Fairness Opinions and Solvency Opinions

In today's environment of heightened regulatory scrutiny and improved corporate governance, emphasis has been placed on the independence, transparency and rigor of fiduciary due diligence. Failure for the fiduciary to meet these expectations can result in costly consequences, including being held personally liable or destroying shareholder wealth.

Obtaining a fairness opinion allows boards of directors, special committees, employee stock ownership plan trustees and other corporate advisors to:

- Make informed decisions, mitigate the risk associated with corporate transactions;
- Enhance the soundness of transactions;
- Facilitate shareholders' approval;
- Provide assurance to the stakeholders that the transaction are independently reviewed;
- Demonstrate to all interested parties that they have acted within the business judgement rule – on an informed basis, in good faith and in the best interest of the company's stakeholders.

PwC's Deals experts provide independent fairness opinions and solvency opinions to help corporate boards of directors, special committees, and other ensure that their proposed transaction is fair and adequate.

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Fairness opinions

Our devoted team of experts are skilled in analysing and evaluating almost every type of change of control transaction, including affiliate and insider transactions, tender offers, spin-offs and leveraged buyouts. Our work in this arena spans from analyses for large transactions involving multibillion-dollar public companies to transactions involving multimillion-dollar private companies.

Avoiding conflicts of interest

In the wake of controversy surrounding opinions performed by advisors whose fees rely on a completed deal, regulators like the SEC, NYSE and NASD encourage acquirers and targets to protect themselves. Based on these recommendations, prudent directors involved in a potential transaction should:

- retain a third-party fairness opinion expert that is not advising the companies involved in the deal and can remain truly independent
- receive a “second fairness opinion” from another independent financial expert
- keep detailed records of how the consultant was selected should a court challenge arise

Solvency opinions

Boards of directors and lenders often require a solvency opinion as additional protection in leveraged transactions, stock redemptions and dividend distributions. A solvency opinion provides boards and lenders with additional protection against a fraudulent conveyance attack.

In situations where a fraudulent conveyance is proven, the transfer will be set aside. The parties involved could incur other penalties such as recovery of costs involved and punitive damages. In many states, under flagrant circumstances, criminal charges may be filed.

A PwC solvency opinion provides directors and lenders with a complete understanding of a company’s solvency and substantially reduces the risk of a fraudulent conveyance attack, and provides the board or lender considering a transaction with independent, conflict-free support that a company is solvent.

Why PwC?

PwC is well-recognised around the world for our professional services. With 250,000 employees in 158 countries, we can handle complex engagements involving entities with operations in various geographically locations.

PwC has completed over 2,500 M&A transactions in the past 5 years (2013 – 2018) and is ranked by Mergermarket as one of the top M&A advisors in the world.

For more information, please contact:

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