Capital market instruments in the financing of local government units

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Abstract: the aim of the article is to indicate the organised capital market as a place for raising capital for local government and municipal companies; the scope of regulations and knowledge about the capital market for local government units is presented, including studies on the assessment of factors affecting the development of LGUs using the issue of municipal bonds in the capital market.

Keywords: capital, finance, economic independence, local government issuer.

Introduction

The legal norms in force, including the act of the highest rank - the Constitution of the Republic of Poland - oblige local governments to form decent living conditions for local communities (act 43, pt. 2)[5]. In order to fulfil this task, it is necessary to have financial resources adequate to the scope of the tasks entrusted by law to the individual levels of local government. Since the beginning of the decentralisation of public finances, the funds made available to local government officials have not guaranteed freedom of decision. Some improvement was brought by the law on revenues of local government units, in force since 2004. It changed the structure of revenues of local government units (LGU). It ensured a 30% increase of own revenues in the structure of total revenues over the next two years, thus extending the margin of their economic independence. Strong economic centres, in which natural and legal persons pay high-income taxes, benefited most from these solutions. The least are economically weak local government units. As a consequence, disproportions in the development of particular regions of Poland [13] are still maintained.

The increase in the scale of own revenues was partly related to the extension of the scale of tasks performed by local governments, which are first of all obliged to finance obligatory tasks (own, commissioned and adopted by agreements). Current expenditure increased by 24.8% over the two years (2017 and 2018) compared to 2016. The resulting increase in revenue was allocated primarily to capital expenditure.

They increased in 2018, compared to 2016, by almost 50%. This undoubtedly important modification did not change the fundamental proportion between current and property expenditures. On the expenditure side, the financing of current tasks has dominated for many years. Their share in expenditure exceeds 80%. Relatively little remains for financing social infrastructure (schools, swimming pools, cultural and sports centres and others) and technical infrastructure (water supply, sewerage, roads, environmental protection and others). The share of property expenditure in the structure of total expenditure was as follows in recent years: 2017 -18.1%, 2018-17.1%.

1. Sources of investment funding

Own funds from the revenues of local governments allocated to the implementation of investment tasks in no way allow achieving European municipal and social standards in a reasonable time, taking into account the long-standing underinvestment in infrastructure. It is necessary to search for every available external source and to manage it rationally. Many local authorities approach the search for external funding proactively and effectively, with energy and imagination, while taking into account the risks associated with the chosen support tool. The choice of external funding is wide: EU Structural and Cohesion Funds, loans and borrowings, municipal and revenue bond issues, public-private partnerships, leasing, trade credit, asset sales and others. Some of them are actively used by local governments, others to a lesser extent, and still others sporadically or not at all.

In the course of two years (2017-2018), part of the investment expenditure was finalised from non-refundable foreign funds. Their share in budget expenditure was still not very high (1.5% in 2017 and 3.0% in 2018). They were allocated almost 85% to investments. They financed 14.2% of all investment expenditure of local government units. Aid programs assume that local government units' own participation is at the level of at least 25% of qualified costs of the project and that all non-qualified costs are covered. It is not without significance that the inflow of EU funds takes place after the investment task has been completed, which requires earlier involvement of funds from other sources. Thanks to the liberalisation of the provisions of the Public Finance Act of April 2017, the legal limit for the amount of debt, setting debt limits of 15% and 60% to loans, advances and securities contracted and issued for tasks financed with funds from the EU Structural Funds or Cohesion Fund, does not apply [8, p. 67]. LGU implementing investments with the use of EU funds may also receive from the state budget a repayable interest-bearing loan for pre-financing (bridge financing) of expenditures related to these investments.

When looking for financial support, local governments reach for new solutions, such as "trade-credit" and leasing. Both forms of indebtedness in the form of deferred payment contracts are not included in the public debt and do not influence the level of local government units' indebtedness defined by legal limits. The conclusion of such contracts is used to a marginal extent so far. In 2018, only 15 units used the "trade-credit" for the amount of PLN 14.5 million to defer payments for the implementation of investment tasks such as the construction of schools, sewage systems, water supply systems, the purchase of public transport and parking meters, and the implementation of an energy-efficient street lighting programme. Lease agreements for the rental of means of transport and computer equipment were concluded by 4 units for the amount of PLN 0.3 million, obliging themselves to pay the lessor a cash remuneration in instalments [7].

