



TAKEOVERS + SCHEMES REVIEW

2017

GILBERT + TOBIN PRESENTS THE 2017 TAKEOVERS AND SCHEMES REVIEW

2016 was a solid but unspectacular year for Australian public company mergers and acquisitions. Some key themes were:

- + Number and value of transactions down from 2015 but aggregate transaction values were still higher than 2014.
- + 2016 saw a record number of all-cash transactions. There was a shift away from creative consideration structures. In general, target boards and shareholders seemed to value certainty in uncertain political and economic times.
- + Schemes of arrangement were increasingly the transaction structure of choice.
- + Despite negativity in respect of the Government/FIRB's approach to the Ausgrid and Kidman transactions, foreigners continued to bid for Australian companies and were generally successful.
- + ASIC and the ACCC were highly active in their transaction reviews.

This Review examines 2016's public company transactions valued over \$50 million and provides our perspective on the trends for Australian M&A in 2016 and what that might mean for 2017.

We trust you will find this Review to be an interesting read and a useful resource for 2017.

CONTENTS

KEY HIGHLIGHTS	4
1 MARKET ACTIVITY	6
2 SECTOR ANALYSIS	9
3 TRANSACTION STRUCTURES	13
4 FOREIGN BIDDERS	15
5 CONSIDERATION STRUCTURES	19
6 SUCCESS FACTORS	22
7 TRANSACTION TIMING	27
8 IMPLEMENTATION AGREEMENTS AND BID CONDITIONS	29
9 THE REGULATORS	32
2016 PUBLIC M&A TRANSACTIONS	36
OUR APPROACH	38
ABOUT GILBERT + TOBIN	40
RECENT TRANSACTIONS	41
ABOUT THE AUTHORS	46
AWARDS AND RECOGNITION	50
GILBERT + TOBIN M&A PARTNERS	51

KEY HIGHLIGHTS



TRANSACTION ACTIVITY DOWN, BUT VALUES STEADY

There were 30 public M&A transactions valued over \$50 million in 2016, a decline from 2014 and 2015 which had 37 transactions each. The aggregate value of those transactions in 2016 was \$24.6 billion. While lower than 2015, the aggregate deal value was actually higher than the aggregate value of transactions in 2014. In our view, the aggregate value of transactions in 2015 (over \$46 billion) was an outlier, with an unusual number of very high value transactions. In that respect, 2016 may be best characterised as an unspectacular, but solid, year for public M&A in Australia.



SCHEME OF ARRANGEMENT THE CLEAR PREFERRED TRANSACTION STRUCTURE

Almost 70% of all transactions reviewed proceeded by scheme of arrangement as opposed to takeover bid. This was a significant increase on previous years where the split between schemes and takeovers has been around the 50% mark. The preference for schemes was even more pronounced for high value transactions: 83% of transactions valued over \$1 billion were done by scheme. It seems that bidders and targets are increasingly preferring friendly and agreed transactions and the greater certainty of timetable and outcome that a scheme provides.



ALL TIME LOW FOR ENERGY & RESOURCES, PROFESSIONAL SERVICES AND GAMING PROVIDE DEAL FLOW

In 2016, only 10% of all transactions (representing just 1% of aggregate deal value) involved a target company in the energy & resources sector. These are the lowest levels in the 6 years we have been producing this Review. 2016 saw transport & logistics, professional services and gaming provide the significant proportion of public M&A activity. Sectors to watch in 2017 could include utilities & infrastructure, food/FMCG and real estate.

30 PUBLIC M&A TRANSACTIONS

VALUED OVER \$50 MILLION IN 2016, A DECLINE FROM 2014 AND 2015 WHICH HAD 37 TRANSACTIONS EACH



FOREIGN BIDDERS ARE STILL BUYING AUSTRALIAN COMPANIES

Foreign investment attracted more than its share of headlines in 2016, often for the wrong reasons.

Foreign investment approval reviews often took longer than desired. This was exacerbated by a longer than usual caretaker period around the July federal election, given the extra time needed before it was clear the Coalition parties could form Government with a slim majority achieved in the election.

Separately, foreign bidders were denied the chance to buy Ausgrid right at the end of a long auction process. Much was said and written about the Government and FIRB's approach to the proposed Kidman transactions.

Despite all this, the data for Australian public M&A in 2016 shows that foreigners continued to bid for Australian companies, and were generally successful in closing those transactions. Almost 50% of bidders in 2016 were foreign, led by Asia and North America. The success rate for transactions by foreign bidders in 2016 was 92%, compared to 88% for all bidders (foreign and domestic).



IN AN UNCERTAIN POLITICAL AND ECONOMIC ENVIRONMENT, SIMPLICITY AND CERTAINTY CAN GET DEALS DONE

The trend of transactions offering scrip or more creative consideration structures did not repeat in 2016.

Cash was the clear preferred form of consideration. 73% of all transactions offered all cash consideration in 2016, compared with 61% in 2015. Further, the average premium to pre-offer trading prices in 2016 was 39%, materially less than 50% in 2015. One interpretation of these two observations is that in 2016's uncertain political and economic climate, target boards and shareholders were willing to accept a lower price as long as there was certainty of exit and value.



REGULATORS CONTINUE TO BE HIGHLY ACTIVE IN M&A TRANSACTIONS

Consistent with its broader approach, ASIC continued its active role in Australian M&A transactions in 2016. Its activities in other areas also impacted on takeovers, such as its strong focus on IPO disclosure, the principles of which also apply to takeover disclosure.

The ACCC has also intensified its consideration of M&A transactions, with its chairman Mr Rod Sims going so far as to say that companies need to consider avenues for growth other than the 'easy route' of M&A.

It is clear that regulatory approvals will be important to the success of many public company transactions in 2017. Bidders that can present clean transactions without regulatory hurdles (or ready-made solutions to any issues) to target boards and shareholders will have a competitive advantage.

73%

OF ALL TRANSACTIONS OFFERED ALL CASH CONSIDERATION IN 2016

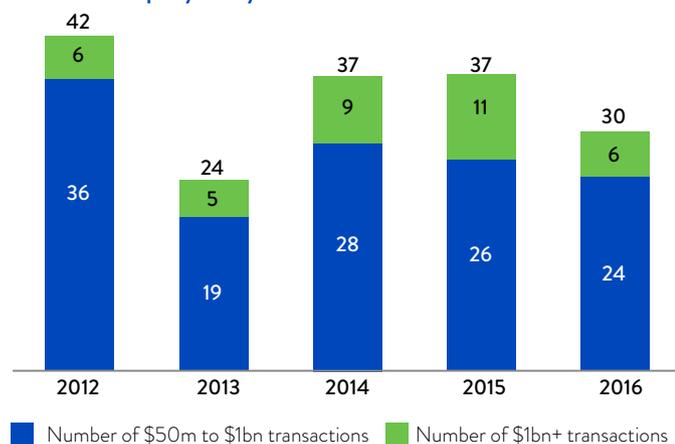
1 MARKET ACTIVITY

Transaction volume decreases, but a solid year for public M&A transactions

2016 was a solid, if unspectacular, year for public M&A transactions in Australia.

There were only 30 transactions valued over \$50 million in 2016. This was down from 37 transactions in each of the last 2 years. That said, 2016 was still higher than the low point of 24 transactions in 2013.

Transactions per year by number



Aggregate transaction values also declined significantly in 2016. The total value of all transactions for listed companies in Australia fell from just over \$46 billion in 2015 to \$24.6 billion in 2016.

However, as the following graph reflects, 2015 was perhaps an outlier with a number of extremely high value transactions announced, including Japan Post's \$6.5 billion acquisition of Toll and the \$7.9 billion merger of Federation Centres and Novion. 2016's transaction values appear more consistent with previous years' values.

\$5 billion + deals continue

The Qube-led consortium finalised its transaction terms and executed the \$8.9 billion acquisition of Asciano in 2016, navigating various regulatory issues in the process.

Tabcorp announced its proposed acquisition of Tatts, valuing the company in excess of \$6 billion. At the time of publication, it remains to be seen whether a Macquarie-led consortium can succeed in presenting a superior offer to the Tabcorp proposal.

Transactions per year by value



Perhaps an encouraging sign in an otherwise subdued year is that a number of very large transactions were announced in 2016. Indeed, aggregate transaction values in 2016 actually exceeded that of 2012, even though the number of transactions in 2012 was 40% higher.

Two transactions valued over \$5 billion were announced in 2016, compared to 3 in 2015, and none in any of the years between 2011 and 2015. These transactions both involved multiple bidders seeking to acquire the target.

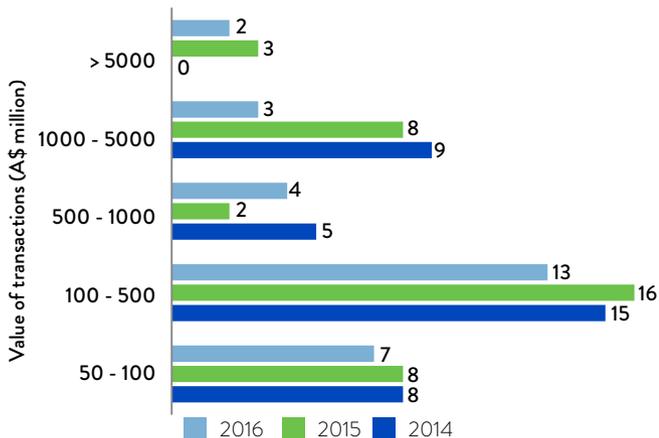


Fall in \$1 billion to \$5 billion transactions

The reduction in aggregate transaction values from the highs of 2015 is best explained by the fall in the number of transactions valued between \$1 billion and \$5 billion. There were 8 of these transactions in 2015, falling to only 3 in 2016, being:

- + HanesBrands' \$1.1 billion acquisition of Pacific Brands;
- + Advent International's \$1.04 billion acquisition of Nuplex Industries; and
- + Baring Asia Private Equity's \$1.01 billion acquisition of SAI Global, all by scheme of arrangement and in each case only just over the \$1 billion mark.

Distribution of transaction values



\$24.6B

TOTAL VALUE OF TRANSACTIONS FOR LISTED COMPANIES VALUED OVER \$50 MILLION IN 2016

Transaction highlights

- \$5 BILLION+**
 - + Qube consortium's \$8.9 billion acquisition of Asciano by scheme
 - + Tabcorp's proposed \$6.35 billion acquisition of Tatts by scheme

- \$1 BILLION+**
 - + HanesBrands' \$1.1 billion acquisition of Pacific Brands by scheme
 - + Advent International's \$1.04 billion acquisition of Nuplex Industries by scheme
 - + Baring Asia Private Equity's \$1.01 billion acquisition of SAI Global by scheme

- \$500 MILLION+**
 - + Zurich Insurance's proposed \$741 million acquisition of Cover-More Group by scheme
 - + APN Outdoor's proposed \$734 million acquisition of oOh!media by scheme
 - + Hitachi Construction Machinery's proposed \$556 million acquisition of Bradken by takeover bid

- \$100 MILLION+**
 - + Growthpoint Properties' \$321 million acquisition of the GPT Metro Office Fund by unsolicited takeover bid
 - + PEP's \$232 million acquisition of Patties Foods by scheme
 - + Superloop's \$228 million acquisition of BigAir by scheme
 - + APA Group's \$130 million acquisition of Ethane Pipeline by takeover bid

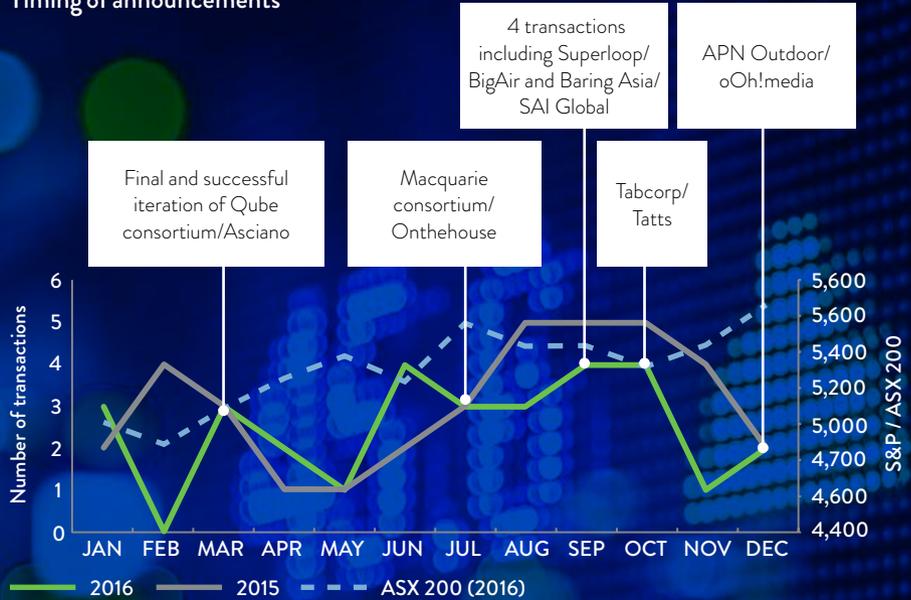


Timing of announcements: a sporadic year

It is difficult to draw any firm conclusions from the timing of the announcement of transactions in 2016. That said, as the graph shows, transaction flow was more consistent in the second half of the year. ASIC also reported increased M&A regulatory activities in the second half of the year, consistent with this.

Following a quiet first half, the busiest months were June (including PEP/Patties Foods), September (including Baring Asia/SAI Global) and October (including Tabcorp/Tatts), with 4 transactions each. February, May and November were particularly quiet. However, the mid year stretch from June to October reflected relatively steady activity, with at least 3 transactions announced each month.

Timing of announcements



The prospects for activity levels in 2017 seem mixed.

The global political climate appears challenging with Trump and Brexit. In Australia, the slim parliamentary majority of the Government and the rise of independent parties makes for a difficult environment. Yet global and Australian stock markets have experienced significant rises in recent months.

While public company acquisitions in Australia were subdued in 2016, M&A activity generally appears to be relatively strong. Nevertheless, deals still take some time to do and nothing is easy. As this Review went to print, a number of significant M&A processes are works in progress, including continued activity in government privatisations and strategic reviews by large corporates. It could be that the stage is set for stronger public M&A as well in 2017.

