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Getting The Deal Through

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Lexology Getting The Deal Through is delighted to publish the second edition of *Public M&A*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Egypt and Thailand.

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Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to Alan M Klein of Simpson Thacher & Bartlett LLP, the contributing editor, for his assistance in devising and editing this volume

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Malaysia

Addy Herg and Quay Chew Soon
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STRUCTURES AND APPLICABLE LAW

Types of transaction

1 | How may publicly listed businesses combine?

The combination of public listed business in Malaysia may occur in numerous ways. The most common ways include:

- acquisition of shares in a company (which may be subject to certain mandatory takeover requirements under the Malaysian Code on Take-Overs and Mergers 2016 (Code) as discussed below);
- acquisition of business or assets of a company by another company; and
- formation of a joint venture company through contractual means.

Other ways also include:

- selective capital reduction under the Companies Act 2016 (Companies Act); and
- a scheme of arrangement sanctioned by court order under the Companies Act.

Statutes and regulations

2 | What are the main laws and regulations governing business combinations and acquisitions of publicly listed companies?

The main laws and regulations that govern business combinations are as follows:

- the Companies Act (which came into effect on 31 January 2017 and repealed the previous Companies Act 1965) govern companies incorporated in Malaysia and branches of foreign company registered under the Companies Act, and will therefore be applicable to business combinations involving companies;
- the Capital Markets and Services Act 2007 (CMSA) and the subsidiary legislation made thereunder (such as the Code, the guidelines and directives issued by the Securities Commission of Malaysia (SC)), which govern public takeover involving public listed companies and capital markets conduct and products;
- Bursa listing requirements (Listing Requirements), which govern, among others, listed companies' conducts, transactional matters, and disclosure obligations; and
- contract laws codified in the Contracts Act 1950, which govern contractual principles and matters in Malaysia.

Other laws may also be applicable depending on the types of industry of the target companies to which the combination business relates. Different regulatory bodies may be given power to issue and stipulate guidelines, conditions or licensing requirements under specific legislations requiring specific approvals to be obtained in respect of combination of businesses. For example, the Financial Services Act 2013 (FSA) requires that the Minister of Finance's approval be obtained for the acquisition of control over financial services providers such as banks and insurers. The FSA also requires that transfer of business be done by way of a scheme of arrangement requiring approval from the Minister of Finance, and is to be sanctioned by court order.

Transaction agreements

3 | Are transaction agreements typically concluded when publicly listed companies are acquired? What law typically governs the agreements?

The transaction agreements are generally governed by the general principles of the common law, and the contract laws codified in the Contracts Act 1950. The parties to the transaction agreements are also free to agree on the choice of law of the transaction agreements. Generally, the Malaysian courts will recognise and give effect to these choice of law clauses save and except in certain cases whereby there has been, for example, a breach of public policy in that regard.

Typically the transaction agreements will be concluded when the transfer of the shares in the public listed companies to be acquired is completed. Completion of the transaction agreements will typically be subject to satisfaction or fulfilment of conditions precedent under the transaction agreements. It is hence important to incorporate the requirements under the Code into transaction agreements. For example, the completion of the acquisition of public listed shares that cross the statutory threshold (and hence required to make a mandatory takeover offer) under the Code shall be conditional upon the offeror having received acceptances that would result in the offeror (and persons acting in concert) holding more than 50 per cent of the voting shares of the public listed company.

FILINGS AND DISCLOSURE

Filings and fees

4 | Which government or stock exchange filings are necessary in connection with a business combination or acquisition of a public company? Are there stamp taxes or other government fees in connection with completing these transactions?

Governmental or regulatory filings

In the cases of acquisition of a public listed company, certain filings with the governmental or regulatory agencies or bodies will be required, which, among others, include:

- In cases of transactions or takeover involving public companies to which the Code applies, the offer must be accompanied with an offer document and must be submitted to the SC for its clearance and guidance. If the transaction involves, for example, the issuance of securities, a prospectus or information memorandum may be necessary and will have to be lodged or deposited with the SC.

- In cases of transactions or takeover involving public listed companies, if the transaction value exceeds the stipulated percentage ratio (calculated based on the formulas or scenarios stated under the Listing Requirements), the relevant listed company is required to make an announcement to Bursa on the stock exchange (see question 8).

