



The Capital Network: Financing Roundtable

Growth and Exits

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FOLEY
HOAG LLP
ATTORNEYS AT LAW

About Foley Hoag

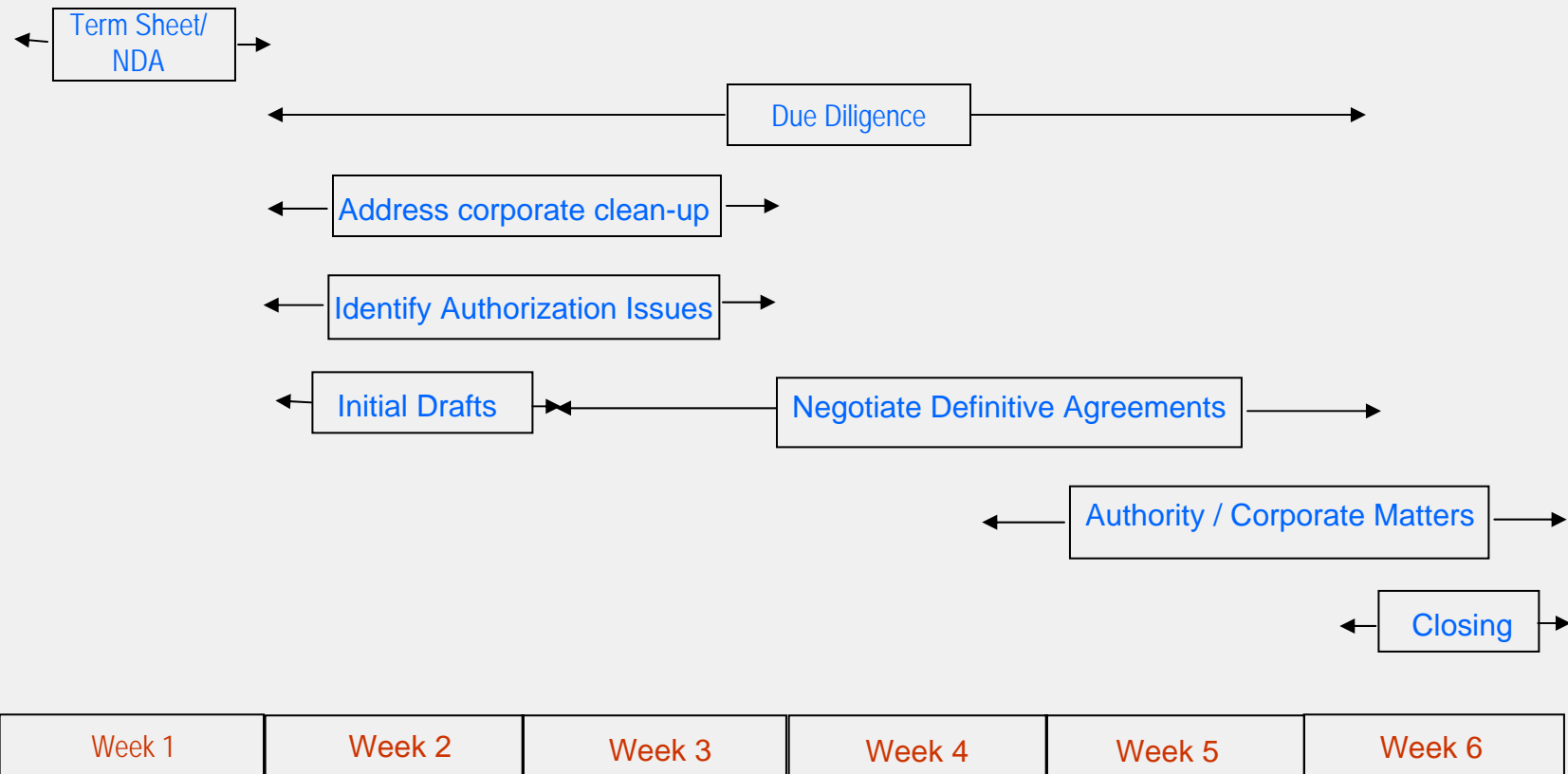
- Foley Hoag is a full service law firm of over 240 attorneys.
- Based in Boston, with offices in Waltham (EEC) and Washington, DC.
- *Emerging Companies.* We serve as counsel to many technology, life sciences and other emerging companies. We have the experience and resources necessary to address the full range of issues faced by these companies with skill, speed and efficiency.
- *Venture Capital.* We also represent venture capital investors in a large number of financing transactions, from small seed rounds to much larger later stage investments. We have extensive experience with the issues likely to arise in these transactions and can provide cutting edge advice on the corporate and securities law and other aspects of these transactions.

Growth (Financing) Event – Legal Process

Important Questions:

- What is the typical process for actually getting the money?
- How much time does this process generally take?

