

**Top Legal Executives and Mergers and Acquisitions Process and Outcomes**

By

Suye Wang

A DISSERTATION

Submitted to

The University of Texas at Arlington

in partial fulfillment of the requirements for the degree of

Business Administration - Doctor of Philosophy

August 2021

Arlington, Texas

Dissertation Committee:

Stephanie Rasmussen, Dissertation Chair

Terry Skantz

Bin Srinidhi

Mahmut Yasar

## **Top Legal Executives and Mergers and Acquisitions Process and Outcomes**

### **ABSTRACT**

The role of a firm's in-house top legal executives has become more prominent in recent years due to regulatory changes, increasing litigation, and growing risk and liability in the corporate world. Top legal executives act as trusted advisers to top management and board of directors in strategic decision-making. In this dissertation, I develop a measure of top legal executive influence in the acquiring firm and examine whether the top legal executive's influence is associated with mergers and acquisitions (M&A) process and outcomes. I find that top legal executive influence is associated with shorter public process length (deal announcement to deal closing) and enhanced deal completion rate. These associations exist after controlling for potential endogeneity. The findings suggest that top legal executives create value for acquirers in their role as deal advisers. However, I find no associations between top legal executive influence and the private process length or the contract terms (acquisition premium, termination fee provisions). These non-results may derive from the tension of top legal executives balancing their various roles as gatekeepers, executives, and transaction lawyers.

Copyright by

Suye Wang

2021

## ACKNOWLEDGEMENTS

First, I would like to express my appreciation to each member of my dissertation committee: Drs. Stephanie Rasmussen, Terry Skantz, Bin Srinidhi, and Mahmut Yasar. Thank you all for the ideas you have shared, as well as the time you have spent ensuring that I was successful in the process. Each of you not only provided support as my committee members, but throughout the entire five years of my Ph.D. program. I am especially indebted to my dissertation chair, Dr. Rasmussen. I cannot thank her enough for the guidance and generosity she has given me in research, teaching, and life. She is my role model in every respect and I feel tremendously fortunate to have her as my adviser and mentor. I hope I could do the same for my future students. Additionally, I want to thank Dr. Ramgopal Venkataraman for his wise research advice and support in the program. I'm also thankful to Dr. Tatia Jordon for editing my dissertation.

Next, I would like to thank all the faculty, friends, and colleagues in the accounting department since I joined the department as a graduate student. I'm thankful for having great faculty and staff guiding me through the master's and doctoral programs. I would also like to thank my cohort for making this journey never boring. I am particularly thankful to Hannah Richards. Completing my PhD was infinitely easier because I was able to share the process with her. Because of Hannah, I not only completed the program with a degree, I completed the program with a friend for life.

Last but not least, I cannot begin to express my gratitude to my family for all the love, support, and encouragement along this journey. To my parents, thank you for being the biggest supporters of my goals. To my husband, Cheng, for always being there for me. To my baby boy, Evan, thank you for enriching my life and bringing us endless happiness. You are my inspiration to be stronger, better, and more fulfilled.

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS .....</b>	<b>iv</b>
<b>CHAPTER 1: INTRODUCTION.....</b>	<b>1</b>
<b>CHAPTER 2: BACKGROUND AND RELATED LITERATURE .....</b>	<b>8</b>
2.1: M&A Process .....	8
2.2: Key Decision Makers in M&As.....	14
2.3.1 <i>Top Executives in M&amp;As</i> .....	14
2.3.2 <i>Board of Directors in M&amp;As</i> .....	17
2.3.3 <i>Information Intermediaries in M&amp;As</i> .....	19
2.3: Top Legal Executives.....	22
<b>CHAPTER 3: HYPOTHESIS DEVELOPMENT .....</b>	<b>27</b>
3.1 H1: M&A Private Process Length .....	27
3.2 H2: M&A Agreement – Acquisition Premium .....	30
3.3 H3: M&A Agreement – Termination Fee Provisions .....	33
3.4 H4: M&A Public Process Length.....	38
3.5 H5: M&A Deal Completion Rate.....	41
4.1 Measure of Top Legal Executive Influence .....	44
4.2 Determinants of Top Legal Executive Influence .....	46
4.3 M&A Models .....	50
4.3.1 <i>H1: M&amp;A Private Process Length</i> .....	50
4.3.2 <i>H2: M&amp;A Agreement – Acquisition Premium</i> .....	53
4.3.3 <i>H3: M&amp;A Agreement – Termination Fee Provisions</i> .....	56
4.3.4 <i>H4: M&amp;A Public Process Length</i> .....	58
4.3.5 <i>H5: M&amp;A Deal Completion Rate</i> .....	60
<b>CHAPTER 5: SAMPLE AND DESCRIPTIVE STATISTICS .....</b>	<b>63</b>
5.1 Sample Selection .....	63
5.2 Descriptive Statistics .....	64
5.2.1 <i>Descriptive Statistics of Determinant Model</i> .....	64
5.2.2 <i>Descriptive Statistics of M&amp;A Models</i> .....	65
<b>CHAPTER 6: RESULTS .....</b>	<b>67</b>
6.1 Determinant Model Results.....	67

6.2 M&A Model Results .....	67
6.2.1 H1: M&A Private Process Length.....	67
6.2.2 H2: M&A Agreement – Acquisition Premium.....	69
6.2.3 H3: M&A Agreement – Termination Fee Provisions.....	70
6.2.4 H4: M&A Public Process Length.....	71
6.2.5 H5: M&A Deal Completion Rate .....	72
6.3 Additional Analysis.....	73
<b>CHAPTER 7: CONCLUSIONS AND FUTURE RESEARCH.....</b>	<b>75</b>
<b>APPENDIX.....</b>	<b>78</b>
Appendix A: Panel A: Top Legal Executive Influence.....	78
Appendix A: Panel B: Top Marketing Executive Influence .....	79
Appendix B: Hand-collection of Private Process Length .....	80
Appendix C: Variable Definitions.....	86
<b>REFERENCES.....</b>	<b>88</b>
<b>Figure 1: M&amp;A Process .....</b>	<b>96</b>
<b>TABLE 1: Sample Selection Process.....</b>	<b>97</b>
<b>TABLE 2: Sample Distribution .....</b>	<b>98</b>
Panel A: Acquirer Industry Distribution .....	98
Panel B: Announcement Year Distribution.....	98
<b>TABLE 3: Descriptive Statistics for Determinant Model .....</b>	<b>99</b>
<b>TABLE 4: Pearson Correlation Matrix for Determinant Model .....</b>	<b>100</b>
<b>TABLE 5: Descriptive Statistics for M&amp;A Models .....</b>	<b>101</b>
<b>TABLE 6: Pearson Correlation Matrix for M&amp;A Models .....</b>	<b>102</b>
<b>TABLE 7: Determinant Model.....</b>	<b>103</b>
<b>TABLE 8: M&amp;A Model: H1: Private Process Length .....</b>	<b>104</b>
<b>TABLE 9: M&amp;A Model: H2: Acquisition Premium .....</b>	<b>105</b>
<b>TABLE 10: M&amp;A Model: H3: Termination Provisions.....</b>	<b>106</b>
<b>TABLE 11: M&amp;A Model: H4: Public Process Length .....</b>	<b>107</b>
<b>TABLE 12: M&amp;A Model: H5: Completion Rate .....</b>	<b>108</b>
<b>TABLE 13: Additional Analysis.....</b>	<b>109</b>
Panel A: Alternative measure of <i>Top Legal Executive Influence</i> .....	109

Panel B: Using raw values of *Top Legal Executive Influence* in second stage models. .... 109

## CHAPTER 1: INTRODUCTION

This study examines the association between top legal executives in the acquiring firm and the process and outcomes of mergers and acquisitions (M&A). Prior studies devote considerable efforts to understand how top executives (mainly focused on CEOs), board of directors, and information intermediaries (deal advisers) contribute to M&A decisions (e.g., Welch, Pavićević, Keil, & Laamanen, 2019; Aktas, de Bodt, Bollaert, & Roll, 2016; Krishnan & Masulis, 2013; Agrawal, Cooper, Lian, & Wang, 2013). I contribute to this literature by investigating another important player in M&A activities – the acquiring firm’s top legal executive.<sup>1</sup> Top legal executives are strategic advisers and provide a combination of legal and business advice to the companies they serve (Nelson & Nielsen, 2000; DeMott, 2005; Bagley, Roellig, & Massameno, 2015). They also participate in risk management and corporate governance activities such as monitoring top managers and keeping the board informed in their organizations (Kim, 2005; KPMG International 2016). Therefore, it is important to examine how top legal executives are associated with M&A process and outcomes.

M&As are significant and complex transactions that involve strategic planning and financial/legal advising. Furthermore, since M&A deals involve various participants from both the acquirer and target, there is a significant amount of risk and uncertainty about deal success (Wangerin, 2019). There is also information asymmetry between the acquirer and target, and agency problems between top management and shareholders (Shleifer & Vishny, 1989; Aktas,

---

<sup>1</sup> From this point on, “top legal executive” refers to the acquirer’s top legal executive unless noted differently.



Croci, & Simsir, 2016; Wangerin, 2019). Firms that engage in M&As are in paramount need of advising and monitoring in order to protect shareholder value.

Top legal executives have several potential responsibilities in M&As and it can be challenging for them to fulfill these various responsibilities and balance the dual role in both advising and monitoring in M&As (Jagolinzer, Larcker, & Taylor 2011; Kwak, Ro, & Suk, 2012). First, as transactional lawyers inside the firm, top legal executives may participate in various M&A activities such as negotiation, due diligence, and transaction filings. Therefore, top legal executives may serve their clients in the same way as the external legal counsels do for their clients in M&A transactions. For example, top legal executives may facilitate transactions to make the process more efficient and negotiate better contract terms to benefit their clients (Krishnan & Masulis, 2013; Coates, 2001). Prior studies find that external legal counsel of both the acquirer and target are associated with M&A outcomes such as completion rates and premiums (e.g. Krishnan & Laux, 2008; Krishnan & Masulis, 2013; Karsten, Malmendier, & Sautner, 2019). Top legal executives' influence over M&A transactions may outweigh that of external legal advisers as these top legal executives generally participate early in initial strategic planning and follow through the deal until post-merger integration. In addition, top legal executives only serve their employer as their corporate client, while external legal counsels often serve multiple clients at the same time.

Second, top legal executives are also senior executives and sometimes are part of the top management team in the acquiring firm and the potential merged entity. They are charged with gatekeeping responsibilities such as protecting acquirers from overpayment, reducing information asymmetry and uncertainty, managing risks, and enhancing shareholder value. Therefore, top legal executives may urge for more careful consideration during the M&A process such as demanding more thorough due diligence work, which may lead to a longer process. In addition, as gatekeepers,

top legal executives may prevent deal completion in cases when completing a deal hurts shareholder value. Prior M&A studies argue that M&A deals intensify the conflicts of interests between managers and shareholders and investigate how various internal and external corporate governance mechanisms affect M&A outcomes (Aktas, Croci, et al., 2016). Top legal executives, as an internal corporate governance mechanism and gatekeeper, may also influence M&As.

However, the top legal executive has a unique relationship with her client (the acquiring firm), and there are situational factors that may influence her role in serving her client. First, the top legal executive's financial dependence on the firm and her subordinate position to the CEO may lead her to put her own career prospects and financial compensation ahead of the needs of her client's (Kim, 2005). The setting of M&A exacerbates such conflicts of interest as there is increased uncertainty of the top legal executive's career prospects as well as the potential temptation from increases in status and compensation after the merger. Second, the top legal executive may side with other senior managers and defer to their judgement as she may consider the senior managers as her clients rather than the firm or its shareholders (Kim, 2005). Prior M&A research argues that CEOs have authority in M&A decision-making and may overpower the board (Faleye, Hoitash, & Hoitash, 2011). Therefore, top legal executives may feel pressured to conform to the CEO and facilitate the CEO's decision in M&As rather than acting as gatekeepers and insisting on their professional judgement. When top legal executives steer away from their gatekeeping role, they may hurt shareholder value in M&As by failing to prevent overpayment and facilitating value-destroying deals to fulfill the goals of top managers.

Given these conflicting scenarios of how top legal executives may influence M&A process and outcomes, it remains an empirical question whether the influence of top legal executives is associated with M&A outcomes. Therefore, I investigate several M&A outcomes throughout the

deal process to shed light on how top legal executives may influence M&A decisions at each stage. The first M&A outcome that I examine is M&A private process length. The private process involves negotiation and due diligence review between the acquirer and target before they reach a merger agreement and publicly announce the deal. As transactional lawyers and executives of the acquirer, top legal executives have a vested interest in moving the private process along to facilitate the transaction and reach a merger agreement. I then examine two M&A outcomes that are determined at the merger announcement: acquisition premium and termination fee provisions. Acquisition premium is an additional amount that the acquirer offers to pay to the target above the target's market value. The premiums reflect the acquirer's estimation of potential synergies from the deal based on due diligence on the target's information. Top legal executives could influence premiums through their role in due diligence and risk management. Premiums also reflect the acquirer's tendency of overpayment (Gu & Lev, 2011). Therefore, top legal executives could also influence premiums through their gatekeeping role in preventing overpayment. Termination fee provisions are the reimbursements that one party pays to the counterparty when the deal breaks off under certain circumstances. These provisions entail a variety of detailed clauses and legal terms. Therefore, top legal executives could utilize their legal expertise and influence the negotiation of the terms and pricing of the fees.

Beyond the outcomes that occur before or at merger announcement, I also examine two outcomes that are determined at closing of the deal (either the deal is successfully completed or the deal is withdrawn); these outcomes include length of public process (from merger announcement to deal closing) and the deal completion rate. The public process involves further due diligence and potential renegotiations based on new information discovered during the process. The top legal executive facilitates the announced deal as a deal adviser and performs due

diligence as a gatekeeper or risk manager. When the top legal executive sticks to her role as a gatekeeper, she may perform more due diligence during the public process and may prevent the deal from completion if she discovers excessive risk during the process. However, in her role as a transaction lawyer and executive in the acquiring firm, the top legal executive is charged with facilitating the announced the deal through a smooth public process and to a successful completion.

To examine the association between the top legal executive influence and M&A outcomes, I collect data on 1,073 deals between public acquirers and public targets during the 2005 through 2016 time period. I create a rank variable (*Top Legal Executive Influence*) ranging from 0 to 1 based on the top legal employee's job title in the acquiring firm to measure the potential influence of the executive (Ege, Hepfer, & Robinson, 2020). Prior general counsel literature identifies in-house legal executives based on whether the legal executives are among the top five highest-paid executives (also called "disclosed earners") within the firm (Hopkins, Maydew, & Venkatachalam, 2015; Kwak et al., 2012). However, executives who are not disclosed earners may also exert significant influence within the firm, especially when they have a high-ranking position (Koo & Lee, 2018). My unique measure allows me to expand on previous general counsel literature and look beyond disclosed earners to include the highest ranked legal executive in the firm, regardless of that individual's compensation.

In order to provide insights on potential determinants of *Top Legal Executive Influence* and control for endogeneity of the variable, I first develop a determinant model for top legal executive's influence. I include an instrument variable, acquiring firm characteristics, and top legal executive personal characteristics in the determinant model to predict *Top Legal Executive Influence*. I find that the influence of top executives in the marketing department serves as a valid instrument for predicting *Top Legal Executive Influence*. Additionally, I find that firm size is positively associated

with *Top Legal Executive Influence* and firm age is negatively associated *Top Legal Executive Influence*. Personal characteristics of the top legal executives such as tenure, prior education and work experience are positively associated with *Top Legal Executive Influence*. I then use the predicted value of *Top Legal Executive Influence* in the main models that examine the association between top legal executive influence and M&A process and outcomes.

I find that top legal executive influence is associated with shorter public process length and enhanced deal completion rate. However, I find no association between top legal executive influence and the private process and deal announcement outcomes. These findings suggest that top legal executives create value for acquirers in their role as deal advisers by facilitating deals through expedited public process and increased deal completion rate. Additionally, such facilitation role is not observed during the private process or the contract terms revealed at deal announcement. Thus, top legal executives may also be motivated to facilitate the deals to appease the CEOs and other top executives. In additional analysis, I measure top legal executive influence using their compensation status following prior general counsel literature and use compensation status of top marketing executives as an instrument variable to predict top legal executive influence. In the second stage M&A models, I find that the predicted influence based on compensation status is not associated with any of the M&A outcomes examined. These results suggest that it is important to expand the scope of investigation of top legal executives beyond top earners and see how top legal executives influence M&As.

My study makes several contributions. First, I contribute to the M&A literature that focuses on deal outcomes and the various players in the M&A decisions. M&A is a risky and significant corporate transaction that requires strategic, financial, and legal expertise. I fill a void in the M&A literature by investigating whether acquirer top legal executives are associated with M&A

activities. Second, I expand the corporate governance literature by investigating top legal executives as an important internal governance mechanism that has not been studied in prior M&A studies (KPMG International 2014 ; Levi, Li, & Zhang, 2008). Third, I add to the growing literature at the intersection of law and finance. Prior research in this field mainly focus on the legal and economic role of external legal advisers in corporate transactions and overlook another important source of legal expertise – top legal executives (e.g. Krishnan & Masulis, 2013; Schweizer & Wu, 2019; Badawi & de Fontenay, 2019; Karsten et al., 2019). I look beyond the external lawyers and study in-house lawyer’s role in facilitating M&A transactions for their corporate clients. Fourth, I expand of the scope of general counsel literature that focus on top legal executives that are top earners in the company (e.g., Hopkins et al., 2015) by looking at all top legal executives using their titles within the organization.

The remainder of the dissertation is organized as follows. In Chapter 2, I provide background on M&A, discuss prior research on key decision makers in M&A, and review the top legal executive literature. I then develop the hypotheses in Chapter 3. I present the research design, including measurement of variables and empirical model designs in Chapter 4. I explain sample construction and show descriptive statistics in Chapter 5. In Chapter 6, I provide the results of both the determinant model and main models that examine the M&A process and outcomes. Chapter 7 concludes the paper and discusses limitations of the study as well as future research avenues.

## CHAPTER 2: BACKGROUND AND RELATED LITERATURE

I begin my literature review by describing the M&A timeline. Then, I discuss the extant literature on key decision makers in M&A including top executives, board of directors, and information intermediaries. Finally, I cover the literature on top legal executives.

### 2.1: M&A Process

M&A involves various activities, which may be divided into the following stages: (1) initiating interest and screening for potential counterparts, (2) preliminary due diligence and negotiation based on public information, (3) signing a confidentiality agreement and ongoing in-depth due diligence and negotiation based on private information, (4) public announcement of the deal and entering into material definitive agreement (MDA),<sup>2</sup> (5) transactional due diligence and getting shareholder and regulatory approval, (6) closing the deal (either withdrawn or completed), (7) post-closing integration if the deal succeeded (Boone & Mulherin, 2007; Wangerin, 2019; Chen, Collins, Kravet, & Mergenthaler, 2018). Figure 1 provides a timeline detailing the process along with the legal documents prepared during the process. M&A deals mainly fall into two types: merger or tender offer. In a merger, the acquirer and the target firm negotiate to reach a merger agreement, and the target's shareholders then vote to approve or reject the proposal. In a tender offer, the acquirer offers to buy the shares directly from the target's shareholders, who then have the choice of whether or not to sell at the price tendered (Offenberg & Pirinsky, 2015).

---

<sup>2</sup> Material definitive agreements are “those that give rise to obligations that are material to and enforceable against the company, or rights that are material to the company and enforceable by the company against one or more parties to the agreement, in each case whether or not subject to conditions.” Lynn (2020).

Either the acquiring company or the target company can initiate the deal through communicating interest to the other party. After initial screening of potential targets, acquirers extend statements of interest to selected targets. Targets can also start the process by disclosing some information (e.g., information memorandum prepared by financial advisers) to potential bidders. The initiating parties usually state that they are interested in a potential M&A in pursuit of strategic goals such as: expanding the business territory, vertically merging to hedge against economic uncertainty, seeking opportunities to sell the company or seeking strategic alliance (Aktas, de Bodt, et al., 2016 ).

Other than the claimed profit-driven or strategic motives, acquirer management could also pursue M&As out of hubris to build empires (Masulis, Wang, & Xie, 2007; Levi, Li, & Zhang, 2014). As a merger increases the acquiring firm's size, management compensation often increases with respect to their enhanced responsibilities overseeing a larger entity. Acquirer management also enjoy non-monetary benefits such as more opportunities of outside directorships and boosted reputation in the business community following completion of a deal (Avery, Chevalier, & Schaefer, 1998). Acquirer CEOs often receive large bonuses that are not related to acquisition performance, but simply from completing the deals (Wangerin, 2019; Aktas, Croci, et al., 2016). As illustrated, various management motives exist that could lead to an acquisition activity (Das & Kapil, 2012).

After the other party responds to the initiating party and some preliminary due diligence and negotiation, the two parties officially establish a mutual interest through signing a confidentiality agreement to limit information leakage (Offenberg & Pirinsky, 2015). After signing the agreement, acquirer management obtains private information from the target firm and continues with in-depth due diligence, called "due diligence review" (Wangerin, 2019; Chen et al.,



2018). The confidentiality agreement marks the beginning of substantial due diligence as the agreement grants the acquirer access to private information of the target (Wangerin, 2019). At the same time, both parties negotiate over the details of the merger agreement. The negotiation personnel includes senior management from both sides such as CEOs, CFOs, internal legal executives, as well as their respective financial and legal advisers. As the negotiation progresses, the parties may sign additional documents such as an exclusive or no-shop agreement,<sup>3</sup> and a letter of intent<sup>4</sup> (Karsten et al., 2019; Aktas, Xu, & Yurtoglu, 2018). Lawyers, whether internal or external (Westbrock, Muehlfeld, & Weitzel, 2019),<sup>5</sup> are called in to prepare these documents as well as negotiating contract terms (Karsten et al., 2019). Financial advisers are engaged to conduct due diligence and valuation to reduce the information asymmetry between the acquirer and target (Agrawal et al., 2013).

If the acquirer and target reach an agreement regarding the transaction terms, they sign the merger agreement and enter into an MDA. At the same time, they announce the deal by issuing a joint press release and filing 8-K reports with the Securities Exchange Commission (SEC)<sup>6</sup> disclosing specifics of the transaction such as offer price, forms of considerations, and estimated synergies from the merger (Dhaliwal, Lamoreaux, Litov, & Neyland, 2016). The public announcement of the deal marks the ending of the M&A private process. The details of the

---

<sup>3</sup> A no-shop agreement requires an exclusivity period during which the target commits to an exclusive negotiation with the bidder. Not all deals involve a no-shop period.

<sup>4</sup> A Letter of Intent (LOI) is “a non-binding preliminary merger agreement that outlines the initial price, the structure of the deal, and exclusivity during negotiations. Most parts of the LOI are not binding and its main purpose is to provide a structure to the deal to avoid miscommunication and to set a timeline for contract negotiations.” Wall (2016).

<sup>5</sup> According to Westbrock et al. (2019), while external legal counsel may be engaged prior to the merger announcement, their main responsibilities only start after the announcement and MDA is signed. Dent (2009) also argues that business issues are decided before the external lawyers enter.

<sup>6</sup> 8-K reports must be filed within four business days after signing of the merger agreement.

timeline and events in the private process are disclosed in the “Background of the Merger” section of the SEC filings filed by the acquirer or the target or jointly filed depending on the structure and financing method of the deal. The SEC filing forms which contain the merger background information include DEFM14A, PREM14A (Schedule 14A), S-4 filings (for mergers), and SC14D9 (for tender offers). The filings are released several weeks (sometimes even months) after the public announcement as these filings contain much detailed M&A information (such as background, financial projections, compensation, and post-deal treatment of seller’s management) than the initial 8-K filing and press release (Fidrmuc & Xia, 2016).

The public announcement also signifies the commencement of the M&A public process which concludes when the deal is either completed or withdrawn (8-K report filed by acquirer announcing either the completion or withdraw of the deal) (Aktas, de Bodt, et al., 2016). Following the public announcement, due diligence continues, often called “transactional due diligence” in this stage (Chen et al., 2018; Wangerin, 2019). The transactional due diligence involves obtaining more access to the target company’s financial books, searching for off-balance liabilities, verifying values of intangibles, updating the valuation of the target accordingly, planning post-merger integration, and drafting legal filings. The transactional due diligence continues until the formal closing of the deal. The due diligence during the public phase provides the acquirer the last opportunity to withdraw from the deal if a significant amount of risk or liabilities are discovered. For example, California Energy Company, Inc. withdrew from the acquisition of Westmoreland Energy, Inc. due to various financial and legal issues uncovered during transactional due diligence which negatively affected the target valuation, and no subsequent agreement changes could be worked out between them (Jacobsen, 2014). On the other hand, acquirers who fail to detect irregularities are likely to suffer later from a series of negative consequences such as unrealized

synergies, goodwill impairments, costly investigations, and decreases in stock valuation. For example, less than a year after Hewlett-Packard (HP) acquired Autonomy for \$11 billion in 2012, HP recognized \$8.8 billion good-will impairment resulting from accounting irregularities at Autonomy in the years leading up to the acquisition. If the accounting irregularities had been identified earlier in the transactional due diligence process, HP could have walked away from the deal or negotiated for a lower price.

