



Business Guide Estonia

Danske Bank

Mazanti-Andersen, Korsø Jensen & Partnere
in cooperation with Sorainen

PricewaterhouseCoopers

3rd Edition

Preface

“Business Guide Estonia” is intended as a preliminary exploration of the questions that typically arise when a company wishes to enter the Estonian market.

This guide has been edited in cooperation between Mazanti-Andersen, Korsø Jensen & Partnere/Sorainen, PricewaterhouseCoopers and Danske Bank.

The guide is not intended to cover all issues arising in relation to activities in Estonia. However, we hope that it will provide an overview of typical issues.

Independent professional advisory services of a legal, fiscal, financial or marketing nature are indispensable and usually a good investment.

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The guide will be featured on the following Web sites, which will be updated regularly: www.danskebank.com, www.mazanti.dk, www.pwc.com.

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Mazanti-Andersen, Korsø Jensen & Partnere

Mazanti-Andersen, Korsø Jensen & Partnere, established in 1853, is a modern business law firm rendering services to Danish and international companies within all areas of business law. All the lawyers of the firm are highly qualified and specialised in the various areas in which the firm operates. It is the object of the firm to provide professional services of the quality which the business community expects from an efficient law firm operating internationally.

It is a tradition that the lawyers of the firm teach various subjects of corporate and commercial law at universities and other institutions of higher education in Denmark and abroad.

To meet the requirement for updated and adequate legal expertise at all times, the firm pays special attention to ensuring that all its lawyers participate, on a current basis, in an extensive legal training programme within specific areas of law.

The firm co-operates closely with leading law firms in all jurisdictions relevant to Nordic businesses. For more information, go to www.mazanti.dk.

Sorainen

Sorainen was established in 1995 in Tallinn, and today, it is one of the largest business law firms in the Baltic countries as it has grown into a law firm consisting of more than 95 lawyers specialising in many areas of business law. The firm's offices in Estonia, Latvia and Lithuania form a fully integrated pan-Baltic law firm, which has been ISO 9001 certified since 2006.

Sorainen provides high-quality legal services to the world's leading companies, financial institutions and private investors in connection with their most demanding transactions and assignments.

More detailed information about the firm's legal practice and professionals is available on the firm's new Web site: www.sorainen.com.

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Multinational businesses are increasingly affected by tax, legislative and regulatory changes throughout the world. Understanding the impact of such changes on business operations and transactions between countries is vital for a company's survival.

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PricewaterhouseCoopers can help you prepare efficient cross-border strategies and manage your global structural tax rate. They will also keep you up to date on changes in the international arena that affect your business. For more information, go to www.pwc.com.

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1 Facts about Estonia

1.1 Estonian economy and politics

Estonia formally regained independence in August 1991, and, since then, accelerated growth and economic reforms have followed. Estonia joined the EU in May 2004 and was included in the ERM II in June 2004. Estonia has a relatively good chance of joining the eurozone by 2012, but there is still a big risk that the deficit criteria will be breached this year and the next years.

1.1.1 Prospects for the Estonian economy

As in the other Baltic states, the strong growth performance has changed to deep recession. The current developments show some signs of recovery stemming from the positive impulse from external demand. However, a sustainable recovery in domestic demand is still far off as fiscal stimulus will remain tricky in the medium term. The main growth driver will be external demand and, in a more favourable global outlook, we might see a more positive GDP outcome next year.

1.1.2 Facts

1.1.2.1 Politics

Official name

Republic of Estonia/Eesti Vabariik

Form of government Parliamentary democracy

Parliament

Unicameral system: the Riigikogu (state assembly)

Election system

Universal suffrage for citizens aged 18 or more

Head of state

The president is elected by the parliament for a five-year term. The current president is Toomas Hendrik Ilves from the Social Democratic Party (SDP). The president is mainly a symbolic figure.

Primary political parties

Estonian Reform Party (31% of votes in the parliament):

The main governing party.

The party is liberal-conservative and is the most economically liberal party in Estonia.

Estonian Centre Party(28% of votes in the parliament): The former junior-partner in the coalition government and, following the parliamentary election in 2007, the largest opposition party. The party is centre-left, claiming its goal is the formation of a strong middle class in Estonia.

Union of Pro Patria and Res Publica (28% of votes in the parliament): Constituted by two conservative parties, Pro Patria Union and Res Publica.

The Social Democratic Party (10% of votes in the parliament): A centre-left, pro-European and fairly reformist party.

Estonian Greens(6% of votes in the parliament): Based on green politics, but is fiscally conservative.

People's Union of Estonia(6% of votes in the parliament): Left-wing populist party, representing people in the rural areas of Estonia.

Central bank

The Estonian central bank (Eesti Pank) is an independent central bank. Its main function is to maintain the stability of the national currency against the euro (1 EUR = 15.6466 EEK).

International relations

A member of the UN, the EU, the BIS, NATO and the OSCE, among other organizations.

1.1.2.2 Economic indicators and demographics

Population 1.34 million (2008)

Religion

Unaffiliated 34%, Evangelical Lutheran 14%, Orthodox 13 %; Methodist, Roman Catholic and others 39%.

Languages

Estonian (official) 67%, Russian 30%.

Currency

1 kroon (EEK) = 100 senti

Social and economic indicators

GDP (purchasing power parity): USD27.2bn (2008 IMF)

Overall fertility rate: 1.42 children born per woman (2009)

Life expectancy: total population: 72.8 years; males: 67.45 years; females 78.53 years (2009 est.)

2 Legal aspects of doing business in Estonia

2.1 Legal Environment

After regaining independence the Estonian legal system was rebuilt on its former foundation of civil law. Learning from the Western-European experience, the current legal regime draws much of its know-how from the well-established German and Scandinavian civil law systems. The statutory legal tradition in Estonia follows the principles of a completely codified civil law system.

The legal framework for business law supports the rather liberal economic system. Also a predominant part of the European Union legislation has been implemented. The next challenge for the Baltic States is effective enforcement of the European Union legislation, which will make domestic legal systems even more predictable and reliable for foreign investors.

The current economic turmoil is creating amendments to legal acts in order to keep the state budget in balance and stabilize the economy. However, no drastic amendments have been introduced to diminish the attractiveness of the market to foreigners.

2.1.1 State Structure

The system of government in Estonia is that of a parliamentary democracy. The Constitution of Estonia provides for the competencies of the Parliament, President, Government and courts to be organised independently on the principle of separate and balanced powers.

Legislative power lies with the unicameral Parliament, which consists of 101 members elected for a four-year term. The next Parliament election is planned on the 6th March 2011. The President, elected for a five-year term, serves as a representative head of state, with limited powers set out in the Constitution. Most state competencies and responsibilities lie with the State Government, which currently consists of fourteen ministers, headed by the Prime Minister.

Estonia is divided into 15 counties which are comprised of rural and urban municipalities. Municipal governments are governed by representative bodies - municipality councils, which are elected for a four-year period.

2.1.2 Courts. Arbitration Courts

Estonia has a three-level court system. The first level is divided into administrative courts and trial courts with a general jurisdiction. The second level in the court system is a court of appeal with a general jurisdiction, whereas the highest, third level Supreme Court serves as the final court of appeal. The Supreme Court is also the court of constitutional review.

In the first instance civil cases are heard by a single judge, whereas a panel of one judge and two laymen is formed to hear criminal cases. A single specialised

administrative judge or by panel of three judges in a separate administrative court hears administrative cases.

Court proceedings take a considerable amount of time. As most cases involve more than one court hearing, the hearing during which a case is actually settled does not take place sooner than approximately twelve months after the receipt of the application by the court. To receive a final decision after appeals may take up to three years or more.

Foreign civil court judgments are subject to a procedure of prior recognition by an Estonian Court and then executed in Estonia. For member states of the EU the regulation 44/2001/EC applies and no separate recognition is necessary.

In order to avoid lengthy proceedings in state courts, the parties may decide to settle disputes in the court of arbitration e.g. the institutional arbitration, established with the Estonian Chamber of Commerce and Industry or in ad hoc arbitration

2.2 Company Law

2.2.1 Forms of Companies

Estonian legal framework offers a range of undertakings similar to those in Latvia and Lithuania. Pursuant to the Commercial Code, undertakings are divided as follows:

- 1) Sole proprietor - a natural person in business who is liable for his obligations with all of his assets;
- 2) General partnership - a company in which two or more partners operate under a common business name and are jointly liable for the obligations of the general partnership with all of their assets;
- 3) Limited partnership - a company in which two or more persons operate under a common business name and at least one of the persons (general partner) is liable for the obligations of the limited partnership with all of the general partner's assets, and at least one of the persons (limited partner) is liable for the obligations of the limited partnership to the extent of the limited partner's contribution;
- 4) Public limited liability company and a private limited liability company (the limited liability companies) are companies which have a share capital divided into shares. A shareholder is not personally liable for the obligations of the limited liability company, whereas a limited liability company is liable for the performance of its obligations with all of its assets.

The Commercial Code also recognizes an undertaking referred to as the commercial association. A commercial association is a company that may be founded by at least five persons, the purpose of which is to support and promote the economic interests of its members through joint economic activity in which the members participate.

The forms of sole proprietorship and general and limited partnerships bear a considerable disadvantage with regard to the liability of those operating the

respective undertaking. Partnerships are therefore not very popular among entrepreneurs and their number remains small. Partnerships also bear no substantial tax advantages compared to limited liability companies. At the same time, partnerships are less complex in structure, there is no required amount of contribution for the partners and they can freely design the management structure in the partnership agreement, rights and obligations of the partners, routine for division of profit of the company, etc. Organising and managing the activity of partnerships is less complicated than organising and managing the activity of limited liability companies. Partnerships can successfully be used as investment companies, which usually do not bear risks that would exceed their assets.

The shareholders of limited liability companies are generally free from any personal liability, unless they unlawfully influence the company's activities. Resulting from this and the fact that the private limited liability

company and the public limited liability company are far more popular compared to other undertakings, this publication will concentrate on limited liability companies.

2.2.2 Foundation of a Limited Liability Company

Limited liability companies may be established by any number of persons, including a single shareholder (this is not subject to residency or citizenship requirements). During the establishment the founders conclude an establishment agreement and adopt the articles of association. Companies are under obligation to submit the establishment agreement and the articles of association, the registration application and other required documents to the Commercial Register. The establishment agreement and the articles of association must be notarised and signed by all founders. Additionally it is possible to carry the above operations out electronically via the Company Registration Portal.

