Catalyst

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Q1 SA deal activity

Musings of a reconditioned PE partner

The Competition Commission's new groove

Contents

Catalyst

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Gleason Publications

Musings of a reconditioned private equity partner

Good corporate governance makes sound commercial sense (Part 1)

Peter Mason

'Good corporate governance helps companies operate more efficiently, improve access to capital, mitigate risk, and safeguard against mismanagement.' (International Finance Corporation)[1]

Much literature suggests that there is a clear correlation between equity value, the ability to raise debt – as well as the price at which debt is provided – and good corporate governance. Many private companies, though intuitively recognising this as common sense, often fail (at their cost) to address it properly.

Mason

I recently returned to legal practice after a decade working as a partner of a private equity fund manager. I reflected that there are some lessons that I learned at the coal face about investing in businesses and managing debt which could bear repeating. A previous partner of mine frequently observed that "common sense isn't very common". I hope, if this all appears to be blindingly obvious, that you will forgive this common sense approach. My intention in this case is merely to remind you of something you probably already know – ensuring the implementation of good corporate governance is commercially sensible. During my business career, I haven't encountered anyone who didn't agree, at least in principle, with this proposition.

When evaluating a prospective investment, a serious private equity investor will, always conduct a comprehensive review of its corporate governance. This enquiry is not restricted to financial investors, however, and the same considerations would apply in relation to raising debt and, for that matter, to any corporate action involving an acquisition, merger, subscription, or any other similar process.

Most executives I have met, and most boards I have either sat on or worked with, invariably believed that even if a bit of improvement may be necessary every now and then, the principles of good corporate governance are generally applied by them or, at the very least, the governance measures at their company are sufficient for its specific requirements. I am unconvinced.

I have looked at many privately owned businesses, and it is unusual to encounter one that has, neatly filed away, a complete set of resolutions or full set of minutes – at both board and shareholder level. This is understandable, as establishing and maintaining these records is an inconvenience which requires attention and is often a detailed and boring process. What executive teams often fail to appreciate is the cost of this failure.

An email exchange between management and the board is seldom formally documented. Likewise, if the executive team are also board members, formal board meetings are seldom held. Most executive teams regard themselves as serious, professional people who communicate decisions, and whose behaviours are both considered and deliberate. More often than is comfortable, however, the formal record of a company's decisions and actions is found in emails, electronic messages, and the recollections of various individuals. The absence of a formal record makes the entire decision-making process opaque. In more highly regulated environments, governance implementation is less of an issue, though recent press coverage of some failures may make a lie of that statement. In the private company space, however, where resources are scarcer and time is limited, it is frequently easy to let things slide.

There is much literature about the link between successful businesses and good corporate governance. While this link may seem self-evident, in my experience from private equity, it does not always seem to be appreciated.

The King IV Report on Corporate Governance for South Africa 2016, which will shortly be supplemented by King V, is the authority on the subject in this country, but a quick internet search will reveal a plethora of both South African and international resources and papers on every aspect of the subject of corporate governance. Don't let this fool you, however; the availability of resources merely means that they exist, but not necessarily that they have been considered.

There is much literature about the link between successful businesses and good corporate governance. While this link may seem self-evident, in my experience from private equity, it does not always seem to be appreciated.

The simplest reason for getting governance right is to allow some light to be shone into the world of corporate decision-making, so that decisions taken may be seen to be both rational and lawful. If the information available is transparent, comprehensive and complete, then anyone who views it is equipped to make the best possible decisions for the company in the shortest possible time.

At the acquisition stage, if the information provided to a prospective investor is clear and easily available, they can quickly evaluate the risk environment within which the business operates and make sensible and informed decisions. The investor can develop a clear and detailed view of the company's history, the challenges it has faced and how it overcame them, and the threats and opportunities in the environment in which it presently operates.

Banks and other third-party credit providers also really like to see that this information is available. Again, for all the same reasons, information that is clear and available enables them to make credit and related risk decisions much more effectively.