The public announcement of the deal draws public scrutiny from various parties. Target shareholders may challenge the fairness of the deal and file class-action lawsuits to interfere with the M&A process (Krishnan et al., 2017). According to Daines and Koumrian (2013), class-action lawsuits by target shareholders are filed an average of 14 days after the merger announcement. The plaintiffs often base their cases on low offer prices and blame the target's management for selling the company too cheaply (Daines & Koumrian, 2013). The disgruntled target shareholders allege that the target firm directors breached their fiduciary responsibilities to their shareholders (Krishnan et al., 2013, Lin et al., 2011). Other factors that could trigger M&A lawsuits could be the existence of competing bidders, lack of shareholder approval, and less customary deal terms (Feldman, 2012). Most M&A litigations are resolved with private settlements, before the deal-closing with an average of 42 days after the lawsuit was filed (Daines & Koumrian, 2013).

In addition to stock market participants such as investors and analysts scrutinizing the deals, various regulatory parties also challenge the fairness of M&A deals. For instance, the Federal Trade Commission (FTC) and the Department of Justice (DOJ) issue merger guidelines and policy statements to make sure that firms comply with antitrust laws in M&A deals.<sup>7</sup> When

---

<sup>7</sup> <https://www.ftc.gov/enforcement/merger-review>

necessary, the regulatory parties may take formal legal actions to stop a deal that may hurt the consumers, either in federal court or before an administrative law judge.<sup>8</sup> In addition, the SEC promotes information transparency and shareholder-protection. Based on the structure and financing of the deal, SEC has specific filing requirements for both public acquirers and public targets. For deals that are structured as “mergers” and require target shareholder approval, a public target company must first file a preliminary proxy statement (PREM14A) and subsequently file a definitive proxy statement (DEF14A) 20 business days prior to the scheduled shareholder meeting. For tender offers, a public acquirer files an SC-TO on the same day the tender offer begins and the target firm files its response (Schedule 14D-9) within 10 business days of the tender offer. If the acquirer issues stock as part of the deal payment, the acquirer must file Form S-4. SEC reviews all these filings to ensure transparency and adequate disclosures, and may issue comment letters or even disapprove the filings (Liu, Shu, Towery, & Wang, 2019; Johnson et al., 2020).

Due to the uncertainty in the public process from various regulatory and private oversight, the deal may end up either withdrawn or completed. If the deal is successfully completed, the acquirer and target company, as a combined entity, work together through post-closing integration to achieve synergy gains. Different integration approaches may impact the ultimate outcome of a deal (Cartwright & Schoenberg, 2006). There are also various obstacles such as employee or stakeholder resistance, strategic incompatibility, and culture differences that could influence the post-merger integration and reorganization (Renneboog & Vansteenkiste, 2018). Other than integration synergies and operating performance, acquirer management may also experience

---

<sup>8</sup> “In most cases, the Bureau of Economics of FTC receives notice of proposed mergers under the Hart-Scott-Rodino (HSR) Amendments to the Clayton Act.” The lawyers and economists in the Bureau lawyers will determine whether the proposed deal will hurt the consumers based on market conditions. (<https://www.ftc.gov/enforcement/merger-review>)

challenges in maintaining the accounting quality and managing the various risks such as potential litigations for a new and larger entity (Wangerin, 2019; Chen et al., 2018; Liu, Shu, Towery, & Wang, 2019; Johnson et al., 2020; Gong, Louis, & Sun, 2008).

## **2.2: Key Decision Makers in M&As**

### ***2.3.1 Top Executives in M&As***

Welch et al. (2019) review the M&A literature and argues that most M&A studies consider the acquiring firm as a single entity rather than a group of decision-makers (Haleblian, Devers, Mcnamara, Carpenter, & Davison, 2009). These studies focus on various acquiring firm characteristics such as firm age (Arikan & Stulz, 2016) and firm size (Moeller, Schlingemann, & Stulz, 2004) that could be associated with the firms' acquisition behavior. However, it is the top executives and board of directors that make these acquisition decisions and carry out specific M&A activities. Thus, Welch et al. (2019) call for more studies on a more granular investigation of individual actors participating in the M&A process.

The literature on how individual participants in M&As such as executives and board of directors shape the process and outcomes explicitly and implicitly consider the CEO as the primary decision-maker in a deal. For instance, Jaffe, Pedersen, and Ortmann (2013) find that the experience and skills acquired in prior deals reside in CEOs rather than the acquiring firm. CEO's general skills that are transferable across firms and industries are valued in firms that engage heavily in M&A activity (Custodio & Metzger 2013). El-Khatib, Fogel, and Jandik (2015) find that CEOs with higher social network centrality enjoy more information advantage and gain more resources to facilitate decisions, but at the cost of increased entrenchment and power over the board, destroying value in M&As. Wang and Yin (2018) find that CEOs are more likely to acquire

targets that are headquartered in the states where they receive their undergraduate and/or graduate degrees, and such CEOs can utilize their information advantage through knowledge in their al mater states to perform better in the deals.

Aside from the acquirer CEO's experience and background, prior literature also investigates the acquirer CEO's behavior traits and psychological characteristics such as overconfidence (Malmendier & Tate, 2008), hubris (Aktas, de Bodt, & Roll, 2011), narcissism (Aktas, de Bodt, et al., 2016), age (Yim, 2013), extroversion (Clifton Green, Jame, & Lock, 2019), and home bias (Jiang, Qian, & Yonker, 2018; Chung, Green, & Schmidt, 2016). Further, acquirer CEO's compensation structure and risk-taking incentives may also influence their acquisition decisions (Crocì & Petmezas, 2015). CEOs' compensation may also be tied to merger performance. However, Harford and Li (2007) find that since M&As are external investments (in contrast to internal investments such as capital expenditures), acquirer CEOs may utilize such external investment opportunities to renegotiate their compensation and therefore eliminate their personal downside risk from the performance of acquisitions. CEOs' post-merger compensation may also be related to their effort and skill in completing the deal (Bugeja, da Silva Rosa, Duong, & Izan, 2012). Some studies also look at target's CEOs and see whether their incentives in retaining a future position at the merged entity will influence their behavior in negotiating a deal (Welch et al., 2019).

Beyond investigating CEOs' role in M&As, a limited number of M&A studies look at CFOs as M&A deals involve valuation, financing, and due diligence which all demand significant financial expertise. CFOs, as business partners of CEOs and part of top management circle, participate in the strategic and investment activities of M&As (Richter & Firk, 2018; Sainani, 2018; Shi, Zhang, & Hoskisson, 2019). Sainani (2018) constructs an index that captures the ability

of CFO to influence acquisition behavior and performance and finds that stronger acquirer CFOs can identify more suitable targets, reduce the public M&A process, choose cash financing over stock financing, and are associated with better post-acquisition performance. Shi et al. (2019) find that CFOs with stronger attempts to ingratiate themselves with CEOs are less likely to voice different viewpoints and challenge CEOs in M&A strategic decisions, resulting in lower quality of deals. CFOs who are early in their career are more likely to be bold and advocate for risky investments to show their support to the CEO to advance their career (Richter & Firk, 2018). Bedwell, Bugeja, Matolcsy, Spiropolous, and Spiropoulos (2015) examine CFO compensation during the bidding and integration phases of M&As and find that CFOs receive higher compensation in the year of acquisition and the compensation increases mainly come in the form of equity during the year and the year immediately following the merger. They further find that acquirer CFOs receive higher compensation when M&A deals are larger, take a shorter time to complete, and with target firms operating in a different industry. Overall, these studies look at various CFO characteristics such as financial expertise, status in the firm, and relationship with the CEO, and shed light on how CFOs may influence M&A outcomes.

In addition to CEOs and CFOs, some studies that focus on international M&As (Antila & Kakkonen, 2008; Rodríguez-Sánchez, Mora-Valentín, & Ortiz-de-Urbina-Criado, 2018) find that executives in charge of human resource management are essential in successful implementation and integration of M&As. Based on managerial ability calculated using industry adjusted firm-level characteristics<sup>9</sup>, Chen and Lin (2018) find that acquirers with higher managerial ability generate better announcement abnormal returns, pay significantly lower premiums, and perform

---

<sup>9</sup> The managerial ability is based on how well a firm's revenues, compared to those of its industry peers, can be generated using given corporate resources developed by Demerjian et al. (2012).

better in scenarios with high environmental uncertainty than acquirers with lower managerial ability. In contrast to the studies that find top management influencing the M&A decisions, Golubov, Yawson, and Zhang (2015) fail to find evidence of individual CEOs or the broader management team characteristics matter in acquisition performance using fixed effects analysis. Instead, they suggest that some firms are extraordinary acquirers irrespective of the CEO or the deal structure they choose, and such M&A expertise may originate from internal M&A experts or corporate development teams. Therefore, it appears that there may be other internal personnel who may influence the M&A process that prior studies have overlooked.

### ***2.3.2 Board of Directors in M&As***

Aside from top executives, the board of directors also influences M&A activities and participates in these strategic decisions (Redor, 2016; Aktas, Croci, et al., 2016). Directors may add value to M&As by providing advice and share their information and experience with senior managers (Cai & Sevilir, 2012; Field & Mkrtchyan, 2017). For instance, some directors may have access to information about the market and the target firm (Cai & Sevilir, 2012; Schmidt, 2015). The Board of directors also has a fiduciary duty to protect shareholder value and act as gatekeepers in M&As (Adams & Ferreira, 2007). For example, the board of directors may vote against a deal and prevent management from engaging in value-destroying acquisitions. In an M&A deal, there is a trade-off between board advising and monitoring effectiveness (Faleye et al., 2011; Schmidt, 2015). For instance, when the board is intense in monitoring, acquirer management may intentionally exclude the board from the information loop in order to benefit themselves at the expense of shareholders. And without adequate information feed from senior managers, the board may be less effective in advising (Schmidt, 2015; Adams & Ferreira, 2007).



The board of directors provides value to the M&A decision-making process through their board memberships in other firms, and their superior information collection ability (Cai & Sevilir, 2012; Renneboog & Zhao, 2014; Huang & Kang, 2017). For example, acquirers may award finder's fee for directors who introduce potential targets for the firms (Kim, 2005). In this sense, directors provide value in M&A by reducing the cost of collecting information (Aktas, Croci, et al, 2016). In addition, directors may utilize their prior M&A experience and enhance deal quality through better target selection and more effective negotiation (Field & Mkrtchyan, 2017). The director labor market values prior deal experience and directors' advising ability when selecting directors before the merger (Becher, Walkling, & Wilson, 2016).

To provide effective monitoring, the board relies heavily on the senior executives for information to make decisions (Adams & Ferreira, 2007). At the same time, the board monitors the senior executives to prevent them from taking advantage of the shareholders. For example, the provision of director and officer insurance which shields directors and officers from the discipline of shareholder litigation may increase agency costs and lead to lower-quality deals (Lin, Officer, & Zou, 2011). Faleye, Hoitash, and Hoitash (2011) find that firms with independent directors who are intensely committed to monitoring duties exhibit worse acquisition performance, especially when the firms rely on acquisitions as value drivers. Schmidt (2015), which looks at the social ties between the CEO and the board as a proxy for board independence, finds that the influence of the social ties on M&As depends on the relative monitoring and advising needs of the companies. Senior managers need to consider the relative monitoring and advising needs from the board to enhance deal quality and firm performance.

There is a trade-off between the board's advising role and monitoring role in strategic decisions such as in M&A (Faleye et al., 2011) as intense monitoring might impair the board's

access to information through executives, leading to lower monitoring capability. Adams and Ferreira (2007) argue that as the monitoring of the board intensifies, top executives are less inclined to share information with the board, decreasing the board's ability to advise or effectively monitor the company's activities. However, such detrimental effects could be reduced by improved disclosure practice and corporate governance (Aktas, Croci, et al., 2016). For instance, firms may promote top legal executive's independent access to the board so that top legal executive could communicate to the board directly as issues arise (Kim, 2005). Therefore, it is essential to ensure information transparency between top executives and the board to have active monitoring and effective advising from the board in strategic decisions (Alexandridis, Antypas, & Travlos, 2017; Faleye et al., 2011).

### ***2.3.3 Information Intermediaries in M&As***

Due to the severe information asymmetry in M&As, information intermediaries such as auditors, financial advisers, and legal advisers are important players in the deals. There is a strand of literature investigating the roles of financial advisers in M&A (e.g. Francis, Hasan, & Sun, 2014; Chang, Shekhar, Tam, & Yao, 2016; Agrawal et al., 2013). These studies focus on the financial adviser's role in producing technical and tactical advice and reducing information asymmetry through due diligence. For instance, Golubov, Petmezas, and Travlos (2012) find that top-tier financial advisers deliver higher acquirer returns than their non-top-tier counterparts in public acquisitions. Agrawal et al. (2013) find that when the acquirer and target share the same financial adviser, deals take longer to complete at a reduced premium because the common adviser chooses the acquirer over the target when conflicts of interests arise between the acquirer and target.

Prior studies also examine the auditors' role as an information intermediary in M&As (e.g. Caplan, Dutta, & Liu, 2018; Dhaliwal et al., 2016; Bugeja, 2011; Gal-Or, Hoitash, & Hoitashi,

2018). These studies find that auditors provide assurance in financial reporting, reduce information asymmetry, and improve overall deal quality (Xie, Yi, & Zhang, 2013; Bugeja, 2011; Gal-Or et al., 2018). For instance, the acquirer's auditors add value by improving internal control over financial reporting in acquisition years (Caplan et al., 2018). When acquirer's auditors specialize in M&As, acquirers in complex industries benefit from these expert auditors through a lower likelihood of subsequent M&A-related misstatements, although at a cost of higher audit fees (Gal-Or et al., 2018). Acquirers also take the quality of the target's auditor into account when evaluating the target's financial information (Bugeja, 2011; Xie et al. 2013). Furthermore, when the acquirer and target share the same auditor prior to acquisitions, the acquirer benefits from the reduced information asymmetry by achieving lower offer prices, higher completion rate, and higher announcement returns (Dhaliwal et al., 2016).

In addition to having financial experts as information intermediaries, M&A deals also often require legal experts (e.g., transactional lawyers, litigation experts) to facilitate deals. These legal experts help with legal due diligence, negotiation of legal terms in contracts and agreements, regulatory compliance, disclosure activities, and sometimes litigation management. Legal expertise in M&A becomes particularly important as M&A related litigations are more ubiquitous in recent years (Daines & Koumrian, 2013; Krishnan, Solomon, & Thomas, 2017).

Despite the heightened and various needs for legal expertise in M&As, there are only a handful of studies that investigate the role of legal experts in M&As and these studies only consider legal experts from external law firms as legal advisers (e.g. Krishnan & Laux, 2008; Klasa & Neyland, 2013; de Fontenay, 2015; Karsten et al., 2015). For example, Krishnan and Laux (2008) argue that lawyers may influence the economics of M&As by working as deal certifiers or "gatekeepers." They create value for their clients through writing contract terms that align the

expectations of participants, reducing opportunistic behavior, and minimizing the deadweight transaction costs. However, these external legal advisers suffer from lawyers' conflicts of interests in that they may be more concerned about their reputation and ability to obtain potential clients than creating value for their current clients (Antoniades, Calomiris, & Hitscherich, 2016). Kim (2005) also points out that since external law firms are financially biased toward proceeding with the deal, it is best practice to avoid contacting outside counsel in the early planning stage of the deal. Badawi and de Fontenay (2019) argue that external legal counsel suffers from agency costs (side with senior management at the expense of shareholders). These external transactional lawyers only focus on terms that are easy to put in dollar amounts as those terms are more salient to their clients. The terms that are harder to monetize are negotiated less efficiently by external legal counsel.

Consistent with the different incentives external lawyers may have in M&As, there is also mixed evidence regarding lawyer's role in M&As. Krishnan and Laux (2008) find that more reputable legal advisers are associated with enhanced deal completion but at the cost of lower announcement returns and lower post-merger performance (Krishnan & Laux, 2008). Therefore, there is weak evidence of external legal counsel acting as gatekeepers in M&A deals. However, Klasa et al. (2013) find that legal counsel with specific expertise such as litigations, corporate law, acquirer's industry, or high market share is associated with lower acquisition premium, lower completion rate, and higher announcement returns. Karsten et al. (2015) find that legal counsel with more expertise is associated with better contract outcomes, and shorter negotiation process based on evidence of private transactions in Netherland. Therefore, there is mixed evidence regarding whether external legal counsel adds value in M&A.

### **2.3: Top Legal Executives**

One source of legal expertise that was overlooked in the prior M&A literature is the internal or in-house legal counsel. Choudhary et al. (2013) recommend exploring the relative role of outside legal counsel and inside counsel in corporate decision-making and their advisory role in firms. The top legal executive (also called general counsel), as the head of in-house counsel, selects and manages the work of external counsel. Therefore, it is important to examine the top legal executive's influence in M&As as an important source of legal expertise in addition to external legal advisers. Further, these top legal executives may also influence M&As through their interactions with other senior managers. In some firms, these top legal executives are highly paid (among the top five highest-paid executives, also called "disclosed earners" per the proxy statements) and could be part of the inner top management circle (Hopkins et al., 2015). Even if when they are not highly paid, top legal executives may be invited to board meetings to provide input as legal experts (Demott, 2005). For example, they may participate in strategic discussions and provide inputs to CEOs to help them make corporate decisions. Thus, it is important to examine the top legal executive's influence in M&A through their role as legal experts in addition to their role as top executives.

The top legal executive's general responsibilities include: (a) serving as a "gatekeeper" by monitoring firm and management compliance and representing shareholder interests; (b) managing the in-house legal team, selecting and managing outside legal counsel if necessary to facilitate transactions; (c) serving as a member of the top management team and facilitating strategic business decisions; and (d) acting as an agent of the corporation when dealing with third parties (e.g., Nelson & Nielsen, 2000; Kim, 2005; DeMott, 2005; Jagolinzer et al., 2011; Hopkins et al. 2015). In recent years, top legal executives' responsibilities include strategic advising and risk

management (KPMG International 2012, 2016). Top legal executives are consistently recognized as an important part of the core management team, and these executives suggest that their experience is a key determinant of their level of influence within an organization (KPMG International 2014).

In the role of gatekeepers, top legal executives are responsible for managing risks (Kwak et al., 2012; Ham & Koharki, 2016). They are active in risk assessment and setting the appropriate risk level the firms can assume (Nelson & Nielsen, 2000). An M&A is a risky investment for both the acquirer and target. Top legal executives may influence M&As through their risk management role, such as screening potential business partners and preventing other top managers from engaging in value-destroying deals. Top legal executives may also participate in risk assessment and due diligence to ensure taking consideration of all open issues and liabilities of the target.

Top legal executives also help in the selection and management of outside legal counsel (Schwarcz, 2006; Chayes & Chayes, 1985). M&A legal services could be a highly opaque and difficult area for even sophisticated clients to manage (Coates, 2012). These outside legal services, even within the specialized area of M&As, vary by deal type, industry, deal size, and many other ways and these various specializations could lead to different legal contract choices and thus deal outcomes (Coates, 2012). Top legal executives, as senior lawyers, may utilize their legal expertise and network in the legal community to reduce the information asymmetry between corporate clients and outside counsel to vet the outside legal advisers more effectively (Schwarcz, 2006). For example, top legal executives may inquire about the specific issues and challenges the legal advisers solved in the past. With the knowledge of the complications the outside legal adviser has handled previously, top legal executives can help the firm select the legal adviser to fit the specific needs of a planned deal (Mehrberg, 2016).

In addition, top legal executives may support the external legal counsel by assisting them to get familiar with the company background, potential issues that may affect the M&A process, and the strategic goals of the deal. Top legal executives also make business and strategic decisions and use external legal counsel to implement or execute their decisions (Chayes & Chayes, 1985). Therefore, in situations where more economic judgment rather than legal professional knowledge is required, top legal executives tend to make the judgment with the counsel of outside legal advisers.

As transactional lawyers, top legal executives may be involved in various processes and logistics of M&A such as negotiation, legal due diligence, and regulatory filings of M&A deals. For instance, top legal executives could actively negotiate contract terms of the merger agreement.<sup>10</sup> Prior literature suggests that top legal executives may influence daily corporate transactions such as voluntary disclosures, accounting practices, and corporate tax policy (Abernathy, Kubick, & Masli, 2016; Hopkins et al., 2015). For example, Hopkins et al. (2015) find that firms with highly compensated top legal executives engage in more aggressive accounting practices compared to those without high compensated top legal executives, but they limit such aggressive behavior within the limits of security laws. Since top legal executives may influence overall corporate practice and routine transactions, they may also participate in significant corporate transactions such as M&As. For instance, they may perform legal due diligence such as vetting targets' potential liabilities such as tax shelter participation, pending lawsuits, and considering target's accruals and contingencies into valuation and premium determination (Chow,

---

<sup>10</sup> For example, Verizon's general counsel Craig Silliman is the primary negotiator representing the acquirer company in revising a merger agreement and signed the final merger agreement according to Schedule 14A filed by the target company: <https://www.altaba.com/static-files/d0f39432-8785-4775-9b9c-382e8cb144e4>

Klassen, & Liu, 2016; Gal-Or et al., 2018). Therefore, top legal executives may influence M&A outcomes by reducing information asymmetry through their legal and financial expertise in due diligence. Furthermore, as a transaction facilitator, the top legal executive's objective is to smooth the process and avoid any regulatory delays. Within the realms of litigation and risk management, top legal executives may also help to avoid legal disputes and damages in company reputation arising from dismissals and changes in employee agreements. Top legal executives, unlike outside legal counsel who is employed to complete the deal, continue to help in integration and potential litigations post-merger after the completion of the deal.

As part of the top management team, top legal executives furnish legal advice to the CEO and the board (DeMott, 2005). They may participate in formulating corporate strategies at the highest level of managerial hierarchy. The inclusion of top legal executives in the top management inner circle gives them opportunities to shape transactions and corporate policy at early stages (DeMott, 2005). Top legal executives can better incorporate the legal analysis into business decisions when they participate in these strategy discussions (Nelson & Nielson, 2000). However, the high status in the corporate ladder may compromise the top legal executive's professional judgment and independence, especially when they are also highly compensated (DeMott, 2005; Kwak et al., 2012). Top legal executives are still subordinates to the CEOs and may be appointed or promoted by CEOs, and therefore may divert their loyalties away from the corporation toward CEOs and other senior managers (DeMott, 2005). In this sense, top legal executive's ability to raise concerns and bring detached, professional judgment may be compromised and they may defer to other managers' judgment about legal risk (Nelson & Nielson, 2000).

As agents for the company and representatives of top management, top legal executives may provide valuable information to the board so that the board is able to process information



better. Top legal executives are obligated to provide the board of directors with necessary information to make informed decisions in a timely manner (Kim, 2016). Often, top legal executives also take on the role of secretary of the board (DeMott, 2005). In that sense, top legal executives act as an information intermediary between senior management and the board. In addition, when top legal executives have more access to the board, they may also be more effective in their gatekeeping role as they can inform the board more directly (Kim, 2005). Therefore, top legal executives may influence M&A decision-making by providing better information feed to the board.

## CHAPTER 3: HYPOTHESIS DEVELOPMENT

The acquirer's top legal executive may influence the M&A process by providing legal expertise and working as a gatekeeper and an adviser to the senior management. I examine the role of acquirer top legal executives only rather than the target top legal executives or both, because after the merger the acquirer is the surviving organization and therefore acquirer top executives have a higher vested interest in M&As (Aktas, de Bodt, et al., 2016). Since target top legal executives may leave the firm after the merger or at least no longer be the top executives in the legal department of the merged entity, their roles are reduced to deal advisers rather than both as top executives and deal advisers (Krug, Wright, & Kroll, 2014). Additionally, acquiring firms are much larger than target firms,<sup>11</sup> suggesting that acquirer top legal executives have a much larger influence in the deal than target top legal executives in terms of firm resources and support. In the following section, I develop hypotheses about how acquirer top legal executives may influence the M&A's private and public processes, as well as the outcomes of these processes. The first three hypotheses pertain to the private process and its outcomes, and the remaining two hypotheses discuss the public process and its outcome.

### 3.1 H1: M&A Private Process Length

In the M&A private process, the acquirer engages in due diligence review and negotiation with the target to reach a merger agreement. A lengthier private process suggests more efforts to obtain more value for the acquirer in the deal. Through due diligence, the acquirer could get more information and therefore a better assessment of the target that gives the acquirer greater

---

<sup>11</sup> In my sample, acquirers are 10 times larger than targets in terms market value of equity.

negotiation power. During the private process, the acquirer could also walk away from a deal if the management discovers critical issues and excess risks in the target that could not be resolved through negotiation. However, a lengthier M&A private process is costly (Wangerin, 2019). When the private process is long, there are more chances of other firms entering the bidding competition and driving the offer prices high. In the meantime, the acquiring firm may also lose other strategic opportunities when devoting time and energy to the deal. Thus, the acquirer management is under pressure to shorten the private process length and complete the acquisition quickly to seize the synergies of the merger and reduce opportunity costs in the process.

