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Technology M&A 2022

Armenia: Law and Practice

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ARMENIA

Law and Practice

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1. TRENDS

1.1 Technology M&A Market

In the Republic of Armenia (RA), the technology M&A market jurisdiction is not as developed and structured as in other European countries. The market is regulated by the general rules of the M&A market, which was not really affected by the COVID-19 pandemic. Therefore, it seems fair to assume that M&A activity in Armenia is much slower than the global pace.

1.2 Key Trends

As a result of the COVID-19 pandemic, the key trend of 2020–21 in Armenia was the development and expansion of electronic means of activity (registration of companies, changes in structure, amendments of charters, etc). Also, in 2020, journalists and social media representatives were provided with the right to receive information available to the public for free from the RA Legal Entities Agency.

In terms of anti-corruption policy, the requirements for real beneficiaries revealing and providing information were tightened by expansion of their scope.

2. ESTABLISHING A NEW COMPANY, EARLY-STAGE FINANCING AND VENTURE CAPITAL FINANCING OF A NEW TECHNOLOGY COMPANY

2.1 Establishing a New Company

In Armenia, it is common practice for IT companies to establish companies in two jurisdictions, ie, in the Republic of Armenia and in a foreign jurisdiction, especially in the State of Delaware, USA. Alternatively, they may establish a company in Armenia and a subsidiary in a foreign jurisdiction.

The decision to establish the main company in a foreign jurisdiction is based on the belief that this is more suitable and accessible for foreign investors and will decrease their legal and financial costs.

In Armenia, limited liability companies are generally established; joint stock companies are less usual for start-ups.

Timeframe

Limited liability companies can be established in three working days after submission of all the required documents (application, charter, decision of participants, statement of real beneficiary) to the RA Legal Entities Agency. In the case of joint stock companies, share custody and registry maintenance agreements must also be concluded with the account operator and the account can be opened in five working days.

For joint stock companies, it is usually suggested that the know-your-client process is completed, which may take longer where there are foreign shareholders.

2.2 Type of Entity

In order to limit personal liability, a type of limited liability company or joint stock company is usually advised. It is preferable to choose joint stock companies in order to be able to carry out employee stock ownership and to exclude the possibility of the participant leaving the company at any time, but because of the simplicity of the registrations process, a limited liability company is usually chosen and stock options are issued by the company in the foreign jurisdiction (in this case, the Armenian company's participant is the company in the foreign jurisdiction).

2.3 Early-Stage Financing

There are various incubators and venture funds that provide early-stage financing. If the investments are made by local investment funds or

incubators, the documentary standards of local investors are used, including the text of the charter, the management model, etc.

With respect to foreign investors, the process is carried out on the model of a company established in a foreign jurisdiction, where investors invest according to the established standards of that jurisdiction.

The investment in the company is documented by using the standard packages of professional investors, which should include the investment agreement, corporate decisions and amendments to the charter of the company in the scope necessary for the registration of investors as shareholders or participants. The content of the investment agreement and the scope of amendments to the charter on corporate governance, as a matter of fact, depend on the requirement of the investor; it may be the case that the investors require the signing of documents presented by themselves and the reconstruction of business models to suit their requirements.

2.4 Venture Capital

There are a few venture capital firms in Armenia, eg, Granatus, Beeline Startup Incubator, StartHub Armenia, etc. Some of these venture capital firms are fully or partially sponsored by government funds, although in recent years, there has not been much activity.

Home country venture capital is not easily available to start-ups. In general, institutional investments are usually carried out by foreign investors through the parent company or subsidiary of the start-up.

As some of the venture capital firms are partially owned and sponsored by the government, it could be said that venture capital is available to be sponsored from government funds.

Foreign venture capital firms are also engaged in activities in Armenia, but with the company (parent company or subsidiary of the start-up) established in a foreign jurisdiction.

2.5 Venture Capital Documentation

There are no special legislative standards for venture capital documentation in Armenia. In every single case, the documentation principles and standards of the venture fund (which is going to invest) are used.

2.6 Change of Corporate Form or Migration

A change of corporate form is not usual in Armenia because start-ups are usually established in two jurisdictions, as mentioned in **2.1 Establishing a New Company**, which excludes the necessity for migration or change of corporate form. If the firm needs to be represented in another jurisdiction, it usually chooses the option to establish a subsidiary in the particular jurisdiction.

