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Legislative Changes Impacting Private Equity Investment in the German Health and Care Market

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On 14 March 2019, the German Parliament gave the final approval to a Government Bill, which aims to improve access to statutory health insurance (SHI) services. The new legislation is expected to come into force in May 2019.

This reform has implications across a wide range of healthcare sectors. Investors will be particularly interested in changes to the rules governing investments into 'MVZs', or community care centres.

This note explains the changes and explores their impact on private equity's ability to invest in the German health and care market, and the prospects for those already involved in service provision.

Key highlights

- **The reform addressed concerns around the recent growth in private equity investment in MVZs amid fears it could result in unequal access to services**
- **MVZ investment restrictions will be introduced around dentistry and non-medical dialysis services, but legislative changes do not prohibit private equity investments in these areas**
- **Private equity investment in other health and care areas is not affected by the legislative changes**

What are MVZs?

Medizinische Versorgungszentren (MVZs) were initially introduced in 2004 as multidisciplinary community care centres. The underlying objective was to enable general practitioners and specialists to come together and set-up new models of care, under contract with the sickness funds of the SHI. This would provide patients with easy access to a range of medical services outside of hospital.

In 2015, legislative changes allowed the creation of MVZs specialising in a single medical area. This was to address the needs of some professionals, like dentists, who may prefer to be employed by an MVZ rather than setting-up their own practice. It was hoped that the change would also ease recruitment, including in under-served areas.

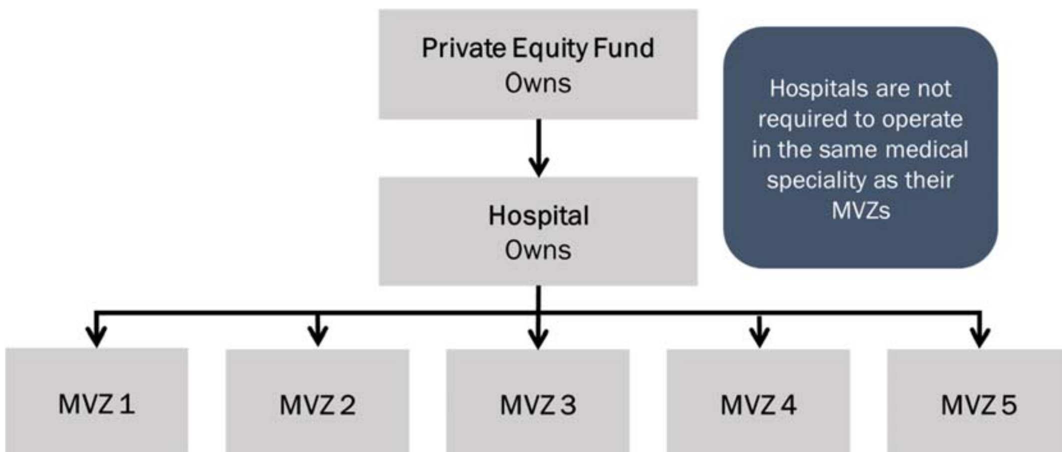
MVZs are owned by healthcare professionals or hospitals. Hospitals may themselves be owned by private equity funds. In the past few years, investors have used them as vehicles to invest into MVZs. The recent legislative changes do not fundamentally alter this model, but introduce investment restrictions in certain areas.

The reform addressed concerns around the recent growth in private equity investment in MVZs amid fears it could result in unequal access to services

The scope of the latest German healthcare reform goes further than specific changes to MVZs. It covers the expansion of primary care opening hours, greater digitisation, and incentives to maintain healthcare provision in rural areas. All support the Government's core objective of ensuring equal levels of timely access to statutory health insurance (SHI) services throughout Germany.

