



## ] **Summary Due Diligence Checklist for Review Purposes**

- General Business Transaction Information Criteria in Support of EU Commission AML Compliance.

**THIS INFORMATION MUST BE INCLUDED WITH ALL APPLICATIONS TO BE CONSIDERED FOR PROJECT FUNDING:**

- **Enterprise Risk management**
- **Credit Risk**
- **Operational Risk**
- **Market and Commodity Risk**

### 1. Management and Personnel Issues

a. Employment, consulting and non-competition Contracts

b. Organizational chart and summary of experience of key employees

c. List of all employees, job title, date of hire, salary, date of birth, race and gender, and summary of any commission, bonus or other incentive compensation arrangements

d. Employee benefit plans, group life insurance plan, major medical plan, medical reimbursement plan, supplemental unemployment benefit plan or welfare plan, and brief description of policy regarding vacations, sick leave, etc.

e. Material transactions with "insiders" (i.e., any officer, director or owner of a substantial amount of the target company's securities) or any associate of an "insider"

f. Form of any invention and secrecy agreement used to protect trade secrets

g. Agreements with foreign sale representatives, if any

## 2. Customer Contracts, Other Material Agreements, Licenses and Relationships

a. Service contracts with a list of customers by location and the average or latest monthly billing amounts, identifying any customers that have below normal pricing and what special arrangements apply. Document history of price increases

b. Customer files, notes and correspondence

c. Other agreements (provide summary of essential terms of any oral agreements), whether or not entered into in the ordinary course of business

d. Information technology agreements

e. Collective bargaining matters agreements

f. List of all patents, trademarks, trade names, copyrights, etc., or license agreements

g. Software licenses and maintenance contracts

h. Hardware and equipment leases, installment purchases and maintenance agreements

i. Real estate owned (title information) or leased (leases)

j. Administrative services, forms, etc.

k. Bank agreements and other loan documents

l. Material contracts with suppliers

m. Model sales contracts, license agreements and dealer agreements

n. Loans to key employees, and any other agreements with officers, directors or employees (including consulting and employment contracts)

o. Partnership and joint venture agreements

p. Bonus plans, retirement plans, pension plans, deferred compensation plans, and profit sharing and management incentive agreements

q. Other material contracts

### 3. Insurance

a. Insurance policies in force

### 4. Marketing and Sales

a. List of major customers, showing percentage of sales of each customer

b. List of test sites and prospective customers

c. List of target customers by trade channel, including contact names, etc.

d. Market size estimates by trade channel

e. Sales projections by trade channel and rolled-up company-wide

f. List of equipment needed per store site, with cost estimates

g. Copies of product and sales literature

h. Copies of CDs, Power-point presentation, etc.

i. Details of trade show experience

j. Pricing rationale for all installed and proposed accounts

k. Copies of all marketing plans and market studies

l. Details of store tests that failed

m. Lists of all major competitors of the company setting forth sales, earnings, market share, strengths, weaknesses, etc.

n. Description of the company's sales force policies, including compensation method, etc.

o. List of product benefits vs. competition

p. Proposed future releases and benefits of each

q. Information regarding sales obstacles and common objections

## 5. Attorneys, Accountants and Consultants

a. List of all attorneys, accountants and consultants and copies of any agreements between the target company and any such person

## 6. Litigation

a. Pending or threatened claims or litigation

b. Active litigation files, including letters asserting claims, complaints, answers, etc.

c. Settlement documents

d. Any decrees, orders or judgments of courts or governmental agencies

e. Warranty claims

f. Information regarding any circumstances of which the company is aware that might result in material litigation

7. Corporate (including all subsidiaries)

a. Articles and/or certificates of incorporation with all amendments thereto

b. Bylaws

c. Minutes of all meetings of directors, committees of directors, and shareholders, including copies of notices of all such meetings where written notices were given or waivers of notice, and all written consents to action without a meeting

d. Stock books and stock transfer ledger

e. List of states in which the company is qualified to do business and the trade names that are registered. List of all states where property is owned or leased or where employees are located

f. List of countries, if any, in which the company is not qualified to do business and does not file tax returns but in which it maintains an office, a stock of goods, or an agent who is a resident of any state in which he solicits orders

