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The Legal 500 Country Comparative Guides

Greece

MERGERS & ACQUISITIONS

Contributor

Rokas Law Firm

Sofia Getimi

Senior associate | s.getimi@rokas.com

Kosmas Karanikolas

Senior associate | k.karanikolas@rokas.com

This country-specific Q&A provides an overview of mergers & acquisitions laws and regulations applicable in Greece.

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GREECE
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1. What are the key rules/laws relevant to M&A and who are the key regulatory authorities?

I. Mergers. Law 4601/2019 "On Corporate Transformations" (Government Gazette A' 44/09.03.2019, hereinafter the "Law") has consolidated the Greek legal framework on mergers, demergers as well as alterations of the company type. The consolidation of the previously fragmented applicable laws into a single piece of legislation aims to combat the ambiguities and gaps which existed and establish a homogenous legal framework which is compatible with EU law and promotes legal certainty. The Law resolves the earlier problem of irregular mergers, i.e., amalgamations between different kinds of legal entities, which entailed a level of legal uncertainty, and introduces significant flexibility in the conversion, merger and splitting or de-merger processes. It drastically expands the range of permissible corporate transformations as it allows the corporate transformation of all types of entities, irrespective of their legal form, while it also allows different types of entities to merge or otherwise transform, and aims to facilitate such transformations by providing for universal succession by operation of law and continuance of the legal personality of the transforming entities. The Law also allows for a company under liquidation to benefit from its provisions, as long as it has not yet begun to distribute its assets to its shareholders, and the minimum capital requirement is fulfilled. The Law aimed to modernize, improve and simplify the legal regime by removing long-lasting restrictions and by establishing some general common provisions for all company types, and has succeeded in doing so during the first years of its operation; a large number of corporate transformations has taken place.

Law 3777/2009, implementing Directive 2005/56/EC, continues to apply for cross-border mergers of limited liability companies, while article 16 of Law 2515/1997 applies to the mergers of credit institutions.

II. Acquisitions. The main legislation on acquisitions is embodied in Law 3461/2006 on public (takeover) offers, as the latter is supplemented by **(a)** Law 4706/2020 (art. 57et seq.) on the publication requirements applicable during securities public offers or during securities import for trading in a regulated market; **(b)** Law 4443/2016 on the prevention of Capital Market abuse; **(c)** Law 3371/2005 on the admission of securities to official stock exchange listing and on information to be published on those securities; and **(d)** Law 4548/2018 on sociétés anonymes.

Law 3959/2011, as amended by Law 4886/2022, regulates competition law aspects related to concentrations and applies in conjunction with the EC Merger Regulation 139/2004. The laws offering tax neutrality to transactions are of significant importance, as they have facilitated numerous M&As and corporate transformations in Greece. Tax incentives are made available by a number of laws which provide for tax neutral transactions including cross border amalgamations.

Greece does not have a specialised M&A market regulator. Specific issues regarding takeover bids are regulated by the Hellenic Capital Market Commission (HCMC), while concentration matters are dealt by the Hellenic Competition Commission. For transactions in regulated markets, such as financial institutions including insurance companies, or other licensed entities as, e.g. in the energy sector, the sector-specific authorities are also in charge.

2. What is the current state of the market?

2022 appears to be a record year for M&A transactions in Greece, in alignment with the global surge in M&A activity. Even though no official statistical data on the overall M&A activity in Greece during 2022 have been issued to this day, publicly available information on the deals concluded in 2022 suggests that the volume and size of M&A transactions which occurred within the year is anticipated to exceed that of 2021 In 2021, 76 M&A deals of a total value of EUR 4,3 billion were recorded in Greece, representing a record high of the last two decades.

