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CFO Seminar

14 November 2018

Welcome

Michael McAteer
Managing Partner
Grant Thornton

Michael Shelley
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Video case study

https://www.youtube.com/watch?v=x4B1bSrKjvc&feature=youtu.be

Michael Shelley
Partner
Grant Thornton

Relevance to Irish CFO's

- view from three clients in different industries;
- one client plans to increase spend 30-35% in 2019;
- other two clients plans to increase spend in excess 40% or more in 2019; and
- Why …. in order to remain competitive.

Agenda

Time	Topic	Speaker
8.30am	Mergers, restructuring the group	Kevin Foley, Jillian O'Sullivan & Katie Creelman
9.10am	Robotics & Automation	Ian Cahill
9.40am	GDPR / Cyber update	Mike Harris
10.10am	Coffee break	All
10.25am	International Tax update	Peter Vale
10.55am	People & Change consulting	Patrick Gallen
11.25am	Closing comments	Michael Shelley
11.35am	Post conference networking	

Group simplifications

Companies Act 2014 considerations
Accounting considerations
Tax considerations

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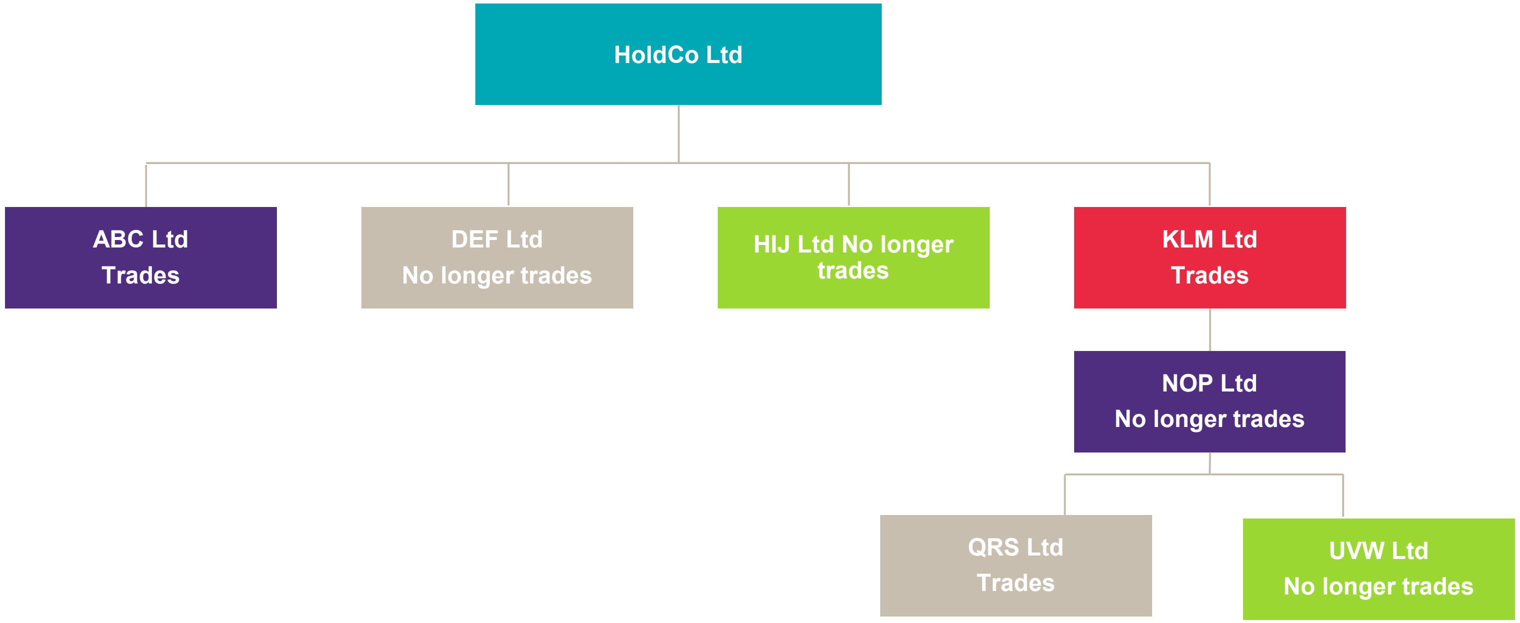
Domestic Mergers

- chapter 3 of Part 9 of the Companies Act 2014
- three different types of domestic merger

  – a merger by acquisition
  – a merger by formation; and
  – **a merger by absorption**

