

Latvia

Chamber of commerce:

Latvijas Tirdzniecības un Rupniecības
Kamera
Kr Valdemara iela 35
1010 Rīga
Tel: +371 67 22 55 95
Fax: +371 67 82 00 92
Email: info@chamber.lv
Web: www.chamber.lv

Professional body:

Latvian Council of Sworn Advocates
Brīvības boulevard 34
1050 Rīga
Tel: +371 67 35 84 87
Fax: +371 67 35 84 88
Email: adv-pad@latnet.lv
Web: www.advokatura.lv

Efforts to stabilise the banking sector

Ieva Azanda and Edgars Lodzins
Liepa Skopina Borenius
Rīga

The global economic crisis has made a significant impact on Latvia's economy since it began at the end of 2007. The crisis triggered the near failure and take-over by the state of Latvia's largest domestically-owned bank, Parex Bank, as well as to intervention by the IMF in the form of a €7.5 billion financial assistance package to Latvia, including funding from the EU, the World Bank, the European Bank for Reconstruction and Development and a number of Nordic and individual European countries. The crisis also caused a substantial depreciation of the asset prices and wages, as well as an increase in unemployment rates. However, according to the latest data about the real estate market, some signs of stabilisation commenced in spring 2010 bringing back at least initial interest of investors in relation to the cheap assets and properties. Given the upcoming Parliament elections in fall 2010 it remains to be determined if the attractive prices and potential additional government measures aimed at the stabilisation of the economy will recreate the trust of investors and regenerate bank lending activities.

In terms of measures aimed at stabilisation of the Latvian banking sector, the following has been done so far:

- To improve sector stability, legislation covering bank takeovers was adopted and the Law on Credit Institutions amended several times, which saw the introduction of several provisions;
- an increase of credit institution's capital, in case the state acquires or increases qualifying holdings in a credit institution;
- establishment of procedures for transfers of credit institution businesses;
- establishment of operational restrictions that the Financial and Capital Market

Commission (FCMC) is entitled to impose on credit institutions; and

- imposition of restrictions on state-aided credit institutions.

New bank takeover regulations

In addition, during the nationalisation process of Parex Bank at the end of 2008, the Latvian government found itself faced with an absence of regulations stipulating the conditions and procedures for bank takeovers by the state. To resolve that conundrum, and prompted by the government, Latvia's parliament (the Saeima) adopted the Law on Bank Takeovers at the beginning of 2009 in urgency procedure.

Under that law, a bank takeover is permissible in exceptional cases where the stability of the banking system and the smooth operation of payment systems are seriously threatened or potentially threatened. It is achieved by alienating shares issued by the bank, the bank's assets, rights or liabilities for the fair amount of compensation.

A bank takeover may be voluntary or compulsory. Where an agreement is reached on a voluntary takeover, the takeover is considered by the government based on a proposal by the minister of finance and an agreement drafted in co-operation with the bank or its shareholders. Where no agreement is reached on voluntary takeover, the minister prepares a draft decision stating the reasons that a compulsory takeover of the bank is necessary. The government then submits the draft law on compulsory takeover to the Saeima.

Pursuant to the amendments, if, at the request of the board of the credit institution, the government decides to acquire or increase qualifying holdings in a credit institution, a supervisory council of the credit institution is entitled to increase equity capital (issue new shares) of the credit institution on behalf of the shareholders meeting, but without convening a shareholders' meeting. In such cases, the existing shareholders do not have any preemptive rights to acquire the newly issued shares.

This provision was introduced to speed the possible government capital injection in the credit institution. Normally, an increase of equity capital takes more than a month, since a convening of the shareholders meeting should be announced at least 30 days prior to the planned meeting.

Transfer of the credit institution's business is subject to FCMC's prior consent. However, no consents of the credit institution's creditors or third parties are required. The credit institution should submit to the FCMC a proposal of business transfer together with an expert valuation of the assets and liabilities that are being transferred.

The amendments also allow the FCMC to impose new measures in circumstances where the credit institution is deemed to be in breach of the law and/or FCMC regulations. Under the amendments, punitive measures can also be imposed if a credit institution's operations are threatening its own stability, solvency and safety - or the wider stability of the Latvian banking sector as a whole. In addition, measures can be taken if there is a risk of substantial loss to the national economy, or if an excessive out-flow of deposits or other funds takes place.