The M&A landscape in Greece appears to be shifting altogether towards a healthier M&A activity. There is increased interest in large scale transactions fueled by the improved financial environment and the economic growth observed in 2021 and 2022. The banking sector led the M&As market in Greece for several years, as Greek banks had been pressured under the country's restructuring programmes to divest their non-performing-loans (NPL) portfolios as well as the assets they had accumulated through the seizure of distressed debtors' assets. During 2022 there was a decline in M&A activity in the banking sector that was counterbalanced, though, by a surge of M&A deals in other sectors such as financial services, insurance, food and beverage, technology, as well as energy.

Increased inflation and high energy costs are anticipated to impede the country's economic growth and may impact on any upcoming M&A deals. The country's post-pandemic overperformance depicted in its growth rate which clearly exceeds the EU's average growth rate, though, has stimulated interest in larger and more diverse M&A transactions which are expected to increase even further in the years to come.

3. Which market sectors have been particularly active recently?

The financial services sector was particularly active in 2022, the acquisition of 49% of Viva Wallet by JP Morgan, being the largest announced deal, amounting to €1.02 billion.

In the insurance sector a number of deals were concluded and/or completed, including the acquisition of MetLife Greece by NN, and the acquisition of European Reliance by Allianz announced at the price of €207 million.

In the energy and construction sector, several large acquisitions were announced, including the acquisition of 75% of ELLAKTOR's Renewable Energy Sources portfolio by the Motor-Oil group for a consideration of €754 million, as well as the acquisition of 30% of ELLAKTOR by the Motor-Oil group against €182 million.

In the food and beverages sector, the group of Hellenic Dairies S.A. acquired 100% of the United Milk Co. (UMC), a subsidiary of the Greek dairy company Delta in Bulgaria, as well as 49% of the Cypriot dairy industry Kourousiis, thus strengthening its presence in Southeastern Europe.

Papoutsanis, a company engaging in the production of soaps and cosmetics acquired 100% of the Arkadi soapmaking, thus entering the clothing care and all-purpose cleaners' market.

4. What do you believe will be the three most significant factors influencing M&A activity over the next 2 years?

a. **Post pandemic economic climate (availability of funds, inflation and tax incentives):** the gradual retreat of the Covid-19 pandemic is expected to further reinforce the upward trend of company transformations that commenced in 2021. Such brisk growth was largely driven by the capital accumulation of the last years coupled with the enhanced involvement of private equity funds in M&A deals. Nevertheless, the enhanced inflation rate along with the sharp increase of energy prices, which has been aggravated by the prolonged Russo-Ukrainian war, are prone to impact on business plans and adversely affect M&As.
b. **New legislation:** On the other hand, recently introduced legislation (Law No. 4935/2022) provides for tax incentives to foster company transformations of SMEs, the 30% reduction of the income tax premium imposed on pre-tax profits for the entity that will ensue from the company transformation being the most prominent. The reduction presupposes, among others, that the turnover of the new company will amount to or exceed €375,000 (consisting in the sum of the transformed companies' turnover)_and that the novel company will fully employ at least nine persons. The reduction will apply for up to nine fiscal years, commencing from the fiscal year ensuing the transformation's completion, during the term of which the total tax relief will not surpass €500,000 million. In addition, legislation transposing the EU Mobility-Directive (Directive (EU) 2019/2121 regarding cross-border conversions, mergers and divisions) is about to be passed to update the currently applicable regime which, however, has been applied quite often. The regime introduced by the Mobility Directive will introduce additional requirements to the currently applicable process. Notably the Greek legal framework has been accepting since the 1990s the transfer of company seat without the dissolution of the legal personality of the company involved, on the proviso of reciprocity with the corresponding jurisdiction.
c. **Impact of ESG factors in M&A deal-making and clearance:** the ever-growing

importance attributed to the ESG components and related regulatory obligations increasingly coming into force, i.e., the Environmental, Social and Governance aspects that must be taken into consideration during the assessment of contemplated investments, can complicate due diligence and prolong negotiations preceding M&A deals. Furthermore, they may burden M&As' clearance and licensing by regulatory authorities, where required, if the latter have to review ESG variables (i.e., sustainability agreements or benchmarking records) prior to their approval. ESG factors along with the EU proclaimed target to become 'carbon-neutral' by 2050 further propel M&As in sectors such as RES, battery storage and hydrogen.

