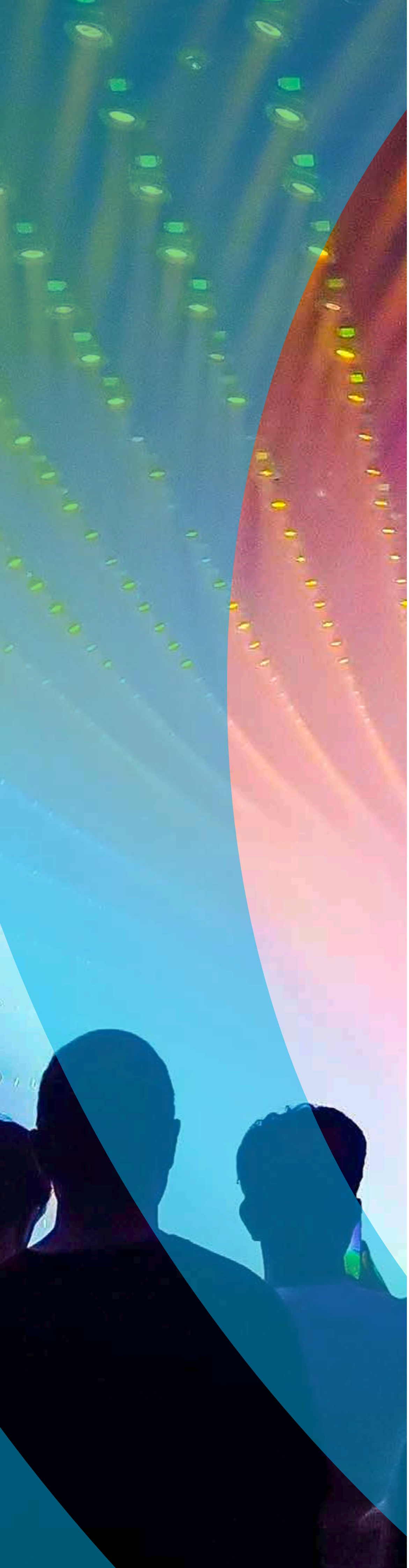
CMS European Private Equity Study 2026



Contents

Introduction

We are pleased to present the fifth edition of our CMS European Private Equity Study, which analyses over 170 private equity deals ("**PE deals**") that CMS advised on in 2025. Despite ongoing headwinds for the PE industry and the broader M&A market – including economic uncertainty, geopolitical tensions and constrained exit routes – we observed that PE deal activity remained stable in 2025 compared to 2024. The year was characterised by a notable shift towards new investments, with sponsors focusing on capital deployment as exits continued to prove difficult.

As in previous editions, we have analysed data, including key contractual terms of signed transaction documents, from PE deals that CMS advised on in 2025 and compared the most recent data with that from hundreds of PE deals reviewed in previous years. We have also looked at the differences between PE M&A deals and strategic M&A deals (which we also refer to as "**non-PE deals**").

2025 began on a cautiously optimistic note. Deal activity had picked up in the fourth quarter of the previous year, while interest rates were starting to decline and stabilise. However, shifts in the geopolitical landscape created renewed uncertainty for investors.

Despite these challenges, confidence in the debt markets has continued to improve, inflation has gradually eased, and the integration of advanced technologies – particularly artificial intelligence ("**AI**") – has accelerated across both deal sourcing and due diligence processes. Access to debt capital now appears to be stabilising, representing a positive step towards supporting deal flow, in particular for large-cap transactions reliant on leveraged finance.

Add-on transactions remained broadly stable with sponsors continuing to focus on value creation through buy-and-build strategies. Secondary buy-outs (i.e. sponsor to sponsor deals) became less prevalent than in 2024, whilst new investments increased to 72% of all PE deals, up from 68% in the previous year. By contrast, exit activity declined to 16% of transactions, reflecting the continued challenges in the exit environment and "exit overhang" with portfolio companies being held for longer than typical holding periods.

From a sector perspective, Technology, Media & Communications ("**TMC**") remained the most active sector, accounting for 22% of all analysed transactions, and thus remaining broadly stable compared to 24% in 2024. Most strikingly, the Real Estate sector experienced an almost threefold increase in deal activity, driven by more favourable financing conditions following a pronounced slowdown in previous years. The Industrial sector also saw a significant doubling in activity, likely due to strategic consolidations and supply chain integration. Conversely, the Energy & Climate Change sector – which had recorded strong growth in 2024 – saw a sharp contraction, with deal activity declining by 12 percentage points, attributable to ongoing geopolitical uncertainties affecting this sector in certain jurisdictions.

From a purchase price perspective, the use of purchase price adjustments continued its upward trend, reaching 45% in 2025, up from 42% in 2024 and 35% in 2023. This reflects a more buyer-friendly approach in 2025 from a contractual risk-allocation perspective, consistent with PE predominantly being on the buy-side and sponsors' increased caution in deploying capital. The use of earn-outs also remained prevalent, particularly in smaller deals and bolt-on acquisitions from founder sellers. Notably, the use of W&I insurance across Europe was uneven in 2025: the uptake increased slightly in German-speaking countries compared to the previous year, with significant increases observed in Benelux and Southern European jurisdictions, whereas the use of W&I insurance declined in the cases analysed in France, the Nordics and the UK.

Once again, special thanks go to our team of editors, Valentina Santambrogio, Jessica Mohaupt-Schneider and Patrick Lühr, who in collaboration with Ben Booker-Moore, Karl Williams, Jennifer Ross, Ben McParland, Raghav Vohora, Hanna Heimrath and Nina Fink, thoroughly analysed the data and prepared this study.

We hope you enjoy reading our study and find it a useful insight into market practice. Please help us improve future editions by providing feedback to your CMS contact or via our website.

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Executive summary

- **Deal activity.** In 2025, private equity deal activity has stayed stable despite a challenging M&A market, with new investments driving the majority of transactions (72%), while exits and secondary buy-outs have declined, making capital deployment the primary focus for sponsors.

"2025 was a year of recalibration for the UK PE mid-market, with easing inflation and early rate cuts supporting renewed sponsor engagement despite overall deal volumes falling year on year. The mid-market proved resilient, particularly in Business Services, driven by bolt on acquisitions, as sponsors focused on scaling existing platforms." CMS UK

"Romania has seen strong momentum in deal activity, with a record level of transactions and increasing participation from private equity alongside strategic investors. The market is primarily mid-market driven, with a clear trend toward platform and buy-and-build strategies across fragmented sectors." CMS Romania

- **Add-ons.** Add-on acquisitions have continued to decline, dropping to 43% of PE buy-side transactions in 2025, likely reflecting sponsors' focus on preparing long-held platforms for exit, though add-ons still represent a significant portion of deal activity.

- **Bidding processes.** In 2025, auctions and competitive bidding processes became less frequent, reflecting a shift toward bilateral negotiations, but when used, auctions generated stronger competition, with 60% involving multiple interested parties, highlighting a more selective yet strategic approach by sellers.

- **Deal drivers.** In 2025, the main drivers behind private equity transactions shifted notably. While the entry into new markets and acquisition of a competitor remained relevant deal drivers, the acquisition of know-how became significantly more important, reflecting an increased focus on securing specialised expertise and intellectual property to drive value creation in a competitive landscape.

"Fundamentally, the market for high-quality assets that tick all the boxes (good profitability, clean product strategy & integration, etc.) is very strong, and they will continue to achieve premium valuations. Additionally, there is pressure from larger funds to deploy capital, as dry powder is currently at historic highs. At the same time, many funds are under pressure to exit assets that have not developed as originally expected, as they are approaching the end of their fund life and need to demonstrate DPI to their LPs. This simultaneously presents a good buying opportunity to acquire deals at attractive prices. Both factors could potentially fuel deal activity in 2026." CMS PE Client

- **Sector activity.** In 2025, deal activity surged in Real Estate and doubled in the Industrial sector, while TMC remained the most active sector at 22% of transactions. Conversely, Energy & Climate Change deals declined sharply due to ongoing geopolitical uncertainties.

- **MAC-clauses.** In 2025, the use of MAC-clauses in transactions rose sharply to 13%, up from 7% in 2024, restoring their prevalence to 2023 levels. This shift reflects a more buyer-friendly market.

- **Arbitration clauses.** Arbitration clauses in private equity transactions rebounded in 2025 following last year's decline, once again trending upwards. Their resurgence highlights key advantages such as expert arbitrator selection, faster resolution and confidentiality. These attributes are especially valued by private equity investors, with arbitration clauses appearing in over half of analysed deals, underscoring their continued importance for efficient dispute resolution and risk management.

- **FDI procedures.** In 2025, the number of foreign investment transactions seeking approval declined slightly, reflecting broader macroeconomic uncertainties and a cautious investor climate rather than a shift away from protectionist trends. Despite a modest increase in transactions requiring more than three months for FDI approval, the majority continue to be processed efficiently within three months. The motives for FDI filings evolved significantly, with 93% deemed legally required – up from 71% in 2024 – and a notable decrease in precautionary filings. These trends suggest growing investor confidence and a deeper understanding of global FDI regimes as they mature.

- **W&I insurance.** In 2025, the use of W&I insurance in private equity deals saw a significant decline, with overall usage dropping to 32% from 44% in the previous year. The insured sums and premiums also decreased, reflecting lower transaction costs and increased competition among insurers. Buyers continued to bear the majority of W&I insurance costs, with sellers contributing less than in prior years. These trends indicate a more buyer-friendly market and a further reduction in W&I costs, likely due to subdued deal activity.

- **Purchase price adjustments.** In 2025, the use of purchase price adjustments in M&A transactions continued to increase, reaching 45%, reflecting a shift toward buyer-friendly deal structures amid lagging exits and prevalent buy-and-build strategies. Locked box arrangements remained the preferred alternative when adjustments were not used, though their adoption declined to 72%. Regional differences persist, with purchase price adjustments being most common in Benelux, CEE, Southern Europe, and the UK, while less frequent in the Nordics and France. The primary adjustment criteria remained cash, debt, and working capital, consistently favoured in private equity deals.

- **Earn-outs.** In 2025, earn-outs remained a significant feature in PE buy-side transactions, especially in smaller deals and bolt-on acquisitions from founder sellers. The use of EBIT/EBITDA-based earn-out criteria has increased, reflecting a broader market shift toward buyer-friendly terms and a focus on sustainable profit margins. There is also a notable rise in know-how asset acquisitions, prompting more tailored earn-out metrics beyond traditional financial measures. Transatlantic differences persist, with European deals favouring EBIT/EBITDA-based earn-outs, while US transactions continue to prefer revenue-based structures, though overall earn-out usage in the US has declined.

- **ESG.** Recent editions of the study highlight the growing influence of ESG (environmental, social, and governance) factors on PE practices and investment criteria. While ESG considerations are increasingly integrated into legal due diligence, the extent varies by investor, and only a minority of reviewed deals in 2025 included ESG-focused legal review. PE firms typically maintain some ESG reporting, but there is insufficient data to determine ESG's material impact on deal sourcing and investment decisions. Anecdotal evidence suggests most PE funds track ESG metrics internally when evaluating potential investments.

"ESG is increasingly part of investment screening and commercial due diligence, particularly in sectors such as energy and infrastructure, but its translation into legal documentation remains more selective. Generally in practice, with the exception of institutional backed PE funds where ESG is becoming increasingly important, ESG focus tends to be targeted, e.g. environmental liabilities or workforce related provisions, rather than fully embedded in transaction terms." CMS Romania

- **Management incentive schemes.** In 2025, management incentive schemes saw most arrangements implemented at platform inception, with a consistent but slightly reduced use of option schemes during investment periods. Engagement of management post-transaction remained stable, though partial engagements, often in advisory or consultancy roles, increased. One trend regarding vesting arrangements – arrangements that provide that a portion of the shares will only vest upon an exit, which is a common model used in the UK – have become more popular. Leaver provisions were widely adopted, increasingly favouring simplified, binary treatment and broader rights for sponsors to repurchase incentive shares regardless of vesting or leaver status.

"As transactions face growing challenges, the significance of established and newly implemented management incentive schemes in fostering value creation and growth is more pronounced than ever." CMS UK

Outlook

The 2026 Outlook

"Interest rates remaining high for longer, valuation multiples especially in previously hyped industries are depressed, also driven by AI potential disruption risk, means the gap between portfolio valuations/asks from sellers and what buyers are willing to pay is an issue." CMS PE Client

"While investor appetite remains strong, dealmaking is shaped by valuation gaps, regulatory complexity (including FDI screening), and selective deployment of capital. Overall activity is expected to remain resilient, with continued focus on mid-cap opportunities. Exits however may remain more limited and timing-sensitive given that we've seen quite a few exits in the past two years." CMS Romania

2025 began with cautious optimism as interest rates stabilised and many anticipated increased market activity. However, tariffs and ongoing geopolitical instability had a noticeable effect. In the mid-market, bolt-on acquisitions became a significant driver of activity, while both exits and new platform deals faced valuation difficulties, leading to more frequent use of earn-outs and deferred pricing strategies. Looking ahead to 2026, these trends are expected to persist, though conditions may shift due to further uncertainty from continued conflict in the Middle East. Most dealmakers remain pragmatic about activity levels, but private equity has consistently demonstrated resilience and creativity in finding liquidity solutions. With record levels of dry powder available, there is reason to expect deal volumes will rise, albeit cautiously. Continuation vehicles are expected to maintain a role in offering an alternative exit strategy and club deals may present a means of diversifying deployment risk.

Across the European mid-market, we expect deal value sizes in 2026 to remain disciplined, with many sponsors prioritising transactions that can be underwritten with higher conviction on pricing and financing. This may continue to skew activity towards smaller platforms and add-ons, while larger mid-market tickets face greater scrutiny and structuring. Business carve-outs are also likely to again be a relevant factor in deal volume statistics. Nonetheless, standout assets in key sectors coupled with the need to deploy capital, will still trade at a premium and drive bilateral or pre-emptive approaches where speed of execution will remain decisive.

"Deal activity is expected to increase in 2026, particularly in the mid-market, supported by stabilising interest rates, improving debt availability and sustained deployment pressure from record levels of dry powder. Momentum will now be shaped by ongoing macroeconomic headwinds, including geopolitical instability and inflationary pressure." CMS UK

"There is continued sensitivity to interest rates, financing availability and valuation expectations which may still slow some processes. Exit activity is expected to increase modestly, with secondary buyouts and strategic sales remaining the most realistic routes. We also expect to see an increase in the use of continuation vehicles." CMS Norway

"We expect sovereign wealth funds and sovereign-backed investors to remain active – and potentially become even more active in sectors linked to national priorities, including food security, supply chain resilience, logistics, energy security, technology infrastructure and defence-related industries." CMS Middle East

Sectors

In 2026, the technology sector is expected to remain a major focus, with AI continuing to take centre stage. The influence of AI on software company valuations (particularly SaaS businesses) is already apparent and will likely persist. Healthcare and life sciences will stay prominent, while business services are also set for further growth. It will be interesting to assess in 2027 whether private equity can find a way to market (or adjust) its model to larger partnership structures. At the top of the market, the defence sector is continuing to draw attention given the wider geopolitical conditions whilst the mid-market will remain focused on dual-use technologies rather than strictly defence-related assets. It is likely that it will be in these sectors with bilateral or pre-emptive approaches where speed of execution will remain decisive.

"Software will remain an attractive market, but technical barriers to AI disruption will play a significantly larger role in whether an investment is made or not. We think software with a larger hardware exposure will also become more attractive again and serve as a barrier against AI disruption." CMS PE Client

Artificial intelligence

AI is now embedded in deal execution and process, enabling greater efficiencies in both diligence and document review and increasingly data-driven investment decisions, with this trend likely to continue in 2026. It is also having a macro impact on a previously key sector, proving to be a disruptor in the software industry and reshaping how existing software assets are being marketed. Increasingly we are seeing AI platforms leveraged for delivering portfolio management services and a means of delivering value creation. AI due diligence is also becoming more mainstream from both a value and risk analysis perspective.

"AI is significantly changing the way we work. We are currently working across all levels: Investment, Finance and Value Creation Team to integrate AI more deeply into our processes in order to gain a competitive advantage over other funds. At the same time, it is becoming increasingly important to embed AI into the products and workflows of our software companies to keep a competitive edge. Portfolio companies in the software space that fail to develop an AI strategy will find it increasingly difficult to achieve an exit, as ICs will challenge this point in every investment case going forward." CMS PE Client

"Adoption of AI is growing on both sides of the deal, diligence triage and document review, improving speed and coverage on bilateral timelines. Interest in AI-enabled businesses forms part of the broader IT/TMC focus, but the more tangible shift is portfolio level efficiency gains using AI tools, rather than a wholesale pivot to pure AI targets." CMS Portugal

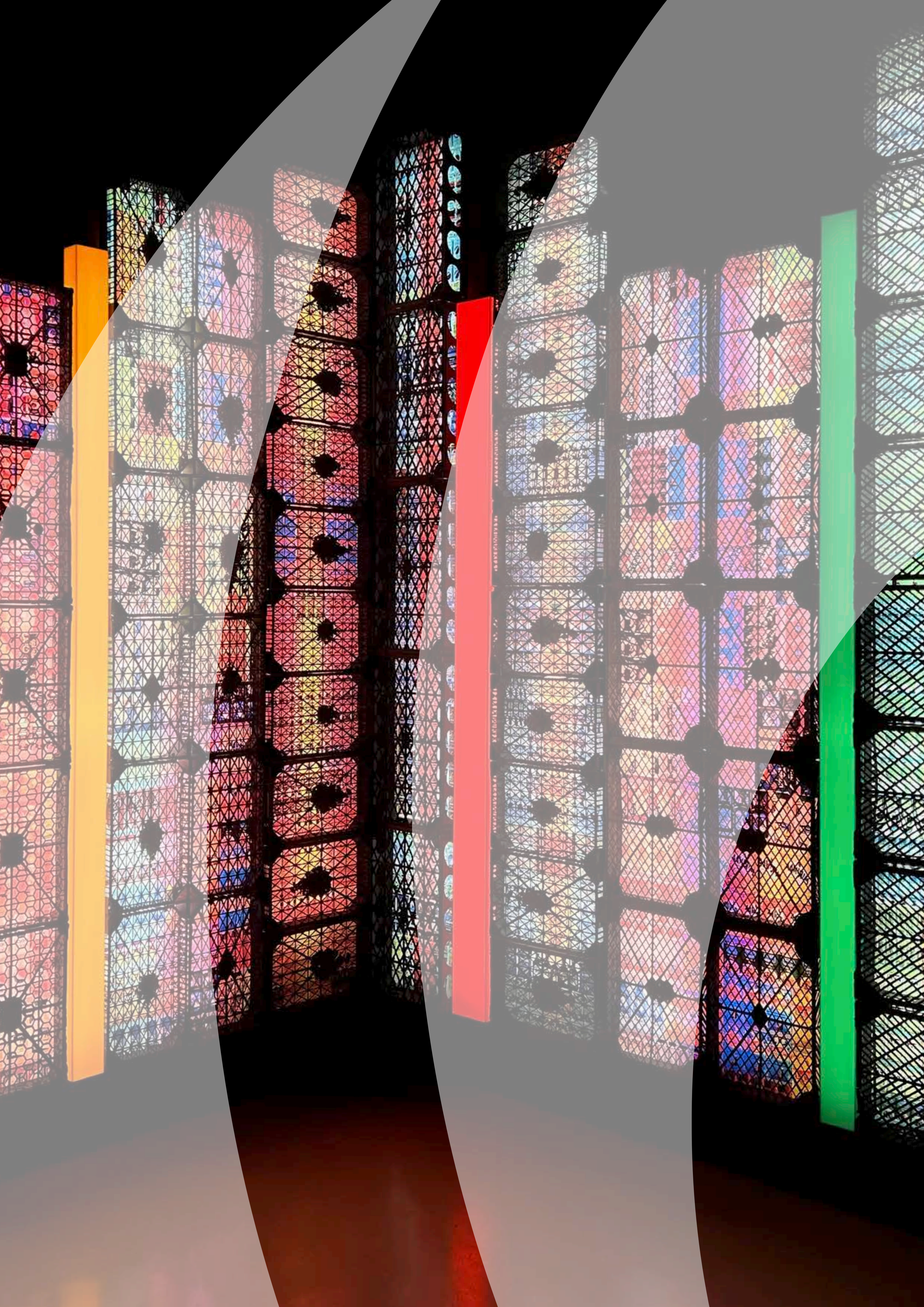
"AI is gradually becoming part of both legal workflows and deal processes, particularly in due diligence, data analysis, and internal efficiencies. At the same time, investors are increasingly assessing how portfolio companies adopt AI as part of value creation, although AI focused acquisitions remain a more selective part of the Romanian market." CMS Romania

Access to debt capital

Although interest rates and debt availability began to stabilise during 2025, parts of the private credit market experienced renewed disruption, compounded by the escalation of US tariffs which widened credit spreads and drove a repricing of risk assets across leveraged finance markets. Tighter liquidity and rising refinancing costs exposed stress among leveraged borrowers, while banks have remained selective both in their direct lending to leveraged borrowers and in their willingness to provide financing to private credit funds, contributing to a more uneven funding environment. These pressures have been exacerbated by constraints at the fund level, including LP allocation fatigue as the denominator effect unwinds and extended fundraising cycles that have, in some cases, limited or delayed deployable capital for some managers. Looking ahead to 2026, persistent macroeconomic and geopolitical uncertainty suggests debt markets are unlikely to normalise quickly, leaving the outlook for leveraged finance mixed – with pockets of opportunity offset by tighter overall liquidity and more cautious underwriting. That said, given the depth and maturity of the private credit market, lender appetite for well-structured, resilient credit remains robust, meaning high-quality borrowers should continue to access liquidity. Over time, if private credit capacity remains constrained, parts of the market may also present selective opportunities for banks to rebuild market share within leveraged finance.

