



# Public M&A Review

Q3 2024

**Ashurst**

# Overview

## Political uncertainty leads to a quieter quarter

Following a flurry of activity in Q2, the late Summer months were quieter for UK Public M&A, with fewer possible and firm offers announced in Q3 than the preceding quarters. We believe this reflects the uncertainty surrounding the UK government's October Budget, along with certain ongoing geopolitical headwinds, most notably the hotly-contested US election. Whilst strategic bidders continued to dominate across a range of industries, private equity interest was still evident, with the largest offer announced in the quarter – the £5.4bn bid for Hargreaves Lansdown plc – being made by a private equity consortium of CVC, Nordic Capital and the Abu Dhabi Investment Authority.

## Early use of private sale process dispensations

We continue to see a trend towards target-led strategic reviews and sale processes, as UK-listed companies continue to suffer from relatively low valuations. Helpful amendments, which were made to the Panel's Practice Statement 31 in April of this year, whereby targets undertaking a private sale process are no longer required to name parties with which they are in talks in the event of a leak, have made such processes significantly more attractive to both targets and bidders. Bidders can now benefit from both anonymity and the additional time available to make an offer, as the put-up or shut-up deadline does not start until a bidder has been identified. We expect to see more of these private sale processes whilst UK markets continue to be undervalued.

## Syndication of financing commitments

In recent years, with traditional banks constrained, bidders have had to find alternative and innovative ways to finance take-privates. As part of this, we have observed a growing trend for financing syndication to take place during the early stages of a transaction, either prior to a Rule 2.7 announcement, or between a Rule 2.7 announcement and funding. This inverts the old model, where banks arranged significant debt packages and then took them out in the capital markets. A current example of this is the consortium bid for Hargreaves Lansdown plc, where Ashurst is advising Goldman Sachs, as financial adviser to the consortium.

Syndication tends to be more prevalent in large-cap transactions, where lead financing parties are seeking to reduce on-risk commitments at the earliest possible opportunity. Previous reluctance to syndicate early was primarily driven by the various Code challenges this presents, including: issues around capacity given the restrictions applied by the "Rule of Six" pre announcement; Rules 16 (no special deals) and 20.1 (equality of information), where potential syndicatees (and their concert parties) may hold or be capable of acquiring shares; and challenges from a cash confirmation perspective.

As readers will be aware, it is critical that lead financing parties who are providing funding at the point of the Rule 2.7 announcement are fully committed at that point, regardless of any syndication that may occur later. We therefore recommend early discussions and engagement by bidder-side advisers in order to understand any proposed syndication strategy and when this is expected to take place.

11

ANNOUNCED BIDS

11

RECOMMENDED ON  
ANNOUNCEMENT

10

SCHEMES OF  
ARRANGEMENT

40.1%

AVERAGE OF BID PREMIA  
(% UNWEIGHTED)

35.8%

AVERAGE OF BID PREMIA  
(% WEIGHTED)

A summary of the key features of each announced offer is set out in a table in the Appendix.

[Click here to jump to the Appendix.](#)

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*“The Ashurst team is very pre-emptive when it comes to advice and the team is particularly commercial.”* Chambers UK 2024, M&A: £800m and above

## Ashurst's UK public M&A mandates in the last quarter

### Gran Tierra

on its recommended offer for i3  
Energy plc

### Tritax Eurobox

on the £552m offer by SEGRO plc

### Eastdil

on the £673.5m takeover of Balanced  
Commercial Property Trust Limited by  
Starwood Capital Group

### Goldman Sachs

on the £5.4bn takeover of Hargreaves  
Lansdown plc by a consortium  
comprised of CVC, Nordic Capital and  
ADIA

### Morgan Stanley

on the £1.2bn takeover of Ascential  
plc by Informa plc

### Nomura

on the £3.3bn takeover of Britvic plc  
by Carlsberg A/S

### J.P. Morgan Securities

on the £2.1bn takeover of Keywords  
Studios Plc by EQT Group

# News digest

## MWB ruling

On 30 July 2024, the Takeover Appeal Board, Panel Hearings Committee and the Panel Executive published a series of statements confirming the conclusion of a long-running investigation into a suspected concert party. The concert party was found to have deliberately acquired shares in MWB Group Holdings plc above the 30% threshold using sham vehicles and then to have dishonestly tried to cover up this acquisition.

As it was not possible for the Panel to enforce a Rule 9 mandatory bid at this time (the company had fallen into administration in 2012 and was dissolved in 2018), the Panel Hearings Committee exercised its powers under section 10(c) of the Introduction to the Code to require a person who has breached certain specified rules of the Code to pay compensation (plus interest) to the holders or former holders of shares in the target company. This is the first ever compensation ruling by the Panel.