Under the Companies Act, notification is required to be made to the Companies Commission of Malaysia (CCM), the SC and a relevant public company in respect of a person who holds 5 per cent or more voting shares in the said relevant public company. Notification is also required to be made whereby there is a change in such shareholding in the relevant public company.

It is common that a regulatory body may impose notification requirements as conditions to the licence granted to a company in a specific industry, requiring the company to notify the regulatory body in respect of change of control or shareholder of the company. For example, the Ministry of International Trade and Industry (MITI) often imposes a licensing condition on a manufacturing company to notify MITI in the event of a change of shareholder or control in the manufacturing company.

Transfer of lands or real properties may be subject to certain restrictions or conditions imposed on the land titles of these properties, requiring approval to be obtained from the relevant land authorities.

Transfer of intellectual properties rights is also subject to registration and filing requirements with the Intellectual Property Corporation of Malaysia.

Statutory and regulatory fees

In respect of filings or lodgement with the SC or Bursa, they may be subject to certain processing fees or clearance fees, depending on the nature and scope of the proposed transactions. For example, there is a fee of 15,000 ringgit payable to the SC in respect of an application for exemption from mandatory takeover offer obligations. On the other hand, there is a fixed fee of 2,000 ringgit payable to Bursa in respect of processing an application for the waiver, modification or extension of time to comply with the provisions of the listing requirements.

Instruments of transfer of business or assets will be subject to ad valorem stamp duty ranging from 1 per cent to 3 per cent depending on the value of the transaction.

Transfer of shares of a public listed company will attract stamp duty at a rate of 0.1 per cent of the value of the shares subject to a cap of 200 ringgit for each contract note. Note, however, that with effect from 1 March 2018 to 28 February 2021, listed companies with market capitalisation ranging between 200 million ringgit and 2 billion ringgit trading shares are eligible for stamp duty waiver.

Information to be disclosed

5 What information needs to be made public in a business combination or an acquisition of a public company? Does this depend on what type of structure is used?

Disclosure or announcement requirements are not strictly dependent on the type of structure used, but rather are dependent on the activity or the companies or parties involved.

In respect of a takeover offer to acquire control over a company to which the Code applies (ie, public listed companies or such other companies specified by the SC), the offer must be announced by the offeror and the offeree. The announcement made by the offeror shall include, among other things, the following information:

- identity of the ultimate offeror, offeror and all persons acting in concert with the offeror;
- basis of the offer price;
- basis of consideration;
- the terms and conditions of the takeover offer;
- types and numbers of the voting shares of the offeree which are held or acquired, directly or indirectly, by the offeror or any person acting in concert with the offeror; and
- confirmation by the main adviser that resources are available to the offeror sufficient to satisfy the full acceptance of the offer.

In respect of transactions or takeover involving public listed companies, announcements may be required to be made on Bursa if the transaction value exceeds the percentage ratio stipulated under the Listing Requirements (see question 4). In addition, information that may have a material effect on the price, value or market activity of any of the listed companies' securities or the decision of a holder of securities of the listed companies or an investor in determining his or her choice of action, must also be announced to Bursa. Such information may include, among other things:

- the entry into a joint venture agreement or merger;
- change in management;
- borrowing of funds;
- purchase or sale of an asset;
- the making of a tender offer for another corporation's securities; and
- entry into a memorandum of understanding.

There is also a requirement to disclose holding or change of shareholding exceeding 5 per cent in a public company to the SC, the relevant company and the CCM (see question 4).

There is generally no disclosure requirement in respect of private company involved in business combination transactions.

Disclosure of substantial shareholdings

6 What are the disclosure requirements for owners of large shareholdings in a public company? Are the requirements affected if the company is a party to a business combination?

(See question 4.) A person with a shareholding in the voting shares of a public company must notify that company, the SC and the CCM of the shareholding, and must notify those parties in respect of any change to that shareholding.

The Listing Requirement requires disclosure by way of announcement to Bursa by a listed company of any acquisition (including subscription) or disposal of shares that results in the holding being 5 per cent or more (or less in the case of disposal) of that listed company.