Value creation

The significance of value creation is more pronounced than ever. Given the ongoing challenges in the exit environment and persistent valuation disparities, there is an increasing imperative to realise value within existing portfolios. Sponsors who implement robust value creation methodologies and strategies are regarded as more sustainable over the long term, which can provide a competitive advantage either in complex processes or bilateral approaches. It is anticipated that sponsors capable of demonstrating tangible value enhancement, supported by historical achievements and strategic planning, will distinguish themselves, especially in the mid-market where opportunities for material gains are arguably harder to find. Correspondingly, the integration of AI into value creation initiatives is expected to be a central theme of 2026 and equity stories going forward.

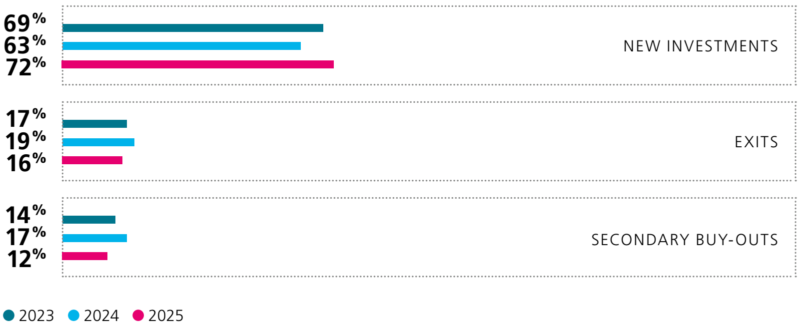


Overview

Deal activity and overall market trends

While the M&A market environment remains demanding, private equity activity in 2025 has remained stable. However, the exit environment remains difficult. Even more transactions (72%) are new investments, showing sponsors' need to deploy capital. At the same time, exit activity has declined again, and secondary buyouts have become less prevalent than in 2024. As a result, new investments account for an even greater share of overall deal activity, constituting the main mode of operation for PE investors.

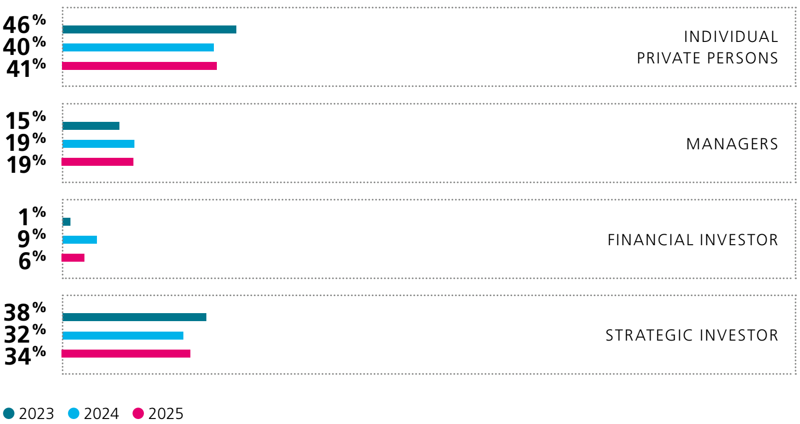
PE M&A activity: new investments, exits or secondary buy-outs



"Clients have become more disciplined in both bidding and execution, with greater emphasis on due diligence, risk allocation, and structured pricing mechanisms. In practice, this translates into wider use of earn-outs, deferred consideration, and a continued reliance on bilateral or proprietary processes in the mid-market." CMS Romania

On buy-side PE deals, there has been little change in 2025 regarding the type of seller compared to the previous year. Again, the sellers were predominantly founders/high-net-worth individuals and strategic investors. This continued pattern suggests that the market environment remained challenging for exits of PE portfolio companies, with financial sponsors still facing constrained exit opportunities.

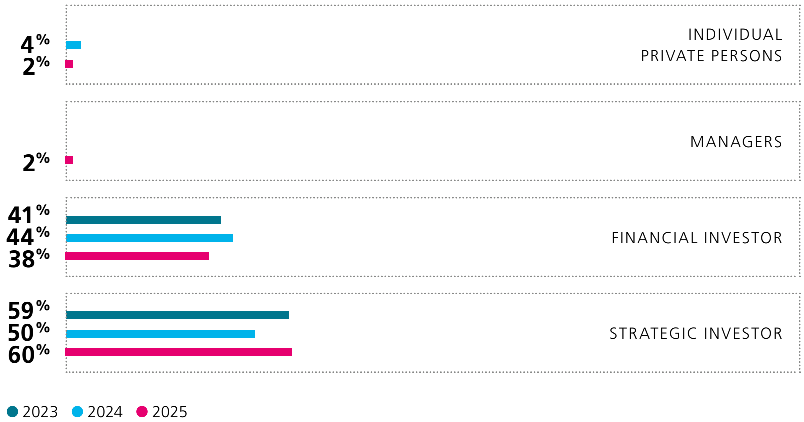
Sellers' background (PE is the buyer)



100% = all evaluated transactions

After reviewing the sell-side PE deals, we observed another notable shift in 2025, reversing the trends seen in 2024 and returning to those observed in 2023: a significant (10%) increase in sales to strategic investors, consistent with the slight decline in secondaries, as well as a 6% decrease in sales to financial investors.

Buyers' background (PE is the seller)



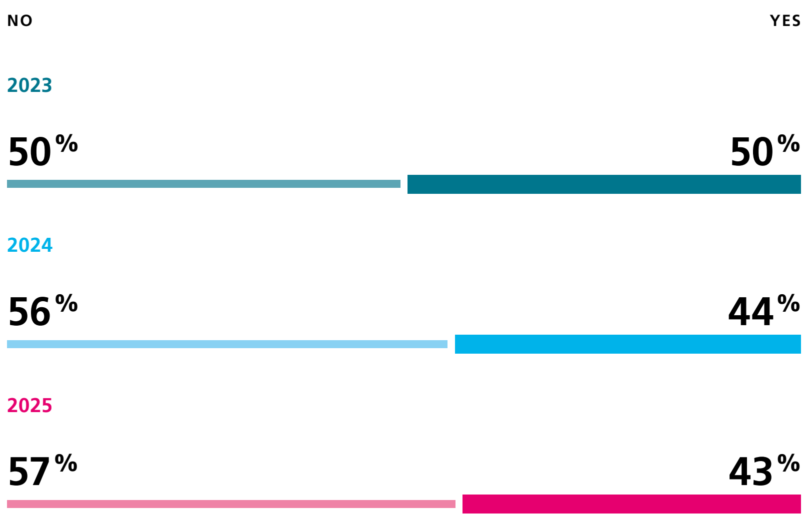
100% = all evaluated transactions, multiple nominations possible

In several transactions parties from more than one particular group of sellers or buyers were involved.

As in prior years, nearly all of the transactions analysed in 2025 (96%) were structured as share deals rather than asset deals. In the overwhelming majority of cases (98%), the buyer obtained full ownership or a majority stake in the target company.

The decline in add-on acquisition activity persisted in 2025, which can be seen as a trend now. After accounting for around 50% of PE buy-side transactions in 2023, the share of add-ons decreased to 44% in 2024 and fell further to 43% in 2025. A possible explanation for this could be that many PE investors have been holding some of their platforms for a long time and are preparing these platforms for an exit rather than further developing them. On the other hand, add-on activity remains a relevant factor given it still accounts for 43% of PE buy-side transactions.

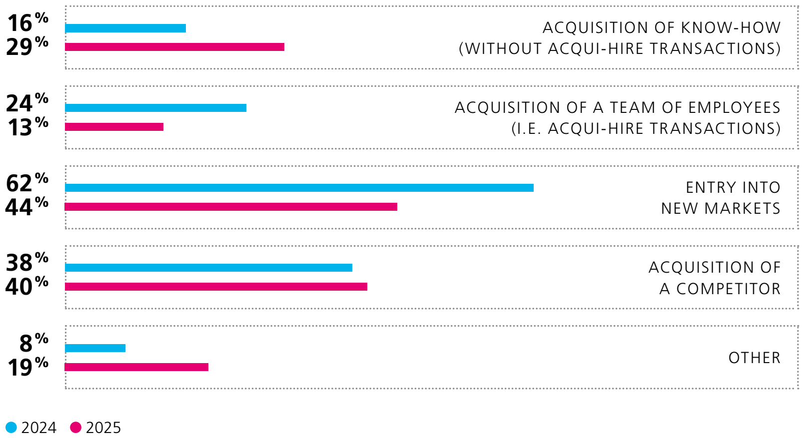
Was the transaction an add-on acquisition: time trend



Main deal drivers

An interesting development in the key deal drivers for PE transactions in 2025 was the notable decline in the importance of entering new markets, which fell from 62% in 2024 to 44% in 2025. The relevance of acquiring a team of employees also decreased significantly, dropping by 11 percentage points. By contrast, the most notable increase was observed in the acquisition of know-how, which rose from 16% in 2024 to 29% in 2025, underscoring the growing strategic importance of specialised expertise, intellectual property, and technology-driven value creation in an increasingly competitive environment.

Main deal drivers

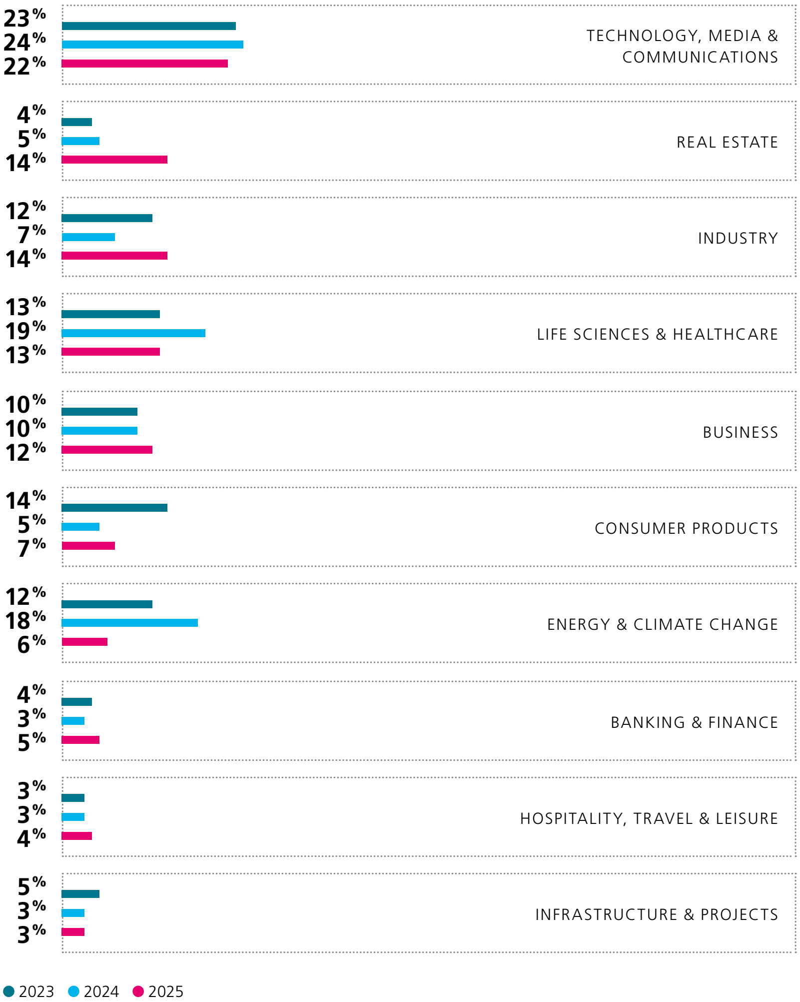


100% = all evaluated transactions, multiple nominations possible

Sectors

An analysis of the sector distribution of deals in 2025 reveals several notable shifts. Most strikingly, the Real Estate sector experienced an almost threefold increase in deal activity driven by more favourable financing conditions compared to 2024 and following a pronounced slowdown in previous years. TMC remained the most active sector, accounting for 22% of all analysed transactions, despite a slight decline in deal volume. Deal activity in the Industrial sector doubled in 2025, possibly due to strategic consolidations and divestments and integration of supply chains. By contrast, the Energy & Climate Change sector – which recorded the strongest growth in 2024 – saw a significant contraction, with deal activity declining by 12 percentage points, which might be explained by the geopolitical uncertainties that this sector has been facing in some jurisdictions.

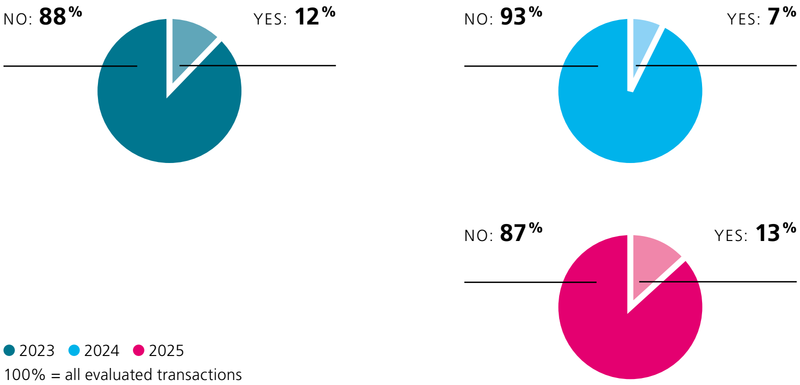
Sector spread for PE deals by number of deals



Use of MAC-clauses

In a notable shift, the use of material adverse change (MAC-) clauses increased significantly in 2025, returning to the levels observed in 2023. Such clauses were included in 13% of transactions, compared to only 7% in 2024. This development indicates a more buyer-friendly environment in an overall rather uncertain market, as MAC-clauses enhance purchasers' protection against unforeseen adverse developments between signing and closing.

MAC-clauses: time trend



In the US market, by contrast, the situation has long been markedly different: MAC-clauses are standard practice and are included in nearly all transactions. In 2025, they appeared in 96% of US deals, representing only a slight two-percentage-point decline compared to the previous year.

This continued prevalence underscores the entrenched role of MAC-clauses in US transaction practice and highlights the more risk-sensitive and litigation-aware nature of the market compared to other jurisdictions.

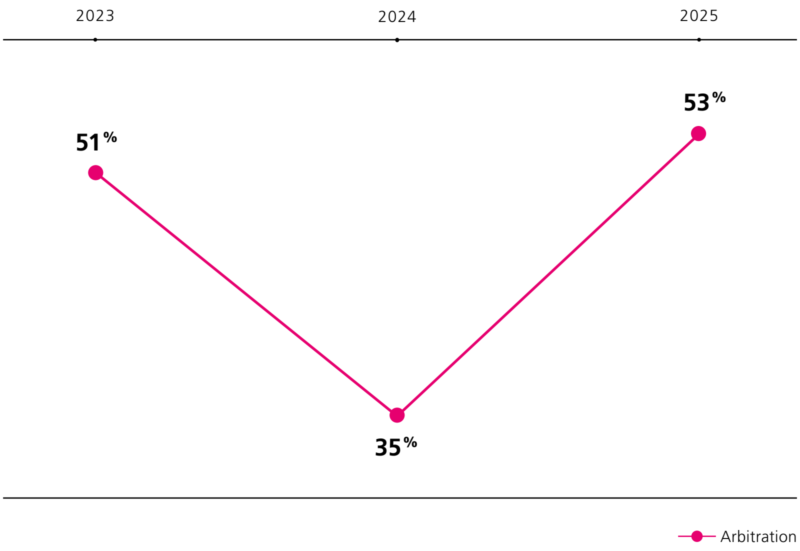
MAC-clauses: Europe/US 2025

Use of arbitration clauses

Following a marked decline in the use of arbitration clauses in PE transactions last year, 2025 saw a renewed increase, bringing the trend back onto its previous upward trajectory. By agreeing to an arbitration clause, the parties commit to resolving potential future disputes before an arbitral tribunal rather than through state courts. The principal advantages of arbitration over litigation include (i) the ability of the parties to influence the selection of arbitrators, thereby ensuring that disputes are decided by individuals with relevant expertise, (ii) typically faster proceedings, and (iii) the confidentiality of the process.

These features remain highly attractive to private equity investors, as evidenced by the fact that arbitration clauses were included in more than half of the PE transactions analysed in 2025. This development suggests that efficiency, expertise, and discretion continue to be key considerations in PE deal structuring and risk management.

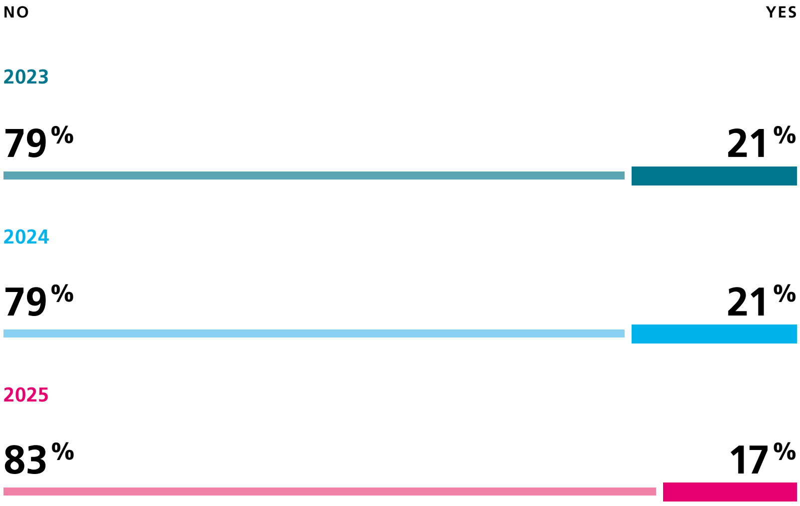
Arbitration: Trend index 2023–2025



Foreign investment control

The number of transactions which sought approval for foreign investment slightly reduced in 2025 from 21% to 17%. However, this would appear indicative of macroeconomic instability, geopolitical tensions and cautious investor sentiment, rather than a departure from the global trend of protectionism. As the global FDI regimes continue to mature, it is no surprise that FDI considerations remain central to transaction parameters.

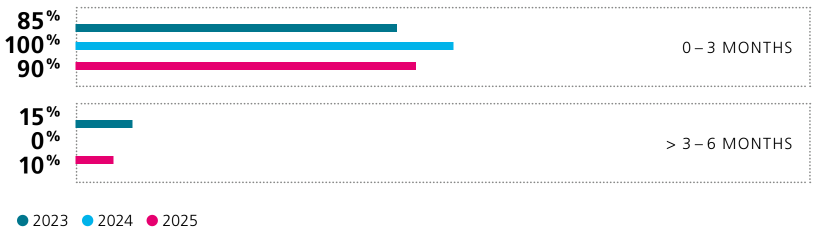
Was any FDI approval or clearance sought?



100% = all evaluated transactions

The following chart shows the duration of FDI approvals within PE deals in the last three years. The continued establishment and refinement of FDI regimes globally may have contributed to the slight increase in the number of transactions requiring more than three months to approve. However, the data shows that an overwhelming majority of transactions continue to be approved in less than three months, suggesting continued efficiencies in the approval process.

