

# THE MARCH



# WELCOME

## Welcome to The March

We're delighted to unveil our newly reimagined newsletter, The March, with a refined, editorial aesthetic and an updated format that we hope resonates. Each month, you can look forward to a thoughtfully curated issue, complemented by a concise mid-month email bulletin to keep you informed of the latest events.

In refining our content, we analysed your readership patterns, and it's clear where your interests lie—Top M&A articles, M&A 101, Member Muse, Trending News, and Member Musings are among your most-read features. We'll continue to spotlight these topics while enhancing them to deliver even more value.



## EDITORIAL TEAM



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*October to January 2025*

# TRENDING NEWS

## META AND SPOTIFY FOUNDERS' OPEN SOURCE-AI PLEA TO EUROPE

Mark Zuckerberg and Daniel Ek, the respective founders of Facebook (now Meta) and Spotify have penned a passionate letter to Europe, urging them to take a more pragmatic approach to open-source artificial intelligence (AI).

AI has undoubtedly been one of the buzzwords of the past five years including the popularity of ChatGPT and in other places, predictions that simply did not happen. However, many including Zuckerberg are claiming that open-source AI is the future and that 'the next generation of ideas and startups will be built with open-source AI'.

Interestingly, the tech industry have been unable to agree on a definition of open-source AI until this month when the Open Source Initiative (OSI), the self-appointed arbiters of open-source AI, published a draft set of standards defining what counts as open-source AI. Under its definition, an open-source AI system 'can be used for any purpose without the need to secure permission, and researchers should be able to inspect its components and study how the



system works'. Furthermore, 'It should also be possible to modify the system for any purpose—including to change its output—and to share it with others to use, with or without modifications, for any purpose'. Thus, the definition by the OSI seems to advocate for freedom of use and modification of data from open sources by anyone for any reason.

It is clear that cutting-edge innovations and solutions can be created using open-source AI which it is clear is here to stay. Mark Zuckerberg and Daniel Ek however, are concerned that Europe could stifle innovation in Europe and delay Europe's ability to compete by implementing 'pre-emptive regulation of theoretical harms for nascent technologies such as open-source AI'. This, they claim has led to complex and uneven regulation across Europe.



# TRENDING NEWS

The pair argue that whilst Europe has more open-source AI developers than the USA and the opportunity to lead the next wave of innovation and start-ups, new and clear laws are needed to increase certainty and competitiveness. Meta illustrated this point by stating that it cannot release its latest open-source AI models such as the Llama multimodal in Europe due to regulatory uncertainty. This is a hurdle that future smaller start-ups could end up facing.

Daniel Ek went as far as to say that he believes that Spotify ‘remains one of only a few’ tech successes in Europe because of their ‘early investment in AI made the company what it is today’. He continued ‘a personalised experience for every user that has led to billions of discoveries of artists and creators around the world. As we look to the future of streaming, we see tremendous potential to use open-source AI to benefit the industry’. Daniel’s suggestion, therefore, is a simplified regulatory structure that accelerates the growth of open-source AI and provides support to European developers.

It seems clear that open-source AI is here to stay and could bring with it some very exciting prospects, but it is also clear that the open use of public data should also be regulated to negate public harm.

How Europe will strike the balance between innovation and safety will be interesting to see. According to Zuckerberg and Ek the future of innovation and the next start-ups depends on this.



**Jade Ige**  
Trainee solicitor,  
DWF

# MEMBER MUSE

Aika Kussimova, Associate Director at Ciesco



## March: What do you do?

**Aika:** I support my team and my clients as a lead for origination and deal execution. I work closely with founders, management teams, PE/VC funds and large corporates globally on a variety of exciting projects across capital raising and M&A execution.

## March: What's your biggest insight into the M&A market at the moment?

**Aika:** Currently, there's a palpable urgency in the M&A market driven by several key factors. There's a significant pent-up demand among PE firms, eager to deploy capital and seize opportunities. Corporates are compelled to act swiftly to keep pace with rapid technological advancements and evolving consumer demands. Additionally, independent business owners recognise the need to scale rapidly and maintain momentum to stay competitive. This convergence of pressures is accelerating deal activity across the board, making this an exceptionally dynamic and exciting period in the M&A landscape.