Current group structure

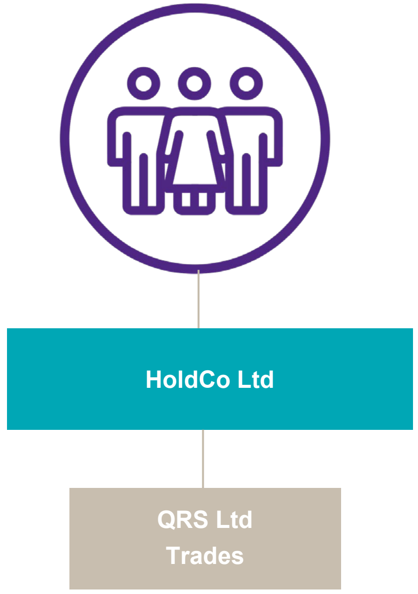
- companies added over years of trading/acquisitions;
- administrative costs
- historical tax reliefs may have been claimed
- assets/liabilities still sitting in non trading entitles
- balance sheets of non trading entities maybe technically insolvent – can't liquidate or strike off



Simplified structure

Or even one step further…..

…you could even get to just one company…



Types of companies that can merge for a Chapter 3 Merger

- none of the merging entities can be a PLC

- one of the merging entities must be a private limited company so:-
  - LTDs can merge with other LTDs
  - LTDs can merge with DACs
  - LTDs can merge with UCs
  - LTDs can merge with CLGs

Merger by Absorption Process

- A merger can be effected by:
  - the Summary Approval Procedure (SAP); or
  - applying to the High Court for an order

- principal document common to both:
  - Common Draft Terms of Merger (CDT)
  - Directors’ Explanatory Report (need for this can be waived in a merger by absorption)

Common draft terms of merger (CDT)

- CDT must be approved in writing by the directors of both merging entities and must include certain mandatory details including:
  - details of the transferor company;
  - details of the successor company;
  - the date the merger is to be effective as of (ie when the transactions of the transferor company are to be treated for accountancy purposes as being those of the successor company);
  - the rights to be conferred by the successor company on members of the transferor company;
  - information off the assets and liabilities of the transferor and successor companies; and
  - the date of the financial statements of the transferor company used for the purpose of preparing the CDT – made up to within 3 months of the approval.

Directors' Explanatory Report

voting members can waive the requirement for this in a merger by absorption

It must at a minimum explain:

- the CDT
- the legal and economic grounds for and implications of the proposed merger
- the organisation and management structures; and
- recent and future commercial activities and financial interests of the holders of shares and other securities.

Summary approval procedure – general steps Section 202

- board approve the CDT and this is left for inspection at registered office for at least 30 days;
- board minute to propose and approve merger is held after the 30 day period to recommend merger be approved by the members;
- directors declaration of solvency is made at the board meeting;
- unanimous resolution of the members approving the merger
- on passing of the unanimous resolution the merger is effective from the date specified in the CDT;
- form G1 for filing special resolution in CRO (14 days for filing)

SAP – Declaration of Solvency

- relates to the transferor company and the successor company
- review of balance sheets pre merger should be carried out by directors
- filing of declaration in CRO no later than 21 days after the merger has been effected
- CRO obliged to dissolve the transferor company on delivery of the declaration to the CRO - **TIMING IS CRUCIAL**

Liability of directors when making the declaration

both civil and/or criminal sanctions exist

- Civil
  - Directors may be personally liable where they make a declaration of solvency without having reasonable grounds for the opinion as the company's solvency
- Criminal
  - Category 2 offence (on summary conviction €5,000 fine or imprisonment for a term of up to 12 months / on indictment €50,000 fine or imprisonment for a term of up to 5 years or both)

Domestic merger effect

- all assets and liabilities transfer to successor – *by way of operation of law*
- the transferor companies are dissolved without need to go into liquidation
- all legal proceedings continue in the name of the successor company
- contracts, agreements and instruments continue in the name of the successor company; and
- all money due, owing or payable by the transferor company become obligations of the successor company.

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Merger accounting

Overview

Accounting requirements

- pre merger review of balance sheets;
- no fair value adjustment;
- results included from start of accounting period; prior period is restated; and
- difference between the nominal value of the shares issued plus the FV of any other consideration given, and the nominal value of the shares received in exchange recognised in reserves and via SOCIE.

Accounting disclosures

For each combination:

- names of combining entities;
- the fact that merger accounting has been adopted;
- date of combination; and
- accounting policy choice.