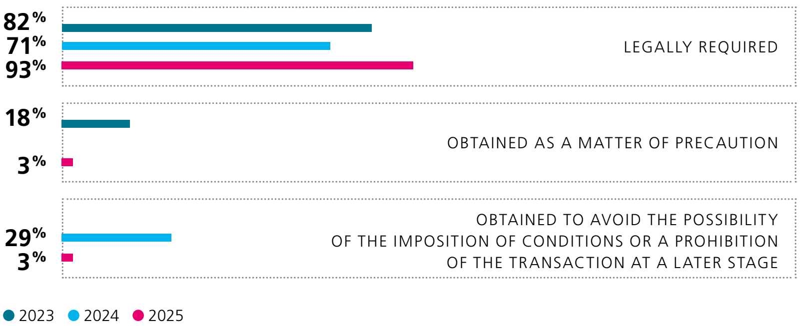
Time between application and approval or clearance



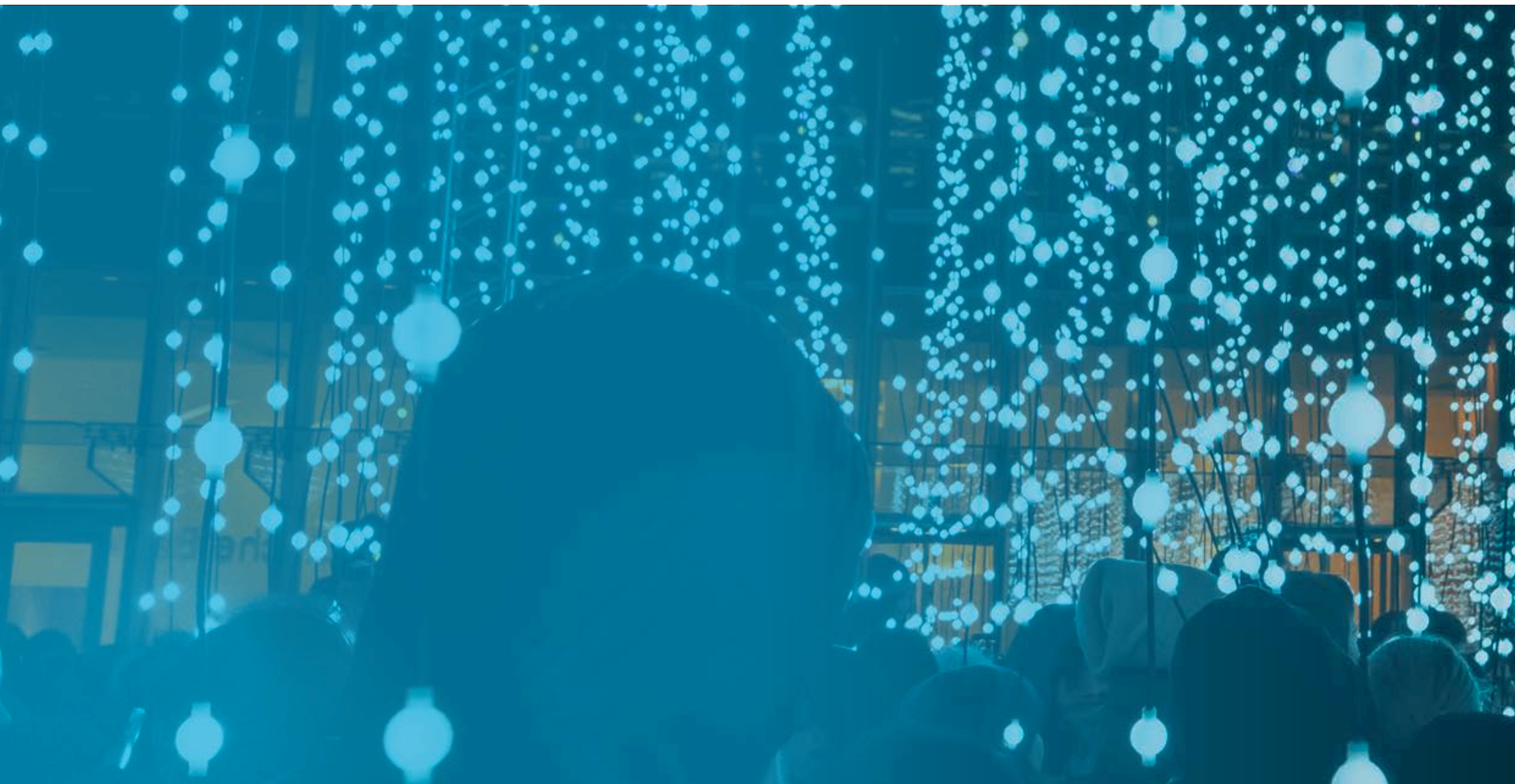
100% = all deals with any approvals or clearances pursuant to foreign investment control laws sought

2025 saw an increase of 22% (to 93%) in cases where a filing was considered to be legally required, which is a significant increase compared to 2024. There was a significant decrease in the number of filings made on a precautionary basis in 2025 (down to 3% from 29% in 2024) and to avoid the possibility of subsequent conditions or a subsequent prohibition. This decrease may be as a result of a combination of a less risk-averse approach by investors who had previously wanted to avoid the possibility of a transaction being "called in" and potentially unwound after completion, together with an increased understanding of the landscape as it continues to mature as more transactions have considered its applicability and implications.

The FDI clearance/approval was:



100% = all evaluated transactions with any approvals or clearances pursuant to foreign investment control laws sought

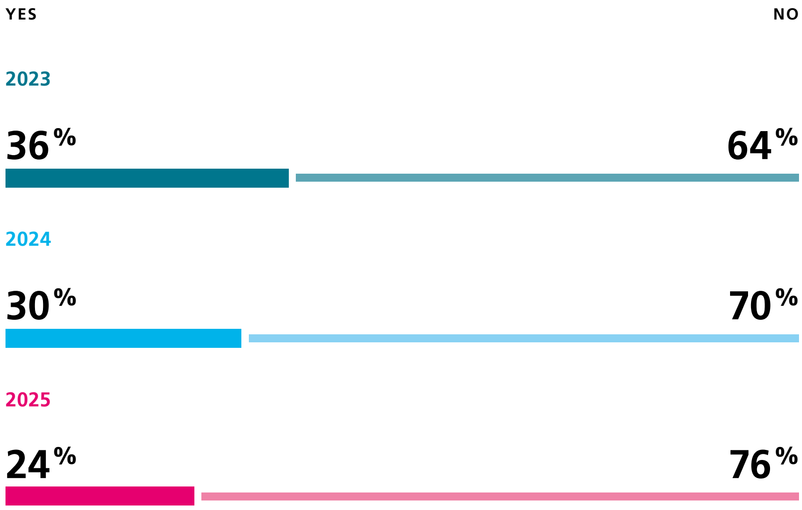


Transaction process

In 2025, we observed a further decline in the number of auctions and competitive bidding processes in PE transactions compared to previous years.

This trend indicates a shift towards more bilateral negotiations, potentially reflecting a more selective buyer landscape.

Was the sale of the target company preceded by an auction or bidding process?

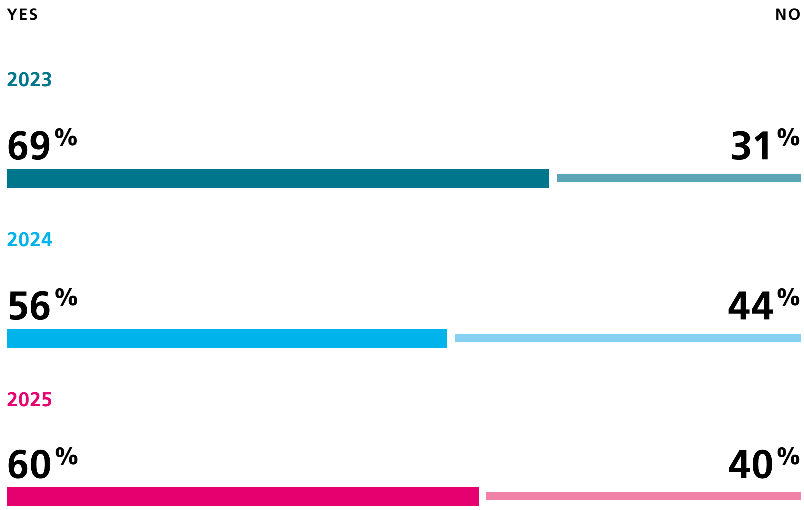


100% = all evaluated transactions

We analysed how auction and bidding procedures influenced the level of competition among prospective buyers. Notably, after a decline in 2024, the proportion of auction or bidding processes that resulted in negotiations with multiple interested parties rose again in 2025, reaching 60%.

This suggests that while auctions were less frequent overall in 2025, when they were conducted, they were more effective in generating competitive tension among bidders. In light of the broader decrease in structured sale processes, this development may indicate that sellers are resorting to auctions more selectively, but with greater focus on maximizing competitive dynamics when they do.

Were parts of the transaction conducted in parallel with several interested buyers?

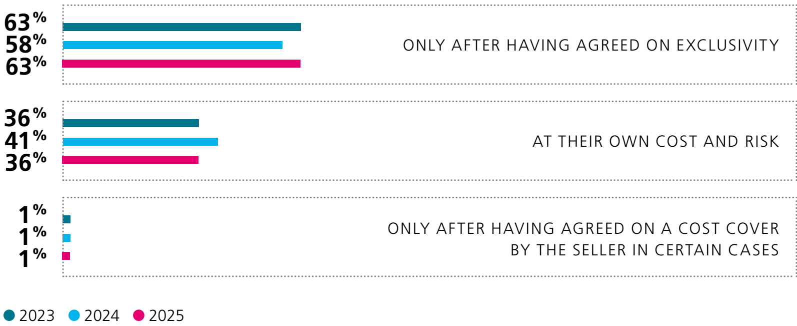


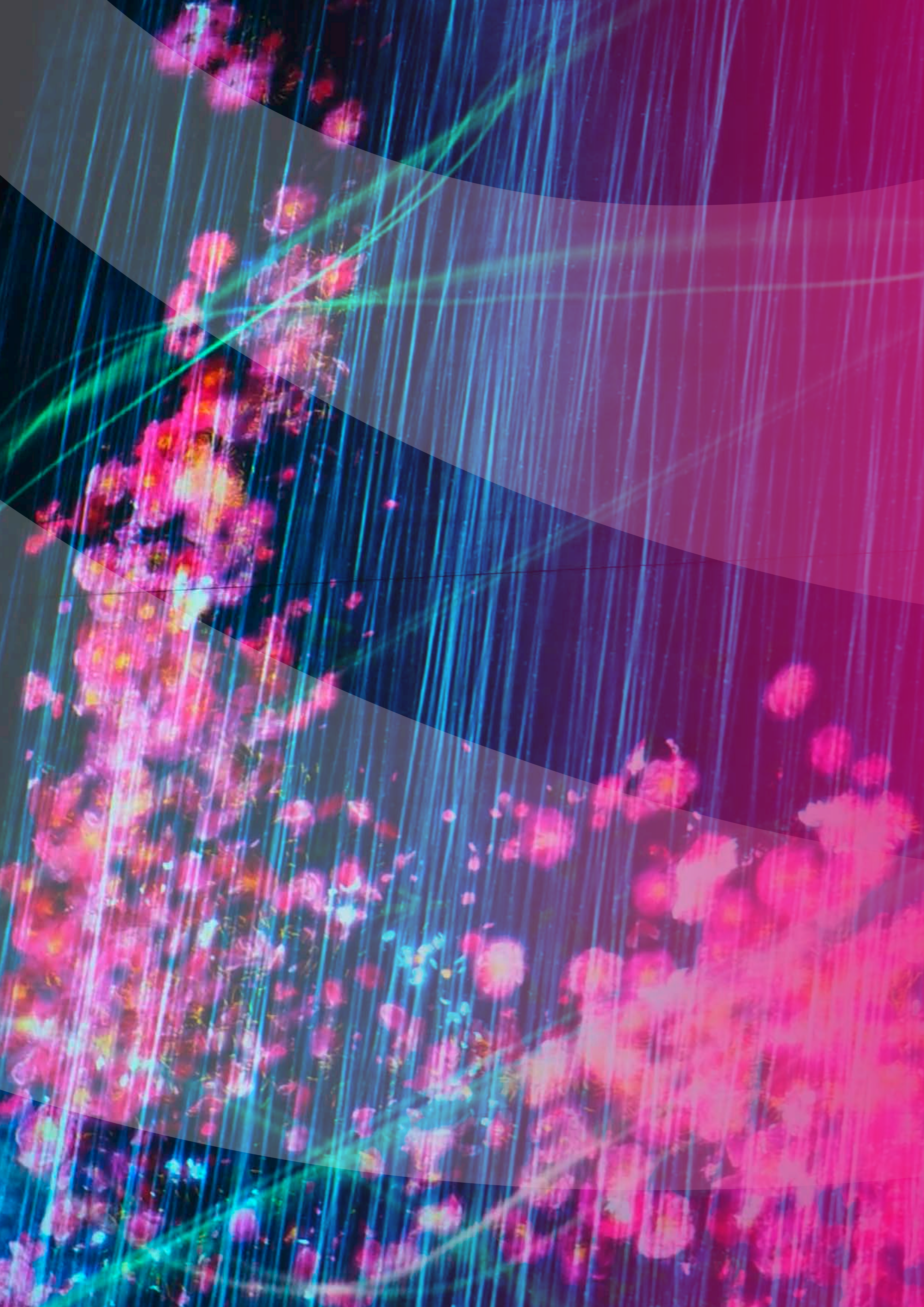
All deals where sale of the target company preceded by an auction or bidding process

Focusing exclusively on buy-side PE transactions and the conditions imposed by purchasers prior to commencing due diligence, the data shows that exclusivity remains the key prerequisite. In 2025, 63% of buyers required an exclusivity agreement before launching due diligence, representing an increase by five percentage points compared to 2024. As in previous years, only a negligible proportion of transactions (1% in 2025) involved due diligence beginning after the seller had agreed to any form of cost reimbursement.

Following a slight uptick in 2024 in cases where buyers proceeded with due diligence entirely at their own expense and risk – without any protective undertakings from the seller – such instances declined by five percentage points in 2025. This trend points to a more cautious and disciplined approach among PE investors, with greater emphasis on securing procedural safeguards before committing time and resources to a transaction.

Did the buyer commence the due diligence?





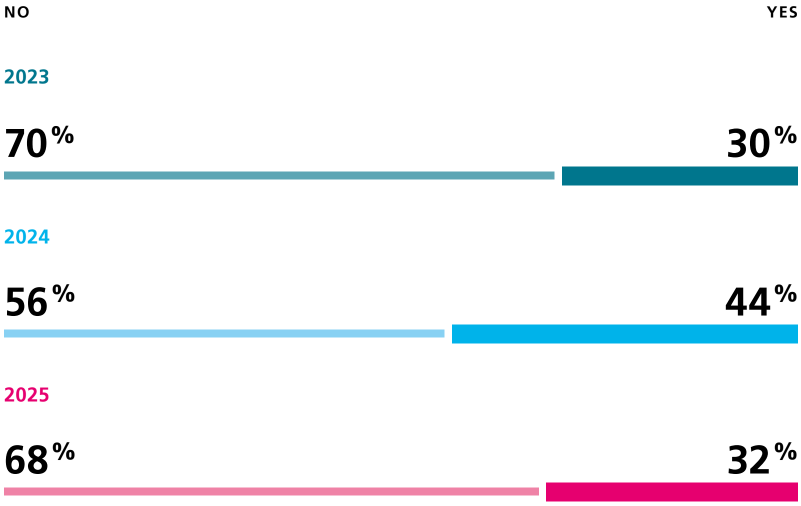
Liability

This chapter of our PE study provides an overview of how sellers typically seek to contractually limit their liability in respect of the company or business being sold, and which limitations are most commonly agreed between the parties. Where warranty and indemnity (W&I) insurance coverage is obtained for a transaction, this has a direct impact on the liability provisions in the sale and purchase documentation: the policy will prevail over any divergent contractual allocation of risk, and in some cases the sale and purchase agreement is aligned to the policy excess and limits, while in other cases the sale and purchase agreement caps the seller's liability at a nominal amount on the basis that the buyer's recourse, if needed, will be under the insurance policy. For the purposes of the analysis below, unless expressly stated otherwise, PE deals covered by W&I have been included in the overall PE data pool. As a result, the findings may be somewhat skewed towards a more seller-friendly position due to the presence of W&I cover (i.e., in the absence of W&I, more buyer-friendly limitations might otherwise have been agreed, in particular in times where there is a clear trend towards synthetic W&I policies).

W&I

For the first time in three years, our PE study indicates a decline in the use of W&I insurance. The proportion of analysed PE deals in which W&I insurance was taken out decreased by 12 percentage points, from 44% in 2024 to 32% in 2025, following consecutive increases in the preceding years.

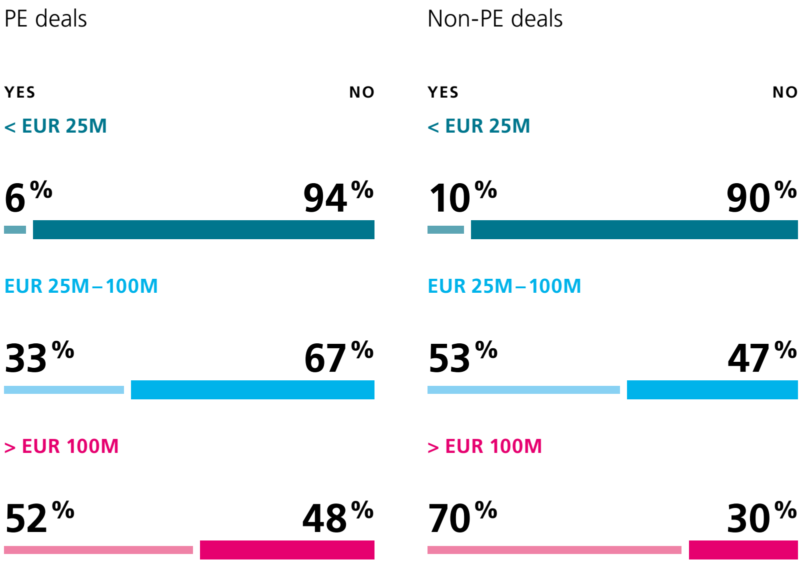
Was W&I insurance used on the transaction?



100% = all evaluated transactions

Our data shows that W&I use increases markedly with deal size and this remains more pronounced in PE transactions than in non-PE deals. In transactions exceeding EUR 100m, W&I insurance was used in 70% of non-PE deals in 2025, representing a significant decrease compared to 83% in 2024. By contrast, in trade M&A transactions in the same value bracket, W&I was used in more than half of the deals in 2025, likewise a notable decline from 62% in 2024. W&I insurance also remained less common in small deals (deal value below EUR 25m): usage fell from 19% in 2024 to 6% in 2025 in PE-deal transactions, potentially because the parties were even more eager to decrease transaction costs.

Deals with W&I insurance by purchase price

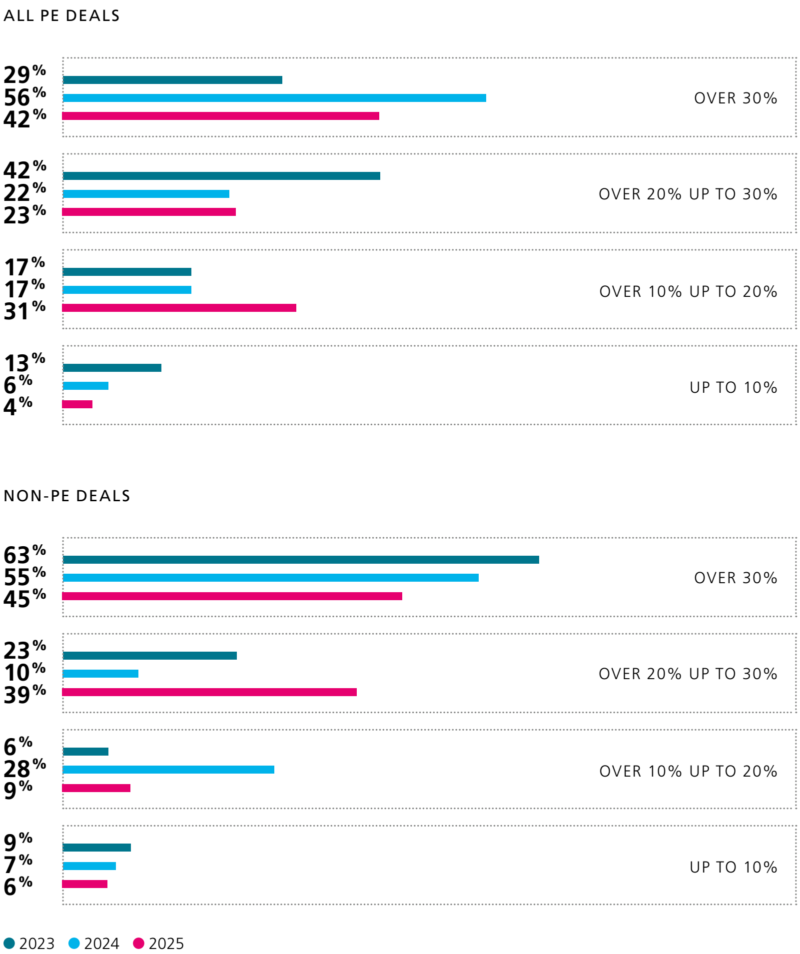


100% = all evaluated transactions

"Last year's study shows increasing use of W&I insurance in Europe, reaching 83% on deals over EUR 100m. The use of W&I is also increasing in the Middle East – especially at the more sophisticated end of the market – but is not yet at the same level that we see in the West. W&I is used more selectively – and / or on larger cross-border deals involving international sponsors – but remains far from standard. The insurer market for Middle East risks is developing quickly however – with all of the key brokers now on the ground – so it will just be a matter of time until the region catches-up."
CMS Middle East

The insured sum has also decreased across PE deals. In 42%, the insured sum exceeded 30% of the purchase price, marking a significant decrease compared to 2024, when this figure was at 56%. This is broadly in line with non-PE deals with W&I insurance in 2025, where 45% of policies provided coverage above 30% of the purchase price. In 23% of PE deals in 2025, the insured sum ranged between 20% and 30% of the purchase price (compared to 39% in non-PE deals).

