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PATTON BOGGS

Surging Ahead

M&A Outlook 2022 and beyond

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Foreword

Mergers and acquisitions (M&A) activity is back with a bang. In the first three quarters of 2021, there were 18,736 global deals agreed with a collective value of almost US\$4.3 trillion. That represented increases of 47% and 122% respectively on the same period in 2020.

This data is from Mergermarket, with whom we have partnered to develop this report on the state of the global M&A market. Together, we can reveal that M&A activity has bounced back with huge resilience since the height of the COVID-19 crisis in the second quarter of 2020, when economies and markets worldwide were plunged into lockdown. We also look ahead, to the question of whether this remarkable recovery in dealmaking can be sustained.

In our view, there are good reasons to be optimistic. Many of the drivers of M&A recovery over the past several quarters' months have further to run. The economic outlook has improved markedly, thanks to the emergence of effective COVID-19 vaccines. The imperatives for dealmaking, including the need for digital transformation, have strengthened, and the supply of capital, not least from private equity (PE) and special purpose acquisition companies (SPACs), is plentiful.

This is not to downplay the significant risks that the market still faces. The COVID-19 pandemic is clearly far from over – and it would be foolish to discount the possibility of another serious twist in the crisis. Political pressures persist, from Brexit in Europe to the changing relationship of the US and China under a new President, as well as the US domestic agenda. Plus, supply chain issues around the world are holding back growth while pushing up inflation.

Nevertheless, the M&A boom shows no sign of running out of steam. Dealmaking in a post-COVID-19 environment may be different – environmental, social and governance (ESG) issues, for example, are now even more at the fore – but activity is continuing at pace. Indeed, large parts of the M&A market are accelerating.

This is the backdrop against which this report is set. We hope you find it useful and insightful.



Tony Reed
EMEA Chair,
Global Corporate Practice

Deal Activity in Review

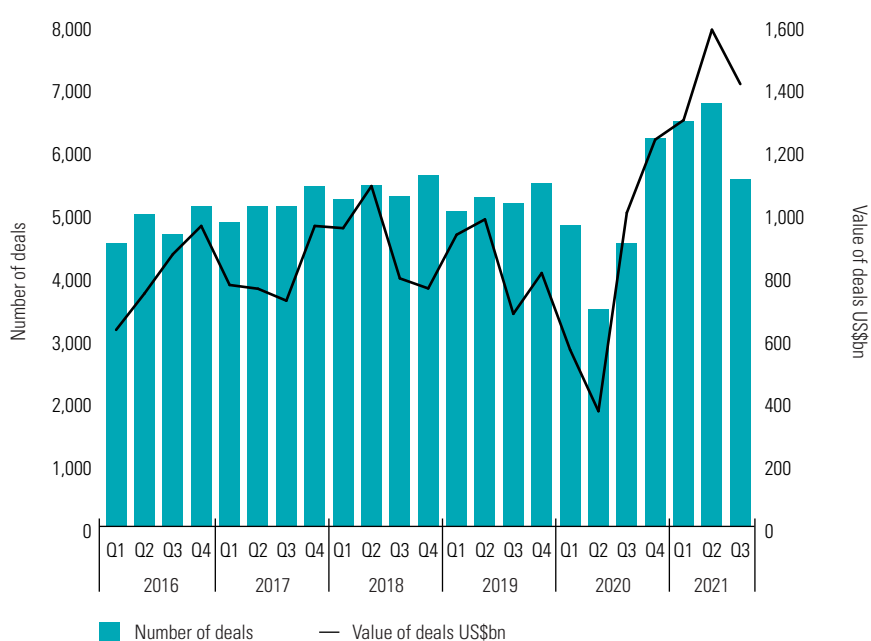
Global M&A activity is on target to hit record volumes and values during 2021. In the first three quarters of the year alone, deals worth more than US\$4.2 trillion were agreed, more than in any single full-calendar year period over the past five years. Deal volumes during the first three quarters of 2021 totalled 18,736, putting M&A comfortably on course to exceed each of the past five years in this regard too.

This year's surging M&A activity follows the course set during the second half of 2020. During the first six months of that year, the emergence of the COVID-19 pandemic plunged the M&A market into crisis. Deal activity slowed markedly at that time as transactions were disrupted and confidence dived. However, the second half of 2020 saw deal-making come racing back. Indeed, in the final quarter of last year, as the world welcomed positive news on effective vaccines against the COVID-19 virus, there were some 6,188 M&A deals globally, with a collective value of US\$1.2 trillion. At the time, that was the most active quarter for dealmaking in Mergermarket history (since 2006).

As the data for 2021 reveals, this momentum has been sustained – in fact, it has accelerated. Deal values totalled more than US\$1 trillion in each of the first three quarters of the year, a level of activity never before seen.

