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A new structure for public companies

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The new Companies Act entered into force on May 4 2006. It introduced several significant changes which most companies find beneficial, most importantly the possibility for a public limited company to choose the new one-tier system of management. This system no longer requires these companies to have a separate supervisory board. The Act also changes the rights of shareholders during squeeze-outs and sale-outs.

One-tier system

Before the introduction of the new Companies Act it was only possible for a public limited company to be organized according to the two-tier management system, where the company had a management board and a supervisory board. The new Companies Act introduced the possibility for companies to choose a new one-tier management system, where the shareholders elect a board of directors as the main decision-making body of the company. The role of the board of directors is to manage the company, supervise its operations and represent it in its relations with other persons.

In general, the board of directors may appoint one or more executive directors. Special regulations apply to the board of directors of a company whose shares are traded in the regulated market. The board must appoint at least one executive director from among its members but not more than half of the board members may be appointed executive directors.

If the board of directors appoints executive directors from among its own members, they represent the company, unless otherwise provided in the Articles of Association. If there are several executive directors, they can only represent the company together, unless otherwise provided in the Articles of Association or the rules of procedure of the board of directors. In order to prevent a total concentration of power, the president of the board cannot also be an executive director of a company. However, this limitation is waived for small public limited companies.

The board of directors may assign the following tasks to the executive directors:

(i) the management of regular operations;

(ii) applications for registration and submission of documents to the court registry;

(iii) maintenance of the books of account; and

(iv) compilation of the annual report to which, if subject to auditing, the auditor's report and the proposal for the use of net distributable profit for the general meeting have to be attached and immediately submitted to the board of directors.

In performing these tasks, the executive directors must comply with the instructions and restrictions imposed by the general meeting, the board of directors, the Articles of Association and the rules of procedure of executive directors. The board of directors may recall an executive director at any time.

The provisions for reporting by the management board to the supervisory board also apply, with appropriate changes, to the reporting by the executive directors to the board of directors, unless otherwise provided by the Articles of Association or the rules of procedure for executive directors.

The new Companies Act therefore gives the shareholders more possibilities to form a suitable management system in their company. As a practical example, the one-tier management system enables a majority shareholder to be appointed president of the board of directors, and thereby to have more influence on strategic decisions in comparison with a president of the supervisory board.

Squeeze-outs and sale-outs

The Companies Act also introduced the right to impose a squeeze-out (exclusion of minority shareholders from the company). The Companies Act determines that on the proposal of a shareholder whose stake represents at least 90% of the company's subscribed capital, a general meeting may resolve to transfer the shares of the remaining shareholders to the above-mentioned principal shareholder. The minority shareholders have the right to appropriate monetary compensation. Companies find the right of squeeze-out beneficial as it has simplified the decision-making process; namely, it is now impossible for minority shareholders to block important resolutions.

Further, the Companies Act determines that on the request of one or more minority shareholders, a principal shareholder with a 90% share in a company must, within a month of receiving the request, offer the requesting shareholders appropriate monetary compensation for the purchase of all their remaining shares (sale-out). The right of sale-out protects minority shareholders who find themselves in an unfavourable position, having almost no influence in the decision-making process, and therefore gives them the option to withdraw from the company in exchange for fair compensation for their invested capital.

Financial and corporate

Recommended firms
Tier 1
Colja Rojs & Partnerji
Jadek & Pensa
Odvetniki Selih & Partnerji
Tier 2
Miro Senica in Odvetniki
Tier 3
Schönherr
Wolf Theiss

Privatizations is picking up after years of speculation. The national mobile telecoms provider is set to be sold to a strategic buyer in 2008 and Slovenia's second-largest bank is expected to be privatized through an initial public offering (IPO) in the second half of 2007.

Lawyers are also predicting an explosion of project finance with some big infrastructure deals following the publication of a new law on private-public partnerships (PPPs) in April 2007. Changes are also due to corporate law and the regulations governing financial services to make them less conservative.

As this move might suggest, the government is keen to liberalize the restrictions on doing business in Slovenia. Law firms are increasingly gearing their teams to deal with financial law on an international setting. Domestic work remains important but Slovenia and its lawyers have regional ambitions.

Colja Rojs & Partnerji

Colja Rojs & Partnerji "understand the complexity of international issues", according to one peer. The firm focuses on serving international clients and this year helped a number of companies based overseas complete deals involving Slovenia.

In September 2006 the firm assisted American & Efird, a manufacturer of industrial yarn, on its €10 million acquisition of a division in Prevent Group, and in April 2007 named partner Ales Rojs helped Russian steel company Koks Group take over a 55.35% stake in Slovene Steelworks in a €100 million privatization. Rojs was singled out by his competitors for his "straightforward style of work". Peers also commended his talent in the board room: "His negotiation style is hard but fair," said one.

The firm's international expertise has also made it a popular choice for large multinationals with business in Slovenia. Johnson & Johnson chose Colja Rojs & Partnerji to act as Slovenian counsel during its $13 billion acquisition of Pfizer worldwide, while UBS and VTB Bank Europe sought assistance from the firm on the €120 million issuance of floating perpetual loan participation notes by Abanka Vipa in January 2007.

Competitors certainly rate Colja Rojs. One said: "I always recommend them and if I have a conflict I will either refer to them or Selih." From the standard of deals that the firm has worked on this year, it seems that clients are equally enthusiastic.

Leading lawyers

Marjan Colja
Ales Rojs

Jadek & Pensa

Jadek & Pensa has a broad financial and corporate practice which caters for both domestic and international clients with services from loans, through restructuring to M&A.