In addition to the remedial ruling, the Panel Hearings Committee exercised its disciplinary powers to "cold shoulder" 10 of the individuals involved. An individual who is "cold-shouldered" is someone who, in the Panel Hearings Committee's opinion, is not likely to comply with the Code and this sanction is the most serious one available to the Panel. Under the FCA Handbook, firms authorised by the FCA are not permitted to act for a person who is subject to a cold-shouldering sanction in connection with a transaction to which the Code applies. The Panel's decision to cold-shoulder these individuals is notable, given that, until this date, the Panel had cold shouldered only eight other individuals in its 50+ year history.

## Revised PTM Levy rate

The Panel derives a large part of its income from a charge on certain trades in the securities of companies whose shareholders benefit from the protections afforded by the Code (the PTM Levy). On 14 August 2024, the Panel published Statement 2024/19 which increased the PTM Levy rate to 150p per contract where the total consideration of the relevant trade is greater than £10,000 or equivalent in any other currency. This change will be effective from Monday 2 December 2024. The revision is motivated by the Panel operating at a deficit owing to lower levels of market activity in recent years.



# News digest (cont.)

## Panel Annual Report

On 9 September 2024, the Panel published its 2023/2024 Annual Report for the financial year ended 31 March 2024.

Some highlights from the report are set out below:

- The first half of the year was characterised by lower deal volumes. However, the end of the year to 31 March 2024 saw a pick-up in activity.
- In total, 61 firm offers were announced (compared to 48 in 2022/2023), of which seven were valued at more than £1 billion.
- Of the 61 firm offers announced, 10 were structured as contractual offers and 51 as schemes of arrangement.
- Eight formal sale processes were announced and five strategic reviews.
- A number of changes were made to the Code during the year, in particular in relation to Rule 21 (frustrating actions), and a digital version of the Code was launched.
- The Executive issued new Practice Statement 34, setting out its practice in relation to Rule 21.1 and updated Practice Statement 5, in relation to the invocation of conditions and pre-conditions. Following the year end, Practice Statement 31 was also updated to incorporate the new guidance in relation to private sale processes.
- Remedial and disciplinary action was taken in relation to the MWB case (see more on this above) and two letters of private censure and one educational/warning letter were issued.

## The new UK Listing Rules and wider capital markets reforms

On 11 July 2024, the FCA published Policy Statement PS24/6 in which it set out its final rules for a new, simplified UK listing regime which took effect from 29 July 2024. These reforms, which follow from the UK Listings Review launched in November 2020, are billed by the FCA as the most significant changes to the UK's listing regime in over three decades. The rules have moved towards a more disclosure-based framework, whilst seeking to maintain robust levels of investor protection in key areas.

1. **Significant transactions:** There is no longer a requirement for a shareholder vote to take place on a significant transaction (formerly a "class 1" transaction). In lieu of the requirement to publish a "class 1" circular, companies will need to make an enhanced market notification. A new time-staged approach to disclosure will allow certain information to be released subsequently, following the initial announcement, albeit it must be released prior to completion. An announcement will also need to be made on completion.
2. **Controlling shareholders:** There is no longer a requirement for a controlling shareholder agreement to be put in place where there is a controlling shareholder (30+ per cent), albeit we expect that some companies may continue to have such agreements. Certain protective features from the previous controlling shareholder regime are also retained, such as voting controls in relation to the election and re-election of independent directors.

# News digest (cont.)

3. **Dual class share structures:** Despite strong opposition from the investor community, the FCA will permit dual class share structures for commercial companies. Institutional shareholders will also be able to benefit from these enhanced voting rights, subject to a 10-year sunset.
4. **Shell companies:** There is now a separate listing category for shell companies.

In terms of other UK capital markets reforms, following the publication of the Public Offers and Admissions to Trading Regulations in January, which represented the first part of the reframing of the prospectus regime, in August, the FCA published its proposed rules for companies seeking to admit securities to a UK regulated market or a primary multilateral trading facility under the new POATR framework in addition to proposals on the new public offer platform regime. It is envisaged that the rules for the overall POATR regime will be finalised by the end of H1 2025, subject to feedback and the approval of the FCA board.

Further information on this matter can be found in the Ashurst Corporate Updates published on [11 July 2024](#), [18 July 2024](#) and [7 August 2024](#).

## **The National Security and Investment Act 2021 Annual Report**

On 10 September 2024, the Cabinet Office published the statutory annual report covering the operation of the National Security and Investment Act 2021 for the financial year ended 31 March 2024.

The report's findings include the following:

- 906 notifications were received (up from 865 in the previous reporting period), of which 753 were mandatory notifications, 120 voluntary notifications and 3 retrospective validation applications.
- 48% of notifications related to the defence sector.
- Over 95% of notifications reviewed during the reporting period were notified that there would be no further action.
- 41 call-in notices were issued, of which 4 related to non-notified acquisitions.
- 41% of call-ins involved acquirers associated with China and 39% involved acquirers associated with the UK.
- 5 final orders were issued (including 1 for a non-notified acquisition); no acquisitions were blocked or subject to an order to unwind.
- All notifications were either called in or cleared within the statutory period of 30 working days after being accepted. On average, it took 34 working days to issue a final order from when the acquisition was called in.

