

# 15th Annual Mergers and Acquisitions Institute

Dealmaking Differences Between  
Strategic and Private Equity Players:  
A Deeper Dive into Processes and Provisions

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**Moderator:**

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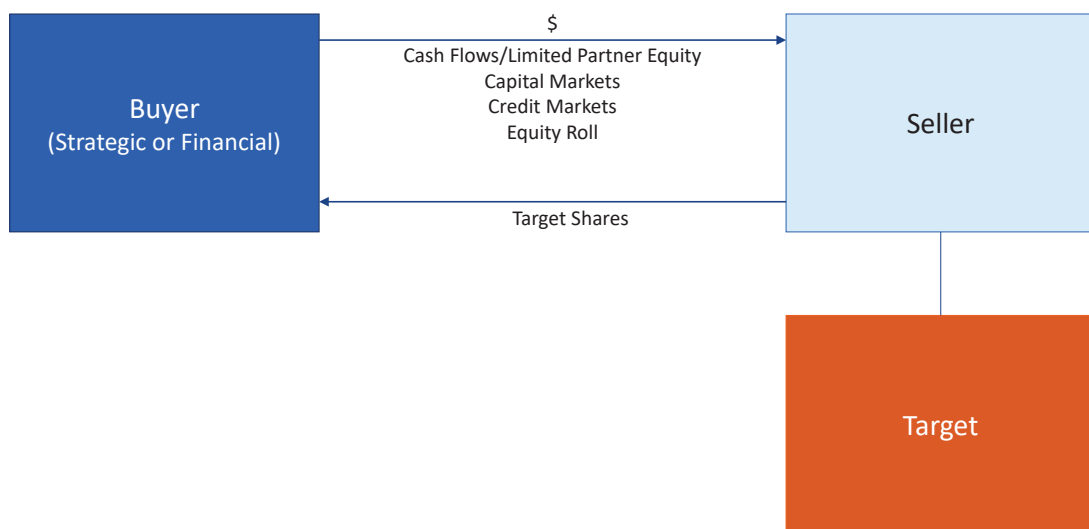
## Today's Focus

- **Who is the Buyer?**
  - Strategic vs. Financial Buyer
- **Who are the other Parties?**
  - Target/Seller
- **How do the Parties involved affect deal processes and deal terms?**
  - Reps and Warranties and Rep and Warranty Insurance
  - Indemnification
  - Antitrust
  - Termination

# Overview

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## Transaction Structure - General



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# Overview of Differences Between Strategic Buyers and Financial Buyers

	Strategic Buyer	Financial Buyer
General	<ul style="list-style-type: none"> <li>A public or private company often already operating in Target's industry</li> </ul>	<ul style="list-style-type: none"> <li>Private equity firms (also known as sponsors)</li> <li>Venture capital firms</li> <li>Hedge funds</li> <li>Family offices</li> <li>High net worth individuals</li> </ul>
Identity of Buyer	<ul style="list-style-type: none"> <li>Strategic buyers are likely to have a creditworthy entity directly party to purchase agreement.</li> </ul>	<ul style="list-style-type: none"> <li>PE buyers often use shelf entity, supported by a limited guarantee to backstop certain of its obligations.</li> </ul>
Objective	<ul style="list-style-type: none"> <li>Objective for acquiring Target is to improve, change, or expand own operations</li> </ul>	<ul style="list-style-type: none"> <li>Objective is to make a minimum rate of return over a fixed period (usually three to seven years) before exiting investment</li> </ul>
Strategic Rationale	<ul style="list-style-type: none"> <li>May value operational and financial synergies over other concerns because of lower leverage/cost of capital and absence of "exit" requirements</li> </ul>	<ul style="list-style-type: none"> <li>Given exit requirements and high leverage, Target must generate financial returns as a stand-alone business (as opposed to generating operational or financial synergies for the Buyer)</li> <li>Bolt-on and buildup strategies that permit realization of synergies are increasingly popular</li> </ul>
Form of Consideration	<ul style="list-style-type: none"> <li>May use its equity securities (particularly if actively traded) or cash or a combination of both as consideration for acquisitions</li> </ul>	<ul style="list-style-type: none"> <li>Uses cash as consideration for acquisitions</li> </ul>

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# Overview of Differences Between Strategic Buyers and Financial Buyers

	Strategic Buyer	Financial Buyer
Funding	<ul style="list-style-type: none"> <li>Cash flow from operations</li> <li>Capital markets</li> <li>Credit markets</li> </ul>	<ul style="list-style-type: none"> <li>Equity from limited partners</li> <li>Credit markets</li> <li>Equity roll</li> </ul>
Timing	<ul style="list-style-type: none"> <li>Usually takes longer than Financial Buyer to sign up deal <ul style="list-style-type: none"> <li>Active Strategic Buyers have begun to develop deal capabilities similar to Financial Buyers</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Typically acts faster than Strategic Buyer because of efficiencies in bidding, due diligence and internal approval processes <ul style="list-style-type: none"> <li>Perception that Financial Buyers are more comfortable with taking calculated risks based on more limited information</li> </ul> </li> </ul>
Deal Sourcing	<ul style="list-style-type: none"> <li>Industry knowledge</li> </ul>	<ul style="list-style-type: none"> <li>Networks of advisors and businesses</li> </ul>
Scope of Activity	<ul style="list-style-type: none"> <li>Limited to existing industry unless diversification is sought, which can be risky</li> </ul>	<ul style="list-style-type: none"> <li>Opportunity limited only by financial returns and reputational risks</li> </ul>
Due Diligence	<ul style="list-style-type: none"> <li>Deep knowledge of industry and trends</li> <li>Reliance of internal personnel</li> <li>Focus on high value opportunities and synergies, in addition to financial metrics</li> </ul>	<ul style="list-style-type: none"> <li>Limited knowledge of industry</li> <li>Reliance on advisors</li> <li>Focus on financial metrics as a stand-alone enterprise</li> <li>Financial due diligence experts</li> </ul>
Personnel	<ul style="list-style-type: none"> <li>Often uses own personnel to operate Target</li> </ul>	<ul style="list-style-type: none"> <li>Relies on a management team to operate Target (often incumbents)</li> </ul>

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Also available as part of the eCourse

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First appeared as part of the conference materials for the  
15<sup>th</sup> Annual Mergers and Acquisitions Institute session

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