



# MERGERS AND ACQUISITIONS

An overview of our practice



**EVERYTHING MATTERS**

# MERGERS AND ACQUISITIONS

In order to close a deal effectively you need exceptional legal advice at each stage of the process - managing risk, ensuring you meet regulatory requirements and working at every aspect of the deal to ensure that you are maximising the value of the target asset.

At Cliffe Dekker Hofmeyr, we have a full service Corporate and Commercial practice group able to meet the needs of clients who require the services of a business adviser that delivers strategic legal support and has global expertise, extensive experience and a recognised track record.

Our Corporate Mergers and Acquisitions (M&A) practice is a recognised leader in South Africa and internationally. Year on year, we are privileged to act as legal advisers on a large number of the most prominent M&A transactions and some of the world's most innovative and complex structures.

## Overview

With over 60 qualified M&A lawyers, we have one of the largest Corporate M&A practices in South Africa.

Our M&A offering is further strengthened by the firm's expertise in all areas of transactional support. In addition to the corporate lawyers with primary transactional responsibility, our core M&A deal team includes practitioners with experience in finance and banking, competition, tax, intellectual property, employee incentives, pensions and real estate.

Working seamlessly together with other practice area teams within the firm, our Corporate M&A lawyers are able to coordinate complex transactions, deal with regulatory requirements, advise on tax matters, manage due diligence investigations and prepare all documentation.

Our full service Corporate practice, coupled with our significant presence in South Africa's key financial cities, Johannesburg and Cape Town, and our alliance with the global DLA Piper legal services organisation, means that we are able to meet the needs of clients wherever they do business and whatever the size and nature of the transaction.

## WE DELIVER -

**Strategic legal support** – we offer commercial and practical advice specific to your goals and objectives and actively manage the M&A process to help drive transactions to an efficient conclusion.

**Practical and effective project management** – we believe that effective project management is key to ensuring that your M&A transaction is driven to an efficient and satisfactory conclusion. It is the cornerstone of our M&A practice group's approach, and is just one of the ways we can provide exceptional value to our clients.

**Global expertise** – through our global alliance with DLA Piper we offer experience and insights drawn from 27 countries, so you benefit from a vast amount of international M&A experience.

Our cross border expertise and affiliation with DLA Piper means that we have the depth and breadth of legal resources to advise on M&A transactions at both local and international level.

**Extensive expertise** – our experienced lawyers advise on all aspects of corporate transactions across a broad range of industries, jurisdictions and transaction types.

Our senior team has strong experience in pre-deal and post-deal structuring and integration. We advise and assist on all aspects of the M&A process in respect of public and private M&A transactions.

## OUR SERVICES

Our transactional experience is deep and varied and covers all corporate transactional and advisory work, including the following core services:

- restructuring and unbundling of groups of companies
- appropriate corporate structures
- strategy and tactics in hostile takeovers
- tax implications
- all regulatory aspects including competition, exchange control, securities and listings requirements
- employment law issues, including employee benefits and structures
- black economic empowerment structures and transactions
- environmental aspects
- financing arrangements and credit facilities
- intellectual property aspects.

We also

- draft circulars to shareholders in respect of offers and schemes of arrangements in terms of the Companies Act
- negotiate and prepare merger, purchase and sale agreements in various forms
- assist with due diligence investigations and reports.

## OUR PRIVATE EQUITY PRACTICE

We have private equity specialists with a unique combination of skills spanning corporate law, funding and tax.

Our Private Equity transaction team typically includes seasoned lawyers practising in the many areas of the law regularly needed to support M&A transactions.

We advise private equity institutions, management teams and acquisition finance providers on all aspects of private equity transactions from acquisitions and disposals through to assistance with maintaining and improving value in currently-held investments.

## BLACK ECONOMIC EMPOWERMENT EXPERTISE

Widely recognised as being one of the most knowledgeable and experienced Black Economic Empowerment (BEE) regulatory teams in South Africa, we were the first of only two South African law firms commissioned by the Department of Trade and Industry to assist with the drafting of the BEE Codes of Good Practice and, as such, have first hand knowledge of the regulator's intentions.

We have considerable practical experience in advising a large number of South African and international businesses seeking to implement BEE compliance within the legislative framework. Our expertise includes advising on the Broad-Based BEE Act, the Codes of Good Practice and various Transformation Charters, such as the Mining Charter, Financial Services Charter, ICT Charter and other sector charters.

Our BEE advisory services include:

- BEE ownership, management and control structures
- BEE due diligence
- Broad-based schemes and trusts
- Preferential Procurement Policies
- Charter and Sector Code development.