THE PROSPECTS FOR ACTIVITY LEVELS IN 2017 SEEM MIXED

SECTOR ANALYSIS

ECONOMY IN A SLOW PIVOT:

- + energy & resources continued downward trend
- + gaming emerged as a new key contributor to deal value
- + continued activity in transport and professional services

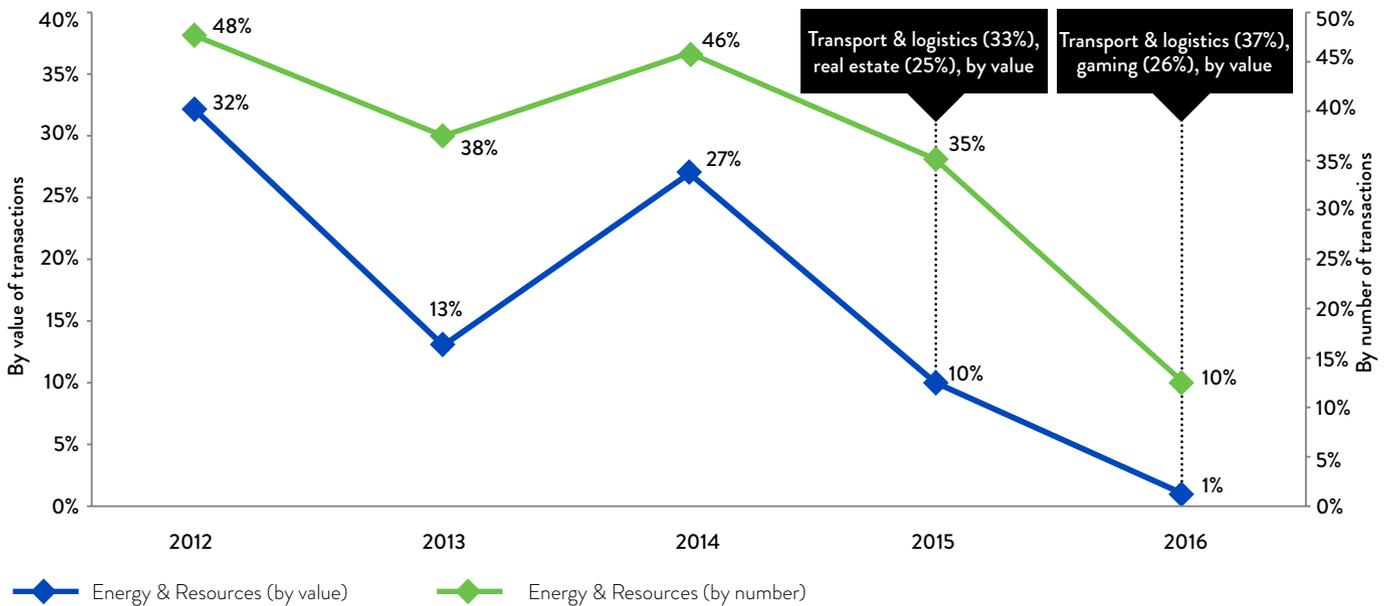
Energy + resources continued its downward trend

The economy appeared to continue its pivot away from the energy & resources sector in 2016. Perhaps uncertainty in commodity prices and lukewarm global economic sentiment generally muted investment in this sector. In addition to being subject to general macroeconomic trends, energy & resources investment also often requires some appetite for risk.

ENERGY + RESOURCES TRANSACTIONS REPRESENTED JUST 1% OF AGGREGATE TRANSACTION VALUES

in 2016, the lowest on our records.

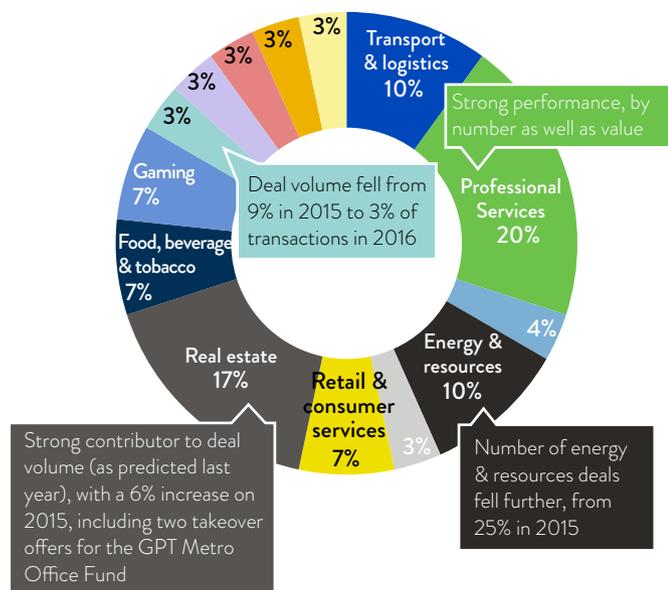
Transactions in energy & resources and other key sectors



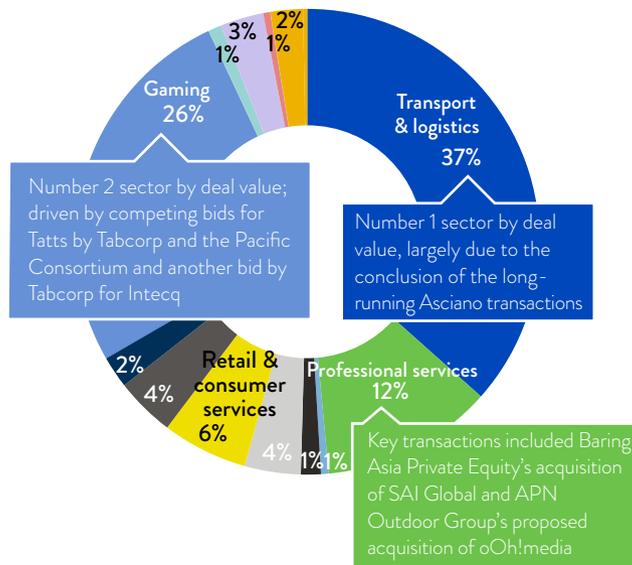
Key sectors for M&A activity in 2016

By number of transactions, professional services led M&A activity in 2016. Real estate was the second largest contributor to deal volume, followed by transport & logistics and energy & resources.

Total number of transactions per sector (2016)



Total value of transactions per sector (2016)



It is tempting to conclude from the 2016 results that the decline of energy & resources transactions had minimal impact on broader public M&A activity, as overall deal values were underwritten by strong performances in the transport & logistics and gaming sectors this year. However, these performances may not be repeated in future years and, accordingly, the 2016 results may have understated the impact of the shift away from the energy & resources sector.

In particular:

- + The conclusion of the long-running Asciano transactions in 2016 ensured that transport & logistics maintained its position as the leader with 37% of the total deal value. Disregarding the likely one-off impact of this \$8.9 billion deal, transport & logistics would have represented under 1% of overall 2016 deal values.
- + Gaming's strong position was essentially due to Tabcorp undertaking two significant transactions. Given the concentrated nature of this sector in Australia, it is doubtful whether we will see similar activity in this sector in the coming year.

- Transport & logistics
- Professional services
- Utilities
- Energy & resources
- Materials
- Retail & consumer services
- Real estate
- Food, beverage & tobacco
- Gaming
- Telecommunications
- Financials
- Health care
- Industrial products
- Investment funds

Sectors of interest for foreign bidders

The decline in deals in the Australian energy & resources sector was also reflected in reduced foreign bidder interest in that sector.

Only 13% of transactions involving a foreign bidder had energy & resources targets, down from 45% in 2015.

Number of transactions involving foreign bidders

3



Transport & logistics

61% of deal value involving foreign bidders (reflecting the one-off impact of the Asciano transactions)

3



Professional services

Foreign bidder interest in the professional services sector decreased by 40% by number of deals. This sector still produced the highest deal volume

2



Energy & resources

Despite being the clear favourite sector in 2015, foreign bidder interest in energy & resources fell significantly in 2016



What does 2017 hold?

In 2016, strong performances in the professional services, gaming and real estate sectors have partially insulated overall deal values and volumes in the face of the significant downturn in energy & resources deal activity. In that context, where will M&A activity come from in 2017?



We expect the professional services sector (which performed well in 2016) will continue to be strong in 2017 (Australia is increasingly a service economy).



Investment in infrastructure and utilities will be significant in 2017. In addition to the NSW 'poles and wires' privatisations (which, as a private M&A transaction, is not included in this Review), CKI announced in early 2017 its proposal to acquire the DUET Group.



Saputo announced a takeover bid to acquire the remaining shares in Warrnambool Cheese and Butter in early 2017. Other companies in the food/FMCG sector could find themselves vulnerable in the face of shifting demand factors (eg Bellamy's Australia) or an increasingly attractive target to a foreign bidder, for example those in primary production.



Is it possible that energy & resources has hit the bottom of the cycle? There may be some signs of hope, with significant transactions involving coal (Rio/Yancoal and Wesfarmers' strategic review process), lithium (Talison) and copper/zinc/precious metals (EMR Capital / MMG) announced recently.



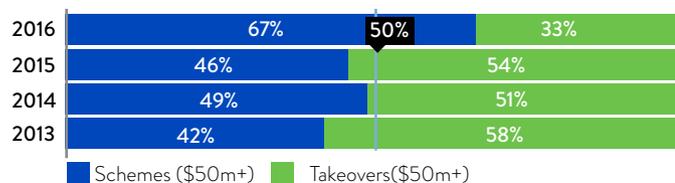
We also anticipate increasing consolidation in the real estate sector in 2017, as there are clear synergies to be had in many potential combinations.

TRANSACTION STRUCTURES

Schemes overwhelmingly preferred over takeover bids

Two thirds of all transactions valued over \$50 million for Australian public companies proceeded by way of scheme of arrangement rather than takeover bid in 2016. This represents a significant departure from previous years where the scheme/ takeover split was more finely balanced around 50% (eg in 2015, 46% of deals were schemes and 54% were takeover bids).

Schemes v Takeovers (\$50m+)



The shift towards schemes is not surprising.

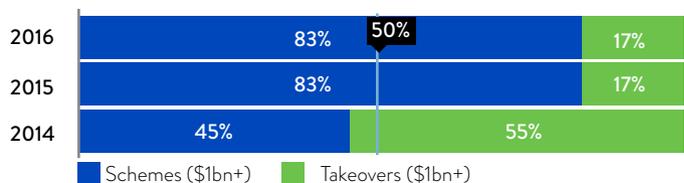
In many ways, a scheme of arrangement provides far more certainty to both bidder and target that the transaction will close. Leaving aside the pre-requisite for target board approval of the deal, schemes also offer:

- + the certainty of a binary 'all or nothing' outcome: synergies associated with M&A are often best accessed where 100% of the target is acquired. Schemes offer whole of company certainty if the transaction is approved;
- + a more certain timeline which can be managed by the parties (rather than depending on shareholders to accept the offer over the course of an indefinite offer period); and
- + effectively a lower 'acceptance' threshold, given that only those shareholders who vote on the transaction are counted towards the 75% by votes and 50% by number tests. By contrast, for a bidder to acquire 100% of the target by way of takeover bid, it needs to receive acceptances in respect of 90% of all shares.

However, in our view, the key reasons for the increasing preference for schemes are the greater value bidders are placing on agreed/friendly deals and the importance of due diligence when expending significant money on an acquisition. It could be said that participants in M&A are increasingly risk averse and so schemes of arrangement better fit this paradigm.

Consistent with 2015, 2016 also reflected a greater preference for schemes for high value transactions. 83% of all transactions valued over \$1 billion proceeded by scheme rather than takeover bid. This adds weight to our point above. When making significant investments, bidders want as much certainty as they can get.

Schemes v Takeovers (\$1bn)



TOP 5 SCHEMES:

- 1 Qube consortium's \$8.9 billion acquisition of Asciano
- 2 Tabcorp's proposed \$6.35 billion acquisition of Tatts
- 3 HanesBrands' \$1.1 billion acquisition of Pacific Brands
- 4 Advent International's \$1.04 billion acquisition of Nuplex Industries
- 5 Baring Asia Private Equity's \$1.01 billion acquisition of SAI Global

However, a scheme is not the solution for all bidders

Schemes effectively 'neutralise' any pre-bid holding of the bidder, as the bidder is unable to vote at the scheme meeting. Accordingly, where a significant pre-bid stake is held by the bidder, there can be a strong incentive to proceed by takeover bid so that any pre-bid holding counts towards the 90% compulsory acquisition threshold.

For example:

- + CIMIC's approximately 37% shareholding in Sedgman provided CIMIC with a running start in its ultimately successful unsolicited takeover bid for Sedgman. CIMIC also announced an unconditional takeover bid for Macmahon Holdings in early 2017. Both were hostile transactions.
- + In the withdrawn scheme for SR Residential (a consortium of the Simonds and Roche families) to acquire Simonds Group, the scheme meeting was cancelled shortly before the scheduled date for lack of proxy support. The dynamic may have been different if the transaction had proceeded by takeover bid, where the bidder's significant relevant interest (approximately 39%) could be counted in the total acceptance rate. Of course, in this case, the prospect of acquiring less than 100% of the target would need to be an acceptable risk for the bidder.

Secondly, if an unsolicited/hostile approach is preferred, then a takeover bid is the only option. This can be the case in a competitive scenario such as that for the GPT Metro Office Fund which had rival takeover bids from Growthpoint Properties and Centuria Metropolitan REIT. It could be that timing constraints require bypassing the board and going straight to target shareholders, as was done in that deal with success by Growthpoint Properties.

No on-market bids in 2016

In 2016, no public company transactions valued over \$50 million proceeded by way of on-market takeover bid. Unusually, 2015 had 4 on-market bids, notwithstanding that this structure is traditionally unpopular with bidders as they can only be undertaken on an unconditional basis and must be for cash.

That said, in the right circumstances, an on-market bid can have strategic advantages. For example, if a quick start is required (the bidder can start acquiring target shares immediately on announcement) and certainty of 100% control is not a must, an on-market bid may warrant serious consideration.

CONSIDER A TAKEOVER BID IF THE BIDDER HAS A LARGE PRE-BID HOLDING, AS A SCHEME 'NEUTRALISES' THE BIDDER'S VOTING POWER

FOREIGN BIDDERS



2016 was an interesting year for foreign investment in Australia.

