

Biotech Mergers: Evaluating Risk, Reporting, and Integration of Growth Strategies Gilead's Acquisition of Immunomedics: Risk and a Growth Strategy

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Abstract

This case deals with the accounting and finance issues surrounding a recent biotech merger and acquisition (M&A) transaction. Students will work with actual historic and projected data from Gilead Sciences Inc.'s 2020 acquisition of Immunomedics Inc. Corporate acquisitions are plentiful, yet this transaction and case is unique regarding the availability of historic and projected data. Most acquisitions involve private companies where little if any historic or projected financial data is available. Similarly in public company acquisitions, projected data is rarely published. Both Gilead and Immunomedics were required by the U. S. Securities and Exchange Commission (SEC) to submit due diligence filings. The case relies heavily upon these disclosures. Students will access this data via EDGAR, the SEC's data gathering, analysis, and retrieval system and complete five sections in their analysis of the acquisition. Using EDGAR's public database filings, they will prepare financial projections of their own for the merged entity. In the process, they will be instructed to draw conclusions regarding the actual price paid for the acquired company and the justification of the actual price paid. Previous exposure of students to the calculation of the cost of capital and capital budgeting methodologies plus the accounting for intangible assets is helpful.

Case Description

This case is based upon Gilead Science Inc.'s acquisition of Immunomedics Inc. Students will complete five sections in their analysis of the acquisition. In the first section of the case, they are given an overview of SEC reporting and the availability of data via EDGAR. Students will review SEC forms 10-K, 10-Q, 8-K, Schedule 14D-9 along with other filed reports and listed resources. Those experienced with EDGAR may only need a cursory walk through this section. Tutorials and search assistance documentation are available via the EDGAR website. <https://www.sec.gov/edgar/quickedgar> (SEC.gov / How Do I Use EDGAR?, 2007)

The second section of the case introduces the mechanics of the actual acquisition. Students will mine data in response to questions regarding the benefits and risks of the deal to the two companies. This section also causes students to identify the cost of the transaction and the "currency" (cash vs. stock) paid for Immunomedics.

Student objectives in the third section relate primarily to the finance dimension of the transaction. Here they calculate the estimated weighted average cost of capital, complete a net present value analysis and estimate the

internal rate of return of the acquisition target given the actual price paid. This section allows for varying answers given alternative methods available to calculate the weighted average cost of capital when given incomplete data. Answers will vary in this section.

The objectives in the fourth section are primarily accounting and forecast focused. Students analyze a purchase price allocation and are exposed to the complex issues of income tax accruals, accounting for acquired in-process research and development expenses (IPR&D), and the process of forecasting interest expense. The section concludes with a discovery learning exercise as students are required to project the financial results of the acquisition, review the fairness opinions given by Immunomedics' financial advisors and reach a justified conclusion as to whether Gilead overpaid for Immunomedics.

Section five introduces Environmental, Social and Governance (ESG) considerations to the due-diligence process as an additional valuation metric. Students will consider Gilead's past acquisition strategies and how future target valuation may mimic them or include more ESG elements. They will contemplate possible ESG risks in the deal and future company performance. They will consider and opine on leadership-focused qualitative metrics such as, "What is the effect of ESG on Corporate Social Responsibility (CSR), diversity and inclusion initiatives, programs and public expectations?", "How do these metrics effect company value and sustainability?". Learning to consider and weigh ESG factors, along with or in contrast to CSR initiatives, will prepare students to evaluate a greater set of risks and rewards than previously applied in M&A. ESG will continue to gain prominence in future due-diligence practices and the development of value creation strategies, making this introduction an asset in their career preparation. "Companies must consider environmental, social and governance ("ESG") factors in their mergers and acquisitions ("M&A") transactions to achieve maximum value and monitor risks. ESG matters are becoming increasingly significant in M&A transactions as businesses are facing mounting scrutiny and pressure for transparency on climate risk, social justice, sustainability, and corporate governance." (Mallia-Dare & Kim, 2022)

This case is particularly relevant to accounting students, finance students, and professionals given the high level of M&A transactions in recent years. Further, the onset and continued impact of the recent Covid-19 pandemic including the development of vaccines by competing biotech firms has already raised awareness of the biotech industry and provides a great backdrop to this case.

Literature Review

Case study research on merger and acquisition activity spans a sizeable body of knowledge. Seminal studies include Sapkota's broad based case evaluation of the intersection of leadership and strategy with merger accounting and finance (Sapkota et al., 2019). Antitrust law is also a common centerpiece of merger case studies. Ashenfelter's case review of the Whirlpool Maytag merger focused primarily on horizontal mergers and effects on competition (Ashenfelter et al., 2013). Barton's analytical case evaluation of Xidex acquisitions likewise focused on horizontal merging of companies and market structure (Barton & Sherman, 1984). Vertical mergers and possible antitrust repercussions of the Turner Broadcasting and Time Warner merger were the subject of a case study by Suzuki (Suzuki, 2009). Stock price reaction to mergers, although not central to our case, was evaluated in an international case by Kurniawan (Kurniawan et al., 2021). Broader social dimensions of the merger process were studied in a case setting by Stachowicz-Stanusch (Stachowicz-Stanusch & Slaska, 2009) (cultural differences in the Hewlett Packard/Compaq merger) and Thelisson (Thelisson, 2021) (merger failure). Even more focused case studies such as Alaranta's review of post-merger information services operations and integration are part of the broad body of merger research (Alaranta, 2005). Even with this broad body of study, case studies involving actual forecasted company financial data are extremely rare. This is a byproduct of the confidential nature and unavailability of forecast data in highly competitive M&A situations. The unique nature of our case and the fact it is a teaching case therefore adds substantially to this already robust body of merger knowledge.

Case Synopsis

You are analyzing the \$21 billion acquisition of Immunomedics Inc. by Gilead Sciences Inc. in September 2020. Both of these biotech companies were publicly traded corporations at that time. As publicly traded entities, these two companies have filed dozens of financial reports with the SEC. You will first be introduced to EDGAR, the SEC's search engine used to locate financial documents filed by publicly traded companies with the SEC. Tutorials and search assistance documentation are available via the EDGAR website. (<https://www.sec.gov/edgar/quickedgar>). (*SEC.gov / How Do I Use EDGAR?*, 2007) Having mastered EDGAR, you will complete four additional sections of financial analysis related to the acquisition. The first section of the analysis involves an assessment of the risks and benefits of the acquisition to both companies. You will test your knowledge on determining the cost of capital and capital budgeting in the next section as you independently quantify Immunomedics' value using tools such as NPV and IRR. The fourth section involves forecasting the financial effects of the acquisition and an analysis of the related accounting issues. The fifth, and final, section adds a novel but increasingly important valuation metric of Environmental, Social and Governance considerations. You will research and report on the effect of ESG; on value, operations and integration planning, as well as diversity and inclusion, and public expectation of corporate responsibility.

The Case:

For finance and accounting professionals, being part of a corporate development project team can involve some of the most exciting work one can ever experience. Corporate development includes strategic actions that help businesses grow. This includes the burgeoning field of mergers and acquisitions (M&A). The role of the finance and accounting professional in an M&A transaction starts long before the transaction is consummated. These professionals play a key role in assisting their clients when identifying potential candidates for acquisition or merger. They also are heavily involved in the evaluation of the potential M&A targets, in the due diligence process of learning more about possible targets, in forecasting financial results of a potential merger, in the accounting for the business combination, and of course the planning of the integration of the two companies. This case analyzes the acquisition of Immunomedics Inc. by Gilead Science Inc. in 2020. As a participant in the case, you will be performing some of the same tasks a junior accountant or investment banker would perform at the outset of a corporate acquisition.

Incorporated in 1987, Gilead Sciences Inc. steadily grew from its venture capital roots, going public in 2002. Early on, the company established itself as a worldwide leader in HIV pharmaceuticals and medicines to fight viral hepatitis. Today, Gilead remains heavily vested in research but is also a world leader in commercializing and distributing its medicines globally. Its 2021 revenues exceeded \$27 billion and its market capitalization exceeded \$75 billion at this writing. Before acquiring Immunomedics, Gilead did not have a large presence in the cancer pharmaceutical market. The multi-national company operates in more than 35 countries and is headquartered in Foster City, California.