Also, in the case of change of corporate form, a tax inspection will be carried out according to the RA Tax Code, which usually prevents owners from carrying out the process of change of corporate form.

3. INITIAL PUBLIC OFFERING (IPO) AS A LIQUIDITY EVENT

3.1 IPO v Sale

An initial public offering is not a common choice as a liquidity event; rather, the sale transaction (or transactions eventually resulting in property transfer) are usually chosen. Dual-track processes, including an IPO, are not market practice in Armenia. Hence, if investors rely on market practice, they will most probably opt for a sale procedure.

3.2 Choice of Listing

There are not many locally listed companies, and the majority are financial institutions. Relying on current data, listing on the Armenian securities exchange is not widely practised by technology companies. Considering that, if listed abroad, the event would most probably be actively discussed, it may be concluded that many successful companies are listed on a foreign exchange as well. As the field in general is in the development phase and the market is not really stable, companies have not yet reached the point where listing is a necessary or primary business decision.

3.3 Impact of the Choice of Listing on Future M&A Transactions

The legislation of Armenia is quite liberal in terms of choice of listing, as a foreign listing does not, as a rule, directly affect stakeholders' rights and responsibilities. However, every M&A transaction may have its own specificities, for which foreign listing may require additional action.

In addition, in 2021, the RA Law on Joint Stock Companies was amended by new articles regarding squeeze-out rules (defined as applicable to both public and non-public companies). Especially, according to Article 56.1 of the RA Law on Joint Stock Companies, an extraordinary meeting will be convened at the request of a sole-owner shareholder who owns at least 95% of the votes directly, who wishes to repurchase the voting shares belonging to the other shareholders of the company. Article 56.2 of the same law states that, at the request of the shareholder holding no more than 5% of the voting shares of the company at the same time, an extraordinary meeting will be convened to decide on repurchasing the shares of the requesting shareholder, if one of the shareholders owns at least 95% of the voting shares of the company.

The sole shareholder who decides to repurchase the voting shares owned by the other shareholders of the company (except for the shares belonging to the Republic of Armenia or the communities) may convene an extra meeting.

The requirement to sell the shares of the company must contain at least the following information:

- substantiation regarding the compliance of the requesting shareholder;
- the title and name of the shareholder submitting the claim, the address of the place of registration (location), and the address of the notification if it differs from the address of the place of registration (location), in case of a natural person submitting a claim;
- the price offered for providing the shares to the requesting shareholder may not be less than the market value of the shares set by the appraiser;
- the name of the independent appraiser selected (appointed) by the shareholder submitting the claim and the name of the institution in which the latter works (if any); and
- information on depositing the offered amount in a special bank account in exchange for providing the shares to the claiming shareholder (the addressees of the deposited amount should be the shareholders whose shares are subject to repurchase).

The company that has received the request for mandatory purchase of the company's shares has the right to appeal to the court within two months after receiving the request, disputing the bid price for the repurchase of shares, but a price dispute does not suspend the repurchase process of the company shares. The company is obliged to repurchase the shares of the requesting shareholder within two months after receiving the request for mandatory purchase of the company shares.

4. SALE AS A LIQUIDITY EVENT (SALE OF A PRIVATELY HELD VENTURE CAPITAL-FINANCED COMPANY)

4.1 Sale Process

In the case of a liquidity event, the sale process will more typically be run in a bilateral negotiation with the chosen buyer.

4.2 Transaction Structure

First of all, it should be noted that the shareholder of the closed joint stock company has the privilege of the acquisition of shares sold by other shareholders of this company, under the law. If, in the time established by the charter of the company, any of shareholders do not take advantage of this privilege, the company has the right to acquire these shares at the price approved with the owner. Where the company refuses to acquire the shares or does not agree on their price, the shares may be alienated to a third party. The decision by the company to acquire or refuse the shares is made by the General Meeting of Shareholders of the Company, unless otherwise provided by the charter, which means that the privilege of share acquisition may be waived.

There is not much relevant practice of transaction structures of companies which have a number of VC investors in Armenia, but in general, the current trend is that VC investors do not consider remaining as shareholders in the company and usually alienate all their shares.

