

Chambers & Partners Technology M&A 2025 Guide: U.S. Chapter

We are delighted to share the U.S. chapter we wrote for Chambers & Partners' Technology M&A 2025 Guide, published in December 2024 and now available for [download](#). Our chapter provides the latest legal information on key market trends, early-stage and venture capital financing, liquidity events, spin-offs, acquisitions of public technology companies and business-critical regulatory requirements. Linklaters' Global Chairman of Corporate [George Casey](#) was pivotal in launching the inaugural guide and has spearheaded each edition since as Contributing Editor.



1. Market Trends

1.1 Technology M&A Market

The U.S. M&A market has contended with headwinds, including high interest rates, geopolitical tensions and heightened regulatory scrutiny, which have slowed down M&A activity significantly in recent years.

The U.S. technology sector has not been immune to these headwinds and has also been experiencing lower levels of M&A activity compared to the pre-COVID-19-pandemic years. In addition to valuation gaps between parties, the Biden administration adopted an aggressive antitrust enforcement regime that contributed to the depressed deal making in the technology sector. The steep decline of de-SPAC transactions and the dwindling interest in crypto-assets and companies also contributed to the slowdown in technology M&A over the last year.

Alongside the mild recovery in general M&A activity seen in 2024, technology M&A has also recently been making a comeback, driven largely by the advent of generative AI and machine learning, decelerating inflation and general optimism for a continued reduction in interest rates, as well as high volumes of dry powder that have accumulated in strategics.

Recent economic and political developments have also provided more reasons for optimism that M&A deal flow will continue its steady incline for the rest of 2024 and beyond. The recent news of the Federal Reserve's decision to cut interest rates was well received by the U.S. market, and market participants are increasingly expecting a soft landing for the U.S. economy.

1.2 Key Trends

One of the main themes in tech M&A in 2024 has been the growth of generative artificial intelligence (AI). The tech sector's preoccupation with generative AI has been well documented throughout the year, as numerous companies have branded themselves as "AI-driven" (whether or not entirely justified). Most of the deal flow in the AI space is still largely driven by venture capital (VC) investments, but AI is expected to be a focal point of tech M&A deal flow in the coming months. Data centers, which are needed to power AI applications, have also experienced a surge of activity following the AI boom.

2. Establishing a New Company, Early-Stage Financing and Venture Capital Financing of a New Technology Company

2.1 Establishing a New Company

In the USA, regulation of the formation and operation of business entities is within the purview of the states. Delaware is the most popular state for start-ups in the USA, as it offers various advantages that distinguish it from other states. These include:

- > access to the esteemed Delaware Court of Chancery, which specializes in business law and provides for a large body of case law; and
- > incorporation or formation at a minimal cost and without needing to satisfy any minimum capital requirement.

2.2 Type of Entity

The entities most commonly used for start-ups are:

- > sole proprietorships;
- > limited liability companies (LLCs);
- > general and limited partnerships; and
- > corporations, which can elect to be treated for U.S. federal income tax purposes as either "C-Corporations" (the most common) or "S-Corporations," each with different eligibility requirements.

Corporations and LLCs are the main entity types used in the USA, and shareholders of a corporation or members of an LLC will generally not be held liable for the liabilities of the respective entity. Although Delaware law discourages it, Delaware courts and courts in other jurisdictions may, under certain limited circumstances (e.g., fraud or violations of criminal law), disregard the separate legal status of an entity and allow a plaintiff to "pierce the corporate veil" and recover directly from shareholders or members.

2.3 Early-Stage Financing

Commonly referred to as the pre-seed and seed rounds, early-stage financing for start-ups typically comes from a wide range of sources, including:

- > family and friends;
- > angel investors;
- > government-sponsored funds;
- > foreign investors;
- > accelerators;
- > seed-stage VC funds; or
- > micro-VC funds.

Angel investors are typically high net worth individuals or investment groups comprised of such individuals that are interested in diversifying their investments and maximizing the long-term gains potential of early-stage companies. Accelerators are programs developed to provide services and mentorship to founders, and often have a specific industry focus. Micro-VC funds are typically small venture funds, usually with one general partner, that invest at the seed stages alongside angels. Seed-stage VC funds are larger than micro-VC funds and are typically the first institutional investor in a start-up.

Government-sponsored funds are public policy tools that provide financial support to innovative start-ups and companies. Foreign investors may include high net worth foreign residents or institutional funds with foreign partners or sponsors that are seeking lucrative opportunities in the USA.

Early-Stage Investment Documentation

Early-stage start-ups frequently secure funding from angel investors and early-stage funds using instruments such as simple agreements for future equity (SAFEs) and convertible notes. Both SAFEs and convertible notes involve investors providing capital in return for an instrument that will convert into preferred stock, typically at a discount to the future stock price or based on a valuation cap, or both, established at the issuance date. The SAFE, developed by YCombinator (an accelerator), is intended to be a straightforward, negotiation-light form and, unlike convertible notes, does not accumulate interest or have a maturity date.

2.4 Venture Capital

Generally, VC in the USA is primarily sourced from VC firms that provide crucial early-stage funding to high-growth start-ups. Government-sponsored programs also offer significant VC support to foster technological innovation. Additionally, foreign VC firms actively and increasingly invest in U.S. start-ups, bringing in not only capital but also valuable international networks and expertise.

2.5 Venture Capital Documentation

In the USA, the terms and documentation for equity and debt-to-equity financing documents are highly standardized. These standards encompass typical economic, control and contractual terms, including provisions related to:

- > dividends;
- > liquidation preferences;
- > conversion rights;
- > pre-emptive rights;
- > anti-dilution;
- > voting agreements;
- > rights of first refusal and co-sale agreements;
- > board designation rights;
- > registration rights; and
- > information rights.

The National Venture Capital Association (NVCA) has developed a suite of standardized investment documents, which are frequently (though not universally) utilized by many start-ups and venture funds.

2.6 Change of Corporate Form or Migration

As start-ups grow and pursue VC funding, they often modify their corporate structure or relocate to a different jurisdiction. In their early stages, some start-ups opt for flexible entities such as LLCs or partnerships, which offer simpler tax advantages. However, as they progress and require more significant VC investment, they are typically advised to transition into C-Corporations due to their scalability, limited liability and greater transparency for equity trading. Moreover, while some U.S.-based start-ups may initially incorporate in states that are convenient for their circumstances, they frequently re-incorporate in Delaware.

