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The Operation of Cross-Border Merger in the Luxury Industry

Supervisor
Ch. Prof. Federico Onnis Cugia

Graduand
Giorgia Dalla Pace
Matricolation number
989295

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INTRODUCTION

"For 2000 years we have been declaiming luxury and it has always been loved". This quote from Voltaire, already in the 1700s, exemplifies what the world of luxury is: fascinating and complicated, loved and hated. Luxury is of fundamental importance nowadays, and this elaborate aims to understand its dynamics and study its characteristics. Paper that presents the analysis of one of the largest multinational groups in the fashion field: LVMH.

The products resulting from this industry become necessary, not because they really are in some way, but for the mere need to satisfy the desire to feel special. They are goods that can make the buyer dream, in search of a possibility of personal redemption, or simply in search of living a dream.

The luxury market, however, is not as simple as described by the common imagination: the companies operating in this sector have witnessed a growing competition, an unstoppable development of this world, with the birth of always new very attractive realities.

And it is in the face of this new reality that companies have had to deal with the economy, finance, logic and strategies of this sector, strategies that become more and more competitive and captivating every day.

The paper aims to study and analyze the attack and defense strategy of the LVMH group. This group was born with a small leather goods shop that goes by the name of Louis Vuitton, thanks to strategies conceived at the table, it has managed to establish itself on the luxury market, becoming, to date, one of the largest multinational groups.

A group of such power also thanks to the continuous development of new products, of innovative designs, thanks to the focus on financial strategies considered of fundamental importance in a sector such as that of luxury (for example national and cross-border mergers). All this has allowed this group to guarantee a certain stability, to focus on exponential growth, and to decisively face the economic and financial crisis that has involved all sectors and not just this market.

At this point it is clear that every market, especially in competitive sectors such as the one in question, today it is necessary to focus on financial strategies and operations, which allow the company to grow in a stable and fast way. Mergers, both national and cross-border, represent a fundamental resource for companies: the report aims to demonstrate how, despite this type of operations presenting high risks, at the same time they are the most effective strategy for increasing the value of a business. (Snichelotto Marco & Pegoraro Alessandro, 2009)

The thesis is divided into four chapters in which the characteristics of these operations will be analyzed, the trend of the fashion sector in relation to mergers and, finally, the case of the multinational group LVMH.

The first chapter aims to analyze in an analytical way the history and development of the regulations on merger operations, both at a national level and then, specifically, at a cross-border level. The story will be reconstructed, through the study of the Third and Tenth Directives and, above all, the most important case in this context, which paved the way for cross-border mergers, the SEVIC case. This legislation is very complex, but at the same time very detailed and specific.

The second chapter specifically considers cross-border mergers operations, studying their multiple characteristics, identifying their specific process, analyzing the reasons underlying the choice of this strategy by companies that aim at growth through external lines. The objective of this first part is to understand whether merger operations can be considered as an opportunity to be seized efficiently in order to aim for an increase in value, or whether they are highly risky operations.

The third chapter focuses on the specificities of the luxury sector, aiming to offer a general overview of the characteristics of this sector, and then focusing on the reasons why a company decides to undertake this type of path. The analysis of the sector is of fundamental importance to understand how this type of massacre is suited to the characteristics of such a complex world.

The last chapter, on the other hand, focuses solely and exclusively on the LVMH group, and on the merger operations as a growth strategy implemented by this company. Specifically, the chapter aims to study the cross-border merger between the famous LVMH group and Tiffany, the historic US luxury jewelry brand. The LVMH case demonstrates how an operation of this caliber, if well studied, can guarantee the success of the operation itself and consequently of the group.

CHAPTER 1. A GENERAL FRAMEWORK OF EUROPEAN COMPANY LAW

1.1 INTRODUCTION TO EUROPEAN COMPANY LAW

European company law is the basis of the internal market, through which the freedom of establishment of companies is facilitated by improving transparency, legal certainty, and the control of their operations. It is necessary to start the analysis from the idea that companies are creatures of law and, specifically, they are creatures of national law, therefore, their functioning and incorporation are regulated by national legislation, as declared by the Court of Justice, in 1988, in case C-81/87 between the Queen and the Daily Mail and the General Trust. (C-81/87, The Queen v Daily Mail and General Trust, 1988)

A company is made up of people and assets, organized by rules, the purpose of which is to make a profit. These rules can be determined in different ways: from the will of the corporate bodies, from the forces that make up the market, or from the contract or agreements, finally, they can be determined according to law. (Melvin Eisenberg, 1989)

Although there are some differences between the different jurisdictions, there is a common basic structure within company law, so all companies have similar legal characteristics, and consequently similar legal problems. In particular, five characteristics common to all jurisdictions may be attributed and recognised: legal personality, limited liability, transferable shares, delegated management within a board structure and investor ownership. Consequently, the main function of company law is to provide a legal form in which all five important features are present at the same time. The second fundamental function of company law is expressed in the reduction of ongoing costs of organization through the form of the company.

Much of company law can be interpreted as a response to three main sources of opportunism that are intrinsic to the company: conflicts between managers and shareholders, conflicts between controlling and non-controlling shareholders, and conflicts between shareholders and other contractual counterparties of the company, including creditors and employees. These three sources of opportunism are defined as "Agency Problems". (Armour, Enriques, & al., 2017)

Continuing the analysis, we can move on to the qualification of company law as "European", that is the law applicable to all the companies established or operated in the European Union. So, every company established in any of the EU Member States are governed by the company law of the Member States, and the adoption of the law must respect the rules and principles that make up the ECL, moreover, the EU institutions can issue acts that are directly applicable to all citizens or companies established in Europe, thus prevailing over the company law of the Member States.

It is of fundamental importance to analyse some of the significant articles from the Treaty on the Functioning of the European Union (TFEU). The first important article is Article 288 TFEU which states that: the institutions may adopt regulations, directives, decisions, recommendations and opinions in order to exercise the competences of the Union.

Each of these has its own specific character: the regulation is general in nature, binding and must be directly applicable; a directive, on the other hand, is binding in the objective to be pursued, but leaves the choice of the form and means of achieving it to the national authorities; the decision is binding, in all its elements, finally, the recommendations and opinions have no binding force whatsoever.

Subsequently, Article 258 of the TFEU regulates the cases in which a member state fails to fulfill an obligation under the treaties: in this case the commission can issue an opinion after giving the interested State the opportunity to submit its observations and to comply within the deadline, otherwise the commission can appeal to the European Union Court of Justice.

In the analysis of the fundamental articles in this context, we must also include Article 267 TFEU, which makes it clear that the Court of Justice has, in any event, jurisdiction to give preliminary rulings:

- the interpretation of the Treaties;
- an analysis of the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union. Finally, if a question is raised before a court of a Member State, the latter may request the Court to give a ruling thereon.

1.2 FREEDOM OF ENSTABLISHMENT

The key objective of the Treaty, in terms of freedom of establishment, seems to be to create a single European market, in which there is no kind of frontier, consequently, any exchange can take place, be it an exchange of persons, goods, services, and capital.

Specifically, there are four different basic types of freedom, although only two types of freedom are significant for the analysis in question: the principle of freedom of establishment that allows an economic operator to carry out an economic activity on a stable and continuous basis in one or more Member States; and the principle of freedom to provide services that enables an economic operator providing services in one Member State to offer services on a temporary basis in another Member State, without having to be established.

In analyzing this principle, it is necessary to take into consideration two important articles: 49 and 56 of the TFEU. The articles just mentioned are the result of changes, the original articles on freedom of establishment were respectively articles 43 and 48 of the EC.

In this paragraph they will be cited according to the current numbering, while in illustrating the case C-411/03 called also SEVIC case, a case of fundamental importance in the matter of freedom of establishment, they will be mentioned according to the numbering in force at the time of the sentence.

Article 49 TFEU specifies that any kind of restriction on the freedom provide services within the Union in respect of nationals who are established in a Member State other than that of the person for whom the services are intended is prohibited. In addition, Article 49 provides that freedom of establishment also includes the right to pursue their activities independently and to set up and manage undertakings, in particular companies or firms, under conditions laid down by the Member States in which that establishment is carried out for its nationals.

While Article 56 of the TFEU provides that any form of restriction on the freedom of establishment of citizens of a Member State in the territory of another Member State is prohibited. This prohibition also extends to all entities identifiable as agencies, branches, or subsidiaries.

Starting from these assumptions, two types of freedom of establishment can be distinguished:

- Primary establishment: the right to set up and manage companies or businesses in any Member State, under the same conditions as for its own citizens.
- Secondary establishment: the right to open agencies, branches, or branches in any Member State, under the same conditions as for its own citizens.

In the next paragraph we will go to make a complete overview of the history of company law, trying to understand how this has changed over the years, and how it was then unified to create a clear and comprehensive legislation. Specifically, the Third and Tenth Directives will be analysed, covering domestic and cross-border mergers and acquisitions respectively.

1.3 HISTORICAL EVOLUTION OF COMPANY LAW

For the sole purpose of harmonizing the legislation concerning the company law of the Member States, the European Parliament and the Council have issued numerous directives, pursuant to article 50 of the TFEU.

The first step was for the abolition of restrictions on the freedom of establishment within the EEC, whose primary objective was also to clearly coordinate the guarantees required for companies and businesses.

At this point, the General Commission presented a Proposal for a Council Directive, with the aim of coordinating and making equivalent the guarantees required by the Member States, in accordance with article 58, to protect above all the interests of members and third parties of the enterprise.

The draft was not only approved but was later modified and renamed as the "First" draft directive on company law, the addition of the first was already a clear indication that the Commission planned to propose other proposals. The concept of "first" expresses the intention to have a follow-up and, therefore, a series of directives.

Twelve regulations have been presented, of which ten were approved, some, such as the fifth and ninth directives, have never been definitively approved and, therefore, are always in a draft phase. Many of the approved directives were later modified and revised, some, however, were directly replaced by an updated legislation.

In addition to the company law directives, further directives have been issued, covering sectors other than the latter: directives on financial markets, transparency directives, Market Abuse and Market in Financial Instruments, the takeover bid directive, the shareholder rights directive, and others.

It is necessary to ask what the role of the legislation of the company law is: to answer this question we can start from some considerations. In the first place, the EC plays a fundamental role in the development of Community company law legislation, in the same way that the institutions might also be thought to have some relevance to the company law of the Member States. The truth is that the relevant directives and regulations have not had a strong influence on national company law or on the management of companies. This is due to several reasons:

- The company law in question does not include fiduciary duties and shareholder remedies.
- The rules are not meaningfully applied.
- Community company law tends to be applied and interpreted differently depending on the Member State of reference.
- The EC legislated on rules that would also be decided autonomously by the Member States.
- Most of the regulations can be considered as optional.

On the other hand, national company laws contain some fundamental company rules, which have a strong impact on the management of companies. In addition, the corporate law burden across the EU has been increased, thus ensuring some benefits for some interest groups. Above all, company law will always have a fundamental impact on the dynamics of regulatory competition. Eventually, manufacturing has in its turn become something of an industry, having to employ many officials. (Enriques, 2006)

The company law of the EU Member States is not uniform, however the legislation integrates well, especially considering that there is freedom for individuals to set up companies recognized as such throughout Europe, considering that there is the possibility finally, if one considers that there is the possibility of reorganizing one's business beyond the borders of the Member States, it can therefore be said that the attempt at harmonization has nevertheless led to the desired objectives.

Of course, there is always room for improvement, for example by trying to combine the rules on cross-border mergers. It goes without saying that the attempts at improvement will never cease, and on the contrary will increasingly lead to harmonized standards. (Enriques, 2017)

The European Model Company Act (EMCA), on the other hand, pushes towards an approach to regulatory competition, the general statute of which can be issued by the Member States in its entirety, or through the adoption of selected provisions.

The EMCA gives Member States the possibility to take advantage of harmonized company law, but still offers the possibility for each of them to decide whether to offer their companies the advantages offered by harmonization.

The main advantage is that similar conditions are established across the EU for the company's shareholders, facilitating investment and cross-border trade. As the EMCA is not a mandatory tool, it can promote regulatory competition as much as it can serve as a tool for harmonization and convergence between Member States' company laws.

The EMCA is seen as a dynamic legislative act capable of responding quickly to changes in market conditions, therefore, it becomes a tool capable of overcoming the inflexible and traditional legislative process.

The EMCA exposes the possibility of establishing provisions at both the hard law and soft law levels, considers the advantages of a comparative and functional approach to company law, and recognizes the relevance of law and economics in many parts of the ECL. (EMCA Group, 2017)

1.4 THE THIRD COMPANY LAW DIRECTIVE

For the analysis in question, it is important to dwell on the analysis of two Directives specifically: the Third and the Tenth. These Directives regulate and provide a regulatory framework for national and cross-border mergers, which will then be unified within Directive 1132/2017/EU.

The Third Company Law Directive 78/855/EEC, later replaced by Directive 2017/1132/EU, concerns mergers between public limited liability companies in a single EU country, also provides for the protection of shareholders, creditors and of employees. The Third Directive was subsequently supplemented by the Tenth Directive 2005/56/EC on cross-border mergers of limited liability companies, i.e., mergers involving companies based in different EU countries.

In some respects, the Third Directive was also supplemented by the Sixth Directive 82/891/EEC, on the division of public companies, this directive also regulates the protection of shareholders, creditors, and employees.

Harmonization is envisaged for the following reasons:

- To protect the interests of shareholders and third parties during a merger.
- So that the shareholders participating in the merger are informed and their rights are protected. If the latter agree, an independent expert's examination of the project can be avoided.
- Creditors and debenture holders, and other persons who have claims on the merging companies, must be protected so that the merger does not affect their interests.

As regards the nullity of a merger or division, the Third and Sixth Directives limit the reasons. It is envisaged that before declaring the nullity of the operation, the possibility is given to remedy the defects and restricting the term within which the nullity procedure can be initiated. (Official Journal of the European Communities , 1978)

After having listed the reasons for which the third directive was written and approved, the actual analysis of the text of that directive can be made and, therefore, of the articles contained in.

This Directive governs mergers for the acquisition of one or more companies or for the formation of a new company. As regards the merger by acquisition, it is meant the operation by which one or more companies are liquidated and transfer all their assets and liabilities to another company, in exchange for the issue of shares and a cash payment, not exceeding 10% of the nominal value, or in the case of which they have no nominal value, of their accounting par value. The same process also occurs in the case of a merger by formation of a new company, with the difference that one or more companies join together to form a new one.

The merger by acquisition process begins with the drafting of the merger plan by the management and management bodies of the company. The merger plan must be published at least one month before the general meeting, which must then be expressed in favor or against. Approval by the general meeting is not required if the following conditions are fulfilled:

- The publication of the merger plan is presented and published at least one month before the general meeting.
- During the same period of time, the shareholders must have inspected the merger project at the company's registered office.
- Shareholders who hold a minimum part of the capital (5%) must have the possibility to request a general meeting.

Thereafter, the management and management body must prepare a detailed written report in which they clarify the merger plan, and one or more indipendent experts must examine the merger plan and, in turn, prepare a written report. In the report drawn up by the independent experts it must be indicated whether the share exchange is fair and reasonable, the methods used must be indicated, and whether these methods are suitable for the matter under consideration.

