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Agenda

-  Introduction
-  Regulatory Framework
-  Definitive Agreements
-  Legal Contracts
-  Q & A

The Beginning

Scope



Get right
advisor



Prospect
Identification



IMPLEMENTATION



Plan



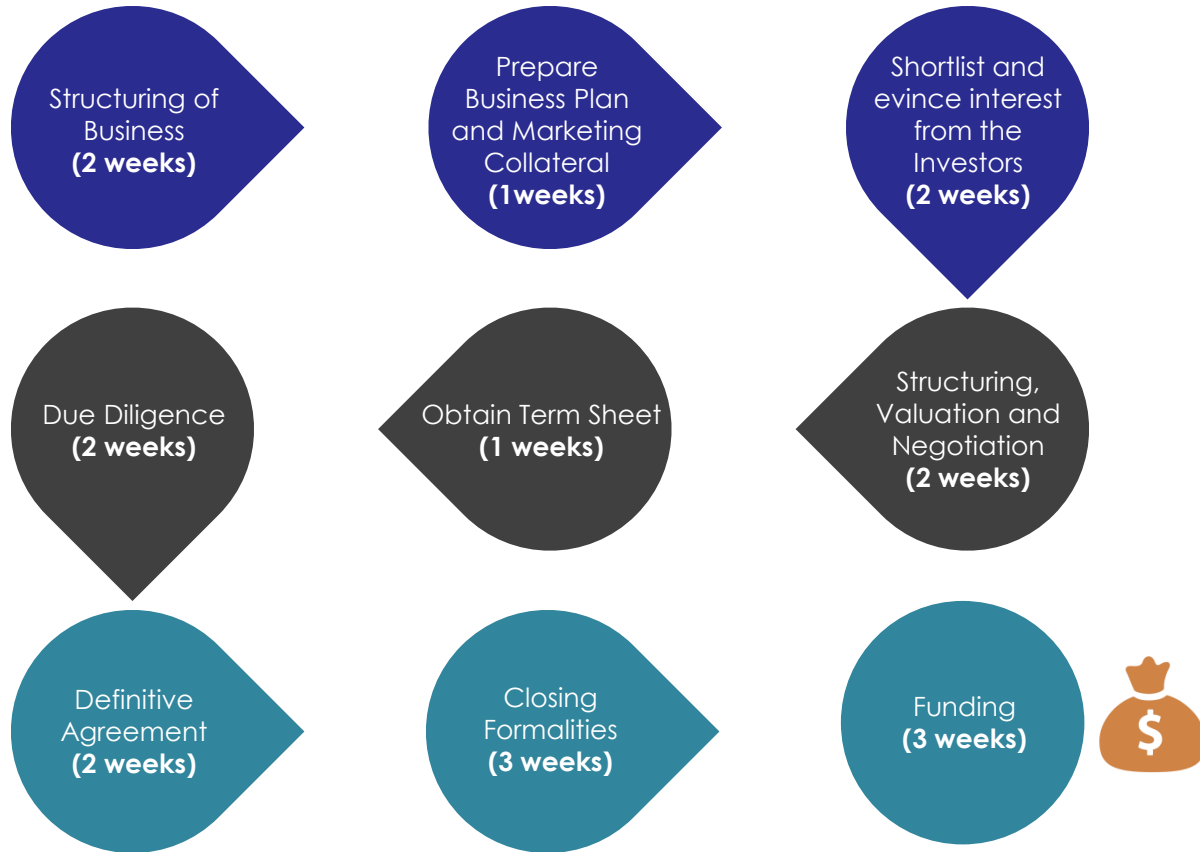
Documentation and
Market



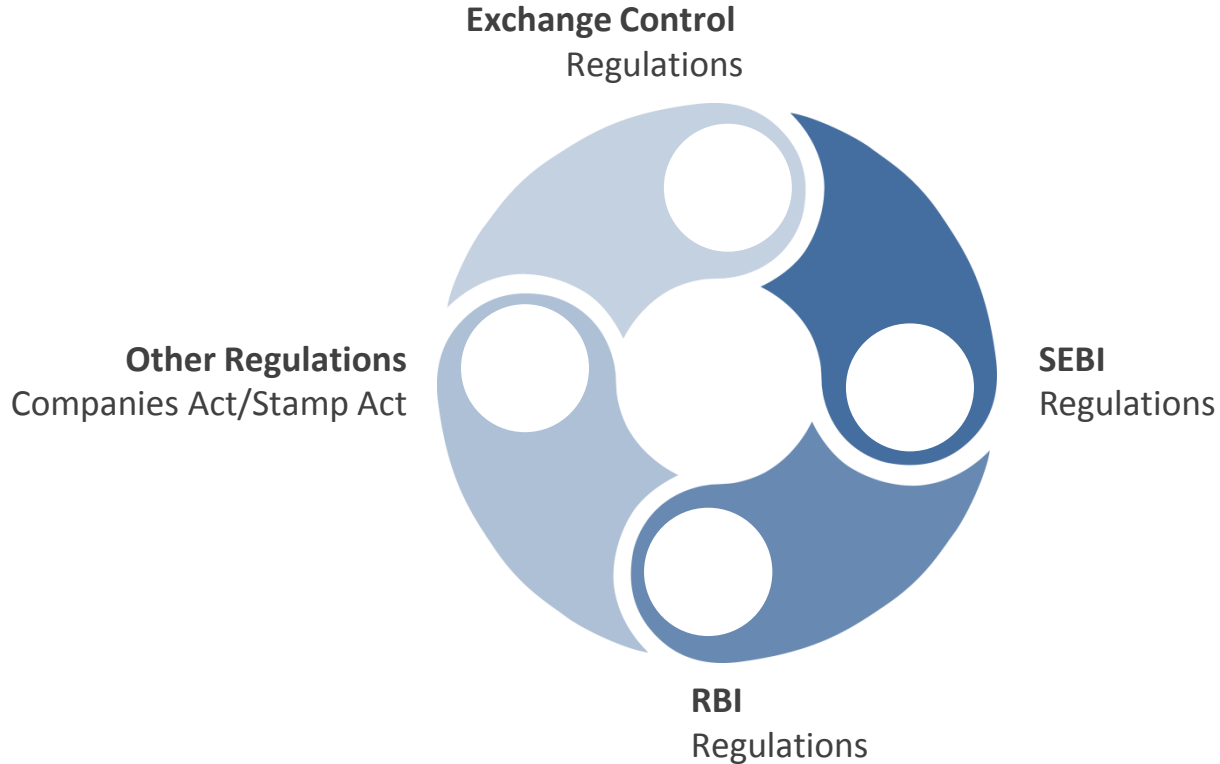
Negotiate and
Closure



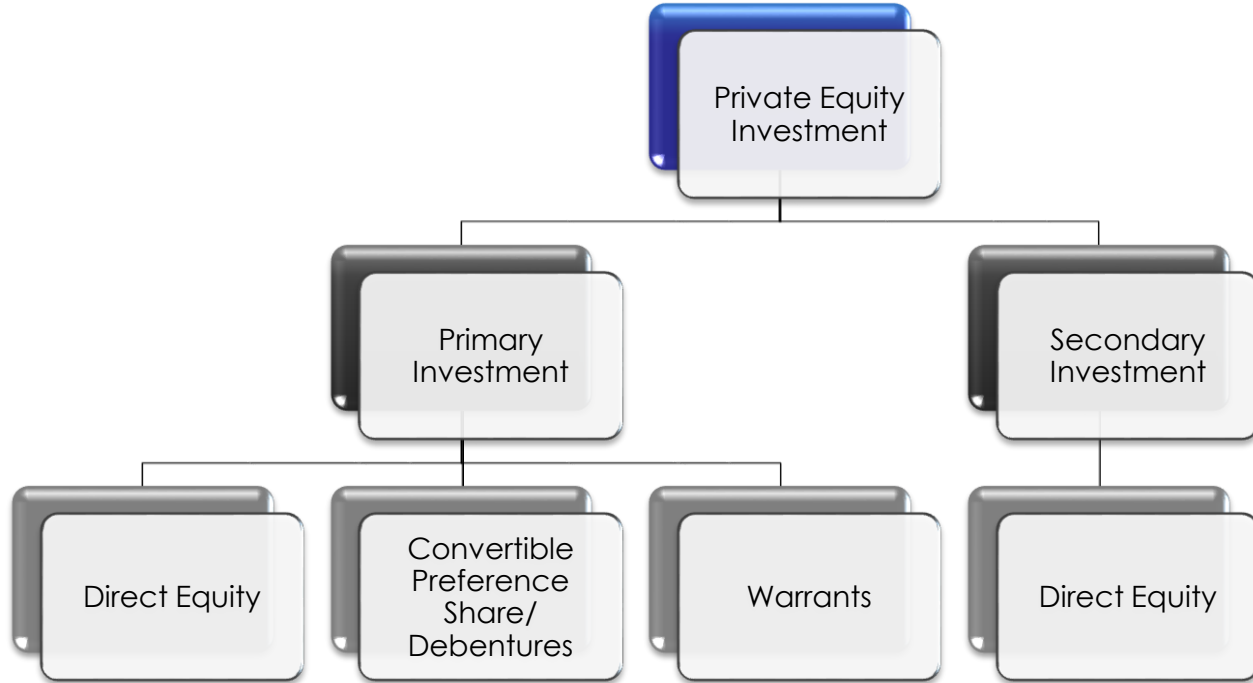
PE Investment process and estimated Time Period