3. Initial Public Offering (IPO) as a Liquidity Event

3.1 IPO v Sale

A notable trend today is that start-ups are remaining private for extended periods rather than opting for an initial public offering (IPO). Given the changing macroeconomic environment, many businesses are postponing their IPOs, largely due to the rigorous scrutiny and extensive preparations involved. Consequently, investors often prefer a private sale since it offers a simpler process and provides faster liquidity.

3.2 Choice of Listing

If a U.S. company decides to go public, it will likely choose a U.S. exchange, particularly if its shareholder base is primarily domestic. U.S. exchanges offer significant market liquidity and are integral to global financial activities, making them attractive for capital raising and trading.

3.3 Impact of the Choice of Listing on Future M&A Transactions

U.S.-based companies rarely choose to list on foreign exchanges. When they do list on a foreign exchange (especially if some of their securities are held by U.S. investors), complex issues can arise, including conflicts of law and compliance challenges with the regulations of the target country.

4. Sale as a Liquidity Event (Sale of a Privately Held Venture Capital-Financed Company)

4.1 Liquidity Event: Sale Process

To achieve the highest price and optimal terms, sellers frequently employ auction processes to generate momentum.

During an auction, sellers will give potential buyers a confidential information memorandum, and the potential buyers submit their initial indications of interest thereafter. Potential buyers then normally submit their markup of the auction draft as part of their final bid, typically four to eight weeks after the initial indications of interest. Signing of the transaction agreement generally follows shortly after the seller's receipt of the final bids and selection of the winning bidder.

4.2 Liquidity Event: Transaction Structure

A typical transaction structure for the sale of a privately-held technology company with multiple investors is usually carried out as a merger, asset purchase or stock purchase. Companies may also sell a controlling interest while offering investors the choice to remain shareholders.

4.3 Liquidity Event: Form of Consideration

For acquisitions involving a private target, the consideration is often all cash payments; however, if a buyer is publicly traded, consideration could also consist of a mix of cash and stock, or all stock.

Where there is a significant gap regarding valuation of the target company, parties may structure the purchase price such that they pay a lower price for the target company upfront but then make additional earn-out payments when certain business milestones are attained. These milestones may be tied to sales, revenue, or, in certain industries such as biotech, regulatory approval of products developed or owned by the target. Alternatively, the buyer may offer some of its stock as part of the consideration so that target company shareholders pre-acquisition can indirectly benefit from the post-acquisition success of the target company.

4.4 Liquidity Event: Certain Transaction Terms

Negotiation of Indemnification Provisions

It is standard practice in the USA to use indemnification clauses as a tool for risk allocation. An indemnification clause is a contractual tool that allows parties to agree in advance as to who will bear the liability associated with specific risks related to the contract (e.g., breaches of representations and warranties in a purchase agreement).

The indemnifying party (usually the seller) will typically seek to limit their exposure to the indemnified liabilities by including various limitations such as *de minimis* claims thresholds, deductibles, caps, etc., and by insisting on a time limit in the purchase agreement for the survival of the representation, warranties and indemnification clause post-closing.

Representation and Warranty Insurance

In the USA, buy-side representations and warranties insurance (RWI) policies continue to be used in private-target M&A (although their use appears to be declining in comparison with the immediately post-COVID-19-pandemic years). The presence of RWI in a transaction can alter some of the standard market practice points described above.

In the USA, firm exclusions to RWI coverage include:

- > known risks;
- > intent or fraud by the insured;
- > forward-looking statements;
- > purchase price adjustments; and
- > sanctions violations.

U.S. carriers are typically more willing to underwrite matters such as tax, contamination, product liability and data protection than insurance providers in other jurisdictions, subject to thorough due diligence.

5. Spin-Offs

5.1 Trends: Spin-Offs

In recent years, spin-offs, involving a parent company distributing to its shareholders subsidiary stock along with the transfer of the assets and liabilities of the divested business, have gained traction as a preferred mechanism for investors, boards and management teams that are aiming to maximize enterprise value.

Spin-off transactions are notably intricate and protracted due to the complexities involved in disentangling the management, operations, assets and liabilities of multiple entities, alongside the requirement to file pertinent documents with the Securities and Exchange Commission (SEC).

5.2 Tax Consequences

A distribution of appreciated property by a corporation to its shareholders would ordinarily trigger taxable gain to both the corporation and its shareholders. However, provided that both the statutory and non-statutory requirements for a spin-off under U.S. federal income tax law are satisfied, a corporation's spin-off of a subsidiary ("SpinCo") may qualify as a reorganization under Section 355 of the U.S. Internal Revenue Code (the "Code"), resulting in tax-free treatment at the level of the corporation and its shareholders. Some of the key requirements for a spin-off to be treated as a tax-free reorganization under Section 355 are as follows.

Control

The parent company must be in "control" of the SpinCo immediately before the parent company distributes the SpinCo's stock to its shareholders. The parent company must also distribute control of the SpinCo as part of such distribution.

Valid Corporate Business Purpose

The spin-off must be motivated by a valid corporate business purpose and not by a shareholder purpose or for tax avoidance. Some examples of a valid corporate business purposes include:

- > compliance with laws and regulations;
- > improving a company's ability to borrow or raise capital; and
- > improving the operations of each of the separated businesses.

The parent company will generally obtain an opinion from an investment bank to support there being a valid corporate business purpose for the planned spin-off.

Five-Year Active Trade or Business

The business intended for the spin-off must have been actively engaged in trade or business (ATB) for at least five years preceding the spin-off. To meet this five-year requirement, the ATB must not have been acquired within this look-back period.

No Device

The spin-off must not be used “principally as a device for the distribution of earnings and profits” of either the parent company or the SpinCo. This requirement ensures that a company does not use a spin-off to distribute corporate earnings tax-free in a transaction that would otherwise be taxed as a dividend for U.S. federal income tax purposes.

5.3 Spin-Off Followed by a Business Combination

When a spin-off is followed by a business combination, it is often structured as either a Morris Trust or a Reverse Morris Trust transaction. These arrangements involve the parent company spinning off a business and subsequently merging either itself or the SpinCo with a third party.

In a Morris Trust transaction, the parent company transfers all assets — except those intended to be merged with the third party — to the SpinCo. The remaining parent company then merges with the third party. Conversely, in a Reverse Morris Trust transaction, the assets to be combined with the third party are transferred to the SpinCo. After this transfer, the SpinCo then merges with the third party.

