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# AN OUTLOOK ON M&A ACTIVITY IN 2021

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The start of 2021 in Portugal was disrupted by the third wave of COVID-19 pandemic, which, on January 15, led to a new (and second) lock-down. The restrictive measures were followed by a gradual re-opening of activities, in accordance with a calendar implemented by

the Portuguese Government. Additional measures and minor adjustments taken by the Government have been regular and a statement to all the uncertainty around COVID-19. The impacts brought by COVID-19 to M&A activity in Portugal, especially following the initial March 2020 lock-down, were unprecedented in recent times - ongoing

negotiations were suspended, agreements were renegotiated and, in some cases, terminated. The parties and their advisors faced a number of practical challenges due to well-known restrictions and the working from home status. Completing timely due diligence processes became more difficult and management and negotiation



sessions became virtual. In Portugal, these initial difficulties were experienced essentially throughout the first lock-down. In fact, in subsequent lock-downs, virtual meetings, management sessions and virtual data rooms, as well as digital signatures proved to be efficient (at least to some extent) and will remain important tools for the future, especially in cross border transactions.

Legal technology will also be a key factor in future M&A transactions. AI machine learning software applied to due diligence processes, programmed to extract key provisions from hundreds of contracts, transaction management software that automates legal processes and generates documents, as well as, contract automation, will all increase deal efficiency and reduce the time to complete a deal.

The challenges arising from COVID-19 were not only practical issues. In economic and public health crisis, discussions between the parties regarding valuation metrics, together with uncertainty

around financial information and economic forecasts, are important blocks for completing a transaction.

These recent events also led to relevant takeaways in M&A agreements. Significant changes were reflected in the terms of the agreements, where price adjustments on completion accounts, rather than lock box mechanisms, and earn-out clauses were preferred by the parties and proved to be more reliable given the uncertainty around the impacts of the pandemic in the financials of the targets. Also, common provisions including references to “ordinary course of business” or “consistency with past practices” had to be revisited and shall have to be carefully reviewed, as they are difficult concepts to operate in pandemic times.

Despite some uncertainty around the pace and the effectiveness of the vaccination process, the emergence of new COVID-19 variants and potential new restrictive measures imposed by the Government, the projections for the Portuguese economy have, however, been revised upwards,

since February/March 2021, with the economic activity expected to return to the (pre-pandemic) level of 2019 in the first half of 2022. In particular, the most recent projections by the Bank of Portugal, published in the Economic Bulletin of June 2021, point to an economic growth of 4.8% in 2021, 5.6% in 2022 and 2.4% in 2023, with the national GDP reaching the same level as 2019 in the first semester of 2022. Private consumption, together with the implementation of reforms and investments foreseen in the Recovery and Resilience Plan of Portugal, which was officially submitted to the European Commission last April, will play an important role in the economic recovery. Investments and subsidies foreseen in the Recovery and Resilience Plan on digital transformation and climate transition are expected to raise opportunities in the technology and energy sectors, while an increase in private consumption, in contrast to the significant levels of private savings achieved during the past year, may lead to interest in the distribution and retail sectors. Also, private equity firms will be looking to acquire assets in a shift to a buyers’ market.

The favorable economic forecast and the emergence of opportunities in different sectors give a positive outlook for M&A activity and we may see further increase in the number of transactions until the end of 2021, beginning of 2022. Future transactions will definitely benefit and reflect the experience gained in this last year.