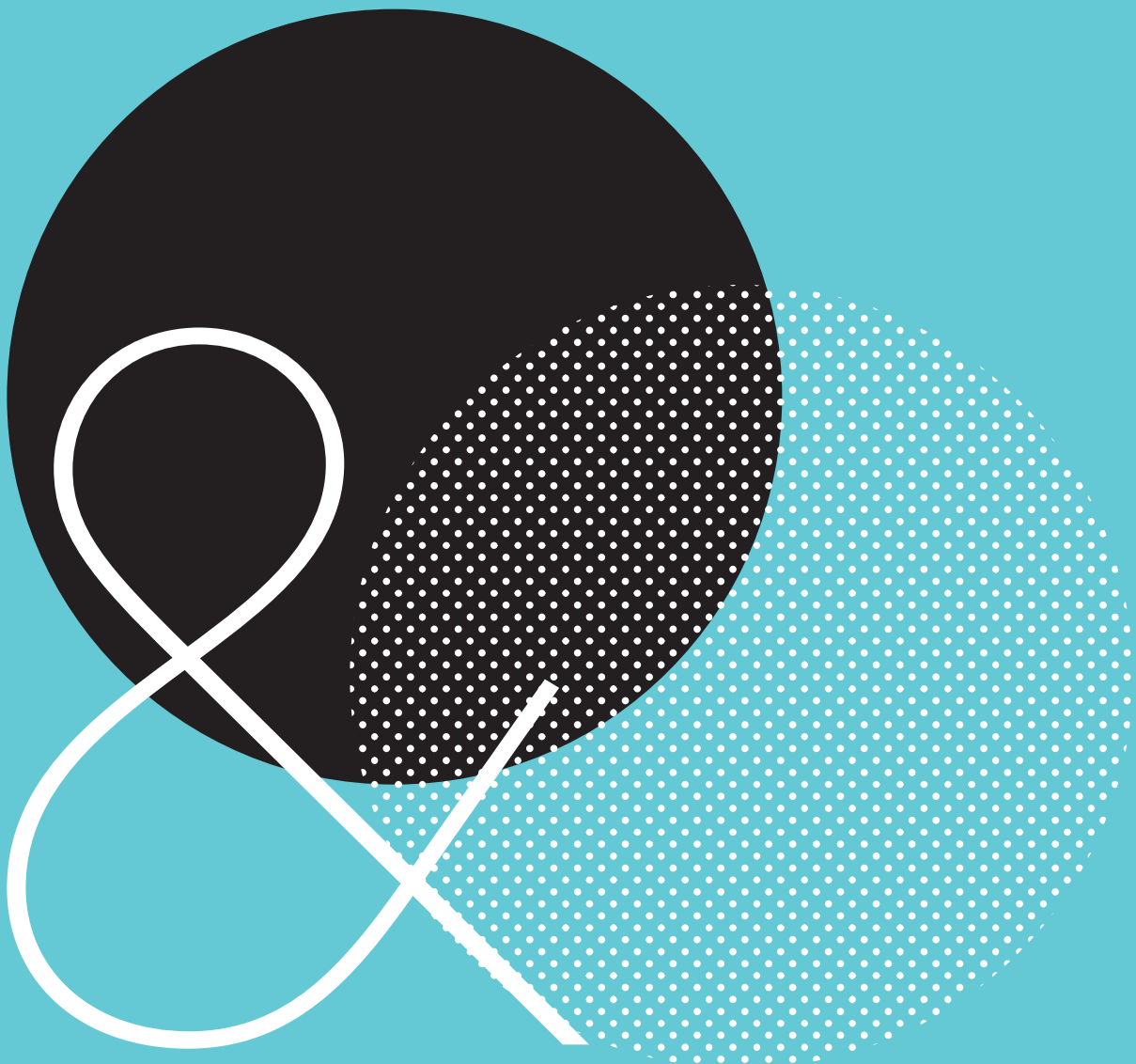
