



# Nonprofit Mergers and Acquisitions: Is Now the Time for Your Organization?

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## Upcoming Nonprofit Webinars

- April 28th, 2021: Lobbying Considerations for Nonprofits: What Your Organization Needs to Know
- May 19th, 2021: Staying Remote, Returning to Work, or Both? Legal Considerations for Nonprofits



## Introductions and Overview

- ❑ Identifying the opportunity—setting the stage
- ❑ Legal life cycle of the transaction
- ❑ Key deal issues
- ❑ Common deal structures
- ❑ Case study: creation of Finseca
- ❑ Key takeaways and lessons learned

# Why Start Down This Road?

**Vision Realignment:** Enlightened leadership has big goals and sees limitations of current state

**Membership/Funders/Services:** Competition for a limited market of members/funders/attendees/consumers

**Sustainability/Impact/Expansion:** Ensure continuance or enhancement of programs through collaboration

**Economies of Scale:** Maximizing resources, efficiencies

**New Opportunities:** Expand geographic focus or footprint, broaden revenue sources, address changes to industry/profession





# How Do You Start Down the Road? Contemplating Organizational Change

Define strategic vision + goals

Identify your “fit”—culture

Analyze potential synergies + practical implications

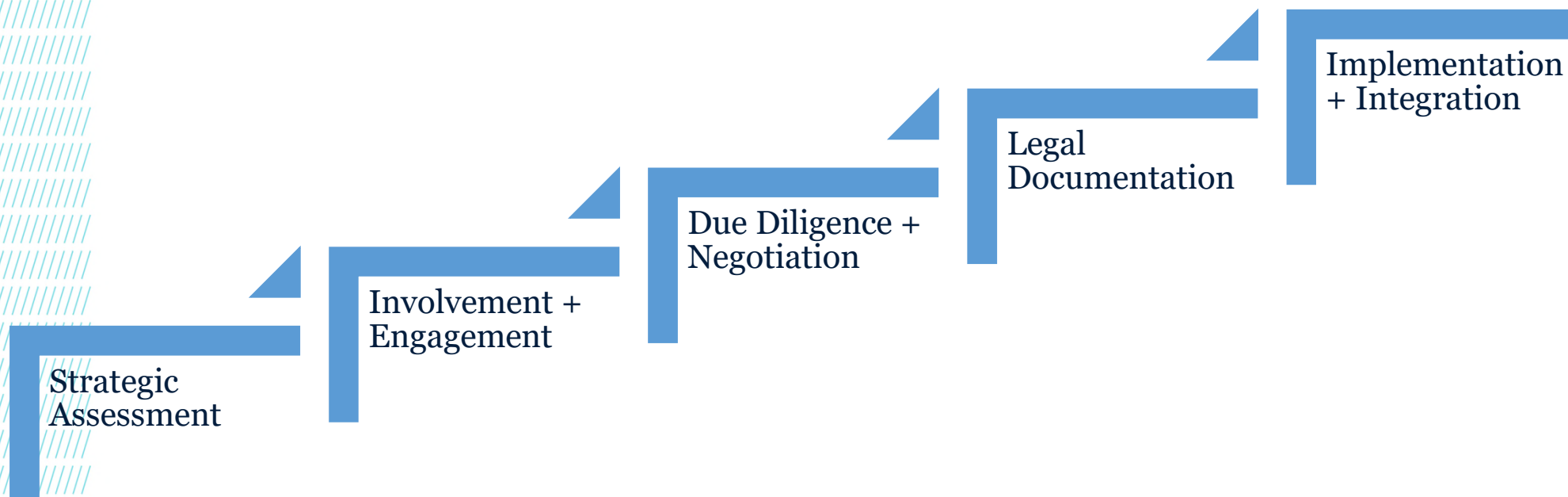