DIRECTORS' AND SHAREHOLDERS' DUTIES AND RIGHTS

Duties of directors and controlling shareholders

7 What duties do the directors or managers of a publicly traded company owe to the company's shareholders, creditors and other stakeholders in connection with a business combination or sale? Do controlling shareholders have similar duties?

Directors

The duties of the directors are codified under the Companies Act. Under the Companies Act, directors are required to, at all times, exercise their powers in accordance with the Companies Act, for a specific purpose and in good faith in the best interest of the company. The directors of a company shall exercise reasonable care, skill and diligence with the knowledge, skill and experience that may reasonably be expected of a director with those responsibilities; and any additional knowledge, skill and experience that the director in fact has.

The director who makes a business judgement (ie, any decision on whether or not to take action in respect of a matter relevant to the

business of the company) meets the requirements to exercise reasonable care, skill and diligence if he or she:

- makes the business judgement for a proper purpose and in good faith;
- does not have a material personal interest in the subject matter of the business judgement;
- is informed about the subject matter of the business judgement to an extent the directors reasonably believe to be appropriate under the circumstances; and
- reasonably believes that the business judgement is in the best interest of the company.

Further, the directors in exercising their duties as directors may rely on information, professional or expert advice or opinions including financial statements and other financial data, prepared or made by:

- any officer of the company who the director believes on reasonable grounds to be reliable and competent on the matters concerned;
- as to matters involving skills or expertise, any other person retained by the company in relation to matters that the director believes on reasonable grounds to be within the person's professional or expert competence;
- another director in relation to matters within the director's authority; or
- any committee to the board of directors on which the director did not serve in relation to matters within the committee's authority.

The directors' reliance is deemed to be made on reasonable grounds if it was made in good faith, and after making an independent assessment of the information or advice or opinions, including financial statements and other financial data, having regard to the director's knowledge of the company and the complexity of the structure and operation of the company.

Having said the above, in cases of a takeover offer where the Code applies, the Code specifies that an offeree's board of directors shall act in the interests of the shareholders as a whole and shall not deny the shareholders the opportunity to decide on the takeover offer.

Controlling shareholders

Controlling shareholders do not have similar statutory duties to those of the directors under the Companies Act. However, controlling shareholders shall not oppress or unfairly discriminate against the minority shareholders as such acts may be challenged in court. The court has the power to sanction a remedy against the matters complained of or challenged by the minority shareholders.

The Code also specifies that in cases of takeover, all shareholders of an offeree shall, so far as practicable, be treated equally in relation to a takeover offer and have equal opportunities to participate in benefits accruing from the takeover offer, and that all shareholders, particularly minority shareholders, shall not be subject to oppression or disadvantage by the treatment and conduct of the acquirer or offeror, as the case may be, or of the board of directors of the offeree.

Save as provided above, there is generally no prohibition against the controlling shareholders acting or voting in their own interests in business combinations situations.

Approval and appraisal rights

8 What approval rights do shareholders have over business combinations or sales of a public company? Do shareholders have appraisal or similar rights in these transactions?

Shareholders' approval or passing of resolutions by shareholders shall be subject to the provisions of the Companies Act and also the constitution of the relevant company.

The shareholders have appraisal or approval rights in respect of business combinations involving certain aspects. Under the Companies Act, the shareholders' approval is required for issuance of shares, acquisition or disposal of an undertaking or property of a substantial value, and transactions with a director, substantial shareholder or persons connected with such director or substantial shareholder (as the case may be) in respect of an acquisition of disposal of shares or non-cash assets of the requisite value. Any of the aforementioned transactions carried out without the shareholders' approval shall be void.

In addition, shareholders' approval is also required in respect of a scheme of arrangement under the Companies Act.

In respect of business combinations involving public listed companies, the business combinations will also be subject to the provisions of the Listing Requirements. A listed company that intends to enter into a major transaction (being a transaction with a percentage ratio of 25 per cent or more), requires the prior approval of the shareholders in a general meeting. On the other hand, if the listed company intends to enter into a transaction with a related party (this includes a director or major shareholder, or persons connected with such director or major shareholder, as the case may be) and the transaction has a percentage ratio of 5 per cent or more, then prior approval by the listed company's shareholders is also required.

