



# TAKEOVERS + SCHEMES REVIEW

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2018

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# THE GILBERT + TOBIN 2018 TAKEOVERS AND SCHEMES REVIEW

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2017 demonstrated a distinct uptick in activity for Australian public company mergers and acquisitions. Some key themes were:

- + The number of transactions announced increased by 37% over 2016 and aggregate transaction values were among the highest in recent years.
- + The energy & resources sector staged a recovery in M&A activity, perhaps signalling an end to the downwards trend observed over the last six years. The real estate sector made the greatest contribution to overall transaction value, followed closely by utilities/infrastructure.
- + Despite perceived foreign investment headwinds, foreign interest in Australian assets remained strong, with Asian, North American and French acquirers featuring prominently. Four of the five largest transactions in 2017 (including two valued at over \$5 billion) involved a foreign bidder.
- + There was a material decline in success rates, except for high value deals greater than \$500 million. Cash transactions continued to be more successful than transactions offering scrip. Average premiums paid fell slightly.
- + Regulators continue to closely scrutinise public M&A transactions, with the attendant lengthening of deal timetables.

This Review examines 2017's public company transactions valued over \$50 million and provides our perspective on the trends for Australian M&A in 2017 and what that might mean for 2018.

We trust you will find this Review to be an interesting read and a useful resource for 2018.

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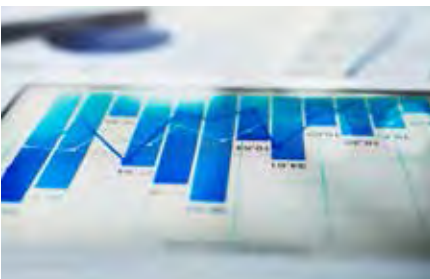
# KEY HIGHLIGHTS



## TRANSACTION ACTIVITY AT A FIVE YEAR HIGH

2017 saw a distinct increase in activity in public company M&A transactions in Australia. 41 transactions valued over \$50 million were announced in 2017, a significant increase of 37% over 2016. Indeed, the volume of deals represents the highest activity in the last five years, and was surpassed in 2012 by only one transaction.

The story is similarly positive when measured by transaction value: the total value of transactions over \$50 million in 2017 was over \$41 billion, the highest in the last five years, with the exception of 2015 (\$46 billion). With continued activity in sectors such as property and healthcare, increasingly acquisitive corporates and with a number of private equity firms eager to deploy unused funds, we think 2018 will have similar or better activity levels.



## WATCH PROPERTY, PROFESSIONAL SERVICES AND UTILITIES/INFRASTRUCTURE SECTORS IN 2018

Led by the very large Westfield/Unibail - Rodamco transaction, the property sector led the value table in 2017. However, Westfield wasn't the only significant real estate deal last year. Others included Brookfield Prime Property Fund and Centuria Urban REIT. When it came to transaction volume, professional services led with 37% of all transactions announced. Utilities/infrastructure continued to be a significant contributor to deal flow.

All of these sectors should be closely watched in 2018.



## FOREIGN INVESTORS REMAIN ATTRACTED TO AUSTRALIA

Despite the perceived headwinds of increasingly protectionist governments throughout the world including Australia, foreign interest in Australian companies remained strong in 2017. 63% of all transactions valued over \$50 million in 2017 were made by a foreign bidder. Asia and North America were the two leading contributors to transaction activity in Australia. French acquirers (Unibail and Accor) were also prominent. In addition, foreign bidders on average were involved in larger transactions than their domestic counterparts.



# 41 TRANSACTIONS

valued \$50 million+ were announced in 2017, a significant increase of 37% over 2016

63% of all transactions valued over \$50 million in 2017 were made

**BY A FOREIGN BIDDER**





## WHILE VOLUME WENT UP, SUCCESS RATES WENT DOWN

In 2017, there was a material fall in the number of transactions that made it all the way to the finish line: only 64% of all transactions valued over \$50 million in 2017 reached a successful outcome, compared to almost 90% in 2016. This is a significant fall. We also saw that, on average, premiums paid fell too.

It could be that lower prices led to a drop in success rates, but we think there's more to it than that. The data shows that in 2017, deals failed for a number of reasons, including competition for the same target (there can only ever be one successful bidder); regulatory issues including antitrust approvals and specific offshore legislation; and in some cases, a simple lack of target shareholder support for the transaction.



## SHAREHOLDER ACTIVISM IN AUSTRALIA: A NEW M&A DRIVER?

There is little doubt that shareholder activism is on the rise in Australia and even our largest corporates are not immune. High profile activism was evident in Elliott Management asking BHP for radical changes including demerging a significant business unit, board changes at Ardent Leisure following Gary Weiss' campaign, Solomon Lew's attack on Myer and the provocations by AWE shareholder James Dunphy seemingly triggering a three way bidding contest.

Two of these examples have M&A related initiatives at their core. It could be that in 2018 we see more activism-led M&A, which could be as a result of public campaigns by activists, or alternatively as a pre-emptive defensive play to ward off such approaches. Watch this space.



## REGULATORY INTERVENTION: A TREND TO STAY?

In the last few years, regulators have become increasingly vigilant and interventionist. This is certainly the case for key regulators relevant to Australian M&A, namely ASIC, FIRB and the ACCC.

ASIC's review of scheme of arrangement transactions is increasingly detailed with arguably diminishing returns of utility.

Similarly, ACCC reviews are long, detailed and invasive.

Finally, FIRB, CIC and other government agencies are critically analysing foreign investment particularly those involving energy, networks, agriculture and data and there is an increased incidence of conditions being applied to large acquisitions.

There is no doubt that regulator scrutiny and review is increasing and lengthening deal timetables.

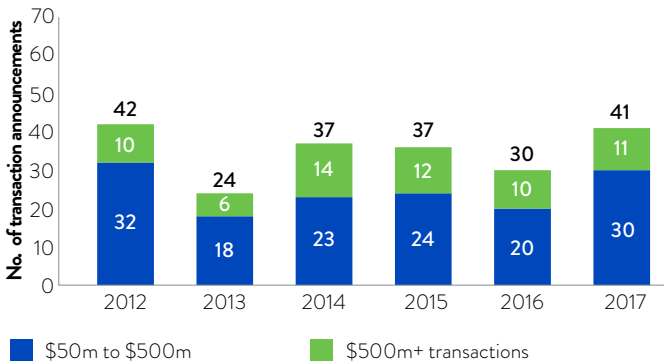
# MARKET ACTIVITY

## 5 year high in public M&A transactions

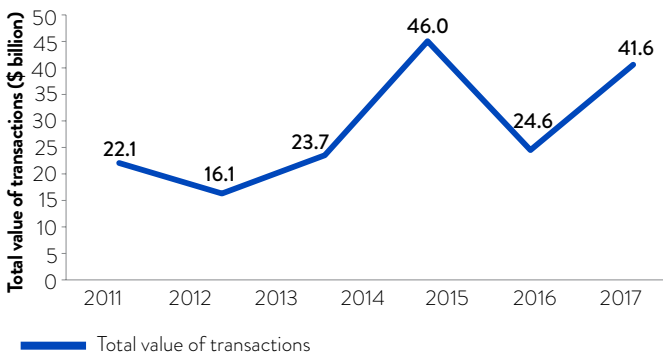
In 2017, Australian public company M&A activity recovered from the lower levels seen in 2016, with the announcement of 41 transactions with a deal value over \$50 million. This represents a 37% increase over 2016. Interestingly, activity occurring in December was very high, taking what otherwise would have been a solid but unspectacular year to a five year high. This late surge in activity increased optimism for a strong 2018.

Aggregate transaction values in 2017 were also higher than in 2016.

Transaction announcements per year by number



Total transaction value per year



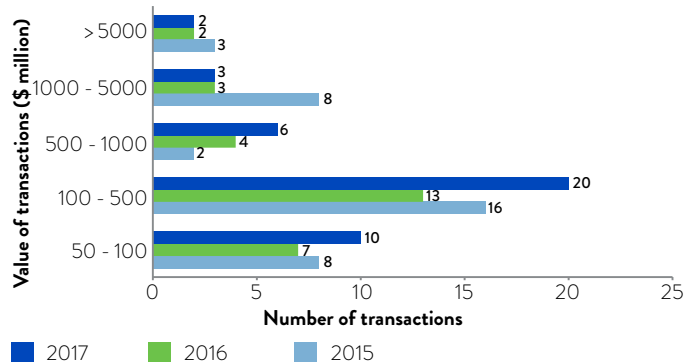
That said, the proposed \$21 billion mega acquisition of Westfield Corporation by Unibail-Rodamco greatly skews the transaction value data. The number of transactions greater than \$500 million was similar to 2016. Instead, the increase in volume was driven by the increase in the number of \$50 million to \$500 million transactions (10 additional transactions were announced in 2017 compared to 2016). Excluding the Westfield deal, 2017's transaction values are broadly in line with those of 2016, with the majority of transactions valued between \$50 million and \$1 billion.

There were only five deals announced in 2017 with a market value greater than \$1 billion, an equivalent number to 2016. Four of the five largest deals in 2017 (including two transactions each valued over \$5 billion) showed the continued attraction of Australian assets for foreign investors, being:

- + the proposed \$21 billion acquisition of Westfield by Unibail-Rodamco (albeit Westfield has a very significant international presence);
- + the \$7.4 billion acquisition of DUET Group by a CKI led consortium;
- + Oracle's proposed \$1.6 billion purchase of Aconex; and
- + Accor's proposed \$1.2 billion purchase of Mantra Group.

Downer EDI's hostile takeover bid for Spotless was the only transaction with a value above \$1 billion with an Australian buyer.

Distribution of transaction values



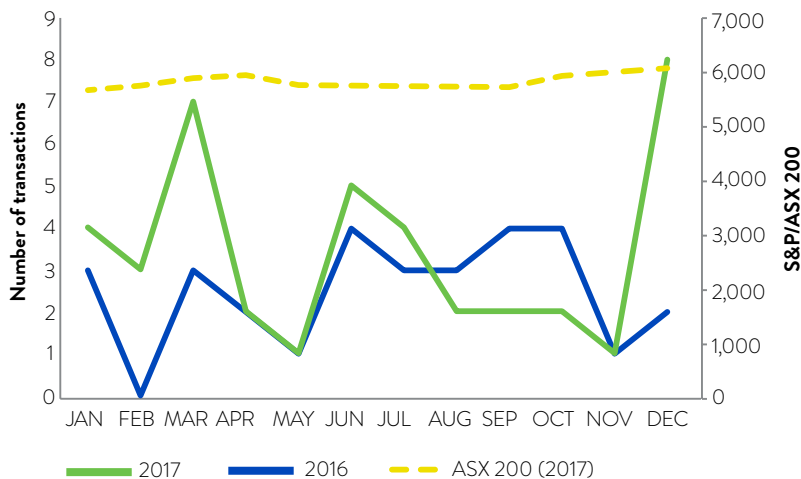
## TRANSACTION HIGHLIGHTS

### Timing of announcements

2017 started off strong with January to March having 14 announced deals (including DUET/CKI, Spotless/Downer EDI, Rubik Financial/Tenemos). As the graph below shows, May and November were particularly quiet. However, the months immediately following these quiet months, being June and December, showed a spike in activity (including Westfield/Unibail-Rodamco, Tox Free Solutions/Cleanaway, AWE/Mineral Resources).

Given the sense of optimism globally, and in particular the US, we expect another solid year in 2018.

#### Timing of announcements



# \$41 BILLION

Total value of transactions for listed companies valued over \$50 million in 2017

**\$5**  
billion+

- + Unibail-Rodamco's proposed \$21 billion acquisition of Westfield Corporation
- + CKI's \$7.4 billion acquisition of DUET Group

**\$1**  
billion+

- + Oracle's proposed \$1.6 billion acquisition of Aconex
- + Downer EDI's hostile \$1.3 billion bid for Spotless
- + Accor's proposed \$1.2 billion acquisition of Mantra Group

**\$500**  
million+

- + PERSOL's \$778 million acquisition of Programmed Maintenance Services
- + Saputo's \$698 million acquisition of Warrnambool Cheese & Butter
- + KKR's \$675 million acquisition of Pepper Group
- + Cleanaway's proposed \$666 million acquisition of Tox Free Solutions
- + AWE subject to three rival bids by Mineral Resources, China Energy Reserve and Chemical Group and Mitsui
- + Afterpay Touch Group's \$512 million acquisition of Afterpay Holdings
- + Northwest Australia's \$508 million acquisition of Generation Healthcare REIT

# SECTOR ANALYSIS

Generally, the Australian economy is showing signs of growth:

- + Energy & resources shows rising trajectory 
- + Professional services emerges as a new key contributor to transaction activity 
- + Increased activity in real estate investment trusts 

## Improved conditions for energy & resources

After several years of subdued levels of activity, favourable economic conditions have begun to fuel increased activity in the energy & resources sector. This seems to signal an end to the downward energy & resources trend of the previous six years.

We expect that improving global conditions and commodity prices, coupled with the low interest rate environment and strong corporate balance sheets will drive a continued focus on energy & resources sector acquisitions this year. In 2017, transactions in this sector represented 4% of aggregate transaction values, and 25% of transaction volume.

While not a public company takeover transaction, Yancoal Australia's acquisition of Coal & Allied from Rio Tinto and its associated joint venture with Glencore with respect to the Hunter Valley Operations shows the increased investment in the sector in 2017. To fund these, Yancoal undertook the largest capital raising in Australia in 2017, raising US\$2.5 billion. This deal represents a strong signal for increased faith and growth in energy & resources.

While 2017 was a good year relative to 2016, there is still a long way to go to return energy & resources to the previous highs of 2011.

We expect that improved global conditions, low interest rates and strong corporate balance sheets will promote growth in energy & resources transactions in 2018.

Transactions in energy & resources and other key sectors





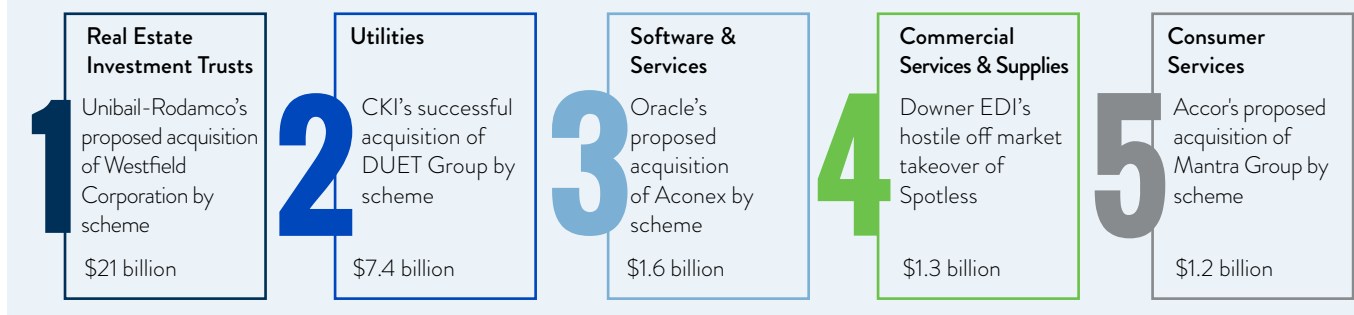
## Key sectors for M&A activity in 2017

The real estate sector was the top contributor to 2017 deal value, contributing 55% of total market deal value. This was led by the \$21 billion Westfield/Unibail-Rodamco mega merger.

