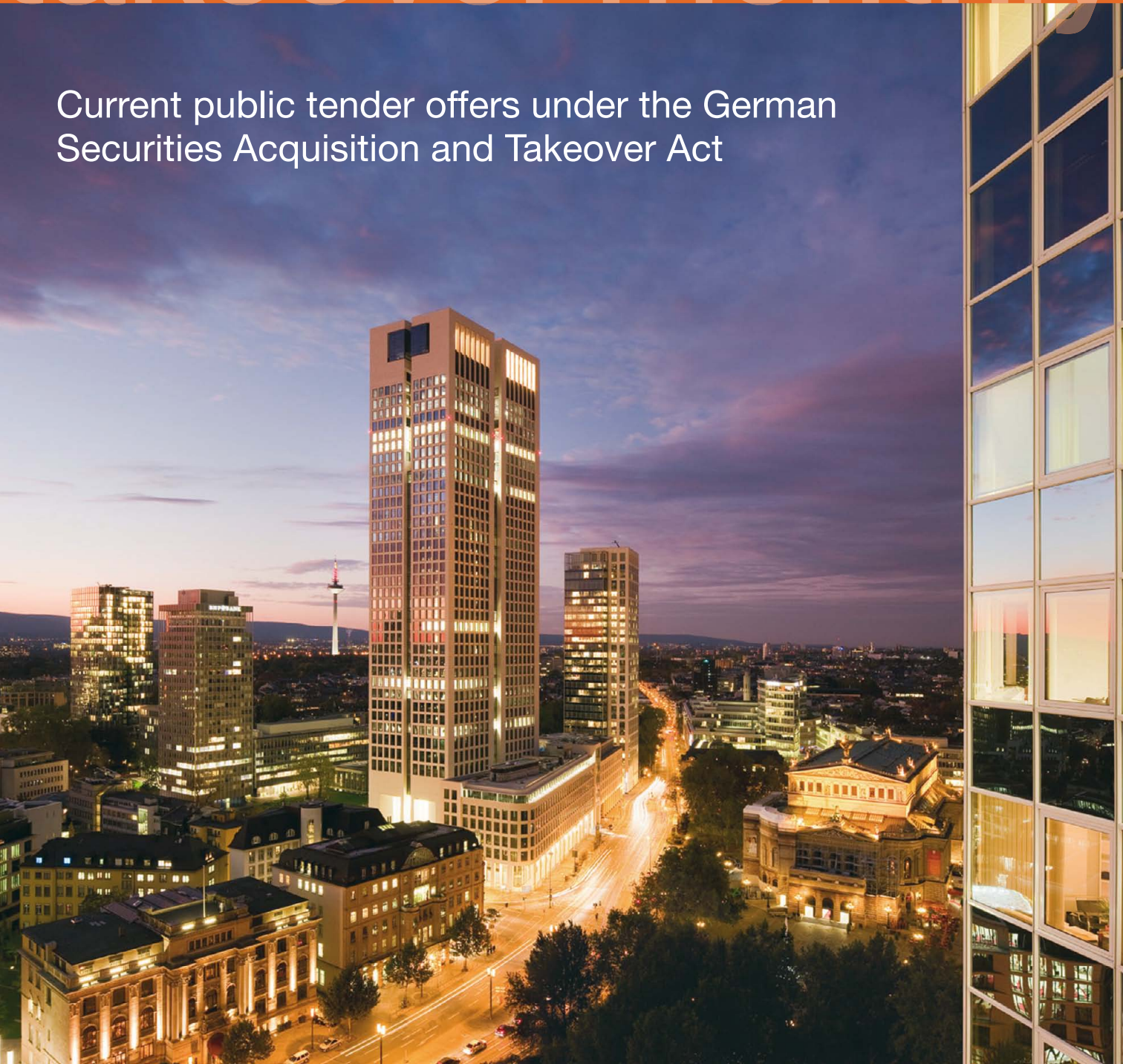


# takeover monthly

Current public tender offers under the German  
Securities Acquisition and Takeover Act



## Current and completed offers demonstrate a broad variety of motives behind public tender offers

Current offers include the takeover offer for shares of Hawesko Holding AG and the mandatory offer to the shareholders of Youniq AG. A mandatory offer to the shareholders of C.A.T. oil AG has been announced. The takeover offers to the shareholders of DAB Bank AG, Sky Deutschland AG and Homag Group AG, as well as the acquisition offers for shares of Swarco Traffic Holding AG and aleo solar AG (i.L.) have been completed.

