

## MARKET OF EQUITY RELEASE SERVICES IN POLAND

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Key words: equity release, reverse mortgage, home reversion.

### Abstract

The aim of the article is to outline the situation on the market of equity release in Poland. It focuses on solutions used by special institutions in a sales model, called mortgage funds, the basic activity of which assumes signing release plan contracts in exchange for life income, and points to the dangers connected with their functioning. It also focuses on projected solutions in a loan model of equity release. This issue is particularly important as the ageing process of our society and lowering level of pension benefits provided by the State are among the main factors determining the development of this market, which undoubtedly will take place in Poland, as in other countries.

### RYNEK USŁUG *EQUITY RELEASE* W POLSCE

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Słowa kluczowe: *equity release*, odwrócona hipoteka, renty dożywotnie.

### Abstrakt

Celem artykułu jest przedstawienie sytuacji na rynku *equity release* w Polsce. Omówiono rozwiązania w modelu sprzedażowym stosowane przez specjalne instytucje, zwane funduszami hipotecznymi, ze wskazaniem na zagrożenia wynikające z ich funkcjonowania, a także projektowane rozwiązania w modelu pożyczkowym odwróconej hipoteki. Podstawowa działalność funduszy hipotecznych polega na zawieraniu z klientami umowy świadczeń dożywotnich. Tematyka ta jest szczególnie istotna, ponieważ proces starzenia się społeczeństwa i obniżający się poziom świadczeń emerytalnych zapewnianych przez państwo jest jednym z głównych czynników determinujących rozwój tego rynku w Polsce, podobnie jak w wielu innych krajach.

## Introduction

In Poland, the debate regarding releasing equity allocated in an estate has been in progress for many years. In general, on the financial market, there are a few forms of releasing equity from the owned estate. They include mortgage, rental, sale and purchase of a smaller estate, yet these solutions are not part of the specialized branch of services, the so-called *equity release* (ERS). According to the definition of the European Committee, a service which is to be qualified as *equity release* needs to fulfil several conditions: it must have a financial character, the service recipient must be provided with a long-term source of financial liquidity and must be guaranteed the right of residence in a given property for life, and payment of benefits with additional costs is based exclusively on the estimated property value (REIFNER et al. 2009a, p. I).

The services of conversion of the capital invested in an estate, the so-called *equity release*, assume transformation of the invested capital into a stream of income paid out in the pension period with a simultaneous guarantee of the life residence of the recipient in the estate which is the subject of the release plan. These services can take on the form of a loan model (i.e. *reverse mortgage*) or sales model (i.e. *home reversion*). The basic difference between them is the moment of the conveyance of an estate and the manner of securing the interests of the recipient's devisee. In the loan model, the conveyance of an estate is performed on the financing institution at the very moment of the due date of the agreement, whereas in the sales model, the conveyance is executed when the agreement is signed, which for the devisees of the recipient means a total loss of ownership title to the estate (*Uzasadnienie do projektu ustawy o odwróconym kredycie...* 2013, p. 25). Both types of agreement have a long-term character, a guaranteed life residence, and, if the mortgage value exceeds the estate value, the rate of repayment is predetermined and limited to the estate value (*Reverse mortgage...* 2011, p. 4). In Polish law, the possibility of passing the estate for life income is currently performed only within the sales model, which is regulated by the Civil Code of 23 April 1964 (Journal of Laws No. item 121). Despite a long debate, there are no legally binding regulations for reverse mortgage in the loan model<sup>1</sup>.

The aim of the article is to outline the situation on the market of equity release in Poland. It focuses on solutions used by special institutions in a sales model, called mortgage funds, the basic activity of which assumes signing release plan contracts in exchange for life income, and points to the dangers connected with their functioning. It also focuses on projected solutions in a loan model. In relation to the purpose of the article, the applied research

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<sup>1</sup> As of the end of June 2014.

methods include studies of literature, legal acts on the subject of equity release and analysis of functioning mortgage funds in Poland. Therefore, it will be possible to describe currently available options of sales and loan model on reverse mortgage<sup>2</sup> in Poland, the size of the market and the further manner of its development.