g. Name and address of each stockholder of the company and of any voting trustees, and the number of shares owned by each such stockholder or trustee

h. List of holders of any stock options (including warrants), giving name, number of options held, option prices, date(s) of grant, position in the company, and number of shares owned (excluding those subject to option)

i. Agreements regarding securities

- Stock option plans and forms of option agreements that have been used
- Stock purchase plans and agreements that have been used for sales of securities
- Any other agreements that relate to sales of securities by the company
- Evidence of the company's compliance with blue sky laws
- All agreements containing registration rights or assigning such rights

j. Schedules setting forth all issuances of stock by the company, listing the names of the issues, the amounts issued, the dates of the issuances, and the consideration received by the target company in each case

k. List of directors and officers of the company with salaries and other remuneration paid to each and the principal occupations of all the outside directors

l. Specimens of certificates for outstanding securities

m. Voting trusts, shareholder or other similar agreements

n. Communications with shareholders

## 8. Products and Services

a. Products and services and pricing

b. Technical history of product

c. Current product architecture

d. Standards and procedures

e. Methodologies and tools

f. Production support

g. Standard operating procedures

- h. Emergency plans
- i. Production documentation
- j. System architecture
- k. Production processes
- l. Findings and opinions

## 9. Hardware

- a. Production configuration
- b. Server configuration
- c. Assembly process
- d. Outsourcing findings
- e. Personnel assessment
- f. Findings and opinions
- g. Bill of material for full configuration

## 10. Software Description

- a. List of all purchased and developed software components
- b. Assessment of quality of products, performance, scalability, recovery, coding, and internal documentation (comments)

- c. Release plans
- d. Key personnel assessment
- e. Functionality vs. competition assessment
- f. Maintainability review
- g. Software documentation review
- h. Findings and opinions documentation
- i. Identification of potential security issues in current architecture

#### 11. Miscellaneous

- a. Governmental orders, consents and approvals
- b. Press releases
- c. Permits for licenses, franchises and concessions

### FINANCIAL CHECKLIST

#### 1. General

- a. Determination of the intended deal structure for book and tax purposes:

- Purchase of (Assets or Stock)-taxable pooling of interests -non-taxable

- b. Identification of the projected purchase price, the form of consideration (cash, common stock, debt) to be paid, and the timing of the payment(s)



c. Determination of whether an acquired entity will maintain its corporate identity (and become a subsidiary of the target company) or be merged into the Company or an existing subsidiary

d. Description of the nature of the company's business (e.g., data processing, software sales, turn-key systems) and its customers (e.g., commercial banks, S&Ls, credit unions)

e. Identification of the projected Closing Date, with lead time allowed for necessary regulatory approvals, funding, etc

f. Determination of whether a broker's fee will be payable; Calculation of the amount payable based on the projected purchase price

## 2. Department Staffing

a. List of all current finance/accounting employees, including titles and a brief description of job responsibilities

## 3. Historical Financial Statements

a. Copies of audited financial statements for previous two fiscal years, if available. Audited financial statements should include all related footnote disclosures. If audited statements are not available, copies of internal financials with inquiries as to significant accounting policies, future minimum lease payments under operating leases and the nature of any employee benefit plans

b. Financial statements for the current fiscal year to date. Should include a fluctuation analysis comparing the current year balance sheet to the previous two years' balance sheets, with an explanation of significant variances

c. If appropriate, financial statements should include balance sheets and operating results on a total company basis, as well as by business unit

## 4. Taxes

a. Copies of all federal income tax returns filed for the last three years. Review of possible unpaid tax liabilities

b. List of all tax credit or NOL carry-forwards, including descriptions and year of origination

c. List of all years for which audits have been completed and copies of related fiscal tax authorities determination letters

d. Recent correspondence with the tax authorities

e. Countries in which the company is:

- Qualified to do business
- Filing income or franchise tax returns
- Filing sales tax returns
- Filing property or ad valorem tax returns

f. States in which the company:

- Maintains an office
- Owns or leases real or personal property
- Employs a sales force or retains an agent

g. Review of employer's quarterly federal tax return) and employer's annual returns and determination as to whether they are filed on a timely basis

## 5. Accounting Systems

a. Brief description of each of the following accounting systems, with determination of the degree of automation and, if appropriate, the nature of any software systems and the type of hardware utilized:

