CHAPTER-IV
CORPORATE RESTRUCTURINGS: A PROCESS PERSPECTIVE

4.1 INTRODUCTION:
Restructuring of business is an integral part of the new economic paradigm. As controls and restrictions give way to competition and free trade, restructuring and reorganization become essential. Restructuring usually involves major organizational change such as shift in corporate strategies to meet increased competition or changed market conditions. This activity can take place internally in the form of new investments in plant and machinery, research and development at product and process levels, hiving-off of non-core activities, divestitures, sell-offs, de-mergers, etc. it can also take place externally through mergers and acquisitions by which company may acquire another company or by forming joint ventures with other company.1

4.1.1 Corporate Restructuring:
The term “corporate restructuring” usually refers to asset sell-offs such as divestitures. Companies that have acquired other company or have developed other divisions through activities such as product extensions may decide that these divisions no longer fit into the company’s plans. The desire to sell parts of a company may come from poor performance of a division, financial exigency, or a change in the strategic orientation of the company.

For example, the company may decide to refocus on its core business and sell off non-core subsidiaries. This type of activity increased after the end of the third merger wave as many companies that engaged in diverse acquisition campaigns to build conglomerates began to question the advisability of these combinations. These are several forms of corporate sell-

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offs, with divestitures being only one kind. Spin and equity carve-outs are other ways that sell-offs can be accomplished.\(^2\)

### 4.1.2 Forms of Corporate Restructuring:

The process of economic liberalisation and globalisation that swept the Indian economy in 1990’s created a highly competitive business environment forcing companies to restructure their operations. This restructuring process has resulted in rise in strategies like mergers, acquisitions, takeover, collaborations, consolidation, diversification, etc.\(^3\) Domestic companies have taken steps to consolidate their position to face increasing competitive pressures and MNCs (Multi National Companies) have taken this opportunity to enter Indian corporate sector. The different forms of corporate restructuring are\(^4\):

1. **Expansion:**
   - Amalgamation,
   - Absorption,
   - Tender offer,
   - Asset Acquisition,
   - Joint Venture.

2. **Contraction:**
   - De-mergers: (a) Spin-off, (b) Equity carved out, (c) Split off,
     (d) Split up, (e) Divestitures.

3. **Corporate Controls:**
   - Going Private,
   - Equity buyback,
   - Anti takeover defences,
   - Leveraged buyouts.

The brief explanation of the above mentioned forms of corporate restriction are as follows:

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\(^3\) Supra Note 1, P. 6.

\(^4\) Supra Note 1, PP.7-9.
1. Expansion:

- **Amalgamation:** This involves fusion of one or more companies where the companies lose their individual identity and a new company comes into existence to take over the business of companies being liquidated. The merger of Brooke Bond India Limited and Lipton India Limited resulted in formation of a new company Brooke Bond Lipton India Limited.

- **Absorption:** This involves fusion of a small company with a large company where the smaller company ceases to exist after the merger. The merger of Tata Oil Mills Company Ltd. (TOMCO) with Hindustan Lever Ltd. (HLL) is an example of absorption.

- **Tender Offer:** This involves making a public offer for acquiring the shares of a target company with a view to acquire management control in that company. Takeover by Tata Tea of Consolidated Coffee Ltd. (CCL) is an example of tender offer where more than 50% of shareholders of CCL sold their holdings to Tata Tea at the offered price which was more than the investment price.

- **Asset Acquisition:** This involves buying assets of another company. The assets may be tangible assets like manufacturing units or intangible like brands. Hindustan Lever Ltd. (HLL) buying brand of Lakme Lever Ltd. is an example of asset acquisition.

- **Joint Venture:** This involves two companies coming together and forming a new company whose ownership is changed. Generally, this strategy is adopted by MNCs to enter into a foreign market. DCM group and DAEWOO MOTORS entered into a joint venture to form DCM DAEWOO LTD. to manufacture automobiles in India.
2. Contraction:

- **De-Merger**: De-merger means split or division of a company. Such divisions may take place for various reasons internal or external. Internal factors generally consist of split in the family rather than lack of competence on the part of management. For example, DCM Ltd. was divided into four separate companies which are being managed by different family members of Late Shriram. There are generally the following types of de-mergers.

