solidarnosc" trade union.
- After the amendments of commission of Social and Family Policy and three debates in Parliament, the project was sent to Senate and President on 29th November 2017.
- 3. The Senate proposed further amendments: tightening compliance of the law by not allowing retailers to operate as an expectational business while their main trade is the one which is forbidden by the law. Parliament has agreed on the amendments.
- 4. The project was signed by the President on 30th January 2018 and the law comes into force in March 2018

centres

^{*}prevailing business activity as per indicated in official register

^{**}trading can be carried out only by the petrol station and in the area directly designated for the sale of liquid fuels; establishment, located by petrol station or which has ownership connections, is not excluded from the ban

^{***}family members can occasionally work on Sunday, but cannot be paid and cannot be employed during the weekdays

^{****}Train/bus stations must have communication stops, ticket offices, and information desks – the use of the building has to be indicated as station, therefore shopping centres located by the station cannot be excluded from the ban

France

Europe is divided in terms of Sunday Trading restrictions. In many countries the restriction is regulated by the local government and specially designated tourist areas are usually without any restrictions.

There is no European Union policy regulating Sunday trade and each Member State is allowed to set own Policy concerning work on Sunday. Only regulated working aspect is timing: required is only a weekly rest after six days of work (Working Time Directive).







France

Current Situation

Generally, shops are not allowed to open or are limited to open on Sunday. However, there are exceptions and special zones which allow the trade.

Supermarkets (but not Hypermarkets) can open nationwide every Sunday morning until 13:00. Stores located in "international tourist zones" may be open all hours.

Background

The century-old Sunday trading restrictions, has started changing in the late 2000s, with debates concluded in the relaxation of the law. Before only sports, toys and cultural shops were allowed. In 2009, changes allowed to open shops in tourist areas.

The mid-2016 changes, created "international tourist zones", where all shops could stay open every Sunday and until midnight during the week. Notwithstanding, the owners of the stores, had to negotiate the terms with employees (e.g. a year negotiation between unionists and owners of Galeries Lafayette in Paris).

Comments

The main reason for the relaxation of the trading law was dictated mainly by the growth of the economy argument and high unemployment. However, as the trading was restricted since 1909 it became part of French culture and customer behaviour that shops are closed on Sunday. The Sunday target customers are mainly international tourists, especially from Asia.

Source: Financial Times, France Media Platform

Germany







Germany

Current Situation

Sunday trade is restricted across the country and the number of Sunday shopping days per year is regulated by the local government bodies (for example in Berlin in 2018 only 28th January, 18th February and 11th March are trade Sundays and more yet to be confirmed). However, several major railway stations are permitted to operate their shops, such as grocery stores, bookstores, drug stores, on Sundays.

Also, the responsibility for opening hours is regulated at state government level.

Background

In Germany, opening hours have long been restricted through the Ladenschlussgesetz. The 1956 law required shops to close for the weekend at 2 pm on a Saturday and 6:30 pm on week-nights, with opening until 6 pm on the first Saturday of the month, in what was known as the Langer Samstag, or "long Saturday". In 2006 and 2007, the responsibility for opening hours was transferred to the state governments instead of the federal government.

In 2004, the Federal Constitutional Court ruled against lifting restrictions on Sunday opening. As of 2013, the number of Sunday shopping days per year became regulated by local government bodies.

Comments

Studies on the German deregulation find that, far from causing an increase in consumer prices, the liberalisation lowered prices to some extent, though revenue was unaffected. This decrease in prices was probably driven by productivity increases created by the smoothing of consumer traffic over a longer period of time and the greater ability of consumers to compare prices in a deregulated environment (Institute of Economic Affairs).

There is still strong resistance to Sunday shopping from churches and politicians.

Source: Institute of Economic Affairs, The Official Website of Berlin, European Foundation for the Improvement of Living and Working Conditions

United Kingdom







United Kingdom Current Situation

There are restrictions on Sunday trade hours (ex. Scotland), regarding the shop area. Shops over 280 square metres can open on Sundays but only for 6 consecutive hours between 10am and 6pm; must close on Easter Sunday; must close on Christmas Day. Below 280 square metres shops can set their own Sunday trading times.