## March: What do you love most about what you do?

**Aika:** Two things: 1) meeting and building relationships with exceptional people and 2) delivering truly meaningful results - commercially, strategically and financially.

## March: And what are the biggest challenges with what you do?

**Aika:** *For me, the biggest challenges lie in aligning diverse stakeholder interests and managing the human element of deals.*

Building and maintaining client trust through transparency and reliability is also crucial, balancing short-term wins with long-term relationships.

Another challenge is staying ahead of market changes and regulatory shifts, which require agility and continuous learning. Being a sector specialist certainly helps narrow the focus and excel in a particular field. As a woman in a senior position, I sometimes face the added challenge of asserting

my expertise in a traditionally male-dominated field. However, I see this as an opportunity to bring a unique, inclusive perspective to decision-making. I must add that I do not consider any of the above a 'negative' challenge but rather an opportunity to lead with innovation and resilience.

### **March: Why did you join March?**

**Aika:** *I went to one event and that is all it took. It was such a refreshing feeling to be at an M&A-focused event but in a room full of highly successful, enthusiastic, engaging women.*

The conversations bore a unique perspective and there was such a strong desire to uplift, support and help each other.

It is no secret, that women still account for a minority in this industry, particularly across corporate finance. So this community feels like a step in the right direction to empower more women in M&A. Since joining earlier this year, I have already built an incredible network of female professionals from various fields of experience and backgrounds.

### **March: What are you proud of right now?**

**Aika:** Having been with Ciesco for nearly a decade, I play a leading role in our Deal Execution and Business Development efforts. Rather than highlighting a single success, I prefer to spotlight my team's consistent track record of securing new work and delivering exceptional outcomes for our clients.

*This year alone, our London-based team has transformed several international pitches—from the UK, US, and Europe—into active mandates across the Tech, Media, and Sustainability sectors.*

Each new win and every deal we close is a testament to our strategic insight, diligence, and the collaborative spirit that defines our team.

### **March: Where can we find out more about you?**

**Aika:** 



# EVENT RECAP



## Summer Dining Series

Just a couple of posts in our online community after our 3rd member-only dining event this summer.

The best relationships develop over time, so we gave our members the opportunity to spent quality time with each other in gorgeous locations (Coq d'Argent and Bob Bob Ricard) with delicious food.

*Thanks, Laura, for another great March evening. Loved the venue, food, wine, etc. But the company made it. Such a joy and privilege to be part of this group. 😊*

*I agree! You did a brilliant job Laura. The venue, food and people were truly fabulous!*

## 8th September: The Goodwood Revival

Many thanks to Elizabeth Blackwell and Aon for their generous hospitality at the Goodwood Revival on Sunday 8th September.

Our members enjoyed a day going back in time with beautiful cars, exciting races and surprise reunions with colleagues from across the PE industry.





# EVENT RECAP

## 10th September: “In conversation with” evening, hosted by White & Case

What a truly fantastic discussion this “In Conversation With” evening was. The main session overran by an hour because there was so much to share and debate - and we could easily have kept going for longer.

Thank you Lauren Livingston and Lucy Bullock for your candid insights, which we can’t share here due to Chatham House Rule but which included:

- Micro acts of bravery
  - Getting through the “messy middle”
  - Focusing on the upsides of being the only woman in the deal room
  - Understanding what brings you fulfillment in working life (and how it’s ok for that to change with time)
- Thanks to White & Case LLP for being generous hosts





# EVENT RECAP

## 13th September: Autumn hike

Friday 13th may be unlucky for some, but for 13 of us (12 humans and 1 dog, the delightful Titus) it saw us incredibly lucky with beautiful weather and delicious food for our Chilterns hike and pub lunch.

Plenty of time for discussion of business and other topics - 10k through the fields and woods in glorious sunshine followed by pies, fish and chips, sticky toffee pudding and Eton mess (not all at the same time).

A great way to spend our founder Laura's birthday :)





# EVENT RECAP

## 25th September – Breakfast Social

We took over the mezzanine of Brasserie Blanc for our first breakfast social of the Autumn.

