

Seven M&A Mistakes

The Seven Critical M&A Transaction Mistakes and How to Avoid Them

How Timely and Controlled Access to Detailed Information Ensures Success for Buyers and Sellers





Executive Summary

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Situation: Companies Often Make Common Mistakes That Can Negatively Impact M&A Transactions.

Successfully completing a large-scale M&A transaction is a complex process. The potential for any number of mistakes and/or problems is extensive, but most fall into seven distinct areas that include the following: improper planning, unrealistic project assessments, improper allocation of time, poor resource utilization, miscommunication, lack of secure business tools, and limited access to quality business information. The occurrence of any one or a combination of these circumstances has the potential to derail even the most viable M&A opportunity.

Challenge: Uncover “Synergy Savings” to Prevent “Deal Fatigue” and Post-Merger Business Problems.

One of the reasons that M&A transactions fail is an inability to quickly identify all the potential areas of “synergy savings” (areas where the newly merged organization achieves substantial cost savings) early in the discovery process. The element of time becomes a cruel taskmaster here, and unless all areas of synergy savings are discovered within a reasonable period of time, the potential for “deal fatigue” is heightened. When this occurs, the likelihood that one or both parties will have the fortitude to complete the process diminishes, leading to a failed agreement. Therefore, it becomes imperative that both buyers and sellers are able to quickly leverage information resources and tools that will uncover all synergy savings opportunities, allowing the discovery process to move forward and the M&A transaction to be completed.

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Solution: Control Information Access to Accelerate Decision-Making and Business Plan Implementation.

Controlled information access ensures the secure use of critical business data and information management tools that balance the needs of both buyers and sellers during the M&A process. This accelerates decision-making and post-transaction business plan implementation. Controlled access also offers several unique advantages that provide buyers with the timely and accurate information they need to determine the overall viability of the transaction. It also empowers the seller to protect “live documents” that may contain sensitive, proprietary, or copyrighted information from being distributed outside of the active bidding group(s). Such circumstances increase the likelihood of information falling into the hands of competitors, the media, or unscrupulous online predators.

Result: Achieve Smoother Integration, More Accurate Information Discovery, Greater Document Security, and More Timely Completion of M&A Transactions.

Technology, in the form of the online virtual data room (VDR) has emerged as a solution to optimize the due diligence process by overcoming the many limitations inherent in the traditional paper-based data environments. With a controlled VDR, all documents are captured and indexed to an online database, making information discovery more accurate and complete. Because all rights are designated by the (seller) client, security and control are guaranteed, giving each user the ability to view, print, or access source documents with privileges that have been predetermined by a client administrator. These tools allow clients to maintain tighter control and gain more insight into (buyer) reviewer behavior.

Introduction

Merrill DataSite™ Virtual Data Rooms facilitate M&A transactions by allowing multiple bidding parties and sellers to concurrently participate in the due diligence process within a controlled information environment. This dramatically reduces the total time and expense that had previously posed impediments to the successful and timely completion of M&A transactions. With the importance and size of today's M&A transactions, enterprises must rely on leading solution providers that can eliminate both the security and legal risks associated with these procedures, while facilitating the distribution of critical business information.

Unless all areas of synergy savings can be realized within a reasonable amount of time, the prospect of “deal fatigue” increases, which dramatically diminishes the chances for success.

The Importance of “Synergy Savings” in the M&A Transaction Process

A merger or acquisition provides a significant added value by allowing a buyer to get closer to a targeted customer base, improving the existing supply chain or ensuring access to greater amounts of capital. For a distressed company, a buyer's ability to acquire another company's assets, intellectual property, and management capability at a discounted price presents an attractive alternative to building a similar organizational infrastructure from scratch.

Both buyers and sellers initially enter into the M&A transaction process with different goals in mind. For example, buyers are primarily ego driven since they are concerned with expected valuation, or how much they will gain from the transaction. On the other hand, sellers are primarily optimism driven and are more concerned with the expected target audience of the transaction. Simply put, sellers are most interested in who the potential buyers are and how they will impact the future of the seller's organization. Therefore, a successful M&A transaction involves balancing the needs of both the buying and selling parties.