Immunomedics was incorporated in 1982 and became a publicly traded company in 1984. It is primarily a pharmaceutical research firm. Self-described as a researching, developing, manufacturing, and marketing biopharmaceutical products company; it is particularly focused on antibody-based therapies for patients with difficult-to-treat solid tumors and blood cancers. In its last full year of operation, (2019) Immunomedics had \$250 thousand dollars of revenue and \$325 million of expenses.

On May 6, 2020, Immunomedics announced a breakthrough on Trodelvy, the breast cancer drug they had developed via their research efforts: "Trodelvy received accelerated approval from the FDA for the treatment of adult patients with mTNBC who have received at least two prior therapies for metastatic disease. Trodelvy is the first ADC approved by the FDA specifically for previously-treated mTNBC and is also the first FDA-approved anti-Trop-2 ADC." (*Immunomedics Reports First Quarter 2020 Results and Provides Corporate Update*, 2020)

On September 14, 2020, Immunomedics and Gilead announced an agreement whereby Gilead would acquire Immunomedics for approximately \$21 billion. Gilead's acquisition of Immunomedics was completed on October 23, 2020.

Questions

Section 1: The U.S. Securities and Exchange Commission and Corporate Reporting.

The U.S. Securities and Exchange Commission (SEC) is a federal agency whose mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC strives to promote a market environment that is worthy of the public's trust. One of the primary tools the SEC uses in completing its mission is the enforcement of required public reporting of information by "Registrant Companies." These registrants are typically companies seeking to issue securities (e.g., stocks or bonds) to the public or companies that have already issued such securities.

- 1) Four of the reports that Registrants commonly file with the SEC are listed below. Provide a brief definition of each report.

Form 10-K

Form 10-Q

Form 8-K

Schedule 14D-9

- 2) The SEC provides online access to reports filed by registrants through its Electronic Data Gathering, Analysis, and Retrieval system or "EDGAR". <https://www.sec.gov/edgar> (*SEC.gov | Filings & Forms*, 2014)

The case study you are about to begin involves two registrant companies, Gilead Sciences, Inc. (Gilead) and Immunomedics Inc. (Immunomedics). Access the EDGAR Company filings search function here:

<https://www.sec.gov/edgar/searchedgar/companysearch>. (*SEC.gov | EDGAR | Company Filings*, 2022) Using the "Company and Person Lookup" function in EDGAR, complete two separate searches to respond to the following questions.

2a) Access Gilead's most recent 8-K in EDGAR. What is the date and (summarized) subject matter disclosed in Gilead Sciences, Inc.'s most recent 8-K filing?

2b) Access Immunomedics' most recent 8-K in EDGAR. What is the date and (summarized) subject matter disclosed in Immunomedics Inc.'s most recent 8-K filing?

Section 2: Understanding the Deal.

In September 2020, Gilead and Immunomedics jointly announced the acquisition of Immunomedics by Gilead. Company context and acquisition deal details are highlighted in this linked video: [Gilead to buy Immunomedics, expanding cancer drug portfolio](#) (CNBC Television, 2020)

Watch this video. Search EDGAR to find the necessary documents to respond to the following questions.

- 3) Access the joint press release announcing the transaction (September 14, 2020, Gilead and Immunomedics 8-K) . What are the benefits Gilead anticipates from acquiring Immunomedics?
- 4) Access the joint press release announcing the transaction. What are the benefits Immunomedics anticipates from being acquired by Gilead?
- 5) What is the price Gilead agreed to pay Immunomedics shareholders for each share of Immunomedics stock in the deal? Will Gilead pay Immunomedics stockholders cash or issue them shares of Gilead stock for their Immunomedics stock?

- 6) What is the total acquisition price for Immunomedics? How will Gilead finance the transaction?
- 7) Access the Gilead 8-K announcing the transaction. What are the risks to Gilead from acquiring Immunomedics?
- 8) Access Immunomedics' September 24, 2020, 14D-9. What are the risks to Immunomedics from being acquired by Gilead?

Section 3: Analyzing the \$88 per Share of Immunomedics Stock Purchase Price.

The schedule 14D-9 filed by Immunomedics with the SEC on September 24, 2020, included management projections of earnings before interest and taxes (EBIT) and free cash flow. Using Edgar, access these projections.

- 9) In its prospectus, Gilead stated that it expected the acquisition to close in the fourth quarter 2020. <https://www.sec.gov/Archives/edgar/data/882095/000104746920004962/a2242399z424b5.htm> (“Gilead Sciences, Inc. Preliminary Prospectus Supplement,” 2020)
Assume the \$21 billion acquisition price is paid on the last day of the fourth quarter 2020 and all other projected cash flows occurred on the last day of each year; calculate the projected internal rate of return (IRR) of the purchased company using the data provided in the schedule 14D-9.

The form 10-K Gilead filed with the SEC for the year ended December 31, 2019, included financial results for the last full year before the Immunomedics acquisition. Use this 10-K information when responding to questions 9, 10, and 11.

- 10) Estimate Gilead's weighted average cost of debt at the time of the Immunomedics acquisition.
- 11) Estimate Gilead's cost of common equity at the time of the Immunomedics acquisition using the dividend discount model.
- 12) Estimate Gilead's weighted average cost of capital (WACC) at the time of the Immunomedics acquisition.
- 13) Using the calculated estimated WACC, calculate the net present value (NPV) of the Immunomedics acquisition based on the free cash flow estimates in Immunomedics schedule 14D-9. Assume the acquisition cost and -\$49 million first-year projection are year zero expenditures.
- 14) If the calculated IRR of the Immunomedics acquisition was below the Gilead WACC and/or the NPV of the acquisition is negative, why would Gilead choose to go forward with the acquisition?
- 15) Reference the press release announcing the acquisition. (September 14, 2020, Gilead and Immunomedics 8-K) Gilead states in the press release that the acquisition will be funded through existing cash and newly issued debt. A friend asks you if it would be more correct to calculate the NPV of the Immunomedics acquisition using a combination of the cost of the newly issued Gilead debt and the short-term investment rate for the amount of existing cash used. How do you respond?

Section 4: Forecasting, Accounting and Fairness.

Prior to a major corporate acquisition, the acquiring company prepares projected multi-year financial statements for the combined companies. These projections can be used to evaluate potential impacts on earnings per share, debt covenants and other financial indicators of the acquirer post-acquisition. These projections will include projected balance sheets and income statements for the combined companies. The preparation of the combined company projections begins with:

- Preparation of multi-year stand-alone projections of the acquiring company's financial statements.
- Preparation of or acquisition of multi-year stand-alone projections of the target company's financial statements.

Once stand-alone projected financial statements are completed, the preparation of projections normally follows an iterative process whereby the acquiring company will prepare multiple acquisition scenarios. These scenarios combine the two companies and may include varying assumptions for:

- Modifications to the stand-alone projections of the target company's financial statements. (E.g., If the target company stand-alone projections have been prepared by the target company; the acquiring company may adjust up or down the revenue or expense projections.)
- The purchase price of the target company.
- The "currency" used in the acquisition (e.g., cash vs acquirer stock).
- If the target company is to be purchased with cash, the amount of borrowing required by the acquiring company and the terms of the borrowing.
- What is actually purchased by the acquiring company and how is it accounted for. Is the acquirer purchasing some or all of the assets of the target or some or all of the stock of the target?
- Additional synergies from the acquisition often in the form of new revenues or expense reductions.
- Structure of the acquisition. E.g., Do the two companies merge? Or will they not merge and the target continue operations as a subsidiary of the acquirer?
- Transaction costs, valuation and expensing of intangible assets and income tax.

16) Access Gilead and Immunomedics forms 10-K, 10-Q, 8-K and 14D-9. For each of the following items, indicate what information has been provided, if any. Also indicate the source of your answer, including the report (e.g., Gilead 2021 10-K, page79.)