Although M&A activity was up significantly year-on-year across all regions, some jurisdictions recorded significantly faster recoveries in M&A activity than others. China notably bounced back from the pandemic more quickly than most other countries, while the US has seen blockbuster activity fuelled by strong stock markets and easy access to financing. For instance, in any other year the US\$1 trillion worth of European M&A announced in the first three quarters of the

Global M&A Activity – Quarterly



year – double the same period the year before – would be remarkable. This year, however, it was dwarfed by the North American market, which recorded US\$2.1 trillion in the first three quarters, up 185% on the same period of 2020.

The picture by industry and sector tells a similar story. At one extreme, the technology, media and telecoms (TMT) sector has recorded 4,886 deals already this year, compared to 2,859 during the same period of 2020. Deal values, at almost US\$1.4 trillion, are already at nearly three times last year's total of US\$555 billion. The industrials and chemicals sector has also seen deal values more than double already on 2020's figures, although it was in distant second place to TMT, with aggregate value of US\$550 billion globally. Energy, mining and utilities, financial services

and pharma, medical and biotech all made significant contributions to the total M&A figures this year too. By contrast, sectors with greater sensitivity to the pandemic, such as consumer and leisure, are taking longer to recover.

The biggest deals of 2021 to date play into those figures. In China, for example, the consolidation of Sichuan Railway Investment Group and Sichuan Transportation Investment Group in a US\$112 billion deal tops the ranking for the year so far. The next two biggest deals took place in the US TMT sector: AT&T's spin-off of WarnerMedia into a merger with Discovery was a deal worth US\$96.2 billion, while Dell Technologies Inc agreed to pay US\$61.5 billion for an 80.65% stake in VMware, Inc.



Since the second half of 2020, we have seen strong global M&A activity as economic uncertainties lifted and dealmakers moved to position themselves post-COVID-19. Many are focusing on M&A to accelerate growth, build scale and reshape their businesses.



Cipriano S. Beredo III
Americas Chair,
Corporate Practice

Top Deals Q1-Q3 2021

Target company	Target sector	Target country	Bidder company	Bidder country	Deal Value US\$bn
Sichuan Transportation Investment Group Co., Ltd.	Construction	China	Sichuan Railway Investment Group Co.,Ltd.	China	111.5
Warner Media, LLC.	TMT	USA	Discovery, Inc.	USA	96.2
VMware, Inc. (80.65% Stake)	TMT	USA	Dell Technologies Inc (Shareholders)	USA	61.5
Naspers Limited (45.4% Stake)	TMT	South Africa	Prosus N.V.	Netherlands	46.1
MSP Recovery, LLC	TMT	USA	Lionheart Acquisition Corporation II	USA	44.3

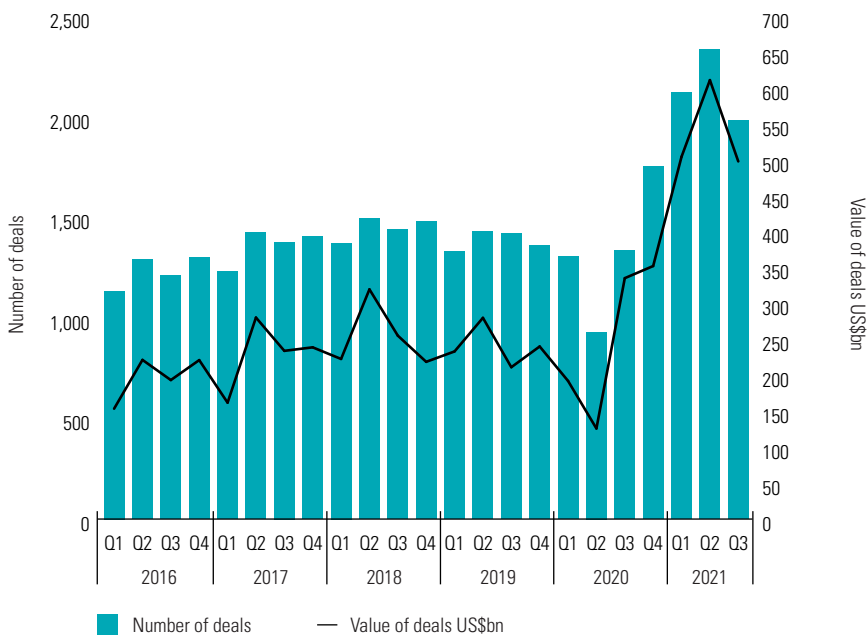


Drivers of M&A in Asia since the second half of 2020 include government monetary and fiscal policy responses to COVID-19, technological and commercial disruption and demographic changes, particularly the ageing population in Japan and China. These drivers have caused companies to invest in optimising their supply chains/sales networks and market position, acquire new technologies and expand product portfolios, production and distribution capabilities, particularly in markets that are growing quicker than their home markets.



Stephen Chelberg
Asia Pacific Chair,
Global Corporate Practice

Global PE Activity – Quarterly



It is inevitable that deal activity will reduce somewhat from the record pace of recent months. However, the dislocation of the pandemic has provided opportunity across much of the market, and with new funds being raised on a weekly basis, swelling the dry powder, we expect PE’s growth, as an asset class, to continue and to be sustainable for the foreseeable future, albeit perhaps at a less aggressive rate than in very recent times.



