



M&A: Due Diligence analysis when buying a company - Corporate Law

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Bremen, Dusseldorf, Essen, Frankfurt, Hamburg, Hanover, Munich, Nuremberg, Stuttgart and London - www.grprainer.com/en conclude: Someone acquiring a company always has a disadvantage in comparison with the vendor of the company in terms of vital company information such as earnings or sales. That is why the Due Diligence process has been developed for buyers. In practice, Due Diligence means "taking necessary caution". This also establishes the measure of a Due Diligence analysis.

The analysis is performed prior to signing the purchasing agreement. In the analysis, the buyer tries to obtain as much information as possible about the company to be purchased, and he will eventually base his offer on the results. For example, the buyer may wish to receive regular information about the way in which the company is managed, or about the company's accounts payable.

A Due Diligence analysis has many functions. One function, for example, is to secure evidence by documenting the company's situation. Another function is to determine the risk because by procuring information, the buyer becomes able to assess the risks of acquisition.

In principle, however, the buyer of a company is not obligated to perform such an analysis. Under some circumstance, the buyer may even be entitled to warranty claims in case of deficiencies. It all depends on the individual case. The situation is different only with a commercial purchase which is subject to mandatory notification of defects under the Commercial Code (HGB).

Often, as part of a Due Diligence analysis, a so-called Letter of Intent is signed which includes the non-disclosure agreements. They stipulate detailed confidentiality obligations with regard to the received information. Furthermore, as a rule, the buyer who receives the information agrees not to use it. This is of special importance to the vendor of the company who is increasingly interested in preventing company information from ending up in the wrong hands. Sometimes penalties are provided in agreements.

When purchasing a company, it can be important to perform a Due Diligence analysis and to establish legal conditions at the outset. Here, a competent lawyer experienced in M&A can be of help, especially in formulating the agreements in question.

<http://www.grprainer.com/en/M&A.html>

Pressekontakt

GRP Rainer LLP Lawyers Tax Advisors

Herr Michael Rainer
Hohenzollernring 21-23
50672 Cologne

grprainer.com/en
press@grprainer.com

Firmenkontakt

GRP Rainer LLP Lawyers Tax Advisors

Herr Michael Rainer
Hohenzollernring 21-23
50672 Cologne

grprainer.com/en
press@grprainer.com

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Anlage: Bild

