DOING BUSINESS IN Finland

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Business Structures:
What types of business structures are permitted?

Private entrepreneur
- Works alone and makes decisions himself, responsible for the business with his personal property

General partnership (Ay)
- At least two responsible partners, no min. capital, the partners are responsible for the business with their personal property

Limited partnership (Ky)
- At least one responsible partner and one silent partner, the responsible partner is responsible for the business with his personal property, silent partner only for the invested amount

(Public) Limited liability company (Oy/Oyj)
- At least one shareholder. Share capital for private liability company is 2,500 € and for public liability company 80,000 €. Shareholders are responsible only for the invested amount

Cooperative
- At least one founder, participation shares, no minimum share capital, cooperative members are responsible with the number of the participation shares they have

Taxation: Briefly explain the country’s tax regime including rates and how rates differ based on business structures.

Private entrepreneur
- Some of the earnings are taxed as capital income, some as earned income. Tax for capital income is 30 per cent, tax for earned income varies based on the amount of taxable earned income.

General partnership (Ay)
- Earnings of the partnership are divided between partners. These earnings are taxed as partners’ capital income and/or earned income, depending on the partners’ impact to net worth.

Limited partnership (Ky)
- Earnings of the partnership are divided between partners. These earnings are taxed as partners’ capital income and/or earned income, depending on the partners’ impact to net worth.

(Public) Limited liability company (Oy/Oyj)
- The company is an independent taxpayer. Company’s taxation does not affect the shareholders taxation. Tax rate of the company is 20 %. Tax rate of dividend is 30 %

Cooperative
- The cooperative is an independent taxpayer. Cooperatives taxation does not affect to shareholders taxation. Tax rate of the cooperative is 20 %

Immigration: Summarize immigration laws, including visas available for foreign employees.

Foreign citizen needs “residence permit for an employed” to be allowed to work in Finland. EU-nationals as well as citizens of Norway, Iceland, Lichtenstein and Switzerland are exempted from this. The permit can cover multiple fields of business activities. The permit is either for fixed term or ongoing.
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<th>Foreign Investment Review and Issues: Does the government review and approve foreign investments? What factors are considered?</th>
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<tr>
<td>As a general rule no significant restrictions are applicable by government agencies to business combinations other than competition regulations. There are certain restrictions on foreign investments in sectors directly related to national defense (namely, manufacturing or trading of weapons, ammunitions, explosives or other war materials).</td>
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<th>Dealing with the Government: Identify major issues when dealing with local and federal governments.</th>
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<td>There are not major issues or difficulties when dealing with government entities. Many of the documents need to be filed as paper versions and English version of these documents rarely exist. Documents or filings need to be mainly done whether in Finnish or in Swedish. Depending on the state authority and the issue at hand, the waiting time can be even 6 months and longer.</td>
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**The most common filings:**
- Legal confirmation of possession of real estate
- Trade register notifications
- Notifications to competition authorities
- Notifications to tax authorities

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<th>Dispute Resolution and Court Systems: Summarize the court system, including the use of juries and arbitration.</th>
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| In criminal/civil cases there are three court instances.
  - Local court
  - Court of appeal
  - Supreme court

**Within administrative issues there are only two court instances**
- Administrative court
- Supreme administrative court

Processes are slow and usually take at least 12 months to get through the first instance. Arbitration proceedings are thus commonly preferred between companies. Arbitration can be freely chosen between the parties and in most cases it is legally binding.

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<th>Foreign Corrupt Practices: What are the anti-corruption, anti-bribery and economic sanction laws which impact doing business in the country?</th>
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<td>Bribery / offering a bribe is considered as a criminal act in Finland and can result up to four years of imprisonment.</td>
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Corporations can be held liable for crimes committed by their legal representatives or persons entitled to take decisions or act on behalf of the corporation (either individually or in a committee) if the actions directly or indirectly benefitted the corporation. Corporate fine of up to 850 000 € can be sentenced.