The two most important sources of revenue are still crediting and borrowings and the issue of municipal bonds. They dominate the structure of LGU liabilities. Credit liabilities at the end of 2018 amounted to more than PLN 17 billion, and those resulting from bond issues to more than PLN 3 billion. The total amount of liabilities classified as public debt amounted to over PLN 21 billion and has increased by almost 50% over the past five years.

Funds from loans, borrowings and bond issues in 2016, 2017 and 2018 were used primarily to finance investment tasks. Some of the external sources thus obtained were earmarked for current expenditure and repayment of previously incurred liabilities.

2. Organised capital market

The capital market, designed to finance investment tasks and investments with a long-term perspective, fulfils numerous functions for market participants: issuers and investors:

- mobilises capital - the ability of entities and persons to refrain from current consumption in favour of a potential future financial effect resulting from the involvement of financial resources in a particular security,
- allocates capital - capital flows from low performing areas to areas with high development potential,
- transforms capital - bringing together multiple holders of free capital with those who demand funds,
- securities valuation [8, p. 72].

It is subject to many layers and numerous legal regulations, which place it in a specific fragment of the financial system. It can be divided into a private market and a market supervised by the Financial Supervision Authority (commonly referred to as the public market). In the private market, the issuer seeks funding from entities that are well known and capable of valuing and evaluating both the issuer and its securities. Behavioural procedures are set out, in the case of municipal bonds issued by LGU, or income bonds, by the Bond Act. On the public market, the issuer asks hundreds of thousands of investors to support its investments, entering the market space defined by four new laws:

- Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies (the Act on Offering), consolidated text of 2020.11.25 (Journal of Laws of 2020, item 2080),
- Act on Trading in Financial Instruments (Trading Act), consolidated text of 2020.01.20 Consolidated text (Journal of Laws of 2020, item 89),
- Act on Capital Market Supervision (Supervision Act), consolidated text (Journal of Laws of 2020, item 2059),
- Act on Financial Supervision, consolidated text (Journal of Laws of 2020, item 2059).

The laws that have been introduced have implemented EU-wide regulations, liberalised issuer behaviour and simplified procedures, while maintaining the fundamental characteristics of the market, such as integrity, efficiency, transparency, liquidity, integrity and security.

The criterion qualifying the market for the private segment or the segment supervised by the Polish Financial Supervision Authority is the principles and conditions on which the flow of funds between the investors and the issuer, in this case, the local government, will take place, included in the definition of a public offer of securities, indicated in the Act on Public Offerings: *A public offer of securities is made when the offer is addressed in any manner and form to at least 100 investors or an unspecified addressee* [10].

In the countries of the European Union, and thus also in Poland, the former compulsion of a regulated market was abolished. During the previous laws, the institutional infrastructure of the market clearly separated the entities organising trading (the Stock Exchange and the Central Offer Table) and the entities providing brokerage services. The new regulations, consonant with Directive 2017/39/EU of 21 April 2017 on markets in financial instruments (abbreviated as MIFID Directive), sanction independent forms of trading in financial instruments, within which the following were separated in Poland:

- trading on a regulated exchange and over-the-counter market (a feature of this market is that only licensed joint-stock companies issuing registered shares can be organisers of trading),
- trading carried out through multilateral trading facility (MTF) organised by the Warsaw Stock Exchange (WSE), MTS - CeTO and investment firms, included in the organised market (figure).