Both Morris Trust and Reverse Morris Trust transactions can be structured to be tax-free, provided specific conditions are met. Notably, one of these conditions is that the third party must be smaller than the SpinCo, ensuring that the parent company's shareholders maintain a majority stake in the merged entity.

5.4 Timing and Tax Authority Ruling

The key preliminary considerations for a spin-off include identifying the assets and liabilities to be allocated and preparing audited financial statements for the business to be spun off. Transaction agreements will also need to be drafted to affect the separation of the divested business from the retained business, as well as to set out post-separation covenants and relevant SEC filings — including a Form 10 registration statement and information statement, which will also need to be prepared.

Depending on the complexity of the transaction and the potential U.S. tax leakage that could arise if the transaction did not qualify as a tax-free spin-off, a company that is planning a spin-off transaction may wish to submit a letter-ruling request to the IRS to obtain a ruling that the spin-off qualifies as a tax-free reorganization under Section 355 of the Code. The IRS generally takes approximately six months from the date the request is submitted to grant a ruling. This timeline may be shortened if the company submits a request to “fast-track” the ruling process, which the IRS may grant if certain requirements are satisfied.

6. Acquisitions of Public (Exchange-Listed) Technology Companies

6.1 Stakebuilding

Most acquisitions in the USA are negotiated transactions and do not involve the buyer building a stake in the target prior to the transaction.

Principal Stakebuilding Strategies

Stakebuilding is permitted in the USA and, in contrast to many other jurisdictions’ takeover laws, U.S. federal law does not mandate that an acquiror make a bid for the target upon reaching a specified threshold. Therefore, unless it has publicly announced or commences a tender offer for shares of the target, an acquiror may purchase a publicly traded target’s shares on the open market, so long as the acquiror does not hold “inside” information that would cause such purchase to violate insider trading rules.

U.S. securities laws generally require an acquiror to file a notification on Schedule 13D (or a short-form equivalent), which requires disclosure of the acquiror’s ownership stake and its intentions with respect to the target, within five business days of acquiring beneficial ownership of more than 5% in a target company. Additionally, acquisitions in excess of the HSR Act threshold (expected to be USD126.4 million in 2025) will require an antitrust filing.

In addition, a number of states, including Delaware, have “anti-takeover” statutes that have the effect of encouraging acquirors to negotiate with management and discourage certain hostile activities. Delaware’s business combination statute prevents acquirors from entering into business combinations with a target if they have exceeded a specific ownership threshold (15%), unless they received prior board of directors’ approval or a super-majority vote of the shareholders.

Material Shareholding Disclosure Threshold

Under Sections 13(d) and 13(g) of the U.S. Securities Exchange Act of 1934 (the “Exchange Act”), persons or groups who own or acquire beneficial ownership of more than 5% of certain classes of equity securities registered under the Exchange Act are required to file beneficial ownership reports with the SEC. Generally, if Section 13(d) is triggered, a person must file a Schedule 13D unless they are eligible to use Schedule 13G. The shorter-form Schedule 13G is available to passive investors meeting certain requirements.

A beneficial owner of a security includes any person who, directly or indirectly, has or shares either:

- > the power to vote or to direct the voting of the security; or

- > the power to dispose or direct the disposition of the security.

A Schedule 13D must be filed five business days after acquiring beneficial ownership of more than 5% of the outstanding shares of a class of voting equity securities or losing Schedule 13G eligibility, and Schedule 13D amendments must be filed within two business days after the triggering event.

6.2 Mandatory Offer

U.S. federal securities laws and Delaware laws applicable to tender offers do not require an acquiror that obtains a given threshold of the target company's shares to make an offer for the remaining shares of the target company. However, a few states (e.g., Pennsylvania) have adopted "control share cash-out" statutes, whereby once an acquiror obtains control (i.e., exceeds a certain threshold of voting power) the other target company shareholders may make a demand on the acquiror to purchase their shares at a fair price.

6.3 Transaction Structures

The most common means of acquiring a U.S. public company are mergers and tender offers.

One-Step Merger

A merger is a combination of two entities by operation of law in accordance with the statutory corporate law of the states of the constituent entities. The shares of the target are converted into the merger consideration (which may be cash, securities or other property) pursuant to a merger agreement that sets forth the terms and conditions of the acquisition; this is approved by the target's board of directors and subsequently adopted by the target shareholders (generally by the holders of a majority of the outstanding shares) at a shareholders' meeting.

Assuming shareholder approval, the acquiror can then complete the merger rather quickly. Typically, such transactions close on the day that the shareholders approve the transaction or on the following day.

Two-Step Merger (With Tender Offer)

A tender offer is a direct offer to the shareholders of the target company to purchase their shares. It is highly likely that not all the shareholders of the target will tender their shares into the tender offer. Therefore, for a bidder to acquire all the shares of the target, a tender offer is inevitably a multi-step transaction, whereby, following the initial purchase of shares in the tender offer meeting a requisite threshold, the remaining shareholders of the target have to be "squeezed out" through a second-step statutory merger.

Because a tender offer is an offer made directly to the shareholders, no board of directors' approval from the target company is technically required, although most friendly tender offers are made pursuant to a board-approved merger agreement. Most hostile transactions involve a tender offer because the acquiror can bypass the target's board of directors and management. In any event, the board of directors of the target company will be required, under other rules of the SEC, to state its position with respect to the tender offer.

6.4 Consideration and Minimum Price

See [4.3 Liquidity Event: Form of Consideration](#).

6.5 Common Conditions for a Takeover Offer/Tender Offer

Generally, tender offers will be conditioned upon:

- > the tender of a certain minimum number of target company shares;
- > receipt of applicable regulatory approvals and expiry of applicable waiting periods;
- > there being no injunction, government order or law prohibiting the transaction; and
- > there being no material adverse change with respect to the target company.

In addition to the foregoing, a hostile tender offer will often require:

- > removal of any anti-takeover defenses;
- > receipt of financing needed to affect the transaction; and
- > absence of a competing third-party tender offer.

However, the conditions must:

- > be based on objective criteria and not be subject to the sole control of the bidder; and
- > apply to the entire tender offer.

6.6 Deal Documentation

See [6.3 Transaction Structures](#).

6.7 Minimum Acceptance Conditions

Generally, tender offers are conditioned on the target company's shareholders tendering a certain minimum number of shares, usually a number of shares sufficient to approve the subsequent merger to squeeze out the remaining shareholders; see [6.8 Squeeze-Out Mechanisms](#). The specific percentage required is based on state law and the target's governing documents, but it is usually at least 50% of the shares plus one additional share.

