A Critical Study on Strategic Due Diligence and Corporate Risk Governance in Modern Mergers and Acquisitions in India

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***Abstract*—Mergers and acquisitions (M&A) in India have grown substantially over the past two decades, driven by economic liberalisation, regulatory reforms, and an increasingly competitive corporate landscape[1]. Yet, for all the enthusiasm surrounding deal-making, a striking number of transactions still fail to deliver the value they promised[2] not because the business logic was flawed at the outset, but because the processes of due diligence and risk governance were either rushed, poorly structured, or treated as procedural formalities rather than strategic imperatives. This paper examines the twin pillars of strategic due diligence and corporate risk governance[3] within the context of modern M&A activity in India, with a view to understanding why these processes matter more now than at any point in the country's corporate history. Drawing on regulatory frameworks, landmark transactions, and emerging best practices, the study argues that Indian acquirers and their advisors must move beyond conventional financial and legal checklists toward a more integrated, forward-looking model of deal assessment. The paper further highlights the role of SEBI, CCI, and NCLT in shaping governance expectations, and discusses how evolving ESG considerations, digital transformation, and cross-border complexity are redefining what it means to truly understand a target company before committing capital.**

***Index Terms*—mergers and acquisitions, due diligence, risk governance, India, SEBI, CCI, ESG, corporate law, deal failure, regulatory compliance**

I. INTRODUCTION

[1] Ministry of Corporate Affairs, The Companies Act, 2013 (Gov't of India 2013)
[2] Steven B. Moeller, Frederik P. Schlingemann & René M. Stulz, Wealth Destruction on a Massive Scale? A Study of Acquiring-Firm Returns in the Recent Merger Wave, 60 J. Fin. 757 (2005)
[3] N.K. Singh, Due Diligence in Mergers and Acquisitions: Indian Law and Practice 12–19 (2d ed. Wolters Kluwer India 2019)

The story of mergers and acquisitions in India is, in many ways, the story of the country's own economic coming of age. From the landmark Tata Steel acquisition of Corus in 2007[4] to the Sun Pharmaceutical takeover of Ranbaxy[5], from Vodafone's protracted and contentious entry into the Indian market to the more recent Reliance-Future Retail saga[6], India's M&A landscape has been anything but uneventful. What is remarkable about many of these deals is not merely their scale, but the degree to which they exposed the fault lines in how Indian corporations and their advisors approach the question of due diligence and post-merger risk.

Due diligence, in the popular imagination, is often reduced to a box-ticking exercise[7] a team of accountants and lawyers poring over financial statements, title deeds, and contracts for a few weeks before a deal closes. In reality, strategic due diligence is something far more nuanced and far more consequential. It is the process through which an acquirer seeks to understand not just what they are buying on paper[8], but what they are actually getting in practice the culture of the target organisation, the sustainability of its competitive advantages, the hidden liabilities buried in its operations, and the strategic risks that might not be visible from the outside.

Corporate risk governance[9], meanwhile, has emerged as a parallel and equally critical dimension of modern deal-making. The question is not only whether the acquiring firm has identified the risks inherent in a transaction, but whether it has the institutional structures, internal processes, and board-level accountability to actually manage those risks through the full lifecycle of the deal from negotiation and signing through integration and beyond.

This paper sets out to critically examine both these dimensions in the Indian context. It does so at a moment when the country's M&A market is experiencing a renewed surge of activity driven by post-pandemic consolidation[10], the digitalisation of industry, inbound foreign investment, and the Indian government's own policy push toward manufacturing and financial sector reform. The stakes, in other words, have never been higher, and the cost of getting due diligence and risk governance wrong has never been more apparent.