Example

	Company A (€m)	Company B (€m)
PPE	€6.2	€5.4
Tr debtors	€0.7	€3.2
Due from B	€0.5	-
Cash	€1.0	€1.1
Tr creditors	-€3.1	-€2.3
Due to A	-	-€0.5
	€5.3	**€6.9**
Share cap	€1.0	€0.7
Share prem	€1.2	€2.0
SH funds brought forward	€2.7	€2.8
Profit for 3 months to March X2	€0.4	€0.5
Cap redemp. reserve	-	€0.9
	€5.3	**€6.9**

- companies both have year ended 31 December 20X1. The date of merger is 31 March 20X2 for all examples.
- assume all shares have €1 nominal value – A has 1m shares issued and B has 700k issued.

Merger by absorption

- B is the wholly owned subsidiary of A;
- A absorbs B; and
- No shares issued as consideration as in other types of merger.

Merger by absorption

	Company A (€m)	Company B (€m)	Merger adjustment	Company AB (€m)
	At 31 March X2	**At 31 March X2**		**At 31 March X2**
PPE	€6.2	€5.4		€11.6
Tr debtors	€0.7	€3.2		€3.9
Due from B	€0.5	-	-€0.5	-
Cash	€1.0	€1.1		€2.1
Tr creditors	-€3.1	-€2.3		-€5.4
Due to A	-	-€0.5	€0.5	-
	€5.3	**€6.9**	**€0.0**	**€12.2**
Share cap	€1.0	€0.7	-€0.7	€1.0
Share prem	€1.2	€2.0	-€2.0	€1.2
SH funds brought forward	€2.7	€2.8		€5.5
Profit for 3 months to March X2	€0.4	€0.5		€0.9
Cap redemp. reserve	-	€0.9	-€0.9	-
Merger reserve			€3.6	€3.6
	€5.3	**€6.9**	**€0.0**	**€12.2**

Tax considerations

Overview

Tax Implications - Merger by Absorption

Tax Head	Charge
Capital Gains Tax	• Transfer of chargeable asset by transferor • Disposal of shares by successor - dissolution of transferor
Stamp Duty	• Asset transfer where instrument is executed in Ireland or relates to Irish property or to a matter or thing to be done in the State
Corporation Tax	• Cessation to trade in transferor – charge to corporation tax on transferor • Losses lost?
Capital Allowances	• Balancing allowances and charges triggered on the cessation to trade by transferor
VAT	• Transfer of a business/assets

Tax Reliefs- Merger by Absorption

<table>
<tr><th>Tax Head</th><th>Relief</th></tr>
<tr><td>Capital Gains Tax</td><td><u>Transferor Liability</u>
• No shares issued: Section 617 TCA – group relief
• Successor takes on the transferor’s base cost in the assets
• Section 623 TCA (clawback) – dis-applied where group relationship is broken where one of the companies is “dissolved”
<u>Successor Liability</u>
• Section 633D TCA – application of cross-border merger legislation – deems “no disposal” for successor on dissolution</td></tr>
<tr><td>Stamp Duty</td><td><u>Section 79 SDCA</u>
• To avoid clawback, for a period of 2 years post merger:
    • The assets must remain with the successor
    • The beneficial ownership of shares in successor remain unchanged</td></tr>
</table>

Tax Reliefs- Merger by Absorption

Tax Head	Relief

Corporation Tax	• Section 400 TCA claim– trading losses transfer where:
	  • Trading company ceases to carry on a trade
	  • After cessation another company carries on the trade
	  • To avail same persons must own at least 75% share in the trade at any time within 1 year before change and 2 years after change
	  • May be used by successor against profits of the **same** trade

Capital Allowances	• Section 400 TCA – assets transfer at TWDV; no allowance or charge triggered on transfer • Any balancing allowances or charges to be given or made on successor computed as if it had owned the asset since acquired by transferor
VAT	• Transfer of business relief where “an undertaking is capable of being operated on an independent basis”

Tax – Other considerations

- Stamp duty filing within 44 days of the merger; and
- Interest relief under Section 247 TCA
  - Provisions for certain intermediate holding companies which transfer all of their assets and liabilities to another holding company, and the transfer is made in the course of the first intermediate holding company being dissolved with or without going into liquidation.
  - Does not apply to investor or investee companies
  - Revenue pre-approval

Tax – Other considerations

- The successor steps into the shoes of the transferor
  - Filings and payments
  - Revenue enquiries and interventions
  - Record retention requirements
- The tax history effectively carries over to the successor although trade/assets and not shares in transferor are acquired

  Example: debts under Section 541 TCA
  - successor becomes original creditor; no gain arises on disposal
- Tax analysis - case by case basis

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General considerations

Overview

General Consideration / due diligence to be undertaken – not an exhaustive list

Issue to consider	
Accounts	✓
Competition approval	✓
Confidentiality – information filed in the CRO available publically	✓
Hello / goodbye to customers / new bank account and vat number notifications	✓
Business names / stationary / signage	✓
Employees / transfer of undertaking provisions / payroll	✓
Banking and other 3rd party consents	✓
Customer contracts	✓
Foreign property or assets	✓
Finance leases	✓
Intellectual property	✓

Questions?

