



Business & Legal Developments



Friends,

We are pleased to share our insights on current business and legal developments with you.

The landscape of mergers and acquisitions (M&A) continues to experience significant transformation driven by:

- slower, more product-led growth,
- higher interest rates,
- the growing chasm of expectations between buyers and sellers, and
- what might be a growing capitulation of venture capital firms to stop funding low-growing companies and merging them into larger, faster-growing competitors in stock-for-stock deals.

While recent challenges in the cryptocurrency sector have raised concerns about the sustainability of digital assets, with headlines from SBF's trial in New York not helping, a deeper analysis reveals the enduring potential of distributed ledger and blockchain derivative technologies. These innovations are uniquely poised to address pervasive business challenges on a large scale, ranging from healthcare delivery to the global supply chain. Blockchain-based businesses have exhibited remarkable resilience.

As artificial intelligence (AI) and generative AI evolve and integrate into business operations, businesses must consider the associated risks. Although comprehensive AI legislation is still evolving, regulators possess tools to hold businesses accountable. They focus on ensuring transparency and explainability in AI solutions to ensure consumers and key stakeholders comprehend these systems' operations and decision-making processes. In light of these regulatory concerns, businesses should develop AI solutions aligned with industry standards, including adopting the [NIST framework](#).

In the past month, our team has provided valuable insights into various topics. [Andre Thiollier](#) brought us up to speed on [Venture Capital Investment in Latin America](#), [Louis Lehot](#) and [Christopher Swift](#) discussed [Preparation for New U.S. Outbound Investment Regime](#), [Chanley Howell](#) informed us of the [Most Critical Factors for AI Legal Compliance: Transparency and Explainability](#), and [Alidad Vakili](#) and [Shabbi Kahn](#) launched a new video series: [Start-up Advisors: When to Create an Entity](#).

Next up, Ted AI 2023 is fast approaching. On Monday, October 16, to kick off the week, Foley partners [Antoinette Konski](#) and [Eileen Ridley](#) are leading a CLE presentation focused on IP and Litigation issues involving the use of AI in the San Francisco office, followed by a reception. The CLE will feature Pooya Taaghjol, CEO of Big Data Federation, and will be moderated by Foley partner [Natasha Allen](#).

Following the first day of [TED Talks](#), Foley will be co-hosting a full day of [panels and workshops on Wednesday, October 18](#) to continue the conversation. [Natasha Allen](#) and [Louis Lehot](#) will be leading two separate sessions exploring the law and AI and the new funding landscape for generative AI startups, respectively. The day will end with a reception to include all second-day attendees.

Please reach out if we can help you brainstorm a legal or business challenge you are facing or if we can connect you to a potential investor, professional, or entrepreneur.

Your Foley & Lardner Silicon Valley team ([Natasha Allen](#), [Eric Chow](#), [Brandee Diamond](#), [Louis Lehot](#), [Lyman Thai](#), [André Thiollier](#), [Alicia D'Alba Dörner](#), and [Alidad Vakili](#)).

Events

Recent Events:

[Harness Health Care AI Learnings for Success](#) | September 13, 2023

Artificial Intelligence, in particular large language models, are the tip of the iceberg in the coming AI revolution. How will AI technology impact your business, your customers, and your competition? Louis Lehot hosted a distinguished panel on these topics, led by Northern California NACD chapter member Timothy Chou, Lyric Chief Executive Officer Rajeev Ronanki, and Sharecare's Chief Scientific Officer Walter De Brouwer.

[Private Companies - Raise, Sell, or Go Under](#) | September 19, 2023

For emerging private companies and their boards of directors, it has been a challenging time to manage for growth or exit, especially for those who raised at the zenith of expectations in 2021. For companies who have not achieved the break-even or hyper-growth stage, this has been a challenging environment to navigate. This webinar explored the role of directors in raising, selling, or liquidating in this market.

[Silicon Slopes Reception](#) | September 27, 2023

Foley's Innovative Technology team, Signal Peak Ventures, and IMA (formerly Diversified Insurance) kept the conversation going at the end of the first day of the Silicon Slopes Summit at Foley's Salt Lake City office. Foley hosted an evening for food, drinks, and a chance to connect with other industry enthusiasts to continue to grow our presence in Salt Lake City to better serve the needs of our Innovative Technology sector clients.