d. **Impact of novel (EU) Regulation on Foreign Subsidies:** the enactment of the Foreign Subsidies Regulation (EU) 2022/2560 (**FSR**) may also impact M&A transactions across the EU especially in critical infrastructure. The FSR aims to address distortions caused by foreign (third country) subsidies granted to undertakings operating in the internal market to ensure a level playing field. Among others, the FSR introduces an obligation for companies to notify the Commission of concentrations involving a financial contribution by a non-EU government where (a) the acquired company, one of the merging parties or the joint venture generates an EU turnover of at least €500 million and (b) the foreign financial contribution involved amounts to, at least, €50 million. The FSR grants investigative powers to the Commission to review financial contributions and subsidies granted by non-EU countries to companies engaging in economic activity within the EU, including companies involved in M&As, and if necessary, redress the distortive effects of such subsidies, ask for commitments by the parties involved and impose fines accordingly. The Regulation applies from 12 July 2023 and the notification obligations imposed on companies will be effective as of 12 October 2023.

5. What are the key means of effecting the acquisition of a publicly traded company?

Shares of publicly traded companies are acquired freely, unless the potential acquirer initiates a takeover bid procedure, thus triggering the application of Law 3461/2006, as amended by Laws 4514/2018 and 4783/2021. The aforementioned law enables potential buyers of publicly traded companies to issue bids on a voluntary or mandatory basis to acquire shares of Greek publicly traded companies.

Under a voluntary bid, the offeror must acquire all offered shares, unless it has designated a maximum acceptable amount of shares. A public bid is mandatory for: a) any person acquiring, directly or indirectly, on its own account or through or in concert with third parties acting on its behalf or in concert with it, shares representing voting rights in excess of 1/3 of the total voting rights, b) any person holding more than 1/3 but less than ½ of the total voting rights and c) any person acquiring shares that represent more than 3% of the voting rights of the target company within six months. In these cases, the offeror must address within 20 days (*or within 30 days under circumstances*) from the date of acquisition a mandatory and unconditional bid for the total outstanding shares of the target company.

These thresholds, which are calculated on the basis of the voting rights that the offeror or any other party acting on its behalf or in concert with it acquires or holds, also include any voting rights acquired or held by such persons on the basis of an agreement, a right of pledge or usufruct, a safekeeping or administration arrangement, provided that the beneficiaries are entitled to exercise such rights at their discretion. Any public bid must be notified to the Hellenic Capital Markets Commission (HCMC) immediately after the decision to launch such a bid is taken, and prior to any other public announcement, together with a draft information document.

6. What information relating to a target company will be publicly available and to what extent is a target company obliged to disclose diligence related information to a potential acquirer?

All Greek companies are registered in the General Commercial Registry (GEMI). Both financial and legal corporate information (such as the company's Articles of Association, representation and signing rights) is publicly available, including its corporate structure and its annual financial reports.

Furthermore, information on potential target companies may be acquired from their websites and from the website of the Athens Exchange, if the entities participating in the company transformation are listed; from their annual financial statements; the annual reports of the BoD; from reports filed with supervisory and regulatory authorities [e.g., insurance undertakings

are required to publish their Solvency & Financial Condition Reports (SFCR)]; from market and sector reports, etc. The Cadastre and the local Land Registries keep the real estate ownership records (in several cadastral offices it is possible to conduct the research for such information electronically), while undertakings operating in regulated markets are registered in the sector specific registers.

The amount of the diligence-related information that shall be disclosed to a potential acquirer depends on the transaction specifics and the extent of liability the seller is prepared to take. According to the Greek Civil Code, during the stage of negotiations relating to any type of transaction, the parties are obliged to act in good faith and are, thus, prohibited to provide incomplete or misleading information.