Exempted from the restrictions are: airport and railway station outlets, service station outlets, registered pharmacies selling only medicinal products and medical and surgical appliances, farms selling mainly their own produce, outlets wholly or mainly selling motor or bicycle supplies and accessories, suppliers of goods to aircraft or sea-going vessels on arrival at, or departure from, a port, harbour or airport, exhibition stands selling goods.

Background

Sunday trading in England and Wales was not generally permitted until 1994. This meant that shops such as department stores and supermarkets were not able to open legally. A number of specialist outlets were able to open legally, including garden centres, small "corner" or family-run shops, and chemists.

Several large retailers challenged the legal ruling in force before 1994 by opening on Sundays (or simply ignored them, since the fines were far lower than their Sunday profits), and the outcome was that the Sunday Trading Act 1994 permitted "large shops" – those with a "relevant floor area" in excess of 280 m2 (3,000 sq ft) – to open for up to six hours on Sundays between the hours of 10 am and 6 pm. Small shops, those with an area of below 280 m2, are free to set their own Sunday trading times.

Comments

In July 2015, it was proposed that Sunday trading hours should become a devolved issue for local government. The Enterprise Bill 2015–16 introduced in September 2015 included a provision for major towns and cities to decide how long shops could open on Sundays. However, the bill's proposals with regard to Sunday trading were defeated in the House of Commons in March 2016 and the government indicated that it had no intention to reintroduce the measure.

Source: gov.uk, legislation.gov.uk, BBC

Hungary

The example of the Hungarian Sunday Trade ban is the most similar to new restrictions in Poland. At the end, the Hungarian government repealed the ban. The economic effect of the restriction turned out to be less dramatic than critics predicted.







Hungary

Current Situation

There are no Sunday Trading restrictions across the whole country.

Background

The Hungary Sunday Trade Ban lasted for only one year and it was abolished on 12th April 2016.

Historically, shopping hours in Hungary were not regulated until 15th March 2015. From that day, new regulations banned shops from opening on Sundays. The regulation only allowed trading for shops with an area no greater than 200 square metres and even then only if they are operated by the owner or a close family member related by blood or marriage. The general exception from the law was the four Sundays in Advent and one day that the shops can choose themselves. Although most Hungarians opposed the Act, the ban seemed to be there to stay. The opposion Socialist Party tried to initiate a referendum for lifting the ban, but was prevented on several occasions.

However, on 12th April 2016 the parliament adopted the government's proposal to repeal the Act (there were no consultations with social partners or other interested parties).

Comments

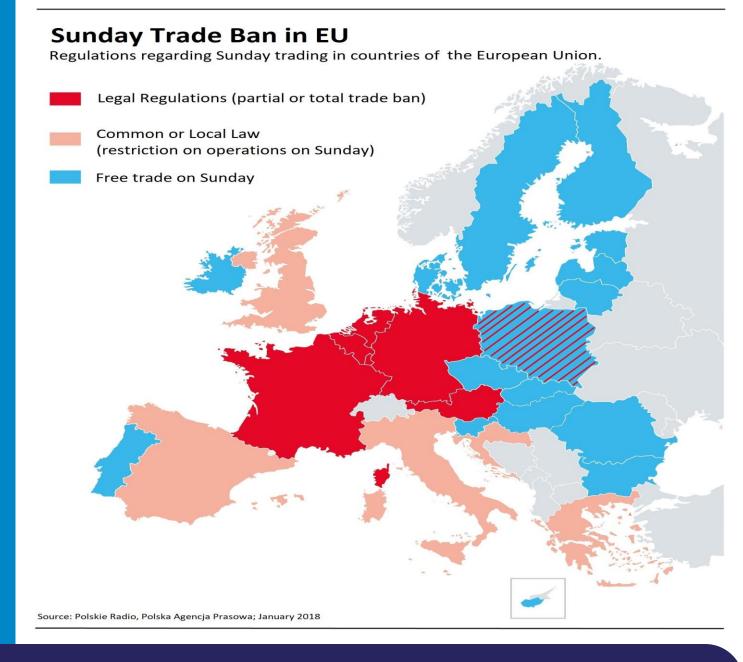
The economic effects of the Act have turned out to be less dramatic than critics predicted. Overall turnover in the retail sector grew instead of declining. The volume index of turnover for retail shops in January–December 2015 was 105.5. The explanation is rather simple: consumers adjusted their shopping habits, which resulted in shifting the high turnover from Sundays to other days of the week. However, during this time the overall number of workers in the sector fell by 4,000. One reason for this could be that the number of shops fell by more than 3,000 in 2015. Even so, there was an increasing labour shortage, with 3,161 vacancies registered in 2015, a 35% increase from the previous year.