Jonathan Jones
European Managing Partner



Charles Leeming
Corporate Partner

PE Returns

One notable driver of M&A activity so far in 2021 has been the return of PE investors to the fray. Sitting on record amounts of dry powder – as much as US\$2.3 trillion according to S&P Global Market Intelligence and Preqin – PE firms have been anxious to deploy their capital.

The first three quarters of 2021 saw PE firms involved in 6,441 deals worldwide with a collective value of US\$1.6 trillion, meaning that this year has already eclipsed each of the past five full years in both volume and value terms. The figures for 2021 as a whole look set to enter the record books.

While every sector of the market has seen PE dealmaking increase this year, much of the activity has been centred on the TMT sector. Of those 6,441 deals agreed so far this year, 2,455 involved TMT businesses; by value, these transactions were worth US\$391 billion, almost a quarter of all PE M&A activity.

Other sectors in favour have included industrials and chemicals, with 918 deals worth US\$167 billion so far this year. The pharma, medical and biotech sector has also fared well – aggregate value totalled US\$156 billion, across 726 deals. Business services has seen significant activity as well, with 791 deals, though the smaller transaction sizes in the sector have seen more modest totals in value terms, with M&A of US\$82 billion in 2021 so far.

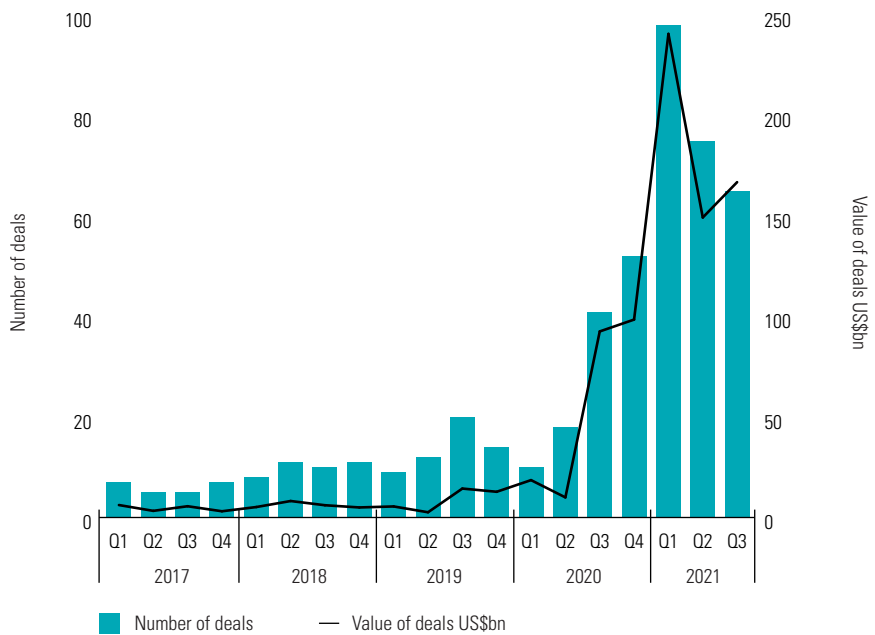
SPACs Make a Splash

SPACs have also made a significant contribution to M&A activity during 2021. While there has been some nervousness about regulatory interventions in the SPAC sector – notably, the Securities & Exchange Commission in the US is considering new rules on public disclosures and forecasting – these blank-cheque companies have continued to raise significant sums from investors.

Indeed, with interest rates at record lows, optimism about a strong economic bounce back from the COVID-19 crisis, and plentiful capital among investors, some 481 SPACs have raised US\$135 billion so far this year. That compares to 256 SPAC IPOs worth US\$84 billion over the whole of 2020 and 72 worth US\$15 billion in 2019.

In the meantime, the sums flowing into SPACs have inevitably impacted M&A volumes, as the vehicles have looked to deploy the capital raised. So far this year, SPACs have been involved in 238 transactions worth US\$557 billion, more than doubling 2020's full-year total of 121 deals worth US\$220 billion. Given the trajectory of SPAC fundraising over the past three years, this level of activity may continue during the fourth quarter of 2021 and into 2022.

Global SPAC M&A - Quarterly



Stiff competition for “hot assets” inevitably inflate multiples, however buyout groups have also taken advantage of depressed share prices in the wake of Covid and, in the UK, of the market fallout from Brexit. Therefore, while the premiums appear high compared with current trading prices, they are in many cases lower when compared with pre-pandemic levels. Notwithstanding, there are some concerns that valuations show signs of a bubble, especially when viewed in the face of factors such as tax policy, protectionism, and increased regulatory scrutiny and the ongoing supply chain issues affecting many sectors which look likely to continue through 2022.