As the private process indicates both efforts and efficiency, there are several reasons why the acquirer's top legal executives could impact the length of the private process. First, acquirer top legal executives, as transaction lawyers, are responsible to facilitate the transaction for their clients and expedite the M&A private process. Acquiring firms with top legal executives are more likely to have the resources and legal expertise to speed up the process and increase the efficiency of due diligence and negotiation than firms without top legal executives. For instance, top legal executives have more resources available to work with the operations and financial teams to vet the contract terms efficiently (Shiba, 2003). On the other hand, in-house legal counsel who are not top legal executives may focus exclusively on legal issues and may not be able to partner with other functional teams effectively due to lack of understanding or interest in the business operations.<sup>12</sup> Acquirer top legal executives could also use some contract terms such as requiring

---

<sup>12</sup> The top legal executive of Walmart, Jeffery Gearhar, points out that it is important for lawyers to show a genuine interest in the operations and show they are true partners to other teams. Otherwise, the operations and finance teams may treat lawyers as the police who's playing "gotcha: with them. <https://deloitte.wsj.com/riskandcompliance/2017/12/18/building-strong-finance-legal-relationships-to-strengthen-the-business/>

the target firm to meet specific performance benchmarks at deal closing so that the scope of the due diligence could be reduced without sacrificing the objectives of the due diligence, leading to a shorter private process (Bhagat & Klasa, 2016). Therefore, acquirer top legal executives may utilize their legal expertise and resources to speed up the private process.

Second, acquirer top legal executives may also shorten the private process under pressures from other senior managers. CEOs and other top executives earn private benefits such as compensation increases for completing acquisitions and are not necessarily held responsible for poor post-acquisition performance (Wangerin, 2019). As allies of the top executives, acquirer top legal executives may also consider their private benefits and may have incentives to conform to CEOs and other senior executives to expedite the private process (Kim, 2005). In addition, when top legal executives are at similar ranks as other senior managers or compensated similarly to other top managers, they are more susceptible to the same incentives as the CEO and other top managers. Therefore, acquirer top legal executives may divert away from their gatekeeping role and shorten the M&A private process to reach a merger agreement.

However, acquirer top legal executives, as gatekeepers, may demand more due diligence work before officially announcing the merger agreement to the public (Wangerin, 2019). Top legal executives act as transactional intermediaries to reduce information asymmetry and work as risk managers to prevent acquirers from taking on overly risky investments (de Fontenay, 2015). Therefore, the acquirer's top legal executives may strive to put more effort into the M&A private process to manage the risks in the transaction, leading to a long private process.

Despite the gatekeeping responsibilities that motivate the top legal executives to put more effort and may therefore prolong the private process, acquirer top legal executives may be under pressure to carry out due diligence and move along the private process more efficiently in their

roles as senior managers and transactional lawyers. As senior managers and subordinates to the CEO, they are also pressured to appease the CEO through facilitating the deal efficiently. Based on the above arguments, I predict the following hypothesis:

**H1:** *Ceteris paribus*, the length of the M&A private process is negatively associated with the influence of an acquirer's top legal executive.

### **3.2 H2: M&A Agreement – Acquisition Premium**

Acquisition premium is the difference between the offer price and the target's pre-acquisition stock price, scaled by the target's pre-acquisition stock price (Haleblian et al., 2009). Thus, the acquisition premium reflects the acquirer's view of target valuation (Chow et al., 2016). Acquirers perform due diligence on the target and negotiate the offer price based on the information that they get during the private process. As the acquirers get more information about the target such as potential liabilities, legal risks such as pending litigations, and other information that may decrease target valuation, they may negotiate for a lower premium to gain more value in the deal.

Acquisition premium may also reflect the expected synergies that could arise from the merged entity (Harford & Li, 2007). As the synergies are subject to management's business judgment, acquisition premiums may also indicate the confidence of the acquirer's management in realizing the deal synergies. Acquirer CEOs may participate in overbidding and increase premiums when they feel confident about the potential synergies or due to their personal ego (Aktas, de Bodt, et al., 2016).

There are several reasons why acquirer top legal executives try to lower acquisition premiums. First, as risk managers, they may help to identify target risk through their participation

in the financial and legal due diligence and work to reduce the deal risk. As top legal executives gain more influence in the firm, they are more likely to have the resources and ability to participate in the legal due diligence and target valuation. For example, they might identify some potential litigation risk when reviewing the target's contracts or discover undisclosed liabilities and incorporate such risk in the valuation of the target, reducing the premiums (Klasa et al., 2013). Therefore, top legal executives may fulfill their risk managing responsibilities by gathering more information that could reduce the valuation of the target and therefore reduce the acquisition premium.

Apart from gathering information in due diligence and managing deal risks, top legal executives may also drive the premiums down through the negotiation of the deal. Negotiation is part of a lawyer training and is central to their work. Top legal executives have a better understanding of the underlying business and strategic goals of the deal, compared to outside legal counsel (Dent, 2009). Therefore, acquirer top legal executives know where to draw a hard line as well as when to concede in negotiation. With the negotiation skills and a clear picture of the corporate objective, acquirer top legal executives may help their clients to obtain beneficial offer price terms and therefore a lower premium.

Lastly, as gatekeepers, top legal executives are charged with preventing overpayment or irrational bidding behavior to protect shareholder value (Eckbo, 2008; Kwak et al., 2012). Acquirer CEOs may engage in overbidding in order to push the deal through and get increased compensation (Harford & Li, 2007). Other times, acquirer CEOs may overestimate potential synergies due to overconfidence, leading to a high premium (de Bodt, Cousin, & Roll, 2018). In these situations, acquirer top legal executives may step up and advise the CEO to steer away from overpayment

and thus protect shareholder value. Therefore, acquirer top legal executives may also decrease premiums when they stick to their gatekeeping role.

However, since there could be some consequences from pushing for lower premiums, acquirer top legal executives may not influence premiums or even increase the premiums. Lower premiums are associated with more chances of target shareholder resistance and potentially attract class-action lawsuits, obstructing the deal completion process (Krishnan et al., 2017; Feldman, 2012). If acquirer top legal executives actively advocate for a lower premium, they are likely to be blamed for the occurrence of shareholder litigation and delaying the process. On the other hand, acquirer top legal executives are less likely to be blamed by management and the stock market participants for agreeing to overpayment (Bird, Borochin, & Knopf, 2015; Henderson et al., 2017). The size of the premium is based on expected synergies and subject to the business judgment of the CEO, CFO, and other senior managers who are more involved in financial oversight. Therefore, it is unlikely that legal experts such as acquirer top legal executives would be held accountable for overpayment. Therefore, acquirer top legal executives may prefer higher premiums to prevent deals from being rejected or challenged by lawsuits. Alternatively, they might remain silent when deciding on offer prices or concede to a premium set by other senior managers as they are not directly responsible for financial evaluations.

Other than shirking financial valuation responsibilities, there are situational factors that may lead acquirer top legal executives to deviate from their gatekeeping role and therefore drive the premiums high (Kim, 2005). For example, top legal executives may feel pressured to conform to the CEO and divert from their gatekeeping role in order to keep their job. Thus, top legal executives may be entrenched and slack in due diligence and negotiation in order to facilitate the decisions of CEOs. They may also be interested in seeking private benefits in a similar way as other senior

executives. Additionally, as they are often appointed and promoted by the CEO (Kwak et al., 2012), they would avoid pushing the CEO too hard in lowering the offer price to keep rapport with the CEO (Kim, 2005; DeMott, 2005).

Therefore, it is difficult to predict whether the influence of an acquirer top legal executive is associated with the premium in the deal and in which direction. I present the second hypothesis as follows, also in its alternative form.

**H2:** *Ceteris paribus*, the acquisition premium is associated with the influence of an acquirer's top legal executive.

### **3.3 H3: M&A Agreement – Termination Fee Provisions**

In addition to the offer price and premium, acquirer and target firms also negotiate over the termination fee provisions in merger agreements. As termination fees fall in the realm of legal contract terms (Bates & Lemmon, 2003), acquirer top legal executives may play an active role in the negotiation and pricing of these terms (de Fontenay, 2015; Coates, 2012). There is anecdotal evidence that both the acquirer and target could utilize termination fee provisions as deal protection mechanisms for their deal-related investments. For example, when Ametek acquired Zygo in 2014, Ametek requested a target termination fee when they first entered the negotiation.<sup>13</sup> Zygo responded with a reciprocal acquirer termination fee request.

An acquirer termination fee is a fee the acquirer agrees to pay to the target if the acquirer backs out the deal or the transaction fails to complete (Offenberg & Pirinsky, 2015; Officer, 2003). There are various reasons why acquirers may not complete a deal: failure to secure financing,

---

<sup>13</sup> [https://www.sec.gov/Archives/edgar/data/730716/000093041314002607/c77503\\_defm14a.htm#x1\\_c77503a016](https://www.sec.gov/Archives/edgar/data/730716/000093041314002607/c77503_defm14a.htm#x1_c77503a016)



difficulty in obtaining regulatory or shareholder approval, or emergence of a superior target. Some acquirer termination fee provisions can only facilitate terminations under certain scenarios such as regulatory disapproval. Other acquirer termination fee provisions may be “option-style” that gives acquires complete discretion over the termination decisions (Chen, Mahmudi, Virani, & Zhao, 2016). Therefore, such “option-style” acquirer termination fee provisions give the acquirers freedom to walk away from the deal if the target loses its appeal. In other cases, acquirers can also negotiate over the acquirer termination fee provision to include specific triggering events that would allow acquirers to terminate deals without paying the termination fees (Herman & Piereck, 2010; Butler & Sauska, 2014).<sup>14</sup>

There are several reasons why top legal executives want to avoid including an acquirer termination fee provision in the deal. First, acquirer termination fee is a potential future liability. It is costly for the acquirer to terminate the deal after the public announcement. Therefore, acquirer top legal executives may help their corporate clients to avoid the potential future costs by excluding the acquirer termination fee provision. Second, acquirer management may implement acquirer termination fee provisions in M&A contracts intentionally to entrench themselves (Schubertp & Strych, 2020). As it is more costly to terminate deals including acquirer termination fee provisions than deals without such provisions, acquirer shareholders may be less likely to disapprove of the deal after the public announcement. Acquirer top legal executives, as gatekeepers, may protect the rights of shareholders and prevent CEOs and other senior managers from entrenching themselves by using the acquirer termination fee provision.

---

<sup>14</sup> For example, acquirers can utilize a Material Adverse Effect (or Material Adverse Change, MAC) clause to walk away from a deal without triggering the acquirer termination fee clause (Herman and Piereck, 2010; Butler & Sauska, 2014). Under a MAC, companies are able to terminate the M&A without penalty, or they can renegotiate the terms of the original agreement.

On the other hand, as Chen et al. (2016) point out, acquirer termination fee provisions give the acquirer an abandonment option when there is high uncertainty in target valuation and potential merger synergies. Since there are various options within the acquirer termination fee provision that may equip the firm with more freedom in the deal, top legal executives may use their legal and negotiation expertise to include an acquirer termination fee provision. In addition, top legal executives may implement acquirer termination fee provisions to decrease the opportunity for shareholder disapproval of the deal and increase the chances of successful deal completion. Acquirer top legal executives may prefer a higher likelihood of deal completion in their role as a deal facilitator, as well as appeasing the CEO and other senior managers. Therefore, conflicting factors may predict the direction of the association between the influence of top legal executives and the inclusion of acquirer termination fee provision.

In addition to the inclusion of acquirer termination fee provision, acquirers and targets also negotiate over the size of the termination fee. The size of the acquirer termination fee is intended to compensate the target for its time and effort in facilitating the transaction. Additionally, the acquirer may use the size of the fee to show its assessment of the likelihood of deal completion and how committed the acquirer is to see the deal coming through (Butler & Sauska, 2014). For example, when the acquirer agrees to a large acquirer termination fee, it indicates that the acquirer is serious about seeing the deal through to its final stages. On the contrary, a smaller termination fee indicates that the acquirer is not confident about deal success and intends to minimize the termination costs in case of a failed transaction.

Prior legal research finds that acquirers often simply set acquirer termination fees equal to target termination fees and put low efforts into the pricing of acquirer termination fees (Chen et al., 2016; Quinn, 2010; Afsharipour, 2010). Other studies find that external legal counsel may

participate in pricing termination clauses (de Fontenay, 2015; Coates, 2012). As legal experts in these contract terms, acquirer top legal executives can help to determine an appropriate amount of termination fees (de Fontenay, 2015; Chen et al., 2016). Top legal executives, compared to outside legal counsel, have a better understanding of how important the deal is to the acquirer and the associated deal risk, which may produce more accurate pricing for such termination fee clauses.

There are several reasons why acquirer top legal executives may advocate for a lower acquirer termination fee. First, a small amount of acquirer termination fee puts the acquirer at an advantage as the acquirer has an obligation to pay a smaller fee to the target when the deal gets terminated. Second, as prior research points out, a smaller acquirer termination fee may give the acquirer shareholders more ease to disapprove the deal if they find the deal to be value-destroying for them (Schubertp & Strych, 2020). Top legal executives may protect shareholder rights in approving the deals by reducing the fee. Therefore, acquirer top legal executives may utilize their legal expertise and negotiation skills to reduce the amount of acquirer termination fees and achieve favorable outcomes for acquirer shareholders (de Fontenay, 2015).

However, acquirer top legal executives may also advocate for higher acquirer termination fees. First, acquirers could use the higher amount of acquirer termination fee as a signal to show their level of commitment in the deal to the target. In addition, top legal executives may also increase the acquirer termination fees in order to help CEOs and other senior managers to push the deal through as target shareholders are less likely to disapprove of the deal when the costs of termination get excessively high. Therefore, it is difficult to predict how the influence of top legal executives is associated with the acquirer termination fee existence or size and in which direction. I form the following alternative hypotheses regarding acquirer termination fees:

**H3a:** Ceteris paribus, the acquirer termination fee is associated with the influence of an acquirer's top legal executive.

There could also be a target termination fee provision where the target pays the acquirer a fixed cash fee if the target fails to complete the proposed merger (Officer, 2003). In fact, target termination fee provisions are used more often than acquirer termination fee provisions (Officer, 2003; Bates & Lemmon, 2003; Bonaime, Gulen, & Ion, 2018). As there could be a lot of private information withheld by the target and uncertainty before deal closing, a target termination fee provision acts as a protection mechanism for the acquirer's deal-related investments. Additionally, after public announcement of the deal, other potential bidders may emerge who may free ride on the acquirer's efforts in the private process such as their due diligence work and target valuation (Wu & Reuer, 2010). Therefore, acquirers could use target termination fees to prevent the targets from seeking other bidders and protect acquirer's initial investments in the deal. Officer (2003) finds that the use of target termination fee provisions is associated with approximately 4% higher takeover premiums after controlling for correlated deal characteristics. In addition, target termination fee provisions increase the likelihood of deal completion (Bonaime et al., 2018; Officer, 2003). Overall, acquirers benefit from a target termination fee provision as they get paid when the deal fails, and also there is a higher likelihood of deal completion, although at a cost of paying larger premiums. Thus, I predict a positive association between the presence of a target termination fee provision and the influence of an acquirer's top legal executive.

In addition to increasing the usage of target termination fee provisions, acquirer top legal executives may also utilize their legal and negotiation expertise to obtain a larger target termination fee for their clients. A large target termination fee shows the negotiation power of the acquirer (Bonaime et al., 2018). Acquirer top legal executives are therefore motivated to get a large target

termination fee to show their value as legal advisers and negotiators in the deal. Similar to the target termination fee provision usage, I predict a positive association between the size of the target termination fee and the influence of an acquirer top legal executive. Thus, I form the following directional hypothesis regarding the association between the influence of acquirer top legal executive and target termination fees:

**H3b:** *Ceteris paribus*, the target termination fee is positively associated with the influence of an acquirer's top legal executive.

### **3.4 H4: M&A Public Process Length**

The M&A public process begins with the deal announcement and concludes when the deal is either being completed or withdrawn. After the merger announcement, the acquirer continues with transactional due diligence and may renegotiate or terminate the deal based on further information or changes during the public process. The acquirer and target also prepare deal disclosures and obtain final regulatory approval in the public process (Westbrock et al., 2019). The length of the public process represents the efforts in the due diligence after the signing of the merger agreement. It also represents how quickly and efficiently the acquirer and the target move to close the process.

There are several ways in which top legal executives could reduce the public process length. First, as transactional lawyers, top legal executives may facilitate transactions and expedite the process to reduce the transactional and opportunity costs for their corporate clients (Renneboog & Zhao, 2014; Wangerin, 2019). The opportunity costs could arise from other bidders approaching the target firm with a better offer as well as realizing synergy gains from completing the deal sooner. Additionally, acquirer top legal executives may also accelerate the public process to

demonstrate their experience and skills. Sainani (2018) finds that influential CFOs use their financial skills and experience to perform due diligence efficiently and more quickly close the deal. Top legal executives may also be motivated to demonstrate their superior abilities to the top management through expediting the process. For example, together with their external legal counsel, acquirer top legal executives can design provisions in the merger agreements which may require less need for verification of information, therefore shortening the process. Also, acquirer top legal executives can help expedite the regulatory approval process as the top legal executive can provide the necessary support for information that is required to be disclosed in the transactional SEC filings.<sup>15</sup> For example, top legal executives can provide necessary background information such as whether there are any open or past SEC issues that could affect the timing of the SEC's review of company filings in connection with the deal. In addition, top legal executives are responsible for selecting and managing the work of external legal counsel who may be evaluated based on how swiftly the counsel facilitates an announced deal (Westbrock et al., 2019; Schwarcz, 2006). Acquirer top legal executives are incentivized to expedite deal closing to show their ability in effectively managing external legal counsel working as in-house transaction lawyers (de Fontenay, 2015; Westbrock et al., 2019). Therefore, top legal executives, as transactional lawyers, may reduce the length of the public process through more efficient closing.

Acquirer top legal executives may also be pressured to expedite the public process through reduced efforts in the transactional due diligence to conform to CEOs and other senior managers. After the deal is publicly disclosed, acquirer CEOs and other senior managers expect the deal to

---

<sup>15</sup> There is a shared responsibility of SEC filing related to M&A between in-house counsel and external legal counsel. GCs can provide necessary background information to assist the legal work.

<https://www.blankrome.com/siteFiles/publications/DF543F79E39929B4EE19DE868CD3946.pdf>

be completed in a timely manner to fulfill their empire-building purposes. Acquirer CEOs and other top legal executives may enjoy larger incentives and bonuses from completing the deal even when the deal is value-destroying. Therefore, acquirer top legal executives move along the process swiftly to keep rapport with other senior managers or entrench themselves (Kim, 2005; Hopkins et al., 2015). When top legal executives perform more due diligence, they may discover more target-risk and potential issues that may prolong the process or prevent the deal completion. Therefore, top legal executives, as part of senior management, may reduce the length of the public process by performing less transactional due diligence.

Top legal executives may also prolong the public process due to their responsibilities to perform an adequate risk assessment and due diligence to ensure high-quality deals. Even though acquirer top legal executives may consider senior managers as their clients, their true client is the acquiring firm and its shareholders. Therefore, acquirer top legal executives may still hold on to their gatekeeping and risk management responsibilities and require a lengthier public process to ensure better deal quality. Further, unlike the private process, once the deal is announced, the merger becomes public and is subject to various regulatory and stock market scrutiny. Therefore, with close public scrutiny, top legal executives may feel more pressured to fulfill their gatekeeping role and perform more transactional due diligence to justify the deal terms and get regulatory approval. In addition, as prior literature points out, more due diligence in the public phase may lead to better integration outcomes, stronger post-acquisition performance and more accurate financial reporting (Wangerin, 2019). A lengthier M&A public process also suggests improved information transparency in the transaction (Liu et al., 2019; Johnson et al., 2020), which may lead to fewer post-merger litigations (Drake, Merkley, Potter, & Treu, 2020). Therefore, acquirer top

legal executives are incentivized to prolong the process to ensure better deal quality and better post-merger results.

In summary, while acquirer top legal executives may hold on to their gatekeeping responsibilities through increased efforts in due diligence and therefore prolong the public process, they are also motivated to increase the efficiency in the due diligence and reduce the public process. Further, they could shorten the public process to demonstrate their superior abilities as executives and transaction lawyers, and to provide a cover for opportunistic decisions of the other senior managers. I hypothesize that the acquirer's top legal executive's influence is negatively associated with the length of the M&A public process. I present the fourth hypothesis as:

**H4:** Ceteris paribus, the length of the deal's public process is negatively associated with the influence of an acquirer's top legal executive.

### **3.5 H5: M&A Deal Completion Rate**

The M&A public process concludes either with the deal being withdrawn or completed. A deal can be withdrawn due to a variety of reasons such as the acquirer's rejection of the demand for higher offer prices, a violation of a covenant triggering termination, or a regulatory obstacle (Jacobsen, 2014). Acquirer management often prefers to successfully complete the deal to fulfill organizational strategic goals (Agrawal et al., 2013). Also, acquirer management may prefer completion to obtain personal benefits such as increased compensation and bonuses after deal completion (Wangerin, 2019).

There are several reasons why top legal executives may help acquirers to increase deal completion rate. First, as in-house legal advisers, they serve the interests of their corporate clients. Deal advisers such as external financial advisers, legal advisers, and auditors all strive to serve



their clients by reducing information asymmetry and uncertainty in M&A deals and increasing completion rates (Cai, Kim, Park, & White, 2016; Dhaliwal et al., 2016; Agrawal et al., 2013; Krishnan & Masulis, 2011). Acquirers' top legal executives, as transactional lawyers, also work as deal advisers in M&As and may help their clients to facilitate the deal to successful completion (Krishnan & Masulis, 2011; Klasa & Neyland, 2013; Krishnan & Laux, 2008). For example, acquirer top legal executive may utilize their legal expertise in regulations and help overcome difficulty in obtaining regulatory approval and facilitate deals to completion (Chen et al., 2016).

In addition, as executives of the company, acquirer top legal executives are also incentivized to complete the deal as they are rewarded for completing acquisitions (Wangerin, 2019). Executives, especially CEOs often receive large acquisition bonuses that are unrelated to post-merger performance (Harford & Li, 2007). Top legal executives sometimes consider top management as their clients due to situational factors (Kim 2005) and therefore are incentivized to help top management complete the deal. Top legal executives, especially when they are among the top five highest-paid executives, are often paid in the same structure as other top executives (Hopkins et al., 2015; Kwak et al., 2012). Besides compensation incentives, top executives also experience better career prospects and prestige in the business community after the successful completion of a deal (Avery et al., 1998). Acquirer top legal executives may also feel pressured to subordinate to CEOs and help CEOs to fulfill their acquisition goals (Kim, 2005). Therefore, the acquirer top legal executives may strive to follow through with the deal to fulfill the goal of top management and obtain personal benefits.

However, top legal executives, in their roles as gatekeepers for the company, may also prevent the deal from completion when they find the deals are no longer attractive. When the deal is value-destroying for acquirer shareholders, top legal executives should help senior managers to

walk away from such a deal (Shiba, 2003). For example, when the price gets excessive or serious issues get discovered in the public process, acquirer top legal executives need to step up and let the senior managers know that not every deal deserves to come to fruition. The ability to withdraw from a committed deal conveys information about the acquirer's top management's role in creating value and protecting shareholders (Jacobsen, 2014; Alexandridis et al., 2017). As gatekeepers and risk managers, acquirer top legal executives may help CEOs and other senior managers to focus on value creation and step away from bad deals.<sup>16</sup> Therefore, the influence of acquirer top legal executives may also be associated with a lower completion rate, especially in lower quality deals.

Despite the responsibilities of top legal executives helping firms to walk away from bad deals, they should have prevented bad deals from being announced in the first place as preemptive risk managers and gatekeepers. Additionally, saying “stop” or “no” to CEOs and other top executives is not so easy (Kim, 2016) and top legal executives may remain silent in preventing bad deals. Therefore, among publicly disclosed deals, top legal executives, as both executives and transaction lawyers, are motivated to facilitate deals to successful completion. Thus, I predict a positive association between the completion rate and the influence of an acquirer top legal executive and form the fifth hypothesis as a directional one:

**H5:** *Ceteris paribus*, the probability of successful completion of an announced M&A deal is positively associated with the influence of an acquirer's top legal executives.

---

<sup>16</sup> However, in the meantime, top legal executives, as risk managers, should proactively discern the quality of the deals before public announcement and preemptively prevent acquirers from engaging in low-quality deals. If that is the case, among publicly announced deals, the influence of top legal executives may certify the deals as deal creating for shareholders and see the deal through successful completion after the public announcement.

