Dual Role Advisors and Conflicts of Interest[*]

Linus Siming[†]

This version: February 2009

Abstract

An advisor to a firm targeted in a merger or acquisition that simultaneously is involved in financing the bidding part of the deal is referred to as a dual role advisor. Being a dual role advisor can create conflicts of interest through the possible perception that the investment bank's advice to the seller throughout a bidding process is tainted by a desire on the part of the advisor to obtain additional fees from financing the successful bidder. I find support for this fear in a study of 1,023 public US mergers and acquisitions over the period 1993 to 2008. Conflicts of interests are manifested through that deals which involve a dual role advisor are, compared to deals with no dual role advisors, (a) performed at lower premium, (b) are more likely to be subject to a lawsuit, (c) feature lower merger advisor fees and (d) are commensurate with higher announcement returns for bidders.

Keywords: Conflicts of interest, mergers and acquisitions, investment banking

JEL Classification: G24, G34

[*] I would like to thank Mariassunta Giannetti, Björn Johnson, Samuel Lee and an anonymous conference reviewer for helpful comments. Part of this paper was written when I visited Stern School of Business on the Carl Silfvén & Staffan Burenstam Linder scholarship. I also gratefully acknowledge financial support from Bankforsknings-institutet.

[†] Department of Finance, Stockholm School of Economics, P.O. Box 6501, SE-11383 Stockholm, Sweden. Email: linus.siming@hhs.se. Tel: +46-8-7369384. Fax: +46-8-312327.

I. Introduction

In this paper I study a potential source for conflicts of interest between a financial advisor to a firm who is a target in a merger or acquisition (M&A) and the shareholders of that firm; dual role advising. A financial advisor who is involved in both sell-side advising and buy-side financing of a transaction is denoted a dual role advisor. Such an advisor may be an investment bank hired either specifically by the target to deliver a fairness opinion of the deal or as a general advisor which in addition to an assessment of the transaction pricing performs supplementary services such as e.g. advice on the overall approach to the transaction, negotiating tactics, assistance with the assembly of an appropriate team of professional advisers and so forth. Being a dual role advisor could raise a fear that the investment bank's advice to the seller throughout a bidding process is tainted by a desire on the part of the advisor to obtain additional fees from financing the successful bidder. Thus a dual role advisor may create conflicts of interest with the selling shareholders to the extent that the advice is skewed by the advisor's concern about the profit it earns from lending to the bidder.

The practice of dual role advising was recently put to public focus when the Toys "R" Us shareholder litigation[1] was brought to court in 2005. The lawsuit dealt with the takeover of the toys manufacturer Toys "R" Us by private equity firm Kohlberg Kravis Roberts & Co (KKR). The investment bank Credit Suisse First Boston (CSFB) acted as advisor to Toys "R" Us when KKR bought the company in an auction process. However, CSFB was also soliciting the role as financer to KKR. CSFB's dual roles led to litigation by shareholders against the board of Toys

[1] Cons. C.A. No. 1212-N

"R" Us and CSFB for tilting the playing field in favor of KKR in the bidding contest. Although the court ultimately found no evidence that the financial advisor's actions improperly influenced the board's decision-making process, the court did in its ruling question the practice of having the same bank provide financial services on both sides of a deal (Cons. C.A. No. 1212-N p. 54): "…it is advisable that investment banks representing sellers not create the appearance that they desire buy-side work, especially when it might be that they are more likely to be selected by some buyers for that lucrative role than by others." Indeed, CSFB earned $10 million in financing fees in addition to its $7 million advisory fee.

I find empirical evidence that justifies the court's statement. A total of 1,023 US mergers over the period 1993 to 2008 are analyzed whereof 97 (9.5%) deals involve a dual role advisor. Deals where a bank engages in dual role advising are associated with a range of conflicts of interest which are manifested in shareholder-negative features. The evidence suggests that investment banks may not have fulfilled their obligation of obtaining the highest possible price on behalf of the seller.

The first question addressed in this paper is how shareholder gains are affected when the investment bank who is advising a client is also involved with the financing to the bidder, either as direct lender or underwriter of securities. After controlling for a range of firm and transaction specific features, I find that the average deal premium – measured as the offer price over the share price one month prior to deal announcement – is 12.0% lower for dual role deals compared to deals without the involvement of a dual role advisor. The results are significant at the 5% level and robust for premium measured over one-week and one-day periods. To control for

endogeneity I employ a two-equation treatment procedure and find that the results cannot be explained away by selection bias.

Shifting to the other participant in a transaction, the acquirer, I find that the bidding firm gains a cumulative abnormal return around the announcement day (CAR -1,+1) which is 1.9% higher in deals with dual role advising compared to deals without. Dual role involvement in a deal is also an important factor in explaining on which transactions an acquirer enjoys a positive CAR around the announcement date.

I further find that deals involving a dual role advisor are more often subject to lawsuits led by target shareholders than deals with no dual role advisors, which points to disproportionately deep shareholder discontent with deal-terms in dual role deals. This result holds after controlling for selection bias with a Heckman bivariate probit regression. Moreover, the merger advising fees collected by dual role advisors are lower than for non-dual role advisors, which could be explained by that discontented shareholders pay their advisors relatively less.

I find no evidence that dual role lending is a helpful feature of transactions where it might be difficult to otherwise obtain bidding financing. Importantly, target firms in dual role deals are not in an overall worse financial or operational shape than target firms in non-dual role deals. Thus, all results point to that dual role advisors give rise to conflicts of interest with the shareholders they are hired to represent. These findings are in line with several recent papers that study various forms of concurrent advisor and financing relationships. Povel and Singh (2008) study the related issue of stapled financing, which is a procedure mostly used by private equity

firms when they divest of investments. They find that although stapled financing can under certain conditions be an optimal part of sale process, it is also commensurate with conflicts of interests. Evidence of that banks offer loans to acquiring firms at below market prices to win buy-side merger advisory business is found in Allen and Peristiani (2007). Allen et al (2004) find that banks that provide both buy-side advice and deal financing to acquiring firms do benefit their clients by serving a certification function but that this function is dominated by conflicts of interest with the client. Hogan (2006) as well as Hall (2006) analyze the above mentioned Toys "R" Us verdict from a legal perspective and both conclude that the future of dual role advising post the ruling remain an open question although the court did not find dual role advising illegal.

Besides being the first paper that addresses dual lending from the perspective of an investment bank financing the bidder while simultaneously acting as advisor to the target, this paper contributes to the growing literature on general conflicts of interests in M&A, which is detailed in the following section.

II. Related Literature and Hypothesis Development

A. Finance Related Literature

Conflicts of interest arising from self-interested investment banking agents who do not properly perform their duties for their clients have been studied by Kesner et al (1994). They find that advisors to acquirers generally receive larger compensation for acquisitions where the bidder paid a higher premium, indicating that although the interests of the advisor and the target

coincided, the interests of advisor and acquirer were conflicting. Lex and Sebenius (1986) goes further and argues that misalignment of the goals of investment bankers and their clients is so omnipotent that bankers must choose whether to use collaborative tactics that create value for all parties or opportunistic tactics that yield much greater value to themselves but little or no value for others.

On a less general level, Calomiris and Singer (2004) examine all hostile takeovers over a ten-year period and find that advisors to the acquirer have often previously represented the takeover target in some way. They argue that the existence of overlapping relationships provides incentives for clients and investment banks to limit flows of private information about clients. However, they find no evidence of that the acquisition premium are significantly different in acquisitions where they may be a potential conflict. They define a potential conflict as any deal where a relationship between the takeover target and the acquirer's financial advisor exists in the five calendar years preceding the unsolicited offer. While their focus is on hostile bid I examine both friendly and hostile bids.

Allen and Peristiani (2007) investigate the primary and secondary syndicated bank loan market to analyze the effect on pricing when the financial institution commingles syndicated lending with merger advisory services. With a focus on the connection between the acquirer's choice of merger-advisor and future financing commitments from that advisor, they find evidence of under-pricing of syndicated bank loans in both the primary and secondary market. All in all their findings point to that loans priced at below market terms are offered by the acquirer's relationship bank advisor in order to win merger advisory business.

Another classic and well documented (see e.g. Hayward and Boeker (1998), Lin and McNichols (1998), Lin et al (2005) and Morley (1988)) source for conflicts of interest is the feature of equity research analysts at investment banks who issue positively biased stock recommendations to win advisory roles. Supposedly objective and independent advice on firms to individual and institutional investors are tainted by the desires of the corporate finance department, which competes for capital offerings and M&A mandates from these very same firms. Conflicts arise because whereas corporate finance seeks to promote its clients' deals (issuance of debt and equity securities and M&A deals) through favorable ratings, analysts seek to rate corporate finance clients independently and objectively. Thus, as Morley (1988) points out, such ratings may not necessarily be favorable for the corporate finance clients. Related, Roni and Womack (1999) study the performance of stock recommendations from firms with an underwriting business and those without. They find that the recommendations of those with an underwriting connection performed significantly worse than those of the analysts without an underwriting connection, indicating a conflict of interest within investment institutions that both underwrite financial instruments and provide investor services.