2.2.3 Public and Private Limited Liability Companies – A Short Comparison

	Public limited liability company	Private limited liability company
Foundation agreement and the first articles of association	Notarisation required	Notarisation required (Or electronic form)
Number of shareholders	Not limited	Not limited
Minimum share capital	EEK 400,000 ¹	EEK 40,000 ²
Supervisory board	Compulsory	Compulsory only if the share capital exceeds EEK 400,000 and there are less than three members in the management board.
Management board	Compulsory	Compulsory
Auditor	Compulsory	Compulsory only if the share capital exceeds EEK 400 000 or at least two of the following three criteria are met: the annual net turnover exceeds EEK 10 million, the balance sheet total exceeds EEK 5 million or the number of employees of the company exceeds ten.
Registration in the Estonian Central Securities Register	Compulsory	Voluntary
Share transfer agreement	No formality requirements	Notarised form, except if the shares have been registered in the Estonian Central Securities Register.
Minutes of the general meeting	Notarised form required for changes in the composition of the supervisory board or the sections of the articles of association regarding supervisory board.	Simple written form (and notarized form on some accounts)

¹ About EUR 26,000, ² About EUR 2,600

2.2.4 Share Capital and Shares

The minimum share capital required for the establishment of a public limited liability company is EEK 400,000. Shares may be paid up in cash, unless the company's articles of association allow payment by non-monetary contribution. The company's auditor must evaluate the non-monetary contributions. The share capital of the company has to be transferred in full amount to the company before an application for registration is submitted to the Commercial Register.

The share capital is divided into shares, which may be of different classes. The minimum nominal value of a share is EEK 10 and the number of shares per shareholder is unlimited. In order to facilitate raising capital from the public, a public limited liability company may list its shares on the stock exchange. Public limited liability companies may also issue preferred shares and convertible bonds.

The shares of all public limited liability companies are required to be registered in the Estonian Central Securities Register in which share registers of companies are maintained and all share transactions recorded. In order to register the shares, shareholders have to open securities accounts in an Estonian commercial bank.

The minimum required share capital of a private limited liability company is EEK 40,000. The value of non-monetary contributions does not have to be checked by an auditor, unless the value of such non-monetary contribution exceeds EEK 40,000 or the non-monetary contributions all together in the total share capital constitute more than one half of the share capital. Every shareholder of a private limited liability company may own one share, while the shares may be of different nominal values. With regard to private limited liability companies, registration of the shares in the Estonian Central Securities Register is voluntary.

2.2.5 Management of the company

The management bodies of public limited liability companies are the management board, the supervisory board and the general meeting. The management bodies of private limited liability companies are the management board and the shareholders' meeting.

For a public limited liability company it is mandatory to nominate an auditor who is required to be a natural person holding an auditor's certificate or an auditing company. Nominating an auditor is mandatory for a private limited liability company if its share capital exceeds EEK 400,000 or at least two of the following three criteria are met: the annual net turnover exceeds EEK 10 million, the balance sheet total exceeds EEK 5 million or the number of the company's employees exceeds ten.

The Commercial Code includes no regulations as to managing directors. Both a management board member

and an employee may be nominated as the managing director. Like other employees, also the managing director is subordinated to the control of the management board.

2.2.5.1 Management Board

The management board is the representative and executive body of the company and may be made up of one or several members. The residence of at least half of the members of the management board must be in Estonia or another state, which is member to the European Economic Area or Switzerland.

In public limited liability companies the supervisory board appoints members of the management board; in private limited companies, however, a resolution of the meeting of shareholders is required, unless a supervisory board has been established. If the management board consists of more than two members, a chairperson must be elected. Unless a shorter term is specified in the articles of association, the management board is elected for a term of three years.

The maximum term is up to five years and the existing member may be re-elected. The management routine (including the obligation to hold meetings) of the management board is not prescribed in the law and therefore this may be regulated in the articles of association.

The Commercial Code contains a competition prohibition for the members of the management board – they may not be members of a managing body of another company in the same field of business, unless the companies belong to one group of companies or unless the supervisory board has given its consent.

Each member of the management board has the right to represent the company (sign for the company) solely, unless a joint representation is specified in the company's articles of association, decision of the supervisory board or general meeting. In order for the restriction to be effective towards third persons, it must be stipulated in the articles of association and entered into the Commercial Register.

2.2.5.2 Supervisory Board

The supervisory board plans the activities of the public limited liability company, organises the management of the public limited liability company and supervises the activities of the management board.

The supervisory board is a mandatory institution of a public limited liability company. In private limited liability companies establishing a supervisory board is not mandatory, except if the share capital of the company exceeds EEK 400,000 and the management board consists of less than three members.

The supervisory board is made up of a least three members. There are no requirements concerning their residence. A member of the management board of a subsidiary of the public limited liability company cannot be a member of the supervisory board. The general meeting elects and appoints the members of the supervisory board for a period of five years, unless a shorter period is prescribed. Up to half of the members of the supervisory board may be appointed by way of a separate procedure either provided for in the law or the articles of association, e.g. that one shareholder may have the right to appoint a different number of supervisory board members than another. The minutes of the shareholders meeting where supervisory board members are elected must be notarised.

The powers of the supervisory board include extraordinary activities such as providing consent to management board to company acquisitions, contracting loans, conducting securities and investment transactions exceeding the budget, transfer and mortgage of real estate, as well as establishing branch offices abroad. The supervisory board also nominates the members of the management board and the procurator holders. However, in the articles of association the powers of the supervisory board may be either limited or extended.

2.2.5.3 Meeting of Shareholders. General Meeting.

The management board convenes the annual general meeting within six months following the end of the company's financial year. In case of a public limited liability company, the agenda of the annual general meeting is prescribed by the supervisory board and in case of a private limited liability company, the management board prescribes the agenda of the meeting of shareholders. If necessary, it is possible to hold an extraordinary general meeting.

Quorum for decision-making is attained if more than half of all the votes attached to the share capital are represented at the meeting, unless the articles of association prescribe a greater requirement. Agreements on exercising voting are generally allowed.

2.2.6 Public and Private Limited Liability Companies

Much like everywhere else in the world, a public limited liability company is an undertaking designed for the purpose of accommodating a large number of shareholders. Persons become shareholders through establishment or acquisition of shares and no further liability for the obligations of the company with their personal assets generally exists.

This form of legal entity by far the most common one in Estonia is designed for the formation of smaller enterprises and provides a useful investment vehicle for a limited number of owners.

2.2.7 Branch Office of Foreign Company

A foreign company wishing to offer its products or services in Estonia under its own name on a permanent basis but without the intention of establishing an affiliated company is obliged to register a branch. A branch is not a company and the foreign company is liable for the obligations arising from the activities of the branch. Operating a branch may in many respects be more convenient and less bureaucratic than establishing an independent entity, particularly with respect to the requirements regarding annual reports to the authorities as well as the exemption on holding regular meeting.

A foreign company has to appoint one or more directors for the branch. All directors have to be natural persons and at least one must be a resident of Estonia, another EEA country or Switzerland.

2.2.8 The Commercial Register. Notaries Public. Licensed Areas of Business.

The aim of the Commercial Register is to establish a reliable source of certified information for frequent use. The Commercial Register is maintained at the courts of the first instance, thus its accuracy and safeguards against outside interference are generally ensured. As it is a public register, anybody may request the release of information stored, excluding certain restricted data, which requires prior registration. The register is kept in electronic form. Information in Estonian, English and German is available online on all companies registered in Estonia (www.eer.ee).

Simple inquiries via the Internet including date of registration and share capital may be obtained free of charge, whereas a comprehensive inquiry requires prior registration and payment of a fee. The amount of information provided in the latter case is substantial and includes data on the legal representatives of the company, commercial pledges, annual reports and articles of association (scanned). Not all information is available in other languages than Estonian. Articles of association, annual reports and certain other data are only available in Estonian. In addition, the Government has joined the European Business Register, which permits cross-usage of registered data on companies registered in other Member States via the Internet. Verification by a notary public is required for a number of transactions. With regard to limited liability companies, this involves notarisation of the application for registration and the establishment agreement or decision as well as applications for the amendment of Commercial Register entries, the pledge and sale of shares of private limited liability companies. Furthermore, the minutes of a meeting of shareholders of a public limited liability company require notarisation in certain cases.

Certain areas of activity require a state license, permit, authorisation or registration. The list of activities for which these are required include import of food products, production and retail of pharmaceuticals, production of alcohol and tobacco, mining, public utilities, gambling and banking etc. Licenses, permits, authorisations or registrations may be obtained from the corresponding ministries, local governments or other public authorities. Formal procedures for application are set forth in various legal acts and a state fee may be charged. It is likely that in certain areas of activity there may still exist some inconsistencies with the EC law principles of freedom of establishment and free movement of persons and services, but generally most of the conditions for penetrating into a specific field of activity in Estonia should be equal to all persons within EU.

2.3 Mergers and Acquisitions

2.3.1 Introduction

The field of mergers and acquisitions (M&A) is considered relatively new in Estonia as it draws its routes from the privatisation of businesses in the beginning of the 1990's. Since that time, the M&A market has developed considerably to its current state where the legislation as well as the practice is comparable to other developed markets, and local acquisition are often part of large cross-border deals.

Estonian acquisitions are mostly carried out through the process of individual solicitations and negotiations. There has been an increase in structuring acquisitions as auctions, however, the practice is not very wide spread yet.

Despite the global financial crisis, we experienced a rather active M&A market in Estonia that showed slowdown only at the end of 2008. Whereas private equity investors face difficulties in raising funds and leveraging their investments, strategic buyers have become increasingly active in the Baltic M&A market. Distressed buyouts are also the new trend in the market.

2.3.2. Types of Acquisitions

There are a number of different ways of structuring an M&A transaction. There is a wide choice between acquisition of strategic assets, joint venture, franchise, targeted issue of shares, conclusion of shareholders agreement, etc. The most common types of business acquisitions, however, are acquisition of shares, acquisition of assets (business) on an ongoing concern and merger. The question of which acquisition type to choose depends on the specific need of the transaction. For example it is often important to consider the business risks involved in the transaction, the intentions of the parties, the restrictions of the legal regime, taxation questions, financing and payment options etc. Prior to an acquisition, it is important to analyze the structure of the business acquisition in a legal and a financial aspect, under the supervision of the appropriate professionals.

Among the different possibilities, the most regulated and time-consuming process is merger (or division), hence the latter is rarely practiced. As the two most frequently used types of business acquisitions are the acquisition of shares and acquisition of assets, the following chapter will focus on their specific aspects.

2.3.3 Acquisition of Shares

2.3.3.1 General

A transfer of shares does not itself modify the legal status or the liabilities of the company. This means that the shareholder is entitled to a certain number of shares in a company. Upon the transfer of shares of a company the buyer will be entitled to all the rights and also the obligations in conjunction with the acquired shares of the respective company.