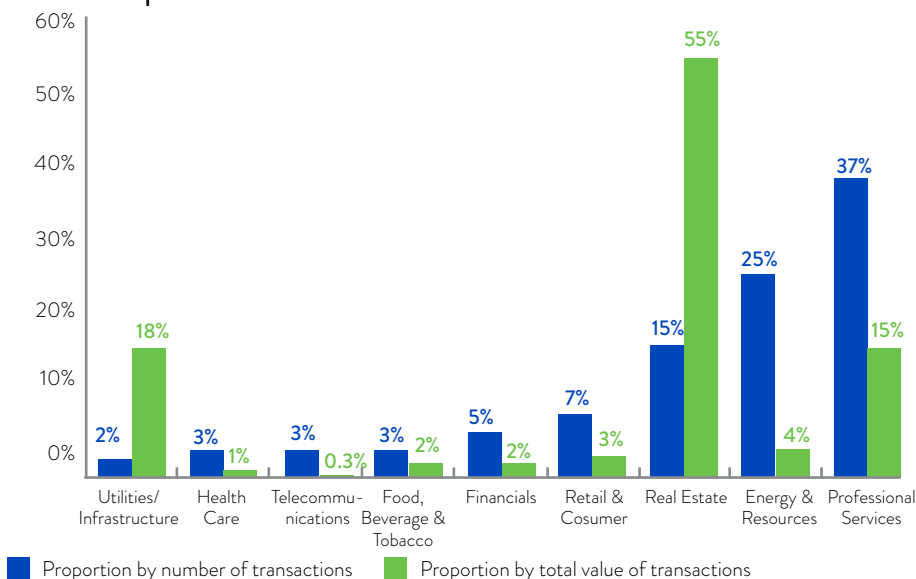
Other key sectors in 2017 were utilities/infrastructure which came in second at 18% and professional services, which was third at 15%.

Interestingly, the top five deals by value came from a mix of sectors:

### Top five deals by value 2017



### Transactions per sector (number v value)



By number of deals, the professional services sector led public M&A activity in 2017 with 37% of the total number of deals. The energy & resources sector was the second largest contributor to deal volume (25%), followed by real estate (15%) and retail & consumer services (7%).

As predicted in our last Review, the strong performance of transport & logistics (seen in the Asciano transactions) in 2016 was not necessarily reflective of sector trends and was not repeated in 2017. This year saw a fall in activity in this sector. Instead, we saw a renewed focus on traditionally strong Australian sectors, being professional services (eg transactions involving Aconex, SMS Management and Seymore Whyte) and energy & resources (eg Queensland Mining, AWE and Cobalt One).

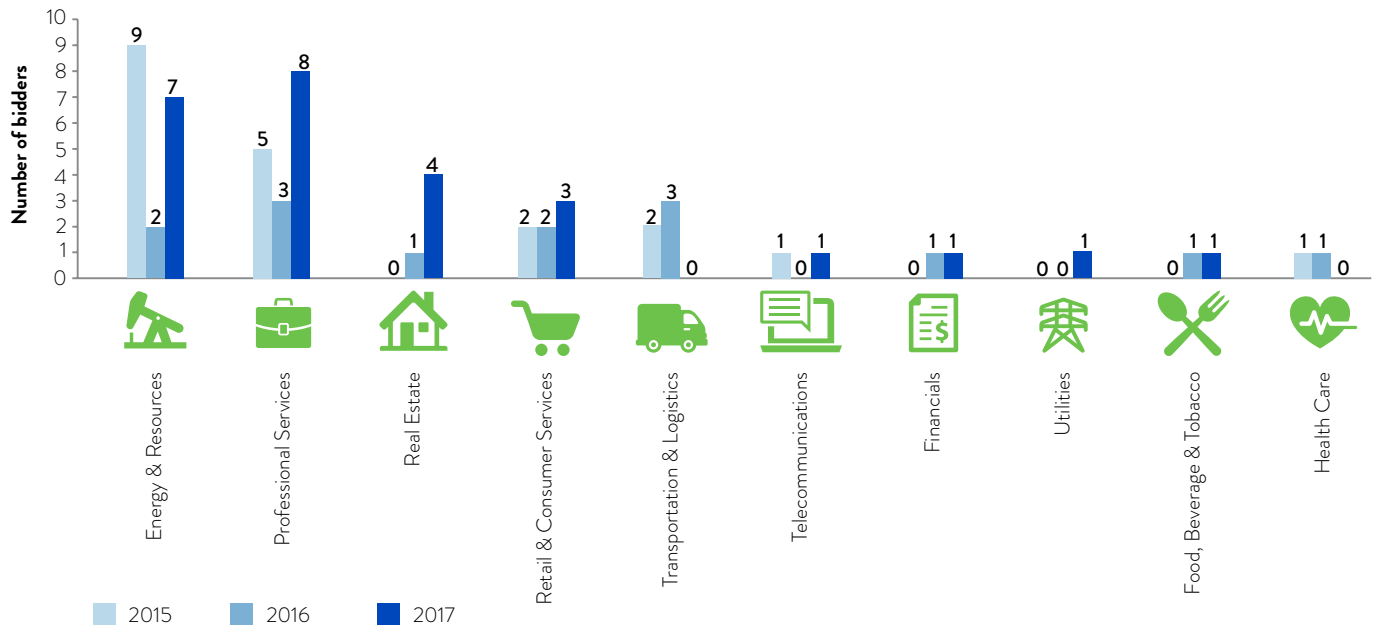
## Sectors of interest for foreign bidders

More than half of the number of transactions in 2017 involved foreign bidders: 27% from North America, 22% from Asia and 12% from Europe.

The upswing in deals in the Australian energy & resources sector was also reflected in increased foreign bidder interest: 27% of transactions involving a foreign bidder in 2017 had energy & resources targets, up from 12.5% in 2016, but still lower than 45% in 2015.

Other leading sectors for foreign bidders included professional services (31%), real estate (15%) and retail & consumer services (12%).

### Key sectors for foreign bidders



### What will we see in 2018?

Activity in the real estate, utilities/infrastructure and professional services sectors looks set to continue in 2018. It also appears that we may have finally seen the bottom of the cycle for transactions in the energy & resources sector. We expect that investment in financial services will be relatively cautious in 2018 as a result of increased public scrutiny and regulatory change.

# TRANSACTION STRUCTURES

## Schemes continue to be the preferred transaction structure

In 2017, 63% of all transactions valued over \$50 million proceeded by way of scheme of arrangement as opposed to takeover bid. This is down slightly on 2016 (where 67% of transactions were undertaken by scheme) but a continuation of the long term trend seen over recent years.

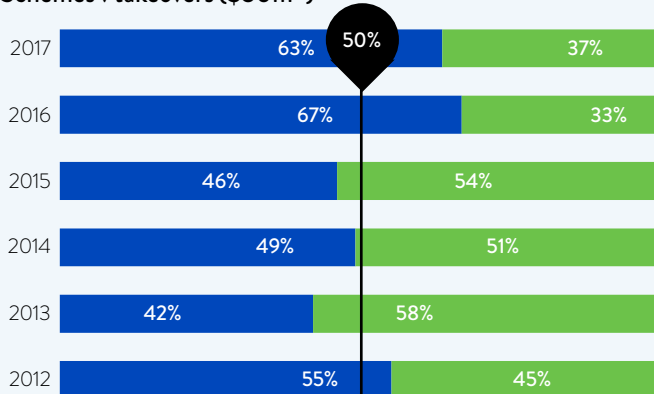
As the graph below reflects, the historical “50/50” nature of the takeover or scheme divide seems to be behind us for now, with bidders and targets preferring the deal and timetable certainty offered by a scheme.

The trend of preferring schemes of arrangement over takeover bids is more pronounced when we look at larger transactions valued over \$1 billion. Again, 2017 was largely consistent with 2016, with 80%

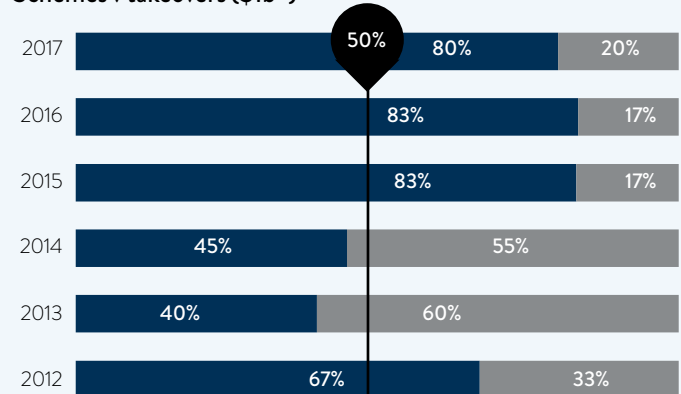
of transactions at this value undertaken by scheme. However, the long term trend shown in the diagram is clear.

Indeed, there was only one takeover bid valued at over \$1 billion in 2017, being Downer EDI’s hostile takeover bid for Spotless. Hostile transactions can only be achieved via a takeover bid and so a scheme of arrangement was not an option in this case. This transaction does, however, evidence why schemes are often preferred in large transactions. In particular, Downer reached a sub-optimal outcome, being stuck at 88% of Spotless, just short of the 90% threshold required for compulsory acquisition. If the transaction had proceeded by scheme, and 88% of shareholders had voted in favour, Downer would have obtained 100% of Spotless.

Schemes v takeovers (\$50m+)



Schemes v takeovers (\$1b+)



The trend of preferring schemes of arrangement over takeover bids is more pronounced for transactions over \$1 billion.

## Pre-bid holdings prevalent in takeover bids

**In over 85% of off-market takeover bids, the bidder had a pre-bid shareholding in the target.**

All of these pre-bid holdings were relatively large, ranging from Waratah International's 15.7% shareholding in Amex Resources through to Saputo's 88% shareholding in Warrnambool Cheese & Butter, ending Saputo's long journey to take WCB private following a protracted auction some three years prior in 2014.

The choice of takeover bid over scheme of arrangement in these cases is encouraged by the bidder being unable to vote their shares at a shareholder meeting to approve a scheme of arrangement.

## Hostile? Takeover bid is your only option

The largest takeover bid in 2017 was Downer EDI's \$1.3 billion unsolicited takeover offer for Spotless Group. That transaction triggered many headlines for a number of reasons (see pages 13 and 23).

Also of note was Pinnacle Investments' unsolicited \$65.5 million takeover bid for Hunter Hall, competing with Washington H Soul Pattison (with Hunter Hall eventually combining with Pengana Asset Management in a reverse takeover) (see page 31).

There were others, including:

- + CIMIC's unsolicited \$174 million offer for MacMachon Holdings; and
- + China Energy Reserve and Chemical Group's unsolicited \$456 million offer for AWE, sparking a control contest featuring Mineral Resources and Mitsui.

In total, just over half (53%) of all takeover bids in 2017 were commenced on an unsolicited or hostile basis.

## One on-market bid in 2017

On-market bids are rare.

In 2017, there was only one transaction valued over \$50 million (there were none in 2016), being Coliseum Capital Management's on-market takeover bid for retail brands owner PAS Group. At the time of announcing its offer, Coliseum already held approximately 49%, having previously undertaken a similar offer in 2015. By the conclusion of the offer, Coliseum had increased its stake to 65%. In this case, it could be that the on-market bid formed part of a long term strategy by the bidder to increase its stake in the company and continue to effect change, rather than necessarily pursue 100% ownership.

Clearly this 'long game' approach won't work for everyone. The prospect of making an unconditional offer without any certainty of obtaining control will only make sense in certain circumstances.





## DEAL IN FOCUS: DOWNER EDI'S HOSTILE BID FOR SPOTLESS

Downer EDI perhaps made the boldest public company takeover move in 2017, surprising the market with an overnight raid to put its foot on 19.9% of Spotless.

This was followed by the announcement of a hostile takeover bid valuing Spotless at \$1.3 billion and a \$1 billion equity raising to fund it. Despite a seemingly healthy premium, the transaction was far from straightforward and Downer ultimately closed its bid with just less than the critical 90% required to undertake compulsory acquisition and Spotless remains a listed company. Other than the headlines and press cartoons of the major personalities in the deal, there were also some key legal/deal observations to take away from this transaction:



### To value or not to value?

It is common practice for the target in a hostile transaction to include an independent expert's report with its target's statement, opining on the fairness of the bid and which attributes a value to the target. However, there is no requirement to do so and the Spotless board did not attribute a specific value to the shares. Instead, the Spotless board based their recommendation on other factors, including its earnings guidance for the following financial year and the merits of its ongoing strategy reset, a medium to long term initiative. This drew the attention of other interested parties (in particular Downer and ASIC) and market commentators generally. However, the Takeovers Panel did not disapprove of the approach adopted, and so it is important to bear in mind that, provided a recommendation has a reasonable basis and the reasons are clearly disclosed, a specific valuation is not required.



### The reality of swaps exposure

Early in the offer period, a significant holding of over 10% emerged in the hands of Coltrane Asset Management via an equity swap. Coltrane soon confirmed its intention to reject the offer. Questions were raised as to what weight could be attributed to Coltrane's intention to reject given it didn't have a physical holding of the shares. To us, the position is clear: if an investor has exposure to a stock via equity derivatives, while a technical 'relevant interest' does not arise, it is naïve to doubt whether the shares that are the subject of the swap would be at that holder's disposal when required. The parties made some additional disclosure to make it clear that the holding was via swaps and not directly, but the proof was in the result: as at the time this Review went to print, Downer's interest in Spotless remains at approximately 88%.

# FOREIGN BIDDERS

## Global warming – fact or fiction?

2017 was a year of “global warming” when it came to foreign investment.

By this we mean there was a distinct worldwide trend for countries to be more sensitive about their sovereignty, control and review of foreign investment and takeovers. For example:

- + The US, under its “Trump-ism” protectionist policies, built a “wall” against certain proposed transactions with its foreign investment regulator, the Committee on Foreign Investment in the US (CFIUS), rejecting a number of transactions including:
  - most recently, Singapore headquartered chip-maker Broadcom’s US\$100 billion plus bid for US rival Qualcomm;
  - China-backed buyout fund Canyon Bridge Capital Partners LLC’s \$1.3 billion takeover of chip maker Lattice Semiconductor Corp; and
  - China and Jack Ma’s Ant Financial’s \$1.2 billion acquisition of MoneyGram International Inc.
- + MOFCOM in China has been ever vigilant, imposing conditions on a number of transactions including the Dow Chemical Company and E.I. du Pont de Nemours’ merger as well as Agrium and Potash’s merger.
- + The European Commission proposed a new legal framework including screening of foreign direct investments by member states on grounds of security or public order.
- + Even the UK, which has long been open to foreign investment but now with the shadow of Brexit coming closer, is considering expanding the Government’s power to intervene in takeovers where issues of national security arise.