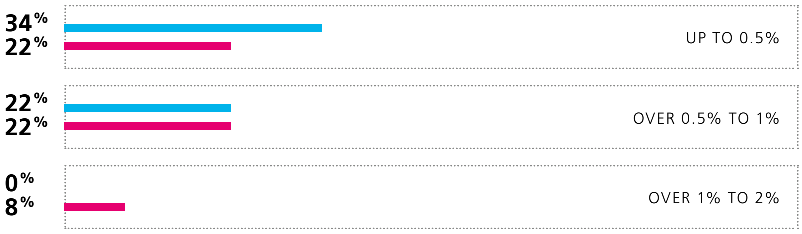
Level of coverage as a % of the purchase price



100% = all evaluated transactions

Where known, W&I premiums decreased noticeably in 2025. In 34% of PE deals, the premium did not exceed 0.5% of the purchase price (30% in non-PE deals). In contrast to 2024, where 16% of the non-PE deals and 3% of the PE deals analysed exceeded 1% of the purchase price, only 8 % of the premiums in the non-PE deals analysed exceeded 1% of the purchase price and none did in the PE deals analysed in 2025. This evidences a further overall reduction in W&I cost compared to the last two years, which is a positive development for market participants. However, this may change again if the market picks up in general since insurers were very flexible on pricing given the still rather low deal activity in an increasingly competitive W&I market.

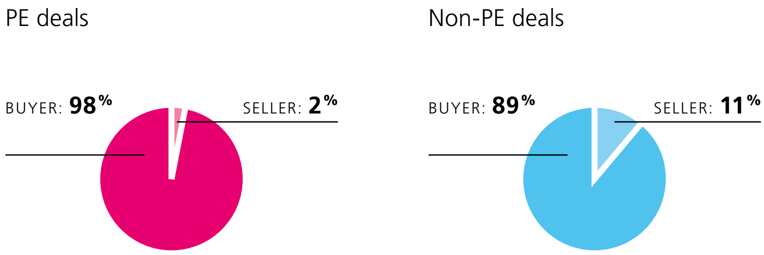
Level of premium as a % of the purchase price



● PE deals ● Non-PE deals
100% = all evaluated transactions

In 2025, the cost of the W&I insurance policy was, in the vast majority of cases, borne by the buyer. Only 2% of sellers in PE deals and 11% of sellers in non-PE deals paid the premium. By comparison, in 2024 sellers paid the premium in 7% of PE deals and 3% of non-PE deals, indicating a decrease on the PE side and an increase on the non-PE side compared to 2024.

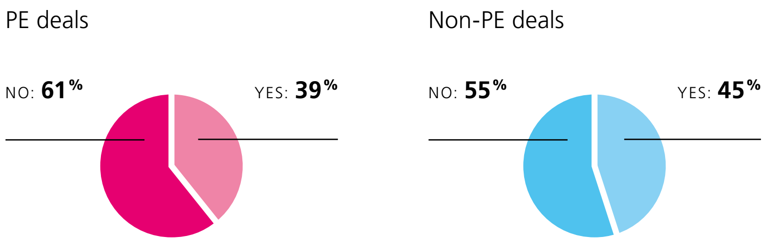
W&I premium paid by?



100% = all evaluated transactions

In the majority of PE deals (61%), the non-purchasing party did not bear any portion of the W&I insurance costs. This represents a marked decrease compared to 2024 (67%) and 2023 (87%). This development may reflect a continued shift towards a more buyer-friendly market. In non-PE deals, the percentage of transactions in which the non-purchasing party bore a portion of the costs also slightly decreased in 2025 to 55%, aligning broadly with trends observed in PE deals in 2024.

Did the non-purchasing party bear a portion of the costs?



100% = all evaluated transactions

De minimis

Most SPAs include a so-called *de minimis* provision, i.e. they provide that the buyer cannot assert certain warranty claims if their value falls below an agreed minimum amount. If the amount of a warranty claim is lower than the *de minimis* amount, then the claim is automatically excluded. The seller is thus protected from potential liability for small claims. However, agreeing on a *de minimis* may not be appropriate for deals with full W&I insurance cover, as the W&I insurance policy itself will govern how small value claims are dealt with if they are excluded.

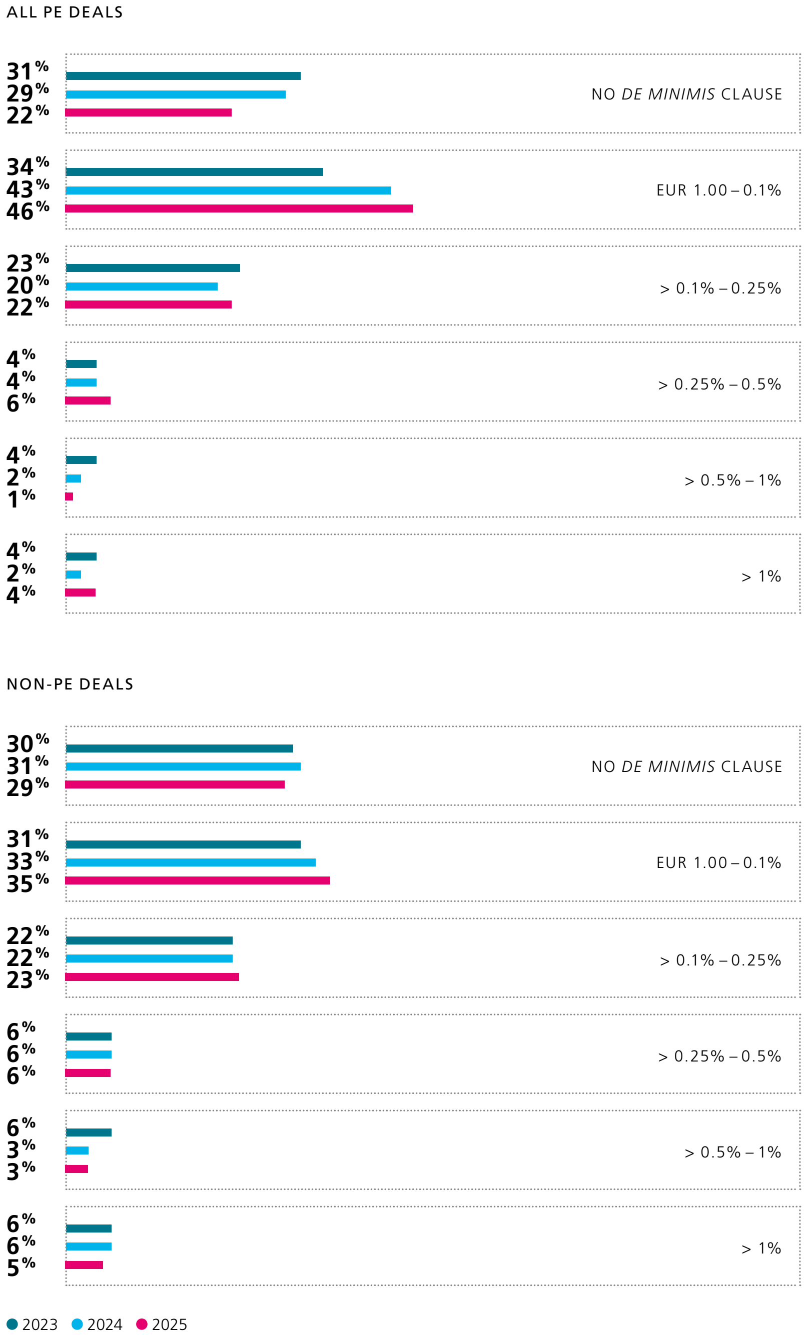
The use of *de minimis* in both PE and non-PE deals increased slightly from 2024 to 2025, rising from 71% to 78% in PE deals and from 69% to 71% in non-PE deals.

Use of *de minimis* trend

100% = all evaluated transactions

Where a *de minimis* was agreed, in PE deals the amount ranged from EUR 1.00 up to 0.1% of the purchase price in 46% of transactions in 2025 (a slight increase compared to 43% in 2024), and in a further 22% of PE deals it fell between >0.1% and 0.25% of the purchase price (also a slight increase compared to 2024), resulting in an overall 31% of transactions with a *de minimis* above 0.1%. By contrast, in non-PE deals, a *de minimis* of less than 0.1% of the purchase price was achieved in 35% of transactions, leaving 37% of deals with a *de minimis* exceeding 0.1% of the purchase price – a materially more buyer-friendly position. This may reflect the comparatively lower risk profile of targets attracting PE investment, which translates into overall more favourable terms for sellers.

De minimis amount (as a % of the purchase price)

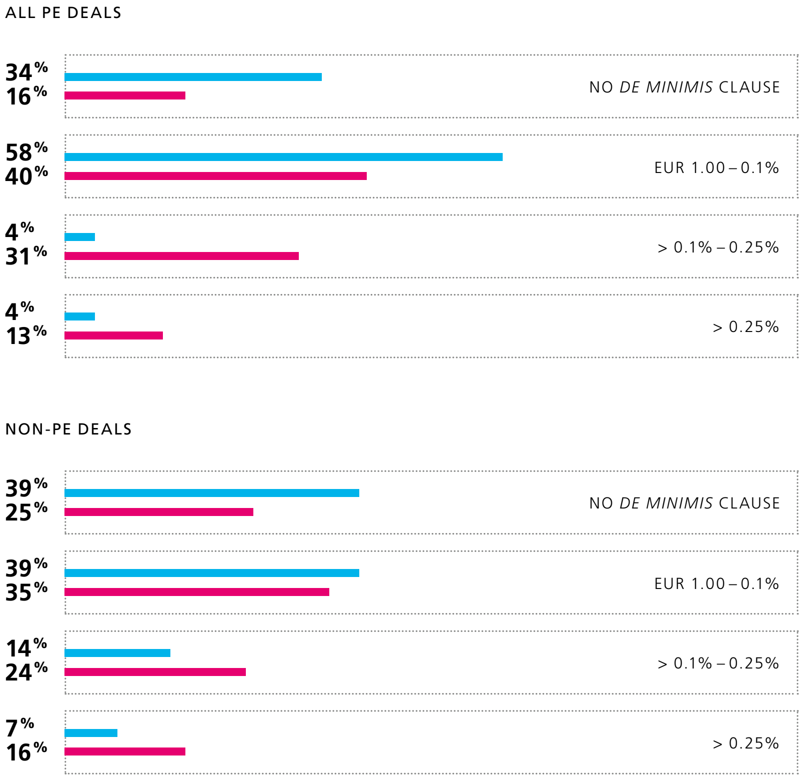


100% = all evaluated transactions

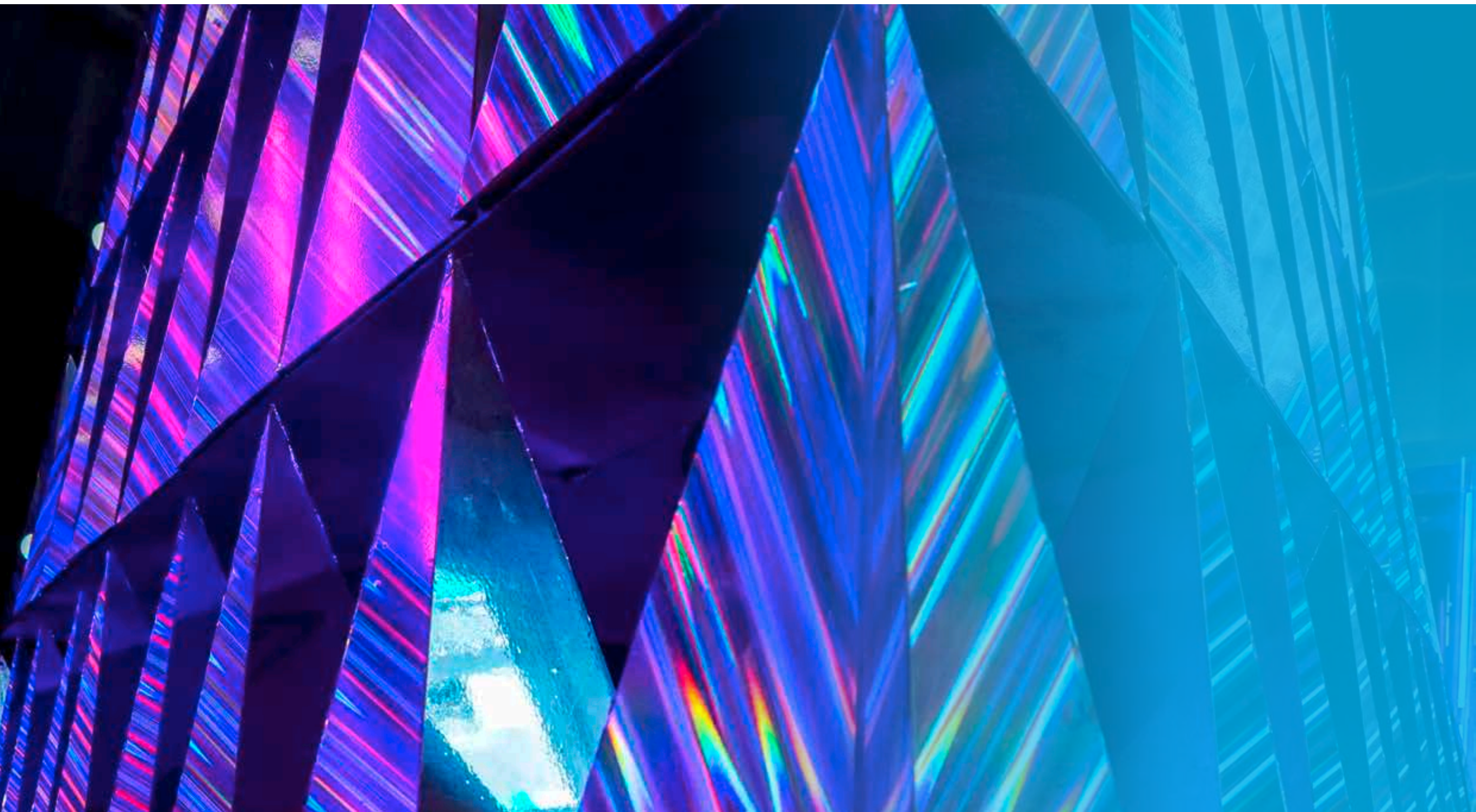
In nearly one-third of PE deals with W&I insurance in 2025, the parties did not agree a *de minimis* at all. This, we assume, would have been on the basis that the W&I policy would have been left to deal with *de minimis* thresholds where applicable and the parties wanted to avoid any conflicting provisions or any possible cutting across more favourable terms (from a buyer's perspective) provided within the W&I policy.

Where both a *de minimis* and W&I policy were agreed, the *de minimis* was set between EUR 1.00 and 0.1% of the purchase price in approximately 58% of transactions (a significant increase compared to 38% in 2024), and in a further 4% of PE deals it ranged between >0.1% and 0.25% of the purchase price (a considerable decrease compared to 12% in 2024).

De minimis amount (as a % of the purchase price): W&I deals vs non-W&I deals



W&I deals ● non-W&I deals
100% = all evaluated transactions

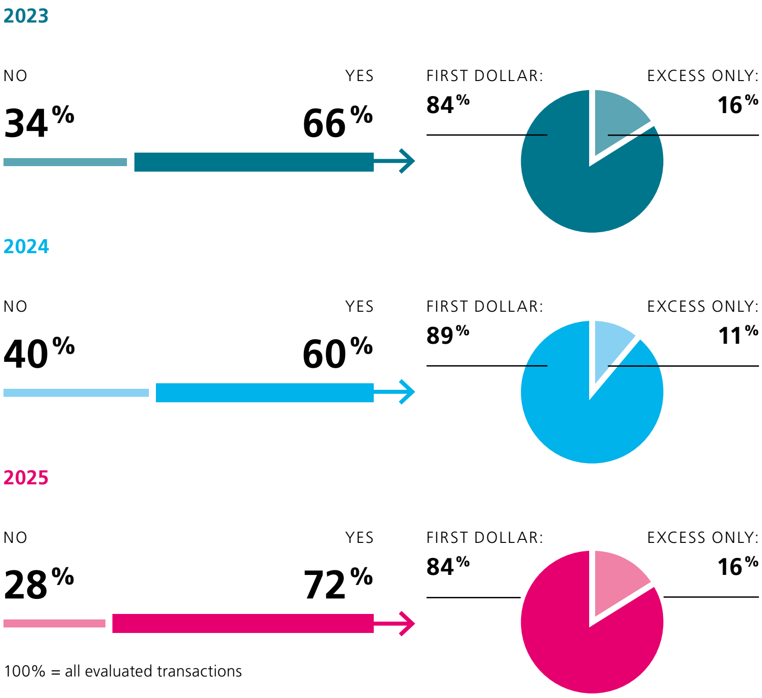


Baskets

Most SPAs further include a basket provision, which prevents warranty claims from being made where the total amount claimed in respect of all warranties is less than an agreed "basket" amount. This is often agreed as a percentage of the purchase price. With a "first dollar" basket, the buyer can recover the whole amount which is the subject of the claim once the claim exceeds the basket amount. In contrast, an "excess only" basket provides that the buyer is entitled to recover only the part of the claim that exceeds the basket amount. For deals with full W&I insurance cover, a basket provision may not be required, as this is reflected in the W&I insurance policy itself.

The overall use of baskets increased significantly in 2025 compared to 2024, and the proportion of "excess only" vs. "tipping" (also referred to as "first dollar" baskets) has also risen slightly in 2025.

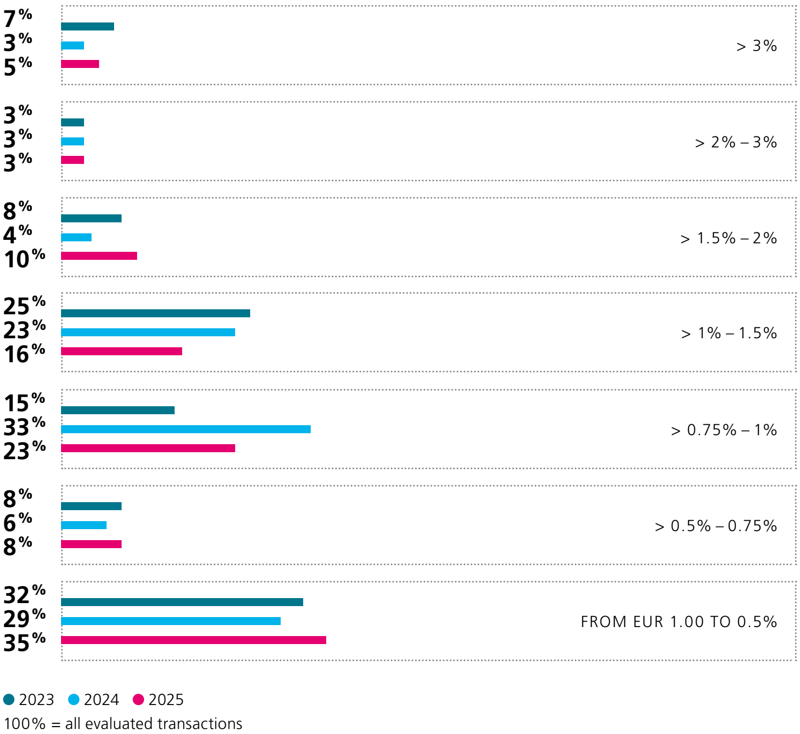
Use of basket trend



100% = all evaluated transactions

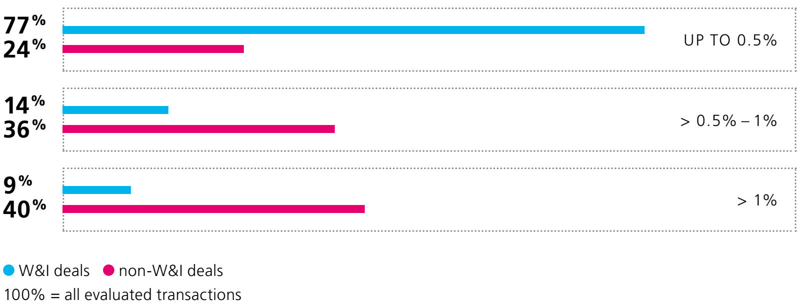
Where a basket was agreed in 2025, in approximately half of the PE deals, parties agreed on basket thresholds between 0.75% and 2% of the purchase price; within the lower bands, the shares at 0.75%–1% and 1%–1.5% decreased from 33% and 23% in 2024 to 23% and 16% respectively in 2025, while the proportion at the very low end (EUR 1.00 to 0.5%) rose to 35% (from 29% in 2024) and baskets above 3% of the purchase price increased slightly from 3% in 2024 to 5% in 2025.