Small Hungarian-owned shops and retailers catering to tourists seem to be the ones most adversely hit. Retailers in tourist location, in particular, relied on Sunday shopping, and the longer opening hours during the week was not useful, since most tourists visit Budapest during the weekend. However, the Act has had a clear positive effect on online retailers and consequently on logistics businesses.

Source: JLL, European Foundation for the Improvement of Living and Working Conditions

Europe

European Countries where some form of Sunday trade Restrictions apply



Market opinions

When the new law was announced there was a wide range of opinions expressed...

- ☐ Change in shopping habits and adapt them to new rules
- ☐ Negative impact on smallest, local stores
- Other countries with Sunday trade ban are wealthier than Poland
- Outlet centres are destination ones, 80% of footfall and turnover achieved at the weekends

There will be one day less in trading and I will fire a group of people in sales and customer service. I will note

Dariusz Miłek, CCC President, Newsweek, October 2016

15% decrease in costs.





We believe that consumers will adapt their habits to new rules and will buy more food on other days. We will be monitoring needs of our customers to fulfil them on the other working days.

Rita Fragoso, Jeronimo Martins spokesman, Property News, January 2017

(...) other countries with Sunday trade ban are wealthier than Poland. UK found a compromise – stores on Sunday are opened from 11 AM to 6 PM – who wants to go to church, can go; who wants to sleep longer – can sleep.
Yoram Reshef, General Director, Blue City Warsaw, Money.pl, November 2017

Sunday trade ban won't make a difference and Poles won't start to shop in small, local stores, also because of very simple financial reasons. Idea of stores being closed on Sunday will motivate them to shop on other days, mainly Saturday, which will have negative impact on smallest stores. (...) In Hungary, this new habits resulted in closing of 3,000 local, family stores, instead of increasing their turnovers due to Sunday ban.

Radosław Knap, PRCH General Director, Property News, November 2017

Estimated losses in State Treasury connected with Sunday trade ban will reach at least 1.8 billion PLN. Consequence of introducing Sunday trade ban will be a decrease of turnover of 9.6 billion PLN in retail sector and decrease in employment by minimum of 36K employees.

PwC and PRCH report, Property News, October 2017

Market opinions

Grocery stores:

- ☐ Biedronka: change in opening hours, new night shift, trading on Saturday to 23:45 and on Monday from 00:15
- Lidl: new opening hours, Monday shift will start at 05:00
- Netto: keeps working day from 04:00 to 04:00
- ☐ Intermarche: plans to open petrol stations (1st one opened in Rawa Mazowiecka)
- ☐ Zabka: can operate as always (owner-operated franchise only)

For 70% of customers of outlet centres are usually destination ones. (...) Biggest footfall and turnover are reached during the weekends (80%), so Sunday trade ban will have a great impact on these centres, not only on owners and their employees, but also services. Katarzyna Michnikowska, Director in Research Department, Colliers International, Retailnet.pl, June 2017

Biggest losses will be noted by local centres and those located on the suburbs. Centres located next to offices and residential areas, will note increases on Thursdays and Mondays in the afternoon and evening hours. Big shopping centres will be forced to prolong their working hours on Fridays, Saturdays, but also Mondays or Thursdays.

Małgorzata Dziubińska, Associate Director in Research Department, C&W, Retailnet.pl, January 2018





In Hungary Sunday trade ban was introduced in 2015 and lasted only for one year, because of social discontent. Instead of supporting small local businesses, it resulted in their bankruptcy for the biggest scale ever seen. (...) This new law is against customers. Poles are one of the busiest and longworking nation, which treated weekend shopping as time spend with family and friends, not only on shopping, but also on dining and entertainment. (...) Sunday trade ban is not about securing employees rights, as only 10% of 360K retail points will be affected by the law.

