

Featured Professionals

Karen L. Grandstrand
Caitlin B. Houlton Kuntz
J. Marc Ward

Related Services

Bank & Finance
Mergers & Acquisitions

Practical M&A Considerations for Community Banks

Legal Update

12.01.2020

Many M&A headlines during the pandemic have declared bank M&A dead. While M&A has slowed, deals continue here in the Midwest, particularly among community banks. Further, current conditions will bring new opportunities for both buyers and sellers. Below is a summary of practical considerations for community banks when pursuing acquisitions.

As the Seller

1. Can the buyer get the deal done? Does the buyer have the cash, or do they need to raise capital or incur debt? If they need to raise capital, will they be able to do so and how long will that take? What type of information or documentation should we request from them in order to assess their ability to perform?
2. Can the buyer obtain the necessary regulatory approvals given their financial condition; their proposed capital, management, and business plans; and their CRA rating and compliance history?
3. Do we have the right team of professionals to help our board and management through the process and maximize value for the shareholders?
4. Is our organization at risk of losing key staff that we need to operate the bank until the deal is closed? Should we consider pay-to-stay agreements?
5. Do any of our vendor contracts have provisions stating that a sale will result in the payment of termination fees, liquidated damages, conversion or deconversion fees, or other fees to the vendor?
6. How can we protect our employees from layoffs or diminished responsibilities post-closing?
7. How much information should we provide to the buyer? What are the risks and benefits of disclosure?

As the Buyer

1. Should we spend time looking at anything other than loan files in due diligence? Does anything else matter in a bank deal?

2. If our organization is under \$3 billion and subject to the Small Bank Holding Company Policy Statement, are there key financial benchmarks that we should be aware of? Does the regulatory approval criteria differ based on the structure of the deal, and is this something we should care about?
3. Which regulators have to approve the deal?
4. Should we worry about competitive issues and the HHI, or is that only a big bank issue?
5. What key employees of the seller do we want to make sure remain with the bank, and which ones do we want to tie to noncompete agreements?
6. Who is responsible (buyer or seller) for any obligations under deferred compensation agreements and change-in-control agreements?
7. Is it difficult to schedule a data conversion date with the core processor? What should we do if we cannot get a date until many months after signing a merger agreement and obtaining regulatory approvals?
8. Do we have the right team of professionals to help us make the right deal for our bank and navigate the regulatory process?