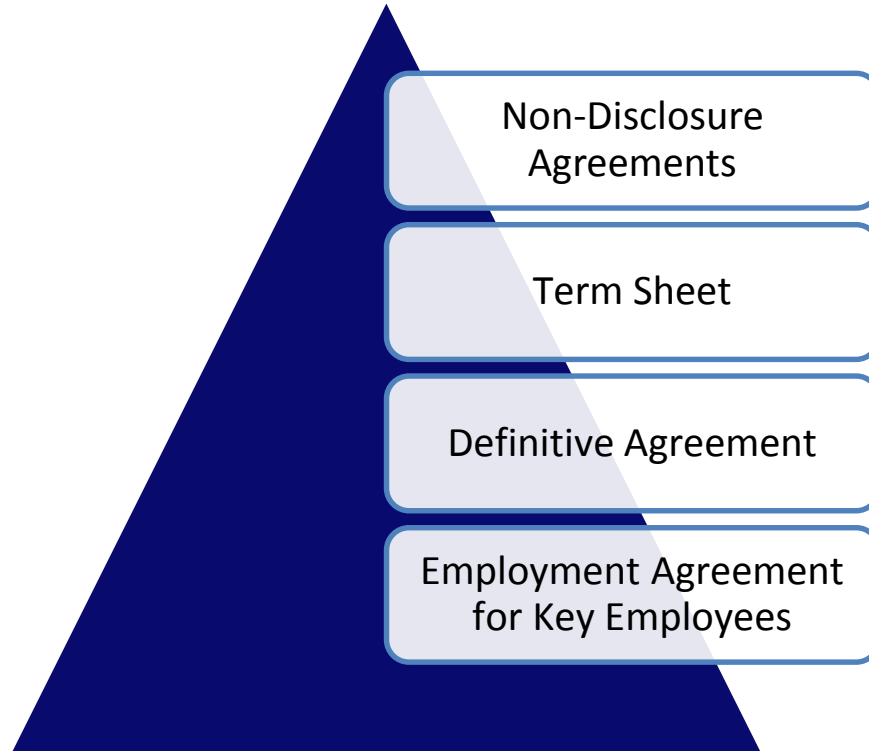
Regulatory Framework



Instruments



Definitive Agreements



Definitive Agreements: Cont...

Confidentiality/ Non-Disclosure Agreement

- Covers technical, financial, legal as well as other information disclosed to the other party.
- Duration of confidentiality obligations

Definitive Agreements: Cont...

Term Sheet

- Background of the Company, Investors and Proposed Transaction ☐
- Cost of Project, Business Plan, Current Share Holding Pattern ☐
- Valuation of the Company and the shareholding required ☐
- Condition Precedent ☐
- Principal Covenants
- Anticipated level of management participation by the investor
- Utilization of Fund & Fresh issue of Capital
 - Anti Dilution Rights
 - No Pledging Investor's Share
 - Tag Along & Drag Along Rights
 - Right of First Refusal
 - Liquidity Preference ☐
- Proposed exit routes for investors

Due Diligence



Financial



Legal



Business

Due Diligence: Cont...

Legal due-diligence includes the following:

- Corporate
- Permits and consents
- Contracts and Agreements
- Insurance
- Legal Proceedings/Litigations
- Property
- Employment
- Intellectual Property
- Environment safety public health

Definitive Agreements: Cont...

Shareholder's and Share Subscription Agreement

A Shareholders' Agreement is a contract between the company's initial shareholders that goes beyond the matters addressed in the company's Articles and sets out their agreement on other issues that have the potential of leading to conflicts down the road. Some matters that are often addressed in Shareholders' Agreements include:

- Term, structure, Issue & Subscription
- Management and Quorum Rights at Board meetings as well as Shareholder's meeting
- Business plan and utilization of funds
- Information rights
- Representation and warranties
- Deadlocks and its mechanisms
- Transfer of shares and its restrictions
- Call options
- Right of first refusal
- Drag along/tag along
- Non-compete and confidential
- Dispute resolution mechanism
- Exit Mechanism

Definitive Agreements: Cont...

