

**Separating historical data?
Look to the future**

Part of the *#Tech @the heart of M&A* series
on M&A technology topics

Day 1 readiness, integration/separation planning, and major systems cutovers command the lion’s share of buyers’ and sellers’ focus in M&A transactions in the post-announcement phase of the deal. Historical data, by contrast, is often relegated to a mere afterthought. Ironically, long after the deal close, sellers and buyers frequently find themselves wrangling with major cost, resource, and infrastructure constraints to solve for final ownership of and access to historical data—especially in carve-out scenarios. Heading this problem off at the pass starts by taking a forward-looking approach to historical data.

There are important business, legal, and regulatory reasons why both sides in an M&A transaction need access to historical data pre- and post-deal close. However, some sellers underestimate the importance of early planning for data separation and management. As a result, these companies may find it difficult to quickly and efficiently locate, access, and contain data required for audit, litigation, and regulatory matters. In addition, lack of proactive planning may require significant efforts down the road to complete historical data separation to support a Day 1 or Day 2 cutover.

This article explores the factors that may complicate migrating and managing historical application data, describes potential solutions and associated considerations, and offers a high-level approach that may ease the process for both seller and buyer.

Complicating factors and questions

Historical data, sometimes known as “Books and Records” can take many forms: **pre-close** (owned by seller); **post-close** (owned by buyer); **online** (currently residing in applications); **offline** (archived after a period of time in systems or data warehouses); **structured** (application/database/system data); **unstructured** (spreadsheets, presentations, emails, and hard copy/paper documentation); **comingled** (mixed with data from other business units (BU)) and **non-comingled** (belonging solely to one BU). The abundance, prevalence, and diversity of historical data speak to its organizational value. However, these same factors also add to the complexity of separating, retaining, retrieving, and accounting for historical data during and after an M&A transaction. Both seller and buyer should consider the following complicating factors and key questions as they develop requirements for a historical data separation solution (see figure 1).

Figure 1: Complicating factors

Complicating factors	Key questions
Business, legal, and regulatory environment	<ul style="list-style-type: none"> • What are the historical data deal requirements (e.g., Purchase Agreement, Transition Services Agreement, and Master Reorganization Agreement)? • What are the country-specific regulatory requirements (e.g., EU Data Protection Directive, Bank Holding Company, Sarbanes-Oxley, Works Councils)? • What are the legal implications of sharing data (e.g., anti-trust)? • What is RemainCo’s or SpinCo’s¹ historical data risk tolerance? • Will regulators require the original system of record to view transactional processing?
Data sensitivity, format, and retention	<ul style="list-style-type: none"> • What are the country-specific and corporate data retention requirements? • What is the sensitivity of the data categories in question? • What is the frequency the data will be requested for audit, legal, compliance, regulatory, and business operations requirements? • What format can the data be extracted in and can that data format be read without the original system in which it was transacted?
Technology risks	<ul style="list-style-type: none"> • What is the timeline for the divestiture to define their end-state IT landscape and roadmap? • Is there a technically viable option to retain and restore historical data without using the original application/database? • Is the conveying technology proprietary or end-of-life?
Governance	<ul style="list-style-type: none"> • Do RemainCo and SpinCo have the appropriate leadership structure and tone at the top? • Has Day 1 or other competing priorities caused a lack of focus on historical data, and is management willing to make it a priority? • Has analysis been conducted to determine data separation, retention, and retrieval solution timelines and feasibility?
Resourcing	<ul style="list-style-type: none"> • Will RemainCo or SpinCo retain the appropriate business and technology resources, contracts, etc., to support the historical data effort? • Do RemainCo or SpinCo have the appropriate subject matter expertise to support the chosen applications/database needed to view the data in a readable format?

¹“SpinCo” represents the business being carved out and divested from “RemainCo,” the parent company that remains post divestiture.

No one-size-fits-all solution

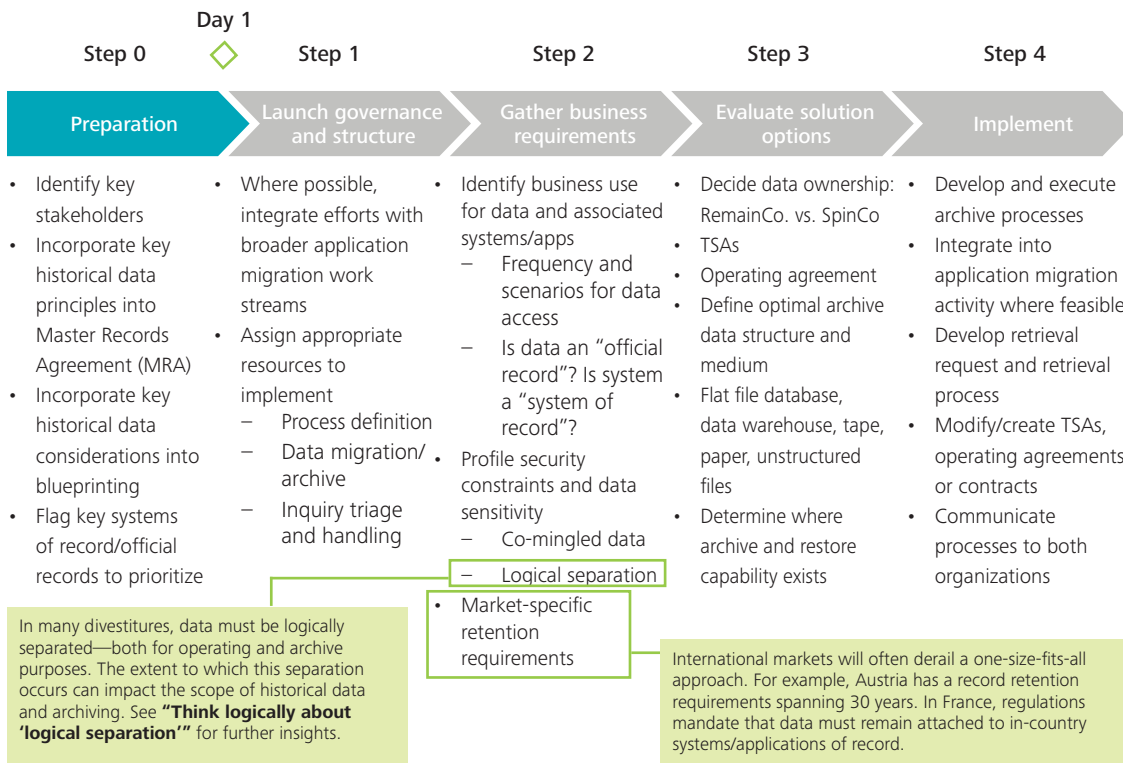
There is no one-size-fits-all solution for separating historical data during M&A—an organization’s selection can depend on deal type and terms, the volume of comingled data, and the complicating factors mentioned above. Also, the solution initially selected may change as the deal timeline progresses. Figure 2 shows a number of potential solutions and associated considerations.

