

CURRENT REPORT No. 1/2011

Date of Report:

3 January 2011

Re:

Equity Investment Agreement between Emperia Holding S.A. and Eurocash S.A. – Disclosure of Delayed Confidential Information

Update:

The Management Board of Emperia Holding S.A. with its seat in Lublin (**“Emperia”**), acting pursuant to Article 57(3) in conjunction with Article 56(1)(1) of the Act on Public Offering, is pleased to inform that on 21 December 2010 an Equity Investment Agreement was concluded by and between Eurocash S.A. with its seat at Komorniki (**“Eurocash”**) and Emperia (**“EIA”** or **“Agreement”**).

The fulfilment of the obligation to disclose the conclusion of the Agreement to the Stock Exchange in Warsaw (*Giełda Papierów Wartościowych w Warszawie S.A.*) and to the public under the procedure laid down under Article 56(1) of the Act on Public Offering was delayed pursuant to Article 57(1) of the above Act.

Under the terms of EIA, Eurocash and Emperia (**“Parties”**) agreed to enter into a transaction under which Emperia will sell to Eurocash shares, held directly or indirectly by Emperia, in food product wholesaling companies plus a retail franchise chain:

1. Tradis Sp. z o.o. with seat in Lublin
2. Detal Koncept Sp. z o.o. with seat in Lublin
3. Euro Sklep S.A. with seat in Bielsko-Biała
4. Partnerski Serwis Detaliczny S.A. with seat in Warszawa
5. DEF Sp. z o.o. with seat in Białystok
6. Ambra Sp. z o.o. with seat in Czechowice-Dziedzice
7. Lewiatan Podlasie Sp. z o.o. with seat in Białystok
8. Lewiatan Śląsk Sp. z o.o. with seat in Sosnowiec
9. Lewiatan Zachód Sp. z o.o. with seat in Stargard Szczeciński
10. Lewiatan Północ Sp. z o.o. with seat in Gdańsk
11. Drogerie Koliber Sp. z o.o. with seat in Gliwice
12. Lewiatan Kujawy Sp. z o.o. with seat in Włocławek
13. Lewiatan Orbita Sp. z o.o. with seat in Olsztyn
14. Lewiatan Wielkopolska Sp. z o.o. with seat in Poznań
15. Lewiatan Holding S.A. with seat in Włocławek
16. Lewiatan Brda Sp. z o.o. with seat in Tuchola
17. Lewiatan Opole Sp. z o.o. with seat in Opole

(“**Wholesalers**” and shares in Wholesalers collectively “**Shares**”). The sale of Shares in Wholesalers will be effected by: (i) contributing a portion of the Shares to cover subscription for the increased share capital of Eurocash in exchange for shares of a new issue of Eurocash acquired by Emperia at the issue price of PLN 22.21 per share (representing up to 14 percent of the share capital of Eurocash) and sale of the remaining Shares by Emperia to Eurocash, or by (ii) sale by Emperia of all the Shares to Eurocash in the specific cases provided for under EIA. The structure of the transaction depends on the occurrence of certain events set forth in EIA.

The Parties made performance of EIA conditional upon fulfilment, no later than on 5 January 2011, a condition precedent (“**Condition Precedent**”) of the Supervisory Board of Eurocash adopting by the above deadline a resolution authorising purchase of the Shares on terms and conditions laid down under EIA and excluding the existing shareholders’ rights to acquire Eurocash shares offered to Emperia. The Supervisory Board of Eurocash adopted the above resolution on 3 January 2011.

The value of the Shares in the Wholesalers acquired by Eurocash has been set by reference to the amount of PLN 925,975,000 (“**Base Value**”) adopted by the Parties. The Base Value, and by the same token the price paid by Eurocash for the Shares, may be subject to certain adjustments depending on the opinion issued by 28 February 2011 by an auditor appointed jointly by the Parties (“**Auditor**”). The procedure for effecting the adjustments and cases in which the price paid by Eurocash for the Shares may be adjusted are laid down under EIA. If the transaction follows the scenario of a portion of the Shares being contributed to cover subscription for the increased share capital of Eurocash in exchange for shares of a new issue of Eurocash acquired by Emperia and the remaining Shares being sold by Emperia to Eurocash, part of the price for the Shares will be paid in new Eurocash shares. Yet, under specific circumstances laid down under EIA, the full price of the Shares may be paid in cash.

