ANALYSIS OF MEASURES AND TACTICS OF DEFENSE AGAINST HOSTILE TAKEOVERS OF COMPANIES IN THE STRATEGIC FUNCTION OF MANAGING A COMPANY

Đurasinović Jelena*
Faculty of Economics Subotica, Serbia
jelenadj@ef.uns.ac.rs

ABSTRACT
The beginnings of integration and restructuring of companies is primarily related to the U.S. market, where such forms of business companies decomposition occur at the beginning of last century, while the European market until 1980, can not talk about their significant share. Although the first wave emerged in America early last century, the U.S. market is the most disturbed beginning of the fourth wave, or more frequent occurrence of hostile acquisitions and LBO funds that participated in the financing of a large number of acquisitions using primarily credit line. By creating a single European market and the creation of the euro as the single currency, there was a rapid development of capital markets and all frequent equity takeovers and the market of Europe. Targets are most often companies that have poor business performance, ineffective management team, low P/E ratio in the capital market, but they are often taking could be motivated and factors that do not carry the economic dimension. In such conditions, companies that have become potential targets of takeover have used various tactics and measures of defense, to defend the offers that were on the detriment of their shareholders. The aim of this paper is to show their importance for the strategic management of the company and their impact on the performance of target companies.

Key words: acquisitions, defense tactics, targets, management

1. INTRODUCTION
The first wave of mergers and acquisitions was made early last century, when most of the completed integration was motivated by the economies of scale and are often linked to the company from the same economic activity. However, the U.S. market is the most disturbed beginning of the fourth wave of integration (1965 to 1969) and more frequent occurrence of hostile acquisitions and LBO funds that participated in the financing of a large number of acquisitions by using the first credit line. It is a takeover by a small group of investors, LBO fund or bank, which are largely used borrowing after the takeover the company transformed into an open enclosure.

Junk bonds market growth was particularly accelerate the process of equity acquisitions with high use of debt, because it is these bonds were issued by companies that wanted to acquire so that such emissions were high-risk programs, and high yield, and along with them, strengthens the role of investment banks which guaranteed the right of this high-risk programs.

2. RESEARCH LBO TRANSACTIONS
The appearance of LBO transactions as a form of restructuring of companies linked to the 50th of the last century and the U.S. market, however all 80 of the last century can not be talking about significant LBO transactions. In those years there was a significant development LBO transactions which can be attributed to several key determinants such as market development "junk bonds", the establishment of LBO's leading specialist companies Kohberg, Kravis, Roberts & Co. KKR-New
York, as well as acquisition of RJR Enterprises Nabisco, which was released by noted specialists KKR LBO valued at 24.6 billion USD.

As 80 of the last century and characterized the U.S. market, in the 90 years that there has been a major application of LBO transactions in the countries of continental Europe, the largest European LBO transactions took place in the Danish TDC corporation worth 13mld. EURO, and already in 2004 the number of European LBO transactions surpassed the number of LBO transactions in the U.S. market.

As for the markets of Serbia, the first LBO transaction was realized in 2007 when the company Mid Europa Partners (MEP) in cooperation with the European Bank for Reconstruction and Development (EBRD) took a majority stake in the company SBB in Belgrade from Southeast Europe Investment Fund Equity Fund (SEEF) managed by Bedminster Capital Management.

The company SBB is the leading cable operator's Internet in Serbia, a MEP firm based in London, which manages one of the largest funds for investment in Central and Eastern Europe. This transaction represents the first acquisition of Serbia with the participation of borrowings and bank loans in this case were provided by UniCredit Bank.

Investors in the fund operated by MEP, in addition to the European Bank for Reconstruction and Development and the World Bank, the Investment Bank European and many other leading global insurance companies, banks and pension funds.

Unlike the U.S. market, European Mergers and acquisitions are more friendly character and this kind of integration is stronger than hostile acquisitions, the premiums are lower, and most payments are realized in cash.

Along with a wave of hostile takeovers occur and various tactics and measures of defense against hostile takeovers to protect potential targets of attack. Further work will be analyzed measures and tactics of defense against hostile takeovers, financing mergers and acquisitions and the mutual influence of funding and selected defense tactics on the value of the target company.

