CLEARY GOTTLIEB

Preparing for Increased Takeover Activity in Europe
Overview of Key Legal Parameters

July 2011

Getting the Deal on Track

Can we talk to target without triggering disclosure obligations?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Generally yes as long as talks exploratory / non-binding ▪ Once talks progress and / or target enters into MoU or exclusivity agreement, in principle target obliged to disclose but may elect to defer disclosure (simple notice to regulator)	▪ Generally yes as long as talks exploratory / non-binding ▪ However, if rumors arise, regulator may request that a person, suspected of preparing a bid disclose its intentions ▪ Once talks progress and / or target enters into MoU or exclusivity agreement, target in principle obliged to disclose but may defer disclosure if it can ensure confidentiality	▪ Generally yes as long as talks exploratory and do not increase likelihood of bid materially ▪ Once bid becomes "more likely than not" (*i.e.,* MoU after DD), in principle obligation to disclose but election to defer disclosure possible, if confidentiality can be ensured and no misleading of public ▪ Firm decision to bid must be announced immediately by bidder ▪ Target may always voluntarily disclose to adversely affect bid	▪ Exploratory talks do not trigger disclosure obligations (disclosure obligations are triggered by "decision" to launch bid)	▪ Generally yes. However, "holding announcement" is required if: (1) target is subject to rumor or speculation; or (2) there is an untoward movement in target's share price ▪ From Q3 2011, any potential offeror who is publicly named must, within four weeks (or such longer period as the Takeover Panel my agree at the request of the target), either announce a firm intention to make an offer or announce that it will not make an offer (in which case it will be prevented from making an offer for six months). This is an extension of the current "put up or shut up" rule	▪ Generally yes as long as talks exploratory / non-binding ▪ Once bidder and target reach (conditional) agreement (*i.e.,* execution of a "merger protocol"), both bidder and target are required to disclose without possibility to delay; disclosure at an earlier point in time may be required if, among other things, confidentiality of discussions cannot be ensured	▪ Generally yes as long as talks exploratory/ non-binding ▪ New disclosure rules (effective April 2011) require issuers to disclose price sensitive information, the effect of these rules on bids may require disclosure in situations of more deal certainty

Getting the Deal on Track

Stake building – can we buy stock on market?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Generally yes, but possible insider trading issues if knowledge of forthcoming bid ▪ In mandatory bids, purchase price over last 12 months sets a floor on bid price	▪ Raises difficult insider trading issues under case law adverse to stake building	▪ Generally yes, but possible insider trading issues if knowledge of insider information has become known during due diligence and prearranged share acquisition plan is modified thereafter ▪ Stake building also sets a floor on bid price	▪ Generally yes, but stake building may entail that a decision to launch a bid has been made, thus triggering disclosure obligations ▪ Possible insider trading issues	▪ Generally yes so long as the stake building can be said to facilitate implementation of bid ▪ However, following may be difficult to justify as facilitating implementation of bid: (1) purely economic exposure to target securities (*i.e.,* to cover bid costs); and (2) buying on market after material diligence information has been acquired	▪ Generally yes, but possible insider trading issues if: (1) bidder has formed an intention to launch bid; (2) bidder is in discussions with target and / or controlling shareholders; or (3) stake building takes places post-announcement while bidder engages in confirmatory due diligence and / or otherwise is in the possession of inside information	▪ Generally yes prior to a bid ▪ Possible insider trading issues if confidential information was provided by target or in other cases ▪ Prior buying sets a floor on price in a mandatory bid