4.3 Form of Consideration

The most common practice for technology companies is the selling of shares of that company or the selling of assets which have IP rights. In the case of a buyer's interest in assets other than the IP rights of the company, buyers generally prefer to acquire shares because a share transfer is not subject to taxes, unlike an asset transfer. The reason why an IP rights transfer is chosen over a share transfer is (i) the balance value of IP rights is rather low; or (ii) no IP rights have been properly transferred to the company, ie, the employees or founders continue to own the IP rights and hence, it is chosen to make the IP rights transfer deal over the share transfer.

A stock-for-stock transaction or combination of stock and cash is much rarer than a transfer of shares or IP rights in exchange for cash. However, these types of deals are also made in the Armenian technology market.

4.4 Certain Transaction Terms

Although there are no legislative requirements, founders and VC investors are expected to stand behind representations and warranties or certain liabilities. They undertake such representations and warranties based on established practice and the principle of freedom of contract. Escrow and holdback, as well as representations and warranties insurance, are not customary in Armenia for these purposes as there are no such insurance risks in the Armenian jurisdiction.

Environmental representations and warranties are common for institutional investments, especially from foreign investors.

5. SPIN-OFFS

5.1 Trends

In Armenia, the technology industry has not yet reached the stage where companies become so sophisticated internally that they require spin-offs. Currently, the leading model in the market is a small company that is constantly growing in terms of working human personnel, but which remains within the same corporate structure.

5.2 Tax Consequences

The spin-off process in Armenia comprises the establishment of one company and investment by a parent company, either upon establishment or at a later stage. Although such investments are not subject to tax, in the case of reorganisation, companies are obliged to pass tax inspection and reorganisation is only possible based on the positive conclusion reached as a result of the tax inspection.

5.3 Spin-Off Followed by a Business Combination

In general, the RA Civil Code establishes the possibility of reorganisation of a legal entity, which will be effected on the basis of a decision of its founders (participants) or of a body of legal persons authorised for this by the statute (Article 63). There are five possible ways of reorganisation in Armenia, ie, merger, amalgamation, division, separation and restructuring.

Merger, Amalgamation, Division, Separation and Restructuring

In the case of the merger of legal persons, the rights and obligations of each of them will pass to the newly created legal person, in accordance with the deed of transfer. In the case of amalgamation of a legal person with another legal person, the rights and obligations of the amalgamated legal person will pass to the other, in accordance with the deed of transfer. When carrying out the division of a legal person, its rights and obligations will pass to the newly created legal persons, in accordance with the separating balance sheet. Meanwhile, in the case of separation of one or more legal persons from the composition of a legal person, the rights and obligations of the reorganised legal person will pass to each of them, in accordance with the separating balance sheet. And finally, in the case of restructuring of one type of legal person into another type of legal person (change of organisational and legal form), the rights and obligations of the reorganised legal person will pass to the newly created legal person, in accordance with the deed of transfer. Reorganisation provisions will also apply to foreign legal persons when they are being restructured as a legal person of the Republic of Armenia.

Business Combination

As spin-offs are not commonly practised, the following phase's choice may not be assessed, and the process is standard. However, if decided, the legislation neither prohibits such process nor imposes any special requirements. Hence, a spin-off may easily be followed by a business combination.

5.4 Timing and Tax Authority Ruling

According to Armenian legislation, no later than ten working days after all the necessary documents have been submitted to the RA Legal Entities Agency, if there are no grounds for refusing the registration, the Agency will carry out the state registration(s) required by the reorganisation. This term is referred for registration deadlines, although it should be noted that it is common for full or partial due diligences of a legal entity to be carried out before the spin-off, which may take some time, usually from two to three working days up to a few weeks.

It should be noted that a general tax inspection is also required for spin-off processes. After the relevant spin-off decision is made, the tax authority should be notified. The tax inspection may take up to 90 consecutive days.

6. ACQUISITIONS OF PUBLIC (EXCHANGE-LISTED) TECHNOLOGY COMPANIES

6.1 Stakebuilding

There are no special regulations for acquiring an interest in a public company, so the general rules apply. In Armenia, it is not customary to acquire a stake in a public company prior to making an offer. Any person who, directly or indirectly, in person or through affiliated persons, acquires participation in a company as a result of which its voting participation in the authorised capital of the company amounts to five, ten, 20, 50, 75 or 75+%, is obliged to notify the issuer and the Central Bank immediately, but not later than within four working days. The buyer does not need to state the purpose of the acquisition of the stake and its plans or intentions with respect to the company. There is no requirement for the buyer to make a proposal, or state that it will not be making a proposal, within a specified period of time.