The information included in the following sections refers to transactions related to companies limited by shares (sociétés anonyms – SAs).

Without prejudice to certain special provisions applicable for each type of transformation, the shareholders of all the companies involved in a merger shall be entitled to inspect at the company offices the following 5 documents, for a period of one month before the date fixed for the General Assembly which is to decide on the merger (Art. 11, Law 4601/2019):

1. **The draft merger agreement**

The administrative or management bodies of each of the merging companies shall draw up a detailed written report encompassing the draft terms of the merger which shall contain at least (Art. 7, Law 4601/2019):

a. the type, name, registered office and registration number of each of the merging companies;
b. the share exchange ratio and the amount of any cash payment;
c. the terms relating to the allotment of shares in the acquiring company, if applicable;
d. the date from which the holding of such shares entitles the holders to participate in profits and any special conditions affecting that entitlement;
e. the date from which the transactions of the company being acquired shall be treated as being those of the acquiring company, regard being had to accounting purposes;
f. the rights conferred by the acquiring company on the holders of shares to which special rights are attached and the holders of securities other than shares, or the measures proposed concerning them;
g. any special advantage granted to the experts who may be appointed and members of the merging companies' administrative, management, supervisory or controlling bodies who are involved in the merger.

The draft merger agreement, containing the draft terms of the merger, shall be published at the General Commercial Registry (GEMI) for each of the merging companies, at least one month before the date fixed for the general assembly which is to decide thereon.

1. The **annual accounts and annual reports** of the merging companies for the preceding three financial years. Alternatively, if the latest annual accounts relate to a financial year which ended more than six months before the draft merger agreement's date, the annual accounts are substituted by an **accounting statement** drawn up on a date which shall not be earlier than the first day of the third month preceding the date of the draft terms of merger.
2. The **reports of the administrative or management bodies** of the merging companies, which justify from a legal and financial viewpoint the draft merger agreement, in particular the share exchange ratio (Art. 9, Law 4601/2019). The report, however, must not necessarily contain information and data the public disclosure of which may result to significant harm in one or more of the companies involved. The report should also be submitted and published on

the GEMI. Such report, however, shall not be required if all the shareholders and the holders of other securities conferring the right to vote of all the companies involved in the merger have so agreed in writing.

3. The **expert report**, drawn up by one or more independent experts, acting on behalf of each of the merging companies. The aforementioned experts shall examine the draft merger agreement and draw up a written report to the shareholders which shall be published at GEMI. In this report, the experts shall state whether in their opinion the share exchange ratio is fair and reasonable.

The companies involved in the merger shall maintain the above information on their website for a period of two years after the date of general assembly approving the merger.

7. To what level of detail is due diligence customarily undertaken?

The due diligence measures available for shareholders of companies involved in an M&A transaction under law or publicly available on GEMI, are described in detail in question 6 above.

A typical buyer will further arrange for legal, accounting and tax due diligence exercises before deciding on an acquisition, depending on the acquirer's risk profile. In the course of the due diligence exercise, the interested acquirer may obtain access to the financial and legal books and records of the target and information regarding third parties, such as key client and/or supplier contracts (sometimes redacted), commercial contracts, financial contracts, assets and real estate property, pending or threatened litigation and/or administrative, regulatory or tax audits/ investigations, environmental licenses, intellectual property, insurance and internal auditors' reports, et.al. Such information shall be restricted in terms of confidentiality and third-party rights including data protection rights for individuals.

As a matter of practice, the scope of the research is usually limited at the first stage, where the potential acquirer receives information by reviewing published data related to the target company. In the following stage, a more detailed due diligence review may be allowed for the acquirers that have submitted an offer or are engaged in advanced conversations and negotiations. Finally, the preferred acquirer may be granted the opportunity to perform an updated due diligence before signing the transaction agreements. The detail and extent of vendor's and purchaser's protection clauses, reps and warranties are a matter of negotiation.