We'll come to the statistics for public company transactions shortly, but we need to put the 2016 data in context first.

Impact of revised laws and administration

At the end of 2015, substantially revised foreign investment laws came into effect.

One purpose of these changes was to improve the administration of foreign investment applications and the overall approval process. It is questionable if this in fact occurred. Many were unhappy with the FIRB process in 2016.

Anecdotally, application review periods at FIRB seemed to lengthen, not shorten. In addition, with the Federal election in July 2016, the Government went into caretaker mode in May (as is usual), but following the election the Government took some time to reconstitute, causing delays for many transactions (other than smaller routine matters).

FIRB rejection of foreign bidders proposed acquisition of Ausgrid

That all said, the biggest foreign investment news was the Treasurer's decision in August 2016 to prohibit the proposed acquisition by foreign investors of the long term lease of 50.4% of Ausgrid which owns and operates part of the New South Wales electricity distribution network and which was for sale as part of the NSW privatisation process. The decision was expressed to be for national security reasons, albeit unspecified.

While the announcement was in general terms about foreign bidders, the order had the effect that the final 2 bidders, China's State Grid and Hong Kong listed Cheung Kong Infrastructure (CKI) were denied the opportunity to acquire Ausgrid after each of them had spent considerable time, money and effort on the bidding process. The NSW Government was also taken by surprise by the decision. FIRB and the Federal Government faced significant criticism about the process and time it took to come to a decision, which some say is anti-foreign investment.

FOREIGN INVESTMENT ATTRACTED HEADLINES IN 2016, OFTEN FOR THE WRONG REASONS

Subsequent electricity infrastructure developments

Subsequent to the FIRB rejection:

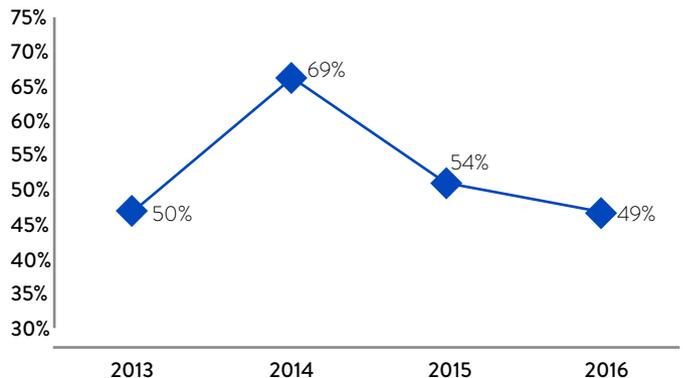
- + Ausgrid was ultimately acquired by IFM Investors and Australian Super who paid approximately \$4.4 billion for the 50.4% sale.
- + CKI announced a \$7.4 billion proposal to acquire DUET Group, which owns various electricity and gas assets. At the time of writing, the proposal had been recommended by the target board but remains subject to FIRB approval. CKI expresses confidence that FIRB approval will be forthcoming, notwithstanding the rejection of its Ausgrid proposal.
- + FIRB has set out very specific foreign investment guidelines for bidders for the third and last leg of NSW's electricity privatisation, Endeavour Energy. These guidelines include restrictions over and above existing laws and conditions imposed on similar transactions, including a requirement that no one single foreign investor can own more than 50% of the assets for sale.
- + On 23 January 2017, the Treasurer and the Attorney-General jointly announced the establishment of the Critical Infrastructure Centre (CIC). It is stated that the CIC will develop coordinated, whole-of-government national security risk assessments and advice to support government decision-making on infrastructure investment transactions. This is intended to provide greater certainty and clarity to investors and industry on the types of assets that will attract national security scrutiny. The CIC will be responsible for developing a register of critical infrastructure assets and risk assessments which will ideally enable national security concerns to be known at an earlier stage. Quite how the CIC will operate is not yet clear.

So, plenty of foreign investment action in the infrastructure sector in 2016 and plenty more to come in 2017 it seems.

Public company transactions in 2016

In the context of these concerns and difficulties, it may be surprising to some that foreign bidders made up almost half of all bidders (49%) in public company transactions over \$50 million in 2016. In fact, all of the successful M&A transactions valued over \$1 billion involved a foreign bidder. This of course adds weight to the Federal Government's position that it welcomes foreign investment as the large majority of transactions were approved and only in rare circumstances was approval not granted.

Foreign bidders by number of deals



However, another way to look at this is as a trend over the last few years.

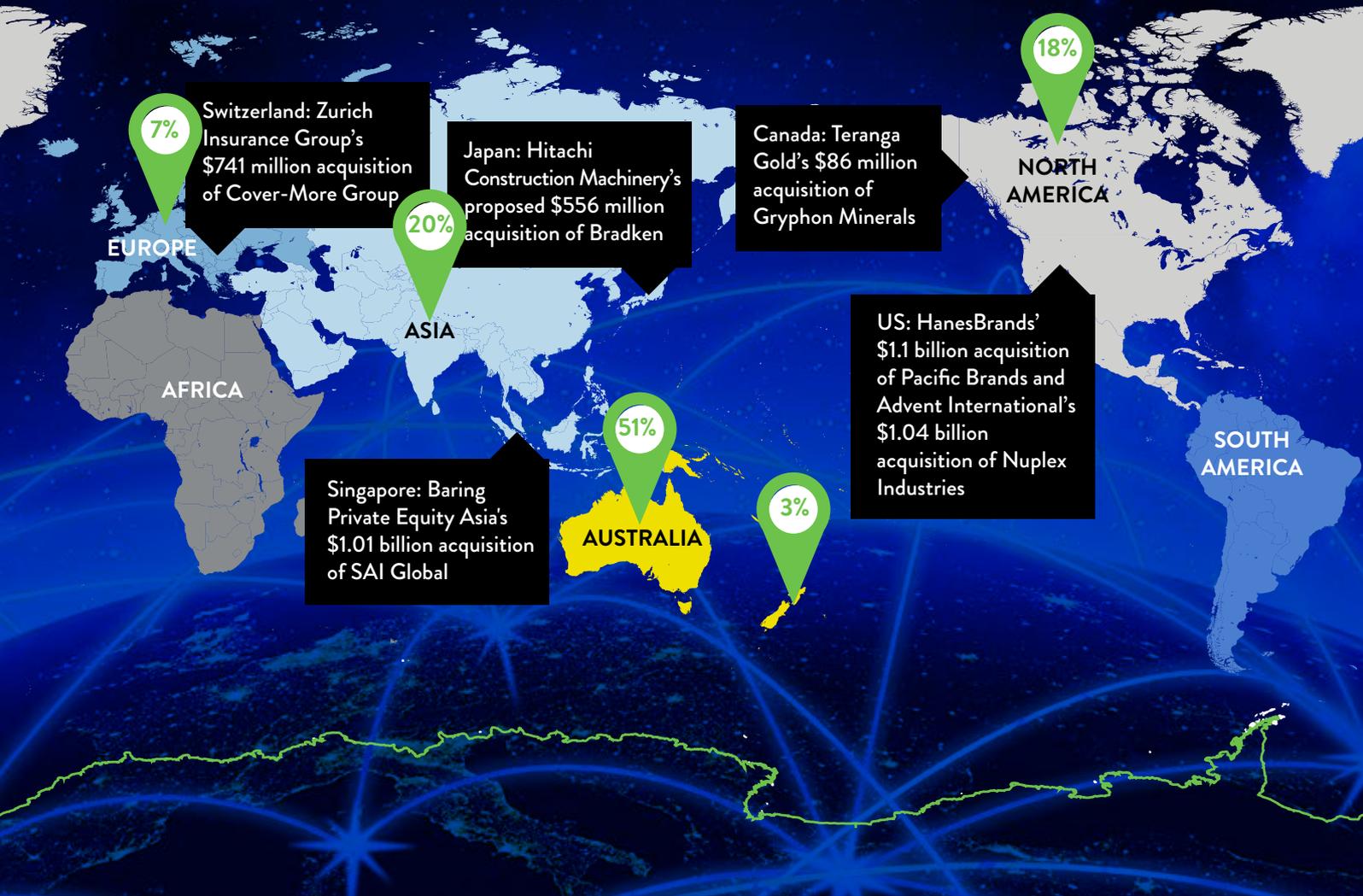
In 2014, approximately 70% of all public company transactions were by foreign bidders. This fell to 54% in 2015 and then to 49% last year. On a 2 year view, that is quite a fall.

Is this then a downward trend signifying a decline in foreign investment?

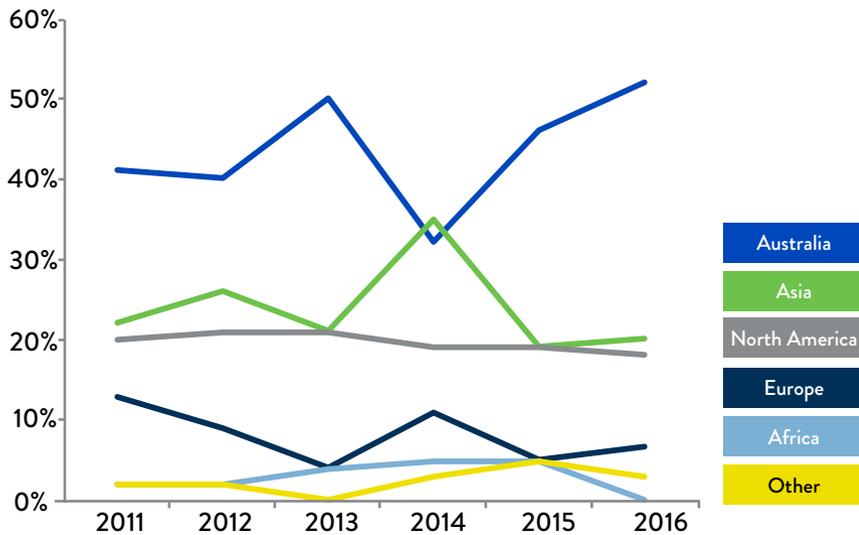
We don't think so; rather, it's just swings and roundabouts. After all, 2013 was an even 50-50% split.

Where did the bidders come from?

Asia and North America continue to be the homes of the largest number of foreign acquirers. The statistics are very similar to 2015 (where Asia and North America accounted for 18.5% each).



Proportion of transactions by region over time



Foreign bidders success rates up

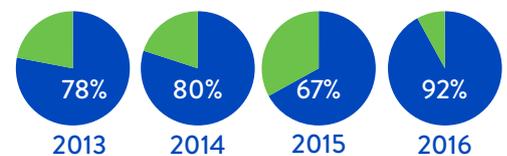
Foreign bidders had much better success rates in public company deals in 2016 than 2015, moving from 67% to 92%. This is in contrast to the media attention given to the Ausgrid transaction, which of course was not a public company transaction. Nevertheless, the overall high success rate supports the Federal Government’s contention that it welcomes foreign investment.

The higher success rates for foreign bidders was consistent with the general improvement in success rates in 2016. However, it may also reflect that foreign bidders want to be confident of success when they launch a transaction in Australia, and so only pursue transactions with less risk.

The largest number of foreign bidders from individual countries



Foreign bidder success rates



What does 2017 hold for foreign investment?

We expect that foreign interest will be solid, if not strong, in 2017.

FIRB and the Federal Government will continue to be subject to intense media scrutiny in relation to its approach to infrastructure acquisitions by foreigners. That said, in overall terms, we expect FIRB to be generally welcoming of foreign investment and not unduly restrictive. In this respect, notwithstanding certain commentary, we consider that the general investment environment in Australia continues to be conducive to foreign acquisitions.

CONSIDERATION STRUCTURES

Cash increasingly preferred

The preference for cash made a return in 2016, with 73% of transactions offering all-cash consideration, up from 61% in 2015. This represents the highest proportion of all-cash transactions involving Australian public companies over \$50 million in five years.



80% of schemes offered solely cash



88% of transactions involving a foreign bidder were all-cash



Transactions offering only scrip dropped to 13% in 2016, compared to, on average, 20% since 2012

Scrip and combination deals declined

There was a slight shift away from the more creative consideration structures in 2015 (such as stub equity with REA Group/iProperty and multiple foreign bidders offering exposure to foreign scrip via CDIs, including Iron Mountain and Brookfield). 13% of transactions in 2016 offered a combination of cash and scrip (compared with 21% in 2015). However, some bidders still adopted consideration structures which sought to provide flexibility for shareholders. For example:

Alternative consideration structures

Growthpoint Properties' takeover bid for GPT Metro Office Fund

Cash/scrip combination, with a 'cash alternative facility'. Growthpoint's majority shareholder acquired the scrip that would have otherwise been issued to a GPT unitholder for cash under the facility.

PEP's acquisition of Patties Foods by scheme

Shareholders were offered 'stub equity' for between 40-100% of their shares. Minimum and maximum election thresholds with a scale back applied. 119 shareholders elected to receive the stub equity (but the scale back was not triggered).

Superloop's acquisition of BigAir by scheme

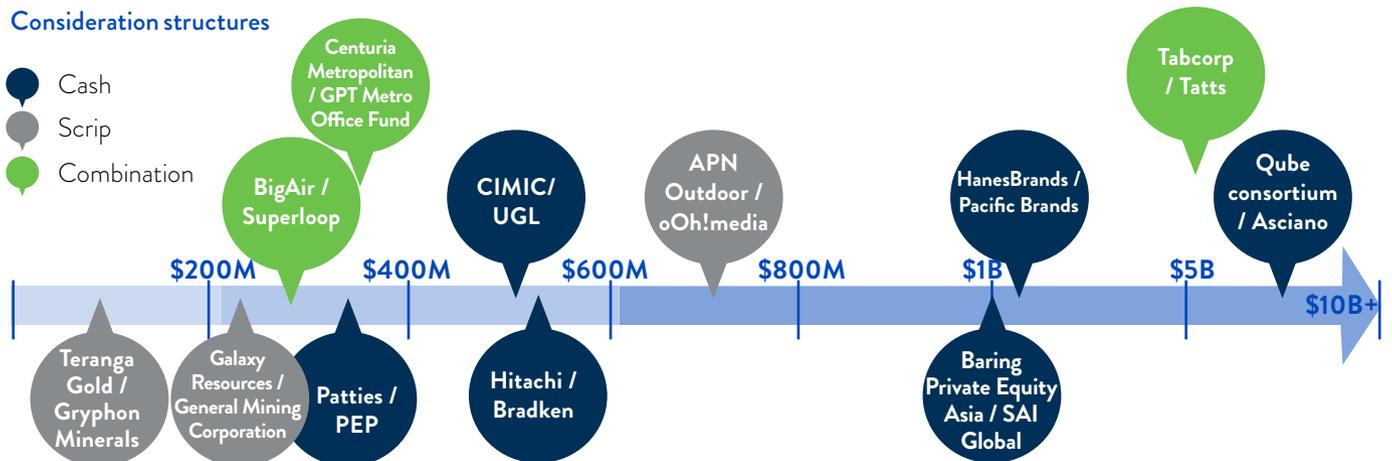
Choice between scrip or cash/scrip combination, again subject to a cap and scale back.

