Regulation and Market Volatility Drive M&A Disputes in Digital Assets and ESG
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At the midpoint of 2023, the mergers and acquisitions (M&A) deal outlook remains opaque, thanks to geopolitical instability and continuing macroeconomic concerns. Yet despite caution in market predictions, clear trends have emerged around the areas where dealmakers expect M&A disputes to occur:

- Deals in digital assets and services are ripe for disputes as market volatility and proposed regulations disrupt cryptocurrency activity. Artificial intelligence (AI) is also an area to watch as generative AI technologies come to market.

- Environmental, social and governance (ESG) commitments are coming to the fore in disputes, driven by pressures from regulatory scrutiny and pushback against ESG-motivated decision-making which have heightened the need for due diligence around ESG in M&A transactions.

- The Asia-Pacific region has become a significant focus for both M&A dealmaking and disputes this year, just outpacing Europe, the Middle East and Africa as the geographic area most expected to drive increased dispute volume.

Berkeley Research Group (BRG) uncovered these and other key insights in our *Mid-Year M&A Disputes Report 2023*, which extends our multiyear research initiative into two critical areas: the digital assets and services sector and ESG considerations. This report involved a survey of 162 leading M&A-focused lawyers, private equity professionals and corporate finance advisors around the world. The research examines how the M&A disputes landscape has evolved this year and explores in depth the sectors and trends which emerged as priorities in BRG’s *2022 M&A Disputes Report*.

By exploring these emerging hotspots and assessing the broader global M&A disputes landscape, this report will help clients and readers develop a better understanding of the dispute factors and trends taking shape in 2023. BRG will return with its annual M&A dispute report in early 2024 to preview the year ahead.
The Global M&A Disputes Environment in 2023

Berkeley Research Group’s (BRG) 2022 M&A Disputes Report predicted that deal volume, deal value and deal-related disputes would increase over the next year—and our most recent survey suggests that the trend is holding.

The year began with a challenging mergers and acquisitions (M&A) environment beset by high interest rates, inflation and a banking crisis—resulting in quarter-over-quarter declines in global deal volume and transaction value of 7% and 10%, respectively. However, some observers expect deal activity to pick up in the second half of the year, with a return to cross-border deals and well-capitalised companies making key acquisitions. M&A activity continues to move forward, with recently announced multibillion-dollar deals and strong IPO markets out of Southeast Asia also generating momentum.

Reflecting these shifts, most respondents have tempered, if cautiously optimistic, expectations about M&A prospects for the rest of 2023. Generally consistent with 2022’s findings, more than half of respondents expect either no change or a slight increase in deal volume (57%) and deal value (63%), with disputes largely tracking deals.

Respondents who expect dispute volumes to rise cited worsening business and market conditions, incorrect or inflated valuations and residual effects of the pandemic, among other reasons.

“Economic uncertainty and higher interest rates are leading many companies and investors to take a closer look at their existing portfolio with a reduced appetite for risk, especially since valuations tend to decrease as rates increase”, said BRG Managing Director Mustafa Hadi. "While IPO exits and new investments certainly are responsible for disputes, exits from investments made over the past five years also seem to be one of the major factors fueling disputes this year—investors are looking for a way out”.

<table>
<thead>
<tr>
<th>Change in Deal Volume and Value: 2023 Expectations</th>
</tr>
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<tbody>
<tr>
<td>Deal Volume</td>
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<tr>
<td>2022: 27% Will increase significantly (more than 20% higher)</td>
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<td>2023: 26% Will increase slightly (up to 20% higher)</td>
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<td>Deal Value</td>
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<td>2022: 26% Will increase significantly (more than 20% higher)</td>
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<td>2023: 22% Will increase slightly (up to 20% higher)</td>
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<tr>
<th>Change in Dispute Volume and Value: 2023 Expectations</th>
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<tr>
<td>Dispute Volume</td>
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<tr>
<td>2022: 25% Will increase significantly (more than 20% higher)</td>
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<td>2023: 21% Will increase slightly (up to 20% higher)</td>
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<td>Dispute Value</td>
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<td>2022: 19% Will increase significantly (more than 20% higher)</td>
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<td>2023: 23% Will increase slightly (up to 20% higher)</td>
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</table>
Asia-Pacific (APAC) has emerged as the leading region expected to drive increased dispute activity this year, jumping up 14 percentage points from our 2022 survey results. It was selected by nearly half of respondents (46%) who foresee an overall uptick in dispute volume, compared to just 32% the previous year. The Europe, Middle East and Africa (EMEA) region is close behind at 45% and the Americas trail at 36%.