## CHAPTER 4: RESEARCH DESIGN

In Chapter 4, I discuss my research design. First, I explain how I measure top legal executive influence. I then define the determinant model for top legal executive influence and each of the M&A process and outcome models. The Appendix provides additional details of how I measure my variables.

### 4.1 Measure of Top Legal Executive Influence

Social hierarchy theory predicts that the power and status of a department and its top-ranked employee have a first-order effect on the department's ability to influence outcomes such as M&A outcomes and other strategic negotiations (Ege et al., 2020). Individuals and departments within firms form social hierarchies, which are "rank orders of individuals or groups with respect to a valued social dimension" (Towns & Rumelili, 2017). These social hierarchies can take the form of official job titles in the organization charts or assigned responsibilities in the firm. Power and status are the two most important dimensions of social hierarchy and Finkelstein (1992) further identifies an executive's power through structural power, ownership power, expert power, and prestige power. Hence, I measure the power and status of the legal function based on the top legal employee's job title to proxy for the influence of top legal executives. Most firms have some sort of legal counsel or legal executive in-house (Koo & Lee, 2018). However, firms give various titles to the top executive of the in-house legal department (Morse, Wang, & Wu., 2016).

To study the impact of top legal executives in the M&A process and outcomes, I measure the top legal executive's potential influence based on their title in the firm (*Top Legal Executive Influence*). Prior general counsel (top legal executive) literature identifies in-house legal executives based on top executive titles such as "general counsel" or "chief legal counsel" only

and they focus on the legal executives who are among the top five highest-paid executives (also called “disclosed earners”) within the firm (Hopkins et al., 2015; Kwak et al., 2012). However, executives who are not disclosed earners may also exert significant influence within the firm, especially when they have a high-ranking position (Ege et al., 2020). My unique measure allows me to expand on previous general counsel literature by extending my sample to look beyond the legal executives who are disclosed earners and beyond the highest-legal-related titles to include all legal executives.

Following the methodology in Ege et al. (2020),<sup>17</sup> I construct a measure of the top legal executive’s influence in the following steps (*Top Legal Executive Influence*). I begin with a comprehensive search for “legal,” “law,” “litigation,” or “counsel” in the BoardEx Individual Profile Employment file (in both fields of “Role Name” and “Full-Text Description”). I then manually review each title description to verify that the title refers to members of the in-house legal function. For acquirers with multiple active legal executives on the merger announcement date, I retain only the highest-ranking in-house legal executive for the acquirer as the top legal executive. This step generates 256 unique title-description combinations. I then assign each title-description combination to a class based on the title similarity (e.g., “Chief Legal Officer” is similar to “Chief Legal & Compliance Officer”; “General Counsel” is similar to “Chief Corporate Counsel”). The title-description pairs reduce to 24 distinct classes. I consolidate these classes into seven distinct power and status groups (there are six groups with title descriptions, I also categorize the group of acquirers with no legal executives found as of merger announcement date as the seventh group) based on the list of in-house positions provided by Association of Corporate

---

<sup>17</sup> Ege et al. (2020) investigate the power and status of the top tax executive. I follow their methodology to create the variable of the top legal executive influence in the firm.

Counsel<sup>18</sup> and Robert Half Salary Guide 2021 for Legal Professionals.<sup>19</sup> Finally, based on the seven power and status groups (ranging from 1 to 7, with 1 indicating highest influence, and 7 indicating the lowest influence), I scale the numbers to arrive at the variable of *Top Legal Executive Influence* that ranges from 0 to 1 to represent the expected influence of the top legal executive. Appendix A Panel A lists the different classes, power and status groups, and values of *Top Legal Executive Influence*.<sup>20</sup>

#### 4.2 Determinants of Top Legal Executive Influence

I develop a determinant model for top legal executive's influence (*Top Legal Executive Influence*), which provides insights into characteristics that are associated with the acquirer's in-house legal function status. I also plan to use the determinant model as the first stage model for my main tests where I examine how the top legal executive is associated with a vector of M&A outcomes. The two-stage approach is designed to address endogenous issues that may arise from factors that affect M&A outcomes and top legal executive influence simultaneously. To get the predicted value of *Top Legal Executive Influence* at acquiring firm  $i$  at the merger announcement date  $t$ , I estimate the following determinant model:

$$\begin{aligned} \text{Top Legal Executive Influence}_{i,t} &= \beta_0 + \beta_1 \text{Top Marketing Executive Influence}_{i,t} \\ &+ \Sigma\beta_K \text{Acquirer Characteristics} + \Sigma\beta_L \text{Top Legal Executive Personal Characteristics} \end{aligned}$$

---

<sup>18</sup> Association of Corporate Counsel provides the list in response to my request.

<sup>19</sup> <https://www.roberthalf.com/salary-guide/legal>

<sup>20</sup> For example, general counsels and chief legal officers are assigned to the “c-suite” class; Executive VPs of Law and President of Law to the “Executive” class; “Head of Legal” and “Senior Legal Counsel” to the “Manager” class, and so on.

$$+ \Sigma\beta_M INDUSTRY + \Sigma\beta_N YEAR + \varepsilon \quad (1)$$

I include three sets of control variables in the model. First, I include an instrument variable that is expected to be associated with the top legal executives' influence but is not expected to be associated with M&A outcomes directly. The instrument variable is the *Top Marketing Executive Influence*. The marketing department is an essential functional department similar to the legal department. Therefore, these two functional departments may share some similarities in organization structure and the title or the status of the marketing department's head may be associated with the title or status of the legal department's head.<sup>21</sup> Following the same methodology as creating *Top Legal Executive Influence*, I create *Top Marketing Executive Influence*<sup>22</sup> for the acquiring firms and I predict that this variable is positively associated with *Top Legal Executive Influence*.

Next, I include a set of acquirer firm characteristics that maybe associated with the influence of top legal executives. The acquirer characteristics are measured at end of fiscal year prior to merger announcement date. Specifically, I include firm size ( $\log(\text{Acquirer Size})$ ), firm age ( $\log(\text{Acquirer Firm Age})$ ), operating performance (*Acquirer ROA*), firm leverage (*Acquirer Leverage*), prior M&A experience (*Acquirer M&A Experience*), and monitoring strength of the board of directors (*Acquirer Board-Strength*) (Morse et al., 2016; Ege et al., 2020; Kubick, Li, & Robinson, 2020).  $\log(\text{Acquirer Size})$  captures the firm's overall size, which may indicate the

---

<sup>21</sup> Top marketing executive is less likely to be involved in M&A decisions where financial and legal expertise is more heavily utilized. Top legal executives and top financial executives may seek the advice and information input from top marketing executives in M&As. However, top marketing executives are less likely to be directly involved in negotiation and making decisions in M&As. Therefore, *Top Marketing Executive Influence* also meets the exclusion criteria of an instrument variable.

<sup>22</sup> See Appendix A Panel B for details on how to construct the variable.

firm's resources available to retain a legal function and a top legal executive to manage the legal responsibilities within the firm. The size of the firm also captures the complexity of the firm business. As the firm grows larger in size, executives take on more responsibilities and thus may gain more power and status. *log (Acquirer Firm Age)*, on the other hand, captures the firm's maturity and development since firm initiation. As the firm develops, there may be systematic changes in the organization structure. For example, the firm could take on various strategies in developing organization structure: more delegated work from top executives to lower-level managers, more functional teams, or more cross-functional teams with a variety of expertise (Galbreath & Galvin, 2007). Therefore, even though organization structure changes as the firm grows older, it is unclear how the maturity and development of the firm would affect the top legal executive's hierarchy in the organization structure.

*Acquirer M&A Experience* captures the M&A transaction history of the firm. The transaction history of M&As may indicate the complexity of the firm operations and the strategies of the firm that may be associated with the hiring and promotion decisions of an in-house legal executive (Morse et al., 2016). Operating performance can also impact the firm's employment decisions, such as when firms may need legal professional expertise to navigate the firm's various operating and business decisions either when firms perform well or poor. Therefore, I include *Acquirer ROA* and *Acquirer Leverage* in the model to proxy for the acquirer's operating performance. *Acquirer Board-Strength* is a composite measure of board size, independence, tenure, and director busyness of the acquiring firm. Board strength may be associated with the influence of top legal executives through the board working closely with the top executives.

I also include additional firm characteristics that capture the legal needs of the firm and therefore may be associated with the influence of top legal executives. To capture the legal needs,

I capture measures of the average number of enforcement actions and class action lawsuits in the previous two years relative to the deal announcement year (*Acquirer Prior Class-action Lawsuit*) modified from Morse et al. (2016).<sup>23</sup> With enhanced legal needs within the firm, the legal executive is likely to be rewarded with more influence in the firm. These legal needs also provide opportunities for these legal executives to grow and therefore may enhance their influence within the firm (Bird et al., 2015).

In addition to the above characteristics at the acquiring firm level, I include biographic characteristics of the top legal executive as an additional set of determinants for her influence in the firm (Ege et al., 2020; Kubick et al., 2020; Pablo, 1994). I include a vector of top legal executive's characteristics, including an indicator for holding a business degree or certification (*Legal - Business*), an indicator for obtaining the law degree from an elite university (*Legal - Elite School*), an indicator for prior legal experience with either an external law firm or governmental agency (*Legal - External Experience*), and tenure with the firm (*Legal - Tenure*). In corporate law and in-house legal counsel fields, a business degree and education equips the legal executive with business savvy judgment, and hence more power and status through the corporate hierarchy or increased compensation in the firm (Demott, 2005). Also, when the legal executive gains her law degree from a top law school, she is more likely to gain respect in the firm and legal field (Frye, 2017). In addition, prior experience at a law firm or a government agency may contribute to the legal executive's overall experience and career success in the legal field, resulting in more power and status within the firm (Dent, 2009). I expect that as the in-house legal executive accumulates more experience within the firm (*Legal - Tenure*), she is more likely to gain more influence in the

---

<sup>23</sup> Morse et al. (2016) use number of SEC insider trading, AAER fraud, and securities fraud, securities lawsuits excluding AAERs, general lawsuits to proxy for firms' compliance and monitoring needs.



firm (Vieregger, Larson, & Anderson, 2017). Therefore, I predict that these personal characteristics are positively associated with the top legal executive influence in the firm.

Additionally, I include acquirer industry fixed effects to control for variations of influence of the top legal executives across industries. For instance, different industries may have different research and development expenses that top legal executives may influence through their expertise in patent filing and contract management. I also include announcement year indicator variables and cluster standard errors by firm to control for time-series and cross-sectional correlations (Gow, Ormazabal, and Taylor 2010).

### 4.3 M&A Models

The first-stage model examines the determinants and predicts the influence of top legal executives, whereas the second-stage models investigate the effect of such influence on M&A process and outcomes using the predicted value derived from the first stage (*Pred. Top Legal Executive Influence*). In the second-stage models, I examine the following five M&A outcomes.

#### 4.3.1 H1: M&A Private Process Length

To test for an association between the length of M&A private process and influence of top legal executives (H1), I estimate the following OLS model based on prior research (Aktas, de Bodt, et al., 2016; Wangerin, 2019; Offenbergl & Pirinsky, 2015; Schwert, 2000; Aktas et al., 2018)

$$\begin{aligned} \log(\text{Private Process Length})_{i,t} = & \beta_0 + \beta_1 \text{Pred. Top Legal Executive Influence}_{i,t} \\ & + \Sigma\beta_J \text{Deal Characteristics} + \Sigma\beta_K \text{Acquirer Characteristics} + \Sigma\beta_L \text{Target Characteristics} \\ & + \Sigma\beta_M \text{INDUSTRY} + \Sigma\beta_N \text{YEAR} + \varepsilon \end{aligned} \quad (2)$$

The private process length represents two dependent variables: *Private Process Length DI* and, *Private Process Length CA*. The first measurement captures the number of days between deal

initiation and deal announcement following Aktas, de Bodt, et al. (2016).<sup>24</sup> Since the merger background section of SEC filing may not document deal initiation date consistently, I also use the period between confidentiality agreement date and deal announcement (*Private Process Length CA*) as an alternative proxy for the length of private process (Wangerin, 2019). This measurement could also suggest the length of due diligence period after the acquirer gains access to target's private information. I expect that the coefficient of *Pred. Top Legal Executive Influence* will be negative, suggesting that the influence of top legal executives is associated with a shorter private process (H1).

The remaining independent variables in Model 2 are based on prior studies that examine M&A private process and potential determinants of the length of private process (Aktas, de Bodt, et al., 2016; Wangerin, 2019). I control for three sets of factors: deal characteristics, acquirer characteristics, and target characteristics. The acquirer and target characteristics are measured at end of fiscal year prior to merger announcement date. All control variables are defined in Appendix B.

The deal characteristics include the legal form of acquisition (*Tender*), attitude of the deal (*Friendly*), competitiveness of the deal (*Multi-Bidder*), and whether the acquirer and target are in the same industry (*Horizontal*). If the deal is a tender offer, acquirers go directly to target shareholders, bypassing the target's board and shareholders and may result in a simpler structured deal than mergers (Offenberg & Pirinsky, 2015). The attitude of the deal influences the timing of deal announcement decisions, the deal negotiation process, and the resistance in the private process

---

<sup>24</sup> As Aktas, De Bolt, et al. (2016) point out, it is difficult to pinpoint the exact date of deal initiation and they collect the month of deal initiation. To make the variable comparable to other length variables, I first collect the month of initiation, and convert the period between initiation month and announcement month into days.

(Schwert, 2000; Wangerin, 2019). Multiple-bidder offers often require the valuation of competing offers and may lead to more time in valuation and negotiation in the private process (Wangerin, 2019). Whether the acquirer and target are in the same industry or not (*Horizontal*) may also influence the deal negotiation and due diligence process (Jaffe et al., 2013).

For acquirer characteristics, I control for firm size ( $\log(\text{Acquirer Size})$ ), prior M&A experience (*Acquirer M&A Experience*), board of director quality (*Acquirer Board-Strength*), and CEO power (*Acquirer CEO Duality*; *Acquirer CEO Tenure*). Prior studies find evidence that the size of the acquirer and acquirer's prior deal experience may influence their resources and expertise required in the deal and therefore may influence the length of the private process (Wangerin, 2019; Jaffe et al., 2013). The overall strength of the board of directors may also influence the due diligence in the private process through the monitoring role of the board (Wangerin, 2019; Aktas, de Bodt, et al., 2016) and is measured using a score (*Acquirer Board-Strength*) based on several factors: size, independence, average tenure and number of public company directorships held by independent directors (Hoitash et al., 2009). I also include *Acquirer CEO Duality* (an indicator for the CEO also serving as the chair of the board) and *Acquirer CEO Tenure* (natural log of the number of years the CEO has been in serving the role). Prior literature suggests that the power of the CEO increases with the CEO's tenure (e.g., Hermalin & Weisbach, 1998) and when the CEO is also the chair of the board, they have more power over the board and other senior executives (Dechow, Sloan, & Sweeney, 1996; Core et al., 1999). Prior M&A literature shows that stronger CEOs lead to greater extraction of rents from shareholders (El-Khatib et al., 2015) and influence the decision-making process by reducing the length of the takeover process (Aktas, de Bodt, et al., 2016). The acquirer control variables are measured at the end of the fiscal year prior to the merger announcement.

In terms of target firm characteristics, I control for the variability of operations (*Target  $\sigma$ Sales*), performance (*Target ROA*), leverage (*Target Leverage*), growth opportunities (*Target MTB*), and high-tech industry membership (*Target High Tech*) following Wangerin (2019). These target features indicate the complexity and operating performance of the target firm, which may determine the level of information asymmetry and amount of work in the private process as well as the pressure to reach an agreement quickly (Agrawal et al., 2013; Wangerin, 2019; Skaife & Wangerin, 2013; Marquardt & Zur, 2014). Consistent with measuring acquirer characteristics, target control variables are also measured at the end of the fiscal year prior to merger announcement. Additionally, I include acquirer industry fixed effects to control for variation across industries. I also include announcement year indicator variables and cluster standard errors by firm to control for time-series and cross-sectional correlation (Gow et al., 2010).

#### **4.3.2 H2: M&A Agreement – Acquisition Premium**

To test for an association between acquisition premium and the influence of top legal executive (H2), I estimate the following OLS regression model.

$$\begin{aligned}
 \text{Acquisition Premium}_{i,t} = & \beta_0 + \beta_1 \text{Pred. Top Legal Executive Influence}_{i,t} \\
 & + \Sigma\beta_J \text{Deal Characteristics} + \Sigma\beta_K \text{Acquirer Characteristics} + \Sigma\beta_L \text{Target Characteristics} \\
 & + \Sigma\beta_M \text{INDUSTRY} + \Sigma\beta_N \text{YEAR} + \varepsilon \quad (3)
 \end{aligned}$$

*Acquisition Premium* is the difference between the offer price and the stock price of the target 4 weeks prior to the announcement and is scaled by the target's stock price (Antoniades et al., 2016). My second hypothesis is non-directional, so when the coefficient of the top legal executive influence proxy (*Pred. Top Legal Executive Influence*) is positive (negative), it suggests that the influence of these top legal executives is associated with larger (smaller) premiums.

In terms of deal characteristics, I control for the set of deal characteristics in Model 2 (*Tender, Friendly, Multi-Bidder, and Horizontal*). Prior research finds that acquisition premiums are greater when a deal is structured as a tender offer, the deal attitude is not friendly, involves multiple bidders, and when the acquirer and target operate in the same industries (Skaife & Wangerin, 2013). I also control for the acquirer's ownership in the target prior to the merger (*Toehold*), method of payment (*% of Stock Financed*), and target termination fee provision (*Target Termination Fee Indicator*) (Aktas, de Bodt, et al., 2016; Li, Shroff, Venkataraman, & Zhang, 2011). Premiums are lower when the acquirer owns part of the target firm prior to the merger (Betton & Eckbo, 2000; Skaife & Wangerin, 2013). When acquirers pay with stock, they could take advantage of their overvalued stock and end up paying a lower premium to target shareholders (Officer, 2003; Li et al., 2011). On the other hand, when acquirers pay for the transaction using stock, acquirers can reduce premiums as the transaction qualify as a tax-free exchange which reduces tax liability (Skaife & Wangerin, 2013). Prior research finds that target termination fee provisions are associated with greater premiums and higher completion rates (Bates & Lemmon, 2003).<sup>25</sup> Therefore, I also include *Target Termination Fee Indicator* in the model.

In addition to the deal's own characteristics, I also control for a specific set of deal characteristics that relate to the deal advisers: whether the acquirer and target share the same auditor (*Shared Auditor*), whether the financial adviser is among the highest market share investment bankers in the acquisition year (*Acquirer Top Financial Adviser*), and whether the legal adviser is among the highest market share law firms in the acquisition year (*Acquirer Top Legal*

---

<sup>25</sup> Target termination fees occur more often than acquirer termination fees. Therefore, I only control for target termination fees in the model (Bates and Lemmon, 2003).

*Adviser*). Dhaliwal et al. (2016) find that sharing the same auditor between the acquirer and target benefits the acquirer in terms of lower premiums and higher completion rate. Prior literature finds that the higher market share of financial and legal advisers are associated with superior deal outcomes for their clients in terms of premiums and deal completion rate (Coates, 2001; Rau, 2000; Krishnan & Masulis, 2013; Wangerin, 2019; Agrawal et al., 2013). For example, Krishnan and Masulis (2013) find that prominent acquirer law firm is associated with higher completion rate and higher takeover premiums than less prominent acquirer law firm. Therefore, I control for the auditor, financial and legal adviser information in the model. Last but not least, I control for the private process length ( $\log(\text{Private Process Length CA})$ )<sup>26</sup> as an additional deal characteristic as the length of private process length suggests the amount of due diligence work performed before merger announcement which may influence the target valuation and acquisition premiums.

For acquirer characteristics, I control for the same set of variables as in Model 2 (*Acquirer Size, Acquirer M&A Experience, Acquirer Board-Strength, Acquirer CEO Duality; Acquirer CEO Tenure*). *Acquirer Size* and *Acquirer M&A Experience* may capture acquirer's ability and resources in valuing the target, while *Acquirer Board-Strength, Acquirer CEO Duality, and Acquirer CEO Tenure* could capture acquirer's tendency of overpayment (Lin et al., 2011). In addition to the acquirer characteristics in Model 1, I also control for *Acquirer ROA, Acquirer Leverage, and Acquirer Run-up* following Aktas, de Bodt, et al. (2016) and Lin et al. (2011). These three acquirer characteristics capture the acquirer's performance and ability to pay. As acquirer management benefit from completing the deal, when the firm can afford a higher premium (Antoniou, Arbour,

---

<sup>26</sup> I use the  $\log(\text{Private Process Length CA})$  rather than  $\log(\text{Private Process Length DI})$  as the former requires less subjective judgment in the hand-collection process and this measure also captures the amount of the due diligence work during the private process.

& Zhao, 2008), acquirers may more likely to overpay, therefore I expect the coefficients of these three control variables to be positive.

For target characteristics, I control for performance (*Target ROA*), leverage (*Target Leverage*), growth opportunities (*Target MTB*), high-tech industry membership (*Target High Tech*), stock price run-up (*Target Run-up*), and whether the firm is NYSE/AMEX listed (*Target NYSE/AMEX listed*) following Aktas et al. (2016). Prior literature finds mixed evidence on target firm characteristics' association with various acquisition outcomes (Skaife & Wangerin, 2013). However, it is important to control for the operating performance of the target to capture whether the offer price reflects the underlying valuation of the target and risk in the target. As premium is calculated based on the offer price in relation to the target's stock price, it is important to control for stock market performance of the target around the merger announcement (*Target Run-up*) (Skaife & Wangerin, 2013; Marquardt & Zur, 2014; Huang & Kang, 2017; Dhaliwal et al., 2016). *Target NYSE/AMEX listed* captures the systematic differences between firms traded on NYSE/AMEX and firms that are traded on NASDAQ (listing requirements, how trades are made, and investor perceptions) (Van Ness, Van Ness, & Warr, 2002; Nguyen & Puri, 2014). When targets are traded on NYSE/AMEX, there may be less information asymmetry in the target firm than firms that are traded on NASDAQ (Nguyen & Puri, 2014; Aktas et al., 2016). Consistent with previous models, I include acquirer industry fixed effects and announcement year indicators to control for variation across industries and time-series variations.

#### **4.3.3 H3: M&A Agreement – Termination Fee Provisions**

To test for the association between acquirer top legal executive's influence and termination fee provisions (H3a and H3b), I use the following model.

$$\text{Termination Fees}_{i,t} = \beta_0 + \beta_1 \text{Pred. Top Legal Executive Influence}_{i,t}$$

$$\begin{aligned}
& + \Sigma\beta_J \textit{Deal Characteristics} + \Sigma\beta_K \textit{Acquirer Characteristics} + \Sigma\beta_L \textit{Target Characteristics} \\
& + \Sigma\beta_M \textit{INDUSTRY} + \Sigma\beta_N \textit{YEAR} + \varepsilon \quad (4)
\end{aligned}$$

I use indicator variables to proxy for the existence of acquirer/target termination fees (*Acquirer Termination Fee Indicator*, *Target Termination Fee Indicator*) as dependent variables in logistic regressions. I also use the natural log of termination fees as a dependent variable (*log (Acquirer Termination Fee Size)*, *log (Target Termination Fee Size)*) in OLS regressions. As H3a is non-directional, if the coefficient on the acquirer top legal executive influence proxy (*Pred. Top Legal Executive Influence*) is positive (negative), it suggests that the influence of top legal executive influence in the acquiring firm is associated with higher (lower) usage or the amount of the termination fee provisions. Since H3b predicts a positive association between target termination fees and the influence of top legal executives, I expect to find the coefficient on  $\beta_1$  to be negative suggesting that when the influence of top legal executive is larger, there is a lower incidence of target termination fee provision and a lower amount of target termination fee in the merger agreement.

I control for the same deal characteristics as in Model 3 (*Tender*, *Friendly*, *Multi-Bidder*, *Horizontal*, *Toehold*, *% of Stock Financed*) as these various deal terms are negotiated together with the termination fee provisions and signed into the merger agreement at the same time (Bates & Lemmon, 2003; Officer, 2003). I also control for the deal adviser characteristics (*Shared Auditor*, *Acquirer Top Financial Adviser*, *Acquirer Top Legal Adviser*) as the financial and legal advisers may also participate in negotiation of termination to facilitate a deal (Krishnan & Masulis, 2012; Golubov et al., 2012). In addition, I add *Acquisition Premium* as an additional deal control variable



<sup>27</sup> because the premium and termination fee provision are simultaneously determined when the merger agreement is signed and announced (Officer, 2003).