Corporations may also be held liable for criminal actions committed by individuals in the company's benefit when the management had grossly breached the duties of supervision, surveillance and control.

Companies may be protected if they have an adequate compliance program in place.

According to some sources Finland is one of the least corrupted countries in the world.
| Types of transaction: How may businesses combine? | The most common types of business combinations in Finland are:  
- Purchase of shares or assets;  
- Corporate reorganizations such as mergers, spin-offs, contributions of shares or assets;  
  - Absorption merger  
  - Combination merger  
  - Subsidiary merger  
  - Triangular merger  
  - Cross-border merger  
  - Full demerger  
  - Partial demerger  
  - Demerger into an existing company  
- Purchase of business units within insolvency proceedings;  
- Cooperation agreements such as joint ventures;  
- Takeover bids in listed companies to acquire control;  
- EU cross-border transactions; and  
- Combinations of all the above transactions |
| Competition Law: How do laws impact competition? | Finnish competition laws are harmonized with the EU competition legislation. Any abuse by one or more undertakings or association of undertakings of a dominant position are prohibited. All agreements between undertakings, decisions by associations of undertakings, and concerted practices by undertakings which have as their object the significant prevention, restriction or distortion of competition or which result in a significant prevention, restriction or distortion of competition are prohibited. In particular, agreements, decisions, or practices which:  
- Directly or indirectly fix purchase or selling prices or any other trading conditions;  
- Limit or control production, markets, technical development, or investment;  
- Share markets or sources of supply;  
- Apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or  
- Make the conclusion of a contract subject to acceptance by the other party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such a contract are prohibited. |
| Employment Relations: Briefly summarize major laws impacting employment and employee relations. | The main regulatory framework governing labour relationships in a business combination is the Employment Contracts Act and the relevant collective bargaining agreement applicable to each company. On a business transfer, the contracts of employment in the business transferred are transferred to the acquirer, who is deemed to be subrogated in the seller's position as employer of the transferred employees. The acquirer must maintain all existing employment terms and conditions, so that the employees' rights in relation to their employment are not adversely affected or altered as a result of the transfer. |
The main laws and regulations governing business combinations, depending on the business structure, in Finland are:
- Partnerships Act
- Limited Liability Companies Act
- Co-operatives Act
- Bankruptcy Act
- Relevant labour laws

Employees do not have a right to object to the transfer.

Share purchase agreements can be governed by the law chosen discretionally by the parties, most often the law applicable to the target company, but it also can be the one applicable under the purchaser or the seller’s jurisdiction. If Finnish law is chosen then the relevant laws are:
- Contracts Act;
- Sale of Goods Act

When real estate is involved the transfer is to be notarized and recorded at the Property Registry. Business combinations involving a public company listed at the Finnish Stock Exchange will require certain disclosures. Economic concentrations resulting from mergers, acquisition of control, joint ventures, subject to reaching certain thresholds need to be previously notified and approved by the Competition Authorities. Transfer tax is paid by the buyer.

The information to be made public and the type of publicity will depend on structure of the business combination and the private or listed nature of the acquirer and target. Share and asset deals of privately held companies do not generally require public disclosure. When the business combination is structured through a merger, certain publicity has to be made in the interest of employees and creditors. Listed companies must disclose immediately any information that is likely to have an impact on the stock price of the shares or on the decision of an investor to buy or sell shares. The decision on a takeover bid shall be made public without delay as well as communicated to the offeree company. After the decision it made public, it shall, without delay, be communicated to the representatives of the offeree company and the offeror company or, where there are no such representatives, to the employees.

A shareholder shall have an obligation to notify the offeree company and the Financial Supervisory Authority its holdings and proportion of voting rights (notification of major shareholding), when the proportion reaches or exceeds or falls below 5, 10, 15, 20, 25, 30, 50 or 90 (threshold) percent or two thirds of the voting rights or the number of shares of the offeree company.
**A notification of major shareholding** shall also be made when a shareholder is party to an agreement or other arrangement the effect of which would mean that the threshold is reached or exceeded or that the proportion falls below the notification threshold.

