



On the board's agenda | US Post-merger integration

In search of growth and value creation, public and private corporations alike often turn to mergers and acquisitions (“M&A”) to pave the path to superior long-term returns. However, there are numerous studies indicating that many M&A transactions fall short of attaining their anticipated return on investment, and in some cases, don’t deliver any upside at all. Further, in every year since 2008, shareholders have litigated against at least 54 percent of all deals valued in excess of \$100 million involving Delaware-incorporated companies.¹

The spotty track record of many deals and the proclivity by shareholders to sue companies is—or should be—an area of importance to any company’s board of directors. In our experience in dealing with

thousands of acquisitions over time, one critical, often-overlooked contributory factor to the success of a deal—and steering clear of the pitfalls that bedevil so many of them—is post-merger integration (“PMI”), the events that unfold after a deal is agreed and signed.

PMI isn’t always an area of board concern, though it should be. Boards can play a crucial role in helping their companies succeed by providing an oversight role regarding PMI—similar to the role the board often plays in its business-as-usual tasks: asking questions, identifying areas of risk, and providing guidance on solving problems. This is also the role many boards play during the early stages of an M&A deal, for areas such as due diligence and agreeing on the deal terms.

When management has not structured PMI planning appropriately, resourced it sufficiently, and/or put in place the internal controls needed to monitor implementation, the integration process may well become a company performance issue during execution—a trend we have repeatedly seen and a leading cause for the lack of success of many deals. Alternatively, a well-structured, well-planned, well-resourced, and well-executed PMI program with appropriate and sufficient internal controls usually delivers superlative integration results. Board oversight of these areas and of integration itself is a strong contributing element of success. ➤

¹ <https://www.cornerstone.com/Publications/Reports/Shareholder-Litigation-Involving-Acquisitions-2016.pdf>

Many companies forego this step and expect management to run the company and manage the integration phase at the same time. That's usually a mistake, as developing a synergy plan that is drilled down to the detailed action-oriented project level with full costs and benefits, requires time and focus and distracts from running the business. Instead, a separate focus on integration can afford a far greater likelihood of success. The elements of a synergy plan include having detailed, granular steps needed to achieve the cost reductions and revenue enhancements that drove the transaction in the first place. Such details might include a timetable to close a specific facility or to introduce new products into a certain region.

What can boards do?

Today's public company boards generally are highly qualified to oversee every aspect of M&A transactions. They are independent of management, and, thus, in a position to question and challenge management appropriately. Moreover, boards do not have the financial incentives, such as completion bonuses or success fees (or the lack thereof) that can impact management, investment bankers, and other external advisors involved in a transaction.

The board's role in the M&A process—as in other areas—is typically one of oversight. Boards commonly understand this as it applies to pre-deal activity leading to transaction approval. To oversee a transaction holistically, however, boards should oversee not only the due diligence process and grant transaction approval, but also PMI preparedness and execution.

The board's role obviously should not be to supplant management or micro-manage a transaction before or after it's completed. Rather, board members should look to see that management has set a robust PMI strategy with appropriate resourcing and be held accountable for delivering against it, providing the board with regular updates and dashboards on timing and actions on critical issues, challenges, and milestones.

Many boards assume that everything after this phase will naturally fall into place. Often, that is not the case. In many M&A transactions, it is not until the deal is signed—or later—that the two companies have ample exposure to the leadership style and aptitude of the other company and can begin to know who the key employees will be—and where the problems are.

As a result, the board should gain visibility into the integration leadership decisions, including the appointment of a strong integration leader who can make decisions swiftly and who has the clout to execute on key decisions. A leader who understands cultural issues and is able to navigate the associated challenges is critical. Having that leader ready to combine the two entities is a key part of Day 1 preparedness and sets the stage for a successful PMI program.

Boards should also be satisfied not only that the right integration leadership structure is in place, but also that the team has a defined integration philosophy, a set of guiding principles that can move the entity forward from an operational standpoint.