The basis of the calculation of percentage ratio is set out under the listing requirements, and it includes, among other things:

- the value of the assets that are the subject matter of the transaction, compared with the net assets of the listed company;
- net profits of the assets that are the subject matter of the transaction, compared with the net profits attributable to the owners of the listed company;
- the aggregate value of the consideration given or received in relation to the transaction, compared with the net assets of the listed company;
- the equity share capital issued by the listed company as consideration for an acquisition, compared with the equity share capital previously in issue (excluding treasury shares);
- the aggregate value of the consideration given or received in relation to the transaction, compared with the market value of all the ordinary shares of the listed company (excluding treasury shares); and
- the total assets that are the subject matter of the transaction compared with the total assets of the listed company.

COMPLETING THE TRANSACTION

Hostile transactions

9 What are the special considerations for unsolicited transactions for public companies?

In respect of a takeover offer to which the Code applies, a hostile bid is permitted but is generally uncommon in Malaysia, as the bidder will normally not be allowed by the target to conduct due diligence on the company and the bidder will have to rely on information that is available in the public domain.

The Code and the rules made pursuant to the Code introduce auction procedures in respect of a competing takeover offer which continues to exist in the later stages of the offer period, whereby the SC will require revised offers to be announced in accordance with an auction procedure, the terms of which will be determined by the SC.

While a bid may be considered hostile by the board of directors of the offeree, the Code requires that a notice of the takeover bid must be served on the board of directors of the offeree and the board of directors of the offeree is required to dispatch a copy of the written notice to all offeree shareholders within seven days of receipt of the notice. During

the offer period, the board of directors of the offeree shall not undertake any action or make any decision without obtaining the approval of the shareholders at a general meeting on the affairs of the offeree, as it could effectively frustrate any bona fide takeover offer or the shareholders could be denied an opportunity to decide on the merits of a takeover offer.

Break-up fees – frustration of additional bidders

10 Which types of break-up and reverse break-up fees are allowed? What are the limitations on a public company's ability to protect deals from third-party bidders?

Payment of break-up fees is generally not common practice in Malaysia in takeover offer situations. In transactions involving companies not listed on the stock exchange, it is common practice to request the potential purchaser to pay a deposit to enter into the transaction and provides for the deposit to be forfeited in the event the potential purchaser backs out from the deal.

While payment of break-up fee by the parties to the transaction is not prohibited under the Code, financial assistance is prohibited under the Companies Act. A company is prohibited from giving – whether directly or indirectly, and whether by means of a loan, guarantee or the provision of security or otherwise – any financial assistance for the purpose of or in connection with a purchase or subscription for any shares in the company. As such, the target company of the transaction is prohibited from paying any break-up fee in respect of an acquisition of shares in the said target company.

Government influence

11 Other than through relevant competition regulations, or in specific industries in which business combinations or acquisitions are regulated, may government agencies influence or restrict the completion of such transactions, including for reasons of national security?

In addition to specific industries in which business combinations are regulated by regulatory agencies, government may through regulatory bodies or agencies impose foreign equity restriction or threshold applicable on a target company to be acquired by a potential purchaser.

Government may also through regulatory bodies or agencies impose licensing conditions on regulated companies whereby regulatory approval is required for a change of control or shareholder of the target company. Non-compliance with the licensing condition may result in the licence being revoked or suspended.

Government may also exercise influence through a significant shareholding in government-linked entities or promote a policy to encourage mergers or investment in specific sectors through tax incentives and reliefs or stamp duty exemptions.

Conditional offers

12 What conditions to a tender offer, exchange offer, mergers, plans or schemes of arrangements or other form of business combination are allowed? In a cash transaction, may the financing be conditional? Can the commencement of a tender offer or exchange offer for a public company be subject to conditions?

The CMSA requires a person who obtains control in a public listed company to make a takeover offer, or a person who has obtained control in a public listed company not to acquire any additional voting shares in the relevant company except in accordance with the requirements of the Code and the Rules made thereunder.

Mandatory offer

A bidder is required under the Code to make a mandatory offer to acquire all the shares of a target public listed company that he or she or persons acting in concert with him or her do not already own, if the bid by him or her together with persons acting in concert is to:

- acquire more than 33 per cent voting shares or rights of the target company (mandatory threshold); or
- acquire more than 2 per cent of the voting shares or rights of the target company in any period of six months whereby the bidder and persons acting in concert with him or her hold over 33 per cent but not more than 50 per cent of the voting shares or rights of the target company (creeping threshold).