Joined by a number of guests, we enjoyed a hot sit-down breakfast followed by a speed pitching session led by Diane Blaxland where we heard more about the M&A work covered by the women in the room.

This was a great example of the rich tapestry of March Women, ranging from:

- \* investment professionals
- \* corporate development
- \* insurance dd
- \* post-merger integration
- \* immigration
- \* corporate and commercial law
- \* tech/data processes and scaling
- \* finance
- \* exit advisory
- \* PE portfolio co advisers





# THE MONTH'S TOP 5 M&A ARTICLES



## M & A SPOTLIGHT

### \* **The ABCs of Private Equity**

This Aon report examines the current M&A landscape, focusing on the unique perspectives and strategies employed by private equity firms and corporates when making investment decisions. It also explores the exit strategies used by strategics and sponsors, highlighting the growing popularity of alternative routes like continuation funds and other secondary transactions in a slower exit environment.

[Click here](#)

### \* **M&A Resurgence**

The latest Leadership Insight from Criticaleye features leaders from across the M&A community sharing their expertise on the anticipated resurgence in mergers and acquisitions after a slowdown. While caution remains due to economic uncertainty, factors like easing interest rates and pent-up demand are likely to drive deals, with private equity and capital markets potentially seeing increased activity.

[Click here](#)

### \* **How to email like a boss**

9 smart swaps to say it with confidence.

[Click here](#)

### \* **Karen Thomas-Bland's**

key takeaways from a recent panel event on the tech services M&A market, focusing on 1) the overall market, 2) the secrets of businesses who are defying market conditions and 3) tips when getting ready to sell.

[Click here](#)

### \* **Level 20**

recently reported that female representation in European VC and PE has risen by 4% since 2022 – to 14% for senior roles and to 24% generally – but there is still much work to be done, with progress at the junior end “slow”

[Click here](#)

# MARCH NEWS



## Member Benefit Partner Transformulas

We are thrilled to inform you that Transformulas Marine Miracle Crème has been chosen by Tatler as Best Moisturiser category winner in the 2024 Beauty Awards.

## New Marktlink office



Member Victoria Ansell has recently taken up the position of managing partner of M&A advisory firm Marktlink's new London office. This is the 17th office in Marktlink's growing international network and adds to UK sites in Manchester, Birmingham, and Nottingham.

## Awards and recognitions

### *The Fold London Women Awards 2024*



Our founder Laura Brunnen was recently shortlisted in "The Innovators" category of The Fold London Women awards 2024. The awards were launched to celebrate International Women's Day 2024, with a global search to find the next group of inspirational Fold Women – the pioneers of tomorrow, working hard today. Laura was nominated by a number of our members for the work she does with running and growing March Women



## Mergermarket British Private Equity Awards 2024

Congratulations to members Aon for winning M&A Insurance Broker of the Year and to LIVA for their shortlisting in the same category.

## Inspirational Women in Law Awards

Members Jayne McGlynn and Shainul Kassam, together with Founder Laura Brunnen, have been nominated for Solicitor of the Year at the Inspirational Women in Law Awards 2024. Laura has additionally been nominated for Champion of the Year. Good luck!



# MARCH NEWS

## The Legal 500 rankings

came out recently, congratulations to our individual and corporate members for their recognition, including:

- Emily MacDonald, associate at Penningtons, recognised as a leading lawyer
- Nkechi Hokstad, managing associate at Ogier, recognised as a leading associate for Offshore Firms in London
- Sophie O'Connor, partner at Norton Rose, being recognised as a Next Generation Partner
- The Taylor Wessing Private Equity team being ranked tier 1 for mid-market PE transactions

## NEW MEMBER BENEFITS PARTNERS

### Expert Leaders Career Coaching

Founded by Diane Blaxland

Expert Leaders helps professionals to chart their way through career options to position themselves as leaders, package their career stories and stand out from the crowd to secure promotions and new roles.

