MERGERS, ACQUISITIONS & EXIT STRATEGIES

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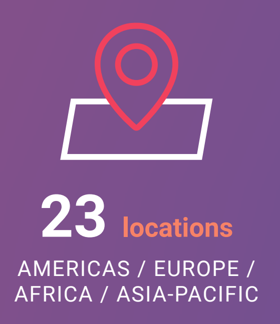

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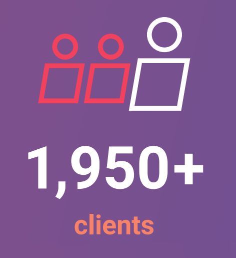

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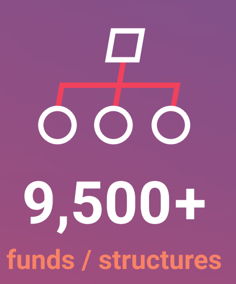

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MERGERS, ACQUISITIONS & EXIT STRATEGIES

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MARKET OVERVIEW

Amalgamation nation: why M&As are back with a bang

The release of pent-up demand for corporate consolidation has resulted in an acquisition spree that, experts believe, has the potential to last well into next year

Chris Stokel-Walker

The Covid crisis is proving to be one of the most disruptive periods for business in living memory. But where there is disruption there is opportunity, which has taken the form of a corporate consolidation boom. Research by Refinitiv has found that global M&A activity in the first six months of 2021 was worth more than $2.8tn (£2tn) – the highest half-yearly total the company has ever recorded.

David Dubner, head of M&A structuring at Goldman Sachs, has called this phenomenon a “super-bloom”. He reports that corporate boards around the world have been taking the chance to reassess their firms’ strategic priorities while “emerging positively from what is, hopefully, a once-in-a-generation pandemic”.

Helen James, corporate finance partner at London-based chartered accountancy firm HW Fisher, has witnessed many M&A deals involving businesses worth between £10m and £50m in recent months. She observes that 2021 is shaping up to be “possibly the busiest year for acquisitions I have ever seen – and I’ve been doing this for 15 years”.

James categorises the acquisition targets she has seen lately into two groups: companies that have thrived during the pandemic, representing particularly attractive investment opportunities as they seek to kick on and capitalise on their success; and those that have struggled to cope and could therefore be snapped up at bargain-basement prices.

Prospective buyers with plenty of cash to splash tend to be focused more on the value that companies in the former group can offer, she adds.

Some experts attribute the upsurge in M&A activity to the fact that many deals had to be put on hold during the depths of the Covid crisis last year. The UK’s withdrawal from the EU, which occurred in January 2020, could also have had a dampening effect, prompting potential buyers to wait and see what impact, if any, Brexit would have on their markets before committing themselves to high-value investments. Global brand consultancy Siegel + Gale has noted that only 674 transactions were valued at more than $100m during the year, according to research from Willis Towers Watson – the lowest total seen since the global financial crisis of 2007-08.

There is still plenty of money sloshing about a corporate world that had, in the years leading up to the pandemic, been unusually settled, according to James, who says that businesses at last feel able to invest this capital and make it work harder for them.

Monica Barton, a partner and M&A specialist in the London office of international law firm Winston & Strawn, agrees that companies have been making up for the time they lost at the start of 2020. “The backlog of transactions that we’re seeing in the market at the moment is just phenomenal,” she reports.

But the release of pent-up demand is not the only factor that has been driving 2021’s consolidation craze. That’s the view of David Filmer, a partner in the corporate team at Lancashire-based law firm Forbes Solicitors. The Covid crisis has been “contributing to the high levels of M&A activity, but this isn’t simply down to a backlog of delayed transactions”, he argues. “This is also because the pandemic has caused many business owners to rethink their priorities and reflect more on their lives. In some cases, hard-working entrepreneurs have decided to take their foot off the gas. This is prompting business sales that might otherwise not have happened for another three years.”

franckreporter via GettyImages

$2.8tn Total value of global M&A activity during the first half of 2021

29% Increase in the number of M&A deals made worldwide in H1 2021, compared with the total in H1 2020

131% Increase in the value of M&A activity worldwide in H1 2021, compared with the total in H1 2020

Refinitiv, 2021

Filmer believes it’s “reasonable to think that this level of M&A activity will continue over the next six to nine months”.

James agrees that the high volume of transactions will be sustained into 2022, although it’s likely that the pace will diminish significantly once the backlog eases.

The Covid crisis “has actually given business leaders a better perspective”, she argues, observing that many leaders of enterprises that have come through the pandemic relatively unscathed “are saying to themselves: ‘We survived that; we can survive the next thing as well.’ I think it's made people a bit more confident in the ability of businesses generally to be resilient and adaptable.”

Barton predicts that there will be a correction in the M&A market at some point next year. She notes that many UK businesses “are being funded by government loans. At some point, that debt terms out. Then it will be interesting to see what happens to those companies.”

By contrast, firms that have been trading strongly without state support during such a difficult period for business in general have demonstrated their value to potential buyers and greatly improved their chances of attracting favourable takeover bids, according to James.

“Because they have managed to survive the pandemic, companies that may not have been on the radar before Covid have put themselves on it,” she says, noting that many leadership teams have learnt how adaptable they need to be – and how quick decision-making is a key attribute of a well-run business.

“The same principles apply in an M&A deal,” James adds. “Things are going to look slightly different in that business as a result, but everyone needs to be on board with this idea – and everyone must also be ready to change themselves.”

Commercial feature

ROUNDTABLE

European M&A keeps its frantic pace

It has been a frenetic twelve months for European M&A. The market has been buoyed by private equity, the rise of special purpose acquisition companies and pent-up demand. A roundtable of five experts discussed the challenges of rising valuations, remote deal-making and predictions for the year ahead

Becky Pritchard

How has the past year been for M&A?

CW We did have a pause when we first went into lockdown. After that pause it became a completely frantic M&A environment – and it still is.

BB Absolutely. I would say the first couple of weeks into the pandemic things briefly slowed down. But then as soon as the Fed opened its balance sheet and European leaders said "whatever it takes," that jump-started the market again.

And what about valuations?

SL It is difficult to compete in some processes. It's a hot market, but as a trade buyer you rely on the fact that you should understand the market better. Fundamentally, you just have to be disciplined. So there are certain processes now that we choose not to compete in because we know it's going to be a feeding frenzy. And we work harder to find bilateral opportunities with targets that see the benefit of working with a trade buyer.

JCB It is difficult. There's a huge gap between sellers' and buyers' expectations. We've seen some companies that came to us pre-Covid that took themselves off the market and are coming back, and they've got the same valuation expectations. It's not that those don't stand, but what is the norm now?

BP Yes. Justifying the multiple seems to be an interesting part of the deal right now. You can see that rigour in the amount of back and forth [between buyers and sellers]. It's just different than we've ever seen. There is a lot more work going on.

CW I think that's right. There is a lot of examining legal documentation these days. There is a lot of competition for [great businesses] and people are having to be very thoughtful and competitive on deal terms.

Is private equity driving up valuations?

JCB The downside of the private equity boom is that it's driving up market expectations. So even though a potential target won't actually seek private equity investment, they will happily take the comparable deal stats. It's kind of a mismatch.

BB But on the other hand, they are flush with portfolio companies, and they've prepared lots of companies for sale in the spring to summer last year which were then held up. Come September/October, everyone was rushing to resume those sales processes because no one knows how much longer so much liquidity is going to be in the market.

What about so-called blank cheque vehicles, known as SPACs?

BP It really hit more significantly in the US markets. It's slowed down a bit, but it's been almost 10% of our new deal flow for the past three months. It's been significant.

How difficult has the move to remote deal-making been?

CW You can do deals on a remote basis, you can have effective management presentations, you can have effective negotiations. But is it as much fun? In some respects, it's quite personal because you're looking inside people's homes. On the other hand, I think there is maybe some inefficiency from when you would normally all get together.

JCB Yes, it's not easy. One of the things I love about M&A is those initial meetings where you are getting to know someone and you have a really great conversation. You can do that over Zoom, don't get me wrong. But it's difficult when your internet cuts out or a doorbell goes. There is something about it which doesn't quite work. As a people-person, not being able to meet people face-to-face is tough.

SL Yes, it definitely has slowed things down towards the end of the process. I think when you get to the latter stages of any negotiation, the ability to lock people in a room for 24 or 48 hours and just get it done is quite an effective tool.

Are clients using data rooms differently?

BP It's clear when we look at the patterns of the usage of data rooms year-on-year, we see that the hotspots are in quality assurance and legal diligence. The other thing we're seeing is a lot of video files and drone footage being stored in data rooms because physical site inspections are kind of an impossibility, especially for cross-border deals. It's really about managing larger data files across the data room.

Will things go back to how they were before?

BP My flight miles were through the roof. I'd like to go down to maybe 50% of what I was doing before. I don't think I've lost all that much from an efficiency standpoint. But there's a balance – you still need to be able to see people to know what's happening.

SL I think one of the factors that will play into what happens next is the CFOs of all the face-to-face companies that we work for. People convinced CFOs that, "I have to do this [meeting] face-to-face, otherwise it won't work." But over the last 12 to 15 months, we've realised that's just not true.

Are you expecting to see any decrease in activity?

BP We have a massive pipeline of deals that are going to start to happen. So I don't think there's going to be any break.

CW I am anticipating there will be a bit of a summer lull. But I think it's going to be a very, very busy autumn into the end of the year.

BB I agree with that. What we tell our teams is that we hope in the last two weeks of August it will slow down. And we would expect people to take vacation as much as they can because I don't see the velocity abating. In September, we'll be right back where we are at the moment.

“We have a massive pipeline of deals that are going to start to happen. So I don't think there's going to be any break

Roundtable attendees

Birger Berendes, co-head of M&A for EMEA, Bank of America

Julia Crawley-Boevey, head of M&A, Dentsu

Stephen Long, head of M&A, TMF Group

Bob Petrocchi, co-head of business, SS&C Intralinks

Becky Pritchard, journalist and moderator

Claire Wills, London managing partner, Freshfields Bruckhaus Deringer

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INVESTOR RELATIONS

As easy as ESG?

Environmental, social and corporate governance issues have become a key consideration for acquirers, but they'll find gauging the ESG performance of sellers problematic as long as they lack standardised metrics

Thomas Barwick via Getty Images

Fiona Bond

Environmental, social and corporate governance (ESG) issues have been increasing in importance to the global capital markets in recent years – and the Covid crisis has done little to slow this trend.

