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# THE MERGERS & ACQUISITIONS REVIEW

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NINTH EDITION

EDITOR  
MARK ZERDIN

LAW BUSINESS RESEARCH

# THE MERGERS & ACQUISITIONS REVIEW

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MARK ZERDIN

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# CONTENTS

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|                         |   |      |
|-------------------------|---|------|
| <b>Editor's Preface</b> | .....   | xiii |
|                         | <i>Mark Zerdin</i>  |      |
| <b>Chapter 1</b>        | EU OVERVIEW .....   | 1    |
|                         | <i>Mark Zerdin</i>  |      |
| <b>Chapter 2</b>        | EU COMPETITION OVERVIEW .....   | 11   |
|                         | <i>Götz Drauz and Michael Rosenthal</i>   |      |
| <b>Chapter 3</b>        | EUROPEAN PRIVATE EQUITY.....  | 19   |
|                         | <i>Thomas Sacher</i>  |      |
| <b>Chapter 4</b>        | US ANTITRUST .....  | 32   |
|                         | <i>Scott A Sher, Christopher A Williams and Bradley T Tennis</i>                              |      |
| <b>Chapter 5</b>        | CROSS-BORDER EMPLOYMENT ASPECTS OF<br>INTERNATIONAL M&A .....                                 | 53   |
|                         | <i>Marjorie Culver, Darren Gardner, Ming Henderson,<br/>Dominic Hodson and Peter Talibart</i> |      |
| <b>Chapter 6</b>        | M&A LITIGATION.....   | 67   |
|                         | <i>Mitchell A Lowenthal, Roger A Cooper and Matthew Gurgel</i>                                |      |
| <b>Chapter 7</b>        | AUSTRALIA .....   | 74   |
|                         | <i>Braddon Jolley, Sandy Mak and Jaclyn Riley-Smith</i>                                       |      |
| <b>Chapter 8</b>        | AUSTRIA.....  | 87   |
|                         | <i>Clemens Philipp Schindler</i>  |      |
| <b>Chapter 9</b>        | BAHRAIN .....   | 97   |
|                         | <i>Haifa Khunji and Natalia Kumar</i>   |      |

|                   |  |     |
|-------------------|--|-----|
| <b>Chapter 10</b> | BELGIUM .....  | 110 |
|                   | <i>Olivier Clevenbergh, Gisèle Rosselle and Carl-Philip de Villegas</i>                        |     |
| <b>Chapter 11</b> | BRAZIL.....  | 122 |
|                   | <i>Moacir Zilbovicius and Rodrigo Ferreira Figueiredo</i>                                      |     |
| <b>Chapter 12</b> | BRITISH VIRGIN ISLANDS .....   | 132 |
|                   | <i>Jacqueline Daley-Aspinall and Sarah Lou Rockhead</i>  |     |
| <b>Chapter 13</b> | CANADA.....  | 143 |
|                   | <i>Robert Yalden, Emmanuel Pressman and Jeremy Fraiberg</i>                                    |     |
| <b>Chapter 14</b> | CAYMAN ISLANDS .....   | 158 |
|                   | <i>Marco Martins</i>   |     |
| <b>Chapter 15</b> | CHINA .....  | 173 |
|                   | <i>Lu Yurui and Ling Qian</i>  |     |
| <b>Chapter 16</b> | COLOMBIA.....  | 187 |
|                   | <i>Sergio Michelsen Jaramillo</i>  |     |
| <b>Chapter 17</b> | COSTA RICA .....   | 203 |
|                   | <i>John Aguilar Jr and Alvaro Quesada</i>  |     |
| <b>Chapter 18</b> | CYPRUS .....   | 211 |
|                   | <i>Nancy Ch Erotocritou</i>  |     |
| <b>Chapter 19</b> | CZECH REPUBLIC.....  | 218 |
|                   | <i>Lukáš Ševčík, Jitka Logesová and Bohdana Pražská</i>  |     |
| <b>Chapter 20</b> | DENMARK .....  | 225 |
|                   | <i>Sebastian Ingversen and Nicholas Lerche-Gredal</i>  |     |
| <b>Chapter 21</b> | DOMINICAN REPUBLIC .....   | 236 |
|                   | <i>María Esther Fernández A de Pou, Mónica Villafaña Aquino and Laura Fernández-Peix Perez</i> |     |