Within APAC, respondents identified China and India as countries expected to produce disputes, likely a product of both the size of their respective economies and heightened transactional activity. India, for example, countered the downward global trend in M&A last year with record growth in deal size—up 139% from 2021—amid booming deal volume. Meanwhile, China is expected to see more deals this year as Chinese firms chase growth through acquisitions.

Many APAC countries are also in the midst of a supply chain realignment driven by geopolitical developments and efforts to balance efficiency with resilience after pandemic-era upheaval. Heightened tensions between the US and China have led some companies to shift production elsewhere in or outside of the region to avoid potential disruptions—particularly for critical technology components like semiconductors—which could in turn fuel disputes as these changes impact contracts and valuations, among other issues.

“With frenzied cross-border investments in Southeast Asia, critical knowledge of the many subtleties in how business gets done in these countries isn’t always there”, said BRG Director Calvin Qiu. “Mismatched understandings of the regulatory environment or cultural expectations are likely to be salient dispute factors in APAC in the near term.”

### Regions Expected to Drive M&A Disputes

<table>
<thead>
<tr>
<th>Region</th>
<th>2022</th>
<th>2023</th>
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<tbody>
<tr>
<td>Latin America</td>
<td>4%</td>
<td>8%</td>
</tr>
<tr>
<td>North America</td>
<td>8%</td>
<td>23%</td>
</tr>
<tr>
<td>Europe, Middle East and Africa (EMEA)</td>
<td>28%</td>
<td>41%</td>
</tr>
<tr>
<td>Asia-Pacific (APAC)</td>
<td>32%</td>
<td>46%</td>
</tr>
</tbody>
</table>

Americas: 36%
“As so much of our lives become increasingly digital and virtual—and new technological innovations are taking shape every day—the digital assets and services sector has become a bright spot for M&A activity globally”, said BRG Managing Director Daniel Ryan. “At the same time, this growth and rapid innovation can foster uncertainty and provide plenty of fuel for M&A disputes”.

Nearly half of respondents (45%) believe the digital assets and services industry—which includes cryptocurrency, nonfungible tokens (NFTs), blockchain, metaverse assets, digital content, gaming, artificial intelligence (AI) and other digital items—will see an increase in disputes this year. Digital assets and services is also the only industry to see a meaningful increase in respondent selections from last year.
Cryptocurrency Activity Likely to Drive Disputes in 2023, with APAC Leading the Way

M&A activity for cryptocurrency hit an all-time high in deal volume in the first quarter of 2023, kicking off a strong start to the year on the heels of a record-setting 2022 for the industry and bucking the downward global dealmaking trend. At the same time, rising interest rates, falling coin values and instability among major cryptocurrency platforms last year—collectively known as the “crypto winter”—led deal values to shrink by 64%, or approximately $4 billion, in 2022, even as deal volume increased.

This year, the majority of respondents across regions expect both digital asset deals and dispute volumes to continue increasing.