- General Ledger      -      Fixed Assets
  
- Billing              -      Payroll
  
- Accounts Receivable      -      Inventory
  
- Accounts Payable      -      Cost Accounting

b. Identification of any automated interfaces between the systems listed above

c. Identification of any systems that are currently provided by an affiliate entity and notice of whether such entity will be a part of the acquisition. Also, determination of whether the target company provides processing services on its internal systems for any outside parties

## 6. Balance Sheet Review

### 1. Cash and Marketable Securities

a. List of all bank accounts, including financial institution name, purpose of account and authorized signers. Note if facsimile signatures are used

b. List of the most recent bank statement and bank reconciliation (cash per the reconciliation to cash per the balance sheet), with verification of unusual reconciling items and verification that items were not omitted from the reconciliation

c. Determination of whether bank reconciliations are performed on a timely basis

d. List of all marketable securities or other short-term investments including maturity dates. Determination that the investments are recorded at proper values

### 2. Accounts Receivable

a. Copy of the most recent aged accounts receivable trial balance, with review of amounts due from affiliated parties and explanation of significant past due balances. Determination of

whether detailed A/R listing agrees with balance sheet and whether past due balances are uncollectible and should be written off

b. Determination of the target company's policy with regard to bad debt write-offs and procedures for recording the related expense

c. Analysis of receivable write-offs over the past twelve months, noting significant or unusual activity

d. List describing the nature and repayment terms of any amounts due from officers, directors or employees

### 3. Inventories

a. List of all inventory balances, including the description, location and purpose of each inventory

b. For all significant inventory balances, determination of the date of the last physical inventory and review of the results thereof

c. Notation of whether any inventories are maintained at vendor sites

d. Notation of whether any inventories of customer-owned forms or supplies are held by the target company

e. Determination of the inventory accounting method used and the reasonableness of inventory values on the balance sheet

### 4. Prepaids and Deposits

a. List of all prepaid and deposit amounts, matching significant balances with supporting documentation

b. Determination of whether any deposits appear to be non-refundable

## 5. Capitalized Software

- a. List of all capitalized software, including cost, vendor name, acquisition date, useful life and accumulated amortization to date. Review of major vendors and notation of any internally developed software
- b. Review of the target company's procedures for capitalization of software development costs, including identification and documentation of costs to be capitalized. Determination as to whether values are reasonable
- c. Identification of the company's policy for amortization of software costs and determination of reasonableness

## 6. Fixed Assets

- a. Detailed list of fixed asset, including asset number, description, acquisition date, original cost, useful life and accumulated depreciation for both book and tax
- b. Determination of whether the company has a minimum capitalization policy
- c. List of depreciable lives by asset category
- d. If the company owns real property, copies of any real estate appraisals conducted within the last five years

## 7. Capitalized Leases

- a. List of all capitalized lease assets and associated liabilities, including initial value, accumulated depreciation, and debt amortization schedule
- b. List of the company's lease capitalization criteria
- c. Copies of corresponding lease agreements

## 8. Other Assets

a. List of all other asset items, with explanation and proper recordation of any significant balances

## 9. Accounts Payable

a. Review of the company's A/P balance in relation to the level of monthly expenses. Investigation of any unusually high or low balances

b. Determination of how frequently A/P checks are written and description of the target company's policy with regard to payment due dates, cash discounts, etc

## 10. Accrued Liabilities

a. List of all accrual account balances

b. Review of reconciliations of all material accrual balances; with note of the purpose of each accrual and the timeliness of the account reconciliation

c. Mention of any items that should be accrued, that were omitted

## 11. Unearned Revenue

a. Description of the company's policy for recognition of deferred revenue and determination of whether it is consistently followed

b. If the company defers the recognition of any revenues beyond the billing date, a detailed list of all such amounts

c. Determination of whether any revenues are recognized on a progress billing schedule and description of the company's criteria for the preparation of progress billings

## 12. Debt

a. Determination that loan amounts are properly recorded between current and long-term

maturities

b. Copies of all debt agreements, reviewed for restrictive loan covenants, security interests in property, assignability clauses and other significant terms

c. Determination of whether the company is in default under the terms of any loan agreements

d. Copies of monthly amortization schedules for all loan agreements

e. Copies of any guarantees of debt or other obligations of any subsidiary, officer, director, employee or other related party

f. Description of the nature of any security interests in any property owned by the target company