On the contrary, the events of the past 18 months have heightened demand among investors to fund enterprises that put ESG concerns front and centre. For instance, the Investment Association reported that UK savers had put £7.1bn into responsible investment funds in the nine months to September 2020 – up from £1.9bn during the equivalent period of 2019.

ESG matters are also playing an increasingly prominent role in mergers and acquisitions. So says Andrew Probert, the London-based managing director of sustainability accounting advisory services at global consultancy Duff & Phelps.

"ESG considerations have become critical in M&As," he says. "There's a growing appreciation for how such factors can lead to the creation of enterprise value and also help to mitigate the potential destruction of value. If ESG is not already integral to a firm's decision-making process, it should be considered. It isn't just an altruistic concern; it's also increasingly significant from a financial standpoint."

Shareholders in publicly traded companies have long wielded their voting power when it comes to issues such as boardroom remuneration, but they have started putting companies under mounting scrutiny regarding their ESG practices.

Take ExxonMobil, for example. A coalition of institutional investors, led by a climate-activist hedge fund called Engine No 1, dealt the incumbent executive team a substantial blow at the 2021 AGM in May when it voted in three new directors in a bid to accelerate the oil giant's move towards greener energy. It was one of several recent stunning victories scored by the environmental lobby over the fossil-fuel industry.

Companies therefore have a delicate balance to strike: while they still need to deliver reliable returns for shareholders, they also have to ensure that whatever they do to achieve these returns is consistent with the ESG agenda. Their leaders must increasingly demonstrate how ESG considerations influence their decision-making and how robust their firms' business models are in the face of environmental risks such as global warming and climate change. Given that they are facing ever-evolving ESG requirements, this is no easy task.

Getting the balance right will generally require a company to focus on the most material issues – areas of ESG concern that directly affect the business. In the case of a utility company, for instance, its greenhouse gas emissions would be a material issue.

Yet materiality can vary greatly not only between industries but also between players in the same industry. And it's not uncommon for companies and their shareholders to disagree on the importance of certain matters.

Probert observes that, "for some investors, an issue is material only if it has a direct impact on enterprise value creation. For others, an issue is material if it has an impact on society and/or the environment. When assessing an organisation's ESG performance, you would be well advised to consider metrics that are financially material, decision-useful and cost-effective."

Sam Barr is a senior manager at Bluebox Corporate Finance Group, which advises business owners on how to prepare their companies for sale. He believes that the cultural fit between a buyer and a seller is the critical component for success in any M&A transaction, but acknowledges that ESG considerations have started "playing a decisive role too".

Barr explains: "If potential acquirers conclude that a seller's ESG strategy is deficient, they may determine that the business in question is exposed to a long-term risk."

A lack of widely accepted ESG reporting standards means that assessing a seller's performance in this area during the due-diligence process is not straightforward.

Stuart Faulkner, director and head of M&As at merchant bank Strand Hanson, says: "Although ESG has rightly become important in both institutional and retail investment decisions, its impact on M&As is less obvious. This is partly because there is no clear standard for it and partly because ESG is not typically set up as a separate workstream when bidders undertake due diligence for an acquisition."

Sellers often seek guidance on how to report on their ESG activities from various sources, which can come back to them with differing and, occasionally, conflicting recommendations. Not surprisingly, this can lead to variances in the quality of their disclosures.

Nearly half (45%) of the valuation experts questioned in a recent survey by Duff & Phelps agreed that the lack of a standardised ESG reporting system is the biggest barrier to effective disclosures.

Barr points out that, in cases where a seller's ESG disclosures are unsophisticated or lacking in any other department, a prospective acquirer may "form a view based on its interactions with the seller and its respective teams. Clearly, this will be somewhat subjective."

Probert recommends that buyers hire external experts in ESG during the due-diligence process. These specialists will be better equipped to discover "potential risks and opportunities, which may not be abundantly obvious based on the publicly available information" about the seller's business.

Well before that happens, sellers need to have done their homework, stresses Barr, whose firm typically starts working with clients at least a year before they sell up.

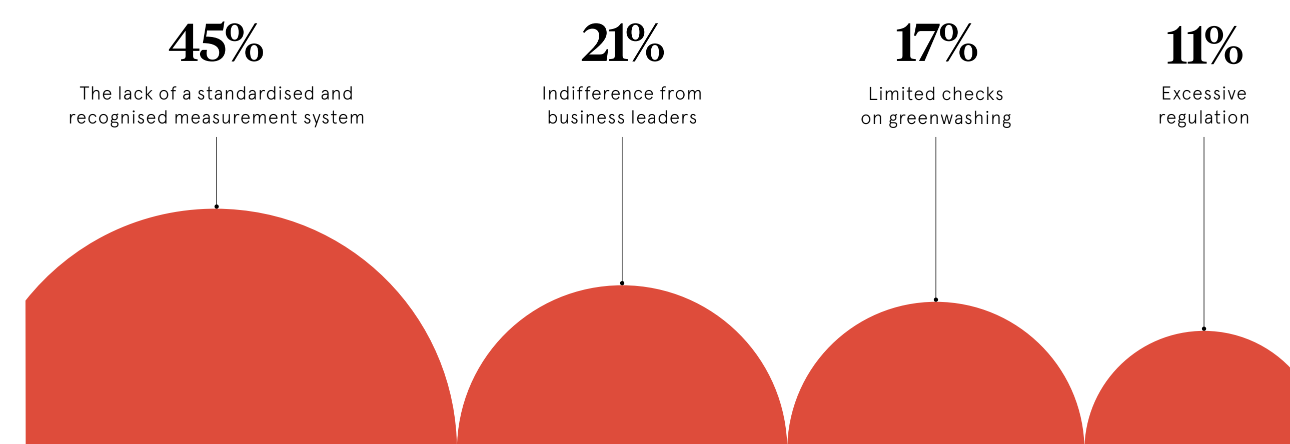
"Given the growing importance of ESG in mergers and acquisitions", he says, "it is even more crucial that sellers prepare adequately."

“If potential acquirers conclude that the seller's ESG strategy is deficient, they may determine that the business in question is exposed to a long-term risk

WHY FACTORING ESG INTO M&A IS SO DIFFICULT

Percentage of valuation experts who believe the following are the biggest barriers to effective ESG disclosures

Duff & Phelps, 2021



INTEGRATION

Earn-outs that help out: how to keep sellers on the ball

In theory, earn-outs incentivise founders to stay engaged in their business after the sale and act in its best interests. In practice, that's not always the case

Charles Orton-Jones

When Tony Hsieh, the late US internet entrepreneur, sold his LinkExchange advertising network to Microsoft in November 1998, he immediately received $40m (£24m) for the venture that he'd co-founded less than three years earlier. He was due to earn a further $8m from the deal if he stayed with the business for only 12 more months.

Writing in his 2010 autobiography, *Delivering Happiness*, Hsieh used the pun "vest in peace" to describe the boredom that led him to walk away from LinkExchange before the year was up. The phrase has since become a Silicon Valley cliché. It has come to refer to what happens when an entrepreneur sells their business and receives a tranche of share options that mature (vest) in a year or two, under an arrangement known as an earn-out. Until that final payoff, they loaf around, lacking in motivation and offering little value to the business they worked hard to build. The implication is that earn-outs are ineffective incentives.

"I wasn't going to sit around letting my life and the world pass me by," Hsieh wrote. "People thought I was crazy for giving up all that money. And, yes, making that decision was scary, but in a good way."

Earn-outs are supposed to render acquisitions more attractive to both parties. Sellers can close deals that might not happen otherwise and buyers can reduce their initial costs while incentivising the founders to ensure that the business continues to prosper after the sale. Yet many sellers believe that such arrangements, especially those that impose unrealistic performance targets as a condition of further rewards, are biased against them.

William Pinnock, head of the corporate and commercial team at Glaisyers Solicitors, agrees that "earn-outs rarely work out well for sellers. Many corporate financiers recognise this and will advise their selling clients to sacrifice at least some of a potential earn-out sum to obtain some more unconditional money instead."

So how can earn-outs be structured to be more equitable and effective? For one thing, both parties need to be sure about what they are agreeing to at the outset. So says Stephen Page, founder and CEO of SFC Capital (formerly known as the Startup Funding Club), who observes that many such agreements aren't specific enough.

"Pitfalls lie in the language of the deal," he says. "There can be grey areas within the terms." (See panel, opposite page.)

Dan Coppel, a London-based corporate partner at global law firm Morrison & Foerster, agrees. He argues that earn-outs should offer sellers greater protection against risks beyond their control.

"What if the buyer doesn't allocate the resources necessary for the seller to hit their targets? Or what if it restructures the business, making it problematic to track performance? Failure to account for such factors in a deal means that sellers can be short-changed through no fault of their own," he says.

Karen Thomas-Bland, the founder and director of management consultancy Intelligent Transformation Partners, has worked as an adviser on about 50 M&A deals. She believes that sellers need to be granted a meaningful say in how the business is run even after they've parted with most of their equity.

"They need to keep operational control during the earn-out period, while performance metrics have to be unambiguous and easier to track than, for example, net income or Ebitda," Thomas-Bland argues.

She also recommends that payout terms be made more flexible, enabling sellers to be rewarded on a sliding scale according to their achievements. This is fairer than a so-called cliff-edge arrangement, under which they would receive either the full amount or nothing, depending on whether they hit all their targets or not.

Structuring earn-outs as a clear win-win situation is the method favoured by Peter Blanc, one of the UK's most prolific acquirers. So far this year he's overseen 14 M&As for chartered insurance broker Aston Lark, where he's group CEO.

"We'll complete about 30 deals this year," predicts Blanc, who explains that the earn-outs offered by his firm "avoid trigger events, because these can create unwelcome behaviour. For instance, we wouldn't want to create a situation where a vendor knows that they would receive a large pay-out if they were to sell another £100,000 of insurance. That would lead to bad client outcomes."

He continues: "Our thinking is simple: we offer them a multiple of whatever proceeds are earned over the two or three years they're tied in. That's a sensible reward – and it means that we don't have that horrible cliff edge where they would risk losing a big sum."

This approach means that sellers receive a decent price for their company and are also motivated to make the business more profitable, knowing that they'll benefit fairly from such an outcome.

