

Mergers and Acquisitions (B001620)

Course size *(nominal values; actual values may depend on programme)*

Credits 4.0

Study time 120 h

Course offerings and teaching methods in academic year 2024-2025

A (semester 2)

English

Gent

group work

lecture

seminar

independent work

Lecturers in academic year 2024-2025

De Wulf, Hans

RE21

lecturer-in-charge

Cerfontaine, Jan

RE21

co-lecturer

Offered in the following programmes in 2024-2025

Master of Laws in International and European Law(main subject International Business Law)

crdts 4

offering A

Master of Laws in International and European Law(main subject International and National Legal Orders)

4

A

Teaching languages

English

Keywords

Company law, contract law, Mergers, acquisitions, takeovers, corporate restructurings

Position of the course

The course is intended for students at master's level who have a knowledge of company and contract law, and want to apply this to the field of corporate merger and acquisition activity. It treats the subject matter in an integrated way (links between different fields of law such as corporate, contract, and tax), but there is not enough time to deal with competition law or social law aspects.

The two main professors (De Wulf and Cerfontaine) teach 5 lectures, the rest (7) are given by practitioners. In addition, for Belgian undergraduate (master) students, there is a "big mock takeover battle" which is led by a law firm, outside regular class times. The extensive use of practitioners as visiting lectures is strongly warranted for this course, because the law in this field is heavily reliant on evolving market practices, and on deal-specific documentation, which are only truly known to practitioners.

Contents

An important aspect of the course is a complicated takeover case (hypothetical) designed and introduced by Stibbe law firm. Students will have to study the case on their own, acquire knowledge of the relevant rules (takeover bids, disclosure and transparency rules, insider dealing and market manipulation, takeover defenses, ...) largely on their own, and will have to write an individual paper answering the legal and strategic questions raised by the case. The students will however be divided into groups with each group focusing on a subset of issues/the position of a certain group of parties involved in the acquisition. The case will conclude with a group discussion.

LL.M and exchange students get a different case so that they don't have to apply Belgian law. They have to write a paper about this case; The paper is always about a practical problem.

In addition to solving this case, students are expected to attend all lectures

The contents of the lectures will slightly vary from year to year but typically will look as follows:

Lecture 1: Introduction to M&A: overview of different forms of M&A: legal mergers and split ups; negotiated share or asset deals; public take-over bids, LBO's, ...; different players (bidders and targets, lawyers, investment bankers, ...); some basics about financing and tax considerations; role of private equity; role of regulators

lecture 2: continuation of general introduction to M&A; introduction to public takeover bids as the first M&A technique discussed in the course.

Extra meeting in week 2 of the semester (at night; attendance obligatory; students will have to be flexible with agenda) with team from Stibbe law firm, who will introduce students to a takeover case designed by them (1 hr)

lectures 3 & 4 : further discussion of (hostile) take-overbids: 13th EU directive; some basic rules under US law; applicable law and competent regulatory supervisors; voluntary bids; mandatory bids; role of the board of directors; defensive techniques (both pre- and post-bid); squeeze-out; sell-out.

Also: links between regulation of public bids and securities regulation, e.g; market abuse issues, "acting in concert" concept etc.

lectures 5 and 6: domestic and cross-border legal mergers, divisions and related techniques; tenth EU directive; indirect techniques, esp. if company from outside EU is involved. Discussion of real life case, like Ahold-Delhaize merger.

Extra meeting at night with team of Stibbe lawyers to discuss first draft of students' legal advice on Stibbe takeover case

Lecture 7 (practitioner): overview of negotiated acquisitions process (confidentiality, letter of intent, auctions, signing, closing, ...)

Lecture 8 (in groups of about 10 students; guided by lawyers): analysis of different clauses of an SPA (share purchase agreement)

lecture 9 (practitioner, usually Jan Cerfontaine): company valuation for law students

lecture 10: deal financing

Lecture 11 : joint ventures

Lecture 12 : additional topic that changes every year, or group discussion of final students papers including on Stibbe case (but most years, this take place during an extra 2 hour session, outside regular classtimes)

This scheme varies slightly from year to year but gives a good impression of what is to be expected.

Initial competences

A basic knowledge of national company and contract law of the country of origin of the student.