Vendor's due diligence reports are prepared in several deals to accelerate the process, while reliance letters may be negotiated between the potential acquirer and the report issuer.

8. What are the key decision-making organs of a target company and what approval rights do shareholders have?

The key decision-making organs of SAs are the Board of Directors (BoD) and the shareholders' General Assembly (GA). The BoD represents the company and decides about any type of action relating to the management of the company, the handling of its assets and the implementation of its goals. The GA is exclusively competent for issues such as the amendment of the company's Articles of Association, election of the BoD, profit distribution, increase or reduction of the share capital, and the merger, division, modification, revival, extension or resolution of the company. Each share category decides separately too. Approval/first refusal/veto rights may be contained in the company's Articles of Association or in a separate shareholders' agreement.

9. What are the duties of the directors and controlling shareholders of a target company?

Directors must manage the affairs of the company lawfully and in line with their duty of care, without abusing any of their rights. They must also refrain from any action that could impinge upon the interests of the company and cannot engage in activities that relate to the company's goals for their own interests, nor acquire stakes at competing partnerships other than with the company's permission.

Directors of listed companies are subject to specialized corporate governance rules and are required to pursue the long-term value and the general interest of the company. In the event of a public bid, they must allow shareholders to evaluate its merits and are at the same time prohibited from pursuing their own interests, if these are not aligned with those of the company. More specifically, the BoD of a target listed company is only entitled to seek alternative bids. It is prohibited to act in any way that could result in the public bid being withdrawn or cancelled, if the consensus of the GA has not been obtained first.

Directors and shareholders of listed companies are also subject to the EU harmonized market abuse rules.

Moreover, the directors of all companies involved in an M&A transaction have a duty to follow a number of procedures to effect the transaction, according to Law 4601/2019. Namely:

a. arrange for the preparation of a detailed draft merger agreement, encompassing the fundamental aspects of the merger (see above, Q6 – point 1 for the minimum content of the draft merger agreement);
b. file and publish the draft merger agreement in GEMI, one month before the adoption of a shareholders' decision on the proposed merger;
c. arrange for the drafting of a detailed report explaining and justifying, from a legal and economic viewpoint, the draft merger agreement, unless all shareholders agree in writing that such a report is not necessary;
d. arrange for the drafting of an expert report on the draft merger agreement, unless all shareholders agree in writing that such a report is not necessary;

The directors of both the target and the acquiring company are responsible towards the shareholders of their companies for any damage/loss the latter (i.e. the shareholders) may incur as a result of any wrongful act or omission committed by the directors which constitutes a breach of their duties (Art. 19, Law 4601/2019).

10. Do employees/other stakeholders have any specific approval, consultation or other rights?

I. Employees: according to art. 12 of Law 4601/2019, in all cases of corporate transformations, employees shall be accorded the protection granted to them by the provisions on change of the employer, i.e., Presidential Decree (P.D.) 80/2022 codifying the respective legal provisions, including the provisions of the P.D. 178/2002 harmonizing the Transfers of Undertakings Directive 2001/23/EC.

According to the applicable provisions, if the M&A transaction involves the transfer of business of the acquired company and a consequent change of employer, all existing rights and obligations of the transferor under an employment contract/relationship are transferred to the successor, the former being jointly and severally liable with the latter for the obligations arising from the employment contract/relationship until the successor undertakes. An M&A does not in itself constitute a reason for the dismissal of employees. The acquirer should also be cautious about dismissal restrictions deriving from the collective redundancies legislation (Art. 341-346 of P.D. 80/2022).

Employees or their representatives have the right to be informed prior to the transfer of the company about the date of the transfer, the reasons for the transfer, the eventual financial, legal and social consequences, as well as the planned actions that relate to employees. Such information shall be made available in a timely fashion.