The role of the board and committees

1. The board's role in the M&A process should be that of oversight, as a matter of corporate governance.
2. Boards should work with management to oversee all aspects of the M&A lifespan: due diligence, valuation, final deal terms, Day 1 readiness, and post-merger integration.
3. Directors, ideally, should oversee the post-merger integration, to help ensure that a plan is established and regularly evaluate it and hold management accountable for its implementation.

To address the critical PMI issues, a board should be satisfied that the designated PMI leaders establish a detailed, well-thought-through synergy plan both on the cost and growth sides of the business, and that they have a deep, real understanding of the steps needed to implement the plan and achieve its goals. Moreover, boards should question whether the internal control environment at the combined entity properly measures and assesses the progress of the PMI program, or provides red flags when the program isn't achieving 



desired goals so that appropriate remedial action can be taken, if needed. Many companies fall short in these areas; they do not develop those robust plans and boards do not insist on establishment of appropriate internal controls to provide effective oversight. Without a centralized plan, integration structure and controls, management teams can very easily get distracted by the need to run the business and integrate an acquired company at the same time. Boards need to understand this and consider having mechanisms in place to monitor.

Management should set a timetable for achieving its desired projects and milestones and update the board regularly with a dashboard on their progress. The board should understand the reasons for any missed deadlines, variances in synergies and other areas where the plan may have been missed.

For some boards, especially those with new members or those who have not overseen an M&A deal, training that demonstrates leading practices of a successful deal, could help in visualizing what a structured integration program looks like.

Conclusion

Because M&A activity is a critical part of the growth strategy of many companies, boards should take active oversight of the entire life-span of a transaction, not just the due diligence, but also Day 1 readiness and post-merger integration.

Considering PMI as an integral part of the M&A life-cycle is also important because integration issues may affect the terms of the deal to begin with. It also can drive the conclusion that the inability to execute—due to, say, operational or cultural issues—could render the transaction inadvisable. At a minimum, considering PMI early on and thoroughly can make the transition smoother, enabling deals to succeed where they otherwise might not.

Many merger and acquisitions, even promising ones, can fall short of delivering anticipated results. And shareholders often rarely pause to litigate. In other words, the potential consequences of M&A activity loom large to companies and to their boards. Thus, it is commonly in the board's interest to emphasize the importance of, and to oversee, a well-thought out M&A plan, including the often-overlooked post-merger integration. ➔



The following are some key post-merger integration questions that board members should consider asking:

1. Has management considered post-merger integration issues in proposing the deal and/or its terms?
2. What does management see as the most significant integration challenges—and how does management plan to address these challenges?
3. Who is on the post-merger integration team? Who is leading it, and does he/she have the clout to get it done?
4. What is the integration schedule?
5. What are the key integration milestones—and how will management inform the board at regular intervals of the progress reaching them?
6. Should the board set a separate committee to oversee integration?
7. When is integration deemed completed?
8. What is the internal control environment and culture of the newly acquired company? Are there any unique considerations that may impact the ability to effectively integrate internal controls processes, particularly over disclosures and financial reporting, in a timely manner?



Authors



Joel Schlachtenhaufen
Principal
M&A Services
Deloitte Consulting LLP
jschlachtenhaufen@deloitte.com



Bob Lamm
Independent Senior Advisor
Center for Board Effectiveness
Deloitte LLP
rlamm@deloitte.com

Contacts us



Deborah DeHaas
**Vice Chairman, Chief Inclusion Officer,
and National Managing Partner**
Center for Board Effectiveness
Deloitte US
ddehaas@deloitte.com



Henry Phillips
**Vice Chairman, and
National Managing Partner**
Center for Board Effectiveness
Deloitte & Touche LLP
henryphillips@deloitte.com



Maureen Bujno
Managing Director
Center for Board Effectiveness
Deloitte LLP
mbunjo@deloitte.com



Debbie McCormack
Managing Director
Center for Board Effectiveness
Deloitte LLP
dmccormack@deloitte.com



Krista Parsons
Managing Director
Center for Board Effectiveness
Deloitte & Touche LLP
kparsons@deloitte.com

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