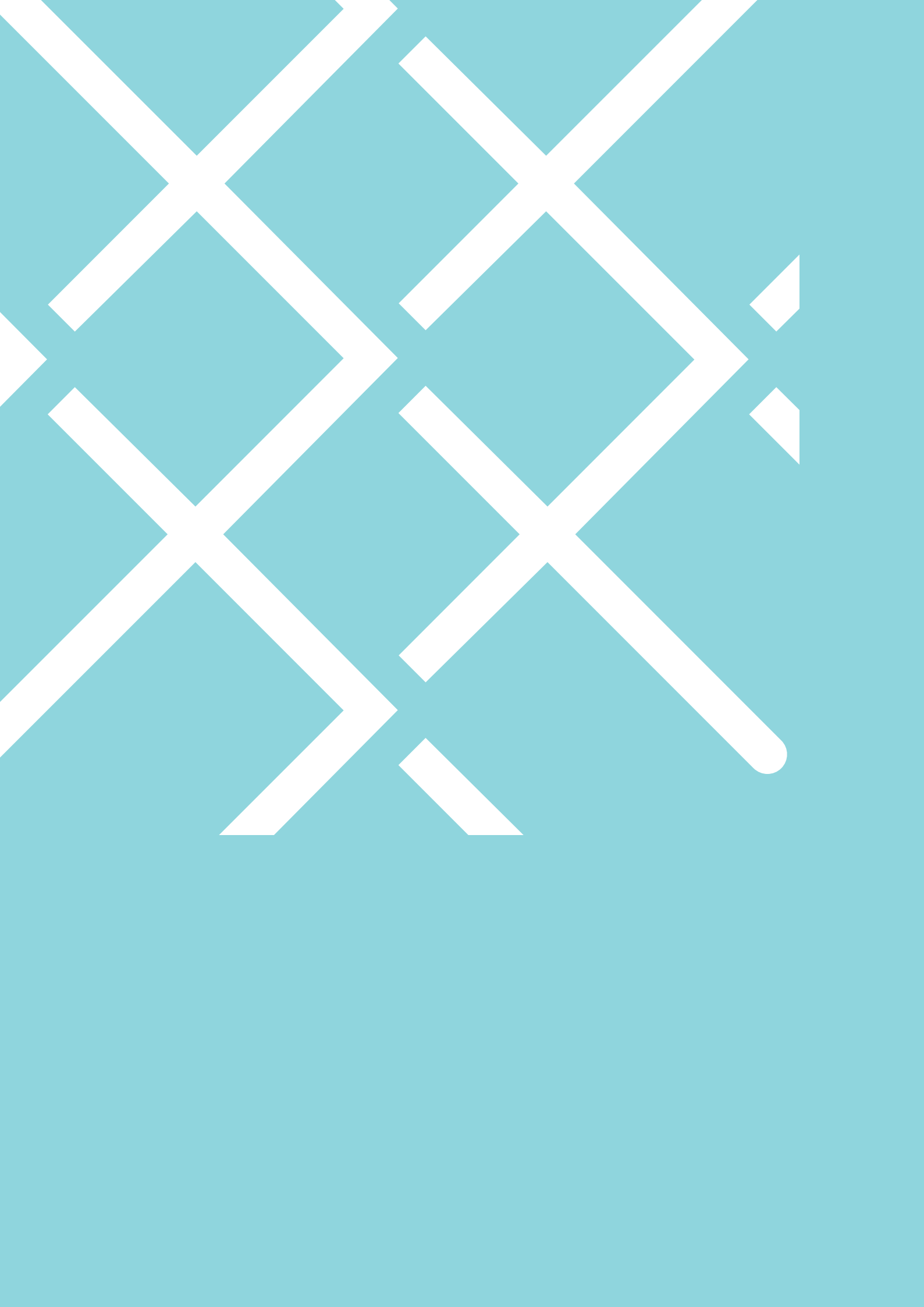




