Global Public M&A Guide - Hungary

General Legal Framework

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# 2. General Legal Framework

[Last updated: 1 January 2025, unless otherwise noted]

**2.1 Main legal framework**

The main rules and principles of Hungarian law relating to public takeover bids can be found in:

Act CXX of 2001 on the Capital Market ("**Capital Market Act**"); and

Act V of 2013 on the Civil Code ("**Civil Code**").

The Hungarian takeover legislation is based on Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids ("**Takeover Directive**"). This directive was aimed at harmonizing the rules on public takeover bids in the different Member States of the European Economic Area (EEA). Be that as it may, the Takeover Directive still allows Member States to take different approaches in connection with some important features of a public takeover bid (such as the percentage of shares that, upon acquisition, triggers a mandatory public takeover bid on the remaining shares of the target company, and the powers of the board of directors). Accordingly, there are still relevant differences in the national rules of the respective Member States of the EEA regarding public takeover bids.

**2.2 Other rules and principles**

While the aforementioned legislation contains the main legal framework for public takeover bids in Hungary, there are a number of additional rules and principles that are to be taken into account when preparing or conducting a public takeover bid, such as:

The rules relating to the disclosure of significant shareholdings in listed companies (the so-called transparency rules). These rules are based on Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004, on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC and related EU legislation. For further information, see 3.4 below.

The rules relating to insider dealing and market manipulation (the so-called market abuse rules). These rules are based on Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014, on market abuse ("**Market Abuse Regulation**") and related EU legislation. For further information, see 6.3 below.

The rules relating to the public offer of securities and the admission of these securities to trading on a regulated market. These rules could be relevant if the consideration that is offered in the public takeover bid consists of securities. These rules are based on Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC ("**Prospectus Regulation**") and related EU legislation.

The general rules on the supervision and control over the financial markets.

The rules and regulations regarding merger control. These rules and regulations are not further discussed herein.

**2.3 Supervision and enforcement by the National Bank of Hungary**

Public takeover bids are subject to the supervision and control of the National Bank of Hungary. The National Bank of Hungary is the principal securities regulator in Hungary.

The National Bank of Hungary has a number of legal tools that it can use to supervise and enforce compliance with the public takeover bid rules, including administrative fines. In addition, in certain specific cases, criminal sanctions could be imposed by the courts in case of non-compliance.

**2.4 Foreign investment regulations**

Foreign investments are generally not restricted in Hungary. Unless in the context of specific industries and sectors, takeovers are not subject to prior governmental or regulatory approvals, and do not generally fall under mandatory notification requirements, other than customary anti-trust approvals.

Since May 2020 in Hungary there are two separate foreign investment regimes (hereinafter referred to as “**FIR**”) which may be applicable to takeovers if the target companies pursue certain activities:

the Permanent Regime (hereinafter referred to as “**FIR\_1**”): regarding investments made in certain strategic sectors that are important for the national security of Hungary1; and

the Temporary Regime (hereinafter referred to as “**FIR\_2**”) which was originally introduced to mitigate the consequences of the COVID-19 pandemic during the state of emergency2, but is still in force with the same fundamental concepts.3

The two FIRs may be applicable in parallel to each other and a foreign investment falling within the scope of one or both FIRs may not be completed without the prior acknowledgement of the competent Hungarian minister.

Regarding the relevant sectors and activities, the FIR\_2 lists the NACE codes of the business activities which trigger the notification obligation4. If the target company pursues any business activities falling under any of such NACE codes or if any of such business activities are indicated in the Hungarian company register as a business activity of the target company, the FIR\_2 must be considered. The FIR\_1 is applicable if the target company pursues certain activities set out in the Foreign Investment Screening Act. Such activities include, among others: (a) manufacture of weapons, parts of weapons, munition, military tools; (b) manufacture of dual use products; (c) manufacture of certain classified equipment used by secret intelligence services; (d) data processing by a financial institution operating the central credit information system and operation of payment systems, excluding the operation in respect of payment transactions exclusively executed with cash-substitute payment instruments; (e) if any of the following listed activities affect an activity that is essential for the maintenance of vital societal functions, such as healthcare, preservation of life and property of citizens, provision of economic and social public services where disruption would have a significant impact, including: (i) transfer and distribution of electricity and system operation, and electricity production by a power plant of at least 50 MW capacity; (ii) distribution, storage, transport of natural gas and system operation; and (iii) outsourcing and development of the public water supply; (f) provision of electronic communications services; (g) the design, development or operation of electronic information systems for specific public and local government bodies; and (h) insurance and reinsurance activities, and specific notifiable activities directly related to insurance activities.

**2.5 General principles**

The following general principles apply to public takeovers in Hungary. These rules are based on the Takeover Directive:

all holders of the securities of an offeree company of the same class must be afforded equivalent treatment. Moreover, if a person acquires control of a company, the other holders of securities must be protected;

the holders of the securities of an offeree company must have sufficient time and information to enable them to reach a properly informed decision on the bid. Where it advises the holders of securities, the board of the offeree company must give its views on the effects of implementation of the bid on employment, conditions of employment and the locations of the company's places of business;

the board of an offeree company must act in the interests of the company as a whole and must not deny the holders of securities the opportunity to decide on the merits of the bid;

false markets must not be created in the securities of the offeree company, the offeror company or any other company concerned by the bid in such a way that the rise or fall of the prices of the securities becomes artificial and the normal functioning of the markets is distorted;

an offeror must only announce a bid after ensuring that they can fulfil any cash consideration in full, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration; and

an offeree company must not be hindered in the conduct of its affairs for longer than is reasonable by a bid for its securities.

[1] Act LVII of 2018 on the screening of foreign investments harming Hungary's security interests ("**Foreign Investment Screening Act**") and Government Decree no. 246/2018. (XII. 17.) implementing the Foreign Investment Screening Act.

[2] Act LVIII of 2020 on temporary rules and epidemic preparedness in connection with the end of the state of emergency.

[3] Since 1 November 2022 replaced by the Government Decree  no. 561/2022 (XII.23.) on the different application during an emergency of certain provisions necessary for the economic protection of companies in Hungary.

[4] Annex 1 to Government Decree No. 561/2022 (XII. 23).

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