



**M&A**  
**DUE DILIGENCE AND DOCUMENTATION**  
**26 MAY 2023**

**Presentation by CA Chetan J Khandhadia**

# DISCUSSION POINTS

Sr. No.	Particulars	Page No.
1	Due Diligence – what and why?	3
2	Due Diligence - types	6
3	Due diligence impact	9
4	Due diligence - levels	14
5	Due diligence – typical challenges and process	19
6	Due diligence – documentation	22





# **DUE DILIGENCE – WHAT AND WHY?**

# DUE DILIGENCE – WHAT AND WHY?

- Due diligence is an act with a certain standard of care
- Due diligence is not a statutory requirement. It is not an audit
- Due diligence has evolved more as a business practice and good governance
- Due diligence from Transaction perspective can be defined as examination of a potential company and business for Transactions

M&A

Private  
Equity

IBC and  
Liquidation

Divestment

Business  
carve-out

- Due diligence can be Buy side or Vendor side
- A reasonable investigation on “As-Is Where-Is” basis
  - But Due Diligence is not Forensic or Fraud Investigation

# DUE DILIGENCE – WHAT AND WHY?

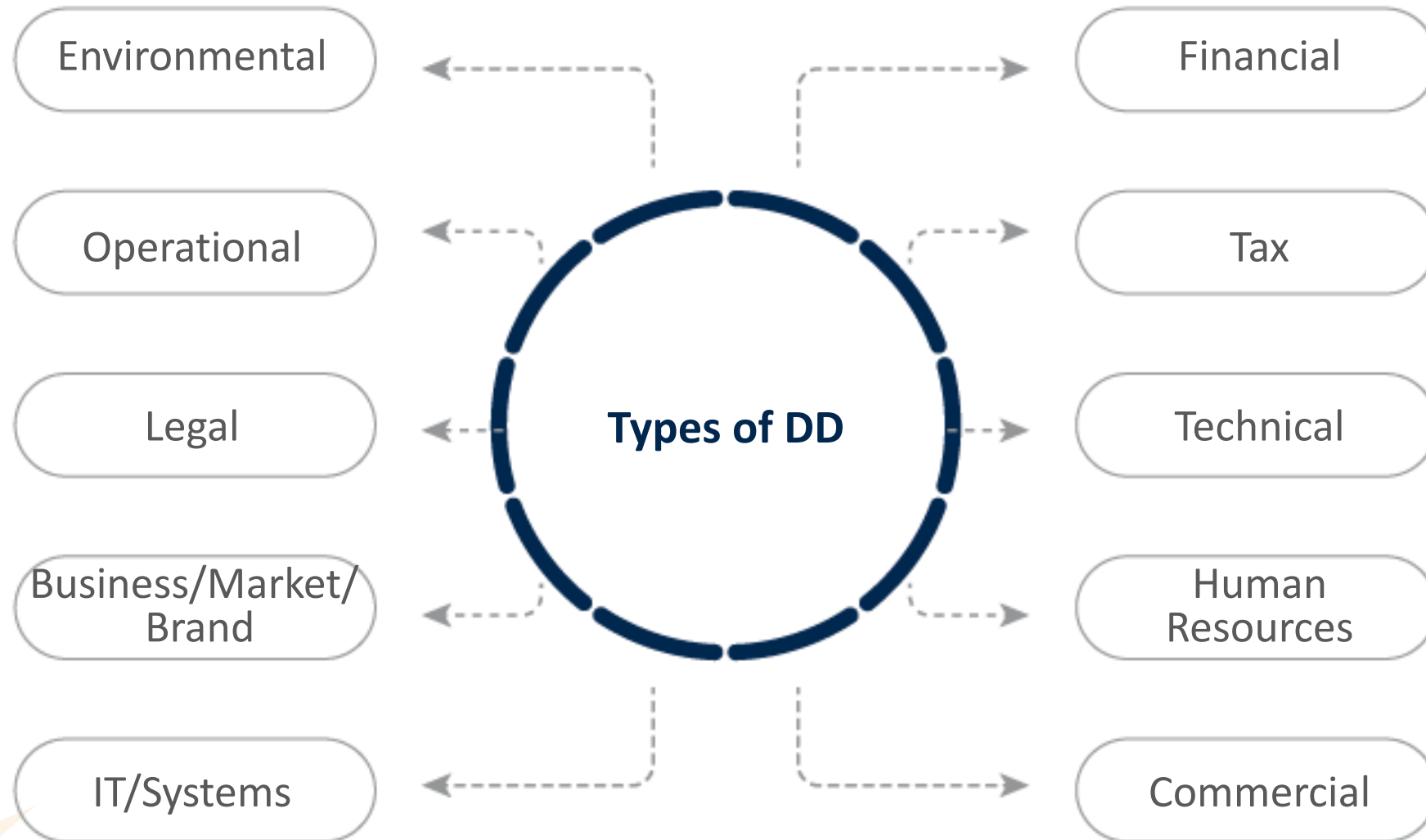
- To validate basis for investment
- Assist in evaluation and valuation of the business
- Generate negotiating points
- Highlight areas for warranties / indemnities



