



David J. Lavan

Partner
david.lavan@dinsmore.com

Washington, D.C.
Tel: (202) 372-9122

David is a former special counsel in the Division of Corporation Finance of the U.S. Securities and Exchange Commission (SEC).

He focuses his practice on all aspects of SEC registration, reporting and compliance. He advises clients on public and private offerings of debt and equity, disclosure matters, corporate governance and accounting issues. As a former government bond broker, David provides clients with unique insights into the financial marketplace, counseling them on transactional and regulatory matters, as well as litigation. He represents both public and private companies, as well as independent board and committee members, investment banks, private equity funds and other financial institutions. He also represents public companies, investment banks, and broker-dealers facing a variety of corporate and market crises, as well as SEC investigations.

He has experience advising clients regarding foreign direct investment matters, including US foreign ownership restrictions and, in particular, providing representation in the clearance of proposed business combinations potentially affecting national security—the review process conducted by the interagency Committee on Foreign Investment in the United States, or CFIUS, under the Exon-Florio provisions of the Defense Production Act of 1950, as amended by the Foreign Investment and National Security Act of 2007. He regularly assists clients in mitigating foreign ownership, control or influence (FOCI) as may be required by CFIUS or U.S. national industrial security regulations. David has experience guiding foreign investors and U.S. companies alike through CFIUS proceedings, having provided CFIUS advice in connection with transactions across a range of sectors, including energy, communications, technology and manufacturing. In addition, he represents clients in navigating the various embargoes administered by the Office of Foreign Assets Control (OFAC).

David is a respected authority on SEC issues, and is recognized as a go-to on the Jumpstart Our Business Startups (JOBS) Act of 2012. He is particularly well-known in the area of crowdfunding, advising issuers and crowdfunding website operators regarding related securities law compliance issues and is frequently sought to speak, write and comment about developments in the evolving crowdfunding market.

Services

- Corporate & Transactional

- Public Finance
- Venture Capital/Private Equity
- Government Relations
- International Business
- Capital Markets
- Private Placements
- Public Company Reporting, Compliance & Governance
- Public Offerings
- Litigation
- White Collar Crime
- Government Investigations
- Investment Advisers
- Banking & Financial Services
- Education Industry
- Natural Resources Industry
- Life Sciences Industry
- Public Utilities Industry
- Securities Enforcement & Litigation
- Environmental, Social & Governance (ESG)
- Blockchain Technology & Digital Currency

Education

- California Western School of Law (J.D.)
- University of Virginia (B.A.)

Bar Admissions

- District of Columbia
- New York

Distinctions

- BTI Client Service All-Stars (2018)

Experience

Counseled Client in its Acquisition of a \$1.9 Billion Publicly Traded Financial Holding Company.

Peoples Bancorp Inc. has engaged us for a variety of significant projects involving M&A and regulatory matters over the last 12 months. We partnered with Peoples on its most significant acquisition to date with our team, the purchase of Premier Financial, a \$1.9 billion dollar public company with financial operations in seven states. This was a complex deal requiring a deep and broad team to handle a three-step merger, shareholder approvals, various regulatory approvals, and multi-state filings. The team was heavily involved in negotiating proper allocations of risk, transaction documents, and leading diligence, working hard in a compressed timeframe to get to signing. Other projects completed with Peoples included advising on a variety of corporate governance matters and regulatory matters.

Counseled Leading ULT Freezer Company through Merger

We counseled our client, Stirling Ultracold, an innovative developer and manufacturer of ultra-low temperature (ULT) freezers for life science and biopharma research, through its merger with BioLife Solutions, Inc., a developer focused on bioproduction devices used in cell and gene therapies. The all-stock merger was in excess of \$230 million.

Stirling's CEO saw the potential for increased demand for the company's freezers during the COVID-19 pandemic as the freezers were a direct competitor to dry ice used in storing the COVID-19 vaccine. Merging with BioLife enabled Stirling to execute an aggressive strategic plan marketing and selling its freezers. Dinsmore served as the company's general counsel since 2019, and our team of attorneys brought experience in mergers and acquisitions, labor, insurance, and life sciences, all of which was necessary to fully understand and address the company's specialized needs. We counseled our client through the merger while simultaneously defusing challenges. Our team's collective experience enabled Stirling's executives to address the company's short-term needs while also achieving its long-term goal.