### JC London

JC London is a women's activewear brand featuring three unique collections: Revive, Stealth, and Evolve, each thoughtfully designed to meet your sporting needs. Their high-waisted leggings offer four-way stretch, making them perfect for everything from yoga and gym workouts to everyday wear.

### Eminere

Established by 2x TedX speaker Patrice Gordon, Eminere offers bespoke coaching and reverse mentoring services tailored to client's unique needs. Patrice is a seasoned leader with experience across some of the UK's most influential brands and recently carried out some pioneering work with the CEO of Virgin Atlantic.

Our Member Benefits Programme has welcomed a number of award-winning, innovative brands – many female founded - as partners.

March Women members enjoy access to exclusive offers and discounts across health and fitness, lifestyle, retail and business brands, available through our online member community and app.

# IN CASE YOU MISSED IT

## Company-sponsored egg freezing: Insurance policy or lottery ticket?

**In the race to attract the best talent, the largest companies are not only offering free bananas and substandard coffee, but also egg freezing.**

Egg freezing is the process of collecting women's eggs and preserving them in a laboratory, allowing women to conceive later on. The process itself is physically and emotionally demanding, involving a series of scans, injections and surgery. According to the UK regulator HREA, the process of freezing and thawing costs £7,000 to £8,000 on average, though this can rise if more collection cycles are required.

In 2014, Meta and Apple generated headlines upon announcing that they would fund egg freezing for their staff. Firms across law, technology, pharma and others have also begun to offer the treatment.

The 'motherhood penalty' of childbirth on women's careers is well documented, in terms of lower pay and slower promotions. Egg freezing is seen as a fantastic option for women who want to delay parenthood, in order to focus on their careers in their 20s and 30s, allowing them to 'have it all'. Others chose to do so because they have not found a committed partner.



The introduction of egg freezing as a company benefit has been highly controversial and ethicists have expressed their concerns. Some argue that the technology allows women to carry on working through their 30s and 40s without taking a career break, pausing the ageing of the reproductive system. Others argue that employers are bribing women with a false sense of security, encouraging them to commit these productive and fertile years to work, and risk being unable to conceive later on.

The success rate for 'take home' babies, is low. Women have just an 18% chance of having a baby using their own thawed eggs. The risks associated with pregnancy and childbirth also rise with age.

Sponsored egg freezing alone, cannot promote gender equality in the workplace. It must be combined with a culture supportive of parental leave and flexible work. What do you think? Are companies offering women more options to choose a life not bound by biological limitations? Or are they demanding full commitment in exchange for promise that they cannot keep?



# MEMBER MUSINGS

## LIVA Tax Insurance Insights, Practical Tips



**I**n this edition, member Paloma Robinson of LIVA discusses tax insurance tips with LIVA's Head of Tax, Ainsley Chrishan.

Insurance coverage for tax risks has been in existence for several years, especially in relation to M&A transactions, but there are a number of issues and misconceptions that still regularly arise.

### 1) CONSIDER TAX COVERAGE EARLY

Feedback from many clients is that insurance solutions for tax risks are often discussed late in an M&A process and, as a result, the coverage position for tax issues can ultimately be disappointing. This is usually the case where clients have not been clearly advised as to which tax risks can, and which cannot, be properly covered by a warranty and indemnity ("W&I") policy.

### 2) DISCUSS THE SCOPE OF TAX DD

Tax due diligence ("TDD") in an M&A process will usually highlight numerous tax risks of different size and risk levels and in varying degrees of detail. Although comprehensive TDD may not always be available until later in the M&A process, feedback from clients (and their TDD providers) is that they would prefer to know earlier from insurers whether an increased TDD scope would allow certain areas of tax risk to be covered by the W&I policy, rather than those areas simply being excluded close to signing.

### 3) DIFFERENTIATE UNKNOWN TAX RISKS FROM KNOWN TAX RISKS

Unknown tax risks should be covered by a standard W&I policy, subject to (i) the limit of liability of the policy (ii) market standard exclusions for tax (e.g. transfer pricing, secondary tax liabilities, loss of tax assets and, going forward, Pillar Two related taxes) and (iii) any deal specific exclusions.

Affirmative tax cover under a W&I policy may be possible where the known tax risks are low in terms of risk of crystallisation and/or quantum.