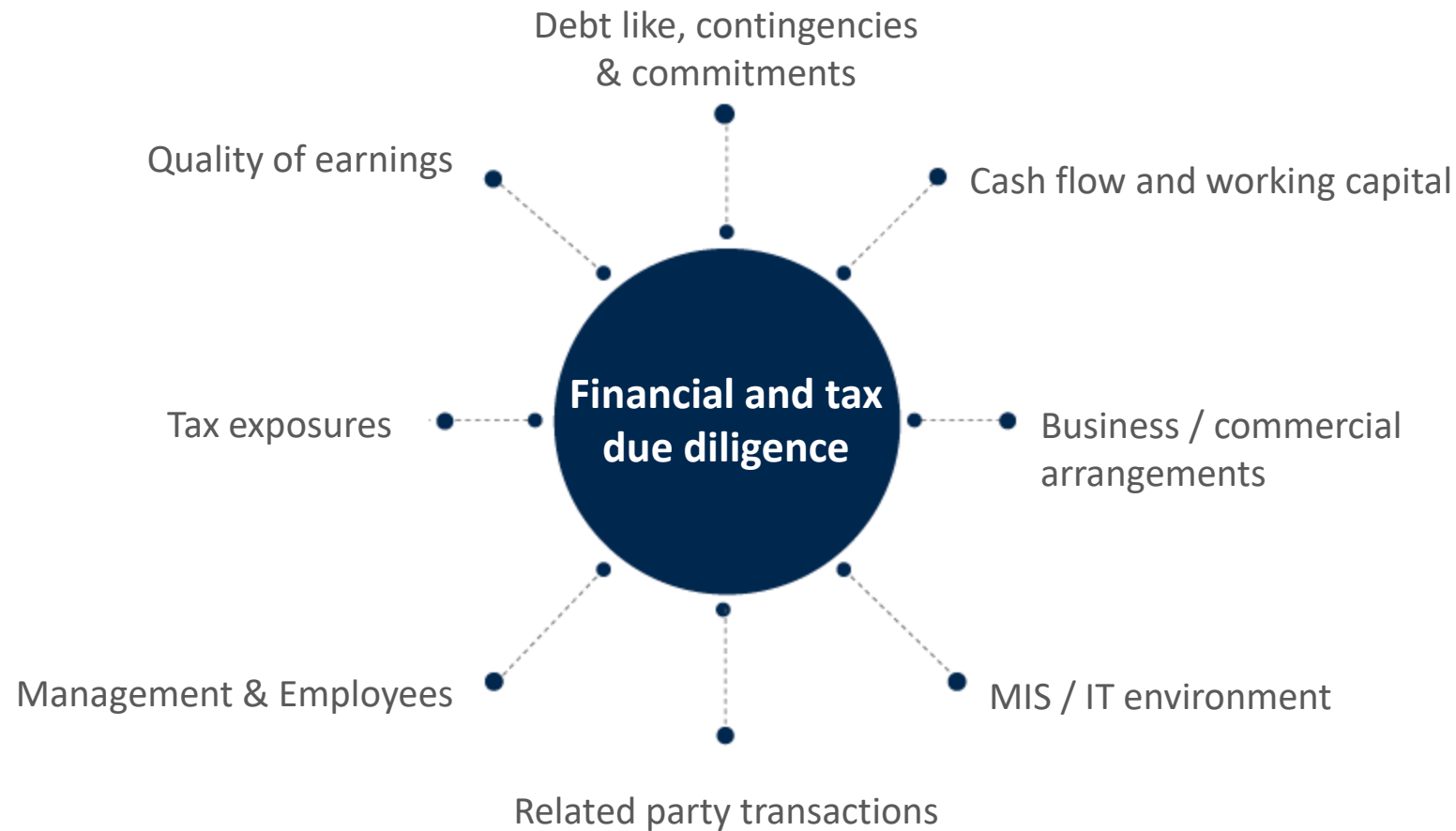


# **DUE DILIGENCE - TYPES**

# TYPES OF DUE DILIGENCE



# FINANCIAL AND TAX DUE DILIGENCE FOCUS AREAS





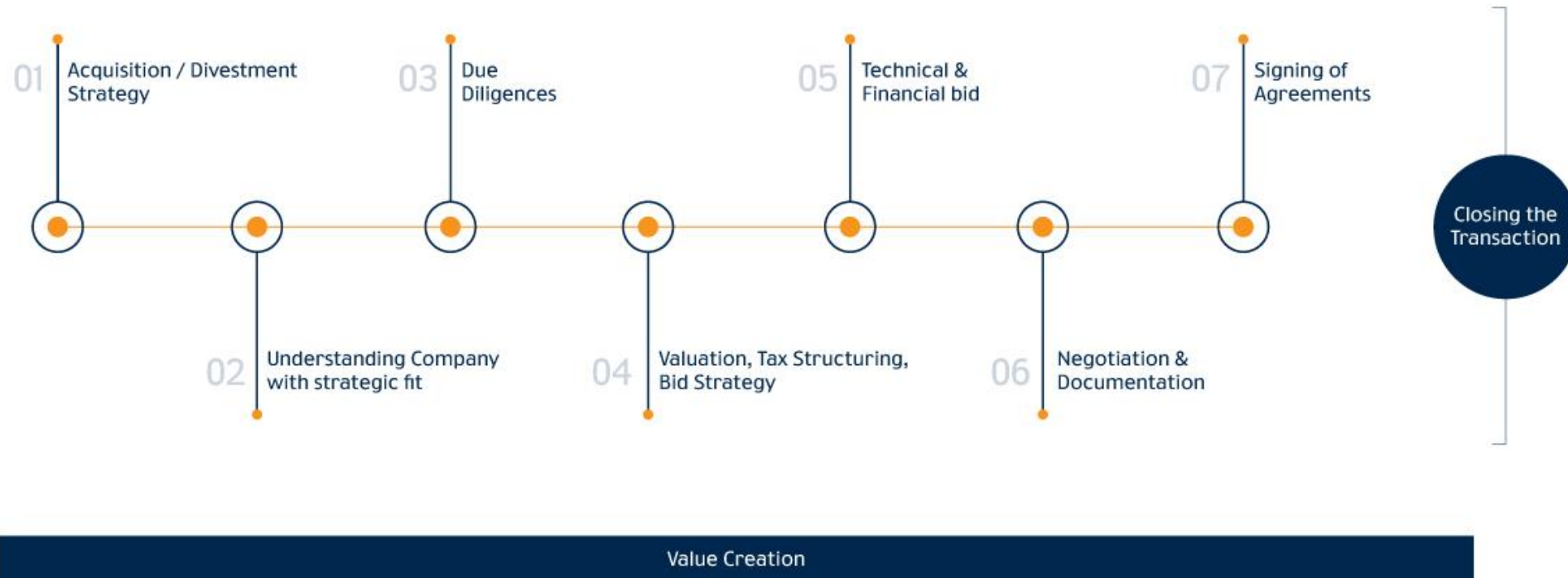


# **DUE DILIGENCE IMPACT**

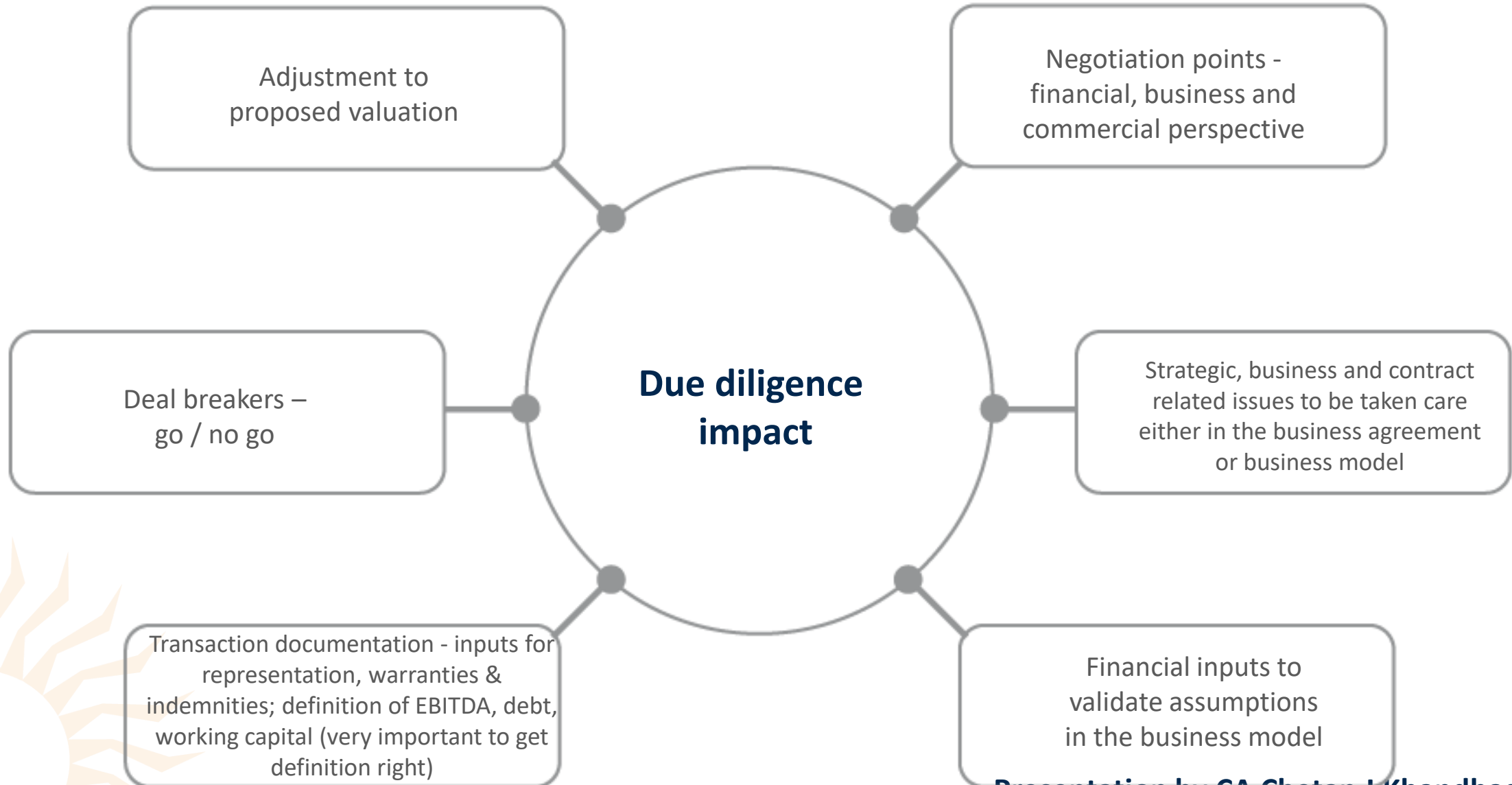
# DUE DILIGENCE IMPACT

Value added due diligence inputs through the entire deal process

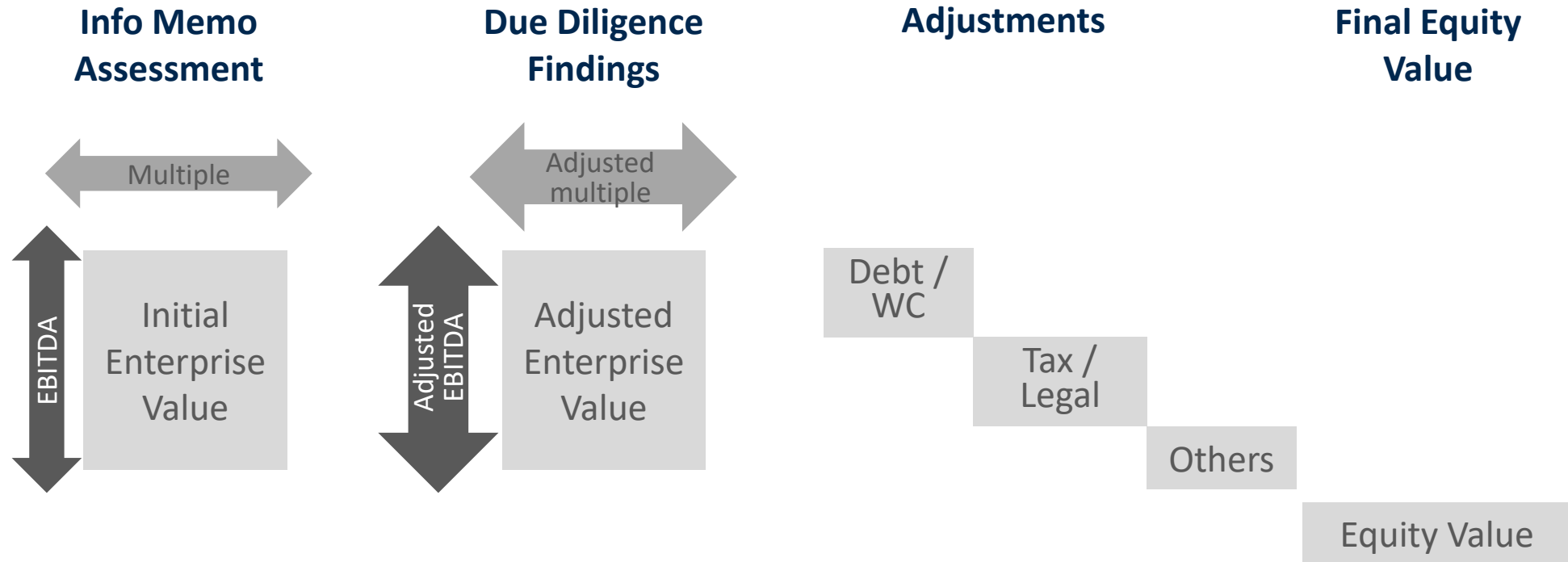
The success of a transaction depends on the comprehensive and integrated support provided through the Deal Cycle



# DUE DILIGENCE IMPACT



# IMPACT OF DUE DILIGENCE FINDINGS



Based on:

- IM EBITDA
- IM / initial view of market positioning, growth and financing arrangements

Adjusted for:

- Due diligence findings re maintainable / normalized EBITDA
- Due diligence findings re business, commercial, contract related issues

To reflect issues 'outside' EBITDA:

- Debt / Debt-like items
- Working capital
- Unfunded employee benefits
- Tax and legal issues
- Capex/restructuring costs

Final equity value

Price to be paid will also be affected by tactics - i.e. "value" is not the same as "price"

# HIGHLIGHT FACTORS THAT AFFECT THE VALUATION

## EBITDA

- Proforma adjustments
- Non-recurring costs / income
- Accounting policies
- Varying accounting policies in the same industry
- Timing issues
- Forex impact
- Non-core / discontinued bus.
- Related party transactions – post deal sustainability of arrangements and consequent financial impact
- Stand-alone costs
- Non-operational costs

## Multiple

- Growth potential
- Recurring capex level
- Financing assumptions (debt available, IRR required, etc.)

