

M&A Trends in Europe ECLA GC ROUND TABLE



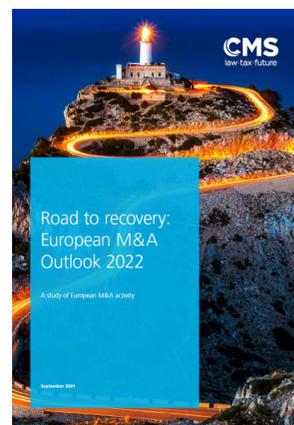
Presented by Louise Wallace and Stefan Brunnschweiler

1 16 September 2021

CMS European M&A Study and M&A Outlook

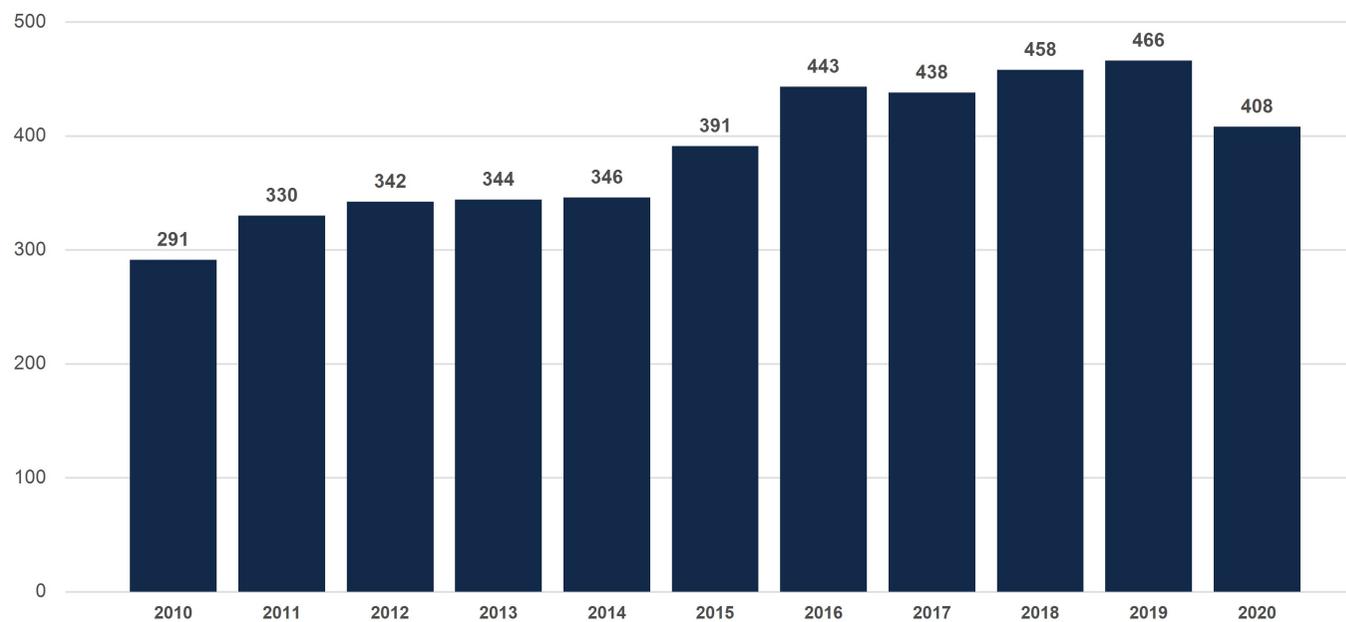


- 13th Edition
- Over 5,000 CMS transactions analysed
- 408 deals in 2020
- CMS Trend Index
- European/US comparison
- European regional Differences
- Deal size analysis

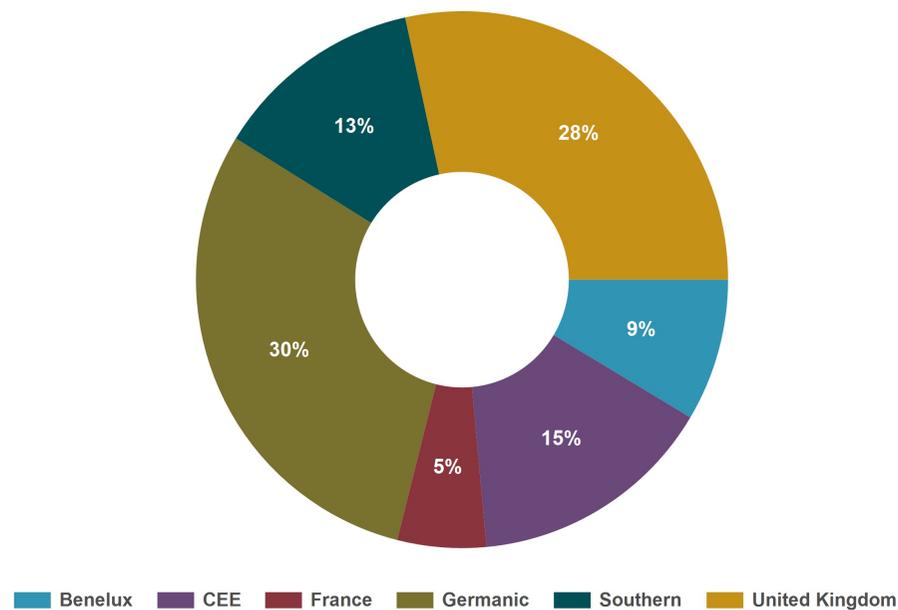


- 9th Edition
- 330 executives surveyed
- Impact of COVID-19
- Impact of Brexit
- ESG considerations
- FDI environment
- Sector watch

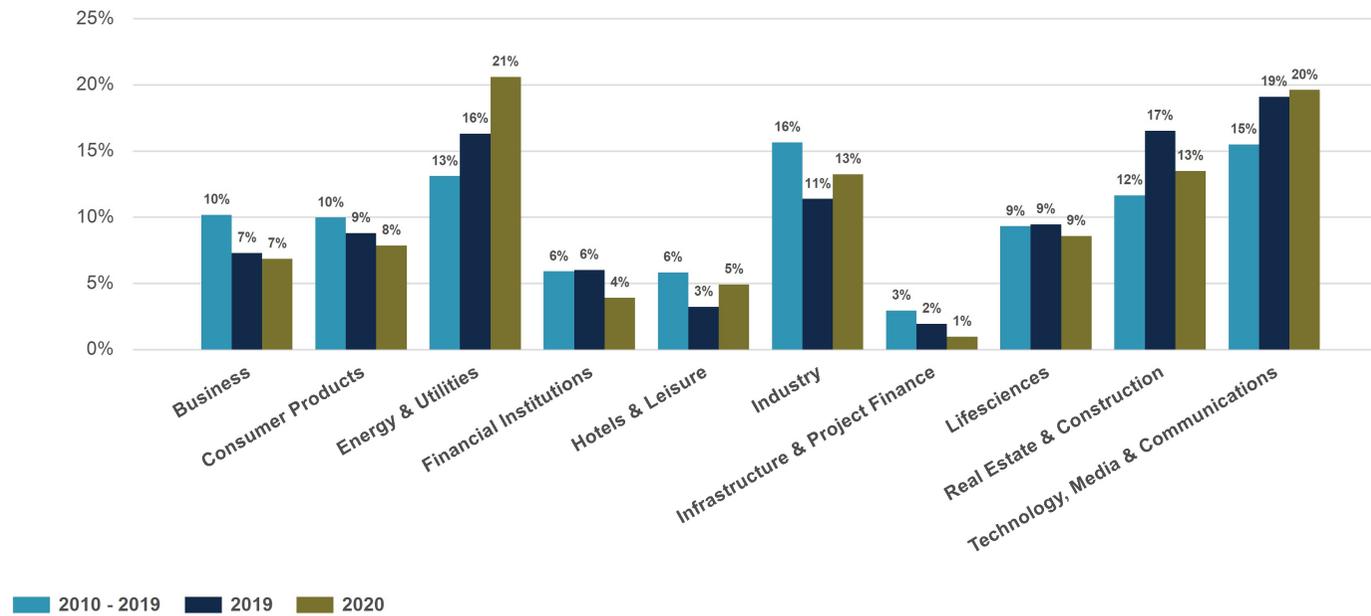
Number of transactions 2010 - 2020



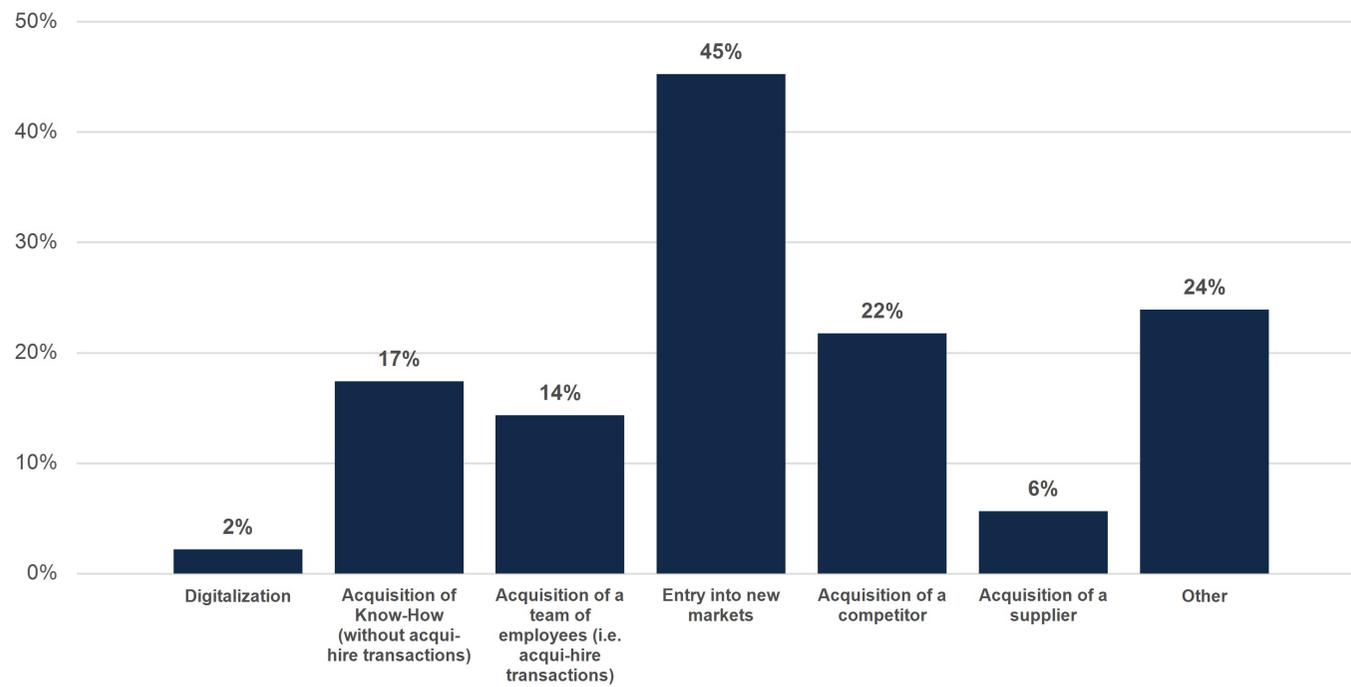
Number of transactions 2020 in all countries and regions