It is important that the client has clarity on (i) which tax risks will be covered affirmatively by the W&I policy (and whether an additional premium will be charged) and (ii) which tax risks are excluded from W&I cover.

Any affirmative cover terms offered by insurers will usually be better where the tax risks are raised early in the process i.e. where there is still competitive tension between multiple insurers. In the absence of affirmative cover in the W&I policy, it is safest to assume that disclosed or known tax risks are not covered.

### 4) CONSIDER A SPECIFIC TAX LIABILITY POLICY

Where the complexity or quantum of a known tax risk is material, it is often best covered by a bespoke specific tax liability insurance policy.

A W&I policy is not designed to deal with tax specific issues. For example, a specific tax insurance policy will have carefully negotiated wording as to the process for conduct of disputes and appeals against relevant tax authorities.

Furthermore, crystallisation of multiple tax issues can quickly erode the limit of a W&I policy. Finally, the optimal coverage for an identified tax risk may be provided by a different insurer to the insurer that has been chosen to provide the W&I cover.



## 5) TAX INSURANCE IS NOT JUST FOR M&A

Many clients and advisers who are very familiar with W&I are surprisingly unaware of the extent to which tax risks arising outside of M&A transactions can now be insured.

For example, tax risks: (i) in the ordinary course of business, (ii) arising on reorganisations and restructurings, (iii) on repatriation of profits, (iv) on fund, partnership or corporate liquidations and (v) under audit and in live litigation, are now regularly insured.

Achieving tax certainty is becoming increasingly important for taxpayers as the complexity of tax legislation grows. Similarly, the increase in tax transparency and detailed disclosures sought by tax authorities is giving rise to an unprecedented level of tax enquiries and audits.

## 6) SPEAK TO A TAX INSURANCE BROKER

It is always worth speaking to a specialist tax insurance broker to discuss whether a particular tax risk may be insurable and obtain an indication of the likely pricing.

There is no cost to this discussion and clients are often surprised as to how low the premiums for insuring tax risks can be, especially in the current market.

# MEMBER BENEFIT PARTNER INTRO

## Introduction to Member Benefit Partners Working Mindset and Elevate.

Mental health support in the workplace has never been so important. It costs businesses £56 billion per year.

Working Mindset are professionally trained clinical psychologists who have worked with thousands of people in psychological distress.



Applying the Working Mindset Model, they draw on this experience and use proven clinical tools and techniques in an accessible way, to empower people to manage their mental wellbeing.

We're proud to share that they have joined our member benefits programme, giving March Women members access to their services at preferential rates.

## ELEVATE

The mind and body were designed to thrive in a very different environment to the one we live in today. We're expected to do/see/perform/consume so much in our day to day roles, that we rarely get a chance to pause and take stock.

Enter Elevate, one of the organisations to have partnered with us for our member benefit programme.

Elevate's holistic retreats help you to rediscover your foundations, then Elevate them.

Retreats for busy professionals: feel good; move better; age well.

Drawing on the principles of functional medicine, movement mechanics, and mindfulness (which we call our three 'Elevate. Pillars'), their unique coaching programmes bring together a community of like-minded, extraordinary individuals who want to access ground-breaking therapies, make incredible connections, and elevate every aspect of their wellbeing.

Members can access a full list of exclusive benefits, including a discount to any Elevate retreat, in the March member's area.



## KEY TAKEAWAYS FROM WHITE & CASE'S SUMMARY OF UK PRIVATE EQUITY TRANSACTION ACTIVITY, LEGAL DEVELOPMENTS, AND REGULATORY FRAMEWORK

### 1\_ Transaction Activity and Market Factors

- **The UK private equity market:** Activity remains steady compared to 2023, with a focus on add-on acquisitions to bolster existing portfolios, indicating a strategy of consolidation rather than pursuing new platform deals or exits.
- **Active market:** Structural discounts on UK-listed stocks and a weaker pound attract buyers, and the takeover market is active. Although interest rates have slightly eased, acquisitions are primarily equity-financed due to challenging debt conditions and valuation disparities between buyers and sellers.
- **Financial services and wealth management sectors:** These see strong interest, despite inflationary wage pressures.

