

CLOSING THE DEAL

# INSIGHTS



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## Howard & Howard

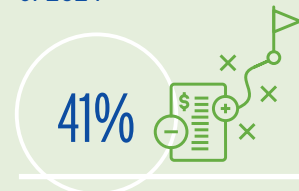
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Navigating a deal to a successful conclusion is a critical component of bank M&A, but deals have taken longer to close in recent years – with some taking a year or more. By understanding the more common obstacles, would-be merger partners can close the deal faster and move forward with their strategic plan.

### KEY METRICS



35% of bank leaders said their organization would be likely to acquire another bank by the end of 2024



41% said valuation differences due to a seller's unrealized losses could be an obstacle to M&A

Source: Bank Director's 2024 Bank M&A Survey

### KEY TAKEAWAYS

- Bank deals have been taking longer to close in recent years. In the first half of 2024, bank deals averaged 207 days to closing, compared to 150 days in 2021.
- Regulatory approvals can prolong that time. Antitrust or regulatory compliance concerns are often highly scrutinized, especially compliance with the Community Reinvestment Act and Bank Secrecy Act.
- Regulators are also carefully monitoring potential liquidity issues following deposit runs in 2023.
- Bank leaders interested in acquiring should communicate with their examiners early – before finding a merger partner – in order to get a sense for any issues that might raise flags in the regulatory approval process.
- Bank executives should also prepare to integrate the two organizations well ahead of actually closing the deal.

**Few things can kill the momentum of a deal like a prolonged time to closing, but by better understanding some of the common reasons for a delayed closing, would-be dealmakers can iron out potential wrinkles and move forward in a timely fashion.**

“If you don't close the deal and move forward, you're in this weird gray area,” says Dennis Merkley, an attorney and counselor with Howard & Howard. “The banks are competing against each other. They're competing for the same loans, but they're in negotiations to try to become one. To get it done quickly is more beneficial.”

Deals are taking longer to cross the finish line. According to data from the investment bank Janney Montgomery Scott, deals took an average 207 days to close in the first half of 2024, up from 186 days in 2023, 189 in 2022 and 150 days in 2021. A decade ago, bank deals averaged 136 days to closing.

Ideally, a bank merger would close about six months after it's announced, Merkley says. But when a deal takes longer to close – a year or more isn't unheard of – investors and other stakeholders may start to question whether regulators uncovered something serious. And they may even lose faith in the combined entity.

With a little planning and communication, prospective merger partners can mitigate some common hurdles to a timely closing.

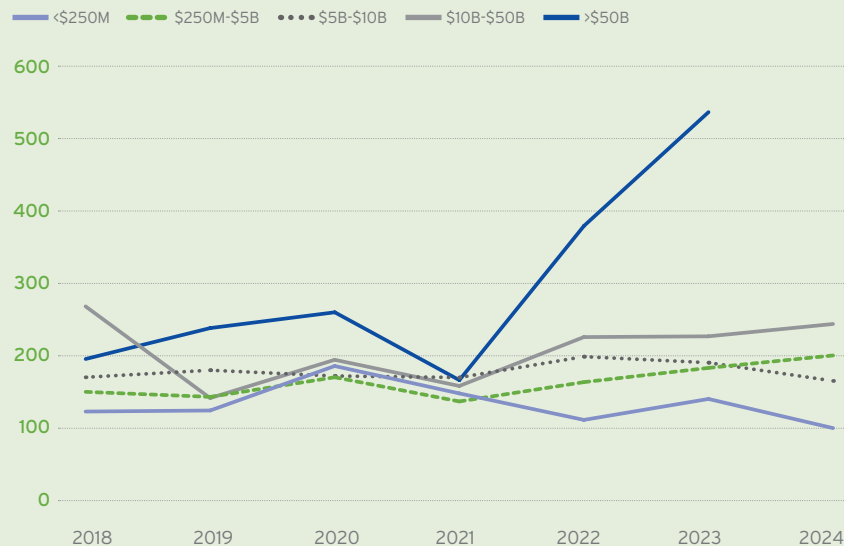
### Common Hurdles

When interest rates rose in 2022-23, low-yielding bonds and Treasuries purchased by banks in a low interest rate environment lost value. The calculation of accumulated other comprehensive income (AOCI), or unrealized gains

### Prolonged Closing Times

#### Average days to close, by buyer's asset size

Source: Janney Montgomery Scott, using S&P Global Market Intelligence data through June 27, 2024



or losses, can impact buyers' and sellers' general appetite for dealmaking due to its adverse impact on the bank's price. However, Merkley says AOCI is becoming less of an issue as interest rates remain persistently high and lower rate bonds mature. Frequently, recent sellers will liquidate their securities portfolios ahead of closing so shareholders can get any tax benefit resulting from losses, he explains.

Regulatory approvals, on the other hand, remain a perennial obstacle to a speedy closing. Myriad flavors of regulatory setbacks may await banks engaged in M&A, but those related to antitrust concerns or regulatory compliance issues are among the most common.

Banks may be able to anticipate or avoid many of these problems by doing a little additional homework in advance, Merkley says. For example, executives contemplating a merger may want to investigate the market concentration of the combined entity, using a common tool known as the Herfindahl-Hirschman Index, to determine whether a deal could raise concerns

about market concentrations, especially in rural areas with fewer banks.

Compliance with the Bank Secrecy Act and Community Reinvestment Act are other areas that regulators scrutinize carefully before approving a deal. Bankers ought to raise these questions with their regulators well in advance of pursuing a deal, Merkley says. He stresses the importance of bank leaders communicating with their regulator "early and often" before identifying a potential merger partner.

"You really want to have open lines of communication. Regulators don't like surprises," Merkley says. "When they come in for an exam, if an acquisition is on your mind, have that discussion. It doesn't have to be detailed, but say to the examiner in charge, 'We're thinking about growing; we're looking to possibly acquire another bank. Did you see anything that would give you pause?'"

The size and complexity of a deal may also influence the time it takes to gain regulatory approval, says Chris Marinac, director of research with Janney. While

there's no hard-and-fast rule defining a transformative deal, he says that a deal involving a target that is roughly 25% or more of the acquiring bank's assets will likely merit more regulatory scrutiny.

Bank regulators are also wary of being seen as rubber-stamping large bank deals, says Merkley, particularly after Silicon Valley Bank failed following a period of intense growth that included an acquisition.

A deal might also draw more scrutiny if the acquiring bank is moving into a brand new market, and likewise if either of the merger partners have possible liquidity concerns. Fintech partnerships, particularly in the banking as a service space, have also drawn more scrutiny of late.

### Plan Early for Integration

The deal isn't done when regulators sign off on the merger, either. Bankers need to think about integrating the two organizations well ahead of closing the deal, Merkley says. Planning for integration should include a review of the target bank's loan portfolios and its compliance policies, including its Know Your Customer program and suspicious activity reports.

The acquiring bank also needs to think about the core processing system. When does the target's contract end, and what will the acquirer do when that happens? Does it make more sense to switch over to the surviving bank's core or even run two separate cores? What's the marketing plan for introducing the combined entity to customers and communities? Combining the two workforces, which includes making a plan to retain key employees, is also critical to a successful integration.

"Integration is often the trickiest part — much trickier than getting through negotiating and agreeing on a deal," Merkley says. "Getting through the regulatory process can oftentimes be much easier than having to then integrate with the newly acquired bank."

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