

# Investment Banking Representative Qualification Examination (Series 79)

**CONTENT OUTLINE**

## Series 79

### PURPOSE OF THE EXAM

The Series 79 exam is designed to assess the competency of entry-level Investment Banking Representatives. The Series 79 exam seeks to measure the degree to which each candidate possesses the knowledge, skills and abilities needed to perform the critical functions of an Investment Banking Representative. In order to obtain registration as an Investment Banking Representative, candidates must pass both the Series 79 and a general knowledge co-requisite, the Securities Industry Essentials (SIE) exam. For more information about the activities requiring registration as an Investment Banking Representative, see FINRA Rule 1220(b)(5).

### STRUCTURE OF THE EXAM

The exam consists of 75 multiple-choice items, and each item consists of four answer choices. The allocation of exam items for each major function is as follows:

Function	Description	Percentage of Exam Items	Number of Items
1	Collection, Analysis and Evaluation of Data	49%	37
2	Underwriting and New Financing Transactions, Types of Offerings and Registration of Securities	27%	20
3	Mergers and Acquisitions, Tender Offers and Financial Restructuring Transactions	24%	18
TOTAL		100%	75

### ADMINISTRATION OF THE EXAM

The exam is administered via computer. A tutorial on how to take the exam is provided prior to taking the exam. Each candidate's exam includes 10 additional, unidentified pretest items that do not contribute toward the candidate's score. The pretest items are randomly distributed throughout the exam. Therefore, each candidate's exam consists of a total of 85 items (75 scored and 10 unscored). There is no penalty for guessing. Therefore, candidates should attempt to answer all items. Candidates will be allowed 2 hours and 30 minutes to complete the Series 79 exam.

All candidate test scores are placed on a common scale using a statistical adjustment process known as equating. Equating scores to a common scale accounts for the slight variations in difficulty that may exist among the different sets of exam items that candidates receive. This allows for a fair comparison of scores and ensures that every candidate is held to the same passing standard regardless of which set of exam items they received.

Candidates are not permitted to bring reference materials to their testing session. Severe penalties are imposed on candidates who cheat or attempt to cheat on FINRA-administered exams.

Please visit [www.finra.org](http://www.finra.org) for additional details.

## Series 79

### FUNCTION 1: Collection, Analysis and Evaluation of Data

#### 1.1 Collection of Data

##### Knowledge of:

- Collection of financial, performance, issuance and transaction data from various commercial and proprietary market databases, regulatory sources, internet sites of private and public companies, media and other resources
  - Analysis of trends in the market and specific industry sectors
  - Analysis of individual companies
  - Analysis of the capital structure and valuation metrics of comparable companies
  - Relative valuation analysis regarding positioning (the company's relative position when comparing its valuation with other companies within the same industry)
  - Tracking of recent securities offerings and mergers and acquisitions (M&As) (*i.e.*, precedent transactions) executed by the firm, as well as recent deals executed by competitors
- Information found in schedules, reports, statements and forms filed pursuant to the Securities Exchange Act of 1934
- Permissible communications with clients and other departments within the firm, coordinating when necessary with legal and compliance
  - Communication with clients to gather and verify information for financial modeling/financial statements
  - Communication with industry specialists within investment banking and capital markets to obtain information regarding business opportunities and communication with industry specialists to collect industry data to determine marketing strategies best suited for the company
  - Communication with the firm's research department to obtain perspectives on the market and particular industry sectors
  - Communication with the syndicate desk to obtain information about deals that are in the marketplace, current market demands, security pricing, structure and covenants
  - Coordination with internal departments to review data for inclusion in marketing materials and/or secure approval of those materials

##### FINRA Rules

2241 – Research Analysts and Research Reports

2242 – Debt Research Analysts and Debt Research Reports

##### SEC Rules and Regulations

Securities Exchange Act of 1934

13a-10 – Transition Reports

13a-11 – Current Reports on Form 8-K

13a-13 – Quarterly Reports on Form 10-Q

13d-1 – Filing of Schedules 13D and 13G

13f-1 – Reports by Institutional Investment Managers of Information with Respect to Accounts Over Which They Exercise Investment Discretion

