

Press release 22 February 2018

FIN-FSA obliges Danko Koncar to launch takeover bid for Afarak Group Plc shares – enforced by running conditional fine

The Financial Supervisory Authority (FIN-FSA) has, by a decision issued on 21 February 2018, obliged Danko Koncar to launch a takeover bid for Afarak Group Plc shares and imposed a running conditional fine to enforce the obligations stated in the decision. The base amount of the conditional fine is 40,000,000 million euro and supplementary amount 10,000,000 million euro per each full month during which the obligation is not complied with.

Koncar must publish a mandatory bid referred to in the Securities Markets Act within a month of the date of service of the FIN-FSA decision to him. Koncar has not yet been served with the decision as required by the law and hence the period is not yet running. The bid procedure must be launched within a month of publication of the bid, and the bid must be executed in accordance with its terms and conditions.

The purpose of the imposition of a conditional fine is to enforce the obligee to comply with the main obligation. The FIN-FSA has determined the amount of the conditional fine proportionally to the total minimum amount of the bid consideration. In setting the conditional fine and determining its amount, the FIN-FSA has also taken into account that Koncar has failed to comply with one of the key provisions of the Securities Markets Act protecting minority shareholders, which has served to undermine confidence in the securities markets.

The obligation to launch a bid is one of the key provisions of the Securities Markets Act protecting minority shareholders. The purpose of the obligation is to protect other shareholders of the company in a situation where control in the company is concentrated to a single shareholder or a group of shareholders by agreement or other form of common understanding.

The FIN-FSA considers that Koncar and entities controlled by him have acted in concert with Hino Resources Co. Ltd, Finaline Business Limited and Koncar's spouse Jelena Manojlovic in order to exercise control in Afarak. This conduct has been long-standing and systematic, and investors operating in the markets have been unaware of it. The voting rights of the persons acting in concert have exceeded the bid obligation threshold continuously at least as of 22 October 2009. Their combined voting rights in Afarak amount to approximately 41.56 percent.

The FIN-FSA has imposed the obligation to launch a bid on Koncar, since he has been an active party in acting in concert and he has had the largest interest in exercising control in Afarak. In the FIN-FSA's view, assessed as a whole, the arrangement at hand is intended among other things to hide shareholdings by allocating part of the holdings to Hino and Finaline at least in order for Koncar to avoid the emergence of an obligation to launch a bid. Due to the acting in concert, effective control in Afarak is concentrated without launching a mandatory bid for other Afarak shareholders as required by the law.

In accordance with the Securities Markets Act, the bid consideration shall be at least the highest price paid by the party under the obligation to launch a bid or by a person acting in concert with the obligee during the six months preceding the arising of the obligation to launch a bid. If the party under the obligation to launch bid or a person acting in concert with the obligee, after the arising of the obligation to launch a bid and prior to the close of the mandatory bid period, purchases shares in the target company on terms that are more favourable than those of the bid, the bid consideration shall be raised to correspond to this purchase on more favourable terms. In this case, the highest price paid for Afarak shares

was 2.50 euro per share paid by Finaline in 2011. Therefore, in accordance with the Securities Markets Act, the bid consideration in the mandatory bid should be at least 2.50 euro per share.

The decision of the FIN-FSA is not yet legally binding. Koncar has the right to appeal the decision of 21 February 2018 to the Helsinki Administrative Court within 30 days of the date of service of the decision. Information on date when Koncar has been served with the decision and on the legal validity of the decision is available at the FIN-FSA website¹.

Further information

Sari Helminen, Head of Division (absent in week 9) and Ville Kajala, Senior Policy Advisor. **Requests for interviews** are coordinated by FIN-FSA Communications, tel. +358 9 183 5030, weekdays 9.00–16.00

Appendices

FIN-FSA decision

¹ http://www.finanssivalvonta.fi/en/Supervision/Administrative_sanctions/Supervisory_measures/Pages/Default.aspx