



Basics Track:

Franchise-Related Mergers & Acquisitions

iFA INTERNATIONAL
FRANCHISE
ASSOCIATION

**2025 LEGAL
SYMPOSIUM**

||| MAY 4-6 | WASHINGTON, DC

Speakers

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Overview

- Preparing to Sell a Franchise Company
- Valuation Considerations
- Transaction Process
- Post-Closing Considerations



Preparing to Sell a Franchise Company

- Assess System Franchise Agreements
 - Flexibility to assign?
 - M&A friendly provisions?
 - Territorial concerns?

Preparing to Sell a Franchise Company

- Organize Franchise Agreements
 - Different versions?
 - Amendments?
- Regulatory Compliance Review

Preparing to Sell a Franchise Company

- Evaluate Intellectual Property
 - Registration?
 - Proper documentation? (TM assignments and license agreements)
 - Infringers?



Preparing to Sell a Franchise Company

- Resolve Litigation and Reduce Claims
- Evaluate and Update Sales Process
- Future Value Enhancement Opportunities
- Consultation With M&A Advisor

Assessing Valuation

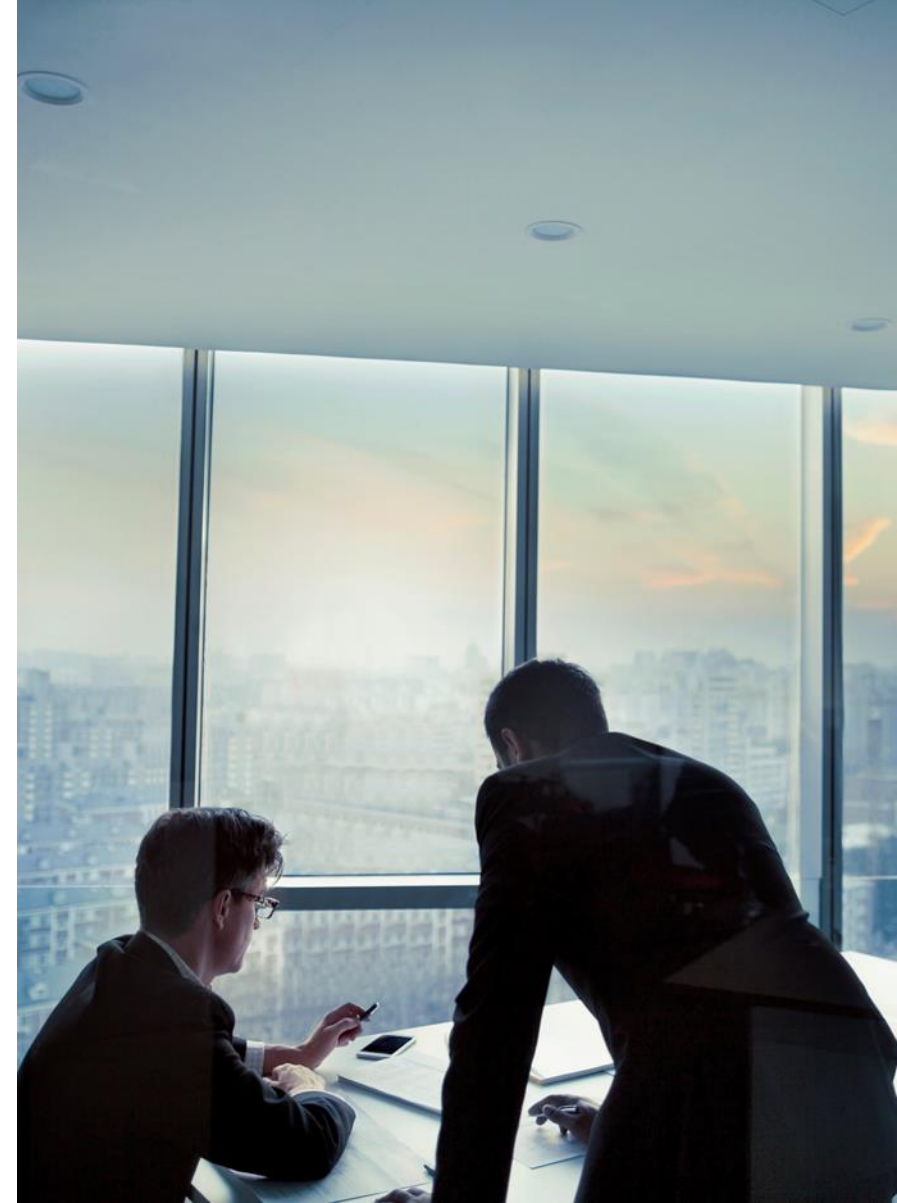
- Royalty Stream
- Franchisee Profitability
- Same-Store Sales Growth
- System Stability
- Franchisee Pipeline
- Future Expansion Opportunities