Further, potential reforms may also expand CFIUS’ remit.

Yet, with technology developments and the prevalence of international travel, the world seems smaller than it ever was and global M&A and foreign investment appear to be at all-time highs.

So, much like climatic global warming, some think the increasing scrutiny and regulation in this area is a major problem, yet others will point to the high level of activity and say it’s all much ado about nothing.

## What about Australia?

The position in Australia is consistent with that throughout the world:

- + Foreign investment remains strong. Indeed when it comes to public company transactions over \$50 million in value, foreign bidders made up 63% of all bidders in 2017 – significantly up on the 49% mark in 2016. More about the statistics later in the chapter.
- + Yet, there is a definite trend of increasing scrutiny of foreign investment by the Foreign Investment Review Board (FIRB) (which is in the Treasury department) and other government agencies.

Some key developments in 2017 are set out as follows.

## Enhanced administration and legal framework

It's now been a little over two years since substantially revised foreign investment laws came into effect. This has been accompanied by an overhaul of the administration of the laws and the approval process. The FIRB website expressly states:

*“Ensuring there is strong compliance with Australia’s foreign investment laws is a priority for the Government. Treasury will be placing additional resources into foreign investment compliance, and will develop a revised compliance framework, undertake a rolling annual compliance audit program, and establish a clearer enforcement policy.”*

This is also being borne out in the application process where it is common for the review to be extended beyond the initial 30 day period, additional questions to be asked, supplementary information to be sought and conditions to be placed on approvals (including in relation to tax and data security matters).

In July 2017, the Government introduced various enhancements to the foreign investment framework designed to reduce red tape and facilitate business investment. A key measure was the introduction of business exemption certificates to streamline the approvals process for low risk investors (such as large investment funds) undertaking a program of investment. The use of such exemption certificates is evolving. It remains to be seen how effective this will be in practice.

## Critical Infrastructure Centre

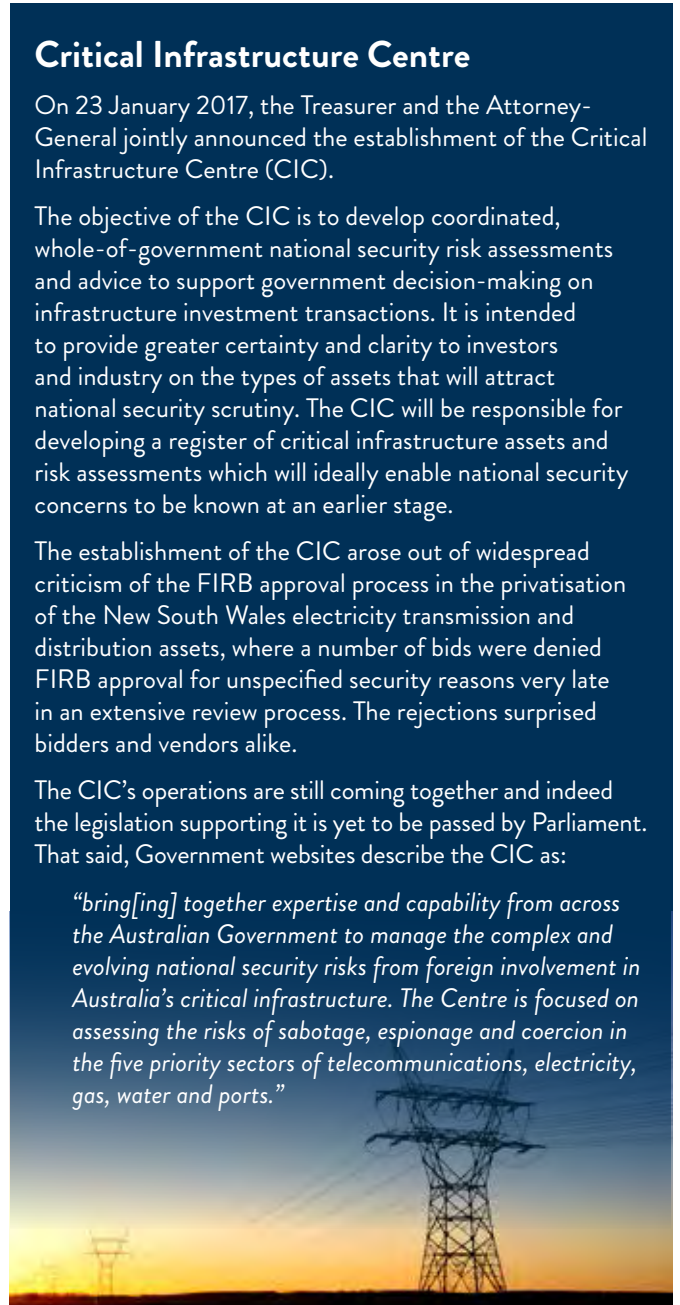
On 23 January 2017, the Treasurer and the Attorney-General jointly announced the establishment of the Critical Infrastructure Centre (CIC).

The objective of the CIC is to develop coordinated, whole-of-government national security risk assessments and advice to support government decision-making on infrastructure investment transactions. It 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.

The establishment of the CIC arose out of widespread criticism of the FIRB approval process in the privatisation of the New South Wales electricity transmission and distribution assets, where a number of bids were denied FIRB approval for unspecified security reasons very late in an extensive review process. The rejections surprised bidders and vendors alike.

The CIC's operations are still coming together and indeed the legislation supporting it is yet to be passed by Parliament. That said, Government websites describe the CIC as:

*“bring[ing] together expertise and capability from across the Australian Government to manage the complex and evolving national security risks from foreign involvement in Australia’s critical infrastructure. The Centre is focused on assessing the risks of sabotage, espionage and coercion in the five priority sectors of telecommunications, electricity, gas, water and ports.”*



## Electricity and power

Regulation of acquisitions in the energy and power sector has received intense focus from FIRB and the CIC.

Some struggle to see consistency in the approach when applied to specific transactions.

For example, FIRB rejected Chinese (State Grid of China (State Grid)) and Hong Kong (Cheung Kong Infrastructure (CKI)) backed bids for Ausgrid in 2016 on security grounds. In 2017, FIRB subsequently approved CKI's \$7.4 billion acquisition of DUET Group, which owns various electricity and gas assets (including electricity networks). Some argue that this shows FIRB's real concern was with Ausgrid being acquired by State Grid (owned by the PRC Government) but as it had to be seen to be treating foreign bidders equally, it also rejected CKI's bid for Ausgrid. Accordingly, FIRB waived through CKI's bid for DUET when CKI was the only bidder seeking approval.

Separately, in early 2017, Alinta Energy (a national electricity and gas generation company) was sold by its private equity owner TPG to Hong Kong's Chow Tai Fook (owned by the Cheng family) in a \$4.4 billion deal. The Cheng family had no previous experience owning electricity assets. Alinta then subsequently acquired Victoria's Loy Yang B power station late last year.

While these significant power acquisitions were approved, the Government still keeps a keen eye on electricity assets being acquired by foreign investors. The Government announced in early February 2018 that all future applications for the sale of electricity transmission and distribution assets and some generation assets will attract ownership restrictions or conditions imposed on foreign buyers. The announcement stated that this development codifies conditions that already applied, on a case-by-case basis, to previous transactions (eg as applied to the privatisation of Endeavour Energy in 2016) and that it gives clarity to potential investors and avoids surprises for state governments and private sellers of electricity transmission, distribution and generation assets. With respect, we disagree. Each transaction will have separate conditions which will only be advised to bidders and vendors during the sale process. If the specificity of the conditions is not known today, then there is no clarity.

## Agriculture

Regulation of foreign investment in agriculture also continues to be a focus. That said, 2017 did not see any high profile transactions attracting media attention like the sale of S. Kidman & Co in prior years.

It is clear though from recent announcements by the Treasurer that the "Government is committed to ensuring that Australians have the opportunity to purchase agricultural land", requiring vendors to advertise and market agricultural land to Australians first. Foreign acquirers will generally need to demonstrate that agricultural land they intend to acquire has been part of a public sale process and marketed widely to potential Australian bidders for a minimum of 30 days, and that Australian bidders have had an opportunity to participate in the sale process.

In any case, for agriculture this follows on from previous initiatives including reducing the screening threshold for foreign purchases of agricultural land from \$252 million to \$15 million and the establishment of the agricultural land register.





## Data protection

With developments in technology and the increasing focus on cybersecurity, data protection has also become a key issue for consideration in FIRB approval processes. This is particularly the case in transactions involving networks and personal information (eg the health industry).

Notably, in transactions like the \$1.25 billion sale of iMed (which operates and services radiology clinics), which was ultimately bought by the private equity fund Permira, FIRB sought to impose conditions relating to the security of personal information. It was also reported that foreign SOE's bidding to buy data centre operator Metronode (ultimately sold by Ontario Teachers' Pension Plan to US operator Equinix) were subject to local co-investor conditions required by FIRB.

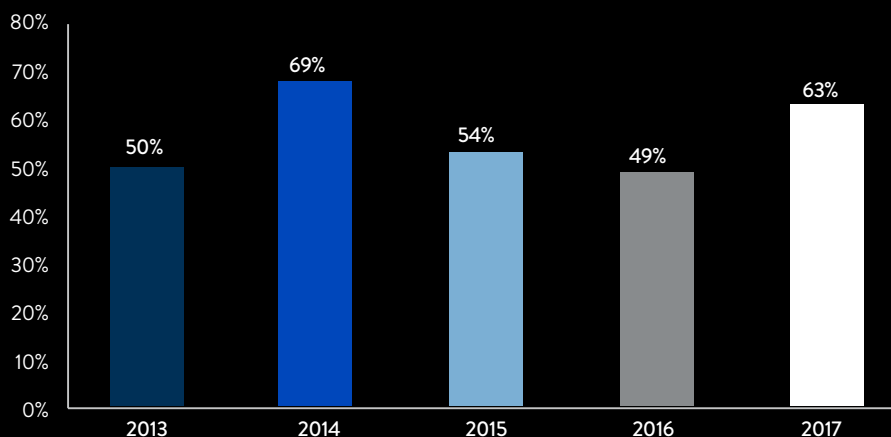
This is obviously part of a global trend and is consistent with developments in other jurisdictions.

## Public company transactions in 2017

In the context of the increasing foreign investment regulatory focus, it may be surprising to some that 63% of all bidders in Australian public company transactions over \$50 million were foreign.

This, of course, adds weight to the Federal Government's position that it welcomes foreign investment as the large majority of transactions are approved. Only isolated deals are prohibited.

Foreign bidders by number of deals



**2017 represented the second highest year for foreign bidders in the last five years, the highest being 69% in 2014.**

Interestingly, 2017 could be said to reverse a downward trend over the previous two years. That said, maybe 2017 is just consistent with the long term average, falling at the median point between the lows and highs of recent years.

However, when one considers the level of foreign investment having regard to deal sizes, it is clear that foreign deals are often larger. That is, the average transaction size involving a foreign bidder in 2017 was \$1.4 billion, compared to \$321 million for domestic bidders. Even if the Westfield/Unibail-Rodamco transaction is excluded from this analysis, the average deal size for foreign bidders remains much higher at \$624 million, which is almost twice the average deal size for domestic bidders.

## Where did the bidders come from?

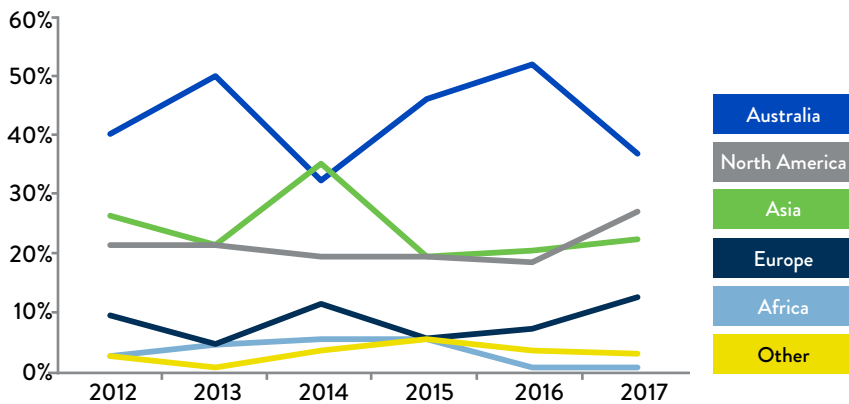
The world map below shows that Asia and North America continue to be the homes of the largest number of foreign bidders.

The statistics are somewhat similar to 2016 when 20% of foreign bidders came from Asia. That said, the percentage for North America has increased by almost 50% from 18% in 2016 to 27% in 2017, and Europe almost doubled from 7% in 2016 to 12% in 2017.

When it comes to deal size, Europe's contribution has significantly increased due to France's Unibail-Rodamco's proposed \$21 billion acquisition of Westfield. Indeed, French companies seem to have had a significant interest in Australia last year as the fifth largest bid was by a French company, Accor, with its proposed \$1.2 billion acquisition of Mantra Group.



Proportion of transactions by region over time



This makes for interesting reading: as per usual the US leads, but the big movers here are Canada with six deals and Hong Kong/China with six deals. This fits with anecdotal evidence of China's increasing interest in foreign investment generally and in Australia in particular. The new entrant amongst the top five is France with Unibail, Accor and VINCI Construction all making bids.

The largest number of foreign bidders from individual countries

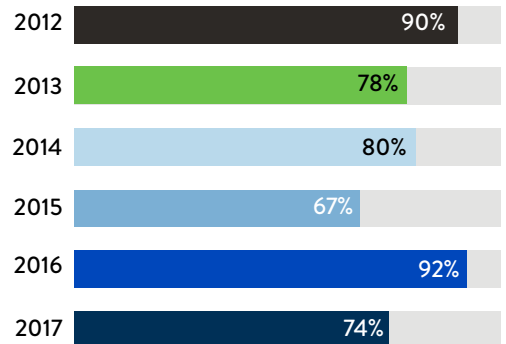


## Foreign bidder success rates high

Foreign bidders' success rates in public company deals fell to 74% in 2017, down from 92% in 2016. However this is still relatively high, trumping the 2017 overall success rate of 64% and the 2017 Australian bidder success rate of 50%.

Of course, the higher success rates for foreign bidders may also reflect a more cautious approach with foreign bidders wanting to be confident of success before they announce a transaction in Australia.

Foreign bidder success rates



## What does 2018 hold?

We expect that foreign bidder interest will continue to be a key driver of deals in 2018.

That said, we anticipate that the FIRB approval process will remain elongated with the involvement of the CIC and increased scrutiny on acquisitions involving infrastructure, networks and data.