II. THE M&A LANDSCAPE IN INDIA: CONTEXT AND SCALE

To properly understand the challenges facing M&A practitioners in India, one must first appreciate the structural peculiarities of the Indian market. Unlike the United States or the United Kingdom[11], where corporate governance norms and M&A frameworks have evolved over more than a century

[4] Tata Steel Ltd., Acquisition of Corus: Information Memorandum (2007)
[5] Competition Commission of India, Combination Registration No. C-2014/05/170, Sun Pharmaceutical Industries Ltd./Ranbaxy Laboratories Ltd. (2014)
[6] Future Retail Ltd. v. Amazon.com NV Investment Holdings LLC, (2022) 1 SCC 209
[7] N.K. Singh, supra note 3, at 28–34
[8] Deloitte India, M&A Trends in India: Navigating the New Normal (2022)
[9] A. Sharma & R. Singh, Corporate Governance and M&A Performance in Emerging Markets: Evidence from India, 44 Emerging Mkts. Rev. 100714 (2020)
[10] Grant Thornton Bharat, Dealtracker India Report 2023 (2023)
[11] F. Trautwein, Merger Motives and Merger Prescriptions, 11 Strategic Mgmt. J. 283 (1990)

of practice, India's regulatory architecture for corporate transactions is relatively young and has undergone significant changes in a compressed timeframe.

The Companies Act of 2013[12] replaced the older 1956 legislation and introduced sweeping changes to how mergers, acquisitions, and corporate restructuring are handled. The introduction of the National Company Law Tribunal (NCLT)[13] as a specialised forum for corporate disputes and restructuring was a significant step forward, even if the Tribunal continues to face capacity and efficiency challenges that slow the resolution of contested deals. The Competition Act of 2002[14] and the subsequent establishment of the Competition Commission of India (CCI[15] added another layer of regulatory complexity, requiring that transactions above specified thresholds receive merger clearance before they can be completed.

At the same time, the Securities and Exchange Board of India (SEBI) has progressively tightened the rules[16] governing takeovers of listed companies through successive iterations of the Takeover Code[17], the most recent and comprehensive version of which was introduced in 2011. Together, these three regulatory pillars the Companies Act, the Competition Act, and SEBI's Takeover Code form the backbone of India's M&A governance framework. Understanding them, and more importantly understanding how they interact with one another, is the foundation of any credible due diligence exercise.

Beyond regulation, the Indian M&A landscape is shaped by structural characteristics that present unique challenges. The dominance of family-owned business groups the Tatas, Mahindras, Adanis, and scores of smaller conglomerates means that many deals involve complex ownership structures, promoter interests, and related-party transactions[18] that are difficult to disentangle. Informal business practices, opaque corporate structures in certain sectors, and the prevalence of undisclosed contingent liabilities in smaller targets add further layers of complexity that standard due diligence frameworks, designed largely for more transparent corporate environments, are ill-equipped to handle.

III. STRATEGIC DUE DILIGENCE: BEYOND THE FINANCIAL CHECKLIST

Traditional due diligence in M&A transactions is typically segmented into financial, legal, tax, and operational streams[19]. Each stream is assigned to a different team of advisors who work in relative isolation from one another and produce separate reports that are then, with varying degrees of integration, synthesised into a picture of the target company. This model has several well-

[12] Companies Act, No. 18 of 2013, §§ 230–240 (India)
[13] Companies Act, No. 18 of 2013, §§ 408–434 (India)
[14] Competition Act, No. 12 of 2003, §§ 5–6 (India).
[15] Competition Commission of India, Annual Report 2022–23 (2023).
[16] Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, Gazette of India, Extraordinary, Part III, § 4
[17] V. Malhotra, Takeover Laws in India: A Critical Analysis of the SEBI Takeover Code (LexisNexis India 2018)
[18] Companies Act, No. 18 of 2013, § 188 (India).
[19] PricewaterhouseCoopers India, Mergers & Acquisitions in India: Regulatory and Governance Landscape (2022)

documented limitations. It is inherently backward-looking[20], relying on historical financial data and existing legal documentation. It tends to focus on quantifiable risks while underweighting qualitative factors that may be harder to measure but are no less consequential. And it often fails to consider the strategic fit between the acquirer and target in any meaningful depth.

3.1 Commercial and Strategic Dimensions

Strategic due diligence begins with a question that is deceptively simple but often left insufficiently answered: why does this deal make sense?[21] An acquirer must rigorously interrogate not only whether the target is well-run and financially sound, but whether it fits the acquirer's own long-term strategy in a way that will be durable. In the Indian context, where many acquisitions are driven by a desire for quick market share gains rather than genuine strategic alignment, this question is particularly pressing.

