

BORENIUS



200+

EMPLOYEES

3

JURISDICTIONS

100+

YEARS

20+

PRACTICES

U.S.

NEW YORK

FINLAND

HELSINKI, TAMPERE

RUSSIA

ST. PETERSBURG

INVESTMENTS IN FINLAND

Mikko Alakare
Specialist Partner
Borenium Attorneys Ltd

#10069306v1

COMPANY FORMS IN FINLAND

(Private) Limited
liability companies
(LLCs)

Public limited
liability
companies
(PLCs)

Cooperative
societies

Limited
partnerships

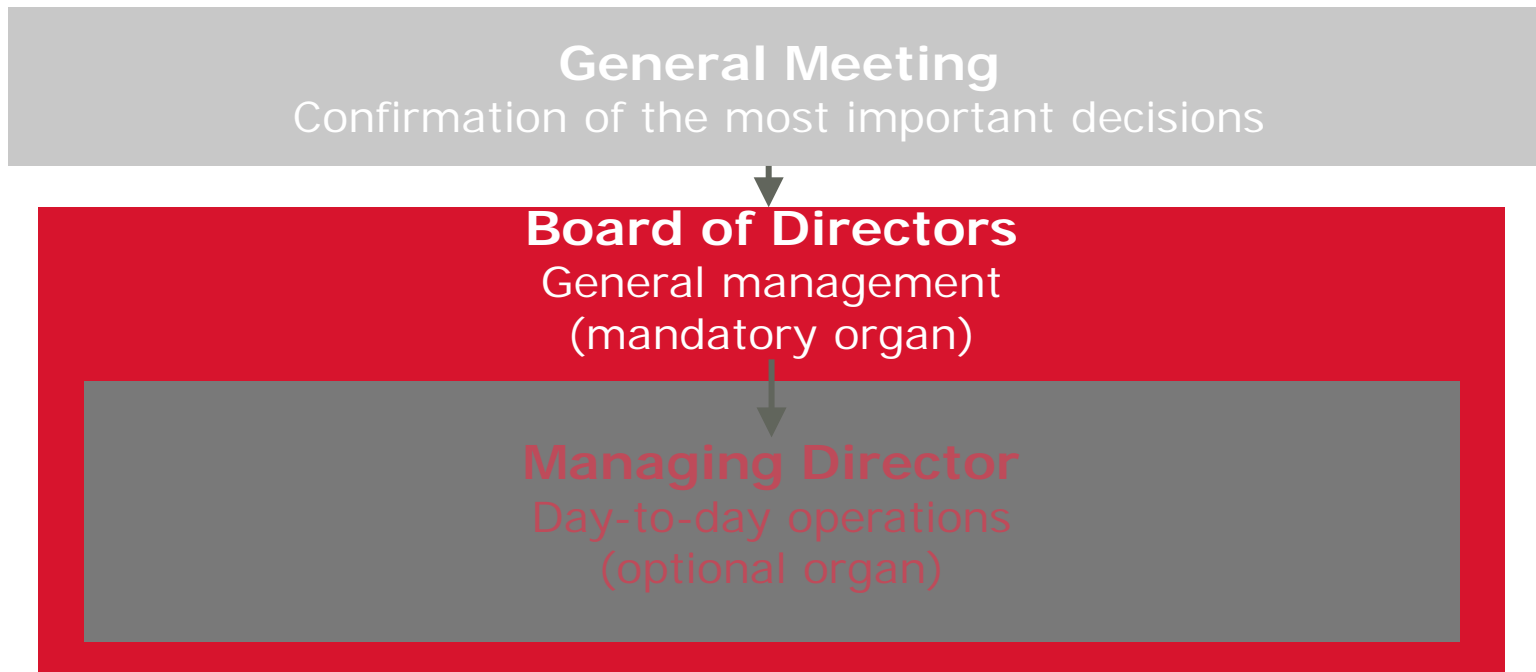
General
partnerships

Private traders

LIMITED LIABILITY COMPANIES

- The most important company form in Finland is the **limited liability company** (“LLC”). In Finnish “osakeyhtiö”
- **Freedom of contract** is a leading principle in company law
- The minimum share capital for a private LLC is EUR 2,500 and for a public LLC EUR 80,000
- Only the shares of a public LLC can be publicly traded in the stock exchange (NASDAQ OMX Helsinki Ltd)

BASIC MANAGEMENT STRUCTURE



CREATING A COMPANY IN FINLAND

- A company is created through a registration process with the *Finnish Trade Register*
 - The normal duration of the registration is around 3 weeks
 - A bank account must be established before registration
 - Banks require separate KYC information and this may take some time