sela
south east legal alliance

M&A and Private Equity





What we do

M&A and Private Equity

SELA - South East Legal Alliance
January 2018

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01

Seamless M&A and Private Equity Transactions

Synergy, growth, diversification and competition. For any one of these reasons and more, a company may decide merge with or acquire another company. But whatever the underlying strategic reason is, many challenges may arise along the way, especially when the acquisition or sale has cross-border elements or takes place in emerging markets where legislation may be unfamiliar or in need of updating.

The South East Legal Alliance – SELA is recognized for its ability to seamlessly handle both complex, cross-border mergers and acquisitions, as well as local transactions. SELA advises buyers and sellers at all stages of a transaction, including working with financial advisors to ensure an effectively managed process. Our experts assist clients from the inception of a deal to its finalization. We take clients through specific regulatory hurdles, antitrust, risk and compliance issues, as well as corporate governance, tax structuring, finance, intellectual property and employment matters. We have in-depth knowledge of our local markets, which gives our clients confidence that any issues encountered will be dealt with efficiently and meticulously. By coordinating work across multiple jurisdictions, we help our clients integrate their business and conclude their operations successfully to achieve the maximum result, and by offering

strong ancillary practices, we continue to support clients after the completion of the transaction.

SELA represents a variety of international and domestic companies across a wide range of industries, private equity funds and financial institutions across the South East Europe (SEE) region. Our broad industry expertise keeps us on top of the latest industry-specific regulations and legislation that may impact a transaction.

Our Services

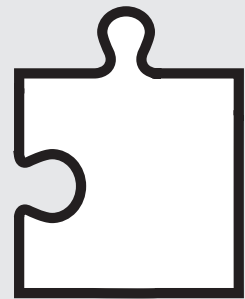
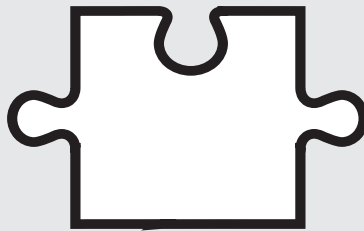
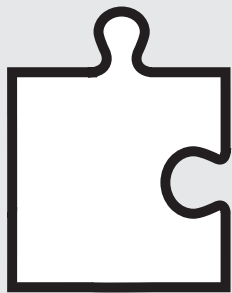
- M&A – buy side and sell-side
- Cross-border transactions
- Joint ventures and strategic alliances
- Spin-offs, carve-outs, divestments
- Private equity M&A transactions
- Privatization
- Acquisition finance
- NPL portfolio acquisitions
- Multi-jurisdictional due diligence investigations
- Deal structuring
- Negotiating purchase agreements
- Coordinating multi-jurisdictional closings
- Multi-jurisdictional / local merger notifications / clearance procedures
- Corporate compliance and governance
- Corporate reorganization



02

Multi-jurisdictional Coordinated M&A

From multi-national corporations to private equity funds, private investors and local businesses, SELA advises clients from all key industries on strategic mergers and acquisitions across South East Europe. Our clients benefit from working with the top lawyers in the business. We meet our clients' goals through a coordinated team effort that executes all aspects of buy-side and sell-side transactions. Because our region is governed by different legislation and communicates in several languages, SELA stands out by offering local expertise and legal counsel that is capable of simultaneously addressing conflicting issues across multiple jurisdictions. A deep understanding of industry dynamics is often the key to a successful acquisition, which is why our teams are trained in the specific legislative requirements and commercial issues surrounding various highly regulated industries. This allows us to effectively provide results-oriented advice to our clients on commercial issues and facilitate their strategic decision making. Mergers and acquisitions are afflicted with specific challenges and are subject to increasingly more regulations, making the entire process more and more complex. Our integrated team of multi-disciplinary experts will take you through the intricacies, help identify risk and ensure that all issues are dealt with in line with your commercial objectives. We advise on all areas that apply to M&A transactions, including corporate, finance, competition, employment, IP, real estate and tax.



1

Industry Expertise

- Agriculture & Food Processing
- Automotive & Manufacturing
- Energy, Infrastructure & Mining
- Environmental Law
- Insurance
- Leisure
- Pharmaceuticals & Healthcare

2

Specialist legal services

- Banking & Finance
- Competition & Antitrust
- Corporate & Commercial
- Data Protection
- Employment & Immigration
- Intellectual Property
- M&A and Private Equity
- Real Estate & Construction
- Tax Law

3

M&A Services

- Demergers
- Divestments
- Joint Ventures & Strategic Alliances
- Management and Leveraged Buyouts
- Private M&A
- Privatization
- Public Tenders
- Share Sales
- Takeover Bids

Managing Risk and Regulatory Compliance

Managing risk and regulatory compliance is always a concern in any acquisition, but is especially important in multi-jurisdictional transactions.

