

MERGERS & ACQUISITIONS

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Navigating cross-border M&A: The significance of local knowledge

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In today's globalised economy, mergers and acquisitions (M&A) serve as pivotal mechanisms for forward-thinking enterprises seeking to further expand their market reach, enhance their competitive advantage and capitalise on possible synergies. However, when transactions transcend national borders, complexities often multiply, necessitating a profound understanding of local dynamics and financial, legal, social or political factors. What may seem, in hindsight, a trivial oversight, can reduce risks and complications during the transaction as well as in post-merger integration, or, in the gravest of scenarios, avoid damage upon the parties involved.

Political factors

Political factors often elude precise prediction. Stakeholders, including politicians and influential groups such as labour unions, advocacy organisations or non-governmental entities closely monitor cross-border M&A activities, particularly when integration efforts entail substantive alterations in areas of interest (e.g. in legal, financial or social realms). Foremost among triggers for political intervention is the spectre of job losses and foreign influence. An acquirer's pursuit of cost synergies through workforce reductions in the target market presents a political and economic risk for the host country. While rationalisation of back-

office functions may sometimes find political acceptance, wholesale closure of facilities or relocation of jobs offshore is often met with opposition unless it is demonstrated as the sole viable recourse, with no alternative avenues for preserving jobs.

In essence, local knowledge is crucial in effectively managing political factors in cross-border M&A transactions, enabling acquirers to navigate political sensitivities, mitigate risks or anticipate potential regulatory, identify key decision-makers and foster stakeholder goodwill. Therefore, by cultivating relationships with relevant political stakeholders and proactively engaging in dialogue, acquirers can greatly enhance the likelihood of success.

Tax & legal factors

Within acquisition synergy models, tax assumes paramount importance due to the

heterogeneous landscape of corporate tax rates and regulations across borders. Apart from corporate tax rates, ancillary factors such as stamp duties, value-added tax (VAT), investment incentives, subsidies, transfer-pricing mechanisms and other fiscal intricacies require local counsels' advice and scrutiny.

In addition, the respective legal and regulatory frameworks of the countries at stake require a comprehensive evaluation by local experts. Attention converges on deal structuring, choice of local legal entities, competition and foreign direct investment laws and sector-specific regulations, each bearing significance in shaping the transaction. Besides the choice of law and venue and possibly the opting for arbitration are crucial factors in enforcing potential representations and warranties after the deal. Of course, the structuring of acquisitions itself



often varies in consonance with the acquirer's specific strategic imperatives.

Use of local expertise is imperative in navigating complex legal frameworks, anticipating regulatory challenges and streamlining local due diligence processes. By leveraging the insights of local counsel or consultants, acquirers can further mitigate legal risk, as their familiarity with governmental and judicial practices can help acquirers better understand legal risks, facilitate communication with regulators, and ensure (in advance) that the transaction complies with local laws and regulations. Additionally, the cultural understanding gained through local contacts can oftentimes foster better relationships with stakeholders, enhancing trust and facilitating smoother negotiations.

Financial factors

It is safe to assume that financial considerations frequently lie at the heart of cross-border M&A transactions. Therefore, valuation methodologies, currency fluctuations and different financing structures require in-depth financial analysis and risk management. Additionally, economic volatility, sovereign debt crises and exchange rate fluctuations underscore the importance of a robust financial

due diligence and contingency planning. Moreover, accessing capital markets and securing financing on favourable terms hinge upon market conditions and investor sentiment, which is why ensuring familiarity with local economic conditions and business practices is essential not only when entering a new local market, but also for long-term market presence.

Social factors

Quantifying the impact of social factors on M&A transactions may prove elusive, yet their influence on post-merger integration processes, for example, is profound. Social imperatives permeate across various workstreams, including leadership, human resources, communication strategies, cultural integration, operational frameworks as well as research and development initiatives. Recognising and addressing social concerns not only underscores corporate responsibility but also augments the prospects of seamless integration and sustained stakeholder support.

By leveraging local expertise, acquirers can better recognise and address social concerns, thereby enhancing corporate responsibility and fostering seamless integration. Transparent communication of the objectives underlying cross-border deals becomes

especially crucial in instances where decisions may impact local communities or wider public interests, such as environmental sustainability, philanthropic endeavours, local infrastructure investment and, perhaps most significantly, local employment dynamics.

Foreign Direct Investment (FDI) and the EU as a regional market

The European Union (EU), with its diverse member states and integrated single market, stands as a prime example of a regional market shaped by FDI inflows and outflows. However, navigating the EU's regulatory framework, including competition law and data protection regulations, necessitates a nuanced understanding of EU institutions and legal principles. Moreover, local implementation legislation of EU directives, cultural diversity and linguistic variations underscore the importance of local knowledge in executing successful transactions within the EU.

As the forthcoming EU Corporate Sustainability Due Diligence Directive and the AI Act illustrate, cross-border transactions are affected not only by current regulations, but also by future legislative changes, making it critical for acquirers to anticipate future legislative developments. Local advisors may offer these insights into forthcoming (EU) legislation set to come into effect or be implemented by the member states shortly. This proactive approach allows acquirers to factor in legislative shifts well in advance, enhancing their ability to adapt their acquiring and market entry strategies accordingly. By fostering a dialogue with local councils, acquirers can therefore gain valuable foresight into upcoming legal frameworks, enabling them to navigate cross-border M&A transactions with

greater agility and foresight, particularly to avoid legal and reputational pitfalls.

Conclusion

Cross-border M&A represents a strategic imperative for companies seeking to expand their global footprint and achieve sustainable growth. However, the complexities inherent in such transactions underscore the importance of local knowledge in navigating diverse socio-political, legal, financial, and cultural landscapes. As companies embark on cross-border ventures, leveraging local expertise emerges as an indispensable asset to mitigating risks, seizing opportunities and realising value creation objectives. Local expertise facilitates relationship-building with key stakeholders, enhances regulatory compliance and enables seamless integration post-acquisition. Moreover, leveraging local networks and insights enhances deal origination and accelerates decision-making processes. In an era of heightened geopolitical uncertainties and economic volatility, the ability to navigate cross-border complexities with finesse and acumen distinguishes successful acquirers from their peers.





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