Private companies looking for investors or finance would be well advised to ensure that their governance practices are set up to facilitate these kinds of reviews. A business which has effective governance structures and processes in place looks like it is being well run. ◆

Mason is a Senior Consultant | Bowmans*

* Peter is an ex corporate finance and banking lawyer. After leaving banking, and a brief sojourn at a large SA law firm, he spent 10 years as a partner of a private equity fund manager based in Johannesburg.

BOWMANS
THE VALUE OF KNOWING

1 https://www.ifc.org/en/what-we-do/sector-expertise/corporate-governance

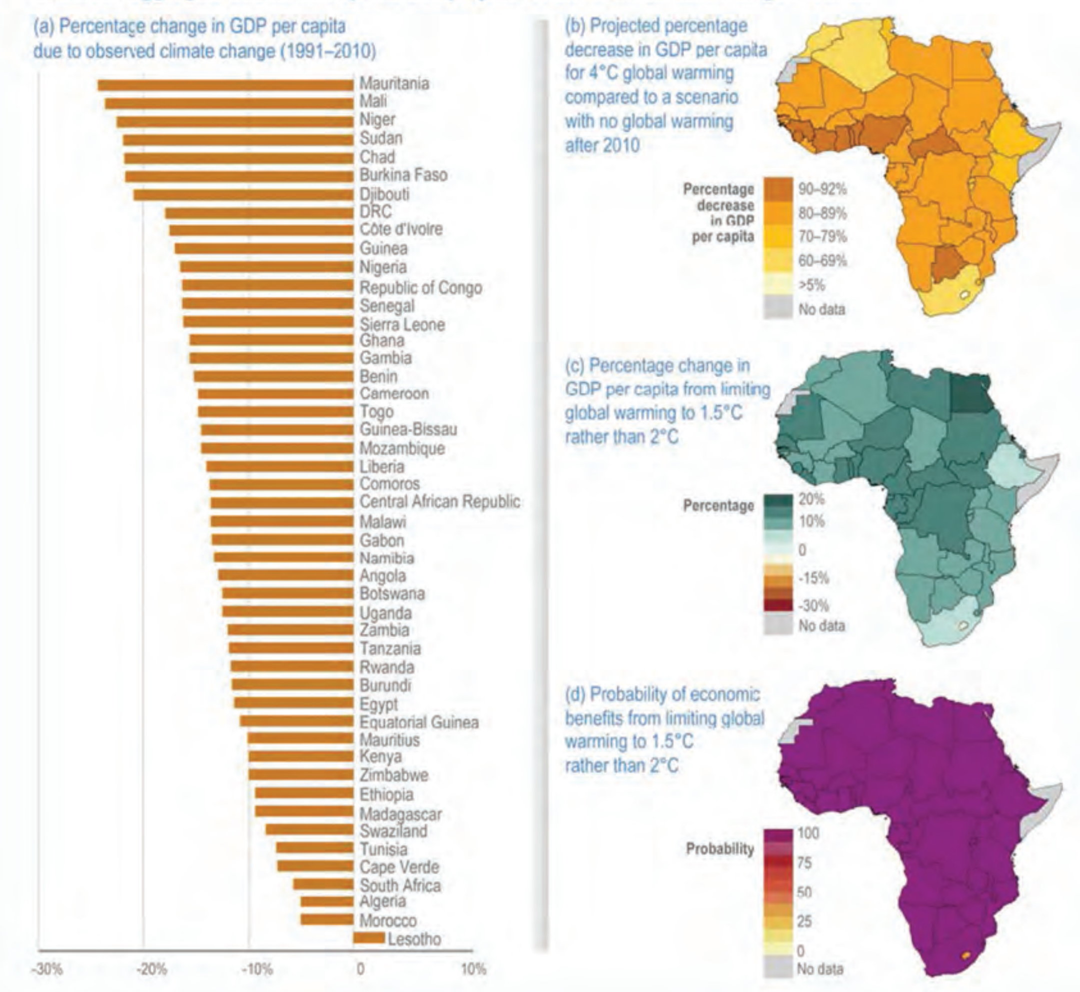
Urgent investment needed to mitigate the effects of climate change in Africa

Ten years on from the Paris Climate Accord of 2015, the negative impacts of climate change continue to exacerbate the existential threats to ecosystems and society – both globally, and in Africa. In fact, despite the fact that Africa contributes only approximately 4% of global carbon emissions, seven out of 10 countries most at risk from climate change are African.

