

Article

Four Key Factors To Consider When Choosing An Investment Banker To Sell Your Business

You're considering selling all or significant chunk of your company. You want to get maximum value for your business, so you think it's prudent to consider engaging an investment banker to shop for the best deal. As a corporate/securities attorney who's closed dozens of merger, acquisition and investment transactions, my experience is that a good investment banker is well worth the fee you will pay. Investment bankers are often able to substantially increase the value a seller will receive, and investment bankers also have the experience and problem solving abilities to help business owners work through sticky business issues that can derail deals.

The following are the four factors I typically see sellers consider when choosing an investment banker:

1. **Industry Experience.** The value of two similarly sized businesses in different industries may vary dramatically. One business might be in a "hot" industry, while the other might be in a less exciting market. Because the value buyers pay will be based in large part on pricing information from other deals in your industry, your investment banker should have recent, relevant experience in your industry that will give them a good sense of what your business is worth. Good investment bankers will also seek to set your price expectations long before they ever go to market.

Additionally, more industry experience means more industry contacts, and more industry contacts means access to a greater pool of qualified investors and buyers. The practice of mass mailing briefing books to a bunch of uninterested investors isn't the proper way to run a sale process. Buyers will be more interested in your deal if they know that it isn't being shopped around the planet. If your investment banker has good industry contacts, the banker will know who will be interested in your company, and this will ultimately increase your chances of getting a deal done at a higher value.

Finally, industry experience enables an investment banker to be a better advocate for your business. The more the banker knows about your particular industry, the better the banker is able to positively differentiate your company from others in your industry. Also, if buyers know that your investment banker has substantial industry expertise, your investment banker will have more credibility when the banker pushes for a higher price.

2. **Size of Transaction.** Put bluntly, the size of your transaction will dictate the size of the fee to the investment banker, and the size of the fee to the investment banker will dictate who at the investment banking firm works on your deal. If your deal is large enough, you will likely need the reach and power a "bulge bracket", or mega investment banking firm, offers. If your deal is not big enough to warrant sufficient attention from senior talent at a large investment banking firm, you may be better served by a smaller national or regional investment banking firm or a boutique investment banking firm with special expertise in your industry.

If you are uncertain about the size of the investment banking firm you should engage, then talk to a bulge bracket firm, a smaller national or regional firm and a boutique firm. Those discussions should give you a good feel for the direction to take.

3. **Team.** Because the sale transaction is likely the most important event in your company's history, you will need to choose an investment banking firm that has the best team for your deal. You want to know which bankers will be working on your deal, and you want a commitment that the senior banker who sold you on the engagement won't disappear after the engagement letter is signed. Additionally, chemistry is key, since you are going to be spending a significant amount of time with your banker and discussing deep, strategic issues that affect your company, its employees and your future. If you don't have good chemistry with your bankers, you won't be able to trust them, no matter how many skins they have on the wall.

Finally, whether your bankers have the available time to work on your deal is a key factor. After price, speed to closing will normally be the next most important factor for sellers. In a sale transaction, time does not usually work in favor of the seller. The more time it takes to close your deal, the more time there is for bad things to happen to your business or the credit markets. The risk increases of premature disclosure of the deal to employees, vendors and customers. Therefore, you should engage a team that is fully available to get your deal closed quickly.

4. **Fee Structure.** The typical components of an investment banker's fee are an upfront retainer and a closing success fee. Some engagements, such as those involving troubled companies, may involve a monthly retainer payment that is credited against the closing success fee. Obviously, you want to keep the retainer as low as possible to give the investment banker maximum incentive to close the deal and get the success fee.

The closing success fee is normally based on a percentage of the "enterprise value" of the business that is being sold. Words matter - it's important to have your attorney review the investment banking firm's engagement letter to determine whether you agree with the calculation of the enterprise value because small differences in the words used can significantly affect the size of the success fee you pay.

The success fee can be a flat percentage, or it can be a percentage that stair steps, or increases in increments, as the sale price obtained by the investment banker increases. This so-called "Lehman formula" sliding scale offers a strong incentive to the banker to obtain a higher value for your business. Investment bankers will often ask for a minimum success fee. While you can try to negotiate a fee cap that limits the success fee the banker receives, I'm not a big fan of this approach since it reduces the investment banker's economic incentive to get the highest value possible for your business.

Once you've assessed these four factors, it's a good idea to discuss your choice with your CPA and your attorney. When it comes to this most important of engagements, it pays dividends to get the counsel of your most trusted business advisors.

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