Sectors covered in 2021 Study

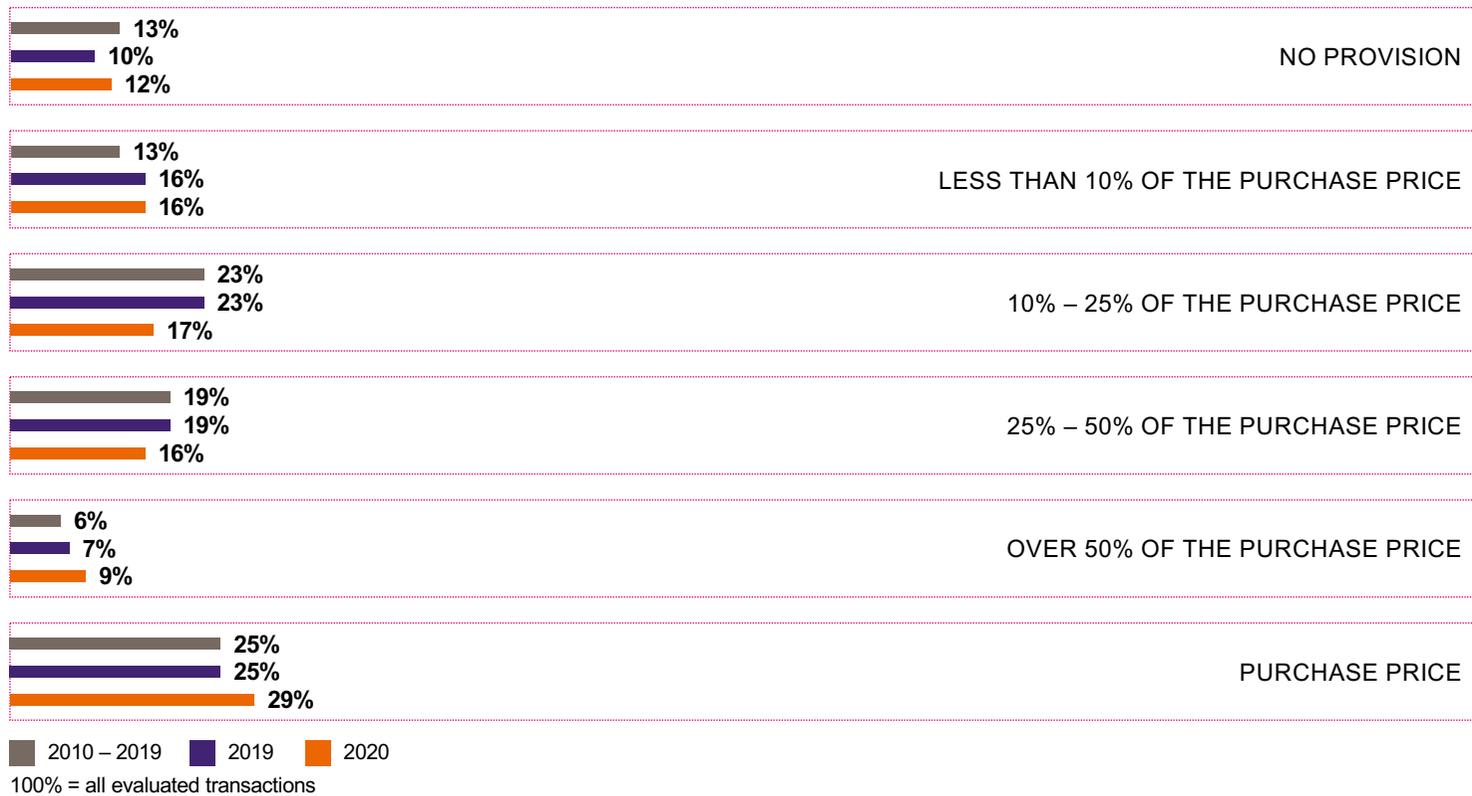


Main deal drivers in 2020

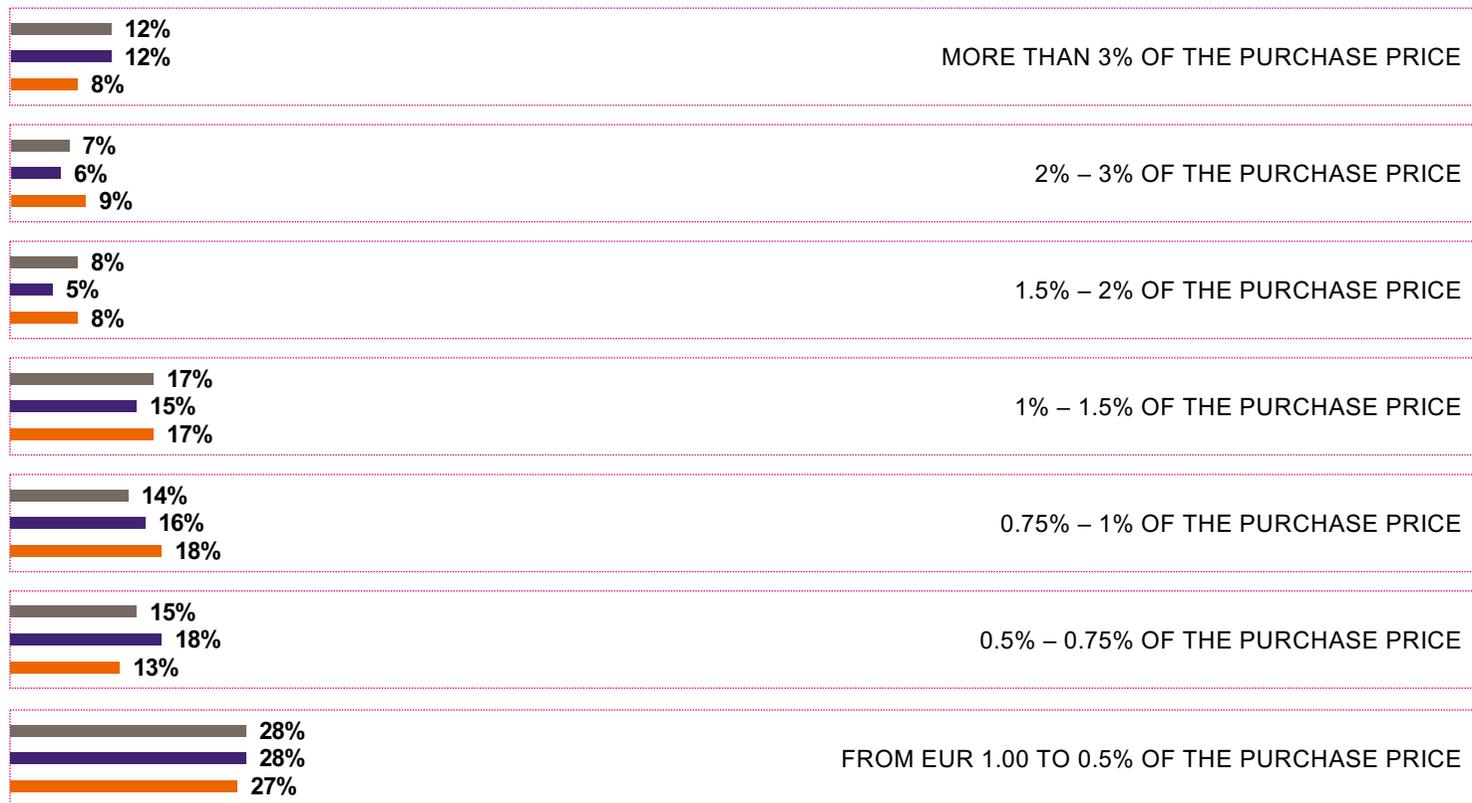


100% = all evaluated transactions
More than one nomination possible

Amount of Liability Cap



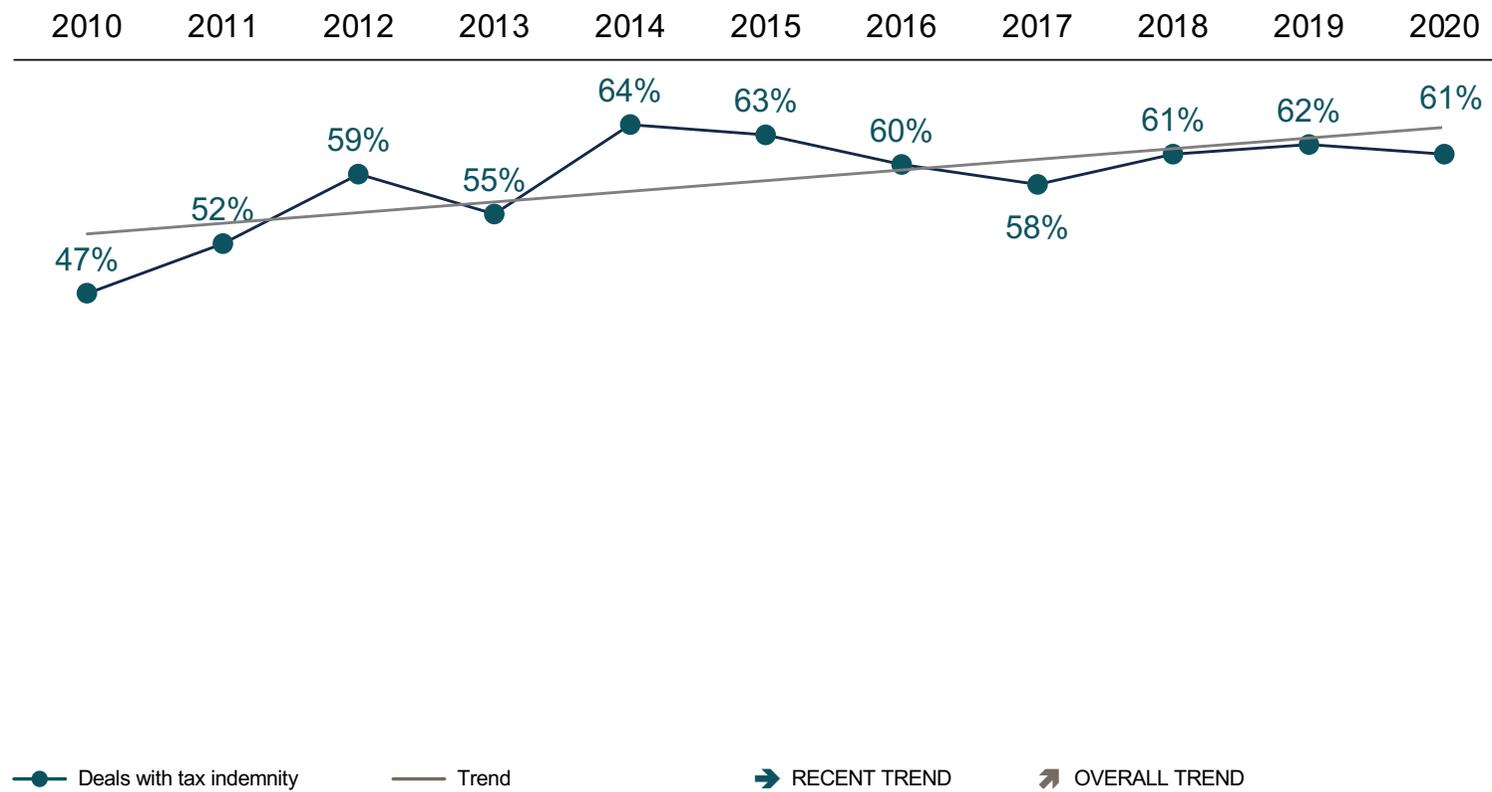
Basket Time Trend



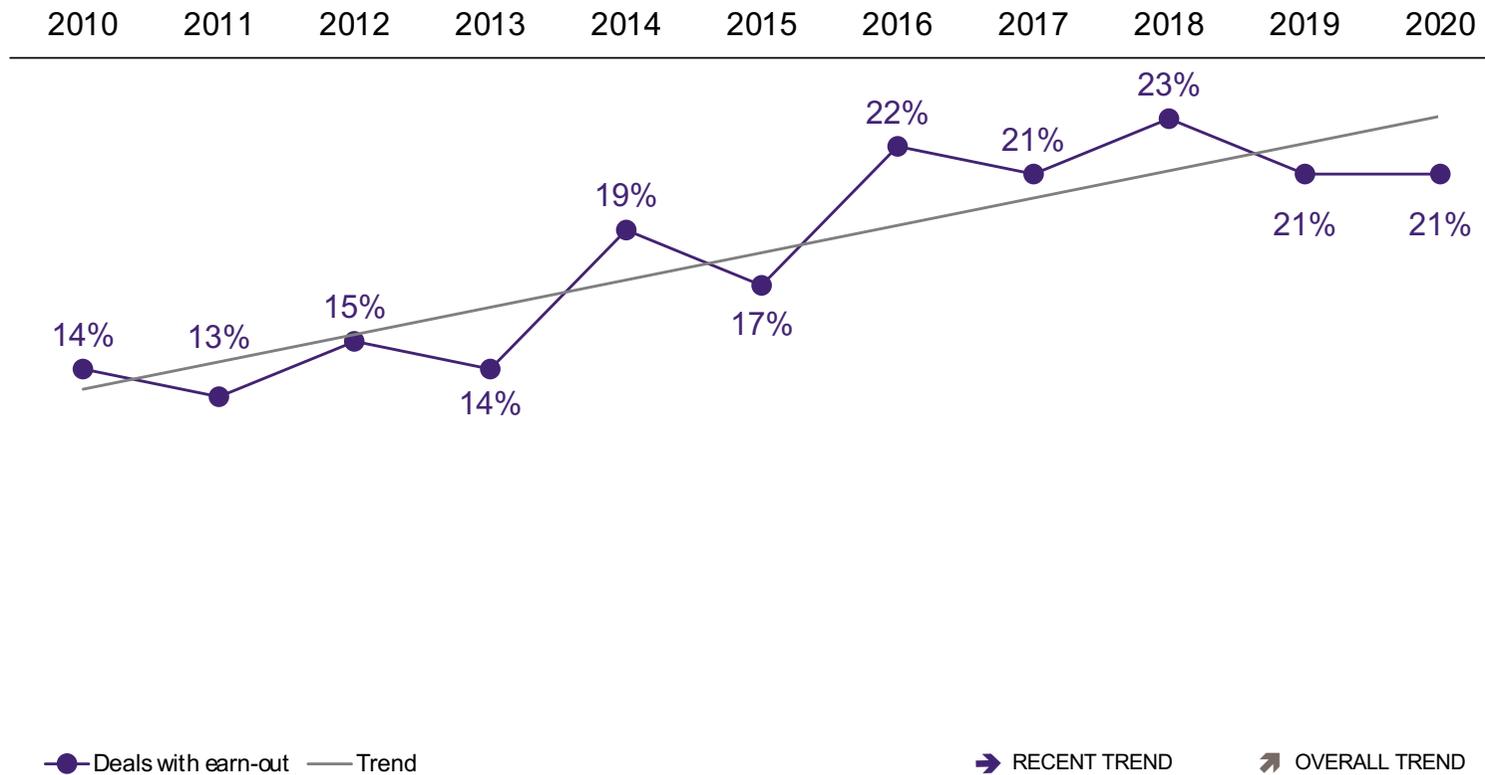
2011 – 2019
 2019
 2020
 100 % = all evaluated transactions with a basket clause