Commercial due diligence[22] involves a deep examination of the target's market position its competitive strengths and weaknesses, the sustainability of its customer relationships, the dynamics of the industry in which it operates, and the plausibility of its revenue projections. In a market as diverse and complex as India's, where customer behaviour, regulatory conditions, and competitive intensity vary dramatically across regions and sectors, a superficial commercial review can be catastrophically misleading. A target that appears to dominate a niche market might in fact be facing an imminent disruption from new entrants or technology shifts that are not visible in its historical financials.

3.2 Human Capital and Cultural Risk

Perhaps the most systematically underestimated element of due diligence in India and indeed globally is the human dimension. Research consistently shows that the failure of mergers to deliver anticipated synergies is more often attributable to people and culture than to financial or operational factors. Integration is difficult enough when the combining entities share a similar culture and management philosophy. When they do not, the friction can be devastating.

India's corporate culture is itself far from monolithic. Family-owned enterprises, professional management-run firms, public sector undertakings, and subsidiaries of multinational corporations each operate according to different norms, hierarchies, and incentive structures. When a professionally managed firm acquires a family conglomerate, the resulting clash of cultures around decision-making authority, accountability, transparency, and employee welfare can undermine integration efforts for years. Effective due diligence must include structured cultural assessment, leadership evaluation, and employee sentiment analysis as standard components, not afterthoughts.

3.3 Technology and Digital Infrastructure

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[20] Deloitte India, supra note 8

[21] F. Trautwein, supra note 11, at 284–292

[22] KPMG India, ESG in Mergers and Acquisitions: An Indian Perspective (2021)

With India's rapid digitalisation, the technology infrastructure of a target company[23] has become an increasingly critical area of due diligence. This goes well beyond a review of IT systems and data security protocols. Acquirers must now assess whether a target's digital capabilities its data assets, its technological platforms, its cybersecurity posture are assets or liabilities. In a country where digital public infrastructure is evolving rapidly and where data localisation requirements under the Digital Personal Data Protection Act, 2023 are beginning to take shape, technology due diligence has become a specialised discipline in its own right.

The risks here can be substantial. Undisclosed data breaches, legacy system dependencies that will require enormous capital to modernise, and intellectual property disputes over software or algorithms are just some of the issues that have blindsided acquirers who treated technology as a subsidiary concern. As India increasingly looks to its digital economy as a growth driver, the technology dimension of due diligence must be elevated to the same level of scrutiny as financial and legal review.

IV. CORPORATE RISK GOVERNANCE IN M&A TRANSACTIONS

If due diligence is the process by which an acquirer learns what it is buying, risk governance is the institutional framework through which it decides what risks to accept[24], what risks to mitigate, and what risks require a renegotiation of the terms of the deal. In practice, the two processes are deeply interconnected the findings of due diligence should directly inform the risk governance conversation at the board level, and the risk appetite of the board should frame the parameters within which the due diligence team operates. In many Indian M&A transactions, this connection is more aspirational than real.

4.1 Board-Level Accountability and Risk Committees

The Companies Act, 2013 mandates the formation of risk management committees[25] for certain categories of listed companies, and SEBI's Listing Obligations and Disclosure Requirements Regulations[26] have progressively expanded these requirements. Yet, the gap between formal compliance and substantive governance remains wide. Risk committees, where they exist, often focus on enterprise-wide operational risks rather than transaction-specific risks, leaving the M&A function without adequate board-level oversight[27].