Expectations for Digital Asset Deals and Disputes

<table>
<thead>
<tr>
<th>Change in Digital Asset Deal Volume</th>
<th>Change in Digital Asset Dispute Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>24% Will increase significantly (more than 20% higher)</td>
<td>18% Will increase slightly (up to 20% higher)</td>
</tr>
<tr>
<td>33% Will increase slightly (up to 20% higher)</td>
<td>39% No change</td>
</tr>
<tr>
<td>29% No change</td>
<td>32% Will decrease slightly (up to 20% lower)</td>
</tr>
<tr>
<td>8% Will decrease significantly (more than 20% lower)</td>
<td>9% Will decrease significantly (more than 20% lower)</td>
</tr>
<tr>
<td>3% No change</td>
<td>3% No change</td>
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</tbody>
</table>

“The cryptocurrency industry is at a point in its lifecycle where we’ve seen a high degree of new development—companies sprouting up left and right as coin values were high and speculative conditions were optimistic—and now there’s a greater move towards consolidation, both as the industry matures and as macroeconomic headwinds shift”, said BRG Managing Director Albert Metz. “When coupled with depressed values among major cryptocurrencies complicating profitability, this is an environment which can generate more disputes”.

Indeed, cryptocurrency is the leading area which respondents expect to be prone to dispute activity in 2023, selected by nearly half (49%). Blockchain, the technology underpinning cryptocurrencies, ranked second at 40%, while 33% of respondents selected NFTs, including 43% in North America. Cryptocurrency as a hotbed for disputes held firm across regions, reflecting the globally distributed cryptocurrency market with the largest investors spread out among the US, China and Singapore.
Yet when it comes to expectations for the broader digital asset industry, approximately half (51%) of respondents believe APAC is the region most likely to drive an uptick in disputes in 2023, with EMEA and the Americas following. The volume of deals within Asia’s strong digital asset ecosystem, home to leading digital asset companies and some of the world’s top crypto markets in Vietnam, the Philippines and India, is likely a contributing factor.

At the same time, Qiu said, “Cryptocurrencies are inherently cross-border and can to an extent be anonymised, which can pose unique challenges in disputes. For example, it can be challenging to enforce awards against parties whose assets are mainly in cryptocurrencies. The opaque ownership structures and interrelatedness of some crypto businesses are also factors which can feature heavily in disputes”.

### Regions Expected to Drive Digital Asset M&A Disputes

<table>
<thead>
<tr>
<th>Region</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Latin America</td>
<td>13%</td>
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<tr>
<td>Europe, Middle East and Africa (EMEA)</td>
<td>41%</td>
</tr>
<tr>
<td>Asia-Pacific (APAC)</td>
<td>51%</td>
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</table>

*Americas: 42%*
When it comes to the specific trends fueling M&A disputes in the digital assets space, more than half (55%) of respondents across regions—and 67% of respondents in APAC—selected volatility in the financial market as the most likely factor. Changes in asset value within the cryptocurrency market, often linked with financial market volatility, was the second most popular choice overall at 41%.

Turbulence in the financial system at the start of 2023 demonstrated the growing connections between traditional finance and digital assets as the latter, particularly cryptocurrency, becomes more popular among institutional investors. Bitcoin fell 8% in March, for example, corresponding to a US stock market selloff, while the high-profile collapse of digital-asset-focused banks Silvergate Bank, Signature Bank and Silicon Valley Bank had a direct impact on crypto prices.

Running parallel to market volatility, 40% of respondents cited growing concerns about the impact of new digital asset regulations as a factor which could drive disputes. The absence of globally consistent regulations has led to a patchwork of digital asset regulations, such as the European Union’s (EU) Markets in Crypto Assets (MiCA) comprehensive regulatory framework and Japan’s different approach which regulates cryptocurrency exchanges akin to banks.

The US recently signaled a more aggressive regulatory stance regarding cryptocurrency which could upend the industry. In June, the Securities and Exchange Commission (SEC) brought lawsuits against major cryptocurrency platforms such as Coinbase over allegedly operating as unlicenced trading platforms, in an attempt to impose greater regulatory supervision over cryptocurrency, particularly for securities registration and transaction disclosures. These suits are likely to take years to resolve, potentially leaving the industry shrouded in regulatory uncertainty.

EMEA respondents were considerably less concerned about heightened scrutiny and focus by regulators, likely because EU regulatory scrutiny is already elevated compared to other regions.