# RECENT REPRESENTATIVE WORK

- Advised Remgro and the Richemont Group in the R180bn restructuring that resulted in the creation of Reinnet Investment Holdings and the listings of British American Tobacco and Reinnet on the JSE. The transaction was named *'Deal of the Year' 2008* by DealMakers and Ernst & Young and was recognised by Mergermarket as the largest deal of 2008 involving a South African law firm
- Advised Vodacom on the acquisition by various broad-based BEE groups of a 6.25% shareholding interest in Vodacom; transaction value R7,5bn
- Advised Vodacom Group on its acquisition of the carrier services and business network solutions subsidiaries of Gateway Telecommunications SA; transaction value R6,5bn
- Advised the Bakgatla-Ba-Kgafela Tribe on the acquisition by a consortium of strategic investors of 49% of Bakgatla's various platinum group metal interests; transaction value R2bn
- Advised Metorex and BJM in respect of the disposal by Metorex of its 53.37% shareholding in Pan African Resources Plc (PAR) through a book building exercise targeted at investors located in the USA, the UK and South Africa, coupled with the exchange by Shanduka Gold (Pty) Ltd of its 26% shareholding in Barberton Mines (Pty) Ltd for a 21% shareholding in PAR
- Advised the BEE Holdco, a consortium of investors, on the acquisition from BHP Billiton and Rio Tinto of a 26% interest in Richards Bay Minerals; transaction value R4,5bn
- Advised Absa Capital Private Equity and Vantage Capital Kwikspace Investments (a wholly-owned subsidiary of Vantage Capital Group) on the acquisition by Clidet No 803 of the entire issued share capital of Kwikspace Modular Buildings and the subsequent de-listing of Kwikspace; transaction value R850m
- Advised Randfontein Estates (a wholly owned subsidiary of Harmony) (Randfontein) on the acquisition by Pamodzi Resources Fund I of a controlling interest in the Cooke operations owned by Randfontein and the establishment of Rand Uranium; transaction value US\$348m
- Advised Vodacom in respect of its listing of some 1,48bn shares; transaction value R80bn
- Advised Investec on its acquisition of a 33% stake in Protea Hotels
- Advised Batho Bonke Capital on various transactions in 2009 in terms of which Batho Bonke Capital, a BEE party, acquired 5.1% of the ordinary share capital of Absa; transaction value R5bn
- Advised Remgro on the proposed merger between Remgro and VenFin
- Advised Metorex on the sale of a 55% stake in fluorspace producer Vergenoeg Mining to Spanish mining operation Minersa Minerales; transaction value US\$60m
- Advised Old Mutual on its acquisition of 100% of the shares in Acsis; transaction value approximately R120m
- Advised Ambit Properties on the proposed acquisition by Apex Hi of all Ambit linked units, pursuant to a scheme of arrangement; transaction value R371m
- Advised Independent News & Media PLC, Independent News & Media (South Africa) (Pty) Ltd, INM Outdoor Media (Pty) Ltd and INM Outdoor (Pty) Ltd on the disposal of INM Outdoor to a private equity consortium led by Helios Partners following a competitive bidding process for a purchase consideration of R1,1bn
- Advised Pareto Limited on its acquisition of a 50% ownership interest in each of the letting or rental businesses undertaken as a going concern by Old Mutual Life Assurance Company (South Africa) in respect of Menlyn Shopping Centre in Pretoria and Cavendish Square and Cavendish Connect Shopping Centre in Cape Town; transaction value R2,4bn
- Advised IDC and Foskor in Foskor's BEE transaction in terms of which various BEE parties acquired a 26% equity interest in Foskor.

# WHY CHOOSE CLIFFE DEKKER HOFMEYR?

With more than 130 directors and 300 lawyers, Cliffe Dekker Hofmeyr is one of the largest business law firms in South Africa, combining a strong national presence with global reach.

Our legal teams are fairly evenly split between our Johannesburg (Sandton) and Cape Town offices, giving us a sizeable footprint in both key financial centres in South Africa.

Our exclusive relationship with DLA Piper, one of the largest legal services providers in the world, extends our reach on behalf of our clients to all the major business centres globally.

**Africa** is a key growth area. As a member of DLA Piper Group with its network of firms across the African continent, we offer our clients an unparalleled pan-African service that combines international expertise with an excellent knowledge of local legal and cultural frameworks. (Read more at [www.dlapiper.com/africa](http://www.dlapiper.com/africa)).

Member of the South African Venture Capital Association (SAVCA).

## OUR SERVICES

We offer a full complement of business legal services in ten core Practice Areas: Corporate and Commercial, including Intellectual Property; Competition; Dispute Resolution; Litigation and Arbitration; Employment; Environmental; Finance, Projects and Banking; Real Estate; Tax; Technology, Media and Telecommunications; and Trusts and Estates.