6.8 Squeeze-Out Mechanisms

In Delaware, a squeeze-out in the form of an intermediate form merger can be effected without obtaining stockholder approval following successful completion of a tender offer for at least a majority of the outstanding shares, provided the merger meets certain procedural conditions pursuant to Section 251(h) of the General Corporation Law of the State of Delaware (DGCL). Otherwise, 90% is the most typical threshold for short-form mergers and is the threshold set by New York and for squeeze-outs in Delaware, except following a tender offer as described in the foregoing sentence. In a friendly transaction, a "top-up" stock option may be granted by the target company pursuant to which the target company would issue up to 19.9% of its outstanding shares to help the acquiror reach the short-form squeeze-out threshold.

If, upon completion of the tender offer, the acquiror owns less than the minimum amount of the target company's shares necessary to complete a short-form merger or otherwise does not meet the requirements of DGCL Section 251(h) as mentioned above, a long-form merger following the tender offer would be subject to shareholder approval. Since the acquiror should own the requisite number of the target company's shares, such approval should be assured; see **6.7 Minimum Acceptance Conditions**. However, the acquiror would still need to comply with state law procedures relating to the calling of a shareholders' meeting and SEC requirements relating to proxy statements.

6.9 Requirement to Have Certain Funds/Financing to Launch a Takeover Offer

Historically, certain transactions in the USA had a financing condition precedent (CP) — i.e., if the acquiror is unable to raise financing between signing and closing, it will not be required to close the transaction. However, such standalone financing CPs are now rare. To mitigate financing risk, parties now typically negotiate respective covenants in terms of consummating the financing and provide for termination rights and/or reverse termination fees payable by the buyer upon a financing failure. A target can also expect to receive evidence of committed debt financing for the buyer at signing and have the ability to seek specific performance or other equitable remedy to enforce the buyer's obligation to close the transaction if debt financing has been funded and other CPs have been satisfied.

6.10 Types of Deal Protection Measures

In the USA, the parties to the transaction may agree to a variety of "deal protection" terms. While the target and acquiror need to negotiate such terms on a case-by-case basis, some common terms in the U.S. market are discussed below.

- > "No-shop" clauses: restrict the target company's management and board of directors from soliciting any other bids or from providing any confidential information to any third-party bidders, in each case, subject to the directors' fiduciary duties. These clauses typically permit the target company to entertain unsolicited proposals.
- > Break fees: payable to the acquiror if the target company's board of directors' recommendation is withdrawn or if the transaction is not approved by the target company shareholders due to another transaction that has been proposed by an interloper. A break fee may also be payable by the acquiror in the event it fails to close the acquisition ("reverse" break fees).
- > Board or "force the vote" commitments: require the board of directors to submit the transaction to target company's shareholders for a vote, even if the board no longer recommends that shareholders vote in favor of the transaction.
- > Right to match (or top) other offers: the bidder has the right to change the terms of its proposal to "match" or "top" a third-party proposal.

See also **6.12 Irrevocable Commitments**.

State law imposes fiduciary duties on any target company's board of directors that can limit the use of certain deal-protection terms and make it virtually impossible to "lock-in" a transaction.

Generally, unless the deal is signed and closed simultaneously, the transaction will also involve interim operating covenants to maintain the target business between signing and closing and to deliver it at closing without material impairment.

6.11 Additional Governance Rights

This topic is not applicable.

6.12 Irrevocable Commitments

Prior to announcing a transaction, the acquiror may wish to execute agreements with the target company's board of directors and senior management to ensure that they will tender any shares they own into a tender offer or vote in favor of a proposed merger. If the target company has one or more significant shareholders, requiring such shareholders to sell their stock to the acquiror, to vote their stock in favor of the merger and/or to tender their stock into the offer is an effective way to "lock up" the deal.

However, Delaware courts have struck down such lock-up agreements that absolutely preclude the target company's shareholders from availing themselves of a more attractive subsequent offer. Further, any commitments by directors will be subject to review in light of the directors' duties.

6.13 Securities Regulator's or Stock Exchange Process

Merger Transactions

To solicit the stockholder vote required to approve a merger, the target must prepare and file a detailed "proxy statement" with the SEC that complies with the SEC's proxy rules. The proxy statement may not be disseminated to stockholders until the SEC staff has commented on it and all such comments have been resolved. Upon finalization, the target then mails the proxy statement to its shareholders and files the final version with the SEC. State law, the target's constitutional documents and rules of the stock exchange on which the target is listed will dictate the minimum length of time between the mailing of the proxy materials and the date of the target stockholders' meeting to approve the merger, though a period of 20 business days is typical.

Tender Offers and Exchange Offers

The SEC rules relating to tender offers require that the acquiror file a Schedule TO (including an offer to purchase and related documents, such as a letter of transmittal). Because a tender offer is an offer made directly to the stockholders, no board of directors' approval from the target is technically required, although most friendly tender offers are made pursuant to a board-approved merger agreement.

In any event, the board of directors of the target will be required under other SEC rules to state its position with respect to the tender offer. The staff of the SEC will review and comment on any materials relating to the tender offer. The acquiror must address the staff's comments to the satisfaction of the SEC (which typically involves filing amendments to the tender offer materials during the time the tender offer is open). If the SEC comment process leads to material amendments to the tender offer materials, the acquiror may be required to extend the offer period and/or disseminate new documents to the target's stockholders.

6.14 Timing of the Takeover Offer

See [6.13 Securities Regulator's or Stock Exchange Process](#).

7. Overview of Regulatory Requirements

7.1 Regulations Applicable to a Technology Company

Generally, no specific regulations apply to starting up a new technology company in the USA.

7.2 Primary Securities Market Regulators

U.S. federal law relating to acquisitions is generally part of U.S. securities laws and regulations for public companies and is mostly focused on adequacy of disclosure relating to the proposed transaction, and, if applicable, the tender offer process or proxy solicitations. Federal securities laws are administered and enforced by the SEC; alleged violations of state corporate law are typically challenged by private plaintiffs in state courts (private plaintiffs also often challenge violations of federal securities laws in federal courts). State securities (aka “blue sky”) laws may also be applicable depending on the relevant state. If a U.S. publicly traded entity is involved in the transaction, stock exchange rules may also be applicable.