Getting the Deal on Track

Stake building – can we buy stock on market?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Mandatory disclosure when crossing certain thresholds (5% and multiples of 5%, although issuers can adopt lower thresholds (1%, 2%, 3%, 4%)) ▪ Mandatory bid threshold at 30% - watch out for "concert party" (broadly defined as persons cooperating to obtain or retain control or cooperating in the exercise of their voting rights)	▪ Mandatory disclosure when crossing certain statutory thresholds (5% and multiples of 5%), as well as any lower thresholds provided for in the target's by-laws (*i.e.,* 1% and 1% increments) ▪ Intentions must be disclosed when crossing 10%, 15%, 20% and 25% thresholds ▪ Mandatory bid at: (1) 30%; or (2) when holding between 1/3rd and 50% increases by more than 2% within rolling 12-month period – watch out for "concert party"	▪ Mandatory disclosure when crossing certain thresholds (3%, 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75%); comprehensive rules regarding attribution, including - except for the 3% threshold - financial instruments with a right of physical delivery of stocks (call options, futures). Additional disclosure on investor's goals and funds upon crossing 10% ▪ Financial instruments without right of physical delivery of stocks (*i.e.,* cash settled equity swaps) will be attributed from beginning of 2012, so no covert stake building anymore ▪ Mandatory bid threshold at 30% - watch out for "concert party"	▪ Mandatory disclosure when crossing certain thresholds (2%, 5%, multiples of 5% up to 50% and 66,6%, 75%, 90%, 95%) ▪ Mandatory bid threshold at 30% - watch out for "concert party"	▪ Generally, mandatory disclosure when cross 3% threshold and each percentage point thereafter ▪ During an "offer period" for Code purposes, (amongst other things) all dealings in target shares by bidder must be publicly disclosed ▪ Disclosure regimes cover derivatives as well as physical stock ▪ Buying may also set a floor on bid price ▪ Mandatory bid threshold set at 30% - watch out for "concert party"	▪ Mandatory disclosure when crossing certain thresholds (5% (expected to be lowered to 3% in the near future), 10%, 15%, 20%, 25%, 30%, 40%, 50%, 60%, 75% and 95% of voting and / or capital interest), although targets could adopt a lower or additional thresholds ▪ Currently, financial instruments without right of physical delivery of stock (*i.e.,* cash-settled equity swaps) do not trigger a disclosure requirement; this is expected to change in the near future ▪ Mandatory bid threshold at 30% of the voting rights - watch out for "concert party"	▪ Mandatory disclosure when crossing certain statutory thresholds (5% of voting shares or changing more or less than 5%, 10%, 15%, 20%, 25%, 30%, 50% or 75% or 95% of voting shares) ▪ Mandatory bid threshold at 30%+ (50%+ or 75%) of the voting shares acquired by bidder and its affiliates. Watch out for "group"

Getting the Deal on Track

Deal certainty – can we lock in reference shareholders? Can we get exclusivity from target?						
Belgium	**France**	**Germany**	**Italy**	**UK**	**Netherlands**	**Russia**
▪ Possible to lock in reference shareholders through irrevocable undertakings. Enforceable ▪ Exclusivity possible, although raises corporate benefit issues, so potentially difficult determination for target board	▪ Possible to enter into agreements with reference shareholders; enforceability questionable in case of competing bids ▪ Exclusivity possible, but raises corporate benefit issues; break-up fee should not prevent target from supporting another bid if the latter is in the target's best interest	▪ Possible to lock in shareholders through irrevocable undertakings ▪ Exclusivity agreements with the target raise corporate benefit issues (not used in Germany). Targets may enter into agreements with potential bidders for allowing due diligence, but the extent of permissible disclosure is debated ▪ Recommendation of offer by target board permissible (subject to its fiduciary duties) ▪ Break-up fees unusual	▪ Possible to lock in reference shareholders, but agreements may be terminated in case of counterbid ▪ Exclusivity agreements with the target raise corporate benefit issues (never used in Italy). Targets may enter into agreements with potential bidders for allowing due diligence, but the extent of permissible disclosure is debated	▪ Possible to lock in shareholders through irrevocable undertakings (even possible to take irrevocable undertakings in respect of more than 30% of voting rights) ▪ As from Q3 2011, all deal protection measures such as inducement fees, matching rights and exclusivity agreements will be prohibited save in very limited circumstances	▪ Possible to lock in shareholders through irrevocable undertakings (even possible to take irrevocable undertakings in respect of more than 30% of voting rights, provided no agreement with respect to the exercise of such voting rights) ▪ Exclusivity (no shop, no talk) and recommendation possible and common, but may raise corporate benefit issues; break-up fee should not prevent target from supporting another bid if in the target's corporate interest	▪ Possible to lock in reference shareholders through binding undertakings. If have sufficient "foreign element" (i.e. reference shareholder is not a Russian entity, then possible to document under English law deed) ▪ Board of target is not prevented from supporting another bid