### 13. Other Liabilities

a. List of all other liability items. Explanation of any significant balances

### 14. Stockholder's Equity

a. List all classes of stock, showing the number of shares authorized, issued and outstanding and any shares held as treasury stock

b. Determination of whether the stock is publicly traded. If not, description of the size and nature of the shareholder group

c. Determination of the amount of any declared, but unpaid, common dividends in arrears on preferred stock

### 15. Profit/Loss Review

a. A breakdown of current and prior year's revenue by category and/or product line. Identification of which revenue sources are contractually guaranteed and determination of average

remaining life of the associated customer contracts

b. A complete customer list, with determination of the percentage of total revenues that are billed to the ten largest customers

c. Analysis and categorization of the financial viability and profitability of ongoing relationships with the ten largest customers and any others that account for more than 5% of current revenue

d. Determination of the amount of revenue derived from transactions with related parties and the likelihood that these revenues will continue following acquisition of the target company

e. List showing original contract start date, termination date and approximate annual revenue by customer, with reconciliation to revenue used in the acquisition model

f. Determination of whether customers are billed for "pass-through" items such as forms, postage or delivery; not whether these items are included in revenue or are treated as a reduction of expenses

g. Fluctuation analysis of current revenue and expense items compared to the previous year, with an explanation of all significant variances

h. Copies of the company's internally prepared budgets and long-range plans or forecasts, reviewed for reasonableness of the underlying assumptions

i. Copies of any capital expenditure budgets or forecasts with explanation of significant items; indication of whether any commitments have been made regarding future expenditures

j. Acquisition model analysis using updated data from due diligence

k. Forecast for the last year's performance, by month, tied to year one in the model for revenue, profitability, balance sheet items and cash flow

## 16. Unrecorded Assets or Liabilities

a. Discussion of the company's procedures for accounting for prepayments of expenses



(e.g., maintenance contracts, insurance) to determine whether prepaid balances are properly recognized on the balance sheet. Review of each expense category for possible unbooked prepaid balances

b. Determination of whether the company is contractually committed to make expenditures that will be expensed in future periods

c. Determination of whether management is aware of any material contingent liabilities and their estimate of the probability that a liability will be incurred and the potential dollar value thereof

d. Determination of whether the target company has collateralized leases using letters of credit

## HUMAN RESOURCES CHECKLIST

### 1. Policies and Procedures

a. Personnel policies and procedures

b. Employee handbook(s)

c. Employment contracts

d. Parachute agreements

### 2. General Personnel

a. Organization charts

b. Lines of succession - backing of key position

c. Employee headcount (by function and location), list of employees by name, title, date of hire, salary, (exempt, non-exempt, etc.) by department (preferably including complete personnel file for each employee). Also, summary of any commission, bonus, or other incentive compensation arrangements, with indication of which employees are covered

d. Directors, officers, committees, and their duties

e. Biographical information for key senior managers, including age, years with company, and employment history

f. Copy of position description for key management employees

g. List of potential voluntary resignations of key management if merged/acquired

h. Review of adequacy of office staff by department

i. Check of physical arrangement or adequacy of offices

### 3. Compensation

a. Summary compensation administration (increases, evaluations, etc.) for three employee groups: exempt, non-exempt salaried, hourly non-union

b. Rating and evaluation of all personnel with managerial responsibilities

c. Copies of incentive compensation plans, bonus plans, productivity improvement plans

### 4. Employee Benefits

a. Summary plan descriptions of all benefit plans:

i. Retirement benefit investment plan

ii. Major medical/hospitalization

iii. Profit sharing

iv. Pension

v. Life insurance

vi. Medical reimbursement

vii. Supplemental unemployment benefit plan or welfare plan

b. Copies of whole life split-dollar insurance policies

c. Descriptions of any other benefits such as:

i. Service awards

ii. Short-term absences (including sick leave)

iii. Relocation

iv. Vacations/holiday schedules

d. Three-year experience rate for major medical expenses paid/incurred

e. Three-year experience rate for life insurance paid/incurred

f. Monthly insured plan cost for salaried and hourly personnel (to include COBRA extension costs)

g. Copy of stock option plan; list of all employees with options, dates of grant(s), number of shares, option price, exercisable amounts

h. Employee purchase programs

i. List of special executive perquisites, qualifiers, and list of participating executives

j. Key employee insurance programs

#### 5. Worker's Compensation

a. Workers' Compensation claims pending

b. Worker's Compensation experience rate during past four-year period

#### 6. Employee Relations

a. suits, grievances, arbitrations, and private employee litigation

b. Three-year experience history for suits, arbitrations, legal suits

c. compliance

d. List of all employees currently on short-term or long-term disability; date of disability; date of expected return; reason for disability