Figure 2: Historical data separation solutions

Solutions	Works when...	Not ideal when...
Leverage TSA, MRA, purchase agreement, or long-term operating agreement	<ul style="list-style-type: none"> Deal documents relating to historical data are well-defined and detailed Historical data considerations are integral to the deal structure Least costly option is for RemainCo and SpinCo to retain their applications and manage the historical data requirements through an operating or deal agreement 	<ul style="list-style-type: none"> Applications used for systems of record will be decommissioned within 12-24 months of the TSA exit Country-specific regulations or legal implications limit this approach RemainCo or SpinCo don’t want to be a service provider
Clone system	<ul style="list-style-type: none"> RemainCo has subject matter expertise to support the technology stack Application is portable and flexible to deploy at third-party data centers Solution uses a non-proprietary or end-of-life system, where resources and licenses can be obtained 	<ul style="list-style-type: none"> Key resources convey to SpinCo and contract resource that they do not know legacy technology Third-party data center hosting facilities require remediation of end-of-life systems prior to migration Solution is cost-prohibitive (e.g., standing up a mainframe environment)
Implement archival tool	<ul style="list-style-type: none"> Archiving non-proprietary systems Archiving technology is able to read the data without the application Archiving technology meets business, legal, and regulatory retention and retrieval requirements 	<ul style="list-style-type: none"> Data is frequently needed for business operations, unless archival tool has self-service feature or retrieval process has minimal latency Data dictionary doesn’t exist to get data from applications to/from archival Time- or cost-constrained
Extract data to flat file	<ul style="list-style-type: none"> Data dictionary is readily available to make sense of data SQL/alternate read options are readily available 	<ul style="list-style-type: none"> No data dictionary exists Application is required to read the data Data volume makes this approach unfeasible
Utilize third-party or escrow environment	<ul style="list-style-type: none"> Joint venture scenarios have open-ended working relationships Both parties are willing to enter into a long-term operating agreement and split the costs associated with systems hosting and management 	<ul style="list-style-type: none"> Divestiture is a closed-end transaction

Figure 3 presents a high-level approach and timeline to drive solution definition and implementation.

Figure 3: Historical data separation approach



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Critical success factors

There is no shortage of issues that can make M&A-related historical data management challenging and complex. However, employing a disciplined and proactive approach may help to mitigate risks, uncover constraints, streamline the process, and reduce intra- and inter-organizational conflicts—all factors that can be critical to separation success.

- Start early.** The earlier in the M&A process that stakeholders begin considering the impacts of historical data separation, the better they can prepare and integrate solutions into their cutover planning. Among important steps:
 - Define clear guiding principles in the Master Reorganizational Agreement (MRA) at the onset of the separation to help resolve downstream conflicts and provide a framework to incorporate into separation planning.
 - Integrate historical data separation into the blueprinting phase so that all work teams consider how data will be treated for Day 1 and TSA exit (Day 2).
 - Don’t “reinvent the wheel.” Leverage existing systems, establish a repeatable process, and separate data by like work streams (e.g., by function, by system) to help reduce implementation cost and time.

- Set the tone at the top.** Executive support for including historical data separation at the onset of deal planning can help to keep the issue front-of-mind as the M&A teams develop Day 1 and exit plans. Leadership should also:
 - Provide guidance around which data may be shared and draw boundaries around which data should be separated.
 - Embed an appropriate governance structure as part of a centralized separation management team.
- Collaborate.** Multiple stakeholders from both sides of the transaction sit at the M&A table; some are there because of their business acumen, others because of their technical expertise. All play important roles in historical data separation and should work collaboratively to enable separation completion. Among important tasks:
 - Define the business requirements for historical data, understand the technical constraints and feasibility, and prioritize the most pragmatic approach.
 - Consider data security, privacy, and business sensitivity issues. Ask legal, information security, compliance, risk, and internal audit stakeholders to weigh in on the scope and implications of historical data.

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- Depending on the complexity of the carve-out, ask the Program Management Office (PMO) to guide and manage multiple historical data work streams across businesses and functions.

It may seem that separating and preserving historical data requires a historic effort, but it doesn't have to. By starting early in the M&A lifecycle, developing simple and cost-effective solutions, using the appropriate tools and governance structure, and collaborating with stakeholders, the pain of managing historical data can be a thing of the past.

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