### 2\_ Fundraising and Deployment Challenges

- **Fundraising Recovery:** Global private equity commitments in H1 2024 reached USD 408.6 billion, up from USD 374.6 billion in H1 2023, but the time to close these funds has extended to 18 months on average.
- **Concentration of Capital:** The extended fundraising timeline is leading to capital concentration among fewer sponsors, putting increased pressure on smaller funds.
- **Shift in Financing Models:** The end of cheap credit has made leveraged buyouts more challenging, with many 2023 deals financed primarily with equity rather than debt.
- **Sustainability Concerns:** Firms are underwriting buyouts with high equity proportions and refinancing later, but this strategy may not be sustainable due to the competitive fundraising environment and prolonged capital-raising periods.

### 3\_ Legal Developments

- **New Fraud Offence:** The 2023 Economic Crime and Corporate Transparency Act introduces a “failure to prevent fraud” offence for large organizations, effective April 2025. It applies to both UK and non-UK firms with a UK nexus.
- **Sanctions due diligence:** Remains crucial due to expanded trade sanctions and new enforcement mechanisms.
- **The UK Sustainability Disclosure Requirements:** Aligning with EU standards (but stricter on anti-greenwashing) and will be fully implemented by the end of 2024.

### 4\_ Regulatory Framework

- **Increased regulatory scrutiny:** The Competition and Markets Authority (CMA) is tightening oversight, particularly on roll-up acquisitions, and the upcoming Digital Markets, Competition and Consumers Act (DMCCA) expands its jurisdictional thresholds, making more private equity deals subject to review.
- **Roll-ups:** The CMA has increased scrutiny of roll-up acquisitions, particularly in sectors like dentistry and veterinary services.

### 5\_ Due Diligence and Transaction Structuring

- **Common themes:** Vendor due diligence is common to streamline buy-side processes. Deals are often structured with SPVs and are predominantly equity-financed due to limited debt availability.

### 6\_ Pricing Dynamics

- **Seller Reluctance:** High interest rates have made sellers less willing to accept lower multiples, maintain a gap between buyer and seller pricing expectations.
- **Deal Structuring Adjustments:** Earn-out mechanisms and seller reinvestment are being used more frequently, reducing upfront capital requirements and better aligning buyer and seller interests.
- **Extended Hold Periods:** Private equity firms are extending hold periods, focusing on optimizing portfolio companies and strategic add-on acquisitions to position companies for exits once market conditions improve.



## 7\_ Takeovers and Public-to-Private Transactions

- **Cash bids:** Dominate public-to-private takeovers, with schemes of arrangement preferred as they provide certainty of securing 100% control. Aggregate deal value for UK P2Ps in H1 2024 rose by 21%, driven by favorable exchange rates and structural discounts in UK equities.
- **Exits:** Are primarily through strategic buyers, with limited IPO activity reflecting a tepid UK listing market (only eight new listings occurred on the LSE in H1 2024).
- **Alternative exit strategies:** Sponsors are turning to continuation funds, leveraging existing portfolio knowledge to hold onto promising assets while providing liquidity for LPs.
- **Secondaries:** GP-led secondary transactions are becoming more sophisticated, employing deferred payments and EBITDA-linked earn-outs to manage conflicts of interest.

## 8\_ Management Incentives and Minority Protection

- **Management teams:** Are typically receiving 10-20% of equity through “sweet equity” arrangements.
- **Vesting:** Occurs over 4-5 years, and strict restrictive covenants apply.
- **Minority Protection:** Managers have limited veto rights, mainly around new securities issuances.