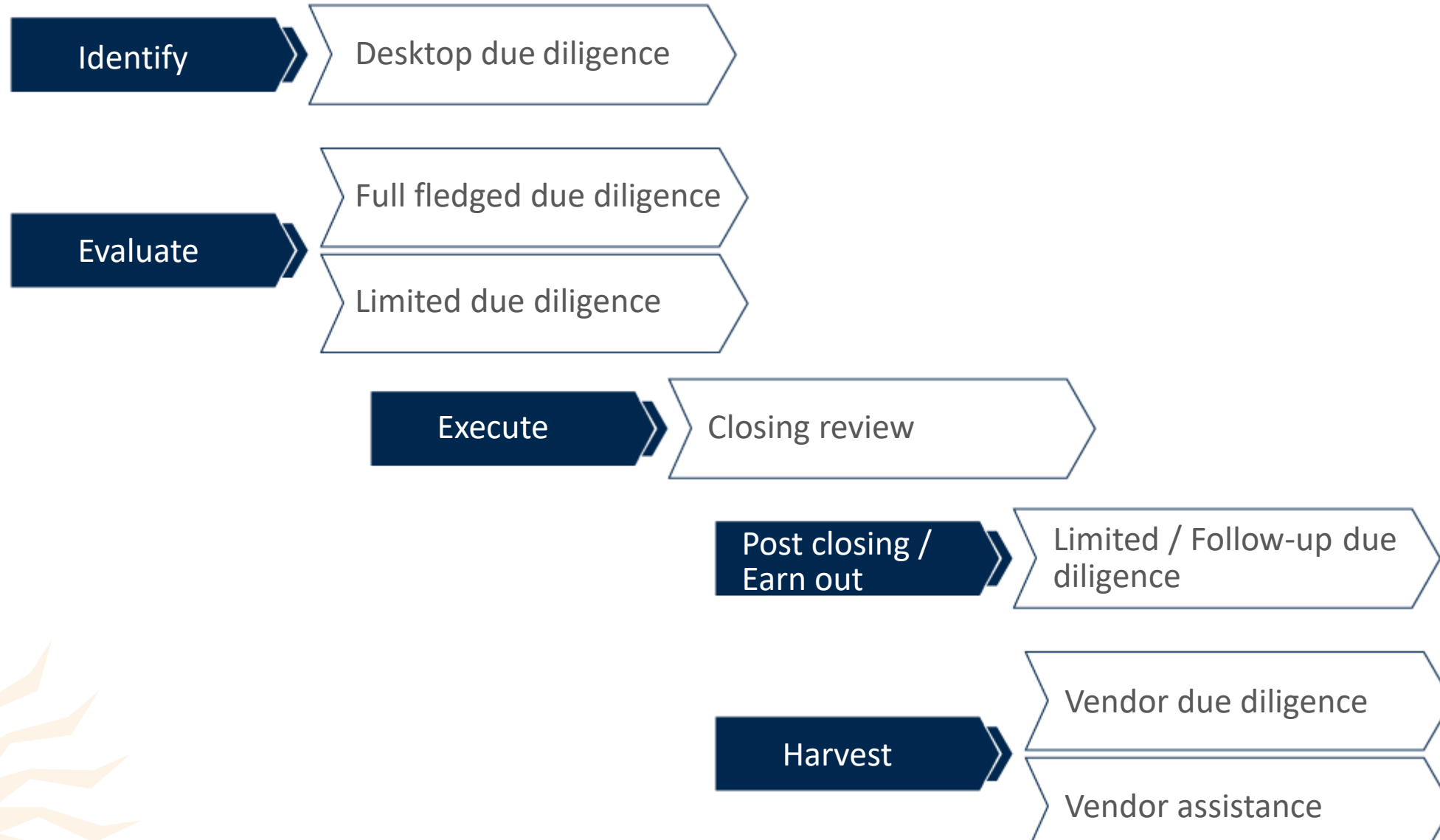
## Debt-like adjustments

- Accrued interest
- Restricted cash
- Termination fees and penalty
- Environment exposures
- Unfunded employee benefits
- One-time separation costs
- Items added back to EBITDA
- Fair valuation of derivatives
- Stretched payables
- Related party payables / receivables
- Capex creditors
- Dealer deposits
- LC based funding
- Contingent liabilities
- Capex commitments
- Nonfund based facilities
- Tax exposures



