

ESG COMES OF AGE IN M&A: DEALMAKERS ARE NOW FOCUSSING ON ESG ISSUES ACROSS ALL SECTORS

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Firm news

Environmental, social and governance (ESG) matters rapidly rose up the corporate agenda in 2019, such that ESG is now a mainstream issue across all areas of corporate life, including in mergers and acquisitions (M&A).

Leading global law firm Herbert Smith Freehills' *M&A in 2020: The New Normal* report takes a closer look at this key trend that has come to the fore in the past 12 months. The report highlights the ESG risk and reputational issues that dealmakers need to be mindful of in any buy or sell situation.

"ESG matters are now mainstream and can no longer be considered an afterthought in M&A decision-making," said [Gavin Davies](#), Head of Global M&A at Herbert Smith Freehills. "They demand heightened attention on M&A transactions, across all sectors. Thorough ESG due diligence and post-transaction risk management should now be part of the M&A practitioner's toolkit."

The report also focuses on three other key M&A trends from 2019 that lawyers at Herbert Smith Freehills expect will continue in 2020:

- The return of public-to-private bids, as financial buyers, from private equity investors to pension funds and family offices, perceive greater value in under-priced public equity markets than in overcrowded private auctions.
- Political intervention, which remains a risk that buyers and their advisers must navigate

carefully as the widespread tightening of foreign direct investment (FDI) regimes continues.

- Disruption to the deal, with threats that can include challenges from shareholders, from competing buyers, from interventionist governments and from anti-trust regulators increasingly willing to exert their powers.

"Despite a sustained environment of geopolitical uncertainty, overall M&A activity in 2019 remained healthy. That said, the market continues to adopt ever-greater care around deal execution against the "new normal" backdrop of potential deal disruption. It is essential that dealmakers continue to plan carefully to minimise the timetable and risk to completion," said [Caroline Rae](#), Herbert Smith Freehills M&A partner and a co-author of the report.

The report also provides insights from Herbert Smith Freehills' lawyers around Africa, Asia, Australia, China, Europe, the Middle East and the UK on regional activity in 2019, and the outlook for 2020.

The report additionally identifies a number of drivers for cross-border M&A opportunities including:

- An uptick in stressed and distressed M&A as market conditions become increasingly challenging for particular sectors in certain jurisdictions;
- End-of-cycle transacting, as companies look to divest non-core or underperforming divisions and refresh focus on their core business; and
- Deal making across all sectors that continues to be driven by tech disruption, including through minority and venture investing, and strategic partnerships.

M&A in 2020: The New Normal is available [here](#).

MEDIA CONTACT

For further information on this news article, please contact:

**LYDIA LAM, HEAD OF
COMMUNICATIONS, EMEA**

LONDON

Tel: +44 20 7466 3139
Mob: +44 7917 326 316
Email: lydia.lam@hsf.com