### **Demographic determinants of the development of equity release services in Poland**

According to the estimations of the Central Statistical Office and Government Population Council regarding the demographic situation in Poland, the market of clients interested in reverse mortgage has good perspectives of development (PAWŁĘGA 2010, p. 68). This results from a few factors: increasing number of people of retirement age, longer life expectancy, migration of Polish citizens to other EU countries, as well as decreasing level of pension benefits granted within the base system of social security (REIFNER et al. 2009b, p. 138). Taking into consideration demographic forecasts, one can observe that while in 2010–2035 the population index of Poland will decrease by 5.5%, the number of people of retirement age will increase by 9.9%.

All research and analyses concerning the ageing process of society focus on such parameters as life expectancy and birth rate. On the basis of the forecasts for the Polish market, one may conclude that along with longer life expectancy, the population of women of reproductive age is decreasing, which in turn results in a low birth rate. Although this rate in the analysed years will insignificantly increase due to births from the so-called generation boom from the years 1970–1985, starting from 2035, this boom effect will decline. Therefore, in the longer perspective, there will occur a new risk of financing the system of social security, i.e. a growing age dependency ratio (estimated as the number of people aged over 65 or more per 100 people aged 15–64).

Currently, this coefficient is lower in Poland than the average rate for EU countries; however, according to the forecasts, from 2050, the situation will be different.

Taking into consideration the conception of the transformed pension scheme in Poland, which assumes transformation from the pay-as-you-go scheme to a funded pension scheme where the pension rate is strongly dependent on the amount of collected contributions, prolonging the average life expectancy will significantly impact the rate of pension benefits in the

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<sup>2</sup> In Poland, the term „reverse mortgage” is sometimes used for its sales and loan model. See e.g. MAJ-WIŚNIEWSKA, CYCÓN (2011), MAĆKOWSKA (2009).

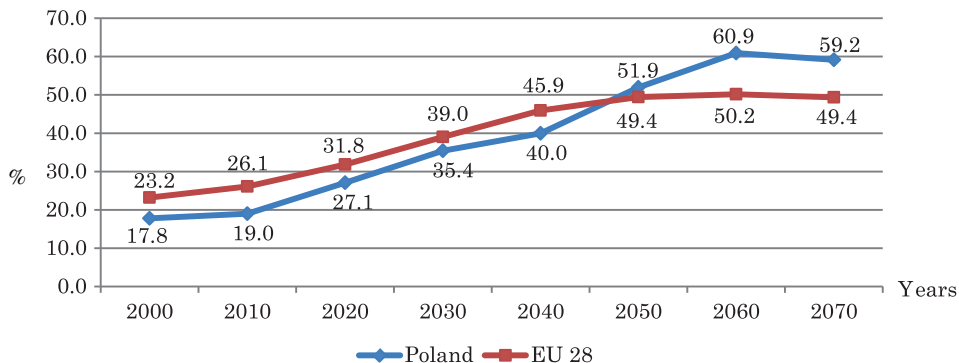


Fig. 1. Average old-age dependency ratio in the years 2010–2070

Source: own elaboration on the basis of Eurostat data: <http://epp.eurostat.ec.europa.eu/> (access: 10.9.2014).

future (*Założenia do projektu ustawy o odwróconym...* 2012, p. 2). It ought to be observed that according to Eurostat data, the rate of poverty risk among people aged 65 is currently lower in Poland (14.7% in 2011) than the average rate for EU countries (15.9% in 2011); however, in 2005–2011, it doubled (by 101.4%), whereas in all EU 27 countries, it decreased by 15.9% (Fig. 2).

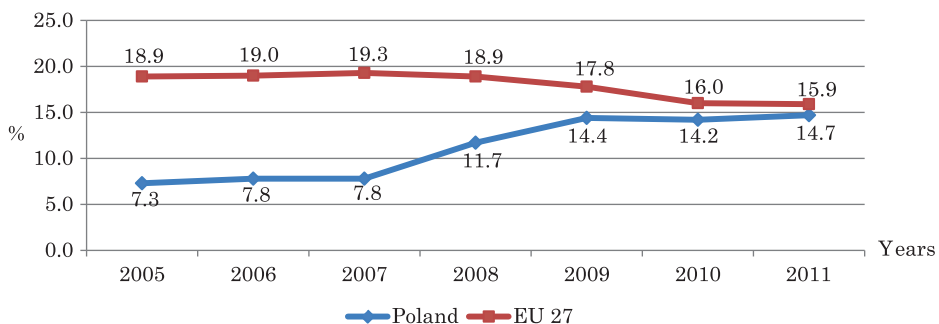


Fig. 2. Rate of poverty risk in Poland and the EU among people aged over 65 (in %)

Source: own elaboration on the basis of ŻUKOWSKI (2013, p. 6).