In banking work this year, the firm assisted the lead arranger, Bank Austria Creditanstalt, on a €200 million term loan to Banka Celje in June 2006 and in January 2007 counselled the Slovenian borrower, Abanka Vipa, on obtaining a €120 million subordinated loan from UBS and VTB Bank Europe.

Named partner Pavle Pensa is a particularly well respected member of the team. One competitor said: "He's a very professional lawyer with a good clear way of doing things, and is absolutely on an international level." And clients agree: "He's a good lawyer who gives good advice," said one.

This year Pensa led the team advising Royal Cosun, a Dutch producer of food, on the €38.6 million closure of its sugar factory. In other corporate work the firm helped Moser Baer India invest €13.5 billion in a photovoltaic solar-cell business.

Project finance is picking up in Slovenia, and Jadek & Pensa is seeing a lot of that work. This year the firm has been advising Slovenian Railways and the City of Ljubljana on a €220 million shopping centre and railway station, and counselling a Slovenian casino operator on establishing an €800 million joint venture to build a Las Vegas-style resort. Both deals are set to close before the end of 2007.

The firm hosts a strong team of lawyers. Bostjan Spec was commended by competitors for being "good in the market and very professional" while Jure Levovnik was singled out as a name for the future. One client of the firm said: "They were good, not only for their reactions but because they are also proactive."

Leading lawyers

Sreco Jadek
Pavle Pensa
Bostjan Spec

Odvetniki Selih & Partnerji

Privatization has been a feature of the Slovenian legal landscape this year as the government sold off its stakes in telecoms and banking. Odvetniki Selih & Partnerji has been involved in much of this work.

The Slovenian government engaged the firm to advise on the privatization of Nova KBM, the second-largest bank in Slovenia, which is due to go to market by November 2007. The firm is also effectively guiding the government through the privatization of the national telecoms operator as it is assisting Einstandbank Austria, the government's financial adviser.

But Odvetniki Selih & Partnerji moves up a tier this year on the strength of its international practice as identified by competitors and clients.

This year the firm advised TriGranit, a Hungarian-Canadian property developer, on the construction of a railway and bus station and assisted a German-American investor on an investment in silicon production in Slovenia. In other M&A work, the firm has been assisting Sanpaolo IMI on its acquisition of a 90% interest in Banka Koper. This deal was complicated by Sanpaolo's merger with Banca Intesa in January 2007 but has now closed.

Nina Selih was highlighted by peers as a top Slovenian lawyer. "She's very cooperative," said one partner, "and always tries to find the best way for a deal to go forward. She tries to find a compromise." Meanwhile up-and-coming partner Natasa Pipan Nahtigal was repeatedly praised by the market as "a very responsive and diligent lawyer with the talent of a clear approach on how to explain things".

Leading lawyers

Natasa Pipan Nahtigal
Nina Selih

Miro Senica in Odvetniki

Miro Senica in Odvetniki moves down a tier this year following comments that the firm's international capacity does not match that of some of its rivals. The market also expressed concerns about the prospects of the firm now that leading lawyer Katarina Kresal has entered a life of politics, after her successful election to the presidency of the Slovenia's liberal democratic party.

This year the firm advised on a number of domestic and cross-border acquisitions. In the firm's most notable deal, T-2, a telecoms company, engaged the firm to secure a €15 million loan to help finance further investments, including the takeover of a telecoms company in Croatia. Miro Senica in Odvetniki also assisted Salford on its €35 million acquisition of Ljubljanske Mlekarne, a Slovenian food producer.

The firm also has a good reputation for its pure domestic work. This year the team helped the founding member and a consortium of buyers purchase IUS Software and GV Zalozba for €20 million.

Leading lawyers
Miro Senica

Schönherr

Schönherr is seen by other firms in the market as an Austrian outpost, but a good one. The firm has been struggling to make a name for itself as a Slovenian firm but this year it acted on some interesting Slovenian deals for international clients.

In August 2006 the firm assisted Swedish company MTG Broadcasting on its €8 million acquisition of a 100% stake in PRVA TV, a Slovenian TV company. The domestic media sector is certainly a target for foreign investors at the moment. Schönherr is also advising Waz, a German newspaper company, on its proposed purchase of a controlling stake in a Slovenian daily newspaper.

Wolf Theiss

Innovation has characterized Wolf Theiss's Slovenian work this year. Although like Schönherr the firm has a reputation for staying close to its Austrian roots, this year Wolf Theiss has played an important role in the Slovenian legal market.

In March 2007 the firm advised Bayerische Hypo- und Vereinsbank, Dresdner Bank and Société Générale on the government's first issue of euro-denominated bonds – a €1 billion offering. This is the first issue of government bonds since Slovenia adopted the common currency in January 2007, and was the first time that the bond documentation had to comply with Slovenian law rather than English law. The firm also worked on a €292 million cross-border acquisition for Kärntner Sparkasse and its Slovenian branch, incorporating a new bank in Slovenia. Wolf Theiss had to develop a new structure to allow the merger to take place as cross-border mergers and divestitures are not allowed under Slovenian law.

Both these transactions had an Austrian flavour: Vienna-based partner Claus Schneider provided invaluable help on the bond issuance, while Kärntner Sparkasse is an Austrian bank. But Wolf Theiss has been advising other international clients on their involvement in Slovenia.

In November 2006 the firm assisted German lift maker ThyssenKrupp on its €3.4 million takeover of a Slovenian lift company, and in the same month the firm began assisting Pramerica Luxembourg on its purchase of several commercial properties in Slovenia for €107 million. In a true endorsement of Wolf Theiss's work, the seller of these properties has now engaged the firm to work for it on deals in Slovenia and Croatia.

Markus Bruckmüller heads a team of seven associates and the firm is looking to expand to better cope with the quantity of work coming its way.