14a-6 – Filing Requirements

15d-10 – Transition Reports

15d-11 – Current Reports on Form 8-K

15d-13 – Quarterly Reports on Form 10-Q

16a-1 – Definition of Terms

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### 1.2 Analysis and Evaluation of Data

#### Knowledge of:

- Financial analysis of individual companies, comparable companies and particular industry sectors
- Models involving basic financial accounting concepts and statistical analyses and preparation of spreadsheets, graphs and other materials based on the collected data; data entry into proprietary financial models
  - Balance sheet (e.g., current assets, including cash and cash equivalents, marketable securities, inventory, accounts receivable, property, plant and equipment (PP&E), goodwill and intangibles; deferred assets; current liabilities, including accounts payable, short-term debt, accruals, and long-term debt; deferred liabilities; and stockholders' equity/net worth, including preferred stock, common stock, additional paid-in capital, retained earnings and capital surplus)
  - Income statement (e.g., revenue/sales and cost of goods sold (COGS), including fixed/variable costs, selling, general and administrative (SG&A) expenses, amortization/depreciation/depletion, operating income/loss, interest income/expense, taxes, net income/loss)
  - Cash flow statement (e.g., operating cash flow, investing cash flow, financing cash flow)
- Valuation metrics, ratios and other types of data for any or all of the following areas: equity and debt transactions, equity-linked transactions, M&As, restructurings and general corporate or financial advisory services
  - Liquidity (e.g., cash collection cycle, including receivables turnover, inventory turnover and payables turnover, cash flow; current ratio (working capital ratio), debt-to-capital (total and long-term), debt-to-equity (total and long-term), free cash flow yield, net debt; quick ratio (acid test ratio), working capital)
  - Profitability (e.g., adjustments including extraordinary items/nonrecurring items; earnings before interest and taxes (EBIT); earnings before interest, taxes, depreciation and amortization (EBITDA); earnings before interest, taxes, depreciation, amortization and rent (EBITDAR); earnings per share (EPS); earnings yield equity turnover; profit margins, including gross margin, operating margin, net margin, net profit margin, operating profit margin, pre-tax margin, return on assets (ROA), return on equity (ROE), return on investment (ROI), and return on invested capital (ROIC); total expense ratio)
  - Leverage (e.g., interest coverage ratio, leverage net debt/EBITDA, debt to EBITDA)
  - Valuation (e.g., accretion/dilution, enterprise value (EV), adjusted EV/EBITDA, price-to-book (P/B) value (stated and tangible), compound annual growth rate (CAGR), cost of capital, discounted cash flow (DCF), dividend discount model (DDM), dividend payout ratio, dividend yield, earnings, economic profit, EV/EBITDA, EV/sales, equity value, forward P/E multiple, internal rate of return (IRR), last 12 months (LTM), price-to-earnings (P/E) multiple, market cap, net present value, normalized (operating) earnings, price to cash flow, P/E, price to free cash flow, price/NAV, price/earnings to growth (PEG), price to sales (P/S), price per share, sum of the parts analysis, stock volatility, beta, weighted average cost of capital (WACC))
  - Asset turnover (e.g., inventory valuation methods: LIFO, FIFO)
- Review and analysis of precedent transactions for trends in capital raising and M&As (e.g., capital restructuring, use of derivatives, share repurchase programs, tender offers, rights offerings, debt issuance)
  - Registration and proxy statements
- Analysis of investor and shareholder data to understand ownership and trading behavior
- Analysis of the impact of various financing strategies for potential investors, including risks
  - Investment objectives (e.g., growth at a reasonable price (GARP), growth, aggressive growth, value income, capital appreciation)
  - Investment strategies (e.g., distressed, value, deep value, momentum trading, index, quantitative (formula driven), arbitrage, risk arbitrage, long, short, special situations, income and sector specific)
- Analysis of the various financing alternatives available to the company