The state law of the target company’s jurisdiction of incorporation will also govern many aspects of an acquisition. State law may impose substantive requirements of fairness on the transaction and may provide the target company with anti-takeover defenses, such as the ability to implement shareholder rights plans (also known as “poison pills”).

U.S. federal antitrust laws are enforced by the Antitrust Division of the Department of Justice (DOJ) and by the Federal Trade Commission (FTC).

7.3 Restrictions on Foreign Investments

There are several sectors (e.g., airlines and broadcast communications) in which the U.S. government restricts foreign ownership or attaches special regulatory requirements for foreign owners. Waivers or licenses allowing foreign owners to exceed standard limits are sometimes available. There are also situations in which foreign ownership is not limited but is subject to regulatory requirements. The U.S. government also has four separate national security-based processes for regulating foreign investment. See [7.4 National Security Review/Export Control](#).

7.4 National Security Review/Export Control

Generally, four different U.S. bodies are responsible for addressing national security concerns that could arise from foreign investments in tech transactions:

- > the Committee on Foreign Investment in the United States (CFIUS);
- > the Defense Counterintelligence and Security Agency (DCSA);
- > the Directorate of Defense Trade Controls (DDTC); and
- > the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (“Team Telecom”).

A single transaction can implicate more than one regime.

CFIUS is a multi-agency panel charged with identifying and addressing national security risks arising from a variety of foreign investments in U.S. businesses, as well as certain transactions involving U.S.

real estate. The CFIUS process normally involves a joint filing by the parties to a transaction, followed by additional questions from CFIUS. CFIUS has jurisdiction over any acquisition of control of a U.S. business (often including U.S. activities of a non-U.S. parent) and also has jurisdiction over certain non-controlling investments in companies involved with critical technologies, critical infrastructure or sensitive personal data (“TID Businesses”). Investments in TID Businesses can sometimes be subject to mandatory pre-closing CFIUS filings.

If CFIUS has jurisdiction over a transaction, it will have the right to call in the transaction for review at any time after closing. On the other hand, CFIUS offers a “safe harbor” against further review if it has cleared an acquisition of control or a non-controlling investment (though in the latter case, incremental acquisitions that increase the investor’s rights can be subject to a new CFIUS case).

One of the DCSA’s responsibilities is to mitigate foreign ownership, control or influence (FOCI) of U.S. businesses that hold facility security clearances and (since 2024) certain other uncleared defense contractors and subcontractors. The DCSA does not approve transactions, but failure to receive FOCI mitigation could lead to the DCSA terminating a contractor’s facility clearance or covered contract. FOCI mitigation is based on the sensitivity of the contractor’s activities and the nature of the foreign ownership and comes in a number of forms that combine varying degrees of governance requirements with the implementation of security policies addressing a variety of technical, physical and operational security concerns.

The DDTC is part of the Department of State and regulates foreign ownership or control of manufacturers, service providers, exporters and brokers whose activities are governed by the International Traffic in Arms Regulations (ITAR, discussed below), a set of export controls governing military items. The DDTC requires pre- and post-closing notifications of new or changed foreign ownership or control of ITAR registrants. The DDTC also cannot block a transaction, but non-compliance with ITAR can cause revocation of a company’s registration.

Team Telecom is a multi-agency panel led by the Departments of Justice, Homeland Security and Defense, which conducts national security- and law enforcement-related reviews of foreign applications for certain telecommunications licenses granted by the Federal Communications Commission (FCC). Team Telecom can recommend that the FCC deny (or in some cases terminate) a license or place conditions on the granting or transfer of ownership of a license.

In addition to these U.S. authorities governing inbound foreign investment, the new Outbound Investment Security Program took effect on 2 January 2025. The new regime either prohibits or requires notification of U.S.-led investments directly or indirectly supporting certain activities by entities in or controlled from China that relate to semiconductors and microelectronics, quantum computing, and/or artificial intelligence. While the regime is nominally focused on U.S. investments in Chinese entities, the scope of the regulations is much broader and can include non-U.S. investors in which U.S. persons are participating in making the investment decisions as well as non-Chinese investment targets that have substantial, affiliated operations in China.

EAR and ITAR

The primary U.S. export control regimes are the Export Administration Regulations (EAR) and ITAR. The EAR govern most commercial items, including those with both civilian and military applications (dual-use items). ITAR governs defense-related products, technical data and services. All manufacturers,

exporters and distributors of these defense items are required by ITAR to be registered with the DDTC. Note that products, technical data and services can be subject to export controls under the EAR or ITAR even if they are never in fact exported. Moreover, products and services developed, produced or provided outside the USA may be subject to U.S. export controls on a derivative basis, depending on the extent to which they incorporate other technologies subject to U.S. export controls.

Export Licenses

Export licenses may be required before a U.S. business can export or otherwise make available dual-use or defense-related products and technologies to a foreign entity, including a foreign acquirer with whom the relevant technology is shared (one type of “deemed export”).

7.5 Antitrust Regulations

In the USA, the main antitrust regulations applicable to business combinations are (each as amended):

- > the Clayton Antitrust Act (the “Clayton Act”), which includes the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”);
- > the Sherman Antitrust Act (the “Sherman Act”); and
- > the Federal Trade Commission Act (the “FTC Act”).

The HSR Act prescribes a pre-merger notification procedure for certain business combinations, while the Sherman and FTC Acts prohibit certain anti-competitive conduct; the Clayton Act prohibits (among other things) anti-competitive transactions. The Sherman Act is enforced by the Department of Justice (DOJ), while the FTC Act is enforced by the Federal Trade Commission (FTC). The Clayton Act is enforced concurrently by both agencies.

The HSR Act requires mandatory pre-closing waiting periods for deals valued at more than USD126.4 million in 2025 (adjusted annually), unless otherwise exempted. The agencies can take one of three courses of action when concluding their investigation:

- > they can let the applicable waiting period expire, which allows the parties to close their transaction within a year;
- > they can require parties to enter into consent agreements as a condition to clearance, including remedies requiring divestiture of businesses (e.g., permanent, irrevocable licenses) or behavioral commitments to undertake certain actions; or
- > they can seek to block the deal in a U.S. federal court.

The agencies also have the ability to review business transactions that are not subject to notification under the HSR Act, as well as business combinations that have already been consummated.