Allen et al (2004) study the role of both commercial and investment banks in providing merger advisory services. They argue that banks who provide both advice and financing to acquiring firms can be viewed as serving a certification function. This function may however be diminished by potential conflicts of interest. Whereas the certification effect dominates for target firms, conflicts of interest dominate the certification effect when banks are advisors to acquirers. This paper differs in an important dimension from Allen et al (2004) in that I focus specifically

on a target advisor's financing activities directly connected to the deal, whereas they examine if the target's or the acquirer's advisors have a prior banking relationship with either the target or acquirer. They control for whether the acquirer's bank lends to the acquiring firm up to one and two years after the deal announcement but do not examine whether the target's bank lends to the acquiring firm, which is the center of attention of this paper.

Importantly associated with the issue of dual role advising is the practice of *stapled financing*. Though closely related, it is however not correct to put equal signs between dual role advising and stapled financing. Stapled finance is a loan commitment that is "stapled" onto an offering memorandum by the investment bank advising the seller in an M&A transaction. Anyone who wins a bidding contest may use the stapled finance, but is not obliged to do so. As described in the theoretical paper by Povel and Singh (2008), stapled finance is usually offered early in the bidding process and provides potential buyers with an estimate of how much they can borrow against the target's assets and cash. So, whereas an advisor may not become a dual role lender until long after a deal announcement is made, stapled financing is something that is clearly disclosed and available to all bidders from the outset of a sale process. However, notwithstanding the difference between stapled financing and dual role advising, Povel and Singh (2008) derive important results that may well be relevant also in a dual role setting. In particular they find that an optimally designed stapled package can benefit the seller, lender and buyer only when certain conditions are met. Firstly there must be at least one financial bidder (as opposed to strategic or industrial buyers) involved in the bidding process and the terms of the financing package must be fixed before the bidding starts. They also discuss the possible

conflicts of interest that stapled finance might give rise to. Also here we find the concern that the investment bank may push the seller to accept an offer from a bidder who is willing to accept the stapled finance package, because of the fees that investment banks earn for providing high-risk debt finance. However, here the concern is the opposite; the investment bank may favor a bidder who is not going to accept the stapled finance package. The reason for the reversed worry is that Povel and Singh (2008) find that the investment bank cannot expect to break even as the bidder will only accept the stapled financing if she expects to benefits from it, which implies that the lender will make a loss. The bank will thus need to be compensated by the seller for providing financing. To avoid making a loss on the stapled financing the bank may thus by biased against firms willing to take up there offered financing packages.

B. Law and Regulation Related Literature

The issue of dual role advisors that I address has been discussed from a regulatory framework in some law journals directly referring to the Toys "R" Us ruling. Although the plaintiffs' requests against the board and CSFB were denied, the Delaware court stated (Cons. C.A. No. 1212-N p.p. 53-54); "…it tends to raise eyebrows by creating the appearance of impropriety, playing into the already heightened suspicions about the ethics of investment banking firms."

Hogan (2006) as well as Hall (2006), who both acknowledge the large conflicts of interest related to stapled financing, set out to interpret the verdict from the viewpoint of both investment banks and selling firms. They both reach the similar and somewhat vague conclusion that the future of dual role advising post the ruling remains an open question. Although deemed

as inappropriate behavior the financing fees that may be reaped could simply be too attractive to be passed on by investment banks. Indeed, CSFB received $10 million for financing the transaction compared to $7 million for their advisory services. The Toys "R" Us ruling marked the start of a series of articles in practitioner oriented finance and law journals discussing the pros- and cons of having a dual role advisor.[2] Hogan (2006) suggests that one way of overcoming the potential conflicts of interest is to hire several advisors. One of these advisors would then have the specific task of providing a fairness opinion, i.e. simply a supposedly independent statement on whether a proposed offer price is to be considered fair or not. However, this proposed effect has little empirical support as Kisgen et al (2008), who study the features of fairness opinions, find that they do not affect deal outcomes when used by targets.

The Toys "R" Us verdict to this day remains the only case where a court has made a ruling on dual role advising although a related litigation example is found in Gerald Ortsman v. Dennis O. Green, et al[3]. The later litigation concerns the takeover of vehicle auction company Adesa Inc by a private equity consortium led by Kelso & Co. The court found evidence that the dual role advisor UBS had steered a deal away from potential bidders not interested in a

[2] In fact, Grant Murgatroyd and Richard Rivlin reported on the issue already before the Toys "R" Us litigation in the article "Packaged for Sale" printed in the 2005 February issue of *Corporate Financier* pp 10- 13. They highlight a very interesting caveat emptor viewpoint on the problems with stapled financing (p 12): "The possibility of conflict is so obvious that any vendor that accepted a package without testing the water elsewhere would pretty much deserve what they got." Kevin Miller specifically addresses Toys "R" Us in "In Defense of Stapled Finance", *The M&A Lawyer*, January 2006, Volume 10, No1 pp 1-3. He points out that the seller's financial advisor generally has a duty to act in good faith in a manner it believes is not opposed to the interest of its client. But as a financier for a prospective buyer the advisor could insist on the ability to exercise rights in its own interest. In "Toys "R" Us Case Provides Guidance on Corporate Sales Process", *Pillsbury Winthrop Shaw Pittman Client Alert*, Vol 0801, No. 8012. July 21, 2005, David R. Lamarre points out that the Court has a strong reluctance in second-guessing the tactical decisions made by the Board in a sell process.

[3] C.A. No. 2670-N

leveraged transaction towards Kelso & Co, but the litigation was settled outside of court with shareholders eventually agreeing on the merger.

Most investment banks have implemented information barriers (so called Chinese walls) to prevent unauthorized disclosure of information from advisory teams to financing teams. However, crossing such a barrier may not constitute a breach of any law other than internal policies and may also well be agreed to by the selling firm as was indeed the situation in the Toys "R" Us case. Another feature of this lawsuit was that the dual role advisor approached the bidder after the deal had been announced; an effective way of outflanking a Chinese wall. As long as no private information is used in the marketing of financing packages no laws are broken. Several studies find support that Chinese walls are often crossed or misused. Bodnaryk et al (2008) present evidence that conflicts of interests affect investment banks that simultaneously advise on deals and invest in the equity market. On a conglomerate level, Acharya and Johnson (2007) as well as Ivashina and Sun (2007) find that investment banks with lending capabilities perform insider trading on credit default swaps and equity through private information regarding corporate clients. Furthermore, Massa and Rehman (2005) show that mutual funds use inside information which is available to affiliated banks lending to firms around the time a loan is granted.

C. General Hypothesis Formulation

The preceding review on related finance and law literature as well as recent court cases point to that the feature of a dual role advisor is expected to be commensurate with a high degree of

conflicts of interest between the advisor and shareholders. The possibility that the investment bank's advice to the seller throughout a bidding process is stained by a desire to obtain additional fees from financing the successful bidder is the driving force of such conflicts. This standpoint implies that dual role lending is unconditionally bad for sellers but an alternative hypothesis, which is in line with Povel and Singhs (2008) findings on the related issue of stapled financing, is that the financing from the selling advisor can in certain special cases actually increase the price. For a seller this would be the case if financing is not readily available to any acquirer or only available at very unattractive terms. The selling advisor could then facilitate the transaction by offering financing at a discount, for which they must be compensated for by the seller. One could also conjure a scenario where the seller benefits from a speedy sale process where the financing expedites both the diligence process as well as the speed of getting access to credit for buyers. In the case of a seller initiated sale process it could eliminate financing as a buyer's bargaining tool. Dual role advisors could also possibly play a certification role similar to the one mentioned in Allen et al (2002), which would also be beneficial for selling shareholders.

To empirically examine whether dual role advising is commensurate with conflicts of interests, which lead to value destruction for target shareholders, or if it is a value enhancing ingredient in a sale process I will turn to areas where either event may manifest itself. The most apparent areas to be investigated are shareholder premium and bidder returns but evidence may also be found through indirect effects such as the likelihood of lawsuits or the level of advisor fees.

III. Empirical Methodology

A. Data

M&A deals are compiled from the Security Data Corporation's (SDC) M&A database over the 15-year period 1 July 1993 to 30 June 2008. All targets firms are publicly traded in the United States when bid for. No firms are allowed to be in bankruptcy at the time of the merger announcement and at least 50 percent of votes must be acquired by the bidder. In order to be able to explore any dual relationship status only deals which have been financed through external financing and where the financial advisor to the target or seller is known are included. This forces the exclusion of any deals which have been financed by a bidder's existing corporate funds or exiting credit lines. The SDC M&A data do not always list the identity of the lender or provider of bidder financing. For deals where such information is missing, I manually search and extract information from SEC filings or the deal prospectuses and memoranda. This information is gathered from a variety of sources such as EDGAR, SDC New Issues database, Perfect Information Debt and Perfect Information Filings. For transactions where any key financial information is missing in the SDC database, such information is manually appended from the Compustat North America database.