This is a structural deficiency that has real consequences. When a board is not meaningfully engaged with the risk profile of a proposed acquisition when the decision is effectively made by a small group of promoters or senior executives without rigorous challenge the probability that

[23] Digital Personal Data Protection Act, No. 22 of 2023 (India)

[24] A. Sharma & R. Singh, Corporate Governance and M&A Performance in Emerging Markets: Evidence from India, 44 Emerging Mkts. Rev. 100714 (2020)

[25] Companies Act, No. 18 of 2013, § 177 (India)

[26] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, regs. 21 & 24

[27] Organisation for Economic Co-operation and Development (OECD), G20/OECD Principles of Corporate Governance (2023)

the transaction's risks will be underweighted increases significantly. The PNB-Nirav Modi fraud and the IL&FS crisis[28], while not M&A transactions per se, demonstrated with painful clarity how the absence of genuine board-level engagement with risk can allow enormous problems to accumulate unchecked. The same dynamic plays out in deal-making contexts with distressing regularity.

4.2 Regulatory Risk and Competition Law

Regulatory risk is a particularly acute concern in Indian M&A, given the multiplicity of regulatory approvals that many transactions require and the discretionary powers that several regulators retain. The CCI's approach to merger review has matured considerably since its establishment, and the 2023 amendments to the Competition Act introduced deal value thresholds[29] and tightened timelines in ways that have significant practical implications for deal structuring. However, the CCI's growing appetite for remedies[30] including structural remedies such as divestiture in complex deals means that acquirers must model regulatory risk as a serious deal variable, not a bureaucratic hurdle to be cleared at the end of the process.

SEBI's role in regulating takeovers[31] of listed companies adds another dimension. The Takeover Code establishes the conditions under which open offers must be made, the pricing requirements that apply to them, and the exemptions that may be available in specific circumstances. Failing to properly account for these requirements in the structuring of a deal can expose the acquirer to regulatory sanctions, reputational damage, and the practical difficulties of having to make a public offer for shares at a price that may significantly exceed what was anticipated in the deal model.

4.3 ESG Risk and Long-Term Value Creation

Environmental, social, and governance (ESG) considerations have moved from the periphery to the centre of deal evaluation in international markets, and India is not immune to this shift. SEBI's Business Responsibility and Sustainability Reporting (BRSR[32]) framework, which requires the top listed companies to disclose sustainability metrics, reflects a growing expectation that ESG is not merely a reporting exercise but a genuine dimension of corporate value and risk.

In an M&A context, this means that acquirers particularly those with international shareholders, institutional investors, or cross-border financing arrangements must assess the ESG profile of target companies with the same rigour they apply to financial metrics. A target with significant environmental liabilities, poor labour practices, or weak governance structures is not simply a less attractive business proposition; it carries concrete financial risks in the form of regulatory penalties, litigation exposure, reputational damage, and potentially stranded assets. Ignoring these factors during due diligence is not merely an ethical oversight it is a strategic failure.

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[28] Reserve Bank of India, Report on Trend and Progress of Banking in India 2018–19 (2019)
[29] Competition (Amendment) Act, No. 9 of 2023 (India).
[30] Competition Commission of India, Annual Report 2022–23 (2023)
[31] Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011
[32] Securities and Exchange Board of India, Business Responsibility and Sustainability Reporting Framework, SEBI Circular (May 10, 2021)

V. ILLUSTRATIVE CASE STUDIES: LEARNING FROM INDIAN M&A EXPERIENCE

An examination of several landmark Indian M&A transactions reveals recurring patterns in the way due diligence and risk governance failures manifest themselves in practice.

5.1 Tata Steel and Corus: The Risks of Overpayment and Integration Complexity

The Tata Steel acquisition of Corus[33] in 2007 represented a landmark moment for Indian outbound M&A   the largest acquisition by an Indian company at the time and a statement of intent about the global ambitions of Indian corporations. The deal was in many respects impressively executed: the due diligence process was thorough, the strategic logic was well-articulated, and the management team was experienced. Yet the deal ultimately delivered far less value than anticipated, and the subsequent years were marked by significant financial strain, asset write-downs, and ultimately a series of restructuring moves in Europe that were painful in both financial and human terms.

The core problem was not a failure of due diligence in the conventional sense. Rather, it reflected the difficulty of modelling macroeconomic and structural risks in a global commodity business, and the challenges of integrating a large European workforce with its own culture, industrial relations traditions, and expectations into an Indian-owned corporate structure. The lesson here is that due diligence must extend to scenario planning for adverse macroeconomic conditions and to a realistic assessment of integration complexity   not just a best-case projection of synergies.

