Corporate Exit Strategies and the Legal Considerations

Ireland

In such a difficult market, amid ever-changing deal dynamics, it is crucial companies have the best exit strategy possible in place that delivers the best-fit solution for company shareholders. As corporate exit strategies nearly always involve some challenges, this month *Lawyer Monthly* takes a look at some of these challenges and the other legal issues that surround corporate exit strategies. To this end, we speak to Feargal Brennan, Head of Corporate at ByrneWallace Solicitors.

What are the main challenges to arise when planning a corporate exit?

The challenges will vary significantly from one deal to the other and often depend on the reasons why businesses are selling off subsidiaries or business units. It is likely that there are many tax and legal issues to be addressed and in complex multijurisdictional sale transactions a project team will need to be assembled dealing with a wide array of matters from regulatory approvals, communications strategy, HR engagement, and legal process.

How can you navigate these challenges?

The key to effective corporate divestiture is planning, planning and more planning. Engaging experienced accounting, tax, legal, HR and other professionals is also key to a successful divestiture.

How effective a strategy is corporate divestiture?

In the current economic climate where huge focus is required to meet the challenges of the global financial crisis, more and more corporates are divesting themselves of non-core business units, either as a way to generate cash or often as importantly to allow senior management focus on more important parts of their business. We have seen this in many of the recent transactions we have been involved. Often the market rewards companies that have gone down the path of investing in non-core assets which have not delivered. Sometimes new management teams may drive this directional change of focus as a way to finally leave behind legacy strategies.

What other strategies would you recommend?

Often management teams may be given an opportunity to bid for non-core businesses when a group is changing direction.

What should people be most aware of in terms of tax implications when looking at a corporate exit?

Every jurisdiction will deal differently from a tax perspective. Some countries (such as Ireland) have very benign Capital Gains Tax reliefs for the sale of subsidiaries (in some circumstances zero tax rated).

What are the other key legal implications to be aware of?

Every transaction is different and each transaction genuinely presents its own discreet issues which may be unique to the transaction. Typically however key legal issues may include issues relating to pensions, liability and risk management, HR strategy, tax structuring, accounting treatment, reputational and regulatory issues.

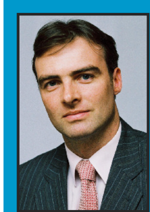
What is the first thing to do when looking into a corporate exit?

If the group has decided to divest itself of a subsidiary or business unit, the obvious first question is who is going to acquire it and how best to extract value from it. This requires early engagement with the professional team, initially the legal team and soon after the corporate finance advisory team.

Is there anything else you would like to add?

In recessionary times, corporates will always look to its constituent elements for disposal opportunities as a way to generate cash and refocus the business on the more core elements. This is certainly evident in today's markets and with more equity becoming available in the market by hedge funds and private equity players we expect this trend to continue into the medium term. ByrneWallace has been actively involved with several international players in the Irish market in acquiring businesses from Irish companies. **LM**

Contact:



Feargal Brennan
Head of Corporate
ByrneWallace
88 Harcourt Street, Dublin 2

Tel +353 1 691 5276
Fax +353 1 691 5010
Email fbrennan@byrnewallace.com