Hubert Gutsa and Semoli Mohkanoi

According to the World Meteorological Organisation, African nations are losing up to 5% of their GDP per year due to extreme and catastrophic climate-induced events, and many African nations spend as much as 9% of their national budgets on climate adaptation policies. There is also a massive, growing health risk – rising temperatures, shifting rainfall patterns, and more frequent extreme weather events are impacting nearly every dimension of human health in Africa. Since 2019, there has been a disconcerting increase in the proportion of deaths related to malnutrition, and vector-borne illnesses like malaria and dengue fever, as well as water- and food-borne diseases, such as cholera, are resurging or appearing in new areas as the climate becomes more erratic.

Observed aggregate economic impacts and projected risks from climate change in Africa



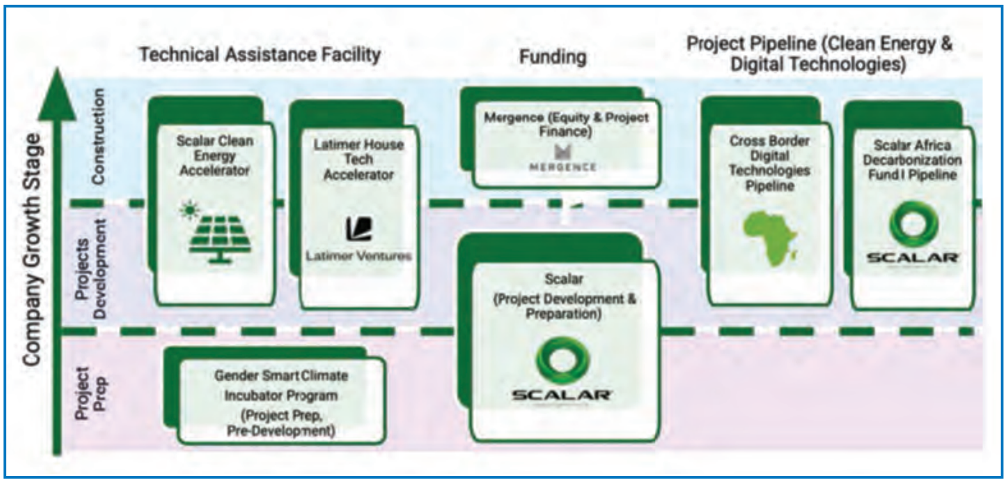
Africa holds 60% of the best solar resources globally, yet has only 1% of installed solar photovoltaic capacity. Furthermore, women make up 48% of the global workforce, yet account for less than 20% of labour in the renewable energy sector.

Food production shocks due to climate increasingly threaten food security in the region. According to the International Labour Organisation, agriculture provides livelihoods for more than half of Africans, and agriculture systems both contribute to climate change and suffer from its effects. For example, overgrazing increases the risk of drought, which may degrade pastures and water sources. At particular risk are pastoralist communities in African drylands, where precipitation is already highly variable and uncertain.

These variables make for a climatological witches' brew that data reveals is reaping dire consequences for citizens across the continent and around the world. Amid this challenge, the private sector can play a crucial role by investing to support resilient and sustainable infrastructure.

Private investment can be part of the solution

In this context, institutional fund managers Scalar International and Mergence Investment Managers have, in partnership, launched a private equity fund to finance clean energy and digital infrastructure in sub-Saharan Africa, with a target size of US$100-150 million. The Africa Decarbonisation Fund will invest in energy-efficient / decarbonisation projects in the private commercial and industrial (C&I) sector within SADC, with a focus on women- and youth-led SMEs. The potential is significant as, according to Bloomberg, by 2030, the electricity demand in Africa's C&I sector is expected to grow by more than 270% compared with current levels.