To meet these goals, both groups need to carefully reassess all their options on both a pre- and post-sale basis before entering into agreements that might present unforeseen complications after the transaction closes. One of these options involves the identification and tracking of “synergy savings”, or areas where the newly merged corporation can achieve substantial cost savings, to maximize the business value of the transaction. Common areas for synergy savings might include identifying operational redundancies, knowing when to close a plant, and moving employees and/or plant equipment to another location.



Time management is an essential part of a successful M&A transaction. Unless all areas of synergy savings can be realized within a reasonable amount of time after the start of the discovery process, the prospect of “deal fatigue” increases, which dramatically diminishes the chances for success. From the enterprise perspective, capital markets and corporate spending priorities change over time. Therefore, both buyers and sellers must be able to quickly establish and quantify an identifiable amount of value in the M&A transaction or the deal may not be worth pursuing.

Businesses must realize approximately 4% to 6% in synergy savings with the first 12 months after a merger or acquisition from sources such as personnel, facilities, or by making new process improvements.

Source:

The Art of M&A Integration
by Alexandra Reed Lajoux

According to the popular book *The Art of M&A Integration* by Alexandra Reed Lajoux, businesses must realize approximately 4% to 6% in synergy savings within the first 12 months after the consummation of a merger or acquisition. For example, if the size of the transaction is \$500 million, then the buyer needs to obtain approximately \$20 million in synergy savings within one year from sources such as personnel, facilities, or by making new process improvements.

In addition to uncovering synergy savings, successful M&A transactions also involve the coordination of a multilayered and diverse set of people, processes, information, and tools. The ability for an organization to leverage these highly effective resources in order to quickly identify process challenges and prevent mistakes can help both parties reach a mutual agreement.

Buyers need a system that provides rapid access to critical, time-sensitive information so they can better evaluate the overall value of transactions. At the same time, sellers need a system that provides them with **controlled access** to decision-related data in an orderly fashion that will ensure that intellectual property and proprietary business information used during the negotiation period does not fall into the wrong hands in the event both parties walk away from an agreement.

The purpose of this white paper is to educate prospective buyers and sellers to the potential impediments that often result in failed M&A transactions. It will also offer suggestions for the management of critical business information that ensures success for all of the parties involved in the M&A transaction process. With this information, both buyers and sellers can ensure the type of results that are in their best interests, as well as the interests of their employees, stockholders, and business partners.

Understanding the Mistakes That Can Derail Successful M&A Transactions

Mistakes made during M&A transactions are not limited to only one side of the bargaining table. Failure to adhere to key business principles places both buyers and sellers at equal risk for capsizing even the best potential transaction. The following seven mistakes can derail successful M&A transactions:

1. Overindulgent Optimism

This common mistake occurs when one or both parties see a much greater opportunity than is shown via the hard data or than could possibly be achieved if the deal was consummated. This misperception can be the result of several factors, including a desire to preempt a competitor's offer; the participation of several over exuberant competitive bidders; or a "point of no return" feeling when considerable time and money have been spent performing legal, accounting, or consulting-related research on the project. As a result, both entities purposely overlook obvious "red flags" that can result in an unexpected outcome.

Buyer and Seller Implications: In this situation, the buyer pays too much for the company based on an unrealistic and overly optimistic assessment of its potential and naively believes that he can turn the company around. The seller, on the other hand, in order to elevate the value assessment of its company, provides access to only enough information to address specific information requests from the buyer and nothing more. In doing so, the seller hides critical data that could point the buyer to a potential area of weakness or risk. This risk, unfortunately for the buyer, is realized only after the deal has closed.

2. Poor Structural Engineering

Frequently, one or both parties overlook critical building blocks that contribute to subsequent organizational problems. Examples could include over-leveraged financial statements or employment agreements with essential personnel who are hidden during the negotiation process. Poor structural engineering can also occur at the board of directors level, where newly integrated board members create the misalignment of business strategies, resulting in internal strife and operational challenges that can lead to subsequent business problems.