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- Types of organizational structures (e.g., C corporations; S corporations; limited liability companies (LLCs); limited partnerships; trusts; master limited partnerships; real estate investment trusts (REITs); private equity funds; federal, state and municipal governments)
- Types of investors (e.g., mutual funds, hedge funds, venture capital firms, private equity firms, qualified institutional buyers (QIBs), qualified purchasers)
- Types of financing transactions (e.g., debt, equity or hybrid securities, public versus private offering (e.g., initial public offering (IPO), follow-on, private investments in public equity (PIPEs), primary versus secondary offering, forward sale))
- Evaluation of the impact of various alternatives for the company, including preliminary recommendations with respect to transactions based on the results of the above analyses and understanding of the benefits and risks associated with such recommendations

### SEC Rules and Regulations

#### Securities Exchange Act of 1934

- 13e-1 – Purchase of Securities by the Issuer During a Third-party Tender Offer
- 13e-3 – Going Private Transactions by Certain Issuers of Their Affiliates
- 14d-1 – Scope and Definitions Applicable to Regulations 14D and 14E
- 14d-9 – Recommendation or Solicitation by the Subject Company and Others

### 1.3 Due Diligence Activities

#### Knowledge of:

- Due diligence by identification of information that is required to be disclosed in public or private offering documents
  - Review of the business of the issuer, including, but not limited to, reviewing financial information and business plans; speaking to the company's management, vendors, suppliers and customers; conducting site visits; and performing bring-down due diligence
  - The disclosure standard that offering documents should not contain untrue statements of material fact or omit material facts necessary to make the statements therein not misleading
- The due diligence process: sell-side transactions
  - Financial due diligence on the seller
  - Assistance to the seller in gathering due diligence materials to be provided to potential buyers
  - Preparation, review and finalization of the client data room procedures and index of materials to be presented in data room
  - Supplemental due diligence information, monitoring of access to data room
  - Assistance to the seller in performing due diligence on the potential buyers
- The due diligence process: buy-side transactions
  - Coordination of the schedule for management presentations, data room access and site visits with the buyer and the target
  - Facilitation of the buyer's due diligence process
    - Conducting of a comprehensive and confidential investigation to uncover information that could impact the merger or acquisition, for the purpose of recommending alternatives for handling benefits, compensation and other human resource programs after the deal closes
    - Identification of strategic positions for negotiating
    - Evaluation of the leadership of the organization, including performing background checks
    - Examination of the target's culture, environment, corporate governance, and labor issues; identification of strengths and weaknesses of the employee groups; discovery of risk, such as unfunded liabilities or obligations and corporate governance, degree of off-balance sheet disclosures; and identification of cost-saving opportunities, such as those available through consolidation or negotiation

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- Performance of due diligence from available sources other than the target company
- Due-diligence-related regulatory requirements
  - Basic disclosure requirements with respect to compliance with the Sarbanes-Oxley Act

### SEC Rules and Regulations

#### Securities Act of 1933

176 – Circumstances Affecting the Determination of What Constitutes Reasonable Investigation and Reasonable Grounds for Belief Under Section 11 of the Securities Act

### Sarbanes-Oxley Act

#### Title IV – Enhanced Financial Disclosures

402 – Enhanced Conflict of Interest Provisions

403 – Disclosures of Transactions Involving Management and Principal Stockholders

404 – Management Assessment of Internal Controls

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### FUNCTION 2: Underwriting and New Financing Transactions, Types of Offerings and Registration of Securities

#### 2.1 Public Offerings

##### Knowledge of:

- The drafting of the offering documents, internal commitment memos, internal sales memos and road show presentations
  - Regulatory requirements pertaining to:
    - Filing of registration statement of securities offerings
    - A company's ongoing reporting obligations
    - Disclosure of a firm's interest in a distribution
    - Securities distributions
    - Prospectuses (base prospectus, prospectus supplement)
    - Exemptions/safe harbors
    - Research reports and free writing prospectuses
    - Communication-related liabilities
- The distribution of the preliminary and final prospectuses

