

43rd BFSICM (BFSI & Capital Markets) Roundtable –
Resource Paper and Presentation on
Key Learnings in a Buy-side M&A Transaction

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Majority Stake Acquisition - Advisors to Buyers

Client	CAC Corp., Japan based IT services company providing consulting, design and development, and installation and maintenance services
Target	Accel Frontline, an Indian listed IT services company with USD 70 million in revenue
Transaction	Acquisition of controlling majority stake
Acquisition Rationale	<ul style="list-style-type: none"> • Leveraging the Indian skill sets of Accel • Entry into the growing Indian IT services industry • Low cost advantage • Ability to service CAC's Japanese clients internationally
Scope of Services	<ul style="list-style-type: none"> • Identifying targets • Deal execution and management
Closing Date	<ul style="list-style-type: none"> • March 2014

**M&A
Cross-border
Advisors to Buyers**

CAC Holdings Corporation,
Japan
acquires majority stake in
Accel Frontline, a listed Indian
systems integration and IT
company

Deal Summary

First Steps

Extensive market study on the basis of client's criteria, preparing long list, analysis of the selected companies, preparing short list, meeting some of the companies, and finally targeting Accel



Initial Interaction

Signing NDA, meetings with Accel, information flow between Accel and CAC, confirm interest from CAC



Due Diligence (DD)

Engaged with finance, tax, legal DD advisors to evaluate Accel. Extensively analysed DD findings to help CAC make an informed decision, and taking positions to help with negotiations



Transaction Completion

This was a comprehensive transaction – secondary equity sale, primary equity sale, TOB, shareholders' funding into the company, external commercial borrowings, and unique indemnification structures to address difference of risk estimation by the two parties. Fundamentally, we found a target the client liked, and helped them to successfully conclude a transaction they liked



Negotiations

Detailed negotiations for CAC on pricing, deal terms, deal structure, post-transaction responsibilities



Definitive Agreement

Negotiation & finalisation of Shareholders' Agreement (SHA) and Share Subscription Agreement (SSA) ensuring interest of CAC and considering long-term benefits from the acquisition and management control



Deal Structuring

Advised CAC on the optimum transaction structure which could provide control to CAC at the earliest. The structure contained various levels of funding from CAC and the former shareholders

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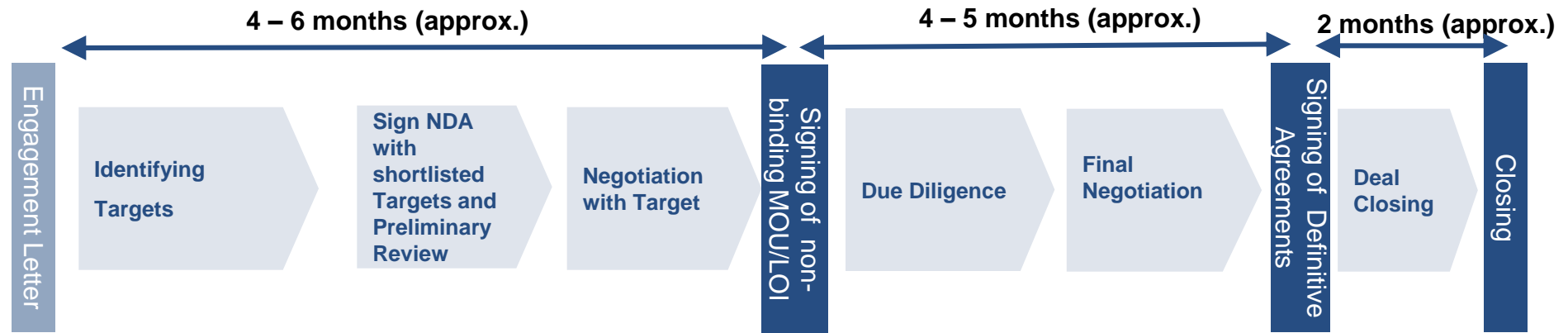
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Indicative Process Flow and Timetable