Recent Developments in U.S. Merger Control

In 2022 the DOJ and FTC updated their joint Merger Guidelines to better address complexities in today’s markets, including the increasing importance of digital markets. Through the updated Merger Guidelines, the agencies seek to correct their perception of historical underenforcement in merger control in the tech sector. The result is an expansion of potential theories of harm and a shift of the burden to merging parties. These factors could result in more extended reviews for certain technology

mergers and increased interest from the agencies to a broader set of technology deals that have not traditionally been subject to scrutiny.

On 10 October 2024, the FTC announced final changes to the HSR filing form applicable to reportable transactions. These changes significantly increase the burden of disclosure requirements on filing parties, including more expansive document productions, narratives on market dynamics and information on the board membership of the acquiring person's officers and directors.

7.6 Labour Law Regulations

Employee benefit- and executive compensation-related issues can have a significant impact on M&A transactions. Federal, state and local laws can be implicated with respect to these matters.

Employment and Labor

In the USA, employment agreements are typically "at will." Buyers must carefully evaluate worker classification and ensure the proper visa status of employees. Additionally, they should be mindful of the Worker Adjustment and Retraining Notification (WARN) Act and similar state statutes, which may entitle employees to advance notice of potential layoffs or plant closures, or which may provide them with salary in place of notice.

Parties need to assess whether key employees have a right to resign with full severance on a change in control and whether such employees are subject to post-employment restrictive covenants. The enforceability of such agreements is determined on a state-by-state basis. The Code may affect decisions on post-closing employment arrangements, including employment agreements, retention plans or other similar agreements.

Equity Plans and Award Agreements

Buyers need to review employee equity plans and the impact of a change of control on outstanding employee equity. Numerous considerations such as legal compliance issues, legal and business limitations, and dilution of the acquiror's shareholders go into determining treatment of equity awards in a deal.

Non-qualified Deferred Compensation Plans

Key issues for the buyer to consider include:

- > whether the seller maintains non-qualified deferred compensation, and whether such arrangements are compliant with Section 409A; and
- > whether the arrangements that provide material benefits will be continued, or whether they will/can be terminated following the change of control.

Employee Benefits

Buyers should be aware of the Employee Retirement Income Security Act (ERISA), which governs the operation and terms of certain employee benefit plans, including their treatment in connection with transactions.

Retirement plans

There has been an avalanche of litigation surrounding excessive fees, poorly monitored investments and claims related to employer stock investments in 401(k) plans. Buyers and sellers need to also determine whether any plans of the buyer and seller should be terminated prior to a change of control.

If a seller maintains a defined benefit plan, actuarial assistance may be needed to understand the funded position of such plans. Often, the Pension Benefit Guarantee Corporation may insert themselves if either the buyer or seller has a significantly underfunded pension plan.

If the buyer has a collectively bargained workforce, attention will be needed to whether the buyer participates in multi-employer pension plans sponsored by a union, and to whether the structure of the transaction will result in withdrawal liability.

Health plans

The buyer would need to know whether the health plans are self-insured and assess stop-loss coverage. The parties must also understand their Consolidated Omnibus Budget Reconciliation Act (COBRA) and similar state law obligations that provide benefit continuation coverage. Certain states may also require the payout of accrued leave or other benefits. In addition, the buyer must also consider the terminability of retiree medical liability and apportionment of plan liability between parties.

Golden Parachute Excise Taxes

Section 280G of the Code regulates “golden parachute” payments made to certain key employees in M&A transactions. If Section 280G is triggered, excise taxes may be imposed on key executives and the company may lose corporate deductions.

7.7 Currency Control/Central Bank Approval

This is not applicable for U.S. M&A transactions.

8. Recent Legal Developments

8.1 Significant Court Decisions or Legal Developments

In the past year, Delaware courts opined on several cases involving controlling shareholders or conflicted management, highlighting the circumstances where the strictest standard of review, entire fairness, would be warranted or otherwise detailing the procedural steps to be taken by parties to benefit from a lower standard of review by the court.

In the case of *In Re Match Group, Inc* (“Match”), the Supreme Court of Delaware clarified the application of the so-called MFW framework, which it established in its 2014 decision in *Kahn v M&F Worldwide Corp* (“MFW”). In *MFW*, the Court held that the more deferential business-judgement-rule standard of review applies in freeze-out mergers between a controlled corporation and its controlling shareholder only when the controlling shareholder conditions the transaction on the approval of:

- > a fully empowered and independent special committee that meets its duty of care; and
- > a majority of uncoerced and fully informed minority shareholders.

In *Match*, the Court clarified that:

- > the *MFW* framework applies to all transactions in which a controlling shareholder stands on both sides of the deal and receives a non-ratable benefit (including non-freeze-out controlling shareholder transactions);
- > both requirements under the *MFW* framework must be met for the business-judgment-rule standard of review to apply; and
- > for a special committee to be independent, all members of the special committee must be independent.

This was also a pivotal factor in the Delaware Court of Chancery's decision to rescind Elon Musk's compensation package from Tesla earlier this year in *Tornetta v Musk*. In that case, the Court applied the *MFW* framework in determining that Musk's compensation package was subject to judicial review under the entire fairness standard because Musk as a controlling shareholder was found to have exercised significant influence over the Tesla board's decision-making process.

Another notable decision in 2023, also involving Musk, was *Crispo v Musk*, where the Delaware Court of Chancery addressed whether target shareholders could recover lost-premium damages from a buyer in connection with a failed merger pursuant to the so-called Con Ed provisions in a merger agreement (most commonly found in public company mergers). While the opinion suggests that there are avenues whereby such damages could be recoverable under Delaware law (e.g., setting out in the target's charter that it is the exclusive agent on behalf of its shareholders recovering lost-premium damages), uncertainty exists after *Crispo* regarding the limitations to enforceability of such options.

9. Due Diligence/Data Privacy

9.1 Technology Company Due Diligence

In the USA, the buyer will generally carry out legal, financial, commercial and tax due diligence, involving reports from lawyers, accountants and other specialists. The scope of due diligence review will vary based on:

- > the client's needs and the nature of the target company's business;
- > whether the target company is private or public;
- > the proposed transaction structure; and
- > the level of access to the target company.

Some key areas of focus for legal due diligence of a tech company would include:

- > IP ownership and licensing;
- > use of open-source software;
- > IT and cybersecurity policies;
- > data privacy and data breaches; and
- > trade compliance and anti-corruption compliance.