We cover the regulatory compliance issues that encompass the key concerns that our clients have when doing business in the jurisdictions of South East Europe. By covering competition issues like anti-trust, state aid, procurement, along with compliance matters such as anti-bribery and corruption, compliance programs and data protection, we ensure our clients are able to mitigate risks maximally. We advise on corporate governance and daily corporate matters with the goal of making sure that in-house teams are aware of potential risks and can identify them in the workplace so that they are ready to deal with them quickly and efficiently.

Detailed Due Diligence

Having a thorough due diligence done as part of the M&A process helps a potential investor to better understand its target and assess potential risks before entering into a transaction. SELA offers a coordinated approach to local and multi-jurisdictional due diligence investigations. We can provide in-depth due diligence reports that will provide a thorough analysis of a company's legal situation, as well as the more cost effective red flag due diligence, which is ideally carried out at the beginning of a transaction to help identify potential deal breakers and aid in the sale price negotiation process.

Regional Reach

As the global reach of M&A transactions expands, the need has arisen to handle the cross-border aspects of a transaction. Our close-knit team of cross-disciplinary M&A experts ensures a common approach throughout our offices, which is the key to delivering high quality legal advice in cross-border transactions, under tight deadlines. We work closely with in-house counsel to coordinate competing legal requirements to find a bespoke approach for each transaction and to come up with innovative solutions for issues such as compliance with local corporate laws, regulatory requirements, tax structuring, employee compensation and asset transfer requirements. Our lawyers are experienced in conducting due diligence investigations, conducting negotiations and preparing the required transaction documents for cross-border transactions, whether through tender, share purchase or direct acquisition or sale. We are experienced in preparing all types of agreements that are essential to this practice area, and always take into account the available dispute resolution mechanisms that are an essential element for the prevention of potential future disputes. Our experience includes drafting letters of intent, share purchase agreements, sales representation agreements, joint venture agreements, expatriate employment agreements and trademark license agreements.