Employment Agreement for Key Employees

This agreement is recommended to govern the relation between the entity and the employees who are important and involved in core operation of the entity. Some of the clauses which are included in this agreement are as follows:

- Duties and Responsibilities
- Compensation, benefits and reimbursement policy
- Termination and its effects
- Dispute Resolution Mechanism

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Legal Contracts

Legal Contracts

Importance of Legal Contracts

- To provide a record of what was agreed
- To create “rights” of each party that are enforceable in law

Legal Contracts: Cont...



Legal Contracts : Cont...

Non-Disclosure Agreement

This agreement is drafted to ensure that the confidential information of the entity are not misused and handled with due care. This agreement comprises the following clauses:

- Definition of Confidential Information
- Obligations of the Parties
- Restrictive use of the information
- Adherence to a standard of care relating to confidential information
- Duration of the obligations
- Cases of exemption
- Effect of termination
- Dispute Resolution

Legal Contracts: Cont...

Employment Contracts

This agreement outline terms and conditions of employment of the concerned employee and his key performance areas. Some of the clauses included in this agreement are:

- Obligations of the employee
- Commercial terms – remuneration and bonus
- Confidentiality and non-disclosure
- Non-compete and Exclusivity
- Non-competency and non-solicitation
- Intellectual Property Rights
- Termination
- Dispute resolution mechanism

Legal Contracts: Cont...

Intellectual Property Assignment Agreement

IP Rights protect several aspects of a business and each type of IP Right carries its own advantages. The scope of IP Rights is very wide, but the prime areas of intellectual property which are of utmost importance for any startup venture are as follows:

- Copyrights
- Trade Mark
- Patents
- Industrial Designs

Some important clauses which must be included in the agreement are:

- Scope, coverage and ownership of Intellectual Properties
- Terms to use of Intellectual Properties
- Obligations
- Effect of termination

Legal Contracts: Cont...

HR Policy / Employee Handbook

This document is recommended to govern the employees of the entity and shall be drafted in accordance of national and state laws. Some of the provisions which is mandatory to be included are as follows:

- Employee benefits and compensation policies
- Leave policies
- Code of conduct
- Anti-discrimination and sexual harassment policies
- Immigration law policy
- Complaint policies and methods to resolve internal disputes

Legal Contracts : Cont...

Contracts with vendors / consultants

This agreement governs the relationship of the entity with its vendors from whom the entity takes certain services. Some examples of such agreements are:

- Service Agreements
- Advertisement Agreements
- Marketing Agreements
- Supply Agreements

Some of the important clauses of such agreements are as follows:-

- Obligation and rights of the parties
- Commercial terms
- Indemnification
- Confidentiality and non-disclosure
- Intellectual Property Rights
- Exclusivity, Non-competent and non-solicitation
- Termination and Dispute Resolution

Legal Contracts: Cont...

ESOPs

Employees Stock Option Plans are designed to give stock in the entity. It is an incentive to retain or recruit top performers in the entity. Some of the clauses included in ESOP are as follows:

- The number of shares and its exercise price
- The expiry date
- The vesting schedule and start date
- The procedures the employee must follow in order to exercise the options
- Effect of resignation or termination of such employees on the stock

Legal Contracts: Cont...

Terms of Use and Privacy Policy

The Terms of use and privacy policy is recommended for the entities who are involved into E-Commerce or online service providers. Following are some of the clauses which are recommended to be included:

- Account registration and password security
- Provision of services
- Commercials and Payment Methods
- Manner of use
- Intellectual property rights
- Third Party links and software
- Privacy – manner of use of the personal information of end-user
- Confidentiality, Indemnification and Limitation of Liabilities
- Dispute Resolution Mechanism
- Details of Grievance Officer

Case study: Uber Case

- In December 2014, a driver of Uber cab, misbehaved with his passenger in Delhi, for which she filed a complain not only against the driver, but also, against Uber.
- The matter went to trial court and the driver was convicted, however Uber could not be held liable.
- Uber could not be held liable because of its “Terms of Use” drafted where Uber had indemnified itself from all liabilities of third party transaction, relationship or behavior.

Thank You!

Q&A

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