- a) Stand-alone projections of Gilead's financial statements.
- b) Stand-alone projections of Immunomedics financial statements.
- c) Stand-alone projections for Immunomedics beyond the initial 15 years and/or a terminal value for Immunomedics used by Gilead in their valuation of Immunomedics.
- d) Modifications to the stand-alone projections of the Immunomedics financial statements. (E.g., If Immunomedics stand-alone projections have been prepared by Immunomedics, Gilead may adjust up or down the revenue or expense projections.)
- e) The purchase price of Immunomedics.
- f) The "currency" used in the acquisition (e.g., cash or Gilead stock).

- g) If Immunomedics is to be purchased with cash, the amount of borrowing required by Gilead and the terms of the borrowing.
 - h) What is actually purchased by Gilead and how is it accounted for. Is the Gilead purchasing some or all of the assets of Immunomedics or some or all of the stock of Immunomedics?
 - i) Additional synergies from the acquisition often in the form of new revenues or expense reductions.
 - j) Structure of the acquisition. E.g., Do Gilead and Immunomedics merge? Or will they not merge and Immunomedics continue operations as a subsidiary of Gilead?
 - k) Transaction costs.
 - l) Assumptions for post-acquisition income tax calculations and Gilead's accounting for intangible assets (including amortization) acquired in the Immunomedics transaction.
- 17) Given your answers to question #16, are you able to prepare a credible multiyear forecast of Gilead post-acquisition of Immunomedics? Why or why not?
- 18) Reference the Immunomedics schedule September 24, 2020, 14D-9. The management projections included in the schedule depict a positive \$143 million of EBIT in 2021. EBIT also remains positive in all forecasted years thereafter. Review the YouTube video announcing the transaction in question #3 again: [Gilead to buy Immunomedics, expanding cancer drug portfolio](#) (CNBC Television, 2020) The video states the transaction will be neutral or accretive to Gilead earnings in 2023, not 2021.

Explain how the acquired operations can be forecasted by Immunomedics to generate positive EBIT in 2021 but the acquisition is not forecasted by Gilead to be accretive to earnings until 2023.

- 19) Reference the Immunomedics schedule September 24, 2020, 14D-9, Annex A & B. Review the two fairness opinions prepared for the Immunomedics board of directors. Before attempting to answer the following questions, discuss: If you were a medium or long term owner of the stock in an acquiring company completing a major transaction, what financial results following the transaction may indicate the transaction was not fair to you.
- a. What is the purpose of a fairness opinion?
 - b. According to the fairness opinion, is the acquisition of Immunomedics fair to Immunomedics shareholders?
- 20) Gilead did not receive a fairness opinion from its advisors. Relying upon your research in this case, prepare a _____ page paper with references and detailed supporting arguments responding to the following two questions.
- a. Did Gilead overpay for Trodelvy?
 - b. Was the Immunomedics acquisition fair to Gilead's shareholders?

Section 5: Environmental, Social, and Governance (ESG)

In this case, students participated at an overview level of due-diligence analysis including key reporting and disclosure requirements, risk and benefits of the deal, the financial and value impacts, and accounting challenges regarding taxes or forecasting. The Immunomedics deal was one of two acquisitions made by Gilead in 2020 along with several equity-stake or partnership transactions. Gilead continues to use this growth strategy to expand its footprint in the biomedical pharmaceutical industry by integrating companies into their portfolio that offer value and operate in novel technologies. In September of 2022, the target firm was MiroBio, a privately held U.K.-based biotech company whose proprietary discovery platform and leading research in immunology is specific to therapies that suppress inflammatory immune response. Gilead uses M&A to expand offerings across multiple therapeutic sectors. Scientific discoveries expand the realm of possibilities in health outcomes, influence markets, and attract investors. More than ever, societal expectations have substantial influence on company direction. Preferences and demands spur changes in the external business environment and on the selection of acquisition targets as well as the attractiveness of acquirers. The consideration of environmental, social, and governance (ESG) factors in merger and acquisition transactions is rising. Students will add an analysis of Gilead's ESG philosophy and actions implemented at a corporate level by researching SEC filings and company reports to prepare responses to the following questions.

Refer to the resource link provided as you answer the following question:

Gilead Form 10-Q, period ended June 30, 2022 (“Gilead Sciences, Inc. Form 10-Q,” 2022)

<https://www.sec.gov/Archives/edgar/data/882095/000088209522000019/gild-20220630.htm>

1) Was Gilead's acquisition strategy successful in 2020 and/or 2022? Why? Should all future targets be assessed in the same manner as Immunomedics? What price and MiroBio or should their model include more specific ESG criteria?

2) What are the risks associated with including ESG criteria? List and explain at least four risks.

Refer to the following resource links as you respond to Questions 3 & 4:

Gilead DEF 14A Proxy Statement (2022 Notice of Annual Meeting of Stockholders and Proxy Statement) addresses stockholders, highlighting annual performance and providing material for the voting process. (“Gilead Sciences, Inc. Proxy Statement,” 2022)

<https://www.sec.gov/Archives/edgar/data/882095/000120677422000832/gild3988061-def14a.htm>

The 2021 Year in Review annual report is published on the company website, gilead.com, and provides insight into accomplishments and future company directives. (*Gilead Sciences, Inc. 2021 Year in Review*, 2021)

https://www.gilead.com/-/media/files/pdfs/yir-2021-pdfs/2021-gilead-yir_desktop.pdf

Gilead Sciences, Inc. | Our Purpose | Environmental, Social, and Governance (ESG)

(*Gilead Sciences, Inc.*, n.d.)

<https://www.gilead.com/purpose/esg>

3) How does ESG enhance Gilead's corporate governance approach to growth, diversity and inclusion, sustainability, and responsibility?

4) Compare and contrast Corporate Social Responsibility (CSR) with ESG using an internet search engine. Are they mutually exclusive?

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Instructor Notes

Case Objectives

This case deals with the accounting and finance issues surrounding corporate mergers and acquisitions (M&A). Case participants (students) will extensively use EDGAR to mine actual data while functioning in the key roles that finance and accounting professionals play in M&A transactions. In the initial section of the case, students are introduced to the SEC public filing database and EDGAR. In the second section of the case, students are led through the actual structuring of Gilead's acquisition of Immunomedics. The third section of the case deals with analyzing the price paid for the target company, Immunomedics when looking at the target through the lenses of NPV and IRR calculations. Finally, in the fourth section, in a discovery learning exercise, students attempt to forecast the financial results of the merged entity. Forecasting accounting issues related to biotech mergers are also part of the fourth section. This section closes with the review of a fairness opinion, a topic new to most students, and an assignment in which students are expected to justify or question the reasonableness of the price paid by Gilead for Immunomedics.

Case Learning Objectives

Learning Goal: Students will demonstrate problem-solving skills in a global business setting. Meeting this goal will require students to:

Learning Objective #1: In a case setting, students will master search techniques in the SEC EDGAR data system. **(Blooms Taxonomy: Comprehension; assessed in questions 2a and 2b)**

Learning Objective #2: In a case setting, students will extract relevant data and use analytical techniques to calculate the net present value (NPV) and internal rate of return (IRR) using financial statement data. **(Blooms Taxonomy: Analysis; assessed in questions 9 and 13)**

Learning Objective #3: In a case setting, students will evaluate a proposed corporate acquisition citing reasons to complete the transaction other than reliance upon NPV and IRR providing decision quality input for a senior management decision. **(Blooms Taxonomy: Synthesis; assessed in question 14)**

Learning Objective #4: Based upon analysis of the business combination and the acquiror's ESG policies, students will evaluate the role of ESG as part of due diligence in M&A. **(Blooms Taxonomy: Evaluation; assessed in question 22)**

Learning Objective #5: Based upon case research and analysis students will prepare a paper evaluating the transaction and determining if the price paid was excessive and if the transaction was fair to the acquiring company. **(Blooms Taxonomy: Evaluation and Creation; assessed in question 22)**

Case Efficacy: The case efficacy was tested for this case using a ten-question assessment tool which was administered to a School of Business senior strategic management class. The tool was administered both before and after completion of the case. Questions related to all five learning objectives were included in the assessment tool as well as a self-assessment on the student's confidence in response. The results were as follows. Positive assessment results were indicated in four of the five learning objectives. For these four objectives, correct responses exhibited a 57% increase from pre-case to post-case. Confidence in response increased 38%. The fifth learning objective did not show positive assessment results. As a result, a more encompassing instructor led discussion of "fairness" was added to the case.