According to the aforementioned tendencies, in the face of growing public expenditures on pension schemes and lowering replacement rates, Blundell-Wignall A., Hu Yu-Wei and Yermo J. (BLUNDELL-WIGNALL et al. 2008, p. 5) claim that every government should be interested in products on the financial market that could improve the situation of elderly pensioners. Bhuyan V.B. also thinks that with the uncertainty in the reliability of a government-run social safety net, many Europeans must rely on themselves to generate

sufficient supplemental income to maintain their standard of living in retirement (BHUYAN 2011, p. 188). As the interest of the Polish society in the third pillar of pension schemes, i.e. Individual Retirement Accounts, Individual Pension Security Accounts and Employee Pension Schemes, is low, an ageing society will look for other ways of securing a proper standard of life after finishing professional activity.

Taking into account the structure of premises ownership in Poland, there are good perspectives for the development of the equity release market (PAWŁĘGA 2010, p. 68). According to the data of the Central Statistical Office, flats owned by natural persons in 2011 constituted almost 70% of all living premises in Poland (Tab. 1).

Table 1

Inhabited dwellings by type of ownership (as of March 2011)

Specification	Number (in thousands)	In %
Total	12,533	100
of which ownership of:		
– Housing cooperatives	2,290	18.3
– Gminas	1,090	8.7
– Companies	204	1.6
– State Treasury	197	1.6
– Public building societies	84	0.7
– Natural persons	8,625	68.8
– Other entities	43	0.3

Source: own elaboration based on *Mały Rocznik Statystyczny Polski* (2013, p. 234).

## Solutions in the equity release service in Poland

An instrument which has been present on the global market for many years and which facilitates gaining additional financial resources after finishing professional activity is a financial service called equity release. The most developed markets in this field are the USA, UK, Spain and Ireland, but this product is also offered in many other countries around the world. These countries, in the light of a growing problem of providing a proper level of pension benefits to the growing number of pensioners, shift the responsibility for assuring a proper standard of life on pension to citizens supporting private initiatives, including those of equity release from an estate (Założenia do projektu ustawy o odwróconym kredycie hipotecznym, 2012).

Currently, in Poland, there are no binding regulations which would precisely regulate the market of equity release.

In the present legal framework, the conveyance of an estate on third parties with simultaneous life residence guarantee for the recipient is partially

regulated in the Act of 23 April 1964 of the Civil Code. This is the so-called sales model of equity release service, which is available in a few variants in Poland. Entrepreneurs implement various solutions, using the regulations concerning annuity agreement (Art. 908–916 of the Civil Code), pension agreement (Art. 903–907 of the Civil Code), insurance agreement (Art. 805–834 of the Civil Code) and loan agreement (Art. 720–724).

It needs to be stressed that the market of life benefits in Poland is a new branch, which began functioning in 2008. Benefits offered in exchange for a conveyance of an estate are offered by private companies which function in the form of commercial companies and are not subject to any specific legal regulations. Till the end of April 2013, in accordance with the Report of the Office of Fair Trading, there were seven commercial companies active on this market, which signed 381 agreements with clients (*Raport z kontroli przedsiębiorców zawierających...* 2013, p. 2).

Below is the characteristic of the equity release market in Poland, which is based on data collected from mortgage funds that are members of the Conference of Financial Companies in Poland (pl. KPF), i.e. Mortgage Fund Dom S.A. and Mortgage Fund Familia S.A.

Table 2  
Basic data regarding KPF members of the equity release market in Poland

Specification	According to state at the end of the year		
	2011	2012	2013
Number of active agreements	96	200	283
Average age of the client	75.8	75.7	75.2
Average metric area of a flat	42.33	46.09	46.23
Average value of one property (thousand PLN)	251.3	251.8	238.8
Value of manager properties (in million PLN)	24.13	50.36	67.59
Total paid life benefit (in million PLN)	1.25	2.66	5.15

Source: own elaboration based on *Rynek odwróconej hipoteki w modelu sprzedażowym* (2014, pp. 5–10).

