

North Western Europe



LORENZ LAW
Steven De Schrijver - Partner
+32 2239 2000
s.deschrijver@lorenz-law.com



MAZARS
Hansjoerg Zelger - Partner
+49 8921636600
hansjoerg.zelger@mazars.de



MÜTZE KORSCH RECHTSANWALTSGESELLSCHAFT MBH (MKRG)
Dr Maximilian Koch - Partner
+49 2 1188 2929
koch@mkrg.com

Seated at the centre of Europe, Belgium's supranational structure has long been likened to the EU. Its seamless welding of two clashing cultures has been viewed as a textbook example of how to create a harmonious multinational welfare state.

Belgium's economy relies heavily on foreign trade and investment; it is therefore highly susceptible to disturbances outside its own borders. However its economy has shown resilience against the current global recession. Steven De Schrijver is a partner at the international law firm Lorenz, which is headquartered in Belgium. Lorenz is the preferred correspondent for many foreign law firms requiring assistance on the Belgian aspects of a cross-border M&A transaction. Lorenz has a strategically located office in Bishkek which has a unique experience in representing international companies and corporations on cross-border M&A transactions throughout the Central Asian region.

Mr De Schrijver commented that the effect of the economic crisis has been mostly negligible in Belgium and stated that: "The impact in Belgium has been fairly limited compared to some other EU member states". He pointed out that no major deals collapsed whilst the financial crisis was in full swing during the last quarter of 2008. In fact, large transactions are still happening. European energy giant Eni recently acquired a 57% stake in Belgium's main gas supplier Distrigas in a deal worth 2.7 billion. Other big deals were concluded smoothly such as ABX Logistics's 100 million purchase of DSV from 31 in June 2008 and the 427 million acquisition of Interkabel by Telenet.

Belgian firms were also active abroad. Many took advantage of the downturn to acquire assets at low valuations. Such deals included the \$50 billion acquisition of Anheuser-Busch by Inbev and Vandemoortele's purchase of Panavi.

Mr De Schrijver also revealed that M&A activity is expected to rise in the near future due to company consolidations in certain industries.

Such industries where M&A activity is expected to increase include pharmaceuticals, ICT and those that are innovation-driven. Firms in the first category are already gathering interest from overseas investors: Belgian drug-chemical company Solvay SA is mulling over a sale of its pharmaceutical unit which could still fetch up to 5 billion. Mr De Schrijver also points out that clean energy companies are also actively looking for investment opportunities. They are in an advantageous position as renewable energies such as solar, wind and biomass are seen as growth industries in Belgium. Coupled with the government's planned phase out of nuclear power by 2025, investment in the sector is likely to rocket in the next decade. Biotechnology companies are also seeking funding and Mr De Schrijver added: "Since 100 of the approximately 4000 biotech companies in the world are located in Belgium,

we may see a significant increase in M&A in this sector."

Mr De Schrijver said that government incentives such as direct aid, employment and training incentives have helped Belgium remain attractive. Tax measures have also been implemented such as the so-called 'notional interest deduction' which allows companies and organisations to reduce their taxable base when making investments from their own resources, and the 'patent income deduction' which reduces the effective tax rate for income derived from patents. Tax incentives such as the latter have encouraged R&D and also attracted holding companies of multinational firms.

The regulatory framework is also non-invasive. "Besides merger control, acquisitions in Belgium are not subject to any prior authorisations by public authorities," explained Mr De Schrijver. He noted that the biggest challenges related to cross-border M&A in Belgium is the country's complex institutional and constitutional system. As Belgium is a multi-jurisdictional state, regulation may vary from region to region, especially with regards to language requirements, environmental, real estate and also tax matters to some extent.

Like Belgium, Germany's economy is heavily intertwined in the EU and the rest of the world. As the largest market in the EU, it plays a key role in world trade and therefore cannot act independently from international market conditions. Consequently, it has suffered as a result of recessions in other industrialised countries.

Hansjörg Zelger is partner at international accounting firm Mazars. Mazars offers clients a holistic M&A service that combines multidisciplinary teams of business, tax and legal advisers to examine and address relevant issues during a transaction. Mr Zelger said that M&A activity in Germany has dropped significantly. He explained: "Until 2007 private equity investors were involved in many and major transactions those could be hardly seen as participants involved in such transactions." However, more strategic investors have emerged to become the new market participants.

Maximilian Koch agrees that the German M&A market has altered its focus. Dr Koch is partner at Mütze Korsch Rechtsanwalts-gesellschaft (MKRG), a German full-service law firm that also has a strong and reputable corporate law, M&A and restructuring practice group with offices in Düsseldorf and Cologne. He said: "Some months ago primary investments offered by financial as well as strategic investors were prevailing. Now we have a buyer's market rather than a seller's market with an increase in distressed M&A transactions."

Dr Koch said highly leveraged deals which were previously favoured by investors have been shunned due to difficulties stemming from the recession. He cited Schaeffler's hostile takeover of Continental and Volkswagen by Porsche as two deterrent examples. In the case of the former, Schaeffler's 12 billion purchase was almost entirely funded by bank loans, which it is now having trouble repaying. It has requested 4 billion in state aid from the German government.

Dr Koch explained that German companies - including large multinationals - are facing great difficulties obtaining credit. He noted that the automotive industry and its subcontractors have been hit especially hard.

Mr Zelger agreed and said: "The automotive sector, a very important part of the German economy, is strongly affected by the crisis." He noted that the majority of German automotive suppliers are smaller groups and companies which often lack - for different reasons - sufficient financing.