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CFO Conference 2018

Robotic Process Automation

Ian Cahill

Head of IT Business Consulting

1. Demystifying Robotic Process Automation (RPA)
2. Harnessing the power of RPA
3. Use cases
4. Questions

Demystifying RPA

Demystifying RPA

"

RPA is **software** that **mimics** what a user does on their computer. It can be thought of as a **virtual worker**. But it is **quicker** and **cheaper**, it doesn't make mistakes and it doesn't take holidays.

It is part of the **Digital World**

"

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What is in a 'Digital' world?

The use of technology to:

- improve your operations
- change your operations
- change your business

Key Features of a Digital business

- automation
- self-service
- end-to-end digital processes
- focus on customer experience

"Digital business is the creation of new business designs by blurring the digital and physical worlds"

(Gartner: 2018)

What are others doing?

1. Digitisation

- technology to improve usability and efficiency
- e.g. scanning paper records into a searchable library
- Ensuring that your data within your business is ready and usable.

2. Business Functionality Optimisation

- technology to improve **a specific business function**
- e.g. deploy robotic process automation to reduce risk and increase efficiency and capacity
- e.g. implement data analytics to drive customer insights

3. Operating Model Change

- technology to change operations of **multiple functions**
- e.g. artificial intelligence to support dynamic pricing, risk assessment, customer service

4. Digital Business Transformation

- technology to enable new products, business models, revenue streams
- e.g. medical device manufacturer ➡ sensors ➡ data
- e.g. once off revenues ➡ monthly subscription revenues (business model transformation)

Harnessing the power of RPA

What is RPA and what is it used for?

- Computer Software
- Mimics the user
- Repeats tasks ad infinitum
- Operates 24 x 7 x 365
- Doesn't make mistakes
- Is affordable

- Automated data entry
- Multi-system integration **
- Repetitive tasks
- Process reconciliation
- Data validation/quality
- Processing simple business rules

“

I want my capacity to grow,
but increasing headcount is not an option

”

Business Functionality Optimisation through RPA

I want to take on more work but vast amount of hours are burned per week on tasks which are clearly rule-based and repetitive

- **Challenge:** Gathering, Correlating, Formatting, Manipulating, Reviewing and Processing data is time consuming and error prone
- **Potential Solution:**
  - Understand and clean your processes, make ‘clear’ decision points to minimise errors
  - Evaluate RPA as a solution (perform a POC)
  - Deploy Bots to do an increased amount of the simple / repetitive tasks
  - Utilise the hours of the day that are not being exploited (Bots work 24 x 7 x 365)
- **Benefits:** Removing repetitive tasks from your workforce means:
  - Enabling scalability, without new hires
  - Reclaiming ‘lost’ capacity
  - Redeploying experienced staff to higher value tasks
  - Improvement of quality

“Regulation is killing my business”

Business Functionality Optimisation through RPA

As regulatory landscapes change, so does the burden of providing enough resources to manage basic commitments, let alone facing the challenge of increasing resource demands.

- **Challenge:** Multiple people across different departments trying to identify, extract, review and flag potential Money Laundering activities. These activities are subject to human error or slipping through the cracks of data blindness.

- **Potential Solution**: Deploying a RPA / AI solution to:
  - connect all your data sources,
  - compile a complete understanding of each customer's financial history
  - prompt any suspicious activities

- **Benefits:** Robots look at every line and entry with clear intent which means:
  - Reduced risk
  - Reduced existing cost of compliance
  - Ability to deal with increased requirements

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Some recent RPA use cases

- **Finance Shared Services Centre** – Invoice Processing
- **FMCG Business** - Remittance reconciliation
- **International Medical Device Supplier** – Order To Manufacturing process
- **Financial Institution** – AML Checks
- **Financial Institution** – Customer registration management
- **Professional Services Firm** - Monthly Financial Reporting, Daily Compliance Checks, Application of Tax Rates, Marketing Analytics, Reconciliations, User Setup…..

Summary

- The World is Digital **

- Digital Business Transformation can be daunting

- RPA can provide the basis for further digital initiatives

- RPA is a solution in itself

Why?

