Due Diligence Checklist

This is a non-exhaustive list of information and documentation that will be needed in the due diligence process. As each investigation will differ in terms of needed materials, the below can serve as a preparatory guide.

What is Due Diligence?

Due diligence is an essential process utilized by companies and private equity firms to evaluate a potential merger or acquisition. Buyers will conduct due diligence on a target company to confirm the accuracy of the seller's claims, mitigate risk and garner deep insight into the operations – prior to committing to the deal. While the investigative process is painstakingly extensive, can help prevent costly surprises later on — and increase the chances of M&A success. **GET OUR PRIMER HERE.**

What Should I Include in a Due Diligence Checklist?

General information

Examines general records and the business plan to understand the corporate structure and standing of a company. This broad initial step sets the stage for the more in-depth and targeted due diligence investigation.

- Articles of incorporation
- Corporate bylaws and any amendments
- Minute book (containing ownership and board meeting minutes).
- Certificate of Good Standing
- List of subsidiaries and any other entities in which the company has an equity interest (i.e. partnerships and joint venture agreements)
- All jurisdictions where the company is authorized to conduct business
- Any documents relating to reincorporation or restructuring
- Business plan (executive summary, market analysis and plan, operational plan and complete financials)

Organization and ownership information

Delves into the structure of a company from a personnel perspective. The organizational due diligence phase provides perspective surrounding the ownership of the business, which will be critical to consider when acquiring or merging with a company.

- List of officers and directors
- Organization chart
- Records surrounding issuances or grants of stock, options and warrants

- List of all shareholders
    - Include number of shares, dates of issuance and type of consideration received
- Documentation of past and current shareholder agreements, rights, and other matters concerning ownership
    - Copies of any voting agreements, trusts or proxies
    - Copies of right of first offer or refusal and preemptive rights
    - Transfer restriction agreements and registration agreements

Administrative

Administrative due diligence confirms administrative information about a company, like the business facilities, occupancy rate and number of workstations.

- List of all business locations
    - Where the company owns/leases property, maintains employees and/or conducts business
    - Include applicable details like the occupancy rate and number of workstations

Regulation and compliance

This part of the due diligence stage assesses regulatory or compliance issues with the target company or the overall deal. This process is particularly important in heavily regulated industries or with large parties in play. Look in particular for any antitrust risks the deal may present.

- Copy of the company's compliance policy and written standards of conduct
- Copies of any governmental licenses, permits or consents
- Any correspondence, citation, notice or documents relating to any proceedings of any regulatory agency
- Any documents filed with the SEC or any state or foreign securities regulatory agency (if applicable)
- Any material reports to government entities and agencies (including the EPA and OSHA)
- Analysis of potential antitrust issues (if applicable)

Accounting/Financial

Confirms seller's financial performance by examining both accounting and financial documentation. The objective here is to identify any unreported liabilities, understand the target's current financial position and determine if earnings are sustainable. These activities help ensure a realistic valuation of the target and justification of the purchase price.

- Documentation surrounding the capitalization of the company

- Three years of annual and quarterly audited financial statements, with the auditor's reports
- Unaudited financial statements for comparison
- Latest interim financial information
- Future financial projections
- Descriptions of strategic plans
- Budget plan
- Any auditor communication to management for the past five years
- Schedule of accounts receivable and accounts payable
- A description of depreciation and amortization methods and changes in accounting methods over the past five years.
- Copy of the company's general ledger
- Copies of any debt financing documents (i.e. loan agreements, credit agreements, promissory notes, compliance certificates, etc.)
- Copies of any equity financing documents (i.e. stock purchase agreements, subscription agreements, etc.)
- List of internal control procedures
- Schedule of any deferred revenue

Operational

Operational due diligence examines the target company's systems and processes to identify risks arising from execution of the business function. Here, buyers assess the effectiveness of the target's operating model — including sales, marketing, technology, supply chain and production — to determine gaps and potential areas where investment or development are needed. The goal is to see if the current state of operations can support the business plan provided by the target company.