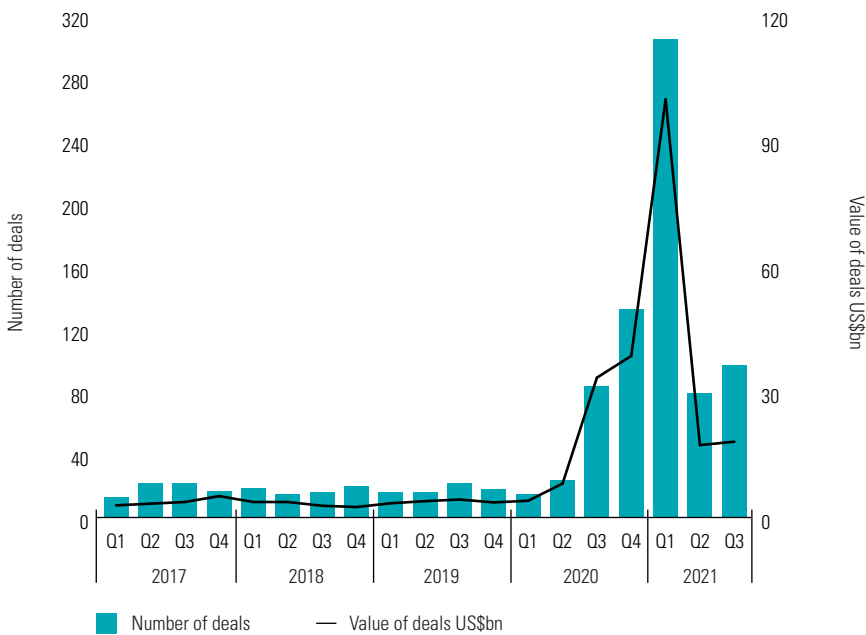


Paul Mann
UK Head of Private Equity



Bart Vanderstraete
Corporate Partner

Global SPAC IPOs - Quarterly



The Rise and Rise of ESG

ESG factors loom ever larger in the M&A process. In research conducted by Mergermarket earlier this year, 65% of dealmakers said ESG was now an important consideration when they were thinking about potential deals.

Clearly, climate change is a significant factor here, with growing regulation and political action – likely to increase following November’s COP26 Summit in the UK – piling the pressure on businesses and industries with a poor record on emissions. But broader issues are at play too, from growing consumer awareness of campaigns such as Black Lives Matter and Me Too, to investors’ focus on the growing evidence that companies with better ESG credentials tend to outperform.

These trends feed through into the M&A market in two distinct ways. First, the ESG phenomenon is driving demand for companies that rate highly on key sustainability metrics. This has been one element of the uplift in TMT sector activity, for example, but has also resulted in soaring demand for businesses such as renewable energy providers.

The second impact on the M&A market has been the increased prominence of ESG during the transaction process. Buyers are asking exacting questions of target companies during the diligence process, eager to uncover potential ESG headaches – both at the target and in its broader supply chain – rather than risk being caught out following completion. Indeed, in Mergermarket’s research, 60% of dealmakers said they had walked away from at least one transaction because of ESG issues.



I expect regulators to take a hard look to ensure that SPAC target companies’ governance and financial reporting ability meet a standard more analogous to the IPO standard. Similarly, over the next year, we will begin to have more data relative to the valuation of SPACs in the post-merger company context. In the last 12 months, we saw a significant drop in value after the merger of SPACs. If that trend continues, we can expect to see stricter regulation of forward-looking forecasts and sponsor equity structures, as well as increased litigation alleging that SPACs have made misleading statements in the marketing process. All that said, SPACs are well underway with sufficient momentum and resources to address these hurdles and continue to play a role in the M&A markets.



Michele Connell
Global Managing Partner,
US LLP



The investor community is paying increasing attention to ESG performance. Partly, this is driven by regulations such as the EU’s SFDR, and partly to changing public expectation. Forthcoming changes to corporate disclosure requirements, such as the EU’s Corporate Sustainability Reporting Directive or the UK’s planned adoption of TCFD-based environmental reporting, will further influence corporate boardroom attitudes to ESG performance.



Hannah Kendrick
Corporate Partner

Protectionism by Another Name?

Joe Biden’s defeat of Donald Trump in the US presidential election last November has eased concerns that a new wave of protectionism might damage global commerce. The new President has been notably less hawkish than his predecessor in his rhetoric on the trade policies of the US’ great rival, China.

However, one type of protectionism continues to loom large, with a growing number of countries introducing legislation that gives government more powers to scrutinise – and ultimately veto – cross-border deals involving businesses in key sectors of the economy. While most governments are keen to encourage foreign direct investment in their economies, this trend has the potential to hamper international M&A, particularly in sensitive sectors. At the very least, such dealmaking may become more complex.

In the UK, for example, the National Security & Investment (NS&I) Bill, which came into force at the end of 2020, focuses on 17 industries

that the government deems sensitive, including nuclear, communications, data infrastructure, artificial intelligence and computing hardware. Would-be overseas acquirers of British businesses in these sectors must notify a new government agency, the Investment Security Unit (ISU), of their intentions. The Secretary of State for Business will then decide whether such deals merit further investigation.