Outline rough concept

Designate your dealmakers

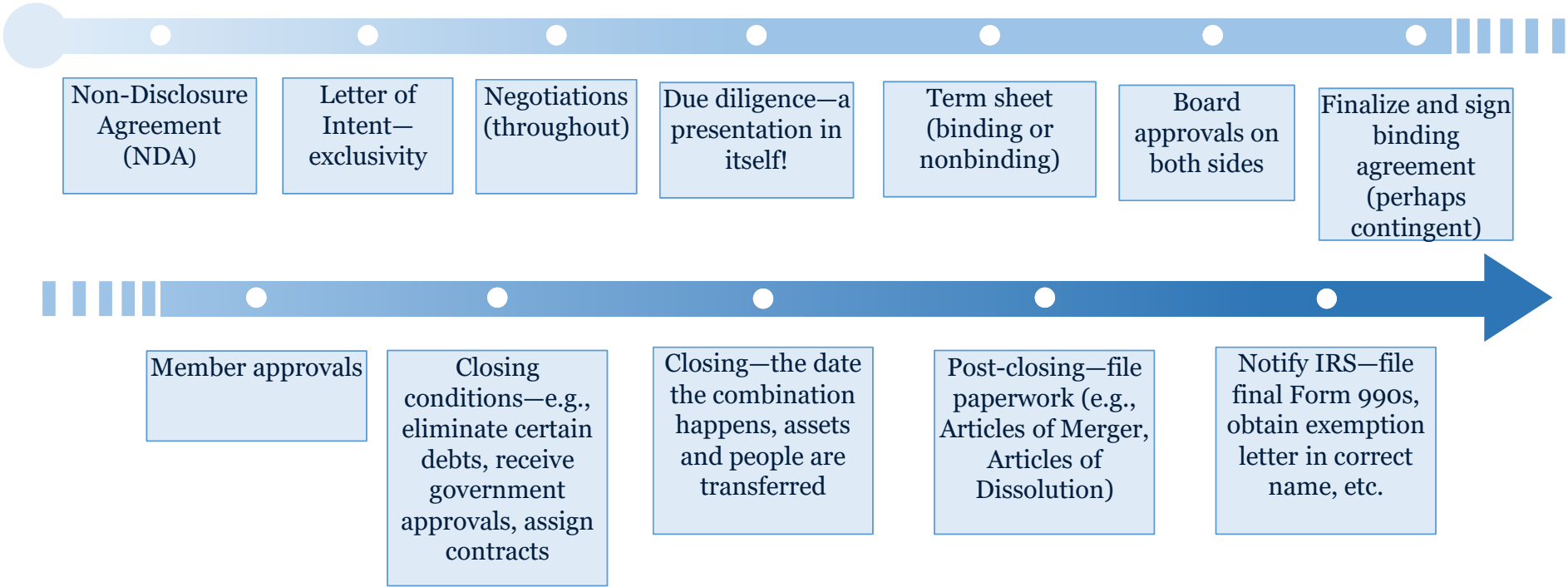
Staffing at the most senior level

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# Steps in the Combination Process



# Legal Life Cycle of the Transaction



## Key Deal Issues

- ❑ The big three: vision + strategy + culture—not in the agreement, but critical
- ❑ Governance—who will be on the board of the surviving entity? Board chair and other officers? Can be the biggest sticking point.
- ❑ Name and branding—legacy
- ❑ Leadership—you probably won't end up with two CEOs....
- ❑ Program—how long will the surviving entity agree to run the other organization's programs? Can they change those programs?
- ❑ Membership—how to honor membership in the non-surviving entity and reconcile dues structures?
- ❑ Funding—are there donor or other restrictions on the target's funds?
- ❑ Big contracts—leases, hotel contracts—what can you get out of, what needs to be assigned (note differences between merger and asset transfer here)
- ❑ Liabilities—slip and fall, employment issues—what insurance does each party carry?
- ❑ Operational analysis—what are the potential savings from economies of scale? How hard will it be to combine IT systems? What are the key assets (e.g., data) and can they be transferred?
- ❑ Employees – compensation equity, employee benefit plans