  (a) **Spin-off**: This type of demerger involves division of company into wholly owned subsidiary of parent company by distribution of all its shares of subsidiary company on pro-rata basis. By this way, both the companies, i.e. holding as well as subsidiary company exist and carry on business. For example, Kotak Mahindra Finance Ltd. formed a subsidiary called Kotak Mahindra Capital Corporation, by spinning off its investment banking division.

  (b) **Split-Ups**: This type of demerger involves the division of the parent company into two or more separate companies where parent company ceases to exist after the demerger.

  (c) **Equity Carve Outs**: This is similar to spin-offs, except that some part of shareholdings of this subsidiary company is offered to public through a public issue and the parent company continues to enjoy control over the subsidiary company by holding controlling interest in it.

  (d) **Divestitures**: These are sale of segment of a company for cash or for securities to an outside party.

  (e) **Asset Sale**: This involve sale of tangible or intangible assets of a company to generate cash.
3. Corporate Controls:

- **Going Private**: This involves converting a listed company into a private company by buying back all the outstanding shares from the markets.

- **Equity Buyback**: This involves the company buying its own shares back from the market. This results in a reduction in the equity capital of the company. This strengthens the promoter’s position by increasing his stake in the equity of the company.

- **Anti-Takeover Defences**: With a high level of hostile takeover activity in recent years, takeover defences, both premature and reactive, have been resorted to by the companies.

- **Leveraged Buyouts**: This involves raising capital from the market or institutions by the management to acquire a company on the strength of its assets.

4.1.3 Divestiture and Spin-Off Process:

Each divestiture is unique and takes place in a different sequence of events. A generalized six steps process is briefly described as under:

**Step 1: Divestiture or Spin-off Decision:**

The management of the parent company must decide whether a divestiture is the appropriate course of action. This decision can be made only after a thorough financial analysis of the various alternatives has been completed.\(^5\)

**Step 2: Formulation of a Restructuring Plan:**

A restructuring or reorganization plan must be formulated, and an agreement between the parent and the subsidiary may be negotiated. This plan is necessary in the case of a spin-off that will feature a continuing relationship between the parent and the subsidiary. The plan should cover such details as the disposition of the subsidiary’s assets and liabilities. The plan should include details such as the formation of a divestiture team including members of

\(^5\) Supra Note 2, P. 402.
management from a cross-section of corporate functions including human resources, legal, accounting, and finance.\(^6\)

**Step 3: Selling the Business:**

In the case of divestiture a buyer must be found. This is often done using the services of an investment banker, which may facilitate the process. The seller and its banker will identify possible buyers and market the company to them. They will usually prepare a confidential memorandum featuring a large amount of relevant information buyers would be interested in. Once interest is received, a negotiating process may ensue. In the case where multiple offers are received, the most advantageous one will be selected.\(^7\)

**Step 4: Approval of the Plan by Shareholders:**

The extent to which approval of the plan is necessary depends on the significance of the transaction and the relevant state laws. In cases such as a spin-off of a major division of the parent company, stockholder approval may be required. If so, the plan is submitted to the stockholders at a stockholders’ meeting, which may be the normally scheduled shareholders’ meeting, or a special meeting called to consider only this issue. A proxy statement requesting approval of the spin-off is also sent to stockholders. The materials submitted to stockholders may address other issues related to the meeting, such as the amendment of the article of incorporation.

**Step 5: Registration of Shares:**

If the transaction requires the issuance of shares, then this stock must be registered with the Securities and Exchange Commission (SEC). As part of the normal registration process, a prospectus, which is part of the registration statement, must be produced. The prospectus must be distributed to all shareholders who receive stock in the spun-off entity.