This legislation mirrors similar regimes in other countries, including the Committee on Foreign Investment in the United States (CFIUS), an inter-agency group with extensive powers to block foreign acquisitions seen as threatening US national security. The group, chaired by the Treasury Secretary, dates from 1975, but has seen its remit extended and its powers increased in recent years. Reforms introduced by President Trump in 2018 primarily focused on Chinese investors.

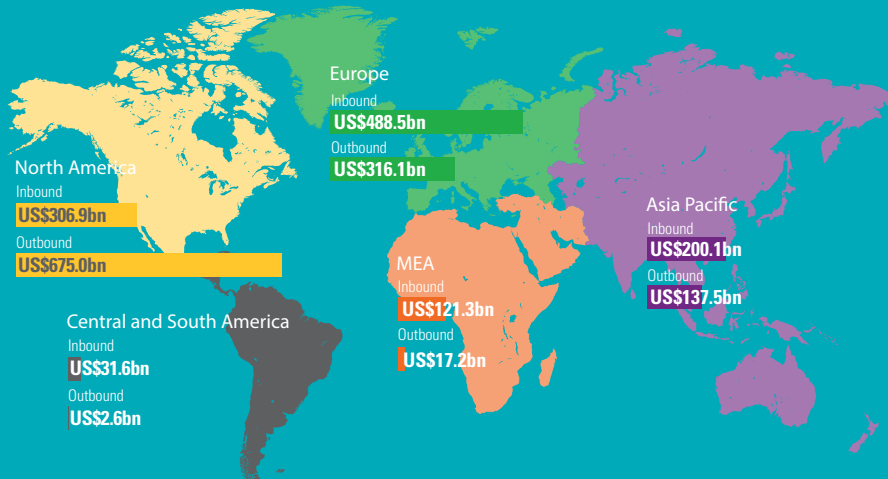


Early FDI screening is rapidly taking its place alongside upfront merger control review as a key strategic area of concern to be considered from the outset. However, the key difference with a pre-deal merger control review is that there is far more room for the exercise of governmental discretion and far less precedent in advising corporates on the risk of a multijurisdictional deal being impacted by the myriad competing FDI regimes, which bear less resemblance to each other than merger control regimes tend to.



Tony Reed
EMEA Chair,
Global Corporate Practice

Regional Inbound and Outbound M&A Q1-Q3 2021



Elsewhere, both Australia and the EU are also taking action. The former already has the Foreign Investment Review Board, while the EU's framework for screening of foreign direct investment, including on security grounds, became fully operational in 2020. In China, meanwhile, the 2019 Foreign Investment Law increased transparency for foreign investors in China, but also included a lengthy list of sectors off-limits to overseas investors. Russia introduced the Strategic Investment Law in 2008 and has strengthened its provisions in recent years.

Vaccines Inject New Life Into M&A

The strength of the M&A market in 2021 to date is clearly closely linked to the view that the rollout of vaccines worldwide spells the end of the COVID-19 crisis. The positive news on vaccines, introduced in the fourth quarter of last year, has underpinned an upswing in optimism about the prospects for global economic growth. The International Monetary Fund is predicting global GDP growth of 5.9% for 2021 and 4.9% for 2022, compared to a decline of 3.1% in 2020.

Nevertheless, it should be recognised that the rollout of COVID-19 vaccines is not happening at the same pace globally. In particular, wealthier nations, particularly in the West, are vaccinating their populations at a much faster rate than developing economies.

In countries behind the curve on vaccination, economic growth – and the prospects for M&A – may be slower, with COVID-19 disruption continuing at a much higher level. It is notable that the IMF's 2021 projection of growth in emerging markets is 6.4%, against 5.2% in advanced economies, a far smaller premium than has typically been the case.

There is also the possibility that slower vaccine rollouts in some parts of the world will give the COVID-19 virus an opportunity to mutate, with potentially more dangerous variations emerging.



While pandemic economic recovery is well underway in many countries, the recovery remains fragile. The effects of very high debt – both national and corporate – could create a severe impact if interest rates have to rise to deal with inflationary pressures. In addition, stresses in global logistics and energy prices will affect the pace of recovery. Overall, the indicators point to uneven and volatile growth prospects.



Matthew Kirk
International Affairs Advisor



The continuing consequences of the COVID-19 pandemic and related monetary and fiscal responses, particularly those impacting production and shipping could impact GDP growth in Asia. For China, this also includes the effect of the “common prosperity” policy and uncertainty around the extent to which China reins in its private enterprises and its response to the slowing real estate sector. Energy availability and oil price fluctuations, as well as geo-political tension between China and the US, could also affect economic growth in the APAC region.



Stephen Chelberg
Asia Pacific Chair, Global Corporate Practice

Digital Transformation Is Universal

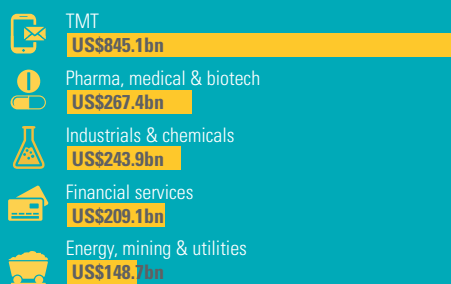
COVID-19 has already had dramatic impacts on the way we live our lives. People the world over are considering new ways of working – often remotely and more flexibly – and consuming in different ways. An obvious beneficiary has been ecommerce. Even before the crisis, digital transformation was a clear focus for most sectors, but the race to exploit new value propositions has accelerated.

