

ACCELERATED BUSINESS TRANSFORMATION DRIVES M&A IN 2022

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Guides

Record breaking activity level looks set to continue, notwithstanding reasons for caution

Leading international law firm Herbert Smith Freehills has published its 5th annual global M&A report titled "[M&A in 2022: FOMO overcomes FOGO](#)".

With full year figures for 2021 confirming record global levels of M&A activity, the M&A Report identifies continued drivers for strong activity in 2022. According to the firm's Head of Global M&A [Gavin Davies](#), coming out of the pandemic corporates are determined to emerge as the winners not the losers from this historic moment, and sponsors recall the successes of those who invested in the aftermath of the global financial crisis. He comments:

"In 2021, corporates focused with ever more urgency on M&A, as a response to the imperative of building resilience, and as a fast-track to the imperative of fundamental business transformation. Private capital focused on deploying record levels of dry powder, fuelled by buoyant debt markets, with FOMO (fear of missing out) on the once-in-a-lifetime opportunities thrown up by the pandemic. This currently looks set to continue at the same pace into 2022."

The M&A Report identifies some of the most important legal issues in global dealmaking:

- ESG taking centre stage
- active shareholders impacting deals
- the surge in public M&A in leading markets

- deSPAC transactions
- the impact of foreign direct investment regimes

On deal execution, the M&A Report suggests that transactions are not getting any more straightforward, with two themes coming to the fore. Firstly, the long-observed growth of government intervention in M&A, most clearly reflected by the rise in national investment regimes such as the UK's National Security & Investment Act which came into force on 4 January 2022. Secondly, a newer challenge of resourcing, both within client teams and professional advisers stretched by frenetic activity levels. [Caroline Rae](#), M&A partner comments: *"The personal impact of intense working levels in disrupted COVID conditions and The Great Resignation is being felt, particularly amongst mid and junior -level M&A professionals. For the first time in many years, resourcing has been a key discussion item at the deal kick-off meeting."*

The M&A report also identifies wider reasons for caution. Variant concerns will continue to threaten expectations of vaccine-led economic rebound. There has also been no cooling of geopolitical tensions, as acute as ever in China's relations with the West, and the UK's relationship with Europe, as well as other conflicts around the world. But, [Rebecca Maslen-Stannage](#), M&A partner and Chair of Herbert Smith Freehills, observes: *"Geopolitical headwinds have been accepted as the New Normal by deal participants for a few years now, and the M&A market has proved its ultimate resilience in taking the pandemic in its stride."*

More business failures are anticipated, particularly when the end of government support measures around the world are fully felt, but there has not yet been the level of distressed M&A that practitioners braced themselves for when we went into lockdown back in 2020. We also ended 2021 with fresh warnings sounded on mounting inflationary pressures.

Gavin Davies concludes: *"There is good reason for caution. Inflationary worries currently top the list of concerns, and are where attention will be most focused in 2022. But the long-term theme of accelerated business transformation that is driving so much of M&A – most clearly in digital transformation, decarbonisation of the energy sector, and the central place ESG is assuming in global investment – is not going out of fashion anytime soon. Pandemic - related FOGO (fear of going out) is a reality for some. But for now M&A is still partying hard to the music of this global tune, and shows no intention of heading back into lockdown just yet."*

According to [Refinitiv's full year M&A legal adviser rankings](#) in 2021, Herbert Smith Freehills was ranked #1 for the UK, Australia, Asia Pacific, #3 for Europe and #9 for global principal advisers (all categories were announced deals by value).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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