## **The Digital Markets, Competition and Consumers Act 2024**

On 24 May 2024, the Digital Markets, Competition and Consumers Act received Royal Assent. The Act amends the UK Competition and Markets Authority's (CMA) jurisdiction to review mergers by increasing the target turnover threshold from £70 million to £100 million and introduces a new threshold designed to capture so-called "killer acquisitions" which will give the CMA jurisdiction where at least one party has a share of supply of goods or services of 33% and UK turnover of £350 million. These provisions are expected to enter into force in December 2024 or early 2025. See our [June 2024 update](#) for further details.

# Appendix

Key features of firm offer  
announcements

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# Announced UK takeover bids

(1 July to 30 September 2024)

Target (Market)	Bidder(s)	Bid value	Bid premium*	Recommended	Hostile/No Recommendation	Rule 9 offer	Cash	Shares (L/U/A)	Other consideration	Mix and match	Offer**	Partial Offer	Scheme	Offer-related arrangements□	Formal sale process	Non-solicit undertaking of bid in shareholder	Matching/Topping rights***	Additional shareholder vote	Profit forecast/QFBS
Capital & Regional plc (Main Market)	NewRiver REIT plc	£147m	21%	•			•	L	• <sup>1</sup>				•	C/N			•	B	• <sup>2</sup>
Centamin plc (Main Market)	AngloGold Ashanti plc	£1.9bn	36.7%	•			•	L <sup>3</sup>	• <sup>4</sup>				•	C/N <sup>5</sup>					
Tritax EuroBox plc (Main Market)	SEGRO plc	£552m	27%	•				L	• <sup>6</sup>				•	C/N <sup>7</sup>					
Balanced Commercial Property Trust Limited (Main Market)	Starwood Capital Group	£673.5m	21.5%	•			•						•	N	•		•		
i3 Energy plc (AIM)	Gran Tierra Energy, Inc.	£174.1m	49%	•			•	A <sup>8</sup>	• <sup>9</sup>	•			•	C/N		•			• <sup>10</sup>
Hargreaves Lansdown plc (Main Market)	CVC, Nordic Capital, Abu Dhabi Investment Authority	£5.44bn	22.2%	•			•	U <sup>11</sup>	• <sup>12</sup>				•	C/N <sup>13</sup>					
Trinity Exploration & Production Plc (AIM)	Lease Operators Limited	£26.4m	89%	•			•						•	N					• <sup>14</sup>
Ascential plc (Main Market)	Informa PLC	£1.2bn	53%	•			•		• <sup>15</sup>				•	C/N <sup>16</sup>					
Global Ports Holding PLC (Main Market)	Global Yatirim Holding A.Ş	£241m	19%	•			•				•			N <sup>17</sup>					
Britvic plc (Main Market)	Carlsberg A/S	£3.3bn	36%	•			•		• <sup>18</sup>				•	C/N <sup>19</sup>					
Keywords Studios plc (AIM)	EQT Group	£2.1bn	66.7%	•			•						•	C/N <sup>20</sup>					• <sup>21</sup>



# Announced UK takeover bids

## Key and footnotes

This table includes details of takeovers, set out in chronological order, in respect of which a firm intention to make an offer has been announced under Rule 2.7 of the Code during the period under review (including any offers which subsequently lapsed or were withdrawn). It excludes offers by existing majority shareholders for minority positions.

Key	
*	Premium of the offer price over the target's share price immediately prior to the commencement of the relevant offer period
**	Standard 90% (waivable) acceptance condition, unless otherwise stated
***	In shareholders' irrevocable undertakings (unless indicated otherwise)
□	Permitted agreements under Rule 21.2 of the Code
A	AIM traded shares
C	Co-operation agreement
F	Break fee given under formal sale process or white knight dispensation
L	Listed/traded shares
N	Confidentiality agreement
NP	No premium given in offer documentation or nil premium
R	Reverse break fee
U	Untraded shares
B	Bidder shareholder approval
T	Target shareholder approval

1. Interim dividend
2. QFBS
3. AngloGold Ashanti shares are listed on NYSE, JSE, A2X and Ghana Stock Exchange
4. Interim dividend
5. + Clean team agreement and joint defence agreement
6. Interim dividend
7. + IMA termination agreement, USPP amendment letter and clean team agreement
8. Gran Tierra shares are also listed on TSX and NYSE
9. Interim dividend
10. Directors' confirmation (profit forecast)
11. Option to exchange some or all of Hargreaves Lansdown shares for rollover loan notes, which will, subject to the implementation of the rollover, ultimately be exchanged for rollover ordinary shares in the capital of Topco, as alternative to the cash consideration
12. Final dividend
13. + Clean team agreement, joint defence agreement and bid conduct agreement
14. Directors' confirmation (profit forecast)
15. Permitted dividend from net cash proceeds of disposal (no dividend expected)
16. + Clean team agreement
17. + Process agent letter
18. Special dividend
19. + Clean team agreement and joint defence agreement
20. + Clean team agreement, joint defence agreement and bid conduct agreement
21. Directors' confirmation (profit forecast)

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