From the presented data, one may clearly observe that the equity release market in Poland is in its preliminary phase of development, though in 2011–2013, the number of active agreements that were administered by the mortgage funds almost tripled. Among the available variants of the sales model in Poland, the most commonly used is the annuity agreement and pension agreement.

In the case of an annuity agreement, the purchasing party, in exchange for conveyance of an estate, provides a guaranteed payment to the annuitant. This

includes mainly financial benefit (valorized every quarter or annually by inflation rate), paid out monthly, decreased by the rate of rent costs. Also, the lifelong personal servitude of the flat is established. In the agreement, the purchasing company reserves that without the company's permission, the annuitant cannot register third parties or make changes in the flat that are inconsistent with the agreement (e.g. alteration of the flat). Moreover, the annuitant is obliged to make any current repairs and incur necessary outlays connected with regular usage of the flat. There are also more detailed solutions, such as in the case of Mortgage Fund Omnes LLC, where the client is offered at least two hours weekly of cost-free maintenance repairs and cleaning, help in everyday matters like shopping or going to the post office and carrying out daily duties, like doctor's appointment, etc. (*Raport z kontroli przedsiębiorców zawierających...* 2013, pp. 26–30). It needs to be stressed that regulations in the Civil Code which state that in the case of lack of a separate agreement, the purchasing party is obliged to provide the client with food, clothes, electricity, fuel, nursing during illness and funeral service in accordance with local custom are not used.

As stated in the Civil Code, a pension agreement binds one of the parties to provide a guaranteed periodic payment in cash or material items specified as to their kind (Art. 903 of the Civil Code) to the annuitant. As for conversion of capital invested in estate, the service recipient performs a conveyance of an estate to the mortgage fund in exchange for a guaranteed life pension and life residence and personal servitude of the flat. Annuitants are obliged to incur the costs of flat usage, such as utility bills, rental costs, etc. There is also a solution where the rent is deducted from the pension and paid directly by the mortgage fund (e.g. Mortgage Fund „Familia” S.A. in Warsaw). Mortgage funds incur the costs of property tax, costs of perpetual lease and costs of property insurance against fortuitous events (e.g. Mortgage Fund „Gwarancja” LLC in Gorzów Wielkopolski) (*Raport z kontroli przedsiębiorców zawierających...* 2013, pp. 30–34).

Due to the relevance of the discussed issue, numerous renowned financial institutions are conducting market research in this field. According to the research of the Research Institute IPC<sup>3</sup>, one may conclude that without binding legal regulations regarding reverse mortgage and insufficient education concerning the regulations and conditions of conveyance of an estate in exchange for a life pension, a great part of Polish society does not understand the concept 'pension for flat' in the Polish legal framework. Only 26% of respondents aptly claim that it is a contract between a financial institution

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<sup>3</sup> Report from CATI research „*Renta za mieszkanie*”, Research Institute IPC: [www.institut-ipc.pl](http://www.institut-ipc.pl) (accessed 15.09.2014). Surveys were conducted in 2013 with 1 200 subjects from the Dolnośląskie province. All subjects were aged over 50.

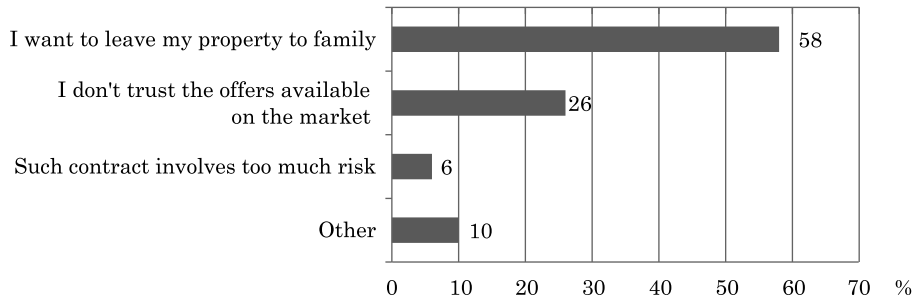


Fig 3. Reasons against conveyance of an estate for life pension

Source: own elaboration based on the research of the Research Institute IPC (*Renta za mieszkanie* 2013, p. 9).

