

# BOLT-ON ACQUISITIONS ESSENTIALS FACTSHEET

Bolt-on acquisitions are a great way to drive growth without building every capability from the ground up. These types of acquisitions are effective at providing customers, staff, technology, systems, or market reach through the purchase of an established business to either add or complement your existing business.

However, M&A deals become costly if the process is not managed carefully. Commercial misalignment, vague contractual provisions, due diligence delays and unclear information sharing can quickly slow the deal down. This factsheet outlines key steps for a successful acquisition.

## BE CLEAR ON THE VALUE OF THE DEAL



Before starting detailed M&A discussions, identify what makes the target business worth buying. This may include:

- customer relationships;
- key contracts;
- intellectual property;
- technology or systems;
- experienced staff;
- stock, equipment or other assets; and
- access to a new market or location.

This helps your team review the right information early. It also helps you identify issues that could affect the purchase price, deal structure or whether the acquisition should proceed.

## STRUCTURE THE DEAL CORRECTLY



The acquisition can be structured as either a share sale or an asset sale, and the choice has significant legal and tax implications. Key considerations include:

- Share sale: the buyer acquires the entire company, including all liabilities, contracts and obligations;
- Asset sale: the buyer selects specific assets and contracts, leaving unwanted liabilities with the seller; and
- Tax implications: stamp duty, GST, and CGT treatment will differ depending on the structure chosen.

## KEEP DUE DILIGENCE PRACTICAL



Due diligence should help you decide whether the bolt-on acquisition is commercially worthwhile. Focus your review on the three main focus areas, including the following examples:

### Legal:

- key supplier and customer contracts;
- employment arrangements;
- tangible asset and intellectual property ownership;
- disputes or regulatory issues; and
- leases, licences and permits.

### Commercial:

- customer concentration;
- target market audience;
- growth opportunities;
- competition; and
- the condition of key assets.

### Financial:

- debts and liabilities;
- revenue streams;
- sales records;
- tax returns;
- balance sheets; and
- profit and loss statement.

A practical due diligence process can reduce legal spend. It can also help you find deal-breakers before too much time and money is spent.

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## KEY CONTRACTUAL TERMS TO CONSIDER



Once due diligence is complete and the deal is progressing, the sale agreement will need to address several critical terms. Pay close attention to:

- Asset sale v share sale: whether you are acquiring the business assets, or the shares in the target entity;
- Purchase price and adjustments: whether the price is fixed or subject to post-completion adjustments, such as working capital or earn-out mechanisms tied to future performance;
- Representations and warranties: the scope of seller warranties, including those relating to financial statements, material contracts, intellectual property and employment matters identified during due diligence;
- Indemnities: specific indemnities for known risks or liabilities uncovered during due diligence, such as tax exposures or pending disputes;
- Conditions precedent: regulatory approvals, third-party consents or financing conditions that must be satisfied before completion;
- Restraint of trade: post-completion restrictions on the seller to protect the goodwill and customer relationships being acquired; and
- Completion mechanics: what must occur at completion, including the transfer of key contracts, assets, licences and employee arrangements.

Poorly drafted or missing provisions in any of these areas are a common source of post-completion disputes.

## REGULATORY AND COMPETITION CONSIDERATIONS



Depending on the size and nature of the deal, there may be mandatory regulatory requirements, including:

- Australian Competition and Consumer Commission merger clearance;
- Foreign Investment Review Board approval; and
- industry-specific licensing or approval requirements.

## PLAN FOR COMPLETION



A good M&A process should protect your business whether the deal completes or falls over. Agree on clear rules for:

- when public announcements can be made;
- who must approve external communications;
- how staff or customers will be told;
- when confidential material must be returned;
- when electronic copies must be deleted; and
- what records advisers can keep.

These steps reduce confusion at the end of the process. They also help prevent disputes if negotiations stop before completion.

## CONTACT US

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