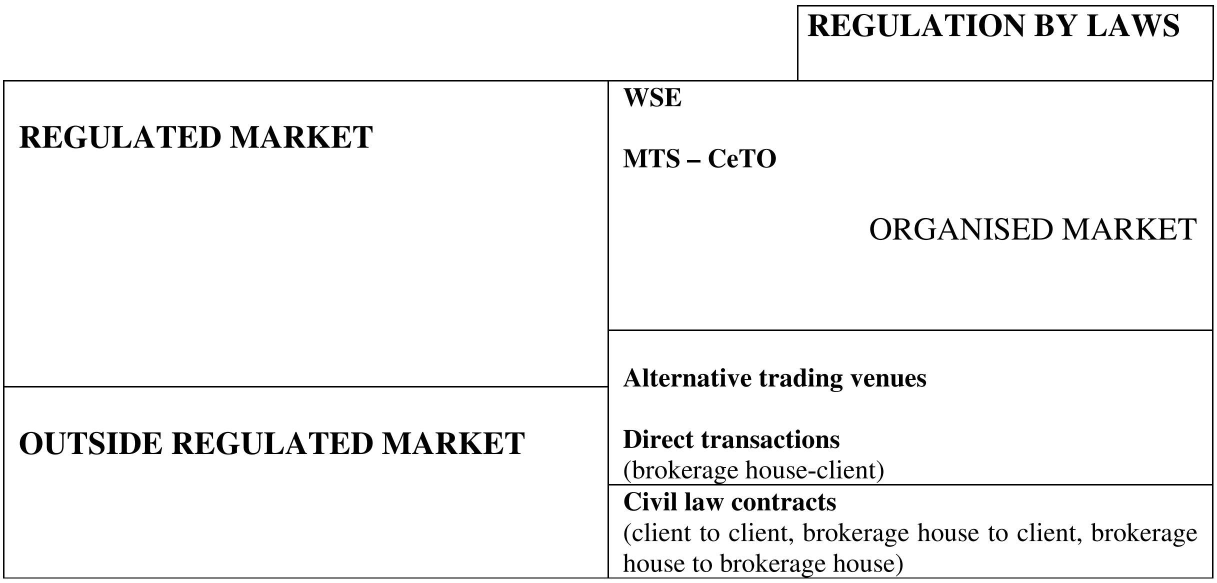

Figure 1. Legal and organisational structure of the organised capital market
Source: Own study base on stock exchange in Poland

3. Placing of bond issues on an organised market

The choice of the source of financing will depend on many factors: the objective to be achieved, the implementation time, the possibility of using a given financing instrument, the time horizon, the state of the budget and many other elements, taking into account all risks and the applicable legal standards. One of the ways is the issuance of municipal bonds. On the one hand, the global value of issues and the number of issuers are increasing. On the other hand, the share of bonds in the structure of liabilities has fluctuated, in recent years, around 16%.

Over the past 10 years, 291 local governments at all levels have chosen to issue municipal bonds. These issues have varied widely in size, maturity, method of issuance, benefits assigned and other features. These issues include:

- from amounts not exceeding PLN 1 million (Pieniężno - PLN 0.9 million) to very large ones (Gdańsk - PLN 99 million, Wrocław - PLN 50 million), to huge ones (Gdynia - PLN 206 million or Poznań - PLN 500 million),
- short one-year (Lublin) and long-term (Płock - 15 years, Rybnik - 13 years),
- in a single tranche (Wałbrzych) and issue programmes (consisting of several tranches issued in a series as the need for investment funds arises),
- in PLN and foreign currencies (the City of Kraków - 2018 issue denominated in German marks (66 million) and 2019 issue denominated in euro and intended to roll over the previous issue),
- with additional benefits (the right to purchase real estate with a discount, e.g., the city of Płock, the right to exchange securities for the right of ownership to premises built by the municipality - Góra Kalwaria) and ordinary,
- dematerialised and in a tangible form,
- private and public (public subscription) [4, p. 98].

The supervised capital market in Poland has been operating for more than ten years. During this period, the laws outlining the rules of operation of institutions and market participants have been amended three times. More and more financial instruments issued by various entities are listed on the WSE and the MTS - CeTO. The stock market is dominated by shares, while the OTC market is dominated by bonds. Among the bonds of the State Treasury, banks and enterprises, there were three local governments that decided to introduce municipal bonds to trading. Each issue was specific, related to other legal and factual activities. They determined the rules for drawing up the offering document and making it available, the forms of accepting the document by the supervisory authority (Securities and Exchange Commission, SEC) or the methods of placing the issue (Table 1).

A precursor was the city of Ostrów Wielkopolski, which decided on four separate municipal bond issues. In three of them, bonds were purchased by individual and institutional investors in the private market. Investors participated in the auction, offering the most favourable price for the issuer. Only the tender organisers changed: Capital Operations Centre of Bank Handlowy in Warsaw, Brokerage House of Bank WBK SBP. The fourth bond issue was fully subscribed by Bank PKO BP SA. Once the bonds were subscribed and allocated, they were marketed on the basis of an information memorandum after receiving the approval of the SEC for admission to public trading, issued in the form of an administrative decision. In accordance with the applicable regulations, the memorandum was made available in the form of a hard copy publication in the offices of the issuer, the SEC, the offeror and in Customer Service Points of brokerage houses and MTS - CeTO. The issuer was also obliged to publish an abbreviated memorandum in a nationwide daily newspaper. The memorandum of the third and fourth issue was additionally published on the issuer's website.