Advisory Scope as Client's Financial Advisors

- Identifying long-list and short-list of potential target banks
- Accessing the targets to create a dialogue with the Client
- Narrow down to top choice
- Arranging NDAs, information exchange, management meetings
- Support in review and evaluation of the potential target
- Valuation of the potential target
- Support in negotiating key terms of non-binding MOU/LOI
- Support in signing non-binding MOU/LOI
- Support in detailed due diligence
- Support in final negotiation
- Support in documentation (SPA, shareholders' agreement, etc.)
- Support in closing

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Pre-mandate signing

- Detailed pitch pack
- Our understanding of the Client
- Client requirements and acquisition criteria
 - Revenue size
 - Whether a listed or private company; PE backed
 - Geography preference – within India as well as global presence
 - Service Offerings / Verticals Present
 - Key management experience and background
 - Preference for minority / majority / path to majority
- Few target leads – either with name or without name
- Overall process and timelines
- Roll-out plan

- Client interactions are mainly through conference calls
- It is necessary to build confidence both at the time of pre-sales as well as post-sales during execution

Generally it takes 3 to 6 months to sign a Japanese buy-side mandate. These aspects are unique to Japanese transactions

Kick-off Phase

- Group name and Group ID
- Working Group List
- Passwords
 - Internal files
 - External files
- Prepare a weekly status format file which contains the tasks for the week and next steps
- A timelines sheet which contains the broad project plan highlighting the Japanese as well as Indian holidays
- Timing Difference: There is time gap of 3 and half hours between India and Japan. So the time of the calls has to be carefully thought through and worked out. In case the Target has offices in other locations like USA / UK further planning will be required
- The Client might not be comfortable with the accent of Indians. It is advisable to speak slowly so that the Client is able to understand us better

The Japanese transaction requires great amount of detailing and step-by-step methodical approach

First Steps

- Preparing long list of Targets
 - Industry Association websites
 - Industry reports
 - Databases
- Shortlisting the Targets
 - Based on the acquisition criteria provided by the Client, further shortlist the Targets
- Analysis of the selected companies (Refer following slide)
- Meeting the Target
 - The initial interactions are on an informal basis to understand the interest
 - An approach mail which is finalized at post mandate signing stage is sent to the Target
 - Follow-up with the Target for a call or meeting; initially with the Financial Advisor

These are the initial steps, a standard process followed for any transaction. However, detailed work is done for analyzing and shortlisting potential targets

Shortlisting the Target

- Detailed excel sheet
 - Company website
 - Promoter details
 - Promoter stake
 - Management background / reputation
 - Experience working with foreign partner / Joint Ventures
 - Services break-up
 - Verticals break-up
 - Geographies presence
 - Manufacturing set-up / Data centers, depending on the industry
 - Key Investors, if any
 - Revenue numbers
- Detailed financial information (P&L, BS) wherever available. Mainly available for listed entities in India
- Key Ratios and valuation metrics like EV / Revenue, EV / EBITDA
- Credit Ratings report from rating agencies like CARE, ICRA, Crisil, etc
- Company presentations / brochures available in public domain

The above aspects are then discussed in detail with the Client either over a call or face to face meeting if the Client is in India. Based on inputs from the Client, additional work is done or the Targets are shortlisted

Information Finalized Before Approaching the Target

- Before we hit the market with the opportunity, we keep the following data ready
 - Client presentation to be shared with the Targets
 - Approval to share Client name
 - Articulate the reasons for partnership with the Target
 - Articulate the synergies which the Client brings on table for the Target
 - Talking points with the Target
 - Availability of Client for calls with Prospective Clients
 - Detailed information checklist (information request from the Target)
 - Prepare approach e-mails and get a sign-off from the Client
 - NDA format with the Target; jurisdiction to be highlighted
- All of the above materials are kept ready in parallel to the First Steps

Working with Japanese companies requires thorough preparation before we market the opportunity

