

Short Notes on:

## **HOW HAS COVID-19 AFFECTED SOUTH AFRICAN MERGERS AND ACQUISITIONS VALUE?**

### **Overview**

None of us are strangers to the drastic and everlasting effects of the Covid-19 Pandemic and the effect the National Lockdowns and the halting of business have had on global and national trade. However, for the business innovator and budding entrepreneur, it may be important to consider the specific effects and current occurrences that have taken place in respect of Mergers and Acquisitions (*hereafter referred to as M & A's*).

In this article we aim to evaluate the South African position of Mergers and Acquisitions immediately before the emergence of the Covid-19 Pandemic and now eight months along the line.

### **What Are Mergers And Acquisitions?**

A Merger or Acquisition, generally is seen as a substantial profit generating scheme. However, it can be more extensively described as an association or series of transactions, in pursuance of a final agreement between two or more companies, which will result in those companies merging and forming one or more companies. Once amalgamated these companies will wholly hold assets and liabilities there were held by the individual companies. This occurs directly before the conclusion of the merging agreement and upon the dissolution of the combining companies.

Mergers and Acquisitions are governed by sections 113 and 116 of the Companies Act 71 of 2008.<sup>1</sup> Furthermore, Mergers and Acquisitions are an umbrella concept which encompasses variations of the basic M & A agreement and tailors it to the unique needs of your amalgamation.

### **The Reality Of Mergers And Acquisitions During And After Covid-19**

It was previously predicted that Mergers and Acquisitions would strengthen our economy over the last decade. It was further predicted that there was likelihood of recoveries in the stagnant period of amalgamations in 2019 to increased Economic Activity directly related to Mergers and Acquisitions.

President Cyril Ramaphosa predicted a 1.2 Trillion Rand surge in new investments in the Republic in the consequent five years. Unfortunately this prediction was countered with a prediction of a weakened Merger and Acquisitions front, since the emergence of the global pandemic in 2020.

### **South Africa: M & A's Post Covid-19 Emergence**

Mergers and Acquisitions drastically decreased on the South African front in the first six months of 2020 due to the wave of Legal and Economic uncertainty which arose as a result of Covid-19.

Statistically, the domestic value of M & A Agreements in the first half of 2020 declined by 18% and International Transactions dropped by 60%, further African Cross Border transactions lost value and volume and Merger and Acquisition agreement generally in 2020 spiraled into a downward trend.

Where does this leave Mergers and Acquisition Transactions and Agreements analogous to it?

In the interim, it is predicted that distressed Merger and Acquisition Transactions and M & A transactions which were proposed to take place in 2020 will likely be generated by sectors of consolidation, that does not necessarily lend to the inherent requirements of Mergers and Amalgamations.

Some examples of how distraught M & A's can be remedied in 2020 are through, complete severance of those agreements, restructuring and looking for Foreign Investment opportunities into that amalgamation, with the possibility of powerful role players in transactions buying out feebler role players, essentially this will introduce aspects of Competition Law into the practices of Mergers and Acquisitions.

### **Conclusion**

Covid-19 has affected the South African Economy immensely due to the restrictions placed on the ordinary course of business in the country and this has in turn affected the success of Mergers and Acquisitions currently taking place in the country, however it may be a good opportunity to restructure the transaction of Mergers and Acquisitions as we know it and find new ways to regulate it.

Contact an Attorney at SchoemanLaw Inc for your commercial law needs.