In 2016, the City of Rybnik prepared a bond issue programme consisting of multiple series and tranches for a total amount of PLN 124 million. The last tranche scheduled for issuance in 2017 was postponed probably after 2019. This time the offering document was a prospectus covering, in terms of securities, the entire municipal issue programme.

The notification from the SEC launched the public offering procedure. The entire offer was addressed to one entity acting as a service underwriter, which was Bank PKO BP SA. At this point, the city received funding and the primary market offer was carried out by a brokerage house of the same bank. The primary market offering was addressed to various individual and institutional investors. The printed prospectus was made available at the registered office of the issuer, the underwriter, the Customer Service Points network, the SEC, the MTS - CeTO and on the city's website. A summary of the prospectus was published in the „Parkiet” Gazeta Gieldy. After completion of the subscription, the bonds were admitted to trading on the OTC market and were introduced to trading, setting the date for the first quotation.

Table l. Issuance of municipal bonds on the public market

Description	Ostrów Wlkp.	Rybnik	Poznań	Wrocław
The role of the brokerage house in the public offering	First issue - Capital Operations Centre of Bank Handlowy SA - offering agent, market maker Second and third issue -ADM WBC - offering agent, organizer of trading Fourth issue - BDM PKO BP SA - offering agent, organizer of trading on regulated market MTS - CeTO	PKO BP SA - issue agent, offeror, underwriter, sponsor, organizer of trading on the regulated market MTS - CeTO	Pekao SA - provider, sponsor, stabiliser	PKO BP SA
Rating	CERA SA A	Fitch Poland A	Moody’s Investors Service Baa l	Fitch Rating BBB+
Emission value	47 million - total value (4 separate emissions)	PLN 124 million - emission programme	PLN 500 million - emission programme	PLN 3 million
Series and tranches	4 separate emissions: Issue I - PLN 7.5 million, emission 2006 - repayment 2009 Emission II - PLN 7.5 million emission 2007 - repayment 19 December 2016 Emission III - PLN 20 million, emission 2009, repayment 2019 Emission IV - PLN 12 million, emission 2010 - repayment 2020	16 series from A to P in three tranches: I tranche - PLN 65 million series from A to I, emission 2002 - repayment 2013 Tranche II - PLN 18.5 million, series J through K, emission 2003 - repayment 2017 Tranche III - transferred from 2004 to 2006	5 series from A to E Series A - PLN 80 million, emission 2003 - repayment 2007 Series B - PLN 111 million, emission 2003 - repayment 2008 Series C - PLN 91 million, emission 2004 - repayment 2009 Series D - PLN 101.5 million, emission 2005 - repayment 2010 Series D - PLN 116.5 million, emission 2006 - repayment 2011	Series A to E issue - 52-week bond Series A - 4 bonds, value PLN 400 thousand Series B - 10 bonds, value PLN 100 thousand Series C - 500 bonds, value PLN 500 thousand Series D - 15 thousand bonds, value PLN 150 thousand Series E - 10 thousand bonds, value PLN 50 thousand
Emission objectives	Emissions for financing road investments, reconstruction of transport system, restructuring of educational and sports base	Emissions for adaptation of post-hospital facilities for educational purposes, co-financing of municipal investments implemented with EU funds, construction of transport infrastructure	Emissions for construction and modernisation of roads, public transport, extension of sewage systems, investments in housing, educational investments, health care, culture and arts, sports	Financing the purchase for the City of Wrocław of a collection of goldsmiths' art put up for sale by the Neuse Gallery in Bremen
Interest rate	Variable interest rate equal to the sum of the base rate, the	Variable interest rate based on the sum of the base rate	WIBOR 6M - as quoted two days before the starting	Fixed interest rate of 4.50% per annum

