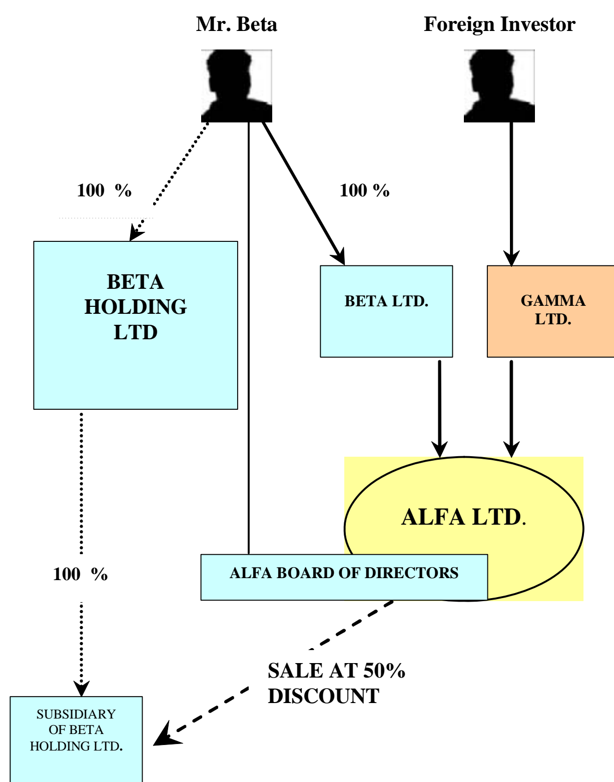
Legal Indicator Survey 2005: Case studies

Scenario

The *joint stock company Alfa Ltd.* is a leading firm in a given country. Its registered seat and headquarters are located in the main business centre within that country.



Alfa Ltd. is co-owned by two companies:

Beta Ltd. is the controlling shareholder. Beta Ltd. is owned by an influential business leader from the given country also controlling *Beta Holding Ltd,* one of the main conglomerates in the region.

Gamma Ltd. is an investment vehicle set up by a foreign investor.

Alfa's board of directors is composed of three members, all appointed by Beta. Two of them also sit on Beta Holding's board.

Following an anonymous tip-off from an employee, Gamma has reason to believe that Alfa's directors have sold Alfa's property to a Beta Holding subsidiary at a 50 percent discount on its fair value.

According to the company's charter, such transactions (i.e. transactions where a director has, directly or indirectly, a conflicting interest and whose value exceeds a given amount) are to be approved by the shareholders meeting.

Case Study 1: Unlisted Company

In the first hypothetical, Alfa Ltd. is an *unlisted company*, controlled by Beta Ltd. with 76 % of the shares, while the minority shareholder, Gamma Ltd. owns the remaining shares (24 %).

Case Study 2: Listed Company

In the second hypothetical, Alfa Ltd. is a *listed company*, with Beta Ltd. owning a 56% controlling stake, Gamma Ltd. owning a 12% minority stake and 32 % of the capital floating on the market. In some countries in the EBRD region, there is no functioning stock exchange. In this case, practitioners were asked to consider the questions as they were referring to a large company with numerous minority shareholders.

In both cases the damage suffered by Alfa Ltd. from the transaction was quantified at 2 million Euro.