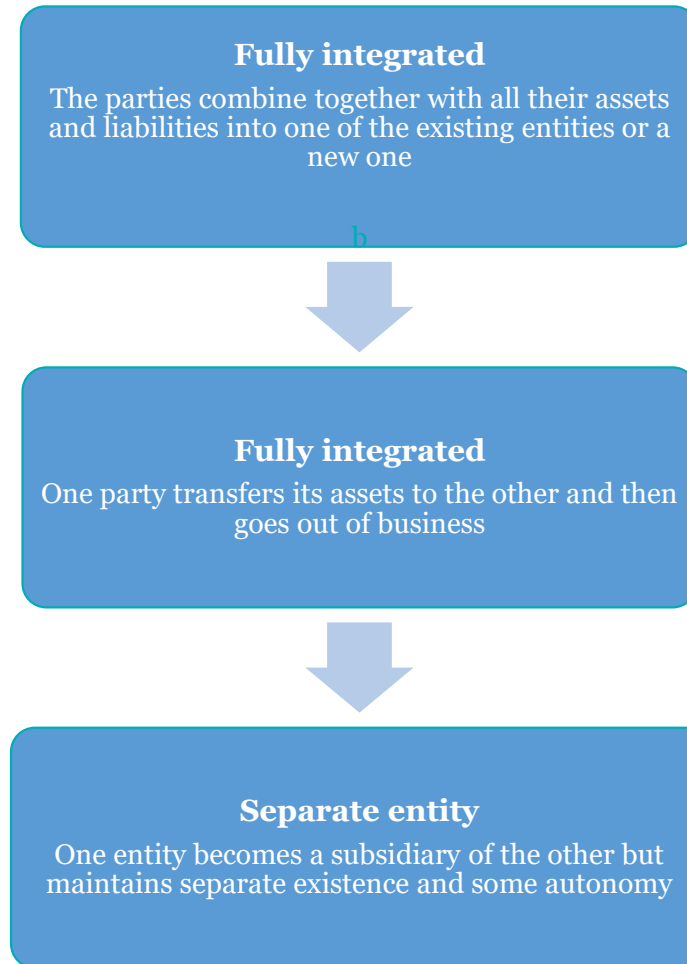
# Types of Combinations

Merger or consolidation

Acquisition of assets followed by dissolution

Wholly owned subsidiary

(Joint ventures, affiliations, strategic partnerships, and contractual relationships are all ways to work together without fully combining)



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Case study:



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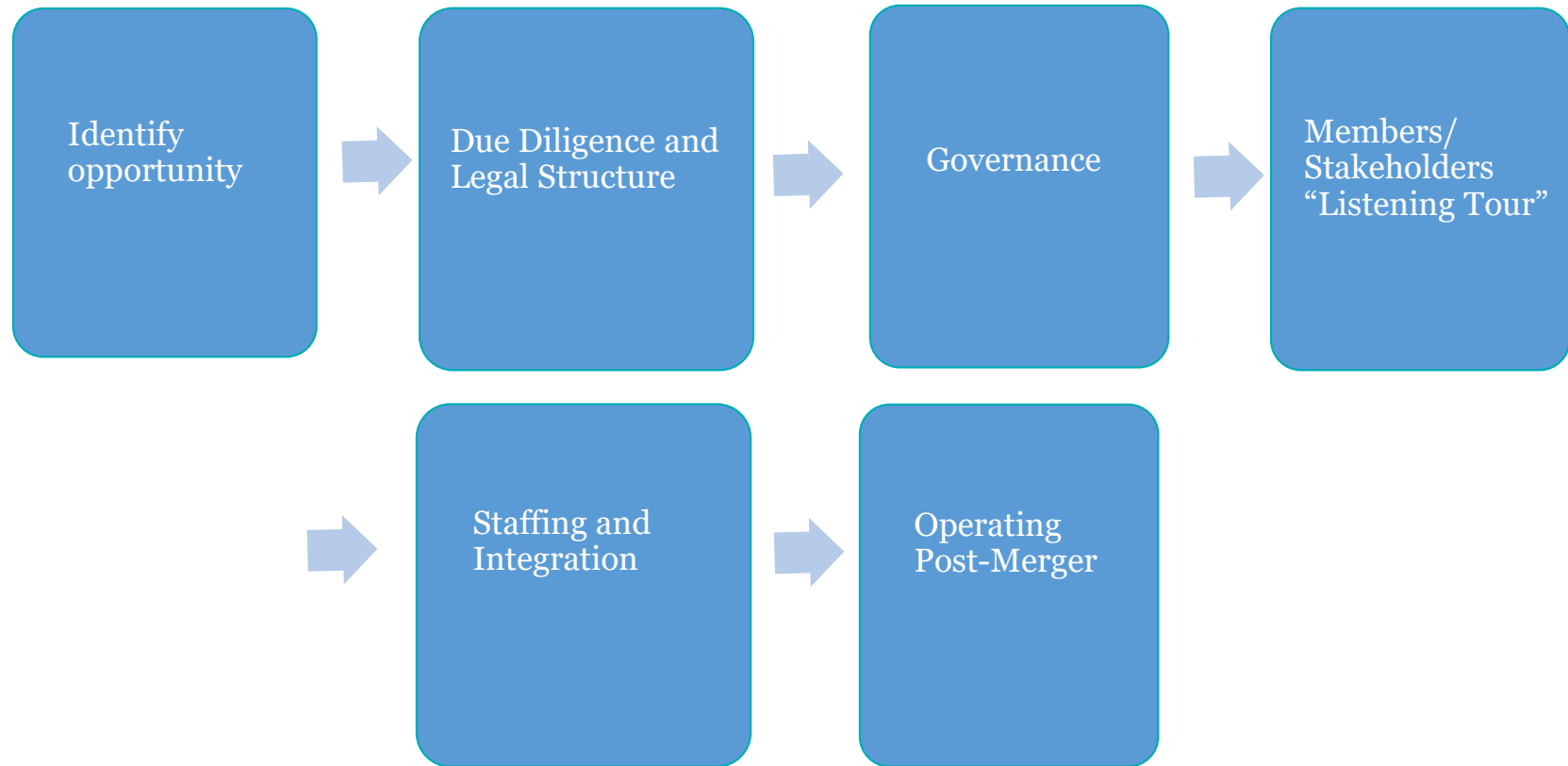