As a result, demand for the best assets in the TMT sector is extraordinarily high. Acquirers are anxious to secure the best new technology and the most promising new business models. As we have seen, M&A activity in the TMT sector is elevated, as companies within the industry consolidate and combine, and outside acquirers look to these businesses for their transformative potential.

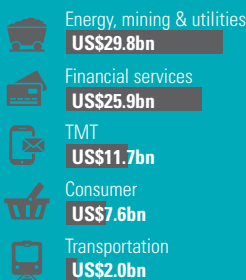
The data is remarkable. A total of 4,886 TMT deals were announced in the first three quarters of 2021, worth US\$1.39 trillion. Already this is far above the 2,859 worth \$555.3 billion seen during the whole of 2020. This year's figures mean the TMT sector has already recorded more M&A activity, in value and volume terms, in 2021 than in any other year on Mergermarket record. Activity peaked in the second quarter of the year, with 1,813 deals worth US\$620 billion, while the third quarter – including the summer months – showed a modest easing. But there is no sign of an end to the TMT M&A boom.

Top Sectors by Target Region Q1-Q3 2021

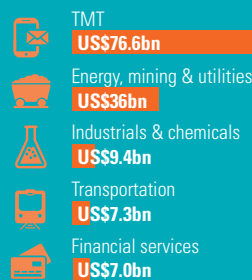
North America



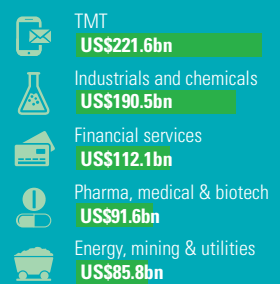
Central and South America



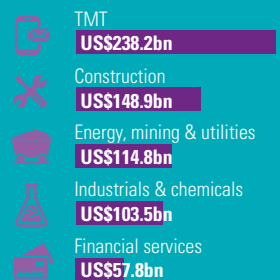
MEA



Europe



Asia Pacific



Every sector of the economy – including, perhaps particularly, the public sector – is ripe for digital transformation. Data analytics and AI-driven decision and control systems have the capacity to transform professional sectors that were left relatively untouched by mechanisation. More “traditional” sectors, such as agriculture, are open to new technology applications that can radically increase productivity.



Jane Haxby
Corporate Partner

The Outlook for 2022

Will the global M&A recovery endure? Certainly, there are reasons to be optimistic. Many of the drivers underpinning recent dealmaking – PE’s dry powder, the digitalisation imperative and the weight of money in SPACs, for example – are not dissipating. Moreover the economic backdrop remains supportive. The IMF’s forecast is for global output growth of 4.9% in 2022. Still, beneath that top-level picture, a variety of factors will have an impact on M&A in key markets around the world.

The COVID-19 Pandemic Is Not Over

The biggest question of all – for the world, as well as for the M&A market – is how the COVID-19 pandemic develops. The dramatic slowdown in M&A activity during the second quarter of 2020 was caused by the shock of the pandemic; now that the virus is a known quantity, a second downturn of this magnitude seems unlikely, but further waves of the pandemic, new lockdowns and significant variants all have the potential to cause major problems, with knock-on impacts on every area of the economy.

Vaccination is the key weapon in the battle against COVID-19. As of October 2021, more than three and half a billion people worldwide had received at least one dose of a vaccine – the equivalent of 47.2% of the global population. However, vaccination rates vary hugely in different locations. Across much of the West, and in China, the figure is 80% or even higher; in many developing nations, by contrast, fewer than 20% of people have yet been vaccinated.

Against this backdrop, COVID-19 uncertainty will persist, at least in the short to medium term. Dealmakers will worry about the potential for another escalation of the crisis, and this may inhibit their appetite for M&A. At a local

level, moreover, M&A activity may be more muted in countries forced to lock down again, or struggling to vaccinate. And, of course, a serious problem – a dangerous mutation, say – would heighten concern.

Nevertheless, the emergence of COVID-19 vaccinations that are proving to be highly effective has been a watershed. This remarkable scientific achievement has enabled the global economy to unlock – and shore up the ongoing resurgence of M&A.

A New Team in the White House

The new US President’s first-term priorities will have a significant impact on M&A activity in North America. Most obviously, President Biden’s US\$1 trillion infrastructure bill – and an associated welfare and climate bill potentially worth US\$3.5 trillion – represent a massive stimulus for a number of industries, substantially increasing their attractiveness to acquirers.

This is already feeding through into elevated M&A activity. For example, North America recorded US\$146 billion worth of dealmaking in the energy, mining and utilities sector during the first three quarters of 2021 – sub-sectors including renewable energy and water and waste management attracted huge interest. Transportation, with US\$67 billion of dealmaking already this year in North America, is another area of focus.

