

1. Record Nr.	UNINA9910508438003321
Autore	Lessambo Felix
Titolo	U.S. mergers and acquisitions : legal and financial aspects / / Felix Lessambo
Pubbl/distr/stampa	Cham, Switzerland : , : Palgrave Macmillan, , [2021] ©2021
ISBN	3-030-85735-2
Descrizione fisica	1 online resource (228 pages)
Disciplina	346.7306626
Soggetti	Consolidation and merger of corporations - Law and legislation - United States Consolidation and merger of corporations - United States - Finance
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di contenuto	Intro -- Acknowledgments -- Contents -- Acronyms -- List of Cited Cases -- 1 Overview of Mergers and Acquisitions -- 1.1 General -- 1.2 Cross-Border M&A Trends -- 1.3 Methods of Business Combination -- 1.4 Motives for Acquisitions -- 1.5 Growth Through Acquisitions -- 1.6 Financial Analysis -- 1.7 Accounting for Mergers -- 1.8 Mergers Negotiation and Due Diligence -- 1.9 Financing the Deal -- 1.10 Post-Merger Integration -- 1.11 Cultural issues Cultural in a Merger -- 2 Legal Framework -- 2.1 General -- 2.2 Letter of Engagement -- 2.3 Confidentiality Agreement -- 2.4 The Term Sheet -- 2.5 The Letter of Intent -- 2.6 Merger Contract -- 2.6.1 The Offer and the Merger -- 2.6.2 Representations and Warranties -- 2.6.3 Covenants -- Pre-Closing Covenants -- Post-Closing Covenants -- 2.6.4 Conditions to Consummation of the Merger -- 2.6.5 Material Adverse Change (MAC) and Material Adverse Effect (MAE) Clauses -- 2.6.6 Closing and Post-Closing Conditions -- 2.6.7 Indemnification -- Limitations to Indemnification -- Exceptions to Baskets and Caps -- Indemnification Procedures -- 2.7 Reasonable Best Effort Clause -- 2.8 Court Cases -- 2.8.1 Williams Cos. V. Energyfer Equity7 -- 3 Due Diligence -- 3.1 General -- 3.2 Legal Due Diligence -- 3.3 Financial Due Diligence: Specialist Implications -- 3.3.1 The Investment Bankers -- 3.3.2 The Management Consultants -- 3.3.3 The Accountants -- 3.4

Organizational Due Diligence -- 4 Mergers and Acquisitions Financing -- 4.1 General -- 4.2 Types of M&A Financing -- 4.2.1 Company Funds -- 4.2.2 Company Equity (or Exchanging Stock) -- 4.2.3 Mezzanine or Quasi Debt -- 4.2.4 Earn-out -- 4.2.5 Leveraged Buyout -- 4.2.6 Asset-Backed Loan -- 4.2.7 Joint Venture -- 5 The Fiduciary Duties -- 5.1 General -- 5.2 Fiduciary Duties to a Third Party -- 5.3 Fiduciary Duties in Short-Form Merger.

5.4 The Safeguards: The Business Judgment Rules -- 5.4.1 The BJT: A Review Standard -- 5.4.2 Reforming the Best Judgment Rule -- 5.5 Corporate Defensive Tactics -- 5.5.1 Poison Pills -- 5.5.2 The Staggered Board Techniques -- 5.5.3 Shareholders Derivative Litigation: A Hurdle race -- 5.5.4 A New Standard of Liability for the Board -- 6 Shareholders Actions -- 6.1 General -- 6.2 Types of Actions -- 6.2.1 Shareholders Direct Action -- 6.2.2 Derivative Claims -- 6.2.3 Shareholders Dual Actions -- 6.3 Types of Reliefs -- 6.3.1 Motion for Summary Judgment -- 6.3.2 Injunctive Relief -- 7 Proxy Contest, Staggered Boards -- 7.1 General -- 7.2 Proxy Fight and Shareholders' Motivation -- 7.2.1 Advocating Corporate Social Responsibility -- 7.2.2 Enhancement of Corporate Governance -- 7.2.3 Investment Strategy Tool -- 7.3 Proxy Disclosure Violation -- 7.3.1 Standards of Review -- The Business Judgment Rule -- The Entire Fairness Review -- 7.4 Staggered Boards -- 7.4.1 Pros -- 7.4.2 Cons -- 7.4.3 Case Law -- 8 Shareholders Appraisal Rights and Valuation -- 8.1 General -- 8.2 Shareholders Appraisal Rights -- 8.3 Valuation Techniques -- 8.3.1 Discounted Cash Flow -- 8.3.2 Comparable Companies -- 8.3.3 Comparable Transactions -- 8.3.4 Asset Value -- 8.3.5 Transaction Price -- 8.3.6 Unaffected Market Price -- (Case 1) in Re Appraisal of Jarden Corp.10 -- (Case 2): In Re Appraisal of Stillwater Mining Co.11 -- 9 Structuring Acquisitions -- 9.1 General -- 9.2 Asset Purchase Transaction -- 9.2.1 Advantages -- 9.2.2 Disadvantages -- 9.3 Stock Purchase Transaction -- 9.3.1 Advantages of a Stock Purchase Acquisition -- 9.3.2 Disadvantages of a Stock Purchase Acquisition -- 9.4 Merger Transaction -- 9.4.1 Direct Statutory Merger -- 9.4.2 Indirect Statutory Merger -- 10 Subsidiary Merger -- 10.1 General -- 10.2 Board Approval -- 10.3 Standard of Review.

10.3.1 Duty of Full Disclosure -- 10.4 Shareholders' Remedy: Quasi-Appraisal -- 10.5 Defense Against Monetary Damages -- 10.6 The Directors' Exculpatory Defense -- 10.7 Types of Subsidiary Merger -- 10.7.1 Forward Triangular Merger -- 10.7.2 Reverse Triangular Merger -- 10.8 Shareholders' Appraisal Right -- 11 The Impact of U.S. Tax Code on Mergers and Acquisitions -- 11.1 General -- 11.2 M&A -- A Motivations -- 11.3 Tax Synergies -- 11.4 Case Studies -- 11.4.1 The Acquisition of Medicis Pharmaceutical Corporation (2012) -- 11.4.2 The Acquisition of Bausch & Lomb Holding Incorporation (2013) -- 11.4.3 The Acquisition of Salix Pharmaceuticals, Ltd (2015) -- 12 Corporate Divestitures and Carve-Outs -- 12.1 General -- 12.2 Reasons for Divestitures -- 12.3 Voluntary vs. Involuntary Divestitures -- 12.3.1 Voluntary Divestitures -- 12.3.2 Involuntary Divestitures -- 12.4 Benefits and Drawbacks of Divestitures -- 12.4.1 Benefits of Divestitures -- 12.4.2 Drawbacks of Divestitures -- 12.5 Types of Divestitures -- 12.5.1 Sell-Offs -- 12.5.2 Spin-Offs -- 12.5.3 Split-Ups -- 12.6 Carve-Outs -- 12.7 Divestitures Tax Considerations -- 12.7.1 Statutory Requirements -- 12.7.2 Non-Statutory Requirements -- Annexes -- Annex A: Acquisition Confidentiality Agreement -- Annex B: Mergers and Acquisitions Sample Binding Letter of Intent -- Annex C: Term Sheet (Model Form) -- Annex D: Engagement Letter -- Appendix I -- Annex E: M&A Contract -- Glossary of Terms --

Bibliography -- Index.

---