Strategic Support

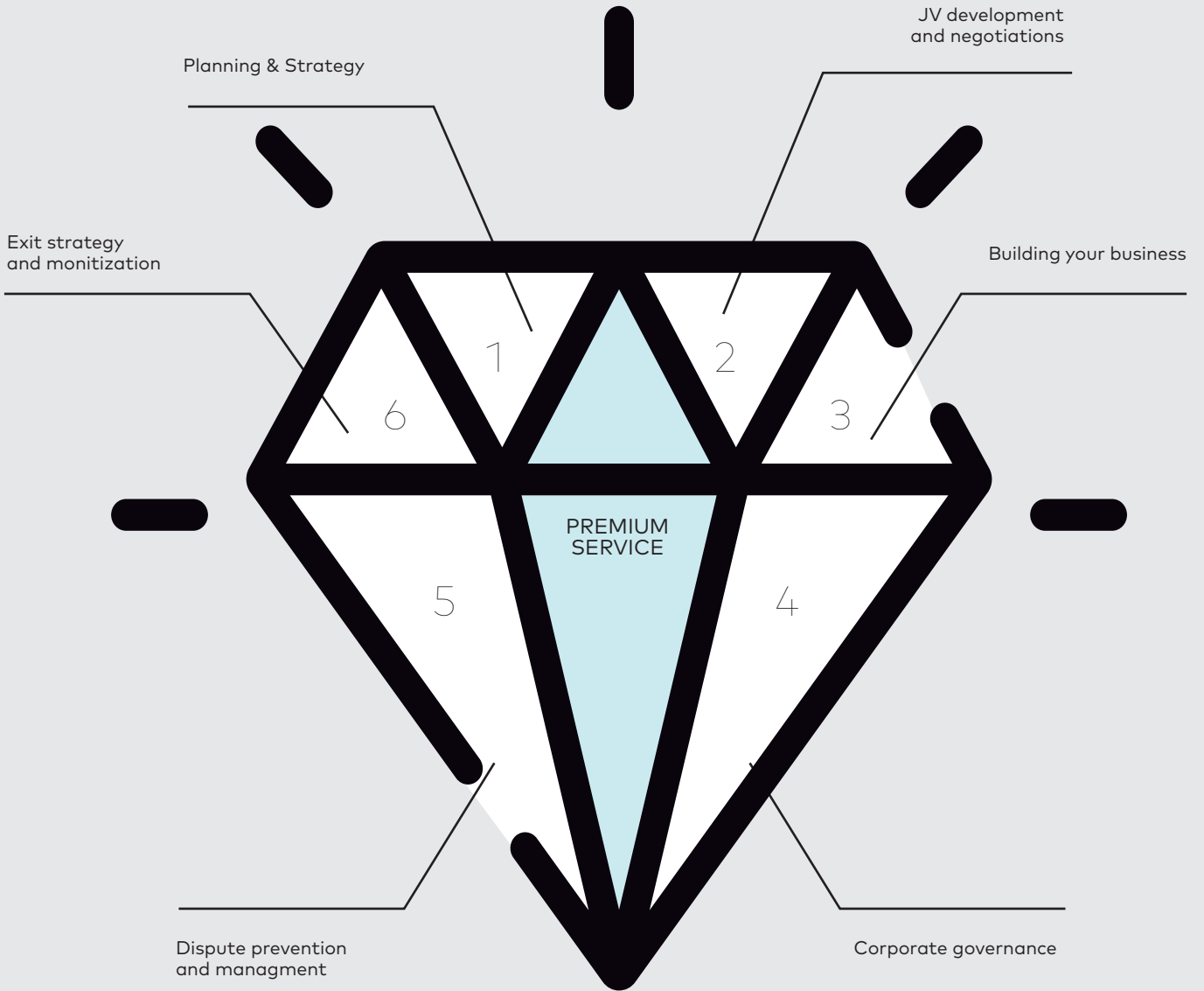
SELA takes all aspects of a deal into consideration when structuring its legal advice. From industry expertise, commercial understanding, awareness of risk and compliance, to growing the business and exit strategies, our clients benefit from our big picture approach to transactions.

03

Joint Ventures & Strategic Alliances

As a core part of our M&A and Private Equity practice, we offer legal advisory services ranging from setting up, structuring and negotiating joint ventures and strategic alliances to navigating legal issues of the growing business, exit strategies or continuing expansion. Our clients rely on our in-depth knowledge of our local markets. We support investors and entrepreneurs on planning and structuring their joint ventures and strategic alliances by helping them to conduct due diligence investigations of potential partners, define each parties' role and contributions, reviewing and anticipating cross-border issues that may arise, ensuring regulatory and antitrust compliance requirements are met and advising on intellectual property protection. When establishing the business, we are there to draft agreements, establish key terms and advise on detailed legal issues such as mechanisms for dispute resolution. Along the way, our team provides daily support with employment issues, supplier contracts, leasing contracts, regulatory compliance and can take you through the process of renegotiating the terms of your partnership agreement as the business grows and interests change. We offer ongoing advice on corporate governance, internal disputes that may arise and are there to help you prepare for exit, sale or adding new partners into your business. Whatever the issue is, we will help you navigate through it and achieve the best commercial results in a cost-effective manner.

SELA Joint Venture and
Strategic Alliance Services



04

Private Equity in SEE

While traditional and strategic investors remain a very relevant part of the SEE M&A scene, private equity investors have entered the region with a bang.

Private equity has gotten heavily involved in the financial services sector in many jurisdictions across the region, making private equity investors key players in SEE deal making. Private equity firms have taken crucial roles in rebuilding the regions troubled banking sector with major deals across the region. Private equity firms have also focused on the non-performing loans (NPL) market and payment processing. Not only have private equity companies invested significant funds in the acquisition and management of NPLs, but they have also developed their processing and recovery capacities, while at the same time putting an accent on valuation in order to access recovery rates and long-term pricing strategies.