**IN UNCERTAIN TIMES,
THE CERTAINTY OF CASH
WAS PREFERRED BY
TARGET BOARDS AND
SHAREHOLDERS**



Consideration structures

- Cash
- Scrip
- Combination



There was a preference for the certainty of cash among the larger transactions, with four of the top five successful transactions announced in 2016 adopting an all-cash consideration structure. Tabcorp’s proposed acquisition of Tatts Group was the exception, which involves a combination of cash and scrip.

Another notable outlier to this trend was Qube Holdings’ bid for Asciano, 2016’s largest transaction. It was intended to be done with a cash/scrip combination (although ultimately the successful transaction offered all cash).

Sources of cash consideration

Similar to 2015, the large majority of all cash or cash/scrip transactions were at least in part funded through the bidder’s existing cash reserves (either cash held on balance sheet or from existing facilities).

Sources of funds by number of transactions



As the above charts reflect, a number of transactions were funded by a combination of cash sources. Unsurprisingly, the majority of transactions with a value greater than \$1 billion were funded through a combination of funding sources given the size of the cash outlay involved. For example:

Qube Consortium/Asciano: \$8.9 billion: funded from existing cash + equity raising + syndicated debt

Baring Private Equity Asia/SAI Global: \$1.01 billion funded from equity raising + syndicated debt



Raising equity capital to fund major M&A

While the core focus of our analysis is takeovers and schemes, we always keep a close eye on trends in ECM transactions. The M&A and ECM worlds intersected in 2016, as they often do, with a willingness among a number of ASX-listed companies to access equity markets to fund major M&A.

Of the 73 capital raisings of \$50 million or more by ASX-listed companies in 2016, just over half 38 funded M&A transactions. Highlights included:

- + Boral's \$1.645 billion capital raising to fund the acquisition of US company, Headwaters Inc;
- + Mayne Pharma's \$888 million capital raising to fund the acquisition of US company, Generic Product Portfolio;
- + Qube's \$800 million capital raising to fund the acquisition of Asciano's Patrick Container Terminals business; and
- + Vocus' \$642 million capital raising to fund the acquisition of Nextgen.

Understandably, all of these capital raisings were fully underwritten. This is essential where the funds are to be used for M&A given sellers generally will not accept a condition linked to the success of the raising.

Funding M&A with new equity capital does raise a number of practical considerations that buyers need to bear in mind:

- + The timetables for announcement of the M&A deal and launch of the capital raising need to line up. Ultimately buyers

need to accept that meeting the seller's timetable for the M&A deal might mean they have to compromise on optimising timing and pricing for their capital raising.

- + Buyers need to commit up front to raise the funds and assume the risk that, if for whatever reason the M&A deal does not complete (eg because of the failure of a condition precedent), they will be left with the cash but without the asset to spend the cash on. In these cases they may need to find an efficient way to return the funds to shareholders. Where conditions on the M&A deal are necessary/unavoidable, then clear disclosure needs to be included in the capital raising materials in relation to the risk of the deal not completing.
- + If the market does not respond positively to the M&A deal and the buyer's share price declines significantly as a result, the appetite of shareholders to participate in the capital raising can be affected. Market reaction can be an unknown factor. For this reason, it may be necessary for the capital raising to be priced at a deeper discount than would otherwise be the case to secure underwriting commitments (see, for example, the 22% discount in Boral's capital raising for the Headwaters acquisition).

Despite these challenges, with careful planning, stable equity markets and the support of major shareholders, raising new equity to fund M&A can be an attractive option. This is especially the case for those buyers keen to capitalise on growth opportunities without stretching their leverage ratios.

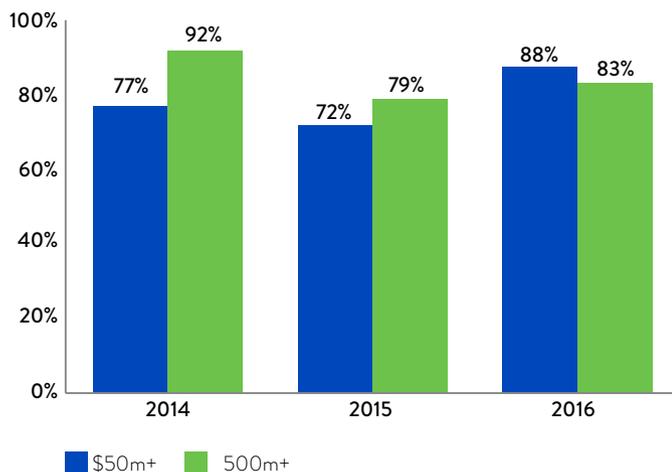
6 SUCCESS FACTORS

Success rates improve

2016 enjoyed a success rate of 88% for all transactions where the bidder had announced an offer or an intention to proceed with a firm offer.

This represents a material increase when compared to the success rates for the last 3 years (albeit from a smaller sample size given lower activity levels).

Success rates



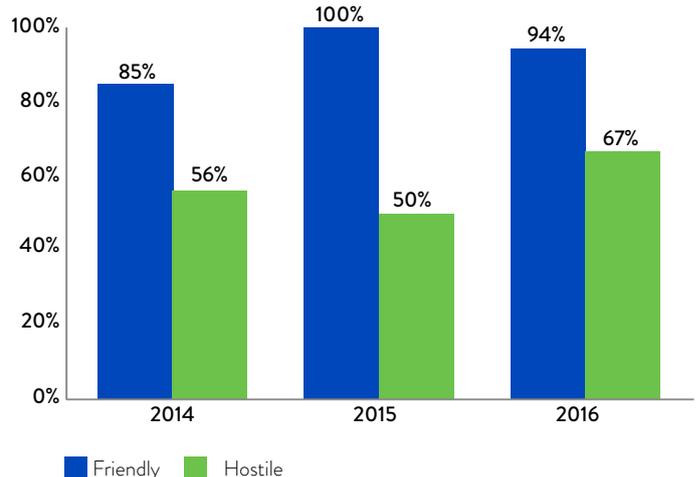
At the same time, the success rates for higher value deals (i.e. over \$500 million) also increased slightly from 79% in 2015 to 83% in 2016 (our 2015 Review showed a higher success rate for these transactions as it did not account for the failed Brookfield/Asciano and DEXUS/Investa transactions which were ongoing at the time of publication).

Unsurprisingly, friendly transactions continued to enjoy significantly higher success rates than hostile transactions. Interestingly, hostile transactions were on the whole more successful in 2016 than in either of the preceding two years.

94%

OF SCHEMES WERE CONSUMMATED SUCCESSFULLY

Success rates for friendly and hostile transactions



Preference for schemes translates to success rates

As noted above, schemes were overwhelmingly preferred over takeover bids in 2016. 94% of these schemes were consummated successfully.

Success rate for Takeovers vs Schemes



Cash delivers results in 2016

As discussed above, the preference for all cash transactions increased in 2016. They were also more successful.

CASH ONLY TRANSACTIONS HAD A

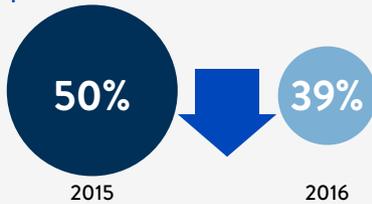
95% SUCCESS RATE IN 2016

CASH/SCRIP COMBINATIONS WERE ONLY SUCCESSFUL IN 1/3 OF CASES.

Premiums fell

Interestingly, it cannot be said that the higher overall success rates were driven by increased premiums being paid:

Average premiums for all \$50m+ transactions



Average premiums for \$500m+ transactions



OF THE TOP TEN PREMIUMS PAID IN THE LAST 2 YEARS, ONLY TWO OF THEM WERE IN 2016

Top 10 transactions by premium offered in 2016 and 2015



The trend for lower premiums in 2016 also bears out when we look at the top premiums paid over the last two years. While there was one very large premium to pre offer trading prices offered (being TIO's \$73 million takeover bid for Flinders Mines, which offered a 213% premium), the quantum of premium paid for the top transactions in 2016 fell away sharply compared with more sustained high premiums in 2015.

This suggests that forces other than the amount bidders were willing to pay were driving success rates in 2016. Perhaps, against the backdrop of:

- + global political uncertainty;
- + the weak start to Australian and global stock markets in 2016;
- + below-expectations growth for the Australian economy,

target boards and shareholders were willing to accept lower prices as long as there was certainty in the exit.

This theory is certainly supported by the high percentage of both agreed deals (in particular schemes) and all-cash deals in the list of successful transactions in 2016.

CERTAINTY OF EXIT AND VALUE TRUMPED SHEER PRICE IN 2016



DEAL IN FOCUS: QUBE / ASCIANO

The contest for the acquisition of Asciano was one of the public M&A transactions to watch in 2016. Starting in 2015, Brookfield's proposed acquisition via scheme was usurped by the emergence of the Qube consortium with its 19.99% stake in Asciano and subsequent competing takeover bid proposal. Qube and Brookfield ultimately joined together to acquire Asciano via a scheme of arrangement. The key features included:



Blocking stakes

The Qube consortium's acquisition of a 19.99% stake in Asciano significantly diminished the chances that the original Brookfield scheme would be approved by the requisite 75% of shares voted on the scheme. Brookfield subsequently acquired its own 19.33% interest in Asciano, creating a near-stalemate scenario.



Regulatory complexity

Proceeding by joint scheme led to the separation of Asciano's three major businesses (i.e. Rail, Ports and Bulk and Automotive Ports Services (BAPS)), allowing potential competition concerns (which looked otherwise to be a material issue for the original Brookfield proposal) to be addressed and also for individual consortium members to acquire the part of the business they were ultimately interested in.



Structure and separation of businesses

In addition to competition clearances, the structure of the successful transaction required various relief from ASIC, including joint bid/scheme relief, as well as associated approvals for the switch from potential takeover bid to scheme. The chain of events and switching transaction structures meant that these approvals could not be obtained in the usual pre-emptive way, but rather when the transaction was already on foot and the target company clearly in play.



Funding

While navigating all other complexities, certainty of funding was another key issue. Qube launched an \$800 million equity raising on the same day the joint scheme was announced. In perhaps a reflection of the market's confidence in the deal, the raising closed oversubscribed just over a fortnight later.



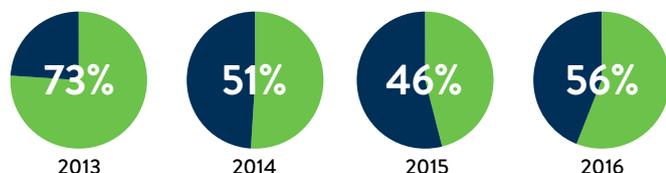
The structure of the eventual joint scheme allowed for the consortium members to execute a transaction which was at risk of a stalemate, delivering an all-cash outcome to Asciano shareholders.

Pre-bid stakes back in favour

In 2016, there was a marked increase in bidders holding or securing a pre-bid stake or reaching some pre-bid arrangement with a target shareholder before announcing the transaction.

This ended the downward trend in pre-bid stakes observed in 2014/2015.

Transactions featuring pre-bid stakes



The following factors may help explain the higher incidence of pre-bid stakes in 2016:

- + A number of transactions involved the bidder increasing their existing long-term holding in the target. For example, prior to launching their successful bids, CIMIC already held 36.99% of Sedgman and Bellawest held 49.93% of Payce.
- + There were fewer high value deals in 2016. Pre-bid stakes in larger deals face a number of challenges including a high cash outlay to acquire a meaningful stake, the potential for premature leaks while building the stake and the risk of being left with a large, potentially overpriced, shareholding if the wider deal is unsuccessful.
- + 2016 saw an increase in all cash transactions. Pre-bid stakes in scrip deals can face complications under the minimum bid price rule. This means that pre-bid stakes in scrip deals can be less attractive as bidders need to leave sufficient ‘head room’ in the consideration to ensure fluctuations in the bidder’s share price don’t cause the value of the scrip consideration to fall below the pre-bid acquisition price.
- + Pre-bid stakes may allow bidders to close bids more swiftly. The average number of days from announcement to close of offer for takeovers with pre-bid stakes was 90 days, compared to 158 for those takeovers with no pre-bid stake.

Types of pre-bid arrangements

Consistent with 2015, a firm shareholding remained the most common form of pre-bid stake. The use of other pre-bid arrangements with shareholders (such as voting or acceptance agreements) remained relatively low, which may be explained by:

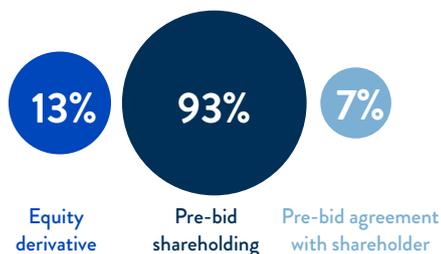
- + shareholders being unwilling to enter into these agreements and have their shares locked up without payment and no guarantee of the bid succeeding, while at the same time removing their flexibility to sell on-market or to a higher bidder; and
- + often a pre-bid agreement is not worth the bidder’s time investment as institutional shareholders increasingly expect an exception to allow acceptance of an unmatched higher proposal.

Interestingly, equity derivatives saw a resurgence, appearing in 13% of all transactions with a pre-bid stake in 2016. They were used successfully in:

- + Qube consortium’s scheme with Asciano;
- + Baring Asia Private Equity’s scheme with SAI Global; and
- + CIMIC’s takeover of UGL.