The opinion of the BoD in relation to the bid must be distributed to the employee representatives, who subsequently may submit and annex their reply. Similarly, the representatives possess the right to be informed in relation to the outcome of the takeover bid. If the administration of the transferred company intends to alter the status of the employees, the latter's representatives have the right to participate in consultations with the managers of the company, in order to reach an agreement.

II. Creditors: the creditors of a merging SA are entitled to financial guarantees if the financial status of the merging companies renders such guarantees necessary. Furthermore, creditors owning convertible bonds in at least one of the merging companies have a specific approval right over the merger. Equally, creditors of merging private companies can object to the merger or request to be granted sufficient securities.

11. To what degree is conditionality an accepted market feature on acquisitions?

Shares are transferred pursuant to the general Greek Civil Code provisions on tangible moveable objects and the provisions of Law 4548/2018 providing for relevant formalities in the case of SAs. As such and to the extent the transfer occurs via the physical transfer of share certificates, their transfer and acquisition can be subjected to certain conditions; destruction or deterioration prior to the fulfillment of the conditions is at the transferor's risk. By contrast, public takeover bids for listed companies cannot be made conditional insofar it is not permitted to be dependent on any type of prerequisites other than those included in the Information Document relating to regulatory licensing / approval or to the issuing of new shares that will be provided as consideration.

12. What steps can an acquirer of a target company take to secure deal exclusivity?

Exclusivity may be secured by way of a preliminary agreement concluded between the negotiating parties (*exclusivity agreement*), pursuant to which the target company undertakes the obligation not to deal with competing buyers for a period during which only the potential acquirer can conduct due diligence and decide on the acquisition.

13. What other deal protection and costs coverage mechanisms are most frequently used by acquirers?

Common deal protection mechanisms include letters of credit, letters of guarantee, or escrow accounts for gradual payment of the price, which serve as a guarantee for the protection of transactions and especially for the payment of the purchase price. Break-up fees are not common but are enforceable in principle, subject to restrictions imposed by the general principles of law, such as the abusive exercise of rights (art. 281 of the Greek Civil Code – i.e. break fee agreements may not prevent the target company's shareholders from rejecting a merger proposal or a bid) and the special legislation on the protection of the Capital Market from market abuse (i.e. EU Regulation 596/2014 in conjunction with Law 4443/2016), according to which any break fee clause should be incorporated and thus, disclosed in the Information Memorandum and the relevant documentation issued in the course of the takeover offer, on pain of administrative and penal sanctions; the contractual structure for the legal basis of break-up fees is critical for their enforceability. Furthermore, in order to mitigate the risk of not receiving the necessary approvals for the transaction, the parties usually define the granting of the relevant approvals as a condition precedent for closing. Each party carries its own transaction costs.

14. Which forms of consideration are most commonly used?

Any type of consideration can be provided for shares in private companies, while the most common form chosen is cash (in the form of bank transfers). Escrowed amounts may be agreed in view of a verification of 'Representations & Warranties' exercise. As far as listed companies are concerned, the acquirer may offer securities, shares, cash, or a combination thereof. In relation to mandatory takeover bids, shareholders of a target company can opt for a cash-for-shares consideration. In case of consideration in cash, a credit institution must certify that the offeror has the means to pay for the entire cash or securities consideration.

15. At what ownership levels by an acquirer is public disclosure required (whether acquiring a target company as a whole or a minority stake)?

With respect to public, listed companies, disclosure must be made for transparency purposes once there is knowledge on the deal. However, disclosure can be delayed subject to prior communications with the HCMC insofar immature information regarding the imminent takeover offer should not be disclosed. The postponement of disclosure presupposes that all relevant delay requirements under the Market Abuse Regulation (MAR – Regulation 596/2004) are met, i.e. (a) immediate disclosure is likely to prejudice the legitimate interests of the issuer; (b) delay of disclosure is not likely to mislead the public; (c) the issuer is able to ensure the confidentiality of that information.