Looking forward, stimulus spending has the potential to drive M&A across a number of sectors, from electric vehicle networks to digital infrastructure. The Biden administration’s increased focus on decarbonisation will encourage businesses in industries ranging from oil and gas to construction to rethink their models and reposition accordingly.

The flipside of the coin is that the new President is also contemplating significant tax

changes. These include proposals to hike the top rate of corporate tax from 21% today to as high a level as 28%, and increases in capital gains tax, which could see the top rate move from 20% to 39.6% for some Americans.

As these plans progress, they will impact on deal activity. Capital gains tax increases would likely bring forward some M&A, as sellers look to get transactions done before the tax rate increases. On the other hand, higher corporate taxes potentially make it more difficult for US businesses to compete in international markets, reducing their appeal to acquirers.

The nature of the tax changes will be crucial. One Biden proposal focuses on restricting US companies’ ability to limit the amount of their overseas earnings that is taxable in the US. Dealmakers are already beginning to position themselves accordingly. For example, where they must choose between establishing a domestic or foreign holding company for a deal, the latter may be preferable as a means to mitigate the proposed changes.



One area of concern for the M&A industry is that the FTC and Department of Justice Antitrust Division are likely to take a more aggressive approach to merger review. Changes in FTC policy have already introduced the likelihood for more protracted investigations and increased uncertainty. For example, transactions are now being scrutinised on issues such as a merger's impact on labour markets, environmental issues and corporate governance practices.



Cipriano S. Beredo III
Americas Chair,
Corporate Practice

Brexit Still Casts a Shadow

In the UK – and, to a lesser extent, continental Europe – Brexit continues to take its toll on the economy and confidence. More than five years after Britons voted to leave the EU, and almost two years after it actually departed, significant uncertainty remains. British businesses in sectors including hospitality, healthcare and logistics are being hampered by supply chain problems – a result of the combined effects of the pandemic and Brexit – and there is continuing talk of the need to renegotiate the trade deal agreed between the UK and the EU.

Inevitably, such concerns present food for thought for any business – domestic or international – considering M&A activity in the country. There are also new practical problems for cross-border deals; the UK is no longer subject to EU M&A regulation and now has its own system. That requires international bidders to get to grips with a new regime.



At the moment, it is not easy to separate the economic effects of Brexit on the UK from those of the pandemic. Some of the current stresses derive, in part, from both. In terms of M&A, key drivers are likely to include adjustments to corporate portfolios to take account of the new trading relationships; investment in low-productivity, high-employment UK businesses, which are ripe for modernisation; and pandemic recovery putting some businesses under stress. If the issues surrounding Northern Ireland are resolved, the province may become a particular M&A focus, as it will provide unique access to both the EU Single Market and the rest of the UK.



Jane Haxby
Corporate Partner



Hannah Kendrick
Corporate Partner

The counterargument is that the UK's strong economic performance since the height of the COVID-19 crisis has provided plenty of upside opportunity. Indeed, the UK's growth this year is set to be the fastest among the large rich countries, the OECD forecasts. In the short term, at least, the growth potential of British businesses offers plenty of compensation for bidders anxious about Brexit impacts.

In continental Europe, meanwhile, there is the potential for a Brexit boost to M&A as acquirers from outside the bloc ponder the best points of access to the EU's single market. Where the UK might previously have offered significant advantages, countries including France, Germany and Ireland will now be of greater appeal. The financial services sector, where the UK and the EU have yet to reach significant mutual access deals, could be one area where this is a key driver of deals.

PE Looking for Deals

Despite record-breaking levels of PE deal-making already this year, leading investors' appetite for new opportunities is not slowing down. The biggest firms in the sector still have significant capital to invest. Indeed, just the top 25 funds had more than US\$500 billion in dry powder between them as of mid-August. This represents almost a quarter of the industry's total reserves.

This kind of firepower continues to see PE firms playing a role at every level of the M&A marketplace, including the top end. In the healthcare space, for example, The Carlyle Group and Hellman & Friedman agreed in April to pay US\$34 billion for the US manufacturer Medline Industries. In Europe, Blackstone and Macquarie teamed up with Italian sovereign wealth fund CDP Equity to acquire Autostrade per l'Italia, the toll road operator, for almost US\$22 million in June.

(Some) Valuations Remain Attractive

Competition for the best technology has sent prices soaring in this industry, but valuations in other sectors remain more affordable, providing another spur for continued M&A activity. The most attractive opportunities are likely to be found in sectors that have suffered – and continue to suffer – most seriously in the face of the COVID-19 pandemic, including retail, hospitality and leisure. The financial services sector, in a low interest rate environment, is also cheaply priced in relative terms.

Public market valuations give an idea of where value is to be found. Technology companies are currently trading on price to earnings ratios that are three times higher than financial stocks, with basic materials, energy and consumer companies all at the bottom end of the range too.

Dealing in Distress

One other source of M&A activity could be consolidation in industries struggling to recover from the effects of COVID-19. There may be significant opportunities for acquirers to pick up assets from distressed businesses.