- speed and efficiency – bots are 9 times faster
- reduced risk – error and fraud
- reduction in paper
- ability to redeploy staff
- improved scalability – take on new work without increasing headcount

Questions?

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International Tax

Peter Vale

Partner

International Tax update - Agenda

- developments in:
  - US
  - EU
  - Ireland
- what is coming down tracks
- impact on businesses

US Tax Reform

US Tax Reform

- reduction in the federal rate from 35% to 21%;
- move from a worldwide to a territorial system;
- new rules regarding taxation of profits in subs;
- new rules around base erosion (BEAT) and non US IP related income (GILTI) – the stick; and
- incentive to do things in US – the carrot.

US tax reform

- rate differential – need to factor in US State taxes;
- tax not only driver but still look to low tax EU country;
- positive for Irish companies with US operations; and
- other changes –
  - restriction for losses forward
  - interest capped at 30% EBITA/EBIT
  - upfront deduction for capital spend

US tax reform

- in theory, only tax profits of US company, not the profits in subsidiaries – reality very different!
- one-off repatriation tax – 15.5% on overseas profits (cash) and 8% (illiquid assets) – need to look at ALL historic profits
- new “GILTI” concept – global intangible low-taxed income – effectively 10.5% rate
  - applies to non US IP income
- foreign profits taxed at >13.125% - ok

US tax reform

- new base erosion rules (BEAT)
  - applies to large taxpayers only
  - impacts on deductions such as royalties which are paid to related parties – does not apply to COGS
- carrot approach – low US tax rate on foreign derived intangible income (FDII)
  - 13.125% rate on certain non US sales

US tax reform

- could be good for both countries – accelerate IP moves away from offshore to both US and Ireland
- unquestionably makes it more attractive to do business in/from the US
  - activities that commercially could be done in either jurisdiction – US now attractive
- Ireland still offers lowest tax EU tax rate
- non tax factors become more critical

EU Developments

EU developments (including UK)

- Digital Tax – EU and UK version
  - Tax on digital services
- CCCTB
  - Taxable profits based on sales/employees/assets
  - Complete re-writing of taxable profits calculation
- EU Directives
  - Brexit?
- tax harmonisation?

Developments in Ireland

Developments in Ireland

- CFC changes
- Transfer Pricing
- territorial regime
- multilateral Instrument (MLI)
- deductibility of interest
- exit tax
- Double Irish structures

Coffey Report recommendations

- Ireland should introduce OECD 2017 transfer pricing (TP) guidelines
- 2010 grandfathering rules should be dropped
- consider extending TP to SMEs
- consider extending TP to non-trading income
- structure of new CFC rules - DONE
- move to territorial regime?
- re-introduce 80% cap on IP allowances - DONE

Introduction of CFC rules

- under EU Directive (ATAD), Ireland required to have CFC rules in place by 1 January 2019
- legislation introduced in Finance Bill 2018
- broadly, aimed at situations where profits of the Irish parent are diverted for tax purposes to low taxed foreign subsidiary
- broadly, applies where income of subsidiary taxed at less than half the Irish tax rate and where significant people functions carried on in Ireland that generate profits in subsidiary
- not expected to generate much tax revenues

Introduce OECD 2017 TP Guidelines

- main change in 2017 TP Guidelines is greater link between profits and value creation
- could result in more than one country trying to tax the same profits
  - potential for greater number of disputes for period of time
- will represent a major change for some
- lead-in time key

TP – 2010 grandfathering rule

- transactions entered into prior to July 2010 are currently grandfathered for TP purposes
  - effectively outside TP rules
- unusual feature of Irish TP regime
- however potential for change not flagged at time
- again, will represent a major change for some
- so, lead-in time key

TP for SMEs?

- SMEs currently not within Irish TP rules
- not dissimilar to other jurisdictions
- would place extra costly administrative burden on SMEs with likely little additional tax revenues for Exchequer
- likely to be strongly resisted
- if introduced, possibility of lower burden

Extending TP to non-trading transactions

- TP currently does not apply to non-trading transactions
  - Company A lends interest free to Company B – no requirement to impute interest income
- another unusual feature of Irish TP regime
- but note our higher 25% passive CT rate
  - would need to be reduced?
- impact on planning structures

Move to a territorial regime?

