

# Buyers versus sellers

As buy and sellside change perspectives during an aggressive and uncertain period in trading, the floors of many platforms seem ill at ease. Richard Martin investigates the intricate relationship between both sides of the market, their expectations, and the future for trading facilities

» An investment banker associate of mine recently shared an interesting statistic. He said his business, a veteran establishment, currently spends around 80 percent of its time with buyers. This time is spent reassuring them that they're getting a good deal when buying a company. Now that's a sign of the times.

Rewind two years, and I can almost guarantee you the same bankers were spending 80 percent of their time with

sellers. Of course, two years ago the market was a hive of activity and sellers were beating off prospective buyers with a swatter. Today, we find ourselves in a climate where seller and buyer alike are very cautious. Buyers want the safest bet for as little as they can get away with. Sellers are reluctant to lower their prices. We end up with a lot of tension, and a gulf between sellers' and buyers' expectations – both of which can conspire to put the brakes on a deal. To keep things moving, what's needed is responsive due diligence.

Due diligence should enable advisers to retrieve statistics and solid facts they can use to reassure buyers they're getting good value. Advisers need to make this as easy as possible for themselves and their clients. The last thing they want is to spend hours sifting through documents in a paper data room every time the buyer asks a question.

Nor do they want to perform fruitless searches on VDRs. I don't claim to have all the answers about the best way to search documents, but anyone who says it's sufficient to search document titles is missing the point. Realistically, how often is someone actually looking for a specific document name? On the contrary, it's what's inside the document – a word, a phrase, a figure. A search function should locate precisely what someone is likely to search for, whether it exists in the title, body or reference area.

This is really what makes the best VDR solutions so valuable. If you're using the right technology, once you've uploaded your content it becomes 100 percent searchable, using Boolean, pattern and concept searching, just like leading online search engines. This allows you to find whatever it is you're looking for in sub-second time, which can rapidly help to reconcile buyer and seller in order to seal a deal. Sellers will still have to come to terms with lower offers, and buyers will still have to ask a lot of questions to make sure their purchase decision is wise. Using a smart due diligence tool like Merrill DataSite gives a deal the best chance of moving through to completion. And that, in this climate, is worth its weight in gold.

## Keeping due diligence out of the limelight

As we enter another phase of recession, the M&A market seems to be picking up. We're starting to see a slow but well-defined increase in activity, as public companies with ready cash emerge in a powerful position. Because this power is brandished in a climate of caution, it puts targets under pressure. Buyers have money, but they're going to be careful, utilising deals that really "move the needle." That means they'll be spending a lot of time over due diligence – and it's unlikely to be the confirmatory due diligence that many companies have been used to.

Anyone reading the press of late will know of public deals in which buyers are demanding no-holds-barred access to business details. But there is a risk with this. It can attract a lot of attention, which can trigger a leak to the press – which can damage a target's business. Targets must push for the utmost secrecy and discretion throughout the due diligence process.

## Under the spotlight

To be fair, a leak can be triggered quite innocently. If a team of suited and booted lawyers from Company A all stride at once into the lobby of Company B, it's going to spark the curiosity of employees, customers, partners and anyone else that happens to be looking on. Still, it's important to avoid making blunders. If journalists get hold of the news before the target is ready to announce it, there's no knowing what the press coverage will be and how it will affect business. Not only that, but the higher profile of the deal may give the buyer more power than they rightly deserve. Then of course, should the deal go sour – to spread the doom and gloom a little further – the target will find itself under new pressures. If the press has announced to the world that the deal fell to pieces, finding a new buyer, not surprisingly becomes much, much harder.

## Into the shadows

Confidentiality is therefore something that must be considered from the outset of due

diligence. A secure VDR can ensure that your part in due diligence is managed with the utmost discretion. The best providers have expert teams available around the world to work with companies through the night to scan and upload their documents into the VDR, with no onlookers and a much lower risk of leaks. In Merrill's case, we provide staff that is fully vetted by us and backed up by a 40-year heritage of getting this right for our clients. For the greatest assurance of security and confidentiality, companies should look for a VDR provider that is ISO 27001-certified. If the vendor has achieved this, you can rest assured the data inside it is securely protected too. So everyone can stay out of the limelight, and just get on with the business at hand.

#### **A longer view for best results**

Much has been written about the best practices of due diligence directly related to the information exchange between sellers and potential buyers during the sales cycle. More needs to be said about the enormous benefits that can be gained by extending this acute attention to detail so that it begins much earlier in the process. Of course, as many are quick to protest, this is easier said than done. Due diligence preparation is already labour-intensive enough, and difficult to accomplish, given today's down-sized workforce.

But the potential pay-off is enormous. Such advanced planning can help a company drive a top valuation that may initially have seemed out of reach. It can also help a company identify potential problems and address them before inviting potential buyers to the negotiating table. And it doesn't have to be as labour – or resource-intensive as you'd think. VDRs are a perfect focal point for early, ongoing due diligence efforts because they streamline the process so that it can be assimilated into day-to-day operations. Rather than requiring employees to interrupt their "real jobs" for due diligence information gathering, a VDR can integrate the process into the staff's daily routine. The VDR document repository can be populated

as a part of daily operations, and becomes available for review on an ongoing basis.

Recognising the potential benefits offered by this approach, companies are launching "pre-transaction" data rooms and performing their own due diligence audits to test and perfect their strategic plan. Used in this way, the VDR offers a risk-free "test-bed" that enables them to ensure that they are presenting the company for sale in the best possible manner.

By the same token, companies can benefit greatly by extending their due diligence efforts to minimise post-merger integration issues, which are among the most common reasons why many mergers fail. To help smooth out potential cultural wrinkles, the merger team needs a confidential platform where employee information can be viewed and exchanged and team members can conduct an ongoing dialogue about employee-related issues. This is where the power of VDRs can go a long way toward keeping all teams connected and supporting the goals and culture of the newly merged organisation. In fact, many companies are now using virtual data rooms for exactly this purpose, to facilitate communication and HR due diligence review. The most advanced VDR solutions have enhanced their solutions to include tools specifically for the HR process.

#### **Not "business as usual"**

Extreme caution may be changing the dynamics between buyers and sellers, but it shouldn't prevent good deals from getting done. Rather, it should drive buyers and sellers to seek out better, smarter, faster ways to accommodate greater levels of scrutiny in the due diligence process. In this climate, where buyers want to dig farther and deeper – and more quickly – into a seller's business, the right virtual data room solution can make all the difference. ■

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