Media scrutiny of infrastructure and agricultural acquisitions will continue to be high.

Acquirers in large scale transactions or transactions involving sensitive sectors can expect some conditions to be imposed including on tax compliance, information sharing and, in some cases involving sensitive infrastructure assets, minimum levels of Australian ownership.

# CONSIDERATION STRUCTURES

## CASH STILL PREFERRED

2017 saw a continuing preference for cash consideration, with 71% of transactions constituting all-cash consideration.



71% of transactions offered all-cash consideration, largely consistent with 73% in 2016



Of transactions offering mixed consideration, all but one were done by scheme



93% of all takeover bids offered solely cash

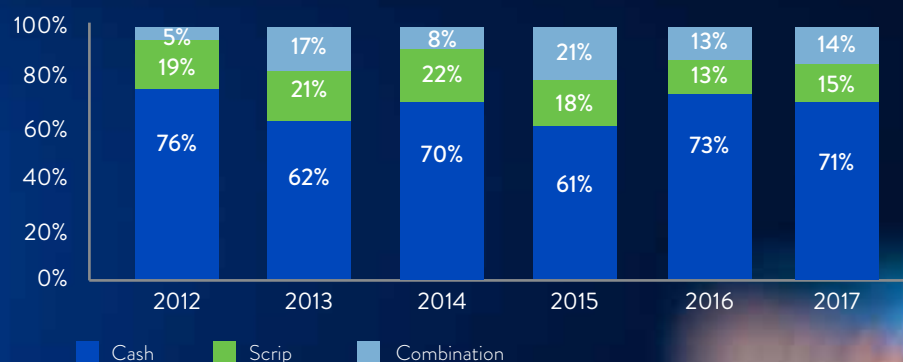
## Cash/scrip mix

15% of transactions in 2017 offered a combination of cash and scrip consideration. This is lower than the 2015 high of 21%. Some examples include:

Capitol Health Holdings' lapsed off-market takeover for Integral Diagnostics	Consideration of 6.9 shares in Capitol Health and \$0.36 cash per Integral Diagnostics share
Unibail-Rodamco's proposed acquisition of Westfield Corporation by scheme	Consideration of 0.01844 Unibail-Rodamco stapled securities and US\$2.67 cash per Westfield share
Mineral Resources' unsuccessful acquisition of AWE by scheme	Consideration of between 0.0198 and 0.0277 Mineral Resources shares and \$0.415 cash per AWE share
DWS's unsuccessful acquisition of SMS Management & Technology by scheme	Consideration of 0.39 DWS shares and \$1.00 cash per SMS share
Macquarie MPVD's unsuccessful acquisition of Central Petroleum by scheme	Unique consideration structure; scrip was not offered but instead part of the consideration was a contingent value note designed to retain some exposure for shareholders to the upside risk of near term exploration targets of the target company
Centuria Metropolitan REIT's successful acquisition of Centuria Urban REIT by scheme	Consideration of 0.88 Centuria Metropolitan units and \$0.23 cash for each Centuria Urban unit

It is worth noting that the majority of these deals were ultimately unsuccessful. Perhaps this shows that in 2017 at least, even if there is some receptiveness of target boards to alternative consideration structures, ultimately the success prospects for a bidder who cannot offer all cash were reduced in 2017.

Types of consideration by number of transactions

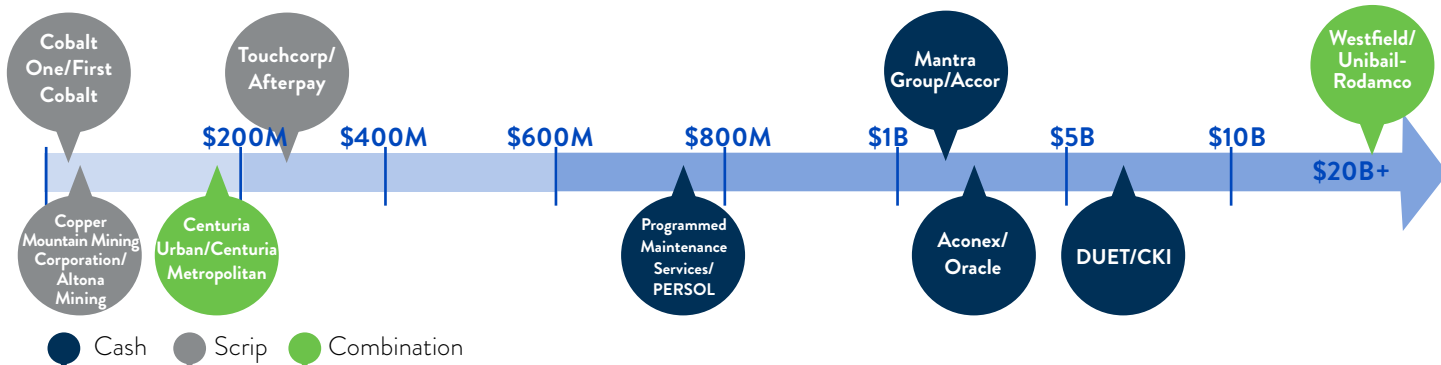


## For now it appears that cash is still preferred when it comes to public company M&A in Australia.

In line with this trend, two deals in 2017 provided shareholders an ‘election’ with respect to consideration granted:

<p><b>KKR’s acquisition of Pepper Group by scheme</b></p>	<p>Either cash of \$3.70 (structured as \$3.60 per share and a fully franked special dividend of \$0.10 per share) or one ‘stub equity’ share in the new HoldCo for each Pepper share held.</p> <p>Additionally, certain shareholders had the option to retain all shares where they could demonstrate that the receipt of HoldCo shares would result in tax liabilities without the benefit of roll-over relief. Those retained shares would then be acquired post-completion in a more tax-effective manner.</p>
<p><b>Canada’s Copper Mountain Mining’s proposed acquisition of Altona Mining by scheme</b></p>	<p>Alternative scrip elective, being either 0.0974 of a CHES Depository Interest (CDI) in Copper Mountain or one common share in Copper Mountain.</p>

### Consideration structures



### Size matters

As shown above, all-scrip transactions appeared to be preferred for small to medium sized transactions, where bidders may not have large cash reserves.

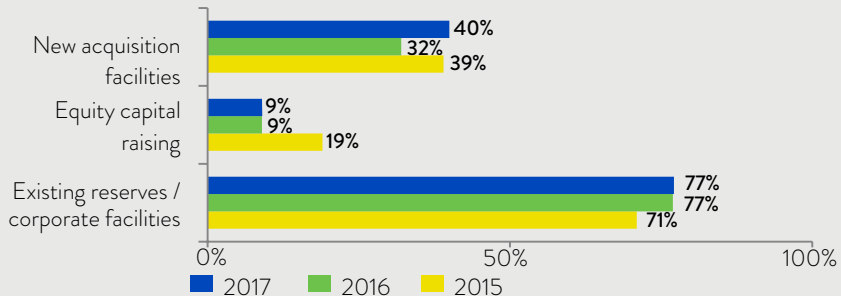
In line with 2016, there was a preference for the certainty of cash among the larger transactions, with four of the top five successful transactions announced in 2017 involving an all-cash consideration structure. Off the back of the successful takeover of Tatts by Tabcorp using mixed consideration in 2016, Unibail-Rodamco’s proposed scheme of arrangement with Westfield Corporation (the highest value transaction announced in 2017) was the outlier, also providing a combination of cash and scrip.

### Sources of funding

The chart below reflects a continuation of the trend in favour of funding by a combination of cash sources.

It also shows an increase in transactions being funded by debt, rising from 32% in 2016, to 40% in 2017, perhaps indicating an improvement in the lending environment.

#### Sources of funds



Unsurprisingly, a number of larger transactions were funded through a combination of funding sources given the size of the cash outlay involved. For example:

#### DUET/CKI

\$7.4 billion funded from existing cash reserves and debt funding

#### Spotless/Downer EDI

\$1.3 billion funded from \$1.01 billion equity raising and debt funding

#### Tox Free Solutions/Cleanaway

\$666 million funded from \$590 million equity raising and debt funding

## EQUITY MARKETS MORE RECEPTIVE TO M&A DEALS THAN IPOs

It's no secret that 2017 was a tough year for ECM enthusiasts. Large IPOs were few and far between. Many had a run at the ASX boards – including Officeworks, Accolade Wines, Zip Industries and Craveable Brands, to name a few – but very few heard ASX ring the new listing bell, with Bingo Industries, Convenience Retail REIT, Netwealth and New Energy Solar among the handful of good news stories.

Fortunately, there was more positivity when it came to fundraisings in an M&A context, as a number of listed companies turned to shareholders to fund strategic acquisitions. This is consistent with the trend we saw in 2016 and the message being told by fund managers is that there is support for new raisings where the company has a compelling story about how the funds will be used to grow the business and create value for investors.

Notable capital raisings to fund M&A transactions in 2017 included:

- + Yancoal's US\$2.5 billion non-renounceable entitlement offer and strategic placement to fund its acquisition of Coal & Allied from Rio Tinto
- + Downer EDI's \$1.01 billion accelerated renounceable entitlement offer to fund its hostile takeover bid for Spotless (see right for further details)
- + Link's \$883 million accelerated renounceable entitlement offer to fund the acquisition of Capita Asset Services
- + Cleanaway Waste Management's \$590 million accelerated non-renounceable entitlement offer to fund the acquisition of Tox Free Solutions by scheme of arrangement
- + IOOF's \$539 million placement and share purchase plan to fund the acquisition of ANZ's OnePath Pensions and Investments business and Aligned Dealer Groups business
- + Macquarie Atlas Roads' \$450 million accelerated non-renounceable entitlement offer to fund the increase of its stake in the APRR motorway network
- + TPG Telecom's \$400 million accelerated non-renounceable entitlement offer to fund the acquisition of 2x100MHz of mobile spectrum

### Downer's capital raising to fund Spotless takeover

We saw the worlds of public M&A and ECM intersect on Downer EDI's hostile takeover bid for Spotless. Prior to this, there were very few cases of a bidder funding a hostile takeover bid by way of an equity raising, and it may be some time until a bidder is bold enough to try this again in light of the challenges faced by Downer.

The response from shareholders was emphatic. Despite Downer pricing its rights issue at a 19.8% discount, take-up levels for both the institutional and retail components were challenging. When Downer's shares resumed trading, they opened 25% down at \$5.55.

In brighter news for Downer, it did not take long for its share price to recover, surging well above \$6 in recent months. This suggests the market's initial reaction to the Spotless takeover may well have been an over-reaction.

Nevertheless, there is an important lesson to be learnt here about the risks associated with launching an equity raising concurrently with an M&A transaction that takes the market by surprise. While "back-end" capital raisings (such as that undertaken by Qube in the Asciano transaction in 2016) are generally not preferred (primarily because of the impact on the issuer's share price and pricing of the raising), perhaps if Downer had its time again it would have given this further consideration so as to provide an opportunity to "sell" the deal to the market prior to launching the raising.

# SUCCESS FACTORS

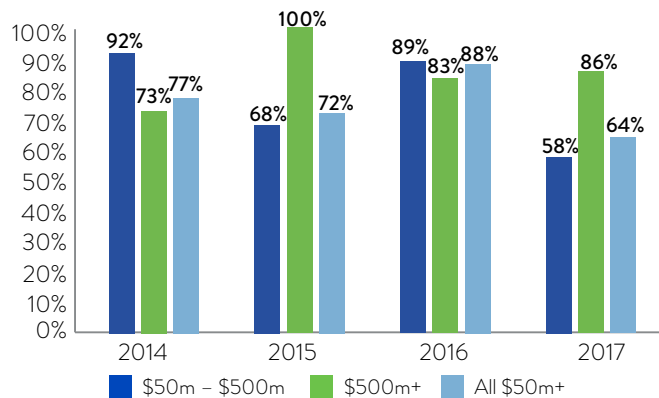
## Material decline in success rates

64% of all transactions over \$50 million where the bidder announced an offer or an intention to proceed with a firm offer were successful in 2017. This represents a material decrease from 88% in 2016. It is also the lowest success rate in the seven years we have been recording this data.

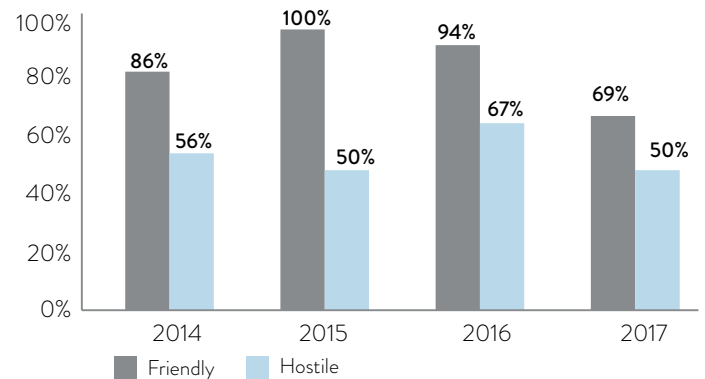
However, at the same time, success rates for high value deals (i.e. over \$500 million) remained high at 86% in 2017. The year saw a marked increase in the gap between success rates for high value deals and those less than \$500 million in value. It could be that this reflects more competition for transactions valued below \$500 million, given more bidders can afford to compete for these deals.

There was also a significant fall in the success rates for friendly transactions in 2017, reaching a low of 69% (down from 94% in 2016).

Success rates



Success rates for friendly and hostile transactions



## Why the drop?

It is hard to draw a firm conclusion as to the reason for the stark drop in success rates, but it is worth noting that agreed transactions which failed involved the following themes:

- + **A competing superior offer:** Asia Pacific Data Centre/Next DC; AWE/Mineral Resources; SMS Management/ DWS
- + **Regulatory issues:** Tower/Vero Insurance; Cradle Resources/Tremont
- + **Target shareholder vote:** Central Petroleum/ Macquarie; Crusader Resources/ Stratex

Nevertheless, and unsurprisingly, friendly transactions still continued to enjoy higher success rates than hostile transactions. It is difficult to divine if 2018 will be similar to 2017 or if success rates will increase to previous levels. That said, two factors may continue to subdue success rates:

- + **Increased activity** may mean more competition for targets – if there is more competition then, by definition, more will fail (for example, with the AWE bidding war, two bidders missed out).
- + **Regulatory intervention and scrutiny** is definitely increasing with the ACCC, FIRB, ASIC, ATO and a range of overseas antitrust and foreign investment regulators having an increased propensity to intervene.