2.3.3.2 Form

As there are two main types of companies (public and private limited companies), the form of the transaction depends on the regulation prescribed for the legal entity.

The law does not specifically prescribe a certain form of transfer for the shares of a public limited company. Due to the obligatory registering of the shares at the Estonian Central Register of Securities (ECRS) there is no notarisation requirement for transfer of shares of a public limited company. Nevertheless is possible that some parts of the process as a whole, like applications to the Commercial Register upon changing the management of the company, have to be notarised.

The transfer of share of a private limited company however requires notarised form, unless the shares of the target company are registered with the ECRS. It is usually recommended to register the shares, although registration and maintenance of the shares incur bank fees, in order to avoid a complicated transaction process with involvement of a notary public. With the registration of the shares the parties will also avoid paying notary fees relating to the value of the transaction, when entering into a share sale agreement.

2.3.3.3 Transfer of Title

As mentioned above, the shares of public limited companies in Estonia have to be registered electronically with the ECRS. As the shares are deposited on a securities account in a bank operating in Estonian the share transfer is carried out by giving respective orders to the account operators. (The buyer should have a securities account opened in a bank in Estonia.) Once the orders have been processed and the buyer has received the shares, in practice the title to the shares is transferred. Although it is possible to agree on transfer of title to the shares differently, it is not used in practice as the data in the ECRS is public and binding on third persons.

If the shares of a private limited company are also registered with the ECRS, the above-mentioned procedure applies. If the shares are not centrally registered with the ECRS, the parties to the transfer have to notify the transfer to the target company and provide evidence of transfer. Having received the notice of transfer, the management board shall make immediately respective entries in the list of shareholders of the company. The share shall be deemed to be transferred with regard to the company as of the changes in the shareholders list. The title to the share, however, transfers to the buyer pursuant to the agreement of the parties. Thus, it is in the interests of the buyer to make a respective entry in the list of shareholders in order to be able to exercise its rights as a shareholder of the company.

It is also possible to transfer a part of the share of a private limited company. In order to do this the share should be divided and the seller may then transfer a part of his or her share only with the consent of the other shareholders of the company. It is possible to set in the bylaws that upon transfer of a part of the share to another shareholder, consent of the other shareholders is not required. The consent is obligatory upon transfer to third persons due to the Commercial Code's principle of the shareholders' pre-emptive right upon transfer of a share, and thus it should be expressed by a resolution of the shareholders.

In addition to the procedures prescribed by the Commercial Code, the parties should always consider the relevant stipulations in the bylaws of the target company that may prescribe additional obligations on the parties and also the consent of the management body of the target company (to the extent described above).

2.3.3.4 Pre-emptive Rights

Although the concept legal institute of a shareholders' pre-emptive right to purchase a share upon transfer to third persons (pre-emptive right) usually applies to the private limited companies, the Commercial Code also provides for the possibility to modify the company bylaws by prescribing a pre-emptive right of the other shareholders in case the shares of a public limited company are to be transferred to a third person. Such restriction requires the seller to inform the management board of the company of the conclusion of the share sale agreement. Immediately afterwards, the management board must inform the other shareholders of the company. According to the Commercial Code, the period to exercise the pre-emptive rights may not be longer than two months from the submission of the sale agreement.

In the case of private limited companies, the pre-emptive right is considered a standard. Unless the bylaws of the company have a different regulation, the other shareholders have the pre-emptive right within one month from submission of the sale agreement. The bylaws of the company may prescribe that a 2/3 vote at the meeting of shareholders may authorize the transfer. In such case the regulation regarding pre-emptive right does not apply.

2.3.4.Acquisition of Assets

2.3.4.1 General

The procedure of the acquisition of assets means that a whole or a part of a business is transferred - the underlying legal entity, however, is not. The shares of the target company are not transferred, whereas the target company itself, instead of its shareholders, acts as the seller and receives the consideration.

According to the Law of Obligations Act, a business comprises of things, rights and obligations, including contracts, required for conducting a business on a going concern. According to the same Act, the same rules apply for transfer of a business or a part thereof. A part of the business could be, for example, a single shop of a retail chain.

The advantage of asset acquisition could be explained through the possibility to transfer the business name of the seller to the buyer. Another advantage is usually the possibility for the parties to pick and choose the assets, however, this can be done only to a limited extent in order to preserve the entirety of the business being transferred. The court practice regarding transfer of business, i.e. as to what constitutes transfer of business, has started to develop. Pursuant to a recent Supreme Court decision there are two main issues to consider upon deciding as to whether business was transferred or not. Firstly, the parties' respective intention and will to transfer the business has to be ascertained, and secondly, the entirety of the transferred business must be evaluated as the business has to preserve its entirety upon such transfer. The sale of assets of on a going concern is usually caught by the regulation of transfer of business that serves two primary purposes: to facilitate the transfer of rights and obligations of the business as well as to protect the interests of the creditors.

It should be noted that the rules concerning the transfer of business under the Law of Obligations Act do not apply when the transfer of assets is concluded in bankruptcy proceedings, the process of compulsory execution, dissolution, merger or transformation of companies.

2.3.4.2 Form

The law prescribes different forms for transfer of different objects. For example, under the Law of Property Act, a transfer of an immovable requires a notarised form. A business usually consists of things, rights and obligations, thus all the aforementioned elements will be transferred under a business sale agreement. Accordingly, the form of a transfer of business is dependent on the form of its objects.

Business sale agreements are not usually notarised due to the lengthy coordination with the notary public and high notary fees. When the target business includes assets, which require a notarised purchase agreement form, it is advisable to split the agreement into two separate documents. The main sale agreement

(with its appendices) will regulate the transfer of business matters, excluding the assets (e.g. immovable) that require a notarised transfer form. However, depending on importance of the assets requiring notarised form in transfer of the business, the whole transaction may require notarised form. Under the Estonian Law of Obligations Act all employment contracts of the employees of the target company will also be transferred, however the specific regulation of the Employment Contracts Act should be followed.

2.3.4.3 Transfer of Title

There is no specific one rule for the transfer of assets in the business. According to the law, the title to the assets is transferred pursuant to the provisions concerning the transfer of such things. The rights are transferred according to the appropriate regulation and contracts follow their own transfer regulation.

Where the assets are registered in a register, the seller must make sure that the corresponding entries are made in the registers (e.g. Public Title Book, trademark register, vehicle register, etc.). The information on the owner of the assets in such registers, as a general rule, is binding on third persons. Thus the buyer should set a deadline in the sales agreement for the seller for making the appropriate changes in the respective registers in order to avoid any disputes over the ownership to the assets in case any third person relies on an outdated information in such register.

One of the most important aspects of a business transfer is the rule that the consent of the other party of the contract is not required for the transfer of business. This regulation arising from the Law of Obligations Act is considered one of the benefits of acquisition as neither third persons nor the sellers' contractual partners do not have a say in the transfer of business. Nevertheless another important aspect is that public permits and licenses cannot generally be transferred together with the business and the buyer has to apply for such permits and licenses separately. This is due to the fact that some permits and licenses require possession of certain assets or rights or employment of employees with certain qualification. The transfer parties should carefully find the way to avoid lengthy undefined period between transfer of the business and receipt of permits and licenses by the buyer.

As to the regulation, it should be noted that the buyer must promptly notify the creditors of the acquisition of obligations and the seller is obliged to promptly notify the debtors of the assignment of claims to the buyer. Usually the parties send a relevant notice jointly to all contractual partners of the transferred business as soon as the acquisition is concluded.

2.3.4.4 Transfer of Liabilities

Whereas the transfer of business under the Law of Obligations Act is rather simplified, the protection of creditors is regulated through the legal succession of all liabilities related to the business.

There is no one rule to define whether or not a certain obligation is related to the transferred business. It is important to evaluate this on a case-by-case basis, the obligations related to a loan, for example, could be interpreted as an obligation related to the business and is therefore subject to automatic transfer to the buyer.

According to the principle of the freedom of contract, the parties can determine in a sale agreement that certain liabilities related to the business are not transferred to the buyer. Such stipulation, however, has no effect against third parties, which does not mean that it is not valid against those creditors who have consented to the non-transfer of the liability. In order to ensure that the liability is not transferred, the buyer should get the relevant consent of the creditor, or get the seller to perform its obligation before the transfer. It is also possible to agree on different conditions to regulate the matter. In any case, the business sale agreement should clearly divide the risks between the parties for the sake of their own relations.

Creditors are also protected by the joint and several liability of the buyer and the seller. According to the Law of Obligations Act, the buyer and the seller are jointly and severally liable for the obligations that have arisen before the transfer of the business and that, by the time of the transfer, have fallen due or will fall due within five years after the transfer. This regulation follows the same principle as the transfer of liabilities, in the aspect of having no effect against third parties, except for creditors who have consented to such agreements.

Employment agreements related to the business being transferred are transferred automatically to the new employer. It is important to note that transfer of business does not serve as a basis for termination of employment agreements. Moreover, the employees have to be given at least one month notice prior to transfer of the business.

The Estonian rule of automatic transferring of liabilities and joint and several liability make the transfer of business by an asset acquisition slightly less attractive in Estonia than in many other countries. It may be that sometimes the transfer of an enterprise may involve higher risks than the transfer of shares. Nevertheless, the parties frequently choose to implement the acquisition by asset transfer, because of the possibility to, although to a limited extent, leave the assets not required for conducting the business being acquired, with the seller or for other reasons.

2.3.5. Comparison of Share and Asset Acquisition

	Acquisition of Shares	Acquisition of Assets
Seller	Shareholder(s) of the target company	Target company
Purchase object	Shares	Things, rights and obligations
Ability to pick and choose assets (things, rights and obligations)	Purchase of shares does not generally affect the assets of the target company. In order to avoid purchase of certain assets of the business, the target company needs to transfer those assets separately.	The parties may pick and choose the assets to the extent it does not violate entirety of the business being transferred. With regard to creditors (unless the creditor has consented otherwise) and employees, all obligations related to the business shall be considered transferred to the buyer.
Form	No form prescribed for the shares of AS and for those shares of OÜ that are registered with the ECRS. The transfer of the shares of OÜ not registered with the ECRS requires notarised form.	Form depends on the underlying assets that are transferred, e.g. notarised form is required in case the transferred business includes immovable.
Transfer of title	In case of CSD-registered shares, securities transaction should be carried out. In case of shares of OÜ not registered with the ECRS, pursuant to the agreement of the parties.	According to the rules applicable to the specific things, rights and obligations. In case of registered assets, entries should be applied for in the relevant registers.

