

Newsletter

M&A Veteran Tells Dealmakers They'd Do Better to Jam Like the Grateful Dead

THE **SOUL** OF THE

DEAL



DAY ONE TO EXIT

Creative frameworks
for *buying, selling,*
and *investing* in
any business

MARC H. MORGENSTERN

“The Soul of the Deal” Book and cover design by Alexia Garaventa

By Mureji Fatunde

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Hello, it's Mureji Fatunde writing from New York. In today's newsletter, I share some takeaways from a new book by a lawyer turned VC who was first a Deadhead. We also take a look at the potential implications of a Binance/FTX tie-up and a big tower deal wrapping up in Europe.

Today's top stories

Binance/FTX tie-up is hanging in the balance.

Vodafone sells stake in its \$16 billion tower unit.

Jefferies hires restructuring bankers from rivals.

Citi and Barclays join rivals in investment banking layoffs.

Playing in the deals band

Deals are often complex, sometimes messy and almost always unpredictable—kind of like a Grateful Dead concert. Venture capitalist and attorney Marc Morgenstern—a fan of the legendary jam band—says thinking more like a musician can make deals simpler and smoother for all.

In *The Soul of the Deal* (Rodin Books, \$28.99), Morgenstern lays out an alternative vision of dealmaking as a collaborative venture. Sprinkling in references to the Dead, Morgenstern draws lessons from the band's improvisational style, rooted in a deep familiarity with their craft.

Morgenstern handled hundreds of M&A and financing transactions in his 32 years at law firms including Sonnenschein (now Dentons). He's now a VC, has taught at UC Berkeley and is also on the boards of both the Rock and Roll Hall of Fame and the Rex Foundation, which was started by members of the Dead.

I admitted to Morgenstern that I was unfamiliar with the band's music—a shortcoming I have since rectified. After sympathizing with my “loss,” he opined that much of the conflict in dealmaking comes from stakeholders seeing the other side as opponents. He said they'd do better to listen like musicians rather than lawyers.

“Lawyers are taught to listen to rebut, to refute, to find fault with, criticize, to find the exception,” he said. “You have to listen to build on what somebody else is doing, not to refute what somebody else is doing. Like a jam band is responding, I'm responding to the stated needs of the particular counterparty I'm working with.”



Marc H. Morgenstern Photographer: Judy Rawson, judyrawsonphotography.com

In a conversational and sometimes whimsical tone, Morgenstern’s book serves as a primer on relationship management. He highlights how emotions can derail or rescue a deal, and how emotional value can and should be captured in economic terms.

Like songwriting, “negotiating deals is a similar curious mix of domain knowledge, intuition, fluidity and real-time reaction—51% craft, 49% feel,” he writes. He calls those who adopt his adaptive, flexible approach “Dealjammers.”

While Morgenstern occasionally overdramatizes, such as when describing the use of heavy flattery to soften tough messages to founders, he offers compelling examples to show how surprising deal outcomes were achieved, plus core insights on deal dynamics.

In Morgenstern’s view, every business is potentially for sale—even if its leaders aren’t aware. He advises founders and managers to always be “familiar with the universe of probable buyers.” Whether a company is actively on a path to an exit may be influenced by pressure due to investor expectations or fund lifetime limits.

Morgenstern explores the factors that determine how much leverage each player has (“Sellers tend to receive the maximum price if they’re bought rather than sold”) and the importance of deal structure (“There are lots of different deals within each imaginable deal”).

He also offers advice on how to best to leverage humor and anger in tense situations, how to exit broken deals with grace and how to deal with counterparties operating in bad faith.

“A great negotiator can compromise without feeling compromised,” he told me in an interview.

For readers less acquainted with the M&A realm, *The Soul of the Deal* provides a roadmap to a world that, by design, is opaque. For insiders, its tales of negotiations will likely resonate with your experience and may add a few riffs to your repertoire. And as a certain band instructs, “Wait until that deal come round.”—*Mureji Fatunde*

M&A focus

Binance’s potential takeover of FTX will pose one of the biggest antitrust tests of the year. The combo of the world’s two largest crypto exchanges will require approval in multiple jurisdictions, and will serve as the first major opportunities for regulators to study the dynamics of competition in a nascent industry.

The news sent crypto assets and other crypto-linked stocks tumbling, and may also mark the end of two huge sources of political contributions. Although it seems to be a strategic move, Binance CEO Zhao says there was “no master plan” behind the acquisition. The latest is that Binance could be balking at the deal and may not follow through.



Binance booth at Paris NFT Day *Photographer: Benjamin Girette*

Vodafone has agreed to sell a stake in its towers unit to KKR and Global Infrastructure Partners in a deal valuing the business at \$16.2 billion. It confirmed an earlier report by *Aaron Kirchfeld, Dinesh Nair* and *Ruth David*.

Norwegian telecoms operator Telenor has kicked off a sale for its Pakistan operations, report *Dinesh Nair, Vinicy Chan* and *Archana Narayanan*. If realized, a deal could value the business at around \$1 billion.

One Rock Capital Partners is weighing options including a sale of Innophos Holdings, reports *Kiel Porter*. The food additives maker could be valued at more than \$3 billion.

PE firm Fortress is approaching a deal to acquire Japan's Sogo & Seibu department store chain for more than \$1.4 billion, report *Grace Huang* and *Takako Taniguchi*.

Germany has blocked sales of Elmos Semiconductor's wafer facility and ERS Electronic to a Chinese investor. The moves signal an increasingly protective stance towards strategically important companies.

Activist corner

Petrus is piling on the pressure to secure key changes at banking software maker Temenos. The activist investor is pushing for the Temenos chairman and CEO to resign, and for the board to launch a strategic review of options including a sale.

Who's news

We have a newsletter exclusive for you: Camila Clarke will join Deutsche Bank next week in San Francisco as a director within the TMT group and will focus on the internet space. She was most recently at Barclays, with previous stints at Mediobanca and BNP Paribas. A Deutsche Bank spokesperson confirmed the move.



Camila Clarke Source: *Deutsche Bank*

Jefferies poached the heads of EMEA restructuring from both Rothschild and Lazard, writes *Dinesh Nair*. Click here to read who they are.

Citigroup and Barclays followed peers in cutting back their investment-banking workforces, writes *Gillian Tan*. Goldman Sachs is among those planning to join in the reductions.

Best of the rest

SoftBank buybacks spark talk that Son plans to take it private.

SEC's WhatsApp probe has moved from banks into PE.

Musk sells another \$4 billion of Tesla shares.

Citi to buy Deutsche Bank's Mexico banking license.

Next in line to buy UK struggling furniture maker Made.com.

Italy's largest utility Enel mulls asset sales to cut debt.

Keurig Dr. Pepper takes minority stake in Athletic Brewing.

Saudi's PIF injects fresh funds into Newcastle United FC.

Brookfield clash sends American Equity shares down.

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