The notification of major shareholding shall be submitted without undue delay, however, no later than on the next trading day after the shareholder learned or should have learned of the acquisition or disposal or of the possibility of exercising voting rights or of a transaction as a result of which his holding or proportion of voting rights has changed or will change when the transaction takes effect. The shareholder shall be deemed to have been informed of the said transaction no later than two days after the transaction.

The shareholder need not submit the notification of major shareholding if the notification is made by a person exercising control over the shareholder.

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**Duties of directors and controlling shareholders:** What duties do the directors or managers of a company owe to the company’s shareholders, creditors and other stakeholders in connection with a business combination? Do controlling shareholders have similar duties?

Directors’ duties include diligent administration, faithful defense of corporate interests, loyalty and confidentiality. The general duty includes specific provisions regarding the misuse of an influential position and insider trading information, to prevent conflicts of interests and maintain the secrecy of all confidential information.

Directors are liable to the company, its shareholders and its creditors for damage caused by illegal acts, acts contrary to the by-laws or carried out in breach of the duties to the office. All directors are jointly and severally liable. A director can only be released from liability if he or she proves that he or she did not participate in the adoption or execution of the harmful resolution and was unaware of it, or, being aware did everything reasonably possible to mitigate it or expressly opposed the resolution resulting in harm.

In the context of business combinations affecting listed companies, the board of directors and the management of the target company are prohibited from taking any action that could jeopardize the success of a takeover bid launched against the company, except for searching competitive offers, in order to ensure that the interests of shareholders prevail over their own interests.

