Oregon Business Lawyer

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Beginning at the End: Post-Transaction Integration Considerations

Justin Monahan, Otak

In the December 2024 edition of this newsletter, Erich Merrill and I cowrote an article discussing considerations of buying and selling a business from the perspectives of the buyer and the seller. As a follow-up, this article takes a closer look at integration activities that follow an acquisition and merger to outline practices that have proven effective and those that have not.

This article addresses integration considerations regarding strategic alignment, cultural integration, organizational structure, human resources, technology systems, operations, marketing and communication, legal and compliance matters, and financial integration. These considerations do not necessarily apply to the parties until the integration occurs, hence their being labeled as "post-transaction" activities. However, if parties only try to deliberately address these integration considerations after a deal is struck, then that is too late for any meaningful action to occur. To achieve successful integration, the parties must think about what the end state of integration will look like from the start of the transaction. This can be difficult to fully appreciate because often there are only key leaders from each of the companies involved in critical pieces of the initial negotiations or even deal-making. After a deal is struck and the parties get into the weeds of integration in earnest, there will be additional input from all different corners of each company that will need to be managed. But intentionally structuring the end state of integration into the fabric of the deal itself will help keep everyone focused on the shared vision that excited the companies' leaders in the first place.

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Strategic alignment

When negotiating a deal, through-thinking—conceiving of the deal all the way through to the resulting performing merged entity—prompts the establishment of a clear vision: Why are we joining forces? What is the strategy driving each company? Is the shared goal to achieve economies of scale, geographic expansion, vertical integration, or diversification, or is the goal to capture specific innovations or intellectual property? Further, moving beyond visionary statements to developing critical success factors and key performance indicators (KPIs) can not only help the parties quantify transactional considerations such as earnouts but also provide a bright line for the full team to clearly understand future success. Without strategic alignment to provide the bedrock for the parties to weather all the ups and downs of integration and business, the integration process risks becoming fragmented and ineffective.

Cultural integration

A challenging and often underestimated aspect of post-merger integration is cultural integration. Cultural misalignment can lead to disengagement, turnover, and reduced productivity at the employee level and failure to achieve business objectives at an organizational level. As mentioned above, one

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hindrance to cultural integration is that often only need-to-know key leaders are involved in deal discussions. In target entities—those being acquired—these need-to-know leaders are often founders or principals who have defined the culture for many years. These leaders have built a team around them that appreciates this culture. If the acquisition serves as a retirement path or other exit for these key founders and principals, the resulting entity and culture can quickly take on a character that differs drastically from what the team is used to.

While the confidentiality of sensitive deal discussions is often necessary, the parties need to plan for rapid and deep engagement with tier-two and tier-three leaders in the target firm. This engagement may include identifying cultural similarities and differences between the parties and defining a desired culture for the resulting entity. To support these goals, training and change-management programs should also be discussed in advance. Mergers between companies with vastly different working styles, communication norms, and management philosophies require careful cultural due diligence and proactive measures to bridge gaps.

Organizational structure

Each integration process must establish a new organizational structure that reflects the needs of the merged entity. This includes redefining leadership roles, reporting relationships, and determining who has decision-making authority. It may also mean streamlining layers of management to eliminate redundancy. Although there can be pain points in doing that, a clear organizational structure helps ensure that employees understand both their roles in the merged entity and how decisions will be made.

Human resources and talent management

Successful integrations need to resolve uncertainties about human resources and talent management. Employees are the core assets of any organization, and managing human resources during a merger is critical to maintaining morale and retention. The key founders and principals know the fate of their roles if exit schedules or retention provisions are directly negotiated into the deal, which may be critical if they are tied to earnouts structured over a certain number of years. But the tier-two and tier-three leaders discussed earlier are going to be the future of the company, and the parties should think early and often about making these leaders not just culturally comfortable but also financially comfortable. Integrating parties may consider promptly introducing a new class of bonus, buy-in, or other compensation structures to immediately capture the attention and loyalty of these emerging leaders.