Bidder financing can come in a variety of sources such as direct lending, new credit facilities, underwriting of equity securities or underwriting of debt securities.[4] By comparing these various types of financing with information from the aforementioned sources, I match

[4] The type of financing is always disclosed in the SDC data although the identity of the provider is not always given.

financing banks with bidders. This enables me to single out the dual role deals. Of the 1,023 transactions there are 97 cases where any of the above dual role requirements are fulfilled. I search for documentation of financing up to one year after the deal announcement. Although a target advisor might prepare to try to be assigned a dual role far prior to a deal being announced, the actual existence of a dual role advisor situation may not arise until after the deal announcement. E.g, in the Toys "R" Us case the dual role bank did not approach bidders with financing until after two months after the merger agreement was signed.

B. Summary Statistics

Panels A and B of Table I provide an overview of all transactions divided into dual role, non-dual role and total number of deals. In panel A we see that the median one-month deal premium is lower for deals with a dual role advisor (33.0%) compared to deals without dual role advisors (35.9%). Dual role deals also have a higher occurrence of lawsuits by shareholders (6.2% versus 2.9%). These are first indication of that dual role advisors is commensurate with conflicts of interests.

[Table I about here]

It is remarkable that the median ranking of dual role advisors is Tier 3, whereas non-dual role advisors median rank is Tier 1. This indicates that lower ranked banks may be more prone to engage in dual role lending. The mean number of advisors is slightly higher for dual role transactions with 1.59 versus 1.29 for non-dual role deals. Target firms in dual role transactions are on average slightly higher valued compared to target firms in non-dual role deals as their

median market-to-book ratio (M/B) is 2.58 versus 2.47. Whereas it is surprising that the dual role deals, which are bigger on average than non-dual role deals, have lower ranked advisors this is counterbalance for by that these deals also have more advisors involved. Interestingly, the past 12 months return on equity (ROE) is 11.0% for dual role deals which is noticeably higher than that for the non-dual role group at 9.59%. Hence, firms in dual role deals are on average not troubled firms; in fact the median results suggest quite the opposite.

The levels of advisory fees are indistinguishable between groups with both at a median of 0.10%. Median leverage levels are at comparable levels with 0.54 for non-dual role versus 0.61 for dual roles. Whereas the median for the amount of deals performed within the same state is higher for dual role deals (18.6%) than for non-dual role deals (16.2%), the relationship is the reverse for the number of deals done within the same industry (47.4% versus 51.0%). The incidence of hostile deals is slightly higher in the non-dual role group (2.48%) compared to dual role deals (2.06%). The same holds for the amount of deals with competing bidders with 3.24% against 1.03%. Median size of transaction value is $1,270 million for dual role and $349 million for non-dual role deals. The median size of the target's assets is $1,570 million for dual role targets and $417 million for non-dual role targets. Cash only as well as shares only considerations are more common in non-dual deals (77.2% and 3.13%) compared to dual role deals (67.0% and 1.03%). Subsequently, hybrid consideration is more often used in dual role transactions with 24.7% versus 16.5% for non-dual role transactions.

In panel B some characteristics on the type of bidder financing is outlined. Comparing the various external means of financing we see that the most prevalent financing form for non-

dual role deals is bank borrowing, which constitute 59.2% of the transactions. This is followed by new lines of credit (29.5%), issuance of debt securities (19.3%) and issuance of common stock (8.86%). The pattern is slightly different for dual role deals with bank borrowing being the most common source of financing (48.5%) but thereafter followed by issuance of debt securities (43.3%), new credit lines (22.7%) and issuance of common stock (13.4%). Forms of financing such as the use of bridge loans, using a foreign provider of funds, junk bonds, mezzanine and the issuance of preferred stock are less common in both groups of deals. Note that a deal can include several different types of financing. Last but not least we see that the median CAR of bidders for non-dual role deals is 0.11% which is considerably lower than the 0.50% enjoyed in dual role deals. This is an early indication of that acquirers may gain disproportionally on behalf of sellers in deals where they are financed by the target's advisor.

A *t*-test between dual role and non dual role transactions reveals that there are significant differences in the means for all three premium variables as well as for the fee ratio but not for the occurrence of lawsuits or for bidder CAR. Though these results do not unambiguously point in one or the other direction, they still suggest that dual role deals may carry with them manifested conflicts of interest.

C. Model

The 1,023 deals are analyzed with a standard OLS model:

$$y = \alpha + \beta x + \gamma Z + \varepsilon \quad (1)$$

In the base model *y* is the deal premium measured as the offer price over the market price of stock for periods of one month, one week and one day prior to the deal announcement.[5] *x* is the key independent variable of this paper as it indicates the presence of a dual role advisor. *Z* is a vector of 25 variables which control for firm and deal characteristics. The vector includes variables for size, target profitability, leverage, geographic data, industry data, bidder hostility, lawsuits, number of competing bidders, method of payment, type of bidder financing, advisor rankings etc.[6] All variables are detailed in appendix A.

I cluster the standard errors by industry which allows for the error term to be correlated within the deals made in an industry. This imposes a conservative standard for accepting statistically significant results. Clustering of errors implies the use of heteroskedasticity-robust standard errors. Year dummies for the 15-year sample period are used throughout the analysis.

IV. Empirical Results and Analysis

A. Deal Premium

Table II presents results from OLS regressions with deal premium, defined to be the percentage premium of offer price over target price one month, one week, and one day prior to deal announcement, as the dependent variable. After controlling for firm and deal characteristics, I

[5] The corresponding numbers of calendar days are 30, 7 and 1 respectively.

[6] Because only 468 of the acquiring firms in my sample are public firms I have to leave out some variables which have previously been found to affect takeover premium. E.g., Shleifer and Vishny (2003), Rhodes-Kropf and Viswanathan (2004), Rhodes-Kropf et al. (2005) find that the acquiring firm's market-to-book ratio prior to deal announcement is positively related to the premium, which is argued to be driven by the fact that growth firms (acquirers with high market-to-book ratios) may be overvalued which makes the acquirer's stock an attractive method of payment in a merger.

find a negative, economically and statistically significant on the 5% level relation between a dual role advisor and deal premium. When the target advisor is a dual role advisor, one month deal premiums are 12.0% lower compared to deals without a dual role advisor. Corresponding results for the one week and one day periods are 7.7% and 7.3% respectively.

[Table II about here]

These results point to that dual role advisors' integrity in advising a target could be infected by the prospects of the fees they might obtain on the buy side. All in all, the hypothesis that dual role advisors bring along conflicts of interest between themselves and shareholders appear to be supported. The magnitude of this conflict is large with shareholders losing out on comparatively low bid premiums.

Focusing on the results for one month premium we see that, though not generally statistically significant, the control variables have the expected signs. For example, deals in the same state incur a premium which is consistent with Kedia (2005) as well as Grote and Umber (2006) who find that acquirers have a strong and consistent preference for geographically proximate target companies. As one might have guessed, I find that M&A in the same industry, which can give rise to synergy effects, as well as the presence of competing bidders, are both features that drive up transaction premium.

As suggested by Hogan (2006) it may be that conflicts of interest can be mitigated by the use of several advisors where the key role of one is to provide as so called fairness opinion. However, we see that the premium is actually decreasing in the number of advisors engaged by the target. This could be an indication of that the conflict-mitigating effect of several advisors is

dominated by the free riding problems that arise when several agents are hired to perform largely the same or overlapping tasks. Anecdotal, but highly entertaining, evidence of free riding among jointly hired advisors is to be found in William D. Cohen's comprehensive account of investment banking firm Lazard Frères & Co. [7] Cohen tells the story of a deal where Lazard acted as co-advisor with Salomon Brothers (p 213): "…[the Salomon Brothers banker] couldn't get over the fact that the Lazard bankers had produced nothing in writing but [the Lazard banker] had figured, correctly, that the Salomon bankers would". Free riding in its purest form, indeed. The results are also consistent with Kisgen et al (2008) who find that fairness opinions do not affect deal outcomes when used by targets.

We see that those deals where target shareholders file a lawsuit carry with them lower premium on average, which is quite unsurprising. Larger firms have comparatively lower deal premium. In terms of the method of financing; bridge loans, a foreign lender and deals that were financed through junk bonds are performed at large deal premium discounts. Whereas the use of junk bonds in particular could be an indicator of that a target company is in a very poor shape, the results on borrowing source should not be overplayed as the number of observations for these categories are very small, which was shown earlier in Table I.

