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United Kingdom

Mergers & Acquisitions

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This country-specific Q&A provides an overview of mergers & acquisitions laws and regulations applicable in United Kingdom.

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United Kingdom: Mergers & Acquisitions

1. What are the key rules/laws relevant to M&A and who are the key regulatory authorities?

In the UK, the acquisition of public listed companies is governed by the City Code on Takeovers and Mergers (the Takeover Code). Its objectives include ensuring market integrity during a bid, and that target shareholders are treated fairly and equally, and given the opportunity to decide on the merits of a bid. The Takeover Code is administered by the Panel on Takeovers and Mergers (the Takeover Panel), with which takeover parties consult during any bid process. It has wide discretion and can impose sanctions for non-compliance (although non-compliance is rare in practice).

On 3 February 2025, the scope of companies subject to the Takeover Code was significantly narrowed. It now applies to companies that are both registered, and listed and admitted for trading on a public market in the UK, Channel Islands or Isle of Man, and for a period of two years following a delisting. Until 2 February 2027, transition arrangements apply to certain unquoted public and private companies that were previously in scope, provided they meet the 'residency test' (i.e., their registration and place of central management and control was in the UK, Channel Islands or Isle of Man at the time of the transaction).

The Companies Act 2006 (the Companies Act) is the primary legislative source of company law. It applies to public and private UK-incorporated companies. Its requirements can dictate the way that public M&A deals are effected, and will also be relevant to some aspects of private M&A transactions, although the terms of those transactions are generally bilaterally negotiated and within the control of the contracting parties.

Certain transactions may be subject to regulatory or state involvement for merger control, national security or foreign investment screening considerations, or where they involve a regulated industry, such as financial services, telecoms, media and pharmaceuticals. In particular, the Enterprise Act 2002 governs the legal framework for UK merger control, as overseen by the Competition and Markets Authority (CMA). Pursuant to the National Security and Investment Act 2022, the UK government has power to review and intervene in acquisitions that may pose risks to national security.

This Guide focuses on UK public company takeovers. Private company acquisitions are largely a matter of negotiation between buyer and seller, and no regulated bid process is required.

2. What is the current state of the market?

Sentiment in the current UK M&A environment is cautious optimism. 2024 ended with an uptick in M&A transactions compared with previous, post-Covid years. Improved economic conditions boosted business confidence and M&A activity. Takeover activity and high-value bids returned. There was also increased M&A interest from foreign investors.

However, uncertainty remains.

Overall mood for deal-making remains a reflection of macro-economic considerations. There remains pent-up demand for M&A activity, as investors continue to have access to equity and debt financing sources, and there is a significant backlog of assets that are expected to come to market in the near-term. As ever, geopolitical equilibrium being reached will prove more conducive to M&A activity.

3. Which market sectors have been particularly active recently?

The technology sector remains active in both deal value and volume terms. In particular, deal-making in AI significantly increased. Other notably active sectors are healthcare, finance and energy.

4. What do you believe will be the three most significant factors influencing M&A activity over the next 2 years?

Tariff challenges – the introduction of new tariffs will bring changes to global supply chains. Parties considering M&A may hold off deal-making until there is a clear line of sight on the P&L impacts of these changes. However, the UK may benefit if investors feel that other markets are being closed off to them.

Competitiveness – UK pro-growth and anti-regulation policy measures are being implemented, and the expectation is for a more favourable antitrust and general regulatory environment for UK M&A relative to recent years.

Economic conditions – whether there are generally economic headwinds or tailwinds, in particular the direction of inflation and interest rates, will directly impact deal financing costs and appetite for M&A activity.

5. What are the key means of effecting the acquisition of a publicly traded company?

A public listed company takeover involves the acquisition of all or a substantial part of the shareholding. Takeovers are either 'recommended' by the target board to its shareholders or 'hostile', where the board has publicly advised shareholders to reject the bid. They are effected in one of two ways: a scheme of arrangement, or a contractual offer to all target shareholders to acquire their shares. The vast majority of takeovers are recommended, and of those the vast majority take place by way of scheme of arrangement.