Case Administration

This case is recommended for a graduate accounting or finance class. Before attempting the case, students should be familiar with basic capital budgeting concepts including the calculation of the weighted average cost of capital, net present value, and internal rate of return. The case is divided into five sections which are designed to be covered separately in multiple in-class guided sessions.

Part 1: The two questions in part one are multi-part and designed to familiarize the student with four of the most common corporate filings registrants submit to the SEC via EDGAR. A suggested method of guiding the class through Part 1 is to first discuss the difference between private and public companies (registrants). Registrants are required to inform the investing public of proposed transactions by uploading reports via EDGAR where the public can then access them. Following the discussion, students should complete question #1 followed with a written discussion of the purpose of each report. Instructors should require students to answer these questions "in their own

words”. This obviates student tendencies to cut and paste from online sources. Regardless of the form of response, a thorough question-by-question discussion led by the instructor facilitates learning.

Part 2: The next six questions are intended to familiarize students with the companies being studied in the case along with the structure of the acquisition. This section is designed to have students use trial and error to refine their search skills in EDGAR. A suggested method of starting students in this section involves one or possibly two steps:

- a) Instruct students to open a filed document (such as 10-K) that you have selected in EDGAR for either Gilead or Immunomedics. Instruct the students to use the “search” or “find” feature in their chosen browser to find a specific word or phrase you have pre-selected. This is a practice exercise but the use of this browser feature dramatically helps students search and students are not always aware of it.
- b) (Optional) Inform the students of the announcement date of the Gilead/Immunomedics transaction they will be researching (September 14, 2020.) This helps students narrow their search but is optional.

Part 3: Part three is the most quantitative and will likely be the most challenging section for students. It includes seven questions, five of which require calculations. The data to complete these questions is also incomplete and as such these questions may require guidance from you on some of the calculations. This section could either be a single class period assignment or a homework assignment. Specific question suggestions follow:

Question 9: This question requires the calculation of the internal rate of return (IRR). The teaching notes include an excel formula that could be reviewed with the class first and used by the class to calculate IRR. There are other means to calculate IRR including financial calculators and formulaic solutions. Student answers will vary.

Question 10: This question requires the estimation of the cost of debt. Considerable specific debt issue information is available in form 10-K and may be used. There is a “shortcut” outlined in the teacher notes which could be reviewed with the class first. Student answers will vary.

Question 11: This question requires the calculation of an estimate of the cost of equity. Data is incomplete for this calculation too. The teaching notes include a calculation using the dividend growth model. Instructors may want to lead a class discussion as to whether the dividend growth model is appropriate for this company. Other options for calculating the cost of equity include the CAPM model. Instructors may need to work with students Individually on this section. Student answers will vary.

Question 12: This question requires a calculation of the weighted average cost of capital (WACC). Since input items to this calculation may differ (cost of equity and cost of debt), and information to determine the capital weights is incomplete and estimated, the estimates of WACC will vary. The corporate income tax rate was not provided. (It is 21%.) Instructors may provide the tax rate or have students find it independently.

Question 13: This question requires the calculation of the acquisition’s projected net present value (NPV). The teaching notes include an excel formula that could be reviewed with the class first and used by the class to calculate NPV. There are other means to calculate NPV including financial calculators and formulaic solutions. Student answers will vary. (Note: Following these instructions may cause astute students to notice varied treatment of the first year \$49 million cash deficit in the NPV and IRR calculations.)

Part 4: The seven questions in the is section drive home the point that accurate forecasting is critical but challenging. Management proposing transactions such as Gilead’s acquisition of Immunomedics commonly rely upon projections of financial results to demonstrate benefits to shareholders. A suggested method to teach this section is to have the students complete the first question (#16) followed by an instructor lead discussion of these terms which will likely be new to students. Following the discussion, the instructor will assign the second question in the section. The second question in this section (#17) is a discovery learning exercise that directs case participants to prepare a five-year forecast of a combined Gilead/Immunomedics entity. Students should be able to

make progress in preparing such a forecast but will soon find they are lacking sufficient information and will likely construct creative solutions to “fill in the gaps”.

After students have had sufficient time to complete the question 16 forecast, the instructor should solicit feedback from students as to the difficulties they were having in preparing the forecast. Eventually, the instructor may ask if students had problems during their forecast preparation with the items in question 17. At this point, question 18 should be assigned. Question 19 is a continued discussion of the challenges of forecasting and the volatility of certain items on the income statement.

The final three questions are capstone questions. They can be assigned after the completion of the discussion related to questions 18 and 19. Question 20 assesses students’ overall understanding of what it takes to make a corporate acquisition profitable. (Company A may be profitable and Company B is profitable, but when you join them together as Company AB, the entity is less profitable.) Questions 21 and 22 introduce students to the fairness opinion and ask students to evaluate the transaction from a fairness point of view and challenge students to form an opinion as to the reasonableness of the price Gilead paid for Immunomedics. The final question is written to give instructors flexibility as to the length of the final written assignment.

Part 5: This four-question section focuses on Environmental, Social and Governance (ESG). Students will delve into ESG’s role in M&A from a historical perspective and going forward. The element of risk associated with adopting ESG as an element crucial to M&A is evaluated as well as the impact of ESG on Gilead’s corporate governance. The section closes with a section on ESG contrasted with corporate responsibility.

Analysis of Questions

Section 1: The U.S. Securities and Exchange Commission and Corporate Reporting.

The U.S. Securities and Exchange Commission (SEC) is a federal agency whose mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC strives to promote a market environment that is worthy of the public’s trust. One of the primary tools the SEC uses in completing its mission is the enforcement of required public reporting of information by “Registrant Companies.” These registrants are typically companies seeking to issue securities (e.g., stocks or bonds) to the public or companies that have already issued such securities.

- 1) **Four of the reports that Registrants commonly file with the SEC are listed below. Provide a brief definition of each report.**

Form 10-K is a report which is required to be prepared by registrants and filed annually with the SEC. A partial list of 10-K contents includes multiple years of financial statements for the registrant, management’s discussion and analysis of changes in operating results from prior years, and the external auditor’s opinion.

Form 10-Q is a report which is required to be prepared by registrants following the end of each of the first three quarters of the registrant’s fiscal year and filed with the SEC. A partial list of 10-K contents includes multiple quarters of financial statements for the registrant, and management’s discussion and analysis of changes in operating results from prior years.

Form 8-K is a report which is required to be prepared by registrants and filed with the SEC. It is used to disclose to shareholders and the public at large of key events affecting the company. These events include mergers, bankruptcy, disclosure of financial results, and departure of certain key officers from the company.

Schedule 14D-9 is a report which is required to be prepared by registrants and filed with the SEC. The report will include the filing company’s response to another entity’s offer to take over the filing company. The schedule will likely include the recommendation by the filing company’s board of directors.

- 2) **The SEC provides online access to reports filed by registrants through its Electronic Data Gathering, Analysis, and Retrieval system or “EDGAR”. EDGAR can be accessed at www.sec.gov/edgar .**
The case study you are about to begin involves two registrant companies, Gilead Sciences, Inc. (Gilead) and Immunomedics Inc. (Immunomedics). Access the EDGAR Company filings search function here:

<https://www.sec.gov/edgar/searchedgar/companysearch> . Using the “Company and Person Lookup” function in EDGAR, complete two separate searches to respond to the following questions.

a) Access Gilead’s most recent 8-K in EDGAR. What is the date and (summarized) subject matter disclosed in Gilead Sciences, Inc.’s most recent 8-K filing?

Answers will vary as 8-K filings can be frequent throughout the year from registrants. The response to this question will then change throughout the year. Consult EDGAR at the time students complete this case study for the most current and correct answer.

b) Access Immunomedics’ most recent 8-K in EDGAR. What is the date and (summarized) subject matter disclosed in Immunomedics Inc.’s most recent 8-K filing?

At the time this case was written, the following information is responsive.

Date: October 23, 2020.

Subject: completion of Immunomedics acquisition by Gilead.

Section 2: Understanding the Deal.

Optional: The following links may be cut and pasted into the student instructions.