He added that as a consequence of decreased revenue, increased pressure from OEMs and limited resources to finance higher working capital levels and/or losses, shareholders of affected automotive companies are being forced to sell to stave off bankruptcy.

The German economy is historically orientated around the 'Mittelstand'. These are small to medium-sized businesses that tend to be family-owned and place high value on their independence. Due to this preference for minimising external influences, Dr Koch said that

North Western Europe



WANGER LAW
Dr Markus Wanger - Founding Partner
+423 237 52 32
markus.wanger@wanger.net



PELLICAAN
Michel Straus - Partner
+31 20 20 60 607
michel.straus@pellicaan.nl



TRAFALGAR CAPITAL
Bob Press, Chief Investment Officer
+44 207 2696880
bpress@trafcap.com

these enterprises usually finance their activities internally by using operative cash flows. Another important source of their financing comes from customer and supplier credits. However Dr Koch explained that the economic crisis has meant these sources of internal financing are now dwindling.

Instead, many businesses are turning towards leasing which still retains some flexibility. Conditions for leasing are less stringent and demanding as bank loans. However, Dr Koch added that leasing as a means of financing is already common so the possibility of acquiring additional funds is limited. As a result, funding via external debt or equity financing has become more important.

Germany still offers a stable legal framework for M&A transactions. However, complicated legal issues which are overlooked or not properly dealt with can derail even the best laid plans for a deal. According to Dr Koch, the change in ownership following a buyout may not only draw the attention of merger control regimes if the transaction is big enough, but also negatively affects the legal aspects of other issues such as subsidies, finance and taxation.

Dr Koch also explained that if the target company has foreign subsidiaries, the legal problems associated with a buyout can be even more complex. Consequently, sound structuring and preparation for the transaction as well as thorough due diligence are essential. "MKRG is adept at working in international teams," stated Dr Koch.

He added: "I structured and led not only many private as well as public M&A deals but also many international legal due diligences in the past years and therefore know that a thorough preparation at the very beginning as well as a good management of the entire M&A process is necessary."

In the first quarter of 2009, parliament adopted the Foreign Trade Act, which substantially expands control of acquired German companies by foreign investors. Dr Koch said: "We think that normal foreign investors need not fear the new rules."

According to Dr Koch, the amendment to the Trade and Payments Act enables the German Federal Ministry of Economics and Technology to examine the acquisition of a stake in a German company through non-EU or non-EFTA purchasers leading to a voting power of at least 25% and, only if necessary, to prohibit such acquisition in order to safeguard Germany's public interests. However, this requires a genuine and sufficiently serious threat,

affecting one of the fundamental aspects of society.

Another requirement that will change the German M&A landscape is the forthcoming implementation of the amended IFRS 3. Mr Zelger noted that the amendment of IFRS 3 for reporting periods starting July 1, 2009 or for calendar years beginning January 1, 2010 will have an impact on the accounting of deals for the future, e.g. transaction costs like costs of financial advisors, lawyers or accountants need to be expensed in the consolidated financial statements. The purchase price allocation and particular goodwill impairment aspects in particular remain an issue.

He explained: "Depending on the transaction the purchase price allocation may be a complex challenge for the accounting and audit team; in particular thorough knowledge and experience in the valuation of tangible and intangible assets is required."

He added: "Due to the financial crisis goodwill impairment or the impairment of material acquired intangible assets like trade marks, licences, patents etc. may become a more important aspect of financial accounting and subject to discussions with auditors or oversight boards, in particular before the background of high purchase prices paid in recent years. In this context the analysis and discussion of forecast and business plan gains a high relevance more important than ever."

Mazars helps its clients anticipate and plan for this events. Mr Zelger explained that the firm attempts to visualise the effects of purchase price allocations on future results by applying scenario analysis. The application of the analysis enables clients to understand the implications of the M&A transaction on future results and factor it into their business decisions.

Despite ongoing uncertainty, both Dr Koch and Mr Zelger are bullish over the German marketplace's prospects. The latter points out there are sectors which have not been materially affected by the financial crisis such as the utility sector. Mr Zelger explained: "This sector is characterised by consolidation and deconsolidation processes or the reorganisation of major groups giving room for much M&A activities." He pointed out that regional utility companies intend to expand their operations and reduce their dependency on major national firms.

Opportunities will also arise in the banking sector as banks are forced to dispose some of their assets. For instance, financial institutions Commerzbank AG is expected to sell off material assets to improve its equity holdings.

Markus Wanger is the founder of Wanger Law. It is an international European commercial law firm founded in 1987 and domiciled in Liechtenstein. Wanger Law and Trust Corporation has a wide range supporting local and international work with an emphasis on intellectual property, tax law, mediation and arbitration. "Our lawyers are specialised on business law, inheritance law and intellectual property but also well trained in all other legal aspects," said Mr Wanger. The firm also provides international tax advice.

In Liechtenstein, being a small country situated between Switzerland and Austria, cross-border legal advice is daily business for many lawyers and economical advisers, says Mr Wanger. He said that it is not readily apparent on the streets but the country has been touched perceptibly by the economic crises. "Anything that happens in Europe, anything which happens in the world in fact reflects also in this small world of 160.5 square kilometres," he said. He added however: "As every crisis implies chances the climate of deal making is good, if not very good."

Liechtenstein is politically stable, a member of the EEA, a member of the UNO and of many other important associations. The closest relationship it has towards Switzerland due to a customs treaty of 1923. The official currency is the Swiss Franc but the Euro is generally accepted. Liechtenstein has a developed legal system and a lot of well trained employees. The relationship of the business investors and their advisors to local authorities is generally a good and

friendly one. The comparatively low taxes are interesting for investors. A tax reform will make the system even more attractive and tax treaties are under negotiation.