# **DUE DILIGENCE - LEVELS**

# LEVELS OF DUE DILIGENCES



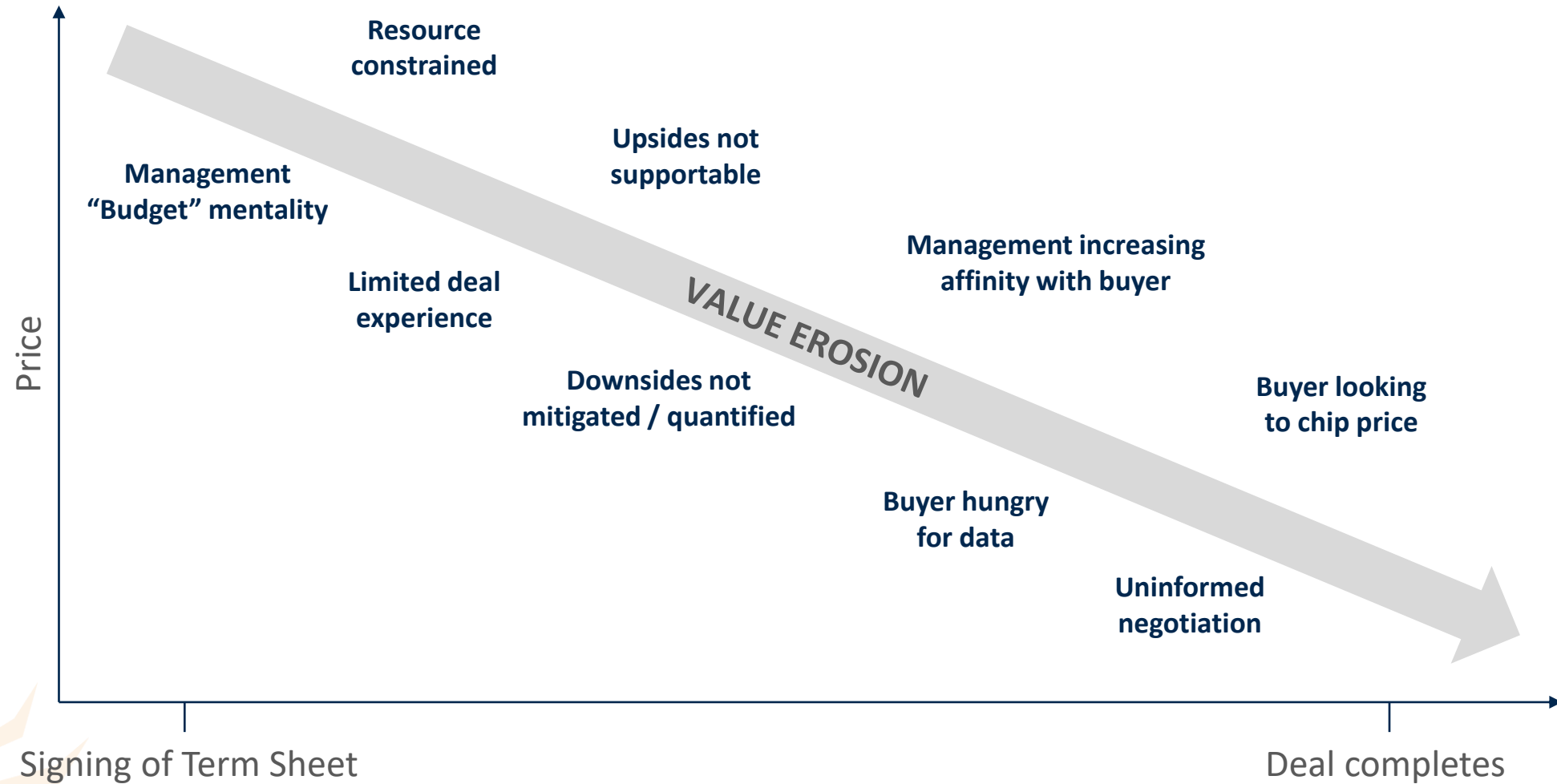
# LIMITED DUE DILIGENCE GENERALLY DONE WHERE THERE IS VDD

- Review of VDD report from buyer's perspective
  - Quality of earnings
  - Net debt and working capital
  - Open issues where financial impact not quantified
  - Significant scope limitations and their possible financial and business impact
  - Areas not covered by VDD
- Update for current trading