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\(^7\) Supra Note 2, P. 403.
Step 6: Completion of the Deal:

After these preliminary steps have been taken, the deal must be consummated. Consideration is exchanged, and the division is separated from the parent company according to a prearranged timetable.8

4.2 PRIOR ACQUISITION RESEARCH9:

Most of corporate acquisition has employed a rational choice perspective. Such perspectives have had two emphases:

(a) A narrow focus on strategic fit and

(b) An expanded focus that includes both strategic and organizational fit.

Corporate acquisitions concerning strategic fit has emphasized strategic analysis and negotiation during the pre-acquisition period, focusing on the analysis of strategic fit between suitor and target companies in the light of general industry, market, or technology related issues.

While, most corporate acquisitions asserting the importance of strategic or organizational fit, involves key people in the process, or not hurting people. Focusing on successful and unsuccessful practices, these prescriptive approaches are a source of interesting research ideas. The literature may be summarized under the following four heads10. (a) Pre-acquisition analysis of Strategic fit. (b) Pre-acquisition analysis of Organizational fit.

Strategic fit is defined as the degree to which the target company augments or complements the parent’s strategy and thus makes identifiable contributions to the financial and non-financial goals of the parent. Past research has generally assumed that the acquiring company has a clear, well developed corporate strategy and argues that market, industry, customer, product, and financial analysis can provide definitive guidance for acquisition decision makers. Successful acquiring companies are frequently cited for their superior analysis of fundamental strategic and economic factors relating to the

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8 Ibid.
10 www.istor.org (visited on April 5, 2012),
strategic fit of target companies, including how the distinctive competencies of the target could be combined with those of the suitor to create additional value\textsuperscript{11}.

Organizational fit is defined as the match between administrative practices, cultural practices, and personnel characteristics of the target and parent companies and may directly affect how the companies can be integrated with respect to day to day operations once an acquisition has been made. In contrast to the emphasis typically placed on strategic fit, most acquisition guidelines overlook the feasibility and costs of actually integrating the potential target based on organizational fit\textsuperscript{12}.

4.3 IMPEDIMENTS TO SUCCESSFUL INTEGRATION:

There are four key impediments that reflect the important role of the acquisition process in determining overall acquisition success and failure:

(a) Activity segmentation,
(b) Escalating momentum,
(c) Expectation ambiguity, and
(d) Management system misapplication.

4.3.1 Activity Segmentation:

This segmentation produces conceptually and operationally different analysis and a disproportionate attention to strategic fit over organizational fit, thereby decreasing the possibility of successfully combining the businesses. A generalist’s perspective often is presumed to pervade the acquisition process. After all, acquisitions are usually strategic in nature and strategy is the stuff of generalists. From the perspective of the involved parties, activity segmentation may seem essential. Segmentation of these disparate tasks, although necessary, may increase the influence of outsiders on the company’s strategic direction, outsiders with little interest in bringing about the actual integration of the two businesses. The analyses of different groups of experts may be difficult to

\textsuperscript{11} Supra Note 9.

integrate because of: (a) the sequential or temporal isolation of their analyses and (b) their use of fundamentally different perspectives.

The only participants with continuity across acquisition phases are typically the senior managers in the two companies; each of the other group’s moves in and out of the process as required.

For example, senior managers’ departmental and functional backgrounds may lead to re-defining problems to fit familiar types of analyses over un-familiar types.

This standardized analysis may provide internal consistency and save valuable setup time during the analytical process. But, their presence and use can tend to focus the basic analysis around a few dominant paradigms that restrict consideration of non-standard data that could materially affect the acquisition’s success. A related factor that is a likely contributor to the limited consideration of organizational fit is that such issues do not often lend themselves to standardization of analysis. For example, consulting companies and investment bankers cannot develop a model of organizational analysis for an acquisition candidate that can be applied from client to client as easily as they can develop a model for the financial valuation of the company in the securities market.

Finally, because acquisition related activities take place sequentially, it is likely that there is few communication channels between specialists involved in the acquisition during different time periods. Strategic fit issues receive more consideration not only because of such practical requirements, but also because of the greater availability of data and techniques to perform more sophisticated strategic analyses in a limited time. Strategic fit data usually are summarized in sales and market projections as well as a financial valuation of the target company based on capital market projections. The calculation of the target purchase price usually is a function of the present value of the target

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14 Ibid.
company’s cash flow plus a premium for synergy, or it is based on its current share price plus a percentage premium determined by the industry and company attractiveness\textsuperscript{15}.