- **Scheme of arrangement** – a scheme must be approved by target shareholders. The approval threshold is a majority in number, representing 75% in value of each share class, of shareholders attending and voting at the relevant shareholder meeting. Court approval to hold the meeting of scheme shareholders and then final approval of the scheme is also required. If the scheme is approved, all shareholders will be bound, making it a relatively efficient way of acquiring 100% control of the target company. Shareholder apathy can also benefit bidders, since only shareholders that attend and vote are counted.
- **Contractual takeover offer** – an offer must be accepted by target shareholders. The minimum consent threshold is shares carrying more than 50% of voting rights in the target company. In practice, the threshold is usually set higher, for example at 90% so that the bidder can compulsorily acquire any minority shareholdings (**see 27 below**). However, bidders usually reserve the right to waive the acceptance condition down to the minimum simple majority, if necessary. Generally, offers are usually more appropriate on hostile bids (since the bidder controls the process) and where a bidder has a significant holding.

6. What information relating to a target company is publicly available and to what extent is a target company obliged to disclose diligence related information to a potential acquirer?

Certain information relating to the target company will be publicly available at the UK companies registry, Companies House. This includes its constitutional documents and other information, for instance relating to directors, accounts and charges. Public searches can be carried out in relation to real property, intellectual property and any winding-up or administration petitions. Various other information is publicly available on the target company's website, and in news items, announcements, circulars, analysts' reports, and other media. There is generally more information available in respect of UK listed companies than private companies, due to their regulatory disclosure requirements.

A public target company is not obliged to disclose diligence-related information to a potential bidder, except where information has already been provided to a competing bidder or potential bidder. In these circumstances, the Takeover Code requires that the target board make the same information available to another bidder or bona fide potential bidder, on request. Following the announcement of a takeover bid, various information can be requested or must be provided to a bidder, in line with Takeover Code rules.

In practice, a target company does disclose diligence-related information to a potential bidder prior to an announcement of a recommended transaction. The Takeover Code imposes strict secrecy obligations on those privy to confidential, especially price-sensitive, information. The number of persons in receipt of such information is usually kept small, with information shared confidentially to minimise the chance of leaks.

7. To what level of detail is due diligence customarily undertaken?

Due diligence in the context of public takeovers is generally more limited than on private M&A. This is primarily due to confidentiality concerns regarding commercially sensitive information (and parties will often be well advised to be mindful of competition rules in relation to certain commercial information), as the target company will be mindful of its obligation to share information in a competing bid situation (see 6 above).

The specific level of due diligence undertaken depends on the circumstances. For instance, a more extensive exercise may be undertaken by a financial sponsor bidder where warranty protection is not available and there are limited opportunities to withdraw from a bid after announcement.

Prior to the bidder making an approach to the target board, due diligence is limited to publicly available information. Thereafter, on a recommended bid, the target will usually support and engage with a potential bidder's further investigations. In a hostile context, investigations remain limited to publicly available information, unless there is a competing bid situation.

8. What are the key decision-making bodies within a target company and what approval rights do shareholders have?

The board of directors and the meeting of shareholders are the key decision-making organs within a target company.

Directors must, as a collective, give their views on any offer put to shareholders, and shareholders must consent to a takeover bid for it to be effective, subject to specified approval thresholds. A contractual takeover offer must be accepted by shareholders; a scheme of arrangement must be approved by shareholders in a meeting, subject to court sanction (see 5 above).

9. What are the duties of the directors and controlling shareholders of a target company?

Pursuant to the Companies Act, the directors of the target company have statutory duties in addition to their other fiduciary duties owed to the company. They must be mindful of the following, in particular, in the context of a takeover bid.

- **Duty to act within powers and for proper purposes** – a director must act within the confines of the company's constitution, and only exercise powers for the purposes for which they were conferred. For instance, it would be contrary to this duty (and the Takeover Code) for a director to approve a share allotment with the intention of preventing a takeover bid.
- **Duty to promote the success of the company** – a director must act in a way they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole. Success is determined based on the director's judgment, taking into account factors such as the likely consequences of any decision in the long term and the interests of employees. For instance, when considering whether to recommend a bid, target directors will need to consider whether it is in the best long-term interests of the company. The court is unlikely to interfere with a decision or course of action unless no reasonable director could possibly have concluded that such action would promote the success of the company.
- **Duty to exercise reasonable care, skill and diligence** – a director must exercise the care, skill and diligence which would be exercised by a reasonably diligent person with the knowledge, skill and diligence of that director personally, and would be reasonably expected of directors generally. For instance, although a committee will have day-to-day responsibility for a takeover, the board will remain under a duty to monitor its activities (this is backed up by provisions in the Takeover Code).
- **Duty to avoid conflicts of interest and duty** – a director must avoid a situation in which they have, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. Matters may be authorised by the independent, non-conflicted directors. In a takeover context, conflicts may arise, for instance, where a target director holds a position in the bidder or will have a continued role in the target business post-acquisition. An independent committee of directors may be formed to decide whether to recommend a bid to target shareholders.