Renata Juszkiewicz, POHiD President, Retailnet.pl, January 2018

Intensive digital activity we noted for the last few years, will be increasing and will happen in more structured and cyclic way. (...) Traditional stores owners won't give up on the market that easy and won't resign from Sunday trading. Those who were not convinced yet to open on-line stores, now won't have a choice.

Zbigniew Nowicki, dr Mikołaj Kraus, Retailnet.pl, January 2018

Market opinions

- ☐ Sunday trade ban is not affecting on-line sales
- ☐ In Hungary Sunday trade ban resulted in increases in turnover of 24% on Thursday and 21% on Friday
- ☐ Open question about food & beverage, as well as leisure & entertainment offer in closed centres





Planned Sunday trade ban will result in decrease in turnovers, as well as will affect those people who are indigent and will lose their job. All new, retail taxes will have to be covered by properties turnovers and this will result in increase in rents and finally increase in prices. Aleksander Walczak, Dekada SA President, Retailnet.pl, February 2018

Biggest losses will be noted by food court operators. Coffee bars and restaurant are those retailers who get the most out of the people shopping in centres. There is an open question, if in case of closed centre opening a Cinema and few coffee bars and restaurants will be profitable, as interest of people might be minimized by lack of other offer.

Szymon Lukasik, Retail Tenant Rep Department Director, CRESA, Property News, December 2017

Sunday trade ban is not affecting online sales. It is one of the exclusions from new law.

Sławomir Paruch, lawyer and Partner in Raczkowki Paruch Law Firm, Rzeczpospolita, January 2018 Hungarians got used to shopping in stores which offered them widest selection of products, for the smallest prices. Shopping in small, local stores was treated as finality. Closing of large area stores resulted in change in shopping habits and buying products in reserve. Sunday trade ban resulted in increases in turnover of 24% on Thursday and 21% on Friday in large area grocery stores.

Radosław Knap, PRCH General Director, Property News, November 2017

Retailers Opinion

BSC Real Estate Advisors has accessed their significant retailer base in Poland to canvas opinion on both a national and local (centre) level. Herein is a flavour of some of those responses

- No impact on chain retailers
- ☐ Sales picked up online





Sundays for many customers are days in which whole families visit shopping centres in particular fashion and furniture stores without actually spending money and treating them as show rooms. The main turnover is achieved from Monday to Saturday, therefore the impact on tenants' turnover might not be as serious. Visiting shopping centres on Saturdays will become more uncomfortable due to bigger queues, less parking space available for customers in car park. Customers will choose smaller schemes as retail parks to do their shopping as visiting the most popular centres will become a difficult experience.

- Food markets will make up the Sunday trade throughout the week. Customers will still need to consume the same amount of food as before. Therefore there will be more online business with deliveries on Monday morning or evening. Food markets are not concerned about losing trade.
- <u>Chain fashion retailers</u> considered staying open with a show room type of operation on Sundays with all the tools available for them in-store to order online without the actual transaction happening in the store. However, according to Ministry guidelines, the concept of the show room will be treated as an activity directly related to trading, therefore will not be allowed under current legislation.

"When we entered the Hungarian market the Sunday ban was in force. When it was repealed we did not see any positive impact on our turnover."

Operations Director, global value retailer

Restaurants are considering introducing the "dark kitchen" type of service for online orders. The cooking and the sale will not be taking place in the restaurant, but in the rented small kitchen place.

From interviews of main food & beverages operators

International food store operator has no concerns about the drop in the sales. Having experience in Hungary, the brand did not experience loss in sales. Also, there are no plans to extend hours on other days in Poland.

Chief Development Officer, European Hypermarket chain Feb 2018

Retailers Opinion







- □ No or minimal impact on chain retailers
- ☐ Sales picked up online
- ☐ Biggest concern are local food operators

[the group] does not consider extending hours during other days of the week. The group of brands...is very strongly positioned in the Polish market, so is unlikely to lose loyal customers.