"We never put in any clawback provisions. It's all carrot; no stick," says Blanc, who adds that having an honest conversation with the seller ensures that both parties are clear about what they want from the deal. "If a vendor wants to go off to Monaco and be a playboy, say, that's fine with us – as long as he leaves a management team behind to run the business."

Such an approach has the added benefit of reducing the likelihood of a culture clash between founder and acquirer. This is "probably one of the biggest risks in earn-outs", says Sangeeta Mistry, a specialist in reward at M&A integration consultancy Global PMI Partners.

"Typically, founders who may not be suited to corporate life will leave the acquired company as soon as their earn-out period finishes," she explains. This can result in a mass exodus at leadership level if the acquirer is retaining several sellers who are due for pay-outs at about the same time – a significant problem if it hasn't done the requisite succession planning.

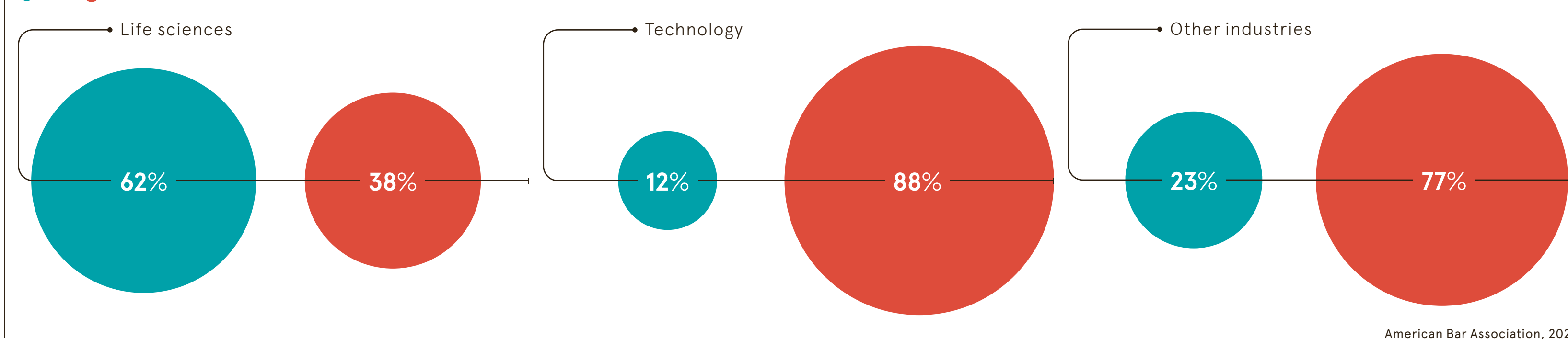
"We've also seen situations where founders are protective of their staff while still in post. This makes it harder for the buyer to plan any restructuring," Mistry adds.

Ultimately, earn-outs need to work for both parties in practice as well as in theory. Otherwise, like Tony Hsieh, the person who built the business will walk away – even if millions are on the table – rendering the whole exercise pointless.

> **Earn-outs rarely work out well for sellers. Many corporate financiers will advise them to obtain some more unconditional money instead**

WHICH INDUSTRIES PREFER EARN-OUTS?

Companies in different sectors that used earn-outs in the 18 months to August 2020



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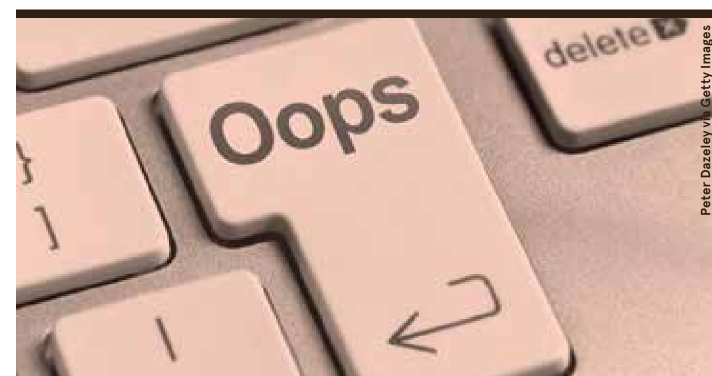

Common mistakes in earn-outs

Here are some of the most inadvisable practices that buyers and sellers engage in.

Bringing the lawyers in on day one
An acquisition is a meeting of minds, especially when all the founders and their entire management team are being retained. A deal requires goodwill and understanding between the parties. The moment that legal documents are drafted, the mood changes, so don't get legal advisers involved until you've built a strong enough rapport.

Relying on a template
Every deal is different. An earn-out arrangement will require agreement on the right measures. Turnover and Ebitda are common starting points, but other metrics can include client retention, revenue per customer and cost savings achieved through 'synergies'. Non-financial metrics – regulatory approvals for new medicines in the pharma industry, for instance – can prove useful too.

Going to the cliff edge
This is a deal that's structured so that the seller receives all or nothing, depending on whether they hit an absolute target or not. Such deals encourage 'malicious compliance': the pursuit of targets despite the harm this may cause the business – for instance, offering loss-making discounts to attract a set number of new customers.

Failing to provide adequately for *force majeure*
An earn-out can be affected by political, social and even geological events beyond the control of any party that will nullify its reward structure. The arrangement should account for the unexpected in advance. Defining *force majeure* is notoriously tricky – this is one area where the lawyers really earn their fees.

Commercial feature

The heat fuelling the M&A market

Paul Teuten, managing director in the M&A advisory practice of Duff & Phelps, a Kroll business, explains what's driving the current boom time for deal-making

Global M&A is at an all-time high. We've experienced four straight quarters with over $1tn of M&A activity. Deal volumes are still rising, and the multiples being paid are way beyond anything imaginable just 12 short months ago. The UK is in the thick of it, with deal values rising to over $100bn per quarter on record numbers of deals closed in the UK. So, why is this happening?

Keen for any insight, buyers and sellers, along with corporate advisors and private equity houses, are looking for answers, as well as future insight. With decades of M&A experience among my Kroll colleagues, coupled with my more than 30 years of personal M&A experience, and our current involvement in a record number of deals, we have direct knowledge of what's driving the market. It's important to note that only when the logic behind market valuations is clear can parties ascertain whether deals are truly good value or not.

First, there are companies available to be bought which typically would not have been on the market before. Some of these are exceptional businesses which have been resolutely family businesses from one generation to another, or core businesses within larger groups. Others are good businesses, publicly listed or privately owned, where the valuations proposed are very attractive, especially against the backdrop of the shock of the Covid-19 pandemic and the continuing relative underperformance of UK shares.

Family owners who were previously very confident in their businesses and proud of their independence are more nervous about the outlook. Larger corporates are caught up in the increasing pace of consolidation, with mega-mergers impacting all market participants and requiring an even tighter focus on core – and thus more non-core businesses being available.

The effect of the pandemic on companies' performances and valuations is now becoming clearer. Any company able to demonstrate Covid-19 resilience or articulate its contribution to the technology or automation, which has changed our lives exponentially in the past year, is rewarded with a premium in its valuation; even mundane businesses such as those in building materials are not only improving their profitability, but seeing their valuations skyrocket. We have also become skilled at negotiating Covid-19 adjustments to protect value in companies impacted by the pandemic.

ESG is also a factor in value, prompting huge capital shifts into sectors with strong environmental credentials, such as renewables, and non-traditional sectors. Any company able to articulate its ESG credentials commands even more of a premium valuation.

Buyers are eager to capitalise on the availability of assets. Private equity houses have record dry powder and are amongst the most aggressive buyers in the market. Corporate acquirers are hungry too, eager to scale up their core businesses. Many UK groups see this as a time to expand globally. At a time when there are dramatic shifts in the business landscape, caused by technology and disruptive business models, all these buyers see M&A as the ideal tool.

And finally, there's market sentiment. There's no doubt investment follows trends and fads, and right now the mainstream view is that growth via M&A is a great strategy. There are good reasons for this – technology firms benefit from network effects, whereby the market leader enjoys disproportionate power. Activist investors are demanding ambitious growth strategies, and M&A is a way to execute. And there's the exuberance following a year of lockdown. We're back to work. Construction projects are resuming, sending commodities to record highs. International travel is starting up again. Deals put off last year are back on again. The market is making up for lost time.

When valuations are high, buyers and sellers want to understand what constitutes good value. Bold CEOs, owners and investors who are supremely confident in their business model and strategy know exactly what and why they want to acquire; perhaps this insight is part of their DNA. Regardless, only time will tell whether deals being struck now will create long-term value for all participants or whether some will rue being drawn into the frenzy.

> **At a time when there are dramatic shifts in the business landscape caused by technology and disruptive business models, buyers see M&A as the ideal tool**

To discuss M&A opportunities, please contact Paul.Teuten@duffandphelps.com

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URGE TO MERGE

The UK's much-vaunted vaccination roll-out and the government's gradual lifting of Covid lockdown restrictions have boosted confidence among businesses and investors, as indicated by the FTSE 100 index's steady recovery since the end of last year. These measures also encouraged deal-making in Q1 2021, as the number of mergers and acquisitions hit a 12-month high in March. But what does the future hold? Could special-purpose acquisition companies accelerate growth? And will environmental, social and corporate governance issues play a more prominent role in M&As?