##### FINRA Rules

- 2262 – Disclosure of Control Relationship with Issuer
- 2269 – Disclosure of Participation or Interest in Primary or Secondary Distribution
- 5110 – Corporate Financing Rule—Underwriting Terms and Arrangements
- 5121 – Public Offerings of Securities with Conflicts of Interest

##### SEC Rules and Regulations

###### Securities Act of 1933

- Section 2(a)(10) – Definition of Prospectus
- Section 5 – Prohibitions Relating to Interstate Commerce and the Mails
- Section 7 – Information Required in Registration Statement
- Section 10 – Information Required in Prospectus
- Section 11 – Civil Liabilities on Account of False Registration Statement
- Section 12 – Civil Liabilities Arising in Connection with Prospectuses and Communications
- Section 17 – Fraudulent Interstate Transactions
- Section 23 – Unlawful Representations

- 134 – Communications Not Deemed a Prospectus
- 135a – Generic Advertising
- 137 – Publications or Distributions of Research Reports by Brokers or Dealers that Are Not Participating in an Issuer's Registered Distribution of Securities
- 138 – Publications or Distributions of Research Reports by Brokers or Dealers About Securities Other than Those They Are Distributing
- 139 – Publications by Brokers or Dealers Distributing Asset-backed Securities
- 153A – Definition of "Preceded by a Prospectus" as Used in Section 5(b)(2) in Relation to Certain Transactions Requiring Approval of Security Holders
- 159 – Information Available to Purchaser at Time of Contract of Sale
- 163 – Exemption from Section 5(c) of the Act for Certain Communications by or on Behalf of Well-known Seasoned Issuers

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163A – Exemption from Section 5(c) of the Act for Certain Communications Made by or on Behalf of Issuers More than 30 days Before a Registration Statement Is Filed  
164 – Post-filing Free Writing Prospectuses in Connection with Certain Registered Offerings; Graphic Communication, Written Communication, Electronic Road Shows  
168 – Exemptions from Sections 2(a)(10) and 5(c) of the Act for Certain Communications of Regularly Released Factual Business Information and Forward-looking Information  
169 – Exemptions from Sections 2(a)(10) and 5(c) of the Act for Certain Communications of Regularly Released Factual Business Information  
172 – Delivery of Prospectuses  
174 – Delivery of Prospectus by Dealers  
175 – Liability for Certain Statements by Issuers  
405 – Automatic Shelf Registration Statement  
412 – Modified or Superseded Documents  
415 – Shelf Registration Statement  
424 – Filing of Prospectuses, Number of Copies  
427 – Contents of Prospectus Used After Nine Months  
430 – Prospectus for Use Prior to Effective Date  
430A – Prospectus in a Registration Statement at the Time of Effectiveness  
430B – Prospectus in a Registration Statement After Effective Date  
433 – Conditions to Permissible Post-filing Free Writing Prospectuses  
460 – Distribution of Preliminary Prospectus

### Securities Exchange Act of 1934

Section 10A – Audit Requirements  
Section 12 – Registration Requirements for Securities  
    12(a) – Exchange-listed Securities  
    12(f) – Unlisted Trading Privileges for Security Originally Listed on Another National Exchange  
    12(g) – Registration of Securities of Issuers Engaged in Interstate Commerce  
    12(j) – Suspension or Revocation of Registration of the Issuer's Securities  
  
3b-6 – Liability for Certain Statements by Issuers  
15c1-5 – Disclosure of Control  
15c1-6 – Disclosure of Interest in Distributions  
15c2-8 – Delivery of Prospectus

### Regulation FD – Selective Disclosure and Insider Trading

Regulation S-K – Standard Instructions for Filing Forms Under Securities Act of 1933, Securities Exchange Act of 1934 and Energy Policy and Conservation Act of 1975

Regulation S-X – Form and Content of and Requirements for Financial Statements, Securities Act of 1933, Securities Exchange Act of 1934, Investment Company Act of 1940, Investment Advisers Act of 1940, and Energy Policy and Conservation Act of 1975