Basket amount (as a % of the purchase price)



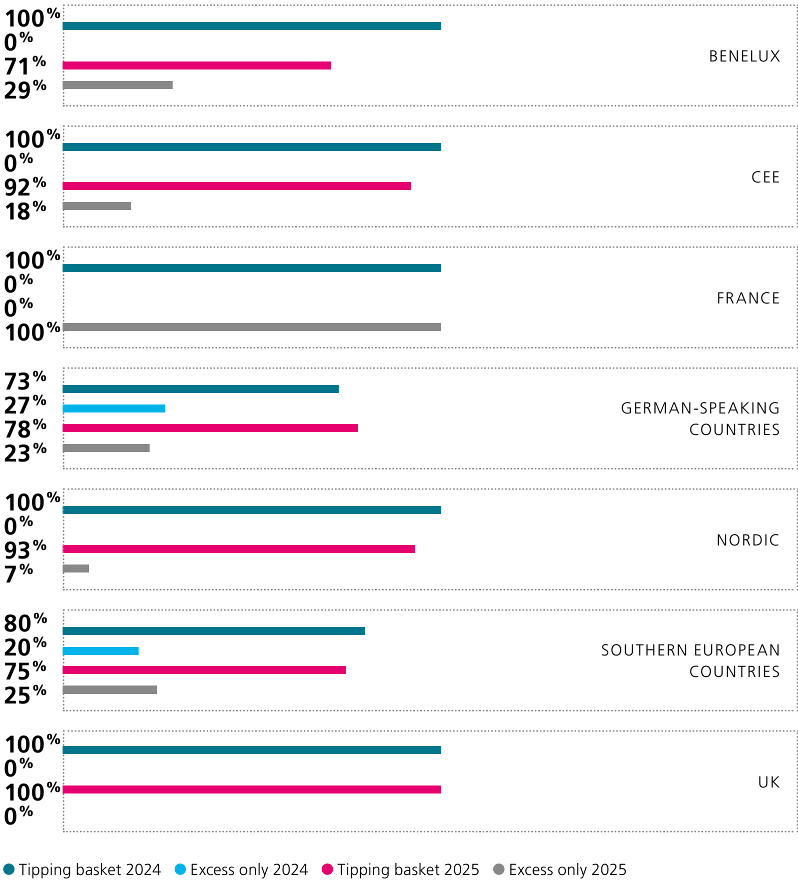
Basket thresholds in deals secured with W&I insurance have consistently been lower than in PE deals without W&I, which may reflect both the risk transfer effected by the insurance and the tendency for baskets to be comparatively higher in lower-value transactions.

Basket thresholds: W&I deals vs non-W&I deals



In 2025, "tipping" baskets were significantly more prevalent than "excess only" baskets across most geographies, with the vast majority of our deals in Benelux, CEE, German-speaking countries, the Nordics, Southern Europe and the UK featuring tipping baskets; France was the only jurisdiction where excess-only baskets predominated.

Excess only basket vs tipping basket by geography

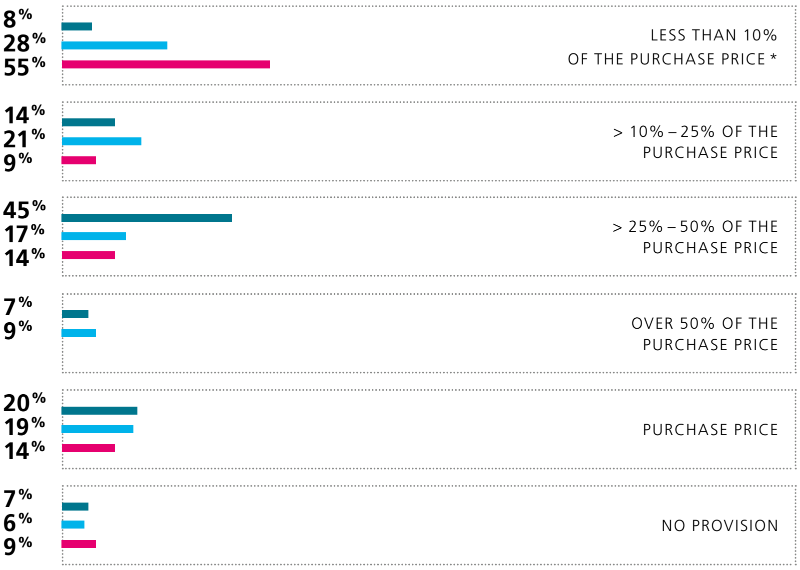


100% = all evaluated transactions with a basket

Liability caps

When it comes to monetary liability caps, the 2025 data confirmed once again that there is a direct correlation between deal value and cap amount. Generally, the higher the purchase price, the lower the percentage of the cap. In 55% of the deals with a purchase price higher than EUR 100m, the cap was lower than 10% of the purchase price (compared to 73% in 2024 and 48% in 2023).

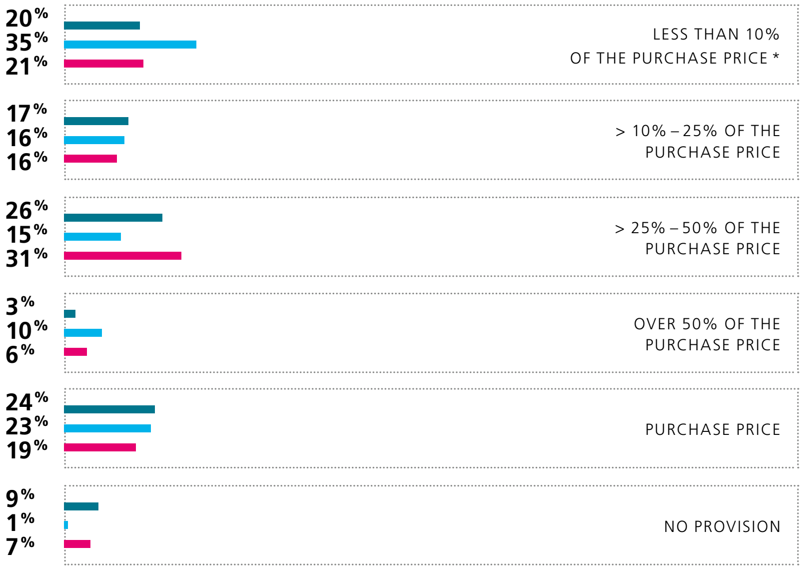
Liability caps by purchase price



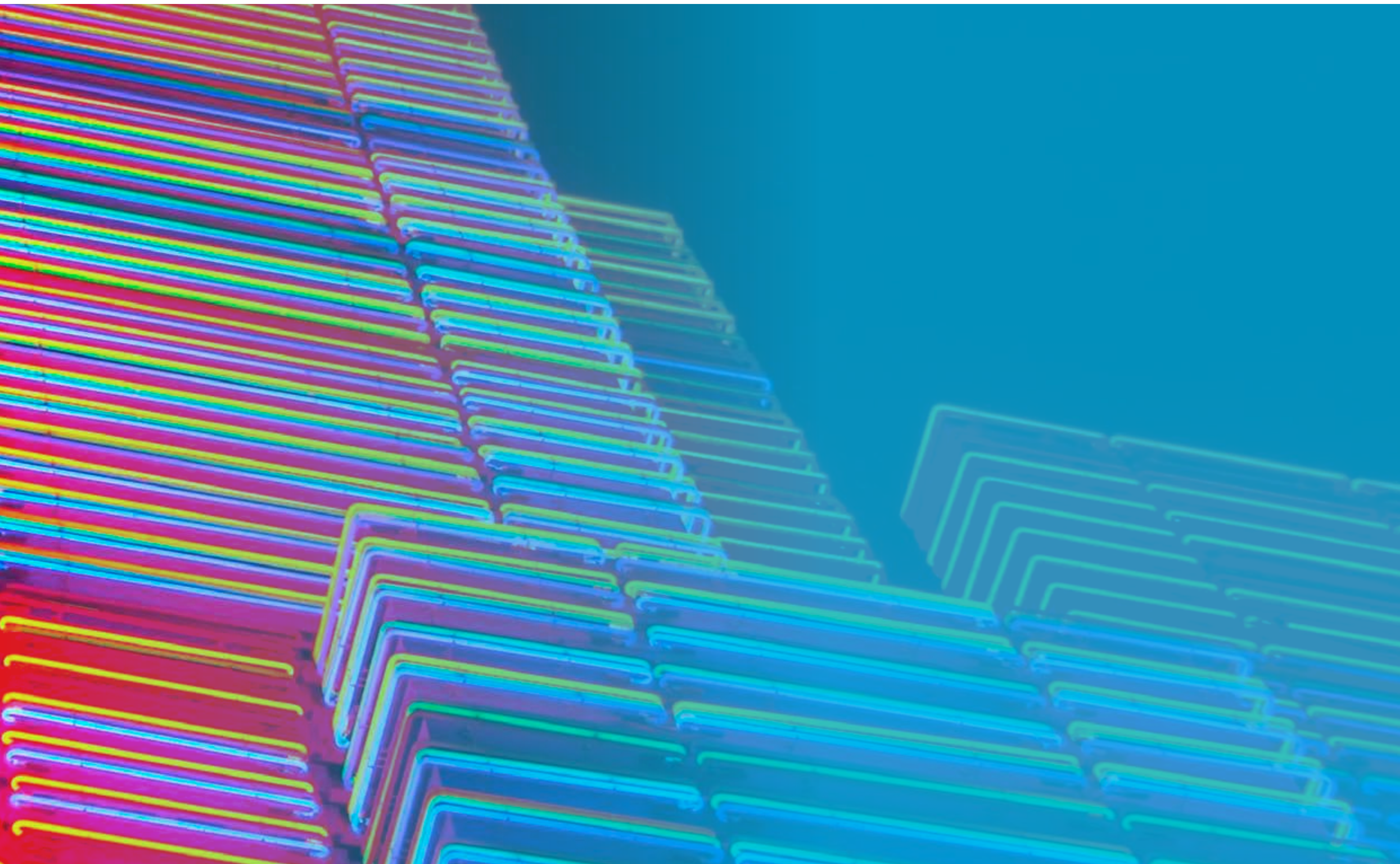
● <EUR 25m ● EUR 25 – 100m ● >EUR 100m
100% = all evaluated transactions
* incl. EUR 1 and 0% of the purchase price caps

The number of deals with a cap of less than 10% of the purchase price has considerably decreased between 2024 and 2025 from 35% to 21%, which corresponds to a similar percentage level as in 2023 (20%).

Liability caps time trend



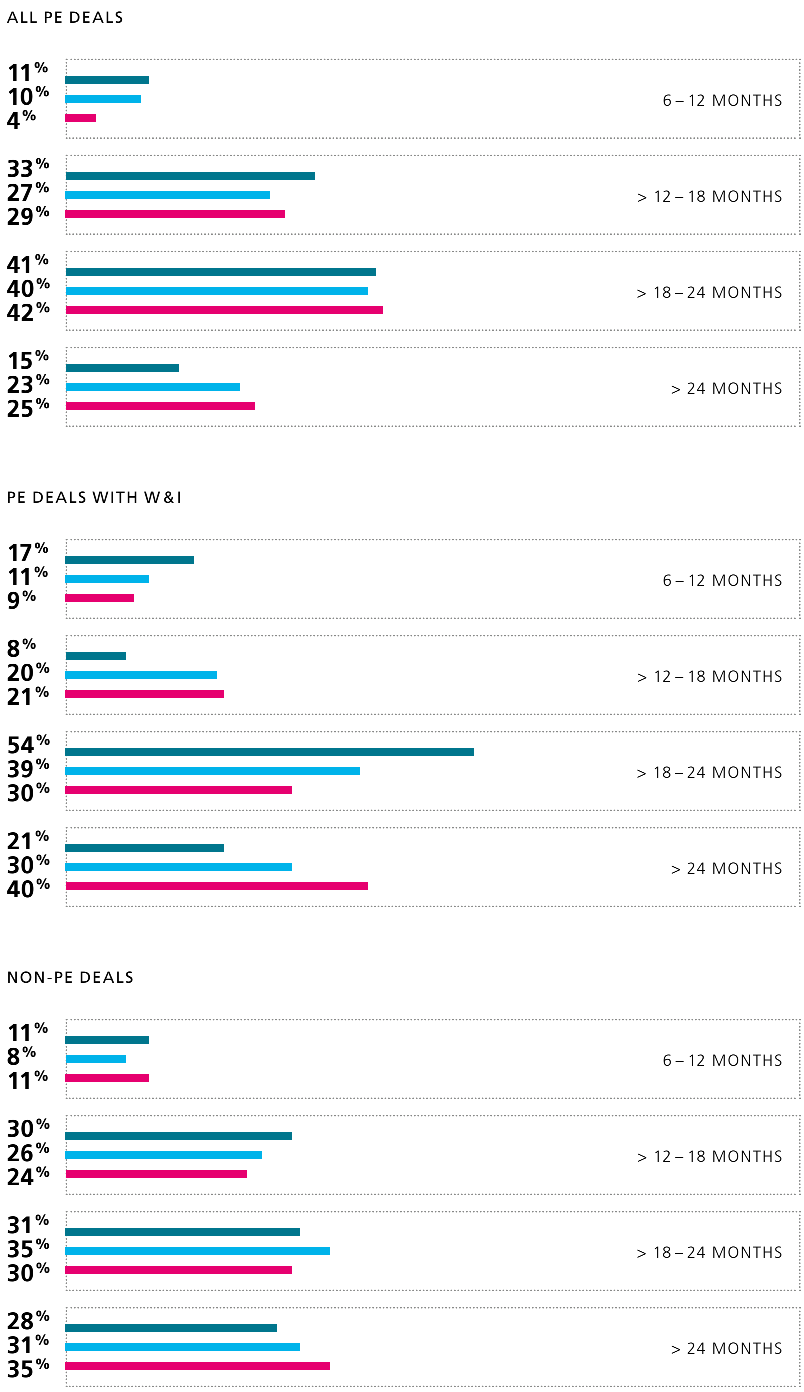
● 2023 ● 2024 ● 2025
100% = all evaluated transactions
* incl. EUR 1 and 0% of the purchase price caps



Limitation periods

Time limitations are the final key element of a seller's limitation of liability package, particularly if there is no W&I insurance. Traditionally, the limitation period for business warranty claims in PE deals (in particular where a PE fund is the seller) was – and still is – shorter than in non-PE deals. Our data continues to show a buyer-friendly trend towards longer limitation periods, with a slight increase in the number of limitation periods longer than 24 months (25% in 2025 compared to 23% in 2024), while the majority of transactions continued to have an 18–24 months' limitation period (42% in 2025 vs 40% in 2024), with slightly longer limitation periods in deals with W&I insurance.

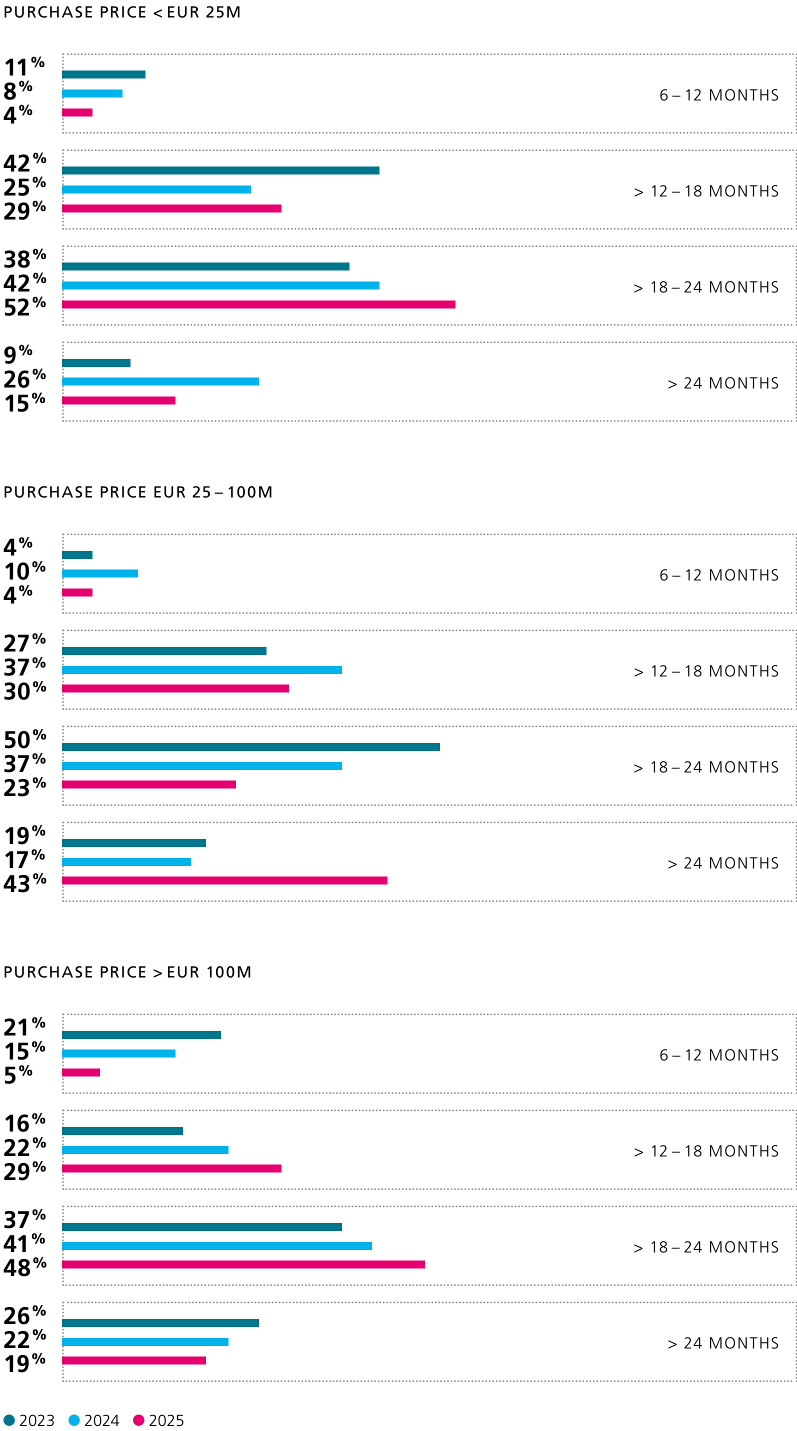
Limitation periods for warranty claims: time trend



● 2023 ● 2024 ● 2025
100% = all evaluated transactions

Considering potential differences by deal size, for PE transactions with a purchase price below EUR 25m, the majority of transactions in 2025 (52%) featured limitation periods of 18–24 months (42% in 2024). In 2025, the share of such smaller PE transactions with limitation periods exceeding 24 months decreased to 15% from 26% in 2024. For PE deals with a purchase price between EUR 25m and EUR 100m, 43% of those transactions in 2025 had limitation periods of 24 months or more (up from 17% in 2024), while 23% had 18–24 months (down from 37% in 2024). For PE deals exceeding EUR 100m, the figures remained broadly stable, with an increase of 18–24 months from 41% in 2024 to 48% in 2025.

Limitation periods for warranty claims by purchase price

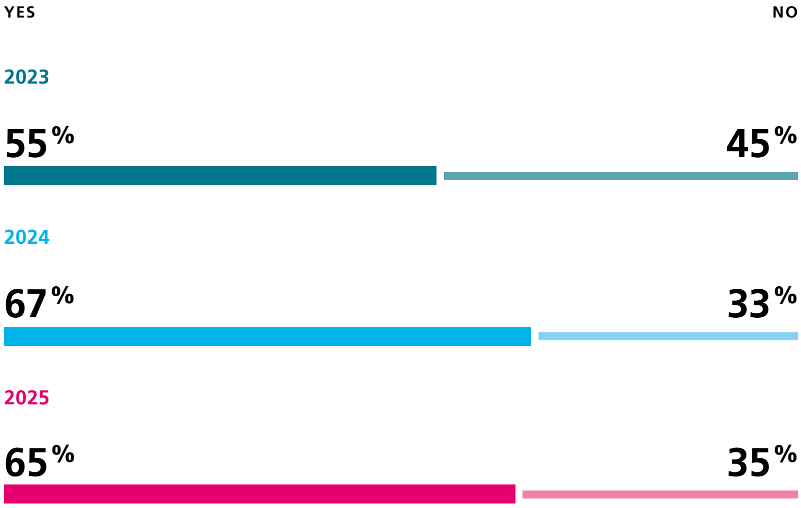


100% = all evaluated transactions

Tax

After a sharp rise in 2024, the share of deals including a tax indemnity clause decreased by 2 percentage points, from 67% in 2024 to 65% in 2025.

