

MERGERS & ACQUISITIONS

Dealmaker's Digest

A Top 10 Bulletin

March 2025

ROPES & GRAY



In this edition of *Dealmaker's Digest*, we bring you the latest transactional developments to keep you in the know.

DGCL PROPOSED AMENDMENTS

GLOBAL M&A ACTIVITY

BLOCKBUSTER DEALS

ANTITRUST OUTLOOK

ACTIVE INDUSTRIES

CROSSBORDER ACTIVITY

LEGAL UPDATES

1

Proposed DGCL Amendments

- Delaware legislators recently proposed significant changes to the Delaware General Corporation Law (DGCL). The amendments, known as Senate Bill 21 or SB21, focus principally on how Delaware courts should evaluate transactions involving controlling stockholders, although they also address questions of director independence and the proper use of pre-suit Section 220 books and records demands.
 - The bill has generated enthusiastic support, particularly from resident corporations and their advisors, for facilitating transaction planning and clarifying questions around corporate governance, director appointments and conflicts cleansing, among other issues.
 - Equally passionate opposition to the bill has emerged from the plaintiffs' bar and shareholder advocates, including claims of legislative aggrandizement and judicial interference. Discourse around SB21 dominated the Tulane-hosted Corporate Law Institute conference in early March, which convened current and former members of the Delaware judiciary, corporate practitioners, plaintiffs' lawyers, academics and other stakeholders.
- Lawmakers have incorporated several incremental changes to SB21 in the weeks following its initial dissemination. Further changes to the bill are possible, particularly given ongoing (and vociferous) lobbying.
- Bird's-eye takeaways from the proposed amendments (as of press time) are set out in the right column. For more information on these evolving developments and how they may impact your organization, please contact your usual Ropes & Gray attorney or reach out to a member of our M&A team.

Controlling Stockholder Transactions

- Controlling stockholder "going private transactions"—defined with reference to Section 13e-3 transactions in which a controller acquires the shares of a Delaware corporation they do not already own—would still presumptively be reviewed under the heightened "entire fairness" standard, unless conditioned on the "MFW factors" (approval by a majority of unaffiliated stockholders and a fully empowered and independent special committee). SB21 would, however, relax several stringent procedural elements imposed by Delaware caselaw. For instance, Delaware courts currently require that the MFW factors must be in place at the outset of substantive economic negotiations. Many otherwise MFW-compliant transactions have been subjected to entire fairness review because a court concluded that the parties did not comply with this "ab initio" requirement.
- For controller transactions that are not "going private transactions," the parties would be able to obtain deferential "business judgment" review by adopting only one of the *MFW* factors, which also overrules recent Delaware Supreme Court precedent.

Other Key Changes – SB21 would:

- Codify who can properly be considered a controlling stockholder, which has been the subject of substantial litigation in recent years, and eliminate controllers' liability for breaches of the duty of care.
- Generally make it more difficult for stockholders to plead that directors are conflicted.
- Seek to rein in the current practice of stockholder plaintiffs pursuing extensive pre-complaint discovery (including emails and text messages) through the use of Section 220 books and records demands and then leveraging those documents to bolster their complaints.

