



## David J. Lavan

Partner  
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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
- Private Equity
- Government Relations
- International Business
- Capital Markets
- Private Placements
- Public Company Reporting, Compliance & Governance
- Public Offerings
- Litigation
- White Collar Defense
- 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
- Venture Capital
- Investment Funds & Investment Management

## **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 mergers 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**

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 most 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**

December 28, 2023

**Private Investment Funds: Assess Your Structures and Prepare for Corporate Transparency Act Compliance**

November 8, 2023

**DOJ Offers ‘Stay Out of Jail Free Card’ for Successor Liability**  
BankDirector.com

October 19, 2023

**The SEC Shortens the Time to Report Going Long**

October 9, 2023

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**Disclose for Declination – DOJ Announces New Safe Harbor Policy for Voluntary Disclosures in Mergers & Acquisitions**

September 1, 2023

**SEC Adopts Significant New Rules for Private Fund Advisers**

August 4, 2023

**More Disclosures Required for Public Companies with the SEC's New Cybersecurity Rules**

June 13, 2023

**Regula Interruptus – Share Repurchase Disclosure Rule Delayed?**

March 2, 2023

**SEC Commissioner Discusses Reform to Regulation D**

February 16, 2023

**2023's Proxy Season and Annual Report Guide**

December 21, 2022

**The SEC Raises the Bar for Insiders and Issuers Regarding Rule 10b5-1 Plans**

December 8, 2022

**Now You See It, Now You Don't: SEC's Final Rule on Clawback Policies**

October 5, 2022

**Get Ready! New SEC Disclosure Rules are Coming**

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**