

# Macedonia

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## Regulatory developments in Macedonia

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Despite the fact that Macedonia is an emerging market, which by definition faces the investors with legal, economic and political risks, the legal framework regulating securities and capital markets is rather developed and in great measure harmonised with the EU Directives in this area.

The latest impact of the harmonisation affected the current Securities Law, published in the Official Gazette no.95/2007, no.25/2007, and no.7/2008. With the intention for further harmonisation with the Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, Amendment on the Securities Law was adopted in April 2010, (the Securities Law Amendment).

Without arguing whether the mandatory disclosure through securities laws without offering any incentives for the companies (just for the benefit of the efficiency of the capital markets) shall lead to the required results, the text below emphasis the new approach in the Securities Law Amendment of disclosure requirements imposed to joint stock companies whose shares are admitted to trading on the regulated (official) market and on the regular market.

Imposed as a general requirement for the issuers to secure continuous flow of information in the public for protection of the investors, the Securities Law Amendment makes a step further in determining the scope of companies which are obliged to such disclosure. Namely, the formal criteria for the obligatory reporting by a joint stock company are altered.

Prior to the Securities Law Amendment, a company with special reporting requirements (a Reporting Company) was a company that has conducted a public offering of securities or has a principal capital in excess of €1 million in Macedonian denar equivalent and more than one hundred shareholders or is listed on a licensed stock exchange.

These companies are registered in the Registry of Reporting Companies, maintained by the Security and Exchange Commission, (SEC), supervisory authority on the capital markets. Generally, these requirements may be divided in (i) disclosures relating to the business and (ii) disclosures relating to the capital, as well as significant changes in issuer's financial position. Taking into consideration the mandatory nature of these disclosures, any default is sanctioned as a misdemeanour.

The Securities Law Amendment reduced the criteria for Reporting Company, proscribing new thresholds. Now, instead of one hundred shareholders, a company shall be considered as a Reporting Company if it has at least fifty shareholders. The requirement for the principal capital (€1 million) remains the same.

With this approach, it is expected that the number of the Reporting Companies shall increase from the current figure of about 130 to almost 180, which is directly related to the transparency and disclosures of the important information necessary for the capital markets investors.

Furthermore, the Securities Law Amendment disclosure requirements are now extended to joint stock companies that are not registered as Reported Companies, with the objective of the legislators to increase transparency in the activity of these legal entities and to provide more information to the investors in securities traded on the Macedonian regular markets.

The basis of legislator's consideration was that the shares of these companies are traded on the regular markets and may be in the investors' focus of interest, thus transparency

would add value to the volume of trading and shall provide protection for the investors through more sophisticated information about the companies.

It is now mandatory to supply a publicly available information about the total revenues, earnings before taxation, earnings per share, changes in the beneficial ownership structure of more than 10%, changes in the management bodies, any structural reorganizational changes, such as mergers, acquisitions, and new issuance of shares and any other changes that may have significant impact on the market prices of the securities.

The obligation on financial data is due within 15 days as of the adoption of the annual accounts and all other information should be made public promptly, but not later than ten calendar days after occurrence, by publishing on the website of the Macedonian Stock Exchange, as the only licensed stock exchange in Macedonia.

Joint stock companies are further obliged to publish the audited financial reports on the stock exchange's website along with the auditors' opinion, and in one daily newspaper on the territory of the Republic of Macedonia, within 15 days of its adoption by the shareholders.

Breach of these reporting requirements is considered a misdemeanour and is subject to a monetary fine between €2,500 to €5,000 for the company, and €1,000 to €2,000 for the responsible person in the company.

Disclosure of accurate, understandable and timely information for the joint stock companies is of major importance for a sustainable and trustful environment for the investors in the Macedonian capital markets, and the Securities Law Amendments is expected to achieve this target.

## Financial and corporate

Recommended firms	
<b>Tier 1</b>	
Law Firm Knezovic & Associates	
Cakmakova Advocates	
Mens Legis Law Firm	
Polenak Law Firm	
<b>Tier 2</b>	
Debarliev Dameski & Kelesoska	
Law Firm Trpenoski	
Law Office Pepeljugoski	
Lawyers Antevski	
Monevski Law Firm	

Still reeling from the global financial crisis and its failed bid for Nato entry, Macedonia's foreign investment woes continued last year thanks to Greece. As the small republic's largest investor, Greece's financial meltdown coupled with heightened tensions over the countries' naming dispute meant inbound investment dropped yet again.

Dented confidence and a lack of money made for a quiet M&A market and non-existent capital markets. The government pushed to improve the investment climate, but commentators say this is little more than window dressing: "Official policy is to attract foreign investment but on the ground it is a very different situation." Frustrated lawyers report that international bids for projects have been annulled or delayed with insufficient explanation, and that "foreign investors have been disappointed by the long administrative procedures."