- move to a territorial regime a natural follow-on from introduction of CFC rules
- territorial regime would mean:
  - exempting foreign branches from Irish tax
  - exempting foreign dividends from Irish tax
- alternative is to re-work existing complicated rules regarding double tax relief calculations
- clear preference is territorial regime

Multilateral Instrument (MLI)

- MLI will alter the majority of Ireland's existing tax treaties
- key changes include:
  - Introduction of principal purpose test into our tax treaties
  - Lowering of bar regarding when a Permanent Establishment can be created in another country
- MLI changes expected to impact on many overseas tax structures
- note only effective when both countries have ratified MLI

Interest Deductibility changes

- currently limited restriction on deductibility of interest in Ireland for tax purposes
- under EU ATAD, obliged to introduce 30% EBITA cap
- effective date unclear but 2024 latest
- there will be certain grandfathering provisions
- expected de minimis of €3m per annum

Exit Tax

- surprise inclusion in Budget 2019 (and Finance Bill 2018)
- linked to EU ATAD – obligatory
- introduces a 12.5% exit tax where a company migrates tax residence from Ireland – previous rate was 33% but many exceptions
- note the 33% rate can apply where the migration is followed by a disposal of the assets of migrating company
- will make it more difficult for companies to move IP out of Ireland
- impact on companies moving IP to Ireland?

Double Irish structures

- note Double Irish “grandfathered” structures cease to be tax efficient from end of 2020
- new structures already ineffective
- since introduction of new rules, many groups have been considering transfer/onshoring of IP
- “Single Malt Structure” alternative
- impact of MLI/overseas tax changes
- the future?

Conclusions

- in the middle of period of much change, with more to come
- don’t underestimate political background
- EU hugely driven to make things happen
- US tax reform still in early days
- 2019 actions by Department of Finance will be key
- right now, things look positive, but…

People and Change Consulting

Patrick Gallen

Partner

The World of Work Today – Finance functions impacted as well!

"How we work is changing dramatically. We need to embrace this change, with all its challenges. The right approach will deliver a new era of quality job creation and improved living standards". ***Danny McCoy, IBEC CEO***

Challenge: the world of work is changing exponentially

- Disruptive change to entire sectors
- Rate of knowledge increase
- Demographic shifts
- Global, dispersed teams
- New competition
- Technologies like genetics, robotics, AI

VUCA

Volatile, Uncertain, Complex, Ambiguous

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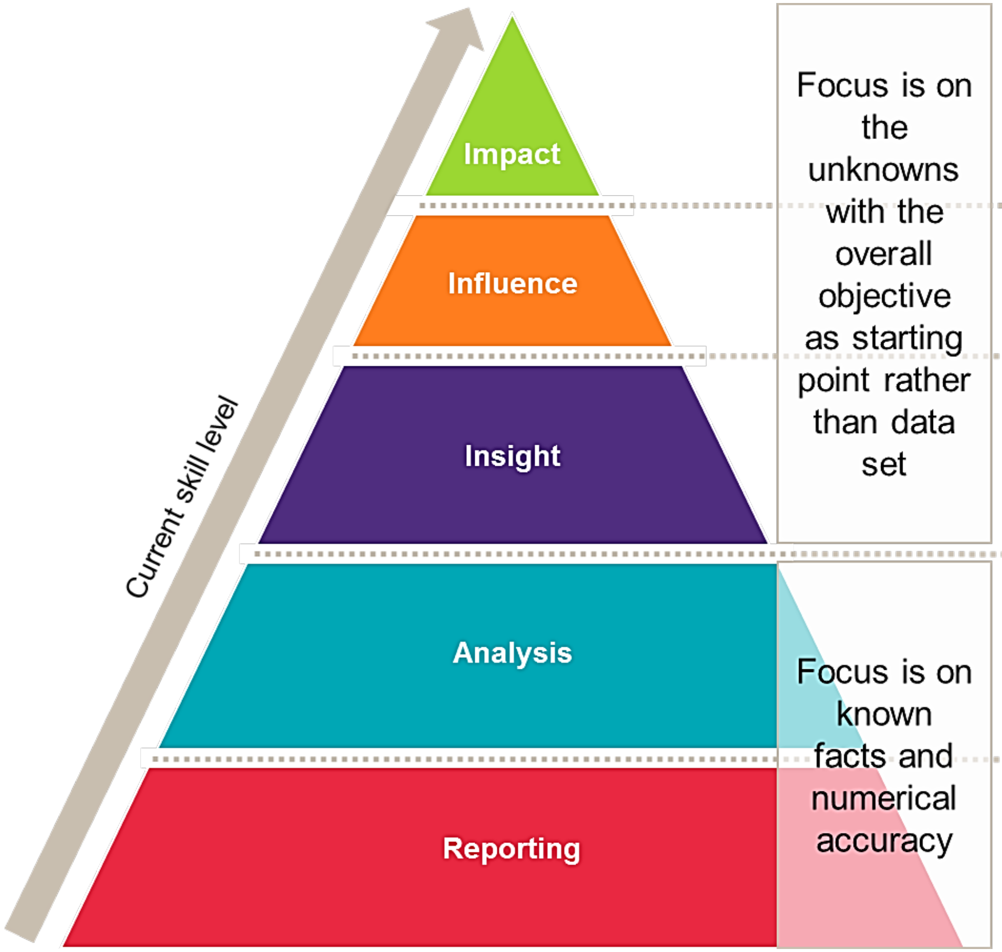
From the back office to the front line…