A.1. Endogeneity

When examining the effects of a dual role advisor on the premium paid in a transaction, the fact that the use of an advisor is itself endogenously determined by the target firm must be accounted

[7] William D. Cohen, The Last Tycoons: The Secret History of Lazard Frères & Co. Broadway Books New York 2007, ISBN 9780767919791.

for. Unobserved characteristics of the target firm or the specific transaction may be correlated with the fact that an advisor becomes a dual role advisor. Since such an endogenous selection process may bias estimates of the impact of a dual role advisor on the premium obtained, I employ a two-equation treatment procedure to account for this potential self-selection. The two-equation treatment model consists of a treatment equation and a regression equation which is similar to the structure used in the Kisgen et al (2008) application of Maddala (1983).[8]

The difference between the base OLS regression (1) and the treatment approach is that the later includes the inverse Mill's ratio obtained from a treatment equation on a dummy variable on the use of a potential dual role advisor. Hiring an advisor that later takes on a dual type role could potentially be a foreseeable action since only advisors with financing capability can become dual role advisors. Subsequently I assume that there is an unobservable underlying variable; D={0,1} that determines whether a firm chooses an advisor which eventually can turn out to be a dual role advisor or not. Thus, if the advisor can act as financier, $\widetilde{D}$ is given the value one and zero otherwise. $\widetilde{D}$ is determined within the dataset by assigning all advisors who have (have not) ever provided financing in any of the 1,023 deals the value one (zero). The first stage treatment equation becomes:

$$\widetilde{D} = \delta\Gamma + \upsilon \tag{2}$$

[8] Kisgen et al (2008) uses an application of the Maddala (1983) approach in their study of the use of fairness opinions in M&A. They find that while fairness opinions do not affect deal outcomes when used by targets, they do affect deal outcomes when used by acquirers. The deal premium is lower in transactions if the acquirer obtains a fairness opinion, and further reduced if multiple advisors provide that opinion. Concurrently the acquirer's announcement period return is lower if the acquirer has a fairness opinion, which indicates that investors overall are skeptical of such transactions.

Where Γ is a vector consisting of explanatory variables that could be expected to influence the choice of advisor such as; size of transaction, size of target, the target firm's market-to-book ratio, the target firm's return on equity, a dummy variable indicating if the deal is friendly, book leverage, same state variable as proxy for geographic distance, industry variables, the transaction value, number of advisors to be appointed and whether the bid consists of shares, cash or both. A probit estimate of the treatment equation enables the construction of the inverse Mill's ratio λ. The second stage equation is given by the same base equation as (1) plus the inclusion of λ;

$$\hat{y} = \hat{\alpha} + \hat{\beta}x + \hat{\gamma}Z + \lambda + \epsilon \quad (3)$$

As reported in Table III, I find that the negative and significant impact of a dual role advisor on deal premium is robust in the premium regression after controlling for the potential self-selection bias. The inverse Mill's ratio as estimated by the coefficient of λ is positive but not statistically significant, which is evidence against the presence of selection bias. Thus, accounting for potential selection bias does not explain away the effect of dual role advisors on deal premium.

[Table III about here]

B. Lawsuits

It is well established that lawsuits related to M&A are very costly for firms for numerous reasons. Thompson and Thomas (2003) document that plaintiffs generally receive large monetary settlements in acquisition related class action lawsuits. Lawsuits are of course costly

for both bidding and target firms. It has even been suggested in professional journals that acquisitions in general are bad because the lawsuits they bring with them cause firms to fall behind their competitors.[9] Gong et al (2008) find that post-merger announcement losses for bidders can in part be attributed to the probability that the acquirer will face a lawsuit. They also find that lawsuits are costly for the firm not only because of settlement costs and lawyer fees but also because it tends to distract management at the very moment when it should be concentrating on the merger at hand. In Table IV I examine whether deals with a dual role advisor are more likely to be brought to court by shareholders than deals with no dual role advisors. A probit model with lawsuit as dependent variable on all remaining variables from appendix A show that deals with dual role advisors are 3.0% more likely to end up in a court. The result is statistically significant on the 10% level. Clearly, the action by shareholders to file legal charges against the board for accepting a bid for the firm is a strong indication of discontent with the deal and deal terms. Although not very strong, the results further support the hypothesis that dual role advisors are a feature that brings with it conflicts of interests with shareholders.

[Table IV about here]

B.1. Endogeneity

Also when estimating the impact of dual role advising on lawsuits the fact that a lawsuit may be endogenously determined by the specifics of the transactions should be accounted for. Similar to the methodology used to control for endogeneity in premiums, I employ a two-equation

[9] This is for example argued by Barbara Etzel, "A chill wind on tech mergers: HP-Compaq controversy could stall further M&A activity in sector". *Investment Dealers Digest*, April 15, 2002.

procedure which includes the inverse Mill's ratio from a treatment equation on a dummy variable on the probability of a lawsuit. Ending up in a lawsuit could be driven by many factors which are unobservable; $L=\{0,1\}$. I proxy L by the targets' previous performance by setting it to one if the firm has performed poorly in the past 12 month period and to zero otherwise. Poorly, in turn, is defined as having a ROE in the lower quintile of the sample, which corresponds to a maximum ROE of 3.4%. Other explanatory variables in the selection equation include size of transaction, size of target, the target firm's market-to-book ratio, a dummy variable indicating if the deal is friendly, book leverage, same state variable as proxy for geographic distance, industry variables, the transaction value, number of advisors to be appointed and whether the bid consists of shares, cash or both. Since both the outcomes in the treatment and in the estimation equation are dichotomous, I use the Heckman (1979) bivariate probit regression. The probit estimate of the treatment equation enables the construction of the inverse Mill's ratio which is included in the second stage equation on lawsuits where the dual role advisor indicator is the variable of key interest. As reported in Table V, I find that the positive and significant impact of a dual role advisor on deal premium remain after controlling for the potential self-selection bias and the inverse Mill's ratio, which has a negative sign, is not statistically significant. This is support for that the results cannot be explained away by selection bias.

[Table V about here]

C. Target Advisor Fees

Another way of examining if dual role advisors give rise to conflicts of interest is to look at merger fees as a percentage of the transaction value paid to the target advisors. McLaughlin

(1990, 1992) document that fees paid to target advisors are contingent on the price realized and that different payoff functions may influence tender offer outcomes. Kale et al (2003) observe that fixed fees are greater for target advisors than for acquirer advisors and conclude that target advisors have little incentive to complete a deal at any cost. Hunter and Walker (1990) examine different merger fee contracts and find that commonly they consist of a combination of a fixed fee and a fee based on the transaction price. Importantly, they find that this type of contract appears to provide the proper incentive for advisors to increase their efforts to generate better outcomes. Hunter and Jagtiani (2003) show that buy-side advisor fees are associated with greater acquisition gains realized by the acquirer.

To examine whether there is any difference in the fees of dual role advisors compared to non-dual role advisors I run an OLS regression with fee as percentage of transaction value as dependent variable and all independent variables as in (1). We see in Table VI that dual role advisors on average receive 0.2% lower fees than average fees. The coefficient is significant on the 10% level. This could be an indication, albeit weak, of that the target shareholders are unhappy with their advisory performance and thus pay them less. Again, this points to a conflict between shareholders and dual role advisors. We can also note that the levels of fees increase by 0.2% per each tier of higher ranking an advisor is associated with. As expected, the size of the target increases pay. Both cash-only and shares-only considerations reduce the fee levels.

[Table VI about here]

On the whole my results are consistent with existing literature on fees to the extent that I also find that fees appear to be related to the client's perceived notion of the quality of advice. I

will revisit these results on fees as they play an important role in refuting the alternative hypothesis of dual role advisors being an efficiency-enhancing feature of mergers.

D Bidder Returns

The announcement returns for acquiring firms around the deal announcement has been studied extensively in the finance literature. Most studies document negative bidder returns. Roll (1986), followed by Moeller et al (2004), suggest that this is due to management entrenchment and/or hubris. However, Becher (2008) notes that the literature on bidder returns generally suggest that mergers are likely motivated by synergies rather than managerial hubris. Jensen and Ruback (1983), Malatesta (1983), Asquith et al (1983) instead suggest that results may be driven by problems in measuring bidder returns. Both Bhagat et al (2004) and Hietala (2003) point to that results may be caused by a surprise effect of the merger announcement rather than the pure economics of the deal itself. Boone and Mulherin (2007) find that low bidder returns are a function of a competitive takeover market. Fuller et al (2002) study shareholder returns for firms that acquired five or more firms within a short time period. They find that whereas shareholders of the bidding firm gain when the bid is for buying a private firm or subsidiary they lose when the firm purchases a public firm. Mitchell et al (2004) observe that price pressure from merger arbitrage biases bidder returns downward. I study bidder returns with the help of the three day CAR around the acquisition announcement (-1, +1). The CAR is computed using a market model with an estimation period from 180 trading days to 21 trading days prior to the announcement date. Table VII displays results with the CAR as dependent variable. We see that mergers with a

dual role advisor have better announcement returns than deals without dual role advisors. The CAR is 1.9% and statistically significant on the 10% level. This result is consistent with the previous results that dual role advisors are bad for sellers since, in a zero sum game, what is bad for one party must be good for the other party.

[Table VII about here]

The OLS regression only yields relative results of dual role deals compared to non-dual role deals but is silent on the absolute value of the CAR. To investigate this I run a probit regression where the outcome variable indicates if the CAR is positive (coded as one) or not (coded as zero). Explanatory variables are a subset of the ones previously used and described in appendix 1. Results are displayed in Table VIII. We see that in dual role deals, the probability of a positive abnormal return is increased by 13.9%. Results are statistically significant at the 10% level. Thus, deals with dual role advisors are commensurate with both higher relative and more often positive CAR for acquirers than deals with no dual role advisors. Again, this point to that dual role advising is detrimental for the selling party.