Liechtenstein's industry is dependent on exports which did not increase in 2008. Several firms have reduced their production or changed their investment plans. Liechtenstein products are excellent though which Mr Wanger believes will help it through the crisis. Deal flow has not been affected by the crises and also the method of funding of deals has not changed. Liechtenstein banks are stable and solid. The financing of new products has always been difficult as banks always had a very conservative policy but there are interesting chances for start ups in Liechtenstein as well as in Switzerland. Private investors can be found and tax reductions - at least in Switzerland - may be negotiated if the project seems interesting.

"We do not see many difficulties associated with cross-border M&A in Liechtenstein," explained Mr Wanger. "Of course the laws of more than one country have to be looked at and tax implications have to be calculated." Wanger Law is able to leverage its international network of over 15,000 professionals to provide tailored high-end services. The firm's lawyers, tax consultants, mediators, accountants and auditors together with well trained practitioners work as a team and will find creative and practical solutions for every challenge.

Wanger Law is the only Liechtenstein member of the ICC Counterfeiting Intelligence Bureau. The firm is also a member of important associations such as Globalaw, Interlegal, Kreston and IBLC. International companies as well as institutions are advised worldwide. "We supply our clients with state of the art expertise and compliant solutions," said Mr Wanger.

Michael Straus observes that downturns allow cash-rich investors to cherry pick their choice of assets in a sea of depressed valuations. Those that have little in the bank may encounter choppy waters though. "Banks and other institutions will finance deals but only up to a certain level," he said. He added: "My experience is that small deals are still continuing, although in order to get these deals financed one needs a good financial expert who is familiar with the bank proceedings and what happens also, sellers does actually assist their purchasers to get the deal financed at least. A good example is Unilever which sold a subsidiary and the purchase price was transferred into a loan." He also added that many deals have collapsed in the harsher climate, though this is not unusual from other economies at the moment.

This is the situation which small and medium-sized businesses are presently facing in the Netherlands. Prior to the financial crisis, it was not unusual for banks to provide up to 75% of the funding required for a deal, along with sharp interest rates and minimal financial covenants. However, economic uncertainty in the Dutch economy has shaken the confidence of financial institutions. Mr Straus said: "At this moment it is difficult to obtain financing, especially at competitive terms and conditions." Although the Dutch government is taking measures by subsidising R&D investments, simplifying partial redundancy of personnel and mitigating the tax burden for small to medium-sized enterprises, in general the expectation is that these measurements will not help the companies, especially those which are not very solvent, in the long run.

Pellican's expertise is characterised by its knowledge and skill in small and medium sized business buyouts. The firm has experience in all types of takeovers, whether they are general takeovers, management buyouts or management buyins. "We are able to assist our clients when they want to participate in a company as well, in which form whatsoever," said Mr Straus.

Lack of familiarity with the Netherlands' M&A legal framework is the first problem that many clients encounter according to Mr Straus. He said: "Translating the legal, tax and financial merits related to an M&A deal under a continental law system is very important when a client comes from another country, an Anglo-Saxon country or a country in which an Anglo-Saxon legal system applies." Issues relating to warranties, due diligence and the disclosure of important information from the seller and correction mechanism related to the purchase price are also key factors during any transaction, especially as investors are now more risk-averse. As a result, Mr Straus said that the number of purchase agreements containing correction mechanisms relating to the purchase price based upon a company's equity or profit have increased. Furthermore, the financial aspects of structuring a deal should be carefully looked at. The Netherlands used to be a typical holding country for international companies. Mr Straus believes the Dutch government should therefore be careful when amending the Dutch tax legislation which may be detrimental to holding companies. Certain amendments regarding the taxation of interest, such as the deduction of group-interest, are prepared by the Dutch Ministry of Finance and may lead to the restructuring of international companies.

"For an M&A transaction you need another advantage than just representing the client's interest in court," said Mr Straus. Pellican is different in this regard as its M&A lawyers render legal services with the expertise and commercial awareness of the clients' business and by involving tax lawyers and financial experts, Pellican is able to advise their clients on all relevant aspects in relation to an M&A transaction. "Our objective - besides rendering high quality services - is to develop sound business relationships with our clients and to become a long term partner to them," explained Mr Straus. He added: "We strongly believe that especially then we have a clear understanding on actual matters and are able to provide our services sufficiently and thoroughly."

It would be difficult to describe the UK's cross-border deal market as anything other than morose at present. Significant problems in the financial services and property sectors dogged the economy in 2008. The ramifications of these problems have become highly visible in 2009 and pushed the country into its deepest recession post-WWII. Bob Press, chief investment officer at independent investment firm Trafalgar Capital believes that the current environment is challenging but not impossible. He noted that there are tremendous opportunities still available.

Only diligent, hard graft will see deals completed successfully though. Mr Press stated: "Due to the disruption of available capital at most levels as well as the stress brought on by the economic environment, deal making can be extremely difficult currently."

"However, this also presents amazing pockets of opportunity as stronger competitors can seek to enhance their market position by picking up weaker competitors at historically low valuations as well as engage in expansion of their business lines to take advantage of peripheral and horizontal opportunities."

Corporate financing for different types of deal making in the UK has been dramatically curtailed. Mr Press said this is especially true for small to medium enterprises which historically have never had 'easy' access to capital. He said: "In the current climate, small to medium enterprises, and in particular listed firms have seen their traditional sources of equity and bank capital where obtainable, decline to almost non-existent levels." Consequently, this inability to secure capital is one of the key difficulties in UK deal making at present, along with lack of access to structuring advice across all but the largest transactional levels.