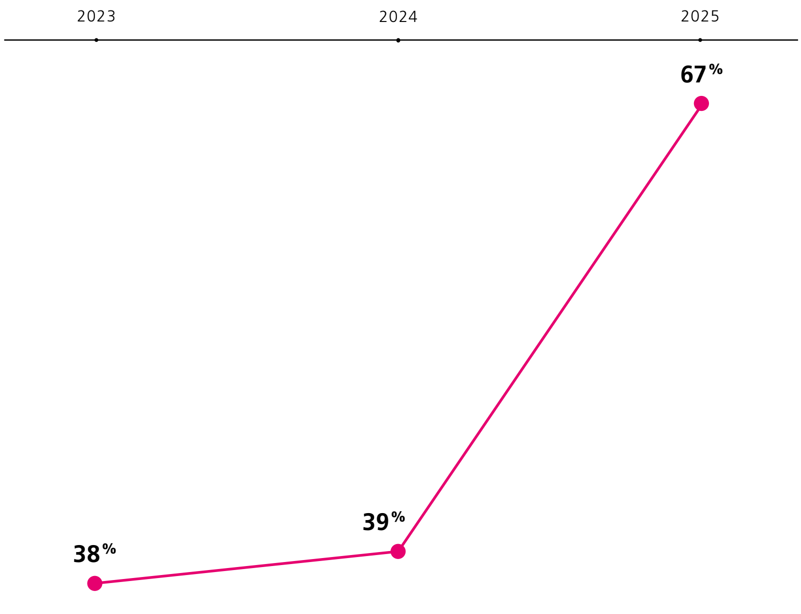
Tax indemnity agreed?



100% = all evaluated transactions

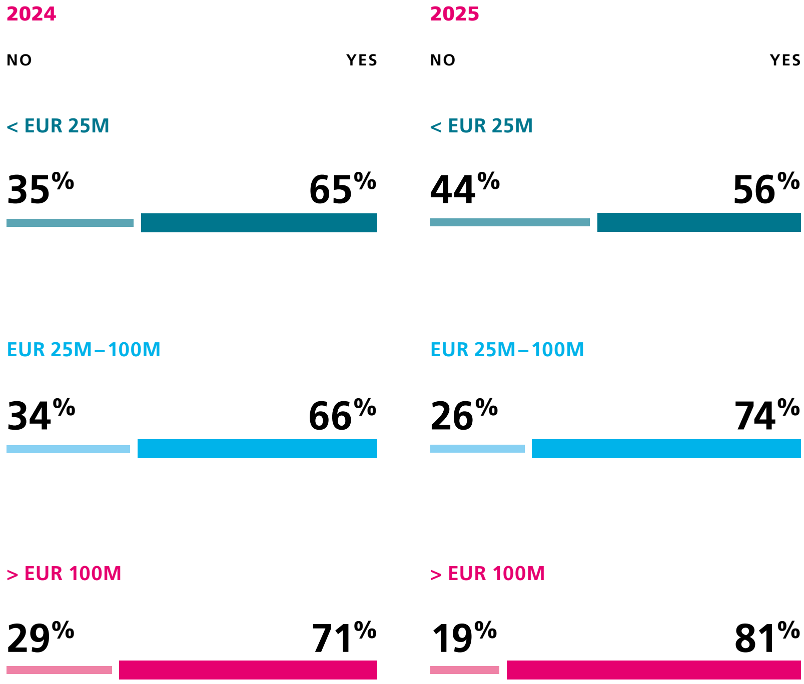
In 2025, sellers on a PE deal were in 67% of cases successful in negotiating the right to actively participate in a future tax audit on the target (compared to only 39% in 2024 and 38% in 2023).

Participation right at a future tax audit agreed?



Deal value was also a significant factor in 2025. In PE deals where the purchase price was below EUR 25m, only 56% of sellers successfully negotiated the right to actively participate in a future tax audit of the target. In contrast, 74% of sellers in PE deals with a purchase price between EUR 25m and EUR 100m and 81% of sellers in PE deals with a purchase price over EUR 100m managed to secure this right.

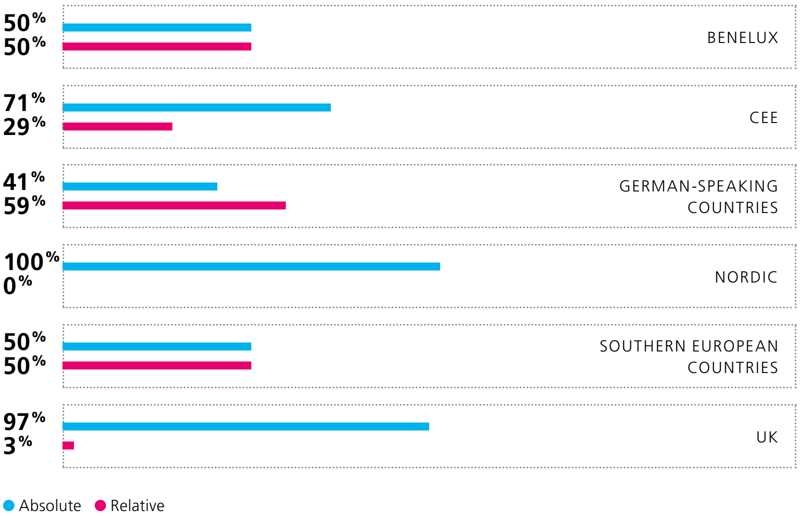
Tax indemnity agreed by purchase price



100% = all evaluated transactions

Our data continues to show pronounced geographical divergence as to whether tax indemnities are subject to an absolute limitation period (i.e., a fixed number of years post-completion) or a relative limitation period (i.e., a certain period of time following the final determination of taxes post-completion). An absolute limitation period remains the prevailing standard in the UK. The Nordics and CEE also predominantly agree on absolute limitation periods in the majority of cases, while Southern European countries tend to apply absolute and relative limitation periods in roughly equal measure. German-speaking countries favour the buyer-friendly relative limitation period.

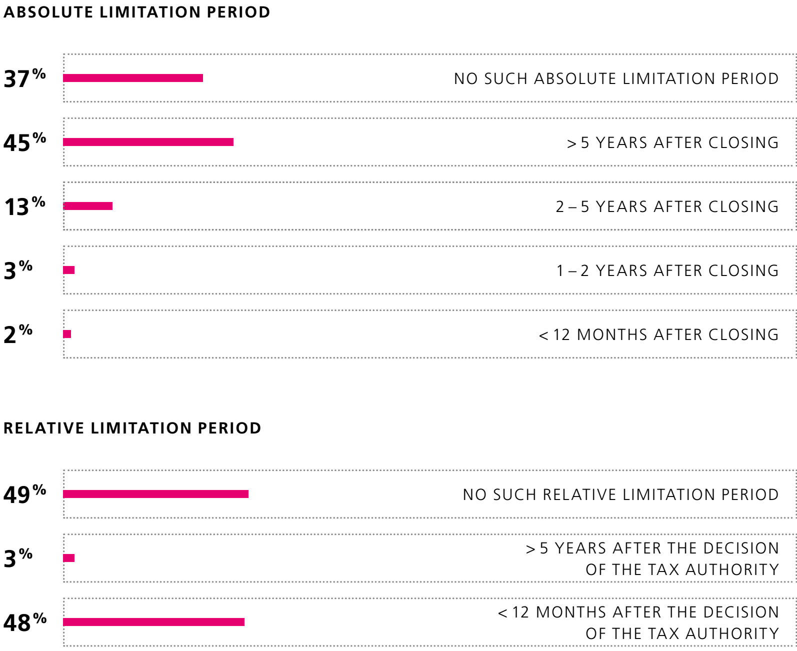
Tax indemnity: absolute vs relative limitation period by geography



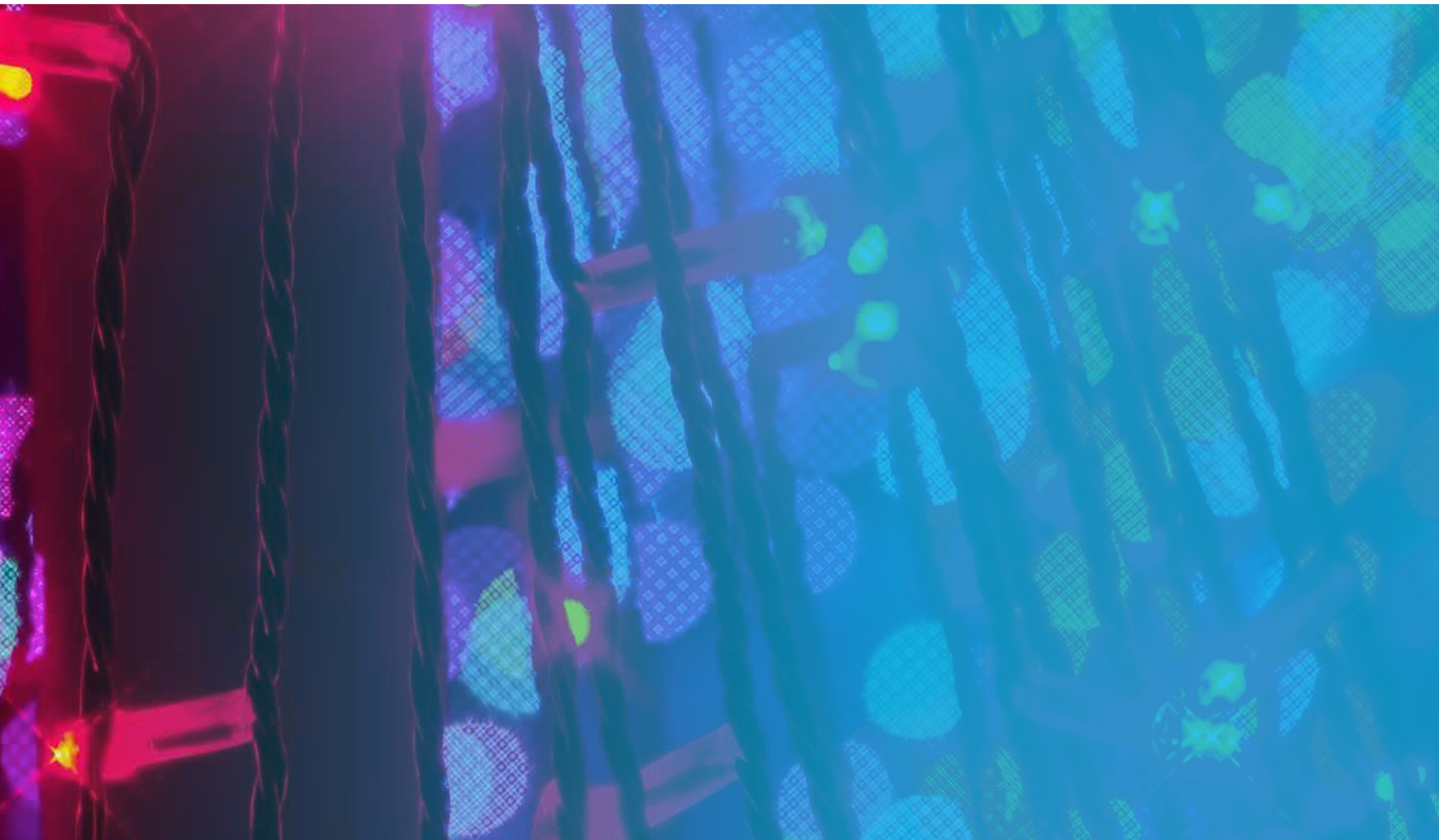
100% = all transactions with a tax indemnity clause

The time period agreed for an absolute limitation in most cases was still more than five years after completion. In the case of relative limitation periods, the tax indemnity was in the vast majority of cases time-barred within a period of up to 12 months after the relevant decision of the tax authorities.

Tax indemnity: duration of limitation period



100% = all evaluated transactions with a tax indemnity clause

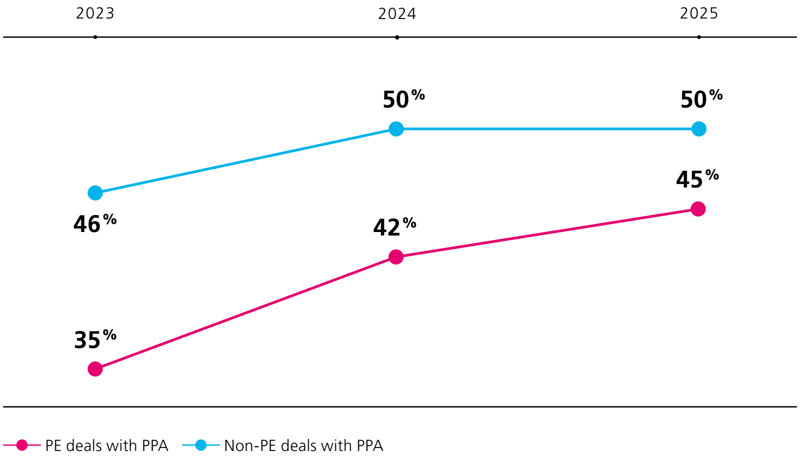


Purchase price adjustments / Earn-outs

Purchase price adjustments

2025 saw a continued rise (from 35% in 2023 to 42% in 2024 and to 45% in 2025) in the use of purchase price adjustments. This ongoing trend reflects the continued valuation unease in the market with buyers (and particularly private equity sponsors) becoming increasingly wary of parting with capital. It also represents a means of bridging the valuation gap amidst continued macro-economic challenges (including the impact of tariffs on asset supply chains).

Purchase price adjustment time trend: PE deals vs Non-PE deals

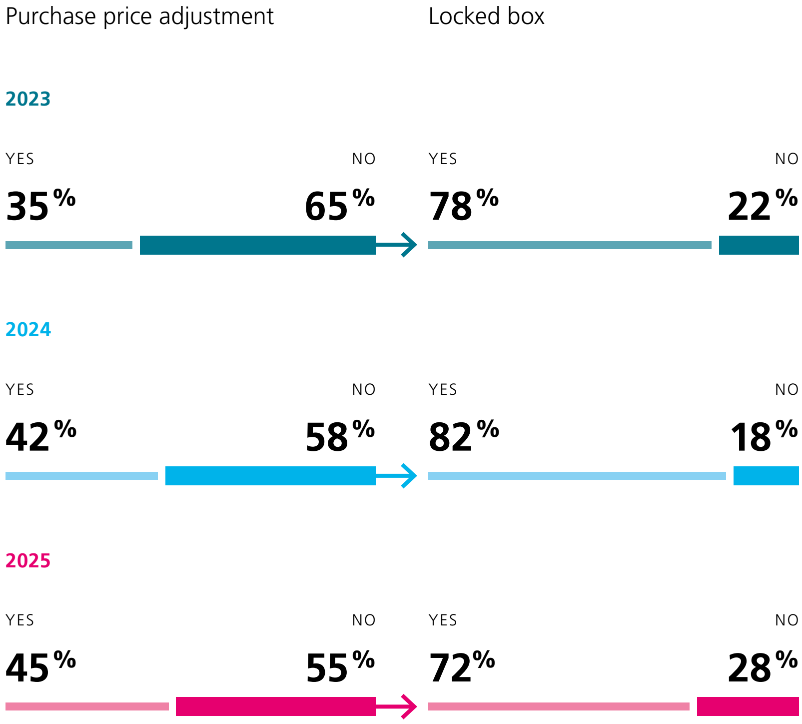


"Unlike some European markets, Portugal shows a broadly balanced use of completion accounts and locked box, with selection driven by deal size, sector and process."
CMS Portugal

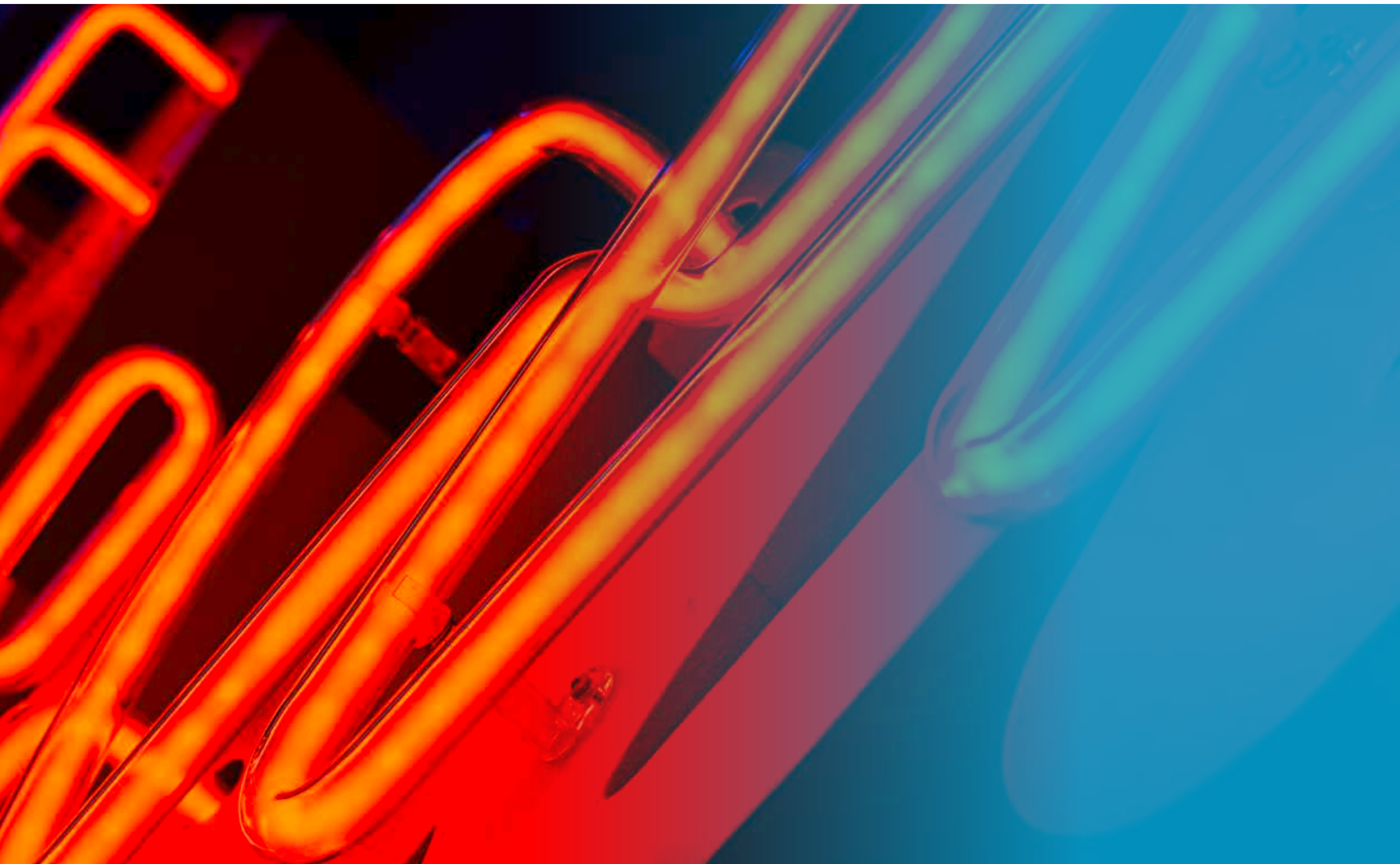
"Nordic transactions, including Norway, have traditionally shown a relatively strong preference for locked box structures compared to some other European regions where purchase price adjustments are more common. However, there is a gradual increase in adjustments and hybrid mechanisms as buyers seek greater protection in volatile markets."
CMS Norway

Nonetheless, despite a 10% reduction in use cases amongst deals reviewed (from 82% in 2024 to 72% in 2025), the most used pricing mechanic remains the locked box structure. This is probably reflective of a market in which buyers are sensitive to overpaying and sellers (in that context) need certainty. In our experience, this often results in a lower multiple but without the potential downside seen on price adjustments if there is a market shifting event in the adjustment window.

Purchase price adjustment vs locked box in PE deals

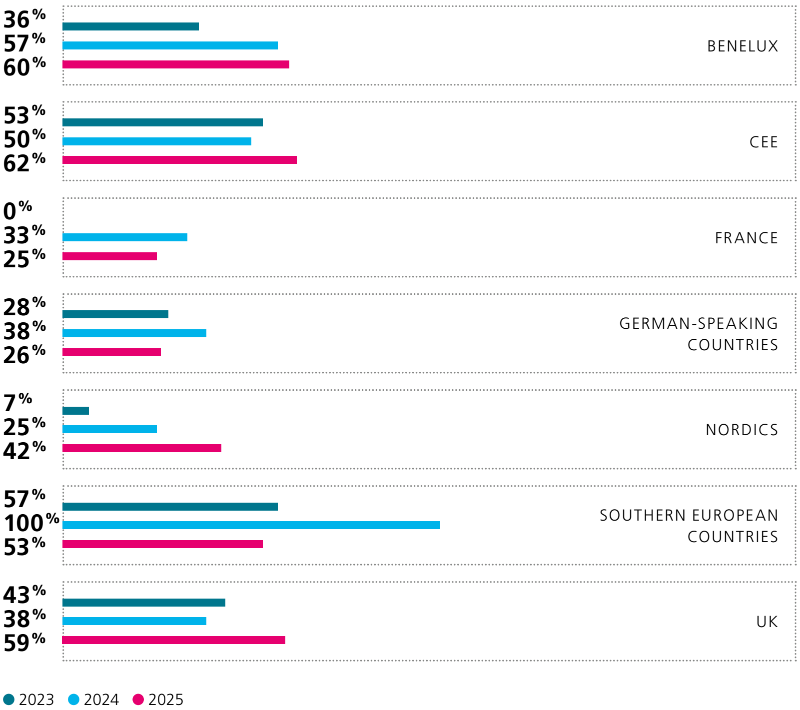


100% = all evaluated transactions



While the trends summarised so far look at Europe as a whole, 2025 demonstrates an equally varied landscape between countries and regions. There are similarities, for instance between CEE and Benelux, and then grouped differences (for example between the CEE and Benelux versus France, German-speaking countries and the Nordics). Generally, the numbers are broadly consistent within the reviewed jurisdictions with the exceptions of Southern Europe, which saw a marked (47%) decrease in use cases, and the UK which conversely saw an increase of 21% compared to 2023.