At this point, all the documents must be published at least one month before the general meeting and the shareholders must be able to consult them, specifically the documents in question are:

- The dreft term of merger;
- The annual accounts and annual reports;
- The accounting statement;
- The reports of the administrative and management body;
- The report of the independent experts.

The documents in question must be drawn up and certified in the proper legal form, even if no judicial or administrative preventive control is envisaged. The legality of mergers. Subsequently, the notary must certify that this form has been respected and must certify its validity the legal acts and formalities provided for by the law.

The law of the Member States decides when the merger takes effect. A merger will have the following consequences:

- The transfer of all assets and liabilities to the acquiring company;
- The shareholders of the company that has been acquired become shareholders of the acquiring company;
- The company subject to the acquisition ceases to exist.

The laws of the Member States require the completion of special formalities for the transfer of certain assets, rights and duties of the acquired company.

In order for the nullity to be declared, a series of conditions must exist, which must be fully satisfied, they are:

- The nullity must be ordered by a court sentence;
- Invalidity can be declared in the event of lack of legal and administrative control, or in the event that the legal form of the documents to be presented has not been respected;
- The cancellation procedures cannot be started more than six months from the date of the merger;
- The nullity cannot be declared if the defects are remedied within a certain period;
- The sentence declaring the nullity of the merger must be made public;
- If a third party wants to challenge the sentence, he must do so within six months of the publication of the sentence;
- The sentence of nullity cannot prejudice the validity of the obligations due;
- The companies participating in the merger are jointly and severally liable for the obligations of the company being acquired.

All the process that has been illustrated up to this point in the event of a merger by acquisition. it applies in the same way in the event of a merger by incorporation of a new company.

After the harmonization of the legislation on mergers and divisions at national level was carried out, it was also necessary to harmonize cross-border mergers, which are those between different countries.

In the next paragraph we will analyze the case C-411/03, a case of fundamental importance in the matter of cross-border mergers. As a result of this case, it became necessary to have a general directive clarifying how a cross-border merger takes place.

1.4 SEVIC CASE

At this point it is necessary to introduce a case of fundamental importance in the field of cross-border mergers, case C-411/03. The reference was made in the context of an action brought by SEVIC Systems AG, against the decision of the local court rejecting its application for registration in the national commercial register of the merger between them and Security Vision Concept SA, decision based on the German law that provides merger only between companies in the same territory. At this point, the local court made a request for a preliminary ruling for the interpretation of Articles 43-48 EC regarding the freedom of establishment. (C-411/03, SEVIC System AG, 2005)

The legal context on which the dispute is based is defined by the German law on processing companies, which provides that legal person established in Germany can be transformed: by merger; by division; by transfer of assets; for change of legal form. Legal entities may merge by dissolution without liquidation:

- by way of absorption through the transfer of all the assets of one or more legal entities (the absorbed entities) to another existing legal entity (the absorbing entity) or

- by the allocation of shares in the absorbing entity or the new entity to the shareholders of the absorbed entity.

The merger contract concluded in 2002 between SEVIC and Security Vision provided for the dissolution without liquidation of the latter company and the transfer of the whole of its assets to SEVIC, without any change in the latter's company name.

As said before, the German court rejected the application for registration of the merger in the commercial register, the law allows only for mergers between legal entities both established in Germany. Therefore, SEVIC proceeded with the appeal against the rejection decision of the German court before the Landgericht Koblenz.

For the Landgericht Koblenz, the question whether registration of the merger between companies in the commercial register can be refused depends on the interpretation of Articles 43 EC and 48 EC in the context of mergers between companies established in Germany and companies established in other Member States ('cross-border mergers'). In these circumstances, the Landgericht Koblenz decide for a preliminary ruling based on the following question: "Are Articles 43 and 48 EC to be interpreted as meaning that it is contrary to freedom of establishment for companies of different countries?"

Cross-border merger operations respond to the needs for cooperation and consolidation between companies established in different Member States. They constitute methods of exercise of the freedom of establishment, important for the proper functioning of the internal market. Member States are required to comply with the freedom of establishment laid down by Article 43 EC. German law establishes a difference in treatment between companies according to the internal or cross border nature of the merger. Such a difference in treatment constitutes a restriction within the meaning of Articles 43-48 EC.

The German and Netherlands Governments argue that internal mergers are subject to conditions more particularly designed to protect the interests of creditors, minority shareholders and employees, and to preserve the effectiveness of fiscal supervision and the fairness of commercial transactions. In that respect, it is not possible to exclude the possibility that imperative reasons in the public interest may, in certain circumstances and under certain conditions, justify a measure restricting the freedom of establishment.

The court hereby rules: articles 43 EC and 48 EC preclude registration in the national commercial register of the merger by dissolution without liquidation of one company and transfer of the whole of its assets to another company from being refused in general in a Member State where one of the two companies is established in another Member State. Whereas such registration is possible, on compliance with certain conditions, where the two companies participating in the merger are both established in the territory of the first Member State. (C-411/03, SEVIC System AG, 2005)

1.6 THE TENTH COMPANY LAW DIRECTIVE

After the case C-411/03 between Sevic and Security Vision, it was necessary to have complete legislation on cross-border mergers, therefore the Tenth Directive was created, the reasons for its transposition are expressed as follows:

- This Directive aims to facilitate cross-border mergers of limited liability companies, the laws of the Member States should, in fact, allow for mergers between such types of companies based in different countries of the Union.
- Each company participating in the cross-border merger remains subject to the provisions and formalities of national law that would be applied in the case of a national merger, no provision should provide for restrictions on the freedom of establishment, unless they are justified by the Court of Justice of the European Union.

- The common draft term of a cross-border merger should be drawn up in the same terms for each of the companies concerned in the various Member States.
- The joint draft of a cross-border merger should be published at least one month before the completion of the merger, in order to protect the interest of the members or others.
- In order to limit costs, it would be necessary to provide for the preparation of a single report by one or more experts on behalf of each of the companies participating in the merger, intended for all shareholders.
- The control of the legality of the merger decision-making process should be carried out by the competent authorities, while the control of the legality of the cross-border merger should be carried out by the national authority having jurisdiction over the company resulting from the cross-border merger.
- Finally, in order to protect the interests of shareholders and third parties, the legal effects of the cross-border merger must be specified. Moreover, it should not be possible to declare nullity after the date on which the merger takes effect.

Cross-border mergers are only possible between companies that can merge under the national regime. In addition, the law of the Member States concerned must comply with the provisions and formalities of national law to which they are subject.

As regards the merger process, the starting point is the draw up of the common draft term of the cross-border merger plan by the administrative and management body within the company.

The draft-term of cross-border merger must be then published at least one month before the date of the general meeting.

Some data concerning the merger must then be published in the national gazette of that Member State:

- The type, name and registered office of each merger society;
- The register of all documents required for the implementation of the merger;
- The provisions regarding the law of creditors and any minority shareholders of the merger society.

Subsequently, the report must be drawn up, intended for the members, in which the economic and legal aspects underlying the merger are reported, the report is drawn up by the administrative and management body. The report must be made available to members and workers at least one month before the general meeting.

A report must also be drawn up by one or more independent experts, also published a month before the general meeting. It is the general meeting that decides whether or not to approve the cross-border merger.

The review of the legality and validity of the merger must be carried out by a competent authority, which could be the court, notary or other authority, which, following the audit carried out, must issue a certificate attesting definitively that the acts and formalities prior to the merger have been properly carried out.

After examination of all the documents in question, the law of the Member State shall determine the date on which the cross-border merger takes effect. The merger is completed through the publication and the register of the resulting company.

A cross-border merger has the following consequences:

- All assets and liabilities of the company will be transferred to the acquiring company or the new company;
- The shareholders will become shareholders of the acquiring company or of the new company;

- The company subject to the acquisition ceases to exist.

If the law provide the completion of some formalities, these will be carried out by the resulting company from the cross-border merger. No shares of the acquiring company will be exchanged for the shares of the company being acquired.

1.7 CONCLUSION

A company that is incorporated could subsequently be subjected to liquidation or dissolution, however there are some particular cases in which the company itself is liquidated, without, however, being necessarily dissolved: in the case of mergers, divisions and conversions transaction.

In the cases in question, therefore, the company is not dissolved, but its business is continued through the new company or companies into which it transformed, into which it was merged or into which it was divided.

The ECL, as has already been shown above, deals with mergers and divisions of companies only at national level: as has been seen above, the rules governing such transactions were contained in the third and sixth Directives. To date, these two directives have been reformulated, re-proposed and both included in Directive 2017/1132/EU, specifically this argument in Articles 87 to 117 and Article 135 to 160 of Directive 2017/1132/EU.

The ECL, following the case C-411/03 between Sevic and Security Vision in 2005, also governs cross-border mergers, the Tenth Directive, in fact, provided for the set of rules governing this operation, this latter directive was also then included in Directive 2017/1132/EU (Articles 118-134 Directive 2017/1132/EU).

In addition, in 2019, Directive 2019/2121/EU made further changes to what has already been announced, and modified and integrated Directive 2017/1132/EU. Two further new aspects have been introduced regarding cross-border divisions (articles 160 bis-160 u directive 2017/1132/EU) and cross-border conversions (articles 86 bis-86 t directive 2017/1132/EU).

Following this in-depth analysis of EU company law on national and cross-border mergers, it emerged that not only the history of company law is full of changes, but also that it is full of detailed regulations governing such transactions.

In the next chapter, Directive 2017/1132 / EU on cross-border mergers will be analyzed. Starting from the study and definition of a cross-border merger, the process of this transaction and the fundamental types of merger will be investigated, trying to understand in which contexts one model is preferable over another, and then trying to understand what are the reasons that push one or more companies to evaluate this type of growth strategy.

CHAPTER 2. CROSS-BORDER MERGER

2.1 INTROUCTION TO CROSS-BORDER MERGER

Analysing the current market situation, it can be seen how the conditions of the economic environment have changed. To date, these changes no longer guarantee favourable growth for our companies.

The economic operators have identified in the strategy composed of growth - diversification - investment in resources, the strategic imperative to compete in the market. However, there are still very few companies that are in possession of sufficient reserves of financial and managerial resources to be employed in internal growth.

The most valid and increasingly considered alternative is that of line growth external, i.e., through M&A, merger, and acquisition. The preference for this type of operation is determined by the faster speed with which you think you can achieve the desired goal.

M&A operations can be defined as external growth processes through which a company obtains the skills and resources necessary to implement a certain strategy, acquiring another company already started. Through this type of operation, undervalued companies are identified within the market they can be an excellent growth investment.

Merger and acquisition must be understood in organizational terms, that is, as a total or partial integration of the operations of the companies involved within a single structure. (Snichelotto Marco & Pegoraro Alessandro, 2009)

It is important to underline those mergers and acquisitions are not only taking place at a national level, but more and more companies are showing their interest in the international market. M&A operation on several countries belonging to Member States is defined as cross-border mergers.

2.2 DEFINITION OF CROSS-BORDER MERGER

The Cross-Board Mergers provisions enable two or more limited liability companies (legal personality and share capital) to engage in trans-frontier mergers. The resulting company may be incorporated in a member state different from those of the participating companies.

The rules on cross-border mergers appear to have some advantages on the statute for a European company as a method of merging companies across borders. The Company resulting from a Cross Border Merger will be a company subject to a national legal order, while a resulting European company from a merger it will have a complex legal regime.

To provide a complete picture of cross-border merger operations, it is necessary to examine articles 118-133 of the Directive 2017/1132/EU and the Tenth Company Law Directive:

Article 118 Directive 2017/1132/EU (ex-art. 1, Directive 2005/56/EC), concerning the general provisions of cross-border merger. This chapter applies to mergers of limited liability companies incorporated in accordance with the law of a Member State and having their registration office, central administration, or principal place of business within the Union, provided that at least two of them are governed by the laws of different Member States (referred to as 'cross-border mergers').

Article 119 Directive 2017/1132/EU (ex-art. 2, Directive 2005/56/EC), giving the definitions. For the purposes of this chapter, by "limited liability company", we mean:

(a) a company of a type listed in Annex II, or

(b) a capital company with legal personality, having separate assets which serve alone to cover its debts, and which is subject, under the national law governing it, under the conditions relating to guarantees to protect the interests of shareholders and others.

Merger means an operation whereby:

(a) one or more companies, dissolved without liquidation, transfer their assets and liabilities to another existing company, the acquiring company. In exchange for the issue to its shareholders of securities or shares representing the capital of such other company and, if applicable, a cash payment not exceeding 10% of the face value, or, in the absence of a nominal value, the accounting parity of those stocks or shares.

(b) two or more companies, dissolved without being liquidated, transfer their assets and liabilities to a company they form, the new company. In exchange for the issue to its own shareholders of securities or shares representing the capital of the new one company and, where applicable, a cash payment not exceeding 10% of the face value, or in the absence of a par value, the book par value of such securities or actions.

(c) a company, upon dissolution without being put into liquidation, transfers all its assets and liabilities to the company that holds all the securities or shares representing its capital.

In 2019, as anticipated, some changes were made to Directive 2017/1132 / EU, for example, point (d) was added to this article, which reports the following modification: at the time of the merger, the issue of new shares is no longer envisaged if a person directly or indirectly holds all the shares of the companies participating in the merger or if the members of the companies participating in the merger hold their own securities and shares in the same proportion in all the companies participating in the merger.

Article 120 Directive 2017/1132/EU (ex-art. 3, Directive 2005/56/EC), regarding the further provisions concerning scope. Notwithstanding Article 119 (2), this chapter shall also apply to mergers where the law of at least one of the Member States interested party allows the cash payment not to exceed 10% of the nominal value. Or, in the absence of a nominal value, of the nominal book value of the securities or shares representing capital of the company resulting from the cross-border merger.

Article 121 Directive 2017/1132/EU (ex-art. 4, Directive 2005/56/EC), about the conditions relating to cross-border mergers. Unless otherwise specified in this chapter:

(a) Cross-border mergers are only possible between types of companies which may merge under the national law of the Member States concerned, and

(b) a company participating in a cross-border merger complies with the provisions and formalities of the national law to which it is subject. Laws of a Member State that allows its national authorities to object to an internal merger for reasons of public interest, shall also applies to a cross-border merger in which at least one of the companies participating in the merger is subject to the law of that Member State.

The provisions and formalities referred to in paragraph 1 include those relating to the decision-making process relating to the merger and, considering the cross-border nature of the merger, the protection of creditors of the acquiring companies, bondholders e holders of securities or shares, as well as employees, as regards rights other than those governed by Article 133. A Member State may, if necessary, of companies participating in a cross-border merger and governed by its law, adopt provisions to ensure adequate protection of the minority for members who opposed the cross-border merger. (Official Journal of the European Union, 2017)

2.3 PROCESS OF CROSS-BORDER MERGER

From an analysis based on the models proposed by the consulting firms, it clearly emerges that there is a separation of the process of acquisition in four fundamental stages:

1 Selection;
2 Evaluation;
3 Negotiation;
4 Integration.

This separation should be considered only from a strictly theoretical point of view since the actual realization can only be determined by the continuous interaction between the various stages. (Snichelotto Marco & Pegoraro Alessandro, 2009)

The process of forming a cross-border merger is divided into different phases regulated by articles from 122 to 131 of Directive 2017/1132/EU.