Final competences

- 1 Have knowledge of the most important forms of mergers and acquisitions, and to a more limited extent of the different ways of restructuring companies in an international context
- 2 Have strategic insight into M&A activity and structuring acquisitions
- 3 to offer students the possibility to acquire the legal skills required to deal with real-world mergers and acquisitions, mainly through interactive and often practitioner-led seminars and group discussions around specific topics. Klik om te editeren ---
- 4 ability to draft merger agreements and to vet existing draft agreements;
- 5 ability to communicate with other professionals, including bankers and accountants, about M&A activity;
- 6 ability to work quickly to resolve legal questions, under pressure;
- 7 ability to look at a problem from different legal angles (corporate, tax, ...law)

and treat it in an integrated way;

8 8. awareness of the importance of non-legal aspects of M&A activity, such as the financial and human resources angle;

9 9. awareness of the need for great precision in legal documentation concerning M&A

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

This course unit cannot be taken via an exam contract

Teaching methods

Group work, Seminar, Lecture, Independent work

Extra information on the teaching methods

To a large extent, this has been detailed in the "Content" section.

The Stibbe case/paper for LLM students is crucial. It tests and sharpens writing and debating skills and gives a taste of learning to deal with strategic and financial angles.

Students regularly have to prepare for class by reading judgements, legislation and M&A contracts, in order to enable an interactive discussion about these.

Study material

Type: Slides

Name: slides on M&A

Indicative price: Free or paid by faculty

Optional: no

Language : English

Number of Slides : 450

Oldest Usable Edition : present

Available on Ufora : Yes

Online Available : Yes

Available in the Library : No

Available through Student Association : No

References

Bart Bellen Share purchase agreements

D. Oesterle, Mergers and Acquisitions in a nutshell, Wiley, latest edition;
see also list of other recommended background reading in the course materials.

Course content-related study coaching

Teacher is available after lectures and through e-mail. Forum on Ufora.

Assessment moments

end-of-term and continuous assessment

Examination methods in case of periodic assessment during the first examination period

Written assessment

Examination methods in case of periodic assessment during the second examination period

Written assessment

Examination methods in case of permanent assessment

Participation, Assignment

Possibilities of retake in case of permanent assessment

examination during the second examination period is possible in modified form

Extra information on the examination methods

There are several evaluation moments and types and students have to take part in all of them:

-All students except exchange students have to write a paper about the hypothetical case or M&A problem assigned to them (50% of grade). Exchange students may but are not obliged to write such a paper. If they do, it counts

towards 50% of their final grade, if they don't, 100% of their grade is determined by the written exam. For the Belgian undergraduate students (bachelor after master) this is the Stibbe case, including a written paper (one per group of students) that is graded by the professor taking into account the peer review among students. For the LLM and exchange students this may be a paper on a hypothetical or a more theoretical paper (approx. 15 pages in both cases) on an important M&A issue. By way of illustration: in 2015-16 LLM students had to comment on takeover defense issues in the cross-border takeover attempt between Mylan and Teva. In 2019 and 2020 they had to deal with a contested issue of a scheme of arrangement in which AB Inbev was involved; over the past two years they had to discuss certain issues of the Musk takeover of Twitter. Written exam during regular exam period (50% of grade, or 100% for those exchange students who did not submit a paper). Essay questions (see example of exam on Ufora).

Calculation of the examination mark

- 50% on case paper (and oral arguments for undergraduates doing the Stibbe case).
- 50 % on written exam. 100% for those exchange students who do not submit a paper.

Students who do not participate in all evaluations will get a "fail" grade for this course. In concrete terms, this means that if the final score is nevertheless a grade of 10/20 or more, the final score will be reduced to 7/20.

Retake: in the second exam session, students will have to write an exam paper on a different topic than in the first session. The other parts of the exam remain the same. Students have to take the initiative to contact the responsible professor in a timely manner in order to receive their assigned paper topic. Papers will have to be handed in by August 20 (or the first working day if August 20 is not a working day).

Facilities for Working Students

No special facilities for students who combine their studies with employment. For undergraduates (i.e.; excluding LLMs and exchange students) this implies they can only enroll for this course if they can take part in the "Stibbe case" which takes place outside regular classtimes. Students miss a lot if they can't take part in the live lectures, and such live participation is mandatory, also for working students who wish to enroll in the course, on SPAs and company valuation (three lectures).