Controlling shareholders have no duties under Finnish law to the company or the majority shareholders in connection with a business combination other than not abusing their majority position when approving resolutions detrimental to the interest of the minority shareholders and for the benefit of the majority shareholders.
<p>| Approval and appraisal rights: | Shareholders meeting must approve the mergers and demergers with at least 2/3 of the votes. The board can decide about selling the company’s business activity within its competence. However, as a general rule is considered that if the selling of a business activity changes the company’s field of activity, the shareholders should accept the deal. |
| Hostile transactions: | ‘Hostile’ tender offers (not supported by the board of directors of the target company) are quite rare in Finland since a tender offer rejected by the target board very often results in the failure of the takeover bid. Finland has implemented the European Takeover Directive 2004/25/EC taking on the passivity or neutrality rule and the breakthrough rule, squeeze-out and sell-out rights. |
| Break-up fees – frustration of additional bidders: | Break-up fees are not governed by law in Finland. Parties can agree to use break-up fees within the scope of freedom of contract. A break-up fee can be used in letter of intent if the seller withdraws to sell to the purchaser. A break-up fee, or termination fee, is required to compensate the prospective purchaser for the time and resources used for the project. |
| Government influence: | As a general rule no significant restrictions are applicable by government agencies to business combinations other than competition regulations and specific industries where special regulations apply and depending on the particular circumstances of the transaction previous authorization or notification can be required from state, regional or local authorities. There are certain restrictions on foreign investments in sectors directly related to national defense (namely, manufacturing or trading of weapons, ammunitions, explosives or other war materials). |
| Conditional offers: | All conditions to an offer are available if so determined in the letter of intent or other pre-signing agreement approved by the parties. In a cash acquisition the financing may be conditional upon terms of the share purchase agreement or asset deal in question. |
| Financing: | There are no typical obligations of the seller to assist in the buyer’s financing. The parties to the agreement may agree on a payment schedule or, if financed by a banking institution, the financing agreement may be attached to the agreement in question. |</p>
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<th><strong>What are the typical obligations of the seller to assist in the buyer’s financing?</strong></th>
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<td><strong>Minority squeeze-out:</strong> May minority stockholders be squeezed out? If so, what steps must be taken and what is the time frame for the process?</td>
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<td>A shareholder with more than nine tenths (9/10) of all shares and votes in the company (redeemer) shall have the right to redeem the shares of the other shareholders at the fair price (right of squeeze-out). A shareholder whose shares may be redeemed (minority shareholder) shall have the corresponding right to demand that the shareholder’s shares be redeemed (right of sell-out).</td>
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<td>The redeemer shall without delay notify the company of the commencement and termination of the rights of squeeze-out and sell-out.</td>
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<td>The company shall without delay notify the commencement or termination of the rights of squeeze-out and sell-out to be registered, once the company has received the notice from the redeemer or other reliable information on the commencement or termination of the rights of squeeze-out and sell-out.</td>
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<td>Disputes about the right of squeeze-out and the redemption price shall be referred to arbitration.</td>
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<td>The fair price of the share before the initiation of the arbitration shall serve as the basis for the determination of the redemption price. The redemption price shall bear interest from the initiation of the arbitration.</td>
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<td>The redeemer shall bear the costs of the arbitration, unless the arbitrators for a special reason deem that it is reasonable to order otherwise.</td>
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<td>The redemption price shall be paid within one month of the award or judgment on the redemption becoming res judicata.</td>
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<td><strong>Cross-border transactions:</strong> How are cross-border transactions structured? Do specific laws and regulations apply to cross-border transactions?</td>
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<td>Directive 2005/56/EC on cross-border mergers was implemented in Finland by law in 2006. As a result, a common legal procedure to carry out cross-border mergers involving EU and EEA limited liability companies has been implemented, resulting in intra-community mergers becoming a common reality in Finnish market practice.</td>
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<td>On the other hand, the absence of specific regulation for non-European cross-border mergers presents legal uncertainties that can result in a time-consuming process.</td>
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<td>Waiting or notification periods:</td>
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<td>Other than as set forth in the competition laws, what are the relevant waiting or notification periods for completing business combinations?</td>
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| In share or asset deals of private companies there are no notification periods unless by-laws or shareholder agreements provide for preemption rights. Merger and demerger require a notification period of at least four months. If the deal involves real property then one must apply for registration of title to acquired property, this process can take few months. | The following trades are subject to additional regulations and permissions:  
- Mining;  
- Bookstores;  
- Printing (books);  
- Libraries;  
- Apothecaries,  
- Sales, production, distribution, importing and storing of alcohol;  
- Production of groceries;  
- Restaurant business;  
- Production, sales and storing of explosives  
- Designing, production and repairing of electronic appliances;  
- Production of electricity;  
- Transfer of electricity;  
- Banking and finance,  
- Housing agencies;  
- Post and telecommunications; and  
- Private security. | Possible payment of capital gains tax  
- Capital gains are taxed as capital income, the tax rate is 30% for private persons and 20% for legal persons.  
Transfer taxes  
- Paid by the buyer, must be paid on their own  
- Initiative  
- Tax rate is 4% when buying real property  
- Tax rate is 2% when buying shares of a housing company  
- Tax rate is 1.6% when buying corporate stocks  
- You do not need to pay transfer tax on shares and other securities sold on the Stock Exchange.  
Corporate restructuring and Group contributions  
- Loss carry forward: losses may not be deducted if more than half of the shares or shares therein during or after the loss year have changed ownership as a result of any acquisition other than inheritance or will.  
- The Tax Administration may, for special reasons, on application, grant the right to deduct loss when it is called for in view of the continued operation of company  
- Limited companies and cooperatives may, however, deduct losses only to the extent that the income of company during the tax year before loss carry forward exceeds the amount of the group contribution received by company and referred to in the Act on Group Contributions on Taxation. Tax administration may, grant permission to withdraw the entire loss if the conditions for granting group contributions under
the Act on Group Contributions for tax purposes have already been met before the change of ownership.