While bidders appear to be becoming more comfortable using these sophisticated pre bid arrangements, of the 3 transactions noted above, it was only Baring Asia Private Equity that did not hold some other form of pre-bid stake.

Types of pre-bid arrangements



TRANSACTION TIMING

The timing differential between takeovers and schemes has narrowed

While schemes still, on average, took longer to complete than takeover bids, 2016 saw the average time difference between them narrow.

The average time taken to complete:

- + a takeover bid was 100 days, an increase of 11 days from 2015; and
- + a scheme of arrangement was 114 days, a slight reduction from the average of 116 days in 2015.

Average days to end of takeover offer period v scheme implementation date



So while the overall timing for schemes has been steady, the material increase in the average period for takeover bids has narrowed the timing difference between them. In 2016, a scheme took only 14 days longer on average than a takeover bid. This compares to a gap of 27 days in 2015.

TAKEOVERS INVOLVED SHORTER INITIAL OFFER PERIODS FOLLOWED BY EXTENSIONS

Takeovers

There are two trends emerging in relation to the timing of takeover bids.

First, there has been a decline in the average length of the offer period initially set by bidders at the outset of the transaction. In 2016, the average length of the initial offer period was 63 days. This is a reduction of 8 days from the 2015 average of 71 days, and a decrease of 18 days from 2013 levels. Perhaps the increased prevalence of pre-bid stakes made bidders optimistic that a running start would allow for increased momentum and a shorter period to close.

Timing in takeovers



Secondly and conversely, takeover bids were extended for a materially longer period in 2016 so a shorter initial period may just result in a longer extension. Takeover bids were extended by an average of 36 days, compared with an average extension of just 18 days in 2015. Until last year, the period between the end of the initial offer period and the close of the offer had remained very stable since 2012 (around 20 days in each year). While the data is affected by a couple of bids which had particularly long extensions (most noticeably, the TIO bid for Flinders Mines, which was extended by four months), the average increase was significantly higher than last year.

An alternative theory on the shortening of the initial bid period is that, when considered in the context of a perceived trend of regulatory approvals taking longer, it may be driven by an attempt to keep pressure on regulators to deal with bids quickly. If so, it is clearly not working, as the total length of time for bids has not shortened.

Schemes of arrangement

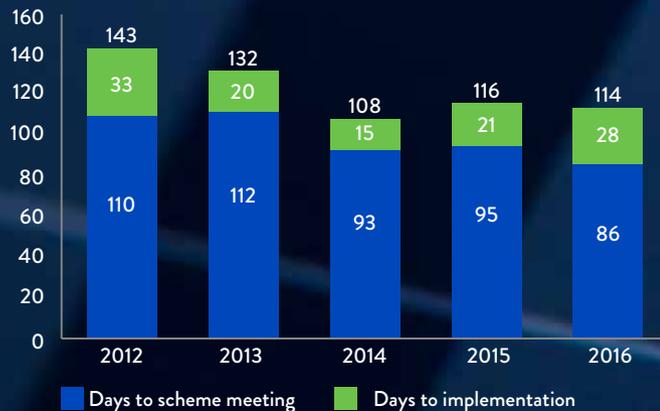
The average timing for a scheme of arrangement has remained relatively stable (114 days in 2016 compared with 116 days in 2015) continuing a general downward trend in scheme timing.

The key deal risks to scheme timetables remain the timing of regulatory approvals and whether there are competing bids for the same target.

What is perhaps more notable is the lengthening of the period between obtaining shareholder approval for the scheme, and implementation. This period has increased on average by a week – from 21 days in 2015 to 28 days in 2016.

The time between shareholder and court approvals has continued to widen over the last 3 years and it will be interesting to see if it continues. It may reflect a greater willingness of bidders to proceed with a shareholders’ meeting while some conditions (such as regulatory approvals, as seen in the Asciano transaction) are outstanding, knowing that these conditions will need to be satisfied before the second court hearing. There will, however, be a natural brake on this period extending too far. If the period between the shareholder and court approval becomes too great, a court may be less comfortable approving the scheme.

Timing in schemes



IMPLEMENTATION AGREEMENTS AND BID CONDITIONS

Implementation agreements remained key

Parties to agreed transactions continue to prefer to formalise their arrangements in an implementation agreement to provide some deal security.

IN 2016, ALL SCHEMES AND ALL TAKEOVER BIDS, BUT ONE, WHICH WERE ANNOUNCED ON AN AGREED AND RECOMMENDED BASIS INVOLVED AN IMPLEMENTATION AGREEMENT.

The one exception was APA Group's off-market takeover bid for the Ethane Pipeline Income Fund, which was recommended by an independent board committee of the target on announcement. The transaction was executed within a very short time frame and the prevailing perception was that there was a low risk of an interloper since APA already held 6.08% of the target and was the manager of the target under a management services agreement. In that context, APA proceeded at an agreed price but without an implementation deed.

Reverse break fees

Reverse break fees are becoming increasingly common. They can be sought by the target where the bidder requires a material regulatory approval or finance. The increase perhaps reflects a general perception of increased risk associated with obtaining regulatory approvals in 2016.

2016 transactions with reverse break fees include:

- + Zurich Insurance and Cover-More Group
- + Vitaco and the consortium of SIIC Medical Science and Technology (Group) and PV Zeus
- + PEP and Patties Foods
- + Superloop and BigAir Group

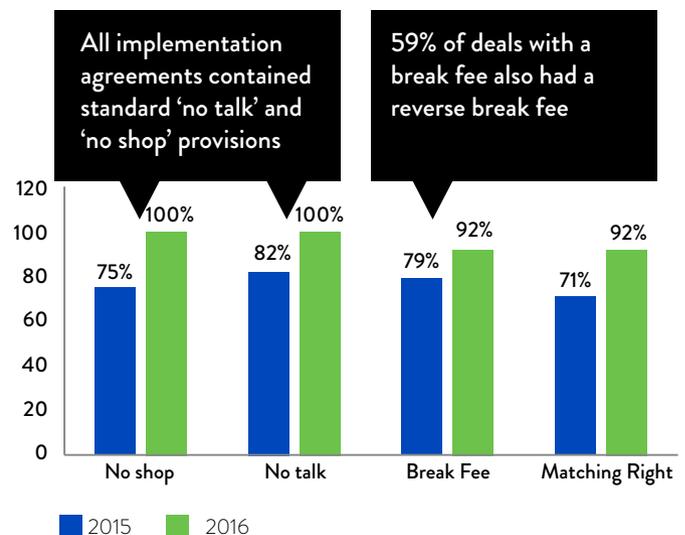
Importance of deal protections mechanisms

Bidders and targets often agree exclusivity provisions in implementation agreements with a suite of familiar settings in a common framework. These can include:

- + restrictions on the target soliciting competing transactions (ie 'no shop') and on talking to competing bidders unless approached with a potentially superior proposal (ie 'no talk');
- + restrictions on the manner in which the target board can change its recommendation;
- + matching rights in favour of the bidder if a competing proposal does emerge; and
- + break fees.

The following graph reflects that the use of deal protection measures became increasingly market standard in 2016. It is now only in unique circumstances that the bidder does not secure the standard deal protection mechanisms.

Frequent deal protection mechanisms



Less usual positions in a friendly transaction: Bellawest’s acquisition of Payce

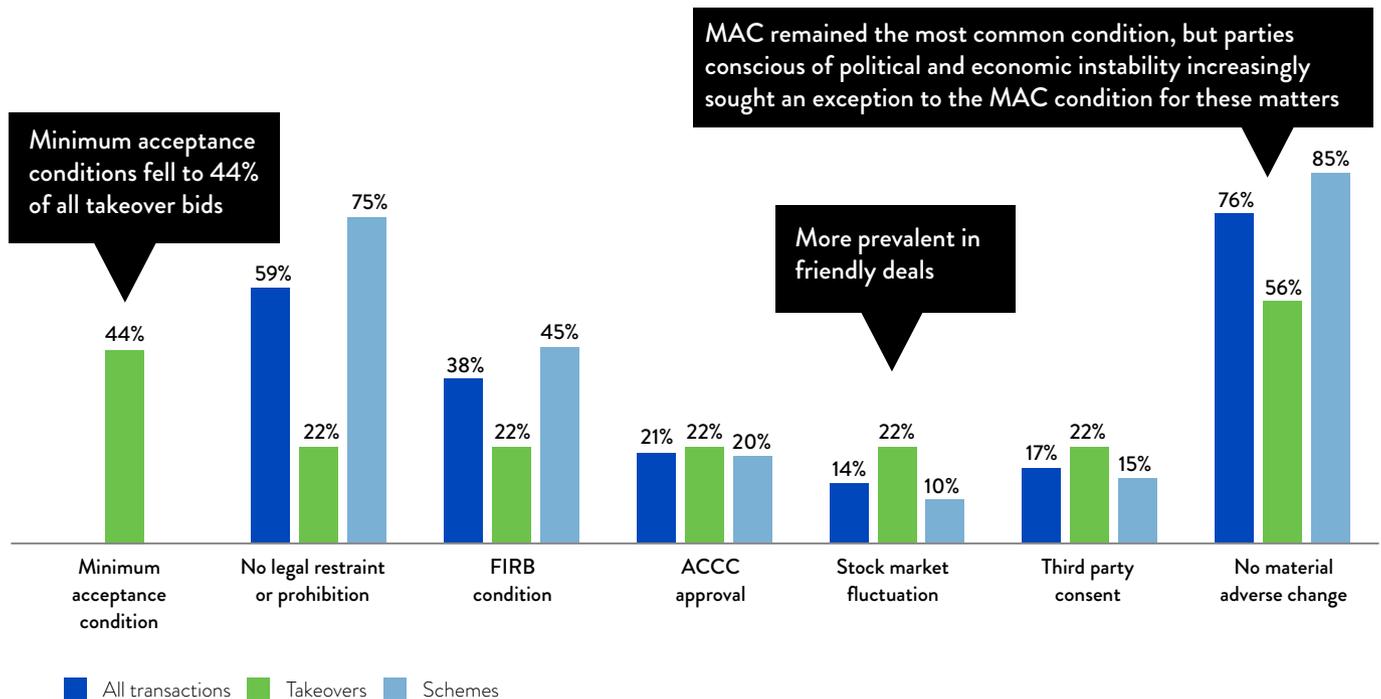
Unlike 92% of agreed transactions, this transaction did not include a break fee in favour of the bidder. However, it did include a reverse break fee to reimburse the target for their costs if the transaction failed.

This was the only successful agreed transaction that was announced subject to finance. Interestingly, it was a target subsidiary providing funding to Bellawest for the acquisition.

In these circumstances, the bidder’s ability to negotiate a break fee would have been limited, while the target’s need for comfort about the transaction proceeding was enhanced.

MAC CONDITIONS REMAINED MOST COMMON, MINIMUM ACCEPTANCE CONDITIONS FELL

Frequency of conditions





No material adverse change (MAC) remained the most common condition, but parties conscious of political and economic instability increasingly sought an exception to the MAC condition for these matters. There was a significant increase in exceptions for general political or economic conditions (82%, up from 65%) and change in law (77%, up from 45%). This perhaps reflected target companies' fear of potentially significant political and/or economic changes in 2016 including in light of Brexit, the Australian and US federal elections and their insistence that the target should not bear the risk of these matters.

Minimum acceptance conditions fell to 44% of all takeover bids. Three deals required acceptance of 50.1% (Qube's takeover of Asciano, Growthpoint Properties' takeover of GPT Metro Office Fund and Hitachi Construction Machinery's takeover of Bradken) and one required 90% (Galaxy Resources' takeover of General Mining).

Why were there so few 90% minimum acceptance conditions? Firstly, for 2016, there was a small sample size. There were only 10 takeover bids in 2016, one of which was withdrawn before any conditions were disclosed. Secondly, while it is unusual for significant transactions to not be conditional on 90% minimum acceptance, both the Asciano and GPT takeovers were structured in the context of a single shareholder with a blocking stake of over 10%. This means that a 90% minimum acceptance condition would not have been practicable given one shareholder could then kill the deal.

Reduction in entirely unconditional bids. Compared to five in 2015, only three takeover bids in 2016 were announced on an entirely unconditional basis. However, in all of these transactions, the bidders held pre-bid shareholdings and were perhaps comfortable with increasing their existing shareholding even if they did not secure control.

Index out conditions more prevalent in friendly deals. This could be explained by the relevant markets having experienced significant declines leading up to these transactions (reducing the perceived risk of further falls). It would appear the value of the offer to target shareholders outweighed the risk that the index out would be triggered, and/or the high hurdles required to actually trigger the index out.

**ONLY ONE
TAKEOVER BID HAD
A 90% MINIMUM
ACCEPTANCE
CONDITION IN 2016**

9 THE REGULATORS

ASIC

The general perception is that the Australian Securities and Investments Commission continued its active approach to takeover regulation in 2016. According to ASIC's statistics, it took action in relation to 28 takeover bids and 35 schemes of arrangement, resulting in both structural changes and also improved disclosure.

Some more specific ASIC observations based on their approach in recent times include:



Engage early

Where a transaction raises any novel or complex issues, ASIC will want sufficient time to review the transaction, even if it goes over their statutory review period. For example, scheme timetables may be extended because ASIC's review has exceeded the two week period set by the Corporations Act. Where the deal dynamics allow, it may be beneficial to brief ASIC early in the transaction, and structure or negotiate process before an announcement is made.



Need relief?

Then expect your entire transaction structure to be scrutinised. Even routine applications for exemptions or modifications from ASIC will attract a full review of the transaction. If ASIC takes the view that part of the transaction (even unrelated to the relief sought) may be unacceptable, then it may withhold relief.



A threat of Takeovers Panel action from ASIC is real

ASIC has shown in recent years that it is willing to challenge transactions in the Takeovers Panel. In 2016, ASIC was successful in its application concerning Ainsworth Game Technology in establishing an association, finding that the partner of the individual whose shares were being sold under the transaction being considered for approval by shareholders is considered an associate for the purposes of an independent shareholder vote to approve such increase in voting power. ASIC also actively participated in a number of other applications brought by other parties (no doubt following detailed consultation with ASIC). It seems, for now, that the days of not expecting ASIC to follow through are behind us. This should be seen as a largely positive development.