2.4 Competition Law

2.4.1 General Principles of Competition Law

The Estonian Competition Act (hereinafter the Act) has been drafted in accordance with Articles 81 (formerly 85) and 82 (formerly 86) of the EC Treaty. The scope of the Act is the safeguarding of competition in the interest of free enterprise upon the extraction of natural resources, manufacture of goods, provision of services and sale and purchase of products and services (hereinafter goods), and the preclusion and elimination of the prevention, limitation or restriction of competition in other economic activities.

The Competition Board exercises state supervision over implementation of the Act, except implementation of the provisions concerning state aid and unfair competition. The Ministry of Economic Affairs and Communications governs the Competition Board.

The Competition Board has mainly a directing function but it also executes state supervision, applies in cases provided by law the enforcement powers of the state and executes pre-trial procedures. The Competition Board is entitled to analyse the competitive situation, propose measures to promote competition, make recommendations to improve the competitive situation, make proposals for legislation to be passed or amended, and develop co-operation with the competition supervisory authorities of other states and associations of states. The Competition Board has the right to request all natural persons and undertakings

and their representatives as well as all state agencies and local governments and their officials to submit information necessary for analysing the competitive situation, defining a relevant market, inspecting an agreement, activity or decision, deciding on the grant of exemptions, monitoring the activities of an undertaking in a dominant position or monitoring a concentration.

2.4.2 Applicability of EC Competition Rules

As of 1 May 2004 the EC competition rules have full applicability in Estonia and as required by EC law the Competition Board co-operates with the European Commission in this field. The Competition Board is responsible for enforcing the EC competition rules in Estonia and, if necessary, provides the Commission with assistance when the latter executes supervision in respect of competition matters in Estonia.

2.4.3 Prohibited Agreements

Estonian legislation on prohibited agreements follows the principles and partly also the wording of Article 81 (former 85) of the EC Treaty. According to §4 of the Act, the following is considered prohibited: agreements between undertakings, concerted practices, and decisions by associations of undertakings (hereinafter agreements, practices and decisions) which have as their object or effect the restriction of competition.

This general prohibition, except as regard price fixing, does not apply to agreements and practices of agricultural producers or to decisions by associations

of agricultural producers that concern the production or sale of agricultural products or the use of joint facilities, unless competition is substantially restricted by such agreements, practices or decisions.

2.4.3.1 Exemptions

Not all agreements that restrict competition are prohibited. Some transactions that by their nature restrict competition may have other beneficial effects of which the consumer is able to benefit that override the competition restriction concern and are therefore exempted from the prohibition (i.e. individual exemption). However, an undertaking entering into such an arrangement must be able to prove that the arrangement meets the following requirements of an exemption:

- 1) Contributes to improving the production or distribution of goods or to promoting technical or economic progress or to protecting the environment while allowing consumers a fair share of the resulting benefit;
- 2) Does not impose on the undertakings that enter into the agreement, engage in concerted practices or adopt the decision any restrictions which are not indispensable to the attainment of the objectives specified in clause 1);
- 3) Does not afford the undertakings that enter into the agreement, engage in concerted practices or adopt the decision the possibility of eliminating competition in respect of a substantial part of the goods market.

In addition to individual exemptions, some types of transactions are exempted for a limited time period under block exemptions by regulations adopted by the government. Block exemptions currently in force and valid until the year 2010 include the following:

- 1) Block exemption regarding co-operation between undertakings for research and development and specialised manufacturing;
- 2) Block exemption regarding vertical arrangements for distribution of goods;
- 3) Block exemption regarding horizontal arrangements for distribution of goods;
- 4) Block exemption regarding arrangements for distribution and servicing of motor vehicles.

If the measure fulfils the conditions stated in the block exemption, the exemption applies automatically to the measure with no further applications or notifications needed. A block exemption does not apply to an undertaking in a dominant position or if competition is virtually non-existent in the goods market affected by the respective agreement, practices or decision.

2.4.3.2 De Minimis Rule

Restrictions on competition and the effect on trade must be appreciable; therefore agreements, practices or decisions are not prohibited if they are of minor

importance. An agreement, practice or decision is considered to be of minor importance if the combined market share of the total turnover of the undertakings that enter into the agreement, engage in concerted practices or adopt the relevant decision does not exceed:

- 1) 15% in the case of a vertical agreement, practice or decision;
- 2) 10% in the case of a horizontal agreement, practice or decision;
- 3) 10% in the case of an agreement, practice or decision that includes concurrently the characteristics of both vertical and horizontal agreements, practices or decisions.

2.4.3.3 Hardcore Restrictions

Some measures that may be adopted by undertakings are considered to be so blatantly against the principles of free competition that the de minimis rule is not applied and exemptions are not possible. For example, price fixing cartels are considered naked cartels, which are always prohibited however minor their effect on trade may be. Other hardcore restrictions include market sharing, sharing sources of supply and limiting production.

2.4.4 Concentration Control

2.4.4.1 Threshold

A concentration is subject to review by the Competition Board if during the previous financial year:

- 1) The aggregate turnover in Estonia of the parties to the concentration exceeded EEK 100 million ; and
- 2) The aggregate turnover in Estonia of each of at least two parties to the concentration exceeded EEK 30 million .

Concentrations subject to control by the Commission under the Merger Regulation are generally not subject to control by the Competition Board.

2.4.4.2 Notification

The notification to the Estonian Competition Board must be made in Estonian, must be in writing and submitted after the relevant agreement has been concluded but before control over the undertaking has been acquired.

Within 30 days after submission of the notification letter the Competition Board either authorizes or prohibits the concentration. The Competition Board may also start a supplementary proceeding on the particular concentration case. If the supplementary proceeding is launched, the Competition Board has four months to either authorize or prohibit the concentration. Until the respective decision of the Competition Board the persons concerned are not allowed to

perform the concentration or do any other acts that may hinder enforcing a prohibiting decision.

Notification of concentration is subject to a state duty in amount of EEK 30,000.

2.4.4.3 Joint Ventures

If two or more undertakings create a joint venture that is created on a lasting and independent basis, it is deemed to be a full functioning joint venture and is subject to concentration control. Creation of a joint venture the object or effect of which is the co-ordination of the competitive behaviour of the founders amongst themselves can also be subject to the regulation on prohibited agreements (i.e. § 4 of the Act). Compliance with § 4 of the Act is assessed during the concentration control by the Competition Board. Of course a temporary or non-independent joint venture not subject to concentration control can be considered a prohibited agreement as any other arrangement.

2.5 Real Estate

2.5.1 Introduction

With the regaining of independence, the Estonian legal regime shifted and triggered the process of privatisation of buildings and land and the restitution of land. Hence the time of the re-establishment of private ownership was initiated in the beginning of the 1990s. Since the beginning of land restitution most of the land has been privatised and its title entered into the Estonian Land Register.

2.5.2 Title to Real Estate, Land Register

As stated in previous chapters, the national registers hold and convey the legal capacity of ownership to third persons. Real estate ownership in Estonia is registered in the Land Register. This is also a national register, which includes information about the ownership (with details and all related encumbrances). The Land Register is a public (and electronically kept) register and thus is open for access by all persons with a legitimate interest.

Not all information about land is registered in the Land Register. For example, the detailed geographical data of the plot of land is registered with the Estonian Land Cadastre - a database maintained by an administrative department of the Land Board. The Land Cadastre does not have such public reliability as the Land Register.

2.5.3 Acquisition of Real Estate

2.5.3.1 General

The concept of property is construed as land, apartment ownership or building title under the Estonian law. The land can be an entire plot or a legal share of land. Usually a transfer of a building is not permissible separately from the underlying land. The exception is a building title that has been established to

be transferred. Such case would require a building to be the essential part of the building title and not of land.

As mentioned above, a few exceptions still exist in the registering of property, thus due to the land reform, buildings may be located on land, which has not yet been privatised or restituted. As these buildings would not be entered to the Land Register, they would legally be considered as movable property. Transactions with these buildings cannot be made under the Estonian law.

2.5.3.2 Change of ownership

Under Estonian law, the registration of ownership shall be made within one month as of submission of the application along with signed notarised agreement to the Land Register. Accordingly, the title to the property is transferred upon the registration of the ownership in the Land Register.

2.5.3.3 Form of Agreements

The form of transferring title to the real estate requires the concluding of two agreements:

- 1) A purchase agreement (determining the terms and conditions of sale); and
- 2) A real right agreement (agreement to transfer title).

These two agreements are usually contained in one document.

The agreements on all transactions made with real estate require notarisation in order to create legally binding obligations. It means that all sale-purchase agreements need to be verified by the notary public. The idea behind the regulation is for the notary to verify the authorisation of the person signing the contract and also to inspect the content of it and the will of the parties to the contract. The signing of the contract requires personal appearance of the party or its representative at the notary's office.

2.5.3.4 Language Requirements

As the both the abovementioned contracts need to be notarised, they are also drafted and verified by a notary in the Estonian language. Naturally a written translation can be required for the contract and the signing procedure.

2.5.3.5 Due Diligence

As in case of any other valuable agreement, it is important to consider the risks involved in the procedure hence a legal due diligence of the real estate might be very useful before signing an agreement. Practice has also shown that the specific knowledge of property will empower the buyer with better bargaining possibilities. The legal due diligence of property comprises the analysis of public restrictions, zoning, permits, encumbrances, third persons rights etc.

2.5.3.6 Pre-emption Rights

Pre-emptive rights may be entered into the Land Register on the basis of a transaction or law. The latter could be exemplified by the co-owner's pre-emptive right to purchase the real estate upon the sale of a legal share of the property to third persons.

Some pre-emptive rights are not entered into the Land Register but are based on law, such as state's or local government's pre-emptive right to the sale-purchase agreements in relation with certain nature protection and coastal areas and objects protected under heritage conservation. The general rule in regard to the timeframe of exercising the pre-emptive rights is two months after the parties have concluded the agreement.

2.5.3.7 Typical Purchase Price Arrangements

The procedure of property sale often dictates that the agreed sum is to be transferred to the deposit account of the notary before the agreement is concluded. The funds are released after the title to land has been registered in the Land Register. It may also be noted that commonly 5-10% of the purchase price is paid by a buyer to a broker's account as a booking fee before an agreement is made.

2.5.3.8 Related Costs

Depending on which services shall be used, the following costs may occur in the purchasing process of the real estate: bank fees, legal fees for carrying out a legal due diligence, legal fees for reviewing the purchase and security agreements, brokerage fees, fees for evaluation of the real estate, notary fees and state duty.

The registration of ownership and encumbrances in the Land Register are subject to state duty. The amount of the state fee depends on the value of the transaction.

As mentioned, the notary also charges a fee for the conclusion of a transaction. The notary fees are also dependent on the value of the transaction, although fixed by the law. The notary fee for verifying the real right agreement is fixed to EUR 20.