Each party will need to understand the impact that the resulting benefits, performance management systems, and policy and procedure changes will have on the resulting entity's employees. Prompt and transparent communication, coupled with a deep functional understanding of how these changes will impact staff, will help mitigate the risk of losing valuable employees during the integration.

Technology systems

Always an interesting challenge is combining two technology infrastructures. Two approaches are to leave the target firm alone or to transition them over to the acquiring firm's systems over time. After all, the target firm built the business using their own familiar enterprise resource planning (ERP), customer relationship management (CRM), and other core platforms. It could be disruptive to the staff to change the way they do their jobs. I have seen this disruption when target firms take the immediate "phase in" approach; the process gets messy, territorial, confusing, and ultimately inefficient.

On the other hand, the parties will need to deliberately evaluate what works best given the scale of the transaction. While prompt and thorough technology transitions can be technically complex and costly, they may be ideal for ensuring business continuity and enabling long-term synergies. Another consideration is, of course, cybersecurity. A clear technology, data, and user onboarding process for the target entity could be the clearest path to ensuring there are no gaps in the resulting entity's cybersecurity platform.

Operations

Operational integration focuses on combining the day-to-day functions of the two companies to improve efficiency and customer service. Depending on the nature of the businesses involved, this requires leaders in each firm to identify overlapping processes and design streamlined workflows; harmonize supply chains, logistics, and procurement functions; consolidate manufacturing or service delivery operations where feasible; align quality assurance and control standards; and implement joint customer service models. These analyses will be impacted by a number of external considerations as well, such as the terms of supplier contracts with ongoing engagements, the nature of their work with

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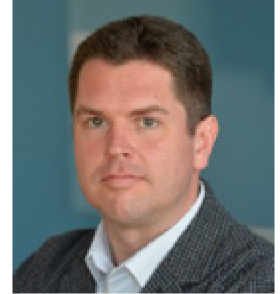

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Post-Transaction

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each firm, and the expectations of customers. This is often a longer-term project that fits in with ongoing efforts to consistently review policies, procedures, and workflows to provide the best experience for staff and clients or customers alike.

Marketing and communication

Depending on the nature of the transaction, tremendous effort may go into marketing and communication. How the merged entity presents itself to the market and communicates with stakeholders can significantly impact its reputation and market position. The market and stakeholders will wonder: Did the target entity just supply the acquiring entity with a significant new capability, services line, or market position? How are the target's key founders or principals going to function as ambassadors of the resulting brand going forward, capitalizing on the personal brand they have built in the industry under the new flag? Similar to the IT and systems integration described above, we have seen both gradual and prompt integration strategies in this regard. Which option is best for a given transaction will depend on the depth and breadth of the target firm's brand. It is crucial for the parties to align early and consistently on branding decisions to keep the flow of the branding tied to their strategic evolution. In addition, clear and consistent internal communication helps reduce uncertainty and foster employee engagement throughout the integration process.

Customers, suppliers, investors, and other stakeholders need assurance that the merger will bring added value rather than disruption. External branding, marketing, and communication in regard to market presence is important, but you cannot beat picking up the phone or making time to meet key clients, customers, and industry partners to describe the enhanced capabilities of the resulting firm. And every effort should be made to ensure continuity of service and fulfillment during the transition. If clients are already spooked just by the news of a transaction, the parties certainly do not want to validate their fears with a dropped delivery.

Legal and compliance matters

Legal and regulatory considerations must be carefully addressed during integration to avoid liability and ensure compliance with laws in all operating jurisdictions. A robust due diligence process can reduce the future burdens for the merged entity in administering contracts, liabilities, and obligations. If the transaction has strong intellectual property components, or is contingent on regulatory approvals, these threshold considerations must be tirelessly documented, confirmed, and indemnified in the deal process. There are always plenty of administrative details to attend to, such as updating legal entities, licenses, and registrations.

Financial integration

Combining financial operations is vital for reporting accurately, budgeting effectively, and realizing cost synergies. This may translate into integrating accounting systems and financial reporting frameworks and agreeing on the accounting treatment of each aspect of the resulting business. Financial integration becomes particularly important if key earnouts are staked to the KPIs established as part of the negotiations. It will not do the parties any service to haggle through detailed KPIs and a multi-part earnout strategy if they immediately walk into a stumbling block over a detail of revenue recognition or cost allocations among parts of the firm. Sound financial integration will provide the foundation for measuring merger success and ensuring clean deal administration.