[Table VIII about here]

E. Alternative hypothesis

As previously mentioned, an alternative explanation is that although premiums are lower in dual role deals, the net effect for target shareholders could still be positive if the deal would not take place at all be there no dual role lending. In a very intuitive way this is the same as saying that although each shareholder's slice of pie is smaller in dual role deals, the pie is much bigger than

in the counterfactual situation of no dual role advisors. I find considerable evidence against this alternative explanation. The data show that those target firms where dual role lending occurs are on average not worse than firms in non-dual role transactions. As we saw already in Table I, both market-to-book and ROE is higher for firms in dual role transactions. Thus, dual role transactions do on average not seem to be more difficult to finance than other transactions. In the related situation of stapled financing Povel and Singh (2008) argue that for staples to be optimally provided the lender cannot expect to break even, but must be compensated by the seller for offering the loan. In the previous analysis of fees, which was displayed in Table VI, we saw that advisor fees are generally lower in dual role transactions than in other deals, not higher. Thus lenders do not receive special compensation for overly favorable loans. We should also remember that the conditions that Povel and Singh (2008) require for stapled financing to be favorable are quite special and my results are not in conflict with theirs. Thus, the characteristics of the target firms as measured by their past performance and the low fees earned by target advisors comprise evidence against the alternative hypothesis.

V. Conclusion

I study 1,023 US M&A over the period 1993 to 2008 and find that deals where a bank engages in dual role advising deal premiums are 12.0% lower than in deals with no dual role advisor. Through a two-equation treatment procedure I find that these results cannot be explained away by selection bias.

Whereas sellers lose out, the bidding firm gains a CAR around the announcement day which is 1.9% higher in deals with dual role advising compared to deals without. Dual role involvement in a deal is also an important factor in explaining which transactions are commensurate with a positive CAR for the acquirer. Furthermore, deals with dual role advisors are more likely to be dragged to court by shareholders and the advisor fees are lower compared to non-dual role deals. Overall, the results enable me to refute an alternative hypothesis that dual role lending is a helpful feature in transactions where it might be difficult to otherwise obtain bidding financing.

My findings are consistent with Delaware court statements, finance and law practitioners' views as well as related literature on investments banks and conflicts of interests with shareholders. Altogether, these results point to that the investment banks hired by target firms may not have fulfilled their obligation of improving the pricing of the transaction. Being a dual role advisor appears to create conflicts of interests which stem from that the advice to shareholders and board is polluted by a desire on the part of the advisor to obtain additional fees from financing the successful bidder. My results suggest that selling firms should be very careful in scrutinizing the activities of their advisors and should demand full disclosure of which activities the advisor is planning to engage in with the bidding firm.

References

Acharya, Viral and Timothy Johnson, 2007, Insider Trading in Credit Derivatives, *Journal of Financial Economics* 84, 110–141.

Allen Linda, Julapa Jagtiani, Stavros Peristiani, and Anthony Saunders, 2004, The Role of Bank Advisors in Mergers and Acquisitions, *Journal of Money, Credit, and Banking* 36, 197-224.

Allen Linda and Stavros Peristiani, 2007, Loan Underpricing and the Provision of Merger Advisory Services, *Journal of Banking and Finance* 31, 3539-3562.

Asquith Paul, Robert F. Brunner and David Mullins, 1983, The gains to bidding firms from mergers. *Journal of Financial Economics* 11; 121-139.

Becher, David A., 2008, Bidder Returns and Merger Anticipation: Evidence from Banking Deregulation. *Journal of Corporate Finance*, Forthcoming.

Bhagat Sanjai, Dong Ming, David A. Hirshleifer and Robert B. Noah, 2005, Do tender offers create value? New methods and evidence. *Journal of Financial Economics* 76; 3-60.

Bodnaryk, Andriy, Massimo Massa, and Andrei Simonov, 2007, Investment Banks as Insiders and the Market for Corporate Control, *Review of Financial Studies*, Forthcoming.

Boone, Audra L. and J. Harold Mulherin, 2007, Do auctions induce a winner's curse? New evidence from the corporate takeover market. *Journal of Financial Economics,* Forthcoming.

Calomiris, Charles W. and Hal J. Singer, 2004, How Often Do "Conflicts of Interests" in the Investment Banking Industry Arise During Hostile Takeovers?", Columbia University working paper.

Fuller, Kathleen Petrie, Jeffry Netter and Mike Stegmoeller, 2002, What do returns to acquiring firms tell us? Evidence from firms that make many acquisitions. *Journal of Finance* 57; 1763-1793.

Gong, Guojin, Henock Louis and Amy X. Sun, 2008, Earnings Management, Lawsuits, and Stock- for-Stock Acquirers' Market Performance. Smeal College of Business working paper.

Grote, Michael H., and Marc P. Umber, 2006, Home biased? A spatial analysis of the domestic merging behavior of US firms, EFA 2006 Zurich Meetings Paper, Available at SSRN.

Hall, Richard, 2006, Stapled finance packages under scrutiny, *International Financial Law Review*, Supplement.

Hayward, Mathew L. A. and Warren Boeker, 1998, Power and Conflicts of Interest in Professional Firms: Evidence from Investment Banking, *Administrative Science Quarterly* 43 Q1.

Heckman, James J., 1979, Sample Selection Bias as a Specification Error, *Econometrica* 47, 153-161.

Hietala, Pekka, Steven N. Kaplan and David T. Robinson, 2003, What is the price of hubris? Using takeover battles to infer overpayment and synergies. *Financial Management* 32; 5-31.

Hogan, Joris M., 2006, Shareholder Rights Plans: Self-Limiting Features and Redemptions; What's up with Stapled Financing?, *Securities Regulation Law Journal*, Volume 34 Number 3.

Hunter, William C., and Julapa Jagtiani, 2003, An analysis of adviser choice, fees, and effort in mergers and acquisitions, *Review of Financial Economics* 12, 65-81.

Hunter, William C. and Mary Beth Walker 1990, An Empirical Explanation of Investment Banking Merger Fee Contracts, *Southern Economic Journal* 56, 1117-1130.

Ivashina, Victoria and Sun Zheng, 2007, Institutional Stock Trading on Loan Market Information, Harvard Business School Working Paper.

Jensen, Michael C and Richard S. Ruback, 1983, The market for corporate control. *Journal of Financial Economics* 11; 5-50.

Kale, Jayant R., Omesh Kini, and Harley E. Ryan, 2003, Financial Advisors and Shareholder Wealth Gains in Corporate Takeovers, *Journal of Financial and Quantitative Analysis* 38, 475-501.

Kedia Simi, Venkatesh Panchapagesan and Vahap B.Uysal, 2005, Geography and Acquirer Returns, Working paper Rutgers Business School.

Kesner, Idalene F., Debra L. Shapiro and Anurag Sharma, 1994, Brokering Mergers: An Agency Theory Perspective on the Role of Representatives, *Academy of Management Journal* 37, 703-721.

Kisgen, Darren J., Jun Qian, and Weihon Song, 2008, Are Fairness Opinions Fair? The Case of Mergers and Acquisitions, *Journal of Financial Economics*, Forthcoming.

Lex, David A., and James K. Sebenius, 1986, "The Manager as Negotiator", Free Press, NY.

Lin, Hsiou-wei and Maureen F. McNichols, 1998, Underwriting relationships, analysts' earnings forecasts and investment recommendations, *Journal of Accounting and Economics* 25, 101-127.

Lin, Hsiou-wei, Maureen F. McNichols, and Patricia O'Brien, 2005, Analyst impartiality and investment banking relationships, *Journal of Accounting Research* 43, 623-650.

Maddala, Gangadharrao Soundalyarao, Limited-Dependent and Qualitative Variables in Econometrics, Cambridge University Press, 1983.

Malatesta, Paul H. The wealth effects of merger activity and the objective function of merging firms. *Journal of Financial Economics* 1983; 11; 155-181.

Massa, Massimo and Zahid Rehman, 2005, Information Flows within Financial Conglomerates: Evidence from the Banks–Mutual Funds Relationship, working paper.

McLaughlin, Robyn M., 1990, Investment Banking Contracts in Tender Offers, *Journal of Financial Economics* 28, 209-232.

McLaughlin, Robyn M., 1992, Does the Form of Compensation Matter? Investment Banker Fee Contracts in Tender Offers, *Journal of Financial Economics* 32, 223-260.

Mitchell, Mark, Todd Pulvino and Erik Stafford, 2004, Price pressure around mergers. *Journal of Finance* 2004; 59; 31-63.

Moeller, Sara B., Frederik P. Schinglemann and René M. Stulz, 2004, Firm size and the gains from acquisitions. *Journal of Financial Economics*; 73; 201-228.

Morley, Alfred 1988 "Overview of financial analysis." In Sumner N. Levine (ed.), The Financial Analysts Handbook: 3-33. Homewood, IL: Irwin.

Povel, Paul and Rajdeep Singh, 2007, Stapled Finance, Carlson School of Management Working Paper.

Rhodes-Kropf, Matthew and S. Viswanathan, 2004. Market Valuation and Merger Waves, *Journal of Finance* 59, 2685-2718.

