

LOVE & MERGERS

in a cold climate



I have to hand it to this magazine's editor; she's very *au courant*. Her demands for suitable Christmas and New Year pieces had only just stopped ringing in my ears when she started on about the February edition. "It's the Love issue," she told me. "Could you try to make your piece a bit more, well, amorous?" My mind wandered over some of the more obvious associations between "amour" and "finance" – and I rejected them immediately. Instead, I thought I'd better return to safer ground: the financial aspects of being together.

I'm not totally comfortable with the commercial exploitation of Valentine's Day. In the same way that we are encouraged every year to celebrate Halloween in an oh-so-American way, it seems to me that the 14 February is in danger of going the same way. That said, I could not help noticing one of my least susceptible colleagues

last year loaded down with more flowers than you could find in Amsterdam and clutching a massive box of Milk Tray (how *au courant* is that?). Still, at least he wasn't wearing a black polo neck.

Two people in love might seek to make their relationship more permanent.

Two years ago I wrote about the challenges of two individuals setting out together. Once they had moved past the "love's young dream" stage, I imagined that two people in love might seek to make their relationship more permanent. I explored the financial benefits of becoming a

couple – and pointed out some of the pitfalls too. Looking back at the February 2014 issue, I think what I wrote still applies (you can still read it online in the magazine's archive section).

So, this year I thought I would "stretch" the love theme a bit and consider two businesses coming together. This could range from the massive

international mergers and acquisitions that so excite investors and the financial press, to the smaller local "unions" such as when two firms in Gibraltar "tie the knot". While the financial crisis may have put the brakes on the march of globalisation in recent years, last year's gigantic £71bn takeover of SABMiller by Anheuser-Busch InBev, which combined the world's two largest beer makers, was a staggering – no pun intended – exception. It is astonishing to think that this "marriage" will create a behemoth controlling 30% of the world's beer production, including brands such as Budweiser, Corona Extra, Stella Artois, Grolsch and Peroni.

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Let us not forget, however, that the two largest UK bank rescues – RBS and Lloyds – both followed gigantic corporate deals that attracted lots of favourable attention but did not work out as intended. And, as I've said previously, the recovery we are seeing is both fragile and segmented. Indeed, as



2016 begins, George Osborne is warning that the UK faces a “dangerous cocktail” of threats from a slowing global economy and also says he fears “a creeping complacency in the national debate about our economy”.

I agree that this is no time to be complacent but, if global recovery continues, we should expect to see, in certain areas at least, more M&A deals coming through.

After all, many companies around the world have been amassing “war chests” of cash as they focus on costs and consolidation rather than investment and expansion. This will need to be put to better use.

It should still be possible to talk to an experienced business banker about your ideas.

As in any personal relationship, bringing together companies – whether by way of a joint venture or a full-blown takeover – can be fraught with problems. The ever-increasing burden known as “due diligence” now pervades many aspects of our lives.

An individual trying to open a bank account will need the patience of Job and, unlike Job, will also be asked to produce ID documents, utility bills and maybe a pay slip or similar.

It makes me smile. When I was a junior corporate banker in the City 30 years ago, “DD” was something most of us had never previously come across. I remember all too clearly seeing piles of such documents relating to one of our corporate customers, which was in the process of being acquired by another company. I could look at them from afar but I was not permitted to read the impenetrable, and thus enticing, folders. How times change. DD is now part and parcel of everyday life.

Large and medium-sized enterprises, especially those with active outside shareholders, will generally be well equipped in terms of M&A expertise, but what help is available for smaller firms or individuals seeking to buy or merge with an existing business or who have received such an

approach from another firm or individual? Particularly, when that target enterprise or “suitor” happens to be based in a different country. Well, perhaps surprisingly, there is a lot of good advice available and most of it can be obtained right here, in Gibraltar.

Deciding on the proper structure for your potential business could be key to its success.

There are the obvious people such as lawyers – and we certainly have our fair share of these locally! They will be needed when preparing watertight agreements and this will be money well spent. I have come across many disputes between two or more shareholders in a company. Like a marriage, it may be the result of “unreasonable behaviour” or “irreconcilable differences”, but the result is always the same: an unholy mess. A well thought out, robust shareholder agreement prepared at the outset could save all this. Think of it as a kind of business pre-nup.

Accountants can be also very helpful – and not just the “bean counters” who prepare the annual accounts. Many have “advisory” divisions that have become so important that they actually decide to spin off the accounting side.

And do not forget the banks. I accept that the traditional model of popping in to speak to your bank manager is somewhat outmoded these days. It’s all Internet



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banking and automated voices telling us how important our call is. And could you please press 3 to continue ... now press 7 ... please press 3 again ... well, you get the idea. However, it should still be possible to talk to an experienced business banker about your ideas. If you can't do this with your bank, then change banks. Easier said than done, I know, but it could be well worth the effort – once you have done your "DD" of course.

Deciding on the proper structure for your potential business could be key to its success. Companies such as the one I work for

Due diligence is now part and parcel of everyday life.

will readily assist – although be prepared to pay for good advice. It will be worth it. There are many different ways to establish a business but, as a general rule of thumb, operating in your personal name is not often a good idea. This is due to the potential liability issues if things go awry.

A properly established company will not cost the earth, especially here in Gibraltar, and being "incorporated" offers huge benefits in terms of shareholder liability limitation (that's what the "Limited"

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stands for after all). Another benefit is that the discipline of having to prepare the company accounts over the years will make it much easier to value a business, either for borrowing purposes or perhaps for a merger or sale in the years to come.

So yes, coming together, whether in a corporate M&A situation or as two people proposing to share their lives together, does involve passion, but it also involves financial and legal commitments. Not to mention "DD" of course. I can already hear the cry go up in certain quarters, "but love isn't about money". As someone who has enjoyed a wonderful partnership for over a quarter of a century, I couldn't agree more. But as a former banker I also know that, whether as individuals or businesses, it is vital to get the finances right at the outset. All sorts of good things will flow thereafter. So, have a Happy Valentine's Day.



Ian Le Breton
 is Managing Director
 of Sovereign Trust
 (Gibraltar) Limited

Tel: +350 200 76173
 Email: ilebreton@SovereignGroup.com

