**Overview of signing and completion**

This section provides an overview of signing and completion of a corporate transaction

**Introduction to signing and completion**

Once the transactional documents have been negotiated and finalised, then the next step is for the parties to **sign and date** the acquisition agreement (and usually the disclosure letter). This is the point at which the parties formally agree to enter into the transaction through the method of signing. At signing the parties are **legally bound** to proceed with the deal.

The transaction is then concluded by a process called **completion**.

This process usually takes place at a formal meeting attended by all the parties and their legal advisors (either in person or remotely).

Signing and completion is often carried out at the same time, although sometimes a delay between the two stages may be necessary for legal or practical reasons. This is referred to as a ‘**split’ signing and completion.**

**Completion formalities**

Completion is when all the necessary formalities to close the transaction take place, these are listed in the main body of the acquisition agreement and usually include some or all of the following (referred to as deliverables) plus anything else necessary to close the transaction:

* seller(s) signing the stock transfer form(s)
* signing of any other agreed documents e.g. waivers/consents from landlords/customers/suppliers
* delivery to buyer of company statutory books (share sale), title deeds to any properties
* completion board meetings of e.g. target/seller/buyer etc.
* resignations of current directors and auditors (if required)
* buyer paying the purchase price

You will see from the above and from precedent acquisition agreements you review that the need for consents/waivers does not necessarily mean there is a requirement for a split between signing and completion. We will consider when and why a split would be required later in this element.

**Advantages of a simultaneous signing and completion**

# A simultaneous signing and completion provides certainty and eliminates the risk of an adverse event occurring between signing and completion.

# The drafting of the acquisition agreement will be relatively straightforward as there is no need for the parties to agree and document the allocation of risk in the period between signing and completion.

However, it may not always be possible for signing and completion to take place at the same time. For example, completion may be **conditional upon certain conditions being satisfied such as regulatory consents**. In these circumstances, the parties have two options, which we will now examine.

**The parties’ options when completion is subject to conditions**

The parties can **delay** signing until all the completion conditions have been met. This means signing and completion can take place simultaneously. It also reduces the need for the parties to agree and document what will happen in the intervening period.

However, this can also lead to **uncertainty** as the parties are not committed to proceeding with the transaction until all the requirements have been met.

The parties may decide to proceed to signing and to document the requirements for completion as **conditions precedent** to completion in the acquisition agreement. Both parties are then committed to proceeding with the transaction if the conditions precedent are fulfilled. Although this means that the parties can be certain completion will occur on satisfaction of the conditions, it also means the parties will have to reach an agreement on a number of complex issues such as:

* How the business will be managed in the intervening period; and
* What will happen if the conditions are not satisfied within the time limits.

You will consider these issues in the next element.

**Circumstances when split signing and completion is necessary**

As we have seen a split between signing and completion brings complexity and risk for both parties and so is only used when necessary. The transaction is more likely to proceed with a split between exchange and completion in the following circumstances:

* third party consent is fundamental to completion of the transaction (e.g. tax clearance, merger clearance, shareholder consent for reverse takeovers etc.)
* consent is required from a third party (e.g. regulator/CMA/shareholder) but it cannot be requested or obtained until there is a contractual commitment in place to buy/sell, usually due to confidentiality
* when the risks of one party walking away from the deal outweigh the complexity, uncertainty and risks associated with having a gap between signing and completion

In most transactions the above issues will be highlighted during the due diligence process and so the parties can begin to explore whether it is most appropriate for signing and completion to take place simultaneously or be split at an early stage.

**Summary**

* There are two stages to concluding a share purchase which are signing and completion.
* The key point about signing is that the documentation is signed and dated and both parties are legally bound to proceed with the deal provided that the conditions for completion are fulfilled. Completion is when the buyer pays the purchase price and the transaction is concluded.
* Ideally both signing and completion happen at the same time so there is no need to agree or implement separate signing and completion procedures.
* There are occasions, however, when completion is delayed, for example, because third party/regulatory or shareholder approval may be required.  In these circumstances, the parties may decide to progress with signing and then have a ‘gap’. Completion will only take place if and when the condition(s) is/are satisfied.