The management or administrative body of each of the companies participating in the merger draws up the joint project of a cross-border merger. The common-draft of a cross-border merger must include the following information to be considered valid:

(a) the form, name, and registered office of the participating companies or those proposed for the cross-border merger.

(b) the ratio applicable to the exchange of securities or shares representing the share capital and the amount of the payments.

(c) the terms for the assignment of securities or shares representing the capital of the company resulting from the cross-border merger.

(d) the probable employment repercussions of the cross-border merger.

(e) the date from which the holders of the right of shares will be able to share the profits and any special conditions affecting that right.

(f) the date from which the transactions of the participating companies and the resulting company will be treated for accounting purposes.

(g) the rights conferred on shareholders who enjoy special rights or on the holders of securities other than shares representing the share capital, or the proposed measures concerning they.

(h) the special advantages granted to experts, members of the administrative, management, supervisory or control bodies of the incorporated companies.

(i) the articles of association of the company resulting from the cross-border merger.

(j) information on employee involvement and their rights to participate in the company resulting from the cross-border merger pursuant to article 133.

(k) information on the assets and liabilities that come transferred to the company following the merger.

(l) the dates of the accounts of the merging companies used to establish the terms of the cross-border merger.

Two points were added later:

(m) the cash allowance for members must be in accordance with the provisions of article 126a.

(n) any guarantees offered to creditors, such as guarantees or pledges.

The common draft term of the cross-border merger must be published in the manner prescribed by the laws of each of the Member States for each of the participating companies, at least one month before of the general meeting which must deliberate on the matter. The companies participating in the merger are exempted from the obligation to publish if they make the common draft term for the merger available to the public on their website, free of charge, for a continuous period starting at least one month before the date set for the general meeting and ending no earlier than the conclusion of that meeting.

By way of derogation from the second subparagraph, Member States may require publication to be made through the electronic platform or may require such publication to be made on any other website designated by them for this purpose. If Member States make use of one of these possibilities, they must ensure to all the companies that there is no necessity for a specific fee for such publication. In any case, the Member States have the possibility to pass on the costs related to the electronic platform to the companies.

Member States may require companies to keep information for a specific period after the general meeting on their website or on the central electronic platform, they may also determine the consequences of a temporary interruption of access to the website or of the central electronic platform, caused by technical or other factors.

The following information must be published in the national bulletin of Member State to which the company in question belongs:

(a) the type, name, and registered office of each participating company.

(b) the register in which the documents are deposited, and the number of registrations.

(c) the indication, for each of the companies participating in the merger, of the methods adopted for exercising the rights of the creditors and any shareholders.

The management or administrative body must draw up a report for the members in which the legal and economic aspects, and the consequences of the cross-border merger for shareholders, creditors and employees must be explained. The report must be made available to all, at least one month before the general meeting. If the employee representatives express an opinion on this report in good time, this must be attached to it.

Thereafter, an independent expert report must be drawn up for members and made available at least one month before the date of the general assembly. Independent experts can be natural or legal persons, according to the law of the Member States. One or more independent experts, who can be appointed by a judicial or administrative authority of the Member State of reference, may examine the common draft term of the cross-border merger and draw up a single written report to all members. Experts have the right to be informed of all the information necessary for the proper performance of their duties. The examination of the common draft term is allowed if all the shareholders of the companies involved in the cross-border merger have agreed to it.

The general meeting must approve the cross-border merger plan. Each Member State must designate the court, notary, or other authority competent to check the legality of the cross-border merger. The authority must issue to each participating company, a certificate that definitively certifies the correct completion of the deeds and formalities before the merger. That authority must ensure that the companies participating in the merger have approved the joint cross-border merger plan in the same terms and, if necessary, that the arrangements for employee participation have been established in accordance with Article 133. Each company must submit the certificate issued by the competent authority, together with the common draft term, within six months of issue.

The law also provides that the date on which the cross-border merger takes effect is determined. The law of each of the Member States determines the modalities by which the publicity of the fulfillment of the cross-border merger must take place in the public register, in which each of the companies is required to file the required documents. The registry notifies to all the interconnected registers, the successful merger, in addition, the deletion of the old registration is carried out upon receipt of such notification and not before.

A cross-border merger carried out in accordance with Article 119 (2) (a) and (c) has the following consequences:

(a) all assets and liabilities of the acquired company must be transferred to the acquiring company;

(b) the shareholders of the acquired company become shareholders of the acquiring company;

(c) the acquired company ceases to exist.

A cross-border merger carried out in accordance with point 2 (b), Article 119, has the folllowing consequences:

(a) all assets and liabilities of the merging companies will be transferred to the new company;

(b) the shareholders of the incorporated companies become shareholders of the new company;

(c) the companies participating in the merger cease to exist.

Where, the laws of the Member States require particular formalities before the transfer of certain assets, rights and obligations through the merger, these formalities must be carried out by the company resulting from the cross-border merger. The rights and obligations of the companies participating in the merger deriving from employment contracts existing on the date the cross-border merger takes effect, must be transferred to the company resulting from the cross-border merger. No shares of the acquiring company can be exchanged for shares of the acquired company held:

(a) by the acquiring company itself or through a person acting in its own name but on its behalf;

(b) by the company being acquired itself or through a person acting in his own name but on his behalf.

2.4 CROSS-BORDER DIVISIONS AND CONVERSIONS

The European directive modified the provisions concerning cross-border transactions, adding two transactions: divisions and conversion.

Article 160 of Directive 2017/1132 / EU regulates cross-border divisions: the latter occurs in the presence of two limited liability companies governed by the laws of different Member States. It can be distinguished in different types of demerger: the merger will be complete when a company transfers all its assets and liabilities to two or more companies, it will, on the other hand, be partial or by separation when it transfers only a part of assets and liabilities to two or more companies.

The possibility of establishing a company through a division by separation is a very complex process, but at the same time it offers companies a new harmonized procedure in the internal market, however, companies should have the possibility to directly set up branches in other Member States.

Similarly to what happens for a merger, in the event of a division it is necessary to draw up the division project by the competent bodies, which must include the information required by Article 160 quinquies of Directive 2017/1132 / EU. Subsequently, the report must be drawn up by the management body and that of an independent expert, then the statute can be approved by the general meeting, the material must be made public thirty days before the meeting itself.

In the event that the cross-border division is approved, but there are some shareholders who do not agree, they must be guaranteed the possibility of disposing of their shares for adequate compensation in cash. In the event that the cash compensation is not considered adequate, the shareholders entitled to it may apply to the competent authorities requesting further compensation.

At this point, the legal control of the deeds and formalities required for the division is carried out, a certificate is therefore issued by the competent authority. Following the legal review, the actual division can proceed, which ends with the registration of the cross-border division.

The second type of transaction is defined by the cross-border conversion. A cross-border conversion is an operation through which a company, without being liquidated or dissolved, transforms its legal form into one provided for by the destination Member State.

The cross-border conversion is governed by the laws of the Member State of origin, which explains the procedures and formalities to be followed in order to obtain the pre-conversion certificate, while in a second phase, the laws of the Member State of destination govern the procedures and formalities to be fulfilled following receipt of the pre-conversion certificate.

Also in this case, the transformation project must be drawn up by the administrative or management body, and it must be published in the manner prescribed by the legislation of the Member State of departure.

The procedure is similar to that for mergers, some reports must be drawn up and then approved by the general meeting.

Two different reports are drawn up:

- The first report lists the legal and economic aspects of the conversion and is presented by the company's management body.
- The second report, on the other hand, which is drawn up by an independent expert, is addressed to the members and must be made available at least one month before the date of the general meeting.

For the conversion to be approved, at least two thirds of the general meeting must be in favor, while the shareholders who oppose the conversion are entitled to an economic compensation in cash.

At this point, a certificate must be issued by the competent authorities, attesting that all the pre-conversion procedures and formalities have been completed, which is then sent to the Member State of destination which verifies its legitimacy and approves the conversion.

The consequences of the transformation are many:

- All the company's assets and liabilities pass to the transformed company.
- All shareholders become shareholders of the transformed company, unless they have sold their shares.
- All the rights and obligations of the company deriving from employment contracts or employment relationships and existing on the date on which the cross-border conversion takes effect are those of the transformed company.

If the cross-border conversion has taken place according to all regulations, nothing can be declared. (Official Journal of the European Union, 2017)

2.5 THE SOCIETAS EUROPEA REGULATIONS

The second approved regulation establishes a type of European organization that goes under the name of Societas Europaea (SE), this regulation 2001/2157 / EC of 8 October 2001 entered into force in 2004. This Statute was consequently supplemented by a further Directive concerning workers, defining their role within the company, even though Member States are given the opportunity to act according to their will.

The Societas Europea is a legal organization that allows a company to operate in several EU countries under a single statute. An SE with its head office in an EU country is governed as follows: by the provisions within the regulation; and by the national provisions.

There are some prerequisites for the creation of a European company: first, it is formed by at least two companies operating in different countries of Europe, moreover it must have a minimum capital of 120,000 euros. The European company may in turn create subsidiaries, which are also considered to be European companies.

A fundamental condition for the creation of a SE company is the place of the main administration, or its operational headquarters. This condition does not in any way limit the ability to transfer one's registered office within the EU without having to dissolve the original company to set up a new one.

In this context, it is of fundamental importance that both the registration and the liquidation of a company with a European character be published in the Official Journal of the European Union. (Nicholas Bourne, 1990)

Two different systems are envisaged for the European company:

- The two-tier system, consisting of the Shareholders' meeting, the Board of Directors, and Supervisory Board.
- The one-tier system, consisting of the Shareholders' meeting and the Management Board.

In addition, the SEs are subject to all taxes and charges established based on the location of their administrative center. Necessary for the establishment of this type of company is the selection of the employee involvement model.

To this analysis, it is important to understand why the SE is one of the essential tools available to European companies that are looking to increase their cross-border strategy.

The SE has always been the only mechanism for carrying out cross-border transactions until the 2005 directive, which provides for a specific regulation, therefore, the completion of mergers of this kind have always faced obstacles with a nullifying effect. In 2001, a regulation was introduced that encourages the implementation of cross-border mergers of the European Community by takeover or by formation of a new company. (Noelle Lenoir, 2007)

However, there are conflicting opinions regarding the two methods of formation: some believe that acquisitions are contemplated only within the context of the formation of an SE and that the only method open to existing SEs is merger by setting up a new company, others suggest that the regulation sanctions all form of merger for existing SEs.

Whichever solution is considered the most effective, it remains valid that to obtain a result like that of a direct merger, two ways can be followed: through the establishment of a holding company that receives the assets of the SE and of the other company involved, or through a two-step transaction, first a merger takes place between the company involved and a subsidiary of the SE, secondly there’s the merger of the subsidiary into the SE.

SE offers further opportunities for external growth to companies: through SE holding companies or joint ventures in the form of SE subsidiaries. Finally, the 2001 Regulation, introducing this method of training the SE to all citizens e private entities, is paving the way for extremely interesting opportunities in some areas of the research. (Noelle Lenoir, 2007)

2.6 THE SOCIETAS COOPERATIVA EUROPEA REGULATIONS

Following the adoption of the SE statute, the institutions approved the Council Regulation 2003/143 / EC of 22 July 2003 on the Statute of the European

Cooperative Society. Thanks to the regulation introduced, companies wishing to undertake cross-border activities have been facilitated, giving the possibility of creating new businesses by natural and legal persons within the European community.

There are several methods for forming an SCE:

- By five or more natural and / or legal persons residing in at least two Member States, established under the law of a European Union (EU) Member State, and governed by the law of at least two several EU Member States.
- By a merger between cooperatives formed under the law of an EU Member State and whit the register office in that Member State, provided that at least two of them are governed by the law of different Member States.
- By conversion of a cooperative formed under the law of an EU Member State.

It must have a minimum capital of 30,000 euros and shall be represented by its members' share. The general meeting meets to approve the final budget for each year and the changes from the previous year. The founding members must draw up the statute of the SCE, following the guidelines for the formation of this society, all members must subsequently sign the statute.

The office must be located within the community and must correspond with the head office. Each SCE must be registered within the Member State in which it has its registered office in a register designated by the law. Whenever a company is registered or cancelled it must be notified through the Official Journal of the European Company.

The structure of an SCE is determined by several factors:

- From the general meeting.
- From the management board and the supervisory board in the two-tier system.
- From the administrative board in the one-tier system.

All the members of the SCE have an equal voting right during the general meeting. Depending on the type of system chosen, the board of directors or the administrative board is responsible for the management of the SCE and may represent it in legal proceedings and vis-à-vis third parties.

The bylaws must list all the operations requiring authorization, which must be approved by the supervisory body, or by the general meeting, to the management body or the administrative body.

The liquidation of an SCE can take place through various methods:

- By decision taken within the general meeting, in certain specific cases, if a maturity is foreseen or if the subscribed capital has been reduced below the minimum capital required by the regulation.
- By a decision taken within the court, in this case for example following the transfer of the registered office.

Regarding liquidation, insolvency or suspension of payments, the SCE is subject to the laws of the state in which it is located.

The optional nature of the SCE reflects the intention of the EU legislator to want to offer a more accessible tool for cooperatives to promote cross-border activity. A further objective pursued by the legislator is to create a legal context that favors the development of cooperatives, clarifying what type of legal form is necessary to carry out cross-border cooperation activities.

It can therefore be said that the internal market is not only defined by the elimination of barriers that hinder trade, but also by the creation of production structures suited to the Community dimension, finally, it becomes necessary to develop a regulatory framework that pushes towards the creation of cooperatives between different companies located in different Member States, allowing to operate outside national borders.

More specifically, the SCE is identified by the legislator as a tool for coordinating cooperatives in different countries and is therefore called a "secondary" (or "second degree") cooperative.

Among the requisites for the constitution of an SCE, it is evident that a minimum capital corresponding to 30,000 euros is necessary, which is adequate for the constitution of secondary cooperatives, but not as regards primary cooperatives. (Fici, 2013)

Subsequently an investigation, it was confirmed that the statute of the SCE was unsuccessful, as many cooperatives believe that the national constitutional form is also more efficient in carrying out cross-border activities. For this reason, the community has focused on some focal points to push companies to evaluate the formation of an SCE:

- First, it is necessary to promote cooperatives by improving their visibility and making their characteristics more understandable.
- Subsequently, it is of fundamental importance to review the legislation governing cooperatives.
- Finally, the community objectives of cooperatives must be maintained and improved.

2.7 TYPES OF CROSS-BORDER MERGER

The mergers are divided into horizontal, vertical, conglomerates, or residual depending on the relationship established between the companies involved in the transaction.

The horizontal mergers are those between two companies operating in the same line of business, that tend to replicate the same production stages in different countries. (Nils Herger & Steve Mccorriston, 2016) An example of this specific kind of merger is well represented by the merger between the two leading luxury fashion e-commerce companies, Yoox and Net-A-Porter.