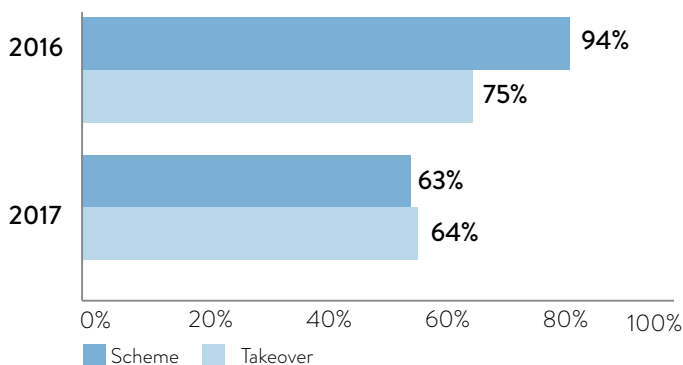


## Schemes and takeovers equally successful

In 2017, 63% of schemes and 64% of takeovers were consummated successfully. In a year with lower success rates generally, it is interesting that the trend we have observed in previous years of schemes being on average more successful than takeover bids (as the graph below reflects) did not apply.

Again it is hard to read too much into this in isolation and it is more useful to consider the specific reasons for transactions failing (takeover or scheme) as discussed above.

Success rates for takeovers v schemes



## Cash transactions remain more successful

The preference for all-cash transactions decreased marginally in 2017. However, they continued to be more successful.

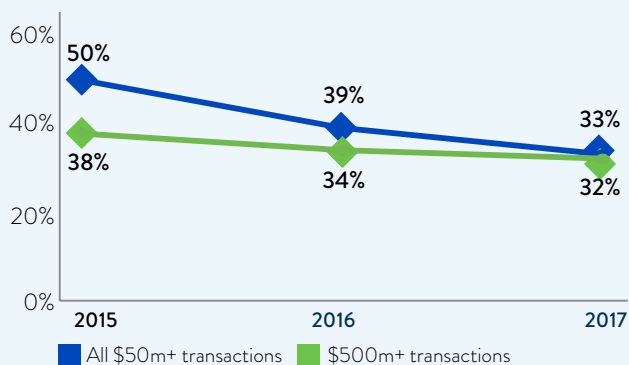
**Cash-only transactions had a 68% success rate in 2017, down from 95% in 2016. Scrip & cash/scrip combinations were only successful in 50% of cases.**

## Premiums fell

One potentially relevant factor to the lower success rates in 2017 could be the simple fact that prices dropped:

**2017 saw a continuation of falling premiums which we observed in 2016.**

Average premiums paid



This conclusion also bears out when we consider the highest premiums paid over the last few years: only one transaction in 2017 offered a premium of greater than 70%, being Tech World's proposed scheme of arrangement for Enice Holding Company. This is the only deal from 2017 among the list of the top ten transactions by premium offered over the past three years (see page 26).



## Top 10 transactions by premium offered in 2017, 2016 and 2015

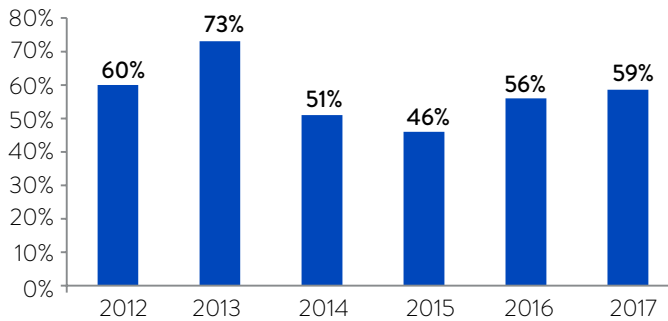
- 1 **213%**  
TIO's \$73 million takeover bid for Flinders Mines
- 2 **130%**  
Tetra Tech's \$109 million takeover bid for Coffey International
- 3 **129%**  
Coal of Africa's \$126 million unsuccessful takeover bid for Universal Coal
- 4 **100%**  
Auctus' \$56 million takeover bid for Atherton Resources
- 5 **91%**  
Tech World's proposed \$114 million acquisition of Enice Holding Company by scheme of arrangement
- 6 **83%**  
Recruit Holding's \$290 million acquisition of Chandler Macleod
- 7 **82%**  
PT Cakra Mineral's unsuccessful takeover bid for Cokal
- 8 **80%**  
Bellawest's \$250 million acquisition of Payce Consolidated
- 9 **76%**  
Landbridge Group's \$60 million unsuccessful takeover of Armour Energy
- 10 **72%**  
Zijin Mining Group's \$232 million acquisition of Norton Gold Fields

■ 2017 ■ 2016 ■ 2015

This decline in premiums did not coincide with a decline in success rates in 2016. However, the decline in premiums did coincide with a decline in success rates in 2017 (save for deals greater than \$500 million).

## Pre-bid stakes back in favour

Bidders having pre-bid stakes



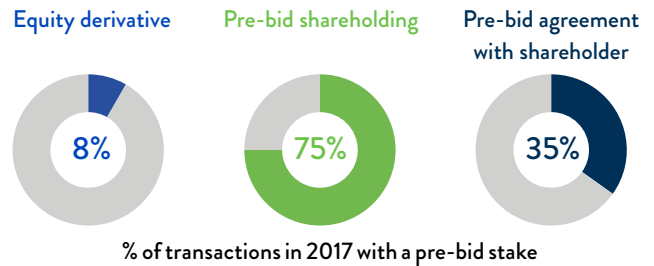
In 2017, there was a continued increase in bidders holding or securing a pre-bid stake or reaching a pre-bid arrangement with a target shareholder before announcing the transaction.

## Types of pre-bid arrangements

Consistent with 2016, ownership of shares remained the most common form of pre-bid stake. However, 2017 also saw a significant increase in the use of pre-bid agreements with shareholders (up from 7% in 2016 to 35%).

There was a decline in the use of equity derivatives by bidders, falling to 8% of transactions with a pre-bid stake in 2017, from 13% in 2016. It is difficult to surmise too much from this statistic other than to reinforce the point that the use of these sophisticated arrangements will be driven by a number of deal specific factors, including the type of bidder (it is often more experienced bidders like private equity firms who opt for these instruments), the size of the deal and the makeup of the target's security holder register.

Types of pre-bid arrangements



Note that in some transactions, the bidder had more than one type of pre-bid stake.



# TRANSACTION TIMING

## Steamrolling takeovers

In a significant reversal of the position in 2016, the average time taken to complete a takeover in 2017 reduced significantly. This resulted in a marked difference between takeovers and schemes as a means of effecting a control transaction.

In 2016, the average time difference between a takeover and scheme narrowed to just 14 days. That is, on average, a takeover took 100 days from announcement of the offer to the close of the offer, while a scheme took 114 days from the announcement of the scheme to the scheme implementation date.

However, in 2017, while the average time taken to complete a scheme remained basically the same as in 2016, the average time taken to complete a takeover reduced substantially.

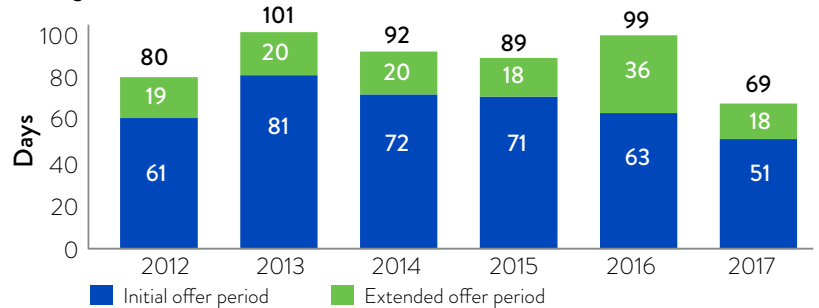
As shown below:

- + the average time to complete a scheme of arrangement increased by one day, from 114 days to 115 days; and
- + the average time to complete a takeover reduced significantly by over 30% to just 69 days.

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



### Timing in takeovers



As indicated, the average period for a takeover from announcement to close of the offer fell to just 69 days in 2017. This is the shortest period we have recorded over the seven years we have been collecting this data. Interestingly, this reduction of the average period by 31 days was split between:

- + a 19% (or 12 day) reduction in the initial offer period; and
- + a 50% (or 18 day) reduction in the average period by which the offer period was extended.

Further, the average takeover time includes the hostile Spotless takeover bid, which went for 160 days, and the hostile bid for Finders Resources, which at the time of writing was scheduled to close on 30 March 2018. If it does close on this date, the period for this bid would have been 175 days. If these two deals were excluded, the average time for a takeover bid in 2017 would have been just 51 days (over a range of between 35 and 81 days).

The significant increase in the speed of takeovers in 2017 was led by the following quick-fire takeovers:

Saputo's acquisition of the remaining minorities in Warrnambool Cheese & Butter, having started with a holding of 88%:

35  
DAYS

Moly Mines' acquisition of Queensland Mining, having started with the strong position of a board recommendation and the support of the target company's two largest shareholders:

35  
DAYS

Waratah International's acquisition of Amex Resources, having started with a target board recommendation and 15.7% pre-bid holding:

44  
DAYS

It is difficult to directly attribute this significant change to any other variation in market trends. Rather, we consider that it probably is more reflective of a greater consciousness of when a takeover is to be preferred over a scheme (which is of course a combination of a number of factors).

For instance:

- + if the transaction has factors which lend themselves to a quicker resolution – i.e. the consideration is cash, a reasonable premium is offered, and the bidder is starting with a stake sufficient to block a counter-bidder; or
- + if there is an absence of regulatory approvals or other conditions that may cause a delay in implementation,

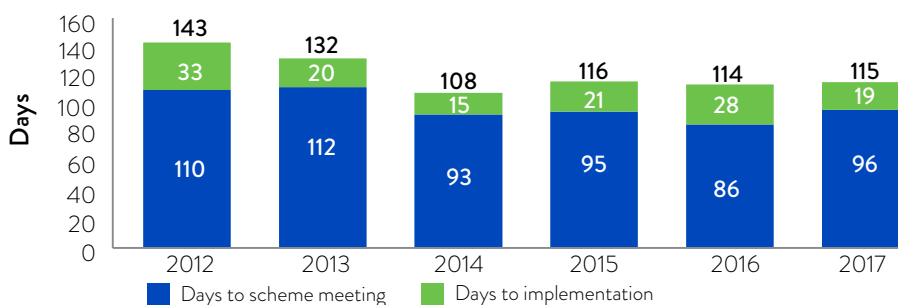
then these are the circumstances in which a takeover becomes more attractive than a scheme.

A bidder could also prepare its offer and bidder’s statement prior to announcement so that the formal takeover offer can follow its announcement in quick order, thereby further shortening the period between announcement and closing of the bid.

## Schemes of arrangement

As shown below, the time period between announcement of a scheme and the scheme implementation date has been relatively stable over the last few years.

Timing in schemes



In addition to a general preference for schemes in recent years, to us this suggests that transactions with any significant or contentious regulatory approvals (which are expected to have an impact on transaction timing) are likely to be further pushed towards being structured as a scheme – with a takeover, there is always the problem of generating momentum once the regulatory conditions are met, whereas with a scheme it is brought to a head naturally through the shareholder meeting and court approval process.

The data in 2017 also suggests greater efficiency in the back end of schemes, with the time between receiving shareholder approval and the date the scheme is implemented reducing from on average 28 days in 2016 to just 19 days in 2017 (during which time final court approval is obtained and completion logistics are undertaken).

However, overall scheme timetables did not seem to benefit from this streamlining. It was almost entirely offset by the time between announcement of the offer and the shareholder meeting increasing from 86 days on average in 2016 to 96 days on average in 2017. No doubt longer regulatory approvals were a factor in this. Some examples:



### First Cobalt’s acquisition of Cobalt One:

126 days from announcement to scheme meeting: the bidder was in parallel seeking TSX-V listing of its own shares (which were being offered as consideration)

### KKR’s acquisition of Pepper Group:

97 days from announcement to scheme meeting: regulatory approvals included FIRB and antitrust approvals in multiple jurisdictions

### CKI’s acquisition of DUET:

95 days from announcement to scheme meeting: FIRB approval was granted 3 months after announcement

# IMPLEMENTATION AGREEMENTS AND BID CONDITIONS

## Implementation agreements

The preference of bidders and targets to formalise agreed transactions with an implementation agreement continued in 2017.

In 2017, 15% of all transactions which were announced on an agreed basis did not feature an implementation agreement (these deals included the takeovers of Warrnambool Cheese & Butter and Asia Pacific Data Centre Group).

While this may initially appear odd given all schemes and agreed takeovers in 2016 and 2015 (bar one) involved an implementation agreement, there are explanations available. For example:

- + Saputo's starting position in Warrnambool Cheese & Butter was over 88%, meaning that an implementation agreement in those circumstances would seem unnecessary.
- + Asia Pacific Data Centre involved a competitive auction for control: in these cases, target companies will derive little benefit from signing an implementation agreement as they can have confidence an offer will be made regardless of whether any protections are given to the bidder and they would not want to grant exclusivity.

We think the upshot of this is that the trend remains, in reality, the same. That is, we would expect an implementation agreement to be signed in the context of an agreed transaction, unless there are specific circumstances which make it unnecessary or unviable for one party.

## Deal protection measures

2017 confirmed that deal protection measures have become of a market standard with a common suite of exclusivity provisions including:

- + restrictions on the target soliciting competing transactions (ie 'no shop') or talking to potential competing bidders unless approached with a potentially superior proposal (ie 'no talk');
- + restrictions on the manner in which a target board can change its recommendation;
- + matching rights in favour of the bidder if a competing proposal does emerge; and
- + break fees which by and large complied with the Takeovers Panel's 1% guideline.

## Reverse break fees

Last year, we observed a trend towards reverse break fees increasingly being payable in agreed deals. This appears to have remained the case in 2017.

**Over half (52%) of all agreed transactions featured a reverse break fee in 2017, consistent with 2016 (58%).**

Reverse break fees provide downside protection to the target where a transaction fails. Some observations on transactions with reverse break fees in 2017:

- + The majority of these transactions featured a significant regulatory approval, such as FIRB, ACCC or foreign antitrust approval: in these cases, target companies will often seek protection from the bidder for the risk that the bidder fails to secure these approvals.
- + In almost all cases, the reverse break fee was equal to the target break fee. The only exceptions were:
  - CITIC's acquisition of Trilogy International: the reverse break fee (triggered if a regulatory approval was not met) was half that of the target break fee; and
  - CKI's acquisition of DUET: in this case being such a large transaction, the merits of a 1% break fee for the bidder are not the same as for a target where it is agreed in the context of a value creating transaction for shareholders.
- + Flexible approaches to the reverse break fee were seen: for example, in Cleanaway's proposed acquisition of Tox Free Solutions, the quantum of the reverse break fee varied based on the trigger. A reverse break fee equal to the target break fee was payable in the event of breach by Cleanaway, but if the reverse break fee was triggered because of a regulatory approval or failure of a financing condition, a lower break fee was payable.



## HUNTER HALL: INTENTION STATEMENTS FACILITATING DUELLING BIDS... AT A DISCOUNT!

### SNAPSHOT

Hunter Hall co-founder Peter Hall surprised the market by selling 20% of the shares in listed fund manager Hunter Hall (HHL) outright to Washington H. Soul Pattinson (WHSP) at only 33% of the then trading price.