Mr Press observes that at this point in the economic cycle, companies must show true accretion of their income statement. He said: "A history of successful deal integration and the ability to put more of their own equity into the deal are components that are needed more than ever."

Trafalgar Capital brings together a very seasoned team with over 100 cumulative years of deal making experience, covering all five continents. Combined with access to Trafalgar's own credit-related fund facilities, this makes for a formidable and practical solution for companies. Furthermore, Trafalgar's expertise is in the small 'cap' arena where most banks and brokerage firms find it unprofitable to do business. **It has established a reputation of helping small to medium sized businesses achieve and expand their aims. The firm**

also leverages its rich experience in foreign markets too by using a combination with its own funds and external financing sources to facilitate a client's M&A and corporate finance demands as seamlessly as possible.



South Eastern Europe

<p>DINAMIKI EPE Spyridon Michopoulos - Partner & Managing Partner +30 2106124663 dinamiki@otenet.gr</p>		<p>POLENAK LAW FIRM Tatjana Siskovska - Associate +389 2 3114 737 tsiskovska@polenak.com.mk</p>		<p>FENECH & FENECH ADVOCATES Nicky Vella Falzon - Partner +356 2124 1232 nicky.vellafalzon@fenlex.com</p>	

Greece has largely escaped the worst of the global economic downturn thanks to its small and sheltered economy. Its lean size compared to other industrialised countries means it has a degree of adaptability.

However, the country's inability to fully diversify its economy has highlighted its reliance on a few key industries. It is this dependence that threatens Greece in 2009. "The main risk for the Greek economy for 2009 is the percentage of the reduction of its basic economic indicator, such as the country's tourism," said Spyridon Michopoulos, managing partner at DINAMIKI EPE. He debated whether the tourism industry would post a decline this year and what the effect might be on the Greek economy.

The situation of corporate financing in the country is not promising. Mr Michopoulos said: "In the current climate, the country's general psychology is a negative one." He noted that banks have restricted loans to small and medium-sized companies despite state recapitalisation to improve their balance sheets. However, the banks still remain reluctant to fulfil the raised demand for financing funds. Mr Michopoulos said that they have been highly selective on who they lend to and have implemented stricter financial covenants.

"The banks insist on tangible guarantees," said Mr Michopoulos. He explained that they are demanding personal warranties from the loan recipient, including their personal assets. The lack of liquidity has also been compounded by high interest rates and a low spread that comes between 3 and 4%.

"The unavoidable result of the above is a natural reduction in M&As in our country," said Mr Michopoulos. He added: Activities planned before the outbreak of the crisis, were either postponed for the future or shelved."

Despite their unwillingness to finance deals, Mr Michopoulos believes that banks will play a key role in the Greek economy's revival. He said: "We believe that the banking sector has played a dominant role in the past and will once more play an important role in the future, when the economic conditions and the current negative outlook allow this to happen again."

The food industry is also emerging as a candidate for strong M&A activity in the future. Mr Michopoulos agrees and said: "The food industry is an interesting sector that could offer attrac-

tive investment opportunities."

Investors and acquirers in the Greek M&A market still need to grapple with the country's overwhelming bureaucracy. Inefficient government bureaucracy was ranked by Greek businesses as the most problematic factor for doing business in the Global Competitiveness Report 2008-2009. Mr Michopoulos said: "The Greek state defines a certain formalist accounting and tax environment that makes it quite challenging for a foreign company to adjust to." He added that foreign clients must try to fully understand and adapt to local regulations.

DINAMIKI EPE has considerable bilateral experience and an inherent awareness of Greece's M&A legal framework. The firm has developed specialist knowledge and understands different European and worldwide mentalities.

Cyprus has a comprehensive and efficient legal framework that facilitates cross-border deal making in the country. Local tax laws on the island have encouraged mergers, reorganisations, and acquisitions. As an additional sweetener, there is no corporate tax or stamp duty payable for these operations.

Due to this favourable tax regime, the climate for M&A in Cyprus remains fruitful despite the global economic downturn. Cyprus remains the jurisdiction of choice through which international groups proceed to acquisitions, re-organisations, mergers and joint ventures using the Cypriot company as their preferred vehicle. The simple legal framework, the extensive Double Tax Treaty Network coupled with beneficial tax regime with low or no taxation the European stamp of



**SERVIST INTERNATIONAL
CONSULTANCY**
Zafer Karaca, Partner
+90 212347103132
z.karaca@karacalaw.com

tassos papadopoulos & associates

**TASSOS PAPAPOPOULOS &
ASSOCIATES**
Marios Eliades, Partner
+357 2288 9999
meliades@tplaw.com.cy

spectability, as well as the expertise and efficiency of local professionals to deal with international transactions adds to the attraction of the Cypriot company. It is no coincidence that Cyprus has emerged as a major player in the field of holding companies through which transactions are effected.

Tassos Papadopoulos & Associates is a leading law firm that provides a full range of legal services. The firm maintains its principal practice base in Nicosia and is associated with local firms in all towns of Cyprus; it is also a member of major international networks of independent law firms with several thousand well-connected lawyers in over 90 countries. The firm's participation in these networks enables its members to guide clients daily through the challenges of global business and to provide them with a rapid and thorough response to the highest international and local standards.

In Malta, there is no official data showing the effects of the downturn on M&A activity within its economy. However, Nicky Vella Falzon, partner at full service law firm Fenech & Fenech Advocates believes the general sentiment from legal and financial sectors is that there has been some decline in various practice areas, including M&A. He said that M&A activity in Malta is often related to or a spin-off of international M&A activities that involve Maltese vehicles within corporate structures. As a result, any drop in worldwide M&A trade will have some effect on the deal market in Malta.