While to better understand if the acquirer and target are vertically integrated it is necessary to collect data about the linkages between the upstream and the downstream across industries: the vertical merger is those between companies belonging to at different levels of the same production chain. (Nils Herger & Steve Mccorriston, 2016)

The buyer, in this context, pushes in the direction of the source of raw materials or forwards in the direction of the last consumer. Remaining in the fashion sector, an important example of vertical integration is represented by the merger between Luxottica, world leader in the production of eyewear for third parties, and Essilon International SA, a company that produces lenses and optical equipment, together gave birth to the new group EssilonLuxottica, this type of merger has allowed the group to take advantage of economies of scale, becoming competitive worldwide, thanks to a better control of each step of the supply chain and of the business. (Castellano, 2019)

The conglomerate mergers are those defined as firms that neither share the same industries, nor operate in the same sectors, nor are vertically related. (Snichelotto Marco & Pegoraro Alessandro, 2009)

The last type of cross-border mergers is those where it is not clear whether a deal is driven by a horizontal or vertical motive, or by both, and them are called residual merger or complex mergers. (Nils Herger & Steve Mccorriston, 2016)

This distinction is not sufficient, however, to clarify a large-scale phenomenon such as that of mergers, there are, in fact, many other possible classifications. Professor Bower, for example, identifies five different fundamental reasons why a company should be pushed to implement external growth policies, that is, through mergers and acquisitions.

Therefore, acquisitions occur for a variety of reasons, such as, for example manage overcapacity through consolidation in "mature" markets, to group competitors in geographically fragmented sectors, for extend towards the specialization of new products or markets, as a substitute for R&D, and ultimately to be able to take advantage of the erosion of already predefined sector boundaries and push towards the creation of completely new sectors. (Bower, 2001)

These reasons lead to the classification of five different fusion strategies:

- The Overcapacity M&A
- The Geographic Roll-Up M&A
- The Product or Market Extension M&A
- The M&A as R&D
- The Industry Convergence M&A

The Overcapacity mergers and acquisitions take place in industries that have substantial overcapacity; these tend to be older, capital-intensive sectors, such as steel, or petrochemicals. From the point of view of the acquiring company, the motivation for the acquisition is the possibility of rationalizing costs. In the end, the buying company has a larger market share, more efficient management of operations, better managers, more influence, and the industry has less excess capacity.

The key to success in this type of acquisitions is determined by the quick understanding of the business situation, imposing one's system in a meaningful way without any pretense of total change of the already existing one. (Bower, 2001)

Geographic roll-ups, which in appearance look a lot like acquisitions of overcapacity, but they differ substantially due to when this type of merger takes place: early in the life cycle of a company. Lot of industries have long existed in a fragmented state: local businesses tend to remain local. Therefore, successful companies tend to expand geographically by grouping other companies in adjacent territories. Usually, the operating unit remains local.

This type of strategy leads to lower operating costs and better value for the customers. In this specific case, however, the critical success factor becomes the company's ability to reduce costs without excessive standardization of operations because it remains, as mentioned above, that the operating units remain local if relations with customers premises are important for business.

The third category is the M&A operation created to extend the product line or the international reach. Sometimes these operations turn out to be like the previous ones explained, sometimes, otherwise they involve agreements between big names companies. It could be, in some cases, that these operations involve a greater elongation, even in a different one country, not just in an adjacent city or state. The key to success depends in part on the relative size of the firm.

If companies of similar size merge, the problems arise, however, from excess capacity: a difficulty could arise in imposing new processes on a large company, which has already started. If, on the other hand, a large company making his umpteenth acquisition of a small company, the level of his success is likely to grow exponentially.

The next-to-last category, acquisitions to replace the in-house R&D, is linked to the extensions in terms of innovation of the product lines and the market. An assortment of high technology and biotechnologies push companies towards the acquisition of new realities, rather than research and development, to build faster their position in the market as a response to the shortening of product life cycles. (Bower, 2001)

The last category involves a radical change in the type of reconfiguration. This typology aims to create a new business through the convergence of sectors, which, on the surface, may seem disconnected from each other. The challenge to management is even greater than in the other categories. Success does not it only depends on how well the firm manages to buy and integrate, but also, and even more importantly, how far the boundaries of the sector can be fought.

While it is possible to identify similar characteristics for which various categories of mergers and acquisitions can be distinguished, the same cannot be said of the motivations and objectives that drive a company to pursue a growth strategy through external lines. (Bower, 2001)

2.8 OBJECTIVES PURSUED

The objective that drives a company to pursue a merger or acquisition strategy is, basically, the possibility of increasing the value of the company itself, basically this type of strategy for external lines does not differ significantly from strategies for internal lines. Therefore, a company that decides to invest in a growth operation such as that of the M&A, is driven by the speed with which it can obtain the desired result and by the possibility of identifying, in a clear way, the companies that can represent an excellent investment.

The reason for this strategy is to increase the value of a company, in reference to which it is necessary to make a distinction:

- It is a matter of conquest of value when there is a passage of value from the shareholders of the initial company to the shareholders of the destination company, or when the shareholders enjoy certain tax benefits born from the operation itself. But we cannot focus only on the conquest of value, as in the long term it may not be sufficient to maintain the level of success of the company.
- On the other hand, it becomes essential to focus on creating value by the managers within the company, when there is an integration and an effective interaction between the companies involved in the transaction.

To this end Haspeslagh and Jeminson have identified four critical points in the management of mergers and acquisitions: consistency with respect to strategy, the quality of the decisions regarding the operation, the integration and learning skills. (Jeminson David & Haspeslag Philippe, 1992)

In 2010, research was conducted by McKinsey & Company, multinational of management consulting, which highlighted the triggering reasons why a company tends to resort to mergers and acquisitions. In most cases (64%), the triggering reason is the need to increase the number of resources, skills and abilities, be they strictly technical or human; to follow we see a strong push in the attempt to expand to new geographic markets (55%) and finally the search for a size increase (36%). (McKinsey and Company, 2010)

The motivations that induce a company to pursue this type of strategy can be of a strategic or financial nature. From a financial point of view, an acquisition transaction is justified only if an economic advantage derives from it. There is talk of economic benefit if the two companies are worth more together than separate and the creation of the new company achieves competitive advantages that would not be available to the two companies divided.

Financial rationale does not sufficiently clarify the reasons why a firm enters an M&A transaction. This is because an operation of this kind requires a quantity of resources that are hardly available to companies without having to resort to credit, therefore such a significant effort can be justified only for two reasons: when the stock market underestimates the value of a company or when the target company is at a loss and the buyer aims with the merger to enjoy the tax advantages.

The merger operation reduces the likelihood of business failure which can therefore resort to greater debt to enjoy the favorable tax treatment on interest. (Brealey, Myers , & Allen, 2017)

Much more frequent are the reasons of a strategic nature: concerning the structure of the sector or the market, or they refer to the result and therefore to the performance. As for the important reasons for the structure of the markets, we mean the increase in barriers to entry and of obstacles towards competitors as well as the numerical reduction of them. When two companies of a certain size come together, the conditions of competition within the market change significantly. (Rankine & Howson , 2006)

Of great importance are the economies reachable through merger and acquisition operations which can be summarized as follows:

- Economies of scale, that are linked to the increase in productivity and a consequent reduction in cost.

- Economies of vertical integration, concern especially vertical acquisitions. They are realized through the acquisition of a new supplier, in upstream operations, or with the acquisition of a distribution channel, in downstream operations, leading to a reduction in coordination and administration costs. Despite this advantage the wave of vertical integrations slowed down sharply, and companies are increasingly resorting to outsourcing buying the products and services they have from other companies need.
- Economies of scope exploit the acquisition of new resources and new skills, especially if the company has one some technological-production correlation with the company incorporated.
- Economies of complementarity allow companies to save huge resources in research and development through the acquisition of specialized companies operating in markets niche.

2.9 COVID-19 AND MATERIAL ADVERSE EFFECT CLAUSES IN MERGERS

In presenting the merger contracts, the existence of possible significant negative effects must be taken into account, this type of clause is called MAE (Material Adverse Effect). Within a company, the agreements between the parties are used to allocate the risks related to the seller's activity in the specific phase between the signing and the closing of the contract itself.

The aim of this type of clause is to protect the buyer, in fact if, during an agreement, the seller undergoes an MAE between the signature and the closing, the buyer will not have obligation to close the transaction, and no liability will be placed on it.

In a context such as the world of mergers, COVID has certainly had a significant impact, for this reason it is necessary to introduce this concept and study its effects and results.

The starting point of this analysis is the definition of an MAE: "any event, fact, occurrence, circumstance, development or change that, either singly or in the aggregate, has, or would reasonably be expected to have, a material adverse effect on the company and its subsidiaries taken as a whole."

In the definition of Material Adverse Effect, there are also exceptions that must be reported, specifically concerning events, facts, circumstances, developments or changes related to:

a) general changes affecting the economy;
b) changes in financial conditions, credit, debt, equity or securities markets;
c) changes in industry or business lines;
d) changes in regulatory or legislative conditions;
e) political or social changes;
f) climate changes;
g) acts of war, terrorism or sabotage;
h) hurricanes, tornadoes, earthquakes, tsunami, floods, pandemics or other natural disasters.

The part of the definition concerning the Disproportionaly Exclusion is also significant to report for the analysis concerning the pandemic. It reads: "except, with respect to (a) to (h) above, al extent to which such events, facts, circumstances, developments or changes affect disproportionately the company relative to other companies or people working in the same industries e geographical regions." (Miller, 2008)

In applying these clauses in relation to COVID-19, three main situations need to be considered:

- We must ask ourselves if the negative effects on society deriving from the pandemic, the consequent government responses to it and the actions of the company in response to both, individually or as a whole, have brought a real adverse effect within the meaning of the basic definition of the MAE clause.
- The second question to consider will be whether the risks fall within one or more MAE Exceptions.

- The third and final question concerns the disproportionality of the negative effects on the company.

Most chords contain MAE Exceptions which remove from the definition of "Material Adverse Effect" various classes of risks, especially various types of systematic risks.

Therefore, in evaluating the negative effects suffered by a company due to COVID-19, it becomes of fundamental importance to separate the effects deriving from:

- COVID-19 pandemic itself;
- by government ordinances that suspend or limiting the company's operations and only remotely from COVID-19;
- actions taken by the company itself in response to COVID-19 or government lockdown orders or both.

When drafting an agreement, there is a lot of discussion about MAE clauses, which are highly negotiated. In a situation like the one caused by the pandemic, the economy has suffered a sharp contraction, and almost certainly, many companies have suffered many negative effects. But it is not enough to ask if it has suffered negative effects, but also to understand if that effect is derived from risks that have been shifted to the buyer in one or more of the MAE exceptions in the definition.

Within the MAE Exceptions, specific reference is made to pandemics, therefore, some certainly will transfer the risks arising directly from COVID-19 to the buyer. It can therefore be concluded that these clauses are directly applicable even in situations such as COVID-19.

2.10 CONCLUSION

From the analysis carried out up to this point, it emerges that the success of a company is identified with the ability to create long-term value through cross-border merger operations. The value within a company is influenced by various critical success factors, and through their identification, ad hoc strategies can be developed, also based on the objectives pursued by the company itself.

Furthermore, in recent years, cross-border merger operations have seen an exponential increase, demonstrating how this type of growth strategy for external lines leads to the creation of value.

In this chapter, the general features and main characteristics of cross-border merger operations have been highlighted: analyzing the current legislation, the merger process and the reasons that push companies to pursue this type of strategy. The picture provided, however, presents the general characteristics of mergers, but does not significantly explain the operations for each sector, which differ significantly from each other.

In the next chapter the characteristics and specificities of the luxury sector will be outlined, and the cross-border merger operations for this sector will be analyzed.

CHAPTER 3. THE OPERATIONS OF CROSS-BORDER MERGER IN THE LUXURY SECTOR

3.1 INTRODUCTION TO CROSS-BORDER MERGER IN THE LUXURY SECTOR

"Luxury is a need that begins where necessity ends." This is how Coco Chanel described luxury, as an abstract, complicated and at the same time very fascinating phenomenon, which we are not willing to give up, despite the fact that we know that luxury remains a superfluous thing in life.

Luxury is always criticized and loved at the same time: at times it is considered as a mere ostentation of wealth, at other times it is considered a method to express one's social status. Many definitions have been given, but in general it is considered as "a display of wealth, a tendency to unnecessary expenses that have no utility corresponding to their price, and are aimed at satisfying ambition and vanity rather than a real need". (Treccani)

Luxury Goods therefore present themselves as products whose peculiarities are exclusivity, qualitative excellence, refinement, and desirability. Some attributes, however, of these goods are also the concept of futility and prestige status, ie the idea that a luxury item can give a person a certain status-quo. The price of the asset, and the emotional dimension, on the other hand, in this specific sector, lose relevance, characterize the world of luxury only in a secondary way. (Aiello G. & Donvito R., 2006)

From the point of view of economic analysis, luxury goods are defined as those goods whose demand grows in proportion to the increase in income, unlike what happens in other markets. In more specific terms: they are goods that have a high elasticity of demand for income, it can therefore be said that, with the increase of subjects with a high level of income, the consumption of goods also increases high-end, and for high income levels the growth in consumption results more than proportional (Engel's law).

Therefore Engel shows that as disposable income increases, the purchase of luxury goods increases in a more than proportional way, thus creating a larger market than the one created, under the same conditions, from normal goods and inferior goods. (Bernheim & Whinston, 2008)

Figure n.1: *Trend graph of consumption of luxury goods versus income*

Over the past 15 years, the luxury market has maintained growth trend, increasing the market value of the sector. Growth in part slowed down momentarily in the two-year period between 2008 and 2009, two years during which the financial crisis had a significant impact, but which at the same time did not allow the sector to block its growth. (Myriam Spallino, Filippa Bellante, & Giovanni Lupo)

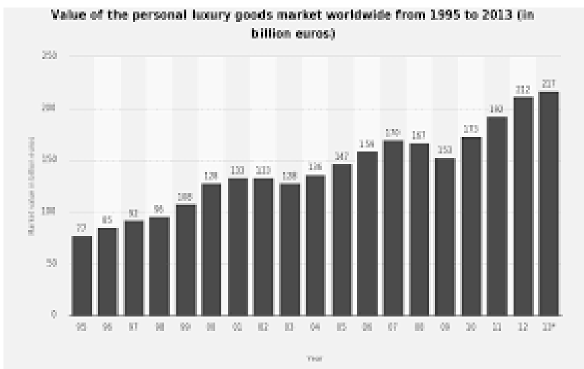

Figure n.2: *Value of the luxury goods market from 1995 to 2013 (in billions of euros)*

An index of fundamental importance, created by Bloomgerg, is the "European Luxury Goods Index", that is the luxury stock market index: this index includes all, or almost all, companies operating in the luxury sector. Among these, of a certain importance, are companies such as: the French group LVMH, and its direct competitor Kering, the Hong Kong Prada group, the Italian Tod's group, and many other operators in the same segment.