### Jumpstart Our Business Startups (JOBS) Act



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### 2.2 Activities of the Underwriting Syndicate

#### Knowledge of:

- The execution of syndicate agreements, including agreement among underwriters, selected dealers' agreement, deal wires
  - Types of underwriting commitments (e.g., firm commitment, competitive bid or negotiated, standby commitment, all-or-none, best efforts)
  - Issuer and shareholder lock-up agreements
- Preparation and filing of all necessary regulatory wires (e.g., Regulation M filings)

#### FINRA Rule

5160 – Disclosure of Price and Concessions in Selling Agreements

#### SEC Rules and Regulations

Securities Exchange Act of 1934

10b-9 – Prohibited Representations in Connection with Certain Offerings

15c2-4 – Transmission or Maintenance of Payments Received in Connection with Underwritings

Regulation M

101 – Activities by Distribution Participants

102 – Activities by Issuers and Selling Security Holders During a Distribution

### 2.3 Execution and Distribution

#### Knowledge of:

- The education of the internal sales force and marketing of the offering
  - Determination of current trends in the market/sectors and identification of the sales points of each transaction
  - Drafting of materials regarding the transaction to educate the internal sales force (e.g., internal sales memo)
  - Assistance to the issuer in preparing the road show presentation and setting up investor meetings
  - Review of the current shareholders of the issuer as well as shareholders of comparable companies to locate prospective investors
  - Distribution of materials to potential investors as permitted by regulations
  - Status of marketing, market conditions and time frame for transaction
- Building the book
  - Investor interest, price-level information, maintenance of "indication of interest (IOI) book," and creation and maintenance of the book, which includes the list of prospective investors and how the issue is split among the underwriters
  - Thorough suitability assessments of customers
- Sizing, pricing and timing
  - Information about other scheduled transactions in the market and the release of economic data for the purpose of pricing and scheduling the offering
  - Sizing, pricing and timing judgments and recommendations to issuers based on certain factors, including but not limited to: IOIs, supply and demand, overall market conditions, debt and volatility, investor feedback, trading depth and volatility during the marketing period, existing holder participation in a follow-on offering and valuation
- Allocation, syndicate short covering, stabilization and other market activities
  - Research and summarization of retail versus institutional demand and investor trading history
  - Management of stabilizing activity and syndicate short positions

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- Structure and management of the over-allotment option (*i.e.*, green shoe)
- Determination of whether to exercise the green shoe
- Billing and delivery
  - Calculation of compensation of the syndicate (*e.g.*, components of underwriter's spread, including management fee, underwriting fee and selling concession; gross spread; pot agreement (jump ball, fixed); free retention; and designations)
  - Verification of accuracy of customer orders
  - Communication with branch office managers or designees to confirm allotments and designations
- NYSE and Nasdaq listing requirements

### FINRA Rules

- 2060 – Use of Information Obtained in Fiduciary Capacity
- 2241 – Research Analysts and Research Reports
- 2310 – Direct Participation Programs
- 5130 – Restrictions on the Purchase and Sale of Initial Equity Public Offerings
- 5131 – New Issue Allocations and Distributions
- 5141 – Sale of Securities in a Fixed Price Offering
- 5190 – Notification Requirements for Offering Participants
- 6130 – Transactions Related to Initial Public Offerings
- 6220(a)(17) – Definition of Stabilizing Bid

### SEC Rules and Regulations

- Securities Act of 1933
  - Section 18 – Exemption from State Regulation of Securities Offerings
- Securities Exchange Act of 1934
  - 15c1-8 – Sales at the Market
  - 17a-2 – Recordkeeping Requirements Relating to Stabilizing Activities
- Regulation M
  - 100 – Definitions
  - 103 – Nasdaq Passive Market Making
  - 104 – Stabilizing and Other Activities in Connection with an Offering
  - 105 – Short Selling in Connection with a Public Offering

