

Private Equity Executive Webinar Series Session 1: Top five key takeaways



PRIVATE EQUITY EXECUTIVE WEBINAR SERIES

Thursday, March 24, 2022

We hope you enjoyed the first session of Private Equity Executive Webinar Series – Acquiring and Protecting Critical Information Assets in M&A Deals.

The webinar (which originally aired on March 22, 2022) is [now available on demand](#) for you to watch or share. Some key takeaways from the webinar include:

- **Mitigation starts before the breach.** During the diligence process, identify and assess data security gaps and relative risks for data security incidents. Post-closing, think through any existing security gaps or potential liabilities that were identified during the diligence process. Think about all of the steps that need to occur if there is a breach and incorporate those steps into a data privacy breach response plan. Be prepared technologically by updating software regularly, giving your IT Department the resources it needs to improve security, and eliminating legacy systems if they are too old to be patched or supported by your software provider. There is a lot that happens in those first two days after a breach, having a plan and team in place to address the breach ahead of time will put you in a better position so you don't have any doubt about what to do next.
- **Follow regulatory requirements.** In the course of any deal, data will need to be shared between the parties. If there are any regulatory requirements involved, such as those found in HIPAA, then it is important to identify what data will be shared and by whom. Both parties in the deal are liable for the assessed fines if information is disclosed in violation of HIPAA so be sure to enter into a Business

Associate Agreement *before* sharing information. If data being shared isn't subject to HIPAA, there may still be obligations under state law or other regulatory frameworks to enter into a contract with the other side before data is shared.

- **Know your Assets and your Rights.** Intellectual property assets generally consist of what people in an organization know, organizational information, processes, and procedures. Intellectual property rights protect those assets. It is important to identify your intellectual property, protect it and manage it. As part of managing these assets, address ownership issues, security interests, and prosecution matters timely. These issues need to be addressed in advance of diligence as they have the potential to affect value and the ability of the acquirer to use the assets post-close.
- **Diligence is as important post-close as it is pre-close.** Post-close, look for ways to improve the acquired intellectual property—consolidate the intellectual property, expand the scope of the intellectual property and/or fill gaps in the intellectual property. Clean up the issues that were identified and flagged during the diligence process. If you have the time and availability, fixing these issues early on is the best approach so that there is no rushing on the backend.
- **Plan ahead; don't fall into the afterthought trap.** It is important to have the appropriate policies and frameworks in place from the start of the acquisition rather than allow them to be an afterthought. Focusing on data security and protection of intellectual property assets as critical aspects of the deal will help everything to proceed more smoothly. Ultimately, data drives value—ensuring that you are not only getting the value paid for the assets pre-closing but also maintaining that value of those acquired assets post-closing.

Watch Session 1



Did you know:

On March 7, McDonald Hopkins announced the remodeling of its national Private Equity Practice Area under the direction of members Christal Contini, Marc Carmel, Jason Klein and Ben Panter, adding a new focus on education with the launch of the Executive Webinar Series and a full-day conference to be held in October.

To learn more about Private Equity Practice Area at McDonald Hopkins, please click the button below:

Learn More



For further reading, our attorneys provide valuable updates on key topics on the [Insights page at mcdonaldhopkins.com](#). As a follow-up to the first session of the Executive Webinar Series, we recommend the following articles:

Cybersecurity is an important



**consideration when acquiring
a business**

By Andrew M. Kulpa and Hussein Jaward, CIPP/US



**IP intangibles that protect your
brand identity**

By Erin Conway



Christal L. Contini



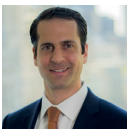
Todd A. Benni



Emily A. Johnson



Marc J. Carmel



Benjamin D. Panter