"The entire team at Dinsmore was, by far, the best engagement I have had in the 15-plus strategic transactions I have done throughout my career," said previous Stirling Ultracold CEO Dusty Tenney, now COO and president at BioLife. "Their responsiveness, engagement, availability and deal leadership were extraordinary from LOI to closing."

Complex ESOP Transaction

We counseled a global manufacturer of additives for lead acid batteries through a complex ESOP transaction intended to provide liquidity to the company's shareholders. This transaction involved a collaborative team of Dinsmore attorneys across practice groups who worked closely with ESOP trustee counsel, the lender's counsel, and other environmental and financial advisors. The team oversaw the company's due diligence, in particular its specialized environmental due diligence, conducted a tender offer due to the relatively sizeable number of shareholders involved, and constructed the ESOP plan and other ancillary plan documents. We ultimately finalized a plan and consummated the transaction enabling our client to achieve its goal of a sustainable balance between what is best for its business, employees, shareholders, and community.

Assisted with the Acquisition of a Cyber Security Specialist

We assisted our client, a European government-owned entity, during the acquisition of a cyber security specialist. We drove a successful CFIUS filing process, which was necessary because national security and government contracts were involved. We also assisted on agreement issues and coordinated with European counsel.

Committee on Foreign Investment in the U.S. (CFIUS)

We routinely analyze transactions to determine the applicability of the CFIUS process, and make the required filings to obtain U.S. government pre-approval of cross-border transactions, including structuring remedial measures to modify governance and operational and reporting procedures.

Oversaw the Complex Acquisition of a USA-Based Nuclear Service Company

Description: Our client, an agriculture and engineering group, acquired a nuclear engineering company. We drove a successful CFIUS filing process, necessary because national security and government contracts were involved. We handled all aspects of the complex deal, from start to finish.

Represented a U.S. Tech Company During a European M&A Deal

We assisted our client, a U.S. public tech company, in the acquisition of a Euro/U.S. target. We performed a CFIUS analysis, assisted with the acquisition agreement, performed due diligence and assisted with governance issues while coordinating with European counsel.

Client Settlement

Principal representative of a major investment bank and Fortune 20 company in an industry-wide group that obtained precedent-setting relief from the SEC that effectively permitted settlement of significant litigation with the SEC and state attorneys general affecting more than \$60 billion in securities, Auction Rate Securities -- Global Exemptive Relief.

Securities Counsel

Devised successful defense strategy for Fortune 100 client in the energy services business in a widely reported SEC investigation. Managed client team in responding from discovery through a substantial internal investigation and multiple Wells submissions.

Acquisition of Coal Mining Operation Assets

We served as transaction counsel to Coronado Coal II LLC in an approximately \$174 million transaction involving the acquisition of the coal mining operation assets of Cliffs Logan County Coal, LLC from Cliffs Natural Resources, Inc. The assets involved in the transaction were active underground and surface mines with metallurgical and thermal reserves, preparation and loading facilities and related infrastructure. We advised the client at each step of the transaction, including the initial offer and proposed letter of intent, due diligence, negotiating the purchase agreement, transition services agreement, permit operating agreement and certain third party agreements and efficiently executing the closing of the sale. The transaction, was the firm's fourth coal asset acquisition for this client and the entities associated with it since 2012.

Client Settlements

Led team comprised of client management, co-counsel and staff that designed and managed successful client settlements related to several billion dollar enterprise-threatening litigation, successfully met multiple deadlines imposed by federal and state regulators.

Counsel on Multi-year Financing Plan

Guided Fortune 100 client through a multi-year financing plan to facilitate acquisitions, dispositions, joint ventures, the offer and sale of debt and equity securities and the restructuring of its balance sheet resulting in transforming

the client from a \$2 billion local gas distribution company to \$7 billion interstate pipeline company over a period of seven years.

No-action, Interpretive and Exemptive Letters

Drafted significant No-action, Interpretive and Exemptive Letters addressing novel issues in derivatives trading and successor issuer reporting.

Outside General Counsel

Served as outside general counsel to a venture capital company in all aspects of its business, including its merger with a public company, investments in start-ups and developing companies, restructuring and financing through private placements.