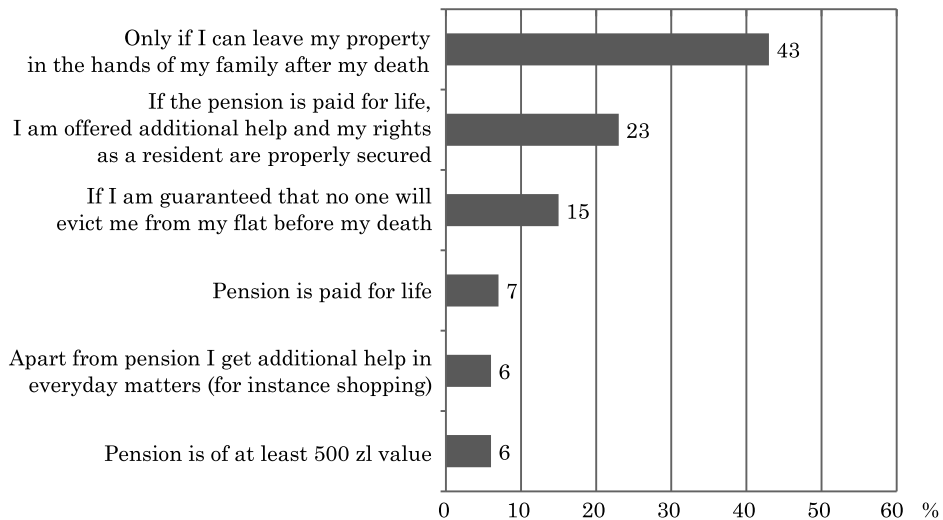


Fig. 4. Conditions facilitating conveyance of an estate for life pension

Source: own elaboration based on the research of the Research Institute IPC (*Renta za mieszkanie* 2013, p. 10).

and an owner of an estate which assumes conveyance of an estate in exchange for life pension, and the act of conveyance of the estate is binding after signing the agreement. As the results show, 40% of respondents were not able to define the notion of reverse mortgage, and 33% claimed that the conveyance of the estate takes place after the owner's death (*Renta za mieszkanie* 2013, p. 6). It is of key importance to observe that in Poland, an estate is still perceived as the fruit of a lifetime of hard work which is passed down and ought to be passed down to future generations. Pensioners who decide to grant their estate to a financial institution in exchange for fair conditions of living may face



negative reactions from the society and family. Such an attitude is the basic condition which, in a longer perspective, will discourage clients from an equity release service and means that the main clients of this market will be lonely elderly people (ŚLIPERSKI 2008). What is more, a vast majority of respondents (86%) do not consider the conveyance of an estate for life pension, and the main reason among them (58%) is that they want to leave their flat to their families (Fig. 3).

Among subjects who would potentially consider conveyance of an estate for life pension, among the basic conditions that were stressed, the will to leave the estate to family is the most strongly stressed factor (Fig. 4).

### **Risks connected with the functioning of equity release**

Growing interest of clients in life benefits in exchange for conveyance of an estate to mortgage funds requires proper securing of the interests of parties who conclude such contracts. Current legal regulations of the Civil Code do not guarantee full protection. Legal regulations do not oblige mortgage funds to fully inform their clients, so there is a great risk regarding lack of proper knowledge and the consequences of concluding such a contract, which is particularly important as the target client of this market is a person aged over 70. Another problem is a lack of requirements concerning capital equipment of mortgage funds. In the case of their bankruptcy, they disappear from the market, and their clients are not secured by the state as it is in the case of, for example, banks. Moreover, mortgage funds are not in the supervision system monitored by the Polish Financial Supervision Authority; they are not obliged to perform valuation of property in accordance with its market value, which by possible under-pricing will in turn result in lower pension (DURŁAK, CIESEK 2013, pp. 292, 293). An issue of key importance is, therefore, quick regulation of the equity release market with proper legal framework. In the project of the Ministry of Economy of 3 October 2013 entitled „Proposal of regulating life pension in exchange for conveyance of an estate (i.e. life pension)” (*Propozycja uregulowania instytucji dożywotniego świadczenia pieniężnego w zamian za przeniesienie własności nieruchomości, tzw. renta dożywotnia*), it is strongly highlighted that in the current legal framework, the annuity agreement regulated by the Civil Code ought to be applied only to family relations, whereas all agreements concluded within business activity should be subject to new legal regulation (*Proposal of regulating life pension in exchange for conveyance...* 2013, p. 2).