Initial Interaction with the Target

- Along with the approach mail, the agenda for the call is discussed and articulated in consultation with the Client
- Share the approach mail and seek thoughts from the Target
- Follow-up with the Target for preliminary interest and / or call with financial advisor team
- Signing NDA with the Target
 - Some Clients are comfortable to share the name only once the Target is willing to sign NDA
 - This creates an additional challenge to convince the Target about the Japanese Company
 - This is an unusual process to approach without the Client name but we managed
- Challenges for signing NDA
 - Jurisdiction is always a challenge with signing NDA
 - The Client will prefer Japan. The Targets prefers their own jurisdiction. We normally suggest a neutral venue such as Singapore or UK for NDA
- Post each call or a meeting, a detailed minutes of the meeting are circulated in a password protected file
- All the key items discussed with the Target are shared with the Client
- The Client then takes a call to shortlist particular Targets and seek more information to understand them better

Preliminary Review

- Financial Advisor engages with the shortlisted Targets
- Set-up meeting with the Client and the Targets
- Check for requirement of Translator
- Engage with the Target for their inputs and feedback on the Client
- Initial inputs from the Client:
 - Once the management meetings are over, we have a meeting with the Client before they fly back to Japan
 - The meeting is to seek Financial Advisor views and inputs for their internal management discussions
 - The Japanese Clients expect us to provide clarifications post the management meeting to confirm their understanding about the Target
 - This meeting is generally planned on the last day of their trip where the Client spends 4 – 5 hours with us. Japanese Clients prefer such meetings

Continued engagement with the Client and a feedback mechanism to understand that the Client interest in the Targets

Further Interactions (1/2)

- The Client will have internal discussions and build consensus with all team members
- Preliminary views from Client based on meetings and internal management discussions
- Seek information from the Target
- We also have to manage the expectations of Indian Target as Japanese transactions do take time
- There will be handholding required for the Client
 - Who they want to further shortlist
 - Rationales
 - Next steps
- Collate all the information about the Targets and prepare a preliminary assessment presentation pack
- Preliminary valuation exercise to be conducted by Financial Advisor
- Handhold the Client with any clarifications that may be required to understanding the Target – their products, regulations, taxation, legal status, financial numbers, FDI policy, etc. This is done in the form of an information pack with back-up sources
- Detailed discussion with the Client regarding the information pack prepared

Further Interactions (2/2)

- One more meeting / call to confirm progress
- Discuss next steps and agree some timelines
- Confirm interest from the Client which includes the Clients top choices and the priority in which they would like to approach
- Further engage with the Client for the overall transaction framework

We will have lots of Q&A sessions with the Client till the Client is completely satisfied with the responses and clarifications

Non – Binding Offer (1/2)

- In case the Client confirms interest in the Target, a preliminary non-binding offer is issued to the Target
 - Further information is sought from the Target such as detailed financial projections, business plan, synergy expectations, to prepare the valuation of the Target
 - A detailed valuation report is shared with the Client with our views and rationale for the valuation range
 - Detailed calls / meeting with the Client to discuss the valuation report
 - Before the preliminary non-binding offer is finalized, a draft format is shared with the Client and explained thoroughly
 - We have discussions with the Client on how to negotiate the Non-Binding offer with the Target
 - The preliminary non-binding offer might require Board approval from the Client Board; a management presentation is prepared
- Our general experience has been that the decision making at Japanese companies is relatively slow. They have to build an internal consensus amongst all the stake holders

To walk through the Client with all the aspects pertaining to Non-Binding Offer and prepare them for internal management meeting as well as negotiations with the Target

Non – Binding Offer (2/2)

- Once the Non-Binding Offer is submitted to the Target, a detailed negotiation takes place between the Client and the Target
- Financial Advisor assists the Client in each and every step during the negotiation and provides any additional data that might be required to substantiate a particular stand
- Once the Client and the Target agrees on the Non-Binding Offer and its terms and conditions, the Client will commence discussions related to due diligence
- Parallel to NBO discussions, prepare the Scope of the Due Diligence (DD)
- Suggest few advisors names to the Client and have preliminary Client meetings
- Engage with finance, tax, legal DD advisors to evaluate the Target

Due Diligence (DD)