Buyer and Seller Implications: The buyer's inability to perform due diligence results in a failure to uncover hidden employment, financial, and/or legal agreements. Likewise, the seller fails to gather and organize critical business information that not only demonstrates clear business value, but also brings to the buyer's attention essential organization-related information that could prevent post-merger business problems.

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3. Ineffective Organizational Integration

There are challenges associated with integrating new organizational structures with employees impacted by a merger or acquisition. The M&A process frequently presents very harsh restructuring plans for these individuals, such as plant closings, layoffs, or scaled-down operations, which can distract them from their normal day-to-day activities. Without an effective management and communication strategy that articulates individual expectations and the benefits of the integrated organization, holding the company together following the M&A transaction becomes extremely challenging.

Buyer and Seller Implications: In this situation, the buyer fails to understand management contracts, established agreements, and the need to communicate merger and acquisition advantages that instill greater employee confidence. This results in post-M&A attrition that negatively impacts customers and the bottom line. Correspondingly, the seller fails to push integration requirements down through the company during the discovery period so that organizational commitments, agreements, and contracts are quickly brought to the bargaining table for subsequent identification and resolution.

Shortsightedness associated with reducing operating costs results in the layoff of essential “functional experts” that are needed to fulfill the business plan.

4. Insufficient Time Allocation

Completing a takeover is a lot harder than merely announcing one. The process of working out all the contractual details tends to slow things down, especially if a company doesn't want to be acquired. Acquisition impediments such as poison or people pills, green mail, macaroni defenses, sandbags, golden parachutes, white knights, etc., extend the total amount of time necessary to resolve issues and close the deal. When this process is extended over the course of many months or a year, “deal fatigue” sets in, increasing the chances that one or both parties will eventually walk away from the negotiation process.

Buyer and Seller Implications: In this situation, the buyer does not have access to all contractual obligations and fails to allocate enough “cycle time” to work out the abundance of detailed employment-related information necessary to bring the agreement to a close. Beyond the contractual issues, the seller fails to fully comprehend the magnitude of email-initiated questions required in the M&A process, which can range from 1,000 to 5,000 buyer-related requests. As a result, the seller fails to institute sound processes for coordinating the mountain of email communications received from each of the various bidder groups. Since the seller cannot effectively track, manage, and coordinate these communications, the total transaction time is significantly extended.

5. Inability to Execute the Business Plan

Highly effective managers can be the “kingmakers” that bring the M&A transaction to fruition. In this case, weaknesses in the post-merger management team, such as contracts that need to be modified or positions that need to be filled, are not identified and result in a failure to ultimately execute the new business plan. In other circumstances, shortsightedness associated with reducing operating costs results in the layoff of essential “functional experts” that are needed to fulfill the business plan. As a result, valuable time is wasted re-learning core business functions that result in needless post-transaction operating costs.

Some information should be made available to all bidding parties, but other documents containing proprietary information need to be reserved for more serious contenders and the final buyer.

Buyer and Seller Implications: In this scenario, the buyer fails to identify the kingmakers on the management team who are best equipped to effectively execute the newly developed business plan. The seller is unable to effectively gather, provision, and secure all the essential documents in common file formats that will allow the management team to identify “functional experts” within the organization that can execute the business plan in a timely, secure, and productive fashion.

6. Lack of Proper Data Preparation

Successful M&A transactions are the result of a measured and studious approach to organizing business data. Some information should be made available to all bidding parties, but other documents containing proprietary information need to be reserved for more serious contenders and the final buyer. The failure to segment this information as the M&A process moves forward increases the likelihood that sensitive business documents may be released at an early and inappropriate stage, increasing the chances that it will be distributed to competitors and/or media contacts.

Buyer and Seller Implications: In this situation, the buyer requests and receives information at an inappropriate cycle of the M&A transaction. The seller, on the other hand, fails to plan, organize, and establish controls for the distribution of sensitive business documents at pre-determined milestones, resulting in the early release of overly sensitive information during the M&A transaction process.

7. Absence of Secure Business Tools

Information security is an important element during the M&A discovery and negotiation period. Both buyers and sellers need to secure their business documents that hold sensitive, proprietary, or copyrighted information that could be used for a competitive advantage if it fell into the wrong hands.

