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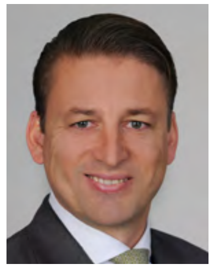

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Exclusive Q&A on Mergers & Acquisitions with Dr. Markus Nauheim & Dr. Philipp Mangini-Guidano

Can you talk us through the current M&A landscape in your jurisdiction, in particular what M&A trends have you seen in the German deal market during the last 12 months?

The M&A market in Germany over the past 12 months has been quite patchy, seeing strong deal activity throughout 2015 and a slowdown in the first quarter of 2016. As the German economy has remained comparatively stable during the long-lasting European debt crisis, German companies have continued to provide strong balance sheets and credit stories, especially in the small-/mid cap sector, the so-called "Mittelstand", which comprises many global market leaders in industrial niche markets and where approx. 95% of all M&A transactions in Germany take place.

Albeit too few have been available for sale, German companies continued to present attractive targets for both financial and strategic investors. Whereas the real estate sector was one of the most active, but not all deals went through, the industrials and chemical sectors have received a lot of interest from investors as well – followed by TMT, energy, pharma and healthcare as well as consumer and retail. Favourable parameters such as low interest rates, an abundance of cash and funding opportunities (at least until the end of last year), and a strong US dollar provided a solid foundation for deal activity, in particular driven by foreign investors from overseas.

However, the scarcity of potential investment targets led to – at times excessively – high valuations, reaching record high multiples in certain industries. These high valuations in turn paved the way for a series of exits by private equity funds that had reached the end of their investment cycles and which used the window of opportunity of a seller's market into which the German M&A market had turned in the last year.

Have there been any recent major regulatory changes or interesting legal developments with regard to the legal framework of M&A activity in Germany?

We are currently seeing quite some regulatory activity in the area of securities law driven by the EU legislator aiming at harmonising and tightening the rules on transparency and market abuse throughout the EU Member States. Against this background, the Amendment Directive (2013/50/EU) to the former Transparency Directive (2004/109/EG) was implemented

into German law in November 2015 which particularly affects the German Securities Trading Act (*Wertpapierhandelsgesetz- WpHG*). Under the new rules, the notification requirements for the reporting of voting rights as well as the correlating sanction regime have been tightened. For example, the triggering events for the reporting duties have been accelerated in a manner that no longer the actual transfer of legal ownership in shares is the relevant event, but rather the existence of a claim or obligation to have the shares transferred unconditionally and without undue delay. As a result, the acquisition of a significant number of shares or derivatives in preparation of a subsequent transaction without disclosure has become harder, if not impossible, under the new transparency rules.

In addition to the new transparency rules, the new EU Regulation 596/2014 against market abuse (Market Abuse Regulation) will become effective and directly applicable in all EU Member States in July 2016 and will replace the national provisions in the areas of insider law, ad-hoc publicity, disclosure of directors' dealings and market manipulation. Although the major principles will remain similar to the current German regime, the Market Abuse Regulation will provide for an expansion and detailed specification of the rules. As a novelty, for example, the new rules will apply in large part also to issuers of stock in the unofficial or OTC market and will, among other things, require the national legislator to implement a much stricter sanction regime in case of violations of the Market Abuse Regulation.

Additionally, an amendment to the German Stock Exchange Act (*Börsengesetz - BörsG*) in November 2015 introduced stricter requirements under which a public listing on the regulated market in Germany can be revoked at the issuer's request. Under the new rules, a delisting procedure requires, broadly speaking, the publication of an offer document by the issuer to acquire all securities affected subject to the payment of a cash compensation which is to be accompanied by a financing commitment. By reintroducing the compensation requirement, the German legislator intended to provide further protection to minority shareholders in response to a large number of delistings that took place over the past two years triggered by previous German case law that had abolished the compensation requirement in 2013. As a consequence of such stricter requirements, the number of delistings in Germany will go down again significantly.

What are your predictions for the M&A market in Germany for 2016 and beyond? Which challenges are M&A participants going to face?

For the next 12 months, a solid growth of the German economy has been predicted by experts, and based on the analysts' estimates the balance sheets and credit stories of German companies are expected to remain robust in many industries. We also expect that the US dollar will stay strong against the Euro and the interest rates low for quite some time which should all make for a positive deal environment.

Nevertheless, 2016 marks a year of many uncertainties and new challenges which already have and could continue to put a damper on the M&A market in Germany and elsewhere. Among those uncertainties and challenges are the continued pressure on the oil price and with it on the entire oil industry as well as the slowdown of the economies in China, Russia and Brazil. Further, the European Union continues to face major social, political and financial challenges arising from the refugee crisis triggered by geopolitical turmoil in the Middle East and North Africa, the increasing disintegration of the European Union by separation movements in the Member States (most notably the upcoming "Brexit" referendum in the UK) as well as the never-ending sovereign debt crisis in Greece and other EU Member States. Lastly, the fact that the United States is in a presidential election year also adds a level of uncertainty usually having an impact on global M&A activity.

Taken all together and despite – or perhaps because of – the challenges, we believe that the current environment still presents interesting opportunities for M&A in Germany. Although we will likely not see last year's record numbers repeated, 2016 will be another robust, but volatile deal year.

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