|                   |   |     |
|-------------------|---|-----|
| <b>Chapter 22</b> | ECUADOR.....  | 246 |
|                   | <i>Diego Pérez-Ordóñez</i>  |     |
| <b>Chapter 23</b> | ESTONIA.....  | 257 |
|                   | <i>Sven Papp and Sven Böttcher</i>  |     |
| <b>Chapter 24</b> | FINLAND.....  | 269 |
|                   | <i>Jan Ollila, Wilhelm Eklund and Jasper Kuhlefeldt</i>                         |     |
| <b>Chapter 25</b> | FRANCE.....   | 281 |
|                   | <i>Didier Martin and Hubert Zhang</i>   |     |
| <b>Chapter 26</b> | GERMANY.....  | 296 |
|                   | <i>Heinrich Knepper</i>   |     |
| <b>Chapter 27</b> | GIBRALTAR.....  | 309 |
|                   | <i>Steven Caetano</i>   |     |
| <b>Chapter 28</b> | GREECE.....   | 321 |
|                   | <i>Cleomenis G Yannikas, Sophia K Grigoriadou and Vassilis S Constantinidis</i> |     |
| <b>Chapter 29</b> | HONG KONG.....  | 334 |
|                   | <i>Jason Webber</i>   |     |
| <b>Chapter 30</b> | HUNGARY.....  | 344 |
|                   | <i>Levente Szabó and Klaudia Ruppl</i>  |     |
| <b>Chapter 31</b> | ICELAND.....  | 360 |
|                   | <i>Hans Henning Hoff</i>  |     |
| <b>Chapter 32</b> | INDIA.....  | 368 |
|                   | <i>Justin Bharucha</i>  |     |
| <b>Chapter 33</b> | INDONESIA.....  | 386 |
|                   | <i>Yozua Makes</i>  |     |

|                   |   |     |
|-------------------|---|-----|
| <b>Chapter 34</b> | ISRAEL .....  | 400 |
|                   | <i>Clifford Davis and Keith Shaw</i>  |     |
| <b>Chapter 35</b> | ITALY .....   | 410 |
|                   | <i>Maurizio Delfino</i>   |     |
| <b>Chapter 36</b> | JAPAN .....   | 422 |
|                   | <i>Hiroki Kodate and Masami Murano</i>  |     |
| <b>Chapter 37</b> | KENYA .....   | 431 |
|                   | <i>Joyce Karanja-Ng'ang'a, Wathingira Muthang'ato and Felicia Solomon Nyale</i> |     |
| <b>Chapter 38</b> | KOREA .....   | 442 |
|                   | <i>Jong Koo Park, Bo Yong Ahn, Sung Uk Park and Young Min Lee</i>               |     |
| <b>Chapter 39</b> | LITHUANIA .....   | 457 |
|                   | <i>Giedrius Kolesnikovas and Michail Parchimovič</i>                            |     |
| <b>Chapter 40</b> | LUXEMBOURG .....  | 465 |
|                   | <i>Marie-Béatrice Noble, Raquel Guevara, Stéphanie Antoine</i>                  |     |
| <b>Chapter 41</b> | MALAYSIA .....  | 479 |
|                   | <i>Rosinah Mohd Salleh and Norhisham Abd Bahrin</i>                             |     |
| <b>Chapter 42</b> | MALTA .....   | 491 |
|                   | <i>James Scicluna</i>   |     |
| <b>Chapter 43</b> | MAURITIUS .....   | 503 |
|                   | <i>Muhammad Reza Cassam Uteem and Basheema Farreedun</i>                        |     |
| <b>Chapter 44</b> | MEXICO .....  | 513 |
|                   | <i>Luis Burgueño and Andrés Nieto</i>   |     |
| <b>Chapter 45</b> | MONTENEGRO .....  | 523 |
|                   | <i>Slaven Moravčević and Dijana Grujić</i>                                      |     |

|                   |   |     |
|-------------------|---|-----|
| <b>Chapter 46</b> | MYANMAR.....  | 533 |
|                   | <i>Krishna Ramachandra and Benjamin Kheng</i>   |     |
| <b>Chapter 47</b> | NETHERLANDS.....  | 544 |
|                   | <i>Carlos Pita Cao and François Koppenol</i>  |     |
| <b>Chapter 48</b> | NIGERIA.....  | 557 |
|                   | <i>Lawrence Fubara Anga</i>   |     |
| <b>Chapter 49</b> | NORWAY.....   | 562 |
|                   | <i>Ole K Aabø-Evensen</i>   |     |
| <b>Chapter 50</b> | PANAMA.....   | 600 |
|                   | <i>Andrés N Rubinoff</i>  |     |
| <b>Chapter 51</b> | PERU.....   | 611 |
|                   | <i>Emil Ruppert</i>   |     |
| <b>Chapter 52</b> | PHILIPPINES.....  | 621 |
|                   | <i>Rafael A Morales, Philbert E Varona, Hiyasmin H Lapitan<br/>and Patricia A Madarang</i>          |     |
| <b>Chapter 53</b> | PORTUGAL.....   | 630 |
|                   | <i>Francisco Brito e Abreu and Joana Torres Ereio</i>   |     |
| <b>Chapter 54</b> | ROMANIA.....  | 643 |
|                   | <i>Andreea Hulub, Ana-Maria Mihai and Vlad Ambrozie</i>   |     |
| <b>Chapter 55</b> | RUSSIA.....   | 657 |
|                   | <i>Scott Senecal, Yulia Solomakhina, Polina Tulupova,<br/>Yury Babichev and Alexander Mandzhiev</i> |     |
| <b>Chapter 56</b> | SERBIA.....   | 675 |
|                   | <i>Matija Vojnović and Luka Lopičić</i>   |     |
| <b>Chapter 57</b> | SINGAPORE.....  | 685 |
|                   | <i>Lim Mei and Lee Kee Yeng</i>   |     |