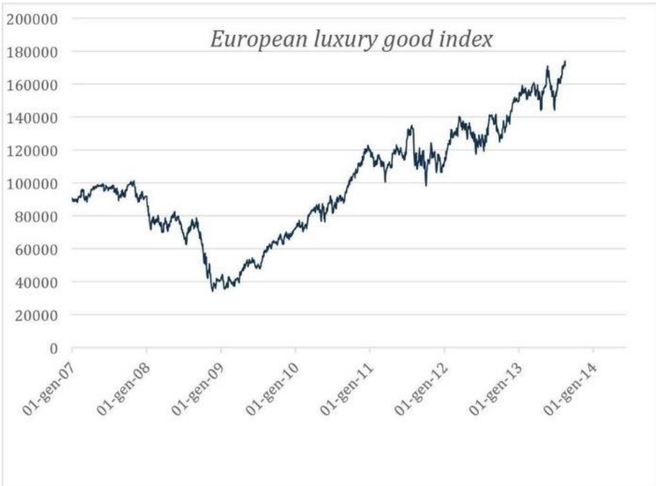

Figure n.3: *Trend chart of the European luxury good index*

As can be seen from the graph, there is a constant growth in yields, but only after the slight negative decline suffered in the two-year period between 2008 and 2009, significant years due to the outbreak of the financial crisis, which affected all sectors, but especially all countries.

At this point it is very clear that luxury has certain characteristics that undoubtedly also modify the structure and strategy undertaken within this sector, especially with regard to national mergers and even more so in the context of cross-border mergers. This chapter aims to identify and study these specificities and to understand the intrinsic reasons that push companies to undertake such a growth strategy for external lines in a sector of this kind, and above all it proposes to study whether this strategy leads to a true competitive advantage.

3.2 CHARACTERISTICS OF LUXURY SECTOR

The luxury goods sector can be divided into three micro-sectors which can be traced back to different types of goods, according to the so-called luxury pyramid, created by Allérès in 1990. The goods belonging to the luxury market are divided according to the degree of accessibility and consequently according to the social class to which the individuals belong, but also in accordance with the individuals who wish to elevate and affirm their social status.

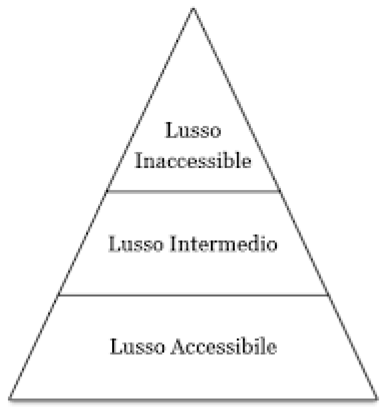

Figure n.4: *Pyramid of luxury Allérès*

The first micro-sector is that of "inaccessible luxury", which is located at the top of the pyramid, this first class includes all the goods that are characterized by a high degree of uniqueness, are made to measure and, therefore, are in limited edition, and with very high prices. The buyers of these goods belong to the richest social class, which manifests its superiority through the possession of goods that are not only very expensive, but also exclusive and very rare.

The second category corresponds to "intermediate luxury" goods: the goods belonging to this category are not so far from the previous category, especially in relation to their selling price and availability, but they are no longer tailored to the customer, they maintain however the characteristic of adapting to the customer's needs. Even in this group, individuals are economically strong, and eager to assert their social status.

At the base of the pyramid we find the goods of "accessible luxury", the products remain branded and considered fashionable, even if they are no longer goods made according to customer requests, but goods that are distributed on a large scale. The average consumer to whom they turn becomes the one belonging to the middle class, and therefore a buyer who has less purchasing power than the buyers previously described. (Allérès, 1990)

To this classification, Kapferer, a few years later, in 1997, added a further division of the products of the luxury market, based on the level of the reference brand:

- The "griffe", comparable to the category of inaccessible luxury, which presents itself as perfection, the products are characterized by a high level of uniqueness and quality.
- The "luxury brand" that works in a similar way to the first category, but series a limited edition.
- Finally, the "high-end brands", in this case the products are made in series, but maintain a high quality. (Kapferer, Strategic Brand Management, 1997)

A new trend is born and is identified as "trading up", and concerns the consumption of luxury goods by an ever wider segment of the population. At the same time, the opposite phenomenon has also been established, the "trading down", and indicates the daily consumption of low-medium quality goods, in fact, even if the population allows itself the possibility of buying luxury goods on special occasions, it remains faithful to common products in everyday life. (Fiske N. & Silverstein M., 2004)

In this context, the concept of "new luxury" emerges, introduced by Kapferer, in 2013, based on the idea that luxury becomes a source of pleasure, a sort of experiential pleasure, therefore, goods are not sold at lower prices, but individuals are they grant the possibility to buy them as gratification for the efforts made. Starting from this idea, the concept of "mass" luxury was also born, that is, a market that is becoming more and more accessible to the population. (Kapferer, 2013)

In a market that is therefore extended to a large segment of the population, be it habitual or occasional, the consumer buys on the basis of the recognizability and reliability of the brand. The most immediate consequence is that on the side of companies, groups are created to produce and market goods, even belonging to different products. Therefore, large groups of multinationals have come to form, also to respond efficiently to the growing demand for luxury goods. In this context, merger operations are taking place, in order to remain competitive on the world market.

3.3 ECONOMIC ANALYSIS OF THE LUXURY MARKET

As mentioned in the previous paragraph, the luxury goods market has always been characterized by strong development, and by an overall growth rate of 30%, starting from the second half of the 1990s. It becomes necessary to specify that there have been periods of stagnation also in this sector, the first period, which deserves to be reposted, is represented by the years 2001-2004, a period that saw a strong stagnation in sales.

The most important period, in terms of the period of stagnation, is the two-year period 2008-2009, a period in which the whole world has had to face a financial crisis that has significantly bent all sectors, with a recession that can be defined as global.

In any case, in a context of globalization and constant growth of the luxury industry, it is possible to identify, in any case, the areas of greatest economic importance, in which the majority of the luxury market is concentrated. These areas are mainly Europe, the United States and Japan, as studied by numerous observers, these are defined as mature areas, characterized by a strong stability in this sector.

There are also some markets that are defined as emerging, these are mainly Russia, China and India, this also due to a very rich new emerging class, willing to spend a lot for big purchases.

As mentioned above, in recent years there has been the formation of large groups, also according to what is reported by the "Global Power of Luxury Goods - 2019", drawn up by Deloitte & Touche.

Top 10 luxury goods companies by sales, FY2019

FY2019 Luxury goods sales ranking	Change in ranking from FY2018	Name of company	Country of origin	FY2019 Luxury goods sales (US$M)	FY2019 Total revenue (US$M)	FY2019 Luxury goods sales growth*	FY2019 Net profit margin[1**]	FY2019 Return on assets**	FY2016-2019 Luxury goods CAGR[2*]
1	⬌	LVMH Moët Hennessy-Louis Vuitton SE	France	37,468	60,069	16.8%	14.5%	8.1%	16.5%
2	⬌	Kering SA	France	17,777	17,777	16.2%	14.7%	8.6%	23.3%
3	⬌	The Estée Lauder Companies Inc.	United States	14,863	14,863	8.6%	12.1%	13.6%	9.7%
4	⬌	Compagnie Financière Richemont SA	Switzerland	13,822	16,188	8.5%	19.9%	9.9%	2.4%
5	⬆ 1	L'Oréal Luxe	France	12,334	12,334	17.6%	n/a	n/a	12.9%
6	⬇ -1	Chanel Limited	United Kingdom	12,273	12,273	10.4%	19.6%	17.9%	12.5%
7	⬌	EssilorLuxottica SA	Italy	10,624	19,463	6.0%	6.8%	2.3%	ne
8	⬆ 1	Chow Tai Fook Jewelry Group Limited 周大福珠宝集团有限公司	China/Hong Kong SAR	8,411	8,500	13.9%	7.0%	7.5%	5.2%
9	⬆ 1	PVH Corp.	United States	8,076	9,657	9.8%	7.7%	6.3%	8.7%
10	⬇ -2	The Swatch Group Ltd.	Switzerland	8,014	8,294	-3.0%	9.1%	5.5%	2.9%
Top 10				**143,662**	**179,418**	**11.9%**	**13.3%**	**7.6%**	**11.7%**
Top 100				**280,640**	**320,291**	**8.5%**	**11.2%**	**7.4%**	**8.0%**
Top 10 share of Top 100				**51.2%**	**56.0%**		**71.7%[3]**		

Figure n.5: *Ranking by turnover of the top 10 luxury groups.*

As can be seen from the graph shown, the most important groups in the world context are: LVMH group, which represents the strength of France, together with the Kering group, The Estée Lauder Companies, which represents the stability of the United States in this sector, and finally Richemont, representing Switzerland.

Other groups that deserve to be mentioned among the top ten groups in the luxury sector are: L'Oréal, Chanel, Luxottica, of Italian origin, Chow Tai Fook Jewelry, PVH and, finally, The Swatch. All these groups stand out not only for their power as the most important luxury groups, but also for the diversification in terms of portfolio brands and, consequently, of products, but also for the diversification they have operated at the market level, entering entirely new markets. (Deloitte, 2020)

These 10 large multinationals also hold the record for generating more than half of the net profits of luxury, considering a base of one hundred companies operating in this sector. As can be seen from the graph below, in 2019, 71.7% of the net profit was generated by the ten companies in question.

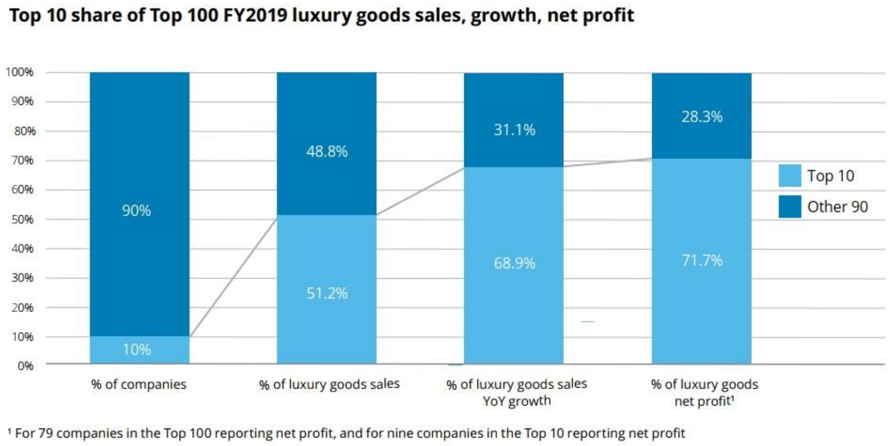

Figure n.6: *Ranking of luxury goods sales, growth, net profit*

The next graph showa revenue by segment in the worlwide luxury good market for the 2012-2023, therefore with forecasts also in reference to the post-pandemic years, specifically 2022 and 2023.

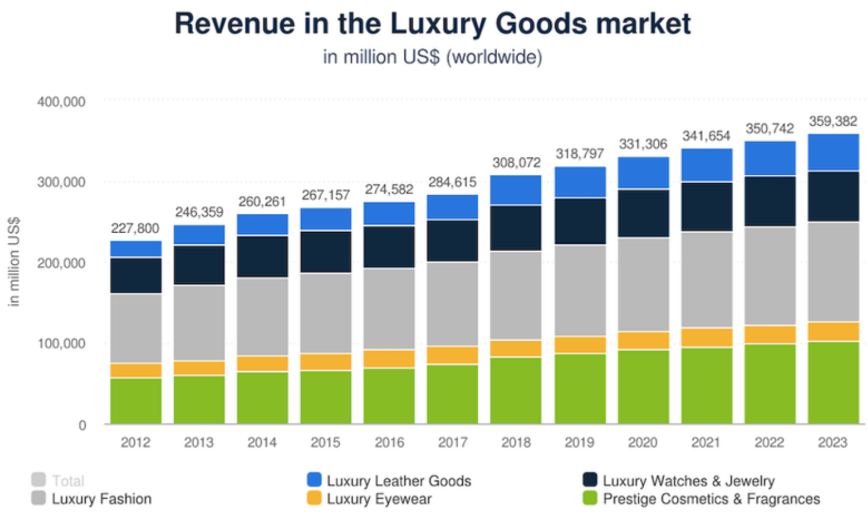

Figure n.7: *Ranking of revenue in luxury goods market*

The luxury sector is characterized by companies that produce and sell goods of different categories, such as clothing, accessories, shoes, bags and much more. Companies such as the LVMH group have more than 50 brands in their portfolio and operate in different product categories, not only fashion, but also cosmetics, jewelry, wine and spirits and, finally, products belonging to the "selective distribution" class. Some companies are still family-run, while others are defined as 100% free flot, such as the multinational Tiffany, whose shares are entirely available to the public. All companies are united by high profitability and profitability.

At this point, a distinction can be made between the various companies operating in this sector, specifically, three macro-classes can be identified. The first category is made up of diversified groups, that is, those companies that have grown through acquisitions, which have given them the opportunity to have a highly diversified product portfolio.

The second category of fundamental importance is defined as "hard luxury companies", which are mainly characterized by the production of jewels and watches. Watches, in this case, are considered as wholesale-driven, since in the acquisition process consumers are led to compare their specificities. In this category, the Richemont companies with the Cartier brand and the Swatch group with the Omega brand have the greatest importance.

Finally, the last category goes by the name of "soft luxury companies", and includes all those companies that deal with the production and sale of clothing and leather goods, such as the single-brand brands Burberry, Hermes and Tod's. (Emea Equity Research, 2012)

As already announced, the luxury market is constantly growing, and some important drivers can be identified. The first of these is GDP, which is directly linked to the growth in demand for luxury products. But the consumption of goods is not only linked to economic and monetary factors, but is also strongly linked to cultural, social and psychological aspects.

Another factor of extreme importance is the power of the price, in a market such as that of luxury goods, the consumer does not give importance to the price of the goods, but rather, considers their quality and design. The trend in exchange rates is also to be included in the list, these have a direct impact on revenues from sales that are made on international markets. (Emea Equity Research, 2012)

In any case, multinationals are currently implementing a growth strategy for external lines in an increasingly significant way, in fact the acquisition operations in this sector are increasingly substantial. In the next paragraph, therefore, we will identify the characteristics and, the opportunities and the reasons that push companies in the luxury sector to undertake this type of growth strategy.

3.4 CROSS-BORDER MERGERS IN THE LUXURY MARKET

After analyzing the characteristics of the luxury world and the market of this sector, we will now outline the characteristics of cross-border mergers. Over the years, companies operating in this sector have found themselves becoming aware of the evolutionary dynamics that belong to this market and have found themselves having to face an increasingly level competition, for these reasons they have had to increase their strategies, setting in motion the system of merger operations.

The Italian Fashion & Luxury sector was "one of the most attractive markets" as regards the Consumer Markets M&A operations in 2019. In fact, the operations in the field of fashion in 2019 were 77, compared to the 43 announced in 2018. According to scholars, the interest of strategic investors has increased, completing 45 transactions during the year.