Target directors may also owe shareholders a fiduciary duty in a takeover situation, although the law is unclear. Other legal and regulatory duties, responsibilities and potential liabilities may apply during a bid process, for example under the Takeover Code and laws relating to insider dealing, market abuse, misleading or negligent statements, and market manipulation.

Shareholders do not owe fiduciary duties to the company in the same way as directors. However, majority shareholders should conduct the affairs of the company in a manner which does not unfairly prejudice the rights of minority shareholders. Certain obligations and disclosure requirements apply to shareholders with, or acquiring, controlling stakes.

10. Do employees/other stakeholders have any specific approval, consultation or other rights?

Subject to the obligation to maintain secrecy, the Takeover Code permits (but does not mandate) consultation with employees and pension scheme trustees before and during a bid. Once publicly announced, any employee representative bodies and pension scheme trustees have certain information rights, and the right to produce an opinion on the effects of the bid on employees and the pension scheme respectively.

The bid announcement must include details of the bidder's intentions regarding, for instance, the future business of the target company, the continued employment of employees and any material changes in employment conditions, and its strategic plans for the target company and the likely impact on employment and places of business.

11. To what degree is conditionality an accepted market feature on acquisitions?

Conditionality is an accepted market feature on UK public takeovers. In addition to the acceptance condition, a bid (other than a mandatory bid) will usually also be subject to an extensive set of conditions covering antitrust and regulatory approvals, any necessary approval by the bidder's shareholders and the listing of consideration shares (where appropriate), as well as conditions dealing with the state of the target's business. However, a bid cannot be subject to conditions that depend on the subjective judgement of the bidder.

Despite extensive conditionality being standard, a bidder can only invoke a condition with Takeover Panel consent, subject to certain exceptions. Typically, consent is given only if the circumstances which have arisen are, in the Takeover Panel's view, of material significance to the bidder in the context of the bid. In practice this is a very high threshold, and bidders are generally not able to walk away once a bid has been formally announced.

Common conditions relate to the listing of any consideration shares, there being no reference made to the CMA or other relevant antitrust regulator, the business having all relevant authorisations and approvals, there being no material ligation or other disputes against the target company, and there being no material adverse changes in the target company's financial or trading position. The acceptance condition can only be satisfied once all other conditions have been satisfied or waived.

12. What steps can an acquirer of a target company take to secure deal exclusivity?

The Takeover Code generally prohibits 'offer-related arrangements', including as to exclusivity, between a bidder and target company. This applies during a bid process or when a bid is reasonably in contemplation, absent Takeover Panel consent.

Other generally prohibited deal protection mechanisms include non-de minimis break fees, 'no-shop' agreements, matching rights, and restrictions on the target changing its recommendation. Exceptions may be available to a bidder in the circumstances.

13. What other deal protection and costs coverage mechanisms are most frequently used by acquirers?

Despite the general prohibition on 'offer-related arrangements', certain deal protection measures may be available to bidders. Common measures include stakebuilding and irrevocable undertakings.

- **Stakebuilding** – a bidder may acquire target shares before or during a bid process, for instance to reduce costs where pre-announcement purchases are made relatively cheaply, or to offset costs in the event of a successful higher rival bid (in which case, it can sell its stake for profit). However, stakebuilding is subject to legal and regulatory constraints and disclosure requirements. Notably, early on there may be dealing restrictions where a bidder has inside information about, or a confidentiality agreement in place with, the target company. Share acquisitions by the bidder and its concert parties will have various implications and may be prohibited depending on the size of stake. For instance, the terms of the bid may be impacted, disclosure obligations may be triggered, or a mandatory bid may be required. There is also the risk that stakebuilding triggers an increase in share price or simply results in loss on a failed, uncontested bid.
- **Irrevocable undertakings** – prior to announcement, a bidder may seek legally binding irrevocable undertakings to accept or approve the bid, from key target shareholders and (on a recommended bid) target director shareholders. This is permitted, although the Takeover Code limits how and when this may be done, as well as the number of shareholders involved. Irrevocable undertakings will be structured so as to fall away either where the bid is no longer recommended, another bid emerges that is higher (at all or by a certain percentage), or a rival bid completes.

14. Which forms of consideration are most commonly used?

Cash is the most common form of consideration on UK public takeovers and has obvious advantages for selling shareholders.

