This unique and highly praised program will help you master essential M&A skills, while providing a comprehensive overview of the components of a M&A transaction. Topics include:

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- Gathering the information you need and keeping clients informed
- Understanding the ethical and professional issues that may arise in negotiating the deal
- Mitigating risks through appropriate due diligence
- Choosing the right structure for the transaction
- The impact of asset versus share transactions on labour, employment, pension and benefits issues
- Negotiating representations, warranties, covenants and conditions and indemnities
- Investment Canada/competition/antitrust issues in M&A transactions
- Managing risk in international transactions
- Managing corporate governance issues in M&A transactions
- Trends and highlights from recent deals
- Identifying and mitigating environmental risks
- Handling closing issues and post-closing logistics and disputes

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Enhance your knowledge of the strategies, rules and regulations needed to successfully close today’s M&A deals.

AGENDA

DAY ONE: TUESDAY, MARCH 31, 2015

8:00-8:30
Registration and Continental Breakfast

8:30-8:40
Welcome and Introduction from the Chair
Aaron S. Emes, Torys LLP

8:40-10:30
Overview and Getting Started
Robert O. Hansen, McCarthy Tétrault LLP
Aaron S. Emes, Torys LLP
Catherine Youdan, Blake, Cassels & Graydon LLP

• Understanding the deal and client objectives
• Efficient project management in the M&A context
• Effective client communication

Preliminary Documents
• Key negotiated clauses in confidentiality agreements and letters of intent
• Engagement letters with financial advisors
• Case law update

Ethics and Professionalism Responsibilities in M&A Transactions
• Confidentiality and privilege
• Securities trading
• Conflicts of interest
  - understanding your duties and responsibilities
  - identifying conflicts
  - techniques for managing conflicts
• Other ethical considerations
  - duty to negotiate in good faith
  - new Rules of Professional Conduct

10:30-10:45
Refreshment Break

10:45-12:00
Effective Due Diligence
Jason (Jake) Bullen, Cassels Brock & Blackwell LLP

• Purpose and importance
• Understanding client expectations and reporting results
• Planning and staffing
• Co-ordinating with business and financial diligence
• Spotting the “red flags” and identifying potential solutions
• Addressing and managing the potential for professional liability
• Recent developments

12:00-1:00
Networking Luncheon

1:00-3:00
Structuring the Deal
Jon Northup, Goodmans LLP
Paul A.D. Mingay, Borden Ladner Gervais LLP
Melanie A. Shishler, Davies Ward Phillips & Vineberg LLP

Experienced counsel will walk you through the most common transaction structures, including corporate and securities law considerations and tax implications.

• Factors to consider when structuring the deal
• How to determine the best structure for your transaction
• What forms can a transaction take and how do they differ?
  - share/asset purchases
  - take-over bids
  - amalgamations
  - plans of arrangement
• Trends in deal structures

3:00-3:15
Refreshment Break

3:15-4:15
Managing Regulatory Risk
Mark Opashinov, McMillan LLP

• The statutory framework for review of M&A transactions
• The Competition Bureau’s review process, and the practical implications of how Bureau administrative processes overlay the statutory framework
Considerations in planning the Competition Act clearance processes
- Covenants, representations and warranties concerning the Competition Act clearance process and allocation of the risks of the regulatory process
- The typical give and take between buyer and seller – who has responsibility for what, who can make decisions about what, when can a buyer walk because of a Competition Act problem
- Planning the M&A process with the Competition Act process in mind
- The Investment Canada Act process and how it can affect your deal

4:15-5:30
Managing Risk in International Transactions
Michael D. Amm, Torys LLP
Lisa Damiani, General Counsel and Corporate Secretary
New Gold Inc.
- What is different about international deals?
- Determining the role of Canadian and foreign counsel in international deals
- Structuring and tax planning issues
- Managing the Hart-Scott-Rodino Act pre-merger notification and review process and other regulatory approvals
- Foreign investment review/national security considerations - U.S. Foreign Investment and National Security Act of 2007
- Securities law issues - takeover bids, proxy rules and MJDS
- Recent Delaware case law developments relating to M&A and directors' duties
- Governing law and dispute resolution
- Anti-bribery/corruption

5:30
Day One Adjourns

AGENDA (Cont’d)

Representations and Warranties
- How representations and warranties are used to obtain information and allocate risk
- What is reasonable to ask for and why/why not?
- Due diligence to support representations and warranties
- Survival
  - effect of closing
  - conventional periods

Covenants and Conditions
- Implications of failure to perform
  - covenants to be satisfied prior to/after closing
- Conditions of closing
  - what is appropriate?