SPAC RACE

Special-purpose acquisition companies (SPACs) are expected to remain active players in UK deal markets. They tend to move quickly to invest their capital, as they have a two-year deadline in which to do so

€16.6bn

National Grid's acquisition of Western Power Distribution from PPL Corporation is the largest deal of the year in EMEA so far

€7.9bn

Online broker eToro's deal with FinTech Acquisition Corp V, a SPAC

€5.9bn

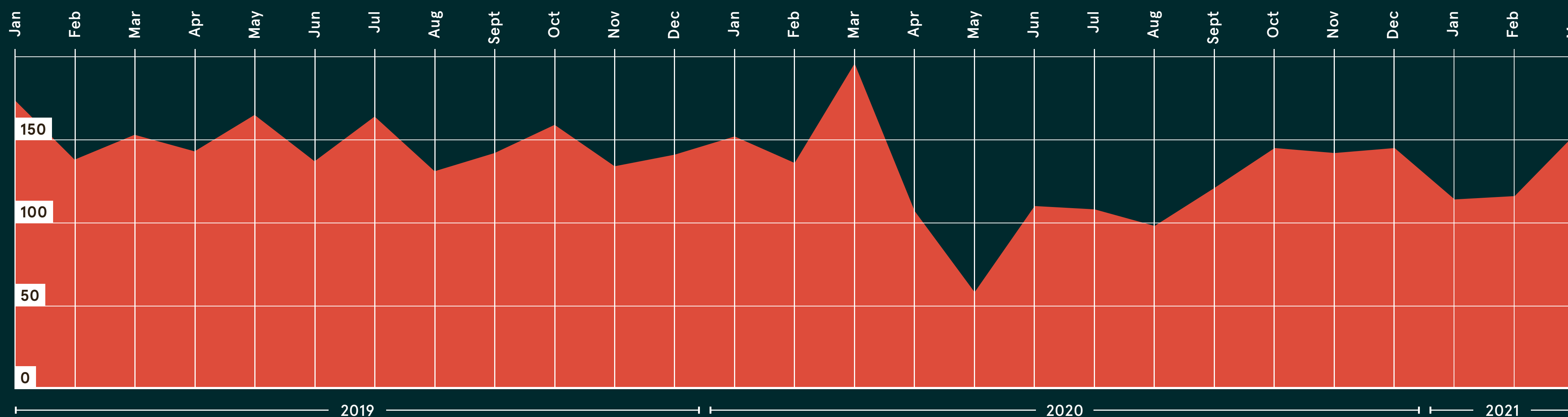
Online car-seller Cazoo's deal with Ajax I, another SPAC

Datasite, 2021

COMBINE AND CONQUER: REASON TO BE CHEERFUL

The latest data, published in early June, shows that March 2021 saw the highest number of M&As in the UK since March 2020

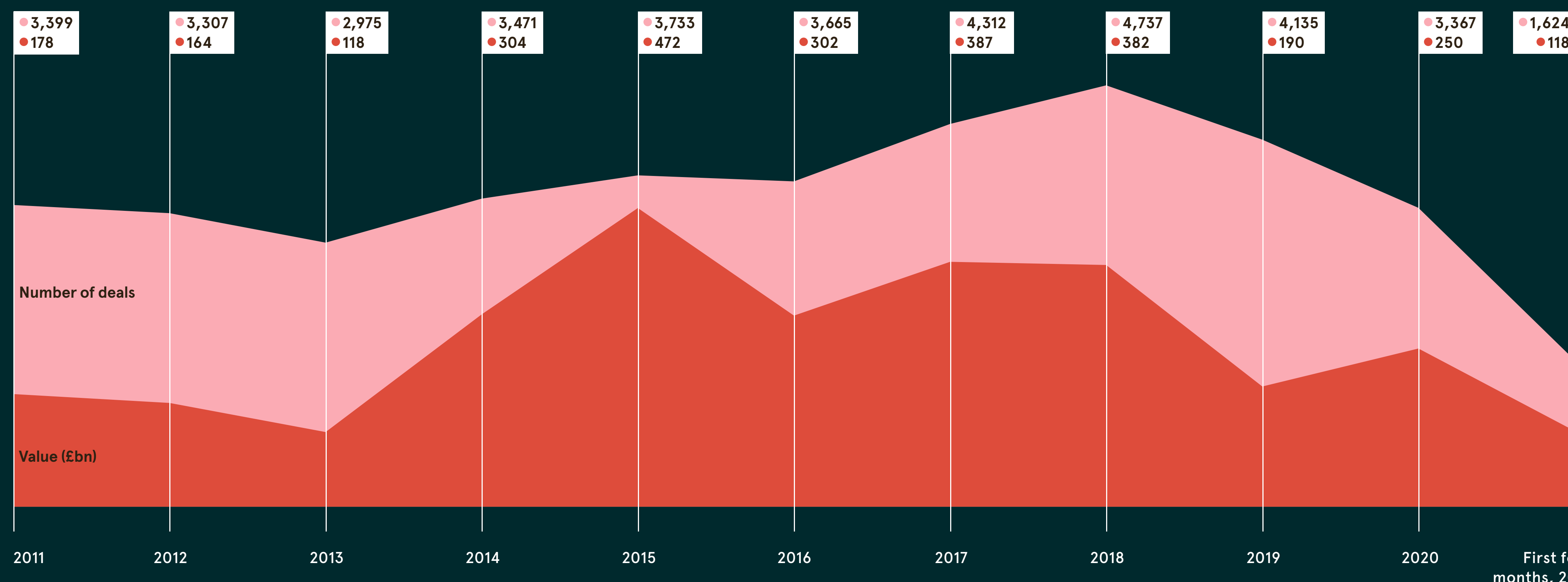
Office for National Statistics, 2021



UK MERGERS ARE RECOVERING AFTER A QUIET YEAR

The volume and value of M&As involving UK companies over the past decade – with green shoots sprouting in the first four months of this year after a comparatively unproductive 2020

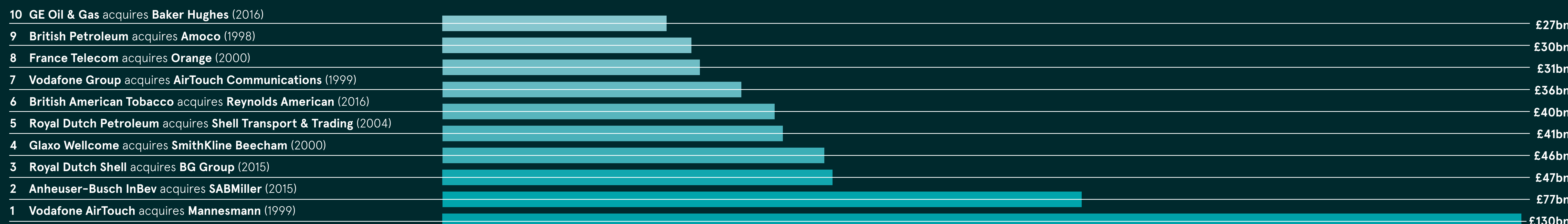
The Institute for Mergers, Acquisitions and Alliances, 2021



TOP OF THE CHARTS

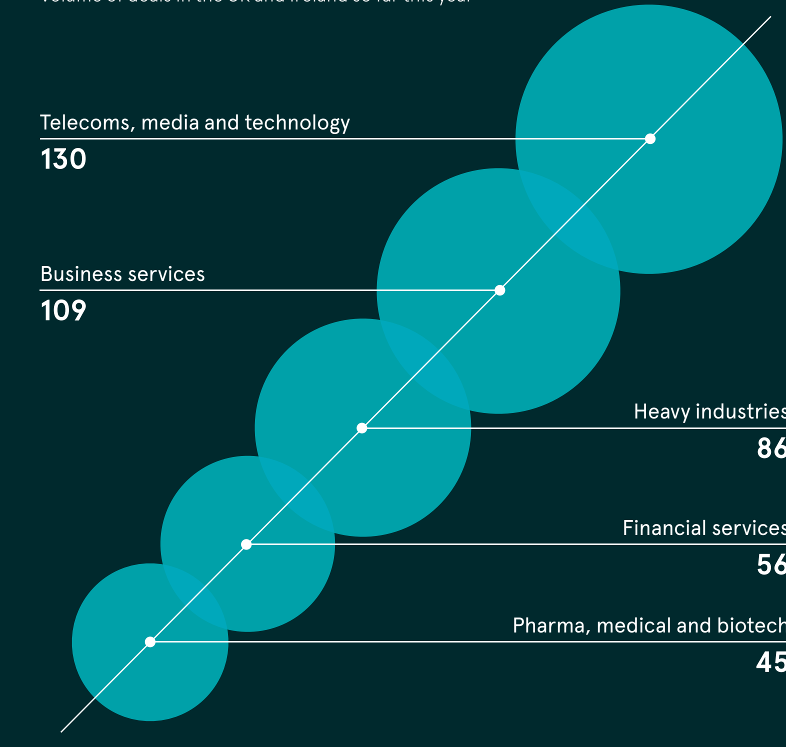
The 10 biggest M&A deals (completed and pending) involving British companies. There have been no new entries since 2016

The Institute for Mergers, Acquisitions and Alliances, 2021



WHICH SECTORS ARE LEADING THE WAY IN 2021?

Volume of deals in the UK and Ireland so far this year



Datasite, 2021

ARE ESG CONCERNS STARTING TO INFLUENCE DEALS?

The climate crisis, the Covid pandemic and stakeholder demands for greater corporate social responsibility have pushed ESG considerations up the agenda in M&A decisions

53%

of M&A deal-makers and fund managers expect ESG factors to become significantly more important in M&A decision-making

53%

of deal-makers have walked away from an investment because of a negative assessment of ESG issues in the target business

Ipreo, 2019

CULTURE

Reconcilable differences

Can companies with very disparate cultures achieve a successful merger? It is possible, according to the experts, but this depends greatly on their leaders' communication skills

Ouida Taaffe

It is a truth, universally acknowledged, that a business in possession of a good fortune must be in want of a merger. And, at present, thanks to the historically low interest rates in many western economies, there are many cash-rich companies out there seeking to invest in businesses that can make their capital work harder.

Indeed, global M&A deals in the first six months of 2021 were worth £2tn, according to Refinitiv. That's the highest half-yearly figure the research firm has ever recorded.

Decision-making in M&As necessarily focuses on factors such as the potential for economies of scale, competitive advantage, return on equity and the cost of acquiring intellectual property, all of which will affect the bottom line. Yet the financial results of many mergers will fail to meet expectations. Research suggests that at least half of M&As do not work – with ramifications extending to huge write-downs or even the acquirer's failure.

In 2005, for instance, eBay purchased Skype for $2.6bn. Two years later it took a $1.4bn write-down on the deal because Skype "had not performed as expected". After a period under private equity ownership, Skype was acquired in 2011 by Microsoft for $8.5bn. Microsoft quietly absorbed the business without any reported hiccups.

Why does one merger work and another fail? In the case of eBay and Skype, it may have been the former's overestimation of what the latter's technology could do for it. But a key factor in the happiness of any corporate marriage is culture.

In February 2021, the co-founder of Skype, Niklas Zennström, spoke about the importance of culture at a virtual conference hosted by Digital Life Design.

"A team is just a set of people if you don't have what unites them, which is really the culture," he said. "That is what really makes successful companies very successful."