Rhodes-Kropf, Matthew, S. Viswanathan and David T. Robinson, 2005. Valuation Waves and Merger Activity: The Empirical Evidence, *Journal of Financial Economics* 77, 561-604.

Roll, Richard, 1986, The hubris hypothesis of corporate takeovers. *Journal of Business* 59, 197-216.

Roni, Michaely and Kent Womack, 1999, Conflict of Interest and the Credibility of Underwriter Analyst Recommendations, *Review of Financial Studies* 12, 653-686.

Shleifer, Andrei and Robert Vishny, 2003. Stock Market Driven Acquisitions, *Journal of Financial Economics* 70 (3), 295-311.

Thompson, Robert B. and Randall S. Thomas, 2003, The new look of shareholder litigation: acquisition oriented class actions. *Vanderbilt Law Review* 57:1, 141-209.

Appendix A: List of Variables Used in Tests

Premium	Offer price over the market price of stock for periods of one day, one week and one month prior to the deal announcement
Fee ratio	The target/seller advisor fee as percentage of transaction value.
Dual Role Indicator	Dummy variable if bid is financed by the seller or target advisor
Bidder CAR	Cumulative abnormal returns from -1 to +1 with date 0 being the announcement date. Estimation period is -180 to -21 trading days.
Target M/B	Market value of total assets divided by the book value of total assets.
Target ROE	Target ROE is the LTM net income over latest reported common equity
Target Leverage	Target leverage is measured as the book value of total debt divided by the book value of total assets.
Acquirer-Target Same State	Dummy variable if acquirer and target are incorporated in the same state as indicated by SDC
Acquirer-Target Same Industry	Dummy variable if target and acquirer industries are classified at the same 2-digit SIC level.
Hostile	Dummy variable if bid is hostile as indicated by SDC.
Lawsuit	Dummy variable if bid is contested in a lawsuit as indicated by SDC.
Competing Bidders	Dummy variable if competing bids are announced after deal announcement is made as indicated by SDC.
Target/seller Advisor Ranking	Three-tier ranking of advisors based on market value advised over the sample period. Tier 1 includes advisors ranked 1-5, Tier 2 includes advisors ranked 6-15 and Tier 3 to advisor below rank 16.
Ln(Transaction Value)	Natural log of transaction value
Ln(Target Assets)	Natural log of total assets
# Target/seller Advisors	The numbers of advisors in total retained by target and /or seller
Cash Only Consideration	Dummy variable if bid is cash only
Shares Only Consideration	Dummy variable if bid is shares only
Hybrid Consideration	Dummy variable if bid is both cash and shares
Bidder Financing: Borrowing	Dummy variable if bid is financed by bank borrowing
Bidder Financing: Bridge Loan	Dummy variable if bid is financed by bridge loan
Bidder Financing: Common Stock Issue	Dummy variable if bid is financed by issue of common stock
Bidder Financing: Debt Issue	Dummy variable if bid is financed by issue of debt securities
Bidder Financing: Foreign Provider of Funds	Dummy variable if bid is financed by a foreign domiciled financier
Bidder Financing: Junk Bond Issue	Dummy variable if bid is financed by junk bonds
Bidder Financing: New Line of Credit	Dummy variable if bid is financed by new line of credit
Bidder Financing: Mezzanine	Dummy variable if bid is financed by mezzanine debt
Bidder Financing: Preferred Stock Issue	Dummy variable if bid is financed by new issue of preferred stock
Bidder Financing: New Rights Issue	Dummy variable if bid is financed by new rights issue

Table I. Summary Statistics

All variables as described in Appendix A. T-values are denoted with * significant at 10%; ** significant at 5%; *** significant at 1%.

Panel A							
	Median			Mean			
	No Dual Role	Dual Role	All	No Dual Role	Dual Role	All	t-test: Dual vs No Dual
Premium 1 month before deal announcement (%)	35.9	33.0	35.5	44.5	32.7	43.1	-2.26**
Premium 1 week before deal announcement (%)	32.1	28.4	31.8	38.6	32.9	37.6	-2.83***
Premium 1 day before deal announcement (%)	27.3	23.8	26.8	32.9	32.5	32.2	-2.30**
Fee ratio (%)	0.10	0.10	0.10	0.56	0.11	0.52	-5.00***
Target M/B	2.47	2.58	2.49	3.34	1.17	3.14	-1.13
Target ROE (%)	9.59	11.0	9.70	6.77	2.16	8.17	-0.11
Target Leverage	0.54	0.61	0.55	0.64	0.59	0.63	5.41***
Acquirer-Target Same State (%)	16.2	18.6	16.4	16.2	18.6	16.4	0.57
Acquirer-Target Same Industry (%)	51.0	47.4	50.6	51.0	47.4	50.6	-0.66
Hostile (%)	2.48	2.06	2.44	2.48	2.06	2.44	-0.27
Lawsuit (%)	2.92	6.19	3.23	2.92	6.19	3.23	1.30
Competing Bidders (%)	3.24	1.03	3.03	3.24	1.03	3.03	-1.87**
Target/seller Advisor Ranking	1	3	1	1.47	1.92	1.52	3.15***
Transaction Value (mUSD)	349	1,270	410	1,590	2,470	1,670	2.53**
Target Assets (mUSD)	417	1,570	481	482	674	500	1.16
# Target/seller Advisors (#)	1	1	1	1.29	1.59	1.31	3.79***
Cash Only Consideration (%)	77.2	67.0	76.3	77.2	67.0	76.3	-2.04**
Shares Only Consideration (%)	3.13	1.03	2.93	3.13	1.03	2.93	-1.78*
Hybrid Consideration (%)	16.5	24.7	17.3	16.5	24.7	17.3	1.80*

Panel B							
	Median			Mean			
	No Dual Role	Dual Role	All	No Dual Role	Dual Role	All	t-test: Dual vs No Dual
Bidder Financing: Borrowing (%)	59.2	48.5	58.2	59.2	48.5	58.2	-2.00**
Bidder Financing: Bridge Loan (%)	6.48	6.19	6.45	6.48	6.19	6.45	-0.11
Bidder Financing: Common Stock Issue (%)	8.86	13.4	9.29	8.86	13.4	9.29	1.26
Bidder Financing: Debt Issue (%)	19.3	43.3	21.6	19.3	43.3	21.6	4.59
Bidder Financing: Foreign Provider of Funds (%)	3.88	5.15	4.00	3.88	5.15	4.00	0.54
Bidder Financing: Junk Bond Issue (%)	0.11	0.00	0.10	0.11	0.00	0.10	-1.00
Bidder Financing: New Line of Credit (%)	29.5	22.7	28.8	29.5	22.7	28.8	-1.50
Bidder Financing: Mezzanine (%)	0.54	1.03	0.59	0.54	1.03	0.59	0.46
Bidder Financing: Preferred Stock Issue (%)	2.27	7.21	2.74	2.27	7.21	2.74	1.84*
Bidder Financing: New Rights Issue (%)	0.97	0.00	0.88	0.97	0.00	0.88	-3.01**
Bidder CAR (%)	0.11	0.50	0.17	0.63	0.79	0.65	0.18
Observations	926	97	1,023	926	97	1,023	

Table II. The Impact of Dual Role Advisors on Deal Premium

Table presents OLS regressions of each explanatory variable on the deal premium 1 day, 1 week and 1 month before deal announcement. All variables as described in appendix A. Standard errors adjusted for clustering on target industry in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

	Premium as measured prior to deal announcement		
	1 month	**1 week**	**1 day**
Dual Role Indicator	-12.038**	-7.744**	-7.250**
	(5.627)	(3.444)	(3.604)
Target M/B	-0.794	-0.143	-0.127**
	(0.922)	(0.091)	(0.050)
Target ROE	2.877	0.467	0.489*
	(3.118)	(0.330)	(0.281)
Target Leverage	0.027	-0.045	-0.001
	(0.171)	(0.167)	(0.153)
Acquirer-Target Same State	2.722	-1.093	0.561
	(4.179)	(3.637)	(3.759)
Acquirer-Target Same Industry	3.376	0.307	-0.183
	(4.916)	(2.424)	(2.231)
Hostile	8.263	9.884	12.530*
	(7.464)	(7.615)	(7.267)
Lawsuit	-5.054	-1.769	-0.591
	(7.396)	(8.634)	(8.683)
Competing Bidders	2.269	5.065	3.590
	(6.161)	(4.296)	(4.566)
Target/seller Advisor Ranking	-0.428	0.089	0.312
	(1.295)	(0.828)	(0.686)
Ln(Transaction Value)	5.376*	1.175	2.058
	(3.118)	(1.591)	(1.496)
Ln(Target Assets)	-6.078**	-2.511*	-2.675**
	(2.484)	(1.312)	(1.246)
# Target/seller Advisors	-1.832	-2.518	-2.131
	(2.333)	(1.690)	(1.732)
Cash Only Consideration	0.095	3.258	1.343
	(6.901)	(6.276)	(5.821)
Shares Only Consideration	-10.728	-4.580	-4.443
	(10.153)	(8.281)	(7.920)
Hybrid Consideration	-5.616	2.198	1.193
	(7.306)	(6.846)	(6.877)
Bidder Financing: Borrowing	-2.572	-0.782	-2.345
	(3.491)	(2.845)	(2.799)
Bidder Financing: Bridge Loan	-14.198***	-9.897**	-9.543**
	(5.224)	(4.666)	(4.259)
Bidder Financing: Common Stock Issue	-4.009	-6.810**	-3.626
	(4.910)	(3.147)	(3.368)
Bidder Financing: Debt Issue	0.181	1.415	1.208
	(3.664)	(3.141)	(3.097)
Bidder Financing: Foreign Provider of Funds	-11.527**	-8.039**	-7.870*
	(5.181)	(3.788)	(4.028)
Bidder Financing: Junk Bond Issue	-49.535***	-61.337***	-52.353***
	(12.208)	(9.928)	(9.008)
Bidder Financing: New Line of Credit	5.871**	2.338	1.533
	(2.589)	(1.940)	(2.094)
Bidder Financing: Mezzanine	7.856	9.109*	8.442
	(7.302)	(4.811)	(5.868)
Bidder Financing: Preferred Stock Issue	9.263	9.384	8.551
	(7.486)	(8.362)	(7.172)
Bidder Financing: New Rights Issue	-6.158	-7.245	-6.146
	(11.433)	(7.076)	(5.918)
Constant	56.797***	54.634***	46.042***
	(12.172)	(11.700)	(9.280)
Year Dummies	Yes	Yes	Yes
Observations	1,023	1,023	1,023
R-squared	0.09	0.10	0.08