The set of acquirer and target characteristics in Model 3 are also controlled for in Model 4. Specifically, I control for *Acquirer Size*, *Acquirer M&A Experience*, *Acquirer Board-Strength*, *Acquirer CEO Duality*, *Acquirer CEO Tenure*, *Target ROA*, *Target Leverage*, *Target MTB*, *Target Run-up*, and *Target NYSE/AMEX listed*. The acquirer characteristics captures the ability and incentives of acquirer management to use termination fee provisions. For example, the size of the acquiring firm may influence the termination fee provisions as the acquirer firm size potentially captures the opportunity costs of managerial time (making protection of bid specific investments using termination fees more important), and the ability to hire sophisticated financial and legal advisers (Officer, 2003). I also control for various target characteristics based on prior literature. For example, Bates and Lemmon (2003) suggests that when targets have poor performance, target shareholders could motivate the deal as a disciplinary action towards the management. Therefore, the target performance variables capture the agency conflicts between target management and target shareholders, which could influence the inclusion and size of termination fees. Similar with other models, I include acquirer industry fixed effects and announcement year indicators.

#### **4.3.4 H4: M&A Public Process Length**

To test for an association between the length of M&A public process and the influence of acquirer top legal executives (H4), I estimate the following OLS regression.

$$\log(\text{Public Process Length})_{i,t} = \beta_0 + \beta_1 \text{Predicted Top Legal Executive Influence}_{i,t} + \sum \beta_J \text{Deal Characteristics} + \sum \beta_K \text{Acquirer Characteristics} + \sum \beta_L \text{Target Characteristics}$$

---

<sup>27</sup> Bates and Lemmon (2003) find that fee provisions appear to benefit target shareholders through higher deal completion rates and greater negotiated takeover premiums.

$$+ \Sigma\beta_M INDUSTRY + \Sigma\beta_N YEAR + \varepsilon \quad (5)$$

I use the natural log of days between deal announcement and deal resolution (either completed or withdrawn) (*log (Public Process Length)*) as the dependent variable. As H4 is directional, I predict that the coefficient on the top legal executive influence proxy (*Pred. Top Legal Executive Influence*) is negative, suggesting that the influence of top legal executive in the acquiring firm is associated with a shorter public process.

I control for the following deal characteristics: *Tender, Friendly, Multi-Bidder, Horizontal, Toehold, % of Stock Financed* (Agrawal et al, 2013; Wangerin, 2019). I also control for deal adviser characteristics (*Shared Auditor, Acquirer Top Financial Adviser, and Acquirer Top Legal Adviser*) to capture the engagement of outside advisers in the public process<sup>28</sup>. In addition, I control for whether the deal is completed (*Completed*) because the deal's status of either withdrawn or completed is revealed at the end of the public process and there is a systematic difference between withdrawn deals and completed deals (Krishnan & Masulis, 2013). Further, I add *Acquisition Premium* as an additional deal characteristic as higher premiums are associated with less target shareholder resistance and therefore less time to complete the deal (Eckbo, 2009). *Acquisition Premium* also captures the acquirer's tendency and ability to overpay and therefore to speed up the deal (Luypaert & Maeseneire, 2015). Lastly, I control for *log (Private Process Length CA)* to control for the trade-off between the length of the private and public processes (Wangerin, 2019).

I control for the same acquirer characteristics (*Acquirer Size, Acquirer M&A Experience, Acquirer Board-Strength, Acquirer CEO Duality, and Acquirer CEO Tenure*) in Model 2. The acquirer characteristics such as *Acquirer Size* suggests the acquirer's ability to execute the deal

---

<sup>28</sup> As Westbrok et al. (2018) suggests, the engagement of outside advisers could start before the merger announcement, but their involvement is heightened after the announcement than before the public announcement.

efficiently (Offenbert & Pirinsky, 2015). Also experienced acquirers may complete the deal more quickly (Luypaert & Maeseneire, 2015). In addition, CEOs as major decision-makers in the deal may influence the deal closing time (El-Khatib et al., 2015). Therefore, I control these acquirer characteristics in the model.

I control for the same set of the target characteristics in Model 1 (*Target  $\sigma$ Sales, Target ROA, Target Leverage, Target BTM, and Target High Tech*) following Wangerin (2019). The target controls capture the target's operating performance as well as the information risk (Wangerin, 2019; Offenbert & Pirinsky, 2015). Lastly, I also include acquirer industry fixed effects and announcement year indicators in Model 5.

#### **4.3.5 H5: M&A Deal Completion Rate**

To test for an association between the completion rate and the influence of acquirer top legal executives (H5), I estimate the following logistic regression model.

$$\text{Completed}_{i,t} = \beta_0 + \beta_1 \text{Pred. Top Legal Executive Influence}_{i,t} + \sum \beta_j \text{Deal Characteristics} + \sum \beta_M \text{INDUSTRY} + \sum \beta_N \text{YEAR} + \varepsilon \quad (6)$$

*Completed* is an indicator variable that equals to 1 when the deal is completed and equals to 0 if the deal is withdrawn. I expect the coefficient on the top legal executive influence variable (*Pred. Top Legal Executive Influence*) to be positive, suggesting that the influence of top legal executive in the acquiring firm is associated with a higher likelihood of deal completion as H5 predicted.

I control for all the deal characteristics included in Model 5<sup>29</sup> (*Tender, Friendly, Multi-Bidder, Horizontal, Toehold, % of Stock Financed, Shared Auditor, Acquirer Top Financial*

---

<sup>29</sup> Except for *Completed*

*Adviser*, *Acquirer Top Legal Adviser*, *Acquisition Premium*, *log (Private Process Length CA)*) because the deal characteristics that influence the length of the public process could as well influence the merger outcome at the end of the public process (Krishnan & Masulis, 2013; Dhaliwal et al., 2016). Following Dhaliwal et al. (2016) and Krishnan and Masulis (2013), I only include deal characteristics in the analysis and exclude the acquirer and target variables. Since *Acquirer Size* is excluded, I instead control for *log (Deal Value)* as the larger deal size is, the less likely the deal would be completed (Dhaliwal et al., 2016). I also include *Target Termination Fee Indicator* and *Premium* as additional deal characteristics as these key contract terms predict the outcomes of the M&As (Dhaliwal et al., 2016). Consistent with all previous models, I also include acquirer industry fixed effects and announcement year indicators in Model 6.

To further examine whether acquirer top legal executives can discern the quality of a deal and influence deal completion based on deal quality, I include the acquirer announcement return (*Acquirer CAR*) and its interaction with the acquirer top legal executive influence proxy (*Pred. Top Legal Executive Influence*) in the model (Levi et al., 2014). *Acquirer CAR* captures the stock market's view of the deal quality (Rau, 2000) and is used extensively in the M&A literature as a proxy for deal quality (Krishnan & Laux, 2007; Lin et al., 2011). If the coefficient on the interaction term is positive, it suggests that the influence of acquirer top legal executives is associated with a lower (higher) completion rate when the stock market considers the deal is bad (good) after the merger announcement. When the coefficient on the interaction term is negative, it suggests that the influence of acquirer top legal executives is associated with a lower (higher) completion rate when the stock market considers the deal is good (bad) after the merger announcement.



## CHAPTER 5: SAMPLE AND DESCRIPTIVE STATISTICS

Chapter 5 begins with explanation of the sample selection process. I then present the descriptive statistics and correlation matrix of both the determinant model variables and M&A model variables.

### 5.1 Sample Selection

My sample selection process begins with 2,625 M&A deals from the Thomson Reuters Securities Data Company (SDC) U.S. M&A database. I identify all domestic M&A of public acquirers and public targets with announcement dates between 2005 and 2016. I start my sample period in 2005 to eliminate any confounding effects resulting from SOX 2004. I require the acquirer to control less than 50 percent of the target before the merger announcement and seek over 50 percent post-merger to ensure a complete change in control.

I further limit the sample to deals in which both the acquirer and target are covered by BoardEx, Compustat, and CRSP. Applying these filters, I have 1,220 deals remaining in the sample. I eliminate 147 observations that are missing data needed for legal executives and control variables. The final sample contains 1,073 deals. I list the sample construction steps in Table 1.

Table 2, Panel A presents the distribution of the sample by deal announcement year. Consistent with the M&A literature (Cai et al., 2016), I observe a significant slowdown in M&A activity following the 2008 financial crisis. Panel B of Table 2 shows the industry composition for the acquiring firms using 1-digit SIC codes. Manufacturing, Finance, Insurance, & Real Estate, and Services are the most active acquirer industries in my sample in terms of the number of acquisitions. Given the variations in merger activity both across time and across industries, as

observed in Table 2, I include both year and acquirer industry fixed effects in the multivariate analyses.

## **5.2 Descriptive Statistics**

### ***5.2.1 Descriptive Statistics of Determinant Model***

I present the descriptive statistics for the variables of the determinant model in Table 3. *Top Legal Executive Influence* has an average value of 0.58 and is slightly right-skewed towards the larger value of *Top Legal Executive Influence*. *Top Marketing Executive Influence* has a slightly lower average value (0.52) than *Top Legal Executive Influence* and is distributed towards the lower end of influence values.

As for the control variables, I find that acquirers on average have a strong board (average value of 1.9 for *Acquirer Board-Strength* on a 4-point scale), are older firms (average value of *log (Acquirer Firm Age)* is 3.5 which can be translated to around 33 average years), and are larger firms (average value of *log (Acquirer Size)* is 15.2 which is converted to \$4 million market value of equity). Also, the acquiring firms have strong legal needs as they experience prior class action lawsuits (average of 0.14 in the prior two years) or engage in M&A deals (average of 0.30 in the prior two years).

When it comes to legal executive personal characteristics, I find that around ten percent of acquiring firms have top legal executives with a business degree or certification, around 30 percent of the acquiring firms have top legal executives getting their law degree from an elite law school, and more than 45 percent of these acquiring firms have top legal executives who worked at a law firm or a government agency before going in-house. Additionally, these top legal executives have an average tenure of 7.2 years working in the acquiring firm.

Table 4 presents the Pearson correlations among the variables in the determinant model. The correlation between *Top Legal Executive Influence* and *Top Marketing Executive Influence* is positive significant at a level of 0.24. The significant positive association supports the relevance of the chosen instrument variable. The correlation between *log (Acquirer Firm Age)* and *log (Acquirer Size)* is quite high (at a value of 0.6). However, in the regression results of the determinant model, VIF scores for these variables are both lower than 3.03 suggesting that there are no severe multi-collinearity issues. There are strong positive relationships among the personal characteristics of top legal executives. These personal characteristics are also strongly related to the influence of legal executive variable. For example, *Legal – Tenure* has a high correlation with *Top Legal Executive Influence* (0.40).

### **5.2.2 Descriptive Statistics of M&A Models**

I present the descriptive statistics for the variables of the M&A model in Table 5. On average, it takes around 148 days from deal initiation to the public announcement (*Private Process Length DI*); while when measuring the private process using *Private Process Length CA*, it takes around 94 days from signing confidentiality agreements to publicly announcing the merger agreement. There is usually a premium<sup>30</sup> (average value is 38.4 percent) when comparing the offer price in the merger agreement to the target stock price prior to the merger. When it comes to termination fee provisions, there is a much higher usage of target termination fee provisions (average value of *Target Termination Fee Indicator* is 0.82) than acquirer termination fee provisions (average value of *Acquirer Termination Fee Indicator* is 0.24). The average values of

---

<sup>30</sup> Only a few deals (60 deals) in the sample have offer prices lower than the prior target stock price.



*Acquirer Termination Fee Size* and *Target Termination Fee Size* are 33.654 and 59.657 in millions of dollars, respectively.

Table 6 presents the Pearson correlations among variables used in the M&A models. *Pred. Top Legal Executive Influence* is estimated from the first-stage determinant model and is the variable of interest in the second-stage M&A models. I find that *Pred. Top Legal Executive Influence* is positively correlated with both acquirer and target termination fee size. The two proxies of private process length ( $\log(\text{Private Process Length DI})$ ,  $\log(\text{Private Process Length CA})$ ) are also positively correlated with each other.

## CHAPTER 6: RESULTS

### 6.1 Determinant Model Results

Table 7 presents OLS regression results of the determinant model for *Top Legal Executive Influence* (Model 1). I find that the *Top Marketing Executive Influence* coefficient is positive and significant, indicating that the influence of marketing executives is strongly associated with influence of legal executives and that it is a valid instrument variable.

As for the acquiring firm characteristics, the coefficient on *log (Acquirer Size)* is positive and significant while the coefficient on *log (Acquirer Firm Age)* is negative and significant. Personal characteristics of the legal executives are all positively associated with the legal executive influence variable, as expected. VIF scores for the variables in the model are all below 3.03, suggesting that there are low correlations among the predicting variables and the absence of multicollinearity issues. The adjusted R-squared is 0.35 suggesting the overall fitness of the determinant model is good.

### 6.2 M&A Model Results

#### 6.2.1 H1: M&A Private Process Length

Table 8 presents the OLS regression results on the association between *Pred. Top Legal Executive Influence* estimated from the determinant model and the proxies of private process length. Column 1 presents the results using *log (Private Process Length DI)* as the dependent variable and Column 2 presents the results using *log (Private Process Length CA)* as the dependent variable. I do not find evidence supporting H1 as the coefficients of *Pred. Top Legal Executive Influence* are insignificant in both columns. The results may derive from the conflicting directions that top legal executives might influence the private process length discussed in Section II. For

example, top legal executives might expedite the process with their legal expertise and status in the firm, while they may also prolong the process to perform more due diligence before the public announcing the deal. Further investigation of the different incentives using cross-sectional analysis and robustness tests might shed more light on the results.

As for the control variables, I find that the coefficient on *Tender* is positive and significant in Column 1, indicating that it takes more time for acquirer and target management to reach an agreement when the deal is structured as a tender offer. This may seem contractionary to prior evidence (e.g. Offenberg & Pirinsky, 2015; Wangerin, 2019) as tender offers are usually easier to execute. However, prior research only focuses on the speed during the public process, as I use the time between deal initiation and public announcement as my dependent variable, the positive coefficient on *Tender* suggests that it takes a longer time for the participating firms to reach a tender offer agreement than reach a merger agreement before publicly announcing a deal. I also find the coefficients on *Friendly* are positive and significant in both columns indicating that it takes longer time in the private process in friendly deals than hostile offers. These results make sense in this context as well because there is usually no exchange of private information or private negotiation when the deal attitude is not friendly as target management usually refuse to communicate with the acquirer management and in that case acquirer management will publicly announced the deal. For example, when BELL industries Inc. publicly announced the deal to acquire COAST Distribution System Inc. in December 2005, the press release attached in the 8-K report<sup>31</sup> indicates that the target management refused to negotiate or provide private information to the acquirer management.

---

<sup>31</sup> “The only communication between our two companies was an extremely short conversation between Mr. McGuire and myself on Sunday December 11, 2005, at which time Mr. McGuire made it quite clear that Coast

Some acquirer and target control variables are significant in the regressions. In at least one of the model specifications, the coefficients on *log (Acquirer Size)*, *Acquirer Board-Strength*, *Target  $\sigma$ Sale*, and *Target High Tech* are significantly associated with private process length and the signs of these coefficients are consistent with prior studies (Wangerin, 2019; Aktas, Croci, et al., 2016). The adjusted R-squared show that Column 2 where the *log (Private Process Length CA)* is used as a proxy for private process length has a higher value (0.26) than Column 1 where the *log (Private Process Length DI)* is used as a proxy (0.17), indicating overall model fit is much better when measuring the private length using the time between confidentiality agreement date and public announcement.

### **6.2.2 H2: M&A Agreement – Acquisition Premium**

Table 9 presents the OLS regression results examining the association between *Pred. Top Legal Executive Influence* estimated from the determinant model and *Acquisition Premium*. I do not find evidence supporting H2 as the coefficient of *Pred. Top Legal Executive Influence* is insignificant. Such a result may come from the different ways in which top legal executives might influence the premium discussed in Section II. For example, top legal executives might increase premiums to facilitate the deal or they might decrease premiums in order to benefit their corporate clients. In other cases, top legal executives might have no influence over premiums if they are not involved in valuation and offer price determination. Further analysis and robustness tests might shed more light on the results.

---

had no interest in exploring our proposal or any benefits which may accrue from it to Coast's shareholders.”  
<https://sec.report/Document/0000950150-06-000013/>

As for the deal characteristics, I find that the coefficients on *log (Private Process Length CA)*, *% of Stock Financed*, and *Acquirer Top Financial Adviser* are negative and significant, consistent with prior literature (Chow, Klassen, & Liu, 2016; Skaife & Wangerin, 2013; Golubov, et al., 2012) I also find that the coefficients on *Tender* and *Target Termination Fee Indicator* are positive and significant indicating that these deal features increase premiums (Bates & Lemmon, 2003). When looking at acquirer and target characteristics, the coefficients on *Acquirer CEO Tenure*, *Target ROA*, *Target MTB*, and *Target High Tech* are negative and significant while the coefficient on *Acquirer ROA* is positive and significant. These findings are consistent with prior studies (Wangerin, 2019; Chow et al. 2016).

### **6.2.3 H3: M&A Agreement – Termination Fee Provisions**

Table 10 presents the regression results examining the association between *Pred. Top Legal Executive Influence* and the proxies for termination fees. Column 1 and Column 3 use logit regressions when examining the existence of termination fee provisions (*Acquirer Termination Fee Indicator*, *Target Termination Fee Indicator*). Column 2 and Column 4 uses OLS regressions when examining the size of termination fees (*Acquirer Termination Fee Size*, *Target Termination Fee Size*). Across the four model specifications, the coefficients on *Pred. Top Legal Executive Influence* are insignificant. Thus, I find no support for H3a and H3b.

When examining acquirer termination fee provisions and size in Column 1 and Column 2, I find that among the deal characteristics, almost every coefficient is significant in at least one of the columns with the exception of *Shared Auditor* and *Acquisition Premium*. The results on these deal characteristics are largely consistent with prior literature (Bates & Lemmon, 2003; Schubertp & Strych, 2020). As for the firm characteristics, the coefficients on *log (Acquirer Size)*, *Acquirer M&A Experience*, *Acquirer Board-Strength*, *Target ROA*, *Target Run-up*, and *Target NYSE/AMEX*

*Listed* are at least significant in one of the model specifications, largely consistent with prior literature (e.g. Aktas, de Bodt, et al, 2016; Wangerin, 2019).

When examining target termination fee provisions and size in Column 3 and Column 4, I find largely consistent results on the coefficients for the control variables when comparing with Column 1 and Column 2. One exception is the sign on the *Multi-Bidder* coefficient is now negative and significant in Column 3 which may be due to pressure among competing bidders. Additionally, *Horizontal* and *Toehold* are no longer significant in these two columns. When looking at firm characteristics, the coefficients on *log (Acquirer Size)*, *Target ROA*, *Target Leverage*, *Target MTB*, and *Target NYSE/AMEX Listed* are at least significant in one of the model specifications, largely consistent with prior literature (e.g. Bates & Lemmon, 2003).

The adjusted R-squared/Pseudo R-squared in Column 1, Column 3, and Column 4 are comparable and quite strong (around 0.25 for the three columns), indicating model fit are reasonably good; while Column 2 shows a R-squared of 0.14, which considerably lower. This may arise from most of the *Acquirer Termination Fee Size* values being 0 as *Acquirer Termination Fee Indicator* shows that only 24 percent of deals have acquirer termination fee provisions.

#### **6.2.4 H4: M&A Public Process Length**

Table 11 presents the OLS regression results examining the association between *Pred. Top Legal Executive Influence* and *log (Public Process Length)*. I find the coefficient of *Pred. Top Legal Executive Influence* is negative and significant, supporting H4. This finding suggests that more influential acquirer top legal executives are associated with more swift deal closing either due to increased efficiency or pressure from CEOs to rush through the process.

As for the deal characteristics, I find that the coefficient on *Tender* is negative and significant consistent with prior literature (Offenberg & Pirinsky, 2015; Wangerin, 2019), while

the coefficients on *% of Stock Financed*, *Acquirer Top Legal Adviser*, and *Premium* are positive and significant (Bates & Lemmon, 2003). I find the result on *Acquirer Top Legal Adviser* especially interesting as prior literature such as Krishnan and Masulis (2013) finds that top legal law firms help facilitate deals through higher completion rates and higher premiums. However, the positive coefficient on *Acquirer Top Legal Adviser* might suggest that these external legal advisers care less about efficiency of deal closing as they may bill clients based on time working on the deal. On the other hand, internal legal advisers, represented by top legal executives, also focus on deal closing efficiency.

Among firm characteristics, I find that *Acquirer M&A Experience* and *Acquirer CEO Tenure* coefficients are negative and significant, while *Target  $\sigma$ Sales* and *Target ROA* coefficients are positive and significant consistent with prior literature (Wangerin, 2019; Zhou, Dutta, & Zhu, 2020). The adjusted R-squared (0.30) shows that overall model fit is good.

### **6.2.5 H5: M&A Deal Completion Rate**

Table 12 presents the logit regression results examining the association between *Pred. Top Legal Executive Influence* and *Completed*. I find the coefficient of *Pred. Top Legal Executive Influence* to be positive and significant, supporting H5. This finding indicates that more influential acquirer top legal executives are associated with increased deal completion rates, after controlling for a variety of deal characteristics including the adviser characteristics and key contract terms.

As for the deal characteristics, I find that the coefficients on *log (Private Process Length CA)*, *Tender*, *Friendly*, and *Target Termination Fee Indicator* are positive and significant, and the coefficients on *Horizontal* and *Toehold* are positive and marginally significant. These findings are largely consistent with prior literature (Aktas, de Bodt, et al., 2016; Dhaliwal et al., 2016). The coefficient on *Multi-Bidder* is negative and significant, also consistent with prior literature (Bates

& Lemmon, 2003; Offenberg & Pirinsky, 2015; Dhaliwal et al., 2016). Even though the model only controls for deal characteristics, Pseudo R-squared (0.48) shows that overall model fit is good.

### 6.3 Additional Analysis

The prior general counsel literature measures the presence or prominence of top legal executives based on whether these legal executives are among the top five highest paid executives per the annual proxy statement (e.g., Hopkins et al., 2015). To examine whether my proxy for top legal executive influence aligns with this traditional measure of top legal executive, I follow prior literature and measure the top legal executive influence using an indicator variable (*Legal – Top 5 Executive*) that is set to one when the top legal executive is among the top five highest-paid executives in the firm and zero otherwise. Similarly, I create an indicator variable (*Marketing – Top 5 Executive*) that is set to one when a marketing executive is among the top five highest-paid executives in the firm and zero otherwise and use it as an instrument variable to predict *Legal – Top 5 Executive*.

Twenty percent (5 percent) of the acquiring firms have a legal (marketing) executive among the highest paid executive at the firm. I repeat the analysis for the determinant model and M&A models using the same control variables and fixed effects for each of the dependent variable. The results are similar to the main analysis in the determinant model using *Legal – Top 5 Executive* and *Marketing – Top 5 Executive*. The results reinforce the validity of the instrument variable using marketing executives and the legitimacy of other control variables in the model. In Panel A, Table 13, I present the results of the M&A models in the second stage, I find no associations between *Pred. Legal – Top 5 Executive* and the M&A process and outcomes. The lack of associations found in the second stage models may suggest that there may be other factors that influence the



compensation status of top legal executives and the M&A outcomes simultaneously. The lack of support of H4 and H5, which is not consistent with the main results, might suggest that it is not the compensation status, but the titles given to the top legal executives, that influence their ability to have an impact of the public process length and completion rate.

To test the robustness of the two-stage models, I use the raw values of *Top Legal Executive Influence* and repeat the analysis of the second-stage models only. In Panel B of Table 13, I report the coefficients and T values (Z values) of the variable of interest (*Top Legal Executive Influence*). When the dependent variables are *log (Public Process Length)* and *Completed*, although the *Top Legal Executive Influence* is no longer significant as in the main analysis, T value (Z value) shows that it is nearly significant and the signs are consistent with the main analysis.

## CHAPTER 7: CONCLUSIONS AND FUTURE RESEARCH

I examine the influence of the acquirer's top legal executive in M&As and find that top legal executive influence is associated with shorter public process length (deal announcement to deal closing) and enhanced deal completion rate. These associations exist after controlling for potential endogeneity of top legal executive influence. The findings could suggest that top legal executives benefit acquiring firms through their roles as deal advisers and transactional lawyers: they facilitate deals by expediting the public process and increasing deal completion rate. The increased efficiency and completion rate, however, may also arise because top legal executives facilitate transactions in order to keep their positions within the firm and appease the CEOs and other top managers. In this sense, the associations may indicate that top legal executives divert away from their gatekeeping role through performing less due diligence in the public process and avoid stepping up to prevent bad deals. Overall, the results could suggest that top legal executives balance towards their advising roles (transactional lawyer) more compared to their monitoring role (gatekeeper).

When investigating the outcomes that occur before or at the merger announcement, I find no associations between top legal executive influence and the private process length or the contract terms (i.e., acquisition premium, termination fee provisions). The lack of association between top legal executive influence and private process length may derive from the different motivations that predict the possibility of both positive and negative associations: in some cases, top legal executives may perform more due diligence to reduce deal risk, leading to a lengthier private process; in other cases, they could also facilitate private process more efficiently or may be pressured by the CEOs to reach the merger agreement quickly, leading to a shorter private process. Without further dissecting the motivations among the top legal executives, the different

motivations may lead to the lack of an association between top legal executive influence and private process length.