Getting the Deal on Track

Can we make public statements about a possible bid?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ In theory, no public statements about the bid before a formal offer notice is filed with regulator ▪ "Put-up or shut-up" (with 6-month freeze if do not "put-up")	▪ Yes, but may raise issues with AMF (normal way of announcing bid is by having financial advisor file irrevocable bid with AMF on behalf of bidder) ▪ AMF could request a declaration of intention ("Put-up or shut-up" with 6-month freeze if do not "put-up")	▪ No public statements about bid advisable before announcement of intent to launch offer (pre-notification of regulator and stock exchanges) ▪ No "put-up or shut-up" provisions, but once decision to launch announced, no withdrawal	▪ No public statements about bid before formal bid notice filed with regulator and announcement made to the market (if offer document is not filed within 20 calendar days from notice, bidder may bid again only after 12 months have elapsed)	▪ Secrecy before formal announcement is vital ▪ Bidder can however make voluntary "virtual bid" announcement to put target board under pressure to open books *etc.* but as from Q3 2011, this will trigger a four week period in which the bidder must "put up or shut up"	▪ Yes, but may trigger overall "bid timetable" and certain ongoing disclosure obligations ▪ Currently, no "put-up or shut-up", but likely to change in the near future	▪ No public statements about bid before formal bid ▪ Cannot state general willingness to buy shares and invite the public to make offers to sell ▪ No "put-up or shut-up"

Structuring the Deal

What must we bid for?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ All voting securities (*i.e.*, shares), and securities "giving access to voting securities" (*i.e.*, stock options and convertible bonds)	▪ All equity and equity-linked securities (*i.e.*, convertible bonds; stock options not being securities are not covered by bid)	▪ All ordinary and preferred shares of the target, including those issued until the end of acceptance period (*i.e.*, newly-issued shares from capital increases, stock options, convertible bonds) ▪ Exception: Bids which do not seek to obtain a control position	▪ All voting shares. It is common practice to bid also for any securities convertible into voting shares	▪ Bid must be conditional upon obtaining at least 50% of target voting rights ▪ Bidder must make comparable offer for each class of "equity share capital" ▪ Bidder must make "appropriate offer" to holders of convertibles and also to option holders	▪ In a voluntary bid, all securities of the class for which the bid is made (with the option for the bidder to limit its bid to those securities of that class that were admitted to trading at the moment that the bid was announced); it is common practice to extend bid also to any securities convertible into shares	▪ All voting shares and securities convertible into voting shares in an MTO ▪ VTOs allow more flexibility (any amount determined by bidder)

Structuring the Deal

What sort of consideration can we offer?						
Belgium	**France**	**Germany**	**Italy**	**UK**	**Netherlands**	**Russia**
▪ Cash, stock or combination (except for squeeze-out: cash only) ▪ For cash bids, need to file bank confirmation on availability of funds at the time of filing ▪ No obligation to have consideration stock listed in Brussels (but cash alternative must be offered in mandatory bid and bid by controlling shareholder if stock not listed on a reputable market)	▪ Cash, stock or combination ▪ Certainty of funds guaranteed by bidder's financial advisor, which files the bid with AMF on behalf of bidder ▪ For stock bids, liquid shares traded on a EU regulated market	▪ Cash, stock or combination; also alternative offer (*i.e.,* bonds) permissible as additional option for target shareholders ▪ For cash / mixed bids, need to file bank confirmation on availability of funds at due date ▪ For stock bids, liquid shares traded on a EU regulated market	▪ Cash, securities or combination ▪ For cash bids, need to file bank confirmation on availability of funds ▪ In a bid for all voting shares of target (as a consequence of which a bidder is exempted from subsequent mandatory bid obligations), the consideration may include securities, provided that (a) such securities are voting shares admitted to trading on a EU regulated market or (b) a cash alternative is provided	▪ In general, no limitations on type of consideration (cash, bonds, shares *etc.*) ▪ For cash bids, financial advisor to the bidder must confirm availability of bidder's financing	▪ In general, no limitations on type or combination of consideration (cash, bonds, shares *etc*.) ▪ Bidder needs to have cash available or have taken all measures to ensure that cash will be available at settlement, at the moment that it seeks approval from the regulator of the offer document ▪ No obligation to have consideration security listed in the Netherlands or elsewhere; different rules apply with respect to non-cash consideration offered in a mandatory bid	▪ Cash, stock or combination ▪ In a mandatory offer, there must be a cash option ▪ Arguably, listed securities must be offered in any exchange for listed target shares ▪ Always need to procure a bank guarantee for the full amount of the bid, to be effective for the period ending six months after closing of the bid