In sum, the division of labour in the acquisition process is proposed to be an insidious contributor to the ultimate lack of success of the acquisition. The tasks in an acquisition need to be segmented because of their complexity and because companies lack the internal capability to perform the variety of analyses needed. But, task segmentation results in a lack of integration and a focus on strategic rather than organizational analyses. The synthesis that one might expect in the analyses (because acquisitions are usually strategic in nature) is rarely achieved in practice.\textsuperscript{16}

4.3.2 Escalating Momentum:

The escalating momentum of the acquisition process is dysfunctional when it forces premature closure. This is not suggesting that early conclusions cannot occasionally be quite functional and appropriate. However, premature closure can reduce the opportunity for more careful and dispassionate consideration of issues of both strategic and organizational fit. Premature closure results because the forces that stimulate the momentum of the process are greater than the forces that restrain the momentum, thus leading to a collective desire to complete the process more quickly. Several discernible characteristics are an integral part of this sense of escalating momentum:

(a) Participant commitment;
(b) Secrecy;
(c) Decision maker isolation
(d) Over confidence
(e) Decision making under conditions of ambiguity
(f) Self interest of the participants: and
(g) Resistance of the target company to the acquisition attempt.

\textsuperscript{16} Ibid.
4.3.3 Expectation Ambiguity:\(^{17}\):

The presence and use of ambiguity during the negotiating phase of an acquisition are often quite purposeful. But this same ambiguity, when carried to the integration phase, can be dysfunctional and reduce the chances for successful integration. Both the suitor and the target company enter into negotiations with certain expectations about the purpose of the acquisition, future performance levels, and the timing of particular actions. Because there is great potential for disagreement on these points between the two companies, ambiguity during the negotiation phase of the acquisition process serves both parties well. It provides manoeuvring room in negotiations, opportunities to save face in public announcements, and it helps both parties find a common denominator for agreement on seemingly intractable issues during the fast-paced process in which they are involved.

Once the managers begin to integrate the acquisition, the ambiguity so essential to successful negotiation ironically becomes a major source of difficulty and conflict. After the deal is closed, the parties must eventually clarify and make explicit those key parts of the agreement previously left ambiguous. When the parties’ interpretation of these points is significantly different, relationships established during the negotiation process, including fragile bonds of trust, may begin to unravel. As trust breaks down, both parent and subsidiary managers may overreact conjuring scenarios of rapacious acquirers or inept subsidiaries.

The reactions of parent and subsidiary managers often can result in a cycle of escalating conflict leading to further district and polarization of preconceived attitudes about the other party. For example, in order to regain a sense of control, parent company executives may impose rigorous or standardized performance expectations and milestones onto the new subsidiary. Such standards may be inappropriate for the special business requirements of

the subsidiary. Yet, when performance expectations are not met (often predictably), parent company managers may react as though their fears of weak or incompetent subsidiary management have been confirmed. In response, subsidiary managers may vigorously defend their autonomy against all parent company requests, fuelling the parent’s perceived need for increased control and intervention. As the cycle of escalating conflict continues, subsidiary managers may see this as confirmation of their worst fears of a malevolent takeover. Such acquisition behaviour is typical of decision making behaviour in ambiguous situations.\textsuperscript{18}

4.3.4 Management System Misapplication\textsuperscript{19}:

The parent’s desire to help the new subsidiary and their confidence about their own capabilities often lead to a misapplication of management systems which reduces the chances for the acquisition’s ultimate success as a subunit of the parent company. Most acquisitions have as their basis some degree of strategic vision whereby value will be created by combining two businesses. The acquiring company usually has an idea about how to integrate activities to utilize the strengths of both parent and subsidiary more fully. However, in part due to pressures to obtain quickly a return on acquisition premiums paid, the parent’s strengths are often applied in a heavy handed fashion, imposing the parents’ approaches and practices on the subsidiary. After the acquisition, fundamental competencies and capabilities of the subsidiary may be dismissed by parent company managers, even if these competencies and capabilities were what initially attracted the parent company to the target. This behaviour can be understood in terms of two related forces: defensiveness and arrogance. Both companies can exhibit a mixture of defensiveness and arrogance to the detriment of their cooperative relationship. These forces, in turn, can lead to the misapplication of parent company managerial systems. Both parent and subsidiary may exhibit a certain amount of defensiveness because they are unfamiliar with each other’s business, style,