2.5.4 Restrictions

2.5.4.1 Restrictions on Acquiring Real Estate

According to the current legislation, some restrictions for EU citizens and companies will exist until 1 May 2011. For example in order to acquire 10 or more hectares of agricultural or forestry land, the person would have to be an Estonian citizen; or a citizen of the State which is a Contracting Party to the EEA Agreement who have lived in Estonia for the past three financial years and have been registered in an Estonian register as sole proprietor in the area of production of agricultural products; or an undertaking and branch of a foreign company registered in Estonia who has operated in Estonia for at least three past financial

years in the area of production of agricultural products (or forest management for forestry land). Other persons are entitled to become owners of land on rather limited grounds. They will also need the approval of the county governor.

Otherwise there are no significant restrictions for foreigners to acquire real estate in Estonia with the abovementioned exception for forestry and agricultural land, plus some island and seacoast and borderline areas of the state. It should be noted that the transfer of land on smaller islands and certain border areas is permitted to non-citizens or undertakings of the states, which are a contracting party to the EEA agreement only upon the permission of the Government of the Republic.

2.5.4.2 Public Restrictions on the Use of Real Estate

The restrictions usually state that real estate or a part thereof may not be used for buildings or the owner has to avoid activity in nature or heritage protection zones, etc. The use of real estate may also be restricted on the sea coast area, protected zones of power lines and roads, highways etc. These restrictions only apply to a few types of real estate.

2.5.5 Encumbrances

The following restricted real rights, which are entered into the Land Register upon respective notarised agreement, may encumber the real estate: servitudes, real encumbrances, building title, pre-emptive rights, and rights of security (incl. mortgages).

In general, these rights are used in real estate transactions with the intent to secure the interest of the purchaser, seller, third persons or the neighbouring real estate. For example, a mortgage is registered on the real estate in favour of the bank to secure the loan granted for acquisition of the real estate or servitude is registered on the real estate in favour of the neighbouring real estate to secure access to the latter through the encumbered real estate.

2.5.5.1 Mortgage

Usually a mortgage agreement is concluded at the same time as the purchase agreement. The purchase of property is often financed by a loan, which is secured by a mortgage in favour of a bank. It is possible to have several mortgages on the real estate. Each will get a certain rank as agreed between the parties, upon which the rights can be exercised.

2.5.6 Property Management

This field is scarcely regulated by law, except for some basic management standards. Usually the common practice is to use property management companies for the maintenance of buildings. There are usually apartment associations to administer the building and structures.

2.5.7 Lease Agreements

2.5.7.1 General

Lease agreements may be concluded either for specified or unspecified term. In general the freedom of the contract applies as to the content of the lease agreement. However, as to the residential lease, the law protects the rights of the lessee and provides many mandatory rules.

Upon transfer of real estate, the lease agreements under which the tenant holds the possession of the leased object shall remain valid and shall be automatically transferred with the real estate. However, the lessor may terminate the lease agreement within 3 months as of acquisition of the real estate provided the lessor needs the leased commercial or residential premises urgently for its own use. The lessor does not have such right in the event a notation about the lease agreement has been made in the Land Register.

2.5.7.2 Duration and Expiry of Lease Agreement

According to the statutory regulation (if the parties have not agreed differently), either party of the lease agreement entered into for an unspecified term may terminate a residential or business premises lease entered into for an unspecified term by giving at least three months' notice. The lease of furnished rooms may be terminated by giving at least one month's notice.

The regulation for a lease agreement entered into for a specified term expires upon expiry of the term. A material breach will also terminate the lease. The agreement itself may also provide for a right of earlier termination.

2.5.7.3 Lease Payment and Accessory Expenses

The common practice in Estonia is to pay a deposit in the amount of one to three months' rent payment upon signing the lease agreement. The utilities (accessory expenses) like electricity and water, etc are included in the lease payment. Nevertheless, it is often agreed in the lease agreement that the lessee shall pay for utilities extra according to the invoices of the service providers.

2.5.8 Planning Requirements and Construction of Buildings

2.5.8.1 Planning

The central instrument in this field is a detailed plan. According to the law, detailed plans are established for city areas and some rural municipality areas to regulate zoning and to determine building rights for plots. The detailed plans also set limits for construction activities in the specific areas. The authority to approve detailed plans is given to the local governments.

The process dictates public hearings and discussion after the conclusion of the plan of the project. The approval of the detailed plan may take from six months to a few years, depending on the area and complexity of the project.

2.5.8.2 Construction

As a general rule, construction works have to be performed pursuant to building design documentation and the norms set for the buildings. According to the regulation, the building design has to be drafted by a professional architect or an engineer. It will also have to be approved by the local supervisory authority. In addition to the design, its documentation must comply with the detailed plan and the official norms.

According to the law, the local government is the construction supervisory authority in Estonia. Thus it regulates the erection, modification and demolition of buildings and other structures. The process is concluded by obtaining a permit from the supervisory authority. The permits are issued based on the design and the application. A building permit may be revoked if not used within two years from its issuing. The municipality will also have to issue a permit for the use of the building. This can be done if it has been erected on the basis of a building permit and in accordance with the design documentation after completion of the construction works. It is forbidden to use a building without a permit of use. The buildings also receive a guarantee from the constructor as a mandatory rule.

2.6 Employment Law

2.6.1 General

In Estonia, basic labour and employment issues are regulated in the Employment Contracts Act of which the newest wording entered into force on 1 July 2009.

2.6.2 Employment Contract

2.6.3 Hiring

Under the ECA it is presumed that employment contracts are made for an unspecified period. A fixed-term employment contract may be made for up to five years if the work is of a temporary nature, especially in case of a temporary increase in work volume or performance of seasonal work. A fixed-term employment contract may also be made for the period of replacement of an employee who is temporarily absent.

If an employee and an employer have on more than two consecutive occasions entered into a fixed-term employment contract for similar work or extended the fixed-term contract more than once in five years, the employment relationship is deemed to have been

entered into for an unspecified term from the start. Entry into fixed-term employment contracts is deemed consecutive if the time between the termination of one employment contract and entry into the next does not exceed two months.

2.6.4 Terms of employment contract

The terms of an employment contract must be communicated prudently, clearly and unambiguously. If the terms have not been communicated to the employee before commencement of work, the employee may request submission of the terms from the employer any time and the employer is obligated to communicate the terms within two weeks from receiving such a request.

Employment contracts are concluded in writing. However, an employment contract is also deemed entered into if an employee agrees to do work which, according to the circumstances, can be expected to be done only for remuneration.

2.6.5 Salary

2.6.6 Minimum salary

As of 1 January, 2009, the minimum salary established by the Government of the Republic of Estonia for full-time employment is EEK 4,350 (EUR 278) per month.

2.6.7 Salary Payments

The salary is usually agreed by the parties in the employment contract. If the amount of salary payable to an employee has not been agreed on or if an agreement on salary cannot be proven, the amount of the salary is the remuneration specified in a collective agreement or, upon absence of a collective agreement, the remuneration paid for similar work under similar circumstances.

Salary may be calculated on an hourly, weekly or monthly basis, or be based on performance.

2.6.8 Overtime Pay

The employer and employee may agree that the employee undertakes to do work in excess of the agreed working time (overtime). The employer must compensate overtime work by granting time off equal to the overtime, unless it has been agreed that overtime is compensated in money. Upon compensation of overtime in money, the employer must pay the employee salary exceeding the normal salary by 1.5 times.

In addition to overtime compensation, Estonian law provides for extra pay for working at night or on public holidays. If the working time falls at night (from 10:00 p.m. to 6:00 a.m.), the employer must pay salary exceeding the normal salary by 1.25 times, unless it has been agreed that the salary include remuneration for working at night. If the working time falls on a public holiday, the employer must pay salary exceeding the normal salary by 2 times. Employers and employees

may agree to compensate work done at night or on public holidays by granting additional time off.

2.7 Working time and vacation

2.7.1 Working time

Regular working hours may not exceed 8 hours per day and 40 hours per week. It is allowed to use the working time calculation period of up to 4 months.

In case the working time calculation period applies, the working time may not exceed on average 48 hours per seven days over a calculation period of 4 months. It is allowed to agree that the working time does not exceed, on average, 52 hours per seven days over a calculation period of 4 months and taking into account that the agreement is not unfair to the employee. Employees may cancel the agreement at any time, giving two weeks' advance notice thereof.

2.7.2 Regular vacation

An employee's annual vacation is 28 calendar days, unless the employee and the employer have agreed on a longer period of annual vacation or unless otherwise provided by law. Longer annual vacation is granted to minors and employees of certain occupation, for example an employee's, who is a minor, annual vacation is 35 calendar days and the annual vacation of educators and research staff is up to 56 calendar days.

Annual vacation is granted on the basis of the time worked and it should be used within the next calendar year following the year when the right to vacation was created.

Employees have the right to receive vacation pay. The general rule is that vacation pay is paid not later than on the penultimate working day before commencement of the vacation. It is allowed that the employer and the employee agree that the vacation pay is paid on the pay day following the use of the vacation, at the latest.

In case of termination of employment contract, unused vacation days must be compensated to the employee and vacation (and vacation pay) used in advance can be set-off with the final settlement.

2.7.3 Pregnancy Leave/Paternal Leave

Women have the right to pregnancy and maternity leave of 140 calendar days. Fathers have the right to receive up to ten working days of paternity leave (without pay) during the two months before the estimated birth date given by a doctor or midwife and during the two months after the birth of the child.

A mother or father is entitled to parental leave until their child reaches the age of three years. One parent is entitled to parental leave at a time.

2.8 Termination of employment contract

2.8.1 Advance notice

The employer may notify employees of the termination of employment contract immediately after making respective decision. The employer must notify an employee of the termination of contract in advance in a format reproducible in writing. In the notice the employer is required to justify the need to terminate the employment contract. The notification period depends on the employee's continuous period of employment with the employer as follows:

Length of employment	Notification period (calendar days)
Less than 1 year	15
From 1-5 years	30
From 5-10 years	60
More than 10 years	90

Upon failure to adhere to the notification requirement, the employer is required to pay compensation to the employee in the amount the employee would have received in case the notice period had been followed, i.e. pay salary.

2.8.2 Severance Pay

The employer must pay compensation to the employee upon termination of a contract due to lay-off in the amount of one month average salary of the employee. The Unemployment Insurance Fund pays additionally the following compensation upon termination of an employment contract due to lay-off:

Length of employment	Severance payment (average monthly salary)
From 5-10 years	1
More than 10 years	2
More than 20 years (applicable until year 2015)	3

2.9 Visa and Work Permit

2.9.1 Visas

According to the Aliens Act of Estonia an alien (someone who is not an Estonian citizen or a citizen of the Member State of the European Union or EEA and Switzerland) needs a legal basis to enter Estonia. Among others, a legal basis for entering in Estonia may be a visa or a residence permit.