Like the legal profession of any other struggling developing economy, Macedonia's lawyers' great hope is now public-private partnerships. All eyes are on road construction, clean and conventional power projects, and the long awaited reconstruction of the country's two airports by TAV. "These are good ongoing projects which stopped for a while a few years back but they have now started up again," says one lawyer of the Turkish company's venture. "This was not big work for 2009 but it will create work going forward."

A conservative central bank meant work ticked along for finance lawyers. Interest rates dropped slightly and lawyers say funding is available for borrowers with the right security. The stable banking sector was not such good news for insolvency practitioners who say they've had only a few demands for liquidations. But they suspect many struggling companies are just delaying the inevitable, explaining: "Insolvency triggering events are happening but often they keep carrying on the business to buy time, to see if the market improves." Lawyers expect the market to bot-

tom-out in the coming year, and are waiting for the flood of insolvency work to follow.

### Law Firm Knezovic & Associates

Peers suspected Law Firm Knezovic & Associates had a quiet year, as government tender work - which the firm commonly advises on - has dried up. But the well-regarded firm has been busy in a number of practice areas.

It advised Investbanka on its share sale to Steirische Sparkasse which forms part of the central European bank Erste Group. The firm also worked on a €600 million public-private partnership project for the construction of two hydropower plants, and assisted with the financing of Slovenia Telecom's investment in a local telecoms company.

The firm is known internationally and often advises on the local aspects of regional deals led by Allen & Overy, Gide Loyrette Nouel and Clifford Chance.

#### Leading lawyers

Dejan Knezovic

### Cakmakova Advocates

Mens Legis Cakmakova Advocates is highly regarded by both competitors and clients. Peers describe the firm's work as reliable and consistently of a high standard, and name partner Biljana Cakmakova as its primary contact.

The firm works on a regional level and key clients include international banks, energy providers and telecoms companies, one of which says: "They are very knowledgeable and thorough in their work and they provide very comprehensive and accurate advice and reports."

### Polenak Law Firm

Consistently positive peer-feedback ensures Polenak Law Firm continues its run in the top tier. Descriptions of the firm range from "stable and very good" to "very experienced in finance", with managing partner Kristijan Polenak being particularly well regarded for M&A work. Recently competitors have noticed the firm doing very well out of the little foreign investment coming into the country.

The firm has a diverse client-base which includes the European Bank for Reconstruction and Development, national hotel chain Makedonijaturist, electronics giant Cisco Systems, and ING.

#### Leading lawyers

Kristijan Polenak

### Debarliev Dameski & Kelesoska

Named by the market as an up-and-coming firm, Debarliev Dameski & Kelesoska is a popular choice for foreign clients.

Notable finance work includes assisting Slovenia's Hypo-Alpe-Adria Bank secure a €55 million loan by a pledge of the borrower's shares. On the corporate side, partner Dragan Dameski helped BC Funds acquire the local division of global laboratories company Synlab. The work included negotiating the transaction and ancillary documents, plus obtaining the approval of the competition authority.

The firm recently turned its attention to the government's public-private partnership plans, acting for Energie Zotter-Bau on its hydropower projects. It advised the Austrian constructor on the concession scheme and tender procedure, as well as providing general corporate advice.

#### Leading lawyers

Dragan Dameski

### Law Firm Trpenoski

Law Firm Trpenoski experienced a rarity last year when it assisted Italy's Gruppo GEO acquire land and real estate in Macedonia. The firm advised on all aspects of the foreign investment transaction, displaying an aptitude valued by clients.

"They have knowledge in and can cover almost every area which covers our business," says one telecommunications client. "They have very wide experience in various fields."

Elsewhere the firm advised Hellenic Petroleum, Greece's biggest oil refiner, on its takeover of the bulk of BP's Greek operations. It's also worked closely with Macedonian banks that want to enforce their rights against borrower defaults.

### Lawyers Antevski

Lawyers Antevski has lacked visibility in the market over the last couple of years according to peers, and drops a tier accordingly. However the firm is still active in company formation and licensing for international clients, and has acted as local advisors for German, Slovenian and Norwegian companies.

Its insolvency practice also represents an Austrian creditor in bankruptcy proceedings against Macedonia's national air carrier MAT.

Clients say the firm's service is satisfactory, but some note that the clarity and timeliness of its communications could be improved.

### **Monevski Law Firm**

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Monevski Law Firm's command over energy issues has helped it take advantage of the power projects taking off around the country. The firm advises PCC in its collaboration with the government over one of the country's most prominent clean energy projects. The German company is developing a string of small hydropower plants which will be transferred to the government under the Build Operate Transfer principle.

It continues to be mandated as corporate counsel for electricity distributor EVN and telecommunications company VIP Operator.

Client feedback is generally positive, especially in relation to the firm's responsiveness and clarity of advice. But despite working for German, Austrian and Turkish companies, some clients say the size of the firm limits the work it can do: "We use one of the bigger firms for more complicated issues," says one client.

#### **Leading lawyers**

Valerjan Monevski