Finance Team Skills – making an impact on the business



- Proactively set the strategic direction with leadership
- Actionable recommendations with supporting evidence
- Generate innovate value-creating opportunities

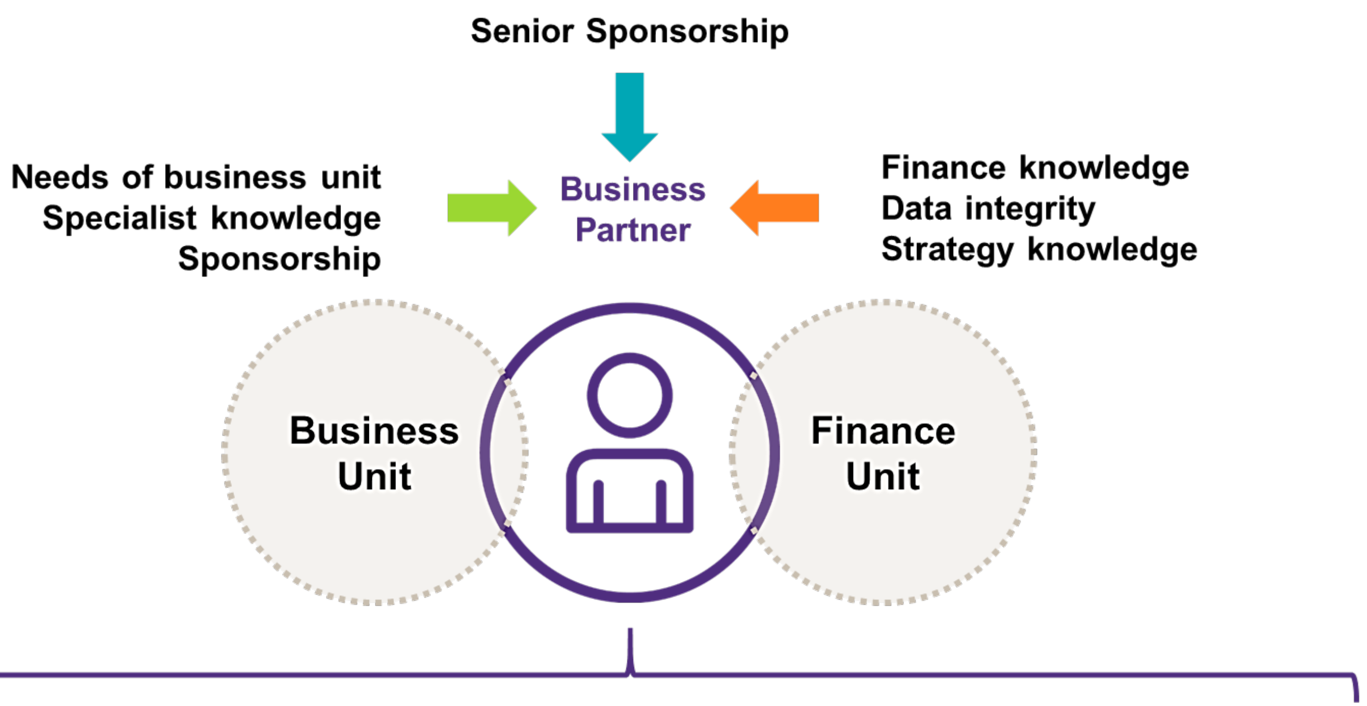
- Influence material business decisions
- Earn a place at the table
- X-functional leadership involvement

- Share insight based on synthesis of qualitative and quantitative information
- Evaluate multiple alternatives against business objectives

- Combine quantitative and qualitative data
- Causation and correlations (e.g. assess activity results)
- Statistical analysis to highlight unseen trends

- Trend analysis forecasting
- Data mining presentation
- Performance tracking, resource management