Indemnities
- When is indemnification appropriate?
  - risk allocation when uncertainty exists
  - damages for failure to perform
- Limits
  - deductibles, baskets and caps
- Enforceability issues

10:30-10:45
Refreshment Break

10:45-12:00
Labour, Employment, Pensions and Benefits Issues in the M&A Process
Darryl R. Hiscocks, Torys LLP
Susan Nickerson, Torys LLP
- The impact of asset versus share transactions on labour, employment, pension and benefits issues
- Key issues in employment, pension and benefits due diligence
- Different ways employees, pensions and benefits are handled in acquisition transactions
- Impact of collective agreements in acquisition transactions
- Termination and severance issues
- Successor employer legislation issues
- Management incentive agreements
- Emerging issues and trends

12:00-1:00
Networking Luncheon

1:00-2:00
Corporate Governance Matters and Regulatory Update
Kent E. Thomson, Davies Ward Phillips & Vineberg LLP
Amanda Linett, Stikeman Elliott LLP
Jason Koskela, Senior Legal Counsel, Ontario Securities Commission

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AGENDA (Cont’d)

- Corporate governance in M&A transactions
- Proposed amendments to take-over bid regime
- Shareholder activism and proxy contests

2:00-3:00
What’s Market? Highlights from Recent Deals and Studies
Kathleen M. Ritchie, Gowling Lafleur Henderson LLP
André Perey, Blake, Cassels & Graydon LLP
Samantha Horn, Stikeman Elliott LLP

- Sources of deal points information
- Trends in Canadian, US and European deals
- Earnouts
- Escrows
- MAE/MAC
- Remedies
  - break fees
  - specific performance
- Indemnification
  - survival periods
  - sandbagging
  - deductibles, baskets and caps
  - types of losses
- Representation and warranty insurance

3:00-3:15
Refreshment Break

3:15-4:00
Assessing IT and Intellectual Property Ownership
Richard Corley, Goodmans LLP

- Key issues in IT and IP due diligence
- Establishing and implementing a due diligence plan
- Avoiding common IT/IP pitfalls
- Assessing IP ownership and exposure
- Open source and other software licences
- Emerging issues and trends

4:00-4:45
Identifying and Mitigating Environmental Risks
Michael J. Fortier, Torys LLP

- Breadth of risks, including potential exposures for directors and officers
- Increasing importance of climate-related risks
- Scoping environmental due diligence appropriately
- Using technical consultants effectively
- Documenting the exercise

4:45-5:30
Closing and Post-Closing Logistics: Best Practices
Paul A. Simon, Borden Ladner Gervais LLP
Adam Walsh, General Counsel, Choice Properties REIT

- The dynamics and logistics of closing
  - anticipating issues and logjams
  - orchestrating the closing
- Developing the closing agenda
- Payments mechanics, electronic transfers and the Large Value Transfer System
- Escrow agreements and holdbacks
- Reporting to the client
- Handling post-closing disputes

5:30
Program Concludes

WHO SHOULD ATTEND
- Lawyers practising in M&A, corporate finance, and securities
- Executives involved in M&A negotiations and transactions
- In-house Counsel
- Law Clerks who work on M&A transactions
- Government and regulatory representatives

WHAT PAST ATTENDEES HAVE SAID:

“Extremely knowledgeable panelists who are experts in their field. They provided some real-life scenarios and it was clear they were more than willing to provide all the tricks of their trade.”

“The Due Diligence and Negotiating the Fundamentals sessions were outstanding, very practical discussion. The program exceeded my expectations, it was very well-done.”

“Great substance and broad application.”

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Dates & Time

March 31 – April 1, 2015
8:30 a.m. - 5:30 p.m. EDT
Please arrive a half hour early for sign-in and material pick-up.
Dress is business casual.

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