“When you don’t know the rules of the game—or the rules of the game are changing—people tend to argue and operate from different perspectives”, said Metz. “The shifting regulatory landscape governing digital assets around the world is creating disputes because deals based on assumptions about where regulations are headed can turn out to be incorrect, changing the financial calculus and even the viability of the deal”.

### Market Volatility and New Regulations Are Leading Factors in Digital Asset Disputes

![Matters Expected to Increase Likelihood of Digital Asset Dispute: Regional Differences](image-url)

- **Financial market volatility**: 55% overall, 67% in APAC, 41% in North America, 18% in EMEA
- **Changes in asset value**: 41% overall, 45% in APAC, 36% in North America, 19% in EMEA
- **New or potential regulation**: 41% overall, 43% in APAC, 35% in North America, 18% in EMEA
- **Heightened scrutiny and focus by regulators**: 41% overall, 41% in APAC, 36% in North America, 18% in EMEA
- **Increased M&A activity**: 27% overall, 33% in APAC, 18% in North America, 20% in EMEA
- **Competition or antitrust issues**: 11% overall, 19% in APAC, 13% in North America, 4% in EMEA
- **Intellectual property disputes**: 4% overall, 3% in APAC, 12% in North America, 22% in EMEA
- **None of the above**: 2% overall, 4% in APAC, 3% in North America, 3% in EMEA

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6 MID-YEAR M&A DISPUTES REPORT 2023
Respondents were mixed in their assessments of how discrete events would affect M&A disputes in the dynamic, fast-moving digital assets space. While most agreed the “crypto winter” would have some kind of impact, predictions surrounding its degree and duration were varied, with the greatest share (40%) anticipating a medium-term, moderate impact. Similarly, while one-quarter of respondents expect the collapse of crypto exchange platform FTX to have long-term, significant impacts on cryptocurrency-related disputes—potentially the result of diminishing trust in the industry among users, a hesitation to further invest in cryptocurrency and a wave of litigation—significant portions of respondents had a more optimistic outlook.

**Crypto Winter: Impact on Disputes**

- A long-term, significant impact: 19%
- A medium-term, moderate impact: 40%
- A short-term, relatively minor impact: 25%
- A long-term but unknown impact: 7%
- Little to no impact: 9%

**FTX Collapse: Impact on Disputes**

- A long-term, significant impact: 25%
- A short-term, relatively minor impact: 21%
- A medium-term, moderate impact: 36%
- A long-term but unknown impact: 5%
- Little to no impact: 12%
Emerging Artificial Intelligence Issues Could Be Prone to Disputes

The recent explosive popularity of generative AI platforms like ChatGPT and the increasing adoption of AI tools across industries pose new questions for what AI can do, how it works, what it is worth and how it will be regulated—the very questions which can create disputes.

“We’re seeing dispute areas reflect new and changing trends in digital assets and services, especially since uncertainty around regulatory frameworks and the future of a particular technology are often correlated with disputes”, said BRG Managing Director David Rogers.

After cryptocurrency and blockchain, 37% of respondents expect AI to be among the areas of digital assets and services most prone to dispute activity in 2023. However, with just 26% of North American respondents concerned about AI and disputes—far fewer than other regions—North America could be behind in its appreciation and regulation of the issues posed by AI.

“As a general rule, the law is usually a decade behind technology”, said BRG Managing Director and Associate General Counsel Amy Worley. “But when we have a market-changing event like the introduction of generative AI tools, we tend to see frenzied attempts to retrofit existing laws to the new tech—in this case surrounding issues of intellectual property and data privacy”.

AI typically lacks transparency into how it works—even among its own creators—and is trained on enormous data sets, so determining precisely which regulations are applicable and how compliance is achieved can generate disputes within the M&A due diligence process, particularly as new regulations come into force.

Existing digital assets and services laws which may extend to regulate AI include the EU’s Digital Services Act (DSA) and General Data Protection Regulation (GDPR). Complicating matters further, the US has a complex patchwork of state privacy laws governing data protections and usage.