Venture Capital Financing Sample Timeline



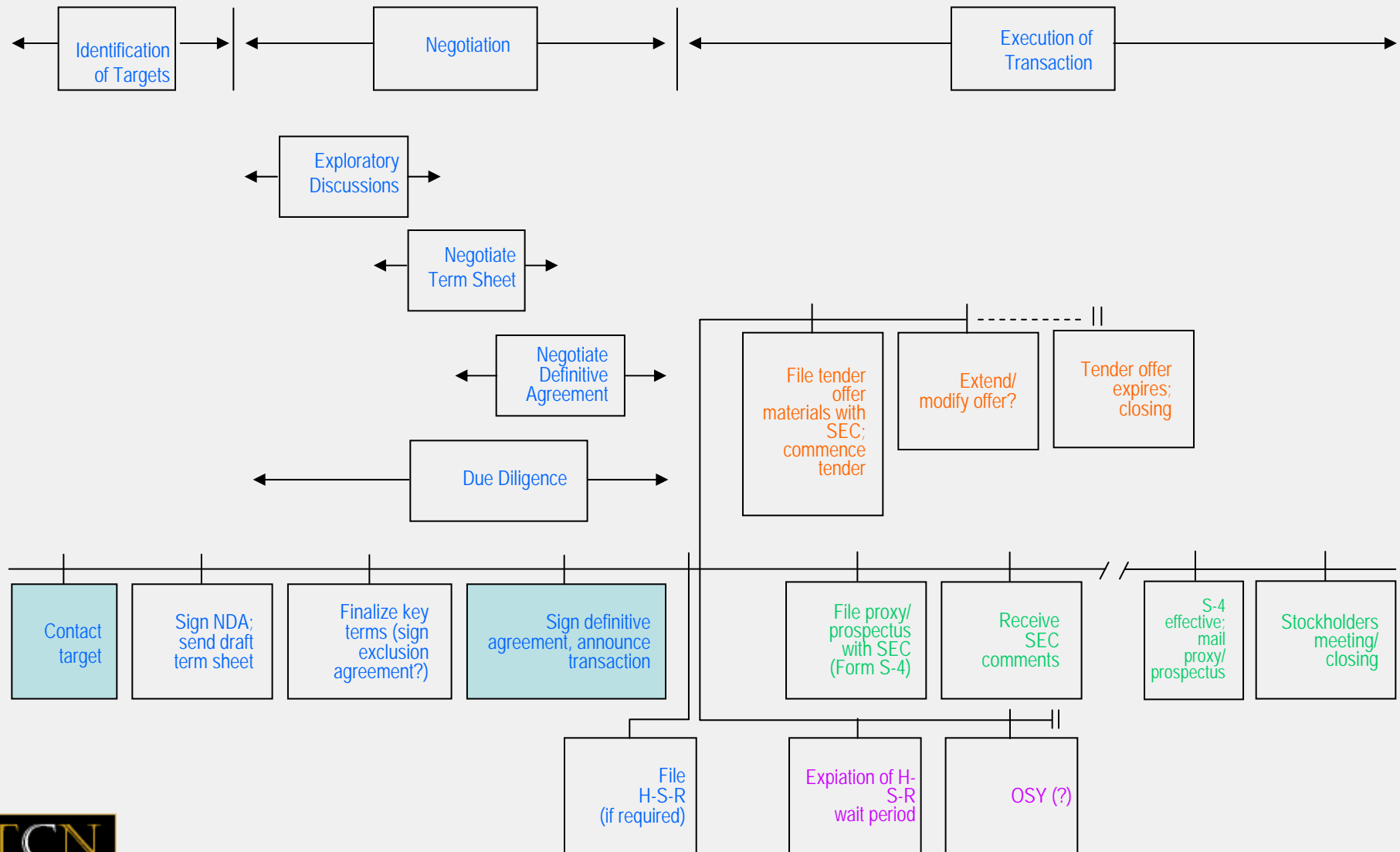
Financing Issues: Documents

- **What documents are usually involved?**
 - Term Sheet and (sometimes) Non-Disclosure Agreement
 - Amendment to Certificate of Incorporation
 - Preferred Stock Purchase Agreement ("SPA")
 - Disclosure Schedule
 - Investor Rights Agreement ("IRA")
 - Right of First Refusal and Co-Sale Agreement
 - Voting Agreement
 - Management Rights Letter
 - Indemnification Agreement