In general, there is no requirement to declare the acquisition of shares, as Article 9 of the RA Law on the Protection of Economic Competition states that transactions involving the acquisition of securities listed on stock exchanges are not considered as concentrations and, therefore, they are not subject to declaration.

On the other hand, according to Article 55 of the RA Law on the Securities Market, the Board of the Central Bank may refuse to grant an agreement to acquire a significant shareholding in an investment company if the given transaction is aimed at, leads to, or may lead to, the restriction of free competition in the field of investment services.

6.2 Mandatory Offer

According to Article 152 of the RA law on the Securities Market, any person who as a result of one or more transactions in an equity security of the issuer becomes the holder of more than 75% of the securities of the given class, will be obliged to make a tender offer for all the securities of the given class. The person will be obliged to submit the statement of the securities tender offer to the Central Bank within ten working days upon implementation of the respective transaction.

6.3 Transaction Structures

In terms of Armenian legislation, in the case of a merger of legal persons, the rights and obligations of each person will pass to the newly created legal person, in accordance with the deed of transfer (RA Civil Code).

Although RA legislation does not prohibit the acquisition of a public company, there is no practice of it, either by sale-purchase or by merger.

Therefore, it is not possible to describe the typical transaction structures.

6.4 Consideration; Minimum Price

At this moment, no public company in the technology industry is registered in Armenia. Hence, this question cannot be answered yet.

6.5 Common Conditions for a Takeover/Tender Offer

As there is no large practice for takeover/tender offers, it is not possible to emphasise the common conditions of such offers. Meanwhile, RA legislation has regulations regarding takeover/tender offers, whereby a securities tender offer is a public offering to purchase all or any part of equity securities of the same class, according to which the person or persons making the offer (the buyer) offers the holders of the given securities to alienate (tender) 10% or more of

the securities of the given class to the buyer. A securities tender offer must be at least at the market price of the given securities.

Role of the Central Bank

Prior to publishing a securities tender offer, the person must obtain the consent of the Central Bank. In order to obtain the prior consent of the Central Bank, the person making the securities tender offer must submit a tender offer statement to the Central Bank, containing information prescribed by the regulatory legal acts of the Central Bank.

The Central Bank will take a decision on granting prior consent or refusing to grant it within 15 working days of receiving the statement. The Central Bank may refuse to grant prior consent where the statement or terms of the offer contradict the laws or regulatory legal acts of the Central Bank.

The Central Bank may request from the person making the securities tender offer any document or information relating to the given offer, including on the purpose of acquisition of the securities, and the lawfulness of the origin of funds used for the offer.

The Issuer

The offers, announcements, statements and supplements thereof, information, advertising and other materials should also be submitted to the issuer of the given securities not later that on the day of their publication.

In the course of the securities tender offer, the persons having submitted the offer are prohibited from:

- purchasing, or making an offer to purchase, securities provided for by the offer in any other way or by any other means than provided for by the securities tender offer; and
- selling any security of the issuer which is provided for by the given securities tender offer.

6.6 Deal Documentation

This is not applicable in Armenia.

6.7 Minimum Acceptance Conditions

There are no minimum acceptance conditions that are typical for tender offers, but the legislation provides relevant control thresholds, as follows:

- The term of a securities tender offer may not be less than 15 days and more than 60 days.
- The conditions of a securities tender offer are the same for all the holders of securities of the given class. Where announcements are made with respect to that offer to the holders of securities, all the holders of securities of the given class will be provided with the same announcements.
- A person who has accepted a securities tender offer will have the right to withdraw their acceptance thereof at any time following the day of publication of the tender offer (and amendments thereto) until it closes.
- A person who has submitted a securities tender offer may amend the conditions of the securities tender offer until it closes by increasing the amount of compensation offered to the holders of the securities, or by prolonging the period of the offer.

6.8 Squeeze-Out Mechanisms

Armenian legislation does not define special regulations regarding the public stake acquisition, so the general rules apply.

See **3.3 Impact of the Choice of Listing on Future M&A Transactions**.

