



Whitepaper

The Advantage Series

Transaction Types: Mergers and Acquisitions, Divestiture and Asset Sales, Joint Ventures and Alliances, Going Private Transactions

Prepared by Tom Marx and Paul Cooperstein

2175 Francisco Blvd. East, Suite F
San Rafael, CA 94901
415.453.0844

500 Victory Road
Marina Bay
North Quincy, MA 02171
617.328.7333

www.MarxGroupAdvisors.com

Before leaving on a journey it's always useful to have a map to navigate your way from where you are to where you want to go. As part of our series of white papers called: *The Advantage: Getting the Edge With Intelligent M&A Strategy*, Marx Group Advisors has identified the four basic types of transfer of ownership transactions. We trust this helps you embark on this journey with greater confidence.

1. Mergers and acquisitions
2. Divestitures and asset sales
3. Joint ventures and alliances
4. Going public or private

Mergers and Acquisitions

Mergers and acquisitions are the most common forms of transaction.

Typically a merger is a combination of two companies in a stock exchange transaction, i.e. Company A sells all of its corporate stock to Company B in exchange for cash, stock or some combination of both. In a merger Company A typically, but not always, loses its identity; it certainly loses all of its independent legal significance and almost always takes on the name of Company B.

An acquisition is the purchase of the stock or assets of the business. A merger and acquisition are not mutually exclusive. However a merger is typically thought of in the context of two companies that are of relatively equal size and an acquisition is thought of when a smaller target is purchased by a larger acquirer.

While most mergers and acquisitions that we hear of involve large public companies the bulk of the 11,056 transactions which represented \$1.8 trillion that took place in 2006 involved private acquisition of privately held and or family-owned companies.

Quite a bit of research has taken place regarding the reasons why mergers and acquisitions succeed or fail. The truth of the matter is that much of this research has not produced useful conclusive evidence. More useful results have been found in the studies that identify factors that play a role in why certain companies are taken over and others are not.

Profitability is obviously a factor in every analysis. Some studies have argued that more profitable firms are more subject to takeover than less profitable companies while others have argued that profitability has less to do with the likelihood of becoming an acquisition target. Corporations that are relatively inefficient will be targets of acquisition for more experienced and intelligent acquirers, as well as acquirers that are looking to purchase companies at a highly discounted rate.

While typically many of our clients have thought of mergers and acquisitions on a discrete, one-off basis, we are advising clients not to overlook designing an overall long-term M&A strategy involving a mix of strategies and or transactions.

There are a number of factors why certain companies are acquired and others are not. Some companies acquire companies that are more profitable than them, some equally as profitable and some less profitable. Some acquiring companies look for target companies that are inefficient and therefore offer the opportunity for significant improvements in efficiency (and assumed profitability) after the transaction and other acquirers will only accept highly efficient organizations.

Shifts in the capital markets are a significant factor to consider in this process, i.e., in periods of high interest rates or when capital accumulation is difficult, the number and nature of transactions slips.

Changes in tax laws like the Tax Reform Act of 1986 can facilitate or inhibit restructuring activity.

Acquirers can be forced into M&A activity when they are no longer accumulating capital internally at a sufficient rate and hence need to look outward for acquisitions and cash flow to improve their operations.

It should be noted that in today's marketplace, cross-border mergers and acquisitions are occurring with more frequency because they often provide an opportunity to capitalize on internal advantages in foreign markets including financial, organizational and technological strengths. In today's marketplace foreign transactions are not limited to public companies. Small and medium-size companies looking to either acquire the economies that a foreign acquisition offers or looking to expand market share in foreign marketplaces can find attractive opportunities with the proper guidance and expertise.

The same practical reasons that drive most M&A activity domestically are now driving M&A activity in foreign markets, i.e. companies may wish to grow, diversify, broaden product line, access new markets or acquire new technology. Companies may wish to leverage joint synergies or simply acquire a competitor. Operating synergies, financial synergies and other integration synergies are now within reach domestically or internationally.

[Divestitures and Asset Sales](#)

Typically divestitures and asset sales are seen as an approach to corporate restructuring that eliminates underperforming assets while

capitalizing on the value of a stronger performing asset or simply exiting from a business to repay debt and in either case create value.

Technically divestitures can take many forms including sales to third parties, an initial public offering, and a leveraged buyout of the division, subsidiary or public company and or the restructuring of the company through a spin-off, split-off or letter stock. For purposes of this article we'll talk of a divestiture as meaning transactions that include the sale of stock or assets of the company, the sale of the business, subsidiary, division of the company, or the sale of certain individual assets or intellectual property etc.

