

CORPORATE M&A OVERVIEW – Belgium

Overview of the Belgian M&A market

Belgium is mainly an open SME-driven economy with many solid family-owned companies. As a result, the M&A landscape is slightly different from other (especially larger) European countries. Given the size of the Belgian economy and companies, the majority of M&A transactions are small or mid-size transactions.

According to the Belgian financial press, 50 Belgian deals with a deal value over 100 million euros were closed in 2021 (compared to approximately 20 in 2020). The number of Belgian deals in 2021 with a deal value in excess of 1 billion euros was limited to 5 deals. To put things into perspective, the total reported deal value for 2021 amounted to 30 billion euros (compared to 20 billion euros in 2020).

Among the most important transactions in 2021, the transfer of the telecom company VOO to the French leader Orange and the aluminium company Corialis to the French investment fund Astorg may be mentioned. The number of international buyers of Belgian targets increased in 2021.

In terms of sectors, most of the M&A transactions, as well as the highest EV/EBITDA multiples, are seen in the knowledge-intensive industries such as (in order of priority): (i) technology, (ii) pharmaceutical industry and (iii) healthcare and biotech. Driven by its low-risk profile, the real estate sector is following closely in the rankings in fourth place.

Impact of the COVID-19 pandemic

Like in many other countries, the outbreak of the COVID-19 pandemic in early 2020 resulted in a series of lockdowns. As from the start of the first and most severe lockdown in mid-March 2020, and until the summer of the same year, the Belgian M&A market came to a quasi-standstill. At that time, M&A experts anticipated a decline of M&A activity for 2020 of more than 30%.

However, as from the summer of 2020, when the most restrictive measures were relaxed, M&A activity picked up at high speed, making up for the standstill earlier that year. The upward trend continued in 2021 as the economy emerged from the crisis (despite a second, third and fourth wave of the pandemic). Since the steep recovery of the M&A market after the first

wave, deal activity rose to unprecedented heights during 2021, leading to sometimes very high prices.

In general, M&A practitioners remain optimistic for 2022. However, it remains to be seen what the impact of the interest rates rise, the increasing oil and energy prices and inflation will be. Further, the shortage (and price increases as a result thereof) of certain raw materials and the geopolitical developments in Ukraine and the sanctions imposed on Russia, are expected to impact the M&A activity significantly.

M&A trends and developments

Increased activity of (Belgian) VC/PE firms

Over the past couple of years, the Belgian M&A market has seen increased activity of venture capital and private equity firms. Also worth noting is that many entrepreneurial families and/or captains of industry have organised their estate in a family office. The latter are very active in the segment of small to mid-size deals and accountable for an important part of the Belgian VC/PE deal activity. 'Entrepreneurs investing in entrepreneurs' is very popular these days as the selling company owner tends to get along well with the like-minded investing entrepreneur(s).

A recent survey confirmed that a private equity or venture capital firm is involved as a buyer or seller in one out of three transactions on the Belgian market. For mid-size deals, this amounts to almost 50% and for the largest deals, this further increases to close to 60%.

As a result of the increased activity of venture capital and private equity firms (including family offices) on the Belgian M&A market, the number of transactions where the seller reinvests part of the purchase price in the new structure is increasing as well.

Generation shift and taxation

Given Belgium's SME-driven economy with plenty of strong and well-performing family-owned companies, the owner's retirement is one of the most important reasons for selling a company. The second most important reason, and in a way related to the first one, is that the owner feels that the company has more potential under a new owner.

In addition, business owners are afraid of the taxation of the surplus valuation of shares. At present, capital gains are not taxable for individuals in Belgium, provided they are realised within the framework of the normal management of the individual's private estate. However, the new Belgian government in



place from October 2020 announced a tax reform. Although things are still uncertain at this point, the much-debated favourable tax regime applicable to the sale of shares by a private individual might change in the future. This uncertainty further drives the M&A market with many sales processes being initiated by company owners approaching their retirement.

As a result of the taxation regime described above, almost 90% of the M&A deals in Belgium are structured as the sale of the shares in the company. For the same reason, an asset deal is less common in Belgium.

Seller-initiated deals, longer overall process and increased use of deferred payment elements

The increase of seller-initiated transactions, which started a couple of years ago, often organised as a competitive auction, is confirmed.

Even though many steps of the transaction process nowadays take place virtually, recent surveys concluded that the overall time laps between the start of the negotiations (i.e. the signing of the non-disclosure agreement) and the closing of the transaction amounts to 8-9 months.

As regards purchase price mechanisms, locked-box pricing mechanisms became more popular (even more popular than Closing Accounts) in all deal categories. Further, there is a growing trend towards the use of deferred purchase price payments. This may take different forms (or a combination thereof) of deferred fixed amounts (vendor loan) or variable amounts (earn-out). Especially in the small and mid-size transactions, an increase in the use of earn-out payments is noted. The COVID-19 pandemic increased uncertainty about the actual value of the targets, with sometimes important up- or downward swings in the reported EBITDA due to the pandemic and the restrictive measures imposed. The uncertainty and/or unpredictability about the length and impact of the pandemic has often been bridged through the use of earn-out clauses.

Breakthrough of W&I insurance

Another notable evolution is the long-bespoken breakthrough of warranty and indemnity insurance (W&I insurance) on the Belgian M&A market. Until recently, the number of transactions where W&I insurance was used remained fairly limited (and limited to the largest deal segment).

An increasing number of deals using W&I insurance is being reported, and it seems now the Belgian M&A market is ready to welcome W&I insurance. It is expected that this trend will continue and that W&I insurance will become,



just like in many other surrounding jurisdictions, an important element in the Belgian M&A practice.

Fast-growing tech start- and scale-ups

Belgium has built a name for itself in the world of tech with many fast-growing start- and scale-ups developing innovative solutions. The market for funding these companies has gained maturity over the past couple of years and an entire eco-system has emerged. Consequently, many Belgian and international venture capital funds are active in Belgium and providing capital to these fast-growing companies. The funding market is growing rapidly, with record investments being announced regularly. It has been reported that for the year 2020, Belgian fast-growing companies crossed the 1 billion euros investment threshold. For the year 2021, this further increased to almost 1.4 billion euros. For the first month of 2022, the financial press reported that close to 300 million euros had already been invested, the strongest start of the year ever.

Some of these companies have been doing extremely well and got the so-called 'unicorn' status (i.e. a privately held company with a value of over 1 billion euros). The first Belgian unicorn (Collibra) was reported in 2019. Most recently, in January 2022, Belgium saw its fourth unicorn (Deliverect), and another handful of fast-growing companies are being shortlisted to become unicorns soon.

ESG

Through the Environmental, Social and Governance (ESG) criteria, it is possible to assess how companies exercise their responsibility for the environment and their stakeholders (employees, partners, subcontractors and customers). In light of the objectives of the Paris Agreement and pursuant to the European Green Deal, the EU adopted a number of far-reaching reforms to ensure that companies play a significant part in achieving the objectives and contribute to sustainability. In this context, ESG requirements applicable to Belgian companies are continuously evolving, creating new obligations and increasingly providing sanctions for non-compliance, targeting companies and their directors. Companies will be more thoroughly scrutinised on ESG aspects, not only by governments and regulators but also by investors.

The evolution of the European regulations and the Belgian legislation is to be followed closely in the coming months.