## Current public tender offers under the German Securities Acquisition and Takeover Act ("WpÜG"): Offers, results and analyses

### Takeover offer for shares of Hawesko Holding AG

**Tocos Beteiligung GmbH**, Hamburg ("**Tocos**"), is offering the shareholders of **Hawesko Holding AG**, Hamburg ("**Hawesko Holding**") to acquire their no-par value bearer shares of Hawesko Holding ("**Hawesko-Shares**") against a cash consideration of 40.00 euros for each Hawesko-Share during the acceptance period until December 22, 2014.

The completion conditions of the offer among other things require that, until the acceptance period expires, no resolutions for a capital increase, an amendment of the articles of association, a distribution of a special dividend or an authorization for the acquisition of own shares are passed by the shareholders' meeting of Hawesko Holding, that the management board refrains from resolving to use existing authorized capital and that Hawesko Holding or any of its subsidiaries refrains from issuing any subscription or conversion rights for new shares of Hawesko Holding. Also, during the acceptance period, Hawesko Holding or any of its subsidiaries may not enter into an agreement with a company which is not controlled by Hawesko Holding concerning the sale, transfer, encumbrance or contribution of assets which, alone or together with one or several similar agreements, has a total transaction value of more than 50 million euros. Upon expiration of the acceptance period, the last value of the day of the DAX®-Index (ISIN DE0008469008) calculated by Deutsche Börse AG has to amount to at least 7,500 points for the offer to be successful.

Tocos, which holds approx. 29.5 percent of Hawesko-Shares, is acting jointly with its sole shareholder and managing director **Detlev Meyer**, who is also a member of the supervisory board of Hawesko Holding. Tocos intends to use its voting rights to effect a change in the dividend policy for the purpose of achieving greater retained earnings, as well as capital increases, in order to strengthen Hawesko Holding's financial capacities required to expand its international business activities. While Tocos's entry into a domination and/or profit and loss transfer agreement remains undecided, further structural measures, such as a squeeze-out, are not planned.

### Mandatory offer to the shareholders of Youniq AG

**Corestate Ben BidCo AG**, Frankfurt am Main, is offering the shareholders of **Youniq AG**, Frankfurt am Main, to acquire their no-par value ordinary bearer shares of Youniq AG against a cash consideration of 1.02 euro for each share during the acceptance period until December 8, 2014.

In the context of the offer, Corestate Ben BidCo AG is acting jointly with its sole shareholder **Corestate IREI Holding S.A.** with registered office in Luxembourg. The mandatory offer was triggered by the acquisition of control of Youniq AG when Corestate Ben BidCo AG, on October 20, 2014, entered into, and completed, a share purchase agreement concerning the purchase and transfer of, in total, 6,914,441 shares of Youniq AG equivalent to approx. 66.49 percent of Youniq AG's share capital. In addition, Corestate IREI Holding S.A. and Corestate Ben BidCo AG entered into a transfer agreement on October 20, 2014, as a result of which Corestate IREI Holding S.A. contributed 1,480,003 shares of Youniq AG equivalent to approx. 14.23 percent of Youniq AG's share capital to Corestate Ben BidCo AG. As Youniq AG is controlled by Corestate Ben BidCo AG, which holds approx. 80.72 percent of Youniq AG's share capital, Youniq AG and its subsidiaries are regarded as persons acting jointly with Corestate Ben BidCo AG and with each other.

The offeror group holds the opinion that the Youniq business area Student Homes, which focuses on developing and managing student housing properties throughout Germany, is a segment of the German real estate market with potential for growth. With the acquisition of a majority shareholding in Youniq AG, which acts as holding and parent company of the Youniq group, Corestate Ben BidCo AG can indirectly participate in their platform for quick market entry.