6.9 Requirement to Have Certain Funds/Financing to Launch a Takeover Offer

Certain funds are not required to launch the offer. The offer is made by the buyer itself. The takeover offer or business combination may be conditional on the bidder obtaining financing.

6.10 Types of Deal Protection Measures

There are no applicable specific deal protection measures that the target company may grant, so general protection measures are applicable, eg, matching rights, non-solicitation provisions, etc.

6.11 Additional Governance Rights

RA legislation defines various governance rights for shareholders with various ownership percentages. For instance, an owner of 5% of the shares may demand to carry out a financial audit of the company, or may demand the repurchase of its shares; while an owner of 10% of the shares may demand to convene an extraordinary meeting of the shareholders, or to have one non-elected representative on the board of directors. The law lists cases where the decision of the general meeting may be adopted should at least two thirds of the shareholders be present at the meeting and should two thirds of the shareholders present vote for this, eg, in the case of creation of new types or classes of shares, or changes to the conditions of share types and classes. The limitation of shareholder rights requires the votes of three quarters of the owners. The shareholder is entitled to request buyback in certain cases of voting against, eg, company reorganisation or limitation of shareholders' rights.

6.12 Irrevocable Commitments

This is not applicable in Armenia.

6.13 Securities Regulator's or Stock Exchange Process

Prior to publishing a securities tender offer, the person must obtain the prior consent of the Central Bank. In order to obtain the prior consent of the Central Bank, the person making the securities tender offer must submit a tender offer statement. A securities tender offer must be made at least at the market price of the given securities, the procedure and conditions for the calculation of which will be defined by the Central Bank. The Central Bank will adopt a decision on granting prior consent, or refusing to grant it, within 15 working days of receiving the statement. The Central Bank may refuse to grant prior consent where the statement or terms of the offer contradict the laws of Armenia or the Central Bank's normative acts. The regulator does not establish the timeline for the tender offer; the period of a securities tender offer may not be less than 15 days or more than 60 days (Article 149 of the RA Law on the Securities Market). If a competing offer is announced, the timeline restarts.

6.14 Timing of the Takeover Offer

There is no option for extension of a takeover/tender offer. Usually, the regulatory approvals (if any) must be obtained prior to the expiry of the offer period. It is typical for the parties to obtain regulatory approvals prior to launching an offer.

With respect to antitrust approvals, such deals are not subject to approval by the Commission of Economic Protection but, according to Article 55 of the RA Law on the Securities Market, the Board of the Central Bank may refuse to grant an agreement to acquire a significant shareholding in an investment company if the given transaction is aimed at, leads to, or may lead to, the restriction of free competition in the field of investment services.

7. OVERVIEW OF REGULATORY REQUIREMENTS

7.1 Regulations Applicable to a Technology Company

There is a general company establishment process for all sectors of industry. After official submission of the necessary documents, however, the company creation process may proceed differently. For instance, where applicants use the sample document suggested by the authorities, the registration may even be finalised immediately. Considering possible scenarios, excluding administrative or judicial appeal processes, the establishment may be finalised within up to two months.

It is worth mentioning that in Armenia, IT companies may receive tax benefits by getting an IT industry certificate, which is issued by the Ministry of High-Tech Industry of the Republic of Armenia.

The main regulatory body for the establishment of companies is the State Register of the Legal Entities of the Ministry of Justice of the Republic of Armenia. The RA tax authority – currently the RA State Revenue Committee – and the Competition Protection Commission are the next most likely to be involved.

Specific additional requirements are established for carrying out technological activities in the medical and/or military field. For example, in particular, there are special standards for clinical databases or other computing services, and electronic medical card technologies.

There are also special standards in the field of military industry, especially in the production of military technology and drone engineering.

7.2 Primary Securities Market Regulators

The main securities market regulator for M&A transactions is the Central Depository, which carries out the functions of centralised custodian, centralised registrar and operator of the securities settlement system, as prescribed in the Law on the Security Markets (eg, banks, investment service providers), the regulatory legal acts of the Central Bank and its rules.

7.3 Restrictions on Foreign Investments

As there are no specific requirements or restrictions for foreign investments, companies with foreign investment pass the same establishment process as companies with solely local investors, with the requirement to submit duly legalised documents from the relevant jurisdiction. Hence, no filing is mandatory, and the suspension process is the same as for local companies (the same rights and obligations apply).