The divestiture process generally includes three approaches to selling the company: the negotiated sale, the controlled competitive sale and the auction. Each of these approaches has different competitive landscapes. Valuations of companies or assets in a divestiture need to undergo the same analysis as a valuation of the company in a merger or acquisition. This includes understanding standalone and going concern takeover valuation values. In addition acquirers need to consider and determine the accretion/dilution resulting from the deal. Assuming the seller is continuing on the impact of the sale from a seller's perspective in determining the accretion or dilution resulting from the divestiture is essential.

The most common transaction is the asset sale of a business. This has benefits over other forms of divestitures, most significantly the ability to negotiate with multiple parties in order to obtain maximum value.

The sale of stock or assets of the business can have a number of negative ramifications, most particularly tax inefficiencies. Without question the emphasis is on reaching the highest value for the divestiture and/or increasing operating performance and capital return for the entity.

At the two poles we see that the motivation behind most divestiture and asset sales are simply maximizing the value of an asset or letting go of an underperforming business. Both long-term and short-term goals as well as a good understanding of the tax and business contexts are essential to choosing this or any other strategy.

As in all steps of the M&A process, tailoring the process to the unique needs of the client and an intelligent understanding of the marketplace insures a more intelligent chance of success.

Joint Ventures and Alliances

A joint venture is a relationship between two or more parties where an independent entity is created by the parties for a specific activity or

undertaking. The independent entity is usually jointly owned by the parties and the parties each take an active role in contributing either intellectual property, capital, assets, marketing and sales or any combination of the above.

An alliance may not involve the creation of a new independent entity and may not involve any equity contributions by either party. Consequently these arrangements can be very simple with no risk or rather complex with tremendous risk. Both types of arrangements are entered into for a variety of reasons -- most particularly to take advantage of synergies, to share costs and risks in a project and for growth.

In a time when success in business requires forming relationships between competitors in ways that were unheard of years ago, alliances and joint ventures have become quite commonplace and it's clear that profitability is often created in the formation and operation of joint ventures and alliances which can in fact surpass those found in mergers and acquisitions.

Perhaps most significantly alliances and joint ventures are an efficient way to minimize risk without jumping in too quickly and fully. Research indicates they are excellent vehicles for generating growth for a company whether that means creating new products, new customers and/or new technologies. They often allow companies access to new technologies, opportunities to diversify, opportunities to leverage partners competences, exploit synergies and gain competitive advantages by entering new markets for developing new products. Risks and costs are shared and efficiencies are maximized and the ability to attract and retain high quality employees is enhanced. A successful joint venture can create a valuable asset in and of itself.

[Going Public or Private Transactions](#)

Occasionally we are asked about a going private or going public transaction. A going private transaction is the acquisition of the equity of a publicly traded corporation by an independent privately held entity.

In the context of the aftermarket it is usually in the form of a leveraged buyout in which a group of managers (usually with equity partners) acquires an existing business that is publicly owned or a division of the same. There are a number of advantages for all involved in this form including benefits to the shareholders of the public company, the savings of substantial costs associated with the requirements of SEC filings etc. for the new entity and finally the opportunity for management to focus on the long-term future of the business rather than the quarter-to-quarter earnings demanded by the

public equity markets. The concept of a leveraged buyout is not limited to public companies and does occur in the aftermarket with inspired and competent management.

We are also occasionally asked to consider the benefits of going public. Either the potential size of the existing company or a rollup of a number of companies with potential to show market rate returns provides an opportunity to consider the benefits of public ownership. For an organization heading in a direction that promises substantial returns and requires substantial assets to achieve those returns, reaching out to the public marketplace may make sense. Obviously the costs, time and expertise involved make the factors for consideration outside the scope of this article.

Conclusion

The underlying assumption in any of the categories of merger and acquisition is that there will be benefits that occur as a result of the transaction. Consolidations continue to recontextualize entire industries and have significant impact on the entire supplier and customer chain in a vertical industry.

We believe that profitability has far less impact on the ultimate value of the transaction. Instead, strategic advantage becomes more key, whether it allows the elimination of a competitor, gains a valued customer or adds an important product line.

About Marx Group Advisors

Marx Group Advisors is a consulting firm that assists buyers and sellers in the automotive and heavy duty aftermarket with mergers and acquisitions (M&A), divestitures, along with capital formation for private equity placements. A highly experienced team of specialists provide buyers and/or sellers with a full range of services, including: M&A strategy, planning, investigation, buyer/seller identification, negotiations, due diligence support and integration. With offices in Boston and San Rafael, Calif., MGA specializes in middle market business transactions with company revenues of \$10 to \$150 million.