Mandatory offers may also be required to be made in situations of:

- acquisition of an upstream company that holds or controls more than 33 per cent of the voting shares or rights of a downstream company whereby the former controls the latter either directly or indirectly through intermediate entities, or the former's holdings when aggregated with those held by the person or group, would secure or consolidate control of the downstream company; and
- acquisitions under the mandatory threshold that, in the SC's judgment, trigger the requirement for a mandatory offer (the SC will take into account the degree of control the vendor has over the retained shares, the payment of price for the shares and whether the retained shares are a significant part of the company's capital.

A mandatory offer must be conditional strictly and only upon the offeror having received acceptances that would result in the offeror and persons acting in concert holding in aggregate more than 50 per cent of the voting shares or voting rights of the offeree.

In respect of a mandatory offer, the offeror shall provide a wholly cash consideration or other consideration accompanied by a wholly cash alternative.

Voluntary offer

A bidder is allowed to make a takeover offer for the voting shares or rights of a public listed company where he or she has not incurred an obligation to make a mandatory offer. In addition, a bidder shall not make a partial offer (ie, a voluntary takeover offer in which a person offers to acquire less than 100 per cent of any class of the voting shares or rights of a company from all offeree shareholders) unless approved by the SC.

A voluntary offer must be conditional upon the offeror having received acceptances that would result in the offeror holding in aggregate more than 50 per cent of the voting shares or rights of the offeree. A voluntary offer may also include other conditions, other than conditions whose fulfilment depends on the subjective interpretation or judgement of the offeror, or whether or not a particular event happens, this being an event that is within the control of the offeror.

In respect of a voluntary offer, the offeror shall provide a wholly cash consideration as an alternative where (i) 10 per cent or more of the voting shares or rights of the offeree to which the takeover offer relates have been purchased for cash by the offeror and persons acting in concert during the offer period and within six months, or (ii) the SC determines that it is necessary to give effect to the requirement under the Code.

Financing

13 If a buyer needs to obtain financing for a transaction involving a public company, how is this dealt with in the transaction documents? What are the typical obligations of the seller to assist in the buyer's financing?

In transactions involving entities or targets to which the Code applies, while there is no specific requirement for the financing for a takeover to be dealt with or incorporated in the transaction documents, the offer document must contain, among others, information such as the offer price and its basis for the securities of the offeree, and a confirmation by the offeror and the offeror's financial advisers that resources available to the offeror are sufficient to satisfy full acceptance of the offer (where the offer consists of or includes cash).

The buyer may obtain financing through internally generated funds, group borrowings or raising money from financial service providers such as banks.

Provision of financial assistance by the seller to the buyer in respect of the transaction is prohibited under the Companies Act.

Minority squeeze-out

14 May minority stockholders of a public company be squeezed out? If so, what steps must be taken and what is the time frame for the process?

Minority shareholders are permitted to be squeezed out in a takeover situation under the Code.

The CMSA permits an offeror who has made a takeover offer for all the shares or all the shares in any particular class in an offeree, and has received acceptances of not less than 90 per cent in the nominal value of the offer shares (Compulsory Acquisition Conditions), to within four months of the date of the takeover offer, acquire the remaining shares or remaining shares in any particular class in the offeree, by issuing a notice to the dissenting shareholders. The compulsory acquisition right is exercisable if the notice is issued within two months of the date of achieving the Compulsory Acquisition Conditions and is accompanied by a copy of a statutory declaration by the offeror that the conditions for the giving of the notice are satisfied.

In respect of a situation to which the Code and CMSA do not apply, the Companies Act permits an offeror to compulsorily acquire minority shareholders under a scheme of arrangement if the transfer involving holders of not less than 90 per cent of the nominal value shares or of the shares of that class has been approved.

Cross-border transactions

15 How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?

It is common for parties to factor tax considerations into structuring cross-border transactions, but there is generally speaking no applicable Malaysian law that governs cross-border transactions.

