

# Legal Integration

How to complete the M&A integration process, minimize disruptions, and achieve desired synergies.\*

In the glitz and glamour that can surround an M&A transaction, often underestimated is the critical importance of the legal function. From initial due diligence to antitrust clearances, from intellectual property matters to employment law challenges, from reviewing old customer and vendor contracts and licensing agreements to preparing new ones, there is so much to get done—and so many third parties and legal professionals involved.

The sheer volume of legal work to be performed during M&A integration can simply be overwhelming. Legal departments often find it challenging to wrap their arms around the effort, and can quickly become a bottleneck to mission critical activities across the organization. Legal oversights and delays can cost both time and money, and in some cases can even cost the deal itself.

Transactions take a tough toll on legal departments: Already understaffed legal teams are overwhelmed by the added workload burden—they often struggle to manage transaction-related responsibilities on top of normal day-to-day tasks. While legal departments typically have the freedom and budget to engage outside counsel for help, in-house counsel is still ultimately responsible for the work of their advisors and the outcomes. Plus, consider the time pressure they face when the activities of entire functions await legal review, recommendation, and approval.

While a consistent, top-down enterprise wide integration process is a key success factor for any M&A integration, this is especially important for the legal department.

# The Issues Our Clients Face, The Actions We Help Them Take

At PwC, we understand the importance of getting the fundamentals of integration in place as quickly as possible during a deal to minimize disruptions and achieve synergies. We support our clients by rapidly launching integration efforts to Set the Course, Plan for and Execute Day One, and Design and Maximize Future State Operations. This is the approach PwC delivers in managing the integration as an enterprise-wide business process. Please see Figure 1.

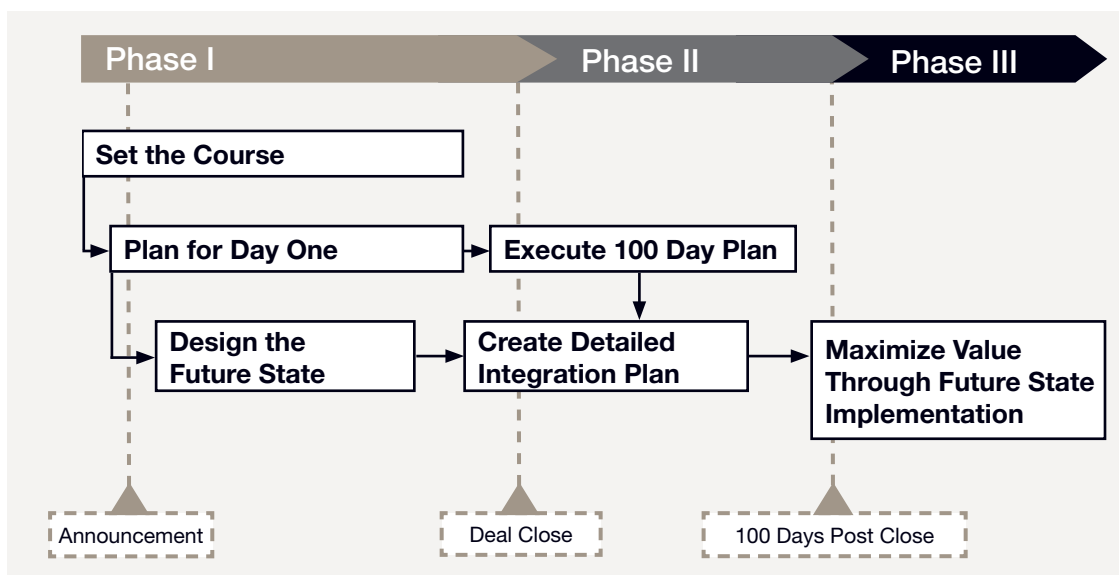


Figure 1 – The PwC integration process follows a sequence of coordinated steps to focus resources and capital on the right things at the right times.