CMS Trend Index

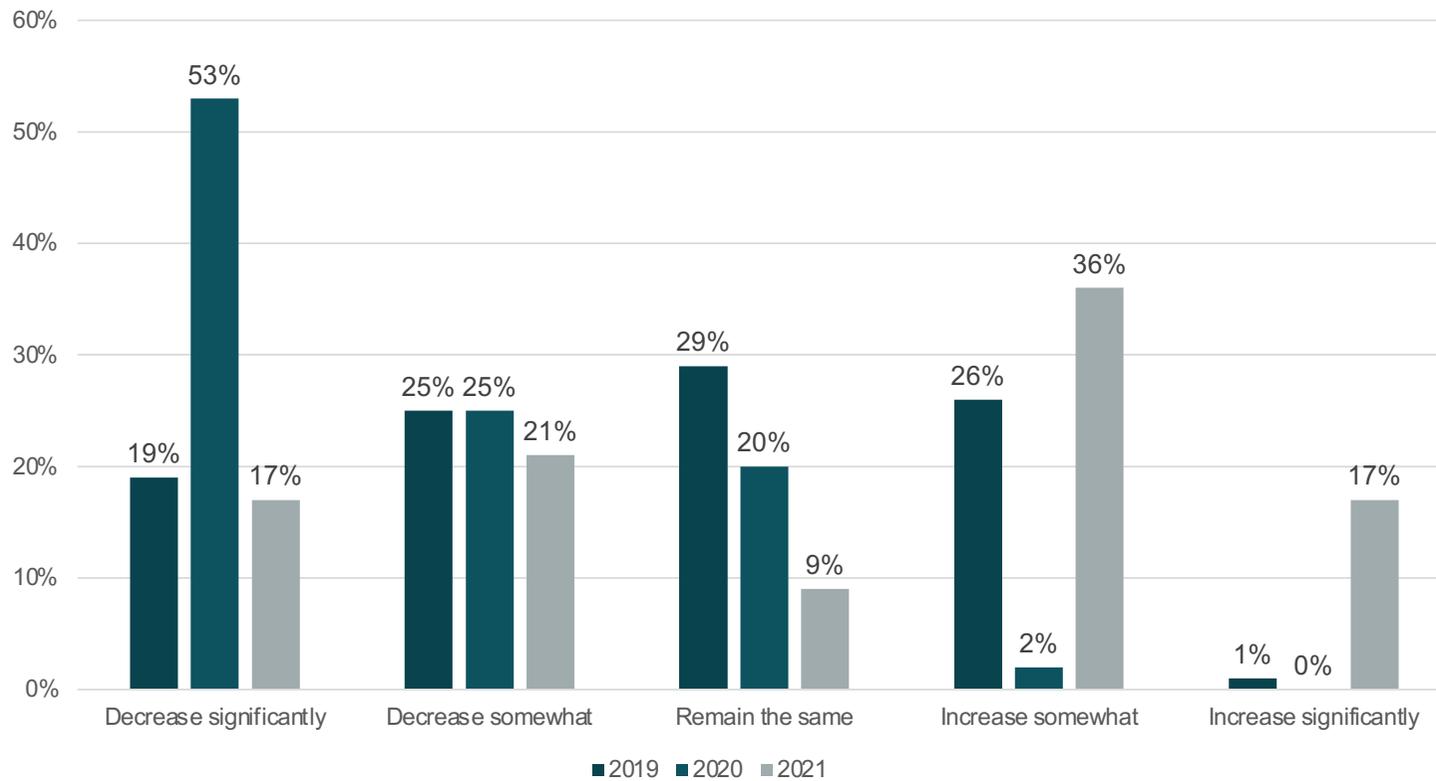
Tax indemnity agreed



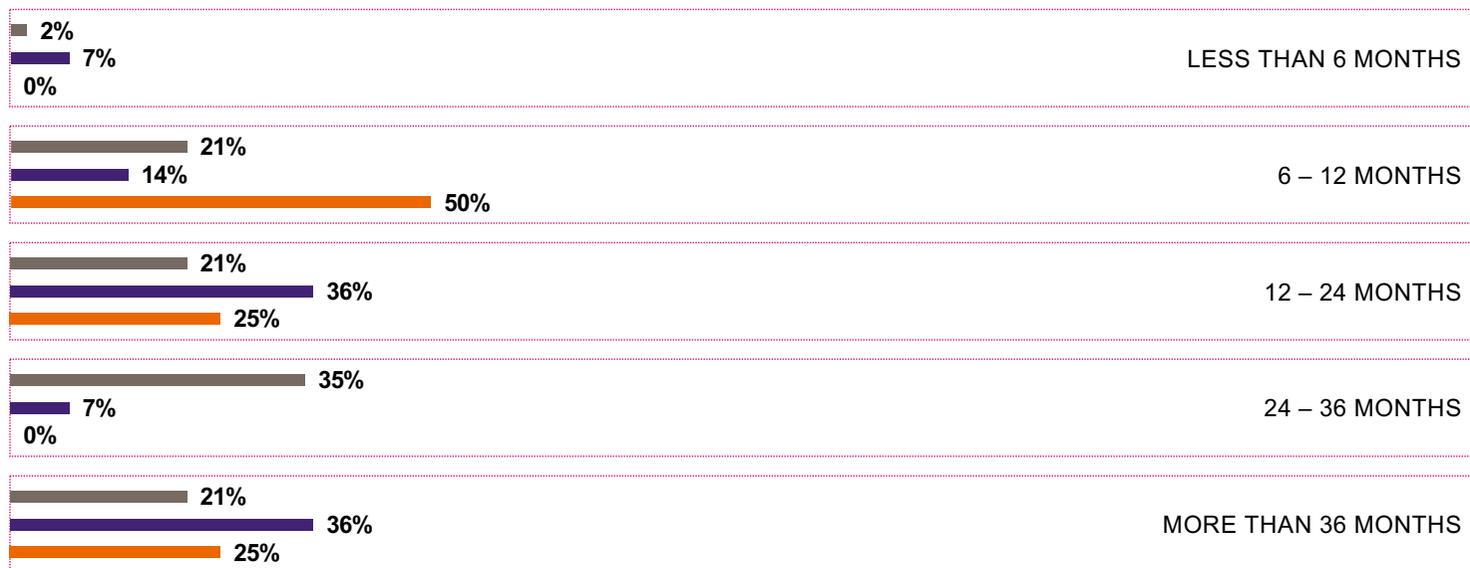
CMS Trend Index – Earn Out



What do you expect to happen to the level of European M&A activity over the next 12 months?

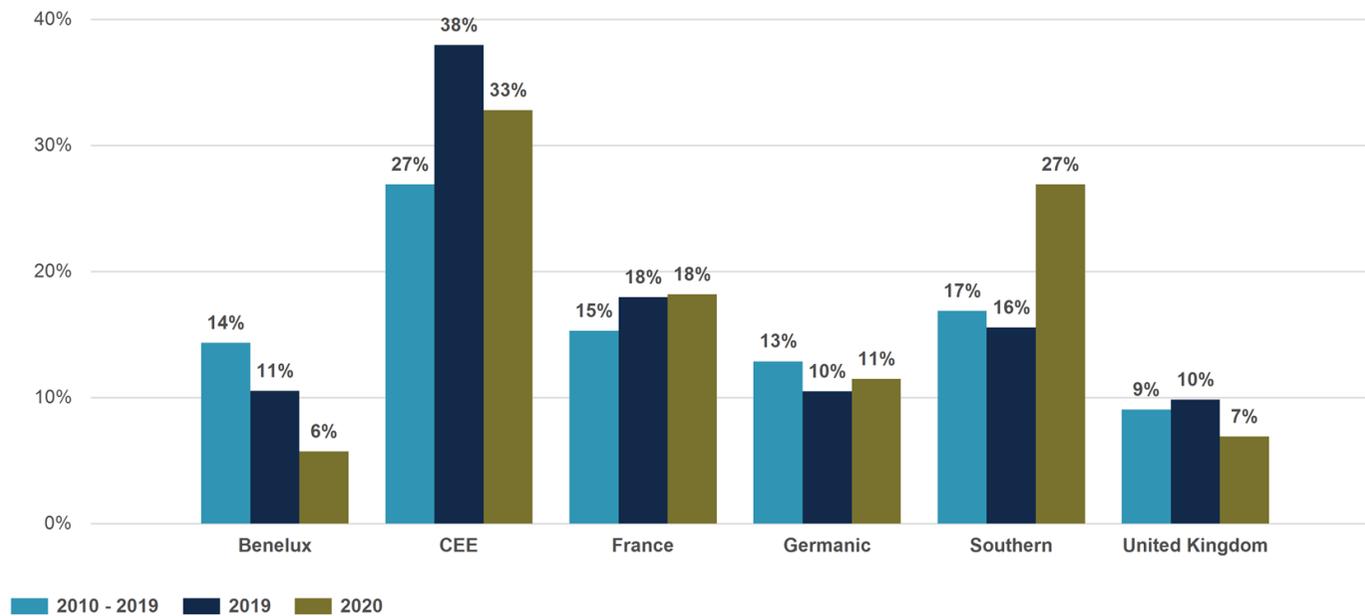


Duration of Time Periods Relevant for Assessment of Earn-out



< EUR 25m
 EUR 25m – 100m
 > EUR 100m
 100% = all transactions including an earn-out clause

MAC clauses decline in 2020



100% = all evaluated transactions

100% = all evaluated transactions



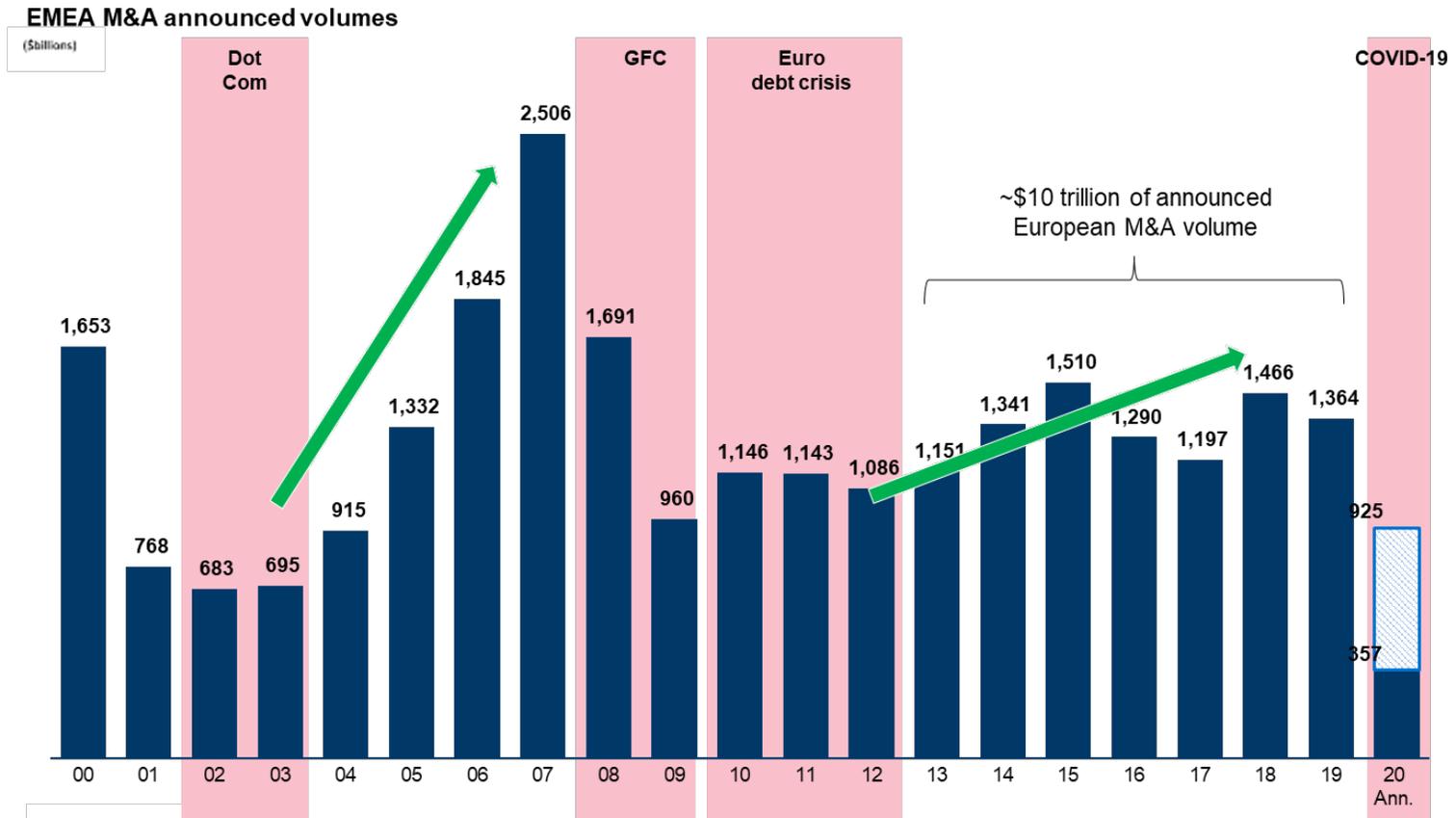
COVID-19 Impact

- Many deals delayed but relatively few aborted
- Valuation difficulties
- Impact on due diligence and financing terms
- Retail, consumer, leisure and real estate sectors most affected
- MAC clauses were rarely applied
- Price and some deal terms renegotiated but many unchanged

Europe/US differences

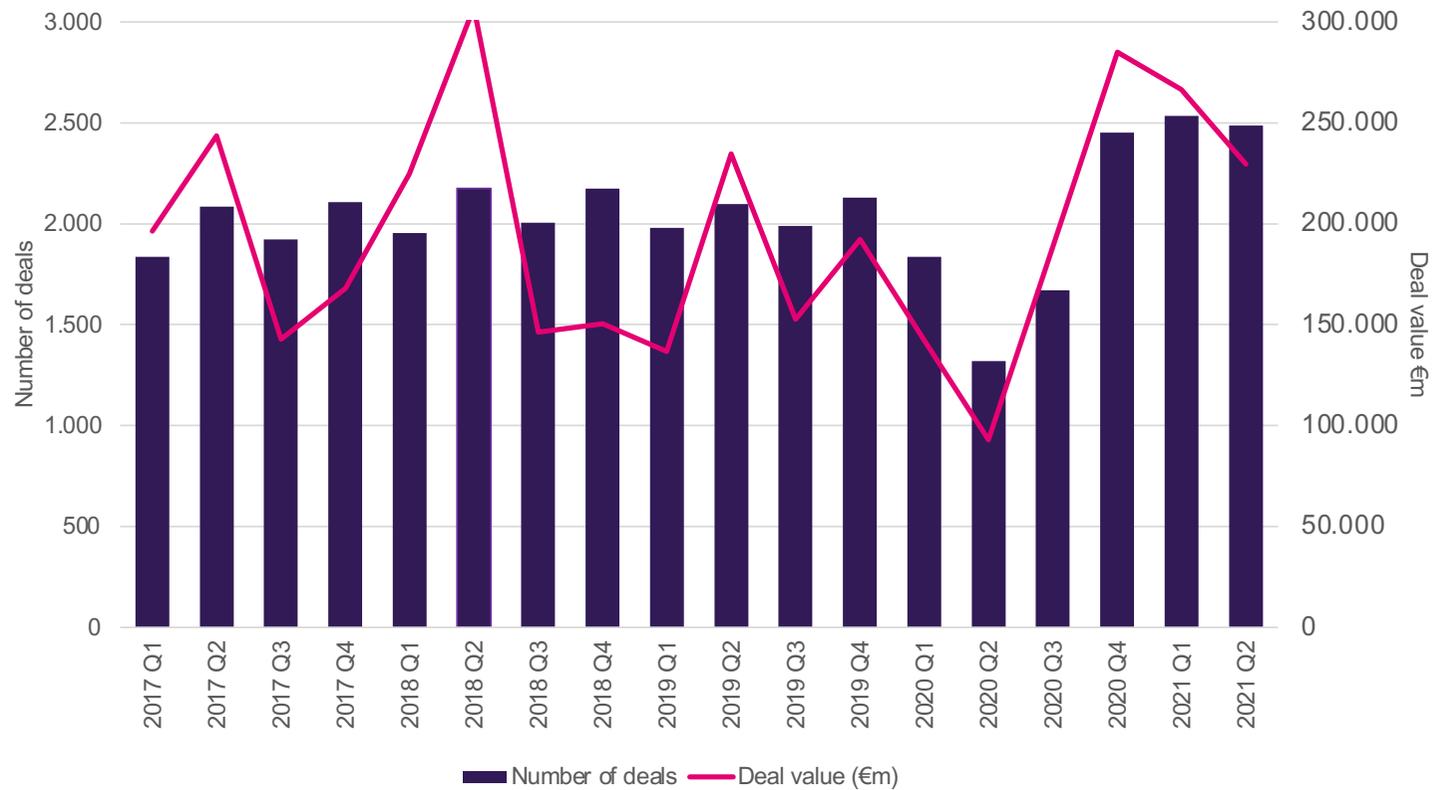
	EUROPE	US
PURCHASE PRICE ADJUSTMENT	45%	95%
WORKING CAPITAL ADJUSTMENT	41%	92%
EARN-OUT DEALS	21%	27%
<i>DE MINIMIS</i>	73%	39%
BASKET	66%	97%
BASKET THRESHOLD (1% OR LESS)	62%	97%
'EXCESS ONLY' RECOVERY (BASKET)	20%	74%
'FIRST DOLLAR' RECOVERY (BASKET)	80%	23%
SUB-25% LIABILITY CAPS	43%	95%
MAC CLAUSES	15%	97%
SECURITY FOR CLAIMS	29%	83%
W&I INSURANCE USED	17%	52%