*The full piece from Chambers Private Equity  
2024 practice guide can be [accessed here](#)*



# M&A 101

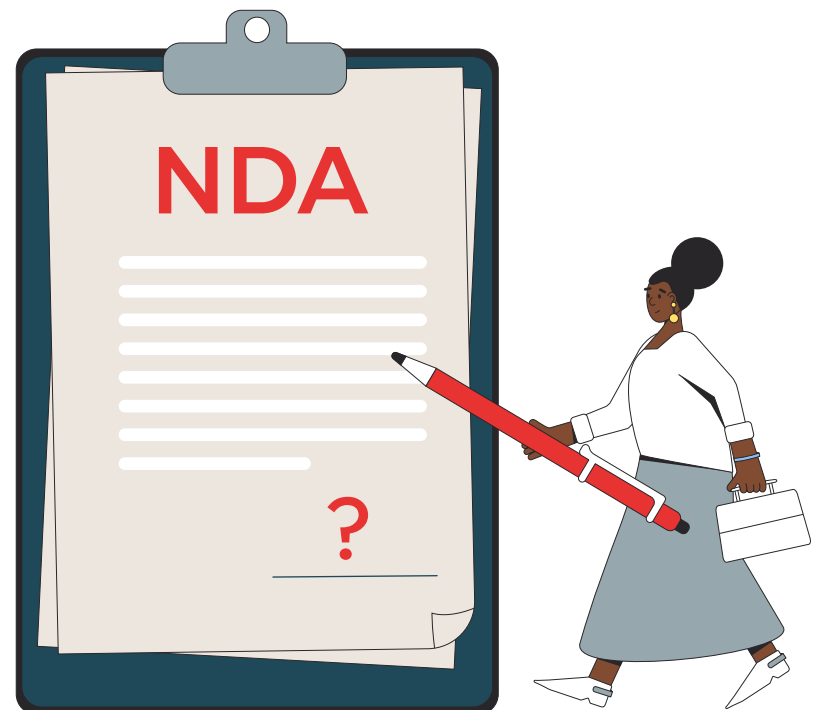
## SWORN TO SECRECY: WHAT IS IMPORTANT TO ACQUIRERS WHEN NEGOTIATING NDAS WITH TARGETS?

*While everyone looks forward to 'signing' an M&A deal, many other key legal agreements come before an acquisition can even seriously begin. In this article, we'll be exploring the first of these: the NDA.*

### What is an NDA?

NDAs (Non-disclosure agreements), also known as confidentiality agreements, are well-known to the general public as a tool used by tyrannical corporations to intimidate whistleblowers. In fact, Joe Biden passed the Speak Now Act in 2022 to prevent the enforcement of NDAs in instances of sexual harassment. However, they were originally designed to allow companies to protect their trade secrets and they play a major role in M&A transactions.

The NDA is the first agreement signed between a Buyer and a potential Target company, allowing detailed information to be shared freely. It is an important legal document that allows the Seller (known as the 'Disclosing Party') to reveal almost every single item of confidential information about their firm to a potential Buyer (the 'Receiving Party'), with the confidence that the information is kept private. It would be a disaster for Sellers to have their customer lists, financial statements and employee salaries leaked to their clients, competitors and staff (imagine the contents of your camera roll and bank statements being



made public to the whole world!). While we simply trust our best friends not to share the ugly selfies we send them, Sellers use NDAs to have confidence that their information will be treated securely.

### What are the most important aspects of the NDA?

#### Scope of Confidential Information

Not all correspondence between Buyers and Sellers is confidential. Sellers disclosing the information like to push for a broader definition so that the Bidders do not find a loophole that enables them to misuse the



# M&A 101

information provided. Buyers are generally willing to agree to a broad scope, unless a particular issue is identified.

## Non-Solicitation

Buyers often receive granular information about the target company's employees, including personal information, salaries and employment contracts. Should an M&A process fail, sellers do not want the bidder hiring all their best employees, so insist on a non-solicitation clause. On the other hand, highly acquisitive firms who sign many NDAs do not want to be restricted from hiring the best talent. It may take time to negotiate particular terms, such as the period covered (usually 18-24 months), and exemptions, such as using recruitment firms, employee-initiated job applications and employing previously terminated employees.

## Term

The period that the NDA is valid for implicates how long the disclosing party is bound to the obligations. Typically, an NDA will remain in effect for 2 years, though it can be structured to be in force indefinitely. Still, this is not market practice and is not usually necessary as the information will generally lose value over time.