2.9.2 General Requirements regarding visa

A citizen of the Member State of the European Union or EEA and Switzerland may enter Estonia and stay in the country for up to three months from the moment of the first entry. A citizen of the European Union has the right to stay in Estonia on the basis of a valid travel document or identity document. No visa is required, yet the visitor must register his/her stay.

Estonia has also concluded several multilateral agreements on free movement with a number of countries (available on the following address: http://www.vm.ee/eng/kat_132/915.html).

For other states, there is a possibility to apply for a transit visa (with a maximum period of stay of five days), a short-term visa (with a maximum period of stay of 90 days) or a long-term visa (with a maximum period of stay of 180 days).

The requirements for a visa applicant are a sufficient financial status to cover the costs of his accommodation, stay and departure from the country; a valid travel document which is recognised by Estonia; the purpose and reason of his or her planned stay in Estonia have been proved and these are in accordance with the provisions of legislation regulating the temporary stay of aliens in Estonia; if he or she proves the intention to leave Estonia not later than upon termination of the period of stay; a valid health insurance policy guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of validity of the visa will be met; payment of a state fee of approximately EUR 35-60 and filling an application form.

2.9.3 Types of visas

There are four categories of visas serving different travel needs: airport transit visa; transit visa, short-stay visa and long-stay visa.

An airport transit visa may be issued to an alien for entry into an international transit zone at an Estonian airport for a period of three months. A general transit visa may be issued to an alien for travelling through Estonia in transit once or twice into the next transit country also for a maximum issuance period of three months. A short-stay visa may be issued to an alien for single or multiple entries into Estonia and stay in Estonia with validity up to six months. A long-stay visa may be issued for single or multiple entries into Estonia and stay in Estonia (for twelve months) to an alien who in the most typical cases has registered his short-time employment or is an accredited foreign journalist.

2.9.4 Employment

An alien is not allowed to engage in employment activities in Estonia unless he holds a valid temporary residence permit for working or working permit.

2.9.5 Residence and work permits

2.9.6 General requirements regarding residence permits

As the requirements regarding alien immigration do not apply for EU citizens, it should be mentioned that the general rule for the maximum period of stay in Estonia is up to three months from the moment of the first entry.

A citizen of the European Union has the right to stay in Estonia on the basis of a valid travel document or identity document. Not later than after three months after the date of entry in Estonia, a citizen of the European Union must register his or her residence. A citizen of the European Union acquires temporary right of residence in Estonia for five years if such citizen registers his or her residence in accordance with the provisions of legislation. Person who has acquired temporary right of residence in Estonia must apply for an identity card within one month after the registration of his or her residence.

Residence permit for aliens (non-EU citizens) may be temporary (validity period up to five years) or long-term. An alien may submit an application for a temporary residence permit to a representation of Estonia which, after identification of the applicant, shall forward it to the Citizenship and Migration Board for processing. The basis for the issuance of residence permits is brought below in article 2.9.7.

2.9.6.1 Types of residence permits

As mentioned above, residence permit may be temporary or long-term. A temporary residence permit may be issued to an alien who is married to a person with permanent residence in Estonia; for settling with a close relative permanently residing in Estonia; for working; for studies at an Estonian educational institution; for business; whose permanent legal income ensures his/her subsistence in Estonia; or whose application for residence permit is based on an international agreement.

A long-term residence permit may be issued to an alien who has stayed in Estonia permanently on the basis of a temporary residence permit for at least five years, holds a valid temporary residence permit, has registered residence, health insurance and permanent legal income for subsistence in Estonia and has knowledge of the Estonian language at least at basic level.

2.9.7 Work permits

In order to work in Estonia an alien must hold a residence permit for working or a work permit. A residence permit for employment grants an alien the right to stay in Estonia for the purpose of employment according to the conditions determined by the residence permit. A residence permit for employment is issued for a period of guaranteed employment in Estonia by an employer with a period of validity of up to two years and it can be extended for up to five years at a time.

An alien can be granted a residence permit for employment if an open competition has been carried out to staff the post and if, within three weeks, it has not been possible to recruit anybody through the state employment mediation service. An alien must have the qualifications, education, health, work experience, special skills and knowledge required for the job.

The Estonian Unemployment Insurance Fund has to give its consent before an alien can be employed.

According to the law, work permits are issued only for: released prisoners, those who have residence permit for study and only if the working do not interfere studying and to retired member of the Defence Forces.

3. Taxation in Estonia

3.1 Corporate taxes

3.1.1. Significant developments

The following significant developments took effect from 1 January 2009:

- Income tax rate remains at 21%. The tax rate will further reduce by 1% per annum until it reaches 18% in 2012;
- Liquidation proceeds and payments for share buy-backs and capital reductions will similar to dividends become taxable at the company level (previously they were taxable at the level of the shareholder). Taxable base consists of the payments made that exceed the paid-in capital into the company;
- Withholding tax on dividends is abolished;
- Withholding tax on royalties will be reduced from 15% to 10%;
- Participation threshold for participation exemption is reduced from 15% to 10%. Unilateral credit will be introduced to all other income not falling under participation exemption.
- Reduced VAT rate will be increased from 5% to 9%.
- Standard VAT rate was increased from 18% to 20% as of 1 July 2009.
- Unemployment insurance contributions were increased from 1 August 2009 to be 1.4% for an employer and 2.8% for an employee.
- Contributions to the compulsory accumulative pension scheme will be temporarily suspended from 1 June 2009 to 31 December 2010.

3.1.2 Taxes on corporate income

All undistributed corporate profits are tax exempt. This exemption covers both active income (e.g. trading income) and passive income (e.g. dividends, interest, royalties) as well as capital gains from the sale of all types of assets, including shares, securities and immovable property. This tax regime is available to Estonian companies and permanent establishments of foreign companies that are registered in Estonia.

The moment of taxation of corporate profits is postponed until the profits are distributed as dividends or deemed profit distributions, such as transfer pricing adjustments, expenses and payments that do not have a business purpose, fringe benefits, gifts, donations and representation expenses.

Distributed profits are generally subject to a corporate income tax of 21% (2 1/79 on the net amount of profit distribution). For example, a company that has profits of 100 available for distribution can distribute dividends of 79, on which it has to pay corporate income tax of 21. The income tax rates are reduced from 2 1/79 in 2009 to 20/80 in 2010, to 19/81 in 2011 and to 18/82 in 2012.

From the Estonian perspective, this tax is considered a corporate income tax and not a withholding tax, so the tax rate is not affected by an applicable tax treaty. Certain distributions are exempt from such tax (see "Inter-company dividends").

3.1.3 Corporate residence

A legal entity is considered a resident of Estonia for tax purposes if it is established under Estonian law and there is no management and control test for this purpose. All tax treaty tie-breakers for legal entities are based on competent authority procedure. Estonian general partnerships and limited partnerships have legal personality and are therefore considered residents of Estonia for tax purposes.

A permanent establishment (including a branch registered in the Commercial Register) of a foreign entity is deemed to be a non-resident taxpayer.

3.1.4 Branch income

As is the case with resident companies, registered permanent establishments of non-residents are subject to corporate income tax only with respect to profit distributions, both actual and deemed, as defined in domestic law.

Transactions and dealings between a head office and its permanent establishment(s) should be conducted on arm's-length terms. Thus, such profits should be attributed to a permanent establishment of a non-resident taxpayer that the permanent establishment would be expected to make if it was a distinct and separate tax-payer engaged in the same or similar activities under the same or similar conditions and dealing completely independently with its head office.

3.1.5 Group taxation

There is no consolidation or group taxation for corporate income tax purposes.

Transactions between related parties (both residents and non-residents) and between a head office and its permanent establishment(s) should be conducted on arm's-length terms. Estonia has adopted a new transfer pricing regulation, which is in line with the OECD Transfer Pricing Guidelines and has been effective since 1 January 2007. Transfer pricing adjustments are treated as deemed profit distributions, which should be declared on a monthly basis and which are subject to 21/79 corporate income tax in 2008. Estonia has also introduced special transfer pricing documentation requirements for certain taxpayers in line with the EU Transfer Pricing Documentation Code of Conduct.

3.1.6 Tax returns

The period of taxation is a calendar month. The combined corporate income tax and payroll tax return (form "TSD" with appendices) must be submitted

to the local tax authorities by the 10th day of the month following a taxable distribution or payment. Tax returns can be filed electronically via the Internet.

3.1.7 Payment of tax

Corporate income tax and payroll taxes must be remitted to the local tax authorities by the 10th day of the month following a taxable distribution or payment. No advance corporate income tax payments are required.

3.1.8 Withholding taxes

Withholding agents must withhold income tax from certain payments. Withholding agents include resident legal entities, resident individuals registered as sole proprietorships or acting as employers and non-residents having a permanent establishment or acting as employers in Estonia. The tax must be reported and paid by the 10th day of the month following the payment. Income tax is not withheld from payments to resident companies, registered sole proprietorships and registered permanent establishments of foreign companies. Payments subject to withholding tax include the following:

1. There is no withholding tax on dividends.
2. There is no withholding tax on interest payments to non-residents on the condition that the interest charged does not significantly exceed the arm's-length rate at the time the debt is incurred and the interest payments are made. A withholding tax of 21% will thus apply only to the part of the interest payment that significantly exceeds the arm's-length amount.
3. Royalties (including payments for the use of industrial, commercial or scientific equipment) paid to non-residents are generally subject to a withholding tax of 10% under domestic law, but reduced rates may be available under double-tax treaties. Certain royalty payments to associated EU and Swiss companies that meet certain conditions are exempt from withholding tax.
4. Rental payments to non-residents for the use of immovable property located in Estonia and movable property subject to registration in Estonia (excluding payments for the use of industrial, commercial or scientific equipment) are subject to a withholding tax of 21% under domestic law, but double-tax treaties may exempt payments for the use of movable property from withholding tax.
5. Royalties and rental payments to resident individuals are subject to a withholding tax of 21%.
6. Payments to non-resident companies for services provided in Estonia, including management and consultancy fees, are subject to a withholding tax of 10% under domestic law, but exemptions may be available under double-tax treaties. Service fee payments to "tax haven" entities are always subject to a withholding tax of 21%.

7. Salaries, directors' fees and service fees paid to individuals are subject to a withholding tax of 21% under domestic law, but double-tax treaties may exempt service fee payments to non-resident individuals from withholding tax.

