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The Antidote

Predictions for the
Lifesciences sector in 2014

M&A activity 2013/14



M&A activity



Welcome to the first edition of The Antidote

What is happening in the European market?

As the new head of our UK Lifesciences group, I would like to welcome you to our first edition of *The Antidote* where we look at M&A activity in 2013, and make some predictions for the sector in 2014.

Although general M&A activity levels in Europe dropped in 2013 compared to 2012, the Lifesciences sector proved to be rather resilient; there being a moderate uplift in activity of 2%, bringing the number of European deals in the sector in 2013 to 429. Interestingly, 2013 proved to be the year of the mid-market deal with 412 of these deals being <£500 million.

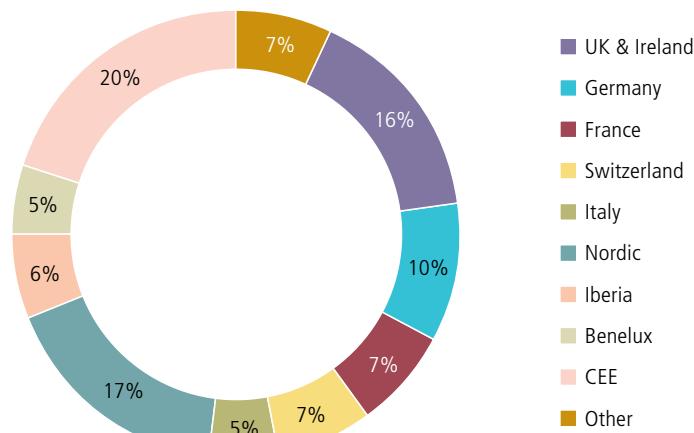
M&A activity across the region in 2013 is shown in the chart opposite.

Looking forward in 2014, UK & Ireland, Germany, Switzerland and certain Nordic countries are expected to have the highest levels of M&A activity in the region.

In terms of the types of M&A activity for 2014, we expect to see an increase in divestments of non-core businesses to enable companies to become smaller and more specialised. We have seen this more so with large US pharmaceutical companies, in particular Pfizer, and expect to see some European companies adopting a similar approach.

Shrinking pipelines, patent cliffs and rising costs will continue to drive pharmaceutical companies to seek bolt-on acquisitions to grow their revenues.

European Lifesciences companies for sale in 2013 - dominant seller country (% of all companies for sale)



AstraZeneca were extremely active in this approach during 2013.

High-end mergers are considered less likely for 2014, although they are not ruled out. There are some companies that are still minded to grow and diversify through acquisitions and the spotlight will certainly be on Novartis for this in 2014.

Overall, 2014 looks a good year for Europe. Although emerging markets remain of interest, developed markets are back in vogue, so expect to see an increase in deal activity particularly at the mid-

market level. As the No. 1 law firm in the Lifesciences sector for European M&A by deal volume for the past five years, we are excited as to what 2014 may promise, and I am particularly excited by this prospect, both as an M&A lawyer and as I take on my new role. Our Lifesciences team (see back cover) has a wealth of experience and knowledge in your sector and we would be delighted to support you on any of your M&A activities, as well as any other business opportunities you may be considering this year.



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Our recent awards:



A sector insight...

Compliance - We expect to see at least one major scandal surrounding marketing practices in the "pharmerging" markets, which will involve self-reporting, following an internal compliance review audit.

The power of technology - In light of restrictions on marketing products to consumers, the Lifesciences sector has embraced the potential of social media slowly. In 2014 expect to see companies overcoming this reticence and finding creative ways to use social media while negotiating the regulatory environment, using content marketing to engage with consumers by telling a story or providing a service, not by selling a product.

European unitary patent system – start planning now - In 2014 the Lifesciences sector should continue to plan and prepare for the eventual introduction of the European unitary patent system. Unitary patents would, if a wider legislative package of reforms is introduced, enable businesses to protect their inventions across multiple EU Member States by making a single application filing for a unitary patent at the European Patent Office. In late November 2013, the Presidency of the EU's Council of Ministers announced that a new unified patent court designed specifically to resolve disputes around new unitary patents could be operational from 'early 2015'.

Regulatory - 2014 is unlikely to see the EU adopt revised Medical Devices or Diagnostics legislation. Medical Devices and Diagnostics Notified Bodies are likely to come under pressure from the national regulatory agencies during 2014 which may result in either consolidation or de-notification in some cases. If so, this will reduce the overall availability of Notified Body resource for the industry resulting in likely delays in CE marking, hindering market access and increasing costs.

Market access - A continued push towards regulatory convergence will not stop the trend of pricing/market access divergence, as companies continue to

"forum shop" for the best place to go to market. As healthcare systems come under increasing pressure from ageing populations and shrinking tax revenues, some Member States will continue to look for ways to delay market entry of innovative products, in favour of generics. When coupled with Directive 2011/24/EU on cross-border healthcare, this will lead to increased medical tourism.

IPOs - Expect to see more European Lifesciences companies considering a NASDAQ listing to raise additional finance and achieve higher valuations for their businesses. The US remains an easier market to raise money with US institutional investors more willing to back companies in the sector than their European counterparts. Oxford Immunotec recently raised US\$64 million on its NASDAQ IPO and other UK companies are believed to be contemplating joining them. Some of these companies are currently quoted on AIM and may either delist from AIM and undertake a NASDAQ IPO (as announced in early January by Lombard Medical Technologies) or follow the approach taken by GW Pharmaceuticals and combine their AIM listing with a NASDAQ quotation.

Patent box - We expect the potential challenge by the EU Commission to the UK patent box to remain in the headlines in 2014. 2013 saw various indications that the UK patent box might breach the Code of Conduct of Business Taxation ("Code"). While the Code is not legally binding, it is politically persuasive; no country has ever defied an opinion which seeks changes in domestic legislation to comply with the Code. The Code Group has been invited to assess all patent box regimes and report back by the end of 2014. The UK government has shown strong support for the patent box and even if the Code Group concludes that the UK patent box breaches the Code, we consider that a u-turn in policy is highly unlikely.

PPRS 2014 - can we believe the end to double dipping? - The newly minted PPRS 2014 tells us that NHS England 'has agreed to seek to end' initiatives by NHS commissioners to arrange for rebates from manufacturers to the commissioning body for the supply of medicines with a positive NICE appraisal to providers of NHS services in primary or secondary care. But is it premature to announce an end to this double dipping? The "commitment" of NHS England described in the PPRS 2014 is far from strong and in an increasingly decentralised structure local commissioners can be expected to resist efforts from the centre which remove a benefit to the local budget.

Investing in China - Western Lifesciences companies are looking at the Chinese biologics sector more. Due to population demographics and the adoption of western lifestyles, diseases including diabetes, lung cancer, cardiovascular disease and neurological disorders are set to soar in China. These diseases are increasingly being treated by biologics and as there are more patients with more disposable income, they are seen as lucrative market opportunities.

Anti-bribery and corruption - New powers will be available to the Serious Fraud Office ("SFO") from February 2014 to negotiate with corporate wrongdoers with a view to concluding deferred prosecution agreements ("DPAs") in appropriate cases relating to economic crimes (broadly, bribery, fraud and money laundering). Whilst relatively common in the US, no UK prosecutor has previously had such powers. The SFO is keen to use this tool and it is likely we will see the first such deal in 2014 (not necessarily in the Lifesciences sector); although it remains unlikely that there will be many DPAs instead of prosecutions. Consequently, the SFO has also indicated that they are actively pursuing investigations into possible corporate offences under the UK Bribery Act 2010 and we may see the first such prosecution this year.

Our core Lifesciences group



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