

Investors are more willing to take risks but they still need insurance

With reduced tolerance for risk in property acquisitions, the use of title insurance has increased. Fifteen years after its introduction, it continues to play a growing role in the CEE real estate market. Jean-Bernard Wurm, Co-Founder & Managing Director of Secure Legal Title, London talked to Property Forum about the title insurance market in CEE.



Jean-Bernard Wurm

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Jean-Bernard has 30 years' experience in the European and US real estate markets as a commercial and investment banker and private equity investor. He then launched the European sales operations of the two largest U.S. title insurance companies. He is a co-founder of Secure Legal Title, which provides Title Insurance to cover the legal risks in commercial property acquisition, development and mortgage finance in the UK, the EU and accession countries -- and now Mexico. Policies are issued by Lloyd's of London. The company also offers "Representations & Warranties Insurance" for the real estate components of M&A transactions. Jean-Bernard began his career with JP Morgan Paris, Frankfurt, and New York, then Bankers Trust / Deutsche Bank and HVB Capital, also in New York. He graduated with honors from Sciences-Po, Paris, and holds degrees in Economics from the Sorbonne and German Studies from the Université de Paris. [More »](#)

What is exactly title insurance?

Title insurance was invented in the US more than a hundred years ago and indemnifies against losses arising from both known--and unknown--legal risks related to real estate acquisitions and mortgage finance. It reduces risks for property investors and mortgage lenders.

How has the title insurance market in CEE changed in the past years?

American investors in Europe were the first to require title coverage. CEE demand then came from Western European or Israeli investors in cross-border transactions but now, in most cases, we tend to insure domestic banks and investors.

Demand for title insurance used to originate primarily from CEE/SEE. We now see strong demand coming from Western Europe as the complexity and volume of cross-border transactions have increased.

Requests for title policies covering "unknown" title risks have decreased while demand for specific or "known" risks that has increased for the risks that lawyers uncover in their due diligence. This is equally true for Eastern Europe, where demand is mostly driven by restitution, privatization or other legal issues.

How has the product coverage changed?

Previously, policies used to be restricted to pure title on properties. Now, we also insure title to shares of real estate companies as well as seller's Reps & Warranties. Until 5 years ago, R&W coverage was confined to the UK or Western Europe, but it has now become common in CEE for corporate acquisitions, instead of asset deals. This is the case in Poland, Czech Republic, Slovakia, but not yet in Romania or Hungary. All policies are issued by Lloyd's of London.

Title insurance coverage is now being extended to renewable energy risks. We can insure lenders for the validity of building and operating permits for wind and solar farms and power plants. Banks and private equity groups that finance those projects are concerned that a successful challenge to those permits can affect revenues and trigger a default on the loan.

What are the biggest risks investors face in the CEE region?

Institutional investors are closely observing what is happening to the judicial system in Poland and Hungary and how it can affect the independence of judges. This has not necessarily resulted in a decrease of investments, but this concern is frequently mentioned by investors in our discussions.

The rise of populism and nationalism are also increasingly perceived as a risk for foreign investors. This creates an atmosphere where foreign investors may feel less welcome or less protected.

How has the list of your clients diversified in the current market cycle?

New clients include investors from South Africa, Singapore, Korea and, increasingly, local players in each country. We've seen inquiries from lawyers representing Chinese funds, but no policies issued yet. That should be the next big market.

In which countries have you seen the largest growth in demand?

Poland, partly as a result of the Jaki Commission. Investors are concerned that transactions that took place 25 years ago can simply be cancelled if the commission determines that owners at the time were unfairly treated or were victims of collusion between unscrupulous lawyers and city officials. There is sustained activity in the Czech Republic and Slovakia and renewed investments in Hungary.

What are the main reasons driving investors to insure themselves?

Title insurance relatively inexpensive and can accelerate deal closings and is growing in familiarity. Title policies allow investors to concentrate on more basic aspects of real estate transactions, such as rent rolls, capex. The premium is paid once, at closing, and when amortized over a certain number of years, it does not impact the ROI. So, there is no need to spend time and money assessing legal risks and deciding whether to go ahead with a transaction because of legal issues.

How willing are investors in CEE to take risks in general? In which markets within the region are they more tolerant towards risks?

Investors are now generally prepared to take on general ownership risks in CEE. In all EU countries, ownership rights are clearly established by land and mortgage registries. However, investors are increasingly averse to accepting specific risks that law firms uncover in the course of their due diligence. These can include existing or potential restitution claims, the uncertain validity of privatizations, issues with building permits, questionable access to property, encroachments. In Poland, and Warsaw, in particular, there are frequent issues around the validity of an RPU.