The EU is moving forward with a regulatory framework, the Artificial Intelligence Act (AIA), specifically designed to deal with the unique risks posed by AI. The draft law passed in June curtails the use of functions seen as high risk, such as facial recognition software, and imposes disclosure requirements on data used to create AI systems. Once finalised, the AIA would be the first major AI law from any regulator and could become a global standard—but it also may exacerbate the differences between regions and further complicate cross-border transactions, heightening the potential for disputes.

“Tech regulations are changing all the time and any new law generates different interpretations of what it actually entails and what compliance involves”, said Worley. “Even if companies try to enter into agreements with other parties to govern interpretation of these issues, courts can and have struck those down, creating chaos and disputes in the decision’s wake”.

Emerging Artificial Intelligence Issues Could Be Prone to Disputes

AI Cited Amongst Areas Most Prone to Dispute Activity

- Cryptocurrency and blockchain: 49%
- Artiﬁcial intelligence: 37%
- NFTs: 33%
- Online gambling: 22%
- Metaverse: 17%
- Gaming: 15%
- Domain names: 14%
- Social media: 13%
- None of the above: 10%
ESG Disputes Landscape

**Social and Governance Issues Likely to Be Active in Disputes**

Investors, consumers and governments around the world are placing growing pressure on companies to improve their sustainability efforts and respond to geopolitical challenges, making environmental, social and governance (ESG) considerations an increasingly critical and high-profile component of business. Yet ESG factors have also generated new ground for M&A disputes.

Respondents were split on which ESG component would be the most likely to generate dispute activity, with social (31%) and governance (32%) nearly tied. Social issues, the broadest category within the ESG framework, typically include factors such as human rights, privacy protections, labour practices, company culture and community relations. Governance encompasses supply chain management, policies and procedures, and auditing and transparency, among others.

“One of the most common gaps we’re seeing across organisations is a lack of effective governance structures for important components of their business, and that can be a real issue since governance is one of the most effective risk reducers in the toolbox”, said Worley. “Without governance which is clear and adaptable to change, companies are vulnerable to more variability, less predictability and greater accountability issues which can eventually lead to disputes in transactions”.

Environmental issues, which previously garnered significant public attention, trailed behind social and governance concerns at 23%. This could be due in part to the increased attention to environmental concerns as adoption of ESG metrics and investing has expanded, so that those factors are now more easily defined and subject to a clearer regulatory landscape.
Clash Between Regulatory Scrutiny and Political Pushback on ESG Influencing Disputes

Asked about factors they expect to increase the likelihood of ESG-related M&A disputes this year, 64% of respondents selected the growing regulatory scrutiny of ESG metrics and commitments. Differences in regulations across industries, as well as variations in existing regulatory frameworks, are likely to impact the dispute landscape.

“It’s clear that the regulatory environment for ESG will continue to evolve. The real questions are how: Which standards will become global? How will conflicting regulations, reporting standards and approaches to assurance between the US and EU be resolved by multinational companies and global supply chains? And what can we expect going forward?” said BRG Managing Director Andrew Webb.

For example, the EU enacted the Corporate Sustainability Reporting Directive (CSRD) in January and is considering the proposed Corporate Sustainability Due Diligence Directive, which could impose further human rights and environmental due diligence requirements on companies operating or based in the EU. In the US, the SEC has proposed rules covering a wide range of ESG issues—from climate disclosures and corporate board diversity requirements to human capital and cybersecurity—which are expected to be finalised this year.

Increasing regulatory scrutiny was a particularly salient ESG-related dispute factor in APAC, selected by 78% of respondents compared to 58% in EMEA and 53% in North America. This may reflect a move towards greater environmental regulation and disclosure rules among countries in the region, which has generally been behind the curve on ESG requirements. It could also speak to conflicts which arise in cross-border deals where parties are not aligned on compliance requirements.