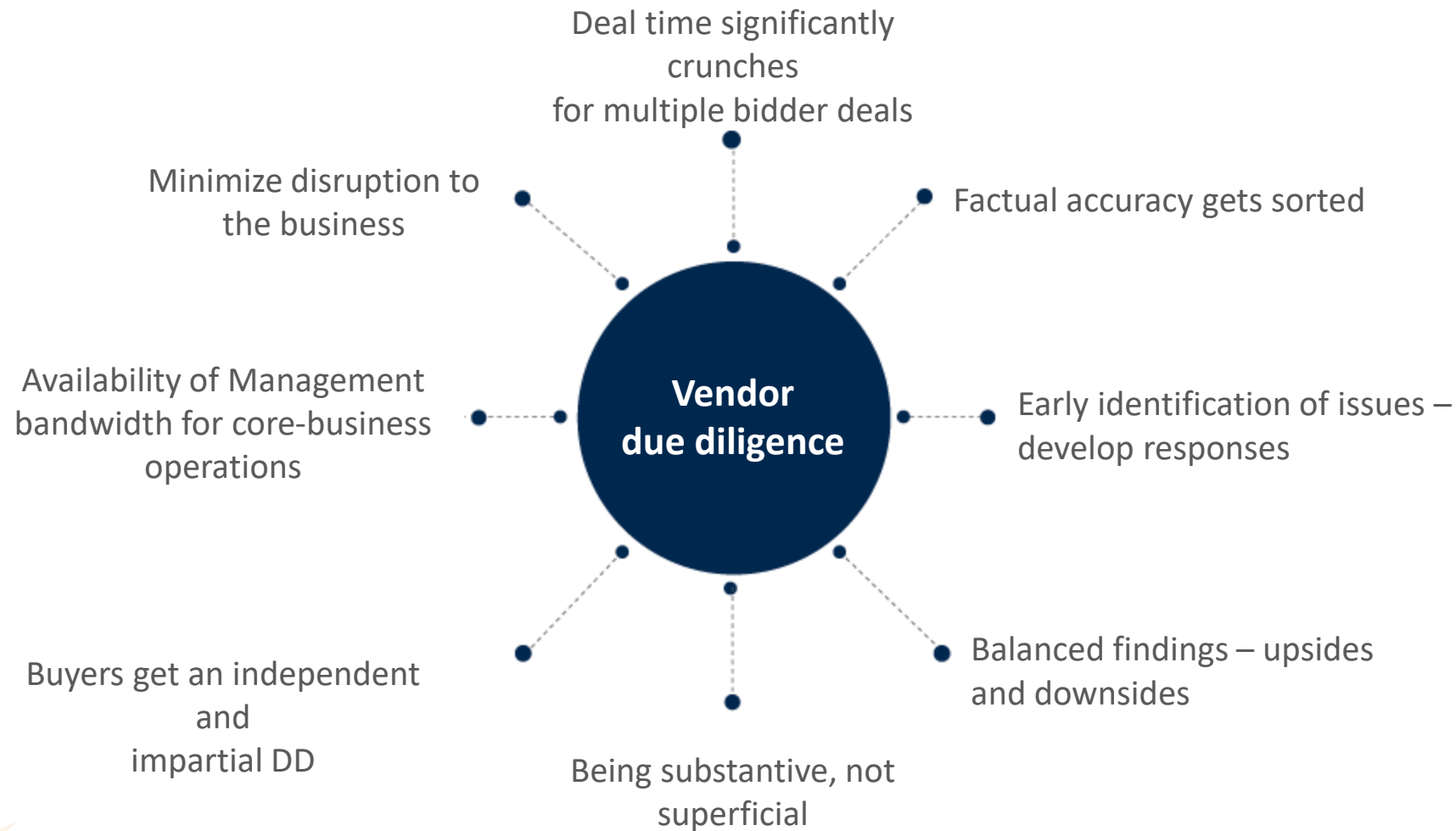
# SALE OF COMPANY / BUSINESS – EXPECTATIONS NOT MANAGED



**“Protect and maximise value by helping control the sales process –  
Vendor Assistance and Vendor due diligence”**

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# BENEFITS OF VENDOR DUE DILIGENCE / ASSISTANCE





# **DUE DILIGENCE – TYPICAL CHALLENGES AND PROCESS**

# TYPICAL CHALLENGES

- Poor quality financial information
  - Detailed data required for due diligence may not be available
  - Quality and transparency of financial statements
  - Limited management reporting
  - Significant dependence on owners
- Challenges in preparation for due diligence
- Protracted time for preparation
- Lack of formal documentation
- Transactions take long
- Critical information is likely to be withheld prior to signing of a binding offer
- Restricted availability of information in respect of listed companies

# DUE DILIGENCE PROCESS

Initial Discussions

Understand the transaction  
Understand the client's objective

Planning

Target company information

Approach, scope, checklist,  
logistics

Execute

Fieldwork, analyses,  
meetings, co-ordination

Report

Draft report for discussion,  
final report

Closing

Closing scope and approach

Report



# **DUE DILIGENCE - DOCUMENTATION**

# KEY OBJECTIVE

- Availability of critical information at any point of time
- Risk mitigation and compliance purpose



# SUGGESTED DOCUMENTS

- Proposal
- Budget time cost and recovery
- Signed NDA
- Conflict checks
- Signed engagement letter
- Critical emails with the Client and the Target
- File notes capturing key verbal discussions with the Client and the Target
- Emails evidencing issue of drafts and final reports to the Client
- No duty of care letter in case report shared with any third party
- Duty of care letter
- Final report and databook
- Invoices
- Actual time cost and recovery
- Signed fee increase letter



# QUESTIONS



# **THANK YOU**