- Overview of company's operating model showing key systems and processes (both insourced and outsourced)
- Description of the change management process when a change to the operating model is needed
- Copies of any documented procedures
- Overview of the organizational / functional structure of the teams
- List of company's primary and support activities
- A summary any tests, evaluations, studies, surveys, and other data regarding existing and under development products/services
- Identification of key performance indicators, value drivers and cost drivers
- Information around sales and marketing procedures, including research, messaging, CRM systems and processes, and lead generation practices
- List of all third parties in the supply chain
- A breakdown by manufacturing site of the products manufactured, personnel employed, number of shifts and capacity

- Documentation around supply chain processes (i.e. delivery times, inventory availability, transportation mode/costs, facility costs, inventory investment, contract manufacturers, etc.)
- List of main suppliers and their discounts, terms and credit limits
- Details around distribution model and channels

Tax

Delves into the target's tax profile by analyzing tax returns and the company's tax structure. Tax examination is a highly emphasized area of due diligence, as the acquiring company will be liable for any tax issues it inherits.

- Federal, state, local and foreign income tax returns for the last three years
- State sales tax returns for the last three years
- Excise tax filings for three years
- Employment tax filings for past three years
- Documentation around tax structure and key tax elections
- Any audit adjustments proposed by the IRS
- Documentation around any tax liens or settlements
- Copies of any audit and revenue agency reports

Legal

Reviews the legal matters facing a company and related risk around contracts or litigation. Legal due diligence greatly affects how, or if, a deal will move forward. Issues like restrictive and/or breached contracts, noncompete clauses and past or pending litigation will influence the structure of a deal. After all, post-transaction, the buyer is going to be liable for any obligations, contingencies and restrictions.

- Any pending or threatened litigation against or initiated by the company
- Any settled or concluded litigation against or initiated by the company
- All active litigation files
- Any consent decrees, injunctions, judgments, settlements or other orders
- Copies of all contracts
- Any loan agreements, bank financing agreements, and lines of credit to which company is a party
- Licensing or franchise agreements
- Copy of all guarantees to which the company is a party
- Information as to any past or present governmental investigation
- Copies of all attorneys' responses to audit inquiries and all attorneys' letters to auditors

Technological

The technological aspect of the due diligence process examines the company's IT assets (or lack thereof) to assess sustainability, value, costs, scalability and evolution capabilities, as well as how systems would integrate into the buyer's company or portfolio. People and processes need to be proven effective and adaptable. A cybercrime proliferates, an increasingly important focus is the vulnerability inherent in the IT infrastructure.

- List of software used by the company and copies of any applicable licensing agreements
- Any IT outsourcing agreements
- Current system usage and age
- A list of interfaces that link systems together
- Documentation around IT processes including applications development, IT operations, disaster recovery, IT security, and cost management
- Information around security and controls framework
- Details surrounding any hack, breach or any other cybersecurity incident

Physical assets

Asset due diligence verifies the tangible assets possessed by the target. This involves confirming the existence, value, age, quality and ownership of a company's real estate, fixed assets and inventory.

- List of all owned or leased properties and applicable details (i.e. rent amount, location, dates, etc.)
- Details on all sales and purchases of major capital equipment in the last three years
- Copies of all lease agreements for equipment
- Copies of real estate deeds, appraisals, mortgages, leases, surveys, title policies, use permits and any other relevant documentation
- Schedule of owned and leased fixed assets, including description, date acquired, value and location
- Copies of any equipment appraisals
- Copy of inventory listing, including item description, item number, date, units, and cost for the most recent year-end and month-end
- Description of practices regarding inventory aging, valuation, and obsolescence, and any methodology changes
- Any UCC filings

Intellectual property (IP)

Particularly in technology-driven industries, a target company's IP portfolio largely determines its value and relevance to the combined company. IP due diligence should gauge the materiality of the IP portfolio and ensure that there are no inherent ownership issues present.