## 2.4 Post-Execution Activities for Financing Deals

### Knowledge of:

- The deal file, including correspondence with underwriting group members, selling groups and/or the issuer, archives of pitch and marketing materials, information used for road shows, book building documents, prospectuses, and copies of underwriting materials
  - Understanding of books and record requirements
  - Tracking of billing and finalization of the transaction

### FINRA Rules

- 4511 – General Requirements
- 11880 – Settlement of Syndicate Accounts

### SEC Rules and Regulations

- Securities Exchange Act of 1934
  - 17a-3 – Records To Be Made by Certain Exchange Members, Brokers and Dealer
  - 17a-4 – Records To Be Preserved by Certain Exchange Members, Brokers and Dealers

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### 2.5 Securities Exempt from the Registration Requirements of the Securities Act of 1933

#### SEC Rules and Regulations

##### Securities Act of 1933

147 – “Part of an Issue,” “Person Resident” and “Doing Business Within,” for Purposes of Section 3(a)(11)

147A – “Exemptions to facilitate intrastate and regional securities offerings”

##### Regulation A – Conditional Small Issues Exemption

### 2.6 Transactions Exempt from the Registration Requirements of the Securities Act of 1933

#### Knowledge of:

- Private placements, including the performance of tasks similar to those associated with public offerings and tasks that are unique to private placement
  - Structuring of appropriate private placement securities, convertibles, preferred stock, subordinated debt, warrants
  - Drafting and execution of engagement documentation for private placements and the placement agent agreement
  - Identification of the list of potential investors and determination of the types and suitability of investors for whom private placement is appropriate
  - Determination of eligibility of interested investors and procurement of non-binding commitments
  - Preparation of the private offering documents, including but not limited to the private placement memorandum (PPM), confidentiality agreement, teaser (*i.e.*, executive summary or one-page document describing financing opportunities to attract interest), and security term sheets (*i.e.*, expected pricing)
- Resales of securities by control persons

#### FINRA Rules

5122 – Private Placements of Securities Issued by Members

5123 – Private Placements of Securities

#### SEC Rules and Regulations

##### Securities Act of 1933

Section 4(a)(2) – Transactions by an Issuer Not Involving Any Public Offering

Section 4(6) – Private Placements

144 – Persons Deemed Not To Be Engaged in a Distribution and Therefore Not Underwriters

144A – Private Resales of Securities to Institutions

##### Regulation D – Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933

501 – Definitions and Terms Used in Regulation D

502 – General Conditions To Be Met

503 – Filing of Notice of Sales

504 – Exemption for Limited Offerings and Sales of Securities Not Exceeding \$5,000,000

506 – Exemption for Limited Offers and Sales Without Regard to Dollar Amount of Offering

##### Regulation S – Rules Governing Offers and Sales Made Outside the United States Without Registration Under the Securities Act of 1933

901 – General statement

902 – Definitions

903 – Offers or Sales of Securities by the Issuer, a Distributor, and of their Respective Affiliates, or Any Person Acting on Behalf of Any of the Foregoing; Conditions Relating to Specific Securities

904 – Offshore Resales

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### FUNCTION 3: Mergers and Acquisitions, Tender Offers and Financial Restructuring Transactions