The target is to reduce 1 GT of carbon emissions by 2030; achieve energy efficiency in 30,000 buildings by crowding in investment of at least $400 million; and create 15,000 full-time jobs.

Scalar is a black-owned international venture capital and private equity firm with experience in clean energy and other programmes in the US; Mergence is a leading black-owned institutional fund manager with a strong impact investing track record in SADC.

Scalar is one of only five fund managers chosen out of 66, as part of the 2024 cohort of the International Climate Finance Accelerator (ICFA) – a programme powered by Accelerating Impact.

Accelerating Impact is an independent non-profit initiative, set up as a public-private partnership in 2018 by the state of Luxembourg and a dozen private partners with deep experience in impact finance, with a mission to accelerate the impact finance leaders of tomorrow across the globe.

The ICFA is a unique multi-year programme that includes technical and financial support to selected impact investment managers in their start-up phase, who have strong, innovative climate investment strategies and are in the process of fundraising. To date, 39 fund managers have been supported.

The Scalar-Mergence Africa Decarbonisation Fund is also one of only 10 so-called "Article 9" funds worldwide, launched recently by the EU's Sustainable Finance Disclosure Regulation (SFDR) to facilitate the attraction of Limited Partners to private equity funds.

The fund's pipeline of projects is primarily in the data centre and manufacturing sectors, which have seen a 40% decrease in grid energy reliability due to their reliance on the regional energy pool. Most SADC member states consume their energy from the Southern African Power Pool, which is primarily 40% hydro energy and 50% coal-powered energy.

The fund is in advanced negotiations with European Development Finance Institutions in support of the EU-Africa Global Gateway Investment Package. The fund seeks to work with local pension funds in support of South Africa's national determination contributions, together forming a Global Just Transition Partnership using the Scalar platform.

Investments will be guided by four of the United Nations Sustainable Development Goals (SDGs) – 7 (affordable and clean energy); 8 (decent work and economic growth); 10 (reduced inequalities); and 13 (climate change).


Gutsa

Investee businesses will be put through their own incubator and accelerator programme by the Scalar-Mergence fund, providing training and technical, as well as financial, assistance.


Mohkanoi

Clean energy in an African context

Africa holds 60% of the best solar resources globally, yet has only 1% of installed solar photovoltaic capacity. Furthermore, women make up 48% of the global workforce, yet account for less than 20% of labour in the renewable energy sector.

According to the International Energy Agency, 43% of the African continent's population lack access to electricity, and many African governments are struggling with power infrastructure – South Africa's power utility being no exception.

Massive investment is clearly required, and given the growth potential, investors could see robust and steady long-term returns while making a significant impact on the lives of millions of people in Africa. ◆

Gutsa is CEO of Scalar International, and Mohkanoi, CCO of Mergence Investment Managers

The Competition Commission's new groove:
A business friendly shift?

Amid a turbulent and unpredictable investment environment featuring trade wars, actual wars and uncertainty around local and international fiscal and trade policy, one risks losing sight of matters at the coalface of M&A activity, namely the status of local merger control and whether it is adding to these uncertainties or firming up to increase investor confidence.

Reece May, Albert Aukema and Chris Charter

In South Africa, at the level of deal regulation through merger control, we see signs that the Competition Commission (Commission) has continued to develop its perspective and understanding of the effect of its policy of ownership of firms by historically disadvantaged persons (HDP) and workers on a merger transaction. At the risk of adopting the peculiarly South African bent of identifying green shoots before they are edible, there are indications that the Commission may be moving its ownership policy under the Competition Act in a more pragmatic direction.

