M&A Year in Review: Trends and Highlights from 2014

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Presenter:
Tasha Hailey Hutchins, Esq.
Senior Editor, Practical Law Corporate and M&A
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Global M&A Activity


• According to data provided by Thomson Reuters, worldwide M&A activity totaled $3.5 trillion in 2014, an increase of 47% over 2013; the largest volume by dollar value since 2007.

• 95 deals worldwide with a value greater than $5 billion announced during in 2014, more than double the value and number of large-cap deals announced in 2013.

• The rebound was also felt in the US, with 9,814 announced M&A deals for US-based target companies accruing a total of $1.5 trillion in deal value in 2014, an increase of 51.5% over 2013.

• However, the overall surge in dollar value of total M&A activity and volume of high-profile deals was not felt in all corners of the deal economy.
Global M&A Activity
Global M&A by Number of Deals; Number of Deals Over $5B (Q1 Comparison)

[Bar chart showing the number of deals worldwide from 2006 to 2015, with a line chart showing the number of deals over $5bn. The chart indicates a general increase in both categories over the years.]
Global M&A by Number of Deals; Number of Deals Over $5B (Year-over-Year Comparison)
Cross-border M&A Up 78% Compared to 2013
US Public M&A Activity by Quarter

What's Market tracks acquisitions of US publicly traded companies valued over $100 million.
Most Active Industries  (US Target Announced M&A)

<table>
<thead>
<tr>
<th>Industry Sector</th>
<th>2014</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy &amp; Power</td>
<td>13.80%</td>
<td>22.10%</td>
</tr>
<tr>
<td>Healthcare</td>
<td>15.50%</td>
<td>12.40%</td>
</tr>
<tr>
<td>Media &amp; Entertainment</td>
<td>13.60%</td>
<td>7.30%</td>
</tr>
<tr>
<td>High Technology</td>
<td>11.00%</td>
<td>10.30%</td>
</tr>
<tr>
<td>Real Estate</td>
<td>13.20%</td>
<td>6.50%</td>
</tr>
<tr>
<td>Consumer Staples</td>
<td>6.50%</td>
<td>5.40%</td>
</tr>
</tbody>
</table>

Percentage by Deal Value
Most Active Industries (US Public Target, Signed Deals, >$100M)

Industry Sector

- Banking/Financial Services: 26 (2014) vs 23 (2013)
- Oil & Gas/Utilities: 16 (2014) vs 9 (2013)
- Retailers: 8 (2014) vs 7 (2013)
Strategic vs. Financial Buyer Activity

2014
- 132 deals (87%)
- 19 deals (13%)
- Total Deals: 151
- 34 deals (23%) were structured as front-end tender offers.

2013
- 106 deals (76%)
- 34 deals (24%)
- Total Deals: 140
- 36 deals (26%) were structured as front-end tender offers.

2012
- 111 deals (77%)
- 33 deals (23%)
- Total Deals: 144
- 40 deals (28%) were structured as front-end tender offers.
## Largest Strategic Deals

<table>
<thead>
<tr>
<th>Acquiror/Target (Signing Date)</th>
<th>Industry</th>
<th>Deal Value</th>
<th>Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comcast Corporation/Time Warner Cable Inc. (February 12, 2014)</td>
<td>Media and entertainment</td>
<td>$70.7 billion</td>
<td>All stock</td>
</tr>
<tr>
<td>AT&amp;T Inc./DIRECTV (May 18, 2014)</td>
<td>Media and entertainment</td>
<td>$67.2 billion</td>
<td>Cash and stock</td>
</tr>
<tr>
<td>Actavis plc/Allergan, Inc. (November 16, 2014)</td>
<td>Pharmaceuticals and biotechnology</td>
<td>$66.4 billion</td>
<td>Cash and stock</td>
</tr>
<tr>
<td>Kinder Morgan/Kinder Morgan Energy Partners (August 9, 2014)</td>
<td>Oil and gas</td>
<td>$58.6 billion</td>
<td>Cash(stock)/mix election</td>
</tr>
<tr>
<td>Halliburton Company/Baker Hughes Incorporated (November 16, 2014)</td>
<td>Oil and gas</td>
<td>$38.5 billion</td>
<td>Cash and stock</td>
</tr>
</tbody>
</table>

Of the 34 deals valued at over $5 billion in 2014, 32 (94%) were with strategic buyers (not including Safeway).
# Largest Financial Deals