|                   |  |     |
|-------------------|--|-----|
| <b>Chapter 58</b> | SLOVENIA.....  | 694 |
|                   | <i>David Premelč, Bojan Šporar and Mateja Ščuka</i>  |     |
| <b>Chapter 59</b> | SOUTH AFRICA .....   | 705 |
|                   | <i>Ezra Davids and Ashleigh Hale</i>   |     |
| <b>Chapter 60</b> | SPAIN .....  | 716 |
|                   | <i>Christian Hoedl and Javier Ruiz-Cámara</i>  |     |
| <b>Chapter 61</b> | SWITZERLAND .....  | 732 |
|                   | <i>Lorenzo Olgiati, Martin Weber, Jean Jacques Ah Choon,<br/>Harun Can and David Mamane</i>            |     |
| <b>Chapter 62</b> | THAILAND .....   | 745 |
|                   | <i>Pakdee Paknara and Pattraporn Poovasathien</i>  |     |
| <b>Chapter 63</b> | TURKEY.....  | 753 |
|                   | <i>Emre Akın Sait</i>  |     |
| <b>Chapter 64</b> | UNITED ARAB EMIRATES.....  | 762 |
|                   | <i>DK Singh and Stincy Mary Joseph</i>   |     |
| <b>Chapter 65</b> | UNITED KINGDOM .....   | 774 |
|                   | <i>Mark Zerdin</i>   |     |
| <b>Chapter 66</b> | UNITED STATES .....  | 793 |
|                   | <i>Richard Hall and Mark Greene</i>  |     |
| <b>Chapter 67</b> | VENEZUELA.....   | 834 |
|                   | <i>Guillermo de la Rosa, Juan D Alfonso, Nelson Borjas E,<br/>Pedro Durán A and Maritza Quintero M</i> |     |
| <b>Chapter 68</b> | VIETNAM.....   | 847 |
|                   | <i>Hikaru Oguchi, Taro Hirosawa, Ha Hoang Loc</i>  |     |

|                   |   |     |
|-------------------|---|-----|
| <b>Appendix 1</b> | ABOUT THE AUTHORS .....                       | 857 |
| <b>Appendix 2</b> | CONTRIBUTING LAW FIRMS' CONTACT DETAILS ..... | 905 |



# EDITOR'S PREFACE

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By a number of measures, it could be argued that it has been some time since the outlook for the M&A market looked healthier. The past year has seen a boom in deal making, with many markets seeing post-crisis peaks and some recording all-time highs. Looking behind the headline figures, however, a number of factors suggest deal making may not continue to grow as rapidly as it has done recently.

One key driver affecting global figures is the widely expected rise of US interest rates. Cheap debt has played a significant part in the surge of US deal making in the first few months of 2015, and the prospects of a rate rise may have some dampening effects. However, the most recent indications from the Federal Reserve have suggested that any rise will be gradual and some market participants have pushed back predictions for the first rate rise to December 2015. Meanwhile, eurozone and UK interest rates look likely to remain low for some time further.

The eurozone returned to the headlines in June as the prospect of a Greek exit looked increasingly real. Even assuming Greece remains in the euro (as now seems likely), the crisis has severely damaged the relationship between Greece and its creditors. The brinkmanship exhibited by all parties means that meaningful progress cannot occur except at the conclusion of a crisis: the idea that reform will benefit Greece has been lost and each measure extracted by creditors is couched as a concession. However, while the political debate has become ever more fractious, the market's response to the crisis has been relatively sanguine. This is largely a result of the fact that the volume of Greek debt is no longer in the market, but in the hands of institutions. But it is also a sign of the general market recovery and expectations that major economies will continue to grow.

Perhaps one of the more interesting emerging trends in the last year is the interplay between growth and productivity. Some commentators have suggested that the recent rise in deal making is a symptom of a climate in which businesses remain reluctant to invest in capital and productivity. Pessimistic about the opportunities for organic growth, companies instead seek to grow profits through cost savings on mergers. It is difficult to generalise about such matters: inevitably, deal drivers will vary from industry to industry, from market to market. However, if synergies have been the principal motivation in

much of the year's deal making (it certainly has been in a number of large-cap deals) then it may be that the market is a little farther from sustainable growth than some would like to think.

I would like to thank the contributors for their support in producing the ninth edition of *The Mergers & Acquisitions Review*. I hope that the commentary in the following chapters will provide a richer understanding of the shape of the global markets, together with the challenges and opportunities facing market participants.