His fellow speaker at the event was Ben Horowitz, co-founder and partner at venture capital firm Andreessen Horowitz, which made early investments in outfits including Facebook, Twitter and Airbnb.

He said: "Culture is not a set of beliefs; it is a set of actions. The challenge in building a company culture is: how do you incentivise the behaviour that reflects your values? You really have to be thoughtful and intentional if you're going to move something into the culture that counteracts the regular business incentives of making money and wanting personal status."

So what happens when two disparate cultures combine – particularly when the reasons behind the merger include making money and wanting personal status?

Dr Naaguesh Appadu is a research fellow specialising in mergers at Cass Business School in London. He says: "When couples start talking about getting married, they have usually known each other a long while. They have done their emotional due diligence, yet they will still face problems. In a merger, you'll perform deep due diligence by inspecting all the documentation, but it's still very hard to understand the human factors at play."

If unexpected information should later come to light, Appadu notes, "there is a huge risk that the deal will not be successful".

The cultural risks can be heightened when companies decide to marry in haste. For instance, when US supermarket chain Whole Foods agreed to be acquired by Amazon in 2017, the company's co-founder and CEO, John Mackey, described the situation as "love at first sight", with the deal coming only six weeks after a first "blind date".

In a recent interview, Mackey described the relationship as a "happy marriage" in which Whole Foods has largely been left to run things as before. Yet its shopfloor staff have been trying to unionise ever since the takeover by Amazon – a notoriously anti-union employer. Having started in the late 1970s as a vegetarian cooperative serving the hippie community in Austin, Texas, the business could hardly have a more different culture from that of the efficiency-obsessed online behemoth.

Even when the parties involved have got to know each other well, cultural problems can still crop up. Steffen Giessner, professor of organisational behaviour and change at the Rotterdam School of Management, notes that it is "very difficult to manage people's sense of affiliation. In times of stress, such as a merger, they seek certainty and belonging. They will feel a strong sense of connection with their old organisation – even if they didn't like it before."

Although managers appreciate that significant changes will always encounter resistance, they tend to underestimate its strength in the case of M&As, according to Giessner. "There is no merger of equals," he says. "And it takes a long time to forge a new culture – often many years."

Giessner believes that, for a merger to be successful, all staff need to appreciate the reasons behind it. Most senior managers do have good reasons beyond self-interest for proposing a deal, but mergers tend to fail at the next level down, he argues. That is because middle managers not only have the task of convincing everyone else; they also have the most extra work to do because of the merger.

"It can be a problem when managers see themselves not as part of a particular organisation but as part of a wider elite group of leaders," he notes. "Their aims may not be congruent with the organisation's best interests."

For a merger to be successful, senior executives must communicate as much as possible "and more than they expect to", Giessner says, citing the case of a recent successful hospital merger. The doctors hadn't been convinced by the idea until the new CEO spoke with each of them individually.

And what about mergers in the era of remote working? Does that make matters even more difficult?

"There is no data yet on what working from home will mean for mergers. But I believe that you cannot compensate for the value of informal, face-to-face communication," Giessner says.

He points to the basic problems that every merger faces: people tend to look for someone to blame when they are feeling uncertain, while managers need to be able to communicate sufficiently well to make people feel that their concerns are being heeded. Not every senior executive has that ability, even under optimal conditions.

Given that few things will make people feel more uncertain than a merger during a pandemic, it hardly seems the best time to try forging a new culture. That doesn't mean it's impossible, but the mergers of the Covid era look set to be a real test of business leaders' softer skills. ●

> **In a merger, you'll perform deep due diligence by inspecting all the documentation, but it's still very hard to understand the human factors at play**

92%

of senior executives worldwide say that they could have managed the cultural aspects of their latest deal more effectively

65%

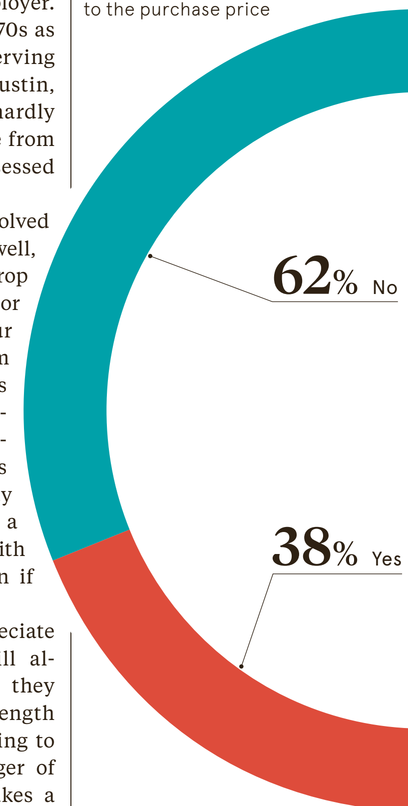
of acquirers say that cultural problems hampered value creation

PwC, 2019

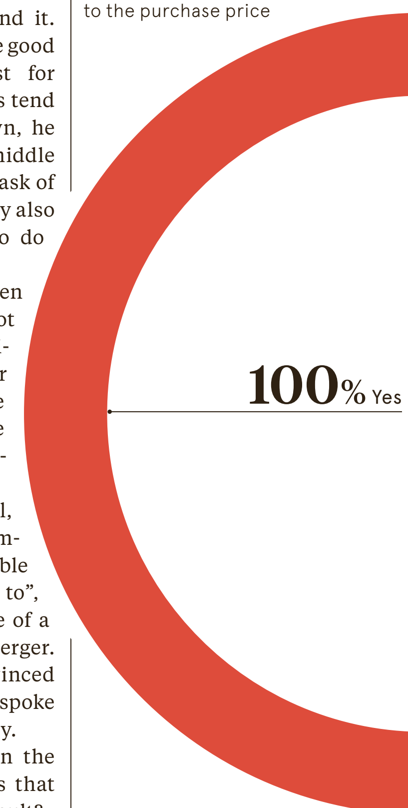
IGNORING CULTURE IN MERGERS COMES AT A COST

Senior executives in charge of acquisitions were asked the question: did cultural problems in this deal hamper the realisation of value?

In the case of acquisitions where significant value was created relative to the purchase price



In the case of acquisitions where significant value was lost relative to the purchase price



PwC, 2019

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Q&A

Finding the right growth path for your business

Q&A with **David Stephens**, co-head of the UK private equity team at 3i

Q How should you approach growing your business?

A Whether you're looking at organic, acquisitive or international growth, make sure you've got the right foundations in place – that's the right people, the right culture, the right systems and the right capital structure to deliver on your growth plan. It's important to have a clear strategy and a detailed plan of how you're going to achieve it, then to prioritise and allocate roles as human capital is typically the limiting factor. Organic growth tends to pay back over a longer time horizon, whereas acquisitions tend to have a shorter payback period and are a quicker way to scale, but there are material risks with M&A and it shouldn't be taken lightly without the proper preparation.

Q What steps should you take if you have no previous M&A experience?

A Given the risks associated, it is important to confirm that an acquisitive strategy is right for your business, considered against existing white space and organic opportunities. Acquisitions take time and effort, so rather than just chasing ad hoc targets you need to prepare, map the market and identify what you are looking to acquire and why. There is often little correlation between the size of an acquisition and the amount of work required, so it's important to be clear on the management team's bandwidth and consider bringing in additional external resource to support. Acquisitions are typically the start of a new partnership so it is critical to be transparent and honest in all your dealings with the other side and look to build a relationship based on trust whilst remaining disciplined and controlled on what you are willing to pay.

Q What do you need to consider when integrating an acquisition into your business?

A We look to put a systemised acquisition process in place as there are things you can repeat on every deal, but you also need to recognise that every business and culture is different. You need to create a rigorous and pragmatic integration plan and to communicate it well to everyone who is involved, ensuring clear ownership and ideally identifying an internal project management officer. Another important element is to ensure you have buy-in from both organisations. That means senior management needs to get on the road and spend time with the business – acquisitions can be a worrying time, particularly for those on the shop floor, so it's important to reassure them.

Q What are the challenges of pursuing international growth?

A All markets are different. It's often harder to see the commercial and cultural variances compared to the more obvious legal or regulatory differences, but those points are equally important, so having local people on the ground is a real benefit. Another increasingly important issue is around reshoring and loyalty to products being made locally, so you should think about how you are going to retain a strong local footprint and ensure you're not taking anything away from that country. Fundamentally, entering new geographies is complex and each country you expand into brings incremental complexity and challenge, so don't underestimate this and take a considered, sequential approach.

Q How can you ensure success when entering a new market?

A Never underestimate the importance of culture, that is true for all international expansion. It comes back to your strategy – before you enter a new market, you need to be sure this is the right thing to do. Go slowly. Rather than expand into five new geographies in five years, focus on one or two instead and properly scale those. Being able to test your products and services in a new market on a low-cost, low-risk basis is important – whether that is through distribution partners or through online sales rather than a physical presence. Clearly, one way of short-circuiting international growth is through M&A, as that will bring a local footprint, existing infrastructure and know-how – so one of the advantages of acquisitions over organic growth is that international expansion piece.

> One way of short-circuiting international growth is through M&A, as that will bring a local footprint, existing infrastructure and know-how

For more information, please visit www.3i.com

ETHICS

Sell up, but don't sell out

It's easy to be cynical when an ethical brand is acquired by a multinational. But such deals can – if structured correctly – go further than merely preserving the founders' principles

Sam Haddad

In 2009, the news that the Coca-Cola Company had taken a significant stake in Innocent Drinks went down like a sour-milk smoothie among the latter's loyal customers. "You just killed your business!" and "I can't believe how angry I am!" were just a few of the heated comments posted on social networks and the company's blog at the time.

At that point, Innocent was an ethical outlier. The business used sustainable supply chains and recyclable packaging, while giving a share of profits to its foundation – a charity tackling hunger in the developing world. To consumers, these progressive practices made Innocent the antithesis of corporate giants such as Coca-Cola. For many observers, the deal was an existential threat to the sustainability credentials that the brand had been building since its establishment in 1998.

Coca-Cola increased its holding to more than 90% in 2013, although Innocent's founders each retained some equity. But, more than 10 years on from that initial investment, those at Innocent would argue that not one of the negative prophecies has come to pass. On the contrary, they believe that the brand's record on environmental, social and corporate governance (ESG) has improved as a result of the multinational's investment. The business would have been at risk if its founders had refused the deal, which came during a recession in which they had already been forced to made redundancies.