8. Payments for the activities of non-resident artistes or sportsmen carried out in Estonia are subject to a withholding tax of 10%.

9. Certain pensions, insurance benefits, scholarships, prizes, lottery winnings, alimony, etc., paid to non-resident and resident individuals are subject to a withholding tax of 21% under domestic law.

For non-residents who do not have a permanent establishment in Estonia, the tax withheld from the above payments at domestic or treaty rates constitutes final tax as regards their Estonian source income, and such non-residents are not subject to any tax reporting requirements in Estonia.

For certain types of Estonian source income, non-residents are liable under Estonian domestic law to self assess their Estonian tax liability and submit a tax return to the Estonian tax authorities. Such types of income include

- taxable capital gains;
- profits derived from business conducted in Estonia without a registered permanent establishment;
- other items of income from which tax has not been withheld but should have been withheld.

Estonia has effective tax treaties with Armenia, Austria, Belarus, Belgium, Canada, the People's Republic of China, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, the Republic of Ireland, Italy, Kazakhstan, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom, and the United States of America. Treaties have also been concluded with Azerbaijan, Bulgaria, Macedonia and Russia, but these are not yet effective.

3.2 Individual Taxes

3.2.1 Territoriality and residence

An individual who is a resident of Estonia is liable to pay tax on worldwide income, irrespective of the origin of the income. Non-residents are taxed on their Estonian source income. Individuals are considered residents of Estonia if they have a permanent residence in Estonia, or if their stay in Estonia during any 12-month period exceeds 182 days, or if they are Estonian public servants who are sent abroad on assignment.

If the tie-breaker article in a double-tax treaty allocates the residence of a dual-resident individual to a foreign country (most often if the home and family of the individual remain abroad during an assignment to Estonia), the individual will be taxed as a non-resident in

Estonia regardless of the above-mentioned Estonian domestic rule.

3.2.2 Gross income

3.2.2.1 Gross income and exclusions

The gross income of resident individuals includes their worldwide income from all sources, irrespective of the origin of the income. This includes both active income, such as employment and business income, as well as passive income, such as capital gains, rents and royalties, interest, dividends, certain insurance proceeds, etc.

In general, individual taxpayers are taxed on a cash basis. Exceptionally, the Estonian CFC (anti-deferral) rules attribute undistributed profits of foreign “tax haven” companies to resident individual taxpayers if such companies are controlled by Estonian residents. Most items of personal income are taxed on a gross basis, mainly through withholding tax at source, whereas business income and capital gains are taxed on a net basis on certain conditions.

For resident individuals, there are numerous items of tax-exempt income (excluded from gross income). Some of the more important items of tax-exempt income include qualifying foreign employment income, domestic dividends, qualifying foreign dividends, qualifying bank interest and certain qualifying capital gains.

3.2.2.2 Employment income

Employment income is taxed on a gross basis and includes salaries, fees for personal services and directors’ fees. In general, fringe benefits are only taxable at employer level and are not included in the gross income of an employee.

For resident individuals, foreign source employment income is exempt from Estonian income tax if the following two conditions are met:

- the individual is present in a foreign country for employment purposes for more than 182 days during any 12-month period; and
- foreign employment income is taxable in the foreign country and this can be substantiated by written documentation which has to indicate the amount of the related foreign income tax (even if this is zero).

Non-resident individuals are liable to pay Estonian income tax on Estonian source employment income. This is deemed to arise if an individual performs work in Estonia for which he is paid remuneration by an Estonian employer (including non-residents having a permanent establishment or acting as employers in Estonia), or if the individual has been present in Estonia for employment purposes for more than 182 days during any 12-month period. Directors’ fees paid by Estonian companies are always taxable in Estonia.

3.2.2.3 Capital gains and investment income

Capital gains from the sale or exchange of assets are generally taxed on a net basis as part of ordinary

income, but capital losses can only be offset against capital gains. Certain qualifying capital gains are exempt from income tax, for example, gains from the sale of a personal residence.

Rents and royalties generated from the use of certain assets are generally taxed on a gross basis as part of ordinary income, unless the taxpayer opts for net basis taxation as part of business income.

Investment income is generally taxed on a gross basis as part of ordinary income. This may include certain foreign dividends, interest and insurance proceeds.

Domestic dividends are tax exempt for resident individuals. Foreign dividends are tax exempt provided that the underlying profits out of which the dividends are paid have been subject to foreign income tax or that income tax has been withheld from the dividends received. Interest paid by EEA banks (including Estonian banks) or EEA branches of non-EEA banks to resident individuals is also exempt from income tax.

For non-resident individuals, dividends and arm’s-length interest from Estonian sources are exempt from Estonian income tax, whereas rents and royalties are generally subject to withholding tax at source. Certain capital gains realised by non-residents form part of their Estonian source income, for which they are liable to self assess their Estonian tax liability and submit a tax return to the Estonian tax authorities. For example, this applies to capital gains linked to immovable property located in Estonia.

3.2.3 Tax rates

The flat income tax rate for resident individuals is 21%. Certain pensions are subject to income tax at a rate of 10%.

The flat income tax rate was further reduced from 21% in 2009 to 20% in 2010, to 19% in 2011 and to 18% in 2012.

3.3 Value Added Tax

3.3.1 VAT

The following transactions are subject to Estonian VAT:

- taxable supplies of goods and services (if the place of supply is in Estonia);
- taxable imports of goods;
- taxable intra-community acquisitions of goods.

The standard VAT rate is 20%. A reduced rate of 9% is applied, for example, to books, periodicals with a few exceptions, hotel accommodation services, listed pharmaceuticals and the treatment of dangerous waste.

The VAT rate on the export of goods and certain services is 0% (i.e. exemption with credit). Some supplies are exempt (i.e. exempt without credit), such as health care services, insurance services, certain financial services and securities transactions.

Real-estate transactions are generally exempt from VAT, but there are certain significant exceptions (e.g. transactions in new and significantly renovated buildings). Taxpayers can choose to add VAT real-estate transactions if certain conditions are met.

If the taxable supplies of Estonian businesses or permanent establishments of foreign businesses in Estonia exceed EEK 250,000 (approx. EUR 16,000) in a calendar year, VAT registration is required. Voluntary registration is also possible. Certain transactions of foreign businesses require Estonian VAT registration without any threshold.

The VAT accounting period is generally a calendar month, and the VAT should be declared and paid on or before the 20th day of the following month.

On certain conditions, an EU taxable person who is not registered for VAT in Estonia is entitled to a refund of input VAT paid in Estonia. Non-EU taxable persons are entitled to a VAT refund on the basis of reciprocity.

On 1 January 2008, Estonia implemented a system which, on certain conditions, makes it possible to account for VAT on imports on VAT return without the need to pay VAT to the customs authority (Art. 21 1 Recast of 6th Directive).

3.4 Duties

3.4.1. Customs duties

After becoming a member of the European Union, Estonia also became a member of the Customs Union. The Community Customs Code and related implementation regulations apply, which means that

- trade between Estonia and other EU countries is customs-free;
- imports from non-EU countries are subject to EU customs tariffs;
- numerous Free Trade Agreements concluded between EU and non-EU countries apply to Estonia.

For more information: www.pwc.com/ee

Reference:

World Fact Book

(www.cia.gov/cia/publications/factbook)

PwC Worldwide Tax Summaries

(<http://www.taxsummaries.pwc.com/>)

4 Banking Environment

4.1 Overview

Introduction

After Estonia regained its independence in 1992, a significant number of new banks commenced operations - reaching a peak of 42 in 1992 - due in large part to low entry barriers. As the 1990's progressed, the banking environment experienced more change. 1998 saw many changes; several major mergers took place and a number of banks were declared bankrupt and shut down. Additionally, the government privatised all remaining state-owned banks, and today foreign banking groups own the majority of shares in Estonian banks.

Sector Figures

As of December 2009 there are 18 commercial banks operating in Estonia, of which 7 are domestic and 11 are branches of foreign banks.

4.1.1 Central Bank

Eesti Pank is the Central Bank of Estonia. Its mission is to guarantee price stability in Estonia.

Currency

The Government and Eesti Pank (Central Bank) had planned to join the euro area on January 1, 2007, however, with inflation figures higher than expected, this was not possible. The objective is still to join as soon as possible.

Responsibilities

Its main tasks in carrying out its mission are:

- Participating in the national economic policy through the implementation of an independent monetary policy, consultancy to the government, and international cooperation;
- Ensuring financial stability in Estonia by creating policies for the financial sector and operating well-functioning settlement systems;
- Arranging the circulation of cash in Estonia;
- Making preparations to become one of the policy makers among other national central banks of the euro area who design the coordinated economic policy and single monetary policy in Europe.

In order to perform its core tasks, Eesti Pank has the following main functions:

- Monetary Policy
- Financial Stability
- Meeting cash requirements
- Estonia's Accession to the Euro Area
- Organisation and Cooperation

4.2 Sampo Pank

Sampo Pank in Estonia dates back to 1995. In November 2006, the Danske Bank Group acquired

Sampo Pank's parent, the Sampo Bank Group. This led to a corporate visual identity and at the same time Sampo Pank Estonia became a full branch of Danske Bank Group.

Sampo Pank specialises in investment and savings and provides banking services for retail, corporate and institutional customers. Sampo Pank's branches and other service channels also play a central role in offering the investment and savings services of other companies in the Danske Bank Group. Sampo Pank has a network of approx 20 branches and offices, covering the main industrial centres of Estonia.

The bank offers all relevant products for corporate customers such as cash management, foreign exchange, trade finance as well as overdraft facilities and term loans, credit cards, eBanking, leasing, etc.

It is very easy to start business with Sampo Pank in Estonia. Just contact your Danske Bank account manager in your country and he/she will manage to open the bank account in Sampo Pank, Estonia for your business start. You will also be given the dedicated English speaking account manager in Estonia who will work closely with the account manager in your country and provide the best financial solution for your cross-border and local businesses.

See www.sampopank.ee for further information.

4.3 Legal & Regulatory Issues

4.3.1 Introduction

As such the market for financial transactions is deregulated. However, due to the continued existence of Central Bank reporting requirements for transactions between residents and non-residents, Estonia is not the ideal place for maintaining cash concentration pooling solutions involving non-resident companies.

Under the European Single Market's objective of free movement of capital Estonian Law has undergone strong harmonisation toward the rest of the EU, e.g. within Money Laundering where the law fully conforms to the EU directives.

4.3.2 Resident and Non-Resident Status

A company is considered resident in Estonia if it is established under Estonian law. A permanent establishment (including an Estonian branch) of a foreign entity is considered a resident

4.3.3 Account Ownership

Any type of account can be owned by a resident as well as a non-resident company.