Table III. Two-equation Treatment Procedure: Deal Premium

Table presents two-equation (treatreg) regressions of each explanatory variable on the deal premium 1 day, 1 week and 1 month before deal announcement. All variables as described in appendix A. Selection is based on target/seller advisors capacity to take on a dual role through their financing capability. Standard errors adjusted for clustering on target industry in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

		Premium as measured prior to deal announcement		
	Selection	**1 month**	**1 week**	**1 day**
Dual Role Indicator		-60.525**	-39.421*	-45.759**
		30.937	21.826	18.727
Target M/B	-0.014*	-0.950***	-0.246	-0.251*
	0.008	0.231	0.162	0.143
Target ROE	0.017	2.899***	0.481	0.506
	0.055	0.792	0.556	0.491
Target Leverage	0.192**	0.107	0.007	0.062
	0.076	0.204	0.143	0.126
Acquirer-Target Same State	0.098	3.131	-0.826	0.886
	0.153	4.621	3.245	2.864
Acquirer-Target Same Industry	-0.211*	1.819	-0.710	-1.420
	0.118	3.618	2.541	2.238
Hostile	-0.179	7.172	9.172	11.663*
	0.392	11.028	7.743	6.834
Lawsuit		-5.460	-2.035	-0.913
		9.392	6.630	5.671
Competing Bidders		2.724	5.363	3.952
		9.714	6.850	5.896
Target/seller Advisor Ranking		1.324	1.233	1.703
		1.834	1.291	1.123
Ln(Transaction Value)	0.082	6.106***	1.652	2.638**
	0.065	2.020	1.419	1.247
Ln(Target Assets)	-0.065	-6.244***	-2.619*	-2.807**
	0.065	1.929	1.354	1.194
# Target/seller Advisors	0.127	-0.630	-1.733	-1.176
	0.085	3.012	2.117	1.859
Cash Only Consideration	-1.307***	-14.323	-6.162	-10.108
	0.187	13.085	9.212	8.002
Shares Only Consideration	-1.907***	-27.428	-15.489	-17.706*
	0.519	17.263	12.146	10.594
Hybrid Consideration	-0.979***	-17.778	-5.747	-8.467
	0.231	12.632	8.889	7.742
Bidder Financing: Borrowing		-2.926	-1.013	-2.626
		4.049	2.858	2.446
Bidder Financing: Bridge Loan		-14.315	-9.973**	-9.636*
		6.868	4.848	4.148
Bidder Financing: Common Stock Issue		-4.520	-7.143*	-4.032
		5.966	4.211	3.603
Bidder Financing: Debt Issue		-0.278	1.115	0.844
		4.396	3.103	2.654
Foreign Provider of Funds		-11.424	-7.971	-7.788
		9.023	6.374	5.425
Bidder Financing: Junk Bond Issue		-45.747	-58.863	-49.344
		53.619	37.796	32.593
Bidder Financing: New Line of Credit		5.571	2.142	1.295
		4.197	2.962	2.537
Bidder Financing: Mezzanine		8.157	9.306	8.682
		21.187	14.957	12.784
Bidder Financing: Preferred Stock Issue		9.090	9.271	8.414
		10.037	7.093	6.025
Bidder Financing: New Rights Issue		-5.310	-6.690	-5.472
		18.055	12.728	10.974
Constant		69.245	62.767	55.929
		18.339	12.923	11.148
Lambda		25.998	16.985	20.648
		16.261	11.475	9.830
Year Dummies	No	Yes	Yes	Yes
Observations	1,023	631	631	631

Table IV. The Impact of Dual Role Advisors on Lawsuits

Table presents marginal effects from a probit regression of each explanatory variable on the probability that a deal is subject to a lawsuit from target shareholders. All variables as described in appendix A. Standard errors in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

	(1)	(2)	(3)
Dual Role Indicator	0.030*	0.031*	0.031*
	(0.024)	(0.024)	(0.024)
Target M/B	-0.000	-0.000	-0.000
	(0.000)	(0.000)	(0.000)
Target ROE	0.000	0.000	0.000
	(0.002)	(0.002)	(0.002)
Target Leverage	-0.000	-0.000	-0.000
	(0.000)	(0.000)	(0.000)
Acquirer-Target Same State	0.009	0.009	0.009
	(0.012)	(0.012)	(0.012)
Acquirer-Target Same Industry	-0.001	-0.001	-0.001
	(0.008)	(0.008)	(0.008)
Hostile	0.047	0.046	0.045
	(0.051)	(0.050)	(0.050)
Premium 1 month prior to announcement	-0.000		
	(0.000)		
Premium 1 week prior to announcement		0.000	
		(0.000)	
Premium 1 day prior to announcement			0.000
			(0.000)
Target/seller Advisor Ranking	0.003	0.003	0.003
	(0.003)	(0.003)	(0.003)
Ln(Transaction Value)	-0.003	-0.003	-0.003
	(0.004)	(0.004)	(0.004)
Ln(Target Assets)	-0.000	-0.000	0.000
	(0.004)	(0.004)	(0.004)
# Target/seller Advisors	-0.005	-0.004	-0.004
	(0.007)	(0.007)	(0.007)
Cash Only Consideration	-0.084**	-0.085**	-0.085**
	(0.039)	(0.039)	(0.039)
Shares Only Consideration	-0.019***	-0.019***	-0.019***
	(0.005)	(0.005)	(0.005)
Hybrid Consideration	-0.025***	-0.025***	-0.025***
	(0.008)	(0.007)	(0.007)
Bidder Financing: Borrowing	-0.010	-0.010	-0.010
	(0.011)	(0.011)	(0.011)
Bidder Financing: Bridge Loan	-0.010	-0.010	-0.010
	(0.010)	(0.010)	(0.010)
Bidder Financing: Common Stock Issue	0.024	0.024	0.024
	(0.020)	(0.020)	(0.020)
Bidder Financing: Debt Issue	-0.010	-0.010	-0.010
	(0.008)	(0.008)	(0.008)
Bidder Financing: New Line of Credit	-0.016*	-0.016*	-0.016*
	(0.008)	(0.008)	(0.008)
Bidder Financing: Preferred Stock Issue	-0.007	-0.007	-0.008
	(0.015)	(0.014)	(0.014)
Year Dummies	Yes	Yes	Yes
Observations	1,023	1,023	1,023

Table V. Bivariate Selection: Lawsuits

Table presents bivariate Heckman probit regressions of each explanatory variable on the probability of a deal related lawsuit. All variables as described in appendix A. Selection is based on LTM ROE. Standard errors adjusted for clustering on target industry in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