**Mark Zerdin**

Slaughter and May

London

August 2015

## Chapter 45

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# MONTENEGRO

*Slaven Moravčević and Dijana Grujić<sup>A</sup>*

### I OVERVIEW OF M&A ACTIVITY

Following the post global financial and economic crisis general trends in CEE countries, Montenegrin GDP contracted by 2.5 per cent in 2012 and rose by 3.5 per cent in 2013. The year 2014 saw an increase in the GDP growth of 3.3 per cent. The amount of GDP per capita is one of the highest in the region.

The Montenegrin economy is showing signs of recovery given that in 2013 GDP in constant prices returned to the pre-crisis level. Statistics show that after the slump in GDP in 2012, Montenegro's economy gathered pace in 2013 and recorded a 3.5 per cent growth in GDP. Additional signs of recovery can be found in the employment sector, where statistics show an increase of 2.4 per cent in the number of people in employment from previous year amounting to 171,158 employed persons in September of 2014, as well as growth in tourism and retail trade. At the time of going to print, the number of entities with frozen banks accounts in 2015 (14,328) corresponds to those for the same period in 2013 (13,632).

In 2014, the general deficit amounted to €103.5 million (or 3 per cent of GDP). The level of general revenue continues to be affected by the difficult macroeconomic environment. On the expenditure side, despite austerity measures, Montenegro is faced with substantial expenses relating to public debt, which on aggregate represented 57.8 per cent of Montenegro's GDP in 2014.

FDI flows increased in 2014, by 9.3 per cent compared to 2013, reaching more than € 300 million. The sectors attracting most of the FDI are finance, tourism, energy, health care and real estate.

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1 Slaven Moravčević is a partner and Dijana Grujić is an attorney at law at Moravčević Vojnović i Partneri in cooperation with Schönherr.

Between the end of 2008 and the end of 2010, the Montenegrin banking sector witnessed sharp increases in the volume of non-performing loans (NPLs) and the ratio of NPLs to total loans, principally reflecting deterioration of asset quality. 2013 witnessed an increase of NPLs to total of €448.7 million principally due to the implementation of IAS 39 in early 2013. As of 31 March 2013, partly due to the implementation of IAS 39, NPLs rose to 19.4 per cent and then subsequently decreased to 18.4 per cent as at 31 December 2013. In 2014 NPLs decreased to 16.5% and amounted to €389.7 million.

## **II GENERAL INTRODUCTION TO THE LEGAL FRAMEWORK FOR M&A**

The Montenegrin legal system follows the tradition of most continental European countries. Hence, the case law of competent Montenegrin courts and administrative authorities is not as significant as in common law systems, although the persuasive value of case law, and especially the rulings of the Supreme Court of Montenegro, should not be underestimated.

A key piece of legislation pertaining to M&A matters in Montenegro is the Companies Act (enacted in 2002). The Companies Act regulates the forms of companies, their incorporation, corporate governance, winding up, status changes and registration issues. The 2002 Companies Act introduced a relatively liberal and flexible approach to company incorporation and governance. However, the Act is relatively short (only 98 articles) and practice has revealed its numerous imperfections; as a result, amendments to the Companies Act have been enacted.

As concerns certain state-owned and socially owned companies, the provisions of the Privatisation Act (enacted in 1996) are still applicable with regard to transforming the ownership structure of specific companies by introducing private investors as their shareholders.

Within the realm of public joint stock companies, crucial regulatory elements may be found in the Securities Act (enacted in 2000) and Takeover Act (enacted in 2011). The foregoing regulations are supported by the Securities and Exchange Commission and stock exchange rules on securities transactions. Some legal specificities pertaining to the financial sector may also be found in the Banking Act, Financial Collaterals Act, Insurance Act, Investment Funds Act and Voluntary Pension Funds Act.

Competition issues related to M&A are mostly covered by the Protection of Competition Act (enacted in 2012), which sets forth the criteria and procedures for approving concentrations.

Contract-related issues of relevance to M&A transactions are to a large extent regulated by the Contracts and Torts Act (enacted in 2008), covering issues such as the legal capacity of contracting parties, form of contracts, contract conclusion, performance, interpretation and termination, as well as damages-related issues.

Montenegro has commenced accession negotiations with the EU on 29 June 2012 and has also opened certain Chapters, however, Montenegro's full EU membership very much depends on a number of economic and political factors relating to both Montenegro and the EU.

Finally, Montenegro is focused on enhancing its business environment. It has, in that respect, set up a Council for Eliminating Business Barriers in cooperation with the World Bank, with the aim of simplifying administrative procedures and reducing red tape.

### **III DEVELOPMENTS IN CORPORATE, BANKING AND TAKEOVER LAW AND THEIR IMPACT**

No major changes occurred in 2015 in comparison to 2011. The state retained a significant role in the market in 2014 with the aim of stabilising the economic situation, while private sector M&A activity was at a considerably lower level than in previous years.