Such tension arising from balancing the various roles as gatekeepers, executives, and transaction lawyers, could also lead to the non-result in acquisition premium. For example, in some instances, top legal executives may reduce premiums in order to lower deal risk. However, in other instances they may acquiesce to higher premiums to keep rapport with CEOs. Alternatively, the non-result in acquisition premium may suggest that top legal executives lack a vested interest in financial terms or pricing. The lack of association found between top legal executive influence and termination fee provisions may arise from unobservable factors during the negotiation of the merger. For instance, other than premiums and termination fee provisions, there are a variety of other contract terms that are simultaneously negotiated and determined in the merger agreement. For example, lockup options could be used as a substitute for target termination fee provision (Bates & Lemmon, 2003). Without controlling for these contract terms that could substitute or contradict the termination fee provisions, it is difficult to tease out the association between top legal executives and termination fee provisions.

This study is the first to investigate how top legal executives influence the M&A process and outcomes. Despite the various M&A outcomes that I investigate in the dissertation, there are still other perspectives that researchers could explore to shed light on the roles of top legal executives in the M&As. First, as the M&A process involves both the acquirer and target, a limitation of my study is that I only investigate the role of acquirer top legal executives in the M&A process. Future researchers could explore the role of target top legal executives as well as the interaction between acquirer and target top legal executives. A second limitation is that my investigation into the M&A process and outcomes ends at deal closing date. However, the M&A

process goes beyond deal closing into post-merger integration when the deal is completed or another round of deal initiation if the deal is withdrawn. Therefore, future researchers could look into these post-merger outcomes such as operating performance of the merged entity or potential post-merger lawsuits to shed more light on how top legal executives influence deal quality. In addition, as mentioned earlier, there are a variety of other legal contract terms as well as potential regulatory issues (e.g., filing with the SEC, dealing with FTC, addressing antitrust concerns), and litigation matters that top legal executive may attend to in M&As. Other researchers could investigate these other legal matters and provide a more comprehensive understanding in how top legal executives utilize their legal expertise and negotiation skills to help their clients to navigate through various legal documents and process. Third, I identify top legal executives in the acquiring firm based on BoardEx. While BoardEx collects its data from a variety of resources, there may be cases where BoardEx does not cover the top legal executives or have the titles or employment dates off for the covered executives. Thus, my results are limited by the data availability and accuracy of BoardEx. In addition, my sample derives from public acquirers and public targets only. Therefore, the results may not generalize to deals that involve private firms.

## APPENDIX

### Appendix A: Panel A: Top Legal Executive Influence

<i>Top Legal Executive Influence</i>	<b>Power &amp; Status Group</b>	Class	Title	Example of BoardEx Roles
1.000	1	1	Chief Legal Officer	Chief Legal Officer; Chief Legal & Compliance Officer; Chief Legal Counsel
1.000	1	2	GC and top key C-level title	GC/CFO; GC/Chief Administrative Officer
1.000	1	3	GC and Other lower C-level title	Chief Diversity Officer/General Counsel; Division Senior VP/General Counsel
0.833	2	4	GC and Senior Executive VP/GC and Senior MD	General Counsel and Senior Managing Director
0.833	2	5	GC and Executive Vice President	Executive VP/General Counsel; Executive VP/Chief Counsel/Secretary
0.667	3	6	GC and Senior VP	Senior VP/General Counsel; Senior VP/Chief Corporate Counsel
0.500	4	7	GC and VP	Vice President and General Counsel
0.333	5	8	GC and division/group VP	General Counsel and Division VP
0.333	5	9	GC/Chief Counsel	General Counsel; Chief Counsel
0.333	5	10	Acting/Interim GC	VP/Acting General Counsel; Acting General Counsel; Interim General Counsel
0.167	6	11	Executive VP - Legal	Executive Vice President of Law
0.167	6	12	Vice President - Legal	Vice President of Law
0.167	6	13	Managing Counsel	Managing Counsel
0.167	6	14	Deputy GC	Deputy General Counsel and Vice President
0.167	6	15	Deputy GC (not classified as VP, Senior VP, Executive VP)	Deputy General Counsel and Vice President
0.167	6	16	Assistant/Associate GC	Assistant General Counsel
0.167	6	18	Group GC	Group General Counsel
0.167	6	19	Regional/Division GC	Regional General Counsel
0.167	6	20	Senior Corporate Counsel	Senior Corporate Counsel
0.167	6	21	Corporate Counsel	Corporate Counsel
0.167	6	22	Legal Leader/Head of Legal	Head of Legal
0.167	6	23	Key words of Legal Counsel only in role description	none in Role, but Role Description shows "Also Corporate Counsel"
0.000	7	24	Missing (no legal executive found)	none

## Appendix A: Panel B: Top Marketing Executive Influence

<i>Top Marketing Executive Influence</i>	<b>Power &amp; Status Group</b>	<b>Class</b>	<b>Title</b>	<b>Example of BoardEx Roles</b>
1.000	1	1	Chief Officer	Chief Commercial/Marketing/Revenue/sales//Business Development Officer
0.833	2	2	President	President - Marketing; President - Business Developmnet
0.833	2	3	Executive Vice President	Executive VP - Ops/Sales
0.667	3	4	Senior Vice President	Senior VP - Business Development/Mktg
0.500	4	5	Vice President	Vice President - Business Development & Strategic Planning
0.333	5	6	Director/Executive/Officer/ED/MD/Controller	Director - Business Development/Marketing
0.167	6	7	Associate/Assistant VP/Director	Associate Director - Marketing
0.167	6	8	Division/Regional Chief Officer	Division Chief Marketing Officer
0.167	6	9	Division/Area President/Director/MD	Division Director - Marketing
0.167	6	10	Manager/Analyst/Representative/Head/Leader	District Sales Manager; Division Head - Sales
0.167	6	11	Regional Manager/Head	Regional Head of Sales
0.167	6	12	Administratator/Associate	Sales Associate
0.000	7	13	Missing (no marketing exectuive found)	none

## **Appendix B: Hand-collection of Private Process Length**

### **Location of SEC Filing**

I search for the following keywords in Google in order to access the relevant SEC filings covering the M&A deal with its background information: “[Acquiring Company Name]”, “acquire/merge with, “[Target Company Name]”, “SEC” , “background of the merger”/“background of the offer”/“background of the transaction”.<sup>32</sup> If the above search does not lead to the relevant SEC filings, I then go to the SEC website<sup>33</sup> or SEC.report to search for filings using either CIK of the acquiring company or the target company.

The most common relevant SEC filings are (1) S-4 filings by the acquiring company for stock deals; (2) SC TO-T filed by the target company for tender offers, or (3) PREM14A/PREM14A filed by target companies to call for a special stockholders meeting requesting a vote for an announced merger.

After I confirm that the filing is for the relevant acquiring and target companies, I then check the announcement date of the transaction is consistent with the announcement date in SDC.

### **Initiation Date**

I retrieve the initiation date from the background section of the relevant SEC filing. The background section usually starts with discussion of the filing company’s strategic plans. However, such plans may not result in active seeking of potential M&A opportunities. After the discussion of the strategic background, there is a chronological list of events that lead to the

---

<sup>32</sup> Words in parentheses indicate searching for exact match.

<sup>33</sup> <https://www.sec.gov/edgar/searchedgar/companysearch.html>

announcement of the transaction. I establish the initiation date as the date<sup>34</sup> on which the acquiring company and target company had their first official encounter and such encounter leads to active follow-up meetings that lead to the transaction.<sup>35</sup>

In the following example, even though the acquiring company ALLTEL has been contacting the target company regarding a potential acquisition a few years before, there has not been a more definitive and official encounter with a specific time frame until September 1, 2004. However, the first paragraph indicates the initiating party is the acquiring company.

*Form S-4 ALLTEL Corporation:*<sup>36</sup>

*“As part of the continuous evaluation of its business and plans, ALLTEL regularly considers a variety of strategic options and transactions. During the past few years, executive management at ALLTEL has periodically engaged in discussions with John W. Stanton, Western Wireless’ chairman and chief executive officer, regarding the telecommunications industry, including a potential acquisition of Western Wireless by ALLTEL. During this time period, management of ALLTEL also considered other acquisition opportunities.”*

*“Following the public announcement of the Cingular and AT&T Wireless merger agreement, ALLTEL’s executive management determined again to approach Mr. Stanton to discuss a purchase of Western Wireless by ALLTEL. On September 1, 2004, Scott T. Ford, president and*

---

<sup>34</sup> If no specific date of the month is defined, I used the following rule to establish dates: “early in the month”: 10th day of the month; “mid of the month” or “in the month of”: 15th day of the month; “late in the month”: 20th day of the month.

<sup>35</sup> Sometimes, after the first official encounter, the acquirer and target company waited years to actively seek the M&A transaction. In that case, I used the date when the acquirer and target company met again to pursue the strategic merger.

<sup>36</sup> <https://www.sec.gov/Archives/edgar/data/65873/000095012305007574/x06014a3sv4za.htm>



*chief executive officer of ALLTEL, and Mr. Stanton agreed to meet to discuss the ongoing changes in the telecommunications industry.”*

In the following example, there were active discussions between the acquiring firm CBRE Group Inc. and target firm of Trammell Crow Co. in 2005. However, the active discussions were terminated. Therefore, I used the next meeting (June 2, 2006) that lead to the next round of active discussions that eventually leads up to the merger announcement.

*Form PREM14A Trammell Crow Co.<sup>37</sup>*

*“On December 20, 2005, Mr. Sulentic spoke with Mr. White via telephone and informed him that the Company was ending negotiations regarding a proposed transaction with CBRE due to these reasons.”*

*“On June 2, 2006, CBRE sent to the Company via overnight delivery a termination letter under the confidentiality agreement between the parties./On August 28, 2006, Laurence Midler, General Counsel of CBRE, contacted J. Christopher Kirk, General Counsel of the Company and Secretary to our board, and proposed that Messrs. Sulentic, Groch, White and Frese meet on September 1, 2006 in Denver, Colorado.”*

### **Confidentiality Agreement Date**

I establish the confidentiality agreement date by first searching for “Confidentiality Agreement” in the document. For example, the following wording indicates the confidentiality agreement dates: “entered into the Confidentiality Agreement”, “the Confidentiality Agreement, dated as of”, “executed a mutual confidentiality agreement with”.

---

<sup>37</sup> [https://sec.report/Document/0001047469-06-013527/#dk1280\\_background\\_of\\_the\\_merger](https://sec.report/Document/0001047469-06-013527/#dk1280_background_of_the_merger)

If this date is not clearly defined, I look for the execution date of “mutual non-disclosure agreement”, the “due diligence” start date, or access to data room date. The non-disclosure agreement also usually gives the acquirer access to confidential information for due diligence. For example, the following wording indicates the non-disclosure agreement dates “signed a non-disclosure agreement and began its due diligence”, “provide with access to non-public information”, “both parties agreed to proceed with due diligence, which commenced on”. “due diligence materials through the virtual data room”.

In the following example, there is a clear section (6.2 (b)) in the SEC filing within the sections for agreements discussing the confidentiality agreement.

*Form S-4 BANK OF AMERICA CORPORATION:*<sup>38</sup>

*“6.2 (b) All information and materials provided pursuant to this Agreement shall be subject to the provisions of the Confidentiality Agreements entered into between the parties as of November 12, 2007 and as of January 10, 2008 (the “Confidentiality Agreements”).”*

In the following example, there was no confidentiality agreement date found in the document. However, I used the alternative key words of “nondisclosure agreement” to identify the confidentiality agreement date.

*Form PREM 14A CASTELLE:*<sup>39</sup>

---

<sup>38</sup> <https://www.sec.gov/Archives/edgar/data/70858/000095014408002337/g11537a1sv4za.htm#119>

<sup>39</sup> <https://sec.report/Document/0001169232-07-002372/#a34>

*“On November 17, 2006, we entered into a mutual nondisclosure agreement with Captaris (the “NDA”) to enable sharing of confidential information between the parties necessary to investigate a potential transaction.”*

## **Withdrawn Deals**

It is more difficult to find SEC filings for deals that are withdrawn as some deals are terminated shortly after announcement and no SEC filings were filed other than the 8-K reports. If I do not find the relevant SEC documents that cover the deal background, I use the deal announcement date as the initiation date and confidentiality agreement date as there was no information available regarding the private process. It is reasonable to assume that the acquiring firm is making the offer based on the public information about the target, and therefore, no public process exists for such deals. I also search the acquiring firms’ SEC filings (10-Q and 10-K) after the merger announcement to see whether they disclose additional information about the withdrawn deals.

In the following example, I was able to identify the initiation date for the withdrawn deal based on a footnote in 10-Q filing for the acquiring firm.

*Form 10-Q Bel Fuse Inc.<sup>40</sup>*

*“On February 28, 2011, the Company announced that it had delivered a letter to Pulse Electronics Corporation (“Pulse Electronics”) proposing to acquire all of the outstanding shares of Pulse Electronics common stock for per share consideration of \$6.00, or approximately \$249*

---

<sup>40</sup> <https://sec.report/Document/0000729580-11-000023/>

*million in the aggregate. The Company recorded \$0.2 million and \$0.3 million, respectively, of expense related to the offer during the three and six months ended June 30, 2011.”*

Based on the information given above, the acquiring firm was engaged in the offer during the six months ended June 30, 2011. Therefore, I established the initiation date as Jan 1, 2011.

In other cases where I could find similar SEC filings with merger background sections, I follow the same procedures as in complete deals to identify initiation dates and confidentiality agreement dates.

## Appendix C: Variable Definitions

Variable	Definition	Source
<b><u>M&amp;A Dependent Variables</u></b>		
<i>Acquirer Termination Fee Indicator</i>	indicator variable that equals 1 if there is a non-zero value of acquirer termination fee; 0 otherwise	SDC
<i>Acquirer Termination Fee Size</i>	value of acquirer termination fees (reported in millions of dollars; value is 0 if no acquirer termination fee)	SDC
<i>log (Acquirer Termination Fee Size)</i>	natural log of (1 + <i>Acquirer Termination Fee Size</i> )	SDC
<i>Acquisition Premium</i>	difference between the offer price and the stock price of the target 4 weeks prior to the announcement, and scaled by the target's stock price (in percentage)	SDC, CRSP
<i>Completed</i>	indicator variable that equals to 1 when the deal is completed, and equals to 0 if the deal is withdrawn.	SDC
<i>Private Process Length CA</i>	number of days between confidentiality agreement (CA) date and deal announcement	hand-collect from SEC filings
<i>log (Private Process Length CA)</i>	natural log of (1 + <i>Private Process Length CA</i> )	hand-collect from SEC filings
<i>Private Process Length DI</i>	number of days between deal initiation (DI) and deal announcement	hand-collect from SEC filings
<i>log (Private Process Length DI)</i>	natural log of (1 + <i>Private Process Length DI</i> )	hand-collect from SEC filings
<i>Public Process Length</i>	number of days between deal announcement and deal resolution (either completed or withdrawn) date	SDC
<i>log (Public Process Length)</i>	natural log of (1 + <i>Public Process Length</i> )	SDC
<i>Target Termination Fee Indicator</i>	indicator variable that equals 1 if there is a non-zero value of target termination fee; 0 otherwise	SDC
<i>Target Termination Fee Size</i>	value of target termination fees (reported in millions of dollars; value is 0 if no target termination fee)	SDC
<i>log (Target Termination Fee Size)</i>	natural log of (1 + <i>Target Termination Fee Size</i> )	SDC
<b><u>Legal Executive Variables</u></b>		
<i>Legal - Business</i>	indicator variable that equals 1 if the the top legal executive has a business degree or accounting/finance certification; 0 otherwise	BoardEx - Individual Profile Education
<i>Legal - Elite School</i>	indicator variable that equals 1 if the the top legal executive gains his or her law degree from the top 14 law schools (Frye 2017; <a href="https://www.shemmassianconsulting.com/blog/t14-law-schools">https://www.shemmassianconsulting.com/blog/t14-law-schools</a> ); 0 otherwise	BoardEx - Individual Profile Education
<i>Legal - External Experience</i>	indicator variable that equals 1 if the the top legal executive has prior work experience at a law firm or government agency; 0 otherwise	BoardEx - Individual Profile Employment
<i>Legal - Tenure</i>	number of years the top legal executive has been at the acquiring firm (if there is no legal executives found in the acquiring firm, set to 0)	BoardEx - Organization Summary - Analytics
<i>Legal - Top 5 Executive</i>	indicator variable that equals 1 if the firm has a disclosed earner with a role name indicating legal executive in the fiscal year prior to merger announcement, 0 otherwise.	BoardEx - Organization - Composition
<i>Legal - Gender</i>	Category variable that equals 2 if the the top legal executive is male; 1 if the top legal executive is female; 0 if there is not legal executive found in BoardEx for the acquirer	BoardEx - Individual Profile Details
<i>Top Legal Executive Influence</i>	rank variable that ranges from 0 to 1 with 0 representing lowest power & status of the top legal executive (no legal executive found at the acquiring firm), and 1 representing the highest power & status of the top legal executive. See Appendix A for details.	BoardEx - Organization Summary - Analytics

## Appendix C: Variable Definitions Cont.

<b>Variable</b>	<b>Definition</b>	<b>Source</b>
<b><u>Deal Characteristics</u></b>		
<i>% of Stock Financed</i>	percentage of the deal that is paid with stock	SDC
<i>Acquirer CAR</i>	cumulative abnormal returns (subtract value-weighted returns) using event window around announcement [-5,+5]	CRSP
<i>Acquirer Top Financial adviser</i>	indicator variable that equals 1 if the financial adviser of the acquirer is in the top 10 acquirer financial adviser (rank based on market share) in the prior year relative to the announcement; 0 otherwise	SDC; SDC League Table
<i>Acquirer Top Legal adviser</i>	indicator variable that equals 1 if the legal adviser of the acquirer is in the top 10 acquirer financial adviser (rank based on market share) in the prior year relative to the announcement; 0 otherwise	SDC; SDC League Table
<i>Friendly</i>	indicator variable that equals 1 if the deal attitude is friendly; 0 otherwise	SDC
<i>Horizontal</i>	indicator variable that equals 1 if the acquirer and target are in the same industry (2-digit SIC code); 0 otherwise	SDC; Compustat
<i>log (Deal Value)</i>	natural log of deal value (in billions of dollars)	SDC
<i>Multi-Bidder</i>	indicator variable that equals 1 if there are more than one bidders in the deal; 0 otherwise	SDC
<i>Shared Auditor</i>	indicator variable that equals 1 if the acquirer and target have the same auditor; 0 otherwise	Compustat
<i>Tender</i>	indicator variable that equals 1 if the deal is structured as a tender offer; 0 if the deal structured as a merger	SDC
<i>Toehold</i>	percentage of target's stock the acquirer owns prior to merger announcement date	Compustat
<b><u>Acquirer Characteristics</u></b>		
<i>Acquirer Board-Strength</i>	overall strength of the board based on: board size, independence, tenure, average number of public company directorships held by non-executive directors. Each score is calculated based on median of the variable (below median is coded as 1, and 0 otherwise). The sum of these four component scores: range from 0 (weak) to 4 (strong)	BoardEx - Organization Summary
<i>Acquirer CEO Duality</i>	indicator variable that equals 1 if the position of CEO and chair of the board of directors is held by the same person in the fiscal year prior to merger announcement; 0 otherwise.	BoardEx - Organization Summary
<i>Acquirer CEO Tenure</i>	number of years the CEO has been in the CEO position as of the year merger announcement date	BoardEx - Organization Summary
<i>Acquirer Leverage</i>	the ratio of total debt to assets, adjusted by industry median at the end of year prior to merger	Compustat
<i>Acquirer M&amp;A Experience</i>	number of M&A announced in the prior two years prior to the merger announcement	SDC
<i>Acquirer Prior Classaction Lawsuit</i>	average number of class action lawsuits in previous two years relative to the deal announcement year	Stanford Class-action Data
<i>Acquirer ROA</i>	net income scaled by total assets and adjusted by industry median ROA in the fiscal year prior to announcement	Compustat
<i>Acquirer Run-up</i>	average cumulative abnormal returns over the period [-42,-6] using the value-weighted market index	CRSP
<i>log (Acquirer Firm Age)</i>	natural log of the difference between first appearance in Compustat and the fiscal year prior to announcement	Compustat
<i>log (Acquirer Size)</i>	natural log of market value of equity 42 days prior to merger announcement (in billions)	CRSP
<i>Marketing - Top 5 Executive</i>	indicator variable that equals 1 if the firm has a disclosed earner with a role name indicating marketing executive in the fiscal year prior to merger announcement; 0 otherwise.	BoardEx - Organization - Composition
<i>Top Marketing Executive Influence</i>	rank variable that ranges from 0 to 1 with 0 representing lowest power & status of the top marketing executive, and 1 representing the highest power & status of the top marketing executive, see Appendix A for details	BoardEx - Organization Summary - Analytics
<b><u>Target Characteristics</u></b>		
<i>Target Size</i>	natural log of market value of equity 42 days prior to merger announcement (in billions)	CRSP
<i>Target High Tech</i>	indicator variable equals 1 if the target belongs to a high-tech industry (2-digit SIC codes 35, 36, 38, 73), 0 otherwise	SDC; Compustat
<i>Target Leverage</i>	the ratio of total debt to assets, adjusted by industry median at the end of year prior to merger announcement	Compustat
<i>Target MTB</i>	ratio of the market value of equity to book value and adjusted by industry median MTB	Compustat
<i>Target NYSE/AMEX Listed</i>	indicator variable that equals 1 if the target is listed on NYSE or AMEX stock exchange; 0 otherwise	SDC; Compustat
<i>Target ROA</i>	net income scaled by total assets and adjusted by industry median ROA in the fiscal year prior to announcement	Compustat
<i>Target Run-up</i>	average cumulative abnormal returns over the period [-42,-6] using the value-weighted market index	CRSP
<i>Target <math>\sigma</math>Sales</i>	quintile-ranking of the standardized deviation of sales over the five years prior to the acquisition	Compustat

## REFERENCES

- Abernathy, J. L., Kubick, T. R., & Masli, A. (2016). General counsel prominence and corporate tax policy. *The Journal of the American Taxation Association*, 38(1), 39-56.
- Adams, R. B., & Ferreira, D. (2007). A Theory of Friendly Boards. *The Journal of Finance*, 62(1), 217–250.
- Afsharipour, A. (2010). Transforming the Allocation of Deal Risk Through Reverse Termination Fees. *Vanderbilt Law Review*.
- Agrawal, A., Cooper, T., Lian, Q., & Wang, Q. (2013). Common Advisers in Mergers and Acquisitions: Determinants and Consequences. *The Journal of Law and Economics*, 56(3), 691–740.
- Aktas, N., Croci, E., & Simsir, S. A. (2016). Corporate Governance and Takeover Outcomes. *Corporate Governance: An International Review*, 24(3).
- Aktas, N., de Bodt, E., Bollaert, H., & Roll, R. (2016). CEO Narcissism and the Takeover Process: From Private Initiation to Deal Completion. *Journal of Financial and Quantitative Analysis*.
- Aktas, N., de Bodt, E., & Roll, R. (2011). Serial acquirer bidding: An empirical test of the learning hypothesis. *Journal of Corporate Finance Journal*, 17, 18–32.
- Aktas, N., Xu, G., & Yurtoglu, B. (2018). She is mine: Determinants and value effects of early announcements in takeovers. *Journal of Corporate Finance*, 50, 180–202.
- Alexandridis, G., Antypas, N., & Travlos, N. (2017). Value creation from M&As: New evidence. *Journal of Corporate Finance*, 45, 632–650.
- Antila, E. M., & Kakkonen, A. (2008). Factors affecting the role of HR managers in international mergers and acquisitions A multiple case study. *Personnel Review*, 37(3), 280–299.
- Antoniades, A., Calomiris, C. W., & Hitscherich, D. M. (2016). No free shop: Why target companies sometimes choose not to buy ‘go-shop’ options. *Journal of Economics and Business*, 88, 36–64.
- Antoniou, A., Arbour, P., & Zhao, H. (2008). How much is too much: Are merger premiums too high? *European Financial Management*, 14(2), 268–287.
- Arikan, A. M., & Stulz, R. M. (2016). Corporate Acquisitions, Diversification, and the Firm’s Life Cycle. *The Journal of Finance*, 71(1), 139–194.
- Avery, C., Chevalier, J., & Schaefer, S. (1998). Why do managers undertake acquisitions? An analysis of internal and external rewards for acquisitiveness. *Journal of Law, Economics, & Organization*, 14(1), 24–43.
- Badawi, A. B., & de Fontenay, E. (2019). Is There a First-Drafter Advantage in M&A? *California Law Review*. 107, 1119
- Bagley, C. E., Roellig, M., & Massameno, G. (2015). Who Let the Lawyers Out: Reconstructing the Role of the Chief Legal Officer and the Corporate Client in a Globalizing World. *U. Pa. J. Bus. L.*, 18, 419.