Local banks have rationalised credit facilities somewhat in the light of current market conditions said Dr Vella Falzon. He noted that financing for certain industries like construction have been harder to obtain as a result. Nevertheless, the general condition of deal financing can still be described as favourable in comparison to most other jurisdictions as the effect of the global economic downturn on local banks can be described as insignificant in comparison to banks elsewhere. He added: "Of course a general sense of caution prevails." The gaming sector remains a particularly interesting industry in Malta said Dr Vella Falzon since it has been least affected by the global economic downturn, it will likely lead the rally when the Malta stages its economic recovery. "In fact this sector continues to register growth in so far as numbers of registered gaming companies in Malta are concerned," he said.

Fenech & Fenech Advocates boasts a thriving M&A practice that provides expertise in each of the corporate, commercial and fiscal fields that pervade all M&A activity. F&F is at the forefront of law firms in this area with a wealth of experience ranging from local private M&A transactions, the privatisation of major governmental organisations and other large acquisitions with an international dimension. With its close affiliation

with the Fenlex Group of Companies, F&F offers its clients the whole range of services that may be required in a M&A transaction, from the incorporation and administration of corporate vehicles to back-office support to the full range of legal assistance (including contract negotiation) that may be required in connection with the transaction. Its team of M&A legal practitioners have also developed an excellent relationship with local authorities and regulators providing facilitated and expedited response to clients' requirements

F&F has been and is engaged in a number of cross-border transactions, typically corporate and asset finance transactions involving Maltese vehicles that are required to provide security as part of the global security pool requested from the borrower, and of course M&A transactions. In so far as M&A activity is concerned the firm has acted for foreign bidders in a number of local privatisation deals including the Malta Freeport, Enemalta's petroleum division and currently the Malta Shipyards, all of which are notable government corporations and entities. Furthermore, in the first half of 2009, it acted for a Dubai-based telecoms provider that through its local subsidiary acquired three Maltese entities having a leading share in the market of IT hosting and related services.

In recent years, Macedonia has implemented a long-term strategy for strengthening and expanding its economy. This follows on from the considerable economic reform which has occurred since independence. One area that has been targeted is the M&A environment. According to Tatjana Siskovska of Polenak Law Firm, the legal framework has undergone structural reforms and simplification to help improve the quality and stability of the marketplace. Modern EU directives on M&A regulation have also been incorporated, bringing the market in line with the European continent.

Legislative improvements are still ongoing. Other policies will include improving the regulatory powers of watchdogs, reducing the 'grey economy', greater protection of creditors and faster execution of financial obligations. She said: "These areas are marked as a priority while improving the economic system of the country."

In addition, the government has recently implemented a major reform of the tax system. It introduced a flat tax rate in 2008 which significantly lowered corporate and personal income tax.

The present condition of corporate financing in Macedonia has become more difficult according to Ms Siskovska. Like other countries, Macedonia's banking sector has strengthened financing terms which has led to tighter lending conditions. Ms Siskovska said: "The measures undertaken by National Bank of the Republic of Macedonia led to the tightening of credit requirements of the domestic banks."

Current legal difficulties in Macedonian cross-border M&A are strict takeover rules. International transactions raise the possibility of competition issues. In addition, Ms Siskovska said there is a currency risk due to the legal requirement that all the transactions regarding the sale and purchase of securities should be carried out locally and within Macedonian currency.

However, she noted that there is nothing that is likely to surprise experienced investors. Foreign investors largely enjoy the same rights and conditions as domestic buyers unless otherwise determined by law. Ms Siskovska explained: "The participation of a foreign person in a newly founded or an existing company is unlimited, except in certain sectors."

Polenak Law Firm deals with all the issues which may arise for potential investors, continuously providing legal support throughout a transaction. Its team of experienced lawyers provides prompt, well-reasoned and sound legal advice for clients, and enables it to offer them coverage on different legal areas in order to detect and resolve any issue

which may be considered unfavourable.

The firm has a diverse portfolio of international clients that comprise of multinational financial groups, banks, insurance companies, tobacco firms, companies trading and producing metals, and construction companies.

The Turkish deal market has declined in the past 12 months as a consequence of downturns in other key economies. "The deal level and yields are at a very low number," said Zafer Karaca. He observed that the country's cross-border deal market is witnessing a flight of capital with foreigners hesitant to invest in the country due to its internal economic problems. Overall, he stated that there have been less than five transactions exceeding \$50 million concluded in Turkey in 2009 so far.

However, while the mega buyouts of yesteryear have now all but disappeared, smaller transactions varying between \$8 and \$10 million are still going through. Mr Karaca said: "I think for a while, everyone was looking for deals that were above \$50 million. Any transaction - whether it is \$5 million or \$50 million - requires the same amount of work. It was not profitable or cost-effective for consultancies or logistical services to enter into a small deal."

Mr Karaca also pointed that some transactions have been classified as such under dubious circumstances. He said: "Some deals should not be counted as transactions because they are either capital increases or change of shareholders. In these cases, they should not be considered new investments or cross-border transactions because these were deals already established in Turkey."

Turkey's 73 million strong population remains there will always be overseas interest in its industries and vice versa. There are sectors that hold promising investment opportunities. "The energy sector is very important and as a subdivision, clean energy too, such as wind and hydroelectric," said Mr Karaca. He also noted that as Turkey has a young and affluent society, retail and consumer goods are likely to see increased M&A activity in the future. Turkey's geographical proximity to areas of anticipated economic growth such as the Commonwealth of Independent States is also advantageous.