- It is decided in advance whether the Client and the Target are ok with Print version of DD or Virtual DD taking into consideration the overall cost, comfort, and preference of the Target and the Client
- Facilitate the entire DD. In case of physical DD, be present at the Target location
- Have daily / weekly calls with the DD advisors, send weekly report to the Client to keep them apprised of the progress; intervene in case there are any issues with the process
- Follow-up with the DD advisors for the final DD report
- Have calls with the DD advisors to understand the red flag points and the severity of these items
- Extensively analyze the DD findings to help the Client make an informed decision; bifurcate the red flag items into High, Medium and Low risk items
- Take positions to help with negotiations with the Target
- Prepare a presentation pack about the DD findings and its implications, if any on the valuation
- These DD findings are internally discussed by the Client with its Board and management team

Hand hold the Client to ensure smooth and timely completion of Due Diligence

Deal Structuring

- Based on the DD findings, to prepare a revised valuation range incorporating all the red flag events and share it with the Client
- Based on the new valuation, to advise the Client on the optimum transaction structure which could provide control to the Client at the earliest
- The structure to contain various levels of funding from the Client and the % stake to be acquired at each stage
- We create several different transaction structures to ensure majority was attained at the earliest
- To highlight the key challenges at each stage of the transaction – the transaction involved not only secondary sale, but primary sale, and it triggered mandatory open offer

Creating various scenarios to ensure that the Client achieves the optimum transaction structure

Definitive Agreements

- Detailed negotiations for the Client on the
 - valuation and share pricing
 - deal terms
 - deal structure
 - post-transaction roles and responsibilities
- On confirmation by the Target, to get into the Definitive Agreements
- Negotiation & finalization of
 - Shareholders' Agreement (SHA)
 - Share Subscription Agreement (SSA) ensuring interest of the Client and considering long-term benefits from the acquisition and management control
- Co-ordination with the Lawyers
- To ensure that the agreements are properly stamped as per the Indian regulations

To liaise with the legal advisors to ensure that the risks are covered in the Definitive Agreements and safeguard the interests of the Client

Pre-Deal Completion Formalities

- There are certain things which are not part of the Scope but are coordinated to ensure smooth completion of the transaction
 - PAN
 - Bank account
 - Demat account
- To obtain competitive quotes from various vendors
- Filling up forms for the Client
- Preparation of draft of the Board resolution required as per the Indian regulations
- Liaise with the Bank for completion of the documents

Hand-holding the Client to ensure that the transaction is undertaken in a smooth and timely manner

Transaction Completion

- Example of post completion formalities
 - FC-TRS valuation
 - Filing of FC-TRS valuation with Bank
 - Open Offer services
 - Opening of Escrow accounts
 - Funding of Escrow accounts
 - Negotiating for the best rates for the foreign exchange remittances
 - Ensuring that the shares are credited in the account of the Client
 - Opening of Escrow accounts
 - Outward foreign exchange remittances

Provide end-to-end support to the Client for successful transaction completion

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Appendix – Sample Documents

- Please find below few sample documents:

Sample NDA

This Confidential Agreement ("Agreement"), effective as of the date hereon between the "Receiving Party", is entered into by and between "Discloser" and "Receptor".

The Receiving Party and the Receptor hereby agree that the Receptor will use the information disclosed by Discloser to the Receptor in connection with the performance of a specific project or activity, and that the Receptor will not disclose such information to any third party without the prior written consent of Discloser.

1. Confidential Information. Except as set forth in Section 2 below, Confidential Information means all confidential or proprietary information disclosed to the Receiving Party by the Discloser in its written or oral form, including, but not limited to, all financial information, trade secrets, inventions, patents, know-how, software, hardware, processes, methods, data, information, communications, documents, reports, drawings, designs, plans, specifications, and other information.

2. Exclusions. Notwithstanding to the foregoing, Confidential Information does not include information that is generally known to the public, information that was independently developed by the Receptor, information that was lawfully obtained by the Receptor from a third party not under any obligation to Discloser, information that was lawfully obtained by the Receptor from a third party not under any obligation to Discloser, information that was lawfully obtained by the Receptor from a third party not under any obligation to Discloser, information that was lawfully obtained by the Receptor from a third party not under any obligation to Discloser, information that was lawfully obtained by the Receptor from a third party not under any obligation to Discloser, information that was lawfully obtained by the Receptor from a third party not under any obligation to Discloser.