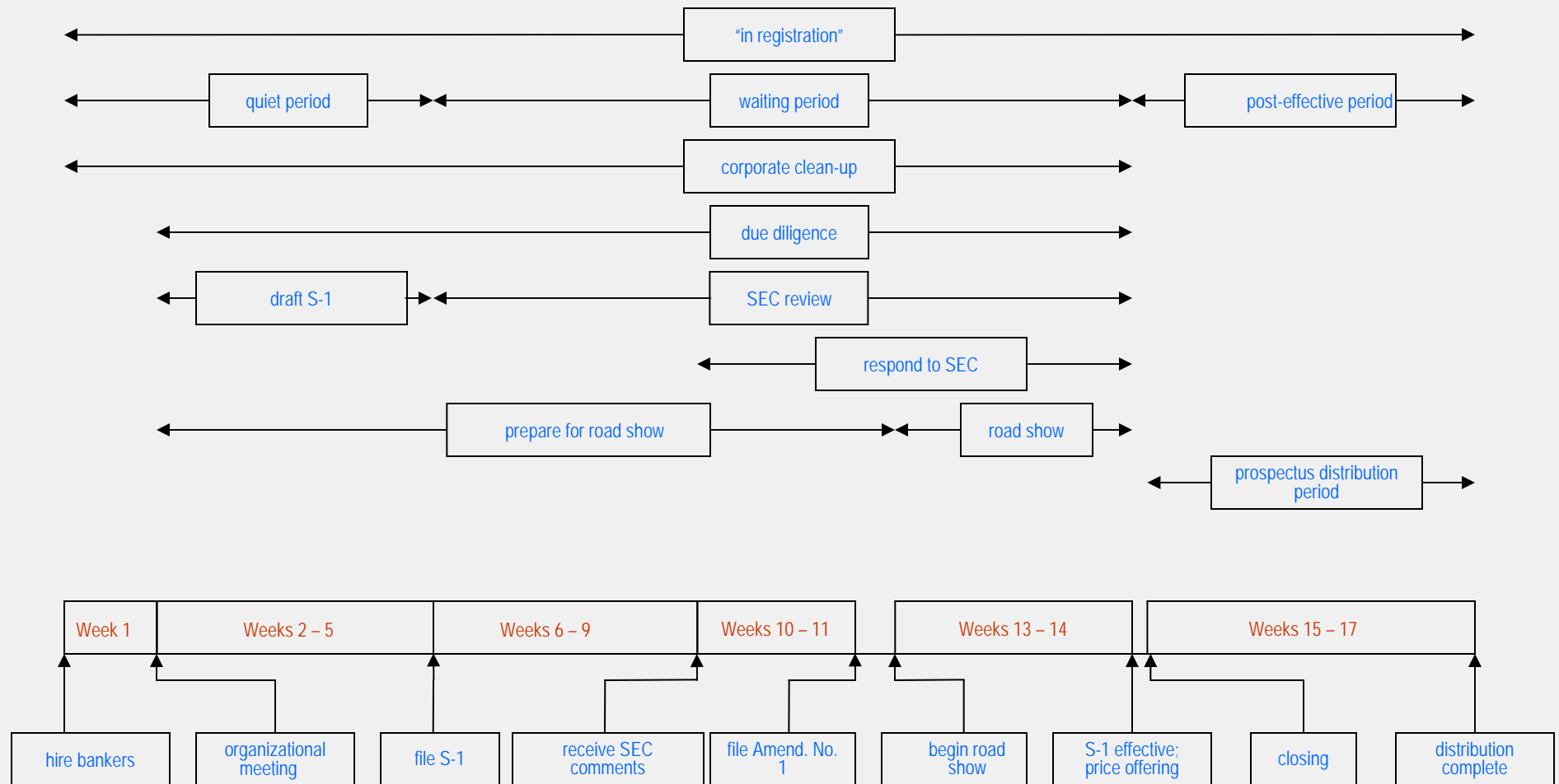
Important Questions:

- What are the various forms of “Exit Events?”
 - Stock acquisition
 - Asset acquisition
 - Merger
 - IPO
- How is the process involved in an exit scenario?

Merger & Acquisition Sample Timeline



IPO Sample Timeline



Process Issues: Due Diligence

- **What are the general areas of focus during Due Diligence?**
 - General Corporate Matters
 - Securities
 - Material Contracts
 - Litigation
 - Accounting, Finance and Taxes
 - Intellectual Property
 - Regulatory Matters, Government Approvals and Permits
 - Product / Service Offerings
 - Human Resources, Personnel

Process Issues: Due Diligence

- **Reflections on the Diligence Process**
 - Stay organized and focused - diligence process runs on multiple tracks
 - Using a data room (electronic vs. paper)
 - Keeping your proprietary information confidential
 - Leverage the diligence process – develop trust, build basis for negotiations, identify disclosure items

Approaching a Growth or Exit Event

- Tips on what not to do:
 - Don't be secretive or suspicious
 - Don't try to re-invent the wheel
 - Don't get bogged down in legalese – decide what you want, then have your attorney put it into proper legal form
 - Don't be discouraged
- Tips on what to do:
 - Do make sure everyone's objectives/visions/risk profiles are compatible
 - Do talk to others who have had experience in these matters
 - Do understand what you are agreeing to

- Most important “take-aways”
 - Be prepared; no matter the size, both financings and exits take time and resources
 - Don’t wait until you run out of money before raising more
 - Get your ducks in a row before the financing/exit event
 - Do get competent legal, tax and accounting advice early
 - Leverage your service providers



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Questions?

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