5.2 Sun Pharma and Ranbaxy: Managing Regulatory and Compliance Risk

The Sun Pharmaceutical acquisition of Ranbaxy[34] in 2014 illustrates a different but equally important dimension of due diligence risk: the challenge of managing known regulatory and compliance issues in a target company. Ranbaxy had been under investigation by the US Food and Drug Administration[35] for years before the deal was announced, and its manufacturing facilities had faced serious quality control concerns. Sun Pharma entered the transaction with knowledge of these issues and a plan to address them   but the scale and complexity of the remediation effort proved greater than anticipated.

This case raises a fundamental question about risk governance: when an acquirer identifies significant pre-existing compliance failures during due diligence, what is the appropriate governance response? Simply accepting the risk as a known quantity is not sufficient if the governance framework to monitor and address that risk post-acquisition is not in place. Boards must ensure that specific, measurable remediation plans are built into the integration roadmap and that accountability for their execution is clearly assigned   not left to emerge organically after deal closure.

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[33] Tata Steel Ltd., Acquisition of Corus: Information Memorandum (2007)

[34] Competition Commission of India, Combination Registration No. C-2014/05/170, Sun Pharmaceutical Industries Ltd./Ranbaxy Laboratories Ltd. (2014)

[35] U.S. Food & Drug Admin., Warning Letter to Ranbaxy Laboratories Ltd. (2013)

5.3 Reliance Industries and Future Retail: Contractual Risk and Third-Party Interventions

The proposed Reliance Industries acquisition of Future Retail's[36] assets became one of the most complicated and protracted M&A disputes in recent Indian corporate history. What began as a seemingly straightforward distressed asset acquisition turned into a multi-jurisdictional legal battle[37] involving emergency arbitration proceedings, conflicting court orders, regulatory interventions, and fundamental questions about the enforceability of shareholder agreements and the rights of secured creditors.

The episode exposed the inadequacy of deal structures that fail to account for the full range of contractual relationships binding the target. Effective due diligence in a distressed acquisition must go beyond the primary transaction documents to map the entire contractual ecosystem of the target shareholder agreements, financing arrangements, supplier contracts, franchise agreements, and any existing arbitration or dispute resolution clauses that might give third parties leverage to disrupt the deal. The failure to do this comprehensively can transform a deal from a calculated risk into an unpredictable legal quagmire.

VI. EMERGING CHALLENGES IN INDIAN M&A DUE DILIGENCE

6.1 Cross-Border Complexity and Foreign Exchange Risk

Cross-border transactions whether outbound acquisitions by Indian companies or inbound investments by foreign acquirers carry a distinct layer of regulatory and foreign exchange risk that domestic deals do not. The Foreign Exchange Management Act (FEMA)[38] and the Foreign Direct Investment Policy govern the conditions under which cross-border M&A transactions can be structured, and the rules are not static. Sectoral FDI caps, approval requirements for investments in sensitive sectors, and the regulatory treatment of foreign currency convertible bonds and other hybrid instruments all represent areas where a gap in due diligence can have serious consequences. The introduction of the national security review mechanism modelled broadly on the Committee on Foreign Investment in the United States (CFIUS) represents a further layer of scrutiny that foreign acquirers of Indian companies must now navigate. As geopolitical tensions reshape the landscape of cross-border investment globally, the intersection of national security considerations and M&A strategy is becoming an increasingly important area of risk for Indian deals.

6.2 Insolvency and Distressed Asset Acquisitions

The Insolvency and Bankruptcy Code (IBC)[39], introduced in 2016, has created a significant new channel for M&A activity through the resolution of distressed companies. The acquisition of stressed assets through the Corporate Insolvency Resolution Process (CIRP)[40] has attracted considerable interest from both domestic and foreign buyers, and has generated a body of case law

[36] Future Retail Ltd. v. Amazon.com NV Investment Holdings LLC, (2022) 1 SCC 209
[37] Amazon.com NV Inv. Holdings LLC v. Future Retail Ltd., 2021 SCC OnLine Del 1279
[38] Foreign Exchange Management Act, No. 42 of 1999 (India)
[39] Insolvency and Bankruptcy Code, No. 31 of 2016 (India)
[40] Insolvency and Bankruptcy Board of India, Annual Report 2022–23

through the NCLT and the National Company Law Appellate Tribunal (NCLAT)[41] that continues to evolve.