\textsuperscript{18} Ibid.
\textsuperscript{19} http://www.jstor.org/stable/258337 (visited on June 22, 2012)
and procedures. This lack of knowledge can lead to frustration for both parties. Parent managers may want to help without knowing how. At the same time, the subsidiary managers may be afraid to admit what they do not know for fear of reprisal. This can lead to defensiveness on the part of the new subsidiary managers and a reduced chance that they will be candid with parent company managers. Parent defensiveness may result from an inability to help (because they do not know the business) and the subsidiary’s desire to show the parent about its business (without appearing to know it all or seeming to resist corporate control).

Parent company arrogance is another force leading to misapplication of management systems and can arise from three forms of organizational chauvinism:

1. Interpersonal arrogance,
2. Cultural arrogance, and
3. Managerial arrogance.

Interpersonal arrogance on the part of the parent involves an attitude (usually unfounded) that since we acquired you, we are smarter than you are. This comparative evaluation of competencies is often accompanied by a presumption (on the part of the parent company’s managers) that the parent company’s style, values, beliefs, and practices are superior to those of the subsidiary and thus should be imposed on it.

This also may take the form of a cultural arrogance, whereby key symbols in the subsidiary that provide continuity and meaning for the employees may be cast aside (e.g., flexible schedules, first class travel, role of the CEO) without an understanding of the detrimental effects of such capricious actions.

Managerial arrogance is indicated by a presumption that the administrative or operating systems of the parent are superior and thus should be uniformly adopted by the subsidiary.

Thus the tendency toward these different types of actions may represent an important dysfunctional predisposition of acquiring companies and their
employees, especially because the employees who impose the systems usually were not involved in the negotiations.

4.4 PROPOSITIONS CONCERNING IMPACT OF IMPEDIMENTS ON CORPORATE ACQUISITIONS:

(A) Activity Segmentation:
1. As activity segmentation increases, there is an increased relative focus on issues of strategic fit rather than organizational fit.
2. The more influence outside advisors have in the process, the less consideration will be given to issues of organizational fit.
3. Analysts examining organizational fit issues will have lower status and less influence than those examining strategic fit issues.
4. The more complex the acquisition, the more different groups of outside specialists will be involved in the analysis.

(B) Escalating Momentum:
1. Executive in the acquiring company have a desire, ceteris paribus, to complete the acquisition as quickly as possible.
2. The further the acquisition negotiation process has progressed; the more committed participants will be to closing the deal and the more optimistic participants will become of the ultimate success of the acquisition in their terms.
3. The more deeply individuals are involved in the negotiations, the more focused they will be on minutiae of the deal and the less they will be willing and able to focus on the process itself and post-acquisition integration as important concerns.
4. The momentum of the process will increase and changes for consideration of integration issues will decrease if, (a) Takeover attempt is resisted by the target company. The purchasing company will attempt to act quickly so as to prevent or pre-empt defensive measures form

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20 Supra Note 17.
from working. (b) The target is so attractive financially that the parent wants to get it before someone else does and is willing to incur substantial costs during the integration phase. (c) The CEO of the suitor has never made an acquisition before as CEO. (d) The parent is weak and these weaknesses require management attention, the process will be speeded up to let managers get back to their other duties.

5. The momentum of the process will be slowed and chances for consideration of integration issues will be greater if: (a) The board of directors has experience in the acquisition process and encourages careful deliberation about acquisitions (b) The top management team of the parent has a history of successful related acquisitions of the type being considered. (c) There is organisation slack in the parent. (d) There is broad debate in the board about strategic and operational fit.