Furthermore, any person submitting a public bid (whether voluntary or mandatory) must inform both the HCMC and the target's BoD in writing before any public announcement. A person acquiring or disposing shares in a listed company to which voting rights are attached must notify the issuer and the HCMC if such proportion reaches or exceeds the thresholds of 5%, 10%, 15%, 20%, 25%, 33.3%, 50% or 66.6%. The same obligation applies to certain cases of acquisition, disposal and exercise of major proportions of voting rights, as well as to the acquisition or disposal of financial instruments.

16. At what stage of negotiation is public disclosure required or customary?

In addition to necessary disclosures discussed under Q.15, persons involved in a takeover of a listed company are only allowed to disclose confidential information if such disclosure can be considered appropriate under their respective duty of care. Confidential information is defined as including any unpublished information of a precise nature relating to one or more issuers and financial means and which could potentially affect the price of such means. Similarly, such disclosure needs to be precise and true, or else it can result in market distortion and imposition of criminal and administrative charges. Public disclosure of a transaction may also take place upon relevant agreement of the parties involved and execution of a relevant share purchase or other agreement.

17. Is there any maximum time period for negotiations or due diligence?

No maximum time period for negotiations or due diligence between interested parties is provided in relation to private companies. Parties should however refrain from unjustifiably prolonging negotiations, pursuant to the general good faith obligation imposed by the Greek Civil Code. A time limit can be agreed *inter partes*, after the expiration of which negotiations are either deemed as failed or can be renewed. In case of listed companies, securities' holders of the acquired company must have sufficient time and appropriate information in order to be able to reach a decision on the public offer. In this regard, the acceptance period of the public offer may last between 4 and 8 weeks, commencing from the publication of the offer document (i.e. Information Memorandum).

18. Are there any circumstances where a minimum price may be set for the shares in a target company?

In relation to a mandatory bid initiated for a listed company, the acquirer is obliged to offer a fair consideration in cash, which should be neither less than the average market value of the shares during the six (6) months prior to the bid, nor more than the maximum price at which the acquirer had purchased shares during the twelve-month period prior to the bid.

As a measure to further ensure the rights of the minority shareholders of the target company, the Greek Law 4514/2018, which harmonised MiFID II, introduced the obligation for the offeror to prepare a valuation report with respect to the targeted shares, if specific conditions are met. In such cases, the minimum cash consideration will be determined by taking into account both the market value and the valuation, as the minimum price per targeted share will be the higher of the two.

19. Is it possible for target companies to provide financial assistance?

SAs are prohibited to advance money, issue loans and grant guarantees to potential acquirers of their shares, unless such transactions are completed under the responsibility of the BoD in usual commercial terms, approved in advance by the GA with an increased quorum and majority, and the financial assistance granted does not result in equity being lower than a specific threshold. The same applies for financial assistance provided by subsidiary companies to third parties aiming to acquire shares of the parent company. However, transactions conducted by credit or financial institutions in the ordinary course of business are excluded from this rule.

20. Which governing law is customarily used on acquisitions?

The law of the share purchase agreement may be agreed by the parties subject to eventual choice of law restrictions. Rights *in rem* over Greek assets are governed by the law of the situs of the asset.

21. What public-facing documentation must a buyer produce in connection with the acquisition of a listed company?

A person planning to launch or required to submit a bid must notify the bid to the HCMC and to the target's BoD, and then proceed to a public announcement with details on the offeree and the offeror, the offeror's advisor, the securities subject to the takeover bid, the maximum number of securities that the offeror undertakes (in case of a voluntary takeover bid) or is required (in case of a mandatory takeover bid) to acquire, the percentage of the share capital of the target that are subject to the takeover bid and the percentage of the total securities of the same class.

Within three days after its approval by the HCMC, the information document shall be posted on the offeror's website and on that of its consultant, as well as on the target's registered and branch offices. Credit institutions or investment firms authorized by the offeror shall also carry the information document.