The FCMC may impose measures including binding orders on the credit institution, establishing restrictions on rights and activities of the credit institution, including the right to suspend fully or partly the provision of financial services, restricting the performance of the bank's obligations, appointing an authorised FCMC representative to the credit institution with special powers to supervise it or levy a fine.

Those credit institutions that receive state aid are bound to fulfil their subordinated obligations to repay loans and calculate, accumulate or pay the interest or other remuneration due on these loans (among others). The restrictions were initiated mainly as a result of the former shareholders of the state-aided Parex Bank continuing to receive high interest on their deposits in the bank, which have been converted into subordinated capital.

However, despite extensive public discussion, the Saeima decided the amendments should not be applicable retrospectively (in other words, the restrictions should not apply to those credit institutions that are already receiving state aid or for which the authority has set restrictions on the fulfilment of deposit obligations). Thus, the restrictions will not apply to Parex Bank.

Generally speaking, Latvian banking legislation has improved by taking in to account international standards of best practice. This should potentially have a positive impact on the functioning of the banking sector in the upcoming years.

Financial and corporate

Recommended firms

Tier 1

Lawin
Raidla Lejins & Norcouc

Tier 2

Glimstedt & Partners
Liepa Skopina/Borenius
Sorainen

Tier 3

Eversheds Bitans
Kronbergs & Cukste

With its colossal public debt and chronic political instability, Latvia's economic recovery still seems a while away. It is no surprise then that lawyers have to scratch around for positive signs in their mandates. The few-and-far-between highlights came in the form of media and energy deals.

The most ambitious was the MBO of television networks LNT and TV5. The channels leaders took the companies away from media conglomerate News Corporation with the view to create a national multimedia association. The most talked of was the sale of daily newspapers Diena and Dienas Bizness. And the most promising were Vitol Group's \$735 million sale of its 50% stake in global petroleum operator VTTI, and the European Bank for Reconstruction and Development's €150 million unsecured loan to state-energy company Latvenergo.

M&A deal-flow was boosted by a flurry of instructions at the end of 2009, with deal-makers trying to close transactions before the new year's increase of capital gains tax. But otherwise, activity was dominated by intra-industry distressed sales.

Lawyers saw companies with healthy credit ratings picking up their struggling competi-

tors, knowing they could absorb the loans and liabilities of the target. "In this type of environment the stronger become stronger and the weaker become weaker," says one lawyer from a leading firm. "The market sorts itself out." Firms are also sorting themselves out, with M&A departments gradually transforming into restructuring departments, and corporate lawyers re-profiling themselves accordingly.

Banks are paying for their *extend and pretend* approach to renegotiation, with finance lawyers spending a lot of time maintaining the good standing of loan agreements in balance sheets usually by capitalising interest or extending maturities. "It hasn't been new financing," says one, describing his recent workflow. "Instead it's the same product re-cooked and put into a difference shape."

Of course, this lack of lending is in no small part due to the country's pitiful credit rating, which can also be blamed for its stalled public-private partnership (PPP) projects. The government is forbidden to invest further into PPP projects until its €7.5 billion bailout by the IMF and EU has been repaid.

Until then, lawyers' fallback is the work generated from last year's nationalisation of Parex. The government has now approved the restructuring plan, and between this and the bank's sale, Latvia has a deal which will create work for almost every one of its lawyers.

Lawin

Lawin is strong across the board, but with corporate partners like Filip Klavins and Egons Pikelis, it's no surprise that peers make particular mention of its M&A capabilities. Both were described by one as "fantastic corporate lawyers", while another says of Klavins: "Judgement wise he is one of the best in the country. If I had to refer, my first inclination would be to turn to him".

And it's not just the lawyers that are impressed. "When you're dealing with non-western jurisdictions you can get some different types of legal service, but these guys are the best," says one international client. "They set themselves up as a magic-circle firm of the region, and you get the equivalent of magic-circle work from them."

The firm is at the forefront of sales in the media sector, advising News Corporation on the MBO of two of its local networks in March this year. As part of the flood of transactions being closed before the January 2010 introduction of new capital gains laws, the firm advised Finland's Aspo Group on its takeover of local food manufacturer Raugs un citas preces. The deal closed on December 29 2009.

In the energy sector, leading lawyer Raymond Slaidins led advice to Vitol Group on the sale of its 50% stake in global petroleum operator VTTI. The shares were sold to shipping company MISC Berhad for \$735 million.