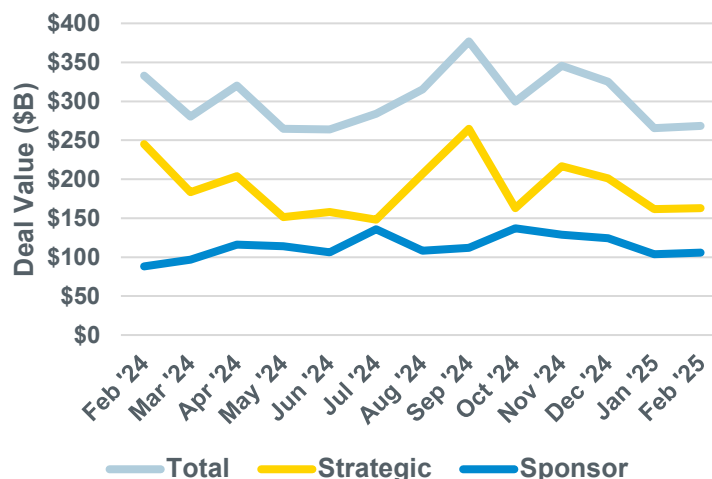
2 Antitrust Outlook

- Early signals from the second Trump administration suggest a nuanced outlook for antitrust enforcement and regulatory scrutiny of deals.
- New agency heads have endorsed Biden-era rules and guidelines, which require merging parties to invest more time and effort when seeking antitrust clearance, and have expressed support for the Biden administration's aggressive approach to antitrust enforcement. Unlike the Biden administration, however, we expect the Trump 2.0 agencies to entertain remedies to resolve concerns short of litigation.
- Enforcement against big tech, "killer acquisitions" and vertical deals were all in focus under the last Trump administration and remain so under Trump 2.0. Acquisitions in the pharmaceutical and medical device spaces, including those involving pipeline products, are likely to be areas of focus.
- On February 10, 2025, significant changes to Hart-Scott-Rodino Act (HSR) rules went into effect.
 - The new rules require merging parties to submit more transaction and industry-related documents, narrative descriptions on deal rationale and market overlaps, and lists of buyers' key personnel and investors, making the process more complex and time-consuming.
 - The FTC estimates that preparing a filing will require an average of 68 hours of additional time for each party to a reportable transaction. In complex deals between competitors or companies in a vertical relationship, preparation time could be longer. This additional burden lengthens transaction timelines, and requires closer coordination among deal parties.
 - These changes are discussed in more detail in a recent episode of Ropes & Gray's *Antitrust Insights* podcast series, available [here](#).

GLOBAL M&A ACTIVITY UPDATE

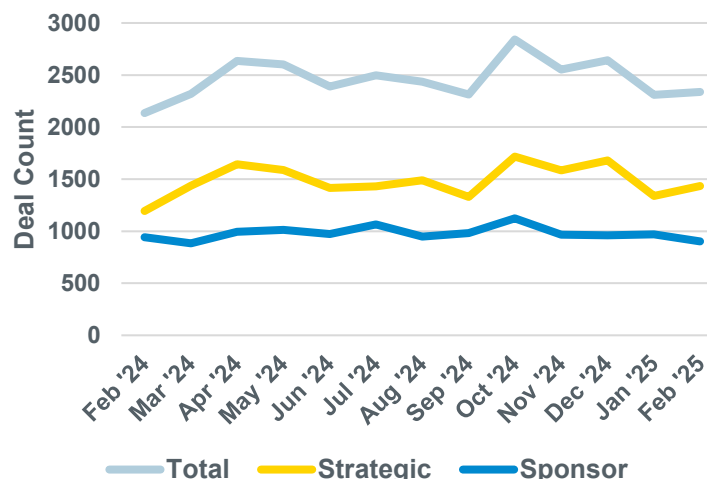
3 Deal Value Trends

- ↔ After falling significantly in January, aggregate global monthly deal value¹ in February remained steady, up just 1% month-over-month. Total deal value was down 19% year-over-year.
- ↔ Transactions involving strategic buyers in February held steady (up 1%) by deal value from January but declined significantly (34%) year-over-year.
- ↔ Financial, or sponsor, buyer transactions were similarly flat month-over-month by value, up 2% from January. Sponsor buyer deal value increased 20% year-over-year.



4 Deal Count Trends

- ↔ Like global deal value, month-over-month global deal count held steady in February, up just 1%. Year-over-year global deal count rose 10%.
- ↑ Strategic buyer deal count in February increased 7% from January and 20% year-over-year.
- ↓ Sponsor buyer deal count in February fell 7% from January and declined 4% year-over-year. In the last 13 months, sponsor deal count hasn't fluctuated more than 14% month to month, hovering around 1,000 deals per month.



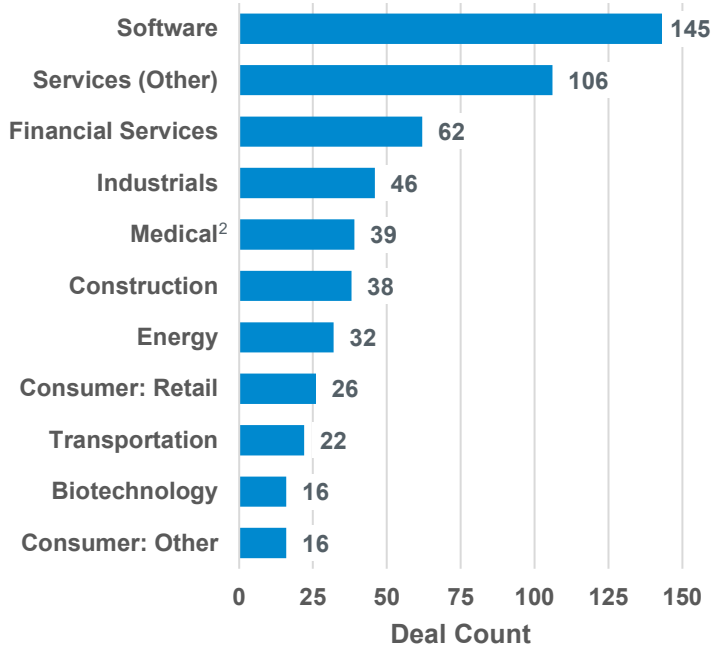
¹ Unless otherwise noted, charts are compiled using Mergermarket data for February 2025 as of March 5, 2025. Aggregate deal values by dollar amount are calculated from the subset of deals with disclosed values.