The Competition Act requires that when assessing the effect that a proposed transaction will have on the public interest, the Commission must determine the effect that it would have on the *"promotion of a greater spread of ownership, in particular to increase the levels of ownership by [HDPs] and workers in firms in the market".* Generally speaking, and as expressed in its own guidelines on public interest in mergers, the Commission has taken the view that "promotion", in this context, meant that acquiring firms were required to improve on the HDP and/or worker ownership levels in target businesses. Over the past couple of years, this has resulted in the Commission routinely requiring merging parties to tender conditions such as commitments to enter into HDP equity transactions in the future, or establishing an employee share ownership plan (ESOP) for the benefit of a broad-base of workers.

These measures often posed challenges for investors, particularly private equity firms whose growth capital deployment strategies typically mean that the commercial mechanics of a deal are carefully calibrated; all the more so when investing in marginal economic circumstances. If local private equity firms' deal making is subject to costs and strictures affecting deal value, or reducing equity value, private capital may well choose other markets. The introduction of internally financed ESOPs, for instance, could also run contrary to private equity's requisite capital growth, including through reduced dividend flow. Often, private equity investments are for less than a 100% stake (often, management retains a level of control, or a private equity firm is part of a consortium). In those circumstances, a reduction of equity is all the more difficult to contend with.

May

In our experience, the strident application of an ownership policy resulted in reduced investment sentiment due to resulting increases in transaction costs, extended investigation timelines with resultant knock-on delays in closing, reduced returns due to equity commitments and, for black fund managers, uncertainty regarding inherent difficulties in exiting effectively at the end of their respective investment horizons. Minority black shareholders also found their stakes to be less attractive for buy-outs by private equity firms, who may prefer to leave these in place to avoid creating a public interest headache.

Fast forward somewhat to the establishment of the Government of National Unity (GNU) and the appointment of a new Minister of Trade, Industry and Competition, and the picture seems to be getting a little rosier. South Africa's desperate need for private investment appears to be becoming a bigger part of the regulatory equation – though not to the exclusion of economic transformation objectives, of course – so the Commission is finding itself having to wrestle with two equally weighty policy imperatives: addressing inequalities of the past, and supporting investment so that the future can be secured.

A New Era of Flexibility?

Some recently reported merger decisions suggest that the Commission has, of late, adopted a more holistic view of its public interest assessment, taking into account the effect on all public interest grounds (not just HDP ownership). In the past, transactions which had a positive effect on other factors of the public interest, but which reduced HDP ownership levels, were met with a steadfast Commission who insisted on HDP equity or ESOP remedies – despite the adverse effects it may have on the private equity firm's investment or exit. However, it now appears that the Commission has begun to look more earnestly at the entire public interest impact of a transaction, even allowing unconditional approvals for some transactions which reduce HDP ownership, but which come with sufficient countervailing public interest benefits.

Aukema

Another shift is that in transactions that reduce the level of HDP ownership, the Commission has begun to seriously consider innovative solutions which meet regulatory requirements while also supporting private equity investment objectives. In particular, there seems to be a greater receptiveness towards alternative business friendly remedies (other than equity and ESOP remedies) in the face of a reduction in HDP ownership. These remedies include:

- HDP and small, micro and medium enterprise development initiatives, including spend commitments throughout the value chain which would align with companies' B-BBEE strategy.

- Empowerment of HDP fund managers. The Commission has allowed for skills transfer arrangements and empowerment initiatives geared towards prospective HDP fund managers, ultimately fostering a more inclusive and dynamic investment environment.

- General public good remedies, including community development initiatives such as donations to schools, hospitals and other community areas.

Although these remedies still require capital outlay and implementation, they are often more business friendly than their traditional equity-displacing counterparts, and are more likely to align with the merging parties' B-BBEE / ESG strategy.

Too pragmatic?

The Commission's willingness to meaningfully engage with merging parties is very welcome. Allowing for more business-centred remedies – which still achieve positive public interest outcomes under the Commission's interpretation of the Competition Act – creates a positive obligation to improve ownership outcomes. However, it is important to continue ensuring that any remedies tendered in deals are still meaningfully connected to the deal, and to the Commission's mandate to investigate deals under the Competition Act.