3. Receptor Obligations. The Receptor shall protect and safeguard the confidentiality of all Confidential Information with the same degree of care as it uses to protect its most confidential information, but in no event less than a commercially reasonable degree of care. The Receptor shall not disclose Confidential Information to any third party without the prior written consent of Discloser.

Letter of Intent

This letter agreement with both no agreement and understanding is to the essential terms of the deal. The Receptor will use the information disclosed by Discloser to the Receptor in connection with the performance of a specific project or activity, and that the Receptor will not disclose such information to any third party without the prior written consent of Discloser.

1. Purpose of Deal. The purpose of this Letter of Intent is to set forth the essential terms of the deal. The Receptor will use the information disclosed by Discloser to the Receptor in connection with the performance of a specific project or activity, and that the Receptor will not disclose such information to any third party without the prior written consent of Discloser.

2. Assumed Conditions. The Parties will assume as of the closing all other conditions precedent to the performance of the deal, including, but not limited to, all financial information, trade secrets, inventions, patents, know-how, software, hardware, processes, methods, data, information, communications, documents, reports, drawings, designs, plans, specifications, and other information.

3. Purchase Price. The purchase price will be \$_____ payable in cash in immediately available funds on the closing date.

4. The Closing. The Parties will use best reasonable best efforts to obtain all necessary permits and government consents including all necessary permits and approvals required in connection with the deal.

5. Confidentiality. The Parties will use best reasonable best efforts to obtain all necessary permits and government consents including all necessary permits and approvals required in connection with the deal.

6. The Parties will use best reasonable best efforts to obtain all necessary permits and government consents including all necessary permits and approvals required in connection with the deal.

Term Sheet

CONFIDENTIAL
10 June 2013

1. Purpose of Deal. The purpose of this Letter of Intent is to set forth the essential terms of the deal. The Receptor will use the information disclosed by Discloser to the Receptor in connection with the performance of a specific project or activity, and that the Receptor will not disclose such information to any third party without the prior written consent of Discloser.

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7. The Parties will use best reasonable best efforts to obtain all necessary permits and government consents including all necessary permits and approvals required in connection with the deal.

SHAREHOLDER AGREEMENT

THIS AGREEMENT, dated [AGREEMENT DATE] is entered into amongst the following individuals consisting of all of the current shareholders of [CORPORATION] ("Corporation")

[SHAREHOLDER 1 Fullname] [SHAREHOLDER 1 Lastname]
[SHAREHOLDER 2 Fullname] [SHAREHOLDER 2 Lastname]
[SHAREHOLDER 3 Fullname] [SHAREHOLDER 3 Lastname]
[SHAREHOLDER 4 Fullname] [SHAREHOLDER 4 Lastname]

(referred to collectively as "Shareholders" and individually as "Shareholder") and the Corporation.

Article 1 – Purpose of Agreement

1.1 The Shareholders are all the shareholders of the Corporation, AGENT OF INCORPORATION Corporation and are the sole Directors and Officers of the Corporation.

1.2 The Shareholders are entering into this Shareholder Agreement to provide for the management and control of the affairs of the Corporation, including management of the business, division of profits, distribution of shares, and distribution of assets on liquidation.

Article 2 – Shares Subject to Agreement

2.1 The Shareholders listed above own the number of shares of common stock and approximate percentages of company ownership, as listed below:

Name Number of Shares Percentage of Ownership
[SHAREHOLDER 1 Fullname] [SHAREHOLDER 1 Lastname] [SHARES] [PERCENT %]
[SHAREHOLDER 2 Fullname] [SHAREHOLDER 2 Lastname] [SHARES] [PERCENT %]

Sample NDA

Letter of Intent

Term Sheet

Share Subscription

Shareholders Agreement

- Source :
- http://blawfirm.com/global_pictures/Standard%20NDA%20by%20Axial.pdf
 - <http://themusingsofthebigredcar.com/wp-content/uploads/2015/02/Sample-Term-Sheet-company-sale.pdf>
 - <https://www.docracy.com/0mb1q1v6957/shareholder-agreement>
 - <http://pages.stern.nyu.edu/~igiddy/letterofintent.htm>