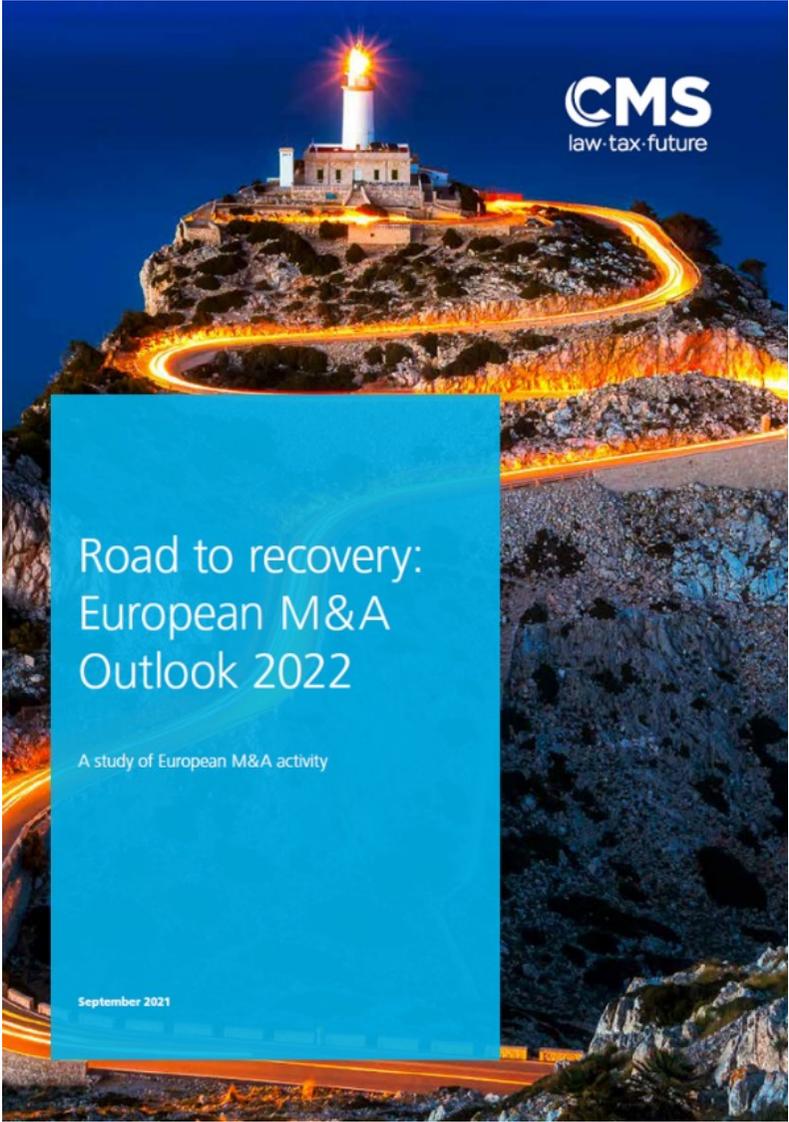
However, European M&A has rebounded strongly from prior crises



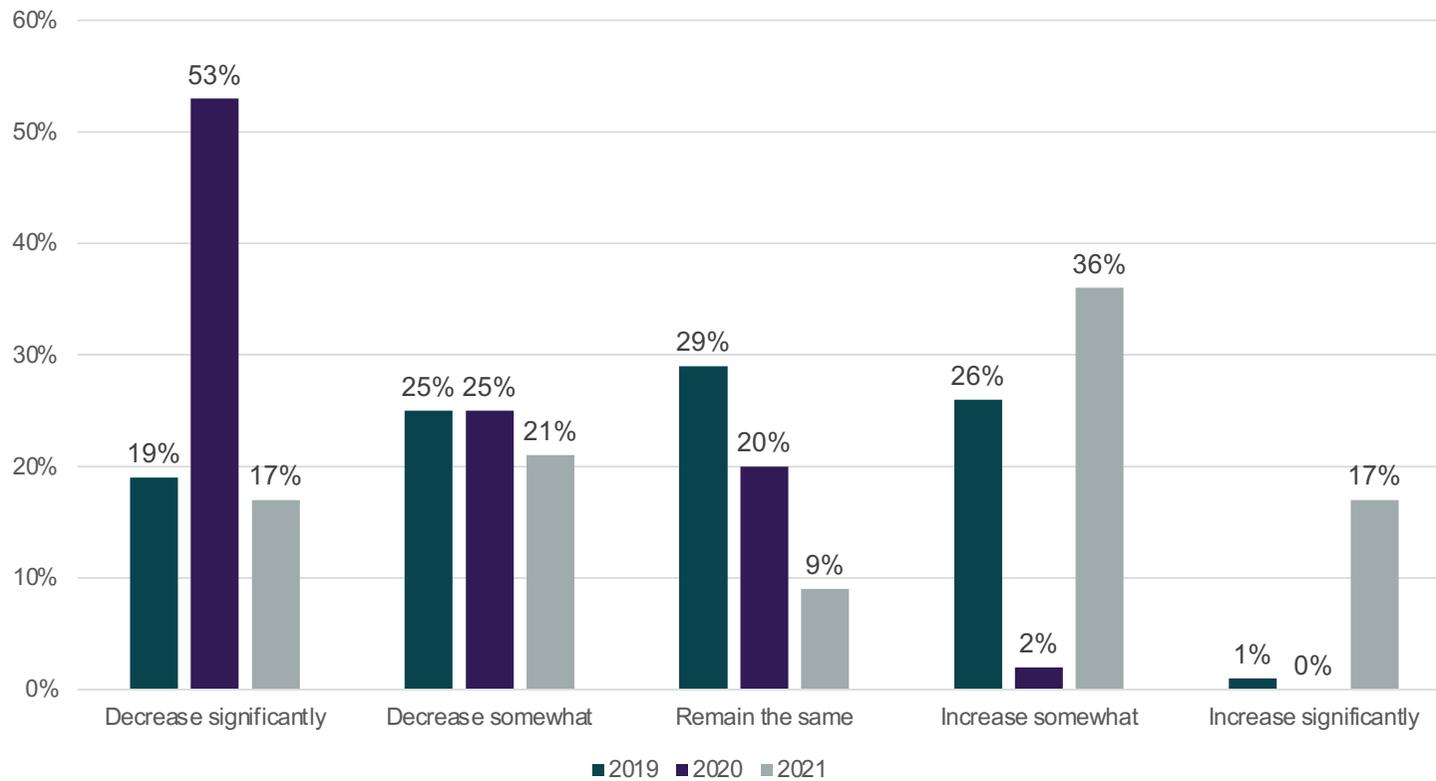
Source: Dealogic as of 21 May 2020.

European M&A trends 2017-2021 YTD





What do you expect to happen to the level of European M&A activity over the next 12 months?



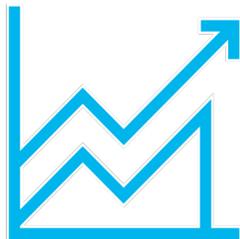
Highlights of H1 2021

- Volume has climbed 59% year-on-year to 5,024 deals in H1 2021 with the deal value for the period rising 111% to EUR 496.1bn.*
- The STOXX Europe 600 Index gains 15.7% for the year to date
- PE firms have USD 351.6bn of dry powder, up from USD305bn a year ago.**
- 363 SPACs listed in North America surpassing the 250 full-year total for 2020 and raising USD 111.7bn

*Mergermarket

**Preqin

CMS European M&A Outlook 2022: Key findings



M&A appetite rises.

More than half of all respondents expect the level of European M&A activity over the next 12 months to increase. Corporates that have built up large cash piles through the pandemic and PE firms with record levels of dry powder are eager to make up for time lost in lockdowns to get deal timetables back on track.



Low prices and distress.

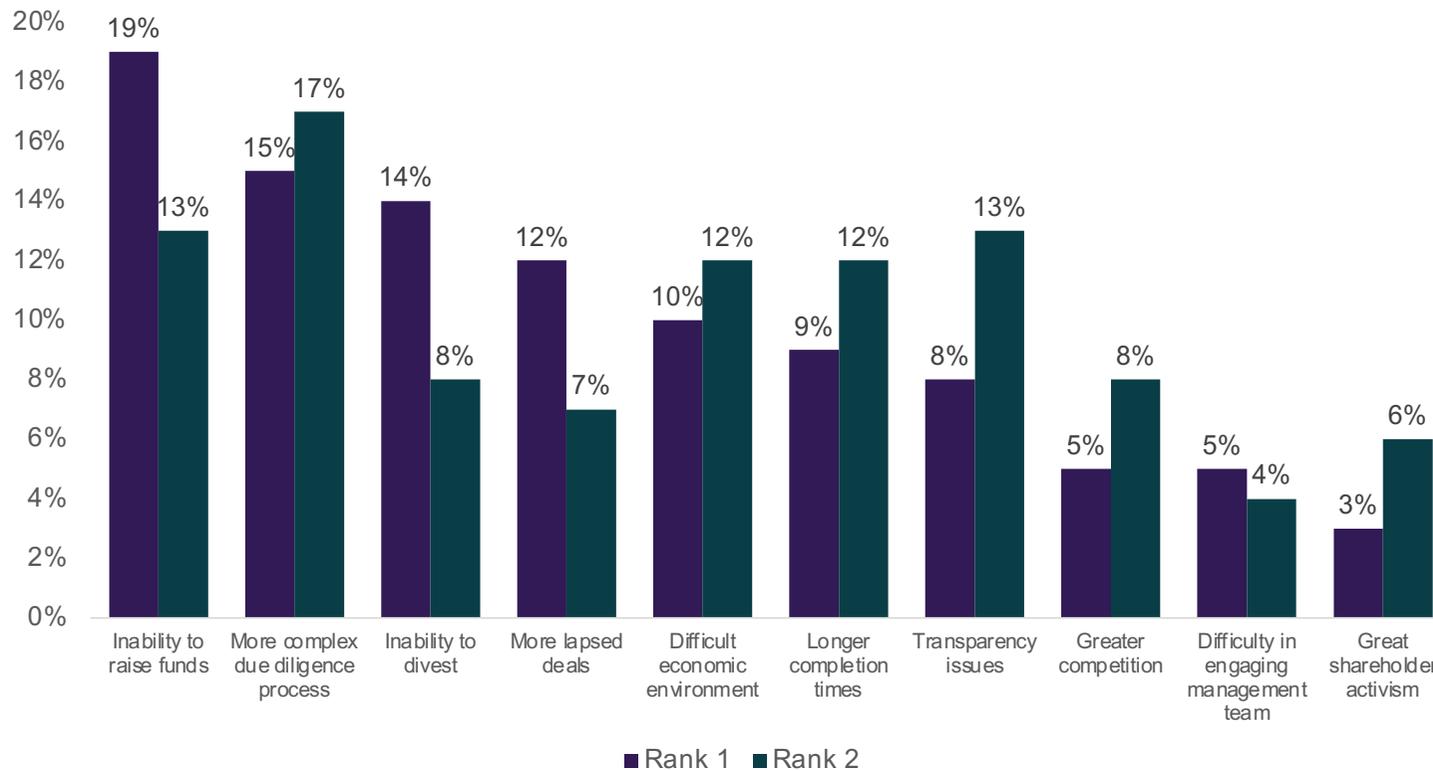
Although asset prices have held up through the pandemic and vast government stimulus has kept businesses from insolvency, just under a quarter of respondents (24%) see undervalued targets as the most important buy-side driver of M&A activity over the next 12 months. A similar percentage (22%) identify distressed-driven M&A as the most important catalyst for sell-side activity.



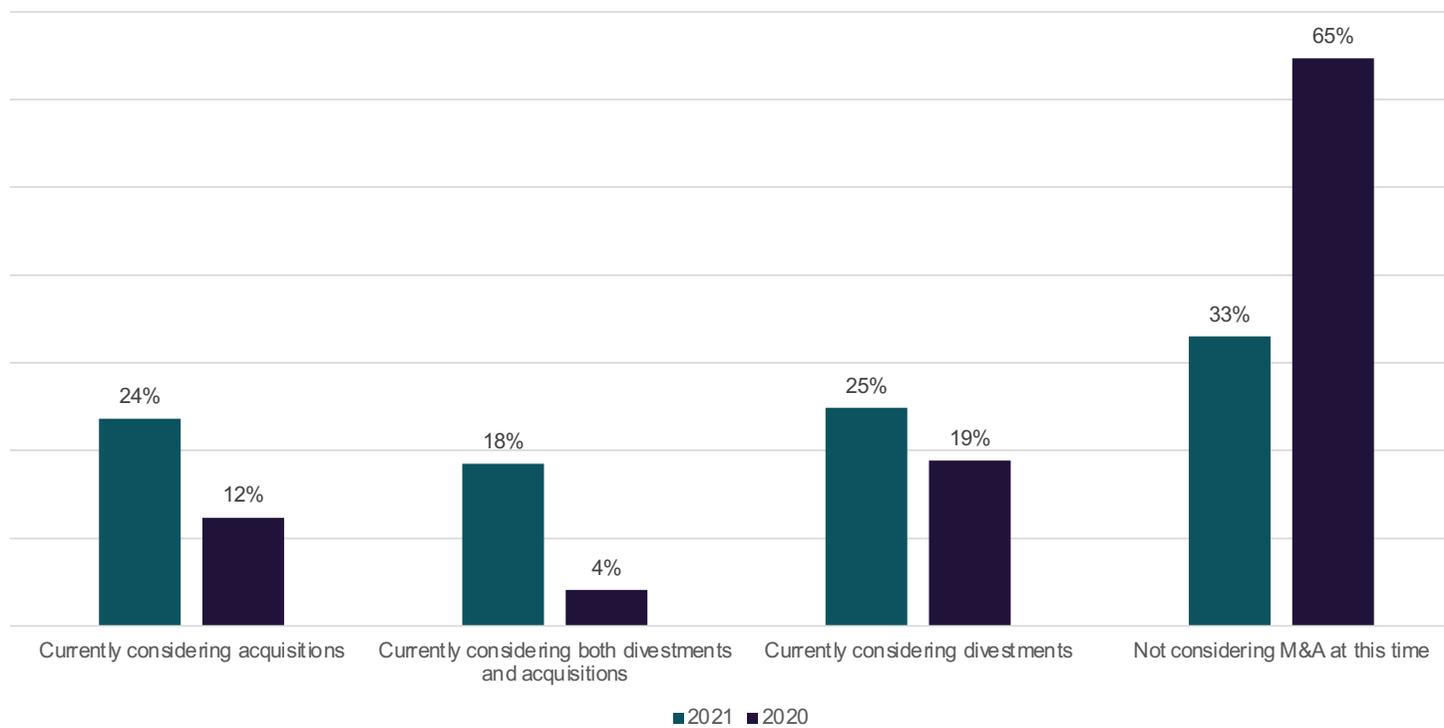
PE in pole position.

