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Facilitating US Market Entry Through Mergers & Acquisitions (M&A)

Opportunities and challenges for utilizing strategic transactions to enter the “new normal” US market

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As the Fall of 2021 is approaching, businesses are commonly assessing strategies implemented in response to the economic fallout from the COVID-19 pandemic. Due to a different economic landscape, rather than returning to pre-pandemic procedures, businesses may be forced to adapt planned projects,

such as expansion to new regions, in an expedited manner.

Traditionally, expansion plans for entering new regions could be differentiated between an organic growth and an accelerated approach. A key element in determining an approach is often a busi-

nesses’ desire to utilize existing operational structures or intent to establish new processes in a particular market. Depending on the scope of a strategic integration, a business may acquire a complimentary business, competitor, or supplier to benefit from existing structures.

Following the breakout of the COVID-19 pandemic, acquisitions and similar transactions faced various challenges, such as uncertain market conditions, translating business needs into an M&A strategy in the “new normal,” and valuation of assets. As the effects of the pandemic are subsiding and pressure for market position increases, businesses have turned more often to an M&A strategy to facilitate expansions. Specifically, businesses desire to acquire existing skills, resources, and technologies in a new region. In turn, based on recent surveys and market studies, a majority of questioned businesses intend to allocate more resources to M&A activity than prior to the



COVID-19 pandemic as a way to achieve key strategic priorities.

Considering such heightened appetite for M&A transactions, mindful assessments of opportunities and challenges are instrumental for a business' success. In particular, when seeking to enter a market like the United States through M&A transactions, businesses are usually able to better bridge cultural gaps and address operational challenges, which frequently impede on a successful introduction of a product or service.

Moreover, by acquiring local industry knowledge and existing processes, businesses have historically been in an advantageous position to address product/service issues, customer, vendor, and supplier conflicts, as well as identify business prospects. By utilizing these advantages, businesses may avoid costly "growing pains," such as a high personnel turnover rate and disputes due to cultural misunderstandings, by seeking to establish new US operations.

An additional positive factor is the flexibility of the US M&A market. Although statutory and regulatory restrictions exist and adherence to applicable requirements is critical, in recent years, structures commonly utilized in Germany, such as a "locked-box" transaction, have become more common in the United States.

As with most economic approaches, a US market entry through M&A also bears challenges. Due to the complexity of these challenges, careful tax and legal planning are material

to successful M&A market entry. Such planning entails, among others, locating and taking time for initial discussions with a target business or asset. Based on such discussions, key transactional elements – e.g. asset or share transaction, purchase price (formula), exclusivity and due diligence – are to be defined in a letter of intent or term sheet. Upon reaching a preliminary agreement, a thoroughly conducted due diligence of a target business will unearth possible risks and allows a business to make an educated decision on whether or not to further pursue a transaction. Once a decision has been reached to pursue the transaction, properly conducted closing and post-closing integrations are essential to avoid potential negative operational effects, as well as disputes arising from the transaction.

Bearing in mind opportunities and recent market shifts due to the COVID-19 pandemic, strategic transactions for entry into the US market will likely increase in the coming years. As a result of such market conditions, a growth analysis through an M&A transaction in the US may create substantial value in the "new normal" economic landscape. ■

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1 - Cushman Wakefield: Q3 2019
2 - Fortune Magazine, 2020
3 - U.S. News Affordability Rankings, 2021
4 - EMSI; IPEDS 2019
5 - ODSA, June 2020

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