Shares (often in an unlisted vehicle in the acquisition group) may be offered alone, as an alternative to cash, or as a mixture of cash and shares. Certain shareholders may prefer shares (or loan notes) for tax reasons. A bidder may list its shares in the UK (if not already listed) in order to make a bid more attractive, although there is no obligation to do so. Where there is share consideration, the bidder may need to produce a prospectus or equivalent document.

15. At what ownership levels by an acquirer is public disclosure required (whether acquiring a target company as a whole or a minority stake)?

The Takeover Code and the FCA's Disclosure Guidance and Transparency Rules (DTRs), which apply to UK listed companies, require disclosure of acquisitions in target shares by the bidder.

Pursuant to the DTRs, disclosure is required where specified thresholds are reached based on percentage holdings (directly or indirectly) of voting rights in the target company. This includes any such holding of 3% or more, any whole percentage increase or decrease thereafter over 3%, and any disposal reducing the holding to less than 3%. Disclosure applies regardless of any bid process. The target company must notify a Regulatory Information Service (RIS) as soon as possible and in any event by the end of the trading day following notification from the relevant shareholder.

Takeover Code requirements apply once a bid process has commenced. The key requirements applicable to bidders are disclosure of opening positions and any dealings by the bidder, its concert parties or any connected exempt principal trader. Dealings must usually be disclosed on a daily basis to an RIS.

16. At what stage of negotiation is public disclosure required or customary?

The Takeover Code governs when a bid must be publicly announced. This will depend on the circumstances.

Typically, a potential bidder must make a 'firm intention to bid' announcement once it has notified the target board of its decision to proceed. This should be once the bidder has every reason to believe it can, and will, continue to be able to implement the bid and has fully committed financing in place.

In the event of an early leak, a 'possible offer' announcement will be required, which must usually identify the potential bidder. A leak is where the target company is the subject of rumour and speculation or there is an untoward movement in its share price, and there are reasonable grounds to conclude that this is due to the potential bidder's actions. The potential bidder then has 28 days (subject to Takeover Panel consent to an extension) within which to either announce a 'firm intention to bid', or withdraw.

An announcement will be required where an acquisition results in an obligation to make a mandatory bid (**see 25 below**).

17. Is there any maximum time period for negotiations or due diligence?

The timeline for completing a public takeover depends on whether by it is by way of a scheme or an offer. A scheme timetable is not strictly governed by the Takeover Code in the same way as an offer: the parties agree an expected timetable and present it in the bid document. There is no maximum time limit for fulfilment of conditions (unlike in an offer), reflecting the fact that timings depend on the availability of court hearing dates. However, parties can agree scheme conditions enabling the bidder to lapse the bid if the target company unilaterally postpones certain agreed key milestones. If a bid lapses, there are restrictions on when a new bid can be made.

Completing a takeover depends on a number of other factors. The indicative timetable below assumes a recommended bid and no regulatory issues.

- **Approach** – the bidder makes an informal approach to the target board (having conducted initial due diligence, using publicly available information). For a scheme, court dates are booked as early as possible.
- **Due diligence** – if the bid price and general nature of conditions are agreed, due diligence is carried out for around two to six weeks.
- **'Firm intention to bid' announcement** – the announcement is released by the bidder.
- **Scheme commencement** – the scheme is commenced by issuing a claim form in court (together with supporting documents, including the scheme document). A directions hearing is held.
- **Bid document** – the bid document is sent to target shareholders within 28 days of the announcement (and no earlier than 14 days, absent target board consent). On a scheme, the target company makes a related announcement which includes the expected scheme timetable.
- **Shareholder approval (scheme)** – shareholder meetings are held to approve the scheme (no sooner than 21 days after sending the bid document).
- **Court sanction (scheme)** – the court sanction hearing

takes place approximately 20 days after shareholder approval (subject to court availability).
- **Scheme effective date / offer unconditional date** – a scheme becomes effective when the court order is filed at Companies House (usually one to two days after the court sanction hearing, but potentially same day depending on the circumstances). An offer must have met its acceptance condition by 60 days after the bid document is posted; this can be extended with target board approval or Takeover Panel consent where regulatory clearances have not been obtained.

After the acquisition and payment of consideration, steps also commonly include de-listing, re-registering the company as private, and compulsorily acquiring the shares of any remaining dissenting minority shareholders (**see 27 below**).

18. Is there any maximum time period between announcement of a transaction and completion of a transaction?

The Takeover Code specifies timeframes for certain stages of a bid process, rather than setting a single applicable period from announcement to completion. Timing will also depend on the particular circumstances and may be subject to any extensions granted by the Takeover Panel, for example in a competing bid scenario, for any delay in obtaining necessary regulatory approval or competition clearance, or in other exceptional circumstances.