We also have niche practices focusing on industries and sectors including:

aviation; black economic empowerment; energy; healthcare and pharmaceuticals; infrastructure; insolvency; Islamic finance; mining; occupational health and safety; outsourcing; pensions, projects and PPPs; public sector law and private equity.

Our lawyers are specialists. The scale of the firm gives our lawyers the capacity to narrow their area of expertise, allowing them to specialise in a particular field of law and broaden their level of knowledge in that specialist area.

We offer the advantage of one law firm with the depth of resources and capabilities to meet the full service business needs of our clients, no matter the size of the transaction – large or small – anywhere in the world.

## EMPOWERMENT AND TRANSFORMATION

We aspire to be a firm that cherishes diversity and equal opportunity by actively contributing to attaining the objectives of Black Economic Empowerment.

Cliffe Dekker Hofmeyr has achieved a **Level 3** Contributor Empowerdex BEE rating. Some 30% of the firm's shares are controlled by black directors while 25% are held by women.

Our philosophy is that if it matters to our clients, it matters to us.

# WHAT OTHERS SAY ABOUT US

At Cliffe Dekker Hofmeyr, we are regularly ranked as a first-rate firm in authoritative professional directories and many of our lawyers are highly recommended in their respective fields.

Selected recent accolades, which are based on client reviews in independent surveys, include:

- **Rated the No 1 law firm in South Africa in 2009 and over four years** in the *PMR.africa* annual survey in which clients rank the top legal firms across a range of service criteria. The firm has remained in the top two legal firm ratings for the last six years.
- **Named in ACQ Finance Country Awards for Achievement**
  - Client Focused Law Firm of the Year 2009
  - Full Service Law Firm of the Year 2009
- **Named in ACQ Finance Law Firm of the Year Awards**
  - M&A Law Firm of the Year 2009
  - Public Procurement Law Firm of the Year 2009
  - Product Liability Law Firm of the Year 2009
  - Management Labour and Employment Law Firm of the Year 2009
  - Commercial Litigation Law Firm of the Year 2009

## WHAT OTHERS SAY ABOUT OUR M&A PRACTICE

We are widely acknowledged as one of South Africa's leading M&A practices and many of the M&A practice group's lawyers are recognised as leaders in their field.

### Chambers Global 2009

Comments: While this "solid and strong team" handles the full range of corporate activities, it is particularly well known for its work in the mining arena, where it supplies "priceless advice" to a client base including Harmony Gold Mining and BHP Billiton.

**Ian Hayes** provides commercially oriented advice and "a phenomenally quick turnaround time" for M&A work, especially in the resources arena.

Cape Town-based **David Thompson** is "a low-key yet superb" lawyer whose "sound judgement and excellent guidance" make him a real asset to his clients in the energy, retail and property sectors.

Commentators praise up-and-comer **David Pinnock's** "faultless and high-quality work" and his "easy-going approach, which makes building a relationship with him a breeze."

### The Legal 500 Europe, Middle East & Africa Series, 2009

Corporate/M&A Tier 1

**Ian Hayes'** "service provided is of an extremely high quality, practical, to the point and no-nonsense."

"The merger gives substantially more critical mass in the Cape, adding legacy Hofmeyr partners **Peter Hesseling** and **Gasant Orrie** to **Dave Thompson's** well established corporate/commercial team. They have covered BEE deals and inward investment as well as M&A and corporate finance. The team has also been busy on restructuring, for example of **Richemont Group** and **Vodacom**."

### Practical Law Company PLC Which Lawyer? 2009

Highly recommended in Corporate/M&A. **Johan Latsky** is recommended as a "practitioner with an extensive array of knowledge in many sectors and valuable experience."

### The IFLR1000 - Guide to the World's Leading Financial Law Firms, 2009

"I have used both firms in the past and was happy with the services they provided," says one client.

Clients are impressed by the firm's dedication and commitment. "We do quite a bit of work with them on the finance side. They have been forthcoming in dealing with urgent requests," says one client.

### Best Lawyers International 2008/2009

Listed lawyers include:

**Ian Hayes** (Corporate; M&A; Mining)  
**Willem Jacobs** (M&A)  
**Johan Latsky** (Corporate; M&A)  
**David Pinnock** (M&A)  
**David Thompson** (Corporate; M&A)

### DealMakers' and Ernst & Young Review of M&A Activity in 2008

*Legal adviser to the Deal of the Year 2008*, the Remgro and Richemont Securities restructuring, valued at R180bn, which resulted in the creation of Reinet Investment Holdings and the listings of British American Tobacco and Reinet on the JSE.

# CONTACT US

For advice, please contact any member of our Mergers & Acquisitions team.



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