However, Mr Karaca cautioned that the anticipated growth in these sectors would largely depend upon the situation of international financial markets. He said: "Any investments in these sectors will have to be a long-term approach and investors will have to wait patiently for markets to settle down in a few years' time."

Corporate financing has dried up for Turkish deals. There are a few Turkish banks which are still lending but only in very small amounts. The majority of these loans are going to small to medium-sized companies of valuations between \$5 and \$10 million. Overall, Turkish banks have shied away from corporate financing and are concentrating their efforts on consumer credit facilities such as mortgages and car loans. "They are concentrating on personal loans that amount to \$10,000," explained Mr Karaca.

A key reason why banks are reluctant to finance deals is because of poor accounting standards and practices. "I think the problem in Turkey is that corporations have poor bookkeeping," said Mr Karaca. He said that corporations are unable to provide concurrent financial statements that support their track records. This deficiency may change in the near future with proposed reformation of the commercial code. "There is a bill currently circulating in parliament that if enacted would provide more transparency and regulation," said Mr Karaca. The revision, if passed, could bring international auditing and accounting norms to Turkey, providing new regulations on corporate governance that will strengthen transparency and accountability.



Nordic Region



COWI A/S
 Claus Primdal Sørensen - Senior Advisor
 +45 4597 1414
 cps@cowi.dk



BORENIUS & KEMPPINEN
 Nina Wilkman, - Partner
 +358 9 6153 3402
 nina.wilkman@borenius.com



Nordic countries often top the rankings when surveys rank nations on their citizenry's happiness. However, the region's latest economic data will not brougth cheer to many. Nordic countries have been hithard by the worldwide recession. Their highly industrialised, export-orientated economies have slumped as demand for high value goods has fallen.

Finland in particular relies heavily on exports. It reported a trade surplus of 95 million in 2008. Its multinational companies account for a significant proportion of this uneven balance - for instance, Nokia's mobile handsets accounted for one quarter of Finnish exports in 2003.

Its macroeconomic integration has meant a high degree of susceptibility to downturns occurring elsewhere. The government reported a 7% contraction during the first quarter of 2009 compared to 2008. GDP fell 7.6% in January through March compared to the same period a year ago. The trade balance also nosedived with a 40 million deficit reported in January.

This has taken an obvious and substantial toll on the country's M&A environment. Nina Wilkman, partner at Borenius & Kempainen said that there has been a clear decrease in the number of deals completed in the first half of 2009, although figures have risen slightly recently. She said: "We have seen a slight increase in different kinds of deals during the last month or so, however, negotiations are quite lengthy and getting deals signed or closed requires an extra effort."

Borenius & Kempainen is one of Finland's oldest and most recognisable law firms. Established in 1911, it has an experienced M&A practice that brings together people with diverse backgrounds, enabling it to provide an integrated consultancy.

Ms Wilkman observed that the hostile climate has elicited different responses from Finnish companies. Some wish to divest non-core assets, others want to consolidate businesses whilst private equity firms appear willing to transact in equity only. She added: "It seems likely that smaller, mid-sized deals would be easier to carry through than very large transactions, although exceptions do exist."

The general absence of mega deals is likely due to risk-averse banks. Ms Wilkman said: "The banks in Finland and in the Nordic region are generally very, very cautious to funding deals." She noted that this attitude would need to change to help the M&A marketplace recover and said: "In order to get a working deal market, there needs to be senior financing available."

However, some firms are seeing success through alternative methods of funding. Ms Wilkman pointed out that investments and other arrangements might be sustainable options for companies instead of going bankrupt. Private equity and venture capital paths also remain viable but as their nature of business has been fundamentally altered by the recession, their terms and conditions for financing have become much less attractive.

One obstacle for investors in cross-border deals is language. Ms Wilkman stated that there is a certain language barrier as the dominant language is Finnish and Swedish the minority language. However, Finnish nationals generally have an excellent command of English. Borenius & Kempainen's M&A attorneys are no exception.

One Finnish peculiarity that separates it from other legal frameworks is the absence of a common law system. Ms Wilkman pointed out that when negotiating smaller deals with private owners, the vast model documents may not be most suitable for completing a deal in Finland. "Besides this, it is fair to say that Finland is an easily accessible country when carrying out cross-border M&A," concluded Ms Wilkman.

Nordic countries are also considered to be more environmentally aware than their Anglo-Saxon cousins. Their environmental legislation often reflects this. "Denmark introduced

its first environmental protection act back in 1974 and was considered a frontrunner in this area," said Claus Sørensen. Mr Sørensen is a senior adviser at COWI A/S, an international consultancy group that specialises in engineering, environmental science and economics.

Mr Sørensen noted that despite the maturity of other countries' legislation - partly due to EU harmonisation - Nordic countries are still considered pioneers in environmental legislation. He added: "I would say it is more on the enforcement than the legislative side that distinguishes Scandinavian countries from others, along with health and safety regulations."

The Danish environmental consultancy market has progressed alongside the country's societal and legislative development. Mr Sørensen explained that the marketplace has been characterised by three to four large multidisciplinary consultancy groups, an equal number of small to mid-sized groups and a large number of small boutique consultancies.

COWI A/S belongs in the upper echelon of this hierarchy. Founded in 1930, it employs 4,800 people in offices across 35 countries and has been involved in more than 50,000 projects in 175 countries to date. "COWI cover all aspects of environmental due diligence assessment," explained Mr Sørensen. Its practice not only encompasses various environmental disciplines but also bespoke services that are designed for each stage of a transaction.

The Danish transaction market has currently some of the same characteristics as mentioned for Finland. In addition, a number of privatisations are lined up.