Typical timings are provided in the indicative timetable above, which assumes a recommended bid and no regulatory issues (**see 17 above**), including that:

- the bid document is sent to target shareholders within 28 days of the 'firm intention to bid' announcement; and
- a scheme will become effective when the court order is filed following the court sanction hearing; an offer must (usually) have met its acceptance condition by 60 days after the bid document is posted (which is when the offer becomes unconditional).

Additionally, target shareholders must be paid within 14 days of the scheme becoming effective (on a scheme) or within 14 days of the offer becoming unconditional (on an offer). Bid documents must specify a "long-stop date", on which the relevant bid will lapse if either it has not become effective (for a scheme), or if insufficient acceptances have been received to satisfy the acceptance condition or a regulatory condition has not been satisfied or waived, with Takeover Panel consent (for an offer).

19. Are there any circumstances where a minimum price may be set for the shares in a target company?

The Takeover Code does not generally regulate bid pricing, although the same consideration must be offered to all shareholders. This is subject to an exception where (absent Takeover Panel consent) the bid price must not be on less favourable terms than the highest price paid by the bidder (or its concert parties) for an interest in target shares in the three months before the offer period, or during the period between the start of the offer period and the 'firm intention to bid' announcement.

20. Is it possible for target companies to provide financial assistance?

The Companies Act prohibits public companies from providing financial assistance to a person that is acquiring or proposing to acquire their shares (or shares in their holding company), subject to certain exceptions. This includes financial assistance given, directly or indirectly, before or at the same time as the acquisition of shares takes place. Subsidiaries of public companies are also prohibited from providing financial assistance in relation to the acquisition of shares in their parent company.

Examples of financial assistance include providing a gift, giving a guarantee, security or indemnity, releasing or waiving a debt, providing a loan, or novating rights under an agreement. Financial assistance also includes any other financial assistance given by the company where the net assets of the company are reduced to a material extent by the giving of the assistance, or where the company has no net assets.

Accordingly, it is difficult to use the assets of a target company to secure the borrowings incurred to finance a takeover bid. However, on acquiring 75% of the target company, a bidder can de-list the company and convert it into a private company, so the financial assistance rules no longer apply (although corporate benefit and wider capital maintenance issues will still be applicable).

21. Which governing law is customarily used on acquisitions?

England and Wales.

22. What public-facing documentation must a buyer produce in connection with the acquisition of a listed company?

The key public-facing documents produced by a bidder in a typical scenario are the 'firm intention to bid' announcement and the bid document, with certain other documents published at the same time or during the course of a bid process. Other key documents may be relevant in the circumstances, for example a shareholder circular (where a listed bidder needs shareholder approval for the acquisition under the UK Listing Rules) or a prospectus or exemption document (where there is share consideration).

'Firm intention to bid' announcement – the Takeover Code specifies the contents requirements of the announcement, for example the bid terms, the bidder's identity and any existing shareholdings, any conditions or pre-conditions, details of any dealing arrangements and, where there is a cash element, confirmation of sufficient resources from the bidder's financial adviser. At this stage, the bidder must confirm its intentions regarding the business, employees and pension scheme(s) of the target company. The announcement is published via an RIS; if submitted outside normal business hours, it must also be distributed to at least two UK newswire services.

Bid document – the Takeover Code specifies the contents requirements of the bid document, some of which will already have been included in the announcement. Other examples include any post-offer undertakings (broadly, statements about the bidder's post-acquisition plans that it commits to take or not take), certain financial and other information about the bidder, and estimated deal fees and expenses. The bid document will be accompanied by a form of acceptance for target shareholders. The Takeover Code and Companies Act contain further contents requirements for a circular, where the takeover is by way of scheme of arrangement. The bid document must be published on a website (having been sent to target shareholders, employee representatives, pension scheme trustees and other persons with information rights).

23. What formalities are required in order to document a transfer of shares, including any local transfer taxes or duties?

Shares in UK public and private companies are transferable in accordance with the relevant company's constitution. Usually, this will provide that the seller may transfer a share by executing an instrument of transfer, which is typically a stock transfer form.

Stock transfer forms are subject to UK stamp duty at a rate of 0.5% of the purchase price, unless the purchase price is less than £1,000 or another exemption applies. Stamp duty does not apply to shares quoted on AIM or other UK growth markets.