- Bates, T. W., & Lemmon, M. L. (2003). Breaking up is hard to do? An analysis of termination fee provisions and merger outcomes. *Journal of Financial Economics*.
- Becher, D. A., Walkling, R. A., & Wilson, J. I. (2016). *Board Changes and the Director Labor Market: The Case of Mergers*.
- Bedwell, P., Bugeja, M., Matolcsy, Z., & Spiropolous, H. (2015). Chief Financial Officer Compensation in M&A Activities. Working Paper. University of technology, Sydney.
- Bhagat, S., Klasa, S., & Litov, L. P. (2014). The use of escrow contracts in acquisition agreements. URL: <https://ssrn.com/abstract,2271394>.
- Bird, R. C., Borochin, P. A., & Knopf, J. D. (2015). The role of the chief legal officer in corporate governance. *Journal of Corporate Finance Journal*, 34, 1–22.
- Bonaime, A., Gulen, H., & Ion, M. (2018). Does policy uncertainty affect mergers and acquisitions? *Journal of Financial Economics*, 129(3), 531–558.
- Boone, A. L., & Mulherin, J. H. (2007). How are firms sold? *Journal of Finance*, 63(2).
- Bugeja, M. (2011). Takeover premiums and the perception of auditor independence and reputation. *British Accounting Review*, 43(4), 278–293.
- Bugeja, M., da Silva Rosa, R., Duong, L., & Izan, H. . (2012). CEO Compensation from M&As in Australia. *Journal of Business Finance & Accounting*, 39(9–10), 1298–1329.
- Butler, F., & Sauska, P. (2014). Mergers and Acquisitions: Termination Fees and Acquisition Deal Completion. *Journal of Managerial Issues*, 26(1), 44–54.
- Cai, Y., Kim, Y., Park, J. C., & White, H. D. (2016). Common auditors in M&A transactions. *Journal of Accounting and Economics*, 61(1), 77–99.
- Cai, Y., & Sevilir, M. (2012). Board connections and M&A transactions. *Journal of Financial Economics*, 103, 327--349.
- Caplan, D. H., Dutta, S. K., & Liu, A. Z. (2018). Are Material Weaknesses in Internal Controls Associated with Poor M&A Decisions? Evidence from Goodwill Impairment. *Auditing: A Journal of Practice & Theory*, 37(4), 49–74.
- Cartwright, S., & Schoenberg, R. (2006). 30 Years of Mergers and Acquisitions Research : Recent Advances and Future Opportunities. *British Journal of Management*, 17(S1), S1–S5.
- Chang, X., Shekhar, C., Tam, L. H. K., & Yao, J. (2016). The information role of advisors in mergers and acquisitions: Evidence from acquirers hiring targets' ex-advisors. *Journal of Banking and Finance*, 70, 247–264.
- Chayes, A., & Chayes, A. H. (1985). Corporate Counsel and the Elite Law Firm. *Stanford Law Review*, 37, 277-300.
- Chen, C. W., Collins, D. W., Kravet, T. D., & Mergenthaler, R. D. (2018). Financial Statement Comparability and the Efficiency of Acquisition Decisions. *Contemporary Accounting Research*, 35(1), 164–202.
- Chen, S. S., & Lin, C. Y. (2018). Managerial ability and acquirer returns. *Quarterly Review of Economics and Finance*, 68, 171–182.
- Chen, Z., Mahmudi, H., Virani, A., & Zhao, X. (2016). When a Buyer Gets Cold Feet: What is the Value of a Bidder Termination Provision in a Takeover? *Working paper*.



- Chow, T., Klassen, K. J., & Liu, Y. (2016). Targets' Tax Shelter Participation and Takeover Premiums. *Contemporary Accounting Research*, 33(4), 1440–1472.
- Choudhary, P., Schloetzer, J. D., & Sturgess, J. D. (2013). Boards, auditors, attorneys and compliance with mandatory SEC disclosure rules. *Managerial and Decision Economics*, 34(7-8), 471-487.
- Chung, K., Green, T. C., & Schmidt, B. (2016). CEO Home Bias and Corporate Acquisitions. *SSRN Electronic Journal*.
- Clifton Green, T., Jame, R., & Lock, B. (2019). Executive extraversion: Career and firm outcomes. *The Accounting Review*, 94(3), 177–204.
- Coates IV, J. C. (2012). Managing Disputes Through Contract: Evidence from M&A. *Harvard Business Law Review*, 2, 296–343.
- Croci, E., & Petmezas, D. (2015). Do risk-taking incentives induce CEOs to invest? Evidence from acquisitions. *Journal of Corporate Finance*, 32.
- Daines, R. M., & Koumrian, O. (2013). Shareholder Litigation Involving Mergers and Acquisitions Review of 2012 M&A Litigation. *Cornerstone Research*, 1-3
- Das, A., & Kapil, S. (2012). Explaining M&A performance: a review of empirical research. *Journal of Strategy and Management*, 5(3), 284–330.
- de Bodt, E., Cousin, J. G., & Roll, R. (2018). Empirical Evidence of Overbidding in M&A Contests. *Journal of Financial and Quantitative Analysis*, 53(4), 1547–1579.
- de Fontenay, E. (2015). Law Firm Selection and the Value of Transactional Lawyering. *Journal of Corporation Law*, 41, 393
- Demott, D. A. (2005). The Discrete Roles of General Counsel. *Fordham Law Review*, 74(3).
- Dent, G. W. (2009). Business Lawyers as Enterprise Architects. *Business Law*, 64, 279
- Dhaliwal, D. S., Lamoreaux, P. T., Litov, L. P., & Neyland, J. B. (2016). Shared auditors in mergers and acquisitions. *Journal of Accounting and Economics*, 61(1), 49–76.
- Drake, M., Merkley, K., Potter, C., & Treu, J. (2020). *Disclosure Crowdsourcing by Lawyers*.
- Eckbo, B. E. (2009). Bidding strategies and takeover premiums: A review. *Journal of Corporate Finance Journal*, 15, 149–178.
- Ege, M., Hepfer, B. F., & Robinson, J. R. (2020). What matters for in-house tax planning: Tax function power and status. *The Accounting Review*.
- El-Khatib, R., Fogel, K., & Jandik, T. (2015). CEO network centrality and merger performance. *Journal of Financial Economics*, 116(2).
- Faleye, O., Hoitash, R., & Hoitash, U. (2011). The costs of intense board monitoring. *Journal of Financial Economics*, 101(1), 160–181.
- Feldman, B. (2012). *Litigating Post-Close Merger Cases*. Retrieved from [http://borisfeldman.com/Iron\\_Curtain.pdf](http://borisfeldman.com/Iron_Curtain.pdf).
- Field, L. C., & Mkrtchyan, A. (2017). The effect of director experience on acquisition performance. *Journal of Financial Economics*, 123(3), 488-511.
- Francis, B. B., Hasan, I., & Sun, X. (2014). Does relationship matter? The choice of financial

- advisors. *Journal of Economics and Business*, 73, 22-47.
- Frye, B. L. (2017). A Revealed Preferences Approach to Ranking Law Schools. *University of Kentucky Law Faculty Publications*, 69, 495.
- Gal-Or, R., Rani, H., & Udi, H. (2018). Auditor expertise in Mergers and Acquisitions, *Working paper*.
- Galbreath, J., & Galvin, P. (2007). Firm factors, industry structure and performance variation: New empirical evidence to a classic debate, *Journal of business research*, 61(2), 109-117.
- Golubov, A., Petmezas, D., & Travlos, N. G. (2012). When It Pays to Pay Your Investment Banker: New Evidence on the Role of Financial Advisors in M&As. *The Journal of Finance*, 67(1), 271–311.
- Golubov, A., Yawson, A., & Zhang, H. (2015). Extraordinary acquirers. *Journal of Financial Economics*, 116, 314–330.
- Gompers, P., Ishi, J., & Metrick, A. (2003). Corporate Governance and Equity Prices. *The Quarterly Journal of Economics*, 118(1), 107–156.
- Gong, G., Louis, H., & Sun, A. X. (2008). Earnings management, lawsuits, and stock-for-stock acquirers' market performance. *Journal of Accounting and Economics*, 46, 62–77.
- Gow, I. D., Ormazabal, G., & Taylor, D. J. (2010). Correcting for cross-sectional and time-series dependence in accounting research. *The accounting review*, 85(2), 483-512.
- Gu, F., & Lev, B. (2011). Overpriced shares, ill-advised acquisitions, and goodwill impairment. *The accounting review*, 86(6), 1995-2022.
- Haleblian, J., Devers, C. E., Mcnamara, G., Carpenter, M. A., & Davison, R. B. (2009). Taking Stock of What We Know About Mergers and Acquisitions: A Review and Research Agenda. *Journal of Management*, 35(3), 469–502.
- Harford, J., & Li, K. (2007). Decoupling CEO wealth and firm performance: The case of acquiring CEOs. *Journal of Finance*, 62(2), 917–949.
- Henderson, M. T., Hutton, I., Jiang, D., & Pierson, M. (2017). Lawyer CEOs. *Working Paper*. Available at SSRN 2923136.
- Hopkins, J. J., Maydew, E. L., & Venkatachalam, M. (2015). Corporate General Counsel and Financial Reporting Quality. *Management Science*, 61(1), 129–145.
- Huang, S., & Kang, M. (2017). *The Impact of Board Connections on M&As*. *Working Paper*. Available at SSRN 3109184
- Jacobsen, S. (2014). The death of the deal: Are withdrawn acquisition deals informative of CEO quality? *Journal of Financial Economics*, 114(1), 54–83.
- Jaffe, J., Pedersen, D., & Voetmann, T. (2013). Skill differences in corporate acquisitions. *Journal of Corporate Finance*, 23, 166–181.
- Jagolinzer, A. D., Larcker, D. F., & Taylor, D. J. (2011). Corporate governance and the information content of insider trades. *Journal of Accounting Research*, 49(5), 1249-1274.
- Jiang, F., Qian, Y., & Yonker, S. E. (2018). Hometown Biased Acquisitions. *Journal of Financial and Quantitative Analysis*, 54(5), 2017–2051.

- Johnson, B. A., Lisic, L. L., Moon, J. S., & Wang, M. (2020). SEC comment letters on Form S-4 and M&A accounting quality. *Working Paper*. Available at SSRN 3335390.
- Karsten, C., Malmendier, U., & Sautner, Z. (2019). Lawyer Expertise and Contract Design-Evidence from M&A Negotiations. *Working Paper*.
- Karsten, C., Malmendier, U., & Zacharias, S. (2015). *M&A Negotiations and Lawyer Expertise*. *Working Paper*.
- Kim, S.H. 2005. The banality of fraud: re-situating the inside counsel as gatekeeper. *Fordham Law Review*, 74 (3): 983-1077.
- Kim, S. H. (2016). Inside Lawyers: Friends or Gatekeepers? *Fordham Law Review*, 84(1867), 16–08.
- Klasa, S., Litov, L., Neyland, J., & Sepe, S. (2013). Does Legal Counsel Expertise Add Value ? Evidence from Mergers and Acquisitions. *Wharton Financial Institutions Centre Working Paper*, 13, 27.
- Koo, D. S., & Lee, D. (2018). Influential chief marketing officers and management revenue forecasts. *Accounting Review*, 93(4), 253–281.
- KPMG International. 2012. *Beyond the Law: KPMG's Global Study of How General Counsel are Turning Risk to Advantage*. London: KPMG International.
- KPMG International. 2014. *Over the Horizon: How Corporate Counsel are Crossing Frontiers to Address New Challenges*. London: KPMG International.
- KPMG International. 2016. *Through the Looking Glass: How Corporate Leaders View the General Counsel of Today and Tomorrow*. London: KPMG International.
- Krishnan, C. N. V., & Laux, P. A. (2008). Legal advisors: Popularity versus economic performance in acquisitions. *Corporate Ownership and Control*, 6, 475–499.
- Krishnan, C. N. V., Masulis, R. W., Thomas, R. S., & Thompson, R. B. (2014). Jurisdictional effects in M&A litigation. *Journal of Empirical Legal Studies*, 11(1), 132–158.
- Krishnan, C. N. V., Solomon, S. D., & Thomas, R. S. (2017). The impact on shareholder value of top defense counsel in mergers and acquisitions litigation. *Journal of Corporate Finance*, 45, 480–495.
- Krishnan, C. N. V., & Masulis, R. W. (2013). Law Firm Expertise and Merger and Acquisition Outcomes. *Journal of Law and Economics*, 56.
- Krug, J. A., Wright, P., & Kroll, M. J. (2014). Top management turnover following mergers and acquisitions: Solid research to date but still much to be learned. *Academy of Management Perspectives*, 28(2), 147–163.
- Kubick, T. R., Li, Y., & Robinson, J. R. (2020). Tax-savvy executives. *Review of Accounting Studies*, 1(43).
- Kwak, B., Ro, B. T., & Suk, I. (2012). The composition of top management with general counsel and voluntary information disclosure. *Journal of Accounting and Economics*, 54(1), 19–41.
- Levi, M., Li, K., & Zhang, F. (2014). Director gender and mergers and acquisitions. *Journal of Corporate Finance*. 28, 185-200.
- Li, Z., Shroff, P. K., Venkataraman, R., & Zhang, I. X. (2011). Causes and consequences of

- goodwill impairment losses. *Review of Accounting Studies*, 16(4), 745-778.
- Liu, T., Shu, T., Towery, E., & Wang, J. (2019). The Role of External Regulators in Mergers and Acquisitions : Evidence from SEC Comment Letters. *Working Paper*.
- Lynn, D. (April, 2020) Coronavirus (COVID-19): Preparing for Form 8- K Disclosure Medium. <https://www.mofo.com/resources/insights/200401-preparing-form-8-k-disclosures.html>
- Malmendier, U., & Tate, G. (2008). Who makes acquisitions? CEO overconfidence and the market's reaction. *Journal of Financial Economics*, 89(1), 20–43.
- Masulis, R. W., Wang, C., & Xie, F. (2007). Corporate governance and acquirer returns. *Journal of Finance*, 62(4), 1851-1889.
- Mehrberg, R. (2016). The role of general counsel in M&A.
- Moeller, S. B., Schlingemann, F. P., & Stulz, M. (2004). Firm size and the gains from acquisitions. *Journal of Financial Economics*, 73, 201–228.
- Morse, A., Wang, W., & Wu, S. (2016). Executive lawyers: Gatekeepers or strategic officers? *The Journal of Law and Economics*, 59(4), 847-888.
- Mulherin, J. H., Netter, J. M., & Poulsen, A. B. (2017). *The Evidence on Mergers and Acquisitions: A Historical and Modern Report*. 235–290.
- Nelson, R. L., & Nielsen, L. B. (2000). Cops, counsel, and entrepreneurs: Constructing the role of inside counsel in large corporations. *Law and Society Review*, 34 (2): 457-494.
- Nguyen, D., & Puri, T. N. (2014). Information asymmetry and accounting restatement: NYSE-AMEX and NASDAQ evidence. *Review of Quantitative Finance and Accounting*, 43(2), 211-244.
- Offenberg, D., & Pirinsky, C. (2015). How do acquirers choose between mergers and tender offers? *Journal of Financial Economics*, 116(2), 331–348.
- Officer, M. S. (2003). Termination fees in mergers and acquisitions. *Journal of Financial Economics*, 69(3), 431–467.
- Pablo, A. L. (1994). Determinants of Acquisition Integration Level : A Decision-Making Perspective. *The Academy of Management Journal*, 37(4), 803–836.
- Quinn, B. J. (2010). Optionality in merger agreements. *Del. J. Corp. L.*, 35, 789.
- Redor, E. (2016). Board attributes and shareholder wealth in mergers and acquisitions: a survey of the literature. *Journal of Management and Governance*, 20(4).
- Renneboog, L., & Vansteenkiste, C. (2018). What Goes Wrong in M&As? On the Long-Run Success Factors in M&As. *European Corporate Governance Institute (ECGI)-Finance Working Paper*
- Renneboog, L., & Zhao, Y. (2014). Director networks and takeovers. *Journal of Corporate Finance*, 28, 218-234.
- Richter, S., & Firk, S. (2018). CFO career prospect and M&A – An Analysis of the S&P 500. *Academy of Management Proceedings*, 2018(1), 18665.
- Rodríguez-Sánchez, J.-L., Mora-Valentín, E.-M., & Ortiz-de-Urbina-Criado, M. (2018).

- Successful Human Resources Management Factors in International Mergers and Acquisitions. *Administrative Sciences*, 8(3), 45.
- Sainani, S. (2018). How Do CFOs Matter? Evidence from M&A. *Working Paper*.
- Schmidt, B. (2015). Costs and benefits of friendly boards during mergers and acquisitions. *Journal of Financial Economics*, 117(2), 424-447.
- SchubertP, R., & Strych, J.-O. (2020). Entrenchment through Discretion over M&A Contractual Provisions. *Working Paper. Available at SSRN 3447867*.
- Schwarcz, S. L. (2006). To Make or to Buy: In-House Lawyering and Value Creation. *J. Corp. L.*, 33, 497.
- Schweizer, D., & Wu, G. (2019). Law firm expertise and shareholder wealth. *Working Paper. Available at SSRN 3496000*.
- Shi, W., Zhang, Y., & Hoskisson, R. E. (2019). Examination of CEO–CFO social interaction through language style matching: Outcomes for the CFO and the organization. *Academy of Management Journal*, 62(2), 383–414.
- Shiba, W. C. (2003). Representation of Joint Ventures: A Practical Perspective from In-House Counsel, 53 Case W. Res. In *L. Rev* (Vol. 53).
- Shleifer, A., & Vishny, R. W. (1989). Management entrenchment: The case of manager-specific investments. *Journal of financial economics*, 25(1), 123-139.
- Skaife, H. A., & Wangerin, D. D. (2013). Target financial reporting quality and M&A deals that go bust. *Contemporary Accounting Research*, 30(2), 719–749.
- Towns, A. E., & Rumelili, B. (2017). Taking the pressure : Unpacking the relation between norms , pressures on states. *European Journal of International Relations*, 23(4), 756–779.
- Van Ness, B. F., Van Ness, R. A., & Warr, R. S. (2002). Is the Adverse Selection Component Really Higher on the NYSE/Amex than on the Nasdaq? *Journal of Business Finance Accounting*, 29(5&6), 807–824.
- Vieregger, C., Larson, E. C., & Anderson, P. C. (2017). Top Management Team Structure and Resource Reallocation Within the Multibusiness Firm. *Journal of Management*, 43(8).
- Wall, A. (2016) How to Avoid Traps in Letters of Intnet. Medium.  
<https://www.upcounsel.com/blog/avoid-traps-in-letters-of-intent>
- Wang, Y., & Yin, S. (2018). CEO educational background and acquisition targets selection. *Journal of Corporate Finance*, 52(January), 238–259.
- Wangerin, D. (2019). M&A Due Diligence, Post-Acquisition Performance, and Financial Reporting for Business Combinations. *Contemporary Accounting Research*, 36(4), 2344–2378.
- Welch, X., Pavićević, S., Keil, T., & Laamanen, T. (2019). The Pre-Deal Phase of Mergers and Acquisitions: A Review and Research Agenda. *Journal of Management*, 46(6), 843-878.
- Westbrock, B., Muehlfeld, K., & Weitzel, U. (2019). Selecting legal advisors in M&As: Organizational learning and the role of multiplicity of mental models. *Journal of Management*, 45(5), 2193-2224.
- Wu, C. W., & Reuer, J. J. (2010). Termination agreements in M&A contracting. In *Academy of*

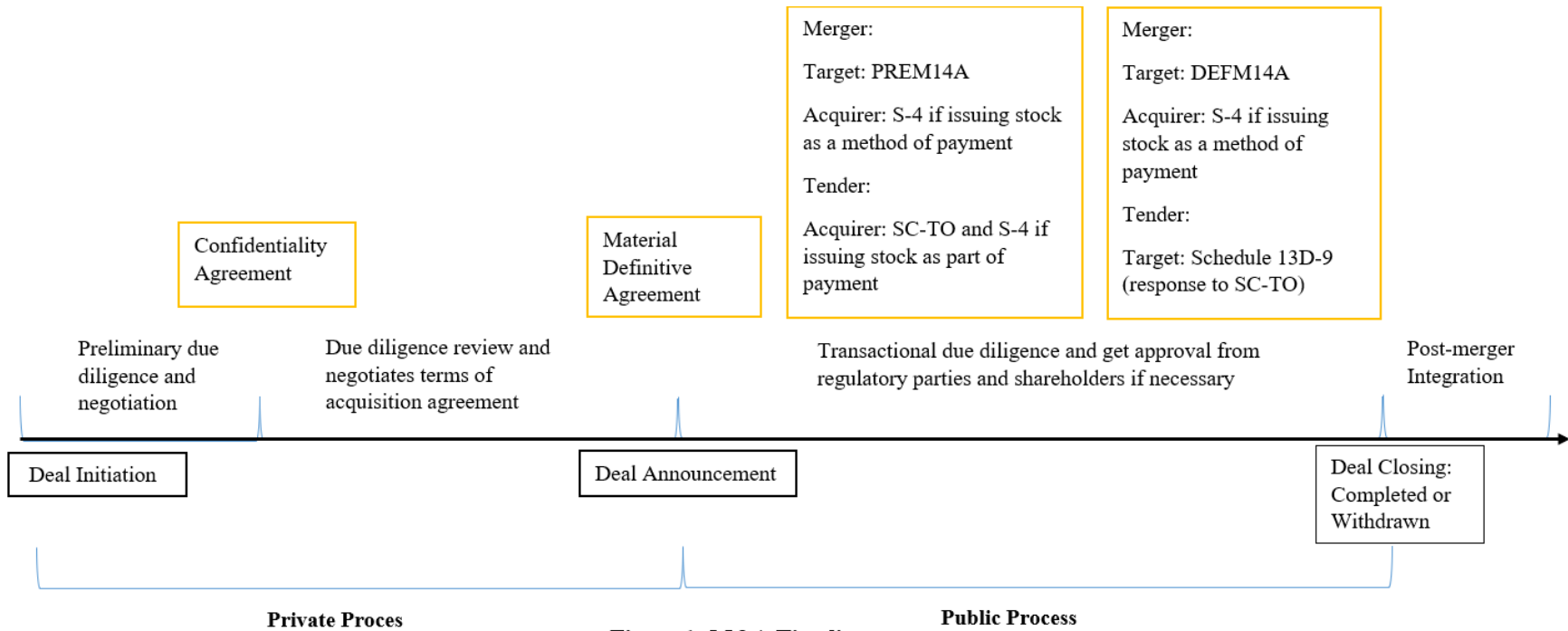
*Management 2010 Annual Meeting - Dare to Care: Passion and Compassion in Management Practice and Research, AOM 2010.*

Xie, Y., Yi, H. S., & Zhang, Y. (2013). The value of big N target auditors in corporate takeovers. *Auditing: A Journal of Practice & Theory*, 32(3), 141–169.

Yim, S. (2013). The acquisitiveness of youth: CEO age and acquisition behavior. *Journal of Financial Economics Journal*, 108, 250–273.

Zhou, B., Dutta, S., & Zhu, P. (2020). CEO tenure and mergers and acquisitions. *Finance Research Letters*, 34, 101277.

**Figure 1: M&A Timeline**



**Figure 1: M&A Timeline**

(Yellow boxes show the relevant legal documents prepared along the timeline.)