9.2 Data Privacy

Legal and contractual limitations can restrict the due diligence information that a technology company in the USA can provide. Prior to releasing due diligence information, a company should review which federal, state and international data privacy laws are applicable to its business operations. Specifically, regulations such as the EU General Data Protection Regulation (GDPR), the UK General Data Protection Regulation and U.S. state privacy laws (e.g., the California Consumer Privacy Act of 2018) may limit a company's ability to share particular personal data (i.e., information related to an identifiable individual) with a potential counterparty or their advisers.

Additionally, the company must align with its publicly stated privacy policies and any agreements with third parties that include privacy-related stipulations. The USA lacks a comprehensive legislative privacy framework. Nevertheless, the U.S. government has applied Section 5 of the Federal Trade Commission Act — which prohibits unfair or deceptive acts or practices — against companies that fail to protect personal data or adhere to their published privacy policies. All these points need thorough consideration before sharing any personally identifiable information, such as client data or employee details (including social security or bank account numbers), during due diligence.

10. Disclosure

10.1 Making a Bid Public

For a tender offer, the SEC rules require that the acquiror file a Schedule TO (including an offer to purchase and related documents, such as a letter of transmittal). If the deal is only for cash consideration, the Schedule TO is relatively straightforward and, assuming advance preparation, is often filed on the day of (or shortly following) the announcement of the bid for the target.

For a merger, generally the parties will jointly announce the transaction when the definitive merger agreement has been entered into between the target and the acquiror. A publicly traded target company must disclose the material terms of the transaction, in a filing made with the SEC, within four business days of entry into the definitive transaction documents.

See [6.13 Securities Regulator's or Stock Exchange Process](#).

10.2 Prospectus Requirements

The offer and sale of securities to the target shareholders as consideration for the acquisition will need to be registered under the U.S. Securities Act of 1933 (Securities Act), unless an exemption applies. A registration statement would include (among other information):

- > risk factors;
- > business descriptions;
- > financial statements;
- > management's discussion and analysis of financial conditions; and
- > transaction-specific information that would be required in a proxy statement or a Schedule TO, as applicable.

In addition, the staff of the SEC must approve (or “declare effective”) the registration statement, and typically makes many comments before granting such approval. Before the acquiror’s shares may be traded on a U.S. national securities exchange, the acquiror must complete a listing application with the relevant exchange, unless the acquiror’s shares are already listed on the relevant exchange.

10.3 Producing Financial Statements

In a registered exchange offer or merger in which all or a portion of the merger consideration consists of securities, financial statement issues can add significant time and expense to the process, to the extent that financial statements — both of the acquired business and pro forma for the combined company — may be necessary. This depends on the magnitude of the transaction to the acquiror, and the requirement that financial statements filed with the SEC be prepared in accordance with U.S. generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS) as promulgated by the International Accounting Standards Board, or, failing those, with a reconciliation to GAAP.

10.4 Disclosure of Transaction Documents

Parties generally may not include transaction agreement schedules, exhibits or attachments that do not have terms that are material to the transaction or information that would otherwise be material to the shareholders’ investment decision; otherwise, they can request confidential treatment for portions of filed transaction documents. Nonetheless, the SEC may still request that such materials be submitted to it confidentially. See [10.1 Making a Bid Public](#).

11. Duties of Directors

11.1 Principal Directors’ Duties

The directors of a Delaware corporation owe two core fiduciary duties to the corporation and to its shareholders:

- > the duty of care; and
- > the duty of loyalty.

In Delaware, the obligation of good faith underlies these two core fiduciary duties.

The duty of care requires directors to act in an informed and considered manner. Accordingly, directors must inform themselves, prior to making a business decision, of all material information reasonably available to them and, based on such information, must act with due care in discharging their duties. Generally, directors will be liable for a breach of their duty of care only if they are found to have acted with gross negligence.

The duty of loyalty requires directors to act without self-interest and in the best interests of the corporation and its shareholders. Directors must refrain from fraudulent conduct, self-dealing and actions intended to entrench themselves in office. Furthermore, directors may not take personal advantage of business opportunities at the expense of the corporation. Directors found to have breached their duty of loyalty may be subject to personal liability under Delaware law.

While the approach to directors' duties in Delaware emphasizes "the primacy of the shareholder," some other states permit, and even require, the board to consider interests of other constituencies such as employees, customers and suppliers.

11.2 Special or Ad Hoc Committees

Boards of directors will sometimes establish special or ad hoc committees, comprised of independent directors, to negotiate the terms of potential business combinations. Such special committee of the board will often be formed where the majority of the directors are not independent (or are conflicted), or when a controlling shareholder stands on both sides of the potential transaction or will receive different consideration in the transaction or in any side agreement to the detriment of the other shareholders. A properly functioning special committee should select and retain its own independent advisers, and the committee must be fully informed, both regarding the terms of the transaction and in terms of diligence.

11.3 Board's Role

Board's Role in Negotiations

Boards generally do not play an active role in the negotiations of an M&A transaction; however, they are expected to make the final decision on whether to approve a sale and recommend the sale and its terms to the target shareholders.

Under the business judgement rule, Delaware courts will presume that directors have satisfied their fiduciary duties if they have made their decisions in good faith, on the basis of a reasonable investigation and after careful consideration of all material factors reasonably available, in accordance with what they honestly believe to be the best interests of the corporation and its shareholders. In applying the business judgement rule, Delaware courts will only consider whether a rational decision-making process has been demonstrated.

Shareholder Litigation

Litigation by shareholders is common in relation to acquisition of public companies in the USA; however, it is relatively uncommon for such litigation to completely derail transactions, due in part to:

- > federal and state (largely Delaware) court decisions limiting the use of "disclosure only" settlements whereby plaintiffs seek to obtain additional information and legal fees; and
- > Delaware courts' continued expansion of steps to be taken to provide for application of the business judgement rule.

Under Delaware law, shareholders who do not vote in favor of a cash merger are generally entitled to an appraisal by the Delaware Court of Chancery of the fair value of the shareholder's shares. While appraisal actions have historically been common, recent decisions by the Delaware Supreme Court give significant weight to market-based indicators of value (e.g., the target company's stock price or the deal price) in the absence of showing that the target's stock trades inefficiently or that there was no robust sale process.

11.4 Independent Outside Advice

A target company board will generally engage external legal and financial advisers and may also engage external accountants and consultants in consideration of a potential business transaction. A director can rely upon such outside advisers, and consideration of robust advice from such advisers is important for demonstrating satisfaction of the director's fiduciary duties. Target company boards generally also request a "fairness opinion" from the financial advisers on whether the proposed consideration is fair from a financial standpoint.