#### 3.1 Mergers and Acquisitions: Sell-side Transactions

##### Knowledge of:

- Setup of the process
  - Preparation, negotiation and finalization of the engagement letter with the seller
  - Preparation and review, with the seller, of potential transaction structures and the impact of existing market, regulatory and tax environment on the proposed transaction
    - Identification and assessment of potential transactions (e.g., sale of entire company, divestitures, spinoffs, split offs)
    - Identification and assessment of potential transaction structures (e.g., stock versus asset sale, merger versus tender offer)
    - Coordination with the seller's tax advisors to identify potential tax issues and their financial implications (e.g., tax-free reorganization, recapitalizations, IRS Rule 338(h)(10) elections, stock versus cash)
    - Coordination with the seller's legal advisors to identify antitrust and other regulatory issues (e.g., cross-border transactions)
    - Assistance in identifying potential corporate issues (e.g., IRS Rules 160 and 280G, golden parachute, plant closings, shareholder objectives, corporate culture)
    - Assistance in evaluating the impact of terms of existing equity and debt securities and contractual obligations of the seller on the proposed transaction (e.g., debt covenants, consents, conversion features)
  - Performance of financial valuation analysis for the seller and production of comprehensive valuation report using a variety of valuation methods
  - Extensive analysis of potential buyers
    - Assistance with identification of potential buyers and their strengths and weaknesses, including capacity to pay
    - Assistance with evaluation of any financing requirements, including stapled financing
    - Assessment of the primary competitors both general and sector-specific
    - Assessment of the existing growth strategy and optimization potential
    - Performance of suitability assessments of specific candidates
    - Assistance with evaluating credit implications of the potential transaction
    - Evaluation of potential market reaction announcements concerning a merger/acquisition
- Marketing of the transaction
  - Assistance in preparation of confidentiality agreements
  - Preparation, finalization and distribution of a business profile highlighting corporate overview, financial history, and other information relevant to a potential buyer ("teaser")
  - Assistance with the process of contacting potential buyers and signing of the confidentiality/non-disclosure agreements
  - Assistance with the preparation of a confidential offering document for presentation to potential buyers and merger partners
  - Preparation, finalization and distribution of bidding procedures letter to potential buyers
  - Assistance with drafting of management presentations
- Management of the bidding process
  - Evaluation of potential buyers' proposals from strategic and financial perspectives (e.g., buyers' ability to pay, strength of buyers' currency, accretion/dilution analysis, assessment of potential synergies deemed obtainable from buyers, social issues, sensitivity to potential regulatory/antitrust issues)

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- Receipt of non-binding IOIs from potential buyers and organization and communication of material to the seller
- Assistance with determination of successful bids and assistance with communicating regret or invitations to move forward with potential buyers
- Attendance at and monitoring of management presentations, data room sessions and site visits
- Response to potential buyers' requests for additional information
- Assistance with preparation of final round procedures, including deadline for final offers and guidance on issues to be addressed in letters of intent
- Finalization and distribution of final round procedure letter to potential buyers
- Receipt, analysis and presentation of final round bids to the seller
- General understanding of Hart-Scott-Rodino Antitrust Improvements Act of 1976
- Execution of the transaction
  - Assistance with selection of buyers with whom to negotiate definitive agreements
  - Assistance in communicating with the seller's legal counsel and accountants the material financial terms of the transaction as agreed to by seller and buyer
  - Assistance with the preparation of a fairness opinion, if warranted or requested

### 3.2 Mergers and Acquisitions: Buy-side Transactions

#### Knowledge of:

- Analysis before the bid
  - Determination or assessment of the strategy, resources, financial capacity of the buyer
  - Evaluation of rationale for the acquisition and value of the buyer's business
  - Identification of potential corporate, structural or legal impediments to the transaction (e.g., control share acquisition statutes, shareholder rights plans, staggered boards)
  - Coordination with the buyer's tax advisors in the identification of potential tax issues and their financial implications (tax-free reorganization, recapitalizations, IRS Rule 338(h)(10), elections, stock versus cash)
  - Review of the confidential offering memorandum and confidentiality agreement provided by the seller
  - Analysis of the target's financial results, future prospects, market position, industry dynamics, potential strategic value to the buyer and potential synergies with the buyer
  - Production of preliminary stand-alone and pro forma valuations of the target through comparable company analysis, precedent transaction analysis, discounted cash flow (DCF) analysis, leveraged buyout (LBO) analysis and other relevant analyses
  - Assistance with evaluation of credit implications of the potential transaction
  - Assessment of the capabilities of other buyers and communication with the buyer regarding recent developments among other buyers and competitors
  - Evaluation of potential market reaction announcements concerning a merger/acquisition
- Bidding process
  - Assistance with development, finalization and review of preliminary bids
  - Assistance with process of contacting the seller and/or acting as a liaison with its advisors
  - Assistance with arrangement of financing alternatives from various institutions, as necessary
- Execution of the deal
  - Assistance in preparing follow-up due diligence requests and communication with the target
  - Review of final bid with the buyer
  - Assistance with preparation of a fairness opinion, if warranted or requested
  - Assistance in communicating with the buyer's legal counsel and accountants material financial terms of the transaction as agreed to by the seller and buyer