The two companies jointly issued a press release announcing the deal:

Gilead 8-K announcing the Immunomedics acquisition: (“Gilead Sciences, Inc. Form 8-K,” 2020)

https://www.sec.gov/Archives/edgar/data/0000882095/000095010320017822/dp136480_8k.htm

Gilead/Immunomedics joint press release on the acquisition: (“Gilead Sciences, Inc. And Immunomedics, Inc. Form 99.1,” 2020)

https://www.sec.gov/Archives/edgar/data/722830/000110465920104608/tm2030753d1_ex99-1.htm

Gilead/Immunomedics published the acquisition agreement: (“Gilead Sciences, Inc and Immunomedics, Inc. Exhibit 2.1,” 2020)

https://www.sec.gov/Archives/edgar/data/722830/000110465920104608/tm2030753d1_ex2-1.htm

Immunomedics Schedule 14D-9: (“Immunomedics, Inc. Schedule 14D-9,” n.d.)

https://www.sec.gov/Archives/edgar/data/0000722830/000110465920108121/tm2030753-2_sc14d9.htm#IISC

Gilead 2019 10-K: (“Gilead Sciences, Inc. Form 10-K,” 2019)

<https://www.sec.gov/Archives/edgar/data/0000882095/000088209520000006/a2019form10-k.htm#sC8AD9BD9D2564FC8032E8F2810C71A25>

Gilead 2020 10-K: (“Gilead Sciences, Inc. Form 10-K,” 2020)

https://www.sec.gov/Archives/edgar/data/0000882095/000088209521000008/gild-20201231.htm#ib93766b38a794f83a6a283fa0a85c17d_67

Gilead 2021 10-K: (“Gilead Sciences, Inc. Form 10-K,” 2021)

https://www.sec.gov/Archives/edgar/data/0000882095/000088209522000007/gild-20211231.htm#i72faa4a0a4974dcca6db2bf491b63d7a_79

Gilead June 30, 2020, 10-Q: (“Gilead Sciences, Inc. Form 10-Q,” 2020)

<https://www.sec.gov/Archives/edgar/data/0000882095/000088209519000020/q219form10-q.htm>

In September 2020. Gilead Sciences (Gilead) and Immunomedics jointly announced the acquisition of Immunomedics by Gilead. The acquisition is highlighted in this link:

[Gilead to buy Immunomedics, expanding cancer drug portfolio](#) (CNBC Television, 2020)

Watch this video. You should also be prepared to access EDGAR to find the necessary documents to respond to the following questions.

3) Access the joint press release announcing the transaction (September 14, 2020, Gilead and Immunomedics 8-K) . What are the benefits Gilead anticipates from acquiring Immunomedics?

The joint press release states: Trodelvy will bring to Gilead a cornerstone product that broadens and deepens the company’s solid tumor pipeline, building on current marketed products and late-stage clinical candidates for patients with hematological malignancies at Kite and Gilead, including Yescarta®, Tecartus® and Magrolimab.

Trodelvy is approved as a third-line treatment for mTNBC and has shown promise for earlier stages of the disease.

TNBC represents approximately 15 to 20 percent of all breast cancer cases and is generally considered the most aggressive form of breast cancer. HR+/HER2- breast cancer accounts for more than 70 percent of all breast cancers.

4) Access the joint press release announcing the transaction. What are the benefits to Immunomedics anticipates from being acquired by Gilead?

The joint press release states: Gilead brings commercial, medical, regulatory and manufacturing expertise, which will help rapidly advance Trodelvy through development and reach additional patients. Gilead will also bring to Immunomedics an established infrastructure and operations in Europe and Japan to support the launch of Trodelvy in those regions, pending approval. After closing, Gilead will retain global rights to Trodelvy outside of greater China, South Korea and certain Southeast Asian countries.

5) What is the price Gilead agreed to pay Immunomedics shareholders for each share of Immunomedics stock in the deal? Will Gilead pay Immunomedics stockholders cash or issue them shares of Gilead stock for their Immunomedics stock?

Gilead will pay Immunomedics shareholders \$88 per share in cash per the announcement press release and related SEC filings

6) What is the total acquisition price for Immunomedics? How will Gilead finance the transaction?
Approximately \$21 billion per the announcement joint press release and related SEC filings.

7) Access the Gilead 8-K announcing the transaction. What are the risks to Gilead from acquiring Immunomedics?

Gilead's press release announcing the transaction states the following. Student responses should excerpt from the following disclosure.

Forward-looking statements include, without limitation, statements regarding the business combination and related matters, prospective performance and opportunities, post-closing operations and the outlook for the companies' businesses, including, without limitation, the ability of Gilead to advance Immunomedics' product pipeline, including Trodelvy; expectations for achieving full FDA approval based on Immunomedics' confirmatory data for Trodelvy and Immunomedics' development of Trodelvy for additional indications; clinical trials (including the anticipated timing of clinical data, the funding therefor, anticipated patient enrollment, trial outcomes, timing or associated costs); the possibility of unfavorable results from clinical trials; regulatory applications and related timelines, including the filing and approval timelines for Biologics License Applications and supplements; filings and approvals relating to the transaction; the expected timing of the completion of the transaction; the ability to complete the transaction considering the various closing conditions; difficulties or unanticipated expenses in connection with integrating the companies; and any assumptions underlying any of the foregoing. Investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties and are cautioned not to place undue reliance on these forward-looking statements. Actual results may differ materially from those currently anticipated due to a number of risks and uncertainties. Risks and uncertainties that could cause the actual results to differ from expectations contemplated by forward-looking statements include: uncertainties as to the timing of the tender offer and merger; uncertainties as to how many of Immunomedics' stockholders will tender their stock in the offer; the possibility that competing offers will be made; the possibility that various closing conditions for the transaction may not be satisfied or waived, including that a governmental entity may prohibit, delay or refuse to grant approval for the consummation of the transaction; the effects of the transaction on relationships with employees, other business partners or governmental entities; the difficulty of predicting the timing or outcome of regulatory approvals or actions, if any; Immunomedics' ability to meet post-approval compliance obligations (on topics including but not limited to product quality, product distribution and supply chain requirements, and promotional and marketing compliance); imposition of significant post-approval regulatory requirements on Immunomedics' products, including a requirement for a post-approval confirmatory clinical study, or failure to maintain (if received) or obtain full regulatory approval for Immunomedics' products due to a failure to satisfy post-approval regulatory requirements, such as the submission of sufficient data from a confirmatory clinical study; the impact of competitive products and pricing; other business effects, including the effects of industry, economic or political conditions outside of the companies' control; transaction costs; actual or contingent liabilities; adverse impacts on business, operating results or financial condition in the future due to pandemics, epidemics or outbreaks, such as COVID-19;

8) Access Immunomedics' September 24, 2020, 14D-9. What are the risks to Immunomedics from being acquired by Gilead?

Page 20 of form 14D-9 states:

- the fact that the Company would no longer exist as an independent, publicly traded company, and the Company's stockholders would no longer participate in any future earnings or growth of the Company or benefit from the successful execution of the Company's current strategy as a public company;

- the potential risk of diverting management attention and resources from the operation of the Company's business and towards completion of the Offer and the Merger;
- the risk of incurring substantial expenses related to the Offer and the Merger;
- the risk that any conditions to the parties' obligations to complete the Offer and the Merger are not satisfied, and as a result, the Transactions are not completed;
- the risks and costs to the Company if the Transactions do not close, including uncertainty about the effect of the proposed Offer and Merger on the Company's employees and other parties, which may impair the Company's ability to attract, retain and motivate key personnel, and could cause partners and others to seek to change existing business relationships with the Company;
- the possibility that under certain circumstances, the Company may be required to pay Gilead a termination fee of approximately \$732 million;
- the fact that the gain realized by the Company's stockholders as a result of the Offer and the Merger generally will be taxable to the stockholders for U.S. federal income tax purposes;
- the restrictions in the Merger Agreement on the conduct of the Company's business prior to the consummation of the Merger, which may delay or prevent the Company from undertaking business or other opportunities that may arise prior to the consummation of the Offer or the Merger; and
- various other risks associated with the Merger and the business of the Company, as more fully described below under the caption "Item 8. Additional Information — Cautionary Note Regarding Forward-Looking Statements."

Section 3: Analyzing the \$88 per Share of Immunomedics Stock Purchase Price.

