THE PIVOTAL ROLE ORGANIZATIONAL CHARTS PLAY IN M&A STRATEGY

Entity management has become increasingly complex, thanks in part to a growing mergers and acquisitions market that has businesses facing myriad and changing compliance responsibilities.

Global M&A (Mergers & Acquisitions) activity is on the rise. Nearly 70 percent of executives at U.S.-based corporations believe deal flow, which has set records in recent years, will continue to increase over the next 12 months, according to Deloitte’s 2018 forecast. Intralinks Deal Flow Predictor forecasts a 6 percent increase in the number of worldwide deals in the first half of 2018 when compared to the first half of 2017.

While this activity signals opportunities, it can also reveal flaws in a company’s due diligence processes that could negatively impact a deal and even lead to fines and penalties. One key way in which companies can improve the deal process is through strategic entity management, which includes having a properly maintained corporate organizational chart.

THE ROLE OF THE CORPORATE ORG CHART

A corporate or entity organizational chart is an in-depth map of a company’s legal entities. It is meant to provide an accurate view of a company’s current holdings, including the parent and its subsidiaries, making it easy to visualize the otherwise complex relationships between entities in order to make informed business decisions—such as raising capital by spinning off a business segment or pivoting according to market and governmental forces (e.g., changes in tax legislation).

A well-maintained org chart can help companies stay on top of compliance and regulatory requirements. These include the growing number of KYC (“know your customer”) rules around the world; specifications for accounting transparency; cybersecurity mandates from federal agencies in the United States and abroad; and numerous end-of-year reporting obligations.

ORG CHART MAINTENANCE IS OFTEN INEFFICIENT

Although org charts are an important tool used by multiple departments (such as tax, legal, and accounting) and play a critical role in the M&A due diligence process, the maintenance of org charts can be treated as an after-thought. The org chart’s usefulness can also be restricted based on which department is maintaining it and how it is being maintained.

Often it is one department that is put in charge of the org chart. That department may be focused on adding data that is relevant to them, but unaware of what data to include that is useful to other departments.

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Many companies create org charts manually using Microsoft PowerPoint, Visio, or other similar graphics software, which lacks the ability to create custom charts on demand. For an organization comprised of hundreds or even thousands of entities, updating the chart after each acquisition or ownership change is a huge undertaking. As a result, the data within the org chart is often incomplete or out-of-date.

In M&A transactions, where timing and accuracy are essential, a flexible, collaborative entity management solution with the ability to produce custom org charts can help prevent a lot of headaches.

BUSINESS STRATEGIES RELY ON UP-TO-DATE ORG CHART DATA

At the start of any year, companies often look at ways to boost their profits and improve department efficiency. What does it cost to remain compliant? What subsidiaries should be sold? What entities should be dissolved? Where does it make sense to diversify? Is there a better way to reduce tax liabilities? What can a company do to set itself up for continued growth and success?

Entity org charts provide critical information for making informed decisions. With a dynamic, org chart solution, companies can:

▶ Streamline and maximize tax efficiencies. Inadvertently selling off a particular entity that could be eligible for specific tax cuts in coming years, or taking on entities that have more complex than expected tax liabilities due to offshore or manifold structures—these are the types of mistakes that can be made as a result of due-diligence oversights. And as tax strategy often plays a central role in M&A, minimizing the risk of such oversights is paramount. A comprehensive entity management strategy can decrease the chances of such an oversight.

▶ Decide how best to structure business entities. Given recent changes to the tax code there will likely be a great deal of attention paid to how new or existing entities within a company should be structured or restructured. A customized entity org chart can help organizations more easily compare the tax and legal outcomes of creating a limited liability company versus a C corporation, S corporation, and so on. This is especially useful for companies that have just purchased an entity or entity cluster, or possibly sold or spun off a group of entities and are looking to make the most out of their investment.

▶ Visualize and better understand opportunities for diversification. This is particularly true for hedge fund, private equity companies and REITs where diversification is critical to the bottom line. Effective entity management can provide an accurate look at all entities, industry types and other characteristics of portfolio companies—and can help teams determine strategies for diversification. It can also help identify corporate strengths and weaknesses that can influence M&A strategy.

ORG CHART BEST PRACTICES

To ensure the proper maintenance of an org chart, here are several best-practice suggestions:

▶ Make it easily accessible. Don’t allow your org chart management to be relegated to just one department. Org chart data maintained only by the accounting department without input from others will likely be skewed toward tax-related questions and may not provide the full picture that the dealmaking team might need. Instead, find ways to share information, using tools and systems, between departments (accounting, legal and compliance and governance) so your org charts will be available and more valuable to all.

▶ Assign somebody with accountability to maintain the org chart. Though all relevant parties should have access to the org chart, an individual should be responsible for it. Designate an employee to be in charge of making updates as needed. This keeper of the org chart needs to have time and resources to maintain a schedule of updates, in collaboration with other departments, so the data is always current. This person should also be senior enough to possess sophisticated knowledge of the organization’s business goals and initiatives so they may

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anticipate the needs of the various teams that require access to the chart.

Move away from the spreadsheet. Find an automated solution that allows for collaboration among users. Entity management software should house the data in a secure environment and offer flexible reporting options that allow you to extract the data you need in easy-to-use formats (Word, PDF, Excel). There are a variety of entity management tools in the market that offer different functionality and benefits. In choosing the right tool for your organization, be sure to elicit feedback from all of the teams that will require access to the data.

Periodically evaluate your entity management technology. At regular intervals, take a moment to assess your entity management platform. How has it performed? Is the accounting, legal, compliance and deal teams getting what they need from the tool in a timely manner? Does everyone who needs access currently have it? How can systems be enhanced? Is the system being kept accurate with the most current data?

ALIGN COMPLIANCE OBLIGATIONS WITH BUSINESS OBJECTIVES

A company may open or withdraw hundreds of entities in any given year, which can trigger various local, state and federal compliance requirements. In addition, corporate name changes, opening your doors in another state and other corporate changes will also require compliance action. Knowing such requirements in advance helps legal departments determine legal spend, manage budgets and build accurate calendars of activity to ensure dealmaking is not adversely impacted by compliance issues. It also helps an acquiring company know the full spectrum of liabilities it will take on, thereby giving it time to minimize the risks.

CONCLUSION

Dealmaking takes time. From developing a strategy and identifying targets to due diligence and closing, the workflow includes plenty of compliance deadlines, document retrievals and locating the data needed for these requirements. Sophisticated org charts can provide a view into the future so that organizations can make informed and strategic decisions about the next deal.

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