ASIC CONTINUED TO BE AN ACTIVE, INTERVENTIONIST TAKEOVER REGULATOR IN 2016



Some particular areas of focus for ASIC over the last 12 months:



Shareholder intention statements

Where a target shareholder publicly states its support for a transaction, particularly on announcement, ASIC will closely scrutinise the surrounding circumstances. In one case, ASIC stated that it considered the bidder's interactions with the relevant shareholders gave rise to an agreement. In that case, ASIC required the bidder to offer withdrawal rights to those shareholders.

While developing a transaction, it is important that the bidder takes care to ensure that discussions with target shareholders do not lead to an agreement with that shareholder. Absent more, a statement made by a shareholder in support of a transaction, if made in a way that allows time for a competing proposal to emerge, should not be unacceptable.



Disclosure

ASIC rightly sees clear, concise and effective disclosure to target shareholders as a fundamental pillar of an efficient takeover market.

In 2016, ASIC closely reviewed due diligence, verification and disclosure practices in respect of equity capital markets transactions. The focus of these reviews was ensuring:

- + shareholders are provided with all relevant information; and
- + adequate procedures are undertaken to ensure that disclosure is not misleading or deceptive.

While the same strict legal liability regime that applies to a prospectus only applies to scrip bidder statements, the underlying principles apply to takeover documents generally. We expect ASIC will apply the same focus and attention to takeover disclosure as it does to capital markets transactions.



Corporate culture

While not directly relevant to takeovers, this is a point we expect our listed clients and friends in the investment banking community will find relevant. In the context of media scrutiny following a number of high profile controversies (largely in the financial services sector), senior ASIC representatives have made a number of public comments about 'corporate culture' providing regulators with a good indicator of where they should look for problematic behaviour.

While there may be some attraction to this as a concept, a closer look reveals a number of difficulties. For example, can culture really be defined? Does focusing on such an amorphous concept potentially distract board members from the important duty of managing a company in the interests of shareholders? How does a board regulate the complexities of cultures and indeed sub-cultures within a large organisation? These are just a few of the issues that will need to be thought through by ASIC as its approach in this area develops.

Takeovers Panel

Activity levels at the Takeovers Panel remained relatively subdued in 2016, with 19 applications considered. This is an increase on the very quiet 2015 (13 applications), but it is still relatively low compared to previous years.

In addition, in 37% of these applications, the Panel declined to conduct proceedings on the application. In these cases, there was no process undertaken to hear the application and it was dismissed without needing substantive submissions from the parties.

Some themes in the matters considered by the Panel included:

Association: the Panel continues to build a long list of precedent cases where there is an indicia of association (matters such as past dealings, uncommercial actions, family links, common shareholdings). In 2016, examples included family dealings involving Merlin Diamonds and Ainsworth. The circumstances where the Panel will infer an association are becoming increasingly firm and well understood.

Disclosure: a number of transactions were scrutinised from a disclosure perspective, both as the primary matter before the Panel (including on matters such as sources of takeover funding and the identity of the bidder's owners/funders in Brisbane Markets and material interests of relevant parties in Investa Office Fund) and as a subsidiary issue for a broader application (eg control implications of a transaction). Disclosure issues, if addressed early, can be dealt with efficiently by the Panel

through undertakings without the need for a formal declaration of unacceptable circumstances and orders.

Policy: In 2016 the Panel undertook two policy initiatives:

- + **Frustrating Action:** the Panel released a consultation draft of a revised policy. Commentators have long mused that the policy unduly restricted a target from continuing its business once subject to a takeover offer. The revised draft policy seeks to reduce this burden on target companies by allowing potential exceptions, for example where the target has made the bidder aware it is planning a particular corporate action before the bid is made. The proposed changes, while relatively minor, are useful additions.
- + **Remedies:** The Panel made a minor change to its guidance, suggesting that where it is minded to make a declaration of unacceptable circumstances and orders, an offer of an undertaking from the affected party may not be accepted if provided late in the proceedings. Again, this approach makes sense. The benefit of an undertaking is to allow the parties to reach a practical solution without requiring the Panel to resolve the matter. If a commercial solution is not reached until the Panel has effectively heard the matter in full and all but reached a determination of unacceptable circumstances, then in many cases, a declaration of unacceptable circumstances seems appropriate.

WE CAN EXPECT THE ACCC'S ALREADY HARD LINE APPROACH TO FURTHER STRENGTHEN

ACCC

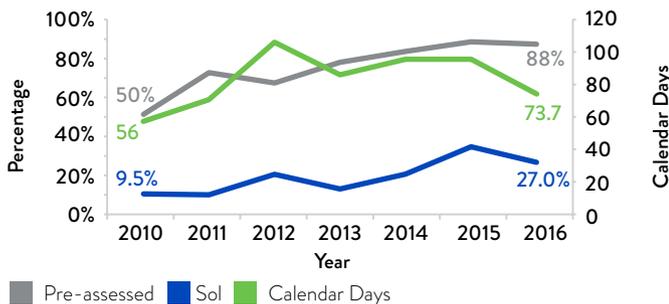
In 2016, the ACCC Chairman Rod Sims reiterated his comments that the ACCC would closely scrutinise mergers in concentrated markets. In particular, Mr Sims said that the default position for mergers in concentrated markets is that they will generally be in breach of section 50 of the Competition and Consumer Act 2010 unless it can be shown otherwise:

"It seems to me that, absent a clear and convincing economic and evidence based explanation of how a merger will avoid harming consumers the standard economic wisdom should prevail. This wisdom is that mergers resulting in high levels of concentration in markets with substantial barriers to entry will usually reduce competition and cause harm to consumers and our economy."

Mr Sims has also recently said that companies were increasingly depending on the argument they will fail if mergers do not go ahead. Mr Sims said that this would be rigorously tested, referring to growth by acquisition as the 'easy route' to growth. Clearly, in our view, the equation for corporate growth is more complex than this.

The overwhelming majority (88%) of all matters considered by the ACCC were 'pre-assessed', an expedited review which does not involve detailed market enquiries and related submissions (see graph below). Our experience suggests that pre-assessments will generally take around four weeks on average.

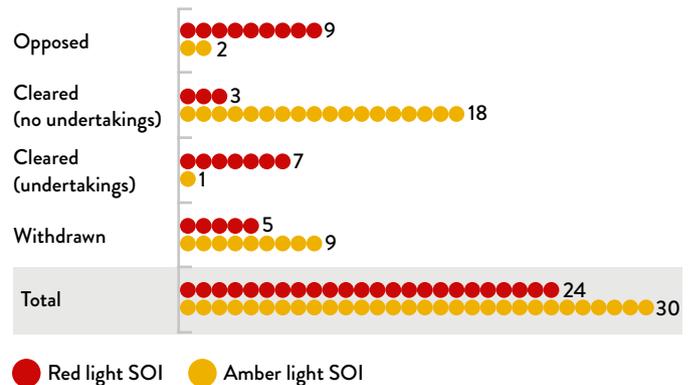
ACCC merger reviews



* Statistics based on date merger assessment commenced, some mergers commenced in 2016 are incomplete at date of calculation (February 2017)

Of the 54 matters considered since August 2011 (when Mr Sims commenced his chairmanship) involving the issue of a Statement of Issues (SOI) which takes the ACCC's merger review to a second phase, 11 were opposed. The majority of these oppositions followed a 'red light' SOI (ie, issues identified that are terminal for the review). In other cases where a 'red light' SOI was issued, 10 were cleared either unconditionally or subject to undertakings and five were withdrawn (which is generally an option for parties that see the SOI as a firm indication their transaction will be opposed). By comparison, in cases where the ACCC issued an 'amber light' SOI (ie significant/material issues which need explanation/further investigation), the majority of these were ultimately cleared unconditionally. Only one 'amber light' SOI was opposed outright (Woolworths and Lowe's proposed acquisition of hardware stores in Ballarat) and one was partially opposed (ACCC objecting to ALH acquiring five of 33 liquor outlets in NSW).

SOI statistics, August 2011-present



In 2017, we can expect the ACCC will continue to pre-assess most matters that fall within their purview. That said, we also continue to generally observe a 'hardening' of approach from both the ACCC chair and Merger Review Committee chair as their terms progress towards maturity. Given Mr Sims was recently reappointed until mid-2019, we can expect the ACCC's already hard line approach to further strengthen and Mr Sims will put all parties seeking to transact in markets that are considered to be concentrated through their paces.

2016 PUBLIC M&A TRANSACTIONS

Target	Bidder	Transaction Type	Status	Bidder Origin	Consideration Type (Cash / Scrip / Combo)	Transaction Value A\$
Asciano Limited	Australian Logistics Acquisition Investments Limited (Qube led consortium)	Scheme	Successful	Australia, USA, Canada, China	Cash	\$8.92 billion
Asciano Limited	Qube Holdings Limited	Takeover	Withdrawn	Australia, USA, Canada, China	Combination cash & scrip	\$8.92 billion
Tatts Group Limited	Tabcorp Holdings Limited	Scheme	Current	Australia	Combination cash & scrip	\$6.35 billion
Pacific Brands Limited	HBI Australia Acquisition Co Pty Ltd (a wholly owned subsidiary of Hanesbrands Inc)	Scheme	Successful	United States	Cash	\$1.1 billion
Nuplex Industries Limited	Allnex New Zealand Limited (which is ultimately owned by Advent International Corporation)	Scheme	Successful	United States	Cash	\$1.04 billion
SAI Global Limited	Casmar (Australia) Pty Ltd (a wholly owned subsidiary of the Baring Private Equity Asia Fund IV)	Scheme	Successful	Singapore	Cash	\$1.01 billion
Cover-More Group Limited	Zurich Insurance Company Limited	Scheme	Current	Switzerland	Cash	\$741 million
oOh!media Limited	APN Outdoor Group Limited	Scheme	Current	Australia	Scrip	\$734 million
Bradken Limited	Hitachi Construction Machinery Co Limited	Takeover	Current	Japan	Cash	\$556 million
UGL Limited	CIMIC Group Investments No 2 Pty Ltd (a wholly owned subsidiary of CIMIC Group Limited)	Takeover	Successful	Australia	Cash	\$525 million
Fanastic Holdings Limited	Steinhoff Asia Pacific Holdings Pty Ltd	Scheme	Successful	Netherlands	Cash	\$361 million
ASG Group Limited	Nomura Research Institute Limited	Scheme	Successful	Japan	Cash	\$349 million
GPT Metro Office Fund	Growthpoint Properties Australia	Takeover	Successful	Australia	Cash	\$321 million
GPT Metro Office Fund	Centuria Metropolitan REIT	Takeover	Withdrawn	Australia	Combination cash & scrip	\$316 million
Vitaco Holdings Limited	Consortium (SIIC Medical Science and Technology (Group) Limited and PV Zeus Limited)	Scheme	Successful	China	Cash	\$314 million

Target	Bidder	Transaction Type	Status	Bidder Origin	Consideration Type (Cash / Scrip / Combo)	Transaction Value A\$
Payce Consolidated Limited	Bellawest Pty Ltd	Scheme	Successful	Australia	Cash	\$250 million
Sedgman Limited	CIMIC Group Investments Pty Ltd	Takeover	Successful	Australia	Cash	\$243 million
Patties Foods Limited	Australian Foods BidCo Pty Ltd (an entity owned by funds managed or controlled by Pacific Equity Partners Pty Ltd)	Scheme	Successful	Australia	Cash	\$232 million
BigAir Group Limited	Superloop Limited	Scheme	Successful	Australia	Combination cash & scrip	\$228 million
General Mining Corporation Limited	Galaxy Resources Limited	Takeover	Successful	Australia	Scrip	\$216 million
Ethane Pipeline Income Fund	Australian Pipeline Limited (which is part of the APA Group)	Takeover	Successful	Australia	Cash	\$130 million
Intecq Limited	Tabcorp Holdings Limited	Scheme	Successful	Australia	Cash	\$128 million
Pulse Health Limited	Healthe Care Australia Pty Ltd (which is part of the Luye Group)	Scheme	Current	China	Cash	\$121 million
Gryphon Minerals Limited	Teranga Gold Corporation	Scheme	Successful	Canada	Scrip	\$86 million
Ausenco Limited	Resource Capital Fund VI LP	Scheme	Successful	United States	Cash	\$75 million
Flinders Mines Limited	TIO (NZ) Limited	Takeover	Successful	New Zealand	Cash	\$73 million
Hastings High Yield Fund	Aurora Global Income Trust	Takeover	Current	Australia	Scrip	\$71 million
Onthehouse Holdings Limited	Consortium (comprising PIQ1 Pty Ltd, Macquarie Corporate Holdings Pty Ltd, 77 Victoria Street Venture Pty Ltd, Sandrift Pte Limited)	Scheme	Successful	Australia, Singapore	Cash	\$70 million
Colorpak Limited	Graphic Packaging International Australia Pty Ltd	Scheme	Successful	United States	Cash	\$60 million
Simonds Group Limited	SR Residential Pty Ltd	Scheme	Withdrawn	Australia	Cash	\$58 million

OUR APPROACH

In this Review, we have summarised our key observations of an analysis of the 30 public takeovers and scheme transactions announced during the 2016 calendar year in respect of ASX-listed companies.

We have only analysed deals which have a market value of over \$50 million because they are the deals of most relevance to our clients and friends in the M&A advisory community. Also, smaller deals can involve unusual aspects which can skew the analysis.

We have included all transactions where the parties had entered into an agreement or where the bidder had announced an offer or an intention to proceed with a firm offer. We have traced the progress of these transactions until 1 March 2017.

A full list of transactions analysed is set out on pages 36 to 37.

The primary sources of data used in compiling the Review were bid documents prepared by the bidder and target and lodged with ASX, which were supplemented by information from websites of regulatory bodies.

We have classified a scheme as 'successful' if it has become effective and an off-market takeover bid as 'successful' if it has become unconditional such that the bidder

increased its shareholding in the target. There were no on-market takeovers in the 2016 calendar year which had a market value of over \$50 million.

We have classified a transaction as 'hostile' where a firm offer was announced and was not initially recommended by the target board and as "friendly" where the transaction was recommended on its announcement (or if discussions were initially announced and were followed by an agreed deal).

Where this Review refers to a transaction's value, the reference is to the value of 100% of the target's equity based on the offer price per share.

Transactions referred to as providing cash consideration include all-cash transactions and also transactions where shareholders were offered an all-cash alternative.