Product Recall

Advised NASDAQ-listed foreign consumer products company through international product crisis and significant product recall, including internal and external investigations, and counseling senior management regarding litigation avoidance and reputational preservation strategies.

Securities Counsel

Advised clients on strategies to avoid significant liability under the short-swing profit rules of Section 16(b) of the Securities Exchange Act of 1934.

Securities Counsel

Advised semiconductor company through major “options backdating” investigations regarding the restatement of its financial statements, delisting and relisting on NASDAQ, worked with internal counsel, accounting and treasury personnel and outside consultants to recreate financial statements, represented company in obtaining related regulatory relief from the SEC.

Publications

May 20, 2022

Are SEC In-House Judges Unconstitutional?

March 25, 2022

SEC Registrants Should Prepare Now for Proposed Climate-Related Disclosure Rules

January 28, 2022

A Proxy Season and Annual Report Guide to 2022

November 1, 2021

SEC Continues to Drive ESG—More Steps Toward Climate Change Disclosure

October 21, 2021

Navigating the SEC’s Renewed Clawback Rule Proposal

October 6, 2021

SEC Continues to Drive ESG — Climate Change Disclosure Takes the Wheel

August 26, 2021

Open Banking – An Endeavor of Competing Goals

August 19, 2021

SEC Continues to Drive ESG -- Approves Nasdaq's Board Diversity Listing Standards

March 22, 2021

ESG as the Prism For Change – the SEC Targets Proxy Voting

March 17, 2021

More ESG Signals from the SEC

March 8, 2021

Should I Notify CFIUS of My Transaction?

March 5, 2021

The SEC Signals ESG as an Enforcement and Disclosure Priority

January 13, 2021

A Proxy Season and Annual Report Guide to 2021

November 5, 2020

SEC Disclosure Requirement Amendments to Regulation S-K: Description of Business, Legal Proceedings, and Risk Factors

October 16, 2020

CFIUS: Now More Complicated and More Expensive

October 13, 2020

Securities and Exchange Commission Rescinds Guide 3

September 11, 2020

Everybody in the Pool! – The SEC expands the definition of Accredited Investor

March 27, 2020

SEC Announces COVID-19-Related Relief

January 7, 2020

A Proxy Season Guide to 2020

December 12, 2019

Government Scrutiny of Foreign Investment on the Rise – CFIUS Releases Annual Report to Congress

October 4, 2019

Proposed New Rules Implementing CFIUS Reforms

June 6, 2019

The SEC Lends a Hand to Banks in this Low Interest Rate Environment

January 14, 2019

A Proxy Season Guide to 2019

September 19, 2018

Size Matters: SEC Helps Middle Market Companies

July 27, 2018

Charting the Way Forward: A Comparison of the Proposed Reforms to CFIUS

July 26, 2018

FINRA Issues Digital Asset Notice

April 18, 2018

You've Been Hacked! A Cybersecurity Disclosure Guide for In-House Legal Counsel

April 5, 2018

New CFIUS developments: Is it China, data or both? This time it was China! Qualcomm-Broadcom Merger Rejection Demonstrates Committee's Broad Power, Focus on China

February 27, 2018

New CFIUS developments: Is it China, data or both? Cogint and Genworth add new data points in understanding stricter CFIUS review process

January 16, 2018

MoneyGram-Ant Financial Transaction the Latest Casualty of CFIUS's Increased Scrutiny of Chinese Deals; CFIUS Interprets "National Security" to Include Data-Security, Fails to Approve Deal

January 9, 2018

Proposed Bill Expands, Strengthens CFIUS Review, Makes Some Filings Mandatory and Adds a New Regulatory Hurdle in Domestic Transactions Involving Foreign Investors

November 2, 2017

The SEC's Pay Ratio Disclosure Rule and Recent Guidance

August 2, 2017

Foreign Investment in the United States: Don't Let CFIUS Unwind Your Deal!

June 12, 2017

Defining the Standard of Friendship in Insider Trading Cases After Salman

June 13, 2016

Disincentivizing Incentives – The Changing World of Banker and Broker Compensation

May 7, 2015

BEA Filing Deadlines Fast Approaching