At the merger of companies, the losses of the transferring company are transferred to the company taking over, to the extent that the losses have arisen in the activities transferred to the taking over company. In other parts, losses are transferred in the same proportion as the net assets of the transferring company. The taxation of assets upon taxation is transferred to the acquiring communities. If there are several sources of income in the transferring company's taxation, the losses that have been established for a particular source of income are transferred to the acquiring companies that have the corresponding income source.

**Labour and employee benefits:** What is the basic regulatory framework governing labour and employee benefits in a business combination?

Most relevant regulation is in the Employment Contracts Act

When an enterprise is assigned, rights and obligations and employment benefits related to them under employment relationships valid at the time of the assignment devolve to the new owner or proprietor.

The assignor and the assignee are jointly and severally liable for the employee's pay or other claims deriving from the employment relationship that have fallen due before the assignment.

Unless otherwise agreed, however, the assignor is liable to pay the assignee employee claims that have fallen due before the assignment.

Where an enterprise is assigned by a bankrupt's estate, the assignee is not liable for the employee's pay or other claims deriving from the employment relationship that have fallen due before the assignment, except if controlling power in the bankrupt enterprise and in the assignee enterprise is or has been exercised by the same persons on the basis of ownership, agreement or other arrangement.

**Restructuring, bankruptcy or receivership:** What are the special considerations for business combinations involving a target company that is in bankruptcy or receivership or engaged in a similar restructuring?

The main advantage when the target company is involved in an insolvency or bankruptcy proceeding is the possibility of not having to buy the company itself but its productive units.

Where an enterprise is assigned by a bankrupt's estate, the assignee is not liable for the employee's pay or other claims deriving from the employment relationship that have fallen due before the assignment, except if controlling power in the bankrupt enterprise and in the assignee enterprise is or has been exercised by the same persons on the basis of ownership, agreement or other arrangement.
Anti-corruption and sanctions:
What are the anti-corruption, anti-bribery and economic sanctions considerations in connection with business combinations?

Giving of bribes: A person who promises, offers or gives to a public official in exchange for his or her actions in service a gift or other benefit intended for him or her or for another, that influences or is intended to influence or is conducive to influencing the actions in service of the public official, shall be sentenced for the giving of bribes to a fine or to imprisonment for at most two years. Also, a person who, in exchange for the actions in service of a public official, promises, offers or gives the gift or benefit referred to in subsection 1 shall be sentenced for bribery.

Aggravated giving of bribes: If in the giving of bribes the gift or benefit is intended to make the person act in service contrary to his or her duties with the result of considerable benefit to the briber or to another person or of considerable loss or detriment to another person, or the value of the gift or benefit is considerable and the bribery is aggravated also when assessed as whole, the offender shall be sentenced for aggravated giving of bribes to imprisonment for at least four months and at most four years.

Giving of bribe in business: A person who promises, offers or gives an unlawful benefit (bribe) to a person in the service of a business, a member of the administrative board or board of directors, the managing director, auditor or receiver of a corporation or of a foundation engaged in business, a person carrying out a duty on behalf of a business, or. A person serving as an arbitrator and considering a dispute between businesses, between two other parties, or between a business and another party intended for the recipient or another, in order to have the bribed person, in his or her function or duties, favour the briber or another person, or to reward the bribed person for such favouring, shall be sentenced, unless the act is punishable on the basis of Chapter 16, section 13 or 14, for giving of bribes in business to a fine or to imprisonment for at most two years.

Aggravated giving of bribes in business: If in the giving of bribes in business the gift or benefit is intended to make the person in question serve in his or her function in a manner that results in considerable benefit to the briber or to another person, or in considerable loss or detriment to another person, the gift or benefit is of considerable value, and the giving of a bribe in business is aggravated also when assessed as a whole, the offender shall be sentenced for aggravated giving of bribes in business to imprisonment for at least four months and at most four years.