



UK M&A Transactions: Key Considerations for US Buyers

Published by *The Texas Lawbook*

July 16, 2024

The article provides guidance for US buyers considering mergers and acquisitions (M&A) transactions in the UK. Despite a global slowdown in M&A, US buyers remain interested in the UK market due to available capital, expansion strategies and favorable currency exchange rates. The UK is seen as a stable investment environment amidst global economic challenges.

Key considerations for US buyers include:

- **Regulatory Considerations.** US buyers must be aware of necessary regulatory clearances, such as the UK's National Security and Investment Act, which requires government clearance for transactions in certain sectors.
- **Purchase Price Adjustments.** UK deals may use a "locked box" approach where the purchase price is fixed at an early stage without post-closing adjustments, unlike the typical US approach with working capital adjustments.
- **Due Diligence and Risk Allocation.** Buyers should conduct thorough due diligence to understand the target company and allocate risks through warranties, representations, and indemnities in the acquisition agreement.
- **Warranties vs. Representations.** The UK distinguishes between warranties and representations, with the latter potentially leading to non-contractual claims, which US sellers usually do not provide.
- **Disclosures.** The US and UK differ in how disclosures are made to qualify warranties and representations, with the UK allowing broader general disclosures.
- **Buyer's Knowledge.** US buyers may include pro-sandbagging clauses to claim for known breaches, while the UK commonly negotiates anti-sandbagging clauses.

- Indemnities for Breach of Warranty. The UK typically limits indemnities to specific risks identified during due diligence, unlike the US where indemnities are also used for general breaches of warranty.
- Restrictive Covenants. The US may enforce longer restrictive covenants than the UK, with enforceability varying by jurisdiction.

The article concludes that while there are similarities between US and UK M&A practices, understanding the differences is crucial for successful transactions.

["UK M&A Transactions: Key Considerations for US Buyers,"](#) *The Texas Lawbook*, July 16, 2024

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