Buyer and Seller Implications: The buyer, accustomed to working exclusively with Microsoft® Office documents (Word, Excel, PowerPoint), finds that other documents being sent to them (such as CAD files for office designs) are inaccessible. Also, the buyer’s network firewall is unable to accept large documents, making document sharing difficult and needlessly extending the discovery process. On the other hand, the seller fails to secure sensitive business information (e.g., allowing live documents to be distributed to external parties). As a result, the seller is unable to track user-related details such as who is using these documents, from what IP address, on which date, and for how long, opening up the possibility that the information could fall into the wrong hands.



The Benefits of Controlled Access during the M&A Transaction Process

An important attribute missing from each these seven issues is controlled access to information. Controlled access ensures the secure use of critical business data and information management tools that balances the needs of both buyers and sellers during M&A transactions. This accelerates decision making and the implementation of post-transaction business plans. Controlled access also provides additional advantages:

Permits Resource Monitoring and Auditing — Controlled access ensures that all documents used during the negotiation process can only be viewed on-screen, storing information such as the names of the parties viewing those documents and the exact amount of time spent with each one. This information can be quickly retrieved so that time-sensitive invoices submitted by contractors can be easily verified, ensuring that monetary resources are spent wisely.

Ensures Robust Document Security — Controlled access allows document administrators to establish strict access privileges, such as limited print capabilities; on-screen watermarking to prevent image or video captures; accurate tracking of access and usage time; and restriction of file transfers, downloading, or copying.

Engenders Flexible, Multi-Tiered Document Access — Controlled access allows the seller to flexibly adjust document security levels at a point in time when a bidder's request for information has been reviewed and approved. For example, the initial security restriction of on-screen document viewing can be adjusted to allow subsequent document printing or file downloading to a specified server location while retaining complete control over the entire document provisioning process.

Establishes Document Prioritization — Controlled access enables rapid searches to be performed on all business documents that contain time-sensitive information (such as expiring building leases). This ensures that critical issues are prioritized and brought to the bargaining table early in the M&A negotiation process.

Uncovers Critical Employees — It's important for a buyer to retain key personnel who can ensure the smooth continuity of a new post-merger organizational structure. With controlled access, a buyer can search human resource records and quickly uncover essential employees for subsequent contact and post-merger assignments.

Merrill DataSite dramatically reduces transaction time and expense while allowing multiple bidding parties and buyers to concurrently participate in the due diligence process.

Controlled access allows sellers to monitor specific data sets queried by the various bidding groups while they are online.

Tailors Presentations for Maximum Impact — Controlled access allows sellers to monitor specific data sets queried by the various bidding groups while they are online. Using this information, sellers can tailor their M&A presentations to address the most salient areas of interest; this can either shorten the negotiation cycle or improve the terms and conditions of the sale.

Eliminates Repetitive Tasks — Controlled access allows both buyers and sellers to create permanent hotlinks between frequently accessed documents during the post-merger integration process. This allows multiple parties to quickly obtain answers to frequently asked questions, eliminating repetition, saving time, and accelerating the M&A transaction process.

Facilitates Corporate Research — Controlled access enables the indexing and retrieval of thousands of business documents necessary for research analysis within a matter of seconds. This facilitates conflict resolution, improves negotiations, and shortens transaction timelines.

Improves Net Present Value (NPV) — Controlled access reduces the “cycle time” (the time necessary for bidding parties to review all pertinent data), increasing the Net Present Value (NPV) while shortening the time necessary to complete all the agreements during the entire M&A process.

About the Merrill DataSite Virtual Data Room Solution (VDR)

Founded in 1968 and headquartered in St. Paul, Minn., Merrill Corporation is a leading provider of outsourcing solutions for complex business communication and information management. Merrill’s services include document and data management, litigation support, branded communications programs, fulfillment, imaging and printing. Merrill’s target markets include legal, financial services, insurance, and real estate industries. With more than 6,300 employees in over 70 domestic and 15 international locations, Merrill empowers the communications of the world’s leading companies.



Merrill DataSite is a complete, secure VDR solution that optimizes the due diligence process, overcoming many of the limitations associated with a traditional paper-based data room.