It is common (see question 11) for the government to also exercise an influence through promoting policy to encourage mergers or investment in specific sectors through tax incentives and reliefs or stamp duty exemptions.

Waiting or notification periods

16 Other than as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations or acquisitions involving public companies?

The governing law in respect of competition is the Competition Act 2010. However, there is no merger control regime or regulations in Malaysia.

Takeovers to which the Code applies are required to comply with the takeover offer timeline specified under the Code and the Rules made thereunder, which relate to the announcement of the offer, dispatch of the offer document, independent advice circular, release of sensitive information, timeline for a revised offer, acceptance of satisfactory conditions and acceptance of offer.

In transactional situations to which the Code does not apply, there is usually no relevant waiting or notification period stipulated by law. The parties are generally free to contract and agree on the timeline of the transaction by taking into account factors such as the conduct of due diligence, negotiation of transactional documents, satisfaction of conditions precedents and completion of the transaction.

However, transactions that are subject to regulatory approval may be subject to a lengthy waiting time. For example, acquisition of control in financial services providers in Malaysia under the FSA requires the prior approval of the Minister of Finance and the application for approval process is normally lengthy and time consuming. Similarly, in transactions involving transfer of land whereby the land authority's prior approval is required, the approval application process can be lengthy and time consuming.

OTHER CONSIDERATIONS

Sector-specific rules

17 Are companies in specific industries subject to additional regulations and statutes?

Yes, see questions 2, 11 and 16.

There are certain industries that are heavily regulated such as the oil and gas industry or the financial services industries, whereby the completion of the transactions may be subject to the prior approval of the regulatory body. Target companies in other industries or sectors may be subject to regulations or applicable laws under which the regulatory body may issue guidelines for the target company to comply with. It is also common that the regulatory body exercises influence through imposition of licensing conditions, a foreign equity threshold, minimum paid-up capital requirements, regulatory approval requirement for change of ownership or director, or notification requirement for a change of ownership or director.

Tax issues

18 What are the basic tax issues involved in business combinations or acquisitions involving public companies?

There is no capital gains tax on business combinations in Malaysia, except that transfer of real property or acquisition of shares in real property companies (ie, a company controlled by persons who own real property with a defined value of not less than 75 per cent of its total tangible assets) may attract real property gains tax payable on the gain of the transfer.

Ad valorem stamp duty is payable on the transfer of shares or non-shares assets in respect of business combinations (see question 4).

Labour and employee benefits

19 What is the basic regulatory framework governing labour and employee benefits in a business combination or acquisition involving a public company?

In cases of acquisition of a company, the employment status of the employees of the target company will not be affected by law. Nevertheless, the Employment Act 1955 (EA) governs the entitlement and protection of employees falling within the ambit of the EA (which mainly include employed persons with wages not exceeding 2,000 ringgit a month), which includes annual leave, medical leave and overtime. It is common practice for the purchaser to request the seller to provide warranties in respect of the target company's compliance with the applicable employment laws.

In cases of a transfer of business, the employment regulations in Malaysia provide that unless the existing employees of the transferor have been offered equally favourable terms by the employer, the employment of such employees shall be deemed to have been terminated, in which case termination benefits will be payable.

The Employees' Provident Fund and the Social Security Fund are statutory contribution schemes to which the employer is required to contribute in respect of its employees.

Restructuring, bankruptcy or receivership

20 What are the special considerations for business combinations or acquisitions involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?

Thorough and cautious due diligence and investigations should be carried out on the subject matter of the transfer or acquisition, as the transfer of assets by a receiver or liquidators is typically on limited warranties and on an 'as is where is' basis. Due diligence should be carried out to ensure that the purchaser acquires good title of the target, and is not subject to any undisclosed liabilities or encumbrances.

Anti-corruption and sanctions

21 What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations with, or acquisitions of, a public company?

The anti-corruption laws in Malaysia are governed by the Malaysian Anti-Corruption Commission Act 2009. The legislation does not provide for situations specifically in relation to business combinations, but stipulate offences in respect of a wide range of bribe or corruptive acts that are caught under the legislation. For instance, any bribery or donation made by a person to an official to abuse his or her position to achieve the said person's purpose (including the facilitation of obtaining regulatory approval or sanction) is an offence under the legislation.

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