The schedule 14D-9 filed by Immunomedics with the SEC on September 24, 2020, included management projections of earnings before interest and taxes (EBIT) and free cash flow. Using EDGAR, access these projections.

- 9) **In its prospectus, Gilead stated that it expected the acquisition to close in the fourth quarter 2020. ("Gilead Sciences, Inc. Preliminary Prospectus Supplement," 2020)**
<https://www.sec.gov/Archives/edgar/data/882095/000104746920004962/a2242399z424b5.htm> Assume the \$21 billion acquisition price is paid on the last day of the fourth quarter 2020 and all other projected cash flows occurred on the last day of each year, calculate the projected internal rate of return (IRR) of the purchased company.

The information needed for the IRR calculation may be accessed at pages 23-24 of Form 14D-9.

Excel may be used to calculate IRR as depicted below. The first column below is column A and includes the dates of cash flows. (As a point of reference, the following data is in cell A5 below: 12/31/2020. And the following data is in cell B5 below: -21049.)

	Est. Cash
	Flow
Date	(\$000,000)
12/31/2020	-21049
12/31/2021	143
12/31/2022	362
12/31/2023	721
12/31/2024	1580
12/31/2025	2201
12/31/2026	2735
12/31/2027	3099
12/31/2028	3401
12/31/2029	3624
12/31/2030	3825

12/31/2031	4008
12/31/2032	4199
12/31/2033	4414
12/31/2034	3229
IRR	=XIRR(B5:B19,A5:A19,0)

The calculated IRR is 6.56%,

The form 10-K Gilead filed with the SEC for the year ended December 31, 2019, included financial results for the last full year before the Immunomedics acquisition. Use this 10-K information when responding to questions 9, 10, and 11.

10) Estimate Gilead’s weighted average cost of debt at the time of the Immunomedics acquisition.

Answers will vary. It should be made clear to students that this is an estimate of the weighted average cost of debt. Additional information would be required from the company to calculate the precise cost of debt. Detailed debt issuance information is available in footnote 12 (Debt and Credit Facilities) on page 72 of the 2019 10-K. Interest expense can be found on the income statement on page 49 of the 2019 Gilead 10-K.

An acceptable solution could be calculated as:

$$\frac{\text{2019 interest expense per the income statement}}{\text{Average 2019 LT debt balance + current maturities}} = \frac{\$995}{(\$27,322 + \$24,593)/2}$$

The estimated weighted average cost of debt = 3.83%

11) Estimate Gilead’s cost of common equity at the time of the Immunomedics acquisition using the dividend discount model.

Answers will vary. Gilead has historically paid a large dividend when compared to other pharma companies. However, the instructor may choose to calculate the cost of equity using a method other than the dividend discount model such as the CAPM model. The instructor may also choose different values for components in the dividend discount model.

An acceptable solution could be calculated as:

$$\text{Cost of Common Equity} = D1/P0 + G$$

D1= \$2.72 This represents the annualized final dividend declared (\$.68) by Gilead before the Immunomedics acquisition. (*Dividend History for Gilead Sciences (Gild)*, n.d.)

https://www.streetinsider.com/dividend_history.php?q=gild

P0= \$65.58 This represents the closing price of Gilead stock on the last day before the announcement (September 11, 2020). (Journal, n.d.) <https://www.wsj.com/market-data/quotes/GILD/historical-prices>.

G= 9.60% Gilead does not publish specific dividend guidance. As such the compound growth rate for Gilead’s dividend for the five years before the Immunomedics acquisition.

Dividend Growth Rate		
		Quarterly
Date Declared	Year	Dividend
7/28/2015	0	0.43
7/25/2016	1	0.47
7/26/2017	2	0.52

7/25/2018	3	0.57
7/30/2019	4	0.63
7/30/2020	5	0.68
CAGR		9.60%

(A more conservative estimate would suggest using the current dividend growth rate. The last three Gilead dividend increases are 2020: 7.9%, 2021: 4.4%, and 2022: 2.8%).

$(\$2.72/\$65.58) + 9.6\% = 13.75\%$

The calculated cost of equity for Gilead is 13.75%.

12) Estimate Gilead's weighted average cost of capital (WACC) at the time of the Immunomedics acquisition.

Calculate WACC as: $(E/V * Re) + [D/V * Rd * (1 - Tc)]$.

The equity and debt weighting are to be calculated using market values. Gilead reported 1,270,000 shares of stock outstanding in its last filing before the acquisition (June 30, 2020, 10-Q).

The market value of a share of Gilead Stock before the transaction: \$65.58

Debt market value data is not available. Reasonable assumption: Book value is a suitable replacement for market value absent information that debt market value varies widely from book value. Students may test the reasonableness of this assumption by calculating the difference between company enterprise value and equity market value with data (adjusted for working capital) from financial websites such as Yahoo Finance. (*Yahoo! Finance | Gilead Sciences, Inc. | Key Statistics*, n.d.) <https://finance.yahoo.com/quote/GILD/key-statistics/>

WACC		(thousands)	%
Gilead Stockholder Equity Market Value			
Outstanding shares (thousands) on June 30, 2020, per 10-Q	1,255,000		
Closing stock price Sept. 11, 2020	\$65.58		
Equity Market Value		82,302,900	77.35%
Gilead June 30, 2020, Long term Debt (w/ current mat.) per book		24,102,000	22.65%
Total		106,404,900	100.00%
WACC		11.32%	

$(.7735 * 13.75\%) + [(0.2265 * 3.83\%) * (1 - .21)] = 11.32\%$

13) Using the calculated estimated WACC, calculate the net present value (NPV) of the Immunomedics acquisition based on the free cash flow estimates in Immunomedics schedule 14D-9. Assume the acquisition cost and -\$49 million first-year projection are year zero expenditures.

The NPV of the project may be calculated in Excel as follows. The first column below is column A and includes the period the cash flow was made. (As a point of reference, the following data is in cell A3 below: 0. The following data is in cell B3 below: -21049. The following data is in cell D2: 11.32%)

Period	Est. Cash Flow	PV	
			11.32%
0	-21049	=PV(+D\$2,A3,0,-B3,0)	
1	143	=PV(+D\$2,A4,0,-B4,0)	
2	362	=PV(+D\$2,A5,0,-B5,0)	

3	721	=PV(+D\$2,A6,0,-B6,0)	
4	1580	=PV(+D\$2,A7,0,-B7,0)	
5	2201	=PV(+D\$2,A8,0,-B8,0)	
6	2735	=PV(+D\$2,A9,0,-B9,0)	
7	3099	=PV(+D\$2,A10,0,-B10,0)	
8	3401	=PV(+D\$2,A11,0,-B11,0)	
9	3624	=PV(+D\$2,A12,0,-B12,0)	
10	3825	=PV(+D\$2,A13,0,-B13,0)	
11	4008	=PV(+D\$2,A14,0,-B14,0)	
12	4199	=PV(+D\$2,A15,0,-B15,0)	
13	4414	=PV(+D\$2,A16,0,-B16,0)	
14	3229	=PV(+D\$2,A17,0,-B17,0)	

The NPV of the project is calculated to be negative \$6,552,000,000.

14) If the calculated IRR of the Immunomedics acquisition was below the Gilead WACC and/or the NPV of the acquisition is negative, why would Gilead choose to go forward with the acquisition?

The projections in the 14D-9 were made by Immunomedics. Gilead would likely consider them one piece of data to consider when preparing their own projections as part of analyzing a possible purchase of Immunomedics. Gilead likely has prepared projections that incorporate additional incremental revenue from Trodelvy that Immunomedics did not include. Gilead may believe the sales potential of the drug in the noted breast cancer treatment market is greater than Immunomedics projected. They may also feel like it has a longer useful life than the 14-year Immunomedics projection. Gilead has indicated its interest in exploring the use of Trodelvy for other cancers too. (See pg. 72 of the Gilead 10-K. “Acquired IPR&D assets consist of Trodelvy for hormone receptor positive, human epidermal growth factor receptor 2 negative, metastatic breast cancer, Trodelvy for non-small cell lung cancer and Trodelvy for urothelial cancer (“UC”). Further, Gilead may ascribe additional value to other drugs in the Immunomedics research pipeline. Gilead may also anticipate additional cost reductions that Immunomedics would not have considered. Finally, Gilead may have non-financial strategic or defensive reasons to pursue this acquisition which are not disclosed in the filed documentation.