## Destruction of Information

Sellers want the confidential information destroyed or returned after a process is complete. However, acquirers may wish to retain data for compliance, litigation or other purposes. Practically, it may also be difficult to remove the data from backup IT systems and servers. It has become increasingly common for NDAs to have a clause that allows confidential information to be retained for regulatory reasons or with their external counsel.



✓

# M & A 101

## Mutuality

NDA's can either be a one-way or mutual agreement. Acquirers may express a preference for a mutual NDA if they will be providing confidential information, such as evidence that they have sufficient cash to fund the deal. Sellers may let buyers know that they do not want to receive any confidential information and therefore minimise their obligations.

## Employee Access

The disclosing party will likely include a clause that stops the bidder from contacting employees directly, rather than through specified contacts. Sellers often wish to control the information flow to the Bidder, and to maximise bargaining power throughout the sale process.



## Third-party clauses

Large conglomerates and private equity funds have many departments or portfolio companies where issues of competition arise. For instance, a private equity firm may have healthcare companies in its portfolio which compete with a new healthcare target that the firm is assessing. Sellers need to ensure that NDAs restrict access to the investment team and that their data will not be used by the fund's portfolio companies to gain a competitive advantage.

NDAs play an important role in allowing private information to be shared in a controlled and respectful manner. Ultimately, Sellers hold more bargaining power in the NDA negotiation process, particularly when running a sale process with many potential Bidders. Therefore, they are likely to have most of the key issues decided in their favour, and Buyers will need to be selective over which issues they want to insist on including and excluding.

**HELEN POON**



# EVENTS CALENDAR

**Guests are very welcome to join one event for free before becoming a member of March Women.**

*Additional events may be announced at our discretion.*

**Sign up to all events in the online member community**

MEMBER RSVP

## RSVP LINKS FOR OCTOBER AND NOVEMBER EVENTS OPEN TO GUESTS

### October Breakfast

We will be in the private dining room at Manicomio City. We'll be joined for a short talk by nutritionist Alice Macintosh, co-founder of our member benefits partner Equi London.

WAITLIST

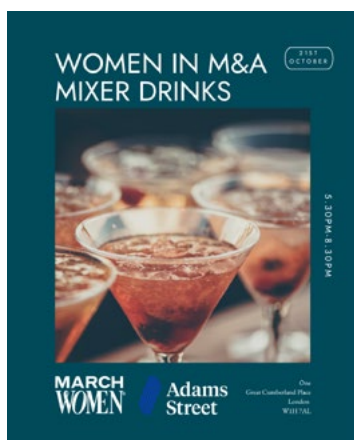
### 21st October: The M&A Summit 9am-5pm

March Women is a proud supporter of The M&A Summit 2024, which is taking place in London on Monday 21st October. Get a 20% discount on tickets by using code MAA1MW

### 21st October: Mixer drinks reception, hosted by Adams Street Partners 5.30-8pm

By popular request, we are holding our first women in M&A mixer event with male guests. All M&A professionals - male and female - are warmly invited to join us for an informal drinks reception on 21st October 2024.

RSVP





## 6th November: Autumn M&A Update Breakfast, hosted by Withersworldwide, 8.30 - 10am

Join us for the Autumn M&A Update Breakfast.

Withersworldwide will be hosting our signature March Women panel session, complete with breakfast and networking in a room full of brilliant M&A women.

RSVP



## 21st November: Wine tasting evening hosted by Lay & Wheeler, 6.30 - 9pm

Enjoy a glass of champagne on arrival and networking ahead of tasting starting at 7pm. Whilst you taste, Lay & Wheeler's dynamic team of female wine experts will talk you through a selection of six wines from their portfolio.

RSVP

SAVE  
THE DATE

## Autumn/ Winter programme Oct- Jan 2025

*Additional events  
may be announced  
at our discretion.*

### October

Private art viewing at Saatchi Gallery\*

### November

Data in M&A roundtable lunch\*

Webinar with Jennifer Fondrevay, M&A expert and author

### December

Christmas festive social (including wreath-making workshop)

### January 2025

Gala Dinner

Van Gough exhibition\*

M&A roundtable\*

Breakfast social

Winter hike

*\*Members only*