The legal basis for corporate and M&A transactions is the Companies Act (as amended in 2011), which prescribes a simple procedure for mergers and acquisitions of companies and make it more precise and transparent. These provisions also apply to divisions and spin-offs. The 2011 amendments to the Companies Act are viewed as a successful attempt by the Montenegrin authorities to improve the business environment in Montenegro and harmonise the Companies Act with EU directives. However, the practise showed the drawbacks of the certain provisions. Thus, a new improvements to the Companies Act are planned to be introduced.

There were no changes with respect to the takeover regulations. Namely, the Takeover Act (2011) was designed to harmonise takeovers with EU directives, and increase the level of protection afforded to shareholders in the takeover procedure and clarify the criteria, obligations and rights of the acquirers. However, the goal was not achieved, and as a consequence of the global financial crisis, this resulted in its limited application and very few takeovers completed in accordance with this very modern and efficient piece of legislation.

The Financial Collaterals Act sets out a framework for establishing financial collateral through a financial collateral agreement. The financial collateral agreement is the key instrument for transferring ownership rights or establishing pledges over financial instruments or credit claims. As with the Directive, the specificity of the Financial Collaterals Act is precisely the fact that it applies only to individual entities in the financial system, such as central banks, states, international development banks and all other financial institutions subject to supervision, acting as both collateral provider and collateral taker.

The Ministry of Finance has formed a working group on the adoption of the Factoring Act, which will be supported by the EBRD.

With respect to M&A activity in the banking sector, amendments to the Banking Act (2011) have redefined and broadened the concept of affiliated persons. Consequently, provisions pertaining to the acquisition of a qualified interest in a bank have been affected. Procedures for approving the acquisition of a qualified interest have been amended, as have certain points of corporate governance (relating mostly to the board of directors, executive directors and audit board). Certain other provisions of the Banking Act have also been amended or supplemented (e.g., relating to the interim administration of banks). No further amendments were adopted in relation to the Banking Act.

The Foreign Investment Act prescribes numerous incentives that may lead to a number of M&A transactions in the future.

It is important to mention that Montenegro officially applied for membership of the EU on 15 December 2008 and was confirmed as a candidate country by the European Council on 17 December 2010. On 28 June 2012 Montenegro commenced accession negotiations with the EU. These negotiations are certain to result in reform of the Montenegrin legal system, including corporate and M&A legislation. It is worth mentioning that on 18 December 2013 Chapter 5 – Public Procurement; Chapter 6 – Company Law; Chapter 20 – Enterprise and Industrial Policy; Chapter 23 – Judiciary and Fundamental Rights and Chapter 24 – Justice, Freedom and Security were opened, while Chapters 7 – Intellectual Property Rights and 10 – Information, Society and Media were opened on 31 March 2014. Further, two Chapters were opened and subsequently temporarily closed (i.e., on 18 December 2012, Montenegro opened and closed Chapter 25 – Science and Research and on 15 April 2013 it opened and closed Chapter 26 – Education and Culture). Finally, Montenegro has adopted its accession programme to the EU 2014–2018, setting out, *inter alia*, key steps to be taken in harmonising the Montenegrin legislation with EU legislation.

In 2012 Montenegro signed the Declaration on the accession to the Energy Charter. The Energy Charter will become legally binding for Montenegro only after the ratification of the Energy Charter Treaty.

On 10 December 2004, the State Union of Serbia and Montenegro applied for membership of the WTO (on 3 June 2006, Montenegro declared independence from the State Union of Serbia and Montenegro and continued negotiations with the WTO separately) and on 29 April 2012 Montenegro became a WTO member. Since then, Montenegro has been an active member on the global trade stage participating in 70 different activities and projects.

#### IV FOREIGN INVOLVEMENT IN M&A TRANSACTIONS

As previously stated, in 2014 FDI in Montenegro increased by 9.3 per cent compared with 2013.

Montenegro is a part of CEFTA (the Central European Free Trade Area) a regional initiative the main objectives of which are, *inter alia*, to expand trade in goods and services and foster investment by means of fair, stable and predictable rules, eliminating barriers to trade between parties, providing appropriate protection of intellectual property rights in accordance with international standards and harmonising provisions on modern trade policy issues such as competition rules and state aid.<sup>2</sup> In light of growing business ties in the region, a part of both future FDI and M&A transactions is likely to originate from CEFTA jurisdictions as well.

A new proposal for the Regional Development Strategy for the period of 2015 – 2020 has not yet been adopted. In 2013, Montenegrin government adopted the Memorandum on Montenegro's Development for the period 2013–2016 and the Strategy

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2 Official explanation provided on the CEFTA website, [www.cefta2006.com](http://www.cefta2006.com).

for Attracting Foreign Direct Investment for the period 2013–2015. The Memorandum mainly defines policies and strategic priorities including tourism, agriculture, energy and rural development, along with concrete measures and public investments to bolster the country's economic and social development.