Under EIA, each Party has a contractual right to rescind the Agreement, however, such right must be exercised within a period of 9 months of the date of EIA.

In the events provided for under EIA, Eurocash is entitled to rescind the Agreement subject to payment of compensation for loss of contract of PLN 200,000,000. If Eurocash fails to exercise the right of rescission within the prescribed period of time, the right of rescission becomes vested in Emperia. If Emperia exercises its right to rescind the Agreement, Eurocash must pay to Emperia PLN 200,000,000 as lump-sum damages. The same procedure for the exercise of the right of rescission applies if Eurocash fails to pay, depending on the actual transaction framework, for a portion of the Shares being sold or for all the Shares being sold by Emperia.

The Parties are required to pay liquidated damages in the cases outlined below. If Emperia breaches its obligation not to dispose of the Shares within the period until the Closing Date (i.e. the date on concluding the agreement under which Eurocash acquires the Shares, regardless of the actual type of the transaction), Emperia is required to pay to Eurocash one-off liquidated damages of PLN 200,000,000 for the breach as such, regardless of the actual number of individual breaches, and Eurocash is entitled to seek damages exceeding the amount of the above liquidated damages. Further, Emperia is required to pay liquidated damages if it violates the non-competition provisions of EIA.

EIA contains standard warranties. The warranties relate in particular to the Shares and the respective businesses of the Wholesalers. A breach of warranties provides grounds

for liability for damages on terms set forth under the Agreement. The liability of the Parties under EIA is limited under the Agreement.

The Parties intend to cause the Eurocash shares offered to Emperia to participate in dividend distributed among Eurocash shareholders for 2010. If no such dividend is distributed with respect to the new shares, the price of the Shares being sold paid by Eurocash will be increased as appropriate. Further, if the Eurocash group operational and financial objectives, jointly agreed by the Parties and listed in EIA, are achieved in 2011 and 2012, Eurocash has agreed to cause new 1,000,000 shares to be allocated to Emperia in each of the above years.

Emperia has agreed, following fulfilment of the Condition Precedent, to discontinue the proposed division of Emperia under the Terms of Division adopted by a resolution of Emperia's Management Board on 16 November 2010 (see Current Report of Emperia No. 71/2010), and Eurocash has agreed to discontinue the proposed public offering of K series shares and the offering of L series shares (see Current Reports of Eurocash Nos. 58/2010 and 66/2010). Further, Eurocash has agreed to cause Mr Jan Domański to withdraw his action for declaring Resolution 2 of the Extraordinary General Meeting of Shareholders of Emperia of 13 October 2010 invalid.

The net profit generated by the Wholesalers in 2011 until the Closing Date, calculated under the formula provided for in EIA, will be divided in equal parts between Emperia and Eurocash. After the amount of the profit has been established by the Auditor, the portion of the profit distributable to Emperia will be paid as an additional payment supplementing the price of the Shares being sold.

The Parties have agreed to agree and execute by the Closing Date a number of agreements ensuring uninterrupted conduct of business by the Emperia group and the Eurocash group over a specific period of time post Closing Date, including without limitation the Wholesale Agreement, Lease Agreement, Service Agreements and Licence Agreements.

Since the acquisition of Shares by Eurocash requires a permit of the Chairman of the Polish Anti-Monopoly Authority (UOKiK), the Parties have undertaken to make every effort to obtain that permit within a period of 3 months of the date of EIA. Further, Eurocash has undertaken to support the election of one Emperia nominee to the Supervisory Board of Eurocash by its General Meeting.

The Agreement is deemed a material agreement by Emperia as the subject-matter of EIA exceeds 10 percent of the value of the Company's equity capital.

Legal Basis:

Article 56(3) in conjunction with Article 56(1)(1) of the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organised Trading, and Public Companies of 29 July 2005 (consolidated text, Journal of Laws of 2009, No. 185, item 1439, as amended, "**Act on Public Offering**")