- Schedule and copies of all intellectual property registrations and pending application
    - Patents and patent applications
    - Trademark registrations, trademark applications and trade names
    - Registered and material unregistered copyrights
- Copies of the chain of title records
- Documentation around any claims or threatened claims by or against the company regarding IP
- Copies of any IP-related agreements (i.e. licensing, collaboration, research and development, etc.).
- List of the company's active websites and social media accounts
- Documentation around all proprietary and/or customized software and IT systems utilized by the company
- General descriptions around proprietary know-how, trade secrets, technology and/or processes
- Documents detailing the company's approach to IP protection and enforcement (i.e. confidentiality and non-disclosure agreements, employment agreements around IP, etc.)
- A list of all licensing revenue and expenses

Human resources

HR due diligence analyzes the critical people component of the M&A transaction. It takes into account information like total number of employees, demographics, compensation, benefit plans, human resource policies, contracts and organizational structure. The data garnered on the personnel involved will help an acquiring company determine key employees and an integration plan should the transaction move forward.

- Employee demographic information (age, location, title, tenure, skillset, compensation, etc.)
- Employee handbook (should cover policies, benefits, procedures and training)
- Files containing all employee relations matters – including any past/current disputes or complaints
- All employee, non-disclosure, non-solicitation and non-compete agreements
- Copies of all stock option and stock purchase plans
- Resumes of key employees
- Documentation around qualified and nonqualified retirement plans
- Assessment of the competencies, skillsets and capabilities of employees
- Performance review schedules and structure
- Recruiting and onboarding process
- Copies of payroll documents
- Copies of any labor or employments contracts

Commercial

Commercial due diligence examines the target's ecosystem to determine its place in the market. This process delves into market conditions, trends, consumers, competitors, opportunities/threats and differentiators.

- List of products and services offered and in development
- Market research including size, share, trends, drivers, demand, conditions, opportunities, threats, differentiators and outlook
- Profiles of major competitors
- List of top customers
- Customer analysis including customer segments, demographics, churn rate, satisfaction, customer acquisition cost, NPS score and lifetime value
- List of major suppliers
- Identification of any barriers to entry in the marketplace
- A summary of all complaints or warranty claims
- Copies of long-term sales contracts
- Agreements with distributors, value-added resellers and dealers

Environmental

This type of due diligence identifies environmental, health and safety issues that could directly affect the value and reputation of the target business, and by association, the buyer's larger organization.

- Interviews with past and present owners, operators and occupants
- Copies of any violations, complaints or requests for information regarding environmental, workplace safety and health (from private parties or governmental authorities)
- Historical sources of information (i.e. aerial photographs, fire insurance maps, chain of title documents, and land use records)
- Federal, state, local and tribal government records
- Records concerning adjoining or neighboring properties
- Permits and records relating to environmental matters such as underground storage tanks, air quality, water use, solid/liquid wastes and hazardous waste storage or disposal
- Any records of environmental cleanup liens
- Listing of hazardous substances (i.e. asbestos, pesticides or petroleum products) and any intentional or accidental spills/releases of the material
- Details on workplace safety and health programs
    - Include any instances where unsafe working conditions have been reported/corrected

Cultural

Cultural due diligence is more subjective in nature. It seeks to understand the cultural dynamics of a potential acquisition in areas like values, perceptions, traditions and working styles.

- Documents covering company values, mission, vision and shared beliefs
- External stakeholder interviews
- Internal stakeholder interviews and focus groups
- On-site visit for observation
- Questionnaires and surveys of employees to gauge both culture context and sentiment towards potential merger/acquisition

Strategic

Strategic due diligence takes an analytical view of all other due diligence results to determine whether the transaction in question will be of benefit to the buyer. It seeks to assess a target's fit within the buyer's larger organization and whether it will maintain its value through and post-integration.

- List of value drivers for the acquisition (i.e. including the addition of technologies/products, key personnel acquisition, market access, revenue enhancement, cost savings, operational and financial synergies, etc.)
- Identification of marginal costs that may be generated by the acquisitions
- Assessment of strategic fit within the larger buyer organization