According to Mr Sørensen, only a few of the large global environmental consultancy groups have established themselves in Denmark. He said: "Dames & Moore were the first more than 10 years ago but pulled out when acquired by URS. Since then, Golders and Atkins have established themselves in Denmark but are still relatively small within the Danish environmental due diligence consultancy market."

Denmark has also integrated EU directives on the environment to complement its already healthy body of legislation. These are often promptly implemented and effectively enforced by authorities. Compliance with the directives that concern the environmental regulation of goods, such as REACH, RoHS, WEEE, ELV and EuP, can catch investors out when they conduct cross-border transactions in Denmark. Mr Sørensen said: "We approach these issues by using the breadth of expertise we have available within our own company and by using our international partners of co-operation through COWI's Joint Venture firm CAT Alliance Ltd."

Americas



BASHAM, RINGE Y CORREA, S.C.
 Daniel del Río - Partner
 +52 5552610400
 daniel.delrio@basham.com.mx

FELSBERG & ASSOCIADOS
 Neil Montgomery - Partner
 +55 11 3141 3669
 neilmontgomery@felsberg.com.br



DAVIES WARD PHILLIPS & VINEBERG
 Kevin Thomson - Senior Partner
 +1 416 863 5590
 kthomson@dwpv.com

Mexico's years of stable, unprecedented growth are now a distant memory. Its economy has contracted sharply since the start of the financial crisis with predictions that the GDP will shrink 5% in 2009.

Various forces, some beyond the country's control, bear responsibility for its economic deterioration. Most notably, decisions made a thousand miles north, in Detroit City, Michigan, have had a significant impact on the country. Mexican automotive, mostly made up of subcontractors and parts suppliers, depends heavily on the big three American carmakers GM, Ford and Chrysler for business. Both Chrysler and GM have filed for bankruptcy, casting further doubt over the future of Mexico's car industry.

Daniel del Río, partner at Mexican law firm Basham, Ringe y Correa, noted that automotive business has already slowed in Mexico. The country quietly slipped into recession in May 2009, an event that some analysts see rivalling the mid-1990s financial meltdown known as the Tequila Crisis. Mr del Río believes the current slump catches Mexico in an altogether different position though since dollar reserves and foreign debt are in a far better position.

The crisis has had a knock-on effect on the Mexican deal market. "Mexican deal flow has been reduced by the recession in the USA because of, among other things, the lack of liquidity in the financial markets, the deterioration of cash flow, the fact that some banks are not able to grant loans to companies, the destabilization of share prices, the difficulty in obtaining access to financing and rising unemployment," said Mr del Río.

Despite these formidable laundry list of problems, he added that it is still business as usual. He said: "The financial crisis has not yet affected Mexico to the extent in which the USA has been affected with the result that every day, due to the devaluation of the Mexican peso against the US dollar, the Mexican economy is showing signs of reactivating, encouraging deals with international entities interested in supplying the Mexican market or supplying international markets from Mexico."

These signs of recovery signify a timely stage in Mexico's economic downturn. "Prior to the current US recession, M&A activity had been very active in Mexico," said Mr del Río. He noted that as the US attempts to extricate its economy from its parlous state, investors will look abroad for new opportunities. Many will turn towards Mexico for its low costs and the recent currency devaluation: the peso has dropped 40% against the dollar since August 2008. This depreciation has made investment and relocation in Mexico more attractive with wages and rents lower compared with those in China, the USA or

Canada. It still boasts a wide array of free trade agreements and remains part of the world's largest free trade zone under NAFTA. Its proximity to both the USA and Latin America offers further advantages. "It is expected that many investors will continue to invest in Mexico," stated Mr del Río. Consequently, deal making is expected to continue in 2009 at a reduced rate and under the guise of cross-border transactions.

Basham, Ringe y Correa is one of Latin America's largest full-service law firms. Since its formation in 1912, it has been involved in various Mexican M&A transactions during the last three years. Its portfolio of deals include acting on the purchase of a logistics company, advising on senior secured financing for \$270 million, the dissolution of a joint venture between Desc (now Grupo Kuo) and Dana of an auto parts business, as well as the purchase of a portion of the shares in the capital of the Toluca International Airport. The firm also participated in a joint venture between Grupo Kuo and Grupo Herdez for the production and sale of food, the acquisition of a 49% stake in the capital of the holding company of a steel producer and the acquisition of 100% of the shares of a tyre manufacturer.

According to Kevin Thomson, partner at Davies Ward Phillips & Vineberg, Canada's M&A environment is currently warm and getting hotter. A large of its resurgence has been down to recoveries in the price of commodities. Mr Thomson said: "A key component in the M&A side of Canadian economy revolves around commodities. Canada is a commodity-based economy in many ways - it has huge deposits of natural resources like oil and natural gas. Perhaps most importantly from our perspective, it is also huge in mining."

The Toronto Stock Exchange (TSX) is the largest stock exchange in Canada, the third largest in North America and the seventh largest in the world by capitalisation. It also happens to be the premier choice of listing for mining enterprises around the world. Mr Thomson explained that the sector is well understood and catered for in Canada. As a result, there is huge investor appetite in mining stocks in both base and precious metals. "The TSX is by quite a distance the number one stock exchange for mining companies to list on," said Mr Thomson.