15) Reference the press release announcing the acquisition. (September 14, 2020, Gilead and Immunomedics 8-K) Gilead states in the press release that the acquisition will be funded through existing cash and newly issued debt. A friend asks you if it would be more correct to calculate the NPV of the Immunomedics acquisition using a combination of the cost of the newly issued Gilead debt and the short-term investment rate for the amount of existing cash used. How do you respond?

The use of a WACC that reflects the risk profile of the investment and the acquiring company’s capital costs is appropriate. A company may use a WACC that is different from their existing capital costs should their existing WACC not align with the risks of the project or if their existing capital costs are not reflective of current market conditions. Such a hypothetical WACC would still include debt and equity components but would not be calculated as your friend suggested.

Section 4: Forecasting, Accounting and Fairness.

Prior to a major corporate acquisition, the acquiring company prepares projected multi-year financial statements for the combined companies. These projections can be used to evaluate potential impacts on earnings per share, debt covenants and other financial indicators of the acquirer post-acquisition. These projections will include projected balance sheets and income statements for the combined companies. The preparation of the combined company projections begins with:

- Preparation of multi-year stand-alone projections of the acquiring company’s financial statements.
- Preparation of or acquisition of multi-year stand-alone projections of the target company’s financial statements.

•
Once stand-alone projected financial statements are completed, the preparation of projections normally follows an iterative process whereby the acquiring company will prepare multiple acquisition scenarios. These scenarios combine the two companies and may include varying assumptions for:

- Modifications to the stand-alone projections of the target company's financial statements. (E.g., If the target company stand-alone projections have been prepared by the target company; the acquiring company may adjust up or down the revenue or expense projections.)
- The purchase price of the target company.
- The "currency" used in the acquisition (e.g., cash vs acquirer stock).
- If the target company is to be purchased with cash, the amount of borrowing required by the acquiring company and the terms of the borrowing.
- What is actually purchased by the acquiring company and how is it accounted for. Is the acquirer purchasing some or all of the assets of the target or some or all of the stock of the target?
- Additional synergies from the acquisition often in the form of new revenues or expense reductions.
- Structure of the acquisition. E.g., Do the two companies merge? Or will they not merge and the target continue operations as a subsidiary of the acquirer?
- Transaction costs, valuation and expensing of intangible assets and income tax.

16) Access Gilead and Immunomedics forms 10-K, 10-Q, 8-K, and 14D-9. For each of the following items, indicate what information has been provided, if any. Also indicate the source of your answer, including the report (e.g., Gilead 2021 10-K, page79.)

a) Stand-alone projections of Gilead's financial statements.

These were not made public by either party to the acquisition.

b) Stand-alone projections of Immunomedics financial statements.

Immunomedics disclosed a 15-year stand-alone projection on pages 23 and 24 of their Schedule 14D-9 dated September 24, 2020.

c) Stand-alone projections for Immunomedics beyond the initial 15 years and/or a terminal value for Immunomedics used by Gilead in their valuation of Immunomedics.

These were not made public by either party to the acquisition.

d) Modifications to the stand-alone projections of the Immunomedics financial statements. (E.g., If Immunomedics stand-alone projections have been prepared by Immunomedics, Gilead may adjust up or down the revenue or expense projections.)

These were not made public by either party to the acquisition.

e) The purchase price of Immunomedics.

\$88 per Immunomedics share of common stock. This is disclosed numerous places beginning with the Gilead and Immunomedics 8-Ks filed September 14, 2020.

f) The "currency" used in the acquisition (e.g., cash or Gilead stock).

Cash. This is disclosed numerous places beginning with the Gilead and Immunomedics 8-Ks filed September 14, 2020.

g) If Immunomedics is to be purchased with cash, the amount of borrowing required by Gilead and the terms of the borrowing.

The amount borrowed and summary terms are disclosed numerous places beginning with the Gilead 8-K filed October 23, 2020.

h) What is actually purchased by Gilead and how is it accounted for. Is the Gilead purchasing some or all of the assets of Immunomedics or some or all of the stock of Immunomedics?

Gilead is proposing to purchase all of the stock of Immunomedics. This is disclosed numerous places beginning with the Gilead and Immunomedics 8-Ks filed September 14, 2020.

i) Additional synergies from the acquisition often in the form of new revenues or expense reductions.

These were not made public by either party to the acquisition.

j) Structure of the acquisition. E.g., Do Gilead and Immunomedics merge? Or will they not merge and Immunomedics continue operations as a subsidiary of Gilead?

Gilead will merge with and into Immunomedics. This is disclosed numerous places beginning with the Gilead and Immunomedics 8-Ks filed September 14, 2020.

k) Transaction costs.

These were not made public by either party to the acquisition.

l) Assumptions for post-acquisition income tax calculations and Gilead's accounting for intangible assets (including amortization) acquired in the Immunomedics transaction.

Income tax calculations are complex and very important in acquisition forecasting. Detailed forecasted tax calculations related to Immunomedics' operations were not disclosed by Gilead. Calculation of intangible asset values related to the Immunomedics acquisition and the amortization attributable to these assets affect the calculation of net income of the merged entity. Detailed projections for intangible asset values and amortization were not disclosed by Gilead.

After the fact disclosure of merged company income tax calculations are provided in footnote 18 in the 2020 Gilead form 10-K. After the fact disclosure of estimated intangible asset values and amortization are provided in footnote 6 and 9 in the 2020 Gilead form 10-K filed February 25, 2021.

17) Given your answers to question #16, are you able to prepare a credible multiyear forecast of Gilead post-acquisition of Immunomedics? Why or why not?

The answers to the sub-parts of question 16 identify significant gaps in the data needed for preparing a credible forecast. Such data is proprietary. In competitive situations such as Gilead's acquisition of Immunomedics, disclosure of proprietary assumptions would put Gilead at a competitive disadvantage to competitors seeking to acquire Immunomedics.

18) Reference the Immunomedics schedule September 24, 2020, 14D-9. The management projections included in the schedule depict a positive \$143 million of EBIT in 2021. EBIT also remains positive in all forecasted years thereafter. Review the YouTube video announcing the transaction in question #3 again [Gilead to buy Immunomedics, expanding cancer drug portfolio](#) (CNBC Television, 2020). The video states the transaction will be neutral or accretive to Gilead earnings in 2023, not 2021.

Explain how the acquired operations can be forecasted by Immunomedics to generate positive EBIT in 2021 but the acquisition is not forecasted by Gilead to be accretive to earnings until 2023.

The positive EBIT forecasts were prepared by Immunomedics. Gilead likely had its own forecasts it relied upon when it made its acquisition. The Gilead earnings projection could be substantially different from the Immunomedics' projection. Further, even if Gilead used the Immunomedics forecast, it is only an EBIT forecast. Gilead would likely have to calculate its own estimate of interest expense and taxes. It would also have to calculate the amortization expense of portions of the acquired Immunomedics intangible assets acquired in the transaction.

19) Reference the Immunomedics schedule September 24, 2020, 14D-9, Annex A & B. Review the two fairness opinions prepared for the Immunomedics board of directors. Before attempting to answer

the following questions, discuss: If you were a medium or long term owner of the stock in an acquiring company completing a major transaction, what financial results following the transaction may indicate the transaction was not fair to you.

a. What is the purpose of a fairness opinion?

A fairness opinion is a letter written by an investment bank or other financial organization based upon an analysis completed by the investment bank or financial organization, which states whether or not a transaction is fair to a specific group (often shareholders), from a financial perspective. The preparer of the fairness opinion is paid to prepare the opinion.

The pre-question discussion of fairness should focus on, “Is the company better off having completed the acquisition, than it would be had no transaction had been completed?” A post-acquisition decrease in stock price may be indicative but other internal company specific reasons may be driving the stock price decrease as well as external trends in the biotech sector (which can be analyzed). Is there evidence that company earnings per share have been adversely affected by the acquired company delivering earnings below what was projected?

b. According to the fairness opinion, is the acquisition of Immunomedics fair to Immunomedics shareholders?