The increase in cross-border merger operations is significant, in fact, an increase of +13 was recorded. One of the most important operations of this period is the one that involved the Italian group New Guards Group, a group that was acquired by Farfetch for 675 million dollars (about 608 million euros at the exchange rate of last August). (Pambianco, 2020)

In general, considering the Consumer Markets sector, 256 are expected, plus 27%, and, due to the increase in the number of transactions, the fashion & luxury segment (+34) is in the lead, followed by food (+20) , beverages (+12) and personal care & cosmetics (+7).

Despite the considerable amount of operations announced, it is also true that the sector in question will be one of the most negatively impacted by COVID-19, with about 35% of Italian consumption at risk of delay or loss. And, precisely the Fashion sector is considered the one that will be most affected, due to the postponement of the June / July fashion shows, the closure of shops, shopping centers and production plants.

Among the significant transactions to remember in 2019, we must also remember that between the private investment company Vision Investments of the president of Damac Hussain Sajwani and the Italian fashion brand Roberto Cavalli. The merger between the Liu-jo group and the famous Blumarine brand is totally Italian: this operation is based on the project of the Italian holding company "Italian Excellence", of aggregation and acceleration of those high-end brands, strongly desired by its president and founder Marco Marchi.

As far as design is concerned, one of the most important transactions to report is the one between the Mohd brand and the Made in Italy Fund: an operation that has brought the Italian brand a 20% growth in turnover. Still in this sector, another important operation was the one between Interni and Progressio.

Finally, as regards the field of luxury beaty, we must remember the operation between Rougj and Made in Italy Fund: Rougj will close the 2019 financial statements with a turnover of more than 15 million euros, of which 80% made in Italy, thanks to a consolidated presence in the pharmacy channel and a widespread distribution throughout the territory. The remaining 20% comes from foreign markets, mainly France and Spain. The Ebitda is over 3 million euros.

As for the LVMH group, in 2019, it consolidated its presence also on the hotel side, thanks to the acquisition of the Belmond group, a group that was founded in 1976 and with a significant presence in 24 countries. Also in that year the multinational group joined forces with Robyn Rihanna Fenty and joined together to create a new luxury maison of top-level cosmetic products: Fenty.

Finally, 2019 was the starting year of negotiations between LVMH and the US brand Tiffany, an operation that was successfully completed in 2021.

As for the future, it is expected that the situation linked to the pandemic will lead to a process of consolidation, not so much linked to development, but rather linked to the capital strengthening of many companies in the sector that will be forced to open up capital in order to survive. This will further entail a polarization of the market between large players, who will take even more market shares, and small players who, on the other hand, will find it harder to remain competitive. (Pambianco, 2020)

3.5 THE MOTIVATIONS OF THE CROSS-BORDER MERGER

As already mentioned, there are several reasons for pursuing a growth strategy through mergers and acquisitions, such as large margins, the possibility of exploiting synergies, the creation of common channels for both distribution and production. To provide a more precise picture, Weston and Halpern distinguish two theories. The first class concerns the overall non-profitability of mergers and acquisitions. This type of merger is aimed at increasing sales and control, with the aim of correcting transaction costs.

The second category includes all approaches attempt to coherently explain the different types of capital market reactions: some financial reasons lead one to think that the costs of bankruptcy can be avoided. Economic motivations include the exploitation of synergies. (Konigs & Schiereck, 2006)

Among the reasons why a company undertakes a path of growth by external lines, we must also list the possible results, which very often turn into motivations in the face of an analysis. The first important consequence is the consolidation and expansion of the brand portfolio. Furthermore, although there are also negative aspects, they do not seem to have a significant impact.

Another fundamental motivation for starting a merger and acquisition operation is to attract and obtain new investors, who, despite having the possibility of creating a diversified portfolio, prefer to invest in external activities, especially in companies that have a large share market. (Campa J.M & Hernando I., 2004)

Each sector has its own characteristics and in particular the Fashion System differs from other sectors, for this reason it is necessary to qualify a merger and acquisition operation also in the light of this consideration.

Merger operations are distinguished by their high managerial complexity in the management of the decision-making process that leads to the conclusion of the transaction itself, and it is precisely in this process that the greatest differences between the operations of this sector and that of any other can be found. Errors within the process, from the collection of information for the evaluation of possible alternatives, may affect the entire operation. (Jeminson David & Haspeslag Philippe, 1992)

The starting point always remains the identification of an opportunity on the market or a problem of the purchasing company to be solved by an M&A operation, in the phase in which possible target companies are identified and studied, then an attempt is made to understand the operational characteristics of the alternatives identified and finally, the process ends with the evaluation and choice of the target company to which it is aimed, and in the bargaining between the two parties.

The formulation phase appears to be the most sensitive in the specific decision-making process of a merger in the luxury sector. In fact, the most common operations are those of a concentric type, that is those that aim at a diversification, ranging to vertical and horizontal exceptions.

Therefore, the main objective of the purchasing company is to give strength to the strategy underlying the decision. For this reason, there are some tactics that are most used at this stage, and they are, for example, "idea-driven" and "reframing", which aim to define ex-ante all the lines of the operation to reduce the risk and uncertainty resulting from it and to give greater credibility to the need for the operation.

If, instead, the objective of the buyer firm is to maximize the innovative potential of the operation, there are two other types of tactics, "issue-based" or "objected directed process" whose purpose is to outline the problem to be solved without, however, provide guidelines to follow.

Because within the luxury sector there is a high competitiveness, companies prefer the "ready made" strategy over the "search and design" one, this is also determined by the fact that quick decisions are needed. This one, in fact, allows you to locate immediately available target companies.

For the evaluation phase, the purchasing company asks the target company to comply with the parameters set in the agreement and that provides a value to the image, an aspect of fundamental importance in the luxury fashion sector. With regard to the type of decision-making process, the prevalence of processes "nova" or "appraisal" depending on the purchasing company has substantial financial resources or not. (Cappetta R., Zanelli F., & Ponti A., 2003)

3.6 CONCLUSION

M&A operations in the luxury and fashion sector are constantly growing, despite the risks arising from this type of operation. The data in this chapter show the actual extent of this phenomenon. They show how, to date, companies operating in this sector, significantly prefer merger and acquisition operations as a growth strategy, also as a method of survival in a market that is increasingly configured as an oligopolistic. This third chapter, has been proposed to conduct an analysis of the main features of the luxury market, and trying to identify the reasons that drive to pursue this strategy, also analyzing the results.

In the second part of the chapter, we have seen in detail the reasons that lead to the merger, emphasizing its peculiarities with the sector in question. In the next and final chapter, we will try to study the risks and benefits derived from the merger and acquisition operations, this time, however, not only in relation to the world of luxury, but studying a specific case: the cross-border merger between LVMH and Tiffany. Starting from the history of the French multinational group LVMH, and outlining the history of the American group Tiffany, the merger will be analyzed, identifying the phases of the agreement and trying to study the benefits on both companies.

CHAPTER 4. THE CASE OF LVMH GROUP

4.1 INTRODUCTION TO THE WORLD OF LVMH

After the accurate description of the characteristics of cross-border mergers in the luxury sector, the paper proposes to present a detailed analysis concerning the LVMH group. The company in question, in fact, turns out to be one of the largest companies operating in the luxury sector, comparable only to its eternal competitor, the French group Kering, formerly known as the PPR group.

The use of mergers and acquisitions led the well-known Louis Vuitton brand to merge in 1967 with the wine and beverage company Moet Hennessy, thus becoming a global giant in the luxury market, diversifying its portfolio and including within it more than 75 brands. The LVMH portfolio is therefore diversified not only for the quantity of brands present within the group, but also for the quantity of sectors in which it is positioned: from clothing to accessories, shoes, jewelry, wine and drinks, hotels and much more.

The group has pursued a growth strategy by external lines, opening the way to incredible opportunities, but at the same time continuously exposing itself to risks, in any case the strategy of this multinational group turns out to be one of the most successful ever. It is necessary to specify how, despite being such a large group, it has managed to leave its own personality and management to each of its brands, enjoying only the earnings that, clearly, are reflected on the whole group.

The present chapter aims to briefly illustrate the history of this group, and then focus in more detail on the latest operation it has undertaken: the merger with the Tiffany group. Through this analysis we will try to explain the reasons behind this choice and above all the results of this operation, highlighting the risks and opportunities that derive from it.

4.2 HISTORY AND DESCRIPTION OF THE COMPANY

Trying to briefly retrace the history of the group, the official birth takes place in 1854 with Louis Vuitton, the year in which the homonymous entrepreneur opened a leather goods and luggage shop in Paris. Already starting from 1885, so after just 30 years, thanks to the success achieved, many stores were opened in London, oriented to the international market, despite the most important event to remember for the company was the creation of the pattern "Damien Canvas" whose brand came officially filed as Louis Vuitton.

Figure n.8: *Pattern Damien Canvas*

Following the death of the founder, in 1892, the company was taken over by his son George Vuitton, and in 1896, the famous monogram, recognized today all over the world, was born under his management. During the 1900s, the company gradually opened up to the international market, opening numerous stores around the world. (Vuitton, s.d.)

The maison was subsequently listed on the stock exchange, specifically in 1987, and completed the merger with the wine company and spirits Moet Hennessy, created in 1971, assuming the name LVMH. At the time of the merger between the two brands, Bernard Arnault, taking advantage of a feud between the presidents, managed to take over the reins of the holding company and started a series of mergers and acquisitions that will lead the group in a short time to a successful position at world.

The wave of acquisitions carried out by its president Bernault Arnault began in 1988 with the first important acquisition of the Celine brand, a successful company in the world of fashion and accessories. Starting from this operation, the group was able to enjoy the advantages obtained thanks to this type of growth strategy and on the wave of the success of the first acquisition it carried out many others: Berluti, Kenzo, Dior, Loewe, Sephora and Marc Jacobs, Thomas Pink, Emilio Pucci, Fendi and DKNY.

In an interview released by the president himself, he explained how the economic returns obtained at the end of these operations have made the point focal point of the group's strategy, which therefore acts while leaving the personality of the acquired brands intact. (Wetlaufer, 2011)

The operations described, however, did not lack the risks associated with them and in the short term, the returns were lower than the investments, for this reason in 2001, the group had to block the acquisitions and sell the shares of Phillips. (Barnault Arnault Biography, s.d.)

The group has always believed strongly in the strategy of through M&A operations, therefore, not only was it never completely abandoned, but rather it was resumed shortly thereafter.

In 2011, therefore, LVMH resumed its acquisition policy and acquired Bulgari and in 2013 acquired Loro Piana, brands of fundamental importance in the world of Italian luxury. As already mentioned, today LVMH is at the head of about 75 world-famous brands, and is configured as a very large and consequently very complicated structure, but at the same time it is managed in a perfectly functional way.

As can be seen from the graph below, the multinational group, in order to make itself as transparent as possible and in order to systematically organize the coordination of all the companies under a single control, has equipped itself with five divisions, each of these functions exactly like a real SBU, which is controlled by its own management.

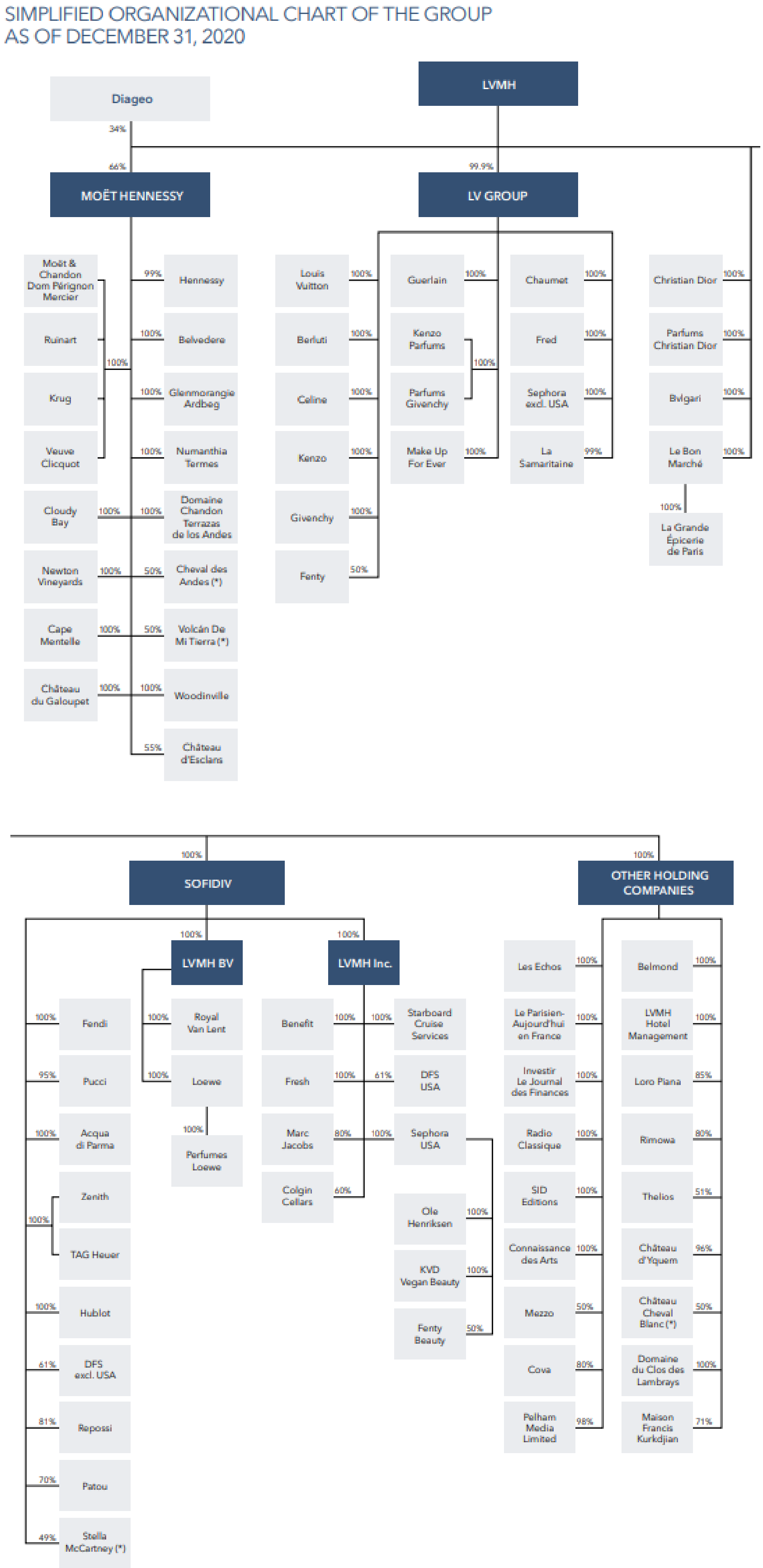

Figure n.9: *Current configuration of the LVMH group*

The first division controls the group's activities in the wine and spirits sector, these are divided between the Champagne segment, with the Moet Chandon and Veuve Cliquot brands and the Cognac segment, with Hennessy.