6. The relative size of the suitor to the target company and the momentum of the process are related in a U-shaped function with very small and very large acquisition having the most momentum: the former because they are not very important to the buyer and management wants to get back to work; the latter because they are quite important and management wants to make sure no one else buys them first.

(C) Expectation Ambiguity:

1. Ambiguous agreements made during the negotiating phase are seen at the time as entirely functional and none threatening by both parties.

2. These ambiguous agreements made during the negotiation phase lead to a cycle of escalating conflict as the ambiguities are clarified after the acquisition.

(D) Management System Misapplication:

1. The more successful of the parent has been with its management systems, the more likely the parent is to impose these systems onto the subsidiary.
2. The more defensive the parent is about its inability to help the subsidiary, the more likely it is that standard practices will be imposed on the subsidiary.

3. The more defensive the subsidiary is about how it fits into the parent’s plans, the more likely it will be to attract the imposition of inappropriate practices or systems from the parent.

4. Parent management systems are more likely to be imposed on the subsidiary.

5. The greater the size disparity between the parent and subsidiary.

6. The more related the subsidiary and therefore the more presumptive the parent managers will be about how to run the business.

7. If the idea for the deal originated with the CEO or the corporate staff.

8. The less the parent needs to use the skills/resources of the target.

4.5 FORCES AFFECTING THE SPEED OF THE PROCESS OF CORPORATE ACQUISITION.

4.5.1 Secrecy as a Stimulating Force.

Secrecy is seen to be important and stimulates the momentum of the process for several reasons. Knowledge that an acquisition is pending creates fundamental uncertainties among the employees in both companies as well as uncertainties for key suppliers, customers, and competitors. After an acquisition intention is announced, “business as usual” virtually ceases and a period of upheaval may set in until certainty is re-established. Accordingly, there is a desire to consummate the deal before news is leaked that could cause organizational disruptions. Secondly, if the target company’s stock is publicly listed, insider trading for windfall profits can begin, driving up the stock price and making the target relatively more expensive. Hence there is a perceived need to keep the possibility of an acquisition secret until the last possible moment to avoid these dysfunctional consequences. In addition, there are legal

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restrictions on the interaction between management from the two companies to prevent them from gaining an unfair competitive advantage.22

4.5.2 Decision Maker Isolation as a Stimulating Force.

Isolation of the acquisition team and decision makers can also contribute to acquisition related momentum. Both a concern for secrecy and requirements for short term concentration of effort may lead key participants to become physically and/or cognitively isolated from other company activities and information during the negotiation period. As a result of uninterrupted decision maker attention to highly uncertain decision, the perceived importance of the acquisition may grow and, as personal tension mounts, a sense of momentum may set in. The tension that builds may not be released until the announcement of the acquisition.

4.5.3 Overconfidence as a Stimulating Force:

Over-confidence can speed up the process and reduce the consideration given to integration issues by causing managers to feel more in control of the situation because of prior experience or expertise. This overconfidence can manifest itself in several ways. For example, Duhaime and Schwenk23 suggest that the illusion of control24 may cause managers to evaluate acquisition candidates less thoroughly. Similarly, overconfidence in a company’s ability to enter a related business has caused managers to limit their consideration of management skills needed in the new business. Thus, overconfidence can lead to premature solutions and less consideration of integration issues by creating unwarranted feelings of control over and familiarity with the process.25

4.5.4 Target Resistance as a Stimulating Force.

A final factor that can stimulate momentum and increase the desire to complete the process quickly is resistance to the acquisition attempt by the

22 Ibid.
25 Ibid.
target company. Ironically, the net result of such resistance may be increased resolve on the part of the suitor company’s executives and a hostile takeover attempt. In addition to exhibiting escalating commitment, executives may see target resistance as a direct challenge, or an affront to their company’s image, and feel compelled to respond. Finally, once a target company resists an acquisition attempt, further pursuit activities do change in nature, and typically they require speed to counter quickly the forms of resistance that the target puts in place as well as competitive bids from other companies for the same target.\textsuperscript{26}