Lawin's banking team works mainly on the lender's side, and for the likes of Swedbank, SEB Bank and DnB Nord Bank. In 2009 it worked on a rare structured finance transaction, advising on a greenfield wood pellet plant in one of the country's most underdeveloped regions. The €10.5 million facility consisted of a senior loan and mezzanine loan, involved private equity plus other lenders from across Europe.

Another interesting deal saw it advise DVB Bank on the \$19.5 million acquisition financing of an oil tanker purchase. The secured loan was provided to Latvian Shipping Co for its purchase of the Marshall Islands registered tanker. Due to the nature of the target, arrangement of the security involved additional input from Germany, Malta and the Isle of Man.

Leading lawyers

Filip Klavins
Egons Pikelis
Raymond Slaidins

Raidla Lejins & Norcouc

Raidla Lejins & Norcouc continues its run in the top tier, due in no small part to its highly regarded corporate practice. "This is the firm we most respect here," says a competitor referring to M&A work. "If we have a conflict we would send instructions over to them."

One of the team's most visible and respected lawyers is partner Dace Silava-Tomsone, described by another peer as "a real dealmaker", adding: "She's doing a great job in M&A."

The firm has recently been involved in private-equity work, including for regional fund BaltCap. It also counts East Capital and Orkla as clients.

Andrejs Lielkalns is noted by competitors for his finance capabilities.

Leading lawyers

Giirts Lejins
Andrejs Lielkalns
Dace Silava-Tomsone

Glimstedt & Partners

When asked about Glimstedt & Partners, competitors are quick to credit managing partner Eriks Blumbergs. One says: "he is certainly the main man there", another has "only good things to say about him", and a third

describes him is the rarest type of managing partner; a “participating managing partner”.

Clients, however, appreciate more than the firm’s leading light. One says: “Glimstedt & Partners has a strong team of lawyers who have proved their professional skills working in a team as well as individually.” Another describes the firm as “responsive, reliable, effective and a reliable partner”.

Aside from advising French infrastructure operator Dalkia on its mid-cap acquisition of local assets, last year the firm’s attention was firmly focussed on restructuring.

For corporate reorganisations, in December 2009 it advised Felix Holding Company on its €50 million restructure and sale of its Riga Train Factory. The firm pushed through the deal on a tight timeframe to side-step changes to capital gains tax introduced in 2010. Another legislation-driven deal was its restructure of Finnish company Tamro’s chain of local pharmacies. A new law required the healthcare wholesaler to divest of its retail businesses by the close of 2010, creating a €30 million deal which continues to keep the corporate team busy.

For debt work, Glimstedt & Partners is restructuring a €100 million chunk of Swedbank’s corporate loan portfolio, as well as working on the all-consuming reorganisation of nationalised bank Parex. This last deal sees Blumbergs lead the team in the central role of advising the Finance and Capital Markets Commission.

Leading lawyers

Eriks Blumbergs

Liepa Skopina/Borenus

Known for its strength in the corporate field, Liepa Skopina/Borenus bucked the market trend last year and preoccupied itself with growth M&A. It acted for the vendor in the year’s most talked-of media deal, the sale of media group Diena including its daily newspaper Dienas Bizness. In the healthcare sector it acted as local counsel on the global merger of Merck and Schering-Plough Corporation, and in a pan-Baltic deal the firm advised Estonia’s Alexela Oil on the sale of its local service stations to Latvian and Lithuanian investors.

The firm is often mandated by banks looking to expand or enter the market, and even with this work being in short supply, it still picked up instructions from regional fund BaltCap on a proposed risk capital fund. The client will be the fund manager of the pilot project which is being spearheaded by the European Investment Fund.

However aside from this project, last year the finance team turned its attention to dis-

stress work. It advised both lenders and borrowers in syndicated loan restructurings, helped a regional bank improve its real-estate portfolio through the use of an SPV, and of course, played its part in the Parex rescue, advising the Mortgage and Land Bank which took a controlling stake in the bank on behalf of the government.

Leading lawyer Lauris Liepa is focussed on finance matters, and fellow partners Indrikis Liepa and Gatis Flinters drew praise from an M&A client for their diversity: “They have wide knowledge not only in the legal environment but also the business environment of our industry. They also have knowledge on the finance issues that come with these deals.”