He also made a truth in takeovers statement that he would sell his remaining stake (24%) to WHSP if it made a follow on takeover bid. A fast-auction ensued between WHSP and Pinnacle with multiple duelling hostile bids – all at well below the pre-offer trading price.

A third, separate transaction was ultimately recommended by the Hunter Hall board and implemented, being a reverse merger with the unlisted fund manager Pengana. But, the competing takeover offers illustrated interesting practices in the use of intention statements in an auction.

### INTENTION STATEMENTS AT 20 PACES

Pinnacle used binding intention statements to improve its offer a number of times without formally varying its bid. Each statement of intention to increase was effectively conditional on Peter Hall accepting the revised Pinnacle offer.

This:

- + allowed Pinnacle to respond rapidly by simply announcing a binding intention to increase a bid (instead of making a formal variation of offer price, requiring a supplementary bidder's statement);
- + allowed Pinnacle to build conditionality back into an 'unconditional' offer by expressing the new price as an intention to vary the offer if certain items were satisfied; and
- + put pressure on WHSP to respond in a similar timeframe, which ultimately resulted in WHSP making a last-minute intention statement late in its offer period. This then resulted (via Takeovers Panel action initiated by Pinnacle) in WHSP extending its offer to allow Hunter Hall shareholders sufficient time to consider the offer. This may seem an odd tactic for Pinnacle as a rival bidder, but it had the effect of delaying Peter Hall's possible acceptance of the WHSP bid and therefore allowed Pinnacle further time to negotiate with the Hunter Hall board.

### TAKEAWAYS

In a competitive public auction where a bidder needs to respond quickly to a rival offer, conditional intention statements are a useful weapon. They can be deployed rapidly and can also be used to introduce a conditional price increase i.e. that the bidder intends to increase the price but only on, say, achieving a certain level of acceptances, or subject to due diligence items being confirmed. Intention statements are a very useful tool if a bidder is only comfortable to proceed if certain thresholds are met or where the bidder is targeting a specific shareholder's shares. But as the Takeovers Panel proceedings demonstrated, there is a limit to this flexibility if the principles set out in section 602 are potentially offended (for instance, if the statement is made too late in the offer period, at the risk of rushing or coercing shareholders to accept).

# THE REGULATORS

## ASIC

2017 was a very busy year for ASIC and we expect this will continue in 2018 under the new leadership of James Shipton.

The matters principally keeping ASIC busy may not be closely related to public company takeovers (eg rate rigging litigation, continuous disclosure surveillance, banking Royal Commission). However, it could be said they inform a general increase in scrutiny by the regulator, which is then reflected in its approach to takeover and scheme transactions.

Set out in the following pages are some observations on the high level points impacting takeovers, schemes and listed companies more generally.

**"Finance exists to serve everyday Australians. It is a means to an end, not an end in itself."**

James Shipton, Chairman, ASIC, 19 March 2018







### Schemes of arrangement: ASIC interrogation increases

In 2017 and into 2018, ASIC's involvement in schemes has grown. ASIC is increasingly taking advantage of its statutory review right to impose new or enhanced requirements on scheme companies. These include:

- + seeking to 'tag' the votes of all target directors or anyone who may receive an employment-related benefit which is triggered by the scheme proceeding so that, following the vote, it can be determined whether the votes of those shareholders may have been decisive in determining the outcome of the meeting;
- + taking the view that scheme shareholder meetings should be timed so that final court approval can be given very shortly thereafter so that, in effect, the scheme meeting should occur after, or very shortly before, regulatory approvals or conditions that need to be satisfied; and
- + seeking clarification of target directors' basis for recommending target shareholders vote in favour of a transaction beyond matters that go to value.

A robust and pro-active approach by ASIC is to be encouraged. However, in our view, care needs to be taken to ensure that practices under the threat of not providing ASIC's routine 'no objection' letter do not take transactions to positions beyond the requirements of settled statute and case law.



### Independent expert reports: need to ensure "independent" and "expert"

ASIC's close scrutiny of independent expert reports comes as no surprise to any Australian takeovers practitioner. 2017 continued the following themes:

- + **Stay independent:** In *Lepidico Limited*, an expert's report commissioned by a bidder to second guess the expert's report that was annexed to the target's statement was withdrawn following concerns from ASIC both about the content/quality of the report and that the expert was not sufficiently independent. Separately, in *Strategic Minerals*, the Takeovers Panel expressed concerns about the appointment of the independent and technical experts used by the target Strategic Minerals where a director of the company who may not have been independent of the bidder was involved in the appointment of the experts.
- + **Know your technical expert:** ASIC has stated that independent experts need to be able to demonstrate that they have critically assessed the basis and assumptions of any technical expert analysis (eg a geological expert) on whose analysis their valuation work is based.
- + **Licensees beware:** In one case in 2017, following an ASIC review, an expert's authorisation to prepare independent expert reports was removed from its financial services licence.

It seems that, consistent with recent times, ASIC will continue to take a close and focused review of any independent expert reports in the context of a control transaction. This is to be applauded as standards do vary.



### Corporate culture: a buzzword? Maybe, but regulatory focus on these matters increasing

It seems that ASIC intends to continue its focus on corporate culture. For example, ASIC's commentary on matters such as the alleged rate rigging scandal centre heavily around ideas of culture. Separately, new chairman James Shipton has also stated that ASIC intends to continue its focus on culture in large institutions and in his first major speech spoke extensively of the need for greater trust and professionalism in the financial sector.

While the current focus appears largely on financial institutions, there seems little reason ASIC may not apply this more broadly to listed companies in general. Some points ASIC has highlighted for institutions to consider in respect of 'culture':

- + According to ASIC, an entity's culture is informed by the 'tone from the top', that is, from the board of directors down, including governance structures and whistle blower policies.
- + Recruitment, remuneration and accountability will also be relevant, for example, bonuses and promotions should not be given to those who behave badly.

These and other matters raised by ASIC seem, in principle, sensible. How they play out in practice remains to be seen. While there has been little movement on any legislation in this area, it is clear that ASIC will ramp up its review and investigation in these areas.

## TAKEOVERS PANEL

Application activity at the Takeovers Panel increased slightly in 2017, with 25 applications received, up from 19 in 2016. In almost half of these cases, the Panel declined to conduct proceedings, meaning that the application was not heard at all, and the Panel did not consider there was any reasonable prospect of it finding unacceptable circumstances.

**Only four cases (16%) resulted in a declaration of unacceptable circumstances.**

From a policy perspective, 2017 was a quiet year for the Panel, with no new substantive policy initiatives and only one revision to its guidance, being minor amendments to its guidance note on rights issues.

In our view, it could be time for the next round of significant policy initiatives from the Takeovers Panel. Some areas where the market could potentially use further guidance include:

- + **Truth in takeovers:** the Takeovers Panel recently released a consultation draft of an update to its guidance note suggesting a guideline of four months for the period that needs to elapse after a close of a bid where a last and final no increase statement was made before a bidder can make a new bid at a higher price. In the past, many commentators have said six months was necessary, however four month periods occur elsewhere in the takeovers provisions (eg the minimum bid price rule). These issues warrant exploring. There will be a point in time where the interests of encouraging a value creating transaction exceed any historical market integrity concerns.
- + **Shareholder intention statements:** even though the Takeovers Panel's guidance in this area is still quite new, there is a gap. The guidance does not currently provide any safe harbour or comfort for a bidder procuring a statement from a shareholder which complies with the Panel's guidance (eg is made subject to no superior proposal emerging and allows sufficient time for such proposals to emerge). In our view, absent anything more, the mere act of procuring such a statement should not give rise to a relevant interest or association.



“In my personal experience the main criticism of the ACCC from the wider business community is that we allow too many mergers.”

Rod Sims, August 2017

## ACCC

2017 was a significant year in Australian merger control. Among other things, it saw the largest transaction the subject of a merger clearance in history (Tatts /Tabcorp), and the introduction of a new merger authorisation process. Chairman Rod Sims also said that the ACCC will make greater use of its evidence gathering powers in major mergers, no doubt with the consequence that M&A transactions with a competition element will be subject to even greater scrutiny going forward.

Some other major developments:

**Harper legislation:** The ACCC has been restored as the primary decision maker for merger authorisations, while the Australian Competition Tribunal’s role is now a merits review role of ACCC decisions rather than an alternative path to the ACCC for merger clearance. This has the following effects:

- + The overall timeline for the authorisation process is likely to increase.
- + The ACCC is also generally more willing to consider complaints by competitors and market participants in respect of a transaction than the Tribunal: for example, the Tatts/Tabcorp transaction (the final merger under the old Tribunal regime) was cleared by the Tribunal in the face of significant opposition from the ACCC and three other intervening parties.

**Evidence gathering:** Rod Sims outlined a new, more extensive approach to evidence gathering in contentious mergers including interviews of senior executives. No doubt the whole review will be more detailed, invasive and time consuming.

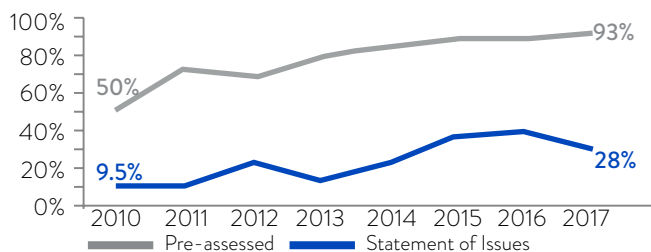
**But deals are still being done:** All of the above said, the overwhelming majority (93%) of mergers continue to be cleared by the ACCC in their fast-track pre-assessment process. Almost 75% of all pre-assessed mergers were cleared within 15 business days: this represents a welcome expediency for non-contentious mergers. However this can mean that those transactions which go through a full public review are taking longer as the chart below reflects.

The data also reflects that, if a full review is undertaken, the likelihood of receiving a Statement of Issues (a document setting out particular areas of concern following phase one of a full review) from the ACCC as part of that review has gone up, from approximately 9.5% back in 2010 to 28% in 2017.

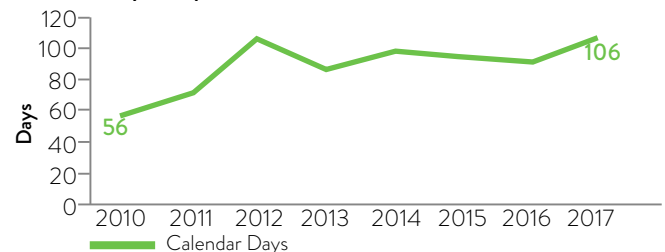
The following sectors were key areas of focus for the ACCC in 2017:

- + **Petrol pricing:** the Woolworths/BP retail petrol acquisition was the only merger formally opposed in 2017 and there was significant scrutiny of the Milemaker/Caltex transaction, another retail petrol transaction.
- + **Digital disruption? Not in competition land:** while every business is wondering how digital disruption will affect them, the ACCC is not always so concerned. Online competition was not an argument that the ACCC was persuaded by in 2017, as shown in its approach to the Tatts/Tabcorp and oOh!media/APN transactions. That said, we do acknowledge that the ACCC did clear mergers involving broadcast and subscription television suppliers (Fox Sports /Foxtel and Network Ten/Birketu & Illyria).

### Pre-assessment and Statement of Issues



### Calendar days for public reviews



\* Statistics based on date merger assessment commenced, some mergers commenced in 2017 are incomplete at date of calculation (March 2018)

# 2017 PUBLIC M&A TRANSACTIONS

Target	Bidder	Transaction Type	Status	Bidder Origin	Consideration Type (Cash / Scrip / Combo)	Transaction Value A\$
Westfield Corporation	Unibail-Rodamco SE	Scheme	Current	France	Combination cash & scrip	\$21.040 billion
DUET Group	CK William Australia Bidco Pty Ltd (owned by consortium comprising Cheung Kong Infrastructure Holdings Limited, Cheung Kong Property Holdings Limited and Power Assets Holdings Limited)	Scheme	Successful	Hong Kong	Cash	\$7.412 billion
Aconex Ltd	Vantive Australia Pty Ltd (a wholly owned subsidiary of Oracle Corporation)	Scheme	Current	United States of America	Cash	\$1.556 billion
Spotless Group Holdings Ltd	Downer EDI Services Pty Ltd (a wholly owned subsidiary of Downer EDI Limited)	Takeover (off-market)	Successful	Australia	Cash	\$1.263 billion
Mantra Group Ltd	Accor SA	Scheme	Current	France	Cash	\$1.182 billion
Programmed Maintenance Services Ltd	Autalent Solutions Pty Ltd (a wholly owned subsidiary of PERSOL Holdings Co Ltd)	Scheme	Successful	Japan	Cash	\$778 million
Warrnambool Cheese & Butter Factory Co Hold Ltd	Saputo Dairy Australia Pty Ltd (a wholly owned subsidiary of Saputo Inc.)	Takeover (off-market)	Successful	Canada	Cash	\$698 million
Pepper Group Ltd	Red Hot Australia BidCo Pty Ltd (owned by certain funds, clients or accounts managed or advised by KKR Credit Advisors (US) LLC)	Scheme	Successful	United States of America	Cash	\$675 million
Tox Free Solutions Ltd	Cleanaway (No. 1) Pty Ltd (a wholly owned subsidiary of Cleanway Waste Management Limited)	Scheme	Current	Australia	Cash	\$666 million
AWE Ltd	Mineral Resources Ltd	Scheme	Unsuccessful	Australia	Combination cash & scrip	\$526 million
Afterpay Holdings Ltd	Afterpay Touch Group Ltd	Scheme	Successful	Australia	Scrip	\$512 million
Generation Healthcare REIT	NWH Australia AssetCo Pty Ltd (as trustee for NWH Australia Asset Trust, a controlled entity of NorthWest Properties Real Estate Investment Trust)	Takeover (off-market)	Successful	Canada	Cash	\$508 million
AWE Ltd	CERCG Aus Gas Pty Ltd (a wholly owned subsidiary of China Energy Reserve and Chemical Group Co., Limited)	Takeover (off-market)	Unsuccessful	China	Cash	\$456 million