Multi-fascia regional fashion retailer

- Overall large chain retailers are not that concerned over the Sunday ban as they believe the trade will still happen in the remaining days of the week. Contrary to general opinion, they do not believe that sales will massively increase through online shopping in Poland.
- Small traders have the biggest concerns regarding the ban, especially restaurants in first generation shopping centres with no dedicated food court area. Losing customers on Sunday, without a possibility to deliver meals on those days, will have the biggest impact on their performance. They are concerned and would like to open on Sundays.



Most Affectedby Sunday Trade Ban

- Cross-border retail destination
- Out-of-town outlet centres
- Out-of-town retail parks
- Out-of-town shopping centres
- Large stand-alone retail
- City centre medium shopping centres
- High Street retail
- City centre large shopping centres
- Dominant Food Operator shopping centres
- Convenience shopping centres
- Local market place
- Railway stations retail

Least Affected

by Sunday Trade Ban



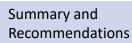


Will the Sunday Ban have direct impact on investments?

We estimate the main areas that it might affect:

Food & beverages operators within shopping centre food-courts may suffer most as they do not have the possibility to transfer sales to other days of the week, even if they remain opened during banned Sundays;
Fashion & media retailers may have some of their shopping centre turnover moved onto online shopping;
Food operators such as hypermarkets will spread their sales over a week as customer will not purchase lower amount of food and additionally Sundays are the worst trading days for food operators;
Difficulties in operating the centre only with minority of tenants opened, especially in terms of maintenance cost of such operation, therefore there would be renegotiations with those tenants to cover the leakage;
The ban on Sunday trading favours small individual shops at face value, but may experience difficulties without surrounding anchors remains to be seen;
Western Polish border cities could lose out from German visitors who have a Sunday ban in their own country. Retail destinations close to borders of the country generates a dent in tourism revenues which largely occur during the weekend.
The ban could possibly create opportunistic rent reduction and service charge decreases' demands

from retailers. In the vast majority of situations we believe they are unlikely to be justified;







Balmain Asset Management and BSC Real Estate Advisors' experienced professionals in investment, marketing, property management and retail leasing has sought a comprehensive approach across the group to identify as many impacts and opportunities from the recent change in law. The group has worked with the Polish Council of Shopping Centres in helping to shape industry policy as well as considerable connection to our retailers to formulate this paper. In summary:

Centres in helping to shape industry policy as well as considerable connection to our retailers to formulate this paper. In summary:	
	Overwhelmingly retailers expect a spread of trade across the week and no reduction of sales;
	Most believe that extending weekday trading hours would be unnecessary;
	Most European countries have retail trading constraints or full bans on Sundays, including the strongest economies
	The expected impact of the Sunday Trade ban would have to be assessed separately for each location. Looking at the Hungarian experience , customers adapted to the new shopping habits very quickly;
	Due to phasing of the ban, the communication with the customers should be very clear to make shopping easy and comfortable. Customers should also be encouraged, by special offers or other marketing activities, to visit centres during weekdays.
	It is expected that the least affected retail destinations will be medium to large in-town s hopping centres, where customers can easily adapt their shopping habits. Also, convenience shopping centres should not lose much of the sales, as Sunday is not the favourite general-shopping day in Poland.
	The most affected centres might be out-of-town shopping centres, retail parks and outlet centres. These are mainly weekend destinations. Also, Sunday ban will discourage cross-border retail activity, for example centres located close to the German border.
	Focus on the positives and see the change as a reason to maximise weekday trading . A thoughtful and joined up strategy between communications, operations, marketing and retailer relations will be required.





BALMAIN ASSET MANAGEMENT

Established in 2003 Balmain Asset Management LLP, is an experienced operating partner, co-investor and multidisciplined service provider focused on CEE retail and leisure assets.

Balmain is majority-owned by its principals and has an enviable pedigree in retail and leisure property in the region where it has operated for over fourteen years. Balmain has over 120 staff in the group.

See more: www.Balmain-am.com

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BSC REAL ESTATE ADVISORS

BSC Real Estate Advisors is a fully independent commercial real estate advisory firm covering the Polish & CEE markets.

It is run and owned by its Partners whose careers each span two decades of working with major local and international organisations throughout the region and internationally. BSC provides clients with a complete set of service lines across all commercial property sectors including retail, capital markets, offices, industrial and property management.

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