Due diligence in IBC-led acquisitions is qualitatively different from conventional M&A due diligence, and not necessarily easier. The compressed timelines of the CIRP process create intense pressure on diligence teams. Information asymmetries are typically more pronounced in distressed situations. Contingent liabilities including environmental liabilities, employee claims, and tax demands may be difficult to quantify with confidence. And the question of what liabilities survive the CIRP process and attach to the acquiring entity has been the subject of significant litigation, most notably in the context of government tax demands against resolution applicants.

VII. TOWARD A MORE INTEGRATED MODEL: RECOMMENDATIONS FOR PRACTICE

The analysis above points toward several concrete recommendations for how Indian corporations and their advisors might improve the quality of due diligence and risk governance in M&A transactions.

First, boards must take genuine ownership[42] of M&A risk governance, not merely ratify decisions that have already been made by management. This requires the establishment of deal-specific risk committees with appropriate expertise, the appointment of independent advisors who report directly to the board rather than through management, and a culture in which challenging questions about deal rationale and risk are encouraged rather than suppressed.

Second, due diligence must be integrated and forward-looking. The siloed model of separate financial, legal, tax, and operational workstreams, each producing its own report, must give way to a more collaborative and synthetic approach that allows findings across workstreams to be triangulated and interpreted in light of each other. The due diligence process should culminate not in a set of discrete reports but in an integrated risk picture that informs the acquirer's decision-making in a holistic way.

Third, scenario planning must be embedded[43] in the deal evaluation process. Rather than relying on a single base-case projection, acquirers should model multiple scenarios including adverse macroeconomic conditions, regulatory disruptions, and integration failures and assess the resilience of the deal thesis under each. This kind of stress testing is common practice in financial services M&A and should be adopted more broadly across sectors.

Fourth, the integration planning process should begin during due diligence, not after deal closure. Many of the most significant M&A risks cultural misalignment, talent attrition, customer disruption are integration risks rather than transaction risks. The earlier these are identified and planned for, the better the chances of a successful outcome.

Fifth, ESG considerations must be elevated from a compliance exercise to a genuine dimension of deal evaluation. Given the growing importance of ESG factors to institutional investors, lenders,

41 Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531
42 OECD, G20/OECD Principles of Corporate Governance (2023)
43 Deloitte India, M&A Trends in India: Navigating the New Normal (2022)

and regulators, acquirers who systematically assess and price ESG risk during due diligence will be better placed to avoid the kinds of post-acquisition surprises that have derailed several high-profile deals.

VIII. CONCLUSION

Mergers and acquisitions are, at their core, acts of optimism an acquirer's bet that two organisations will together create more value than they would separately. But optimism without rigour is not strategy; it is wishful thinking. The evidence from India's M&A history suggests that too many transactions have been entered into with insufficient rigour in due diligence and inadequate structures for risk governance, with predictably disappointing results.

The good news is that this is not a fixed condition. India has the regulatory architecture, the professional talent, and the growing institutional maturity to support a much higher standard of M&A practice. What it needs is a shift in mindset from viewing due diligence and risk governance as costs to be minimised to recognising them as investments in deal success. In a market where the stakes of getting it wrong can be measured in billions of rupees of destroyed shareholder value, that is a shift that cannot come soon enough.

As India continues to position itself as a major destination for global investment and as Indian companies pursue their own global expansion ambitions, the quality of M&A execution will be a critical determinant of whether those ambitions are realised. Strategic due diligence and corporate risk governance are not bureaucratic necessities[44]; they are the intellectual and institutional foundations on which successful deal-making is built. Getting them right must become a defining characteristic of the next generation of Indian M&A.

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