ACTIVE M&A INDUSTRIES (U.S. TARGETS)

5

By Deal Count

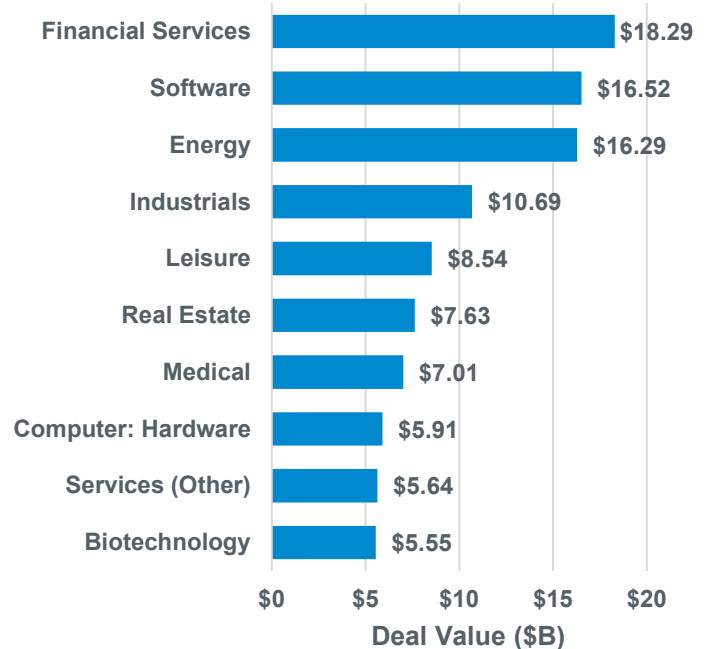
- The software industry remained at the top for U.S. M&A activity by deal count in February, continuing its streak as the leading industry by volume.
- Services industries remained active, with financial services and other professional services rounding out the top three sectors in February by deal count.



6

By Deal Value

- The financial services industry topped the charts by deal value in February, with five announced transactions exceeding \$1 billion.
- Software took second place in February by deal value, followed closely by acquisitions in the energy sector.



February Blockbuster Deals

7

Largest
U.S.
Strategic
Deal

HercRentals[®]
has agreed to acquire
H&E RENTALS
in a cash-and-stock
transaction valued at
approximately \$5.9
billion.³

Blackstone has
agreed to acquire

SAFE HARBOR
MARINAS
in an all-cash
transaction valued at
approximately \$5.65
billion.

8

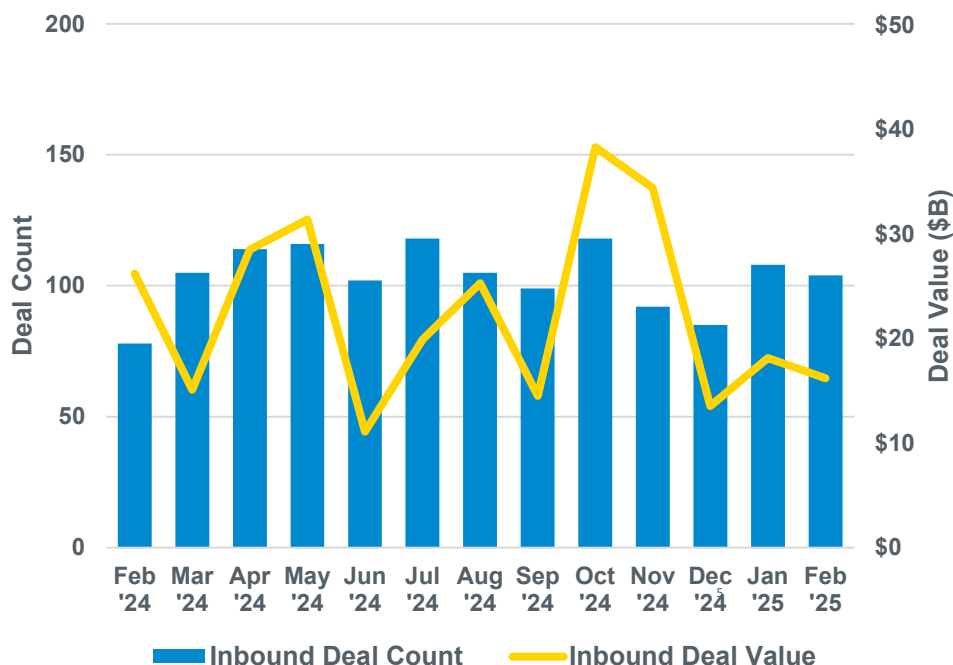
Largest
U.S.
Sponsor
Deal

² Medical industry classification principally includes medical devices/technology/services, excluding biotech and pharmaceutical deals.

