

M&A BRIEFING: Special Edition

Amendments to the Greek Tender Offer Rules

Legislative changes affect the minimum consideration to be offered by bidders to the minority shareholders of targets in mandatory tender offers.

In This Issue

■ Changes to Minimum Consideration Offered to Minority Shareholders in MTOs

Article 108 of Law 4514/2018, which was enacted on 30 January 2018 mainly to transpose MiFiD II into Greek law, amended, amongst others, the minimum consideration that a bidder must offer to the target's minority shareholders in the case of a mandatory tender offer (MTO).

More specifically, if:

1. market manipulation has been committed with respect to the target shares within 18 months prior to the date on which the bidder has become obliged to launch an MTO and sanctions have been imposed by the Hellenic Capital Market Commission (HCMC); or
2. transactions in target shares:
 - a. were performed within less than three fifths (3/5) of the total operating days of the Athens Exchange; or
 - b. represented less than 10% of the total number of the target shares,in each case over the 6 months preceding the date on which the bidder has become obliged to launch the MTO; or
3. the higher of:

- a. the 6-month volume weighted average market price for the target shares; and
 - b. the price that the bidder has (or any persons acting in concert with the bidder have) paid to acquire target shares over the 12 months preceding the date on which the bidder has become obliged to launch the MTO,
- is less than 80% of the average of the book value of the target shares deriving from the two most recent (consolidated) financial statements of the target,

a valuation of the target shares should be made by a valuator (bank or investment firm meeting certain requirements and which should be independent from the bidder and the target) within 30 calendar days from the acquisition of the target shares triggering the MTO.

The minimum MTO price must then be no lower than the higher of (x) the prices contemplated in 3. a. or b. above, and (y) the price resulting from the valuation of the target shares.

To enable such valuation and determination of the minimum MTO price, the deadline to launch the MTO is extended to 30 days from the date the bidder has become obliged to launch the MTO.

Upon initiating the MTO process, bidders should provide the HCMC with a written statement confirming or disconfirming the occurrence of the matters described in 1. to 3. above.

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