#### 7. Labor Relations

a. Copies of all existing union contracts

b. Copies of published work rules and regulations

c. Past key difficulties with existing union

d. Present labor situation and working relationships

e. Pending problems, if any

f. Methods of hiring and discharging

g. Job classifications and rates

h. Methods of payment

i. Working conditions

j. Morale and productivity

#### 8. Outside Consultants/Temporary Services

a. Lists of consultants and outside services used, including fee arrangements

b. Review of special hiring practices (i.e., covering peak production periods; use of temporaries, contract employees, etc.)

#### TAXES CHECKLIST

##### Review of Tax Status

1. Review of the consolidated financial statements and footnotes, and, to the extent available, the individual financial statements of the target company and subsidiaries, for the most recent three years and for the latest interim period in the current year for background information and for significant and/or unusual transactions

2. Review of federal tax returns for the most recent three years, especially focusing on unusual M-1s and the tax treatment that has been accorded any unusual transactions

3. Review of the federal income statement provisions for the most recent three years, with particular emphasis on the rate reconciliation

4. Ascertainment of the current federal and local tax exposures and related "cushions" reflected on the books of the account, with particular emphasis on the adequacy of such cushions

5. Review of the last two RARs, with consideration of the ongoing implications of adjustments made by the tax authorities.

6. Inquiry as to the federal, and RAR local audits in progress, with particular reference to the nature of issues being raised by the respective tax authorities

7. Ascertainment of the last closed year for federal income tax purposes

8. Review of tax memorandum and related tax correspondence (both in-house and with advisors) over the most recent three years

9. Review of the most recent year-end LIFO calculations, with particular emphasis on propriety of methodology and potential jeopardy to the continued use of the LIFO method

10. Determination of whether there are any apparent tax-saving ideas that are potentially available to the target company

11. A preliminary evaluation of local tax competence, as well as the aggressiveness of return preparation

## REVIEW OF STATE AND LOCAL TAX ISSUES

1. Copies of the prior three years federal and city income tax returns.

a. Determination of preparer(s) and contact person for questions

b. List of federal and city returns with corresponding tax liabilities and net income/loss by state or city

c. List of tax credit carry forwards (including overpayments of tax and other credits such jobs tax credits)

d. Review of addition/subtraction modifications and determination of whether all required adjustments have been made

e. Identification of any country where a portion of the income is being treated as non-business income (with documentation of discussion with appropriate personnel)

f. Schedule of local net operating loss carry forwards

2. List of target's countries of incorporation and all states where qualified to do business

3. Copies of apportionment data for the previous year.

a. List of federal(s) with property, owned or rented

b. List of federal(s) with employee payroll

c. Evaluation of date and determination of where nexus (for tax purposes) exists and its effect on purchaser

d. Identification of states where alternative filing methods can be used

4. Determination of activities of sales personnel or representatives. Documentation of activities that are being performed

5. Determination of the company's compliance with the following federal taxes and list of cities where filed:

- Franchise (if assessed separate from income)

- Payroll

- Property

- Gross Receipts

- Sales and Use

6. Determination of whether there are any tax audits pending or any final judgments that may not be reflected on prior year's original filings:

a. If federal RAR adjustments have occurred or amended federal returns filed, determination of whether adjustments have been reported to federal governments

7. Documentation of structure of purchase transaction with determination as to:

- Sales or use taxes on purchase
- Bulk sales notice requirements
- Resale certificates for inventory to be transferred at closing
- Short period returns. What will be required and who is responsible for filing

8. A summary of unemployment compensation experience rates . Savings may be realized by transferring the experience rating

\*\*\*\* RAR: Revenue Accounting and Recognition