71% agree that financial buyers are better placed than strategic buyers to take advantage of buying opportunities presented by COVID-19. Private equity firms have limited timeframes to deploy capital so are expected to move quickly to get deployment levels back on schedule. Whilst corporates are currently focusing on reopening offices and sites as COVID-19 restrictions ease, we expect greater activity from these strategic buyers, as well as from the US and European SPACs.

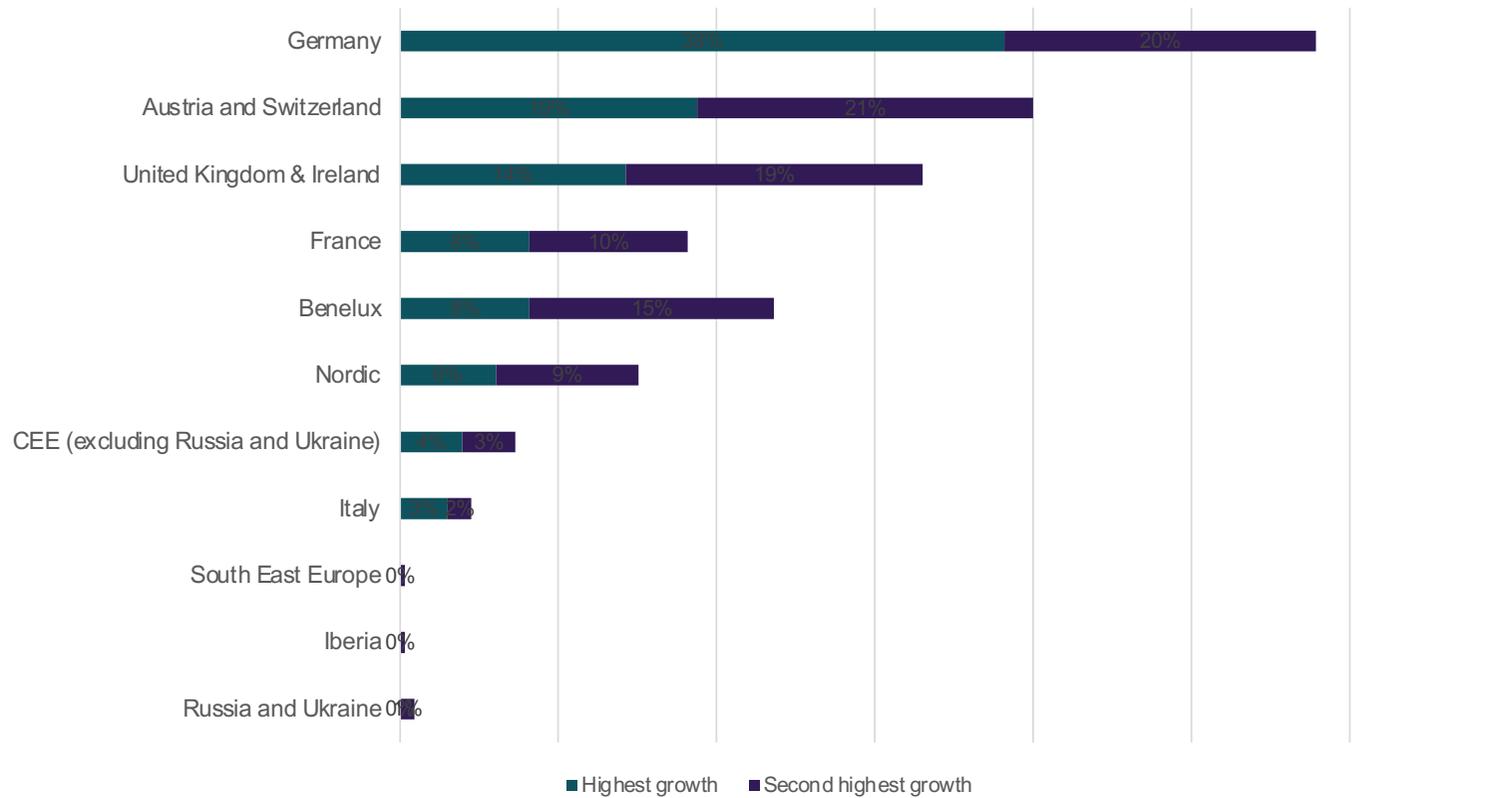
What challenges do you expect to see in European M&A in the aftermath of COVID-19? (Please select the two most important, 1 = most important, 2 = second most important)



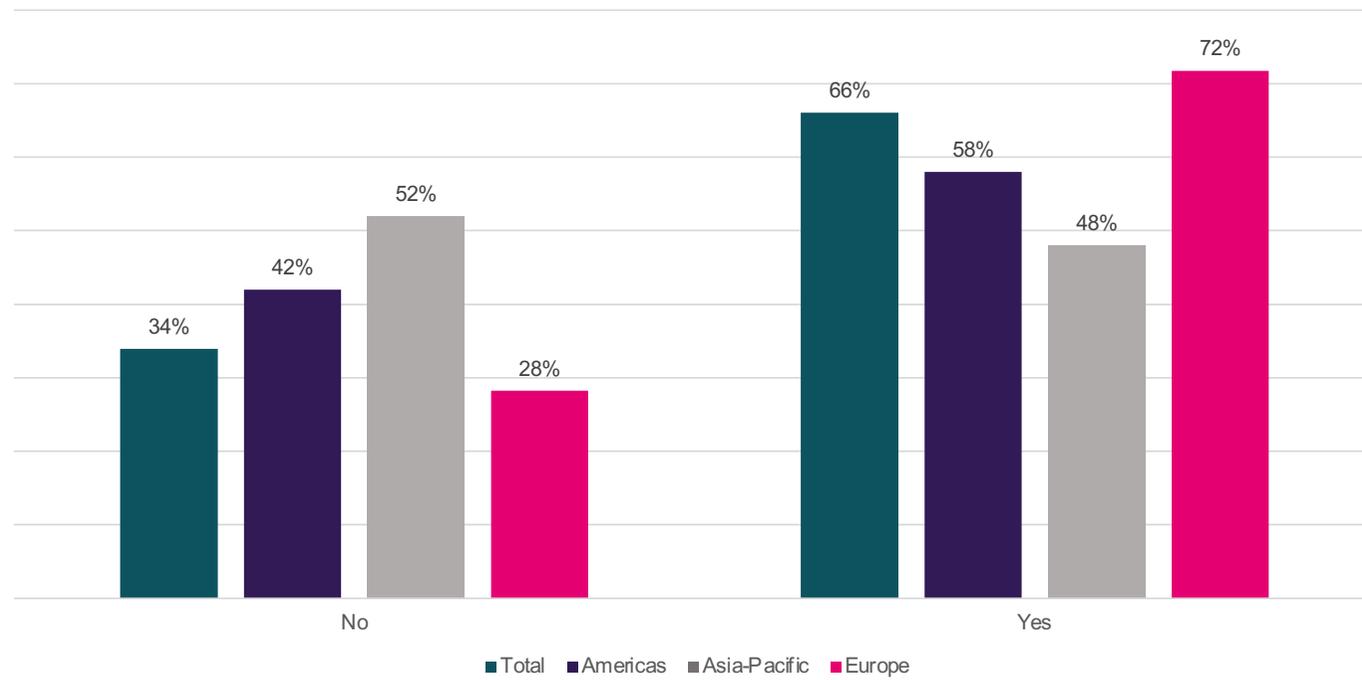
Where does M&A currently fit into your corporate strategy?



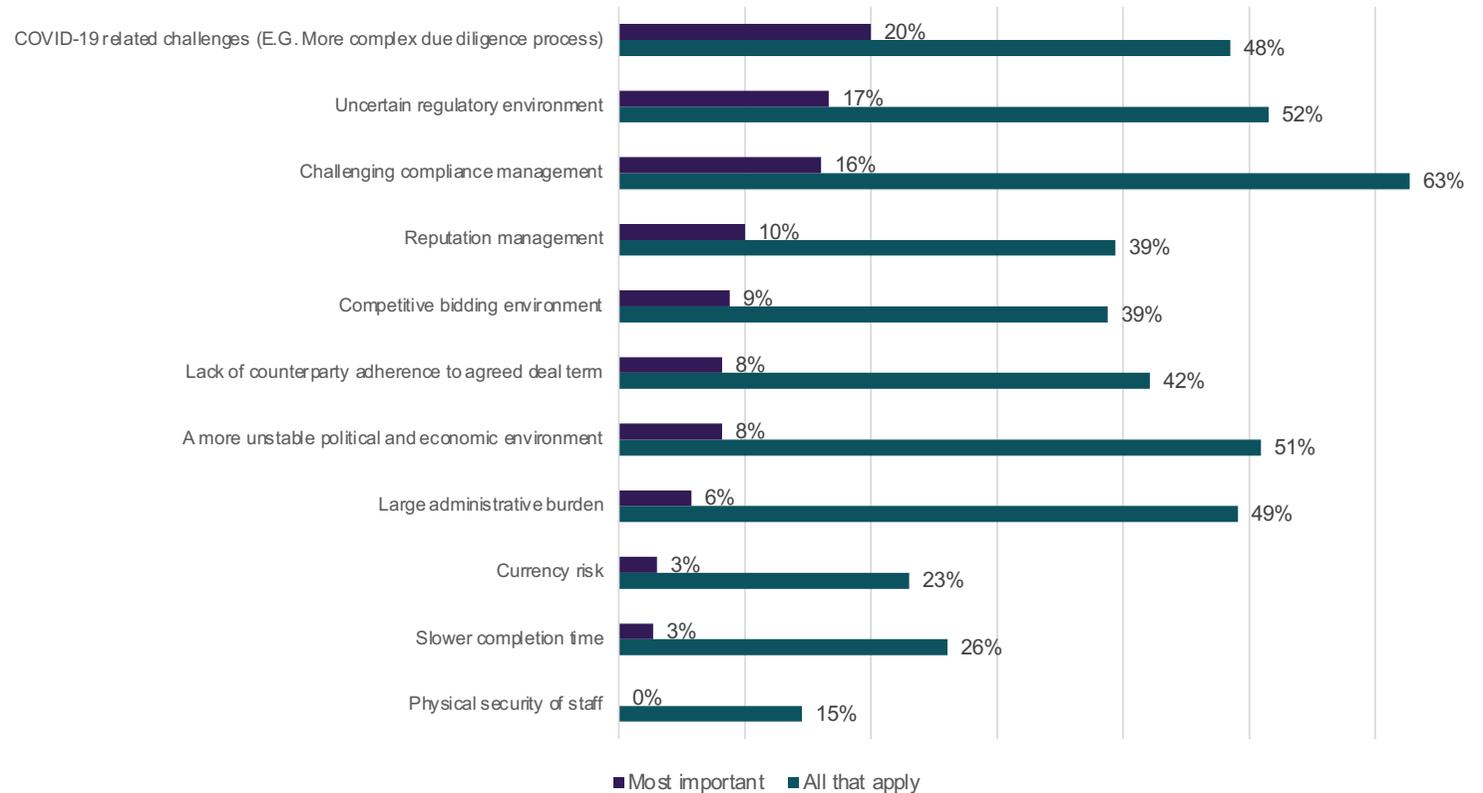
Which regions will see highest growth post-COVID-19? (Please select the two most affected, 1 = highest growth, 2 = second highest growth)



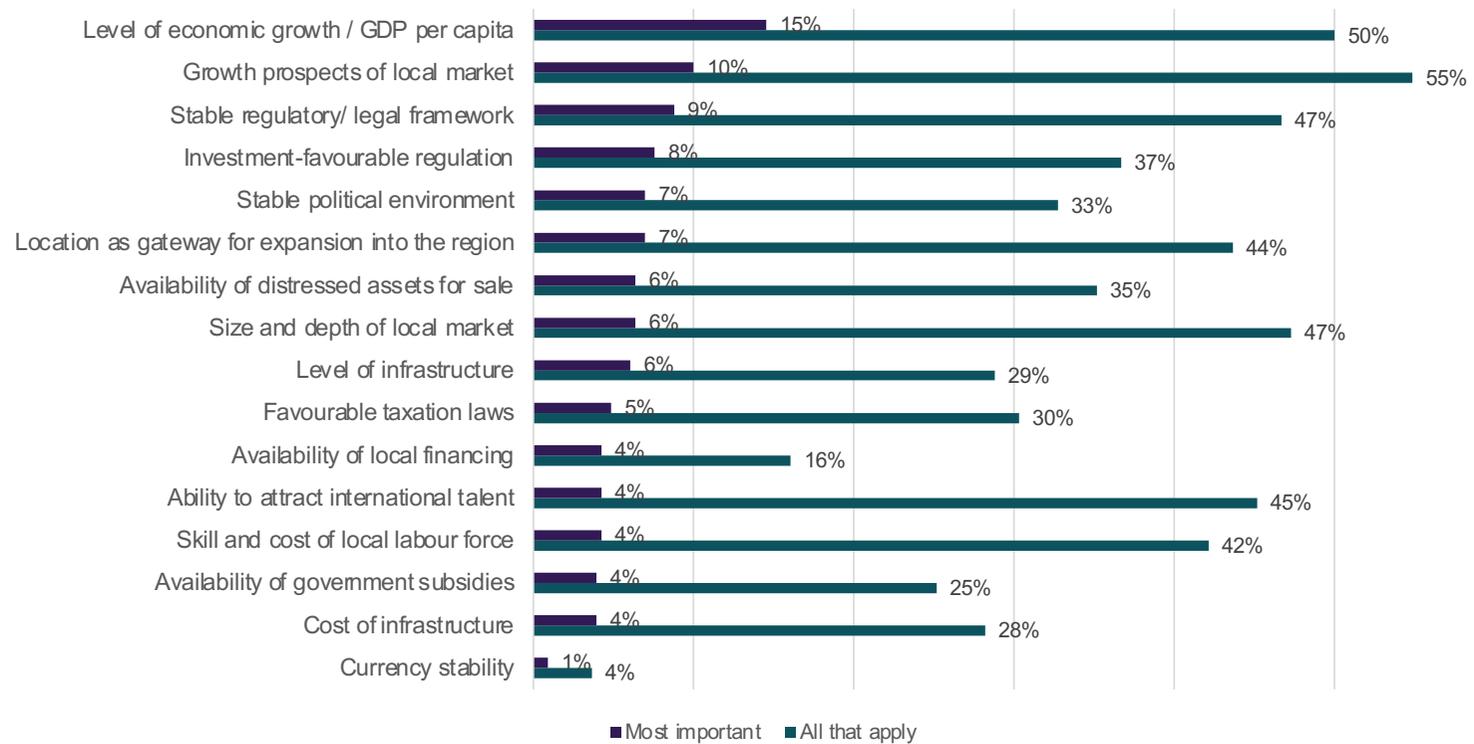
In the next 3 years, are you planning to invest in Europe?