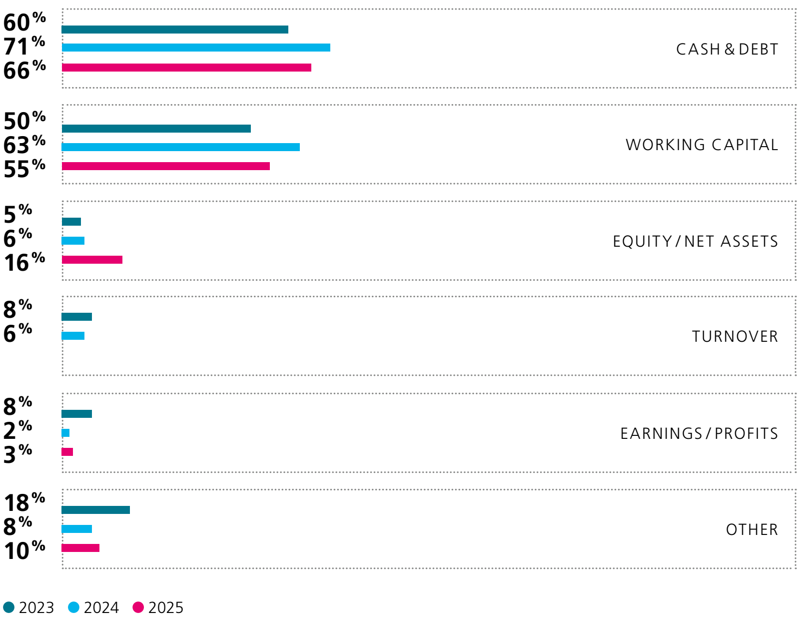
Purchase price adjustment time-trend by geography



100% = all evaluated transactions

When it comes to the criteria chosen to determine the price adjustment, cash, debt and working capital remained the preferred options as in all previous years, with cash and debt being used in over 66% of all PE deals reviewed and working capital in over 55% of all PE deals reviewed. Net assets continue to be in the minority, albeit with an increase of 10% seen in 2025 versus 2024.

Purchase price adjustment criteria



100% = all transactions including a purchase price adjustment
Cash & Debt does not include “cash only” and “debt only”. Multiple nominations possible

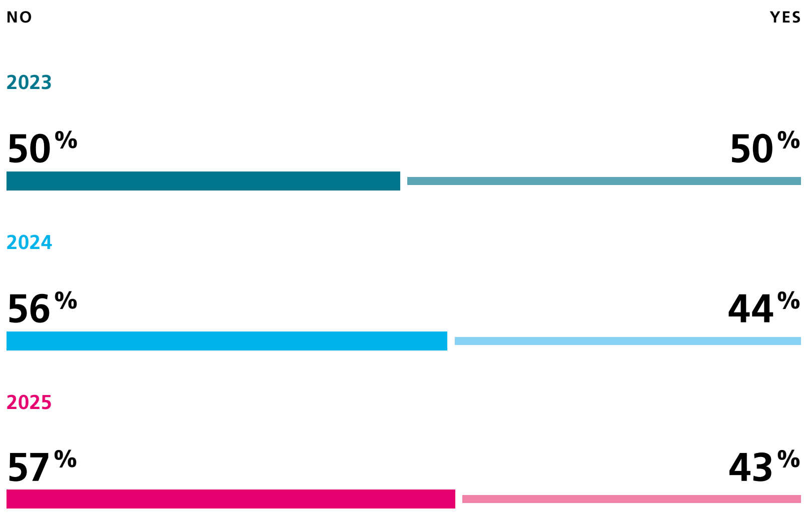
Earn-outs

The use of earn-outs in private equity transactions in 2025 remained popular and mirrors the trends in price adjustments referred to before given the general market uncertainty. New investments constituted 72% of all PE deals, up from 63% in 2024 and 69% in 2023. Conversely, exits declined to 16% of transactions (from 19% in 2024). This rebalancing has had implications for earn-out usage because exits and secondary buyouts often do not feature earn-outs, as PE funds acting as institutional sellers are driven to obtain full and certain consideration to be able to deliver returns to LPs. The increase in new investments, including where founder sellers are more prevalent, is therefore consistent with an increase in earn-out structures. In transactions where the PE investor is a buyer, earn-out prevalence increased to 38% in 2025, up from 35% in 2024 and 33% in 2023, which also demonstrates how buyers are requiring selling shareholders to justify business plans before benefitting from the full economics of the transaction. By contrast, in deals where the PE investor is a seller, earn-out usage declined to 17% in 2025, down from 21% in 2024 and 24% in 2023.

"In Norway and the Nordics, earn-outs are generally less dominant than in some continental European markets. Sellers (especially founder-led businesses) may accept earn-outs where management remains involved post-closing."
CMS Norway

Add-on acquisitions, historically a key driver of earn-out usage, continued their gradual decline but remain substantial at 43% of PE buy-side transactions in 2025 (down from 50% in 2023). Bolt-on transactions from founder sellers continue to ensure that earn-outs feature prominently in the PE deal landscape.

Was the transaction an add-on acquisition? Time trend



100% = all evaluated transactions

The relationship between deal value and earn-out usage remains a key consideration for transaction structuring. Smaller transactions, particularly those below EUR 25m, historically demonstrate materially higher earn-out prevalence. This pattern reflects the predominance of founder sellers in smaller deals, who are more likely to accept earn-out structures as a mechanism to achieve their valuation expectations whilst providing buyers with downside protection against overly ambitious business plans. Our data for 2025 reiterates the strong correlation between deal value and earn-out usage.

Earn-out by purchase price 2025

< EUR 25M

YES **41 %** — NO **59 %**

EUR 25M – 100M

YES **36 %** — NO **64 %**

> EUR 100M

YES **31 %** — NO **69 %**

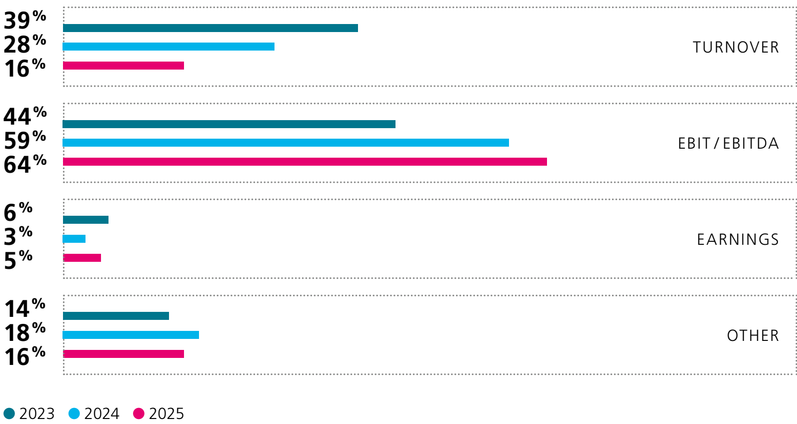
100% = all evaluated transactions

Earn-out criteria

2025 continues to reflect that the majority of PE deals containing earn-out structures are based on underlying EBIT/EBITDA metrics, with a significant drop off for turnover-based earn-outs. On PE buy-side transactions in particular, the use of EBIT/EBITDA metrics increased from 59% in 2024 to 64% in 2025. This is consistent with previous years and prevailing market sensitivities. Ultimately this creates a sensitive buyer market where stringent controls on earn-out achievement are required and, as is generally the case, EBIT/EBITDA-based earn-outs are seen as a better test of genuine revenue and performance (and also often aligns with original deal valuation methodologies and therefore with buyer expectations).

The broader market shift towards buyer-friendly terms is evidenced by the increasing prevalence of MAC-clauses and the use of purchase price adjustments in 2025, as outlined earlier in this report. These shifts may extend to earn-out negotiations, with buyers potentially seeking longer earn-out periods and tighter performance criteria. The decline in use of W&I in smaller deals as set out earlier in this report, where the use of earn-outs is particularly prevalent, may also increase the relative importance (and crucially robustness) of earn-out structures as an alternative risk allocation mechanism.

Earn-out criteria



100% = all evaluated transactions. Multiple nominations possible

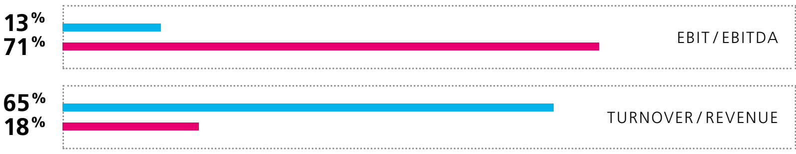
Sector trends

A notable increase was observed in the acquisition of know-how assets, which rose from 16% in 2024 to 29% in 2025, including specialised expertise and intellectual property. This shift towards know-how acquisition as a deal driver has implications for earn-out structuring. Where intellectual property and expertise are key value drivers, earn-out criteria may need to be tailored to capture technology-related milestones, patent registrations, product development achievements, or customer adoption metrics alongside traditional financial measures.

Transatlantic comparison

Our data continues to show in respect of the transatlantic comparison striking differences in earn-out practices. In 2025 European PE buy-side transactions, EBIT/EBITDA-based criteria dominated at 71%, whilst in the US market turnover/revenue-based earn-outs are the overwhelming preference at 65%. Indeed, the total number of deals using earn-outs has decreased significantly in the US from 33% in 2023 to 22% in 2025, which may reflect narrowing valuation gaps and improved earnings visibility, reducing the need for contingent pricing mechanisms to bridge buyer-seller expectations. It may also indicate stronger seller leverage in competitive processes.

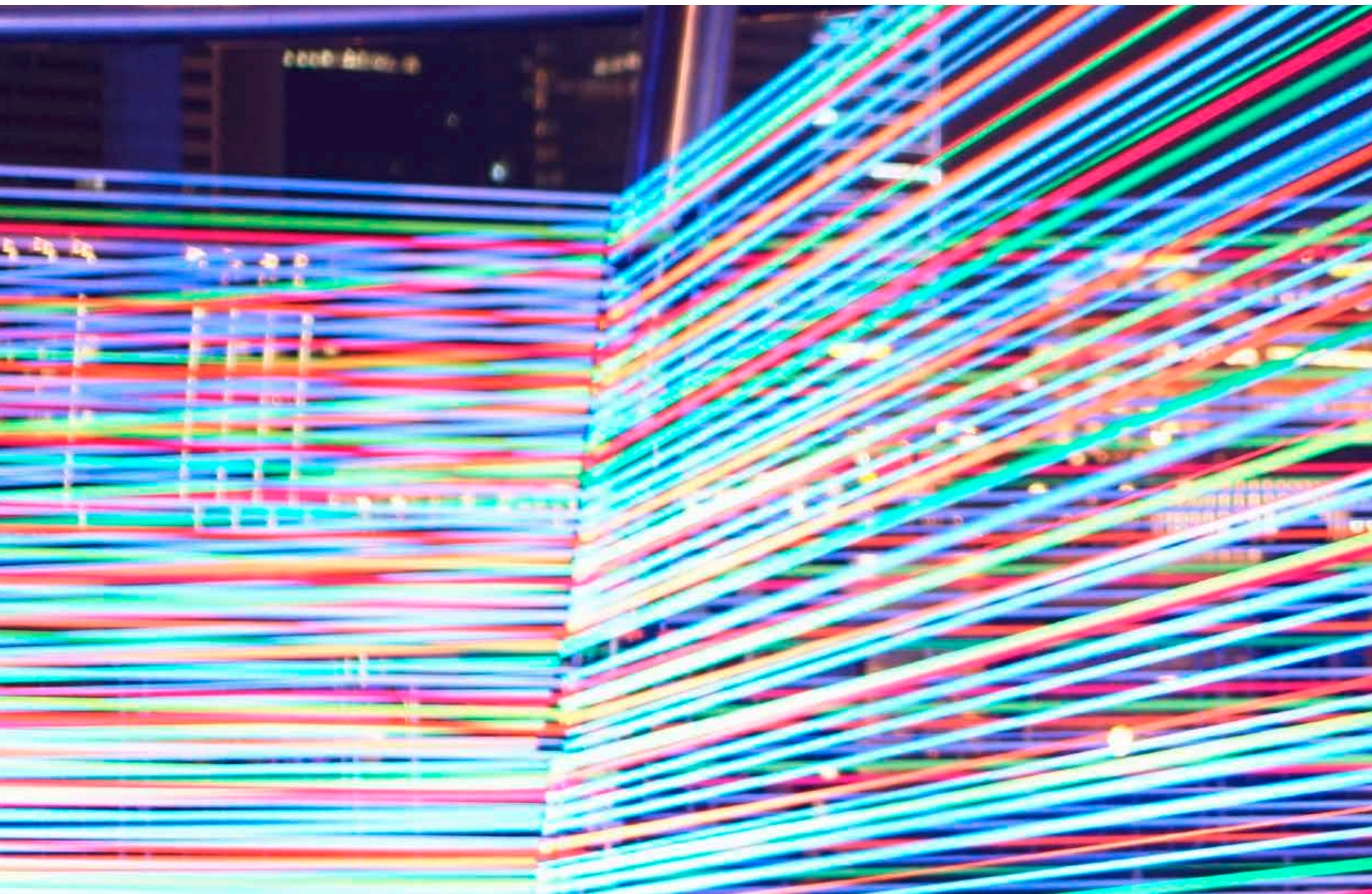
Earn-out criteria Europe/US *



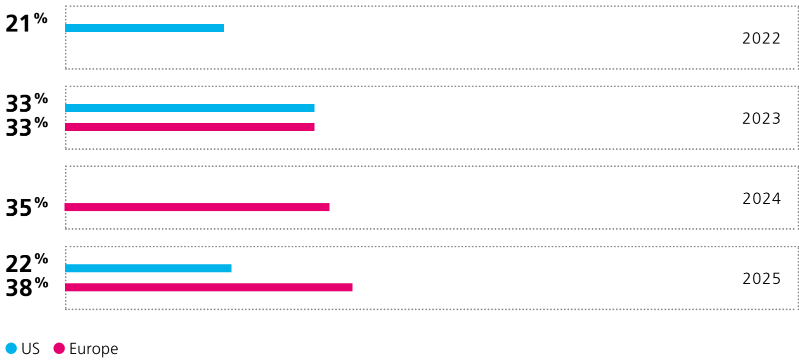
● US 2025 ● Europe 2025

100% = all evaluated transactions with an earn-out mechanism

* The US data was derived from "SRS Acquiom 2025 M&A Deal Terms Study" produced by SRS Acquiom Inc.



Frequency of earn-out mechanisms Europe / US *



100% = all evaluated transactions with an earn-out mechanism

* The US data was derived from “SRS Acquiom 2025 M&A Deal Terms Study” produced by SRS Acquiom Inc.

ESG

ESG

In the last few editions of our study, we have included a section on ESG (environmental, social and governance) and how responsible/impact investing are shaping the behaviour of private equity players and businesses looking to partner with them.

In recent years, there has been a transformational shift towards embedding ESG practices within investment criteria, and all private equity firms now have a degree of ESG credentials and/or ESG reporting requirements. However, we do not yet have sufficient data from our transaction documents to assess whether ESG actually plays a material role in the sourcing of deals and investment decisions.

ESG considerations have increasingly become part of the legal due diligence process, however, the scope of the ESG focus can vary between investors. The approach to incorporating ESG into transaction documents often depends on the risk tolerance and strategic priorities of the investor, and our analysis showed that only 9% of the PE deals we reviewed in 2025 included some degree of ESG-focused due diligence by the legal team. By contrast, transactions not involving any private equity parties have undertaken ESG legal due diligence only in 6% of cases. This data would not account for ESG due diligence undertaken in-house by the PE fund and anecdotally, most PE funds have to report against a number of ESG metrics when presenting potential targets to IC/considering whether to proceed with an investment.

"ESG due diligence is increasingly standard in larger PE transactions, particularly relating to climate impact, supply chains and regulatory compliance." CMS Norway

Specific ESG legal due diligence

	NO	YES
PE transactions	91 %	9 %
Non-PE transactions	94 %	6 %

100% = all evaluated transactions

“ESG appears more as targeted checks than standalone legal workstreams. In documentation, specific ESG warranties (e.g. compliance, workforce / supply chain) are added case by case. Overall prevalence remains limited rather than standardised across all PE deals.” CMS Portugal

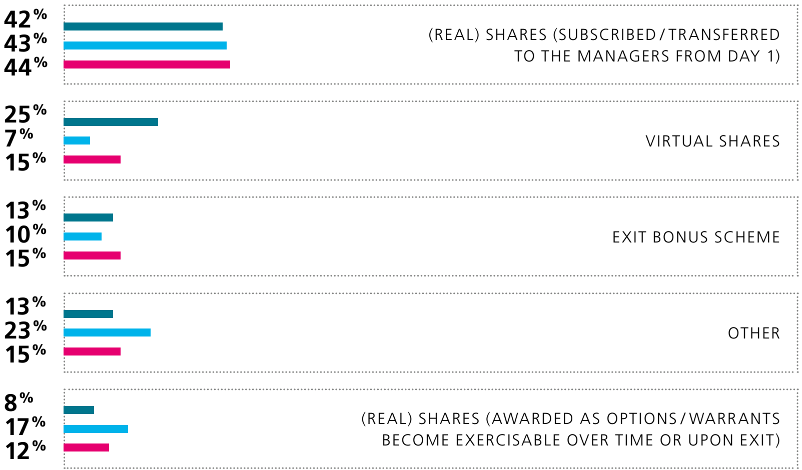
Management incentives

Overview

In 2025, the majority of management incentive schemes were implemented on day 1 of the platform. A broadly even spread of other incentive arrangements were also seen with a degree of consistency in approach, albeit the implementation of option schemes during the lifecycle of an investment period dropped by 5%. Anomalies not specifically referenced included the use of synthetic or phantom arrangements.

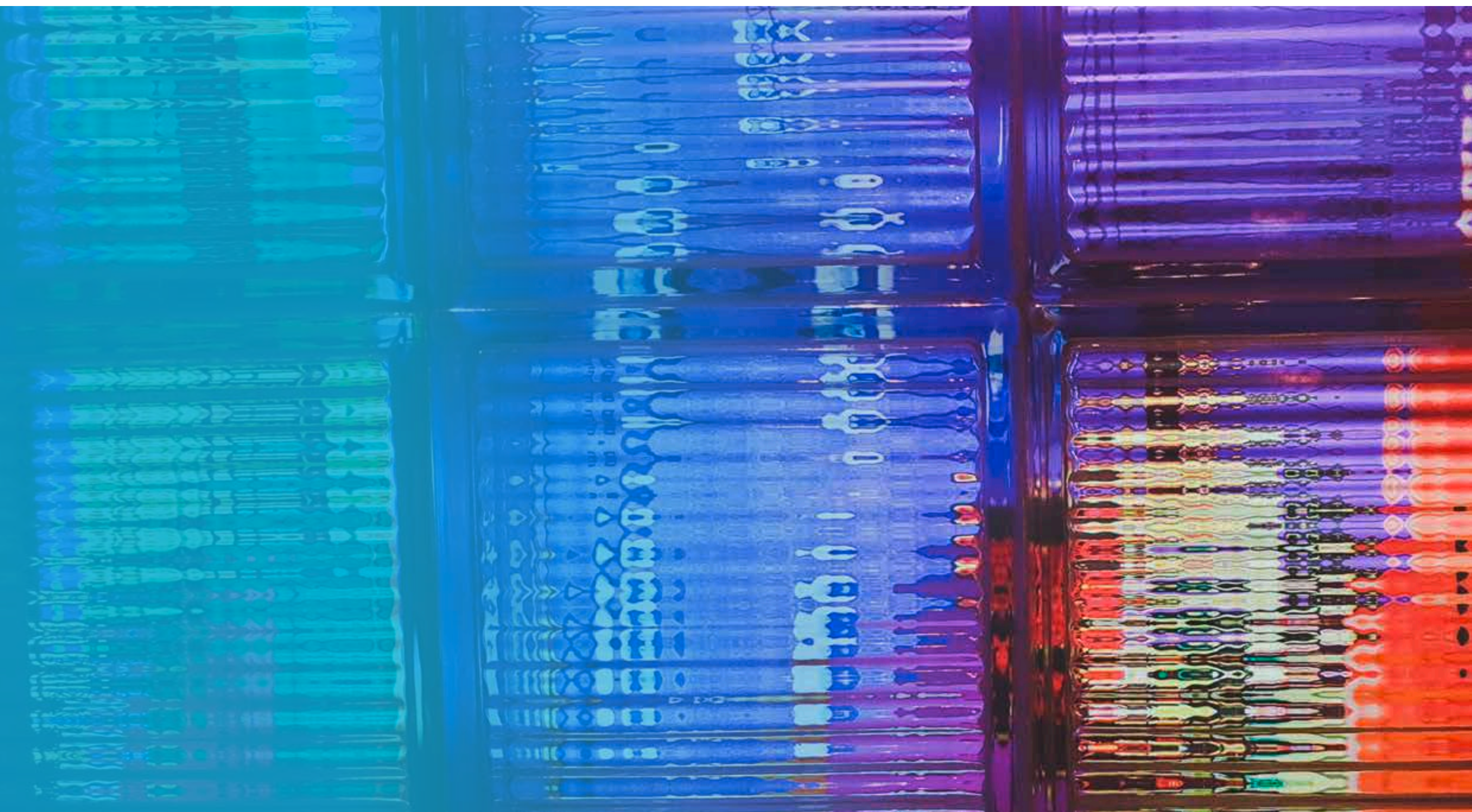
As in previous years, in the majority of transactions reviewed (74%), management continued to be employed or engaged in some capacity by the new group, a stable trend since we started our study, but there was an increase in key management members who were not engaged on a full time basis. This is likely to be as a result of being engaged on a consultancy basis or where (for example) founders are engaged in an advisory capacity post-closing.