### 3.3: Fairness Opinions (Applicable for Both Buy-side and Sell-side Transactions)

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### Knowledge of:

- Assistance with the determination of whether a fairness opinion is necessary
- Preparation of the financial analysis for the fairness opinion
- Presentation of the analysis to the firm's internal approval committees, the client, and the client's board of directors or special committee of the board
  - Assistance with preparation of fairness opinion meeting
  - Understanding of internal procedures for disclosing conflicts
- Assistance with drafting the fairness opinion letter
- Assistance with the preparation of proxy statement/prospectus disclosure regarding any fairness opinion that has been issued

### FINRA Rule

5150 – Fairness Opinions

### 3.4 Signing to Closing (Applicable for Both Buy-side and Sell-side Transactions)

#### Knowledge of:

- Proxy statement/prospectus disclosure regarding the transaction
- Assistance with determination and monitoring of closing conditions
- Assistance with development of external communications materials (e.g., press releases, investor presentations)

### 3.5 Tender Offer Regulations

#### Knowledge of:

- Tender offer regulations, including requirements relating to communications, timing, filing, disclosure and equal treatment of shareholders

### SEC Rules and Regulations

#### Securities Exchange Act of 1934

13e-3 – Going Private Transactions by Certain Issuers or Their Affiliates

13e-4 – Tender Offers by Issuers

14d-1 – Scope of and Definitions Applicable to Regulations 14D and 14E

14d-9 – Recommendation or Solicitation by the Subject Company and Others

14d-10 – Equal Treatment of Security Holders

14e-1 – Unlawful Tender Offer Practices

14e-2 – Position of Subject Company with Respect to a Tender Offer

14e-3 – Transactions in Securities on the Basis of Material, Nonpublic Information in the Context of Tender Offers

14e-4 – Prohibited Transactions in Connection with Partial Tender Offers

14e-5 – Prohibiting Purchases Outside of a Tender Offer

Schedule TO – Tender Offer Statement Under Section 14(d)(1) or 13(e)(1) of the Securities Exchange Act of 1934

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### 3.6 Financial Restructuring and Bankruptcy

#### Knowledge of:

- Potential claims and priorities of investors in connection with bankruptcy (e.g., senior secured creditors (senior debt lenders); junior secured creditors (senior subordinated debt), unsecured creditors (trade suppliers), mezzanine (convertible debt), preferred stock, common stock)
- Fundamental terms of loan documents
  - Credit agreements and indentures (e.g., repayment, prepayment, events of default, negative covenants)
  - Financial covenants (including an assessment of the company's short-term and long-term liquidity, including maturities of debt, required redemptions and other obligations and rights)
  - Consequences of refinancing early
- Fundamental terms of bankruptcy (e.g., plan of reorganization (Bankruptcy Code Chapter 11), debtor in possession financing (DIP), liquidation (Bankruptcy Code Chapter 7), M&As (Bankruptcy Code Section 363), creditor committees, debtor in possession, company's board of directors/management, and trustee)

#### SEC Rules and Regulations

##### Securities Act of 1933

Form S-4 – Registration Statement – Used in Connection with Business Combinations and Exchange Offers

145 – Reclassification of Securities, Mergers, Consolidations, and Acquisitions of Assets

165 – Offers Made in Connection with a Business Combination Transaction

425 – Filing of Certain Prospectuses and Communications Under Rule 135 in Connection with Business Combination Transactions

##### Securities Exchange Act of 1934

Regulation 14A – Solicitation of Proxies

Schedule 14A – Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

14a-101 – Information Required in Proxy Statement

Item 14 of Schedule 14A – Mergers, Consolidations, Acquisitions and Similar Matters

Regulation M-A – Mergers and Acquisitions