	arithmetic mean of 52-week Treasury bills sold at four subsequent auctions organised by the NBP, plus interest margin calculated per annum Emission I - margin of 1.3% Emission II - margin of 1.15% Emission III - margin of 1.09%	calculated as the arithmetic mean of 52-week Treasury bills at four subsequent auctions plus interest margin calculated per annum 2012 emissions - margin of 1.6% 2013 emissions - margin of 1.7% 2014 emissions - margin of 1.3%	date of the interest period plus an annual interest margin (interest payable in semi-annual periods) Series A - 0.36% margin Series B - 0.39% margin Series C - 0.42% margin Series D - 0.30% margin Series E - 0.15% margin	Emission of all series in one tranche Repayment date 27th of June 2017
Estimated programme costs	undated	PLN 446,000 (0.36% of the emission programme)	PLN 640,000 (0.13% of the emission programme)	undated
Direction of the offer	Tendered on the primary market to retail and institutional investors and subsequently admitted and listed on the MTS - CeTO	Entire emission underwritten by the service underwriter and subsequent offering by the offer underwriter completed with admission and introduction to trading on the MTS -CeTO	Offer addressed to: - individual customers (subscription at Customer Service Points), - institutional customers (tender offer), - stabilizer (Bank Pekao SA acting as market animator, admitted and introduced to trading on MTS - CeTO)	The offer is addressed to individual customers, in particular to Wrocław residents. Bonds without listing on regulated market
Features of bonds	Unsecured, non-preferred, redeemable in bearer form, dematerialised, without any additional benefits, freely transferable		Unsecured, material, bearer, no additional benefits	

Source: Own study.

Rybnik is the first local government unit to issue municipal bonds, raising funds directly from the public market.

The City of Poznan has decided to issue bonds with a total value of PLN 500 million, made available in several tranches and series. In the whole programme, the offer is directed to three groups of investors. Open Tranche - to individual investors: they purchased the bonds through subscription. A tranche for institutional investors who purchased bonds in a price tender offer and a stabilisation tranche taken up by CBH Pekao SA to act as the issuer's market maker. Poznań prepared a prospectus covering all tranches and series of bonds and received the Commission's approval to introduce them to public trading. In addition to making the prospectus available in places already mentioned in emissions issues, a summary of the prospectus was published in "Rzeczpospolita". All bonds were admitted to trading. The City of Poznan will only apply for subsequent tranches of 0 series to the management of the OTC market for their introduction to trading on this market [14].

A special emission of bonds during the term of the Act on Offering was carried out by the City of Wrocław. Taking advantage of the provision under which, the provisions of the Act do not apply to securities that are money market financial instruments with a term of exercise of rights, calculated from the date of their acquisition in primary trading, not longer than one year, Wrocław issued 52-week bonds. The funds collected during the subscription were earmarked for the purchase of the "Treasure of Bremen". The collection of goldsmith's works on sale came from the pre-war collections of the city of Wrocław. Many institutions and private individuals were involved in the purchase of the treasure. The bonds issued had a tangible form, which increased their attractiveness to collectors. These bonds can be an example of an emission addressed to the inhabitants, which triggered their sense of moral and financial responsibility for the general good.

Poland's accession to the EU opened up new opportunities for raising funds to implement investments. Also, the capital market in the pre-accession period gradually adopted legal solutions valid throughout the EU, thus preparing new opportunities for issuers. These modifications are reflected in the already cited laws. It is impossible to discuss all the changes. However, it is worth highlighting a few of them, bearing in mind local governments and other forms of financing prepared by them in connection with the absorption of EU funds. The search for funds is always accompanied by legal restrictions, costs, advantages and disadvantages, as well as more or less recognisable risks connected also with public offerings as a way of raising funds (Table 2).

Table 2: Issuing bonds through a public offering - costs, advantages, legal constraints, risks

COSTS	**LEGAL RESTRICTIONS**
Obligatory - Central Securities Depository of Poland - registration of bonds - PFSA - supervisory authority - notification - MTS -CeTO - trading organiser Optional (selection by tender of an entity supporting the local government) - memorandum writer - underwriter - offeror	- the level of government debt - debt thresholds of 5% and 60% - RIO feedback (possibility of repayment of liabilities) - service costs incurred at least once a year - discount on emitted bonds cannot exceed 5% of the nominal value - no capitalisation of interest allowed - the maximum nominal value expressed in PLN must be known on the transaction date - information obligations

- sponsor	
BENEFITS - exemption from the Public Procurement Act - flexibility in debt management - access to a wide range of capital - promotion and marketing - rating - possibility of early repayment - flexibility of bond benefits design - no financial dependence on one entity - no need to hedge bonds - liquidity and pricing	**RISKS** - inflation - government financial policy - liquidity - political change in the authorities of the emitter - non-admission of bonds to the secondary market - deterioration of the situation of local governments as a result of increased tasks - excessive public debt - Economic downturn - revaluation of revenues - early repayment - failure to complete an issue

Source: Own study.