Traditional investments by private equity players also remain strong in the region. From healthcare, FMCG, payment processing, NPL and bank M&As, PE deals have made up some of the most lucrative M&A deals the region has seen recently.

General Legal Framework

ALB

- Civil Code
- Company Law
- Commercial Registry Law
- Law on Protection of Competition (other sectors laws, depending of the case, e.g. Banking Law, insurance Law, Securities Law etc.)

BiH¹

- Company Act
- Competition Act
- Securities Act

BG

- Commercial Act
- Protection of Competition Act
- Obligations and Contracts Act

CRO

- Companies Act
- The Act on the Takeover of Joint Stock Companies
- Real Estate Tax Act
- Value Added Tax Act
- Capital Income Tax

MAC

- Company Act
- Takeover Act
- Securities Act
- Competition Act
- Labor Act
- Act on Contracts and Torts

MNE

- Company Act
- Takeover Act
- Securities Act
- Competition Act
- Labor Act
- Act on Contracts and Torts

SER

- Company Act
- Capital Markets Act
- Takeover Act
- Competition Act
- Labor Act
- Act on Contracts and Torts

SLO

- Companies Act (ZGD-1)
- Prevention of Restriction of Competition Act (ZPOMK-1)
- Council regulation (EC) No 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation)
- Takeovers Act (ZPre-1)²

Acquisition Methods

	<u>Acquisition of shares / stocks</u>	<u>Acquisition of assets</u>	<u>Mergers</u>	<u>Spin-offs</u>	<u>Split-ups (demergers)</u>	<u>Target share capital increase</u>
ALB ³	•	•	•		•	
BiH	•	•				
BG	•	•	•	•	•	
CRO	•	•	•	• ⁴	• ⁵	
MAC	•	•	•	•	•	
MNE	•	•	•	•	•	
SER	•	•	•	•	•	
SLO	•	•	•			• ⁶

¹ Bosnia and Herzegovina ("BiH") has a multi-level government structure and it consists of: two entities, the Republic of Srpska ("RS") and the Federation of Bosnia and Herzegovina ("FBiH"), (collectively referred to as the "Entities") and Brcko District (the "District").

² Some other industry-specific regulations may apply.

³ Acquisition Methods: Acquisition of shares; Acquisition of Assets; Statutory Reorganization (merger/demerger, formation of new company); Formation of joint venture

⁴ Spin-offs: (i) spin-off with incorporation and (ii) spin-off with take-over.

⁵ Splits: (i) split with incorporation and (ii) split with take-over.

⁶ Where the acquirer acquires the new shares issued by the target.

Merger Notification Threshold

ALB

The combined global turnover of all participating undertakings for the last business year is more than ALL 7 billion (approx. €55.8 million) and the domestic turnover of at least one participating undertaking in the last business year is more than ALL 200 million (approx. €1.59 million);

or

The combined domestic turnover of all participating undertakings for the last business year is more than ALL 400 million (approx. €3.19 million) and the domestic turnover of at least one undertaking is more than ALL 200 million (approx. €1.59 million)

BiH

2 thresholds
BAM⁷100 million⁸
BAM8 million⁹

BG

2 thresholds¹⁰

CRO

25% of the target company's voting shares (control threshold)¹¹

MAC

3 Thresholds
EUR 10.000.000¹²
EUR 2.500.000¹³
Market share of 40%-60%¹⁴

MNE

2 thresholds
EUR 5 million¹⁵
EUR 20 million¹⁶

SER

2 thresholds
EUR 100 million¹⁷
EUR 20 million¹⁸

SLO

Thresholds differ in relation to the fact whether the merger must be notified to Slovenian Competition Protection Agency¹⁹ or European Commission²⁰

Dispute Resolution

ALB	Dependent on the type of the deal local law may allow for a choice of governing law
BiH	Dependent on the type of the deal local law may allow for a choice of governing law
BG	Local law allows for a choice of governing law ²¹
CRO	Dependent on the type of the deal local law may allow for a choice of governing law ²²
MAC	Local law allows for a choice of governing law ²³
MNE	Local law allows for a choice of governing law ²⁴
SER	Local law allows for a choice of governing law ²⁵
SLO	European law allow for a choice of governing law ²⁶

7 The Bosnia and Herzegovina convertible mark is the currency of Bosnia and Herzegovina. It is divided into 100 pfenigs or fenings and locally abbreviated KM.