Once a stock transfer form has been stamped (if required) it must be sent to the company for registration. The legal ownership of the share will be transferred when the company's register of members is updated to include the name of the purchaser.

24. Are hostile acquisitions a common feature?

Hostile takeover bids are permitted in the UK but relatively uncommon. The Takeover Code encourages fairness and equal treatment of shareholders, and boards usually seek to minimise uncertainty and secure favourable outcomes for shareholders. Against this regulatory backdrop and general corporate environment, boards typically prefer to negotiate with potential bidders rather than engage in hostile processes.

25. What protections do directors of a target company have against a hostile approach?

The use of defensive measures is limited by the Takeover Code. Broadly, restrictions apply once an approach has been made, or the target board has reason to believe that a bona fide offer might be imminent. The board cannot take actions to deny shareholders the opportunity to decide on the merits of a bid and cannot, absent shareholder or Takeover Panel consent, take or agree to take any action which may frustrate an offer or bona fide possible offer. Certain corporate actions are specifically restricted, to the extent not in the ordinary course of business.

The board is also prevented from taking any action in so far as it puts directors in breach of their duties. Provided that directors comply with their duties, they are permitted to express opposition to a bid (although it is ultimately shareholders who decide the outcome).

In this context, permissible action by the board in the event of a hostile approach depends on a number of factors. For instance, the view the board has properly formed as to whether the proposed acquisition would promote the success of the company for the benefit of its members as a whole, or whether the bid otherwise has a detrimental effect on or undervalues the company.

Generally, a board can take action (within legal constraints and Takeover Code rules) with the intention of producing a higher offer or, for example, seeking a more welcome bidder. As part of its defensive strategy, it may release new information about future plans or the financial condition and prospects of the company.

26. Are there circumstances where a buyer may have to make a mandatory or compulsory offer for a target company?

Pursuant to the Takeover Code (and absent Takeover Panel consent), a person or group of persons acting in concert must make a mandatory bid for a company that is subject to the Takeover Code in circumstances where they:

- acquire an interest in 30% or more of the company's voting rights in aggregate; or
- are already interested in between 30% and 50% of the company's voting rights, and increase their aggregate percentage interest in the company's voting shares.

'Interest' for these purposes is broad and includes options and derivatives. The bid must be made immediately and be largely unconditional and in cash (or include a cash alternative), at no less than the highest price paid by the bidder (or any of its concert parties) in the 12 months before the bid announcement.

27. If an acquirer does not obtain full control of a target company, what rights do minority shareholders enjoy?

Non-assenting minority shareholders (Minority Shareholders) have the right to petition the court for relief if their interests are unfairly prejudiced by the conduct of the majority (the bidder). Depending on their size, they may be able to block certain actions the bidder wishes to take in respect of the company. They also have minority shareholder rights at common law. However, these rights can be of relatively limited value in practice.

In part because of their otherwise limited rights and lack of control over company matters, so-called 'sell-out' provisions in the Companies Act enable Minority Shareholders to require the bidder to acquire their shares. This is provided that there is a 'takeover offer' and the bidder has acquired, or unconditionally contracted to acquire, at least 90% of all target company shares (or of all shares in a class, if the offer relates to a class of target company shares) and which carry at least 90% of the voting rights in the target company.

The bidder is required to notify Minority Shareholders of their sell-out rights and failure to comply is an offence (although such notices are unnecessary if the bidder has already sent squeeze-out notices – see 28 below). Where a Minority Shareholder exercises its sell-out rights before they lapse, the bidder must acquire their shares on the terms of the offer, or such other terms as may be agreed.

28. Is a mechanism available to compulsorily acquire minority stakes?

A bidder can acquire the remaining shares of Minority Shareholders pursuant to so-called 'squeeze-out' provisions in the Companies Act. This mechanism is available provided that there is a 'takeover offer' and the bidder has acquired, or unconditionally contracted to acquire, at least 90% in value of the shares to which the offer relates and 90% of the voting rights of shares to which the offer relates (generally less shares already held by the bidder). This operates on a class-by-class basis if there are multiple share classes.

Calculation of the squeeze-out and sell-out thresholds is therefore different; a bidder may trigger the sell-out threshold before it has reached the squeeze-out threshold. If the squeeze-out conditions are met, the bidder can send a compulsory acquisition notice to the Minority Shareholders in order to acquire their shares on the same terms as under the main takeover offer (which process can typically take up to six weeks). The Minority Shareholders can apply to court to contest the acquisition; however, such actions are rarely successful.

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