## Set The Course

A merger or acquisition, like other large scale corporate change, is an excellent opportunity to set a new course, both operationally and across the various support functions of the newly combined business. Across all functions, setting the course involves establishing clear leadership and role clarity during the transition. This empowers members of the integration team—including legal—to communicate effectively and take decisive action.

Essential legal tasks must be identified, planned, and prioritized before they can be executed in a coordinated manner. Setting the course for legal success requires a simultaneous effort on a number of fronts.

One key item is the establishment of a legal integration lead, responsible for identifying sub-teams and leaders for each legal specialty, setting 'rules of engagement', determining escalation protocols for dealing with specific matters, and developing action plans for handling special issues like on-going litigation and contract disputes. This structure forms the basis of the legal integration management office.

A legal integration management office should also be responsible for training others about information sharing protocols and the need for commercial confidentiality during the transition period. Allowed and disallowed activities, as well as procedures for handling proprietary information, should be identified and communicated to the various integration teams, both in the U.S. and internationally.

# Plan For and Execute Day One

Even if the best decisions are made as you Set the Course, much can go wrong upon close absent proper planning and execution. While Day One is a milestone for celebration, it is also the time for smooth transition of mission critical operations.

Day One is about demonstrating the combined company's ability to achieve business as usual as quickly as possible—and those early operating successes (or failures) signal the likelihood of success, to both employees and other stakeholders.

One immediate critical area often encountered by the legal department is the massive volume of contract review requested by virtually every other function prior to transaction close. To name just a few, sales requests for customer contract review of pricing, volume, expiration, and other key terms necessary for evaluating cross-selling and other revenue generating synergy opportunities. Facilities requests for lease contract reviews, information technology requests for software license contract reviews, and finance requests for other vendor contract reviews, all necessary for evaluating procurement and other cost savings synergy opportunities. And human resources requests for employment contract reviews to identify change of control and other key provisions required to ensure smooth employee transition and to evaluate stock option and other compensation requirements. While most in-house counsel is utilized for day-to-day tasks, contract reviews can become overwhelming. If this process does not start early, and in a coordinated fashion, contract review and associated tasks can quickly become too great for the organization to handle.

Another area that often takes precedence for the legal department is compliance with U.S. and foreign antitrust laws. Notification and waiting period requirements in the U.S. under Hart Scott Rodino (HSR) serve to limit the sharing of commercial information during the transition period. And, with more and more deals involving an international component, the rules and regulations of the European Union and other government bodies require local country pre-notification and prohibit circumstances that may give rise to implied mergers, with some countries imposing civil—and criminal—penalties for violators.

## Some things to remember when integrating legal functions

- **Proactively manage cross-functional dependencies between Legal and other critical back-office functions, including Human Resources, Finance, Tax, Procurement, Operations, and Communications.**  
Legal must strike a balance between establishing control to prevent inadvertent legal, tax, and employment law exposure and providing timely guidance across the enterprise to allow for rapid execution of integration activities. Be sure there is a clear process for identifying and escalating legal review of cross-enterprise integration activities.
- **Understand what's in and what's out.**  
It is critical to identify which tasks are owned by Legal versus Human Resources (e.g. managing employee severance and transitions), versus Communications (e.g. employee and external communications) versus Tax (e.g. legal input on the entity structuring and potential impacts).
- **Examine legal agreements and contracts early.**  
Immediately inventory all agreements and contracts and focus on those with Change in Control (CIC) provisions, IP ownership issues, or other priority contractual obligations. Thoughtful planning, review, renegotiation, termination, and execution of new agreements could save millions.
- **Work with resources in your local markets.**  
The more globally dispersed your operations, the more you will need to depend on local legal and regulatory advisors to deliver on your plans.

# Design and Maximize Future State Operations

Go-forward policies and procedures for the newly combined legal function—identifying and reconciling gaps in policy and process, assessing materiality, developing plans for alignment, and—ultimately—migrating to the chosen organization design and staffing model is critical for the long-term operating model.

