

Mergers and Acquisitions Practice and process

The outline covers the practical process of M&A activity and there will be extensive use of case study examples and documentation to illustrate the practical aspects of the transactions. Delegates will require laptops for the valuation and deal structuring course sessions when we will be using Excel models.

Background to M&A

- What does the market for M&A look like?
- What is the sector focus?
- Why does M&A happen?
 - Commercial rationale for M&A
 - Other reasons
- Sources of synergies
 - What should you be most sceptical about?
 - Traps for the unwary
 - Decomposing hockey sticks
- Examples of synergies
 - Big issues when businesses merge
 - Making sure systems and practices converge
- Issues and problems specific to particular industries
 - e.g. telecoms

Case study considering a recent M&A transaction

Process, parties and acquisition documentation

- Deal process and role
 - What are the key roles in the process?
 - How do they compare? E.g. corporate sponsor, advisory roles, financial institution
 - What are the various parties most interested in and worried about?
- Acquisition agreements
 - Key documents in acquisitions
 - Buy out of the target
 - Key protections for equity providers
 - What if the business struggles?
 - How is the decision made to sell?
 - What if a key manager leaves?
 - When is a minority stake not a minority stake?
 - Debt facilities

Examples of key documentation

Effective planning and process flow

- Identifying suitable targets
- Importance of due diligence procedures
- Commercial due diligence to assess strategic and competitive position
- Financial due diligence of reported results and operations

- Legal implications of warranties, claims or litigation
- Review of management structure and employee related issues
- M&A deal structure
 - asset purchase, earn out, consideration adjustments
- Analysing the target's ability to compete in its market
- Testing the credibility of the target's projected results
- Assessing the risks to the target's operations
- Tracking cash and revenue movements

Formulating the right strategy

- Understanding the different perspectives:
- Sellers Perspective (and types of sellers)
- Buyers Perspective (and types of buyers)
- Lender's Perspective

Case study: evaluating the strategy from the buyer perspective

Strategic Due Diligence

- Identifying Critical Executive and Employee Issues
- Retaining Key Talent
- Communications and Managing the Employee Experience
- Achieving Results Through Culture
- Aligning Organizational Strategy, Structure, Processes, and People
- Workforce Planning/Design
- Talent Management
- Rewards
- Human Capital Organization and Operation

Deal simulation: analyzing people risks and opportunities during diligence

How these perspectives relate/lead to alternative deal structures

- Earn-out structures – problems encountered in these structures
- Share sale
- Asset sale
- Auctions
- IPO process (and relevant markets)
- MBO/IBO
- Others

Valuation techniques and modeling

- Risk and return dimensions of value
- Integrating strategic implications of the company
- Important concepts of risk and growth assumptions
- Calculating risk factors and risk premia
- Estimation problems in emerging markets
- Concept and calculation of free cash flow
- Cost of capital and limitations of CAPM
- DCF based approaches to valuation

- APV approach and tax shields
- Optimal capital structure
- Asset betas
- Time horizon and terminal values
- Understanding PE multiple drivers
- Dividend growth models
- Sales and asset multiples
- Cash multiples and EBITDA
- Selecting comparative methods or companies
- Problems in emerging markets
- Applications to non-quoted sector

Case study: valuing a potential acquisition target

Financial structuring of M&A

- Cash or share deal?
- Exchange offers
- Senior debt capacity
 - Term loan A and B structures
 - Private placements
 - Revolving credit lines
- Subordinated debt
 - Mezzanine debt structures
 - Unitranche funding
 - PIK and PIYC
- Bond issues
 - High yield bond structures
- Convertibles
- Warrants
- Rights issues
- Vendor placing

Case study: structuring the financial deal for an acquisition

Legal and accounting issues involved and structuring key legal documents

- Cross border legislation and structures
 - City Code
 - EU Directive
- Hostile bids
- Structure of the transaction; asset sale, share purchase or merger
- Tax implications
- Asset valuation problems – intangibles
- EPS accretion or dilution issues

Preparing a bid

- Auction process
- Prioritised auction
- Negotiated sale process

- Long list and short list criteria
- Structure of hostile takeover bids
- Bid tactics
- Defence tactics
- Recent examples of hostile bid activity

Case study: preparing a hostile bid for a target acquisition

Evaluating offers

- Matching criteria to seller
- Ability to complete
- Satisfaction of conditions
- Exclusivity
- Due diligence issues

Negotiation issues and negotiation of these issues

- Negotiation as a learning process
- Understanding how to present ideas in the negotiation phase
- Strategic versus tactical issues
- Ethical principles in negotiations

Managing the due diligence process

- A legal structure review, including tax liabilities, employee disagreements, class action suits, or other pending litigation
- A review of ownership and capitalisation structure
- A general breakdown of the customer base
- A review of intellectual property rights, including trademarks, patents, and other areas of unique and intrinsic value
- Outstanding liens that are guaranteed by the company and/or its owners
- Technology evaluation that includes development tools, cycles, processes, and personnel
 - Key value areas should be highlighted and evaluated in light of acquisition goals
- Financial statement reviews for the prior three to five years, including the minutes of board meetings and other documents
- Annual reports and required filings for any publicly traded company

Case study: analysing corporate financial data

Financial statement creativity

Revenue recognition problems

- front loading revenue
- contract income recognition
- accounting for long term contracts
- fictitious revenue and corporate governance
- revenue timing
- capital gains and revenue

- acquisition revenue enhancement
- supplier rebates and revenue growth

Expense allocation and recognition

- matching concept and accruals
- capitalisation of costs
- transfer between direct and indirect costs
- cash conversion rate of profit
- depreciation policies
- impairment reviews and legitimate write downs
- provisioning policies

Liability recognition

- deferred income
- off balance sheet liabilities
- pension deficits
- contingent liabilities
- deferred purchase consideration
- financial derivative risks
- convertible debt

Techniques to spot creativity

- financial issues
 - notes and more notes
 - cashflow
 - growth
 - sector benchmarking
- business issues
 - typical warning signs
 - focus on management

Case study examples of the most common creative practices

Commercial corporate due diligence

- Review of the target's business plan and predictions
 - How realistic are these targets?
 - How achievable is the business plan?
- Research and assessment of the market
 - Where is the target positioned within the market?
 - Where is the market heading? How could this affect the value of the target company?
 - What are the trends in the market?
- Analysis of competitors and customer base
 - Who are the strongest and weakest competitors?
 - How does the target perform against its competitors?
 - What is its customer profile?

Case study: conducting commercial due diligence on a potential corporate acquisition

Managing the closing process

- Pre closing process; closing documents, conditions to closing, resolution of any open deal points
- Closing; reviewing and checking documents
- Post closing; document distribution and cleanup
- Closing memorandum