

GERMAN LAW NEWSFLASH - April 2016

German M&A 2015 Update and Outlook

The global upward trend of mergers and acquisitions returned to Germany in 2015 with its total volume amounting to more than 101 billion euros. Whether this development will continue through 2016 remains to be seen, since Q3 of 2015 already showed some decline in M&A activity.

Development of 2015

All in all 2015 was a golden year for mergers and acquisitions. The increase of 43 % in total global investment, as compared to 2014, underlines this.

In Germany, mid-cap deals still form the biggest part of the total sum. The weak euro makes it more difficult for German companies to make large profitable cross-border deals, and megadeals like Pfizer's contemplated 160 billion dollar takeover of Allergan - the record deal of 2015 - are unlikely with European buyers. Nevertheless, the German market has been livelier than in any other year since 2009. The average volume of transactions in Germany was around 300 million per deal. This shows that also in Germany the trend seems to be going towards larger deals.

Impacts and Reasons

There are different causes for the boom in 2015. Firstly, we are seeing more and more big players returning to the M&A business, actors who had slowed down their activities after the financial crisis in 2007 due to reasons of restructuring and risk-reduction. According to some sources, companies have during these years accumulated nearly 2400 billion euros of investable capital that they are now seeking reinvestment. While the crisis years saw mostly medium-sized companies dominating the market with small-summed transactions, the optimism of the large acquirers has returned, and political and economic instabilities seem to have less of an impact.

While the general financial climate in Germany is still somehow negative and marked by high fluctuation, Germany, despite its low level of economic growth, does still count as one of the safe harbors, which keeps Germany attractive for foreign capital. Intralinks, a global M&A content management service provider, recently published a survey with 120 experts from the M&A sector predicting that the purchase program of governmental bonds by the ECB will give companies even more capital for reinvestment, which will keep pushing the trend forward.

The appearance of new asset classes has also had a positive impact on the market: More and more transaction activity is being seen in sectors as health-care and education. Nursing homes and kindergartens have become attractive objects for mid-cap inbound activity. Often offering stable 5-7 percent long term yields, they have especially been targeted by public investors such as pension funds in the Nordic countries and elsewhere. In some of these transactions, partly non-profit group structures demand careful legal and tax planning.



Dr. Thomas Kaiser-Stockmann
Rechtsanwalt & Notar

Telephone:
+49 30 213 089 510

Mobile:
+49 172 301 81 61

Email:
info@tkslegal.de

Risks and Challenges

With regard to cross-border activity, the falling rate of the euro makes it difficult for German companies to invest abroad, while North American and especially Asian investors find shopping in Europe to be cheaper than ever. Another challenge is that more and more reports and surveys are noting that purchase prices compared to real values of deals are getting higher and higher, a fact which seems to be especially true for the inner-German market. Some financial pundits speak of an overheated market. A negative influence is also expected from the Volkswagen scandal. All in all, Intralinks figures show that already Q3/2015 saw a 6.9 % decrease. While it is commonly accepted that merger activity is volatile and follows certain "merger waves", it is hard to say whether the current situations speaks of a phase of orientation or whether the peak of the boom has already been reached.

The market also faces a more practical challenge: Especially among family businesses and in the Mittelstand, many companies have still not managed the succession planning to the new generation in the coming years. In some cases to avoid ceasing business, these generational changes may even force the company to be sold, often having a negative impact on the deal terms.

At the same time, a large amount of investable capital is still available, so the economic slowdown and the fall of the Chinese stock market might not really cripple the M&A market. With Industry 4.0 becoming more and more topical, branch restructuring-related transactions are still expected to be active. In our view, actors who are able to transact quickly and flexibly, ideally with mostly own capital, will have a clear advantage. Price negotiations play a larger role than ever, so that flexibility and thorough value calculations are very important factors.

tklegal Berlin LLP is a German law firm and notarial office, with a focus on Corporate and M&A and Real Estate law and transactions. Feel free to contact us with any questions or comments.

Dr. Thomas Kaiser-Stockmann will be co-chairing the upcoming IBA 2nd Global Entrepreneurship Conference in Barcelona, 23-25 May 2016. Experts in the keynote debate moderated by Thomas will include Martin Brandt, CEO of Erwin Hymer Group, the European leader in motorhomes and Carlos Muñoz, founder and CEO of Volotea Airlines.