Preparing Your Firm for a Merger: The First (and Most Important!) Step

By Tim Bartz, Director, Upstream Academy

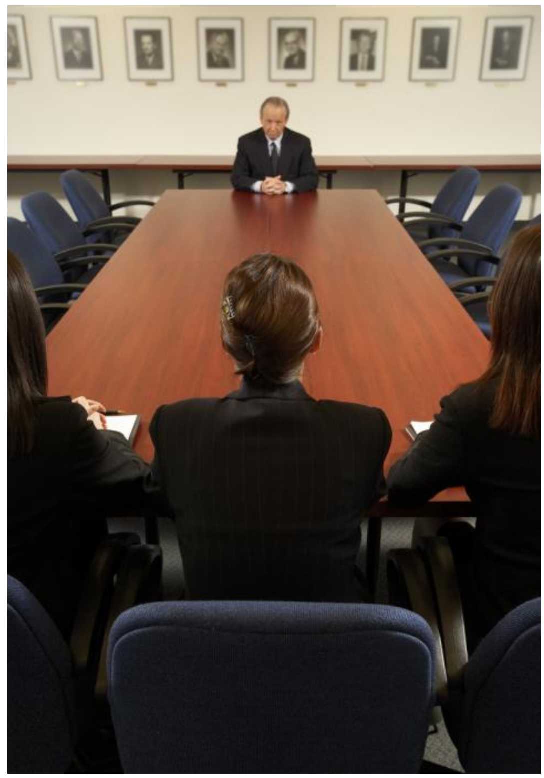
We're living in a time when unprecedented numbers of firms are considering mergers and acquisitions. Many are pursuing this strategy as a way to grow the top line and enhance the resources of their organization. If you're considering a merger or series of mergers as part of your strategic plan, you also need to make it part of your plan to be well prepared for what's ahead.

Why Merge?

There are several strategic reasons to consider mergers as a part of a firm's growth strategy. Mergers can provide bench strength in key areas of practice. They can help fill out a firm's resume for a larger quantity of clients in a selected industry. Perhaps a firm is considering moving into new locations – it's rare that a firm can justify starting an office from scratch versus finding a quality firm in the desired location. Maybe a firm is looking to create a niche in a "hot" industry and can add clients and expertise through a merger. The list goes on, but if you're looking to use mergers as a means of growth, you should have a clear purpose for the transaction and you must be committed to the process to see it through.

What Goes Wrong?

During the past decade, firms got very good at developing processes to identify and recruit the



best staff members available. Most took a "leave nothing to chance" approach to this important task, planning carefully for recruiting events, preparing terrific materials and give-aways, creating a strong website, and articulating compelling reasons their firm was the firm of choice. Firms jumped through all kinds of hoops to be recognized as leading employers in their communities. All of this activity was part of a plan to identify and successfully land the best graduates.

Planning and executing a successful merger process should be no less ambitious an undertaking, but far too many firms are taking a "chance for success" approach to this important task. Many mergers and acquisitions occur in response to an inquiry from another firm whose partners are looking for a way out. In other cases, a couple of partners in different firms know each other, the topic comes up in casual conversation, and the next thing you know, talks are underway.

While these gateways to participating in our profession's current merger mania occasionally yield some desirable fruit, these are reactive responses to events that can easily bring your firm to its knees if you aren't well prepared. If mergers are not a growth strategy for your firm, we highly recommend you walk away from these chance opportunities. You'll save yourself a lot of money and grief.

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What Is a Good First Step?

For those who have adopted mergers and acquisitions as a growth strategy, you should begin immediately developing processes to identify, recruit, and land the very best firms. The first step in the process is to develop your recruiting materials. Ask and answer these questions in writing – Why us? What sets us apart as the firm of choice? What are our unique strengths that would be of value to the owners of another organization? This provides you with a great opportunity to identify and address the weak links in your organizational structure and operations.

Consider developing a three-ring binder that will lay out what other firms will want to know about you and also offers the most compelling reasons why other firms should consider joining your organization. At a minimum, the binder should include the following items:

- Firm history
- Mission and core values or guiding principles
- Firm vision and strategy
- Strengths and weaknesses
- Information about specialty niches
- Philosophy and process for determining owner compensation
- History of owner compensation (consider sharing the high, median and low numbers for each of the past three years)
- Firm financial statements for the past two years, with a breakdown of sources of revenue by department and/or niches
- Schedule(s) of benefits of ownership (if you have multiple levels of ownership, prepare the list by ownership type)

- A description of the system by which individuals become owners
- Copies of all governance documents, including the partnership agreement or articles of incorporation and bylaws, shareholder agreement, and employment agreement
- Organizational chart
- Map of office locations
- Staffing information for each office
- Compensation ranges for staff and chargeability percentages of hours by staff level
- Risk management philosophy (client acceptance, retention, and dismissal policies, quality control processes, and professional liability insurance coverage)
- Information (including governance documents) about any related entities or sister companies

As you prepare this binder, you'll likely find that much of the information already exists in the form of surveys in which the firm has participated, PCAOB inspection documentation, and corporate files. You'll also probably find that many of these items haven't been updated recently or exist only in practice, without clear documentation.

You're not ready to proceed with a merger or acquisition until the items in the list above are documented. It's difficult to imagine, but we've seen firms where partners have never gotten around to signing the partnership agreement. If you can't get your house in order as it now stands, adding new partners and staff is only going to further complicate matters.

Once the documentation is in place, make multiple copies and take them with you on visits to potential merger/acquisition candidates. Create a confidentiality agreement, put it in the front of the binder, and get names and signatures before leaving the document with any candidates.

Conclusion

There's clearly much more to the merger/acquisition process than developing your "message", but creating these materials will position you much better to complete the myriad of other steps in the process. Gathering all of this information in one place and ensuring that it's current and accurately reflects key stakeholder processes helps you establish your methodologies and create a compelling argument for why a merger candidate would want to join your firm.

For more information, please contact Tim Bartz at timb@upstreamacademy.com