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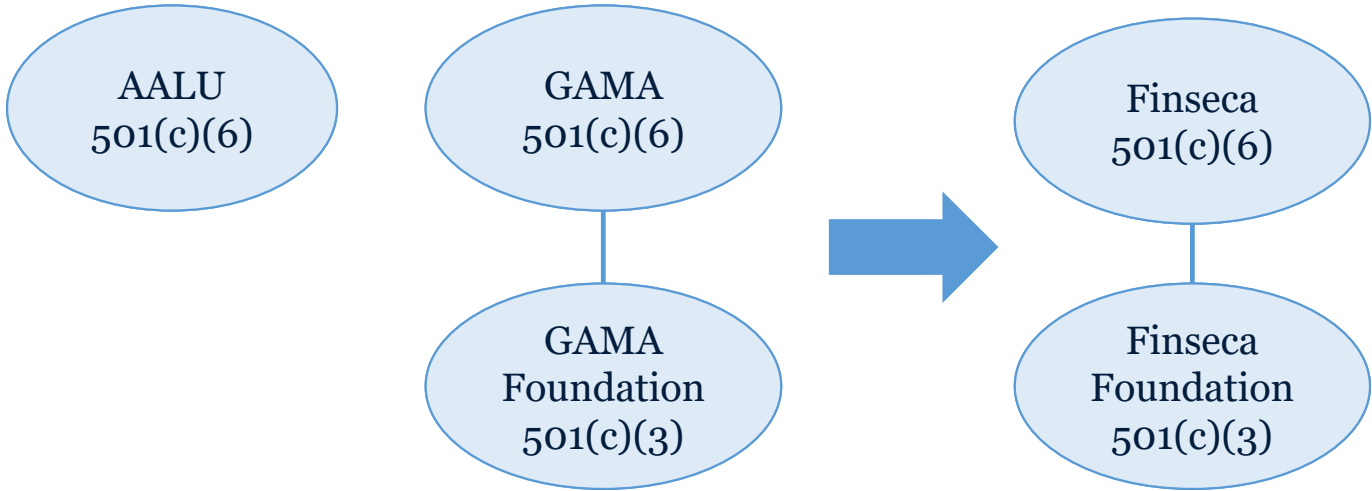