Conclusion

Integrating two companies after a merger or acquisition is a delicate and intricate process that requires attention to strategic, operational, human, technological, legal, and financial dimensions. Each area discussed must be thoroughly addressed for the integration to succeed. Effective post-merger integration is not just about merging assets but about building a cohesive, unified organization that is greater than the sum of its parts. Companies that approach integration with a structured, strategic, and people-centric mindset are more likely to unlock the full value of the deal and position themselves for long-term success, and limit distractions, hiccups, and mishaps along the way. ◆

Save the Date: Business Law Section's Annual CLE

When: November 7, 2025

Where: The Nines Hotel
525 SW Morrison Street
Portland, Oregon 97204

More details to come!

Corporate Transparency Act Spring 2025 Update: A Requiem?

Michael Walker, Samuels Yoelin Kantor LLP

Michael Walker is a partner at Samuels Yoelin Kantor. He advises clients in many different industries on all aspects of the life cycle of a business, including business formation, limited liability operating agreements, tax planning, financing arrangements, purchases and sales of businesses, mergers, reorganizations, succession planning, and formation and operation of nonprofit organizations.

The Corporate Transparency Act (CTA) is a federal statute that was incorporated with some amendments into the National Defense Authorization Act for fiscal year 2021, was passed over a presidential veto, and was effective as of January 1, 2021. The act seeks to harmonize the disparate beneficial ownership reporting laws of the states into one federal system. In theory, a central database containing beneficial ownership information of U.S. business entities will allow the federal government to better combat money laundering and the financing of terrorism. The federal agency tasked with enforcing the CTA is the Financial Crimes Enforcement Network (FinCEN). The *Oregon Business Lawyer* has published several articles on the CTA, its implementation, and subsequent litigation over the constitutionality of the CTA.

Now, in 2025, the direction of the CTA has taken an abrupt turn. Following several lawsuits that had temporarily enjoined FinCEN from enforcing the CTA, FinCEN extended the reporting deadlines for most reporting companies until March 21, 2025. In addition, FinCEN announced that during the thirty-day extension period, it would "assess its options to further modify deadlines, while prioritizing reporting for those entities that pose the most significant national security risks." On March 2, 2025, the Treasury Department announced the suspension of enforcement of the CTA against U.S. citizens, domestic reporting companies, and their beneficial owners, and further announced its intent to engage in a rulemaking to narrow the reporting rule to foreign reporting companies only.

The interim final rule issued by FinCEN

Following that announcement, on March 21, 2025, FinCEN issued an interim final rule (the IFR) that limits the definition of a "reporting company" under the CTA to include only non-U.S. companies and their non-U.S. beneficial owners. In describing its rationale for issuing the IFR, FinCEN stated:

> As the preamble to the Reporting Rule states, "[s]mall businesses are a backbone of the U.S. economy, accounting for a large share of U.S. economic activity, and driving U.S. innovation and competition." The vast majority of domestic small businesses are legitimate and owned by hard-working American taxpayers who are not engaged in illicit activity. The Secretary [of the Treasury] has assessed that exempting them would ensure that the Reporting Rule is appropriately tailored to advance the public interest, considering the burdens imposed by the regulations without sufficient benefits. The Attorney General and the Secretary of Homeland Security have concurred that collecting BOI [beneficial ownership information] from domestic reporting companies would not be "highly useful in national security, intelligence, and law enforcement agency efforts.

The text of the IFR provides for this change by redefining the term "reporting company" at 31 CFR 1010.380(c) to remove the previously defined term "domestic reporting company" at 31 CFR 1010.380(c)(1)(i). By taking this step, any entity that meets the definition of the previously defined term "domestic reporting company" is no longer within the scope of the reporting rule and therefore is no longer required to file BOI reports with FinCEN.

