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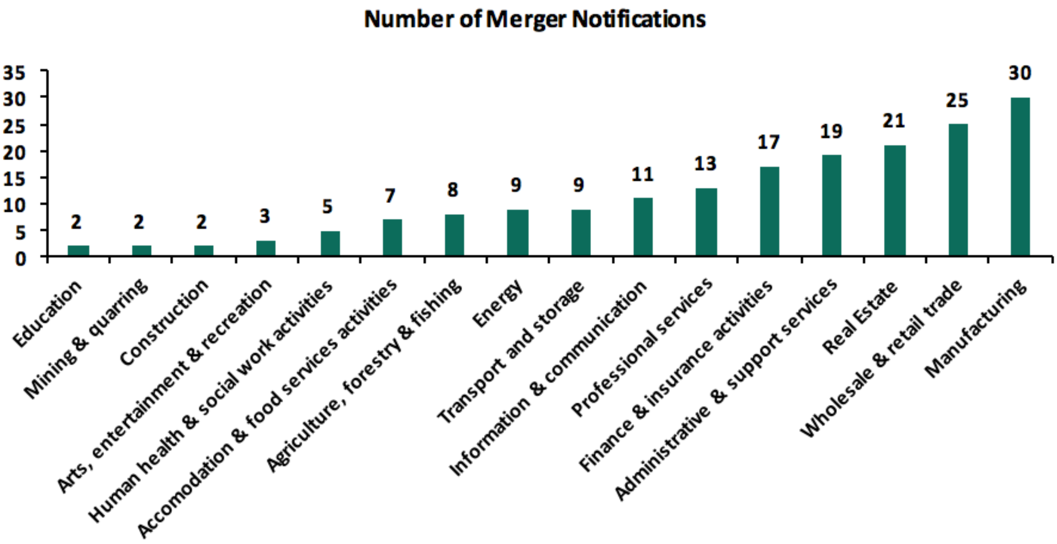
Private Equity

The Competition Authority of Kenya (CAK) released their 2018 Annual Report, which highlighted the number of mergers that the Authority handled. The Authority handled 150 merger notifications in 2018, a 15.4% increase from 130 merger notifications handled in 2017. The merger notifications were mainly from the following sectors; manufacturing, real estate, distribution, investment, services, advertising and agriculture, which accounted for 51.2% of all the mergers that were notified to the Authority while other sectors accounted for the balance of 48.8%. See below the number of merger notifications per sector:



Source: Competition Authority of Kenya Annual Report 2017/18

Merger transactions involving international companies, mainly private equity funds, were 83 in 2018, accounting for 55.3% of the 150 merger notifications. This was an 11.7% reduction from the 94 transactions recorded in 2017, attributed to the spill over effect from the prolonged electioneering period towards the end of 2017, which dampened investor sentiments. Merger transactions involving local companies were 67 in 2018, accounting for 44.7% of the 150 merger notifications. This was an 87.1% increase from the 36 transactions recorded in 2017. The value of the mergers and acquisitions considered in 2018, contributed a total of Kshs 66.1 bn to the Kenyan economy.

During the year under review, the Authority reviewed and subjected the Merger Threshold Rules to stakeholders' comments, in a bid to align the Merger Threshold Rules and Guidelines to address the amendments to the Competition Act No. 12 of 2010. The draft rules provide for block exclusions for transactions where the combined turnover or assets of the parties is below Kshs 500.0 mn. This will facilitate mergers across all sectors and hence promote investment especially involving Small and Medium Enterprises (SMEs). In addition, the new thresholds will save businesses the cost and time associated with sending merger notice to the CAK, as they will eliminate the need for double notification of mergers with COMESA companies and investors. Further, transactions where the parties have a combined turnover of less than Kshs 500.0 mn will not be required to notify the Authority.

The amended rules are expected to increase transparency, predictability and accountability among the business community regarding the Authority's merger enforcement process. Specifically, the reviewed rules are aimed at:

- Easing the cost of doing business and deepening of the investment climate,
- Providing clarity on the transactions that are required to issue a notice at the national and regional levels,
- Identifying notifiable, those which qualify for exclusions and non-notifiable transactions,
- Enhancing clarity in the calculation of the relevant turnover or assets, and,
- Ensuring consistency in the computation of relevant merger filing fees.

We are of the view that the new rules will greatly facilitate investments by SMEs and as such promote competition and economic growth in the country. The new rules will also help in promoting merger and acquisitions in the Eastern and Southern African region as the process will be more efficient and cost effective.

We maintain a positive outlook on private equity investments in Africa as evidenced by the increasing investor interest, which is attributed to; (i) economic growth, which is projected to improve in Africa's most developed PE markets, (ii) attractive valuations in Sub Saharan Africa's private markets compared to its public markets, and (iii) attractive valuations in Sub Saharan Africa's markets compared to global markets. Going forward, the increasing investor interest, stable macro-economic and political environment will continue to boost deal flow into African markets.