3. MEASURES AND TACTICS OF DEFENCE HOSTILE TAKEOVER BIDS

Acquisitions can basically be voluntary and involuntary, that is friendly and enemy. In the case of voluntary merger of two companies managers make decisions about the integration their companies while in case of hostile acquisition, the target company’s managers do not approve acquisition of the company acquiring and directly addresses the target company's shareholders through a tender offering a price significantly higher than current market rates.

In the case of hostile takeover target company can take several measures in the case of defense against the unwanted merger. According to (Petrovic et.al., 2007) defense tactics and measures can in particular be:
1. Preventive measures of defense against the unwanted merger
2. Defense tactics after the target company made unsolicited offers for the acquisition

As a preventive defense occur:
- Ingestion of poison pills
- The adoption of special amendments or disperse the snake (shark repellents)
- Golden parachute

Ingestion of poison pills as a defense measures include issuing securities of the target company in order to decrease its value in the eyes of a potential transferee. There are two types of measures such as Fill-plan shareholders over a plan shareholders Fill-in. Fill-over plan entitles shareholders
to target companies in the event of unsolicited offers to buy common shares acquisition of voting company and customer at a significant discount. Far better plan is a plan shareholders Fill-in that allows the shareholders of the target company's purchase of shares of the target company at a significant discount to diluted ownership and thus become very expensive acquisition.

The adoption of special amendments to the statute of companies actually involves changes to the charter of the target company to a potential acquirer to cancel the download. These amendments relate to limitation of board members and the manner of their election, the amendments which limit the percentage of votes needed for shareholder approval for the integration of companies, the amendments governing decisions relating to the broadcasting of different classes of shares, amendments that define the acquisition premium and other measures defense.

Golden parachute contract involves providing the target company's managers incase of unwanted mergers and their changes as a consequence, the enterprise customer is obligated to pay them high fees.

As for the tactics of the defense of the target after the company made unsolicited offers to stand as the most important:
1. Blackmail green
2. White Knight
3. Defensive measures changes in the structures of capital and assets of target companies
4. Pac Man defense

Blackmail green actually mean the purchase of shares of target companies that are already in enterprise customer to pay higher premiums and the amount of pressure on the acquiring company to begin the process of stopping the merger. Also this can be applied as a customer agreement with the company that it will increase its ownership share in the target company to return for compensation.

White Knight is a tactic applied by the target company after the unsolicited offers made when seeking friendly company that would be sent to competitive bidding, and provide better conditions of pre-merger companies and thus realized the defensive merger.

Defensive measures changes in capital structure and assets primarily related to:
- Increase in debt, pay high dividends
- Purchase of assets that are considered to be not attractive for the enterprise customer, or sale of those assets for which the company particularly interested buyer
- Establishment of the ESOP funds
- Purchase of own shares

Defensive measures related to the increase in borrowing means increased debt in order to change the existing capital structure, and thus deter potential transferee. Often the additional funds used to pay high dividends or repurchase its own shares which increases the number of shares owned, and thus impede takeovers.

ESOP funds are established by large companies rather than contribute to the money for their employees pension fund, made the purchase of shares on their behalf in the amount of contributions that should be paid and thus the purchased shares are transferred to the ESOP fund owned by itself companies as long as contributions are not sufficient to settle the entire value of the shares, after which the shares are transferred to the account owner's employees. Often, to finance the purchase of shares by employees using credit funds, and the principal debt is being paid contributions that belong to employees of the company. In this way is to increase the dilution of ownership of existing companies confounding download, because the ESOP shares of the fund are not subject to takeover by attacking the company.
Pac Man defense involves making a counter offer enterprise customers' gain or will be taken ", where target company shareholders receive no premium, but actually pay a premium, and this tactic is not successful if carried out can destroy an initial target company.

4. FORMS OF FINANCING MERGERS AND ACQUISITIONS

Mergers and acquisition process can be funded with cash, exchange of shares, transfer of bonds, but the combination of these forms of financing. Also, the practice is known as Earn-out model that is related to financing with deferred payment.

When it comes to funding the cash, then the company may have different sources of generating cash of which usually can call the accumulated profits, sales of parts of the company that is not of strategic interest for the development of the company, issuing bonds, bank loan, etc.. As each transaction is being financed with cash, to be justified, it is necessary that the future cash flow of the target company to be higher than the price paid for downloading and commitments of the target company.

When it comes to paying by share exchange, it is necessary first to determine the rate of exchange of shares between two companies. Used as indicators of market price of shares of both companies and an indicator of P / E, but the most important role is certainly a premium to be paid on collection. The practice of attacking the company pays more shareholders of the target company than is their current market price because of the premium paid for the expected added value of acquisitions.