Foreign investment is generally subject to bilateral investment treaties with other states, which is common practice, ie, additional defences, benefits or sanctions may be granted to investors from a given country.

Nevertheless, there are special restrictions in fields like multimedia, especially: according to Article 15 of the RA Law on Audiovisual Media, the share of foreign capital participation during or after the establishment (creation) of broadcasters may not be equal to 50% or more than 50% of the shares required for the decision-making of the organisation, unless otherwise provided by an international agreement.

7.4 National Security Review/Export Control

This is not applicable in Armenia.

7.5 Antitrust Regulations

Firstly, according to the RA Law on Economic Protection, concentration of economic entities is considered to be:

- a merger of economic entities registered in the Republic of Armenia;
- the acquisition of the assets of an economic entity registered in the Republic of Armenia by another economic entity, if their value together with the assets acquired from the given economic entity during the last three years prior to the transaction is 20% of the value of the assets of the economic entity selling the asset, or the acquisition of a share of another economic entity registered in the Republic of Armenia by an economic entity;
- the acquisition of assets of another economic entity registered in the Republic of Armenia by the economic entity, if it constitutes at least 20% of the statutory (share) capital of that economic entity, or if the shareholder already owns at least 20% of the statutory capital of that economic entity;
- acquisition of the right to use an object of intellectual property, including a means of personalisation, as a result of which, the economic entity may have an impact on the competitive situation in any product market in the Republic of Armenia;
- any transaction, action, reorganisation or behaviour of economic entities, due to which the economic entity may directly or indirectly influence the decision-making or competitiveness of another economic entity or may directly or indirectly affect the decision-making or competitiveness of another entity, or may influence another entity to bring about a competitive situation in the product market in the Republic of Armenia; and
- the establishment of a legal entity in the Republic of Armenia by more than one economic entity that will operate as an independent economic entity.

The concentration of economic entities is subject to declaration before it takes effect, if:

- the total value of the assets of the concentration participants or the value of the assets of at least one of the participants at the time of submission of the concentration declaration, or in the last financial year preceding it, has exceeded the value of the assets defined by the decision of the commission;
- the total amount of income of the participants of the concentration or the amount of income of at least one of the participants in the last financial year preceding the moment of submitting the declaration of concentration, exceeded the amount of income defined by the decision of the commission;
- the total income of the participants of the concentration in the fiscal year preceding the year of submitting the declaration of concentration, or having been active for less than 12 months and the amount of income of at least one of the participants exceeded the amount established by the decision of the commission; or
- at least one of the participants in the concentration has a dominant position in the product market in the Republic of Armenia.

Recent legislative amendments now give a very broad definition as to which process should be dealt with as a consolidation. After the declaration, the relevant authority, which is the Competition Protection Commission, should consent that such transaction is put into action (finalised). Hence, the takeover/business combination transactions should preferably pass an antitrust legislation check.

7.6 Labour Law Regulations

When acquiring a company, a labour law regulations check is preferable. The labour law regulations apply in two dimensions: in relations with current and former employees, and in relations

with state authorities. In detail, current and former employees may be entitled to receive from the company any compensation for compulsory idleness, unfair dismissal, cumulated unused holidays, etc (although the idea of a golden parachute is not defined under Armenian law, it is not prohibited to issue certain benefits if employment is terminated, eg, bonuses), or to have different types of disputes which may eventually lead to financial losses or organisational changes. Hence, the current judicial cases should be checked, and the risks of potential disputes assessed. Coming to the public law sector, the company's former and current practice should be studied to reach a conclusion on possible administrative sanctions or criminal processes (criminal liability is currently applicable to individuals, not legal entities).

7.7 Currency Control/Central Bank Approval

Though in general, currency control regulations are set, there is no requirement for currency control during an M&A transaction. That is to say, the currency control legislation should be studied as it is to assess its applicability in a certain M&A transaction.

8. RECENT LEGAL DEVELOPMENTS

8.1 Significant Court Decisions or Legal Developments

This is not applicable in Armenia.

9. DUE DILIGENCE/DATA PRIVACY

9.1 Technology Company Due Diligence

There are no specific regulations for due diligence information provided to bidders, therefore the general rules for privacy and trade secrets will be followed. The board of directors is free to allow any level of technology due diligence, providing that privacy and secret regulations are followed.