RESTRICTIONS FOR NON-EEA RESIDENTS

- Decisive factor: permanent residence (not citizenship)
- A permit is needed to hold certain positions in the management of the company (the handling period of around 3 weeks)
 - Shareholder: no need for permit in regular businesses
 - Rare special cases under the *Act on the Monitoring of Foreigners' Corporate Acquisitions in Finland* (companies of important national interest)
 - Board member: a permit is needed unless at least one of the Board members is an EEA resident
 - Same applies to deputy members and Supervisory Board members
 - Managing Director / Deputy Managing Director: a permit is always needed
- If there are no EEA residents as Board members, as the Managing Director or as another person authorised to sign for the company, the company/branch must register a representative domiciled in Finland

RESTRICTIONS FOR NON-EEA RESIDENTS: EXAMPLE

Board of Directors



BASIC PRINCIPLES OF FINNISH TAXATION

- Corporate Income Tax 20%
 - Dividend taxation
 - Tax exempt share transactions
- Personal Income Taxation progressive up to around 55%
- Capital Income/Gain Tax 30-33%
- Social Security Contributions & Pension payments
- General VAT 24%
- Asset Transfer Tax (securities & real property) 1,6 – 4%
- International aspects
 - Tax Treaties
 - EU legislation

FINLAND – RUSSIA DOUBLE TAX TREATY

- WHT on Dividends 12/5%
 - WHT on Interests 0%
 - WHT on Royalties 0%
-
- Transfer Pricing on Agenda in Finland

LEADING PRINCIPLES OF FINNISH CONTRACTS

- The leading principle in the Finnish contract law is the ***freedom of contract***
- Generally, any contract is valid regardless of form and content
 - Some exceptions, e.g. the deed of sale of a real estate requires specific forms
 - Limitations on content for the protection of competition or a weaker party (e.g. an employee or a consumer; some peremptory provisions for the protection of small businesses)
 - usually through special legislation
- ***Pacta sunt servanda*** (“agreements must be kept”) – when a contract has been concluded, even its disadvantageous terms must be followed

CONTRACTUAL LIABILITY

- The leading principle of contractual liability is that any damage caused by a breach of contract must be compensated
 - Compensation is usually limited to the amount of damage
 - Only direct damages are typically compensated for, while indirect damages are usually not
- Limitation of liability clauses are often used to reject contractual liabilities but their binding effect may in some cases be limited by provisions protecting the creditor
- *Culpa in contrahendo* (“fault in conclusion of a contract”)
 - While business negotiations are not binding, liability for negotiation-related costs may arise even when a valid contract is not concluded

IP TRANSFERS

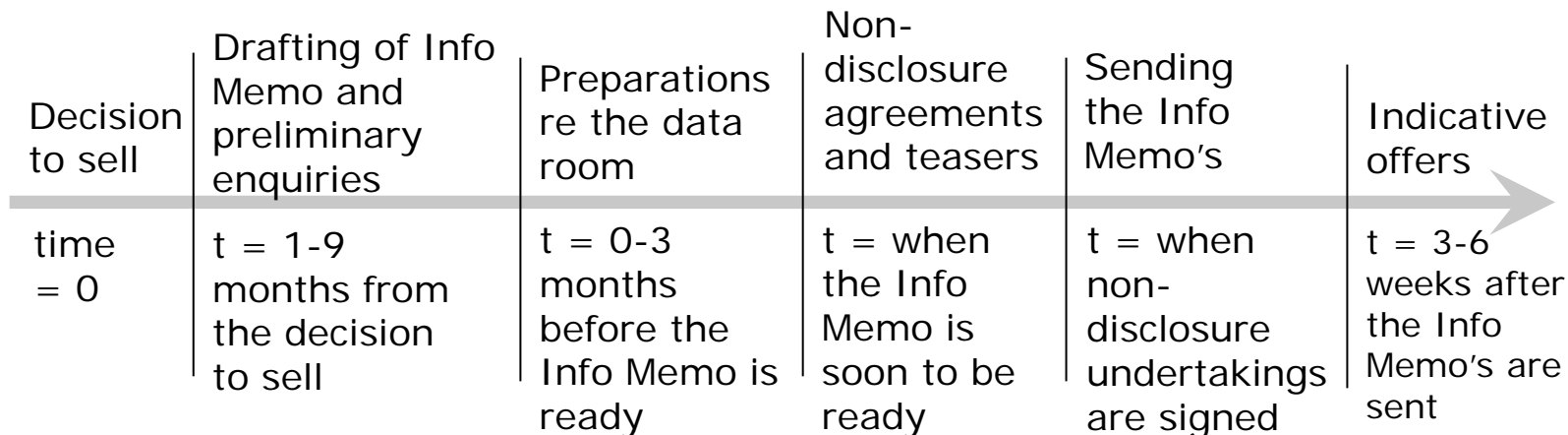
- Common principles within EU
- No formal requirements in Finland
- Licencing is rather straightforward
- Remember to agree on rights with employees