Potential role and skills of a Finance Business Partner



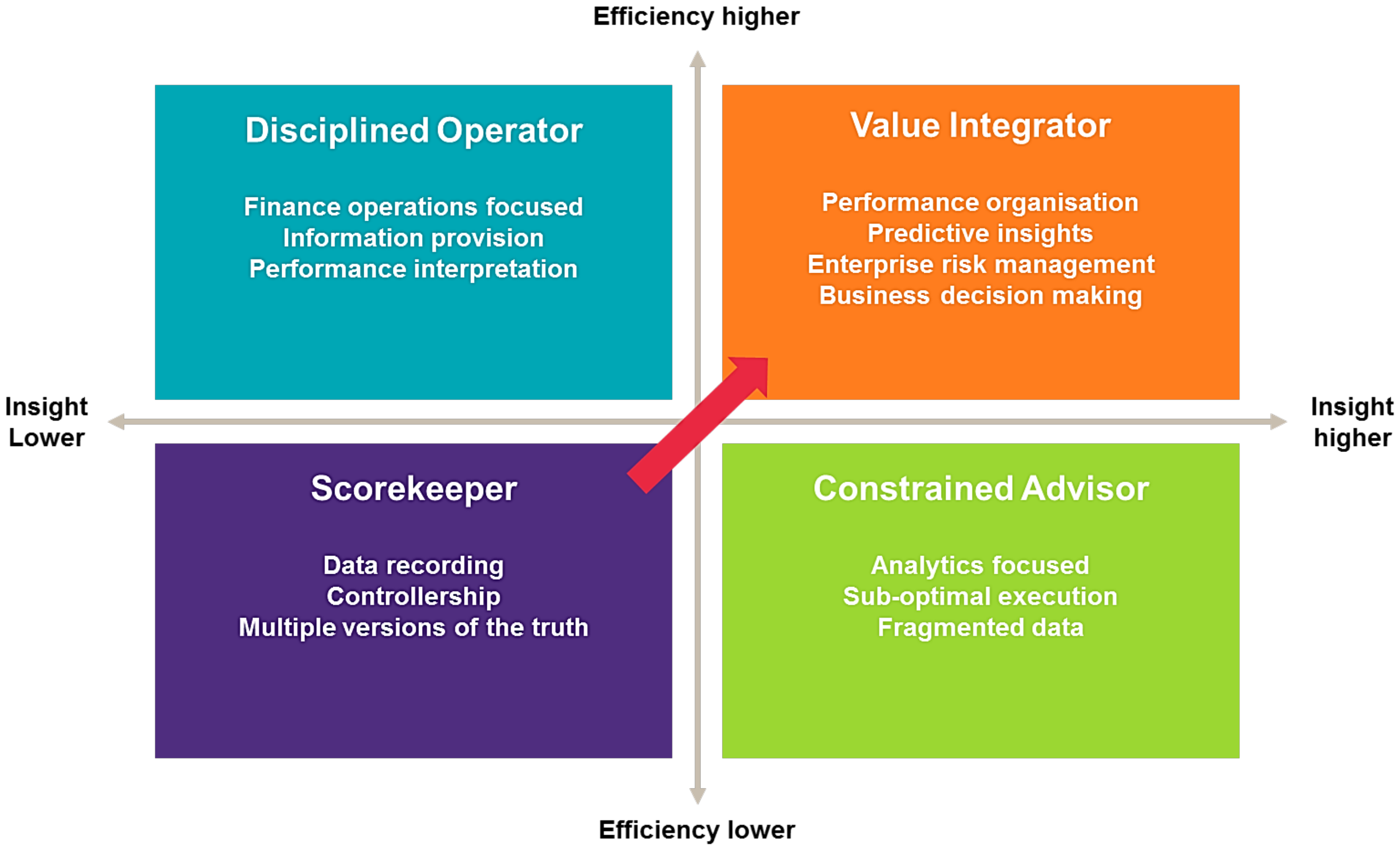
- Strategic business understanding
- Business unit knowledge
- Network of contacts

- Presentation skills
- Negotiation skills
- Managing conflict
- Influencing skills
- Problem solver
- Managing change
- Stakeholder management
- Consulting skills
- Listening skills

- Facilitator
- Empathy
- Coach
- Integrity
- Influencer
- Trusted advisor

- Finance knowledge
- Accounting principles
- Process knowledge
- Reporting knowledge

Top performing finance teams are seen as value integrators – where does your team fit in?



“Organisational learning must equal or be greater than the speed of environmental change”

Professor Peter Hawkins

Closing comments

Michael Shelley
Partner
Grant Thornton