Revised populations shall be made in the event of a revised offer. Finally, the results of the bid shall be made public by the offeror within two days from the expiration of the time period of acceptance and shall be also communicated to the representatives of the employees.

22. What formalities are required in order to document a transfer of shares, including any local transfer taxes or duties?

Shares listed on the Athens Stock Exchange are transferred via the Athens Exchange Depositary. As far as non-listed companies are concerned, Law 4548/2018 brought a significant change, providing that SAs issue only registered shares. If the titles are electronic and not physical, specific registrations must be made in the electronic register of the company, while contracting parties have no longer the obligation to sign the

electronic register. Where the register is not kept electronically, the parties must register the transfer in the shareholders' ledger and sign it, as otherwise the transfer will only be valid and binding between the parties but not vis a vis the company. Physical registered shares are physically transferred and endorsed in writing at the back of the title; alternatively, they may be destroyed and replaced by new shares bearing the name of the acquirer.

23. Are hostile acquisitions a common feature?

Law 3461/2006 does not provide for any provisions on the type of the takeover; in this regard, hostile takeovers are neither regulated nor precluded. Hostile takeovers, though, are not common in Greece.

24. What protections do directors of a target company have against a hostile approach?

Defense mechanisms prior to the submission of a public bid are legally possible and can rely on the company's Articles of Association. Such defenses would include calling upon callable shares or converting bonds to shares or preferred shares to common voting shares, or relying on an employee call option program to change shareholders control; or agreeing large bonuses in favor of directors. This makes the acquisition more expensive, and less appealing to the acquiring company.

However, after a takeover bid has been submitted, the directors are bound by their fiduciary duty and can only take defense measures already approved by the GA. The law endorses the principles of Directive 2004/25 in accepting the prevalence of the shareholders vis a vis the BoD in cases of takeover bids. To be noted that any share transfer or voting restrictions in the articles and in eventual shareholders agreements are deactivated during the period of acceptance. Apart from that, the BoD shall draft a public document setting out its justified opinion on the bid, which is submitted to the HCMC and distributed to the shareholders along with an underlying financial advisors' report.

25. Are there circumstances where a buyer may have to make a mandatory or compulsory offer for a target company?

Please see section 5.

26. If an acquirer does not obtain full control of a target company, what rights do minority shareholders enjoy?

Under Law 4548/2018, minority shareholders of a company taken over by a majority shareholder that maintains 95% of the share capital can effect a forced acquisition of their shares by the majority shareholder. One or more minority shareholders are entitled to request that their shares are taken over by the company following a resolution on the transfer of the company's seat.

Shareholders of publicly traded companies that after a takeover bid are controlled by a majority shareholder holding more than 90% of the share capital, have the right to have their shares bought by the majority shareholder at a price equal to that of the takeover bid.

27. Is a mechanism available to compulsorily acquire minority stakes?

Under Law 4548/2018, a majority shareholder that maintains 95% or more of the share capital is entitled to take over minority shareholders' shares via a squeeze-out process before court, within 5 years from acquisition of 95% or more of the shares. The consideration for the purchase is examined by the court. The process may, conversely, be initiated by the minority shareholder.

Regarding a public offer, the bidder can get 100% control by exercising its squeeze out right; the offeror, who, following a public offer to all holders of securities, now holds 90% of voting rights of the offeree company, may require the transfer of all remaining securities of the target. The squeeze out right must be exercised within three months from the termination of the period of acceptance (the offeror's intention to exercise the squeeze out right must be mentioned in the Information Memorandum). The price must be at least equal and the consideration in the same form as that of the public offer. The exercise of the squeeze out right must be approved by the HCMC.

Contributors

Sofia Getimi
Senior associate
s.getimi@rokas.com

Kosmas Karanikolas
Senior associate
k.karanikolas@rokas.com