“With a number of mandatory climate-related disclosure requirements coming into effect in the US and Europe, it is only a matter of time before we see the impact of those requirements in APAC, for example, with APAC-based businesses which sell into these markets or are part of the supply chain of US- or Europe-based companies”, Qiu said. “At the same time, issues with the accurate measurement and verification and variability of practices in different regions can cause disputes”.

Meanwhile, political and stakeholder backlash to ESG initiatives is growing, a factor which 62% of respondents expect to increase the likelihood of M&A disputes in 2023. The backlash is especially apparent in the US, where positions on ESG are generally split according to party affiliation. The first quarter of 2023 saw 99 anti-ESG bills come to the floor in states around the US, more than double the number filed in all of 2022, and several major financial companies have responded by including anti-ESG efforts as a risk in their annual reports.
Yet surprisingly, more than a quarter (26%) of respondents in North America did not expect ESG to influence dispute activity. This could be because ESG remains influential among the business community and regulators globally and anti-ESG factors have not demonstrated a substantial chilling effect on many companies’ ESG goals or initiatives.

“Deals driven in part by ESG-related political incentives and promising tax structures can be risky, since these factors can change on a whim following an election or a change in policy”, said Webb. “Deals too dependent on political considerations can suddenly find the structure or even the very existence of the deal in jeopardy—and parties will be looking for someone to blame”.

Beyond these factors, 50% of respondents expect the lack of agreed-upon metrics and requirements around ESG—an issue across industries and regions—to contribute to an increase in disputes this year. Similarly, 56% of respondents predict activist investor pressures to engage in deals with socially minded companies will influence disputes.

Taken together, the countervailing forces colliding in ESG—regulatory reach, political pushback and uncertain expectations—are creating a complex environment for dealmaking which could increase the possibility of a dispute. Companies will need to manage their risks accordingly, particularly through due diligence.
**ESG a Due Diligence Priority in Deals**

Without deliberate and well-defined ESG due diligence, deals could be at risk from regulatory action, shareholder activism, reputational harm and litigation. Nearly two-thirds (63%) of disputes, litigation and arbitration lawyers agree (45%) or strongly agree (18%) that ESG must be given more priority in the due diligence process. In fact, 80% of investors, corporate finance advisors and M&A or corporate finance lawyers said that a target’s ESG commitments and disclosures were at least somewhat important and weighed with other key elements in the due diligence process, with just 2% claiming that ESG is not a concern.

**ESG Is a Priority in Due Diligence Process**

Asked to disputes/litigation/arbitration lawyers

<table>
<thead>
<tr>
<th></th>
<th>Strongly agree</th>
<th>Agree</th>
<th>Neither agree nor disagree</th>
<th>Disagree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>18%</td>
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<tr>
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<tr>
<td>Neither agree nor disagree</td>
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<tr>
<td>Disagree</td>
<td>8%</td>
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<tr>
<td>Strongly disagree</td>
<td>3%</td>
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**Importance of Target’s ESG Commitments & Disclosures in Due Diligence**

Asked to investors, corporate finance advisors and M&A or corporate finance lawyers

<table>
<thead>
<tr>
<th></th>
<th>Very important: we are very concerned with a target’s ESG commitments as a part of the due diligence process</th>
<th>Somewhat important: we are concerned with a target’s ESG commitments and weigh them with other key elements during due diligence</th>
<th>Slightly important: we are moderately concerned with a target’s ESG commitments, but they are not among key elements in due diligence</th>
<th>Not at all important: we are not concerned with a target’s ESG commitments, and they are not weighed as part of due diligence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very important</td>
<td>35%</td>
<td>45%</td>
<td>17%</td>
<td>2%</td>
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Reflecting the growing significance of scrutiny around ESG disclosures and commitments, the majority of respondents expect the level of that due diligence to increase either slightly (42%) or significantly (25%) in 2023. The numbers are even higher for APAC, where 80% of respondents expect an uptick in ESG due diligence.
“In all aspects of ESG, but particularly for social and governance factors, more companies are starting to look for the potential of a dispute as part of their due diligence, attempting to uncover even subtle issues in a company which could lead to problems down the line”, said Webb. “These are often the hardest components to measure, however, since it’s difficult to understand culture through data or the other traditional due diligence measures, but parties hesitate to rely only on disclosures”.