The first issue concerns the offering document in connection with a public offer or admission to trading on a regulated market (exchange or over-the-counter). A local government emitter prepares an information memorandum containing true, fair and complete information relating to the issuer and the bonds being offered. This document shall serve as the basis for the decision of an investor to buy these bonds. The substantive content of the memorandum shall be placed in accordance with the specific order indicated in the Regulation of the Minister of Finance of 12 May 2020 on detailed conditions to be met by the information memorandum. The information memorandum prepared in accordance with the scheme set out in the regulation shall be related to the regulated market.

Another possibility concerning the introduction of issued bonds to the alternative trading system, which is provided by the organised capital market, deserves attention. There are currently no examples of organising such a market in Poland, and therefore there are no precisely defined procedures and legal and formal sequences separate for each organiser. Nevertheless, the possibility of listing bonds on a regional basis is opening up, when such trading will be carried out by an investment company. The new legal regulations have also introduced the option of carrying out a public offering only, without the need to introduce securities to trading on available regulated markets in Poland.

Another organisational improvement for a local government emitter is the procedure for notifying the supervisory authority of the commencement of a public offering. It consists of submitting, through an investment firm, an application and a memorandum. The application must contain basic information about the issuer and the bonds offered (number, type and value). The application shall be accompanied, inter alia, by the resolution of the decision-making body on the emission of bonds by way of a public offering and their dematerialisation, a list of information which cannot be presented in the memorandum due to the specific nature of the emitter or circumstances which justify its omission, and a list of information in respect of which the emitter requests exemption from publication, together with a justification [11, art. 42]. The PFSA has 20 working days to review the submitted documentation. If it determines that the information memorandum does not, in terms of its content and form, comply with the requirements set forth in the provisions of law or that the trading in bonds covered by the memorandum poses a threat to investors or the security of trading - it raises an objection. The Commission's position closes the way of conducting the offering. The absence of objections shall trigger the public offering of the municipal bonds described in the information memorandum. The issue of the form of the bond deserves attention. If the entity seeks to have the bond listed on a regulated market by law, it must be dematerialised. If the LGU conducts only a public offering or trading is carried out on an alternative platform, the bond may be in material form.

Prior to the commencement of the offering procedure, the emitter is required to make the memorandum available to prospective bondholders. In this respect, the emitter has a great deal of freedom compared to the old legal regulations, which significantly reduces the costs of the entire undertaking. He may make the memorandum public by publishing it in at least one nationwide newspaper, in printed form, free of charge, in circulation sufficient to ensure access by all interested parties (at the issuer's office, the offeror's office, points of sale accepting subscriptions), in electronic form on the Internet on the website of the company operating the regulated market on which the bonds would be admitted to trading, or on the website of the local government and the entities participating in the subscription or sale [11, art. 45].

Conclusion

The emission of municipal bonds has a long history, interrupted by war and many decades, until 2019, when the Bond Act, directly designated the LGU as emitters of municipal bonds. In addition to the emissions of cities such as Warsaw, Lublin and Łódź, bonds were emitted by the smaller cities of Płock or Będzin. In the years 1918-1939, there were 32 issues of municipal bonds among 90 types of securities. They accounted for 5% of the value of the total amount of interest rate paper emitted before the war. What pre-war bonds have in common with contemporary bonds is the same reluctance to be publicly offered and listed on available trading platforms. Only two municipal bonds were listed on the pre-war Warsaw Money Exchange. Nowadays, only three local governments (Ostrów Wielkopolski, Rybnik and Poznań) have decided to choose the OTC market as a place to place their emissions, while one Wrocław has decided to issue 52-week bonds offered to inhabitants interested in recovering the „Treasure from Bremen".

Still, despite the fact that this instrument is well known to local governments and the capital market has opened new opportunities, shortened and simplified procedures, lowered prices, it is too rarely used to raise capital, especially gathered in connection with the implementation of investments supported by EU funds.

The organised capital market is also a very good place for public utility companies to raise capital. The shares of such entities on the European stock markets enjoy the interest of investors as stable entities. The idea of introducing municipal companies to trading is not dear to local government officials in our market, where there are no municipal companies. Yet, shares of such companies could be attractive to financial investors, such as investment funds or open pension funds.

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