



# **Boardroom Fundamentals 301**

## **Module 2: Mergers and Acquisitions**

Prepared by  
Linda Iannone

# Mergers and Acquisitions

## Types of M&A Transactions:

- Stock Purchase
- Asset Purchase
- Stock-for-Stock Merger
- Cash Merger
- Mergers of Equals
- Tender Offer (friendly or hostile)
- Leveraged Buy-out
- Joint Ventures



# Mergers and Acquisitions

## Reasons to Engage in an M&A Transaction:

- Increase in market share
- Synergies
- Growth opportunities
- Diversification
- Increase in buying power
- Strength of target's executive team
- Geographic expansion
- Elimination of a competitor

# Mergers and Acquisitions

**In deciding whether to approve an M&A transaction, boards of directors should consider:**

- Board has no duty to accept a merger proposal (in most cases, can “just say no” under state corporate law)
- Adequacy of price
- Effect of merger on shareholder, employee, community and other relevant constituencies
- Strategic alternatives, including ability of company to deliver shareholder value on a standalone basis or existence of a white knight
- Availability and feasibility of acquirer’s financing capability
- Quality of securities being offered

# Mergers and Acquisitions

## The Merger & Acquisition Process: From the Dance to the Marriage

### The Dance:

- Acquirer or target engages investment banker to advise on alternatives and identify potential acquisition candidates
- Investment banker contacts potential acquisition candidates and solicits indications of interest
- Acquisition candidates retain their own investment bankers or wait until the “Date” phase to do so
- Principals “meet and greet”

# Mergers and Acquisitions

## The Merger & Acquisition Process: From the Dance to the Marriage

### The Date:

- Due diligence commences
- Pricing and other terms of transaction refined
- Non-binding letter of intent may be signed at this stage
- Boards of both entities decide to begin negotiation of definitive merger agreement
- Due diligence process continues until definitive agreement signed



# Mergers and Acquisitions

## The Merger & Acquisition Process: From the Dance to the Marriage

### The Engagement:

- Counsel for acquirer drafts definitive agreement and negotiations begin
- Documentation may include non-compete agreements, shareholder agreements and affiliate agreements, employment agreements for key executives
- Discussions commence about employee retention and separation
- Fairness opinions delivered by investment bankers
- Boards of both parties approve definitive agreement
- Joint press release issued announcing merger
- Any required regulatory or antitrust applications filed
- If a stock transaction, SEC registration filed
- Proxy statement to obtain shareholder approval prepared and distributed, shareholder meeting held to vote on transaction
- Integration planning begins

# Mergers and Acquisitions

## **The Merger & Acquisition Process: From the Dance to the Marriage**

### **The Marriage**

- Closing occurs once all contingencies have been satisfied
- Press release issued announcing closing
- Integration of two companies commences in earnest



# Mergers and Acquisitions

## The Merger & Acquisition Process: From the Dance to the Marriage

### Integration Success Factors:

- Comprehensive plan identifying required steps, responsible parties and timing
- Strong leadership
- Sufficient resources and budget
- Cultural compatibility
- Dedicated integration team
- Accountability
- Incentives



# Mergers and Acquisitions

## The Merger & Acquisition Process: From the Dance to the Marriage

### Divorce?

Not all M&A transactions produce the intended benefits for one party or both parties. Break-ups sometimes occur, although unraveling a merged and integrated entity can be difficult. The following situations may arise:

- If the acquired company was maintained as a subsidiary or discreet business unit, the acquisition can be unwound by selling the business back to the previous owners or to a third party
- After an earnout period has ended or a noncompete agreement has expired, the previous owners may decide to exit the company
- If relations have deteriorated between the previous owners and the acquirer or if the parties disagree about earnout calculations or other consideration, litigation may ensue

# Questions?

Contact Linda via email → [lindaiannone35@gmail.com](mailto:lindaiannone35@gmail.com)

# End of Module 2



CORPORATE BOARDS USA