Trends and Developments

Innovation Driving Tech M&A

Technological innovation is driving deal making in the USA, not only among traditional tech companies but across all sectors, such as retail, manufacturing, finance, healthcare, supply chain, energy storage and infrastructure. Through cross-industry acquisitions, non-tech companies are seeking modernization as efficiently as possible to adapt to a rapidly changing market and industry conditions. Non-tech companies are leveraging the ability to access advanced R&D capabilities and develop new products and services by acquiring tech start-ups or established tech companies. A broader range of potential acquirers therefore exists for tech company targets, and may continue to grow, despite ongoing uncertainty around interest rates, inflationary pressures and the global political environment.

Tech M&A provides non-tech companies the means to quickly adopt and integrate new technologies and software in order to modernize their operations and stay competitive in an increasingly digital landscape. A non-tech acquirer can expand with new technological advances via a transaction, as opposed to the expensive and time-consuming process of attempting to develop it organically.

AI, machine learning and data analytics are popular areas of tech investment. There is strong consensus on the significant value being placed on the future of AI. In the first half of 2024, North American AI company deals totaled USD12.8 billion — up 57% from the same period the previous year — with an expectation that AI deals will continue through the end of the year as companies seek to land talent and start-ups search for capital. On a global level, the USA is expected to account for the largest AI market share due to the widescale adoption of AI technology in several industries (e.g., healthcare, automotive, retail) as well as the strong presence of popular AI vendors, including NVIDIA and Intel.

Examples of recent, significant cross-industry acquisitions include Synopsys' proposed acquisition of Ansys (involving Synopsys' semiconductor electronic design automation solutions and Ansys' simulation and analysis capabilities) and Cisco's USD28 billion acquisition of Splunk to combine AI with cybersecurity and cloud technologies.

Cross-Border Tech Transactions

Although cross-border tech M&A has seen a decline in recent years with increased scrutiny of foreign investment, acquirers are continuing to look across borders for the best-value tech deals. U.S. export control regulations can also affect foreign investment in U.S. businesses or can restrict their ability to export or otherwise make available certain U.S. products, technologies or other items to foreign entities.

However, foreign interest in the U.S. tech market remains strong, specifically among European and Asian tech acquirers and investors looking to acquire innovative U.S.-based firms and technology, while keeping in mind the longer deal times that may come into play with the heightened regulatory scrutiny. Despite the regulatory challenges, non-U.S. acquirors are frequently attracted to the size of the U.S. market and the growth opportunities it presents.

U.S. cross-border tech M&A peaked in 2020 with momentum continuing in 2021, followed by a drop in 2022 and 2023 and a slow start in the beginning of 2024. Across regional flows of global tech cross-border M&A, the USA remained the largest outbound investor in 2023 and accounted for the majority of inbound tech M&A investment into Europe and the Asia Pacific.

In Q1 2024, U.S. strategic and financial sponsor acquirors invested more than twice as much (by value and volume) into European companies than into APAC companies. Acquirors should keep in mind the expected 2025 implementation of a new outbound foreign investment regime in the USA that will either prohibit or require notification of U.S. investments in certain Chinese entities engaged in semiconductors and supercomputing, quantum computing and/or AI. The draft regulations could be broader in scope as well, including affecting non-U.S. investors in which U.S. persons participate in making the investment decisions.

Attractiveness of Small-Cap Companies

2024 saw some mild recovery in M&A activity compared to the previous two years, and there has been a slow but steady uptick in deal flow since Q1 of 2024, albeit for smaller deal sizes when compared to what was seen in the last decade. According to Mergermarket's M&A Highlights 1H 24 report, deal volume was up 33% year-over-year, to USD863.6 billion from USD647.5 billion in North America.

While the volume of tech deals in the USA has generally increased over the past year, reflecting strategic acquisitions as well as private equity firms looking to capitalize on high-growth opportunities, deal values have decreased as acquirers appear to be increasingly looking for deals in the middle market. Large players such as Microsoft and Google have been looking to snap up smaller companies and bring the expertise in-house. Economic uncertainty may have also reset the value of small tech start-ups overall, decreasing valuation gaps and leading to their becoming prime targets for acquisition. Large tech M&A deals may have also become discouraged given the increase in regulatory oversight, leading to buyers considering multiple smaller acquisitions instead.

At the same time, telecommunications companies may still drive megadeals as players continue to consolidate to reduce high infrastructure costs; however, the overall challenging regulatory environment may continue to dampen the mega-cap tech companies' enthusiasm for deal making.

Shareholder Activism

Activist investors targeted the technology sector in 2023; and, even with a slower start in 2024, the technology, media and telecommunications (TMT) sector remained a prime sector for activists. According to FTI Consulting's Activism Vulnerability Report, the TMT sector accounted for 52 campaigns in 1H24, a 33% increase from 1H23, which saw 39 campaigns. The TMT sector held a 47% share of ongoing activist campaigns in 1H24, the largest among all industry sectors.

The majority of activist demands for the sector centered on board representation, operational efficiency or M&A. Early success rates for activists in the sector for 1Q24 were low. One half of the campaigns launched

targeted large-cap firms, and, of the 1Q24 TMT large-cap campaigns that were concluded, none were successful for the activists. As 2024 has progressed, activists appear to be shifting towards targeting small-cap companies as a change in strategy.

As activists continue to advocate for value creation, they may pressure tech companies to divest non-core businesses that do not align with the company's strategic focus or push for acquiring companies with complementary technologies or expanding product lines, particularly as the M&A market continues to strengthen. Alternatively, activists could be shifting from advocating for growth towards seeking operational efficiency.

Activists may also further scrutinize past and potential transactions in looking to maximize shareholder value. All said, there are several angles activists may take with the shifting marketplace and increasing competition, including pushing for some form of M&A. Given the constantly changing development of AI and related technologies, tech companies should remain focused on regularly assessing their strategic goals and should be responsive to shareholder engagement, as activists may be similarly inclined to demand strategic reviews.

In Other News

[Read past issues of our U.S. M&A Newsletter here.](#) We thought you might also find the following articles featuring our Linklaters colleagues useful.

- > Linklaters: [Global Guide to Anti-Bribery and Corruption Law and Enforcement](#)
- > Linklaters: [From Chips to AI Models: A New Global Framework in U.S. Export Controls](#)
- > Linklaters: [Managing Conflicting Beliefs in the Workplace](#)

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