Furthermore, the Strategy for Attracting Foreign Direct Investment, demonstrates a commitment to improving Montenegro's image as an investment destination, enhancing the competitiveness of the Montenegrin business environment, increasing direct investment and transforming Montenegro into a leading platform for business development in the region. For the period 2013–2015, investments are estimated to total €1.6 billion.

Seemingly, this strategy fulfils the goal in attracting FDI whereas the volume of trade between China and Montenegro could be seen as result of a successful implementation of such strategy. The exchange of goods between the two amounted to approximately €125 million, whereas the total amount of investments in Montenegro from China, until 2013, was €6.8 million.

Equally significant is the appointment of Chinese companies (China Communications Construction Company International and the China Road and Bridge Corporation) to construct the Bar–Boljare highway (Montenegrin section) between Bar (Montenegro) and Belgrade (Serbia) with an estimated cost of approximately €809 million, commenced in 2015 and completed in 2017.

## **V SIGNIFICANT TRANSACTIONS, KEY TRENDS AND HOT INDUSTRIES**

Montenegro and Azerbaijan extended their cooperation to the oil and gas industry. In June 2013, the Shah Deniz consortium selected the Trans-Adriatic Pipeline (TAP) gas pipeline as a route for transporting gas to Europe and in December 2013 a final investment decision for this project was made in Baku, Azerbaijan. TAP will be approximately 870km in length (Greece 545km; Albania 211km; Adriatic Sea 105 km; Italy 8km). Its highest point will be 1,800m in Albania's mountains, while its lowest will be 820 metres beneath the sea. The TAP will be connected to the Ionian Adriatic Pipeline, which will run through Albania, Montenegro, Bosnia and Herzegovina, and Croatia. This was closely followed by the signing of a memorandum of understanding covering cooperation on the pipeline construction project.

Montenegro decided to expand further in this industry sector by publishing a tender for the award of a hydrocarbons production licence in the Adriatic Sea off the coast of Montenegro. A final decision has not yet been adopted as the deadline for the submission of bids has only recently expired. The bids were submitted by six companies: Marathon Oil Corporation (USA), OMV (Austria), Eni S.p.A. (Italy), Novatek (Russian Federation), Energean Oil and Gas (Greece), Mediterranean Oil and Gas (United Kingdom).

In 2013 other energy sectors have seen expansion as exports in the energy sector increased from approximately €38 million in 2012 to approximately €96 million in 2013, while imports decreased from approximately €106 million in 2012 to approximately €54 million in 2013. There is no official report for 2014. This trend

is expected to continue, in part, due to Montenegro's involvement in an underwater electricity transmission cable and related infrastructure project between Montenegro and Italy with an estimated total investment value of €863 million that should create further opportunities for energy exports.

In 2014 the government of Montenegro and Italian-based A2A SpA, as two leading shareholders of integrated electric utility Elektroprivreda Crne Gore a.d. Nikšić (EPCG) commenced with the process of negotiating a new shareholders agreement given that the previous five-year-term agreement expired on 1 April 2015. It is expected that this agreement will have a significant impact on Montenegrin energy sector.

EPCG commenced with seeking a partner for development of the second block of thermal power plant Pljevlja with the installed capacity of 220–300MW.

The privatisation plan for 2015 for the most part included rescheduled privatisations of the few remaining state-owned companies from various business sectors such as: Marina Bar (ports), Montecargo AD Podgorica, Montenegro Airlines AD Podgorica, Postal Service, Jadransko brodogradilište AD Bijela (shipyard), HG Budvanska rivijera AD Budva (tourism/hotels), HTP Ulcinjska rivijera AD Ulcinj (tourism/hotels), Institut 'Dr Simo Milošević' AD Igalo (tourism/health care/hotels) and others. On the other hand, it is expected that in 2015 numerous tourism locations (Island Lastvica, Bigovo, Velika Plaza, Valdanos, etc) will be put to tender, privatised or offered as public-private partnership projects. Depending on the choice of privatisation method these projects might be viewed as interesting M&A endeavours.

One of the most problematic transactions for the government took place in 2014. Montenegro's aluminium plant to a local metal company (KAP) was soled to Uniprom for the price of €28 million. At the same time KAP's former owner CEAC initiated arbitration proceedings against the government of Montenegro for interference with CEAC's investment.

A dominant feature of the Montenegrin market from 2010 to 2015 remains the lack of liquidity. Around 14,312 businesses' (both companies and entrepreneurs) bank accounts (representing approximately a quarter of all business bank accounts) were frozen at the end of April 2014, with over €510 million in debt. The banking sector remains stable although banking activity has slowed significantly and without any signs of fresh lending. Currently, tourism, energy (the licence for exploration and production of oil and gas in the Adriatic Sea, construction of the second block of the thermal power plant Pljevlja, a tender for small hydropower plants) and infrastructure projects (the Bar–Belgrade railway and Bar–Boljare highway) may be the only sectors that could contribute to economic growth.

In 2014 United Group a regional cable operator took over the largest Montenegrin cable TV operator BBM.