Transaction Process: Overview

- NDA and Letter of Intent
 - Non-Disclosure Agreement
 - Seller may limit access to information
 - Identification of deal structure (asset sale/equity sale)
 - Letters of Intent are typically non-binding
 - Exclusivity period is binding

Transaction Process: Overview

- Due Diligence
 - Structure of deal affects liabilities assumed
 - Level of diligence (and length of time to complete)
 - Buyer and Seller diligence
- Purchase Agreement
 - Negotiations
 - Simultaneous sign and close
 - Sign and close at a later date



Transaction Process: Franchise Sales Compliance

- FDD Must Be Amended in the Event of a Material Change
 - Timing can be tricky
 - Prepare franchise sales compliance strategy

Transaction Process: Due Diligence

- Establish Goals
 - Identify "Red Flags"
 - Assess system health and stability
 - Ability to effectuate post-closing growth strategies

Transaction Process: Due Diligence

- Stages of Due Diligence
- Due Diligence Checklist
- Preliminary Due Diligence Calls
- Virtual Data Room
- Follow-up Due Diligence Calls

Transaction Process: Due Diligence

- Material Contracts
- Franchise Regulatory Compliance
- Franchisees and Sales Issues
- Disputes, Litigation, and Regulators
- Supply and Distribution

Transaction Process: Due Diligence

- Ad Fund
- Franchise System
 - Manuals
 - Training
 - Q.A. and audit reports

Transaction Process: Due Diligence

- I.P. and I.T.
 - Trademarks and service marks
 - Software
 - Website and social media



Transaction Process: Due Diligence

- Assessment of Franchise and Related Agreements
 - Review of all versions
 - Quality of drafting
 - Special deals? Oral or written?
 - Assignability

Transaction Process: Due Diligence

- Assessment of Franchise and Related Agreements
 - Sufficient flexibility going forward?
 - Scope of grant and reserved rights
 - Encroachment issues
 - System changes possible?
 - Ability to re-brand

Transaction Process: Due Diligence

Regulatory Compliance Assessment

FDD Review

Consistent Disclosure

Registration State Compliance

Litigation

FPRs

Franchise Sales Practices

Pre-Sale Marketing Materials

Releases

Transaction Process: Due Diligence

- Other Inquiries/Talking to Stakeholders
 - Franchisees
 - Landlords
 - Suppliers
 - Employees

Transaction Process: Seller's Due Diligence

- Buyer Stability/Ability to Close
- Is the Buyer a “Good Fit”?
 - Will employees be taken care of?
 - Values and reputation — Do they matter?
 - Will there be an ongoing relationship post-close?

Transaction Process: Purchase Agreement Negotiations

- Representations and Warranties
 - R&W insurance?
 - Knowledge qualifiers
 - Schedules
 - Survival periods

Transaction Process: Purchase Agreement Negotiations

- Indemnification
- Purchase Price Adjustments
- Holdbacks
- Escrow

Transaction Process: Purchase Agreement Negotiations

- Roll-Over Equity
- Earn-Outs
- Post-Closing Employment or Consulting Agreements

Transaction Process: Closing

- Finalization of Purchase Agreement and Schedules
- Closing Statement of Cash Flows
- Wiring of Funds
- Release of Signed Agreements

Post-Closing Considerations

- Initial Announcement
- FDD Amendment
- Operational Changes
- Post-Closing Payments; Escrow Release



Questions?

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