The second division focuses on the fashion and leather goods sector. In this sector, the acquisition strategy has brought a fundamental success, above all with regard to fashion. LVMH has in fact acquired controlling stakes in Fendi, Prada and Donna Karan. To remember is the case of Kenzo, which has made available the production line of men's clothing for other brands of the group, this demonstrating the skill of the group in creating synergies between the various brands. And thanks to these synergies, it was possible to exploit the advantages associated with these operations, in fact operating costs were saved and profitability was increased.

Continuing with the analysis, we note how the presence of the group is also strong in the cosmetics and perfumes sector. The division includes brands such as Dior, Givenchy, Kenzo (also active in clothing) and Guerlain. To broaden its customer base, also by expanding the range of the population that could access the products, the group pushed towards the acquisition of brands such as Bliss, Hard Candy and Urban Decay. Also in this case the exploitation of synergies especially in R&D is proved to be the key to the success of these operations. Thanks to these synergies, the group has managed to generate a growth rate equal to double the average for this sector.

The activity of the fourth division is aimed at the sector of jewelry and watches. Thanks to the move made by the group to acquire Bulgari, in 2011, for 4.3 billion which led to the transposition of the earnings of the target company in the group's financial statements.

The fifth and last division is that of "selective retailing" which manages the investments of the LVMH group in companies such as Sephora, DFS Galleria, and Miami Cruiseline Services. (LVMH, 2020)

Information by business group

Revenue by business group *(EUR millions)*	2020	2019	2018
Wines and Spirits	4,755	5,576	5,143
Fashion and Leather Goods	21,207	22,237	18,455
Perfumes and Cosmetics	5,248	6,835	6,092
Watches and Jewelry	3,356	4,405	4,123
Selective Retailing	10,155	14,791	13,646
Other activities and eliminations	(70)	(174)	(633)
Total	**44,651**	**53,670**	**46,826**

Figure n.10: *Revenues and profits of the LVMH divisions up to 2020*

Change in revenue by business group *(EUR millions and percentage)*	2020	2019	2020-2019 Change		2018
			Published	Organic[a]	
Wines and Spirits	4,755	5,576	-15%	-14%	5,143
Fashion and Leather Goods	21,207	22,237	-5%	-3%	18,455
Perfumes and Cosmetics	5,248	6,835	-23%	-22%	6,092
Watches and Jewelry	3,356	4,405	-24%	-23%	4,123
Selective Retailing	10,155	14,791	-31%	-30%	13,646
Other activities and eliminations	(70)	(174)	-	-	(633)
Total	**44,651**	**53,670**	**-17%**	**-16%**	**46,826**

(a) On a constant consolidation scope and currency basis. The net impact of exchange rate fluctuations was -2% and the net impact of changes in the scope of consolidation was nil. The principles used to determine the net impact of exchange rate fluctuations on the revenue of entities reporting in foreign currencies and the net impact of changes in the scope of consolidation are described on page 39.

Figure n.11: *Change in revenues by business group up to 2020*

As can be seen from the analysis and specifically from the latest graphs, the method of mergers and acquisitions represented a method of constant growth for the LVMH group. There is a decrease only in the year 2020, the year affected by COVID-19, therefore, the decrease in turnover is more than justified. Below we will try to understand the motivations and results of one of the most discussed and acclaimed cross-border mergers, the merger of the LVMH group with the Tiffany group.

4.3 HISTORY OF TIFFANY

"Its potential is huge and its integration is very important to us. It really is the number one priority. It is a challenge and we think we have to dedicate all our resources to it." Thus began LVMH president Bernard Arnault, explaining how they will use all their strength to bring an iconic brand like Tiffany back to the pinnacle of success. (Bolelli, 2021)

The watches and jewelry division has always struggled to keep up with the success achieved by the other divisions, where the group has always been very strong. The need, therefore, to increase the value of this division to reach the level of the others and the awareness of the greatness of Tiffany, prompted the LVMH group to consider a cross-border merger.

It is clear, at this point in the analysis, that a brand like Tiffany would have represented a guarantee for the LVMH group in an attempt to elevate the image of their products in the field of jewelry. It is therefore necessary to quickly mention the history of a great brand in the jewelery sector, which has been and will always be a leader in its sector.

In New York, in 1937, a new shop was opened in Manhattan, specializing in the sale of stationery and fancy goods, that is, small precious objects. Total sales on the first day are $ 4.98. It was the bet of 25-year-old Charles Lewis Tiffany. The items sold by Tiffany & Co. were inspired by a new American style, far from the style of Europeans, linked to the opulence of the Victorian era, but which was synonymous with simplicity and naturalness.

Charles Lewis Tiffany thus bought colored gems in Europe and brought them to the United States, allowing the American elite to purchase important jewels for the first time. Not only that, Tiffany is also the first American company to establish the .925 silver standard. (Lue, 2020)

In the 1940s, what would later become the iconic color of this Maison was created: the aquamarine color, or simply, the Tiffany color, which still today makes the sophisticated packaging of accessories and jewelry sold by the American brand desirable and unique. The color blue was also chosen by Charles Lewis for the cover of Blue Book, the first sales catalog showing the jewelry collection, first published in 1845 and still published once a year.

In 1848 Tiffany decided to focus more on jewelry making. He decided to buy gems from Europe, such beautiful stones, in fact, were entering the United States for the first time and the press crowned Charles Tiffany as the King of Diamonds. In 1878, the company purchased the Tiffany Diamond, a 287.42-

carat yellow-colored precious gem, the diamond was cut, and reached a weight of 128.54 carats with 82 facets, giving the stone its legendary and flamboyant brilliance. The stone thus became the symbol of Tiffany & Co. In 1886, Tiffany introduced the iconic engagement ring: Tiffany Setting, a handcrafted ring with a rare diamond.

In 1902 Louis Comfort Tiffany took over from his father following his death and thus became the Maison's first artistic director. An influential figure for his ideas within the Arts & Crafts movement. Louis created a remarkable range of Art Deco-inspired design objects for the family company, many of which are now housed in the Metropolitan Museum of Art in New York.

From this point on, there were many artists who wanted to wear Tiffany's jewels, to remember Vanderbilts, Astors, Whitney and Havemeyers, but also many visionary designers wanted to collaborate with the Maison, such as Jean Schlumberger, Elsa Peretti, and. Paloma Picasso. It was then consecrated with the film "Breakfast at Tiffany's", with the beautiful Audrey Hepburn. (Tiffany, s.d.)

It is therefore clear why Tiffany has become one of the targets of the LVMH group, with a history that only the multinational group could wish for. The graph shows how, not only the history, but also the numerical data regarding turnover and profit are of strong attraction for the French group, in 2019, Tiffany reached 4.4 billion dollars in net sales, reaching a record for this brand, with a net profit of 586 million dollars.

The company has also achieved a high level of recognition and reputation, which are its strongest intangible assets. (EMEA TEAM, 2021)

Tiffany & Co. (data in $ millions)	JAN '19	JAN '18	JAN '17
# Stores	321	315	313
Sales	4.442	4.170	4.002
Growth	7%	4%	(3%)
EBITDAR	1.309	1.286	1.209
EBITDAR Margin	29%	31%	30%
Net Income	586	370	446
Growth	58%	(17%)	(4%)
Net Margin	13%	9%	11%
Return on Equity	18%	12%	15%
Free Cash Flow	248	693	479
Total Assets	5.333	5.468	5.098
Net Debt / Total Equity	5%	(9%)	4%

Source:FactSet

Figure n.12: *Tiffany profit data*

4.4 DEAL RATIONALE

Through this merger, the LVMH group aims to further expand its presence in the "hard luxury" business. In fact, the company's "Watches and Jewelry" division has grown exponentially over the past two decades.

Thanks to the merger with Tiffany, the group aims to double the market share in jewelry to 18.4%, thus making it one of the strongest players. This would give the group a position of competitive advantage, even managing to compete with brands like Richemont, owner of brands like Cartier and Van Cleef & Arpels, in the incredibly fast growing category of the luxury goods sectors which is jewelry.

There are solid justifications for the 37% premium LVMH agreed to pay, reasons that go far beyond the idea of cost savings. The French group aims to invest large sums of money in marketing and retail, in order to further increase the reliability of the brand and its popularity and, consequently, to grow its financial performance. Analysts predict that LVMH will be able to bring Tiffany's operating margin from 17% to 23% within 5 years and create value for its shareholders by 2025.

LVMH has, in fact, a past with many successful mergers and acquisitions, leading each of its brands to increase in value creation. In 2011, for example, it acquired the well-known Italian brand Builgari which, through marketing actions and strategic choices, managed to double the sales to the brand and, therefore, quintuple its profits.

Another reason for LVMH towards this merger is the ability to expand geographically. The French group will be able to expand its market towards the United States, however, Tiffany will be able to strengthen its presence in Europe and China.

The graph below shows a combination of the profits of the two groups, LVMH and Tiffany, by market area, thus distinguishing between: Africa, America, Asia and Europe.

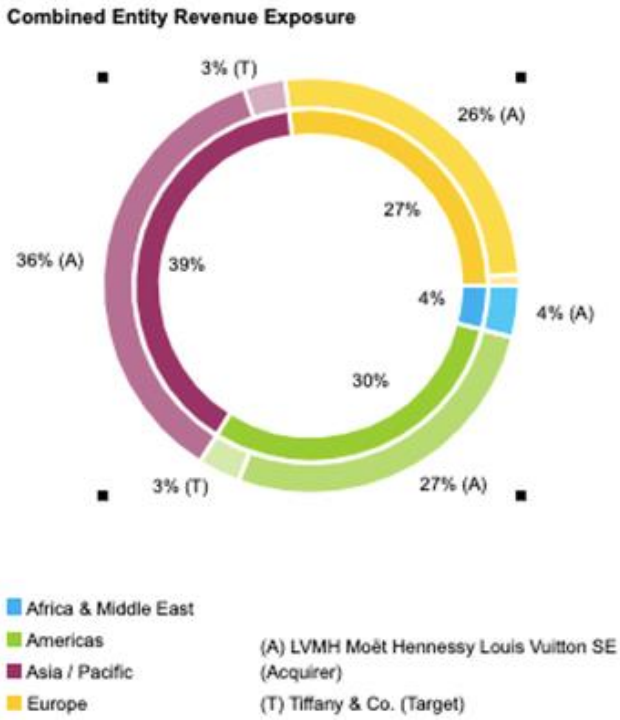

Figure n.13: *Combined entity revenue exposure*

In the deal, Tiffany was advised by two well-known financial advisors, Goldman Sachs & Co. and Centerview Partners, while LVMH was advised by two other groups, Citigroup and JPMorgan Chase & Co.

The graphs below show the evolution of the buyer and target's share prices in 2019 and the market reactions to the deal:

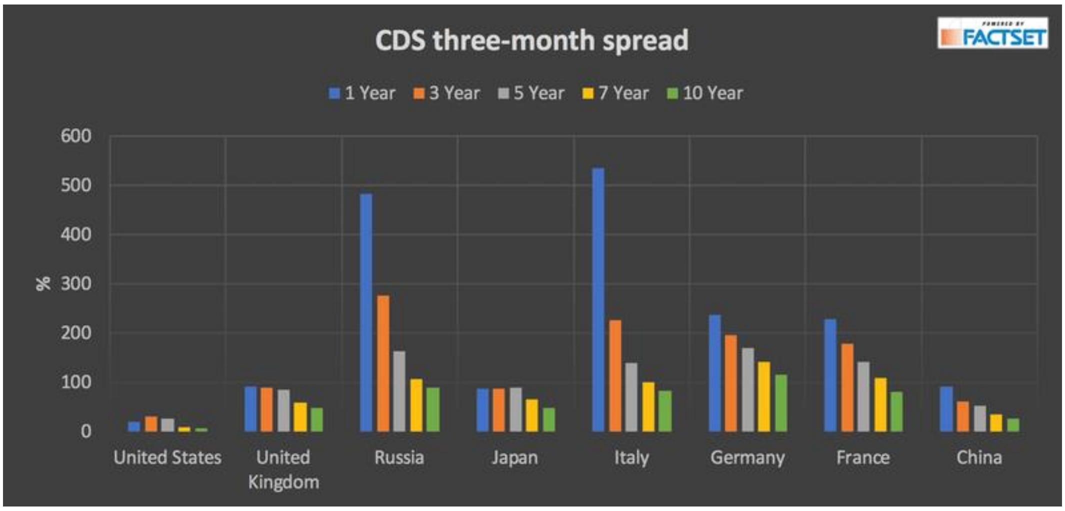

Figure n.14: *CDS three-month spread*

It can be seen from the graph that the news of the merger between the two groups was welcomed by the market, the price of the shares rose by 6.31% on the day of the announcement of the merger. The deal included the purchase of the shares for $ 135 each, and 71.9% of Tiffany's shareholders welcomed the proposed transaction. (EMEA TEAM, 2021)

4.5 DETAILS OF THE MERGER TRANSACTION

The health emergency in the world has caused a total blockage of all services, both legal and commercial, which have had devastating consequences on the economy. The epidemic did not spare M&A operations, and they are destined to be damaged in the future as well.

The agreements that were foreseen before the pandemic were difficult to apply due to the dubious feasibility of the operations from an economic point of view. Some of these, already foreseen in 2019, could not be extended with the same conditions already foreseen. There was, therefore, an inevitable "cause-effect" link, which saw the renegotiation of sales prices. One of these significantly affected deals was the one between the LVMH group and Tiffany.

The merger agreement, which had been negotiated by the parties, gave LVMH the opportunity not to conclude the deal in the event that Tiffany suffered a "material adverse effect." (MAE). The closing of the transaction also included the requirement that Tiffany should operate in the "normal course of business" between signing and closing. In this case, in order to terminate the agreement, the two parties had to clarify whether an MAE had occurred, and whether Tiffany had violated the ordinary course agreement. Therefore, one has to ask, "has the pandemic had a negative effect on Tiffany's business?" or "has the ordinary course agreement been violated because of the closure of shops and the continued payment of dividends?".

On October 15, 2019, LVMH made the first proposal to Tiffany for a merger. On that day the stock was worth $91, but LVMH proposed to Tiffany to pay the shares $120 each. This proposal was not announced, let alone expected.

The CEO of LVMH has, the next day, made an ulterior proposal: offering 135$ for action, in this regard, at the end of November 2019, the two groups had announced to have "entered in the final phase of the agreement", so a transaction worth $16 billion. The proposed date for the closure of the operation was set for 24 August 2020.

As is common in M&A operations, the merger agreement included an MAE clause, which left open the possibility to terminate the agreement between signature and closure. The agreement between the two groups listed eight categories of events, including economic, political and natural disasters. In addition, it is common to include disproportionality clauses in the agreement, in the event that Tiffany could have suffered disproportionally compared to its peers in the sector.

The agreement also included the requirement that Tiffany should manage its business in an ordinary manner, (the "Ordinary Course Agreement"). Therefore, in the event that Tiffany did not manage its business as agreed, LVMH should not have terminated the agreement. At this point, the drafting of the agreement was complete and the merger was announced publicly, although it was necessary to obtain approval in all jurisdictions.

