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Cybersecurity Due Diligence Remains a Critical Focus in U.S. M&A Transactions

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Cybersecurity has become a central component of M&A due diligence as buyers increasingly recognize the potential financial, operational and reputational risks associated with cyber incidents. Recent regulatory developments, expanded disclosure requirements and a growing number of ransomware and data breach events have heightened scrutiny of target companies' cybersecurity practices. As a result, acquirers are devoting greater attention to evaluating cybersecurity controls, incident response capabilities and compliance with applicable privacy and data protection laws during the diligence process.

In addition to assessing whether a target has experienced prior cybersecurity incidents, buyers are increasingly examining the maturity of the target's overall cybersecurity program. Areas of focus often include governance structures, third-party vendor management, employee training, access controls, cybersecurity insurance coverage and procedures for identifying and responding to security threats. For businesses that handle significant volumes of personal, financial or sensitive data, buyers are also reviewing compliance with applicable federal and state privacy requirements and evaluating potential exposure arising from regulatory investigations or private litigation.

Given the growing significance of cyber-related risks, transaction parties should address cybersecurity considerations early in the deal process. Buyers may seek enhanced representations and warranties, specific indemnification protections or remediation measures as conditions to closing, while sellers can benefit from identifying and addressing potential vulnerabilities before entering the market. As cybersecurity continues to influence valuation, transaction timing and post-closing integration efforts, robust cyber diligence is increasingly viewed not merely as a compliance exercise, but as a critical component of assessing and preserving deal value. Companies that proactively evaluate and manage these risks will be better positioned to execute transactions efficiently, avoid post-closing surprises and facilitate a smoother integration of acquired operations.

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