COMPANY/BUSINESS ACQUISITIONS

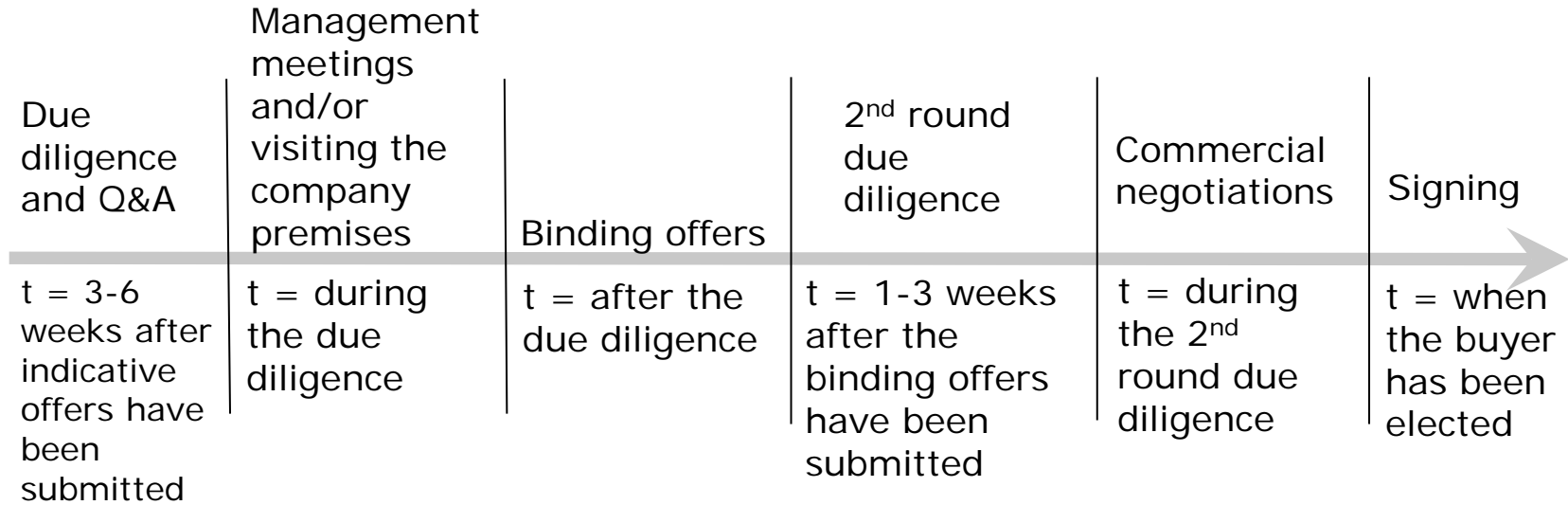
- Share deals and asset deals
- Transfer is easy
 - No notarisations or other formalities
- Due Diligence
- Transaction documentation (SPA, APA) is usually sufficient to transfer shares or assets
- SHA
- Financing in general well available. Prepare your story to the bank. Interests levels are low

THE M&A PROCESS TIMELINE (I/II)

- An example of the main steps and related schedules of an auction process
 - Contains actions for both seller and buyer
 - In an exclusive process, a Letter of Intent replaces a non-disclosure undertaking, and the rest of the process (especially the offer process) is more flexible



PROCESS TIMELINE (II/II)



- It is usual that the time period between the decision to sell and the completion of the transaction is rather long

CONTACT INFORMATION



Mikko Alakare

Specialist Partner

Direct +358 20 713 3467

Mobile +358 50 592 3112

mikko.alakare@borenius.com

CONTACT INFORMATION

BORENIUS ATTORNEYS LTD

Eteläesplanadi 2, FI-00130 HELSINKI, FINLAND

Office: +358 20 713 33

Email: info@borenius.com

Fax: +358 20 713 3499

Web: www.borenius.com