What distinguishes these two ways of downloading is definitely the fact that when it comes to money payment transaction the shareholders of target companies do not share risks with shareholders attacking the company, but when it comes to financing the exchange of shares, the shareholders of both companies share equally the risk of acquisition work.

The choice of financing depends on whether the value of the shares of the company underestimated offensive or overvalued, what is the possibility of achieving synergies and what the estimated risk of acquisition. If the value of the stock is undervalued, the possibility of achieving synergy between large and small then the estimated risk is not worth it to finance the acquisition of an exchange of shares, but at the cost of using cash payments.

5. EFFECT OF THE FORM OF FINANCING THE SELECTION OF DEFENCE TACTICS AND MEASURES

After getting acquainted with the most common tactics and measures of defense against hostile takeovers and analysis of two key forms of financing acquisitions, a general description of their mutual dependence and analysis of their impact on the price of the attacking company.

According to research (Petrovic et al., 2007) the most successful defense against the unwanted merger with white knight tactics and defensive measures related to the change in capital structure and assets. As can be seen from a given view, the choice of financing combined with a certain tactical defense affects the success of the defense or the success of the attack.
Figure 1: Determinants of success of defense against unwanted merger (Petrović et.al., 2007.)

We conclude that if the choice of financing for cash, if the white knight is summoned to the aid of results in the success of the defense, but this result should be considered with caution. Since the white knight friendly company that is calling for help and that should offer better conditions of competitive bidding attacking the company, acquisition by a white knight may cause adverse effects if the bidding process occurs more companies, and the target company has to offer the highest price a white knight to took over. Such an effect as the end result has a negative impact on the market price of shares of target companies, and thus on its value. If the white knight is not invited for help as the final result, the success of the attack, or attacking the company realized initiated acquisition.

The situation is different if you are in finance acquisitions using shares, or a mixed form of financing. As stated above, if the financing is done by exchanging shares comes to risk-sharing between shareholders of the two companies, and all those activities undertaken by the target companies that increase the risk of the company in fact meant to prevent the download started.

Defense strong financial means such a change in capital structure and assets that are unattractive merger. Increase in borrowing, extra payments of dividends, repurchase its own shares, purchase of assets for which the company customers are not interested in selling those that are particularly interested in activities that affect the change of assets and liabilities of the target company, with aim of preventing the initiated downloads. If the restructuring is successful on the result for the defense, although in these grades should be careful, because the increase in borrowing, reduction of share capital, a high outflow of money and also increase the risk of having a negative impact on the market price of target companies.

6. CONCLUDING REMARKS

We conclude that when choosing tactics and defense measures should be cautious, and analyze what impact each of the measures taken there on the market price of the company and how each affects the risk of the company. The success of the defense, meaning that the target company has managed to defend itself from takeover by attacking the company, but if the defense activities have resulted in a lower market value of target companies, increased risk, and weaker business performance then we should reconsider the very success of the defense strategy.

Each successful analysis actually involves an assessment of all possible scenarios that may result after that activity. Board of the target company should consider what impact have been made to download the particular value of the company, and in particular what impact have on shareholders of target companies. The reason for this attitude is based on the fact that often their own managers
can take action at the expense of shareholders of the company, if they consider that they can for themselves to extract greater benefits. Exactly that tactic defense gold parachute, which involves the payment of high fees if you download the company's managers to be committed. It is in these circumstances managers can take actions that are at the expense of shareholders.

Blackmail green means paying premium on redemption of own shares, restructuring of assets and liabilities include those activities undertaken to prevent the download, call a white knight to the rescue means paying higher prices than the price offered by potential attacking the company, and Pac Man Defense starts of the counter-offer target companies attacking the company.

We conclude that all measures affecting the increase in defense outlays of money from the target company and its poor business performance achieved, and managers of target companies with particular caution must determine which strategy ensures the greatest success for the target company.

REFERENCES
Damodaran A. (2007), *Corporate Finance – Theory and Practice* MODUS – Center for statistical research and forecasts, Podgorica
Mihajlov D, Ksenija (2007), *Strategy and tactics acquisitions*, Faculty of Economics Niš
Todorović M. (2010 ),*Business and financial restructuring*, Center for Publishing Faculty of Economics Belgrade