In the proposed solutions, there is a need to introduce a multistage procedure of concluding the agreement. The first stage (pre-contract) assumes

that the future purchasing party will pass full information regarding the concept of life pension and conditions of the agreement in written form; in the second stage, the client will receive a draft of the agreement, including the estimated rate of future pension. After the client makes a declaration, in the third stage, the purchasing party can initiate the procedure of concluding the agreement. Due to the socially sensitive nature of the offered service, running business activity offering life pension will require obtaining a permit from the Polish Financial Supervision Authority, and obtaining it will be possible after meeting specific capital and subject requirements. In accordance with the proposed project, an initial capital of value not lower than 2 million euro will need to be fully covered in paid up cash which does not come from a loan, credit or other undocumented sources. The equity capital of entities offering annuities (in the form of a joint stock company) should be maintained on the same level at any time, and when they stop meeting the requirements specified in the permit for business activity, the Polish Financial Supervision Authority can withdraw the permit. Should such a situation occur, a debt portfolio of liabilities on account of life pensions should be passed to other business entities operating on the basis of the same permit (*Proposal of regulating life pension in exchange for conveyance...* 2013, p. 2).

As previously mentioned, apart from the sales model, there is also the loan model of equity release, which is not used in Poland and which, due to its complex nature, requires detailed preparation. Moreover, the discussion and works on the act of reverse mortgage were initiated by the functioning contracts of life benefits which appeared in 2008. The draft of the act on reverse mortgage from 2013, which is currently under debate in the Sejm (Sejm paper no, 1442), regulates in detail the rules of functioning of such contracts. It is proposed that contrary to an annuity agreement, conveyance of ownership of an estate is performed by the lending institution upon the client's death. The devisees can then decide whether to pay the debt and retain estate ownership rights or perform conveyance of an estate to the lending institution, which can be a bank, local branch of a foreign bank, branch of a lending institution or a lending institution with cross-border business activity. Property or the particular right to property is then mortgaged in favour of the lending institution. Taking into consideration the form of benefits paid out, financial resources on account of reverse mortgage would be available periodically, as stated in the agreement or in the form of a one-time benefit. Justification to the project indicates that the aim of the act is to implement mechanisms of effective pursuing claims, protection of service recipients by providing a sufficient amount of information before conclusion and, in the very agreement, facilitating withdrawal from the agreement within 30 days from its conclusion, assuring rescission of the contract within 30 days from its con-

clusion, assuring the right to make an early repayment of the mortgage and limiting the possibility to terminate the contract by the lending institution in strictly specified cases. Also, the draft of the act provides that the Polish Financial Supervision Authority, having protection of beneficiaries of reverse mortgage in mind, will specify, by way of a resolution, binding legal regulations for risk management of lending institutions connected with running business activity in this field.

As the act on reverse mortgage comes into force, both models of equity release, i.e. sales model (based on life pension) and loan model (in the form of reverse mortgage), will function parallel to each other, which will offer a choice to potential clients, who can chose the most optimal solution.

### **Concluding remarks**

Pension benefits at a lower level than the salary obtained during professional activity cause that a growing number of pensioners look for additional sources of income in old age. Conversion of estate capital, which assumes its release with time, has been functioning on the global markets for many years. In Poland, it is perceived as an innovation of a certain kind, which is still in draft phase. Though the functioning of the sales model on the Polish market is regulated by the Civil Code, current solutions are not sufficient with respect to systemic and client security. During works on the draft of the act on reverse mortgage, the Minister of Economy pointed to the need for complex regulation of this problem in both equity release models. Also, it needs to be considered whether equity release service stands the chance of becoming a common product on the financial market. „Irreversibility” of reverse mortgage, complication of the service, attachment to owned estate and strongly rooted tradition of passing down an estate to the next generation in the case of death are sources of concern and discourage society from concluding such contracts. The results of research conducted by the Polish Insurance Association show that a general decrease in affluence of members of a household, resulting from the low replacement rate obtained in a pension scheme, as well as lack of sufficient financial resources for incurring long-term care over pensioners, will more than likely dominate when considering releasing equity invested in an estate in the case of Polish pensioners. In this scope, regular life benefits characteristic for insurance products will be predominant (*Reverse mortgage...* 2011, p. 35–37).

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