Merrill DataSite is a complete, secure VDR solution that optimizes the due diligence process, overcoming many of the limitations associated with a traditional paper-based data room. Accessible from an Internet browser, Merrill DataSite dramatically reduces transaction time and expense while allowing multiple bidding parties and buyers to concurrently participate in the due diligence process.

With Merrill DataSite, all documents are captured and indexed to a secure online database, where client security and controlled access are guaranteed. User privileges for viewing, printing, or accessing source documents are set up by a client administrator that can be changed at any time. Merrill DataSite provides robust tools, including full search, viewer audit, Q&A, and detailed user tracking capabilities. These tools maintain tighter document controls while providing greater insight into reviewer behavior.

Merrill DataSite allows M&A buyers and sellers to:

- **See documents immediately.** The proprietary technology built into DataSite eliminates the need to download documents and allows for immediate viewing of files. Because the data resides on Merrill DataSite servers, participants can simultaneously view an unlimited number of documents in multiple windows without closing out or saving to a “temp” file. When faced with hundreds of documents to review, this feature saves significant time and expense.
- **Designate user permissions.** Document administrators can control which users will be able to view, print, or download specific documents, folders, or projects.
- **Search every word in every document.** DataSite offers the industry’s only comprehensive search functionality with three types of searching: Boolean, concept, and pattern. Searches for any word or phrase cover the entire database, and the results appear in seconds. DataSite offers highlighted text and a “next hit” button so reviewers can move efficiently through the search results.
- **Secure viewing.** DataSite provides a secure, encrypted viewer (eliminating the user’s browser or a helper application), thereby controlling document viewing. Nothing is left unprotected on the client’s PC. Unlike other virtual data room solutions that rely on document downloading, images are never viewable on the PC cache. Merrill DataSite is ISO 27001 certified, confirming that it meets the industry’s most stringent standards for security in support of business transactions.
- **Track all activity accurately.** Auditing and reporting tools give users verifiable records of the individual pages viewed and time spent on each page—information that provides added negotiating leverage.

Summary

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The process of participating in a successful M&A transaction is a complex process for both buyers and sellers. The abundance of minute details involved in this multifaceted practice requires the intricate coordination of vast groups of personnel, the sharing of sensitive business information, revealing time-sensitive milestones, and the discovery of hidden costs, while maintaining accurate communications to all participating parties. With the importance and size of today's M&A transactions, enterprises must rely on leading solution providers that can eliminate both the security and legal risks associated with these procedures, while facilitating the distribution of critical information during this essential business process.

With Merrill DataSite M&A participants can secure their essential business documents while ensuring that accurate and timely information is delivered to the most appropriate participants in the most beneficial fashion.

Completing a successful M&A transaction requires providing controlled information access and flexible delivery of critical business information—at both the pre- and post-transaction periods of the M&A process. Buyers need access to important business information on a real-time basis to uncover all areas of synergy savings. Sellers must ensure rapid information access while maintaining robust document security that prevents the release of sensitive company information that could create subsequent legal, financial, or marketing-related problems in the event of a failed agreement.

A Merrill DataSite Virtual Data Room solution facilitates M&A transactions by allowing multiple bidding parties and sellers to concurrently participate in the due diligence process within a controlled information environment. This dramatically reduces the total time and expense that had previously posed impediments to the successful and timely completion of M&A transactions. With DataSite, M&A participants can secure their essential business documents while ensuring that accurate and timely information is delivered to the most appropriate participants in the most beneficial fashion. As a result, buyers and sellers are able to achieve their business goals while increasing the odds of a successful outcome for the M&A transaction.



To reach more potential buyers or sellers and accelerate M&A transactions, join the many forward-thinking companies that already rely on Merrill DataSite™ as their virtual data room. For more information on Merrill DataSite, please visit our Web site at www.merrillcorp.com/DataSite, contact us via email at inquiries@merrillcorp.com, or call us at 866-399-3770.

Mr. Holbrook M. Forusz, Principal of Circle Peak Capital LLC, was interviewed as a Subject Matter Expert in the development of this white paper.

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