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## Finseca's Journey



# Finseca “Merger of Equals”

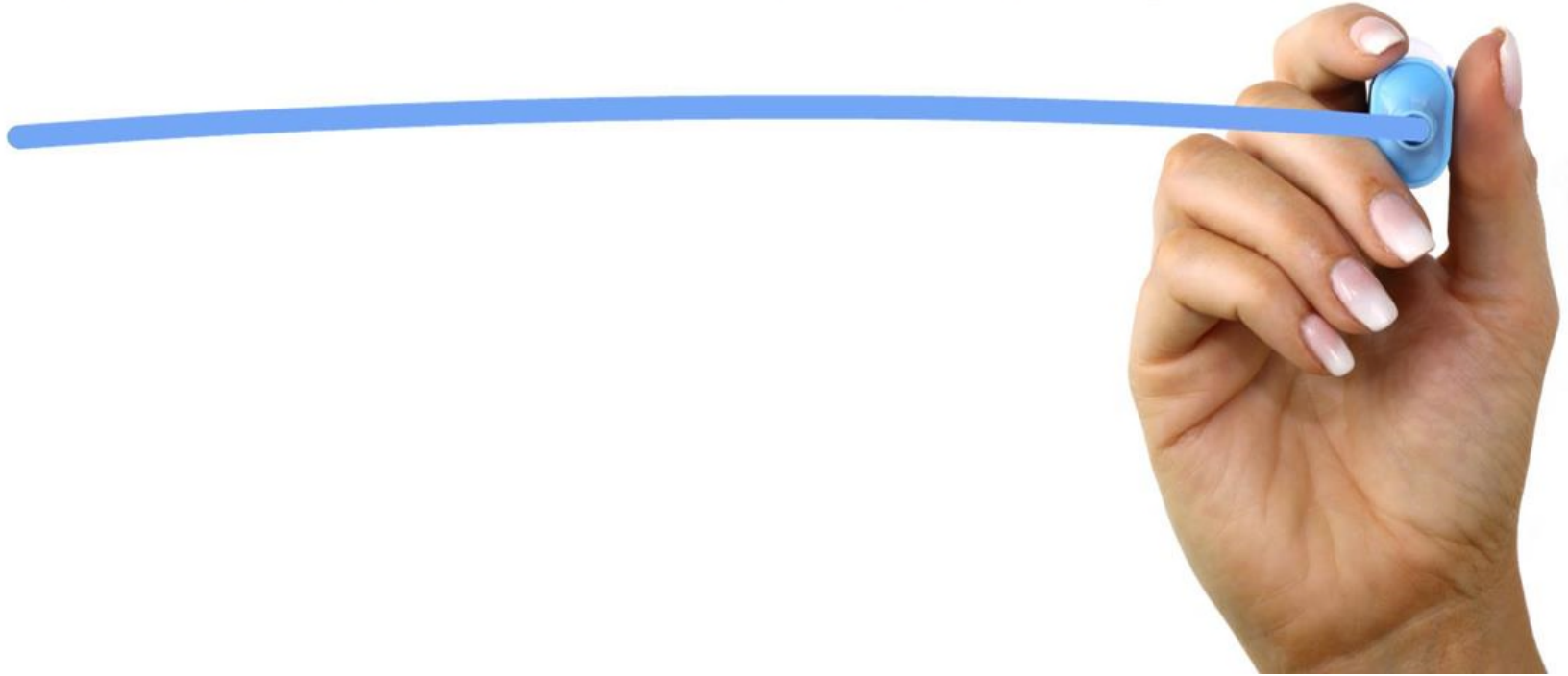


## Key Takeaways + Lessons Learned

- ❑ Everything takes longer than you think
- ❑ Expect the unexpected
- ❑ There is no “one size fits all” approach—each deal is unique
- ❑ Get buy-in as soon as you can—board, members, donors, clients, **employees** - all key constituencies
  - Be careful of confidentiality—don’t catch your partner by surprise
- ❑ Document at every stage so you know you are both on the same page
- ❑ Clarity on the desired goals, outcome, and mission is key, as is trust—otherwise, desire for autonomy and self-interest, together with natural resistance to change, will prevail
- ❑ Things go more smoothly if neither party is in crisis and desperate
- ❑ Do a deep dive and fully understand the assets and liabilities of the parties
- ❑ Focus on operations—how will things actually work?
- ❑ Don’t forget your people! And remember to work on blending cultures

**Wow, you did it! And look at the scale, reach,  
and impact you have now!**

QUESTIONS





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