A review of business opportunities and efficiency potential of the Youniq group will be made after the completion of the offer. Cost savings are to be achieved by downlisting the shares of Youniq AG from the regulated market to the open market segment of the Frankfurt stock exchange. Corestate Ben BidCo AG intends to initiate a squeeze-out if the squeeze-out requirements are fulfilled. It is also envisaged that Youniq AG and certain subsidiaries of Youniq AG (as principals) and Corestate Capital AG (as contractor) enter into an asset management agreement regarding the management of several properties of the Youniq group. The sale of real properties already initiated by Youniq AG is to be pursued further. Alternatively, additional capital could be made available to Youniq AG for additional growth in the business area Student Homes.

## Completed offers

### Acquisition offer for shares of Swarco Traffic Holding AG

The public tender offer of **Swarco AG**, Wattens, Austria, to the shareholders of **Swarco Traffic Holding AG**, Munich ("**Swarco TH AG**"), to acquire their no-par value bearer shares of Swarco TH AG ("**Swarco TH-Shares**") against a cash consideration of 4.00 euros for each share was accepted for 192,668 shares equivalent to approx. 2.18 percent of Swarco TH-Shares.

Including the Swarco TH-Shares for which the offer has been accepted, Swarco AG, which held approx. 93.87 percent of Swarco TH AG's share capital upon publication of the offer document, has increased its shareholding in Swarco TH AG to approx. 96.62 percent of the share capital. Swarco AG, which extended the public tender offer to reach the required shareholding of 95 percent of the share capital to initiate a squeeze-out, has therefore achieved its aim.

#### Tender offer for the acquisition of shares of aleo solar AG (i.L.)

The partial acquisition offer of **Deutsche Balaton Aktiengesellschaft**, Heidelberg ("**Deutsche Balaton AG**"), to the shareholders of **aleo solar Aktiengesellschaft (i.L.)**, Prenzlau ("**aleo solar AG (i.L.)**"), to acquire up to 710,338 registered shares of aleo solar AG (i.L.) against a cash consideration of 1.50 euro for each share of aleo solar AG (i.L.) ("**aleo Shares**"), has been accepted for 61,508 aleo Shares equivalent to approx. 0.47 percent of the share capital.

Deutsche Balaton AG, which has brought several shareholder actions against the target company, including an action for rescission and nullity of the resolution of the target company's extraordinary shareholders' meeting on April 15, 2014 concerning the dissolution of the target company, only made this offer in order to acquire additional aleo Shares, because, in view of the existing majority shareholder of the target company, its own power to influence the target company would remain limited even after a successful offer.

In the offer document Deutsche Balaton AG said it assumes that a realization value of its aleo Shares could be achieved if, after a total or partial acquisition of the aleo Shares held by Deutsche Balaton AG and the persons acting jointly therewith after completion of the offer, the majority shareholder of aleo solar AG (i.L.), which is Robert Bosch GmbH, exceeds the required shareholding to initiate a squeeze-out. Deutsche Balaton AG stated that it does not know whether, provided all requirements for a squeeze-out were fulfilled, Robert Bosch GmbH is planning a squeeze-out and, if so, what the amount of compensation then offered might be. Deutsche Balaton AG also noted that it has not made a decision whether or not to sell its aleo Shares directly or indirectly to Robert Bosch GmbH if Robert Bosch GmbH were interested in acquiring these Shares.

During the acceptance period, Deutsche Balaton AG increased its shareholding to approx. 3.18 percent of the aleo Shares (partly also through acquisitions outside the offer proceeding), so that, together with the 61,508 aleo Shares for which the offer has been accepted, it now holds 476,315 aleo Shares, which is equivalent to approx. 3.66 percent of the share capital. **Delphi Unternehmensberatung Aktiengesellschaft**, Heidelberg, one of several persons acting jointly with Deutsche Balaton AG in the context of the offer, holds additional 148,512 aleo Shares equivalent to approx. 1.14 percent of the share capital.