Structuring the Deal

Can we make our bid conditional? Is a MAC permissible?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Yes, except for mandatory bids, but conditions need to be approved by regulator. Typically regulator would approve a minimum acceptance (sometimes as high as 95%), as well as absence of MAC (FSMA accepts broadly defined MAC)	▪ Yes, but only three types of conditions permissible (except for mandatory bids): minimum acceptance level (expressed as a percentage of outstanding shares owned by bidder upon completion of the offer – such percentage cannot exceed 2/3rds); antitrust approval; and bidder's shareholders approval in case of a stock deal	▪ Yes, but not if satisfaction of condition is subject to bidder's control. ▪ Minimum acceptance conditions (as high as 95%), regulatory approvals, absence of defensive measures, absence of MAC possible	▪ Yes (except for mandatory bids), provided that conditions do not depend on the bidder's will. Typically, conditions include: a minimum acceptance condition, absence of MAC, absence of defensive measures by the target, antitrust approval. Financing conditions are not allowed	▪ The Code provides that once a bid is formally announced, it should only fail in exceptional circumstances. This means, in practice, that conditions (save only for acceptance condition and regulatory conditions) cannot normally be invoked	▪ Yes (except for mandatory bids), but not if satisfaction of a condition is within bidder's control. Minimum acceptance conditions (as high as 95%), or conditions such as regulatory approvals, absence of defensive measures, absence of MAC all permissible	▪ Yes, in voluntary bids, law specifically permits a condition on minimum acceptance and other conditions understood to be possible (regulatory approvals) ▪ Possibility of no MAC as term of the bid in VTOs is not tested ▪ In mandatory bids, no (except for regulatory approvals)

Structuring the Deal

Can we otherwise walk away once we have announced?						
Belgium	**France**	**Germany**	**Italy**	**UK**	**Netherlands**	**Russia**
▪ Once formal filing made with regulator, cannot withdraw bid except if competing bid, activation of defenses, or failure of a bid condition	▪ Once formal filing made with AMF, bidder cannot withdraw bid except if: (1) competing bid and (2) with prior approval of AMF, if target is substantially modified	▪ Once offer document is disclosed, generally no withdrawal right from bid except a failure of a bid condition ▪ Between announcement to launch bid and filing of offer document with regulator, bidder may de facto withdraw offer by not filing offer document (consequences: fines; 1-year blocking period for new offer)	▪ Once a bid has been formally announced, it may not be withdrawn	▪ Once a bid has been formally announced, it may not be withdrawn	▪ Once bid is announced, it may not be withdrawn, except if bid condition is not satisfied. In theory, bidder could also withdraw within four weeks following the first announcement of the bid (but, in a friendly context, that "out" will have been blocked by the target in the merger protocol)	▪ Once a bid is made, it may not be withdrawn ▪ Note the requirement for a bank guarantee on behalf of bidder ▪ In practice, walkway by bidder due to failure to get regulatory approvals was possible

Documentation and Approvals

Offer document – how detailed and time consuming is this?						
Belgium	**France**	**Germany**	**Italy**	**UK**	**Netherlands**	**Russia**
▪ Relatively detailed document; shorter if there is a registration document. In each case a summary must be provided ▪ Translations can be time-consuming	▪ Detailed French language offer document. For stock bids, standard Prospectus Directive requirements for stock offered ▪ The bidder and the characteristics of the bid must be described ▪ Preparation time will vary depending on bidder and type of bid	▪ Detailed German language offer document (additional translation in English common); market practice established. In stock bids, additional information as in securities offering prospectus required ▪ Law allows generally for a 4-week period between announcement to launch offer and filing of offer document with regulator to prepare offer document; in cross border bids and when capital measures are required, extension to 8 weeks possible	▪ Offer documents (for both cash or exchange bids) are simpler than securities offering prospectuses: no MD&A section; focus on bidder's future plans and strategy, evaluation of target, consideration offered and means of funding ▪ It normally takes 2 to 3 weeks to draft a offer document	▪ The Takeover Code prescribes detailed content requirement, including detailed financial information on both bidder and target. However, much of this may be incorporated by reference ▪ Where transferable securities are offered or are admitted to trading on regulated market, must produce a prospectus or equivalent document ▪ This document is very detailed (full EU Prospectus Directive disclosure) ▪ As from Q3 2011, the offer document will also have to contain a breakdown of financing and advisory fees payable by the bidder	▪ Offer documents (for cash bids) are simpler than securities offering prospectuses: no MD&A section; focus on bidder's future plans and strategy, evaluation of target and consideration offered. Offer document can be in English (with a Dutch language summary) and can be drafted in 2 to 4 weeks	▪ Fairly detailed but generally simple forms, but can have more details at the option of bidder ▪ In case of stock consideration, may need to register (if not registered) and list stock consideration and provide more detail and time ▪ Note the requirement to procure a bank guarantee