Brookgardener via Shutterstock

Emilie Stephenson, who heads Innocent's 'force for good' department in the UK, believes that having a "connected, not integrated" relationship with its parent company has helped the brand to sustain its ESG standards.

"It means that we do things independently," she says. "We're part of the system, but we have very much kept our identity."

When Coca-Cola first bought a stake, it offered Innocent its own floor at the company's London HQ, but Innocent's founders refused.

"That would have saved us a lot of money on rent. But I remember them explaining clearly to us that keeping our own space, which we could brand as we wanted, was so important in retaining our identity and culture," says Stephenson, who recalls that no one from Coca-Cola transferred over.

She stresses that safeguarding the brand's values was a prerequisite of the deal. Ethical red lines included the business's commitment to funding the Innocent Foundation.

"It's an integral part of who we are as a business," Stephenson says. "Coke wanted us to continue with that. It was in their interests to do so and leave us to it."

Innocent's management team worked hard to ensure that employees could see the benefits of the deal, she adds. These included the fact that they would be able to reach a much bigger audience with their ethical message.

> I'm sure these big businesses look at the kind of culture that their acquisitions have and think: 'Wow, let's have a piece of that'

Stephenson is one of many long-serving employees who are still with the company since its independent days, which she believes is a further sign that Innocent hasn't lost its original values.

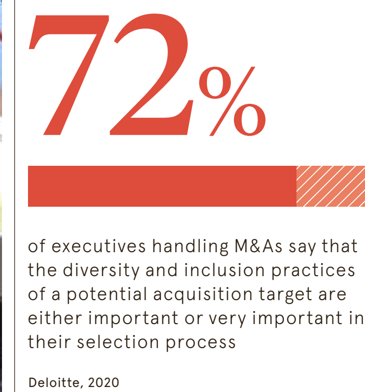
"I have been here 15 years. On the board we still have at least seven people who were here before the takeover," she says, acknowledging that "things might be different now if there had been a mass exodus when Coca-Cola arrived".

In 2018, Innocent was awarded B Corporation status for the first time, even though its parent company is not a B Corp. This is no mean feat, given the extreme scrutiny that the certifying authority, B Lab, exercises over the ESG credentials of subsidiaries of large companies. For instance, Method, a specialist in non-toxic cleaning products, had to relinquish its B Corp status after it was acquired by SC Johnson in 2017.

Chris Turner, executive director of B Lab UK, says: "We recognise these big changes in ownership are huge for smaller businesses and can affect their environmental and social performance."

All B Corps need to apply for recertification every three years, but any that undergo a significant change in ownership are required to do so annually. B Lab also operates a public complaints procedure, enabling anyone to report any recently acquired B Corp that they suspect may be misrepresenting its ESG performance.

Method's case notwithstanding, it's unusual for a B Corp to lose its status after a takeover. If anything, the acquirer is likely to become more ethical itself. Research published in the journal *Business Strategy and the Environment* in 2020 indicated that, if the seller had a higher ESG performance than the buyer, the latter's ESG performance tended to improve. This helps to explain why B Corps have become attractive acquisition targets in recent years.



of executives handling M&As say that the diversity and inclusion practices of a potential acquisition target are either important or very important in their selection process

Deloitte, 2020

"More and more B Corps are being acquired by multinationals that aren't B Corps," says Turner, citing Unilever, which purchased Ben and Jerry's in 2001 and has been on a streak of acquiring B Corps ever since. Today it has five subsidiaries with that status.

"The idea we've been proving by certifying B Corps for over a decade now is that businesses that are ethical thrive in the long term," he observes. "Big firms are waking up to this. A great example is Danone, which is on the way to becoming the world's largest B Corp."

Turner says that Danone's initial inspiration was a US baby-food brand called Happy Family Organics, a B Corp that it bought in 2013. Within five years of that acquisition, the whole of Danone North America was certified as a B Corp.

"Smaller businesses can be inspired by the scale they can achieve by being part of a group," he says. "But I'm sure these big businesses look at the kind of culture that their acquisitions have and think: 'Wow, let's have a piece of that.'"

Stephenson believes that both parties can benefit greatly from each other's strengths, especially through collaborative projects. For instance, "Coke is doing a lot of great stuff on sustainability on which we work together. One example is our development of a sustainable bottle that doesn't use fossil fuels. We are working with them on various plant-based prototypes. It's useful, as they put lots of money into research and development. We've taught them a lot and, arguably, they've taught us more."

A healthy commercial environment requires small trailblazers, strong independents and multinational corporations, according to Turner, who says: "The startups stretch our vision and innovation in the community, while the big businesses and their acquisitions stretch our scale and reach. You need all of that."

Stephenson agrees. "If you are anti-capitalist, that's one thing. But big companies are where they are and they're useful, so you may as well be encouraging them to do the right thing," she says.

What does Coca-Cola think of Innocent's sustainability record? "It's something they're proud of," Stephenson says. "There's no way they're ever going to change that. We're doing really well, so why would they want to?"

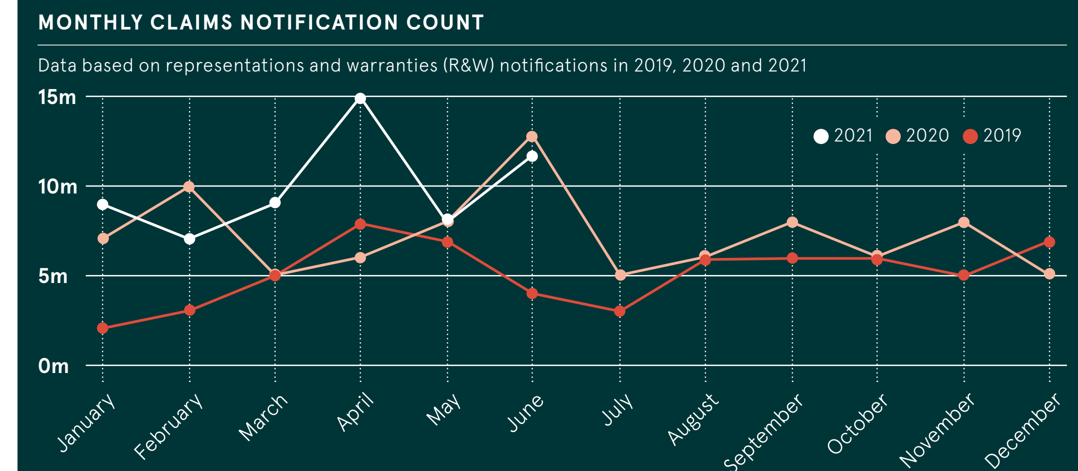
WHY LARGE COMPANIES ACQUIRE OTHER BUSINESSES

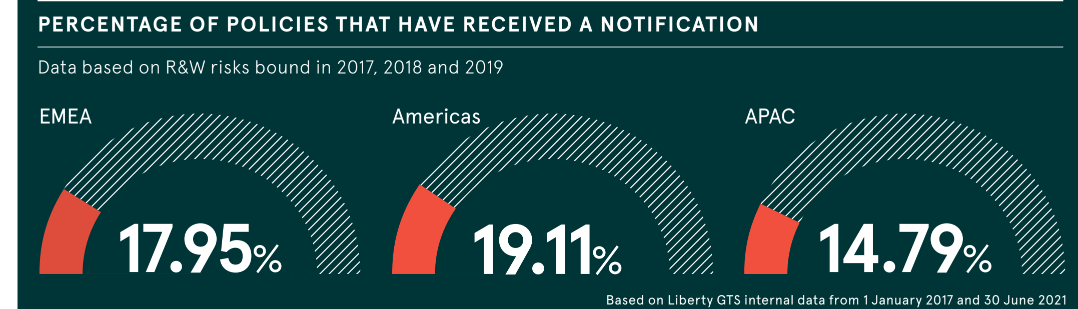
Percentage of M&A executives at US corporations who say the following are strategies their companies are prioritising

Deloitte, 2020

Strategy	%
Establishing new partnerships and alliances	76%
Taking advantage of disruptive opportunities to secure our position	75%
Taking advantage of disruptive opportunities to enter new markets	74%
Acquiring capabilities to accelerate our own digital transformation	74%

Commercial feature





M&A frenzy sees boom in insurance as bidders seek to sweeten deals

Private equity firms and trade buyers are increasingly taking out M&A insurance to offer better contractual terms for sellers

The M&A market has never been busier. After the pandemic brought dealmaking to a virtual standstill in the opening half of last year, M&A activity has surged to its fastest start to a year on record—having already smashed through the $2tn mark at the start of June.

"Given there is so much market activity and there is so much money chasing a finite number of assets, buyers recognise they need to be super competitive when they're making bids on these assets—it's not the case that they're the only buyer in town, they are quite often bidding against five others in an auction process," said Rowan Bamford, president of Liberty GTS, a specialist M&A insurance provider.

One option buyers have is to offer a higher price, but another way to gain a competitive advantage over other bidders is to sweeten the deal for the seller by reducing the burden of any contractual liability through the use of M&A insurance.

"Most serious buyers now use M&A insurance as a financial instrument by making a bid more attractive to the seller," said Bamford. "Using insurance in this way can let sellers off the hook for any future breach of warranty or tax liability."

Similarly, sellers might consider using M&A insurance so they don't need to hold any residual liability on their balance sheet for a payment they may or may not need to make for a warranty claim at some point in the future.

"Sellers like M&A insurance because it allows that capital to be released so they can use it to invest in other assets," Bamford said. "That's especially attractive with the backdrop of a very low interest rate environment where the money is just sitting in a blocked off bank account earning very little interest when it could be put to work for potentially much higher returns."

For other types of seller—a family which, say, has just sold the family business—it can offer peace of mind that they are not going to have anyone make a claim against them several years down the line.