Management incentive scheme structure



● 2023 ● 2024 ● 2025

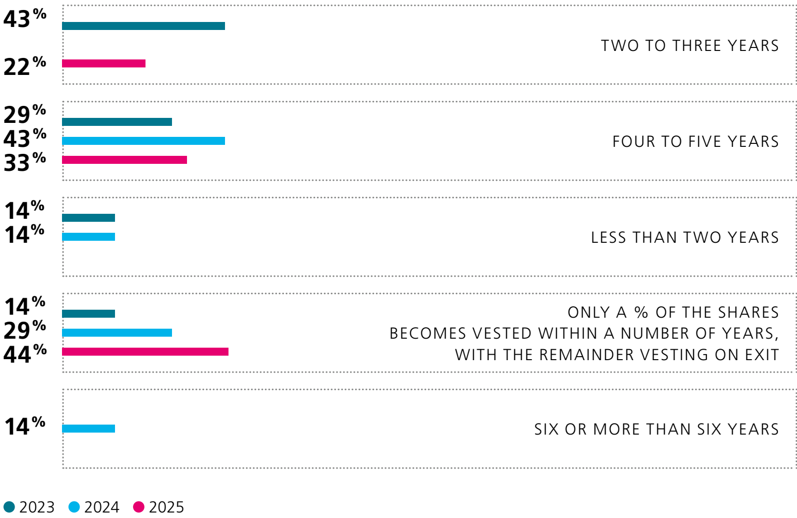
100% = only deals with management incentive scheme



Vesting

Vesting typically falls into two main categories: either it is completed in full over four to five years or, which is especially common in the UK, it vests only up to a certain limit, with the remaining portion vesting at the time of exit. The latter arrangement has become increasingly popular, rising by 15% from 2024 to 2025. This trend reflects the market's shift away from managers benefitting from fully vested sweet equity prior to an exit.

After what time period will all shares granted to the manager become fully vested?



Only deals with management incentive scheme, shares and vesting

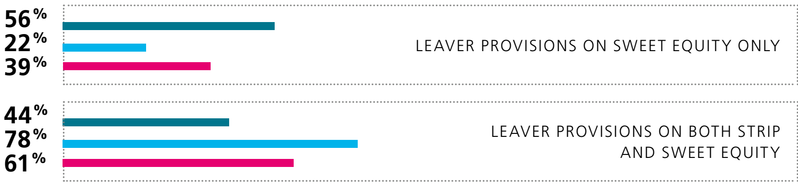
Economic terms

Although most schemes remain free of ratchets and hurdles, recent data indicates a shift, with a 19% increase in schemes featuring a hurdle only and a 3% rise in those including a ratchet only. In light of prevailing macro-economic conditions, it is understandable that sponsors are implementing mechanisms to drive value creation rather than being seen to 'give away' value on day 1.

Leavers

Unsurprisingly, 86% of schemes reviewed contained Leaver Provisions. Of those, 61% of schemes applied leaver provisions to both strip and sweet equity. This is a slight decrease against 2024 (78%) and whilst the data does not set out the precise nature of the application, it is still a very clear indication that managers are expected to remain within the business to ensure they maximise value for shareholders as a whole in order to benefit from maximum value as individuals.

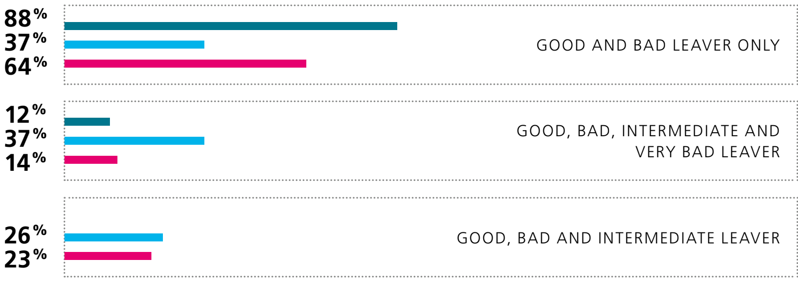
Do leaver provisions apply only to the sweet equity or also the strip (ordinary) equity?



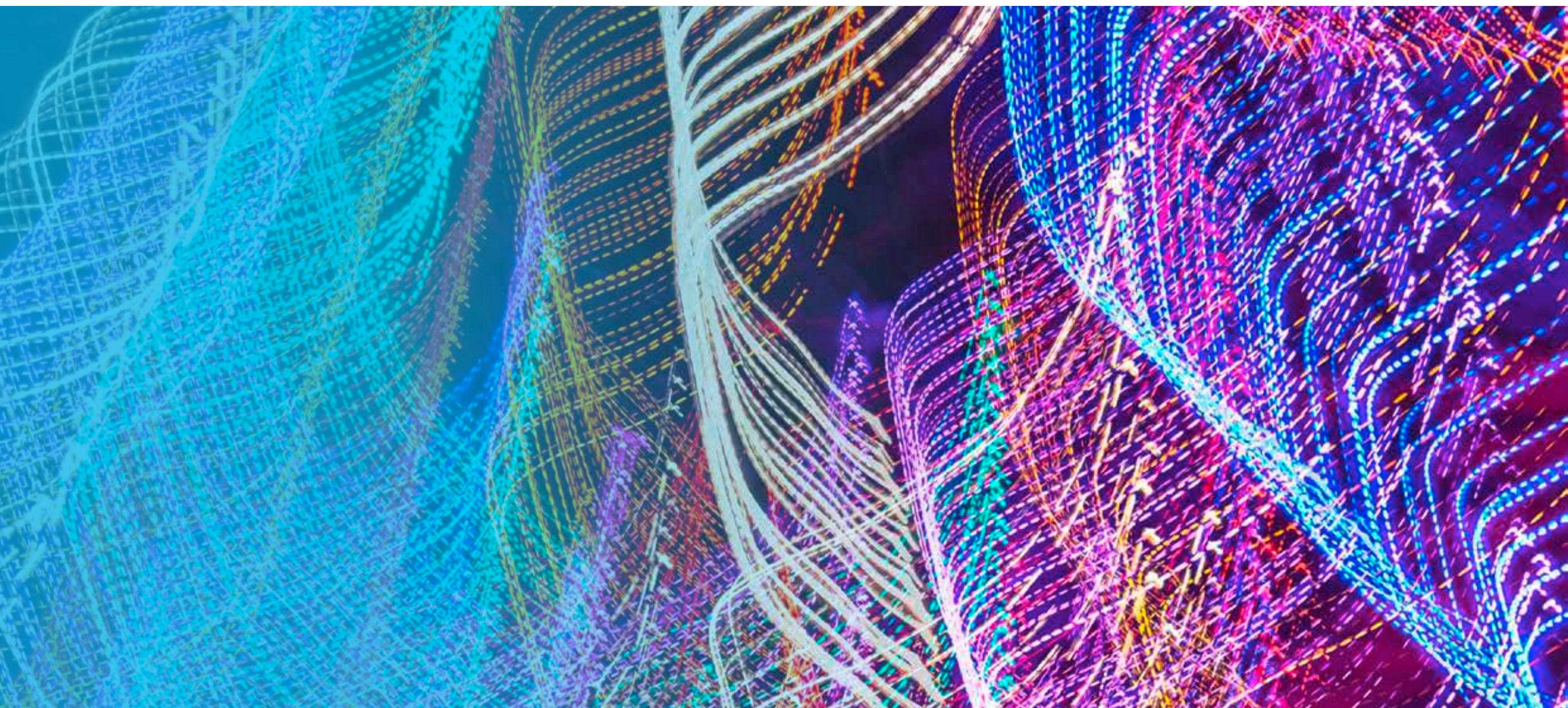
● 2023 ● 2024 ● 2025
Only deals with management incentive scheme shares and subject to leaver provisions

In 2025, schemes increasingly focused on simplified leaver treatment, for example those distinguishing only between good and bad leavers (64% compared to 37% in 2024). At the same time, there was a notable decline in the use of a "very bad leaver" category, dropping from 37% in 2024 to just 14% in 2025. This shift reflects a general trend toward binary leaver provisions, aligning with sponsors' preference to avoid value leakage when individuals choose, most often voluntarily, to depart.

Categories of leavers

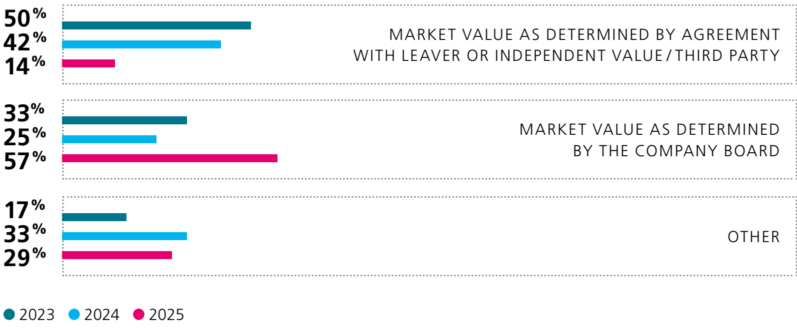


● 2023 ● 2024 ● 2025
Only deals with management incentive scheme shares and subject to leaver provisions



The general scope of incentive shares capable of being repurchased increased sharply in 2025 such that 76% of schemes permitted sponsors the right to direct the business to repurchase all incentive shares irrespective of leaver treatment and vesting criteria.

What price are the shares of good leavers bought back at?

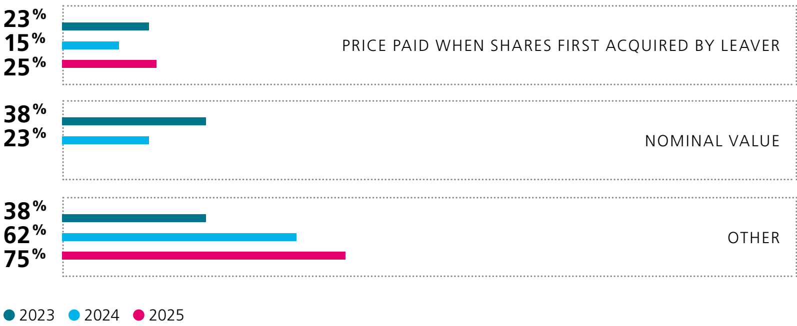


Only deals with management incentive scheme shares and subject to leaver provisions

The data demonstrates that good leavers are either permitted to keep shares (as set out in the 'other' category) or have the repurchase price being set at the fair market value and this is consistent with previous years. 2025 did see a shift in the determination of that value from agreement or independent verification to the market value as determined by the company/board. This is consistent with sponsors seeking greater control over leaver processes and, in some circumstances, ringfencing any challenge rights to senior management as part of separate arrangements.

Bad leavers saw a further increase in punitive treatment, with the majority of deals reviewed (75%) again seeing bad leavers having to accept discounts (up to 50%) to the lower of market value and issue price.

What price are the shares of bad leavers bought back at?



Only deals with management incentive scheme shares and subject to leaver provisions

Global reach, local knowledge

*Representative Office

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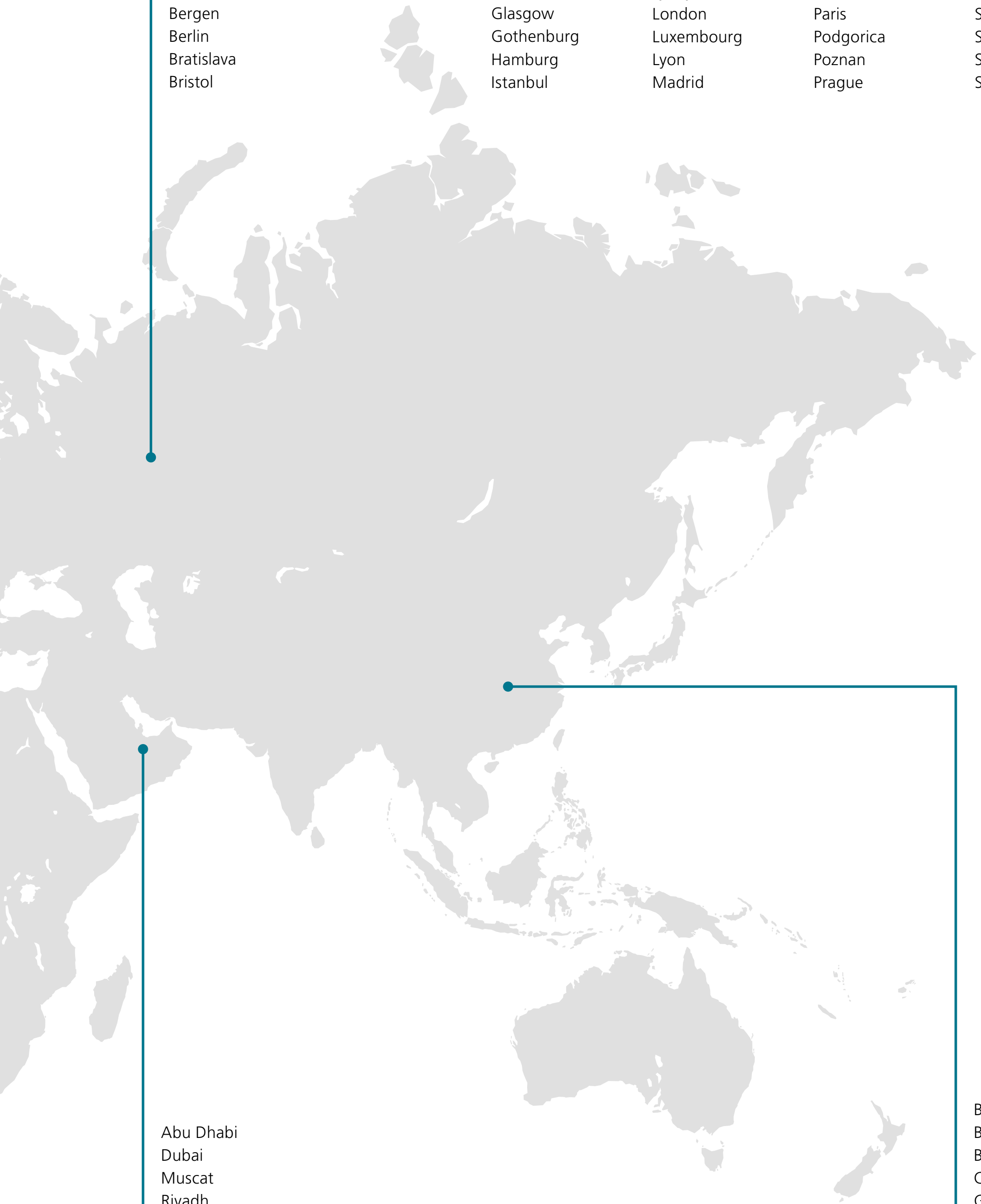

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Asia-Pacific

Glossary

Basket

means the agreed aggregate minimum amount of (likely) losses due to one or several breaches by the seller of the sale and purchase agreement which needs to be reached for the buyer to be able to assert any claims against the seller for the loss suffered. There are two different types of baskets which are commonly used: (i) in case of an "excess only" basket (also called a "deductible"), the buyer can recover only that proportion of any warranty claim or claims that exceed(s) the basket threshold, whereas (ii) with a "tipping" basket (sometimes also called "first dollar"), once the buyer has a claim or claims that reach the basket threshold, the buyer can recover the whole amount claimed.

Cap

means the upper monetary limit of the seller's liability to the buyer under the purchase agreement. Above the cap amount a buyer will have no recourse to the seller (except in the case of fraud by the seller).

De minimis

means the agreed minimum amount of (likely) losses due to a breach by the seller of the sale and purchase agreement which needs to be reached for the buyer to be able to assert any claims against the seller for the breach of such warranties. This means that if the amount which can be claimed due to the breach is less than the agreed minimum amount, then the claim is automatically excluded. The seller is thereby protected from potential liability for small claims.

Earn-out

means the provision that provides for additional purchase price to be paid after completion of the sale and purchase, depending on whether certain conditions are fulfilled, typically by reference to certain key performance indicators of the acquired business over an agreed period after completion. By doing this, the seller and the buyer share the risks and rewards of how the target business performs following completion.

Hurdle

means a threshold often expressed as an internal rate of return percentage or other metric to measure the return on the PE funds' investment which needs to be reached for management to participate in the increase in value of the business, i.e. management becomes entitled to proceeds only if the minimum return on investment threshold is met.

Leaver provisions

Such provisions describe the circumstances in which a manager ceases to be an employee of a company and the consequences vis-à-vis that manager's participation in the management incentive scheme. There are two main types of leavers: (i) "good leavers" are usually employees who leave their employment for good reasons (e.g. death or disability), whereas (ii) "bad leavers" are usually employees who leave in circumstances justifying their dismissal (e.g. failure to perform to agreed standards) or in similar situations. If the management incentive scheme is structured as a share scheme, good leavers are usually either allowed to keep their vested shares or their shares are purchased back by the PE fund at their fair market value, whereas bad leavers are usually required to return all of their shares for a nominal amount.

Locked box

means the mechanism of fixing the purchase price payable on completion by reference to the target group's balance sheet position (i.e. its net debt and working capital) at an agreed point in the past (the "locked box date") and is an alternative pricing mechanism to completion accounts.

Purchase price adjustment

(also referred to as "completion accounts" or "closing accounts") means the adjustment of the purchase price payable by the buyer for the target business by reference to the target company's debt and cash position or to its working capital or overall net asset position at completion. Under this construct, the buyer pays an estimated purchase price at completion and then an ad hoc set of accounts is prepared as of the completion date. Once adjustments are calculated, if any, either the buyer or the seller may have to pay an amount to/back to the other. The parties to the M&A agreement thereby achieve certainty that the final purchase price reflects the actual debt, cash, working capital or net asset position as at completion of the transaction.

Ratchet

means an anti-dilution protection mechanism whereby the equity stake held by founders, managers and/or employees may be altered depending on the occurrence of various future events post-investment, e.g. the matching of forecasts and projections or the investor's target return.

Rollover

means the process whereby certain equity holders in the target company (including founders and key members of the management team) carry a portion of their ownership stake over into the new equity capital structure put in place by the acquiring private equity firm in lieu of receiving cash proceeds.

Strip

refers to the aggregate capital provided by private equity investors when acquiring a new company. This capital may be provided as equity or in the form of (shareholder) loans or a mix of the two. Managers may be offered to also acquire these same equity and/or debt instruments ("strip") and will pay the same (full) price for them as the PE fund.

Sweet equity

means shares in the target company issued to founders, managers and key employees usually for a price that is nominal or otherwise lower than the price of the other "strip" (ordinary) shares.

Vesting

means the process by which an employee, investor or co-founder is rewarded with shares or stock options but receives the full rights to them over a set period of time or, in some cases, after a specific milestone is hit, usually one that is established in an employment contract or a shareholders' agreement.

W&I insurance

means the transaction insurance that can be obtained by either the buyer or seller to cover against financial loss that may arise from a breach of warranty and/or claims under certain indemnities given by the seller in a sale and purchase agreement. If W&I insurance is taken by the buyer, then its primary recourse in case of claims will be to the insurance, rather than the seller. If W&I insurance is taken out by the seller, then the seller will remain liable vis-à-vis the buyer, but will then be able to claim back from the insurance.

Warranties vs indemnities

Warranties protect buyers from unknown issues that the buyer may become aware of after the contract is signed and/or the transaction completes. A breach of warranty will only give rise to a successful claim in damages if the buyer can show that the warranty was breached and that the effect of the breach is to reduce the value of the company or business acquired. The onus is therefore on the buyer to show breach and quantifiable loss.

An indemnity is a promise to reimburse the buyer in respect of a particular type of liability, should it arise. The purpose of an indemnity in an acquisition context is, broadly speaking, to shift the risk of a particular event or matter to the seller and to allow the buyer to recover on a pound-for-pound/euro-for-euro basis in respect of that matter or event. Indemnities are often used where a warranty may not allow a buyer to recover, because the buyer is already aware of a specific issue at the time the contract is being signed.

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