In addition, the IFR exempts foreign reporting companies, and their U.S. person beneficial owners, from the requirement to provide the BOI of any U.S. persons who are beneficial owners of the foreign reporting company. As such, foreign reporting companies that only have beneficial owners that are U.S. persons will be exempt from the requirement to report any beneficial owners.

So, what BOI reporting requirements remain after the IFR? The IFR retains the requirement for foreign reporting companies and their beneficial owners (excluding U.S. persons) to report their BOI to FinCEN. It has extended the deadline for those companies to file initial BOI reports, or update or correct previously filed BOI reports, to thirty days after the date of the publication of the IFR (i.e., March 26, 2025) or thirty days after their registration to do business in the U.S., whichever comes later.

In addition, the introductory portion of the IFR stated that FinCEN was accepting comments on the IFR and will assess the exemptions, as appropriate, considering those comments. FinCEN intends to issue a final rule this year. Comments on the IFR were due on May 27, 2025.

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The future of the CTA

It is difficult to assess the future of the CTA at this point. FinCEN could reverse its position expressed in the IFR, although this is unlikely based upon the rationale described in the IFR. It is also possible that additional litigation could develop regarding whether FinCEN exceeded its statutory authority under the CTA when it issued the IFR. While Congress could act to repeal the CTA or attempt to override the IFR, at this time there does not appear to be significant momentum in Congress for either action. Hence, for the time being, attorneys advising foreign reporting companies will still need to watch the developments from FinCEN and the possible issues that could impact the substantive requirements and procedures for CTA reporting. For attorneys advising domestic reporting companies, the IFR gives sufficient authority to advise clients that CTA reporting is not currently required, at least until FinCEN issues a "final" rule that changes those requirements. ◆

Barrister Banter: Peter Bragdon

The purpose of the series is to bridge the gap between junior and senior business lawyers in Oregon, fostering understanding and camaraderie. For this quarter's installment, we interviewed Peter Bragdon (pictured here), the Executive Vice President, Chief Administrative Officer, and General Counsel for Columbia Sportswear Company and the winner of the 2024 James B. Castles Leadership Award. Read on to learn about his rich professional background that led him to working in-house for Columbia as well as his opinions on making mistakes, seeking mentors, and being a mentor.

1. Tell me about your path to being a lawyer. What inspired you to pursue this career?

I took a twisted, unconventional path, and I consider it a stroke of good fortune that I am in this role. I tend to look at careers as a collection of skills and experiences that can be put to use in a variety of ways. For me, my primary experiences are a blend of law, public policy, media, and business, and I use all of that in my role. I started out as a journalist and won a fellowship to get a master's degree at Yale Law School. It was an amazing year, and I got a glimpse into the power of understanding the law and the multiple ways a law degree can be used to create change. I chose to go on to get my JD, hoping it would lead to opportunities in the private and public sectors and also help me find ways to contribute to civic efforts outside of work. That's how it worked out. For example, early in my time at Columbia I was given a leave of absence to serve as Governor Kulongoski's first chief of staff. That role didn't require a law degree, but I doubt I would have gotten there or been able to do the job without it.

2. What is your practice area?

Being in-house has meant being a "free-range" lawyer. Working for a public company selling products in roughly one hundred countries, there is no end to the variety of legal issues, which on a given day can include engaging with U.S. Securities and Exchange Commission, addressing a trademark issue in Europe, or looking into a construction project in India, just to name a few examples. I started out as a corporate securities and finance attorney, which was great training for thinking in a multifunctional way.

3. How long have you been in your current role?

I have two answers. I became General Counsel in 2004. But my role has evolved steadily, as has the company. Over time I have come to oversee multiple functions within the company and eventually took on the roles of Executive Vice President, Chief Administrative Officer, and General Counsel.

4. How have you seen the practice change since you started practicing?

I see many more in-house lawyers getting involved in a broad range of issues across organizations, managing multiples functions and being viewed as strategic partners in leadership. That's certainly been an opportunity at Columbia, but I see it elsewhere.