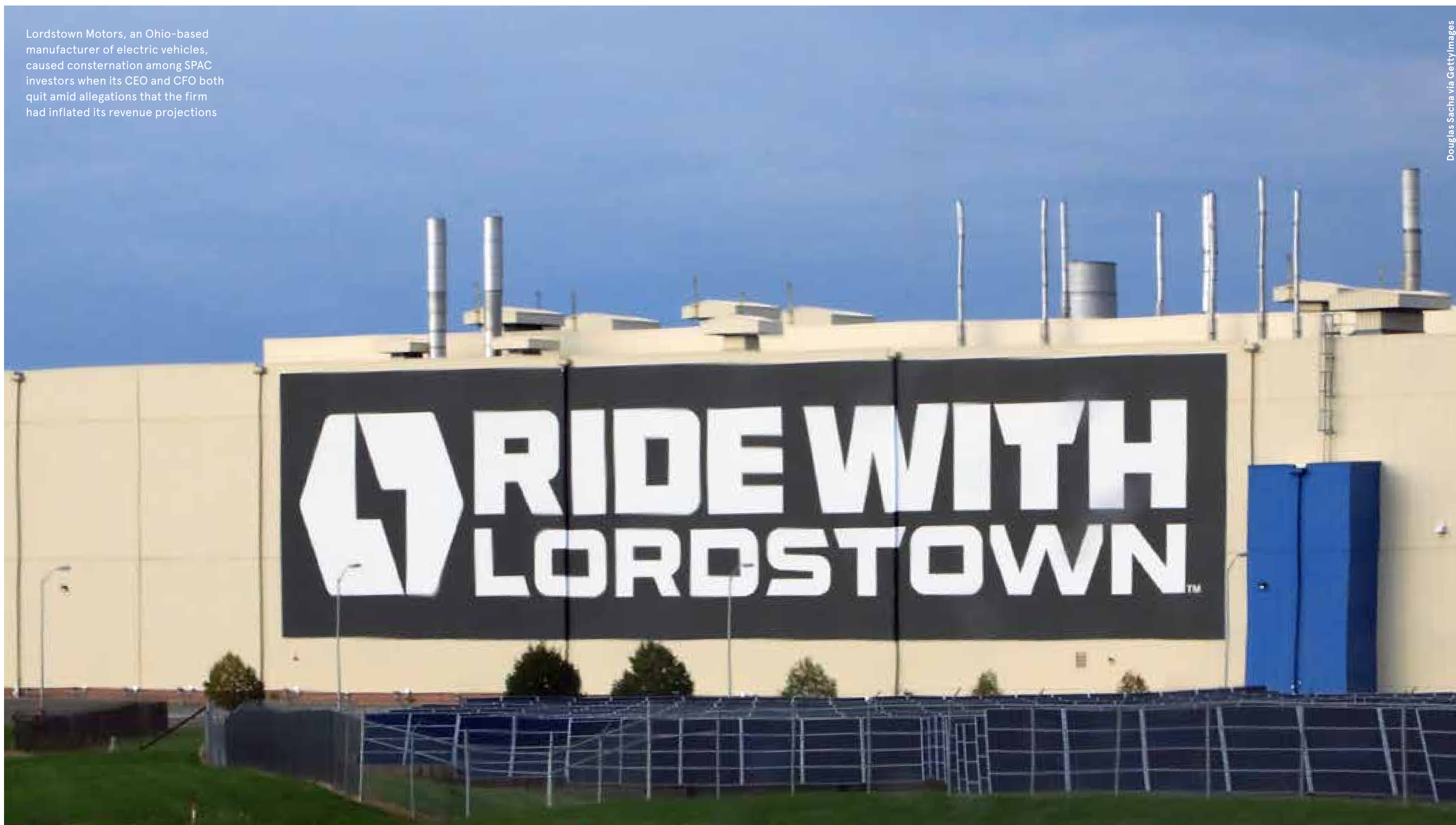
While various entities are now using M&A insurance to improve deals or unlock otherwise dormant capital, private equity firms were among the first to recognise its use as a financial tool.

"They started using it in auction processes and suddenly the trade buyers were like, 'What is this they are using? They've not outbid us on price, but they're able to offer zero recourse against the seller'," said Bamford. "So the trade buyers said, to compete with private equity we're going to need to have the same tools in our toolbox, so they started buying this product as well, and it's really snowballed in the last three years."

M&A insurance policies, of course, also have benefits if things go wrong after the sale is completed. Bamford says the majority of claims he sees are relatively low-level tax claims where a business has underpaid. Other potential claims that M&A insurance can help settle are around larger tax issues, for instance if a multinational business has a substantial tax provision on its account but it turns out to be insufficient, as well as material contract claims and issues around employee classification.

"In most cases you get a better financial covenant through an insurer than dealing directly with the seller," said Bamford. "You might find the seller is just a shell company and when you need to make a claim against it, there might be no way of getting the money back. But the reality is that's not the real reason you buy this—you buy this as a capital release play in the same way you would buy any other financial instrument. If the return you get from getting the money out is greater than the cost of buying the insurance, why wouldn't you?"

Fore more information please visit libertygts.com



Lordstown Motors, an Ohio-based manufacturer of electric vehicles, caused consternation among SPAC investors when its CEO and CFO both quit amid allegations that the firm had inflated its revenue projections

Douglas Sacha via Getty Images

SPACS

Safe SPAC? How to protect investors

Recent ill-starred deals have highlighted the risks posed by special-purpose acquisition companies. This has prompted regulators on both sides of the Atlantic to place these increasingly popular investment vehicles under scrutiny

Rich McEachran

What is a popular source of finance and one of the hottest ways for a business to go public, yet can also lead to a disastrous M&A deal? The answer is a special-purpose acquisition company (SPAC).

A private business that achieves a stock-market listing by being acquired by a SPAC – a publicly traded shell company that's been designed and created specifically for the task – can sidestep several of the stricter regulatory checks that apply in the more traditional flotation process of the initial public offering (IPO).

Last year, 248 SPACs obtained stock-market listings in the US, raising $83.4bn (£60.1bn) in total. In the first six months of 2021, the US saw 361 SPAC flotations, which generated a combined $111.2bn.

The market was put on ice earlier this year under mounting scrutiny from the US Securities and Exchange Commission (SEC), which remains concerned that SPAC investments are causing an equity bubble. Despite that, activity seems to be heating up again. The three months to the end of June 2021 were a record-breaking second quarter for SPAC flotations globally. Deals worth $1.5tn were announced – up 13% from Q1, which had also been a record quarter.

The SPAC listing frenzy is expected to continue over the summer. But high levels of activity heighten the likelihood that riskier transactions will occur. Indeed, there have been some damaging SPAC deals recently. Two cases, both in the US, have caused particular concern.

Last September, Nikola, a manufacturer of electric vehicles, was accused of deceiving investors by exaggerating the capabilities of its technology. The claims led to the founder's resignation less than four months after a $3.3bn SPAC deal had enabled Nikola to float on the Nasdaq.

At another automotive startup, Lordstown Motors, accusations of inflated revenue projections at the start of this year led to the resignations of its CEO and CFO in June. Federal prosecutors are investigating the company, whose $1.6bn SPAC deal went through at the end of October 2020.

The share prices of both Nikola and Lordstown Motors have fallen sharply, bruising retail investors in particular. It's clear from these examples why the SEC wants to put SPACs under the microscope, according to Kathleen Harris, managing partner at the London office of US law firm Arnold & Porter.

"There certainly are questions surrounding whether retail investors understand the risks of investing in SPACs," she says. "Part of the attraction of a SPAC to investors is that they aren't having to pick a new company to invest in or do the due diligence. Instead, they're leaving those jobs to the SPAC's team."

This isn't to say that the SPAC teams behind deals that go wrong are failing in their due diligence. But the nature of the SPAC structure means that their team members (known as sponsors) are not likely to lose out if that happens. It's often their small investors who are disproportionately affected.

"The sponsors can still make a hefty profit even if their SPAC merges with a mediocre company and its stock value then declines by 50%," says Maxim Manturov, head of investment research at Freedom Finance Europe.

> There is certainly a question mark around whether retail investors understand the risks they are undertaking by investing in SPACs

$105bn

The total raised by SPACS through initial public offerings in the US during the first five months of 2021

SPACInsider, 2021

Such an arrangement incentivises SPAC teams to pursue several deals simultaneously. Yet it's important that they don't lose focus and/or select inappropriate acquisition targets. To this end, part of the responsibility should lie with those ventures seeking acquisition and flotation via the SPAC route, argues Merlin Piscitelli, chief revenue officer for M&A software provider Datasite in EMEA.

"A successful outcome requires investors, sponsors and their target companies to be aligned and deal-ready," he says.

SPAC targets are usually fast-growth companies or startups that have yet to make a profit. The prospect of granting equity to a SPAC for a big lump sum and a listing might be tempting for any founder, but choosing the right time to go public is critical. Payoneer offers a case in point. The global payments provider started trading on the Nasdaq on 28 June after completing a $3.3bn SPAC deal backed by veteran banking entrepreneur Betsy Cohen.

According to James Allum, vice-president and head of Payoneer's business in Europe, the acceleration of ecommerce at the start of the pandemic had created the "perfect conditions" for the firm to seek a listing. The business was on "an exceptional trajectory, but needed extra resources to grow at the required pace", he says. A key advantage of the SPAC route is that it enables a relatively quick listing, because the acquisition tends to be faster than an IPO.

"Recent high-profile failures have given SPACs an undeservedly negative reputation," Allum says. "Used properly, they can play a vital role in fostering innovation."

The number of flotations via the SPAC route may continue apace, but a complex accounting rule change introduced by the SEC in April has had a negative effect on SPACs' share prices. The regulator is also set to issue guidance on how acquisition targets are valued and revenues are projected.

SPACs are comparatively rare in the UK, but there could be a change to the City's listing rules that would result in a wave of flotations. The current rules mean that investors in each SPAC are locked into their holdings while it's conducting an acquisition, which can take several months, from identifying a target to completing the transaction. But the Financial Conduct Authority is considering whether to grant more flexibility for SPAC shares to be traded without suspension during this process – which is what the SEC allows. If this does happen, Harris expects that SPACs will have to become more transparent and show that they have strong protections in place for investors to prevent disorderly share trading.