The recent growth in private equity investment in German healthcare services has made politicians and SHI decision makers uneasy. This is primarily because investments have been directed towards affluent towns, leaving behind less populated rural areas and the most deprived areas where maintaining sufficient provision can be challenging. Typical health and care assets acquired by private equity funds include hospitals, specialist clinics and care homes. More recently, investors have entered outpatient care provision using buy and build strategies consisting in acquiring clinics or non-medical dialysis services, which in turn acquire MVZs. These MVZs operate across several areas, including dentistry, radiology, eyecare, dialysis, orthopaedics and fertility.

Investment route into MVZ for Private Equity



Source: Institute für Arbeit und Technik, Marwood Analysis

It is estimated that between 2013 and 2018, a total of 125 health and care assets were acquired by private equity in Germany, 31 of which were MVZs. Investment in MVZ accelerated over the last two years of the period, with 80% of MVZ acquisitions by private equity taking place in 2017 and 2018.

The level of activity in this space led to increased media and public scrutiny. National associations of physicians also expressed concerns that private equity owned MVZs could end-up dominating provision in the future. They argued that this could lead to service concentration driven by financial considerations rather than needs, and restrict patients' freedom to choose among different providers.

The Government partially addressed these concerns in its Bill on access to SHI services. Since its presentation to Parliament in September 2018, the Bill has been subject to intense political debate, including calls for additional restrictions around private equity's ability to invest into MVZs. The final legislation adopted in Parliament on 14 March 2019 will somewhat reduce investment opportunities. However, the most restrictive provisions have been rejected. This included suggestions to require hospitals to operate services in the same medical specialty as their MVZs, which would have significantly narrowed investment routes into MVZs.

MVZ investment restrictions will be introduced around dentistry and non-medical dialysis services, but legislative changes do not prohibit private equity investments in these areas

The final legislative changes have specific implications for investors in dentistry and non-medical dialysis services.

In dentistry, investors looking to expand a chain of dental MVZs or create one will face geographic and growth restrictions. Whilst they can continue to use hospitals as investment vehicles into dental MVZs, they will only be authorised to acquire new sites that are located within the geographic footprint of their regional association of dentists. There are 17 regional associations and their footprint mainly follows Länder borders. In addition, hospitals will not be able to own MVZ sites which together provide over 10% of regional dental needs. The level of needs will be determined by each regional association of dentists in accordance with national guidelines. Existing MVZs already operating on a national basis will be unaffected. However, future buy and build strategies will be restricted to the regional level and, at this level, there will be limits to market consolidation opportunities.

As per initial Government proposals, the new legislation also puts restrictions on MVZ acquisition or creation by non-medical dialysis services, such as companies providing repair and maintenance of dialysis equipment. Investors who own such companies will no longer be able to use them as platforms to invest into MVZs that are not specialised in the provision of dialysis services. These changes will apply once the Bill comes into force. This is expected to be in May 2019. As changes do not apply retrospectively, owners of non-medical dialysis services who have acquired non-dialysis MVZs will be able to continue to own them, but they will not be able to further diversify their portfolio of MVZs in the future.

Private equity investment in other health and care areas is not affected by the legislative changes

In the end, legislative changes to the rules governing MVZ acquisition and creation by hospitals were limited to two areas. They do not impact direct investments into hospitals or care homes and there are no specific restrictions to hospitals acquiring MVZs that provide services other than dentistry. As the outpatient care provision landscape remains fragmented overall, there may well be opportunities for consolidation outside of dentistry.

However, the late addition of the rules around dental MVZ to the Bill show that policy makers are ready to use their legislative powers to prevent investment behaviours they consider could lead to the concentration of provision. These changes were not initially foreseen in the original Government's Bill. They have been justified by the need to avoid one group of dental MVZs dominating provision and similar reasoning could be applied to other sub-sectors.

In this context, understanding key policy makers attitude to private investment and the provision landscape at regional and national level is essential for those interested in the German health and care market. This can help assessing whether expanding provision in a given sub-sector is likely to raise concerns among decision makers, as well as their appetite for taking corrective action.

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