Unless otherwise specified, where this Review refers to the premium offered in a transaction, it refers to the final premium measured against the closing price of the target shares on the day prior to the announcement of the transaction.



Unless otherwise specified, all dollar references are to the Australian dollar.

We have treated the (a) takeover bid proposed by Qube Holdings to acquire Asciano, and (b) the acquisition of Asciano by the Qube led consortium (through Australian Logistics Acquisition Investments) by scheme as one transaction for the purpose of transaction timing, transaction value, analysing market and sector activity, and foreign bids. However, we have considered the takeover bid and scheme individually when considering transaction structures, implementation agreements and bid conditions.

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Chambers Asia Pacific 2016



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PRAGMATIC, CAN-DO
CULTURE WHO ARE GOOD
TO WORK WITH AND
UNDERSTAND THE
DYNAMICS OF A DEAL”
CHAMBERS ASIA-PACIFIC 2016**

ABOUT GILBERT + TOBIN

Gilbert + Tobin is the leading independent Australian commercial law firm.

We pride ourselves on providing commercial and innovative legal advice to major corporate and government clients across Australia and internationally. We are a trusted legal adviser for many industry leaders who value our entrepreneurial culture and determination to succeed.

Gilbert + Tobin has a strong emphasis on corporate transactional work. Chambers Asia-Pacific (the most respected of all legal directories) has given us a Band 1 ranking in each of Corporate/M&A, Equity Capital Markets, Private Equity, Competition & Antitrust and Banking & Finance (Acquisition Finance).

Our M&A team comprises highly experienced partners and lawyers who achieve commercial results through creative solutions and perseverance. Our lawyers have worked at all key corporate regulators including ASIC, the Takeovers Panel and the ACCC.

We advise on M&A transactions of the highest commercial significance, but are equally able to deliver significant value on smaller deals.

We are regularly retained to assist boards of public and private companies to navigate challenging issues that arise in complex and contested M&A transactions.

We also have a demonstrated track record of assisting listed entities with robust takeover defence strategies. By providing the best available strategic legal advice, we can assist in ensuring unwelcome approaches at inadequate prices do not succeed and, if control is to pass, it does so at the best price possible in the circumstances.

Alternatively, if a friendly and agreed deal is sought, we are well placed with our knowledge of transaction structures and market precedents to ensure a transaction can be agreed in a timely and cost efficient manner.

Gilbert + Tobin's reputation for expert advice extends beyond our M&A team to a broad range of areas including corporate advisory, equity capital markets, competition and regulation, banking and infrastructure, communications and technology, energy and resources, litigation and dispute resolution, real estate and projects and employment.

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INDEPENDENT
AUSTRALIAN
COMMERCIAL
LAW FIRM**



Melbourne



Perth



Sydney

RECENT GILBERT + TOBIN TRANSACTIONS

Gilbert + Tobin have advised our clients on the following transactions in recent times:

- + Amplify Snack Brands, Inc on its £300 million acquisition of Yarra Valley Snack Foods (as part of the acquisition of Tyrells)
- + Anheuser-Busch InBev on the Australian aspects (CUB/ Fosters) of its US\$107 billion takeover of SAB Miller, the largest takeover in the world in 2016
- + Anheuser-Busch InBev on the termination and sale by Lion Nathan of rights to distribute a suite of ABI brands in Australia
- + Ansell in respect of its strategic review of its Sexual Wellness business
- + APN Outdoor Group on its proposed \$1.6 billion acquisition of oOh!media
- + APN Property Group on the proposed IPO of its Retail Property Fund
- + APN Property Group on its \$128 million sale of Generation Healthcare Management and units in Generation Healthcare REIT to NorthWest Healthcare Properties Real Estate Investment Trust
- + Ardent Leisure on the sale process for the d'Albora Marinas business
- + Aquis on its \$270 million proposed takeover of the Reef Casino Trust; on the listing of Aquis Entertainment by reverse takeover; and its proposed \$300 million redevelopment at Casino Canberra
- + Aramex (Dubai listed logistics and transportation leader) on its strategic \$100 million e-commerce joint venture with Australia Post
- + Asahi Holdings on its acquisition of Mountain Goat
- + Ascribe Investments LLC, Brookfield Credit Opportunities Master Fund LP and Goldman Sachs International (as noteholders) in relation to Emeco's \$686 million creditor's scheme and the three way merger of Emeco Holdings, Orionstone Pty Ltd and Andy's Earthmovers (Asia Pacific) Pty Ltd
- + AusNet Services on its \$110 million acquisition of the Mortlake Terminal Station from Origin Energy
- + Austin Bidco Pty Ltd (a wholly owned subsidiary of REA Group Limited) on its US\$412 million acquisition of iProperty Group
- + Australian Clinical Labs Pty Ltd on its acquisition of St John of God Pathology
- + Australian Unity Office Fund on its \$391 million IPO
- + Baycliffe in relation to the \$111 million sale of its shareholding in APN News and Media
- + Bell Potter as the lead manager of the \$147 million IPO of QANTM Intellectual Property
- + Bennamon, as a major shareholder, in respect of the acquisition of Colopak by Graphic Packaging by scheme of arrangement
- + Caltex Australia in relation to the block trade by its major shareholder, Chevron, of its 50% shareholding for \$4.74 billion
- + Caltex Australia on its \$270 million off-market share buy back
- + Canaccord Genuity as the underwriter of Kogan.com's \$168 million IPO
- + Carlyle on its proposal to acquire Greencross
- + China Oceanwide on its US\$2.7 billion acquisition of NYSE listed company Genworth Financial Inc and indirect acquisition of a majority interest in ASX listed company Genworth Mortgage Insurance Australia
- + Citi as lead manager of NEXTDC's accelerated non-renounceable pro rata entitlement offer and placement to raise \$150 million
- + Citigroup and CBA as the underwriters of the \$150 million capital raising by Flexigroup
- + Citigroup and Goldman Sachs as joint lead managers of the \$293 million IPO of Scottish Pacific

- + Citigroup Global Markets Australia Pty Ltd and CBA Equities as the underwriters of Flexigroup's \$150 million non-renounceable entitlement offer
- + ClearView Wealth on its accelerated renounceable entitlement offer to raise approximately \$50 million
- + Cover-More on its proposed \$741 million acquisition by Zurich Insurance Company by scheme of arrangement
- + Credit Suisse as the sale facility agent in connection with Vocus' scrip acquisition of Amcom
- + Credit Suisse as lead manager of the \$244 million block trade by Newmont Capital Pty Ltd of its interest in Regis Resources
- + Credit Suisse as the underwriter of Evolution Mining's \$248 million renounceable entitlement offer to fund its acquisition of the Cowal Gold Mine in New South Wales from Barrick Gold Corporation
- + Credit Suisse, Citigroup and UBS AG as the joint lead managers of the \$552 million IPO of Eclixp Group (formerly Fleet Partners)
- + Credit Suisse, Goldman Sachs and JP Morgan as the joint lead managers on the \$503 million IPO of Propertylink
- + Credit Suisse, Macquarie Capital, UBS, Citigroup, Goldman Sachs and Morgan Stanley as the joint lead managers on the \$1.5 billion IPO of Ingham's Group
- + Credit Suisse and Morgan Stanley as the joint lead managers of the \$1 billion IPO of WiseTech Global
- + Credit Suisse and Royal Bank of Canada as the underwriters of Evolution Mining's \$400 million non-renounceable entitlement offer to partly fund its acquisition of the Ernest Henry Copper-Gold operation from Glencore
- + Credit Suisse and UBS AG in relation to Mayne Pharma Group's \$888 million entitlement offer and placement
- + Credit Suisse and UBS AG as the underwriters of Speedcast International's \$295 million entitlement offer
- + Credit Suisse and UBS AG in relation to APN News and Media's accelerated renounceable entitlement offer with retail entitlements trading to raise approximately \$182 million
- + Credit Suisse and UBS AG as the underwriters of Mayne Pharma's \$118 million non-renounceable entitlement offer and institutional placement to fund its acquisition of the Doryx brand and related acquisitions
- + Credit Suisse, Macquarie Capital, UBS, Citigroup, Goldman Sachs and Morgan Stanley as the joint lead managers of the \$1.5 billion IPO of Ingham's Group
- + Crescent Capital Partners on its acquisition of DB Dental
- + Crescent Capital Partners on its successful \$235 million unsolicited proportional takeover bid for Cardno
- + CRH Europe Lightside on its 100% acquisition of shares in BUCI from Helmsman Capital
- + CVC as vendor in its sell down of 27 million shares (10% stake) in Manta via a block trade (along with UBS as co-seller), and on its subsequent sell down of its remaining shares in Mantra
- + Danakali on the proposed share purchase plan and placement to progress the Colluli Potash project
- + Dentsu Aegis, Dentsu Inc. on its acquisition of With Collective
- + Energy Developments on its \$1.4 billion acquisition by DUET Group by scheme of arrangement
- + Ethane Pipeline Income Fund on its \$130 acquisition by APA Group
- + Financiers to the successful consortium bidding to acquire TransGrid in the NSW poles & wires privatisation
- + Goldman Sachs in respect of its strategic alliance with Commonwealth Bank
- + Goldman Sachs as an underwriter of the \$704 million IPO of Costa Group Holdings

- + Goldman Sachs as the sale facility agent in connection with the demerger of South32
- + Goldman Sachs as the underwriter of Treasury Wine Estates' \$486 million entitlement offer
- + Goldman Sachs as the underwriter of BOQ's \$440 million equity raising to fund its acquisition of Investec Australia's specialist finance and leasing businesses
- + Goldman Sachs as the lead manager of Catapult Group's accelerated non-renounceable pro rata entitlement offer and placement to raise \$100 million
- + Goldman Sachs as the sole lead manager and underwriter of IRESS's \$85 million placement, in connection with the acquisition of Financial Synergy
- + Goldman Sachs and Macquarie Capital as the joint lead managers on the \$148 million IPO of Bravura Solutions
- + Goldman Sachs, Macquarie Capital, UBS, Credit Suisse, and Morgan Stanley as the joint lead managers on the deferred IPO and ASX listing of Alinta Energy
- + Goldman Sachs and Morgan Stanley as the underwriters of Transurban Group's \$2.7 billion entitlement offer to fund its acquisition of Queensland Motorways
- + GrainCorp on the sale of its 60% investment in Allied Mills Australia Pty Ltd to funds advised by Pacific Equity Partners
- + GrainCorp on the proposed \$3.4 billion takeover offer by Archer Daniels Midland
- + GrainCorp, Australian Grains Champion and HRL Morrison & Co on the proposed corporatisation, acquisition and listing of Co-operative Bulk Handling
- + Greenstone on its \$1 billion deferred IPO
- + Greenstone on the sale of a 44% interest in its Real Insurance business to Caisse de dépôt et placement du Québec
- + GTCR (US based sponsor) on its participation in the \$60 million accelerated entitlement offer of Global Traffic Network to fund its acquisition of Radiate
- + IFM Investors Pty Ltd on the acquisition of a 49% equity interest in the Colette handbag and accessories business
- + IFM Investors Pty Ltd on the acquisition of a 50% stake in Infrastructure Services Group (Australia) Pty Ltd
- + Industria REIT on its \$85 million accelerated entitlement offer and placement
- + Kin Groups' acquisition of Greens Foods
- + KordaMentha (as administrators of Arrium) on the dual-track IPO and trade sale process of Moly-Cop which resulted in the sale of Moly-Cop to American Industrial Partners for an enterprise value of US\$1.23 billion
- + Macquarie Capital in relation to the \$300 million placement by TPG Telecom
- + Macquarie Capital and Goldman Sachs as the joint lead managers of the \$471 million IPO of Pepper Group
- + Macquarie Capital and Goldman Sachs as the underwriters of the \$371 million IPO of Amaysim Australia
- + Macquarie Capital as the underwriter of the \$300 million institutional placement by TPG Telecom
- + Macquarie Capital, Deutsche Bank and Morgan Stanley as the joint lead managers of APA Group's \$1.835 billion accelerated entitlement offer to part fund its acquisition of BG Group's QCLNG Pipeline
- + Macquarie Capital and UBS AG as the underwriters of the \$480 million IPO of Autosport
- + Macquarie Capital and UBS AG in relation to Gateway Lifestyle Group's \$120 million accelerated non-renounceable entitlement offer and placement
- + Macquarie Capital and UBS as the underwriters of the \$499 million IPO of Gateway Lifestyle Group
- + MEO Australia in relation to the hostile takeover bid by Mosman Oil and Gas

- + Morgan Stanley as the underwriter of the \$306 million block trade sale of Hancock Prospecting's 14.99% shareholding in Fairfax Media
- + Morgan Stanley as the underwriter of the \$176 million IPO of Baby Bunting
- + OpenText Corporation on its proposed \$1.6 billion acquisition of Dell EMC's Enterprise
- + Onethehouse Holdings on its \$70 million acquisition by a Macquarie led consortium by scheme of arrangement
- + Orchard Landmark on the \$194 million IPO of Silver Heritage Group and related bond and option issue
- + Orica on the \$750 million sale of its chemicals business to funds advised by Blackstone
- + Orocobre on its \$85 million institutional placement
- + Pacific Equity Partners on its \$1 billion sale of Hoyts Group to ID Leisure Ventures, a China-based investment fund founded by entrepreneur Mr Sun Xishuang
- + Pacific Equity Partners on its \$232 million acquisition of Patties Foods
- + Pacific Equity Partners (being the sponsor/existing owner) on the \$2.3 billion IPO of Link Group, which was the largest IPO in 2015
- + Pacific Equity Partners on its \$225 million acquisition of Kerry Pinnacle Pty Ltd, the Australian bakery ingredients, manufacturing and distribution business of Kerry Group Plc
- + Pact Group on its acquisition of Jalco
- + Palisade Investment Partners on its \$150 million acquisition of SurePark Investments Pty Ltd
- + Pinnacle Investment Management Group in relation to its off-market takeover bid for Hunter Hall International, and associated institutional placement
- + Primary Health Care on the \$155 million acquisition of its Medical Director business by Affinity Equity Partners
- + Quadrant Private Equity on its \$400 million acquisition of Fitness First Australia
- + Quadrant Private Equity on its \$260 million acquisition of Ardent Leisure
- + Quadrant Private Equity on its \$231 million acquisition of Peter Warren Automotive Group
- + Quadrant Private Equity on its \$300 million acquisition of WorldMark Holdings Pty Ltd
- + Quadrant Private Equity on the \$410 million sale of VIP Petfoods
- + Quadrant Private Equity on its \$175 million acquisition of Urban Purveyor Group Holdings
- + Qube led consortium comprising Qube Holdings Ltd, Canada Pension Plan Investment Board, China Investment Corp, Global Infrastructure Partners LLC, Brookfield Infrastructure Partners, Qatar Investment Authority, British Columbia Investment Management Corporation and GIC Private Limited on the acquisition of Asciano (the largest public M&A deal in Australia in 2016)
- + Qube Holdings with respect to its acquisition of the remaining 50% of AAT
- + Qube on its \$306 million placement to Canada Pension Plan Investment Board and its \$494 million fully underwritten accelerated non-renounceable entitlement offer to fund its acquisition of the Patricks Container Terminal business
- + REA Group on its acquisition of iProperty Group for \$750 million (offering a mix of cash consideration and stub equity) by scheme of arrangement
- + Rockpool Group on the acquisition by Urban Purveyor Group
- + Pepperstone Group on the \$155 million acquisition by CHAMP Private Equity
- + SAI Global on the \$1 billion acquisition by Casmar (Australia) Pty Ltd (a wholly owned subsidiary of the Baring Private Equity Asia Fund IV) by scheme of arrangement
- + Scepter Partners on its \$7.1 billion proposal to acquire Santos
- + Sichuan Railway Industry on its \$214 million acquisition of Altona Mining