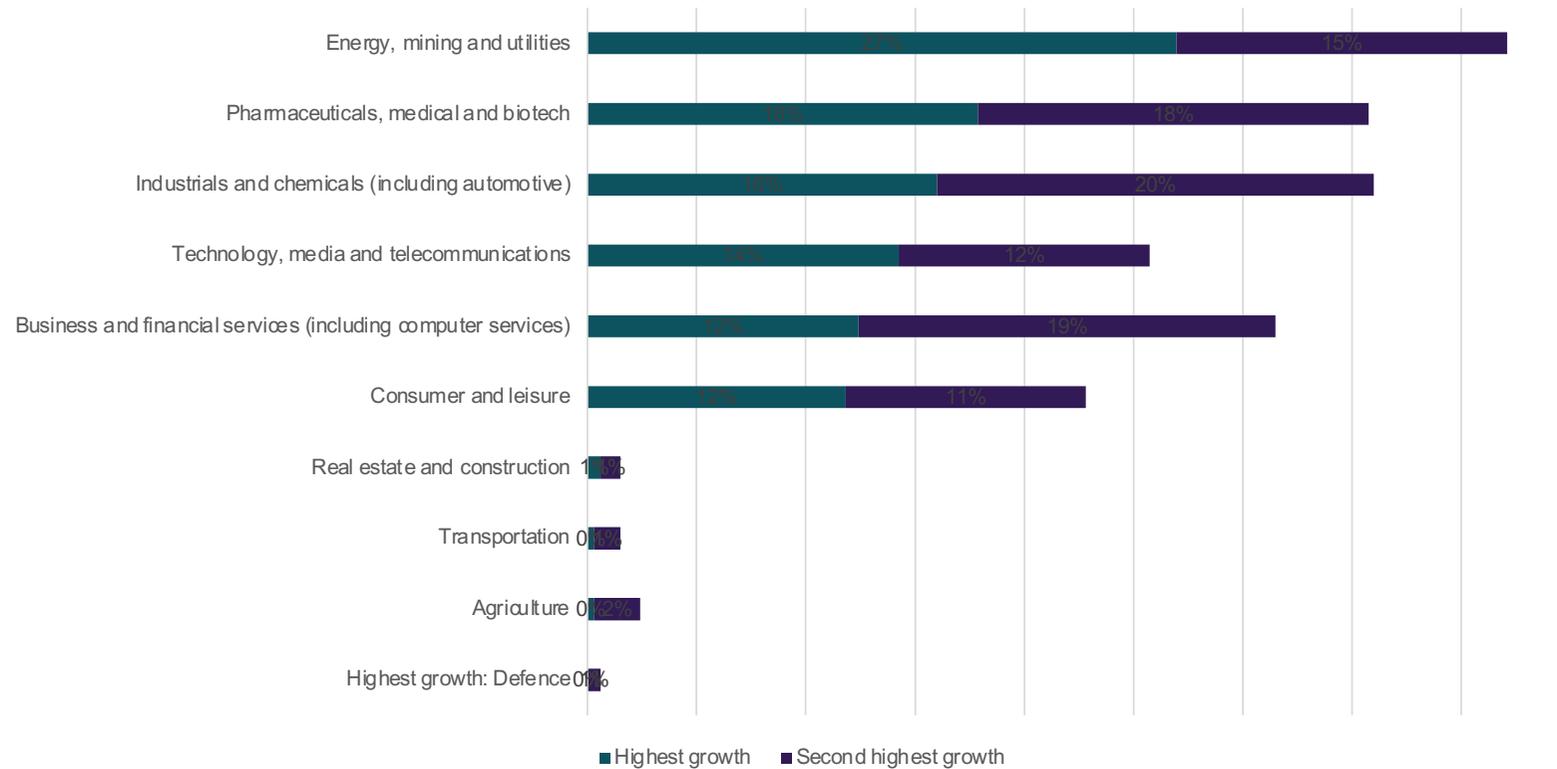
What do you expect will be the biggest risks to investing in your country of choice?



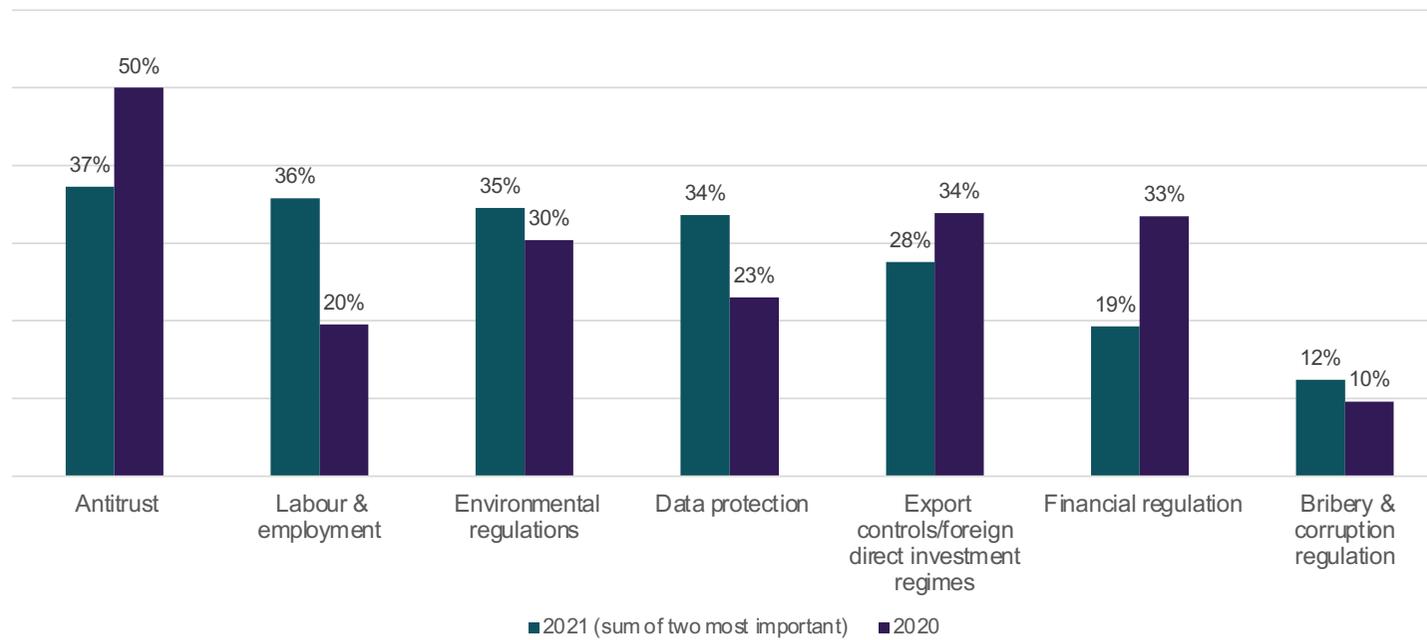
What are the factors that will most impact your choice of your investment(s) outside your home country?



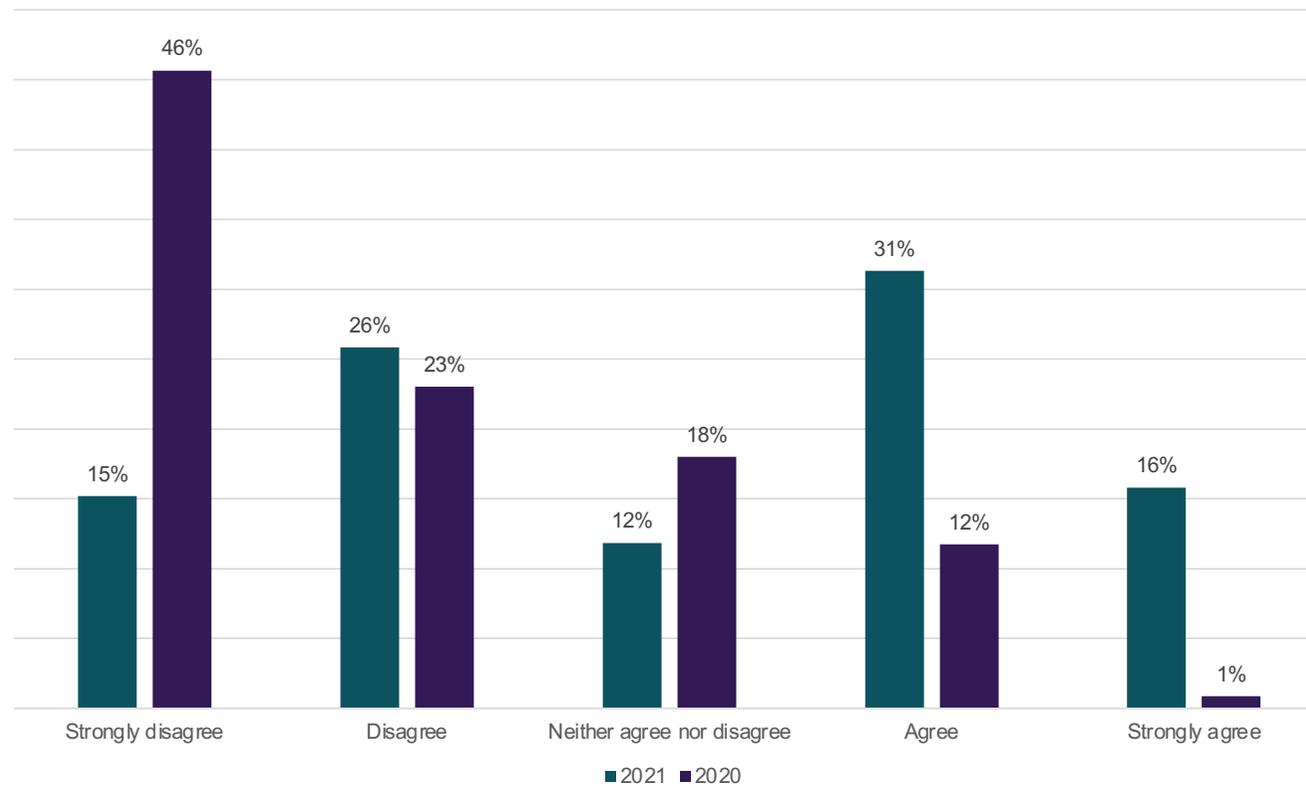
Which sectors will see highest growth post-COVID-19? (Please select the two most affected, 1 = highest growth, 2 = second highest growth)



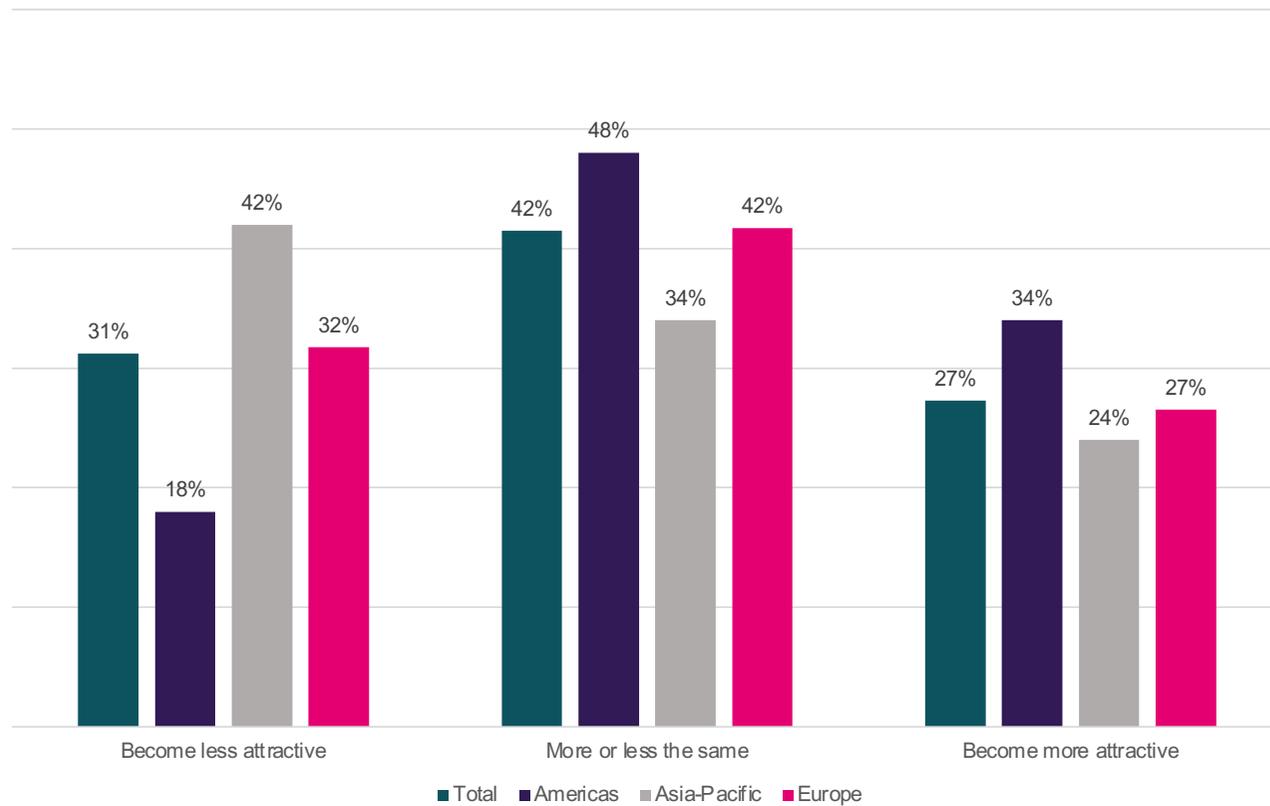
Which form of regulation do you find most challenging when doing a deal in Europe?



