“Promissory notes" by Aforti - decision of President of UOKiK

* **President of UOKiK has found that Aforti Holding which had induced people to invest in the “Promissory Notes Offer" has violated the law.**
* **This is another measure taken by President of UOKiK in the alternative investment market.**
* **Aforti Holding is to pay more than 790,000 in fines for misleading consumers.**

**[Warsaw, August 25, 2023]** Aforti Holding is a member of a group of companies that, among other things, operate a currency exchange platform, provide loans to businesses, debt collection and factoring. The company encouraged and induced consumers to take advantage of its “Promissory Notes Offer." Complaints that have reached UOKiK show that the trader assured, among other things, in telephone conversations that it was a secure investment with a fixed interest rate and regular interest payments. Declarations of the benefits of buying investment promissory notes were accompanied by assurances of the absence of any risks. As the investigation showed, it was in fact a risky, uncollateralised product. Based on the material collected, President of UOKiK issued a decision stating that Aforti Holding:

* used a promissory note in a manner contrary to its function and used consumers' money to finance its business, thus transferring all the risk of its operation to consumers.
* misled consumers about the safety of funds entrusted to Aforti Holding, including the absence of risk and the guarantee of profit.

During the investigation held, the Authority managed to reach the scripts used by Aforti's consultants which confirm misleading of the nature of the business and the meaning of the “promissory notes" offered by Aforti. The information provided to consumers was misleading as to the certainty of future financial benefits from investments that, in fact, do not guarantee the company's stated profits. Representatives of the company - promoting the “Promissory Notes Offer" - described the product as a safe investment, with a certain return on capital. This information was conveyed both over the phone and in e-mails sent. In one complaint, a consumer described how Aforti Holding presented an offer, pointing out only positive features - "it offers to invest in investment promissory notes which is a completely safe deposit with an interest rate of up to 9% per year."

*- The company, through its actions, gave the consumer unfair grounds for believing that the offer was characterized by high security and certainty of return of capital. The reality, however, was different. Customers who purchased Aforti Holding products were deprived of true and comprehensive information about the risks of their investments. The misconception, unfortunately, may have influenced their decision on the deal. We considered the practice of disseminating false information about the offer highly harmful -* says President of UOKiK, Tomasz Chróstny.

Using a promissory note in its dealings with consumers, in the way Aforti did, was contrary to its function. A promissory note is a written commitment by the issuer to pay a specified sum of money at a specified time. In business terms, it is a security for debt repayment, not an investment instrument. This is because the regulations on financial instruments or public offerings do not apply to promissory notes, e.g. no information is required about the risk, the value of the collateral for the note, its issuer and the venture. All the risk is, therefore, borne by the consumer, who has no guarantee of a refund or profit.

The company financed the operations of its entire group with the funds provided by consumers in taking advantage of the “Promissory Notes Offer." This had the effect of transferring the risk of investment activities to consumers. The safety of such a product was guaranteed only by the solvency of its issuer.

In January 2021, the company stopped issuing promissory notes. For violating the collective interests of consumers, President of UOKiK imposed a fine of **more than 790 thousand zlotys** (PLN 790,555) on Aforti Holding and ordered a series of information obligations. Those who have donated money to the entrepreneur will receive letters from the company informing them of the decision. It will also be published on the company's website and social media.

The decision is not final and may be appealed against to the Court of Competition and Consumer Protection.

Due to the possibility of a crime in connection with the company's activities, President of the Office in March 2022 notified the District Prosecutor's Office in Warsaw. On an ongoing basis, the UOKiK cooperated with law enforcement agencies by reporting on the progress of the investigation into Aforti Holding's practices.

In April 2023, the President of UOKiK brought similar charges against the companies: Assay Management and Assay Management Alternative Investment Company (Assay ASI), which also use investment promissory notes. Proceedings are also underway against Assay Group executives. Since there is a high risk of consumers losing their invested funds, **President of UOKiK, Tomasz Chróstny, has decided to issue** a [**consumer warning**](https://uokik.gov.pl/ostrzezenia_konsumenckie.php?news_id=19527) **concerning Assay ASI.** Both companies are at risk of a fine of up to 10% of their turnover while the members of the Management Board may be held liable for up to PLN 2 million.

These are not the Office's only actions on "investment promissory notes." At the end of 2022 President of UOKiK issued a [decision concerning BREWE Leasing](https://uokik.gov.pl/aktualnosci.php?news_id=19278) imposing more than PLN 150 thousand in fines on this company, and in June 2021 he [imposed almost PLN 400 thousand in fines on the Yanok Mortgage Fund](https://uokik.gov.pl/aktualnosci.php?news_id=17640) which this way collected funds for its operations.

**Consumer Support:**

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E-mail: porady@dlakonsumentow.pl
[Consumer Ombudsmen](https://uokik.gov.pl/pomoc.php) – in your town or district

[Financial Ombudsman](https://rf.gov.pl/jak-pomaga-rzecznik-finansowy/porady/) – when a complaint has been rejected by a financial institution