Leading lawyers

Lauris Liepa

Sorainen

If any firm triggers a divide among lawyers, it’s Sorainen. Some say its M&A capabilities combined with its growing visibility in finance deals makes it a top-tier contender. But others are more sceptical, suggesting confidence and marketing has played a sizeable role in its success. As for clients, most were happy with the firm’s quality and responsiveness, but one said it’s had to wait longer than expected for advice and that transaction documents lacked the commerciality they expected.

But anyone in doubt need only look at Sorainen’s work portfolio. In cooperation with its Estonian office, the firm recently acted for food manufacturer Rigas Miesnieks in its purchase of a controlling stake in competitor Jelgavas galas kombinats. The firm’s cross-border work included competition clearance, real-estate issues, as well as state aid factors.

While many deals stalled towards the end of 2008, Sorainen kept afloat road-sign manufacturer Signaux Girod’s takeover of competitor M-2, with the sale documents being signed last year. Managing partner, and leading lawyer, Eva Berlaus proved instrumental in this regard, through careful consideration of finance and tax issues.

A significant loan in a slow market was the European Bank for Reconstruction and Development’s €150 million unsecured loan to Latvenergo. Sorainen acted for the lender in the deal which will help the state-owned energy group upgrade the country’s main power plant, through installing a 40MW combined cycle gas turbine. In restructuring work it advised borrower Lode Group on the reorganisation of its €16 million facility with SEB Bank. It also represents the Latvian Privatisation Agency in relation to the restructure of nationalised bank Parex.

Leading lawyer Girts Ruda is renown for finance work, with competitors saying his in-house banking experience gives him a competitive edge. Ruda has a new compatriot in banking specialist Rudolfs Engelis who joined the partnership in February this year. And it’s not just the firm that has recognised his abilities, with one client saying: “He’s still a young lawyer but for his age and his experience he is doing very well. He has great knowledge already.”

Leading lawyers

Eva Berlaus

Girts Ruda

Other ranked firms

Eversheds Bitans is nudging the tier two threshold. Through a combination of good quality work, growing prominence and some mid-level hires, competitors have started to take more notice of the firm, with one saying: “I have to give them credit, they are going straight up.”

The firm’s banking practice is its most dominant, and is particularly active for borrowers. Recently it advised national carrier Air Baltic Corporation on cross-border financing for three Bombardier Dash Q400 NextGen aircrafts. It also assisted door manufacturer Jeld-Wen group on its debt restructuring, including advising on loan securitisation and collateral registrations.

The firm’s M&A team is smaller and less spoken of. Its workflow has picked up since the beginning of the year, however, with one deal seeing it work on a rare MBO. The firm advised the management of Latvian Independent Television (or LNT) on its takeover of two national television channels from News Corporation. On the sell side it acted for the shareholders of SIA WP Energy on their sale of the wood-pellet producer to an Austrian investment fund.

Name partner Agris Bitans is a highly respected M&A lawyer while fellow partner Maris Vainovskis holds the same status among banking lawyers.

In the profession-wide engagement for the Parex restructure, **Kronbergs & Cukste** has one of the central roles, that of advising the bank itself. Other restructuring work sees it act for young financial institution SMS Credit on its absorption of three subsidiaries, and European supermarket chain Lidl on the cross-border merger of three subsidiaries. In another international deal it advised on the €7 million sale of local bread producing facilities to a foreign investor

Name partners Valters Kronbergs and Vineta Cukste are noted by peers for their corporate and finance capabilities, respectively.

Other notable firms

The market's high hopes for breakaway firm Grunt & Cers seem to be materialising, albeit under the new name **Tark Grunte Sutkiene**. The small Latvia practice merged with two others to form the pan-Baltic firm in September 2010. The firm's M&A abilities are considered its best, with one competitor saying: "If they have proper deals then I'm sure they can serve them well".

Another newly merged pan-Baltic firm, **Varul Vilgerts Smaliukas**, has recently been busy advising state-related entities. For instance it advised the government on its proposed full privatisation of Lattelecom, and the Mortgage and Land Bank on its restructuring into a development bank.

Elsewhere it assisted with the financing of the MBO of the TC Motors Chrysler Jeep Dodge car dealership, and acted for Swedbank (Estonia) on its distressed-disposal of Latvian construction company LEC.

The firm's finance capabilities were boosted earlier this year with the hire of Jana Orlova, a former senior in-house counsel for SEB Bank.