

29TH ANNUAL OUNCE OF PREVENTION SEMINAR

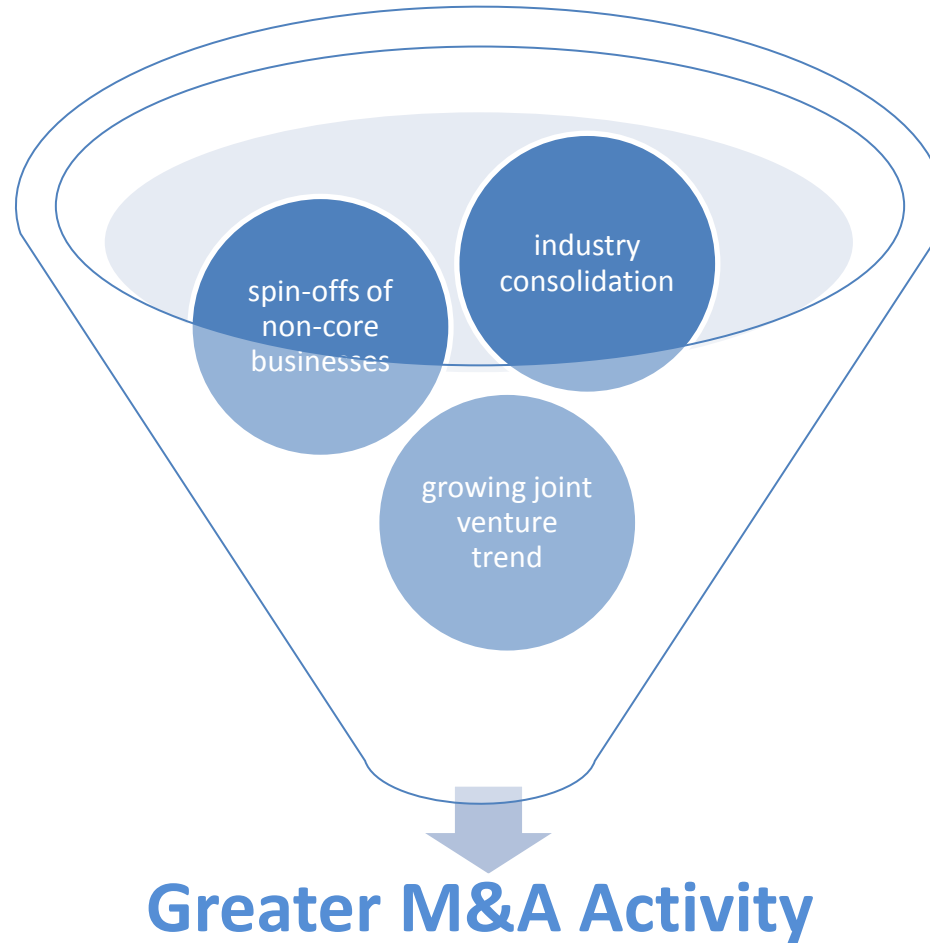
Weathering the
Rough Seas of
Regulation



Emerging M&A Trends in the Current Market: How Sequestration and Other Industry Factors are Shaping the Way Deals are Done--or Not

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Why M&A?



Due Diligence

Traditional Focus

- Valuation
 - EBITDA
 - Revenue waterfall
- Potential Risks –
 - Audits
 - Claims
 - Investigations

New Heightened Focus

- Valuation
 - Backlog and program assessment
 - In-sourcing risks
 - Risks of termination for convenience or non-renewal
 - Margin sustainability
- Potential Risks --
 - Cyber security vulnerabilities
 - Deficiencies in business processes and procedures
 - Successor liability
 - Contingent liabilities

Anxiety-Ridden Risk Allocation

Representations and Warranties

- More rigid, less qualified representations
- Particularly, compliance with laws, certifications, terminations for default, disputes or outstanding claims

Emphasis on Closing Conditions / Deal Certainty

- Detailed Material Adverse Change provisions

Greater Indemnification Protection

- Higher caps / longer escrows

More Reliance on Deferred or Contingent Deal Consideration

- Earn-outs
- Management Incentives

Other Transaction Structures

Key Drivers:

- Reduce costs
- Increase likelihood-of-win percentage

Benefits:

- Ability to enter international playing fields otherwise closed to foreign participants
- Obtain the advantage of a potential acquisition target's offering without the acquisition costs and risks

Risks/Challenges:

- Tension among co-owners regarding governance, equity/profit allocation, etc.
- Risk of deadlock
- Risk of default by co-owner
- Internal control/compliance issues

Questions?

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