So far, distress has been more limited than expected. In the US, for example, bankruptcy filings over the year to May 2021 actually fell by 13%. However, this may prove to be the calm before the storm: as governments withdraw the financial support they extended to corporates during the crisis, many more businesses are likely to struggle – and to turn to potential suitors.



Illiquid, private assets have historically been the preserve for “institutional investors”, to the exclusion of retail investors. However, the FCA and the Treasury in the UK are working on a regime to allow pension fund savers and non-professional investors access to alternative asset classes, the Long Term Investment Fund (the LTIF).

In the event that jurisdictions are able to provide a viable vehicle through which retail investors can participate into private, illiquid assets, this could lead to a substantial inflow of further capital into the private markets and help the industry to continue to top record levels of investment.



Paul Mann
UK Head of Private Equity



Danielle Asaad
Corporate Partner



Overall, there have been many fewer bankruptcies than expected at an earlier stage of the pandemic, with some notable exceptions. This is probably due to the success of government support programmes, and to the speed of recovery. But many companies have emerged from the pandemic carrying large debt burdens, and could be vulnerable either to interest rate rises or to weaker commercial performance. So while for the most part the pandemic adjustment seems to have been accomplished, there may well be a re-emergence of distressed assets into 2022.



Matthew Kirk
International Affairs Advisor



Diversity in Dealmaking

Improving diversity and inclusion (D&I) is good for business. Recent research from the consultant McKinsey found that the top quartile of companies with more ethnic and cultural diversity outperformed those in the fourth quartile by 36%. Similarly, research published by Harvard Business Review found that companies with above-average total diversity (taking in migration, industry, career path, gender, education and age) had innovation revenues that were 19 percentage points above average and EBIT margins that were 9 percentage points higher.

M&A activity represents a golden opportunity in this regard. Companies turn to dealmaking in order to pursue their strategic priorities – so, if improved D&I is one of those priorities, it makes sense to use the M&A process to identify current D&I shortcomings within the organisation, and to strive for better practice in the wake of the transaction.

For these reasons, D&I is rising up the agenda during deal processes, with the issue increasingly incorporated into every stage of the transaction. For buyers, due diligence provides a vital opportunity to assess the target's current D&I performance – and to identify potential red flags – as well as to think

again about their own practices. For sellers, meanwhile, recognition of the link between good D&I practice and financial outperformance offers the potential for a higher sale price where credentials in this area are demonstrably strong.

Buyers keen to focus on the D&I imperative will need to make this a deliberate and positive act. For example, is the deal team itself diverse? Are D&I considerations being addressed in planning for post-deal activities such as organisational design and talent selection? Where does D&I sit in the integration plan? And how will acquirers communicate on D&I issues, to both the target business and their own organisations?

M&A leaders who deliver on these focuses have an opportunity to create a virtuous circle, improving subsequent deal performance. For example, one recent study in Canada found that companies with gender-diverse boards are more likely to secure enhanced merger performance and reduced bid premiums.



D&I is part of the value proposition for our clients and for our firm. The data unequivocally supports the proposition that diverse teams are good for business – from the boardroom on down – and our clients are laser focused on D&I as part of their organisational governance and talent acquisition strategy. M&A is no exception.



Michele Connell
Global Managing Partner,
US

About Squire Patton Boggs



One of the world's strongest integrated legal practices, with more than 1,500 lawyers across 45 offices in 20 countries, the firm delivers commercially focused legal services to a diverse mix of clients across North America, Europe, the Middle East, Asia Pacific and Latin America.

Our Global Corporate Practice consists of more than 390 corporate lawyers, with an on-the-ground presence in all major financial and industrial centres and in emerging markets. Our lawyers combine in-depth knowledge of local law, local languages and local transaction practices, with global best practice and sector expertise. Our teams provide comprehensive legal services spanning all aspects of complex local, cross-border and multijurisdictional corporate matters.

We advise public and private company clients, including numerous Fortune 500 and FTSE 250 companies, as well as financial institutions, private equity and venture capital firms, emerging companies and entrepreneurs. In M&A matters, our advisory work covers the full range of work, from deal inception, through to the closing process and post-closing integration, including national and cross-border mergers, acquisitions (including takeovers), divestitures and restructurings. The deep expertise of our multidisciplinary industry groups in sectors such as chemicals, diversified industrials, energy, life sciences, technology, financial services, retail, consumer goods, and food and drink, gives us insight and understanding into the business drivers that organisations face throughout each transaction and the issues that are critical to completing their transactions.

Our global team of M&A lawyers is supported by colleagues specialising in every relevant practice area, including taxation and benefits, intellectual property, regulatory, restructuring and insolvency, competition and antitrust, public policy, real estate, environmental, pensions, and labour and employment.

Through this depth of coverage, we are able to provide fully integrated, coordinated and cost-effective management of all aspects of a corporate transaction – regardless of the deal location.

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Please contact:
Nadine Warsop
Publisher, Acuris Studios
Tel: +44 20 3741 1370

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