[Second Annual West Coast M&A and Private Equity Forum](#) | September 28, 2023

Foley sponsored the West Coast M&A and Private Equity Forum, which offered guidance on key trends and developments affecting the dynamic U.S. middle market. Louis Lehot spoke during the Market Moves of Private Equity panel, and Natasha Allen spoke during the post-merger integration panel.

[Private Equity San Francisco Forum](#) | October 3-4, 2023

Foley proudly sponsored the annual Private Equity San Francisco Forum, which has been developed as an education-focused, two-day event for allocators and asset managers. This event was meant to facilitate the dissemination of actionable investor content, coupled with supporting the continued development of the private equity investment industry along the West Coast. As part of the forum, Louis Lehot moderated the panel Middle Market Outlook.

[New Kids on the Block: Navigating the Newest Consumer Group in Privacy \(Teens\)](#) | October 6, 2023

As part of the 2023 IAPP Privacy. Security. Risk conference, [Avi Ginsberg](#) served on a panel discussing the impact of teens on data privacy.

[HLTH Las Vegas](#) | October 8-11, 2023

Foley sponsored HLTH where an exceptional collection of Foley attorneys, including members of the Digital Health, Private Equity & Venture Capital, M&A, Data Privacy, IP, and Transactions teams were in attendance to discuss the most pressing topics and issues facing the health care industry.

[Merging Talent & Tech: Synchronizing Human Capital Development and Emerging Technology Integration](#) | October 12, 2023

Please join us for the Thomson Reuters Generative AI and Emerging Technology Forum, where Natasha Allen will join a panel of experts to discuss implications, opportunities, disruption, and risks posed by generative AI technology within professional services, how to align recruitment and talent management with adoption of emerging AI and automated technologies, and managing training and development.

Upcoming Events:

[Opportunities, Challenges, and Ethical Considerations in the Age of AI](#) | October 16, 2023

Join us for an engaging and informative CLE presentation that will guide you through real-world scenarios that explore AI through the lens of business opportunities and risks.

[TED AI](#) | October 17, 2023

Join us at TED AI 2023, where pioneers and trailblazers will host a full day of TED Talks about AI. They will share their vision and work on the benefits and challenges of welcoming AI into the fabric of our society.

[TED AI Day 2](#) | October 18, 2023

On the second day of the 2023 Ted AI conference, we invite you to join us for panels and workshops with pioneers and trailblazers to investigate the profound implications of how artificial intelligence is about to transform our civilization, industries, institutions, communities, and cultures.

[Government Contracts Annual Update](#) | October 18, 2023

We are excited to share that we will be hosting our Government Contracts Annual Update again this year in both

an in-person and virtual format. We would love to see you there.

[Founders & Funders | October 24, 2023](#)

Foley is proud to host the upcoming Beyond Capital Ventures Founders and Funders breakfast. Against the backdrop of SOCAP, Beyond Capital Ventures will introduce you to critical actors in our ecosystem. Venture capital as a practice would not be possible without two key groups: the entrepreneurs defining the next stage of innovation and the Limited Partners who enable the General Partner to source and select the best deals. Beyond Capital Ventures will introduce you to one of their newest portfolio companies, as well as one of their anchor Limited Partners.

[Canada Life Sciences Showcase | October 25-26, 2023](#)

Join us for two days of engaging with Canadian Life Sciences companies and the Canadian Life Sciences ecosystem. From morning speaker panels to large networking receptions, this event should not be missed by successful and promising life science founders, industry executives, and investors.

[First Rays - AI Portfolio Day | October 26, 2023](#)

Our good friends at First Rays Ventures are hosting their annual AI Portfolio Day event, and we would love to have you there! Please join us for a fun evening of networking, drinks, and hors d'oeuvres at the University Club of Palo Alto.

[11th Annual BayBrazil Conference; Brazil in the 21st Century | October 27, 2023](#)

Andre Thiollier will be a featured speaker at BayBrazil's 11th Annual Conference. On October 27, 2023, BayBrazil's signature event will bring together entrepreneurs, investors, and private-sector leaders to discuss science, technology, innovation & Brazil's role in the global economy.

[Web3 XR AI Digital Conference | October 28, 2023](#)

We invite you to join us on October 28 for the Web3 XR AI Digital Conference. Gain insights from experts in AI, Web3, and XR, understanding their global impact. Explore job opportunities through Starship Seekers, connecting recruiters and job seekers. Discover investment prospects via Starshot Start-ups, linking investors and entrepreneurs.