8 Parties are obliged to notify the intended concentration if the following conditions are met: a) the aggregate turnover of all parties to the concentration derived by the sale of goods and/or provision of services on the global market amounts to BAM 100.000.000, according to the financial statements in the year preceding the concentration.

9 The aggregate turnover of each of at least two parties to the concentration derived by the sale of goods and/or provision of services on the market of Bosnia and Herzegovina amounts to at least BAM 8.000.000, according to financial statements for the year preceding the concentration, or if their common share on the relevant market exceeds 40%.

10 Pursuant to the Protection of Competition Act concentrations are subject to mandatory advance notification when the aggregate turnover of all undertakings participating in the concentration on the territory of the Republic of Bulgaria in the preceding fiscal year exceeds BGN 25 million (approximately EUR 13 million) and any of the two thresholds have been met:

- The turnover of any one of at least two participating undertakings on the territory of the Republic of Bulgaria in the preceding fiscal year exceeds BGN 3 million (approximately EUR 1,5 million), or
- The turnover of the undertaking - subject to acquisition on the territory of the Republic of Bulgaria in the previous fiscal year exceeds BGN 3 million (approximately EUR 1,5 million).

11 A natural or a legal person shall publish a takeover bid where they directly or indirectly, independently or acting in concert, have acquired the target company's voting shares, so that with the

previously acquired shares they exceed the threshold of the 25% of the target company's voting shares (control threshold).

12 The combined total annual turnover of all entities participants, generated in the preceding financial year by sale of goods and/or services on the world market, provided that at least one participant is registered in the Republic of Macedonia.

13 The combined total annual turnover of all entities participants, generated in the preceding financial year by sale of goods and/or services in the Republic of Macedonia.

14 A notification is mandatory if the market share of one of the participants exceeds 40%, or the total market share of the participants exceeds 60%, in the preceding financial year.

15 The combined aggregate annual turnover of at least two parties to the concentration achieved in the market of Montenegro in the preceding financial year.

16 The combined aggregate annual worldwide turnover of the parties to the concentration achieved in the preceding financial year, if at least one party to the concentration achieved EUR 1 million in the territory of Montenegro in the same period.

17 Total annual revenue of all concentration participants generated on the international market in the preceding financial year, provided that at least one concentration participant has a generated revenue on the market of the Republic of Serbia that exceeds EUR 10 million.

18 Total annual revenue of at least two concentration participants generated on the market of the Republic of Serbia in the preceding financial year, provided that at least two concentration participants have generated revenue on the market of the Republic of Serbia that exceeds EUR 1 million per participant, in the same period.

19 A concentration must be notified to the Agency if (a) the total annual turnover of the undertakings involved in a concentration, together with other undertakings in the group, on the market of the Republic of Slovenia in the preceding business year exceeded EUR 35 million, and (b) the annual turnover of the acquired undertaking, together with other undertakings in the group, on the market of the Republic of Slovenia in the preceding business year exceeded EUR 1 million or if in the case of the creation of a joint venture by two or more independent undertakings, performing on a lasting basis all the functions of an autonomous economic entity, the annual turnover of at least two undertakings concerned in a concentration, together with other undertakings in the group, in the preceding business year exceeded EUR 1 million.

20 A concentration has a Community dimension where (a) the combined aggregate worldwide turnover of all the undertakings concerned is more than EUR 5 000 million; and (b) the aggregate Community-wide turnover of each of at least two of the undertakings concerned is more than EUR 250 million, unless each of the undertakings concerned achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State.

21 Mandatory local rules applicable to the transfer of title over shares / assets would apply.

22 Local law governs if the dispute is between domestic companies. If the dispute is between a foreign and a domestic company, it depends on whether or not they have agreed upon the governing law, and whether they are EU or non-EU.

23 The common governing law is English law or local law if the deal is between domestic companies.

24 See footnote 22.

25 See footnote 22.

26 Some overriding mandatory provisions may apply (i.e. protection of minority shareholders). If the deal is between two domestic companies, there could be some restriction regarding the choice of foreign governing law.