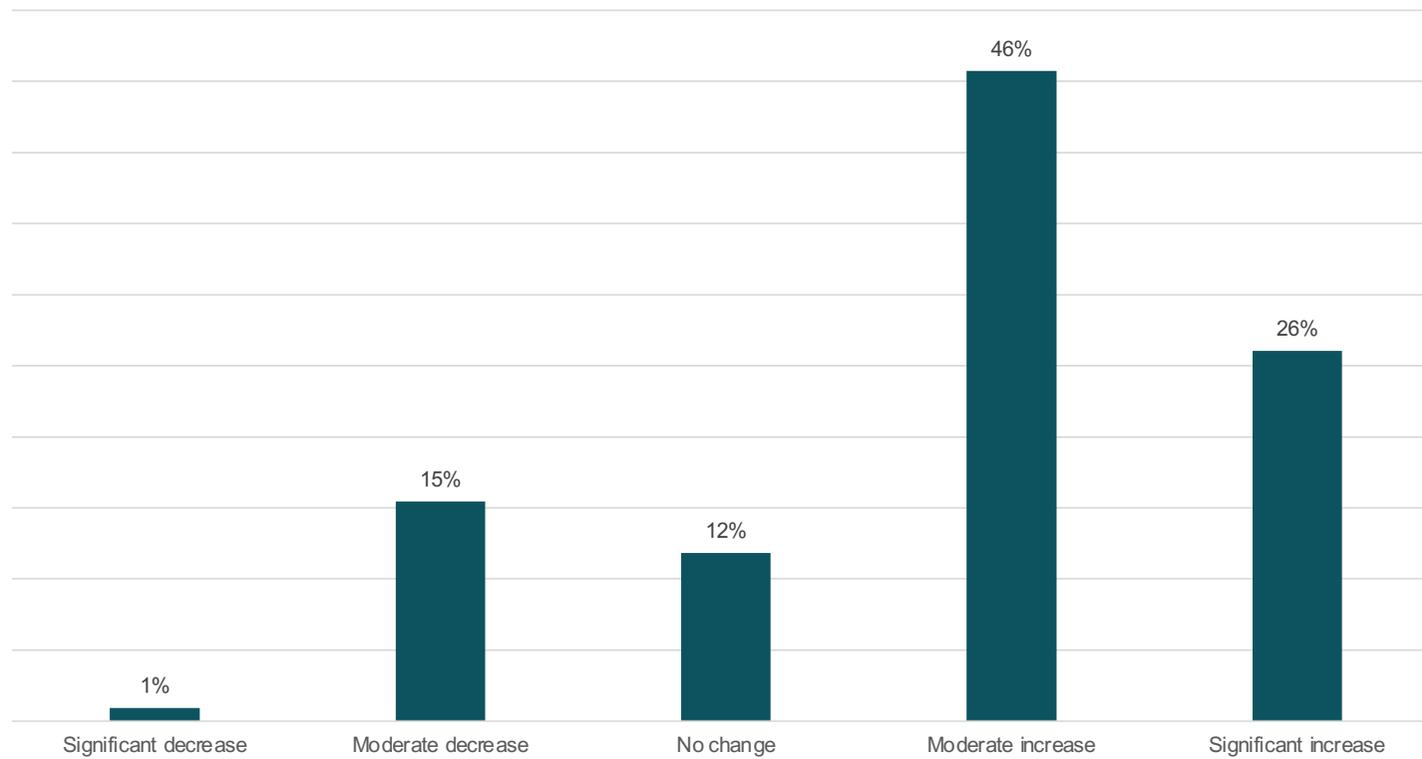
To what extent do you agree with the introduction of a mechanism for European screening of foreign direct investments into the EU?



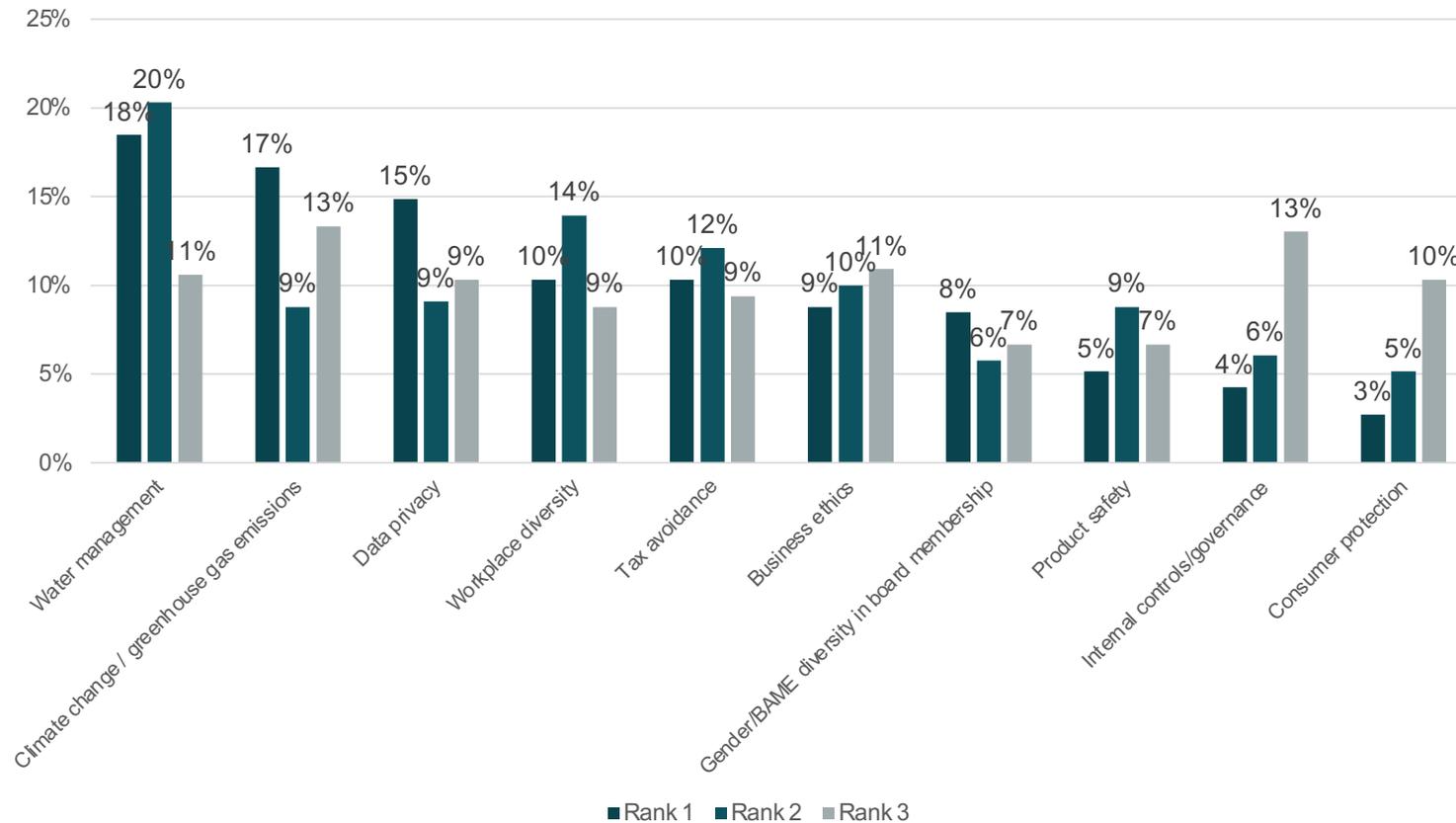
How do you see the UK market developing post-Brexit in terms of desirability for inward investment?



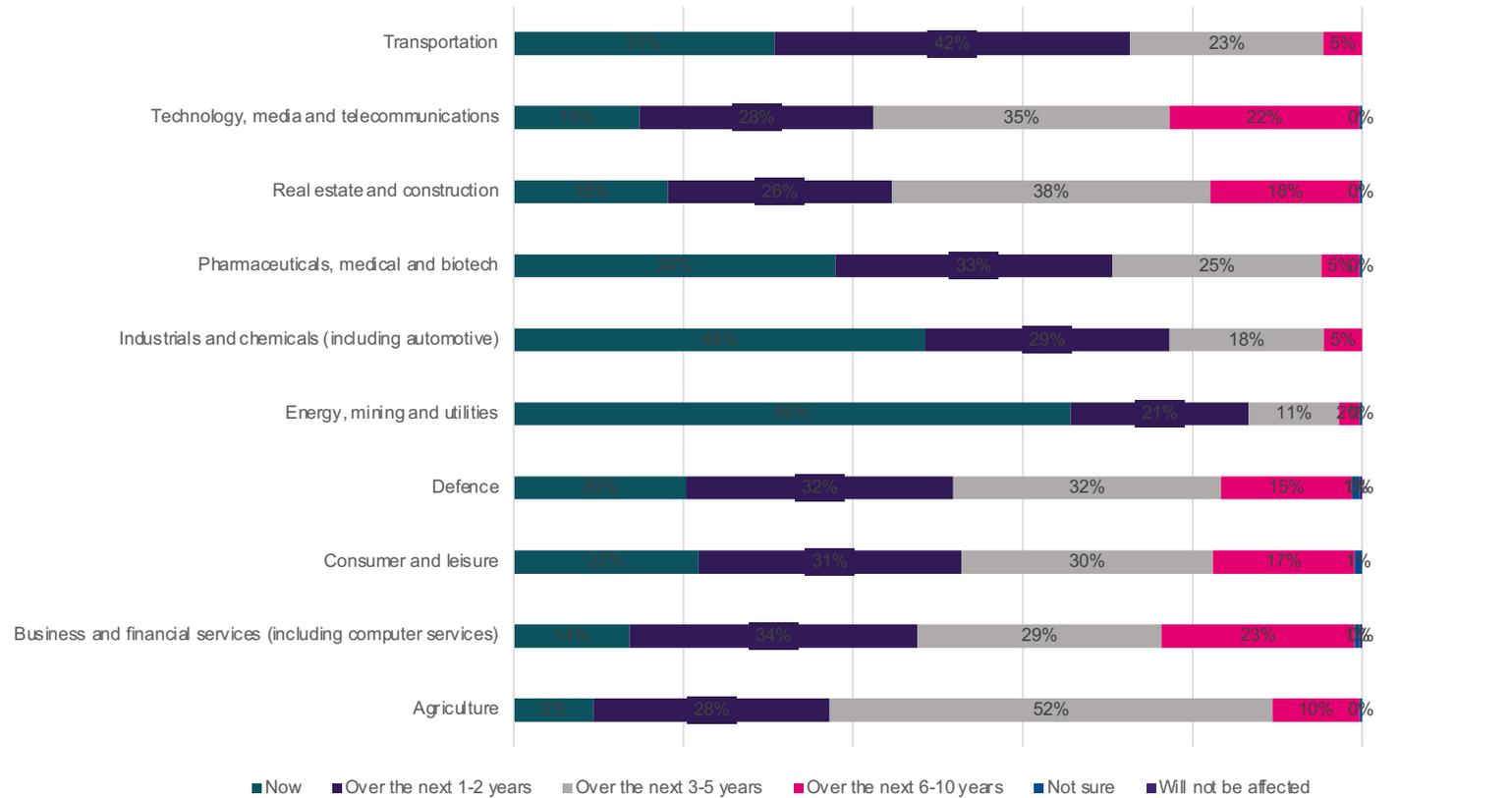
How do you expect ESG scrutiny to change in deals over the next three years?



