

Lithuania: Supplementing the regulation on merger control

On 23 August 2016, the Lithuanian Competition Council accepted the amendments of its Resolution regarding the Merger Notification and Examination Procedure, making a few important changes regarding the national regulation of the merger control.

The regulatory news is of great importance to the corporate world in Lithuania, as it has a significant effect on the merger procedures, redefining the terms of merger participants and adjusting the calculation of the aggregate income.

New definition of the entities participating in the merger

The case of joint control

If, prior to the merger, the merging entity has been under joint control, the joint control remains after the merger, and all the entities that undertake the control (both the initial controlling entities and the new, post-merger controlling entities), as well as the acquired entity, are regarded as participating in the merger.

The case of sole control turning into joint control might have a dual outcome

This depends on

- whether the entity that initially held sole control is no longer participating in the control – in this case, only the entities that obtain the joint control as the acquired entity are regarded as entities participating in the merger;
- whether the entity that initially held sole control continued its participation in the control – in this case, all of the entities that undertake the joint control are regarded as participating in the merger, but not as the acquired entity.

Under the previous regulation, the acquired entity was also regarded as participating in the merger, thus this is quite an important change to the regulative approach.

News regarding the calculation of the aggregate income – how should it be calculated?

The regulation regarding the calculation of the aggregate income has been adjusted in relation to issues regarding:

- the kind of taxes to be taken into account while calculating the aggregate income;
- the kind of funding to be taken into account while calculating the aggregate income;
- the rules of calculation with respect to the type of control which is acquired after the merger.

These mandatory amendments will come into force on 1 January 2017, rendering it essential to take the new regulatory amendments into account in the future corporate mergers in Lithuania.



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