Both fairness opinions concluded the transaction was fair to Immunomedics shareholders.

20) Gilead did not receive a fairness opinion from its advisors. Relying upon your research in this case, prepare a _____ page paper with references and detailed supporting arguments responding to the following two questions.

a. Did Gilead overpay for Trodelvy?

Answers will vary. Students may reference their calculations of NPV and IRR. Students should also be encouraged to examine the most recent Gilead 10-K to see if actual revenue from Trodelvy is above or below projected revenue projections made in the Immunomedics 14-D9. The 2021 disaggregated revenue (breaking out Trodelvy revenue) is available on page 64 of the 2021 Gilead 10-K.

b. Was the Immunomedics acquisition fair to Gilead’s shareholders?

When forming their opinion, students may also want to review subsequent Gilead 10-Qs and 10-Ks in EDGAR to see if the company reported any financial results from sales of Trodelvy. The instructor will indicate how long the paper should be and other directions.

Section 5: Environmental, Social, and Governance (ESG)

In this case, students participated at an overview level of due-diligence analysis including key reporting and disclosure requirements, risk and benefits of the deal, the financial and value impacts, and accounting challenges regarding taxes or forecasting. The Immunomedics deal was one of two acquisitions made by Gilead in 2020 along with several equity-stake or partnership transactions. Gilead continues to use this growth strategy to expand its footprint in the biomedical pharmaceutical industry by integrating companies into their portfolio that offer value and operate in novel technologies. In September of 2022, the target firm was MiroBio, a privately held U.K.-based biotech company whose proprietary discovery platform and leading research in immunology is specific to therapies that suppress inflammatory immune response. Gilead uses M&A to expand offerings across multiple therapeutic sectors. Scientific discoveries expand the realm of possibilities in health outcomes, influence markets, and attract investors. More than ever, societal expectations have substantial influence on company direction. Preferences and demands spur changes in the external business environment and on the selection of acquisition targets as well as the attractiveness of acquirers. The consideration of environmental, social, and governance (ESG) factors in merger and acquisition transactions is rising. Students will add an analysis of Gilead’s ESG philosophy and actions implemented at a corporate level by researching SEC filings and company reports to prepare responses to the following questions.

Refer to the resource link provided as you answer the following question:

Gilead Form 10-Q, period ended June 30, 2022 (“Gilead Sciences, Inc. Form 10-Q,” 2022)
<https://www.sec.gov/Archives/edgar/data/882095/000088209522000019/gild-20220630.htm>

1) Was Gilead’s acquisition strategy successful in 2020 and/or 2022? Why? Should all future targets be assessed in the same manner as Immunomedics? What price and MiroBio or should their model include more specific ESG criteria?

Answers may vary based upon the student outcome of the valuation process. However, over time, increased revenues, market share, and cash flow supporting additional acquisitions indicate success.

The strategy to acquire Immunomedics in 2020 was successful as demonstrated by the continued increase in revenues from Trodelvy sales, pgs. 9 & 29, 30,31 , increased intangible asset value to \$6.1 billion, pg. 19

The strategy to acquire MiroBio in 2022, using \$405 million in cash, is a successful growth strategy continuation as this adds immunology to the therapeutic portfolio previously consisting of virology and oncology treatments, pg. 28

2) What are the risks associated with including ESG criteria? List and explain at least four risks.

Reputational risk – positive or negative perception of the public, investors, government agencies, banks

Litigation risk – will actions cause lawsuits and/or settlements, judgements, reputation damage

Regulatory risk – compliance with regulations in all operational communities and countries

Operations risk – will financial, social, environmental goals be met and/or lead to profits

Legal risk – compliance with law in all aspect of business

Financial risk – loss of market share, profits, inability to raise capital, cash flow

Stock price – loss of stock value and investors

Further detail is found in PART II, OTHER INFORMATION, Item 1A. Risk Factors, Operational Risks; “Our aspirations, goals, and disclosures related to environmental, social, and governance (“ESG”) matters expose us to numerous risks, including risks to our reputation and stock price.”, p. 46,47

Students should list a minimum of four risks with explanations that demonstrate their understanding of ESG’s influence on Gilead as an investment vehicle, on the evolution of ESG criteria and standards, and regulation.

Refer to the following resource links as you respond to Questions 3 & 4:

Gilead DEF 14A Proxy Statement (2022 Notice of Annual Meeting of Stockholders and Proxy Statement) addresses stockholders, highlighting annual performance and providing material for the voting process. (“Gilead Sciences, Inc. Proxy Statement,” 2022)

<https://www.sec.gov/Archives/edgar/data/882095/000120677422000832/gild3988061-def14a.htm>

The 2021 Year in Review annual report is published on the company website, gilead.com, and provides insight into accomplishments and future company directives. (Gilead Sciences, Inc. 2021 Year in Review, 2021)

https://www.gilead.com/-/media/files/pdfs/vir-2021-pdfs/2021-gilead-vir_desktop.pdf

Gilead Sciences, Inc. | Our Purpose | Environmental, Social, and Governance (ESG)

(Gilead Sciences, Inc., n.d.)

<https://www.gilead.com/purpose/esg>

3) How does ESG enhance Gilead’s corporate governance approach to growth, diversity and inclusion, sustainability, and responsibility?

Answers will vary as students peruse the publications and decipher what material influences ESG has had on past policies and how forward-looking and committed Gilead is to the continued implementation of global and local sustainability principles.

Examples – Proxy Statement

Inclusion is a “Core Value, Acknowledgement of ESG as a leading priority, Promotion of inclusion and diversity as key element of “S” in ESG, Hiring targets and employee development for employees and leaders, ESG Program tenets and measures, Board of Directors (BOD) member notation of ESG skills, experience, background, BOD oversight of ESG as part of the corporate strategy, ESG in Oversight of Risk and Human Capital Management in corporate governance, ESG discussions with stockholders, Integration of non-financial and ESG metrics in compensation, BOD Nominating/Corporate Governance Committee oversight, etc.

Examples – Year in Review

Annual report highlights ESG data, Delivering influence/impact - reporting using external accountability frameworks (UNGC & UN SDG), supporting global health sustainably through business operations – supporting all 17 UN SDGs, Reporting ESG strategies beyond SEC requirements, ESG materiality assessment, ESG stakeholder engagement, Global reporting Initiatives (GRI)/United Nations sustainable development goals (UN SDGs) content, Inclusion & diversity are committed core values, Advancing inclusive culture, Accurate representation of the people, patients, and communities served, Biotech employer of choice, Increasing diversity in research and clinical trials, diverse & inclusive supply chain initiative, employee sentiment surveys, continued pursuit of I&D progress, etc.

Examples – Purpose Statement

ESG – Stated core to business strategy, listed alongside core values of accountability, inclusion, ESG framework guides mission achievement within socially responsible and environmentally sustainable limits, Reporting – standardization of data collection, measurement, and reporting within industry-leading frameworks, Sustainability – disease prevention programs, strengthen health infrastructure in vulnerable communities medication access, Advancing global health, listing of key ESG commitments

Inclusion & Diversity - Gilead's overall Inclusion & Diversity aspirations are:

- Be the **employer of choice** for diverse talent
- Foster an **inclusive culture** where differences are leveraged to innovate and enable our mission
- Be respected for **equitable and socially responsible** practices

4) Compare and contrast Corporate Social Responsibility (CSR) with ESG using an internet search engine. Are they mutually exclusive?

Answers will vary based on the quality of search, comprehension, and summary of the students.

CSR is internal and refers to the culture, organizational structure, mission, vision, values, and supporting statements and/or policies that address social, economic, and environmental issues, perceptions, and philosophies. CSR is not regulated or required by outside entities. CSR policies and products are developed to appeal to the increased social consciousness of consumers. CSR elements are qualitative.

ESG is the external means by which the impact of the organization upon society is measured. ESG provides the data that investors and the public can use to assess performance, responsibility, sustainability, and ethics. Analysts and rating agencies are able to rank companies.

CSR and ESG are not mutually exclusive, rather they coordinate the internal elements of culture, purpose, values and make reporting on these initiatives meaningful, measurable, comparable, and available to external stakeholders, investors, governments, and the public at large.