Target	Bidder	Transaction Type	Status	Bidder Origin	Consideration Type (Cash / Scrip / Combo)	Transaction Value A\$
Brookfield Prime Property Fund	Brookfield BPPF Investments Pty Ltd (as trustee for Brookfield BPPF Investments Trust)	Scheme	Successful	Canada; United States of America	Cash	\$432 million
Integral Diagnostics Ltd	Capitol Health Holdings Pty Limited (a wholly owned subsidiary of Capitol Health Ltd)	Takeover (off-market)	Unsuccessful	Australia	Combination cash & scrip	\$340 million
Touchcorp Ltd	Afterpay Touch Group Ltd	Scheme	Successful	Australia	Scrip	\$240 million
Tower Ltd	Vero Insurance New Zealand Ltd (a wholly owned subsidiary of Suncorp Goup Ltd)	Scheme	Unsuccessful	New Zealand	Cash	\$226 million
Asia Pacific Data Centre Group	360 Capital FM Limited (as trustee for the 360 Capital Diversified Property Fund, part of the 360 Capital Group)	Takeover (off-market)	Successful	Australia	Cash	\$224 million
Asia Pacific Data Centre Group	NextDC Ltd	Takeover (off-market)	Unsuccessful	Australia	Cash	\$215 million
Trilogy International Ltd	CITIC Capital China Partners III, L.P.	Scheme	Current	China	Cash	\$192 million
Tower Ltd	Fairfax Financial Holdings Ltd	Scheme	Unsuccessful	Canada	Cash	\$186 million
Royal Wolf Holdings Ltd	GFN Asia Pacific Holdings Pty Ltd (a wholly owned subsidiary of General Finance Corporation)	Takeover (off-market)	Successful	United States of America	Cash	\$184 million
Grays eCommerce Group Ltd	Leasing Finance (Australia) Pty Limited (a wholly owned subsidiary of Eclixp Group Ltd)	Scheme	Successful	Australia	Scrip	\$179 million
Finders Resources Ltd	Eastern Field Developments Ltd (owned by consortium comprising Procap Partners Limited, PT Saratoga Investama Sedaya Tbk and PT Merdeka Copper Gold Tbk)	Takeover (off-market)	Current	Indonesia	Cash	\$178 million
Macmahon Holdings Ltd	CIMIC Group Investments Pty Ltd (a wholly owned subsidiary of CIMIC Group Limited)	Takeover (off-market)	Unsuccessful	Australia	Cash	\$174 million
SMS Management & Technology Ltd	ASG Ltd (a wholly owned subsidiary of Nomura Research Institute Ltd)	Scheme	Successful	Japan	Cash	\$169 million
Centuria Urban REIT	Centuria Metropolitan REIT	Scheme	Successful	Australia	Combination cash & scrip	\$162 million

Target	Bidder	Transaction Type	Status	Bidder Origin	Consideration Type (Cash / Scrip / Combo)	Transaction Value A\$
Enice Holding Company Ltd	Tech World Ltd	Scheme	Current	Australia	Cash	\$114 million
Seymour Whyte Ltd	VINCI Construction Australasia Pty Ltd (a wholly owned subsidiary of Vinci Construction International Network)	Scheme	Successful	France	Cash	\$113 million
Tian An Australia Ltd	Oasis Star Ltd (a wholly owned subsidiary of Tian An China Investments Company Limited)	Takeover (on-market)	Successful	Hong Kong	Cash	\$113 million
SMS Management & Technology Ltd	DWS Ltd	Scheme	Unsuccessful	Australia	Combination cash & scrip	\$112 million
Altona Mining Ltd	Copper Mountain Mining Corporation	Scheme	Current	Canada	Scrip	\$93 million
Central Petroleum Ltd	Macquarie MPVD Pty Ltd (a wholly owned subsidiary of Macquarie Group Limited)	Scheme	Unsuccessful	Australia	Combination cash & scrip	\$87 million
Cobalt One Ltd	First Cobalt Corp	Scheme	Successful	Canada	Scrip	\$76 million
Rubik Financial Ltd	Temenos Group AG	Scheme	Successful	Switzerland	Cash	\$71 million
The PAS Group Ltd	Brand Acquisition Co, LLC (wholly owned by Coliseum Capital Partners, Blackwell Partners, Series A and Coliseum Capital Partners II)	Takeover (off-market)	Successful	United States of America	Cash	\$70 million
Hunter Hall International Ltd	Pinnacle Ethical Investment Holdings Ltd (a wholly owned subsidiary of Pinnacle Investment Management Group Limited)	Takeover (off-market)	Unsuccessful	Australia	Cash	\$66 million
Cradle Resources Ltd	Tremont Investments Ltd (backed by Denham Capital Management LP)	Scheme	Unsuccessful	United States of America	Cash	\$55 million
Crusader Resources Ltd	Stratex International plc	Scheme	Unsuccessful	London	Scrip	\$54 million
Amex Resources Ltd	Waratah International (Asia) Ltd	Takeover (off-market)	Successful	Hong Kong	Cash	\$54 million
Queensland Mining Corporation Ltd	Moly Mines Ltd (owned by Hanlong Mining Investment Pty Ltd, Citicorp Nominees Pty Ltd, J.P. Morgan Nominees Australia Limited and HSBC Custody Nominees (Australia) Limited)	Takeover (off-market)	Successful	Australia	Cash	\$50 million

# OUR APPROACH

## In this Review, we have summarised our key observations of an analysis of the 41 public takeovers and scheme transactions announced during the 2017 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 in 2017. We have traced the progress of these transactions until 16 March 2018.

A full list of transactions analysed is set out on pages 36 to 38.

The primary sources of data used in compiling the Review were bid documents and ASX announcements 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 was one on-market takeover bid in the 2017 calendar year which had a market value of over \$50 million, and this was classified as “successful” as the bidder substantially increased its shareholding in the target.

We have classified a transaction as “hostile” where a firm offer was announced and was not initially recommended by the target board (and includes no recommendation, or plans to consider and give a recommendation separately) and as “friendly” where the transaction was recommended on its announcement.

Where this report 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 (and where the primary consideration was scrip, the offer price per share was based on the bidder’s share trading price on the date of the announcement of the offer).

Transactions referred to as providing cash consideration refer to all-cash transactions.

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 any announcement of the transaction.

Unless otherwise specified, all dollar references in this Review are to the Australian dollars.

**“They provide a complete service with significant expertise. They are entirely professional and extremely proactive, and deliver on time every time.”**

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 (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.

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



Melbourne



Perth



Sydney



# RECENT GILBERT + TOBIN TRANSACTIONS

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

- + Altona Mining on its \$93 million acquisition of Copper Mountain Mining Corporation
- + Amplify Snack Brands, Inc on its £300 million acquisition of Yarra Valley Snack Foods (as part of the acquisition of Tyrells)
- + Anhauser-Busch InBev on the termination and sale by Lion Nathan of rights to distribute a suite of ABI brands in Australia
- + 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
- + Ansell on the US\$600 million sale of its Sexual Wellness business to Humanwell Healthcare and CITIC Capital China Partners
- + APN Funds Management (as responsible entity of Generation Healthcare REIT) in respect of the \$500 million takeover bid for Generation Healthcare REIT by NorthWest Australia
- + APN Outdoor Group on its proposed \$1.6 billion acquisition of oOH!media
- + 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
- + Aramex (Dubai listed logistics and transportation leader) on its strategic \$100 million e-commerce joint venture with Australia Post
- + Ardent Leisure on the sale process for the d'Albora Marinas business
- + 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 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
- + Australis Oil & Gas in connection with its \$100 million placement of shares to fund an acquisition of oil and gas assets within the Tuscaloosa Marine Shale
- + BB Retail Capital in respect of its acquisition of 90% of the partnership interests in the Barkly Pastoral Co
- + BBRC International Pte. Ltd on its \$60.8 million acquisition of a substantial holding in RCG
- + Beach Energy in relation to its successful bid for Toyota Tsusho Corporation and related entities' interests in the Otway Gas Project and BassGas Project
- + Beach Energy on all aspects of its successful \$1.585 billion competitive bid to acquire Lattice Energy from Origin Energy and related debt and equity capital raisings
- + Bell Potter and Shaw and Partners as joint lead managers on the \$55.6 million capital raising by IVE Group
- + 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 Colorpak by Graphic Packaging by scheme of arrangement
- + Boardriders, Inc on the proposed acquisition of Billabong International Limited 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
- + Caltex Australia on its \$95 million acquisition of certain business assets of Milemaker Petroleum
- + Canaccord Genuity as the underwriter of Kogan.com's \$168 million IPO
- + Carlton & United Breweries (ABInBev) on its acquisition of 4 Pines Brewing Holdings Pty Ltd
- + Carlton & United Breweries (ABInBev) on its acquisition of Pirate Life Brewing
- + Carlyle Private Equity on the \$517 million sale of its 50% interest in Coates Hire to its joint venture partner, National Hire (a subsidiary of Seven Group Holdings)

## RECENT GILBERT + TOBIN TRANSACTIONS (CONT.)

- + CHAMP Private Equity on its \$130 million acquisition of the Dutton Garage luxury car dealership
- + CHAMP Private Equity on its \$170 million acquisition of the Jaybro business as part of a competitive sales process
- + 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 \$150 million accelerated non-renounceable pro rata entitlement offer and placement
- + Citigroup and Goldman Sachs as joint lead managers of the \$293 million IPO of Scottish Pacific
- + Citigroup Global Markets Australia and CBA Equities as the underwriters of Flexigroup's \$150 million non-renounceable entitlement offer
- + Cleanaway Waste Management in relation to its approximately \$590 million accelerated non-renounceable entitlement offer
- + Cleanaway Waste Management in relation to the \$666 million acquisition of Tox Free Solutions by Scheme of arrangement
- + ClearView Wealth on its accelerated renounceable entitlement offer to raise approximately \$50 million
- + Cobalt One on its \$140 million merger with First Cobalt Corp by scheme of arrangement
- + Convenience Retail REIT in relation to its \$237 million IPO
- + Cover-More on the \$739 million recommended scheme proposal from Zurich Insurance Company
- + 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 Royal Bank of Canada on FAR Limited's \$80 million institutional placement
- + 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 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 in relation to Mayne Pharma Group's \$888 million entitlement offer and placement
- + Credit Suisse and UBS as the underwriters of the \$264 million IPO of Netwealth Group Limited
- + 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 sale facility agent in connection with Vocus' scrip acquisition of Amcom
- + 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 as the underwriter of New Century Resources' \$52.9 million placement
- + Credit Suisse in relation to their role as the underwriter of Pact Group's \$176 million entitlement offer to fund the acquisition of Closure Systems International and Graham Packaging Company from Reynolds Packaging
- + Credit Suisse, Citigroup and UBS AG as the joint lead managers of the \$552 million IPO of Eclix 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 of the \$1.5 billion IPO of Ingham's Group
- + Crescent Capital Partners on its acquisition of DB Dental
- + Crescent Capital Partners on its \$60 million acquisition of Tigerlily Swimwear Pty Ltd
- + 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 Ltd, Dentsu Inc. on its acquisition of With Collective
- + Disney Corporation on its US\$52.4 billion merger with Twenty-First Century Fox in relation to Australian corporate law issues
- + Emeco on its \$686 million three way merger with Orionstone and Andy's Earthmovers
- + Energy Developments on its \$1.4 billion acquisition by DUET Group by scheme of arrangement
- + Ethane Pipeline Income Fund on the \$130 million acquisition by APA Group
- + Euroz Securities and Cannacord Genuity (Australia) on Cooper Energy's \$151.2 million accelerated non-renounceable entitlement offer and institutional placement to part fund the development of the Sole Gas Field
- + Financiers to the successful consortium bidding to acquire TransGrid in the NSW poles & wires privatisation
- + General Finance Corporation on the \$290 million acquisition of the remaining shares in Royal Wolf Holdings that it did not already own
- + Golden Energy and Resources on its \$67 million strategic investment in Westgold Resources Limited
- + Goldfields in connection with the \$70 million on-market purchases and stake sale from Resource Capital Funds to acquire a 10% stake in Gold Road
- + Goldman Sachs and Macquarie Capital as the joint lead managers on the \$148 million IPO of Bravura Solutions
- + Goldman Sachs and Morgan Stanley as the underwriters of Transurban Group's \$2.7 billion entitlement offer to fund its acquisition of Queensland Motorways
- + Goldman Sachs as an underwriter of the \$704 million IPO of Costa Group Holdings
- + Goldman Sachs as the lead manager of Catapult Group's \$100 million accelerated non-renounceable pro rata entitlement offer and placement
- + 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 as the underwriter of Treasury Wine Estates' \$486 million entitlement offer
- + Goldman Sachs in respect of its strategic alliance with Commonwealth Bank
- + 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
- + GrainCorp on the sale of its 60% investment in Allied Mills Australia Pty Ltd to funds advised by Pacific Equity Partners
- + 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
- + Hankook Tire on its \$80 million acquisition of one of Australia's leading tyre retailers, JAX Tyres
- + Heytesbury, as a co-underwriter of the entitlement offer component of a \$52 million recapitalisation by Wellard Limited
- + IFM Investors Pty Ltd on its acquisition of a 50% equity interest in Infrastructure Services Group (Australia) Pty Ltd for \$100 million
- + IFM Investors Pty Ltd on the acquisition of a 49% equity interest in the Colette handbag and accessories business
- + I-MED Radiology Network on its \$81.5 million acquisition of Capitol Health Limited's NSW radiology assets
- + Industria REIT on its \$85 million accelerated entitlement offer and placement

## RECENT GILBERT + TOBIN TRANSACTIONS (CONT.)

- + Infigen Energy on the sale of the Manildra Solar Farm project entity to First Solar, who are developing the solar farm project
- + Investa Commercial Property Fund on its \$276 million acquisition of 9.89% of the issued capital of Investa Office Fund from Cromwell Property Group
- + IOOF on its \$975 million acquisition of Australia and New Zealand Banking Group's (ANZ) OnePath Pensions and Investments and aligned dealer groups businesses
- + IOOF on its \$539 million placement and share purchase plan to fund the acquisition of ANZ's One Path Pensions and investments business
- + JAC Travel (UK) and its shareholders in relation to the Australian aspects of its \$332 million acquisition by Webjet Limited for a combination of cash and scrip
- + J.P. Morgan, Morgan Stanley and China International Capital Corporation Hong Kong Securities as joint lead managers in relation to the US\$2.5 billion entitlement offer and placement by Yancoal Australia Limited, to partly fund its acquisition of Coal & Allied from Rio Tinto
- + Kin Groups' acquisition of Greens Foods
- + KKR on its acquisition of Laser Clinics Australia
- + 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
- + Lifehealthcare on its proposed \$211 million acquisition by Pacific Equity Partners by scheme of arrangement
- + Maaji on its merger with Seafolly
- + Macmahon on its \$191 million acquisition of a 40% equity stake in PT Amman Mineral Nusa Tenggara (AMNT), and associated agreement for Macmahon to provide earthmoving and mining services at AMNT's copper-gold mine in Indonesia
- + 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 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
- + Macquarie Capital as the underwriter of the \$300 million institutional placement by TPG Telecom
- + Macquarie Capital in relation to the \$300 million placement by TPG Telecom
- + Macquarie Capital, UBS, CIMB Capital Markets, Credit Suisse, Goldman Sachs and Merrill Lynch as the joint lead managers on the \$3.6 billion IPO of Healthscope
- + Mariana Resources on Australian law issues relating to its \$286 million acquisition by Sandstorm Gold by scheme of arrangement
- + MEO Australia in relation to the hostile takeover bid by Mosman Oil and Gas
- + Mineral Resources in relation the proposed \$523 million acquisition of AWE Limited by scheme of arrangement
- + Morgan Stanley as the underwriter of the \$176 million IPO of Baby Bunting
- + 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 lead manager and sole bookrunner of the \$205 million IPO of New Energy Solar
- + Morris Group on the \$72 million sale of certain contracts and assets of the Morris business, which provides catering and facilities management services for mining and oil & gas firms in Australia, to Sodexo
- + Neptune Energy Group (which is backed by funds advised by The Carlyle Group, CVC Capital Partners Fund VI and a group of co-investors) on the Australian aspects of its EUR 4.7 billion acquisition of a 70% shareholding in ENGIE E&P International S.A. from France's ENGIE Group
- + NSW Government in relation to the \$2.6 billion concession of Land and Property Information NSW