5. What do you wish you had known before you started working as a new lawyer?

Mistakes may be your best teacher… avoid them at all costs, but use every one of them to learn. I have worked with more amazing people than I can count, but a common theme that has made them amazing was how understanding they were and the room they gave me to make my own mistakes and learn. I wish I hadn't made them, but I probably ended up better off as a result.

6. What are your career highlights?

Meeting Ted Kulongoski when I was a journalist in the 1980s and working with him as Special Assistant Attorney General in the Oregon DOJ and as his Chief of Staff in the Governor's office. Getting introduced to Columbia Sportswear's management in the 1990s before the company went public, and getting the chance to join the company and grow with it. And both of those things led to civic engagement, ranging from the Board of the Oregon Community Foundation to being a member of the Port of Portland Commission.

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7. What is your favorite part of the job?

At Columbia Sportswear, we work to connect active people with their passions. That is a great mission, and I get to pursue it with many talented people across every company function. I get paid to see the world and learn something new every week.

8. What parts of the job do you wish you could outsource to AI?

I would be happy to never read another contract. Fortunately, you can't really outsource judgment or relationships, which are among the best parts of being a lawyer.

9. What advice would you give a new business lawyer?

Don't wait for business to come to you. Personally, I think some of the best parts of being a lawyer are the relationships you can build, and the opportunities to gain a holistic understanding of a business or industry. There are plenty of isolated legal issues that have to be addressed at given times, and those are important, but it can be incredibly satisfying to be engaged with management on a business effort, start to finish, bringing not only the legal skill but business judgment. I have enjoyed being at the table when ideas are first debated through to when the business effort comes to fruition (or, in some cases, doesn't). But my best advice is to seek mentors wherever you can. You'll be surprised how many people inside and outside the law are willing to be helpful.

10. What advice would you give a senior lawyer who is charged with mentoring a new lawyer?

Be kind and be generous with your time. It is hard to believe many senior lawyers would have been successful if someone hadn't done that for them. Pay it forward. ◆

The Business Law Section seeks nominations for James B. Castles Leadership Award

The James B. Castles Leadership Award was established in 1998 to recognize an Oregon lawyer for excellence in the practice of business law, professionalism among fellow business lawyers, and outstanding community leadership. It is the highest recognition that the Business Law Section can bestow on one of its members. Previous recipients of the James B. Castles Leadership Award include Robert J. McGaughey, Eva Kripalani, and Peter Bragdon.

Candidate qualifications

To be considered for the James B. Castles Award, the nominee must be a licensed (or retired) member of the Oregon State Bar, recognized for excellence and professionalism; a significant portion of the nominee's career must have involved the practice or teaching of business law; and the nominee must have shown outstanding community leadership in one or more of the following areas:

● Activities supporting other members of the Oregon State Bar in the practice of business law, such as serving on committees or task forces of the Business Law Section or other business law related committees or task forces, serving on the Board of Governors, writing business law related articles or treatises, teaching CLEs, and other similar activities

● Civic leadership, such as serving on public boards or commissions; being a member of federal, state, regional, county or local government; or being an employee of the Department of Justice or a state agency, or otherwise having been elected or appointed to public office

● Business or nonprofit leadership in community affairs or economic development, such as serving with one or more nonprofit organizations engaged in community development, economic development, or charitable activities.

Nomination procedure

If you would like to nominate an Oregon business lawyer for the James B. Castles Leadership Award, please email the name of the nominee, together with the pertinent details regarding the nominee's qualifications for the award, to Michael Walker, the Chair of the James B. Castles Leadership Award Subcommittee of the Executive Committee of the Business Law Section, at **mdw@samuelslaw.com**. The deadline for nominations is September 15, 2025.

Nominations will be reviewed by the James B. Castles Leadership Award Subcommittee, which will then recommend a candidate to the Executive Committee for final selection. ◆

The mission of the Oregon State Bar Business Law Section is to provide excellent service to the diverse group of business law practitioners throughout the State of Oregon by providing regular, timely, and useful information about the practice of business law, promoting good business lawyering and professionalism, fostering communication and networking among our members, advocating improvement of business law, and supporting Oregon's business infrastructure and business community.

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