MV News

16 February 2007

MACEDO VITORINO & ASSOCIADOS
Sociedade de Advogados, RL

Banking and Capital Markets

Banco Comercial Português, S.A. (BCP) announced the entry into agreements for the acquisition of 10.5% of Banco BPI, S.A.'s (BPI) share capital with Santander Group and BCP Group Pension Fund.

The Securities Commission (*Comissão do Mercado dos Valores Mobiliários* – CMVM) will now decide whether these agreements respect the Securities Code (*Código dos Valores Mobiliários* – Cód.VM).

BCP purchases BPI's shares to Santander and to its Pension Fund

BCP has entered into an agreement with the Santander Group for the acquisition of its shares in BPI's share capital. BCP also proposes to acquire the shares now held by its pension fund. If these transactions are cleared by the CMVM, BCP will acquire a total of 10.5% of BPI's shares.

BCP will become the third largest shareholder of BPI with 12.1%, after the Spanish bank, La Caixa, and the Brazilian bank, Itaú, which have 25 % and 17.5% respectively.

La Caixa, Itaú and Allianz (which owns of 8.8% of BPI's share capital) have announced that they will not sell their participations for the offered price of 5.70 euros per share. This group controls more than 50% of BPI and can block the amendments to BPI's Articles of Association proposed by BCP, which require a 75% majority.

Under the agreements entered into with the Santander Group, BCP granted Banco Santander the option to acquire BPI branches and/or other assets that will be sold if the takeover bid is successful.

The legality of this agreement was questioned by BPI, which considers that it violates the obligation to treat all shareholders equally. BPI also considered that there is no legal justification for BCP increase its shareholding in BPI above the 10% limit that was set by the CMVM.

Although not all information is available, the purchase option granted to Santander may, in fact, result in the granting of an advantage to Santander – whose economic value is difficult to quantify – that could constitute a violation of the takeover bid rules under which the bidder has the obligation to offer an equal price to all of the oferee's shareholders. As a result, the CMVM may consider that these agreements violate article 112 CodVM and require BCP to raise the offer price.

On the other hand, in May 2006 the CMVM authorised BCP to acquire over the counter BPI shares, provided that BCP's position would not surpass 10% of BPI's share capital and that the acquisition price were not higher than the offer price.

The CMVM must now decide whether BCP may exceed that percentage or whether, as BPI argues, there is no legal justification to allow BCP to buy more shares of BPI over the counter.

The CMVM's decision on this case may have an impact in the success of the take over bid and also create a precedent for other takeover bids.

In particular, if this is allowed, Sonaecom could offer Banco Espírito Santo to retain it as Portugal Telecom's main bank so as to bring BES to accept its offer for Portugal Telecom. With the recent increase of Sonaecom's offer for Portugal Telecom to 10.50, BES seems to be the only obstacle to the success of the offer.

Contacts

António de Macedo Vitorino

avitorino@macedovitorino.com

André Dias

adias@macedovitorino.com

Eduarda Costa

ecosta@macedovitorino.com

Tiago Aguiar

taguiar@macedovitorino.com

Tiago Bessa

tbessa@macedovitorino.com

Ângela Lucas

alucas@macedovitorino.com

Pedro Dias

pdias@macedovitorino.com