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<th>Industry</th>
<th>Deal Value</th>
<th>Consideration</th>
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<tbody>
<tr>
<td>Cerberus, Albertson's, Kimco Realty, Klaff Realty, Lubert-Adler Partners, Schottenstein Stores Corporation/Safeway Inc. (March 6, 2014)</td>
<td>Retailers</td>
<td>$9.4 billion (including certain spin-off proceeds)</td>
<td>All cash, plus additional spin-off distributions.</td>
</tr>
<tr>
<td>BC Partners, La Caisse (Quebec), StepStone, GIC (Singapore), Longview Asset Management/PetSmart, Inc. merger (December 14, 2014)</td>
<td>Retailers</td>
<td>$8.7 billion</td>
<td>All cash</td>
</tr>
<tr>
<td>Macquarie Infrastructure and Real Assets, British Columbia Investment Management, John Hancock Financial/Cleco Corporation (October 17, 2014)</td>
<td>Utilities</td>
<td>$4.7 billion</td>
<td>All cash</td>
</tr>
<tr>
<td>Vista Equity Partners/TIBCO Software Inc. (September 27, 2014)</td>
<td>Computer and electronic equipment</td>
<td>$4.0 billion</td>
<td>All cash</td>
</tr>
<tr>
<td>Thoma Bravo, LLC and Ontario Teachers' Pension Plan/Riverbed Technology, Inc. (December 14, 2014)</td>
<td>Computer and electronic equipment</td>
<td>$3.6 billion</td>
<td>All cash</td>
</tr>
</tbody>
</table>
Type of Consideration

2014
- All Stock: 72 deals (48%)
- Cash and/or Stock: 41 deals (27%)
- Contingent Value Rights: 32 deals (21%)
- All Cash: 6 deals (4%)

2013
- All Stock: 95 deals (68%)
- Cash and/or Stock: 20 deals (14%)
- Contingent Value Rights: 18 deals (13%)
- All Cash: 7 deals (5%)

2012
- All Stock: 107 deals (74%)
- Cash and/or Stock: 25 deals (17%)
- Contingent Value Rights: 10 deals (7%)
- All Cash: 2 deals (2%)

151 Total Deals
140 Total Deals
144 Total Deals
Pricing Collars

• Eleven deals signed in 2014 used a collar, compared to eight in 2013, four in 2012, none in 2011 and three in 2010:
  • Five of the 11 deals were all-stock; six were mixed-consideration.
  • Seven deals with fixed value and floating exchange ratio.
  • Three deals with a fixed exchange ratio.
  • One deal in which the cash portion of the merger consideration was subject to a 10% symmetrical collar.

• Most commonly seen in Banking and Financial Services industry sector:
  • Six of the 11 deals in 2014.
  • Fourteen of the 26 deals with pricing collars since 2010.
  • Twelve of 19 since the beginning of 2013.

• In all deals with pricing collars in 2014 that have closed, the buyer's stock price at closing was within the negotiated range.
Leveraged vs. Unleveraged Transactions

**2014**
- Debt: 71 deals (47%)
- Non-debt: 80 deals (53%)

**2013**
- Debt: 57 deals (41%)
- Non-debt: 83 deals (59%)

**2012**
- Debt: 71 deals (49%)
- Non-debt: 73 deals (51%)

Total Deals:
- 151 Total Deals (2014)
- 140 Total Deals (2013)
- 144 Total Deals (2012)
Reverse Break-up Fees in Debt-financed Deals

- Only 24 deals (34% of all leveraged deals in 2014) were structured to have a reverse break-up fee payable for a financing failure or other material breach by the buyer or failure to otherwise close the deal (not including for antitrust failure or fiduciary triggers). Compare 68% in 2013.

