

How to Squeeze Minority Shareholders out of a Taiwan Entity

Understanding Taiwan's Company Regulations

In Taiwan, to squeeze out minority shareholders, one needs to take a more complex approach based on the Taiwan Business Merger and Acquisition Act

There is no specific minority squeeze-out mechanism under current Taiwan law. The majority shareholder cannot force minority shareholders to sell their shares if the shareholding of the majority shareholder reaches a certain percentage, as is allowed in some jurisdictions. Therefore, to squeeze out minority shareholders, one needs to take a more complex approach based on the Taiwan Business Merger and Acquisition Act (the "Act"). We have provided an example below to illustrate how this might be done in practice:

- Company A: A private Taiwanese company based in the Hsinchu Science Park with a minority shareholder issue.
- Company B: A Grant Thornton client based in the US that owns 90% of Company A.
- The objective is to make Company A a wholly-owned subsidiary of Company B by squeezing out the minority shareholders.

Option 1: Cash Merger

a. Description of the structure

- Cash merger by a Taiwan vehicle
Under this approach, Company A may merge with a Taiwan entity wholly-owned

by Company B (the "Taiwan Vehicle"). The Taiwan Vehicle uses cash as consideration to acquire all of the issued shares of Company A. After the merger, the Taiwan Vehicle will assume all rights, obligations, assets, and liabilities of Company A, and Company A will be dissolved. The Taiwan Vehicle will then change its name to that of Company A. As all of Company A's shareholders will receive cash from the Taiwan Vehicle, Company A's minority shareholders will be squeezed out.

- Cash merger by Company B:
Under this approach, Company A will merge with Company B. Company B uses cash as consideration to acquire all of the issued shares of Company A. After the merger, Company B will assume all the rights, obligations, assets, and liabilities of Company A, and Company A will be dissolved. In order to hold the assets of Company A in Taiwan, Company B needs to establish a branch in Taiwan. Company B should file an application with the Ministry of Economic Affairs ("MOEA") to become recognized as a foreign legal

entity according to Taiwanese law. Subsequently, the Taiwan branch must apply for branch registration, business registration, and tax registration before it may start to conduct business in Taiwan.

Option 2: Share Exchange

a. Description of the structure

(i) Share exchange between Company A and a Taiwan Vehicle

Under this structure, the Taiwan Vehicle will issue preferred shares redeemable by it within a certain period in exchange for all of the issued and outstanding shares of Company A. After the share exchange, Company A's shareholders will receive the Taiwan Vehicle's preferred shares and Company A becomes a wholly-owned subsidiary of the Taiwan Vehicle. Upon expiration of the redemption period, the Taiwan Vehicle will redeem the preferred shares and pay cash to all of Company A's shareholders. The minority shareholders of Company A will then be squeezed out.

(ii) Share exchange between Company A and Company B

Company B will issue preferred shares redeemable by it within a certain period in exchange for all of the issued and outstanding shares of Company A. It is permissible for Company B not to issue preferred shares to itself. After the share exchange, Company A's minority shareholders will receive Company B's preferred shares, and Company A becomes a wholly-owned subsidiary of Company B. Upon the expiration of the redemption period, Company B will redeem the preferred shares and pay cash to Company A's minority shareholders.

The minority shareholders of Company A will then be squeezed out.

Conclusion

The options listed above are all complex and costly. Most importantly, they also require moving a substantial amount of cash. Therefore, please plan carefully together with a trusted advisor before proceeding with such a transaction.

Please feel free to contact us if you have any questions relating to the above.

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