The difficulty in assessing certain ESG factors through due diligence has also raised issues around how to address disputes surrounding accuracy, such as the precise emissions of a global supply chain or comprehensive data processing information. For issues like these which are difficult to measure precisely, disagreement or misalignment between parties on ESG measurement standards and obligations can lead to future disputes.
Conclusion

While much of the uncertainty that was present at the start of the year remains, the results of our mid-year survey reveal the factors influencing both M&A deals and disputes globally remain complex and dynamic as ever. Market volatility and regulatory stirrings in cryptocurrency—not to mention the host of open questions about the future of AI—are likely to increasingly pose dispute risks for opportunistic dealmakers looking to seize the moment in digital assets and services. At the same time, M&A disputes related to environmental, social and governance factors will likely grow amidst the ongoing clashes between regulatory scrutiny of ESG and political pushback. Understanding these issues, as well as how to combat them to prevent disputes, is critical in this challenging deal environment.
About BRG

Berkeley Research Group advises clients on high-stakes disputes and investigations as part of our firm’s closely integrated global network.

Harnessing expertise in finance, accounting, analytics and technology, and drawing on a depth of industry experience, our teams provide economic consulting services, financial analysis, expert reports and testimony, transaction-related diligence and disputes services, and strategic guidance to businesses, investors and law firms. Our teams are made up of the most highly qualified professionals and senior industry executives who have built, managed and restructured major businesses. Our industry experts have acted as principals and advisors in tens of billions of dollars’ worth of M&A transactions, financed mega-infrastructure projects, worked on private equity–backed leveraged buyouts and managed complex structured finance vehicles. We combine analytical thinking and structured presentation with decades of commercial knowledge and experience.
Methodology

The objective of this global research report was to take stock of the M&A disputes environment at the mid-year point and delve deeper into two key areas identified in BRG’s 2022 M&A Disputes Report: the digital assets and services space and environmental, social and governance issues.

BRG’s 2023 mid-year M&A disputes research initiative centered on a quantitative online survey distributed in March and open for responses from March 24 to April 7; and a series of qualitative interviews with BRG professionals. A total of 162 respondents completed the survey, which included 66 lawyers (private practice or in-house), 48 private equity professionals, 42 corporate finance advisors and 3 consultants and accountants involved in M&A disputes. The panel was split mostly evenly in terms of geographic representation, with 54 respondents based in APAC, 58 in EMEA and 50 in North America. We include full demographic breakdowns below.

Due to rounding, numbers presented throughout this report may not add up precisely to the totals provided.
Our Global Locations

North America
- Atlanta
- Baltimore
- Boston
- Calgary
- Chicago
- College Station
- Dallas
- Denver
- Detroit
- Houston
- Las Vegas
- Los Angeles
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- Nashville
- New Jersey
- New York
- Pensacola
- Philadelphia
- Phoenix
- Pittsburgh
- Salt Lake City
- San Diego
- San Francisco
- Tallahassee
- Tampa
- Toronto
- Washington, DC

Latin America
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- Rio de Janeiro

EMEA
- Dubai
- Johannesburg
- London

Asia–Pacific
- Beijing
- Hong Kong
- Perth
- Singapore
- Sydney
- Tokyo

About BRG
Berkeley Research Group, LLC (BRG) is a global consulting firm that helps leading organisations advance in three key areas: disputes and investigations, corporate finance, and performance improvement and advisory. Headquartered in California with offices around the world, we are an integrated group of experts, industry leaders, academics, data scientists and professionals working across borders and disciplines. We harness our collective expertise to deliver the inspired insights and practical strategies our clients need to stay ahead of what’s next.

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