- 12 leveraged deals (50% of leveraged deals in 2014) contained this type of reverse break-up fee priced at 6% or more of the total deal value.
The Rise and Fall of Inversions

• Inversions through mergers allow US companies to redomicile in countries with low corporate tax rates.
• Inversions helped boost cross-border M&A volume, which surged to $1.3 trillion in 2014, a 78% increase over 2013. Cross-border M&A accounted for 37% of total global deal activity, up from 31% in 2013.
• Notable inversion deals involving US targets in 2014 included:
  • Nabors Industries Ltd. and C&J Energy Services, Inc. Reverse Morris Trust deal (closed).
  • QLT Inc. and Auxilium Pharmaceuticals, Inc.’s merger (terminated due to topping bid).
  • Actavis plc and Forest Laboratories, Inc.’s merger (closed).
  • Burger King Worldwide Inc.’s agreement to acquire Canadian fast-food chain Tim Hortons Inc. (closed).
  • AbbVie Inc.’s $53.6 billion takeover of Shire plc (terminated due to new tax rules).
  • Salix Pharmaceuticals, Ltd.’s agreement to acquire Cosmo Technologies Limited (terminated due to new tax rules).
  • Medtronic Inc.’s acquisition of Covidien plc in a $42.9 billion cash-and-stock deal (closed).
  • Mylan Inc.’s purchase of Abbott Laboratories’ generic drug business for $5.3 billion in stock (closed).
• In September 2014, the Treasury Department and Internal Revenue Service announced new rules aimed at reducing the financial benefits of tax inversions for US companies.
Shareholder Activism

• Thomson Reuters: Shareholder activism campaigns decreased for the second consecutive year.
  • 177 campaigns in 2014; 241 in 2013; 345 in 2012.
  • Same trend among companies >$10B: 16 campaigns in 2014; 21 in 2013; 22 in 2012.

• However, 2014 saw higher success rates compared to 2013, with a larger percentage of outright victories (32% vs. 27%), partial victories (13% vs. 10%) and settlements (30% vs. 7%), according to data provided by Thomson Reuters.

• The most targeted sector in 2014 was “Cyclical Consumer Goods & Services,” which comprised 22% of the market, followed by Technology with a 17% share and both Industrials and Finance, each with 14% of market share.
Shareholder Activism and Hostile M&A

• Notable activist campaigns in 2014 that spurred M&A deals included:
  • Jana Partners/PetSmart, Inc.
  • Elliott Management/Riverbed Technology, Inc.
  • Starboard Value/MeadWestvaco Corp.

• Notable topping-bid situations in 2014 included:
  • Dollar Tree, Inc./Family Dollar Stores, Inc./Dollar General Corporation (unsuccessful)
  • Chiquita Brands International, Inc./Fyffes plc/Cutrale Group & Safra Group (successful; inversion disrupted)
  • GFI Group Inc./CME Group Inc./BGC Partners (?)
  • QLT Inc./Auxilium Pharmaceuticals, Inc./Endo International plc (successful; inversion disrupted)
  • The Hillshire Brands Company (Pinnacle Foods Inc.)/Tyson Foods, Inc./Pilgrim's Pride Corporation (successful)
Spin-offs

• Spin-off transactions have become an increasingly popular tool for investors, boards and management to maximize enterprise value.


• Notable spin-offs in 2014 included:
  • Hewlett-Packard Company's spin-off of its printing and personal systems businesses, HP Inc.
  • eBay Inc.'s spin-off of its PayPal business
  • Energizer Holdings, Inc.'s spin-off of its personal-care products businesses.
What We Talked About Last Year

- Tender offers and DGCL Section 251(h)
  - 2014: Further, clarifying amendments to the statute. 34 deals (23%) structured as front-end tender offers.
  - 36 deals (26%) in 2013 structured as front-end tender offers.

- Contingent Value Rights
  - 2013: seven out of 140 (5%).
  - 2014: six out of 151 (4%).

- Go-shops
  - 13 deals in 2014. 8.6% of total.
  - 7 with financial buyers (including “Safeway” deal), 6 with strategic buyers.
  - 4.5% of deals with strategic buyers.
What We Talked About Last Year

• Reverse break-up fees for antitrust failure
  • Signet Jewelers/Zale: 7.74%
  • Halliburton/Baker Hughes: 10.12%
  • TTM Technologies/Viasystems Group: 10.87%

• Antitrust-related ticking fees
  • Two in 2013: Service Corporation International/Stewart Enterprises; Thermo Fisher Scientific/Life Technologies
  • Two in 2014: Siemens Energy/Dresser-Rand Group; Safeway buyout
About the Speaker

Tasha Hailey Hutchins, Senior Legal Editor, *Practical Law Corporate and M&A*

- Tasha joined Practical Law from Pfizer Inc. where she specialized in M&A transactions for the business transactions group. Previously she was a corporate associate at Dorsey & Whitney LLP in New York City, and before that she was an associate in the M&A group at Skadden, Arps, Slate, Meagher & Flom LLP in New York City.