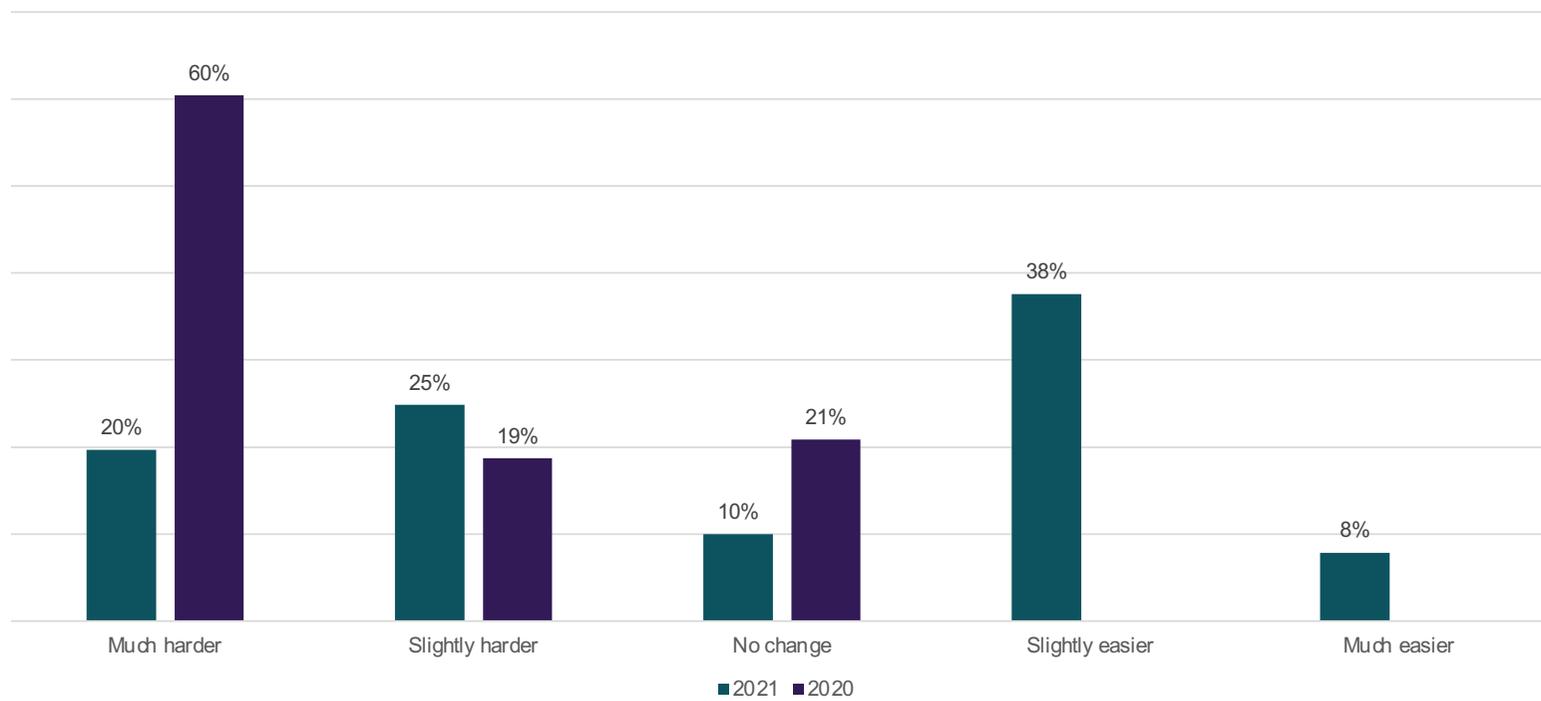
Which ESG issues are most important to your firm and your current investor base? (Rank from 1 to 3, where 1 = most important)



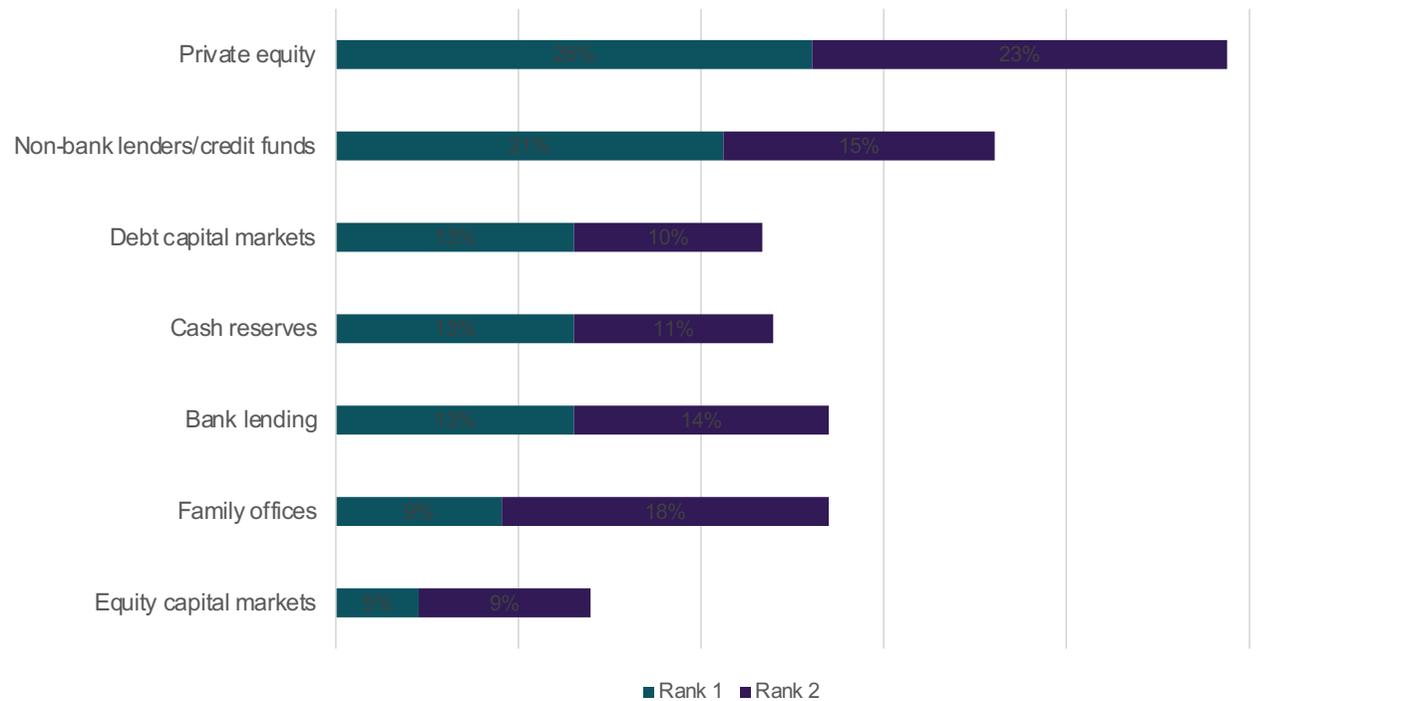
When do you think the industries below will be affected by a wider implementation of ESG factors?



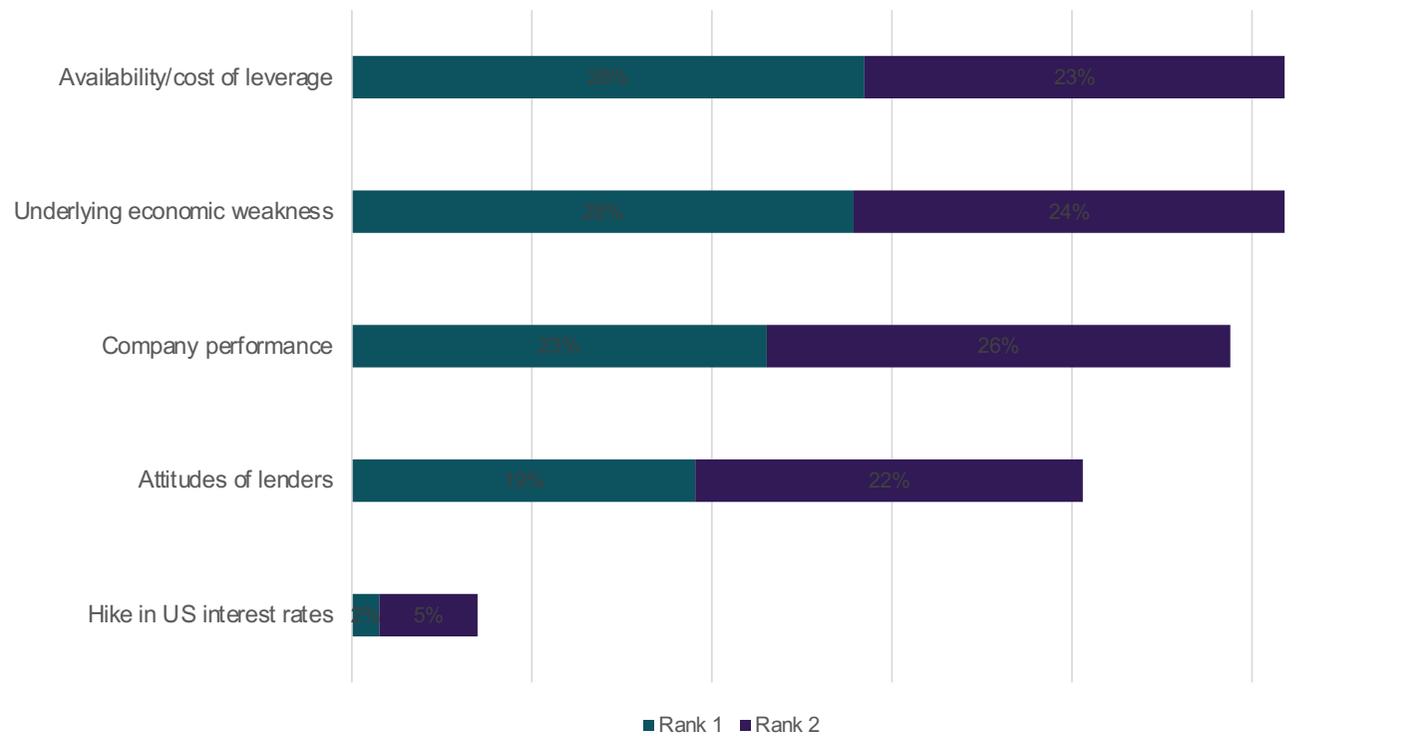
How do you expect financing market conditions to be in 2021 compared to 2020?



What sources of financing do you think will be most available over the next 12 months? (Please select the two most important, 1 = most important, 2 = second most important)



What do you view as the greatest challenge to financing acquisitions over the next 12 months?
(Please select the two most important, 1 = most important, 2 = second most important)



European deal volume and value 2020



Conclusion

High prices but high quality

Deal multiples are reaching record highs in 2021 and dealmakers are having to meet full valuations to secure assets. Bidders, however, are only paying high prices for assets of the highest quality that meet their deal criteria. Dealmakers are honing very specialised deal rationales so that they can run hard at deal targets they really want. Vendors will narrow the field when selling assets and provide handpicked buyers with more time to get comfortable with deal targets rather than running aggressive, truncated auction processes with multiple, undifferentiated buyers.

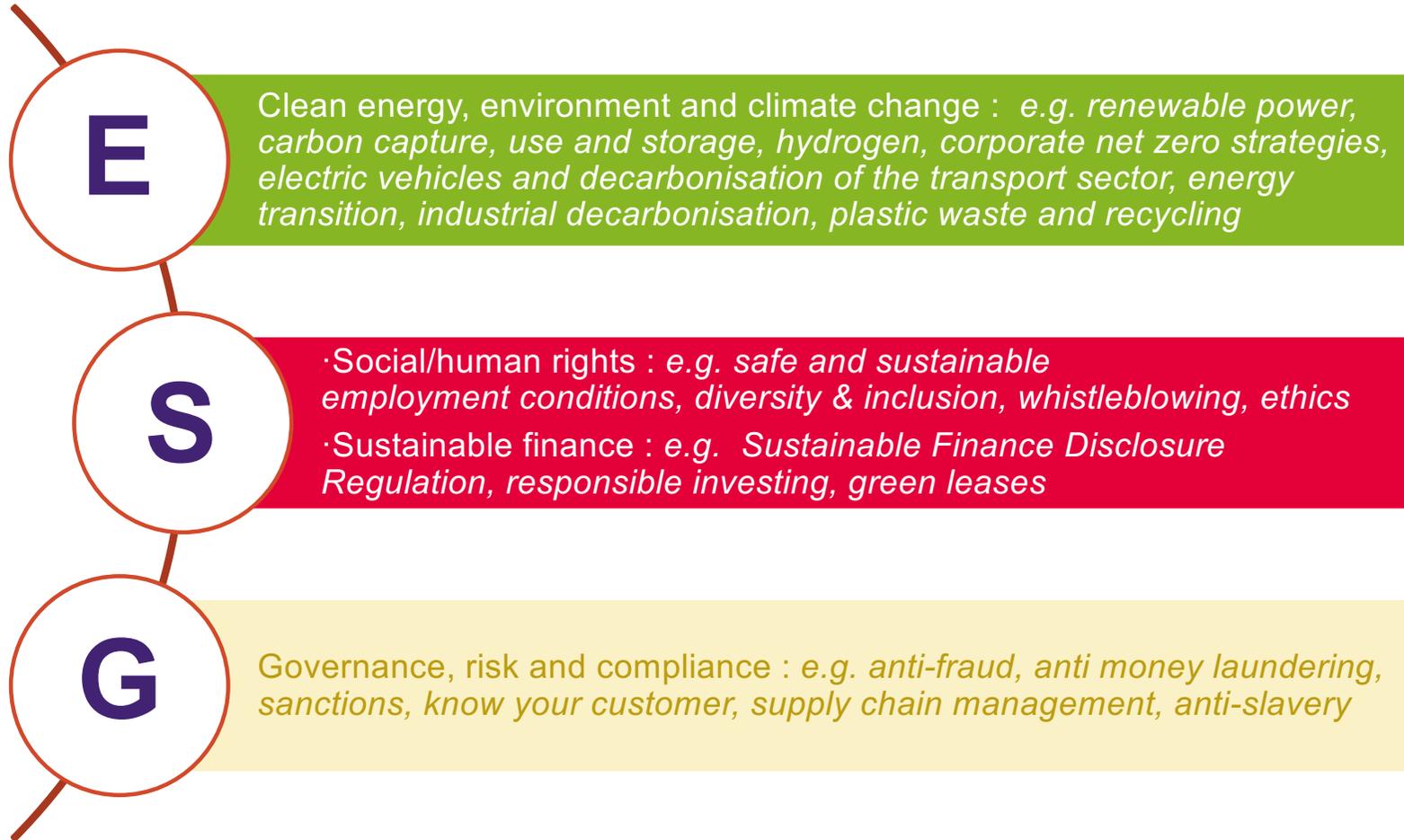
ESG to the fore

During the last 12 months ESG has emerged as a key priority in deal selection and due diligence. Institutional investors and consumers have become more attuned to how capital is invested and want to see evidence that deals are incorporating a wider view on sustainability and financial performance. Companies with robust ESG credentials will become increasingly sought after by buyers, and ESG will become a bigger theme in due diligence and prove an increasingly important factor in establishing valuations.

Deal activity in a wider range of sectors

Through the pandemic period dealmakers coalesced around a select group of high-quality companies in a narrow range of sectors, such as healthcare and technology, where there was earnings visibility and protection against downside risk. Technology and healthcare will remain popular sectors, but as economies reopen and restrictions ease, opportunities to buy attractively priced companies in COVID-impacted industries that are back on growth trajectories are emerging. More activity in sectors such as leisure, hospitality, travel and consumer is now anticipated.

Importance of ESG due diligence exercises





Existing directors' duties contain obligations that apply to matters that could be categorised as an ESG consideration, *e.g. the environment, employee welfare.*

Obligations of directors that relate to ESG considerations, *e.g. health and safety, gender pay inequality, etc.*

Recent changes that have occurred or are expected with respect to directors' responsibilities in relation to ESG considerations.

Obligations of directors in relation to ESG disclosure and/or reporting.

CMS' New Guide on Directors' duties & ESG

Your contact partners



Louise Wallace
Partner
Global Head of the CMS
Corporate/M&A Group

CMS UK
T +44 20 7367 2181
E louise.wallace@cms-cmno.com



Stefan Brunnschweiler
Partner
Global Co-Head of the CMS
Corporate/M&A Group

CMS Switzerland
T +41 44 285 11 11
E stefan.brunnschweiler@cms-vep.com