Podgorica, a capital of Montenegro got the first Hard Rock Café in the region in February 2015 within Atlas Centar. Atlas Centar is developed by Abu Dhabi Capital Management through a joint venture. In May 2015 a construction of Sheraton hotel has started.



## **VI FINANCING OF M&A: MAIN SOURCES AND DEVELOPMENTS**

Primary market activities on the Montenegrin stock exchanges in 2014 remained at a rather low level. During 2014, trading on the Montenegro Stock Exchange reached €108 million with 6,285 transactions carried out. Compared with 2013 trading has decreased by 350 per cent, while the number of closed transactions decreased by 2.5 per cent. Average daily trading in 2014 amounted to €439,663, a significant decrease on the previous year, where average daily trading amounted to €124,581.

In the underdeveloped bonds market, most of the finance for M&A transactions in Montenegro comes from old-fashioned bank loans. Nevertheless, the market has become acquainted with syndicated loan facilities developed by the Loan Market Association. Usually, such facilities require a state guarantee as collateral.

Montenegrin foreign exchange legislation may be viewed as rather non-interventionist. There are no strict requirements that need to be fulfilled where cross-border loans are concerned (apart from internal record keeping or an intermediary bank's obligation to report the transaction to the Montenegrin Central Bank). Montenegro unilaterally introduced the euro as its national currency, although it is not yet a member of the eurozone. Montenegrin companies are free to take loans from foreign jurisdictions and grant loans to foreign entities without undue constraint. It should, however, be noted that Montenegro has adhered to various international mechanisms aimed at preventing money laundering.

Ministry of Finance statistics show that between the end of 2008 and the end of 2012, the number of outstanding loans in the Montenegrin banking sector gradually declined as banks restricted their lending activities by adopting more conservative policies in response to the recent global financial and economic crisis. However, 2013 saw a rise in lending activity. During 2013, there was a total of €807.6 million worth of new loans approved, an increase of 14.9 per cent compared to 2012. These new loans are broken down as follows: 44 per cent represented corporate loans (compared to 53.6 per cent in 2012), 34.6 per cent represented retail loans (compared to 32.2 per cent in 2012) and 11.1 per cent represented loans issued to Montenegro (compared to 4.1 per cent in 2012). Total bank loans amounted to €2.3667 billion at the end of April 2015, which represents a monthly increase of 1.1 per cent and a 0.8 per cent decrease compared with the previous year.

## **VII EMPLOYMENT LAW**

Employment in Montenegro is mainly regulated by the Labour Act (2008), the General Collective Agreement (concluded in 2014, applicable to all employers in Montenegro), sector and individual collective agreements (where applicable), the Occupational Health and Safety Act (2014), the Employment Act (2010), the Foreigners Act (enacted in 2014), the Protection of Montenegrin Citizens Working Abroad Act (2004), the Strike Act (2015), the Amicable Settlement of Labour Disputes Act (2007), the Labour Fund Act (2009), the Act on Representativeness of Unions (2010), the Volunteer Work Act (2010) and the Professional Rehabilitation and Employment of Disabled Persons Act (2008).

There has been recent reform of employment legislation in Montenegro aimed at tackling the high unemployment rate and improving the position of workers. In 2013, the average employment rate was up 2.4 per cent on 2013 figures resulting in 171,158 in employment in September 2014.

The Employment Act introduced the National Employment Action Plan, as an instrument of employment policy. In addition, it redefined the relations between the Employment Bureau and employment agencies, making them more transparent and flexible. Emphasis was placed on active employment measures. Furthermore, the period for which unemployed persons are entitled to compensation is 12 months.<sup>3</sup>

The Occupational Health and Safety Act has provided a legal platform for enacting by-laws that will harmonise the occupational health and safety legislation with the relevant EU directives.

At the end of 2011, the Labour Act was amended, with one of the major changes being the introduction of agencies to hire employees. These institutions have made the labour market more flexible and more liberal. It means that employers may hire employees only when required by 'renting' employees from agencies, without any obligation towards them after the need for their services ceases.

An interesting feature of Montenegrin labour law is the fact that fixed-term employment agreements are liberally regulated: labour law does not limit the grounds for employing persons for a fixed term, nor does it limit the period of employment, which all results in a large number of employees who are employed temporarily and whose employment agreements are repeatedly extended. This anomaly makes the Montenegrin labour market more attractive to foreign investors. Furthermore, it should be noted that the Labour Act does not recognise the concept of management agreements, meaning that executive directors of Montenegrin companies must be employed and younger than 67 (triggering the obligation to pay income tax and corresponding social contributions).

New General Collective Agreement was concluded in 2014 and new Strike Act was adopted in 2015.

The new Foreigners Act became effective on 1 April 2015. However, taking into consideration the interests of Montenegrin tourism industry, application of its provisions covering the employment of foreigners was postponed until 1 November 2015.