Various causes have led to the slowdown in the closing of the transaction between the two groups: firstly, the negative effect of the pandemic, which caused the depresionne of the demand for luxury goods, leading to a decrease in sales of 40%, and recording a loss of over $ 30 million. Tiffany, on March 17, 2020, in response to the pandemic, announced that it would close several stores around the world, including the first and most important, on Fifth Avenue in New York, by the end of March, 70% of stores were closed.

Second, Trump has threatened to place additional tariffs on goods imported from France. Specifically on August 31, LVMH received a letter from the French Foreign Minister, indicating the United States' intention to impose an additional tax on luxury goods, and added that LVMH should postpone the closure of the agreement until 6 January 2021.

Despite the losses, Tiffany never stopped paying dividends to shareholders, at a value of 0.58 cents per share. In any event, the payment of dividends was included in the agreement between the parties, and the companies did not make any changes.

The giant LVMH accused Tiffany of "mismanagement" triggered by the Covid-19 pandemic, in fact it had made bad decisions, including the distribution of dividends to its shareholders that were too substantial and not suitable for the moment of loss for the company. It has therefore begun to take steps to get Tiffany back on track, but above all to re-evaluate the negotiations. In June 2020, LVMH began to have doubts about the conclusion of the merger.

At this point, LVMH had communicated its unwillingness to conclude the agreement, supporting its argument with three considerations: 1) an EAW clause had occurred; 2) Tiffany had not handled the activity "well"; and 3) the letter from the French Minister, by announcing the tax hike, he had prevented the deal from being terminated. Tiffany, defended herself by accusing LVMH of not having informed in advance of the decision taken, and replied with a legal initiative before the Chancery Court in the state of Delaware, defining the action initiated by LVMH as "meaningless and defamatory".

Tiffany tried to challenge each of the three statements made by LVMH. First, Tiffany argued that a change in the "general economic or political conditions" did not constitute an MAE, and therefore it could not be argued that one occurred, and even if one wanted to see the Covid as an MAE, it didn't disproportionately affect Tiffany's business. As for the second claim, Tiffany defended himself by saying that he paid dividends for the last 30 years without failing, even during the financial crisis. As regards LVMH's last claim, Tiffany explained that the French group could only terminate the agreement if the order was final and the letter did not meet this requirement.

Finally, Tiffany argued that LVMH was not moving to obtain the required antitrust authorisations, the merger agreement provided that LVMH had to obtain such approvals, and by slowing down the process was violating that obligation.

The jeweler wanted to block the agreement reached without the possibility of renegotiating the deal, an action that instead wanted to be carried out by the French company to eliminate the contractual obligation to pay the initially agreed price. Finally, he contested the "lack of legal basis" of the French government's request to take measures to discourage the implementation of duties on French goods.

On September 28, 2020, LVMH responded to Tiffany's actions with its own lawsuit. LVMH argued that the MAE clauses had been highly negotiated and there was no talk of "pandemics", and by not including them in the agreement, Tiffany agreed to bear any pandemic risks. According to the filing of the LVMH court:

"When the agreement was negotiated in November 2019, the pandemic intails at the MAE provisions were common. In addition, all agreements negotiated at the end of 2019 contained indications of this kind. It must be remembered that, the day before the agreement, was made a transaction for 6,8 billion dollars in which the Tiffany's M&A lawyer represented the buyer. Consequently, if Tiffany's lawyer wants to eliminate an MAE Clause, he knows how to do it".

As for the ordinary course of business, LVMH argued that Tiffany should suspend the payment of dividends during the pandemic. In addition, he accused Tiffany of cutting marketing expenses by 39% and capital expenditures by 32%, actions that not only diverted the ordinary course of business, but also influenced the post-pandemic. Finally, LVMH argued that when a government imposes legal restrictions, the termination of the agreement cannot occur, therefore the letter had established an order.

A possible closure date was set for 5 January 2021: The question of the MAE clause had remained unresolved, so the court had to decide whether the pandemic constituted an MAE.

Clearly as the trial date approached, it was necessary to figure out what to do: LVMH believed he could conclude the contract because Tiffany had experienced a material adverse effect. Furthermore, their argument argued that Tiffany's decisions violated the Ordinary Course Agreement. (Subramanian, Zlatev, & Farook, 2021)

The two groups, as expected, entered into a new agreement, and closed the merger in January 2021. LVMH thus obtains a discount of 135 dollars per share, reaching a record 131.5, saving 420 million dollars on the original 16.2 billion. Experts in the fashion law sector argue that the agreement proposed by the LVMH group was necessary given the position of legal fragility of the French group, so: "Tiffany and LVMH have also agreed to resolve the disputes pending at the Delaware Chancery Court". (Palazzi, 2020)

4.6 ANALYSIS OF EFFECTS OF THE MERGER

In this paragraph, we will try, through stakeholder analysis, swot analysis and other measurement tools, to answer the following question: "To what extent the acquisition of Tiffany affect the qualitative aspect of both companies? ".

Stakeholder analysis is an important tool that is used to evaluate the qualitative behavior of an activity, or to understand what the consequences of important business decisions are. The analysis begins with the study from the point of view of the shareholders, who will not undergo any change in the number of shares held, as these will not be reduced. In fact, the number and value of shares will not change, but Tiffany's earnings will add to that of the group.

From the customers' point of view, the difference in brand perception could be really important, the products will experience an increase in price. In fact, every brand acquired by LVMH undergoes the control of prices, which are usually increased, this phenomenon is called RIMOWA. As for the investors, their interest will continue to increase especially in the bright future of the group following this merger. As far as competitors are concerned, this merger means an increase in competitiveness. For employees, it means a change in the rules, in the objectives and in the way of working in general, but for the employees it also means the possibility to grow, to aim for higher remuneration, and to improve their positioning. Finally, managers do not have the same benefit as employees, in fact they will have less decision-making power.

Continuing the analysis, we must focus on the SWOT analysis, both from the point of view of LVMH and from the point of view of Tiffany. First of all we need to start from the strengths:

- It will increase awareness of the strength of the brand;
- The customer base will increase, as the customers of the two groups add up, an increase in the base also means an increase in the popularity of the brand;
- Complete control over the production process.

As for the weaknesses, they are:

- Loss of customers prior to the merger, in fact, business partners and customers could change brands, which creates potential conflicts, and of course, leads to the loss of potential buyers;

- The trend of declining profit for Tiffany, in fact, has seen a decline in the value of the shares and a decrease in turnover.

The opportunities are:

- Market development: LVMH has a very strong market in the jewelry industry. As a result, Tiffany can leverage that advantage and power.

Finally, the threats are:

- Adverse changes in fashion and taste - Changes in the concept of design, given the change in decision-making power, consequently there will also be a change on consumers. Even outside the company there can be a change in the fashion market, which can affect the total revenue;
- Conflict of interest between the main customers of the two companie;
- It is not certain that the supporters of LVMH's values are the same as Tiffany's and vice versa;
- Loss of potential investors for Tiffany, due to the pause that a decline in value may occur in the future.

The last part of the analysis is done with the Ansoff matrix, conceived in 1957, it is an analytical tool that helps managers choose and design various products and market growth strategies.

The merger is seen as a change in the corporate structure that helps the company towards expansion. In this specific case. the matrix helps to understand which expansion category the company should aim for. Ansoff's matrix shows four types of strategy: market penetration, product development, market development or diversification based on change in products and markets.

Product

Market		Low	High
	Existing	Market Penetration	Product development
	NEW	Market development	Diversification

Figure n.15: *Demonstration of Ansoff matrix*

The strategy undertaken by LVMH can be classified as a 'development market. Indeed, thanks to the merger with Tiffany, the LVMH group was able to expand into a new market with low product development, exploiting an already stable consumer base. This type of strategy is considered to be medium risk. LVMH, however, cannot enjoy the benefit strong product knowledge, which would make development easier and safer.

It can be concluded, in accordance with the analysis carried out, that from Tiffany's point of view, internal stakeholders gain from the increase in popularity of the brand and from the greater control obtained over security and finance. But, at the same time, following the merger, the company had to deal with the possible loss of interest of external stakeholders: consumers have faced a rise in price, competitors they have increased their pressure to compete.

Although there are risks, the closed transaction is a source of growth for both companies. LVMH has the ability to get an increase in profit in exchange for the high risk. As for Tiffany, however, the merger gave her hope again, after an unsatisfactory period. Overall, the benefit outweighs it the disadvantages listed, also because the biggest disadvantage that can arise from a merger is the decrease in turnover which, in this specific case, is a general trend on the market due to the COVID-19 pandemic or reduced world economic growth. (Li, 2021)

4.7 PLANS OF LVMH FOR TIFFANY'S FUTURE

The plans for Tiffany's future are still very uncertain, but some of the objectives have already been revealed: first of all, LVMH will redesign the design of the Maison's stores, and will bring its products to Europe and Asia.

LVMH will dedicate time and money to Tiffany to be able to push on the ideation of new products, and to study a new design and packaging. LVMH will also study the ideal location for the brand, being able to guarantee it the best shops and shop windows. As for the market, Tiffany is very strong in China, even as it is less exposed than its Asia-Pacific competitors.

Another fundamental goal is to further develop Tiffany's watch line. New models have already been presented at the main LVMH events: LVMH Watch Week, which this year was held in an innovative format, combining digital with face-to-face meetings, and the Watches and Wonders digital fair in Geneva. (LVMH, 2021)

Unlike its main competitors, the Maison's products differ and buy a wide range of prices, from pendants with a cost of $ 150, to products with a four-zero value. As for the silver jewelry collection, they have a gross margin of 90% and are the best entry point for a less wealthy population.

In April, LVMH announced its participation in the launch of a sustainable platform for gemstones and jewelry. The Blue Book high jewelery collection was launched for the first time in China, among the 400 pieces that make up the collection, the masterpiece was the exceptional Empire Diamond, a gem of over 80 carats. A necklace has been completely redesigned, presented for the first time in 1939 by Tiffany at the New York World's Fair, with a spectacular aquamarine as a central element, surrounded by 500 custom-cut diamonds.

Many pieces from the collection have been worn by celebrities on the red carpet. The young singer of the South Korean band Blackpink, Rosè has become the global brand ambassador of the Maison. Also becoming the face of the HardWear collection, a bold and rebellious line that embodies a decidedly feminine energy. This rejuvenation moved the younger clientele, which they particularly appreciated.

Finally, Tiffany decided to launch her first men's engagement ring, the Charles Tiffany Setting, honoring her long tradition of expressions of love and diversity.

Bernard Arnault said he wanted to strengthen the reputation of the brand, focusing on the desirability of the products, making the employees not a little worried, who I know well how difficult the evaluation criteria of the president are to meet. (Bolelli, 2021)

4.8 THE FIRST RESULTS OF THE CROSS-BORDER MERGER

To analyze the effects of the merger between LVMH and Tiffany, from the point of view of both companies, it is appropriate to focus on the partial balance sheet data published, concerning the first six months of 2021. In particular, as regards LVMH, it is necessary focus on changes affecting the "watches and jewelry" division. Profit from operations was € 794 million, compared to a loss of € 17 million in the period to June 30, 2020. This substantial increase is due to the positive impact of € 339 million from the consolidation of Tiffany in the first half. in 2021. The operating margin also changed, growing by 21 points to 19.7%.

Watches and Jewelry

	June 30, 2021	Dec. 31, 2020	June 30, 2020
Revenue *(EUR millions)*	4,023	3,356	1,319
Profit from recurring operations *(EUR millions)*	794	302	(17)
Operating margin *(%)*	19.7	9.0	(1.3)

Figure n.16: *Revenue of Watches and Jewelry's division of LVMH*

Overall, the division's revenue growth was 71%, compared to the first half of 2020, which was heavily affected by the global pandemic, and 5% compared to 2019. With Tiffany in the group, growth has been very strong. also showing the greatness of this iconic brand. However, this growth is also due to the Maison's markets, such as China and the United States, and above all online sales. From Tiffany's point of view, the growth was excellent, achieving a successful semester, also driven by sales in and in the United States. (LVMH, 2021)

4.9 CONCLUSION

This chapter has focused on studying the strengths of a group such as LVMH, which in no way hints at stopping its growth, despite a global pandemic that has affected all divisions of luxury. LVMH does not, in any way, hint at stopping its expansionist growth, thanks above all to the merger and acquisition operations, which turn out to be a risky tool, but not for those who know how to use them as well as the French group.

Additionally, this group knows exactly how to leverage the synergies arising from its operations, and its brand management policy placed under its control is the key to their success operations. LVMH allows each brand to maintain their characteristics, their values, their target, their customers, and their corporate policy in the post-acquisition phases.

The French group does not interfere in any way in the management of the companies it acquires and this makes the collaboration between the various brands of the group simpler and more linear, thanks to this policy the group has been able to create a solid foundation. Such growth strategy has always ensured the group success in the transactions concluded.

To date, the aims of the LVMH group seem to be aimed at three big names in the world of luxury: Etro, Tod's and Brunello Cucinelli, but there is none official news that negotiations are already underway. Surely, the group won't stop after the merger with Tiffany, and that's the only sure thing.

CONCLUSION

With this paper we have tried to analyze cross-border mergers in the world of luxury. The study of the LVMH case in relation to the merger with Tiffany made it possible to show how the financial strength and experience of the group in this field led to the success of the operation for the French group and the relaunch of the brand for the American group. The paper demonstrated how the merger operations are also valid in the international context.

In the current context, the crisis due to the world pandemic and the effects of globalization have led companies to be increasingly competitive in order to survive and the only possible way seems to be to continue growing. A colossus like LVMH has never stopped its race, crushing the little ones who do not have the means to continue to be competitive. Mergers and acquisitions turn out to be the only way to fast and safe growth.

Faced with these conclusions, it is clear that the arguments of this thesis take more value. From the analysis of the luxury sector, it is clear how the excessive competitiveness within it, push groups like LVMH to aim to be the absolute leader through the merger and the acquisition of new companies, also at an international level.

The companies that are taken into consideration for this type of operation, do not always have a rosy financial situation, indeed very often are in difficulty, but still remain very renowned for their products, and that becomes a plus for the group that invests in them.

The smaller companies, in fact, cannot keep up with the giants, also because of the financial crisis of 2008-2009, although the world of luxury has not suffered significantly. They rely, therefore, on groups of a certain size, so as to find investors and still have a chance to survive.

There is clearly no unambiguous description of all mergers and acquisitions, in fact these operations are very complex in their entirety, but wanting to dwell on the data collected after-merger, it can be said that very often the operation brings benefits, from various points of view, to both companies.

For example, in the transaction between LVMH and Tiffany, there were benefits for both groups, the American group managed to maintain a certain level of self-management, thanks also to the policy of the French group, and increased its position at the financial economic level, also achieving an expansion at the reference market level. LVMH, on the other hand, has expanded its range of brands, and consequently, of products that are part of it, has also expanded the reference market, pushing towards America, has increased as a direct consequence the turnover of the division "Watches and Jewelry" and thus increasing its position as a leader in the world of luxury.

In the light of all these considerations, it is therefore possible to conclude that this growth strategy for external lines, through merger and acquisition operations, is an effective instrument, often with significant results that lead to the creation of a lasting advantage for companies, and a growth of value for them.

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