The company is required to provide the same information to all bidders.

9.2 Data Privacy

In Armenia, there are no special data privacy restrictions regarding the due diligence of a technology company. General rules of data protection will be applicable.

Meanwhile, a person lawfully possessing technical, organisational, or commercial information, including production secrets (know-how), which are not known to third persons (undisclosed information), has the right to protect this information from unlawful use (Article 1164, RA Civil Code). This means that the information mentioned will be limited when carrying out due diligence of a technology company. In addition, it is supposed that personal data, which is processed without purpose and may be included in the scope of due diligence, may not be used without the permission of personal data subjects.

10. DISCLOSURE

10.1 Making a Bid Public

In Armenia, there is no phase in which it is mandatory to make the bid public.

10.2 Prospectus Requirements

The requirement for a prospectus applies only where the company is willing to be listed. The stock-for-stock takeover or business combination are left to the private relations of the parties and, by law, a prospectus is not mandatory in such transactions. Additionally, the fact of being listed in the home market or other identified markets is not regulated by law as a condition to affect the transaction.

10.3 Producing Financial Statements

It is prohibited to make a public offer of securities (including shares) without issuance of a prospectus, with certain exceptions. The information in the prospectus should be sufficient for the investor to make a substantiated estimation regarding the financial position, revenues and expenses of the issuer, and any guarantor of liabilities provided for by securities, business prospects, the risks thereof, as well as the rights vested in those securities. The relevant legislation enumerates those financial standards which may be acceptable in Armenia should they be approved as prescribed by law. These are IFRS, IAS, IFRIC and SIC.

10.4 Disclosure of Transaction Documents

Considering the involvement of a state authority in a transaction where there are mandatory documents to be submitted, there is, as a rule, the minimum necessary information to be included in those documents and parties may also sign documents regulating the same relations in detail without submitting these documents (eg, a shareholder agreement may be signed).

In any case, the documents must be presented for relevant registration and after the completion of registration, transaction documents which were submitted to the RA Legal Entities Agency will be available to the public (in Armenia, it is possible to receive documents regarding a given company after payment of the relevant state fees).

11. DUTIES OF DIRECTORS

11.1 Principal Directors' Duties

According to Article 90 of the RA Law on Joint Stock Companies, not only the principal directors, but also the members of the board, the members of the board of directors, as well as the managing entity and the manager must act in the interests of the company, exercise their rights, perform their duties to the company reasonably and in good faith, and avoid real and possible conflicts between personal interests and the interests of the company (fiduciary duty).

11.2 Special or Ad Hoc Committees

It is not common for boards of directors to establish special or ad hoc committees in business combinations. Where a director has a conflict of interest, the relevant decisions are made without the vote of such director (they do not vote). Where all the board members have a conflict of interest, the decision is made by the shareholders.

11.3 Board's Role

Litigation between shareholders and the board is not usual in Armenia. Both shareholders and the board act within their duties following the decision-making process determined by law and by the internal documents of the company. Accordingly, in general, the decision-making process is smooth in terms of disputes as to which body should make the decision. The decisions taken with regard to restricting the company, and investing in new companies or business combination transactions are, in principle, negotiated by the shareholders.

11.4 Independent Outside Advice

In Armenia, during a takeover or business combination, companies will most probably have financial and legal advisers to help them assess the relevant risks. The engagement of other specialists is not common practice and will depend mostly on the transaction and the field of business, which may require particular knowledge of a very specific topic.

Concern Dialog law firm is a Yerevan-based full-service law firm established in 1998. It is one of the oldest and largest law firms in Armenia. The firm provides services in litigation, representation and legal advising. Concern Dialog is one of the few ranked firms which, in addition to corporate and business law, also specialises in criminal and family law. The firm has 63 employees (four partners), of which 17 are licensed attorneys. Concern Dialog has been a member of the TAGLaw Alliance of Independent Law Firms since 2010 and the Nextlaw referral network by Dentons since 2017, which allows it to provide services practically worldwide. The firm is also a member of the American Chamber of Commerce in Armenia, the German Business Association in Armenia, the Chamber of Commerce and Industry France Armenia, the Armenian British Business Chamber, the ICC Armenian National Committee, as well as the ISFIN platform (Islamic finance advisory for emerging markets).

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