In principle, the Montenegrin legislator's intent in the adopted act was to:

- a* establish the unified procedure of the issuance of residence and working permits for employment of foreigners in Montenegro;
- b* decrease the number of illegal immigrants in Montenegro;
- c* eliminate the disproportion between issued residence and working permits and social insurance applications;
- d* reduce the number of foreigners on the employment market to the real number;
- e* organise the evidence of the foreign nationals in Montenegro; and
- f* enable the state and local bodies to use the information from the evidence of foreigners.

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3 Certain exceptions may apply where this period is longer.

## VIII TAX LAW

Montenegro is generally seen as a country with relatively low tax rates, with the following key figures:

- a* profit tax rate: 9 per cent;
- b* VAT: 19 per cent (7 per cent for certain goods and services);
- c* inheritance and gift tax rate: 3 per cent;
- d* personal income tax rate: 9 per cent; and
- e* property transfer tax rate: 3 per cent.<sup>4</sup>

Apart from an increase of VAT from 17 to 19 per cent, the government of Montenegro refuses to raise tax rates as a means of coping with the financial crisis, wishing primarily to preserve its image as a low-taxation jurisdiction with stable prices. Instead, the government decided to curb public spending and introduce austerity measures. The effectiveness of such measures is yet to show results.

As one of the recent measures to, *inter alia*, increase tax collection, the Prevention of Illegal Business Act has been enacted aiming to impose measures to curb illegal business, new companies being opened while tax liabilities for bankrupt and liquidated companies are outstanding, etc. However, it remains to be seen how this legislation will fit into the Montenegrin framework and whether it will yield any positive results.

## IX COMPETITION LAW

The Competition Act (2012) represents the key legal text safeguarding competition in Montenegro. The Competition Act regulates prohibited agreements (all agreements between undertakings, decisions by associations of undertakings and concerted practices that have as their objective or outcome the prevention, restriction or distortion of competition), abuse of a dominant position and concentration (which significantly prevents, restricts or distorts competition especially by creating or enhancing a dominant position). Nevertheless, it should be noted that certain market sectors are subject to additional concentration regulation (e.g., insurance and banking, media and telecommunication).

Pursuant to the Competition Act, a concentration is defined as:

- a* the merger of two or more undertakings or parts thereof;
- b* the acquisition (directly or indirectly) by one or more undertakings or natural persons controlling at least one undertaking of control over another undertaking or part thereof; or
- c* establishing and controlling a new undertaking, doing business on a long-term basis, with all features of an independent market participant and access to market (joint venture).

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<sup>4</sup> Other taxes are also applicable in Montenegro, and certain exceptions and tax incentives may apply in particular circumstances.

Concentration constitutes an event notifiable to the Competition Commission (independent authority established under the provisions of the Competition Act, with responsibility for clearing concentrations) if the parties to the concentration meet the turnover thresholds in the business year preceding the transaction amounting to:

- a* the aggregate turnover in Montenegro of all undertakings involved in the concentration that exceeds €5 million; or
- b* the aggregate worldwide turnover of the undertakings involved that exceeds €20 million, where at least one of the undertakings involved is registered in Montenegro.

Evidently, the thresholds established by the Competition Act are not high and can easily be reached by most foreign investors operating on a regional or global scale. Failure to comply with merger notification requirements may lead to fines of €4,000 to €40,000.

There are currently no official statistics available related to the practice of the Montenegrin Competition Commission, but given the ongoing EU harmonisation process, competition legislation on the whole might be viewed as a further step towards EU competition standards (in fact, the Competition Act copies EU competition rules almost verbatim), and it is to be expected that the practice of the Competition Commission will adhere to the EU standards in this field as well.

## **X OUTLOOK**

At the moment, it is difficult to predict the development of the M&A market in Montenegro with any degree of certainty. Montenegrin M&A practice in the near future will presumably follow recent trends: completing planned privatisations (Bar Harbour, Montenegro Airlines, Montenegro Postal Service, etc.) and boosting investments in the energy and tourism sectors. Some optimism may be derived from the positive GDP trends and forecasts; however, other macroeconomic trends (inflation) are still unfavourable. Encouraging developments on the Montenegrin market, however, are the result of forthcoming energy sector and tourism activities, including the potential award of an oil and gas exploration and production licence for the Adriatic Sea, other energy projects, the realisation of Kumbor and Lustica projects, and Bar–Boljare highway construction. Further, in 2012 Montenegro made significant progress by introducing a number of structural measures aimed at strengthening the quality of public finance and by transforming its economy to a market-based economy, however, this process has not yet been fully implemented.

As for possible changes to the legislative framework, the competent authorities in Montenegro have already started preparing drafts of certain regulations that might trigger new M&A activities – these draft acts include the Financial Markets Act and the Companies Act. The greatest expectations, however, remain with the implementation of the legislation enacted so far, primarily the Financial Collaterals Act and the Takeover Act.

Finally, accession negotiations with the EU and consequent harmonisation process will certainly result in positive developments in corporate and M&A legislation.

## Appendix 1

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