In the absence of detailed reasons explaining the nexus between a deal and a given remedy, there is a risk that certain of the more 'transactional' remedies that have been offered are seen as unjustifiably removed from actual deal effects or commercial rationale. In a global environment that is currently suffering the effects of overly transactional approaches to trade policy, this approach may run the risk of reducing the public interest test to mere Rands and cents (the more cynical may say: rent extraction) rather than the balancing act envisaged by the Competition Act.

Where to from here?

Charter

While many investors would love to hear that statutory obligations, the requirement of mergers to promote the public interest, and transformation of ownership trends in particular, are on the cusp of being sacrificed on the altar of "regulatory reform", the reality is far more nuanced. Certainly, deal architects who are able to work within the transformation paradigm, or at least are able to create deals that meaningfully promote the public interest, will find their path to approval smooth. Those who are less flexible will continue to face headwinds. That said, the Commission does appear alive, and even somewhat responsive, to concerns from the investor community around perceptions that the policy may be hostile to deal flow and economic growth. Threading the needle between two policy imperatives is an unenviable task for a regulator. Like most of South Africa's socio-economic paradoxes, these challenges will no doubt result in some mixed messages and seemingly capricious pendulum swings. Ultimately, a willingness between investors, their advisors and the regulator to engage in constructive dialogue, each willing to give a little and meet somewhere in the middle, could go a long way towards narrowing the policy spread. ◆

May and Aukema are Directors of the Competition Law practice and Charter is a Director and National Head of the Competition practice | CDH

Catalyst snippets

Q1 2025

During February 2025, Summit Africa, a specialist black-owned and managed impact investment manager and licensed financial services provider, launched its Private Equity Fund II (SPEF II) with a US$20 million anchor commitment from impact investor British International Investment (BII), the UK government development finance institution. SPEF II will invest in small-to-mid market companies in financial services and ICT sectors to drive financial and digital inclusion, job creation, transformation and diversity across South Africa and the Southern African region. The fund will also target food security as an additional investment sector.

Sweden's development finance institution Swedfund, alongside Norwegian development finance institution Norfund and British International Investment (BII) have invested US$85 million in AgDevCo. The joint commitment will support small and medium-sized agribusinesses to increase productivity and expand food systems across sub-Saharan Africa. This will include agribusinesses producing nutritious foods for local consumption and high-value export crops. The equity investment comprises up to $50 million from BII, $20 million from Swedfund, and $15 million from Norfund.

Inspired Evolution announced the final close of its Evolution III Fund in March 2025, securing total commitments of US$238 million from 19 investors. The focus of the fund is on clean energy infrastructure, resource and energy efficiency, and energy access investments driving sustainable development in Africa. The fund has made two investments: into Red Rocket Group, a vertically integrated renewable energy independent power producer that develops, designs, constructs and operates utility-scale grid-connected renewable energy projects (wind, solar and hydropower) across select eligible countries in Africa, but predominantly South Africa, and a significant minority co-investment in the majority holding consortium of Equator Energy, a commercial and industrial solar provider in East Africa. Investors in the Evolution III Fund include the European Investment Bank, FMO, the African Development Bank, Finnfund, Swedfund, the Swiss Investment Fund for Emerging Markets, the Emerging Markets Climate Action Fund and the Mauritius Investment Corporation.

During March 2025, Norfund announced a US$7,5 million investment in the Inside Equity Fund II, a private equity fund backing small and medium-sized enterprises in Southeast Africa. The investment brings the fund's total capital to $62 million, strengthening its ability to provide long-term financing to businesses that drive job creation, waste reduction, access to clean energy and gender equality. The fund's initial investment will be in Madagascar, Zambia and Mauritius, with the potential to expand into Mozambique and Tanzania.

DEG, the German development finance institution, continued its long-standing collaboration with Mediterrania Capital Partners during Q1 2025, increasing its stake in the latest fund – Mediterrania Capital IV Mid-Cap – by an additional €15 million, bringing the total amount invested to €25 million. The private equity fund invests across core sectors essential to economic development, such as healthcare, education and consumer goods in North Africa and French-speaking markets in West Africa.

