INVESTMENT IN REAL ESTATE – APARTMENT HOTELS AND CONDO HOTELS

* **Lack of escrow accounts that secure consumers’ money, reasonable doubts as to the reliability of promises of high profits and the related risk – these are examples of threats related to investing in apartment and condo hotels.**
* **UOKiK and KNF warn against investing in apartment and condo hotels.**
* **Almost 50% of Poles declare that they would invest their money in real estate.**

**[Warsaw, 1 October 2019]** Apartment hotels and condo hotels are facilities serving similar purpose, which usually is the provision of hotel or accommodation services. Basically, investing in this type of venture boils down to purchasing an apartment, e.g. in a hotel building, in a residential building intended entirely for short-term rent, or in a dormitory. An owner of such premises may use it for some time of the year, while in the remaining months it is rented. The property lease is usually managed by a specialized company (also known as a “property manager”) with whom a lease agreement is signed, usually for a period of 5 - 15 years with the possibility of its extension. A manager shares the profit with the premises owner, e.g. by paying out the rate of return as set out in an agreement. *Currently, interest rates on deposits at banks are low, which is why many people invest in real estate instead of putting their money aside in bank accounts. Investing in apartment hotels is risky, e.g. when a developer guarantees a high rate of return and does not mention whether the construction is financed only from consumers’ payments or requires additional contributions. Prior to signing an agreement, a developer should undergo some kind of background check,* says Marek Niechciał, President of the Office of Competition and Consumer Protection. UOKiK and [the Polish Financial Supervision Authority](https://www.knf.gov.pl/o_nas/komunikaty?articleId=67218&p_id=18) warn against investing in apartment and condo hotels.

**Actions taken by UOKiK**

UOKiK has been analysing the apartment and condo hotel market. The purpose of this analysis is to determine what threats potential buyers might face. Therefore, UOKiK sent questionnaires to 80 developers/property manager and 25 real estate brokers or companies helping real-estate investors obtain funds to buy real property. The Office asked about apartment hotels and condo hotels being currently under construction in the context of measures taken to secure funds paid by consumers. The survey results caused the initiation of nine explanatory proceedings, in which we check how agreements are concluded with consumers and what information is provided to them. This is the initial stage of our actions. We will seek to inform the public on a current basis about any charges levelled. Moreover, we indicate problems to which consumers should pay special attention when considering investing in this type of property.

In particular, UOKiK has doubts about:

**Risky financing:**it is important how developers finance their investment, i.e. from their own money, a bank loan, corporate bonds issuance, or maybe from consumers’ contributions? **Investments financed only from purchasers’ contributions or from the issue of bonds are riskier for the purchaser** than investments financed from developers’ internal financing. **In this case, the consumer incurs the entire risk of investment failure.** Should a developer go bankrupt, buyers of premises or their creditors may lose all the money they invested, because it was used to finance the construction project never to be finished.

**Illusory safety:** the Development Act requires (i) agreements to be concluded in the form of a notarial deed, (ii) consumer’ claim to be entered in the land and mortgage register and (iii) consumers’ money to be paid into escrow accounts. **However, this applies only to residential premises** and single-family houses**.** Therefore, investing in the purchase of commercial premises, for which such safeguard measures are not required, are particularly risky. *Lack of precautionary measures means that developers do not apply the Developer Act to the sale of apartment hotels. Investment fall and failure to finish the construction means the loss of consumer money*, adds Marek Niechciał.

**Uncertain profit:**ads for investments in apartment hotels often promise a 7-10% profit per year. **However, such high rates of return may be unreachable** because developers often do not include the costs of property management and maintenance in them. Furthermore, making a profit depends on a variety of factors (business, market, economic etc.), which consumers do not control and which may be subject to adverse changes. For example, an apartment hotel may not always be able to attract the assumed number of guests to earn the required revenue. Each deposit carries the risk of the two unknown: the amount of generated income and the return of funds. *It is crucial to thoroughly verify an investment and the related risks. Consumers must be aware that there are no guarantees on rates of return. Apartment hotels and condo hotels are subject to economic cycles. Thus, consumers must be particularly careful when investing their funds because there is no guarantee whether, when and at what amount the rates of return will be realized on an investment. In addition, there will be fixed costs related to, for example, property management and maintenance, debt service or taxes*, says Tomasz Chróstny, Vice President of the Office of Competition and Consumer Protection

**Non-transparent cooperation:** the Office has doubts as to (i) the lack of clear rules of cooperation between developers and financial intermediaries or brokerage houses, often cooperating with banks, and (ii) the lack of a clear indication of each of the above entities’ scope of responsibility towards the consumer. They encourage clients to invest their savings in apartment hotels or take out a loan for this purpose. *It is risky to make a loan for the purchase of an apartment in an apartment hotel. This will reduce potential profit, and if there is none, consumers will have to pay the debt back out of their own funds, not from rental income, not to mention the costs of property management to be deducted*, says Niechciał. *A financial intermediary should fairly present the pros and cons of investing in an apartment hotel so that no property was sold unfairly. Everyone must be aware of the risk of potential loss, and the broker must not mislead consumers. We do not want the problems created by the so-called saving insurance policies or corporate bonds to return*, says Marek Niechciał.

This kind of business activity often **escapes current legal regulations in many areas, including construction process**, protection of buyers and tenants of such premises as well as tax and tourist issues. In September, meetings were held with representatives of various state institutions (including the Polish Financial Supervision Authority, the Ministry of Sport and Tourism, the Ministry of Investment and Economic Development, the Ministry of Finance, the Ministry of Justice, the Chancellery of the Prime Minister, the General Office of Building Control), during which the diagnosed market phenomena and the related risks were discussed. *It is therefore vital to understand this basic principle that any investment, including in real estate, is subject to risk that consumers should take knowingly. They should decide whether a given investment complies with the risk profile and financial capabilities that they accept, and thus should have reliable information necessary to make this difficult choice,* adds Tomasz Chróstny.

**Social questionnaire**

At the request of UOKiK, at the end of 2018 Kantar Public asked consumers how they would invest PLN 20,000, 100, 000 and 500,000. Many of them would like to spend the money on a house or an apartment: should the respondents have PLN 500,000, the majority of them (47%) would buy real estate. As for PLN 100,000, 41% of respondents would choose a bank deposit, and 31% of them would invest in real estate. Most people (52%) who would have PLN 20,000 would pay the money into a bank account. The questionnaire results can be downloaded from  [the UOKiK website.](https://www.uokik.gov.pl/download.php?plik=23748)

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[Consumers’ Ombudsmen](https://uokik.gov.pl/pomoc.php) – in your town or district

Regional Consumer Centres: 22 299 60 90 – [Dlakonsumenta.pl](http://dlakonsumenta.pl/)