4.3.4 Cash Pooling Regulations

Cash concentration and notional pooling are allowed domestically as well as cross-border. Banks are not allowed to offset their own balances in a notional cash pooling solution. Cash pooling across legal entities within the same group is allowed. Resident and non-resident companies can participate in the same cash pool in Estonia, but Central Bank reporting requirements must be adhered to as well as withholding tax regulations must be observed. Estonian legislation allows for multicurrency cash pooling though it is not widely offered by the banks.

4.3.5 FX Controls

The Estonian kroon is indirectly pegged to the euro via its participation in the European Rate Mechanism 2. It is the Bank of Estonia's task to issue and enforce foreign exchange regulations.

4.3.6 Central Bank Reporting Requirements

The Central Bank of Estonia collects statistics on balance of payments on cross-border transactions. All transactions exceeding EEK 200,000 (equivalent to approximately EUR 12,780) must be reported.

Credit institutions report all transactions made through nostro and vostro accounts which exceeds EEK 100,000 in detail every 15 days to the Central Bank of Estonia, including declared transactions.

Reporting is made on single transactions.

4.3.7 Money Laundering

Estonia is member of the Financial Action Task Force (FATF), and has incorporated most of the forty recommendations under Estonian Law. In November 1998 (in effect since July 1999) Parliament passed the Prevention of Money Laundering Act which is aimed at preventing money or other property obtained through illegal means from being placed within the Estonian financial system. Among other things, the legal act defined the terms of money laundering, credit and financial institutions, regulated the activities of credit and financial institutions in preventing money laundering, provided for the creation of a bureau for collecting data on money laundering under the Ministry of Internal Affairs, as well as organised supervision over credit and financial institutions.

On September 21, 2004, five fuel merchants were convicted for Money Laundering in the Tallinn City Court, establishing a precedent in Estonian court history.

On 18 October 2007, the Estonian government approved a bill designed to implement the Third Directive for presentation to Parliament. The bill provides more detailed regulations for the identification of customers than the present law. Any lawyer, notary,

accountant, real estate agent, casino, trust and company service provider receiving a cash payment of more than 200,000 kroons (approx. EUR 12,780) will be subject to the new regulations. Also, they will have to notify the money-laundering information bureau of each transaction involving a cash payment exceeding 500,000 kroons (approx. EUR 31,949).

4.3.8 Regulations Applicable for Electronic Transactions

Under the Electronic Signature Act, which entered into force in December 2000, an electronic signature has the same legal consequences as a handwritten signature if some requirements are met.

An electronic signature and the system of using the electronic signature shall:

- Enable unique identification of the person in whose name the signature is given
- Enable determination of the time at which the signature is given
- Link the electronic signature to data in such a manner that any subsequent change of the date or the meaning thereof is detectable

4.4 Payments & Collections Methods & Instruments

4.4.1 Introduction

Cash is losing its status as the dominant form of payment in Estonia. A breakthrough for payments made via banks compared with other payment options occurred in 2002, when, for the first time, more than half of regular payments were made through banks. Instead of less efficient payment instruments, such as telebank and paper-based credit orders, Internet banking and debit orders are used. Non-cash payment instruments have significantly larger volumes than cash payments in Estonian banking areas. In 2009, a half a million cash payments were processed while non-cash payment volume in the same period was well over 270 million.

4.4.2 Card Payments

Among the non-cash payment instruments, the popularity of cards has increased significantly in Estonia. By the end of September 2009, Estonian credit institutions had issued more than 1.85 million payment cards, of which 1.34 million were debit cards and almost 510,000 were credit cards. Debit cards issued consist exclusively of either Cirrus/Maestro debit cards or Visa Electron debit cards. Further, Visa and MasterCard are both in use as credit cards in Estonia.

Along with the growth in the number of bank cards, the possibilities for their use also increased. New automated teller machines (ATMs) and point-of-sale (POS) terminals were established, raising their respective numbers to 879 and 26,416. All ATMs and POS terminals accept most widespread international bank cards issued by credit institutions worldwide.

16.5 million card transactions were processed from residents with a turnover of more than 529 million euro in September 2009.

4.4.3 Credit Transfers

Credit transfer is the dominant payment instrument in Estonia in both volume and value terms. Business to business transactions are almost exclusively executed as credit transfers, as many companies initiate payments via their own ERP-system, and send the payment requests directly to the bank in batches. The maximum payment execution time allowed by the regulations of the Bank of Estonia is + 1. Current market practice is that all payments initiated before cut-off time (mostly banks have the cut-off time for domestic payments around 16:00 CET and for book transfers around 20:00 CET) are executed with same day value.

It means that in general, the beneficiary receives the money on the same day the payment was initiated.

4.4.4 Direct Debits

The use and limitations of the direct debit have to be previously agreed upon by the payer and the beneficiary. Direct debits expenses in Estonia are borne by the beneficiary's account, service is free for the debtor.

On the Estonian non-cash payment instruments market, direct debit is still a novelty and its share is small as compared to the credit order, for example. The vast majority of direct debits are transferred from private accounts.

In June 2007, banks launched a new service allowing customers to make domestic direct debit payments even if the remitter and beneficiary's accounts are at different banks. The service was designed for companies who wish to receive direct debit payments from customers who hold current accounts at different banks, without entering into contractual relations with all of the banks where customers have opened current accounts. For consumers, this means that they will in the future be able to pay invoices to all companies who settle accounts using direct debiting, regardless of which financial institution they bank with.

4.4.5 Cheques

Payment cheques have never played an important role in the payment instruments market within Estonia. However, there is a certain small group of people who prefer this way of payment.

4.5 Electronic Banking

4.5.1 Introduction

In recent years a plethora of banking services suited for electronic processing have been migrated to the internet. There are no country-wide standards or any multi-banks offerings on the Estonian market.

4.5.2 General Functionality of EBS Offerings

Many banks have shifted the focus from PC based electronic banking systems to web-based platforms. The services offered through the World Wide Web include payment transactions, account information, inter-company netting solutions, FX dealings and information etc. (in quasi real-time). Even though the web-based solutions are becoming more and more advanced, a number of banks still offer more sophisticated services via PC-based tools. Electronic Banking Systems are offered based on the banks own proprietary formats.

4.5.3 EDIFACT / Host-to-Host Solutions

The corporations growing effort of streamlining payment processing is primarily supported by the banks with foreign ownership, as the demand for the most part comes from corporates with headquarters outside Estonia. Host-to-host solutions are provided for domestic as well as international payments.

4.5.4 E-payments and E-invoice / EBPP

E-payments and E-invoices are emerging in the Estonian marketplace, both as B2B and B2C services, but not yet that widespread.

4.6 Cash Pooling Solutions

4.6.1 Introduction

Cash pooling solutions offered are influenced by the fact that banks cannot set off their credit and debit balances for capital adequacy ratio purposes.

Foreign banks, primarily Nordic, which have entered the Estonian market by purchasing large share holdings, have however pushed the use of cash pooling in recent years.

The Central Bank's reporting requirements however, make Estonia a less attractive environment for pooling of resident and non-resident cash balances.

4.6.2 Notional Pooling

A notional cash pool has been developed by many banks in the region using the framework of the European cash pool, which is based on the notional consolidation of group account balances in single or multi currencies. The conversion from local currency to the euro is done without a large expenditure because the Estonian kroon, like it's Baltic neighbours' currencies, is pegged to the euro. E-banking tools provide the possibility of applying limits to group account balances and the easy distribution of funds, which ensures that money is moved quickly to the place where it is most needed.

Of course, no actual transactions are involved in this process.

Banks are now also offering interest compensation pooling as an alternative to notional cash pooling because it is less complicated. The bank takes all of a company's same-currency accounts and joins them together in a collective pool.

4.6.3 Cash Concentration

Cash concentration is allowed and available as both single legal account pooling - balance netting - and zero and target balancing solutions. It is primarily the banks with Nordic ownership that offer these solutions.

4.6.4 Multicurrency and Cross Border Pooling

On a cross-border basis notional as well as cash concentrating pooling schemes are offered. However, the primary tool for pooling continues to be the sweeping and funding of cash across borders. Cash pooling solutions across currencies are usually not part of the services offered by the banks. However, one or two of the more sophisticated banks (owned or dominated by Nordic banks) do offer such solutions, domestically as well as cross-border, as interest compensation / enhancement solutions.

5 Useful Links - Estonia

Embassies

Foreign embassies in Estonia

Embassy of Denmark
www.ambtallinn.um.dk

Embassy of Finland
sanomat.tal@formin.fi

Embassy of Germany
www.germany.ee

Embassy of Ireland
embassytallinn@eircom.net

Embassy of Norway
www.norra.ee

Embassy of Poland
www.tallinn.polemb.net

Embassy of Sweden
www.swedenabroad.com

Embassies of Estonia abroad:

Estonian Embassy in Denmark
www.estemb.dk

Estonian Embassy in Finland
www.estemb.fi

Estonian Embassy in Germany
www.estemb.de

Estonian Embassy in Ireland
embassy.dublin@mfa.ee

Estonian Embassy in Norway
www.estemb.no

Estonian Embassy in Poland
www.estemb.pl

Estonian Embassy in Sweden
www.estemb.se

Lawyer -Accountant - Consultant

**Mazanti-Andersen,
Korsø Jensen & Partnere/**
www.mazanti.dk

PricewaterhouseCoopers
www.pwc.com

Sorainen Lawfirm
www.sorainen.com

Danske Bank

Denmark Danske Bank www.danskebank.com	Lithuania Danske Bankas www.danskebankas.lt
Estonia Sampo Pank www.sampopank.ee	Northern Ireland Northern Bank www.northernbank.co.uk
Finland Sampo Pankki www.sampopankki.fi	Norway Fokus Bank www.fokus.no
Germany Danske Bank www.danskebank.com/de	Poland Danske Bank www.danskebank.com/pl
Ireland National Irish Bank www.nationalirishbank.ie	Russia ZAO Danske Bank www.danskebank.com/ru
Latvia Danske Banka www.danskebanka.lv	Sweden Danske Bank www.danskebank.se

General Information

Bank of Estonia www.eestipank.info	Ministry of Economic Affairs and Communications www.mkm.ee
Hansabank www.hansa.ee	The Estonian Financial Supervisory Authority www.fi.ee
Estonian Banking Association www.pangaliit.ee	Statistical Office of Estonia www.stat.ee
Card Centre of Banks www.estcard.ee	Estonian Chamber of Commerce and Industry www.koda.ee
Tallinn Stock Exchange www.ee.omxgroup.com	Enterprise Estonia www.eas.ee
Ministry of Finance www.fin.ee	

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