In addition to managing the integration of the buyer and target legal functions, legal plays an important role in defining the pace and course of integration activities across the enterprise. Legal must monitor and execute the appropriate legal tasks to consummate the transaction; including preparing Board activities, gaining internal consents and preparing for shareholder approvals. Concurrent with these activities, legal will need to closely partner with leaders across the organization to ensure that tax benefits of the deal are preserved; legal exposures are minimized and ensure that clear communications around what, where, and when certain activities can be executed across the enterprise or by certain elements within the enterprise.

## Proper planning for Legal integration should address each of the following matters, and more.

### Legal Entity Consolidation

- Identify post-merger legal entities
- Develop entity consolidation plan, clarify timing on integration activities
- Determine regulatory and anti-trust impacts
- Determine the cross-functional legal requirements (Facilities, Finance, HR, Marketing, Sales, etc.)

### Intellectual Property

- Identify intellectual property and owners
- Determine cross license agreement requirements
- Define process for handling patents, copyrights, and trademark agreements
- Segregate files consistent with the sale of IP

### Reduction in Force and Employee Reviews

- Identify employment law considerations
- Comply with works council, notification rules, and other country-specific guidelines
- Review employment contracts for change-in-control and other triggers
- Review employee handbooks and ethics policies

### Internal Consents

- Secure board consents and independent fairness opinion
- Prepare closing day documents

### Import/Export Requirements

- Reconcile differences in planned distribution models
- Ensure all import processes are in place

### Vendor, Supplier, and Licensing Agreements

- Resolve conflicts in confidentiality and teaming agreements
- Secure third party license consents needed to cross sell
- Identify material change-in-control impacts

### Customer Contracts and Leases

- Reconcile differences in future pricing models
- Review contracts and leases for change-in-control impacts
- Prepare new joint sales contracts and lease agreements

### Corporate Identity

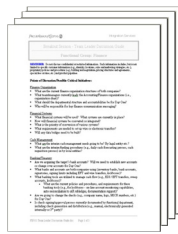
- Establish joint stock exchange listing
- Determine name of joint company
- Secure new Taxpayer ID Number

# Our Approach for Delivering Legal Integration Success

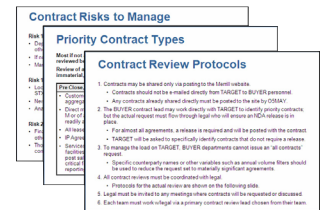
Our disciplined approach to legal integration helps companies achieve early wins, build momentum, and instill confidence among their stakeholders. We take an active, hands-on approach to helping clients focus on the right things at the right times, creating early and sustainable capture of deal value. We deliver time-tested integration processes to support client integration teams and supplement those teams with experienced resources to fill resource and technical gaps as required. We customize our tools and services to complement each client's specific needs and internal capabilities.

## Our Tools for Legal Integration

**Team Lead Discussion Guide**  
Guide for functional team leader with questions that trigger thought to assist in rapidly defining integration scope.



**Contract Review Protocol**  
Protocol and process to identify, prioritize, and track contract agreements critical for Day One operations and beyond.

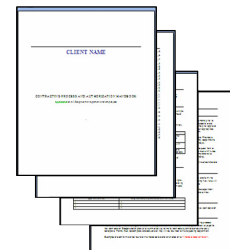


**Legal Integration Workplan**  
Model integration workplan used as a "starter" set of tasks to jump start the functional workplan development effort.

**Legal Entity Consolidation Plan**  
Model plan and guidance for coordinating cross-functional timelines to drive early legal entity integration for effective synergy realization.

**Critical Dependencies**  
Example Legal dependencies that help accelerate the business requirements identification from other functions.

**Legal Policy Handbook**  
Model handbook for legal policy documentation used for communication to key stakeholders.



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