4.5.5 Board Approval as Restraining Force.

Under law and most corporate by-laws, the board of directors must give ultimate approval to an acquisition. The extent to which the board approval process slows an acquisition’s momentum may depend on the board’s experience with acquisitions, the diversity of the directors as a group and the depth of their understanding of the corporate strategy. If members of the board have little personal experience with acquisitions, board deliberations may focus on the review of financial or market information made available by the company’s management or investment bankers instead of encouraging management to initiate operational analysis also important to predicting post acquisition success. In addition, if the board has advocated acquisitions as a way to reshape corporate strategy, its members may tend to focus on results (i.e. was a deal made or not) and avoid process issues, perhaps presuming that opportunities have been adequately evaluated by management.\textsuperscript{27}

4.5.6 Regulatory Obstacles as a Restraining Force.

Other restraints on momentum are limited opportunities for organizational learning over time and deference given to expert advisors who are more likely to speed up the acquisition process. Most companies do not make acquisitions in a serial fashion with several acquisitions coming close together. However, if a company has had prior experience in successfully

\textsuperscript{27}Supra Note 24.
integrating acquisitions, this experience may tend to decrease momentum. Shortly, the acquisition process takes on a life of its own that becomes difficult to stop, and once begun, there are few restraints on this escalating momentum. This increasing momentum can lead to overconfidence and a desire to complete the process at all costs both of which are dysfunctional in terms of successfully integrating the acquired company.  

5.6 CONCLUSION:

An acquisition may be defined as an act of acquiring effective control over by one company over assets or management of other company without any combination of companies. In corporate acquisition, when a company is acquired by another company, the acquiring company has two options: the first is to merge both the companies into one and operate as single entity and the second is to operate the taken over company as an independent company, probably with changed management and changed policies. The fundamental argument is that corporate acquisition is a process having distinctive characteristics that may affect important organizational activities and outcomes.

Corporate restructuring is often warranted when the current structure of the corporation is not yielding values that are consistent with market or management’s expectations. It may occur when a given part of a company no longer fits into management’s plan. Other restructuring may be necessary when a prior acquisition has not performed up to management’s expectations. The decision to sell may be difficult because it requires management to admit that the company made a mistake when it acquired the asset that is being sold. Once the decision to sell has been made, management must decide how the sale will be made. Managers may consider several of different options, such as a straightforward sale, or divestiture, or the sale of an equity interest in a subsidiary to outsiders, which is an equity carve-out. In both cases, a separate legal entity is created and the divested entity is run by a new management team.

28 Supra Note 24.
as a stand-alone company. An alternative that also results in the creation of a separate legal entity is a spin-off. In a spin-off, shares are issued on a pro rata basis and distributed to the parent company’s shareholders, also on the basis of pro rata basis. When the transaction is structured so that shares in the original company are exchanged for shares in the parent company, the deal is called a spin-off. A split-up occurs when the entire company is broken up and shareholders exchange their shares in the parent company according to a predetermined formula.

Thus, Corporate Acquisitions are strategic, complex, occur sporadically (for most companies), and affect varied stakeholder groups and multiple actors whose involvement is temporally and functionally divided. These factors, in combination, result in corporate acquisitions process that is both discontinuous and fractionated. The discontinuity and fractionation of the process reinforce the impact of the four impediments. The impediments occur at different stages of the acquisition process. Because different groups are involved at different stages of the process and because all groups are not affected by the impediments, it is difficult to recognize the process as a source of the problem. Also, acquisitions are typically viewed substantively in strategic or, more recently, in organizational terms. It is proposed that attention be directed to a previously overlooked and potentially critical determinant of acquisition outcomes the acquisition process itself. The acquisition process presents managers and scholars with a series of impediments that may fundamentally affect their ability to understand how to achieve desired benefits from their acquisition strategies. In addition, many of these impediments may be inherent in the process itself and therefore not amenable to direct managerial control. Thus, corporate acquisition, corporate restructuring and integration impediment made an attention to the acquisition process as a factor in acquisition success and failure.

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