



Like any business activity, mergers and acquisitions are not free from disputes arising from the non-performance on legal or contractual obligations of business counterparties. With a unique combination of transactional, accounting, valuation and dispute-resolution expertise, we help our Clients to navigate through financial aspects of any post-M&A issues.

| Area | Issues that you may face | Our response |
|--|--|---|
| <p>Completion accounts</p>  | <p>You suspect that accounting data manipulation negatively affects completion accounts and consequently the transaction value.</p> <p>You and your counterparty face SPA-related interpretive differences on definitions and approach to accounting for certain transactions, assets or liabilities, such as net debt or net working capital.</p> | <p>We will conduct a review of accounting procedures and policies applied in terms of their compliance with the relevant reporting standards, provisions of the SPA and analyse whether they have been consistently applied for the subject-matter transaction.</p> <p>We will assist you (and potentially your counterparty), either through advisory or expert determination, in reviewing the records underlying the completion accounts for compliance with applicable financial reporting standards, the SPA and business practice</p> |
| <p>Locked-box mechanism</p>  | <p>You and your counterparty debate whether certain payments by a target company qualify as permitted or non-permitted leakages under an SPA.</p> | <p>We will analyse the disputed categories of payments to assess whether they are in line with permitted leakage as defined under the SPA and were executed in an ordinary course of business of the target company.</p> <p>For payments classified as non-permitted leakage, we will assist you in assessing their impact on the transaction and estimate the necessary price adjustments or amounts to be claimed as losses in business value.</p> |
| <p>Earn-outs</p>  | <p>You and your counterparty face SPA-related interpretive differences on definitions and approach to the calculation of earn-out components (typically profit-based such as EBITDA) to be determined under the provisions of an SPA.</p> <p>The typical areas of disputes include extraordinary, non-recurring/one-off events and their impact on the target's reported financial metrics.</p> | <p>We will assist you (and your counterparty) in an advisory or expert role, in reviewing earn-out-related accounting records for compliance with the provisions of the SPA, the relevant reporting standards and business/industry practice and computation of the relevant adjusted financial metrics.</p> |
| <p>Anti-competition challenges</p>  | <p>Your contemplated acquisition may be / is threatened by a challenge from a national (e.g. UOKiK) or supranational (e.g. European Commission) anti-competition authorities.</p> | <p>We will assist you in preparing a plausible and in-depth econometric analysis in order to determine the character of products/services offered by you and the target (i.e. whether they can be considered substitutes), establishing the relevant reference market for your contemplated transaction and assess the level of competition therein.</p> |
| <p>Representations & warranties</p>  | <p>You feel that there was insufficient information disclosure or even deliberate concealing of certain facts known by your counterparty prior to the transaction.</p> <p>You discovered certain value-destroying actions of your counterparty, such as non-disclosure of past transactions or known risks (e.g. tax issues under investigation, doubtful creditworthiness of a key account) or breaches of non-compete obligations.</p> | <p>We can carry out a wide range of fact-finding analyses (including investigations and electronic discovery) as well as review industry-specific issues related to the target in order to assist you with the determination of what should have been disclosed prior to the transaction.</p> <p>We will estimate the impact of such actions or breaches on the value of the target company for the purpose of the purchase price adjustments or claims of lost business value.</p> |

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| <p>Material adverse clause</p>  | <p>A target entity faces a game-changing regulatory, legal, economic or financial events questioning its future prospects and the transaction’s rationale from your standpoint.</p> | <p>We will assess, from the economic standpoint, the significance of the effects arisen from a particular event and estimate their impact on the purchase price and/or the value of the business (to be) acquired.</p> |
| <p>Shareholder disputes</p>  | <p>You, either as a majority or minority shareholder, consider the acts or omissions by other shareholders to be value-destroying.</p> | <p>We will estimate the impact of such actions on the value of the subject-business in the form of a report that can be later presented to a counterparty, a court or an arbitral tribunal, if you decide to take legal actions.</p> |
| | <p>You, as a majority shareholder, plan to conduct a squeeze-out of minority shareholders or are forced into a reverse squeeze-out procedure.</p> | <p>We will prepare a valuation of a minority interest taking into account the voting power attributed to it as well as the sensitivity analysis of key value drivers so that you could have an indication of the range of values for a potential transaction.</p> <p>We can also act as independent expert to assist a court in assessing the fair squeeze-out price.</p> |
| | <p>You, as a majority shareholder, are restricted from taking certain strategic decisions due to a blocking power of the minority interest.</p> | <p>We will assist you in determining the financial impact of the limitation on the value of the subject-business to support your claim towards the minority or independently assist a court or an arbitral tribunal in assessing the financial aspects of the case.</p> |
| <p>You, as a minority shareholder, consider a buy-out or squeeze-out price offered by a majority shareholder not to reflect the fair (market) value of the minority interest in question.</p> | <p>We will prepare a valuation of a minority interest taking into account the voting power attributed and/or challenge the valuation submitted by your counterparty or a court-appointed expert.</p> | |

Roles we typically assume to assist our clients:



- **Advisor** – supporting the client’s position by preparing client’s written and oral statements and submissions to be provided to a counterparty, an independent expert, an arbitral tribunal or a court
- **Expert in an expert determination** – providing independent assistance to all parties in a dispute administered under the provisions of an SPA
- **Expert in arbitration proceedings** – assisting a tribunal as party- or tribunal-appointed independent expert in assessing financial aspects of a dispute, typically in quantification of damages
- **Court-appointed expert** – assisting a court as an independent expert with specialised transaction-related accounting, valuation or industry knowledge

Contacts



Tomasz Ochrymowicz

Partner
Financial Advisory
Mobile: +48 601 316 607
tochrymowicz@deloitteCE.com



Agnieszka Zielińska

Partner
M&A Transaction Services
Mobile: +48 664 199 125
azielinska@deloitteCE.com



Adam Markiewicz

Director
Forensic | Dispute Services
Mobile: +48 725 775 725
admarkiewicz@deloitteCE.com



Olga Kalicińska

Manager
Forensic | Dispute Services
Mobile: +48 882 095 712
okalicinska@deloitteCE.com

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