#### Takeover offer to the shareholders of DAB Bank AG

The offer of **BNP Paribas Beteiligungsholding AG (formerly: Skylinehöhe 80. V V AG)**, Frankfurt am Main ("**BNP Holding AG**"), to the shareholders of **DAB Bank AG**, Munich, to acquire their no-par value bearer shares of DAB Bank AG ("**DAB Bank-Shares**") against a cash consideration of 4.78 euros for each share, has been accepted for approx. 7.47 percent of DAB Bank AG's share capital. Thus, taking into account the share sale and purchase agreement with UniCredit Bank AG, Munich, regarding the acquisition and transfer of DAB Bank-Shares equivalent to approx. 81.39 percent of DAB Bank AG's share capital, the completion of which is still subject to conditions precedent, and acquisitions of DAB Bank-Shares outside the offer proceeding, BNP Holding AG has increased its shareholding in DAB Bank

AG to approx. 91.53 percent of the share capital after the offer. The completion of the offer is still subject to conditions being met, namely the receipt of certain banking regulatory approvals and the absence of objections from certain banking associations until February 5, 2015.

#### Takeover offer for shares of Sky Deutschland AG

The offer of **Sky German Holdings GmbH (formerly: Kronen tausend985 GmbH)**, Munich ("**Sky GmbH**"), to the shareholders of **Sky Deutschland AG**, Unterföhring, to acquire their no-par value registered shares of Sky Deutschland AG ("**Sky Deutschland Shares**") against a cash consideration of 6.75 euros for each share was accepted for approx. 87.45 percent of the – increased – share capital of Sky Deutschland AG. The acceptance of the offer comprised 534,902,442 Sky Deutschland Shares purchased by Sky GmbH from **21st Century Fox Adelaide Holdings B.V. (Fox Adelaide)**, including 53,914,182 new Sky Deutschland Shares issued following the exercise of Fox Adelaide's conversion rights in accordance with the terms of the Fox Adelaide Convertible Bond issued to Fox Adelaide by Sky Deutschland AG. All offer conditions have been fulfilled.

#### Takeover offer to the shareholders of Homag Group AG

The offer of **Dürr Technologies GmbH**, Bietigheim-Bissingen ("**Dürr GmbH**"), to the shareholders of **Homag Group AG**, Schopfloch ("**Homag AG**"), to acquire their no-par value bearer shares of Homag AG against a cash consideration of 26.35 euros for each share, has been accepted for approx. 2.14 percent of Homag AG's share capital. All completion conditions have been fulfilled. In addition, Dürr GmbH has acquired approx. 53.71 percent of Homag AG's share capital outside of the offer proceeding as result of the completion of share purchase agreements with several shareholders, so that Dürr GmbH holds a total of approx. 55.85 percent of Homag AG's share capital after the offer. Moreover, put and call options and a right of first refusal have been agreed for additional approx. 22.05 percent of Homag AG's share capital held by some of the shareholders being parties to the mentioned share purchase agreements.

#### Announced offers

##### Mandatory offer to the shareholders of C.A.T. oil AG

On October 31, 2014, **Joma Industrial Source Corp.**, with registered office in Road Town, Tortola, British Virgin Islands ("**Joma Industrial**"), published its acquisition of indirect control over **C.A.T. oil AG**, with registered office in Vienna, Austria, on October 27, 2014, due to acquiring the indirect control of ordinary bearer shares in C.A.T. oil AG amounting to approx. 47.70 percent of the voting rights in C.A.T. oil AG. As a result, Joma Industrial is required to make a mandatory offer to the shareholders of C.A.T. oil AG to acquire their ordinary bearer shares in C.A.T. oil AG (the "**C.A.T. oil Shares**"). Joma Industrial has also announced its intention to offer a cash consideration for each C.A.T. oil Share equaling the domestic weighted average stock exchange price of the C.A.T. oil Share during the last three months prior to the publication of the acquisition of control, which according to information from the BaFin amounts to 15.23 euros.



# takeover monthly

The **Morgan Lewis takeover monthly** is a documentation of current public tender offers in Germany which Morgan Lewis publishes for its clients and interested persons. This issue covers published and announced offers until November 21, 2014.

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