The keys to a successful merger

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The sale is imminent, a letter of intent has been signed and due diligence is about to begin. Usually at this point the seller's job is done except for the oversight of supplying information for the seller's due diligence.

But for a seller staying on after the transaction with either a continued stock interest, an earn out agreement based on reaching revenue or earnings milestones post transaction, or some other financial incentive, work is required from both him and the buyer leading up to the sale, to make sure it is the right fit and to help ensure its success.

I've seen various reports on M&A transactions that show failure rates of 50% to 70%. Most benefits anticipated are simply not realized and at worst the acquisition is a complete bust. It's apparent that more due diligence, resources and advance planning leading up to the closing is necessary.

Below I've provided a short checklist on some of the things that both the seller and buyer should consider before the deal is consummated.

Consideration for the seller:

- What's the management style of the executives? Is it compatible with yours?
- How will the integration be made?
- How will the new business be operated the day after the merger is completed?
- Will their operating style maintain your key employees' loyalty?
- What are their human and business values? Are they compatible with yours?
- What's their financial model look like?
- What are their plans for your existing management team and other employees? Will compensation and benefits be maintained?

Consideration for the buyer:

Due diligence is fact finding and investigative. With the buyer's financial representations verified and the value offered confirmed (or adjustments made to reflect issues discovered) the key to making the transaction successful is the quick integration of the seller's management team and key employees. Will you get commitment and buy-in?

- Meet with the management team/key employees and discuss job security, compensation and benefits and career potential.
- Discuss the initial changes that are going to be made and the estimated time table.
- Let them know the immediate plan and direction post transaction.
- What are their individual roles? What is the line of reporting?
- What is the company's overall vision?
- Communicate, communicate and when you think you've done enough, communicate some more.

With both parties doing due diligence beyond the financial considerations, each party can independently determine if it's a good fit or if they should walk away and prevent a deal from happening that doesn't makes sense and would be doomed for failure from the very beginning.