Applies to all EU jurisdictions: However, where transferable securities are offered or are to be admitted to trading on regulated market, bidder must produce a prospectus or equivalent document. This document is very detailed (full EU Prospectus Directive disclosure)

Documentation and Approvals

What's the regulator and how long does it take to get it approved?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ FSMA *(The Financial Services and Markets Authority)* ▪ In practice the approval takes between 4 and 8 weeks, depending on complexity of matter	▪ *AMF (Autorité des marchés financiers)* ▪ In principle, 10 trading days but frequently longer in practice, depending on complexity of matter and whether hostile or friendly bid	▪ BaFin (*Bundesanstalt für Finanz-dienstleistungs-aufsicht*) ▪ 10 working days for review once offer document is filed, 5 days extension possible ▪ Preliminary discussions with regulator possible	▪ Consob (*Commissione Nazionale per le Società e la Borsa*) ▪ Regulator should complete its review within 15 days from filing (30 days in case of bid for or paid through non-listed securities). If the bid is subject to the approval of other authorities, review period is extended to 5 days after approval by the relevant authorities	▪ FSA/UKLA in respect of a prospectus or equivalent document ▪ Likely to take between 4 and 8 weeks to produce prospectus or equivalent document ▪ The other bid related documentation is regulated by the Takeover Panel and is not pre-vetted	▪ AFM (*Stichting Autoriteit Financiële Markten*) ▪ In practice the approval takes between 2 to 4 weeks, but could be longer depending on complexity of matter and whether non-cash consideration is being offered ▪ Preliminary discussions with regulator possible	▪ FSFM (*Federal Service for the Financial Markets)* ▪ For listed target shares, if FSFM does not respond within 15 days after filing, bidder is free to make a bid to target ▪ If shares are not listed, filing with FSFM and making a bid are on the same date is possible ▪ FSFM normally does not engage in prior discussions but practice exists to meet FSFM and get non-binding letters addressing difficult issues

Defenses

Can we go hostile?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Hostile bids possible but rare	▪ Yes	▪ Hostile bids possible but rare	▪ Hostile bids possible but rare	▪ Hostile bids possible but rare	▪ Hostile bids possible but rare	▪ Hostile bids possible but rare (i.e. if acquisition requires antimonopoly or other regulatory approval, it is practically difficult to obtain it without target's cooperation)

Defenses

What sort of defenses can a target put up ? How effective are they?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Example of defenses are non-transferability clauses or preemptive provisions, share buy backs, share or stock option issuance and poison pills. They can be effective, although there are all subject to certain limitations	▪ All sort of defenses can be put up. No defense can however be put up by target management during the tender offer period without approval of the shareholders, except if the bidder is not bound by the same requirement ("reciprocity rule") ▪ Types of defenses too large to be listed here in more detail, *i.e.,* capital increase, issuance of "special tender offer warrants" to existing shareholders, acquiring or disposing of vital assets, "white knight"	▪ Generally, from announcement of intent to launch bid, frustrating actions are impermissible (passivity rule), but several loopholes (ordinary course of business, supervisory board consent, advance or ad-hoc shareholder authorization) ▪ Theoretically, opt-in into stricter European passivity rules by shareholder resolution possible, but not used in practice so far ▪ In practice, only limited arsenal of successful ad-hoc defenses available (*i.e.,* campaigning)	▪ Defenses include a vast range of measures, such as share buy-backs, change of control clauses, golden parachutes for top management, issuance of shares with voting rights subject to the launch of a bid or the crossing of certain share capital thresholds; sale or acquisition of material assets. In practice, defenses are seldom used	▪ US style takeover defenses are effectively never seen in the UK. This is because, amongst other things, target cannot engage in frustrating action once bid becomes likely without shareholder approval. Urging shareholders not to sell and lobbying regulatory authorities are not however prohibited. New information from target (*i.e.,* profit forecasts, asset valuations) is subject to special restrictions	▪ Only limited arsenal of successful ad-hoc defenses available (*i.e.,* campaigning, white knight, white squire, sale of crown jewel, or issuance of shares to a "defense foundation" that requires prior shareholder authorization (sometimes obtained many years ago)) ▪ The board passivity rule is optional	▪ U.S. style defenses are not seen in Russia but targets can put up all sorts of practical defenses ▪ Upon receipt of the bid, the target board and management are limited in certain actions, which can only be taken upon a shareholder vote