[Private Company Compliance: Investigations, Regulations, and Litigation | October 31, 2023](#)

Foley is sponsoring the upcoming NACD Private Company Compliance: Investigations, Regulations, and Litigation Webinar. Partners Louis Lehot and [Thomas Carlucci](#) will be joined for this discussion together with a panel of experts. They will explore what the role of the compliance function is and why directors should care.

Highlights

Increased Litigation From Various Website Tracking Technologies

Within the last year, there has been a new wave of class action lawsuits targeting a wide array of companies that own and operate websites, including, but not limited to, streaming services, entertainment companies, professional sports leagues and, in certain instances, their respective clubs that use technology to track consumers' interfaces on their websites.

[Learn More](#)

Venture Capital Investment in Latin America

Over the past few years, explosive growth in Latin American start-ups and sources of capital to fund them has piqued the interest of U.S. venture capital investors. While Latin American technology has historically been criticized for only layering on a "local" component to existing technology, in recent years, we have seen real innovation with global application. While a correction in valuation expectations continues to work its way through the market, there continues to be a great deal of opportunity to tap into unmet needs and create new products and services for Latin American consumers, and for Latin American technologies to solve pain points for consumers worldwide. This includes everything from health care and fintech to e-commerce start-ups that can transform the region.

[Learn More](#)

Blockchain Tech's Role as Driver of M&A Action Evolves

This article delves into the evolving role of blockchain technology in driving M&A activity, exploring how various facets of the financial and investment sectors are revolutionizing.

[Learn More](#)

The Most Critical Factors for AI Legal Compliance: Transparency and Explainability

Businesses that operate AI solutions face significant liability if their solutions are not transparent and explainable. Explainable and transparent AI solutions not only build trust and allow stakeholders to have confidence in their outputs but can help minimize the risk of potential liability if they can clearly explain how their AI solutions work, how it is trained, and why they made certain predictions or decisions. Businesses also need policies and procedures to protect privacy and security and make necessary disclosures to consumers related to how the AI solution operates and uses consumer data.

[Learn More](#)

Businesses Should Continue Preparatory Compliance Efforts Despite Injunction Against California Kid's Online Privacy and Safety Law (CAADCA)

On September 15, 2022, California Governor Gavin Newsom signed the California Age-Appropriate Design Code Act (CAADCA) into law. The CAADCA takes effect July 1, 2024, and brings vast changes to the online compliance landscape about children's privacy and safety. Some key changes include defining a child as anyone under 18 years of age, requiring data protection impact assessments for online products and services that are "likely to be accessed by children," and mandating all default privacy settings provided to children be set to a high level of privacy unless the business can demonstrate a compelling reason that a lower setting is in the best interests of children.

[Learn More](#)

SEC Adopts Changes to Schedule 13D and Schedule 13G

On October 10, 2023, the U.S. Securities and Exchange Commission adopted [final rules](#) amending (the Amendments) Schedules 13D and 13G of the Securities Exchange Act of 1934 (the Exchange Act) to modernize its reporting rules and ultimately to speed up the rate at which beneficial ownership information is made available to the public.

[Learn More](#)

Recent Deals

[Foley Represents TCGX in \\$200M Private Placement Financing for Inhibrx](#)

[Foley Represents TCGX as a Lead Investor in \\$200M Series C Financing for ADARx](#)

[Foley Represents TCGX as a Lead Investor in \\$285M Financing for COMPASS Pathways](#)

[Foley Represents Trading Technologies in Acquisition of Abel Noser Solutions](#)

[Foley Represents Bioluminescence Ventures as Lead Investor in ReCode Therapeutics Series B Funding Extension](#)

Additional Articles of Interest

[Louis Lehot and Eric Chow Author Article on the Future of the Biotech M&A Landscape](#)

[Foley Attorneys Discuss Preparation for New U.S. Outbound Investment Regime](#)

[Louis Lehot and Eric Chow Assess How AI is Disrupting Dealmaking](#)

[Webinar Key Takeaways: The New Biden Executive Order on Foreign Investment](#)

[Start-up Advisors: When to Create an Entity](#)

[Louis Lehot and Christopher Swift Comment on U.S.-China “Decoupling”](#)

[Start-up Advisors: When to Contact an Attorney](#)

[Key Takeaways for Directors on How to Harness the Power of AI in Health Care](#)

[The Current State of FinTech](#)

[Start-up Advisors: Why Use an Incorporation Service?](#)

[The Importance of ESG for Start-ups: Pioneering a Sustainable Future](#)

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