	Selection	**(1)**	**(2)**	**(3)**
Dual Role Indicator		0.037*	0.038*	0.039*
		(0.027)	(0.027)	(0.028)
Target M/B	-0.002	0.004	0.004	0.004
	(0.002)	(0.003)	(0.003)	(0.003)
Target ROE		-0.000	-0.000	-0.000
		(0.002)	(0.002)	(0.002)
Target Leverage	0.004**	-0.011*	-0.011*	-0.011*
	(0.002)	(0.007)	(0.007)	(0.007)
Acquirer-Target Same State	-0.012	0.107	0.107	0.104
	(0.034)	(0.098)	(0.099)	(0.097)
Acquirer-Target Same Industry	0.041	-0.147	-0.148	-0.144
	(0.026)	(0.148)	(0.149)	(0.145)
Hostile	0.044	-0.023***	-0.023***	-0.023***
	(0.090)	(0.006)	(0.006)	(0.006)
Premium 1 month prior to announcement		-0.000		
		(0.000)		
Premium 1 week prior to announcement			0.000	
			(0.000)	
Premium 1 day prior to announcement				0.000
				(0.000)
Target/seller Advisor Ranking		0.002	0.002	0.002
		(0.004)	(0.004)	(0.004)
Ln(Transaction Value)	-0.023	0.053	0.053	0.053
	(0.014)	(0.037)	(0.037)	(0.037)
Ln(Target Assets)	-0.022	0.057	0.057	0.057
	(0.015)	(0.036)	(0.036)	(0.035)
# Target/seller Advisors	0.045**	-0.120*	-0.119*	-0.117*
	(0.022)	(0.071)	(0.071)	(0.070)
Cash Only Consideration	-0.077	0.076	0.076	0.074
	(0.073)	(0.075)	(0.075)	(0.073)
Shares Only Consideration	-0.173**	0.991***	0.991***	0.991***
	(0.038)	(0.007)	(0.007)	(0.007)
Hybrid Consideration	-0.076	0.649	0.653	0.635
	(0.060)	(0.759)	(0.759)	(0.765)
Bidder Financing: Borrowing		-0.009	-0.009	-0.009
		(0.011)	(0.011)	(0.011)
Bidder Financing: Bridge Loan		-0.012	-0.012	-0.012
		(0.012)	(0.012)	(0.012)
Bidder Financing: Common Stock Issue		0.023	0.023	0.023
		(0.021)	(0.021)	(0.021)
Bidder Financing: Debt Issue		-0.009	-0.010	-0.010
		(0.010)	(0.009)	(0.009)
Bidder Financing: New Line of Credit		-0.018*	-0.018**	-0.019**
		(0.009)	(0.009)	(0.009)
Bidder Financing: Preferred Stock Issue		-0.004	-0.005	-0.006
		(0.021)	(0.020)	(0.019)
Lambda		-0.937	-0.939	-0.924
		(0.585)	(0.585)	(0.580)
Year Dummies	No	No	No	No
Observations	1,023	222	222	222

Table VI. The Impact of Dual Role Advisors on Fees

Table presents results from OLS regression of each explanatory variable on the fees received by the target/seller advisor. All variables as described in appendix A. Standard errors adjusted for clustering on target industry in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

	Target advisor fee
Dual Role Indicator	-0.002*
	(0.001)
Target M/B	0.000
	(0.000)
Target ROE	0.000
	(0.000)
Target Leverage	-0.001**
	(0.001)
Acquirer-Target Same State	0.003
	(0.003)
Acquirer-Target Same Industry	0.001
	(0.001)
Hostile	0.001
	(0.002)
Lawsuit	-0.004
	(0.004)
Competing Bidders	-0.004
	(0.004)
Target/seller Advisor Ranking	0.002***
	(0.001)
Ln(Transaction Value)	-0.005
	(0.007)
Ln(Target Assets)	0.003**
	(0.001)
# Target/seller Advisors	0.002
	(0.001)
Cash Only Consideration	-0.007**
	(0.003)
Shares Only Consideration	-0.007**
	(0.004)
Hybrid Consideration	0.001
	(0.004)
Bidder Financing: Borrowing	-0.000
	(0.002)
Bidder Financing: Bridge Loan	0.004*
	(0.002)
Bidder Financing: Common Stock Issue	0.001
	(0.001)
Bidder Financing: Debt Issue	0.001
	(0.002)
Bidder Financing: Foreign Provider of Funds	0.003*
	(0.001)
Bidder Financing: Junk Bond Issue	-0.005
	(0.005)
Bidder Financing: New Line of Credit	0.002*
	(0.001)
Bidder Financing: Mezzanine	0.005**
	(0.002)
Bidder Financing: Preferred Stock Issue	-0.004*
	(0.002)
Bidder Financing: New Rights Issue	-0.000
	(0.002)
Constant	0.007
	(0.005)
Year Dummies	Yes
Observations	1,023
R-squared	0.34

Table VII. The Impact of Dual Role Advisors on CAR for Acquirers

Table presents results from OLS regression of each explanatory variable on the cumulative abnormal returns of bidders from announcement day -1 to announcement day +1. Estimation period is from -180 to -21 with 0 being the announcement date. All variables as described in appendix A. Standard errors adjusted for clustering on target industry in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

	CAR		
	(I)	**(II)**	**(III)**
Dual Role Indicator	0.019*	0.019*	0.019*
	(0.011)	(0.010)	(0.011)
Target M/B	-0.001	-0.000	-0.000
	(0.000)	(0.000)	(0.000)
Premium 1 month prior to announcement	-0.000**		
	(0.000)		
Premium 1 week prior to announcement		-0.000	
		(0.000)	
Premium 1 day prior to announcement			-0.000
			(0.000)
Target ROE	0.001	-0.003	-0.003
	(0.005)	(0.006)	(0.006)
Target Leverage	0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)
Acquirer-Target Same State	0.010	0.008	0.008
	(0.010)	(0.010)	(0.010)
Acquirer-Target Same Industry	0.007	0.006	0.006
	(0.007)	(0.007)	(0.007)
Hostile	-0.013	-0.013	-0.013
	(0.021)	(0.021)	(0.022)
Ln(Transaction Value)	-0.006	-0.007	-0.007
	(0.005)	(0.005)	(0.005)
Ln(Target Assets)	-0.004	-0.003	-0.003
	(0.006)	(0.006)	(0.006)
Cash Only Consideration	0.020	0.021	0.021
	(0.026)	(0.026)	(0.026)
Shares Only Consideration	-0.012	-0.010	-0.011
	(0.031)	(0.031)	(0.031)
Hybrid Consideration	-0.005	-0.002	-0.002
	(0.027)	(0.028)	(0.027)
Bidder Financing: Borrowing	0.006	0.007	0.007
	(0.010)	(0.010)	(0.010)
Bidder Financing: Bridge Loan	-0.019*	-0.020*	-0.020*
	(0.011)	(0.011)	(0.011)
Bidder Financing: Common Stock Issue	0.001	0.002	0.002
	(0.012)	(0.013)	(0.013)
Bidder Financing: Debt Issue	-0.004	-0.002	-0.003
	(0.011)	(0.010)	(0.011)
Foreign Provider of Funds	-0.012	-0.010	-0.011
	(0.025)	(0.025)	(0.026)
Bidder Financing: Junk Bond Issue	-0.069	-0.076	-0.074
	(0.055)	(0.060)	(0.061)
Bidder Financing: New Line of Credit	-0.007	-0.007	-0.008
	(0.011)	(0.012)	(0.012)
Bidder Financing: Mezzanine	0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)
Bidder Financing: Preferred Stock Issue	-0.014	-0.013	-0.013
	(0.018)	(0.018)	(0.018)
Bidder Financing: New Rights Issue	0.008	0.014	0.015
	(0.024)	(0.027)	(0.027)
Constant	0.110	0.110	0.108
	(0.069)	(0.071)	(0.072)
R-squared	0.14	0.13	0.13
Year Dummies	Yes	Yes	Yes
Observations	468	468	468

Table VIII. The Impact of Dual Role Advisors on Positive CAR for Acquirers

Table presents marginal results from a probit regression of each explanatory variable on positive cumulative abnormal return of acquirers from announcement day -1 to announcement day +1. Estimation period is from -180 to -21 with 0 being the announcement date. All variables as described in appendix A. Standard errors adjusted for clustering on target industry in parentheses. * significant at 10%; ** significant at 5%; *** significant at 1%.

	Positive CAR		
	(I)	**(II)**	**(III)**
Dual Role Indicator	0.137*	0.139*	0.139*
	(0.082)	(0.081)	(0.081)
Target M/B	0.004	0.004	0.004
	(0.004)	(0.004)	(0.004)
Premium 1 month prior to announcement	-0.001**		
	(0.001)		
Premium 1 week prior to announcement		-0.001	
		(0.001)	
Premium 1 day prior to announcement			-0.001
			(0.001)
Target ROE	0.005	-0.003	-0.004
	(0.030)	(0.027)	(0.027)
Target Leverage	-0.001	-0.001	-0.001
	(0.002)	(0.002)	(0.002)
Acquirer-Target Same State	0.006	-0.001	-0.001
	(0.054)	(0.054)	(0.054)
Acquirer-Target Same Industry	0.123***	0.124***	0.124***
	(0.041)	(0.041)	(0.040)
Hostile	-0.242*	-0.247*	-0.247*
	(0.137)	(0.139)	(0.139)
Ln(Transaction Value)	-0.031	-0.037	-0.038
	(0.026)	(0.026)	(0.026)
Ln(Target Assets)	0.004	0.012	0.012
	(0.023)	(0.023)	(0.024)
Cash Only Consideration	0.129	0.128	0.125
	(0.118)	(0.115)	(0.115)
Shares Only Consideration	-0.157	-0.153	-0.156
	(0.149)	(0.143)	(0.143)
Hybrid Consideration	0.005	0.009	0.007
	(0.122)	(0.119)	(0.119)
Year Dummies	Yes	Yes	Yes
Observations	468	468	468