Defenses

What sort of defenses can a target put up ? How effective are they?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
		▪ Structural takeover barriers more relevant (super-majority provisions in articles, CoC clauses, regulatory hurdles) ▪ Advance or ad-hoc shareholder approval of defense measures not seen in Germany ▪ White knight defense always permitted	▪ Under the so-called "board passivity rule", following the announcement of a tender offer, target must abstain from carrying out any action that may conflict with the tender offer, except for actions previously authorized by the target's shareholders (shareholders may decide to opt out of the passivity rule by amending the target's by-laws) ▪ The mere search for a "white knight" does not require shareholders' authorization ▪ Italian targets subject to the "passivity rule" are not bound by this rule if (a) the bidder is not bound by the same or equivalent requirements ("reciprocity rule") and (b) possible defensive measures have been authorized by target's shareholders in the 18 months before the bid			▪ Nonetheless, practical defenses may include campaigning (political and with Russia's antitrust authority), qualification of one of subs as "strategic enterprise" that requires separate approval, coc clauses in major agreements, "white knight", golden parachutes, etc.

Squeeze-out and Delisting

May we squeeze-out residual minority? What's the threshold?						
Belgium	**France**	**Germany**	**Italy**	**UK**	**Netherlands**	**Russia**
▪ Yes. The threshold is 95% (if the squeeze-out follows a bid, the bid must have been accepted at 90%)	▪ Yes. The threshold is 95% of increased shares and voting rights ▪ Squeeze-out procedure can be initiated only after completion of a bid	▪ Two types of squeeze-out available (squeeze-out by shareholder resolution or – due to legal uncertainties rarely used - by court ruling), each requiring 95% of the voting shares ▪ For a squeeze-out in connection with statutory mergers only a 90% shareholding is required under new legislation	▪ Yes, if 95% of the voting shares of the target is reached (residual minority has sell-out in the same circumstances). Need to provide notice in bid documentation	▪ Yes, if target is incorporated in UK and bidder acquires 90% of shares and voting rights to which offer relates ▪ A scheme of arrangement may be used as an alternative to a takeover offer. If the scheme is approved by shareholders holding 75% of the shares represented at the meeting and by a majority in number, it will bind all shareholders	▪ Yes. The threshold is 95%	▪ Yes, the threshold is 95%+ provided that 10% has been acquired in a voluntary or mandatory bid that results in the 95%+ holding; in each case for all voting shares or securities convertible into voting shares ▪ Squeeze-out is launched within 6 months of after completion of such bid but must be launched promptly enough prior to shareholders' demand for buy-out

Squeeze-out and Delisting

How do we get target delisted?						
Belgium 	**France** 	**Germany** 	**Italy** 	**UK** 	**Netherlands** 	**Russia** 
▪ Automatically after a squeeze-out (or if the offer has been accepted by all shareholders)	▪ Delisting automatically after squeeze-out	▪ Delisting (1) following squeeze-out/sell-out; (2) by application to stock exchange upon share-holders' approval; or (3) by structural changes of company (*i.e.,* transformation to limited liability company) leading to an automatic delisting ("cold delisting") ▪ Appraisal rights of minority shareholders must be safeguarded	▪ Delisting follows upon completion of sell-out or squeeze-out ▪ Merger of listed company into non-listed company also results in a delisting, subject to dissenting shareholders' appraisal rights	▪ Bidder may delist target from main market if it acquires 75% or more of target voting rights in connection with the bid and provides notice in bid documentation of its intention to de-list	▪ Under NYSE Euronext Amsterdam rules, bidder may delist target if 95% of the relevant class of securities has been tendered in the bid (and intention to do so should have been disclosed in the offer document) ▪ There are no appraisal rights	▪ De-listing can be made at the target's request at any time ▪ Shareholder approval is not required to de-list shares ▪ There are no appraisal rights on delisting per se but there are in freeze-out ▪ De-listing is compulsory if certain average monthly trading volume is not met

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