---

**TABLE 1: Sample Selection Process**

---

<b>Sample Selection Procedure</b>	<b>Sample Attrition</b>
Domestic mergers announced from 1/1/2005 to 12/31/2016	2,625
Less: obs without matching identifiers in CRSP, Compustat, and BoardEx company and year identifiers	(1,405)
Less: obs without <i>Top Legal Executive Influence</i> variable from BoardEx - Organization - Composition of Officers, Directors and Senior Managers; ExecuComp	(41)
Less: obs without <i>Board-Strength</i> variable from BoardEx - Organization Summary - Analytics	(26)
Less: missing Compustat and CRSP variables	(80)
<b>Final Sample</b>	<b>1,073</b>

---



---

**TABLE 2: Sample Distribution**

---

## Panel A: Acquirer Industry Distribution

<b>Industry Description</b>	<b>Freq</b>	<b>Cum Freq</b>
<i>Agriculture, Forestry, &amp; Fishing</i>	0.09%	0.09%
<i>Mining</i>	3.73%	3.73%
<i>Manufacturing</i>	41.75%	45.48%
<i>Transportation &amp; Public Utilities</i>	8.76%	54.24%
<i>Wholesale Trade</i>	1.58%	55.82%
<i>Retail Trade</i>	4.47%	60.30%
<i>Finance, Insurance, &amp; Real Estate</i>	21.90%	82.20%
<i>Services</i>	16.50%	98.70%
<i>Nonclassifiable Establishments</i>	1.30%	100.00%

## Panel B: Announcement Year Distribution

<b>Year</b>	<b>Freq</b>	<b>Cum Freq</b>
2005	10.72%	10.72%
2006	11.65%	22.37%
2007	11.74%	34.11%
2008	8.76%	42.87%
2009	6.99%	49.86%
2010	7.83%	57.69%
2011	4.66%	62.35%
2012	6.52%	68.87%
2013	5.96%	74.84%
2014	8.57%	83.41%
2015	9.04%	92.45%
2016	7.55%	100.00%

**TABLE 3: Descriptive Statistics for Determinant Model**

N=1,073						
<u>Variable</u>	<u>Mean</u>	<u>Std. Dev.</u>	<u>25%</u>	<u>Med.</u>	<u>75%</u>	
<b><u>Legal Executive Variable</u></b>						
<i>Top Legal Executive Influence</i>	0.580	0.320	0.500	0.667	0.833	
<b><u>Instrument Variables</u></b>						
<i>Top Marketing Executive Influence</i>	0.519	0.373	0.167	0.500	0.833	
<b><u>Acquirer Characteristics</u></b>						
<i>Acquirer Board-Strength</i>	1.931	0.860	1.000	2.000	2.000	
<i>Acquirer Leverage</i>	0.058	0.155	-0.050	0.029	0.147	
<i>Acquirer M&amp;A Experience</i>	0.305	0.649	0.000	0.000	0.000	
<i>Acquirer Prior Classaction Lawsuit</i>	0.140	0.392	0.000	0.000	0.000	
<i>log (Acquirer Firm Age)</i>	3.518	0.593	3.091	3.555	4.025	
<i>log (Acquirer Size)</i>	15.201	2.091	13.707	15.041	16.802	
<b><u>Legal Executive Variables</u></b>						
<i>Legal - Business</i>	0.103	0.303	0.000	0.000	0.000	
<i>Legal - Elite School</i>	0.307	0.461	0.000	0.000	1.000	
<i>Legal - External Experience</i>	0.453	0.498	0.000	0.000	1.000	
<i>Legal - Tenure</i>	7.229	7.204	1.268	4.970	11.049	

All variables except indicator variables, rank variables, and log variables, are winsorized at 1%

**TABLE 4: Pearson Correlation Matrix for Determinant Model**

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(1) <i>Top Legal Executive Influence</i>	1											
(2) <i>Top Marketing Executive Influence</i>	<b>0.241</b>	1										
(3) <i>log (Acquirer Size)</i>	<b>0.420</b>	<b>0.363</b>	1									
(4) <i>log (Acquirer Firm Age)</i>	<b>0.139</b>	<b>0.173</b>	<b>0.460</b>	1								
(5) <i>Acquirer Leverage</i>	<b>0.092</b>	0.036	<b>0.091</b>	-0.029	1							
(6) <i>Acquirer M&amp;A Experience</i>	<b>0.104</b>	<b>0.142</b>	<b>0.298</b>	<b>0.152</b>	0.055	1						
(7) <i>Acquirer Board-Strength</i>	<b>0.128</b>	<b>0.091</b>	<b>0.196</b>	<b>0.247</b>	0.048	-0.023	1					
(8) <i>Acquirer Prior Classaction Lawsuit</i>	<b>0.123</b>	<b>0.122</b>	<b>0.237</b>	0.050	<b>0.107</b>	<b>0.126</b>	-0.011	1				
(9) <i>Legal - Business</i>	<b>0.107</b>	0.011	0.025	-0.036	-0.010	-0.008	0.035	<b>-0.082</b>	1			
(10) <i>Legal - Elite School</i>	<b>0.247</b>	<b>0.190</b>	<b>0.286</b>	<b>0.119</b>	0.009	0.034	<b>0.164</b>	<b>0.083</b>	<b>-0.065</b>	1		
(11) <i>Legal - External Experience</i>	<b>0.330</b>	<b>0.129</b>	<b>0.241</b>	<b>0.068</b>	0.056	<b>0.061</b>	<b>0.087</b>	<b>0.115</b>	0.002	<b>0.333</b>	1	
(12) <i>Legal - Tenure</i>	<b>0.398</b>	<b>0.110</b>	<b>0.376</b>	<b>0.300</b>	0.003	<b>0.143</b>	<b>0.204</b>	0.026	<b>0.063</b>	<b>0.099</b>	0.024	1

Bold values are significant at 5 percent or less

**TABLE 5: Descriptive Statistics for M&A Models**

N=1,073						
<b>Variable</b>	<b>Mean</b>	<b>Std. Dev.</b>	<b>25%</b>	<b>Med.</b>	<b>75%</b>	<b>Max</b>
<b><u>M&amp;A Dependent Variables</u></b>						
<i>Acquirer Termination Fee Size</i>	33.654	125.675	0.000	0.000	0.000	900.000
<i>Acquirer Termination Fee Indicator</i>	0.241	0.428	0.000	0.000	0.000	1.000
<i>Acquisition Premium</i>	0.384	0.336	0.188	0.311	0.497	1.828
<i>Completed</i>	0.871	0.335	1.000	1.000	1.000	1.000
<i>Private Process Length CA</i>	93.634	97.478	31.000	68.000	119.000	536.000
<i>Private Process Length DI</i>	147.703	126.668	64.000	113.000	190.000	675.000
<i>Public Process Length</i>	132.795	91.744	67.000	107.000	172.000	523.000
<i>Target Termination Fee Size</i>	59.697	136.181	2.181	12.000	50.000	900.000
<i>Target Termination Fee Indicator</i>	0.824	0.381	1.000	1.000	1.000	1.000
<b><u>Deal Characteristics</u></b>						
<i>% of Stock Financed</i>	0.357	0.415	0.000	0.000	0.777	1.000
<i>Acquirer CAR</i>	-0.005	0.083	-0.049	-0.007	0.035	0.253
<i>Acquirer Top Financial adviser</i>	0.519	0.500	0.000	1.000	1.000	1.000
<i>Acquirer Top Legal adviser</i>	0.469	0.499	0.000	0.000	1.000	1.000
<i>Friendly</i>	0.925	0.263	1.000	1.000	1.000	11.890
<i>Horizontal</i>	0.758	0.429	1.000	1.000	1.000	1.000
<i>log (Deal Value)</i>	6.454	1.820	5.181	6.375	7.693	1.000
<i>Multi-Bidder</i>	0.080	0.272	0.000	0.000	0.000	1.000
<i>Shared Auditor</i>	0.264	0.441	0.000	0.000	1.000	1.000
<i>Tender</i>	0.180	0.384	0.000	0.000	0.000	1.000
<i>Toehold</i>	0.201	1.467	0.000	0.000	0.000	12.400
<b><u>Acquirer Characteristics</u></b>						
<i>Acquirer Board-Strength</i>	1.931	0.860	1.000	2.000	2.000	4.000
<i>Acquirer CEO Duality</i>	0.486	0.500	0.000	0.000	1.000	1.000
<i>Acquirer CEO Tenure</i>	4.955	5.074	1.500	3.500	6.600	29.700
<i>Acquirer Leverage</i>	0.058	0.155	0.000	0.029	0.147	3.000
<i>Acquirer M&amp;A Experience</i>	0.058	0.155	-0.050	0.029	0.147	0.582
<i>Acquirer ROA</i>	0.055	0.124	0.000	0.026	0.092	0.460
<i>Acquirer Run-up</i>	0.001	0.111	-0.057	0.000	0.061	0.318
<i>log (Acquirer Size)</i>	15.201	2.091	13.707	15.041	16.802	20.101
<b><u>Target Characteristics</u></b>						
<i>Target High Tech</i>	0.377	0.485	0.000	0.000	1.000	1.000
<i>Target Leverage</i>	0.029	0.176	-0.090	-0.009	0.111	0.700
<i>Target MTB</i>	0.696	3.722	-0.355	0.181	1.158	19.017
<i>Target NYSE/AMEX Listed</i>	0.308	0.462	0.000	0.000	1.000	1.000
<i>Target ROA</i>	-0.016	0.185	-0.028	0.002	0.050	0.406
<i>Target Run-up</i>	0.035	0.177	-0.059	0.021	0.116	0.712
<i>Target <math>\sigma</math>Sales</i>	3.000	1.414	2.000	3.000	4.000	5.000

All variables except indicator variables, rank variables, and log variables, are winsorized at 1% and 99%



---

**TABLE 7: Determinant Model**

---

	<i>Top Legal Executive Influence</i>	
	<b>Coeff.</b>	<b>T value</b>
<i>Top Marketing Executive Influence</i>	0.080***	(2.673)
<i>log (Acquirer Size)</i>	0.039***	(5.784)
<i>log (Acquirer Firm Age)</i>	-0.065***	(-3.095)
<i>Acquirer Leverage</i>	0.105*	(1.797)
<i>Acquirer M&amp;A Experience</i>	-0.013	(-0.663)
<i>Acquirer Board-Strength</i>	0.004	(0.325)
<i>Acquirer Prior Classaction Lawsuit</i>	0.026	(1.156)
<i>Legal - Business</i>	0.097***	(3.851)
<i>Legal - Elite School</i>	0.056**	(2.518)
<i>Legal - External Experience</i>	0.140***	(6.497)
<i>Legal - Tenure</i>	0.014***	(8.198)
Industry Indicators		Yes
Year Indicators		Yes
Cluster		Firm
Observations		1073
Adj R-squared		0.350

---

\*\*\*, \*\*, \* Indicate significant at the  $p < 0.01$ ,  $p < 0.05$ , and  $p < 0.10$  levels, respectively.

This table reports OLS regression results for determinant model for *Top Legal Executive Influence*.

---

**TABLE 8: M&A Model: H1: Private Process Length**

	(1) <i>log (Private Process Length DI)</i>		(2) <i>log (Private Process Length CA)</i>	
	Coeff.	T value	Coeff.	T value
<i>Pred.Top Legal Executive Influence</i>	0.286	(1.067)	0.131	(0.371)
<b><u>Deal Characteristics</u></b>				
<i>Tender</i>	0.268***	(2.928)	0.136	(1.093)
<i>Friendly</i>	1.560***	(6.801)	2.524***	(9.871)
<i>Multi-Bidder</i>	-0.321	(-1.644)	-0.585**	(-2.507)
<i>Horizontal</i>	0.098	(1.112)	-0.072	(-0.708)
<b><u>Acquirer Characteristics</u></b>				
<i>log (Acquirer Size)</i>	-0.088***	(-3.300)	-0.020	(-0.576)
<i>Acquirer M&amp;A Experience</i>	0.054	(1.131)	0.011	(0.208)
<i>Acquirer Board-Strength</i>	0.057	(1.382)	0.149***	(2.928)
<i>Acquirer CEO Duality</i>	0.018	(0.256)	0.074	(0.898)
<i>Acquirer CEO Tenure</i>	0.002	(0.324)	-0.008	(-0.987)
<b><u>Target Characteristics</u></b>				
<i>Target <math>\sigma</math>Sales</i>	-0.040	(-1.390)	-0.119***	(-3.278)
<i>Target ROA</i>	0.208	(1.099)	0.021	(0.088)
<i>Target Leverage</i>	-0.319	(-1.586)	-0.057	(-0.251)
<i>Target MTB</i>	0.001	(0.101)	0.000	(0.016)
<i>Target High Tech</i>	0.068	(0.873)	0.169*	(1.662)
Industry Indicators		Yes		Yes
Year Indicators		Yes		Yes
Cluster		Firm		Firm
Observations		1,073		1,073
Adj R-squared		0.169		0.255

\*\*\*, \*\*, \* Indicate significant at the  $p < 0.01$ ,  $p < 0.05$ , and  $p < 0.10$  levels, respectively.

This table reports the results from regressions examining the association between *Pred.Top Legal Executive Influence* with *log (Private Process Length)*. The *Pred.Top Legal Executive Influence* is estimated from determinant model reported in Table 7. Column 1 is estimated for *log (Private Process Length DI)* using OLS regression, and Columns 2 is estimated for *log (Private Process Length CA)* using OLS regression.

**TABLE 9: M&A Model: H2: Acquisition Premium**

	<i>Acquisition Premium</i>	
	<b>Coeff.</b>	<b>T value</b>
<i>Pred.Top Legal Executive Influence</i>	-0.032	(-0.410)
<b><u>Deal Characteristics</u></b>		
<i>log (Private Process Length CA)</i>	-0.017**	(-2.136)
<i>Tender</i>	0.097***	(2.903)
<i>Friendly</i>	0.065	(1.434)
<i>Multi-Bidder</i>	0.040	(0.869)
<i>Horizontal</i>	0.032	(1.470)
<i>Toehold</i>	0.006	(0.797)
<i>% of Stock Financed</i>	-0.081***	(-2.744)
<i>Shared Auditor</i>	0.026	(1.150)
<i>Acquirer Top Financial adviser</i>	-0.040*	(-1.806)
<i>Acquirer Top Legal adviser</i>	-0.023	(-0.959)
<i>Target Termination Fee Indicator</i>	0.054*	(1.694)
<b><u>Acquirer Characteristics</u></b>		
<i>log (Acquirer Size)</i>	0.011	(1.261)
<i>Acquirer M&amp;A Experience</i>	-0.019	(-1.100)
<i>Acquirer Board-Strength</i>	0.021	(1.560)
<i>Acquirer CEO Duality</i>	-0.026	(-1.304)
<i>Acquirer CEO Tenure</i>	-0.004**	(-2.224)
<i>Acquirer ROA</i>	0.317**	(2.567)
<i>Acquirer Leverage</i>	0.037	(0.478)
<i>Acquirer Run-up</i>	0.088	(0.870)
<b><u>Target Characteristics</u></b>		
<i>Target ROA</i>	-0.311***	(-3.322)
<i>Target Leverage</i>	0.013	(0.164)
<i>Target MTB</i>	-0.007***	(-2.649)
<i>Target High Tech</i>	-0.050*	(-1.652)
<i>Target Run-up</i>	0.021	(0.265)
<i>Target NYSE/AMEX Listed</i>	-0.035	(-1.441)
Industry Indicators		Yes
Year Indicators		Yes
Cluster		Firm
Observations		1,073
Adj R-squared		0.131

\*\*\*, \*\*, \* Indicate significant at the  $p < 0.01$ ,  $p < 0.05$ , and  $p < 0.10$  levels, respectively.

This table reports the results from regressions examining the association between *Pred.Top Legal Executive Influence* and *Acquisition Premium* using OLS regression. The *Pred.Top Legal Executive Influence* is estimated from determinant model reported in Table 7.



**TABLE 10: M&A Model: H3: Termination Provisions**

	<u>(1) Acquirer Termination Fee Indicator</u>		<u>(2) log (Acquirer Termination Fee Size)</u>		<u>(3) Target Termination Fee Indicator</u>		<u>(4) log (Target Termination Fee Size)</u>	
	<b>Coeff.</b>	<b>Z value</b>	<b>Coeff.</b>	<b>T value</b>	<b>Coeff.</b>	<b>Z value</b>	<b>Coeff.</b>	<b>T value</b>
<i>Pred. Top Legal Executive Influ</i>	-1.073	(-1.548)	-0.339	(-0.857)	-0.593	(-0.700)	-0.248	(-0.649)
<b><u>Deal Characteristics</u></b>								
<i>Tender</i>	-0.447	(-1.550)	-0.309**	(-2.219)	-0.224	(-0.806)	-0.173	(-1.405)
<i>Friendly</i>	1.800***	(3.558)	0.730***	(3.707)	3.455***	(8.763)	1.711***	(7.166)
<i>Multi-Bidder</i>	0.639**	(2.162)	0.519**	(2.389)	-1.377***	(-4.167)	-0.203	(-0.921)
<i>Horizontal</i>	0.427**	(2.065)	0.219*	(1.852)	-0.051	(-0.206)	0.005	(0.046)
<i>Toehold</i>	-0.050	(-0.641)	-0.039	(-1.558)	0.112	(1.358)	0.031	(0.951)
<i>% of Stock Financed</i>	1.822***	(6.896)	1.212***	(7.543)	0.325	(1.069)	0.495***	(3.629)
<i>Shared Auditor</i>	0.206	(1.087)	0.207*	(1.779)	-0.391*	(-1.829)	-0.058	(-0.523)
<i>Acquirer Top Financial adviser</i>	0.839***	(3.682)	0.565***	(4.880)	0.361	(1.528)	0.600***	(5.365)
<i>Acquirer Top Legal adviser</i>	0.469**	(2.466)	0.270**	(2.417)	-0.016	(-0.077)	0.378***	(3.858)
<i>Acquisition Premium</i>	-0.297	(-1.060)	-0.182	(-1.331)	0.432	(1.288)	-0.250*	(-1.952)
<b><u>Acquirer Characteristics</u></b>								
<i>log (Acquirer Size)</i>	-0.166**	(-2.173)	0.012	(0.304)	0.134	(1.618)	0.304***	(7.731)
<i>Acquirer M&amp;A Experience</i>	-0.355*	(-1.936)	-0.112	(-1.466)	0.005	(0.022)	-0.025	(-0.300)
<i>Acquirer Board-Strength</i>	0.214**	(2.172)	0.108	(1.642)	-0.055	(-0.448)	-0.008	(-0.158)
<i>Acquirer CEO Duality</i>	0.004	(0.025)	0.056	(0.531)	-0.103	(-0.499)	-0.084	(-0.962)
<i>Acquirer CEO Tenure</i>	-0.002	(-0.129)	-0.008	(-0.835)	0.024	(1.240)	0.016*	(1.826)
<b><u>Target Characteristics</u></b>								
<i>Target ROA</i>	2.094***	(3.862)	1.076***	(4.702)	1.617***	(3.370)	1.781***	(7.514)
<i>Target Leverage</i>	-0.085	(-0.185)	0.105	(0.351)	-0.704	(-1.157)	0.337	(1.158)
<i>Target MTB</i>	0.001	(0.030)	0.002	(0.172)	0.046*	(1.730)	0.034***	(2.641)
<i>Target Run-up</i>	1.269***	(2.601)	0.440*	(1.659)	0.393	(0.639)	0.063	(0.245)
<i>Target NYSE/AMEX Listed</i>	0.394**	(2.070)	0.484***	(3.633)	-0.066	(-0.297)	0.464***	(4.474)
Industry Indicators	Yes		Yes		Yes		Yes	
Year Indicators	Yes		Yes		Yes		Yes	
Cluster	Firm		Firm		Firm		Firm	
Observations	1,073		1,073		1,073		1,073	
Adj/Pseudo R-squared	0.230		0.233		0.255		0.427	

\*\*\*, \*\*, \* Indicate significant at the p < 0.01, p < 0.05, and p < 0.10 levels, respectively.

This table reports the results from regressions examining the associations between *Pred.Top Legal Executive Influence* with acquirer termination fee indicators and sizes. The *Pred.Top Legal Executive Influence* is estimated from determinant model reported in Table 7. Column 1 is for *Acquirer Termination Fee Indicator*; Column 2 is for *log (Acquirer Termination Fee Size)*; Column 3 is for *Target Termination Fee Indicator*; Column 4 is for *log (Target Termination Fee Size)*. Column 1 and Column 3 are estimated using an logit regression, and Columns 2 and Column 4 are estimated using OLS regression.

**TABLE 11: M&A Model: H4: Public Process Length**

	<i>log (Public Process Length)</i>	
	<b>Coeff.</b>	<b>T value</b>
<b><i>Pred.Top Legal Executive Influence</i></b>	-0.352**	(-2.116)
<b><u>Deal Characteristics</u></b>		
<i>log (Private Process Length CA)</i>	0.010	(0.499)
<i>Tender</i>	-0.473***	(-8.100)
<i>Friendly</i>	0.123	(0.773)
<i>Multi-Bidder</i>	0.046	(0.394)
<i>Horizontal</i>	0.030	(0.679)
<i>Toehold</i>	0.022	(1.107)
<i>% of Stock Financed</i>	0.290***	(5.064)
<i>Shared Auditor</i>	0.015	(0.335)
<i>Acquirer Top Financial adviser</i>	0.035	(0.729)
<i>Acquirer Top Legal adviser</i>	0.128***	(2.855)
<i>Completed</i>	0.239*	(1.947)
<i>Premium</i>	0.137**	(2.218)
<b><u>Acquirer Characteristics</u></b>		
<i>log (Acquirer Size)</i>	-0.001	(-0.065)
<i>Acquirer M&amp;A Experience</i>	-0.049*	(-1.740)
<i>Acquirer Board-Strength</i>	-0.012	(-0.483)
<i>Acquirer CEO Duality</i>	-0.019	(-0.450)
<i>Acquirer CEO Tenure</i>	0.008*	(1.791)
<b><u>Target Characteristics</u></b>		
<i>Target <math>\sigma</math>Sales</i>	0.064***	(3.445)
<i>Target ROA</i>	0.308***	(2.992)
<i>Target Leverage</i>	0.196	(1.493)
<i>Target MTB</i>	-0.002	(-0.360)
<i>Target High Tech</i>	-0.062	(-1.227)
Industry Indicators		Yes
Year Indicators		Yes
Cluster		Firm
Observations		1,073
Adj R-squared		0.297

\*\*\*, \*\*, \* Indicate significant at the  $p < 0.01$ ,  $p < 0.05$ , and  $p < 0.10$  levels, respectively.

This table reports the results from regressions examining the association between *Pred.Top Legal Executive Influence* with *log (Public Process Length)* using OLS regression. The *Pred.Top Legal Executive Influence* is estimated from determinant model reported in Table 7.

**TABLE 12: M&A Model: H5: Completion Rate**

	<i>Completed</i>	
	<b>Coeff.</b>	<b>Z value</b>
<i>Pred.Top Legal Executive Influence</i>	2.286***	(2.633)
<b><u>Deal Characteristics</u></b>		
<i>log (Private Process Length CA)</i>	0.254***	(2.645)
<i>Tender</i>	1.175***	(2.595)
<i>Friendly</i>	3.576***	(7.067)
<i>Multi-Bidder</i>	-2.556***	(-6.130)
<i>Horizontal</i>	0.586*	(1.839)
<i>Toehold</i>	0.128*	(1.894)
<i>% of Stock Financed</i>	-0.577	(-1.469)
<i>Shared Auditor</i>	0.273	(0.801)
<i>Acquirer Top Financial adviser</i>	-0.141	(-0.418)
<i>Acquirer Top Legal adviser</i>	0.368	(1.228)
<i>log (Deal Value)</i>	0.047	(0.416)
<i>Target Termination Fee Indicator</i>	2.000***	(5.819)
<i>Premium</i>	0.066	(0.160)
Industry Indicators		Yes
Year Indicators		Yes
Cluster		Firm
Observations		1,073
Pseudo R-squared		0.519

\*\*\*, \*\*, \* Indicate significant at the  $p < 0.01$ ,  $p < 0.05$ , and  $p < 0.10$  levels, respectively. This table reports the results from regressions examining the association between *Pred.Top Legal Executive Influence* with *Completed* using logit regression. The *Pred.Top Legal Executive Influence* is estimated from determinant model reported in Table 7.

---

**TABLE 13: Additional Analysis**

---

Panel A: Alternative measure of *Top Legal Executive Influence*

	<i>Pred. Legal - Top 5 Executive</i>	<b>T value/Z value</b>
<i>log (Private Process Length DI)</i>	0.101	(0.247)
<i>log (Private Process Length CA)</i>	0.055	(0.105)
<i>Acquisition Premium</i>	-0.107	(-0.813)
<i>Acquirer Termination Fee Indicator</i>	-0.768	(-0.714)
<i>log (Acquirer Termination Fee Size)</i>	-0.128	(-0.199)
<i>Target Termination Fee Indicator</i>	-1.471	(-1.175)
<i>log (Target Termination Fee Size)</i>	-0.341	(-0.483)
<i>log (Public Process Length)</i>	-0.156	(-0.652)
<i>Completed</i>	2.071	(1.635)

Panel A reports the coefficient of the *Pred. Legal - Top 5 Executive* and the respective T value/Z value estimated from each of the M&A model. Each model follows the same model specification for each of M&A process and outcomes in the main analysis (control variables and acquirer industry and year fixed effects). The *Pred. Legal - Top 5 Executive* is estimated from determinant model using the instrument variable of *Marketing - Top 5 Executive*.

---

Panel B: Raw values of *Top Legal Executive Influence* in second stage models.

	<i>Top Legal Executive Influence</i>	<b>T value/Z value</b>
<i>log (Private Process Length DI)</i>	0.114	(1.006)
<i>log (Private Process Length CA)</i>	0.069	(0.470)
<i>Acquisition Premium</i>	0.040	(1.114)
<i>Acquirer Termination Fee Indicator</i>	0.151	(0.452)
<i>log (Acquirer Termination Fee Size)</i>	0.040	(0.239)
<i>Target Termination Fee Indicator</i>	0.027	(0.078)
<i>log (Target Termination Fee Size)</i>	0.054	(0.364)
<i>log (Public Process Length)</i>	-0.087	(-1.251)
<i>Completed</i>	0.685	(1.607)

Panel B reports the coefficient of the raw value of *Top Legal Executive Influence* and the respective T value/Z value estimated from each of the M&A model. Each model follows the same model specification for each of M&A process and outcomes in the main analysis (control variables and acquirer industry and year fixed effects).

---