- + Spotless Group on its \$1.8 billion IPO
- + Spotless Group on its acquisition of the Utility Services Group
- + Spotless Group on the proposed sale of its laundries business
- + Strategic investor on the potential acquisition of Arrium Australia
- + Superloop on its \$228 million acquisition of BigAir Group by scheme of arrangement
- + Syrah Resources on its \$200 million institutional placement
- + Telstra Corporation on its \$1.25 billion off-market share buy-back
- + Telstra on its \$1 billion acquisition of Pacnet, an Asian telecommunications provider
- + Ten Network Holdings on its \$154 million entitlement offer, as part of a broader agreement with Foxtel, under which Foxtel acquired up to 15% of Ten's diluted share capital
- + Towerbrook on its US\$8 billion acquisition of Gravity Media Group
- + Vail Resorts on its \$176.6 million acquisition of the Perisher Ski Resort
- + Viton on its \$2.9 billion acquisition of Shell's Australian downstream assets, including the Geelong Refinery and 870 retail sites across Australia
- + Viva Energy REIT on its \$1.5 billion IPO
- + Wesfarmers on its US\$100 million acquisition of a 13.7% interest in Quadrant Energy Holdings (owner of Apache Corporation's oil and gas assets in Western Australia)
- + Wesfarmers on its strategic review of Officeworks
- + UBS and Morgan Stanley as the underwriters of the \$275 million IPO of Integral Diagnostics
- + UBS, Goldman Sachs and Merrill Lynch as the joint lead managers of the \$2.1 billion IPO of MYOB
- + Victorian Government on the discontinuance and acquisition of the East West Link Project
- + Wilmar International and First Pacific Company on its \$1.9 billion acquisition of Goodman Fielder by scheme of arrangement
- + Woolworths Holdings (South Africa) on its \$2.15 billion acquisition of David Jones by scheme of arrangement and acquisition by takeover of minorities in Country Road
- + Yancoal Australia's Independent Board Committee on the company's proposed US\$2.45 billion acquisition of Coal & Allied Industries from Rio Tinto and related capital raising

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'DYNAMIC AND
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TO ENGAGE WITH CLIENTS'"**

THE LEGAL 500 2016

ABOUT THE AUTHORS



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Neil is the head of the Melbourne M&A team. He specialises in listed company takeovers, cross-border acquisitions, Takeovers Panel matters, private sales and disposals, private equity transactions, equity capital raisings and other capital management transactions and corporate governance matters.

He has experience in a number of industries including the mining/resources, energy, infrastructure, agribusiness, chemicals, retail, manufacturing, gaming, logistics, dot com and IT sectors.

Neil is recognised as a leading Australian Corporate and M&A lawyer by leading directories including Best Lawyers, Chambers, Doyles and International Who's Who of M&A Lawyers. Best Lawyers named him Melbourne's M&A or Corporate Lawyer of the Year in 2012, 2013, 2016 and 2017. Each of Australasian Lawyer and Lawyers Weekly nominated him for Australian Dealmaker of the Year in 2015.

In 2016, Neil advised on the following significant transactions (among other matters):

- + Anheuser-Busch InBev on the Australian aspects (CUB/ Fosters) of its US\$107 billion takeover of SAB Miller;
- + AusNet Services on its acquisition of the Mortlake Terminal Station from Origin Energy;
- + APN Property Group on its sale of Generation Healthcare Management and units in Generation Healthcare REIT to NorthWest Healthcare Properties REIT; and
- + Syrah Resources on its \$200 million institutional placement.



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Craig specialises in general corporate law with an emphasis on mergers and acquisitions, capital markets and securities offerings, takeovers and restructurings.

Craig is consistently recognised by leading directories for his expertise, including being listed in Best Lawyers since 2014 in the practice areas of Mergers & Acquisitions, Equity Capital Markets, Corporate Law, Private Equity, Corporate Governance and Practice and Mining and Natural Resources Law. He was also named by Best Lawyers as Melbourne's Corporate Lawyer of the Year in 2014 and 2017 and Melbourne's Private Equity Lawyer of the Year in 2016.

In 2016, Craig advised on the following significant transactions:

- + Telstra on its \$1.25 billion off-market buy-back;
- + Goldman Sachs in respect of its strategic alliance with Commonwealth Bank;
- + Caltex Australia on its \$270 million off-market share buy-back;
- + IFM Investors in connection with its acquisition of a 50% interest in Infrastructure Services Group (Australia) Pty Ltd;
- + Spotless in respect of the proposed sale of its laundries business;
- + Melbourne IT in connection with several acquisitions (and an associated capital raising); and
- + Orocobre on its \$85 million institutional placement.



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Costas specialises in mergers and acquisitions, takeovers, corporate and securities law, capital markets and corporate governance matters.

Costas is widely recognised as one of Australia’s leading strategic M&A and securities lawyers. He is consistently recognised by leading directories for his expertise, including being listed in Chambers Global, Chambers Asia Pacific, Best Lawyers and The Legal 500 in a variety of practice areas including Corporate and Mergers & Acquisitions. He was also named by Best Lawyers as Corporate Lawyer of the Year in 2015 and 2016 and Commercial Lawyer of the Year in 2014. Lawyers Weekly nominated him for Australian Dealmaker of the Year in 2016.

In 2016, Costas advised on the following significant transactions:

- + Iron Mountain on its successful and innovatively designed \$3.8 billion scrip acquisition of Recall Holdings by scheme of arrangement, and its associated dual listing on ASX;
- + Vocus Communications on its \$4.3 billion merger of equals with M2 Group by way of scheme of arrangement;
- + Superloop on its \$228 million acquisition of BigAir by scheme of arrangement;
- + Anchorage Capital Partners on its \$212 million contested acquisition of Affinity Education by scheme of arrangement, and associated Takeovers Panel proceedings; and
- + CIMIC on its successful \$256 million unsolicited takeover bid for Sedgman, including associated Takeovers Panel proceedings.



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Nirangjan’s practice centres on M&A with deep expertise in both listed company takeovers and private negotiated M&A transactions and sales processes. Nirangjan was listed in the 2015 Doyles Guide as a Corporate “Rising Star”.

In 2016, Nirangjan advised on the following significant transactions:

- + REA Group on its \$750 million acquisition of iProperty (including stub equity consideration);
- + AusNet Services on its acquisition of the Mortlake Terminal Station from Origin Energy;
- + Anheuser-Busch InBev (ABI) on the Australian aspects (CUB/Fosters) of its US\$107 billion acquisition of SAB Miller and on the \$300 million termination and sale by Lion Nathan of rights to distribute a suite of ABI brands in Australia;
- + Orchard Landmark on the \$194 million IPO of Silver Heritage Group and related bond and option issue; and
- + Kin Group's acquisition of Greens Foods.



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Kevin is a senior corporate and securities lawyer specialising in strategic mergers and acquisitions, with significant experience in public takeovers and schemes of arrangement. His deep background in public M&A includes in-house experience as a senior legal counsel at an ASX-listed company and corporate regulatory experience at ASIC.

In 2016, Kevin advised on a number of significant transactions including:

- + Vocus Communications on its \$4.3 billion merger of equals with M2 Group by way of scheme of arrangement to create the fourth largest integrated telecommunications services provider in Australia;
- + Superloop on its \$228 million acquisition of BigAir Group by way of scheme of arrangement;
- + Quadrant Private Equity on its \$300 million private acquisition of WorldMark Group Holdings Pty Ltd, an automotive after-sale care business;
- + Uranium Resources on its scrip merger with Anatolia Energy by way of three inter-conditional schemes of arrangement; and
- + Helloworld on its shareholder approved scrip merger with AOT Group.



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Alex specialises in mergers and acquisitions, equity capital markets transactions, infrastructure, corporate restructurings and general corporate and securities law matters.

Alex was one of three winners in the M&A category of the 2014 Australasian Lawyer Rising Star Awards. Alex was also a finalist in the M&A category at the 2013 Lawyers Weekly 30 under 30 Awards.

In 2016, Alex advised on the following significant transactions:

- + APN Property Group on its sale of Generation Healthcare Management and units in Generation Healthcare REIT to NorthWest Healthcare Properties REIT;
- + IFM Investors in connection with its acquisition of a 50% interest in Infrastructure Services Group (Australia) Pty Ltd;
- + Ethane Pipeline Income Fund on its \$130 takeover by APA Group;
- + Anheuser-Busch InBev (ABI) on the \$300 million termination and sale by Lion Nathan of rights to distribute a suite of ABI brands in Australia;
- + Viva Energy REIT on its \$1.5 billion IPO and listing on ASX;
- + Industria REIT on its \$85 million accelerated non-renounceable entitlement offer; and
- + Syrah Resources, Melbourne IT and Orocobre in connection with their institutional placements.



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Mirela’s practice includes strategic mergers and acquisitions, capital markets, corporate governance and corporate and securities laws, with a focus on takeovers of listed entities and infrastructure transactions.

In 2016, Mirela advised on the following significant transactions:

- + Superloop on its \$228 million acquisition of BigAir Group by way of scheme of arrangement and related debt and equity raisings;
- + CIMIC on its successful \$256 million unsolicited takeover bid for Sedgman, including associated Takeovers Panel proceedings; and
- + Palisade Investment Partners on its \$605 million successful bid to become operator of the Sunshine Coast Airport and commercial partner in the associated development of the airport’s second runway and apron.

‘EXCELLENT: THE QUALITY OF LEGAL ADVICE IS OUTSTANDING AND THEY ALSO HAVE EFFICIENT TURNAROUND TIMES AND PROVIDE GOOD VALUE FOR MONEY’

CHAMBERS ASIA-PACIFIC 2016



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Annabel specialises in corporate law with experience in public M&A including schemes of arrangement and takeovers.

In 2016, Annabel assisted on a range of deals including:

- + Vocus Communications on its \$4.3 billion merger of equals with M2 Group by way of scheme of arrangement;
- + Iron Mountain on its successful and innovatively designed \$3.8 billion scrip acquisition of Recall Holdings by scheme of arrangement, and its associated dual listing on ASX;
- + CIMIC on its successful \$256 million unsolicited takeover bid for Sedgman, including associated Takeovers Panel proceedings;
- + Quadrant Private Equity on its \$300 million private acquisition of WorldMark Group Holdings Pty Ltd, an automotive after-sale care business;
- + Superloop on its \$228 million acquisition of BigAir Group by way of scheme of arrangement.



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Michelle advises clients on public and private mergers and acquisitions, and on commercial contracts.

In 2016, Michelle assisted on a range of deals including:

- + AusNet Services on its \$110 million acquisition of the Mortlake Terminal Station from Origin Energy; and
- + multiple investors in their majority share acquisition of an IT services and hardware distribution business, Southern Cross Computer Systems Pty Ltd.

AWARDS + RECOGNITION

2017 CHAMBERS ASIA PACIFIC

39 Gilbert + Tobin lawyers are recognised in 19 areas of law. We are one of only three Australian law firms to be ranked Band 1 in each of Corporate/M&A, Equity Capital Markets, Private Equity and Competition & Antitrust. We are also ranked Band 1 in Acquisition Finance and TMT.

2017 BEST LAWYERS AUSTRALIA

47 Gilbert + Tobin partners were recognised, representing 67% of the partnership acknowledged as leading in their areas of expertise. Among these, three Corporate Advisory partners were named as Best Lawyers 2017 Lawyer of the Year: Craig Semple, John Williamson-Noble and Peter Cook.

2016 LAWYERS WEEKLY AUSTRALIAN LAW AWARDS

Gilbert + Tobin won Australian Law Firm of the Year at the Lawyers Weekly Australian Law Awards.

2016 AUSTRALASIAN LAW FIRM AWARDS

Gilbert + Tobin won five awards including:

- + Australian Law Firm of the Year (100-500 lawyers)
- + Australia Deal of the Year
- + M&A Deal of the Year
- + Energy & Resources Deal of the Year
- + Insolvency & Restructuring Deal of the Year

2016 FINANCIAL TIMES ASIA-PACIFIC INNOVATIVE LAWYERS AWARDS

Gilbert + Tobin won the award for Innovation in use of Technology at the 2016 Financial Times Asia-Pacific Innovative Lawyers Awards.

2015 PROJECT FINANCE INTERNATIONAL AWARDS

Gilbert + Tobin won M&A Deal of the Year for work on TransGrid.

2015 IFLR ASIA AWARDS

Gilbert + Tobin won Australian Law Firm of the Year and High-Yield Deal of the Year at the prestigious International Financial Law Review Asia Awards which recognise the most innovative legal firms and deals in the Asia Pacific region.

2015 CHAMBERS ASIA-PACIFIC AWARDS OF EXCELLENCE

Gilbert + Tobin won the rarely awarded Australian Client Service Law Firm of the Year.



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