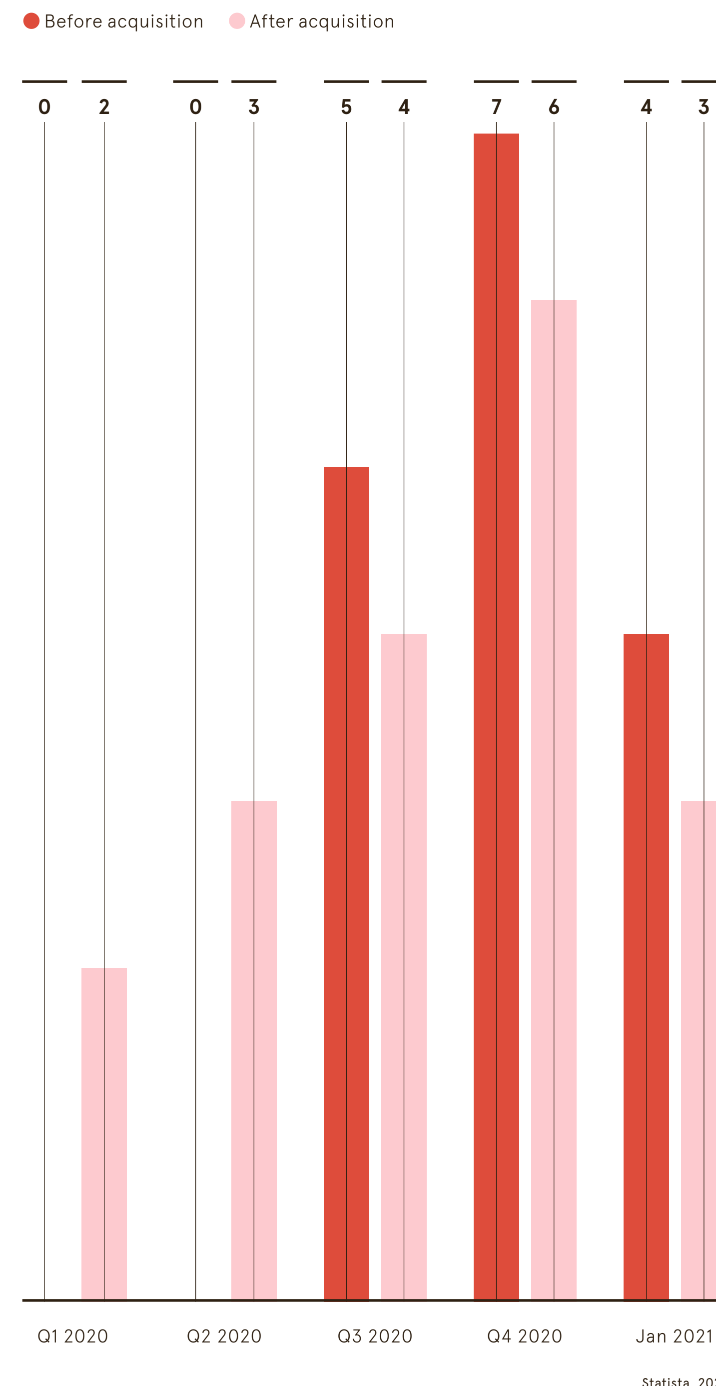
Regulators on both sides of the Atlantic will be hoping that investors become more attuned to the risks, according to Manturov. There is, of course, no guarantee that any future SPAC transaction won't be a dud, but disasters should be less likely to occur, he predicts.

"Increased attention from regulators will help to stabilise the SPAC market, reduce risk and warn investors against trading less suitable transactions," Manturov says. "This should in turn prevent low-quality SPAC deals." ●

ARE SPAC LAWSUITS ON THE RISE?

Volume of SPAC litigation before and after the acquisition process in the US

● Before acquisition ● After acquisition



Statista, 2021

Commercial feature

Q&A

How M&A insurance can unlock deals

Insurance is now a mainstream way to reduce risk for all parties in M&A. **James Wilson,** head of M&A insurance at United Insurance Brokers, explains the mechanics

Q James, why is M&A insurance so important?

A There is no doubt it is important! We have seen a significant increase in the interest in M&A Insurance policies. Insurance is now another tool in the M&A tool box. It is an alternative to more traditional mechanisms that transaction parties and their advisers use.

It's flexible. M&A insurance is so versatile it can cover pretty much every transaction scenario. This makes it a deal enabler. Deals happen that wouldn't otherwise take place. Furthermore, it provides post-completion protection from financial risks. It is therefore both a deal facilitator and risk mitigator, hence the booming usage.

Q How can insurance speed up a transaction?

A There are nearly always potential deal blockers in a transaction, when parties cannot agree on the allocation of possible liabilities. Insurance is a way to remove these blockers. Liabilities, whether known or unknown, can be transferred to an insurer, removing risk and allowing the deal to go ahead. Speed is a critical factor. Quotations can usually be obtained in one to two days to help with a variety of issues. These include protection from breaches of the warranties given in a purchase agreement, addressing low seller liability limitations, removing specific tax or contingent exposures identified in due diligence and substituting the need for certain indemnity provisions.

Q How has M&A insurance changed in recent years?

A The old saying is there's fast, cheap, and good…and you pick two. Well, M&A insurance defies that phrase. In terms of speed, it used to take a long time. No longer. Costs are down too. And the coverage today can be generous and comprehensive. The improvements are across the board.

As a result, it has quickly become a go-to solution for the investment community. With this evolution of the products and their capabilities, it is possible for insurers to assist on increasingly complex M&A deals.

Q What is the secret to getting the right coverage?

A The secret is working with the right insurance partners, both broker and underwriter. The two work together, so it's vital to get the right pairing. To ensure you receive the most comprehensive and suitable cover, your broker must understand the pertinent exposures that the transaction parties face, then manage the process with the underwriters. Although every deal is different, there are a number of thematic trends that can be seen in transactions according to their sector and location. As a result of being industry sector and geographically agnostic, our team works on deals across a multitude of industries and jurisdictions and from the experience we've gained, we can advise clients on some of the potential liability pitfalls they could face and how insurance could mitigate them.

Q How can UIB help?

A Our M&A Insurance team are experts in both risk assessment and risk removal. We help buyers, sellers, and their advisers in a variety of scenarios. This includes acquisitions, investments, sales, restructurings, insolvencies, and fund liquidations.

We pride ourselves on understanding our clients needs, and providing them with insurance solutions that make a difference. This means they can complete their own transactions, secure in the knowledge that their actual and potential risk exposures have been both identified and reduced.

In terms of customer service, all clients deserve one that's complete and professional, tailored with a personal touch and friendly approach. To us, that's so important as our clients are just that – clients – not a number.

> Insurance is now another tool in the M&A tool box

UIB has a breadth of experience across industries, products and geographies, and we build our client and market relationships through continuity of management, with understanding risk always being the bedrock of our thinking.

UIB also has the benefit of providing our clients with access to dedicated specialists in our group offices, where cultural sensitivities can also be managed as they should be.

For prospective clients who believe that these factors are equally as important as the insurance contract itself, drop us a line – we're here to help.

Q Thanks James!

A My pleasure!

To learn more please visit UIB.co.uk/MandA

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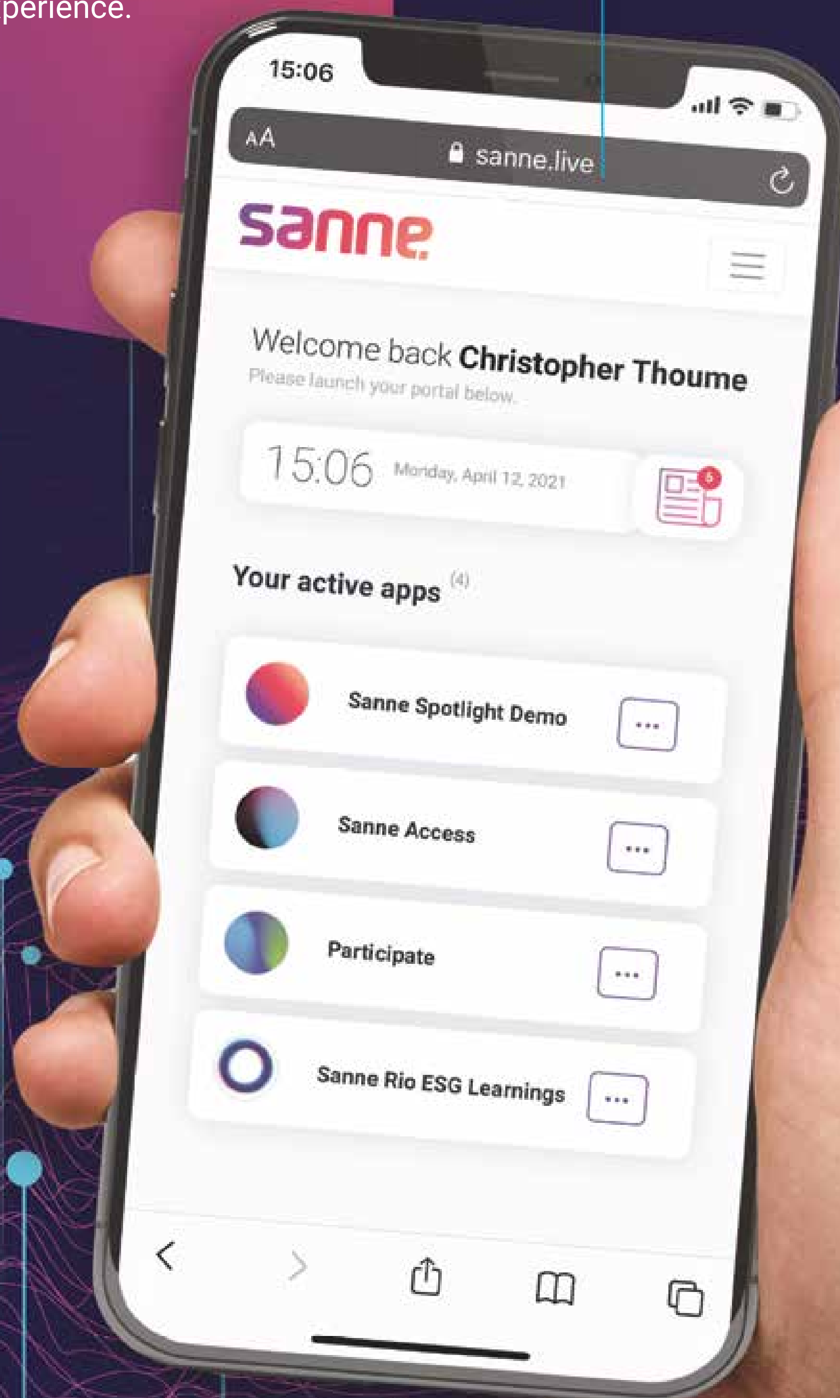

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