³ H&E determined that Herc's February acquisition offer constituted a "superior proposal" pursuant to its now-withdrawn merger agreement with United Rentals, which was announced in January.

CROSSBORDER CORNER

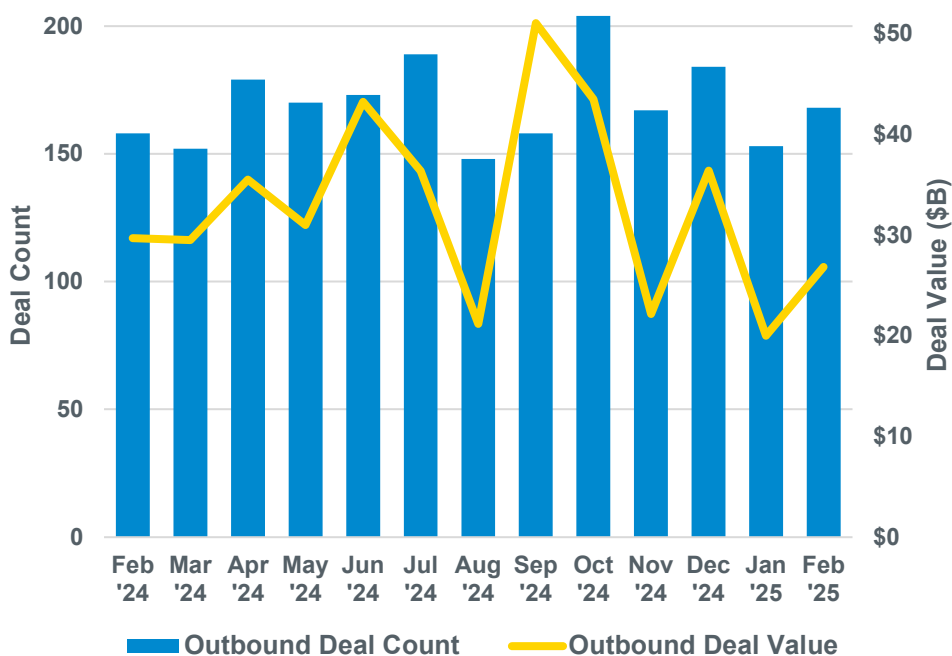
9 Inbound U.S. M&A Activity



- By deal value, acquisitions of U.S. targets by non-U.S. acquirers decreased 11% from January to February. Year-over-year, inbound deal value dropped 38%.
- By deal count, inbound U.S. activity held roughly steady, decreasing just 4% month-over-month. Year-over-year, inbound deal count increased 33% from February 2024's multi-year low.
- UK-based acquirers undertook the largest number of inbound transactions in February with 19 deals, followed closely by Canada at 17. Germany trailed with 8 deals.

10 Outbound U.S. M&A Activity

- By deal value, outbound activity in February increased 34% month-over-month but fell 10% year-over-year.
- By deal count, acquisitions of ex-U.S. targets by U.S. buyers increased 10% month-over-month. Year-over-year, outbound deal count was up moderately (6%).
- U.S. acquirers most frequently looked to UK-based targets in February, with 29 transactions. Targets in Canada and Germany trailed with 19 and 16 transactions, respectively.



About our M&A Practice

Ropes & Gray's award-winning M&A practice is regularly ranked among the world's leading practices by *Chambers*, *The Legal 500* and *U.S. News*, among others. With over 250 M&A attorneys located in the United States, Europe and Asia, our practice offers global scope and on-the-ground service where and when needed. In 2023–2024, Ropes & Gray navigated more than 400 M&A transactions, with an aggregate deal value of \$260+ billion.

RECENT RECOGNITION



The American Lawyer 2024
“Dealmakers of the Year”



The Legal 500 US 2024
Ranked nationally as a leader for M&A Corporate and Commercial: Large Deals (\$1 billion+) and M&A Corporate and Commercial: Private Equity Buyouts: Large Deals (\$500 million+)



Law360
Nine-time winner of “Private Equity Group of the Year”



Chambers USA 2024
Band 1 Nationwide Private Equity Buyouts, Mid-Market Ranking
Band 1 New York Corporate / M&A Highly Regarded Ranking
Band 1 Massachusetts Corporate / M&A Ranking



U.S. News & World Report – Best Lawyers “Best Law Firms” 2025
Tier 1 Nationwide, Boston and New York Mergers and Acquisitions Law Ranking
Tier 1 Nationwide, Boston and New York Leveraged Buyouts and Private Equity Law Ranking

DEPTH OF EXPERIENCE

400+
Signed transactions in 2023-2024

\$260B+
Total transaction value in 2023–2024

80+
Industries and sectors

Our Commitment

250+
M&A lawyers

350+
Specialty-support lawyers

150+
Years of practice history

15
Offices to support deals

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