The TSX's value has grown in proportion to the rise in commodity stocks. Mr Thomson pointed that demand from China is driving a sustained increase in the price of copper. He said: "Prices have gone up from \$1.35/lb four months ago to now well over \$2. Most copper producers' breakeven price - the minimum sell price needed to absorb costs - is about \$1.25 to \$1.40/lb. At \$1.35/lb, some copper producers were on the verge of tipping over financially." Mr Thomson revealed that at the Global Metals and Mining Conference in February, a person from a world-leading copper producer revealed that they had slashed and burned expenditures because it was critical to do given the lower copper price and costs of production. "But here we are four months later and the price of the commodity has increased 40% and that producer's share price has more than tripled in the past three months," he said.

Besides mining, Canada has a range of other diverse industries that are driving cross-border deal activity. The country is a global leader in ICT, life sciences, technology and manufacturing. Notable Canadian multinationals include Blackberry makers Research in Motion and Biovail Pharmaceuticals, one of the world's largest producers of generic drugs.

Corporate financing for deals has also changed dramatically. Twelve months ago, large buyouts were financed by private equity houses which Mr Thomson estimates were responsible for between 25 to 35% of all M&A activity. However, since the liquidity crisis started in June, he said it has become harder for private equity houses to lever up their acquisitions. He explained: "What's happened since is that private equity houses have pulled right back from deals in the resources sector." In recent months, their involvement has been largely restricted to the technology, life sciences and manufacturing industries which Mr Thomson said which are

more traditional, 'nuts and bolts' sectors of the economy.

Fortunately, the retreat of private equity has been accompanied by the rise in commodity prices. Many mining enterprises' cash streams are huge said Mr Thomson and many are now sitting on swathes of cash, which can be used to fund M&A transactions.

"Also, what has happened recently in the past three or four months is the emergence of a lively stock and bond market," noted Mr Thomson. He explained that companies have issued large amounts of common shares into the market. "In addition, there is also a very large and active debt financing market in Canada," he said. "Consequently, many of Canada's largest firms have repeatedly gone back to the market to issue bonds or common shares to raise cash, or issue preferred shares in some cases."

Davies Ward Phillips & Vineberg is one of Canada's 'seven sisters' law firms. Mr Thomson said: "We are smaller than virtually all our competitors but we are also much more focused on mergers and acquisitions and corporate deal making than any other law firm." Renowned Canadian law directory Lexpert ranked Davies as the leading Canadian firm for corporate transactions in Toronto and among the very best in Montréal this year. The publication also held Davies in high regard over its corporate tax and litigation expertise, ranking it among the best providers in both Toronto and Montréal. "We are at the heart of most of the significant M&A transactions that go on in Canada," said Mr Thomson. He added: "We are smaller but highly focused." Its clients include some of the world's largest and most recognisable multinational firms including BHP Billiton, FIAT, Xstrata and Barrick Gold Corporation.

Neil Montgomery is a partner at Brazilian law firm Felsberg & Associados. Founded in 1970, Felsberg & Associados has

grown into a full-service international law firm with offices in São Paulo, Rio de Janeiro, New York, Dusseldorf and Shanghai. It currently has 23 partners and more than 150 associates and trainees. According to Mr Montgomery, Brazil is been one of very few countries that has suffered less from the world economic and financial crisis. Although it slipped into recession in mid June, its contraction is expected to be swift and much less painful than in other major economies. Furthermore, Mr Montgomery noted the Brazilian government still contemplates the possibility of mild growth in GDP for certain sectors this year.

Like Canada, recent surges in the price of commodities have increased company profits and share prices. This has boosted confidence in Brazil's ability to tackle the economic crisis and led to intense trading on the BOVESPA stock exchange. Mr Montgomery also added that May saw an incredible influx of foreign direct and indirect investment which has improved the value of the real against the US dollar and other foreign currencies.

Renewed interest in cross-border deals has meant corporate financing is more readily available. Mr Montgomery pointed out that financing is available locally through the Brazilian National Development and Social Bank and local capital markets. The latter has seen resurgence with this year's first initial public offerings being discussed and several debt issues having taken place. International financing is also on hand with many ongoing opportunities for foreign investors to close deals with local companies and for Brazilian companies to start to close deals overseas.

The insolvent situation of many companies has also led to increased M&A activity since business units can now be acquired under bankruptcy and judicial restructuring proceedings without successor liability (which is something that hindered such type of acquisitions in the past).

With rich experience in cross-border M&A transactions, Felsberg & Associados has recognised some common issues. Mr Montgomery said that the length of transactions can often be increased by various factors such as merger control regimes, extensive due diligence and negotiations. Brazil's notorious bureaucracy can also frustrate investors acquiring in the Brazilian market. Finally, Brazilian companies' lack of familiarity and knowledge regarding international transactions and their procedures can delay proceedings.

Felsberg & Associados' lawyers are skilful, knowledgeable, culturally diverse and efficient. "We also have key contacts in the private and public sectors," said Mr Montgomery. "As a full practice law firm, we are capable of caring for all of the legal needs of clients in the field of M&A."

As everyone is aware, the economy in the United States of America ("US") is still in a recession but there are signs of a resurgence, albeit slowly. However, any recovery may be hindered if the President's 2010 proposals and the Stop the Tax Haven Abuse Act ("STHAA") are passed in their current formats (the House and Senate versions of the STHAA are identical).

Our concerns and our clients' concerns lie, primarily, in the international provisions of the 2010 proposals. If one of the primary objectives of the proposals is job creation, the proposals, if passed in their current form, could lead to an opposite result. In addition, the competitiveness of US companies will be diminished. The proposals, regardless of what nomenclature is used, are a major step towards ending the deferral regime in the US while maintaining the worldwide system.

One of the main ways to minimize the potential adverse effects is a substantial reduction in the statutory federal corporate income tax rate to the 20% to 25% range with the introduction of a federal sales tax (basically, a VAT).