- + Oaktree Capital's acquisition of a stake in DDH1
- + Olam International on its US\$1.3 billion acquisition of Archer- Daniels Midland's worldwide cocoa business
- + Onethehouse Holdings on its \$70 million acquisition by a Macquarie led consortium by scheme of arrangement
- + OpenText Corporation on its proposed \$1.6 billion acquisition of Dell EMC's Enterprise
- + Opthea on its \$45 million accelerated non renounceable entitlement offer and placement, to fund further clinical development and trials of its wet AMD treatment, OPT-302
- + Orchard Landmark on the \$194 million IPO of Silver Heritage Group and related bond and option issue
- + Orocobre on its \$85 million institutional placement
- + 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 and The Carlyle Group on the \$1.23 billion acquisition of iNova Pharmaceuticals from the Valeant Group
- + 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 \$225 million acquisition of Kerry Pinnacle Pty Ltd, the Australian bakery ingredients, manufacturing and distribution business of Kerry Group Plc
- + Pacific Equity Partners on its \$232 million acquisition of Patties Foods
- + Pacific Equity Partners on its \$455 million acquisition of Allied Mills Pty Ltd from its joint shareholders GrainCorp and Cargill Australia
- + Pact Group on its acquisition of Jalco
- + Palisade Investment Partners on its \$605 million acquisition of a stake in Sunshine Coast Airport from Sunshine Coast Council
- + Palisade Investment Partners on its \$150 million acquisition of SurePark Investments Pty Ltd
- + Pemba VCLP (a newly established PE fund) on the \$650 million acquisition of the assets of RMB Australia
- + Pepperstone Group on its \$155 million acquisition by CHAMP Private Equity
- + Primary Health Care on the \$155 million acquisition of its Medical Director business by Affinity Equity Partners
- + Quadrant Private Equity in relation to the \$540 million sale of Zip Industries to Culligan, a US portfolio company of Advent International Global Private Equity
- + Quadrant Private Equity and the minority owners of the Real Pet Food Co on the \$1 billion sale of the Real Pet Food Co to a consortium of investors including New Hope, Hosen and Temasek
- + Quadrant Private Equity on its \$231 million acquisition of Peter Warren Automotive Group
- + Quadrant Private Equity on its \$260 million acquisition of Ardent Leisure
- + Quadrant Private Equity on its \$300 million acquisition of WorldMark Holdings Pty Ltd
- + Quadrant Private Equity on its \$400 million acquisition of Fitness First Australia
- + Quadrant Private Equity on its acquisition of iconic confectionery manufacturer Darrell Lea
- + Quadrant Private Equity on its \$160 million investment in the AMF, Kingpin and Playtime businesses in Australia and New Zealand
- + Quadrant Private Equity on its investment in the Timezone business which operates across the Asia Pacific region
- + Quadrant Private Equity on the \$410 million sale of VIP Petfoods
- + Qube Holdings with respect to its acquisition of the remaining 50% of AAT
- + 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 on the \$9 billion acquisition of Asciano (the largest public M&A deal in Australia in 2016)

## RECENT GILBERT + TOBIN TRANSACTIONS (CONT.)

- + 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
- + Qube on its \$350 million entitlement offer and placement
- + REA Group on its acquisition of iProperty Group for \$750 million (offering a mix of cash consideration and stub equity) by scheme of arrangement
- + Reliance Rail on its \$2 billion refinancing including an injection of additional equity from two of its three existing shareholders
- + Retail Zoo on its acquisition of 100% of Betty's Burgers
- + Rockpool Group on the acquisition by Urban Purveyor Group
- + Rubik Financial on its \$67 million sale to listed Switzerland-based company, Temenos Group AG
- + SAI Global on the \$1.24 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 acquisition of the Utility Services Group
- + Spotless Group on the proposed sale of its laundries business
- + Spotless on the defence of the unsolicited \$1.3 billion takeover bid by Downer EDI
- + Steadfast Group in relation to its \$100 million placement
- + Steelmakers Australia consortium (including POSCO and Noble) on the proposed \$3.2 billion takeover of Arrium
- + Strategic investor on the potential acquisition of Arrium Australia
- + Superloop on its \$224 million acquisition of BigAir Group by scheme of arrangement
- + Syrah Resources on its \$110 million placement and entitlement offer
- + Syrah Resources on its \$200 million institutional placement
- + Telstra on its \$1.25 billion off-market share buy-back
- + Telstra on its \$1 billion acquisition of Pacnet, an Asian telecommunications provider
- + The Stars Group Inc. on its acquisition of 80% of CrownBet and on CrownBet's successful bid to acquire William Hill Australia
- + The University of New South Wales on a joint venture in the field of quantum computing involving the Australian Government, NSW State Government, CBA and Telstra
- + Towerbrook on its US\$8 billion acquisition of Gravity Media Group
- + TPG Capital on the acquisition of Novotech Holdings Pty Ltd
- + TPG consortium (comprising TPG and the Ontario Teachers' Pension Plan) on the proposed acquisition of Fairfax
- + TPG Telecom on its \$400 million accelerated non-renounceable entitlement offer
- + UBS AG and Wilsons Corporate Finance on \$54.48 million placement by of Collins Foods
- + 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
- + Uriel Aviation Holding on its \$56 million acquisition of the Zuji businesses in Hong Kong and Singapore
- + Vail Resorts on its \$176.6 million acquisition of the Perisher Ski Resort
- + Victorian Government on the discontinuance and acquisition of the East West Link Project
- + Viva Energy REIT on its \$1.5 billion IPO
- + Wesfarmers on its strategic review of Officeworks, including consideration of potential trade sale or 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)
- + Wilmar International and First Pacific Company on its \$1.9 billion acquisition of Goodman Fielder by scheme of arrangement
- + Xero in relation to its change of admission category on the ASX from a Foreign Exempt Listing to a standard ASX Listing A
- + Yancoal Australia's Independent Board Committee on the US\$3.4 billion acquisition of Coal & Allied Industries from Rio Tinto and the associated US\$2.5 billion entitlement offer and placement to fund that acquisition

# ABOUT THE AUTHORS



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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. Nirangjan is listed in Best Lawyers in the practice area of Mergers & Acquisitions and was listed in the 2015 Doyles Guide as a Corporate "Rising Star".

In 2017, Nirangjan advised on the following significant transactions:

- + Spotless on the defence of Downer EDI's \$1.3 billion unsolicited takeover bid;
- + TPG on its \$2.7 billion proposal to takeover Fairfax;
- + Cleanaway Waste Management on its \$831 million (enterprise value) acquisition of Tox Free Solutions by scheme of arrangement;
- + Kin Group on its acquisitions of The Cake Syndicate and Cobs Fine Foods; and
- + Carlton & United Breweries on its acquisitions of craft brewers 4 Pines and Pirate Life.

**"...THEY'RE DEFINITELY THE BEST AT WHAT THEY DO – AS CLOSE TO PERFECT AS I'VE EVER COME ACROSS"**

CHAMBERS ASIA-PACIFIC 2018



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Neil is co-head of the Corporate/M&A group and is also a member of G+T's board of partners. He specialises in listed company takeovers, Takeovers Panel matters, cross-border acquisitions, private equity transactions, equity capital raisings and corporate governance matters.

He is a member of the Australian Government's Takeovers Panel (the Panel is a peer review body that regulates public company M&A and is the primary forum for resolving takeover disputes).

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, Corporate or Private Equity Lawyer of the Year in five of the last seven years.

In 2017, Neil advised on the following significant transactions (among other matters):

- + Cleanaway Waste Management on its \$831 million (enterprise value) acquisition of Tox Free Solutions by scheme of arrangement and related equity and debt raisings;
- + Spotless on the defence of Downer EDI's \$1.3 billion unsolicited takeover bid;
- + AB Inbev/Carlton & United Breweries on its acquisitions of craft brewers 4 Pines and Pirate Life;
- + TPG on its \$2.7 billion proposal to takeover Fairfax and its acquisition of Novotech;
- + Ansell on the US\$600 million sale of its global sexual wellness business to Humanwell Group and CITIC;
- + Convenience Retail REIT in relation to its successful \$237 million IPO;
- + Syrah Resources on its \$110 million placement and entitlement offer; and
- + Wesfarmers on its strategic review and proposed IPO of Officeworks.



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Costas is co-head of the Corporate/M&A group and is also a member of G+T's board of partners. 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, 2016 and 2019 and Commercial Lawyer of the Year in 2014. Lawyers Weekly nominated him for Australian Dealmaker of the Year in 2016.

In 2017, Costas advised on the following significant transactions:

- + Yancoal Australia's Independent Board Committee on its successful US\$3.4 billion acquisition of Coal & Allied Industries from Rio Tinto and associated US\$2.5 billion capital raising – the largest equity raising in Australia in 2017;
- + The Stars Group Inc. on its acquisition of 80% of CrownBet and on CrownBet's successful bid to acquire William Hill Australia;
- + Whitehaven on its US\$200 million acquisition of Winchester South from Rio Tinto;
- + TPG Telecom on its \$400 million accelerated non-renounceable entitlement offer; and
- + Investa Property Group on its \$276 million acquisition of a strategic stake in Investa Office Fund.



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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, 2016, 2017 and 2019 and Melbourne's Private Equity Lawyer of the Year in 2016.

In 2017, Craig advised on the following significant transactions:

- + Spotless on the defence of Downer EDI's \$1.3 billion unsolicited takeover bid;
- + IOOF on its \$975 million acquisition of ANZ's One Path Pensions and Investments and aligned dealer groups businesses and its associated \$539 million accelerated non-renounceable entitlement offer and share purchase plan;
- + Convenience Retail REIT in relation to its \$237 million IPO;
- + Dentsu Aegis on its acquisitions of Accordant, Carat SA and Klipdesk;
- + IFM Investors Pty Ltd on its acquisition of a 49% equity interest in the Colette handbag and accessories business;
- + the migration of Xero from the New Zealand Stock Exchange to Australian Stock Exchange;
- + Opthea on its \$52 million accelerated non renounceable entitlement offer and placement;
- + Melbourne IT on its acquisition of WME and associated placement and entitlement offer; and
- + the sale of minority interests in Grill'd.





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

In 2017, Alex advised on the following significant transactions:

- + Boardriders, Inc. on its proposed acquisition of Billabong International;
- + Wesfarmers on its strategic review and proposed IPO of Officeworks;
- + Ansell on the US\$600 million sale of its global sexual wellness business to Humanwell Group and CITIC;
- + Cleanaway Waste Management on its \$590 million accelerated non-renounceable entitlement offer;
- + IOOF on its \$539 million accelerated non-renounceable entitlement offer and share purchase plan to fund the acquisition of the ANZ's One Path Pensions and Investments business;
- + TPG Capital on its acquisition of Novotech;
- + Syrah Resources on its \$110 million entitlement offer;
- + Credit Suisse as underwriter for the \$52.9 million placement by New Century Resources;
- + IFM Investors Pty Ltd on its acquisition of a 49% equity interest in the Colette handbag and accessories business; and
- + Maaji on its merger with Seafolly.



**KEVIN KO**  
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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.

Kevin has had a leading role on some of the largest, most complex and novel transactions in the Australian market. His deep background in public M&A includes in-house experience as a senior legal counsel at an ASX-listed company and public markets regulatory experience at ASIC.

In 2017, Kevin advised on a number of significant transactions including:

- + Yancoal Australia's Independent Board Committee on its successful US\$3.4 billion acquisition of Coal & Allied Industries from Rio Tinto and associated US\$2.5 billion capital raising – the largest equity raising in Australia in 2017;
- + Beach Energy on its successful \$1.585 billion competitive bid for Lattice Energy, the conventional upstream oil and gas business of Origin Energy, and related equity and debt raisings;
- + The Stars Group Inc. on its acquisition of 80% of CrownBet and on CrownBet's successful bid to acquire William Hill Australia;
- + Propel Funeral Partners' successful contested takeover bid for Norwood Park Limited;
- + TPG Telecom on its \$400 million accelerated non-renounceable entitlement offer; and
- + Investa Property Group on its \$276 million acquisition of a strategic stake in Investa Office Fund.

# AWARDS + RECOGNITION

## 2019 BEST LAWYERS AUSTRALIA

61 Gilbert + Tobin partners were recognised, representing over 83% of the partnership acknowledged as leading in their areas of expertise. Among these, five Corporate Advisory partners were named as Best Lawyers 2019 Lawyer of the Year: Costas Condoleon, Peter Cook, Neil Pathak, Craig Semple and John Williamson-Noble.

## 2018 AFR CLIENT CHOICE AWARDS

Gilbert + Tobin won Most Innovative Firm at the 2018 AFR Client Choice Awards.

## 2018 CHAMBERS ASIA PACIFIC

38 Gilbert + Tobin lawyers are recognised in 20 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 LAWYERS WEEKLY AUSTRALIAN LAW AWARDS

Gilbert + Tobin won two awards including:

- + Law Firm of the Year
- + Intellectual Property Team of the Year

## 2017 AUSTRALASIAN LAW FIRM AWARDS

Gilbert + Tobin won five awards at the 2017 Australasian Law Firm Awards, including:

- + Australian Deal of the Year
- + M&A Deal of the Year
- + Insolvency & Restructuring Deal of the Year
- + Equity Market Deal of the Year
- + International Deal of the Year

## 2017 ASIALAW: ASIA PACIFIC LEGAL PRACTICE AWARDS

Gilbert + Tobin won three awards at the inaugural Asialaw Asia-Pacific Legal Practice Awards including:

- + Australian Law Firm of the Year
- + Private Equity Firm of the Year
- + Australasian Law Firm of the Year

## GLOBAL COMPETITION REVIEW AWARDS

Gilbert + Tobin has been recognised for its work on the global merger between Anheuser-Busch InBev NV (ABI) and SAB Miller, which was awarded Matter of the Year at the 2017 Global Competition Review Awards held in Washington DC.

## 2017 FINANCIAL TIMES ASIA-PACIFIC INNOVATIVE LAWYERS AWARDS

Gilbert + Tobin won four awards at the 2017 Financial Times Asia-Pacific Innovative Lawyers Awards, including:

- + The most innovative law firm in Australia
- + The most innovative law firm headquartered in the Asia Pacific
- + Innovation in new services and products
- + Innovation in enabling business growth



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