Swedish development finance institution Swedfund has committed €15 million to the AfricInvest small-cap fund, a private equity initiative supporting small and medium-sized enterprises across Africa. The investment aims to support female-led enterprises and bolster climate resilience across the continent, as part of a broader mission to drive sustainable economic growth, job creation and financial inclusion in developing markets. Over the past 30 years, AfricInvest has raised more than €2,1 billion to finance almost 230 companies at various development stages in 38 African countries.

In March, the Nigeria Sovereign Investment Authority, Sustainable Energy for All, the International Solar Alliance and Africa50 announced an innovative partnership for a US$500 million Distributed Renewable Energy (DRE) Nigeria Fund to develop and finance renewable energy projects in Nigeria. A key objective of the Nigeria DRE Fund is to catalyse local currency funding from pension funds, insurance companies and other local institutional investors. By offering tailored financial instruments to attract private sector capital, it aims to address critical challenges such as currency volatility, tariff structures, and the limited availability of local currency financing options. Investments will support mini-grids, solar home systems, commercial and industrial power solutions, embedded generation projects, and innovative energy storage technologies. ◆

PRIVATE EQUITY DEALS Q1 2025

NATURE	PARTIES	ASSET	ADVISERS	ESTIMATED VALUE	DATE
Disposal by	Waterfall (Equites Property Fund) to Ata Terra	three rental enterprises known as Planet World, Drager and Hilti and a 25% share in TFG	Vani Chetty Competition Law	not publicly disclosed	Jan 21
Investment by	Africa Capitalworks and Adiwale Fund 1	in Enko Education		$24m	Jan 22
Acquisition by	African Infrastructure Investment Managers through IDEAS Fund (Old Mutual)	investment in the13.5MW Lower Maguduza hydroelectric power project	Cliffe Dekker Hofmeyr	not publicly disclosed	Jan 23
Acquisition by	Meridiam TURF B Fund	a majority stake in Ilitha Telecommunications	Bravura Capital; Stadia Capital; Bowmans	R120m	Jan 23
Acquisition by	Growth Capital Partners	a stake in B&I Polycontainers	Girard Hayward	undisclosed	Jan 23
Acquisition by	Surgical Devices South Africa (Kleoss Capital)	surgical and medical business of Surgical Devices cc		undisclosed	Jan 30
Acquisition by	Motorola Solutions from HAVAÍC and other shareholders	RapidDeploy		undisclosed	Feb 23
Acquisition by	Old Mutual Infrastructure Investment Trust Fund [Malawi] (Old Mutual) from InfraCo Africa (Private Infrastructure Development Group)	25% stake in Golomoti JCM Solar Corporation		undisclosed	Feb 25
Acquisition by	Clearwater Capital from Etlin International (in business rescue)	SnoLink Logistics		undisclosed	Feb 26
Acquisition by	EduFund (OMAI/Old Mutual)	five ACUDEO schools in Gauteng		undisclosed	Mar 7
Acquisition by	Apex Capital Partners from DRA Global shareholders	remaining stake in DRA Global at R30.00 per share [current stake is 30.9%]	Cliffe Dekker Hofmeyr; Ashurst	R1,35bn	Mar 12
Acquisition by	Gaia Renewables 1 (Gaia Fund Managers) from IDEAS Renewable Energy Fund [AIIM] (Old Mutual)	10% each in the Linde and Kalkbult solar photovoltaic plants (Northern Cape) and a 21% stake in the Jeffreys Bay Wind Farm (Eastern Cape)		R700m	Mar 18
Investment by	Renew Capital	in NjiaPay		undisclosed	Mar 25
Acquisition by	Growth Capital Partners	a stake in Micro Motor Engineering	Deal Leaders International; Girard Hayward	undisclosed	Mar 31
Disposal by	EPE Capital Partners	0,81% stake in Optasia	Rand Merchant Bank	$7,3m	Mar 31