Transfer taxes

- | | |
|-----|---|
| ALB | <ul style="list-style-type: none"> • Capital Gain tax – 15% (both for share and asset deals) • Value Added Tax 20% for asset deals (unless the asset deal comprises the entire undertaking) |
| BiH | <ul style="list-style-type: none"> • Acquisition of shares – capital gains tax 10% • Acquisition of assets – capital gains tax 10% • Value added tax – not payable on the purchase of shares |
| BG | <ul style="list-style-type: none"> • Acquisition of shares – capital gains tax 10%²⁷ • Transfer of assets – capital gains tax 10% • Acquisition of certain assets – sliding rate²⁸ • Mergers/spin-offs/split-ups – special taxation regime applies • Value added tax – not payable on the purchase of shares |
| CRO | <ul style="list-style-type: none"> • Acquisition of shares, mergers, spin-offs and splits are under the same tax regime – the tax is not payable²⁹ • Acquisition of assets - tax regime depends on the asset type (i.e. 4% for real estate acquisition) |
| MAC | <ul style="list-style-type: none"> • Acquisition of shares – not payable on the purchase of shares • Acquisition of assets – between 2% and 4% • Value added tax – 18% |
| MNE | <ul style="list-style-type: none"> • Acquisition of shares – not • Acquisition of assets – up to 3% • Value added tax – not payable on the purchase of shares |
| SER | <ul style="list-style-type: none"> • Acquisition of shares – not payable on the purchase of shares • Acquisition of assets – up to 2.5% • Value added tax – not payable on the purchase of shares |
| SLO | <ul style="list-style-type: none"> • Acquisition of shares – no tax payable • Acquisition of assets – VAT 22% and real estate transfer tax 2% |

²⁷ Income from disposal of shares performed by natural persons on a regulated market is exempt from taxation. For legal persons the financial result is reduced by the income from disposal of shares performed on a regulated market.

²⁸ Local tax is payable on the acquisition of real estates, rights in rem or motor vehicles. It is determined by the municipal authorities in the range between 0,1% to 3%.

²⁹ If shares are being acquired by natural persons the tax is also not payable but under condition that they are not sold in the period of 2 year following the date of acquisition (rule in force as of 1 January 2016).

05

Our M&A and Private Equity Regional Team

Key Contacts

Cross-border transactions and knowledge sharing are the heart of our alliance. To ensure top quality service and a unified approach we have established practice area/industry specific teams spanning across the region. This allows us to deliver commercial and cost-effective advice and to provide a unique service that other legal networks don't offer.



Emilija Apostolska Temov
Apostolska & Partners
apostolska@businesslaw.mk



Zoya Todorova
Dimitrov, Petrov & Co.
zoya.todorova@dpc.bg



Miroslav Plašćar
Žurić i Partneri
miroslav.plascar@zuric-i-partneri.hr



Vuk Drašković

Bojović Drašković Popović & Partners
vuk.draskovic@bd2p.com



Stevan Dimitrijević

Dimitrijević & Partners
stevan.dimitrijevic@dimitrijevicpartners.com



Shpati Hoxha

Hoxha, Memi & Hoxha
shpati.hoxha@hnh.al



Matej Perpar

Matej Perpar
matej.perpar@k-p.si



Local Touch – Regional Reach



Albania

Hoxha, Memi & Hoxha

www.hmh.al

office@hmh.al

North Macedonia

Apostolska & Partners

www.businesslaw.mk

info@businesslaw.mk

Bosnia and Herzegovina

Dimitrijević & Partners

www.dimitrijevicpartners.com

office@dimitrijevicpartners.com

Serbia / Montenegro

Bojović Drašković Popović & Partners

www.bd2p.com

office@bd2p.com

Bulgaria

Dimitrov, Petrov & Co.

www.dpc.bg

info@dpc.bg

Slovenia

Kirm Perpar

www.k-p.si

info@k-p.si

Croatia

Žurić i Partneri

www.zuric-i-partneri.hr

info@zuric-i-partneri.hr

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