

M&A DISPUTES REPORT 2024

*Geopolitical Tensions and
Macroeconomic Swings
Heighten Challenges
for Dealmakers*



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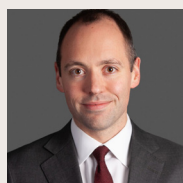
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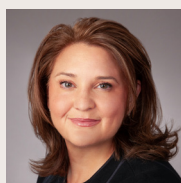
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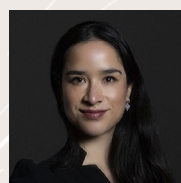
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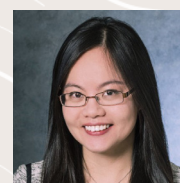
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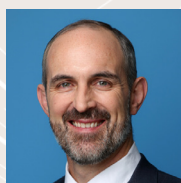
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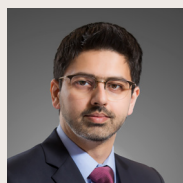


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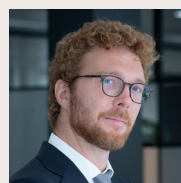
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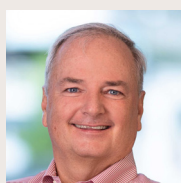
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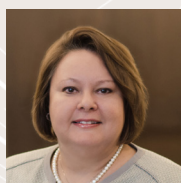
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Foreword

After a year of dealmaker uncertainty as rising interest rates and recession fears put a chill on mergers and acquisitions (M&A) activity, 2024 presents a new reality for deals and deal-related disputes. Pressure to put capital to work may push some dealmakers to execute transactions despite today's lower valuations and higher financing costs. At the same time, the disconnect between what sellers think their businesses are worth and what acquirers are willing to pay may fuel additional M&A disputes—adding fuel to a fire also stoked by increased exposure to emerging dispute catalysts like environmental, social and governance factors and by buyer frustration over deals whose terms have soured in the current economic environment.

We hope this report will help our clients and readers stay informed in a changing M&A landscape.

Mustafa Hadi

Founder, BRG M&A Disputes Report



Executive Summary

Rapid macroeconomic shifts and deepening geopolitical tensions are intensifying challenges for dealmakers and increasing the likelihood of deal-related disputes as sharp run-ups in interest rates, heightened regulatory scrutiny and conflicts over trade and territory cast a shadow over the mergers and acquisitions (M&A) landscape. Despite pent-up demand from the recent deal drought—and multibillion-dollar deals in [energy](#), [technology](#) and [pharma](#)—M&A transactions that made sense in a time of cheap money and high valuations face steeper hurdles at every step of the dealmaking process.

Berkeley Research Group's (BRG) fifth-annual *M&A Disputes Report* finds those changes are wreaking havoc on business calculations, deepening the risk of disputes over earnouts and other M&A provisions as parties seek to limit risk.

Some buyers, for instance, are trying to back out from deals that no longer make economic sense. Others are taking more aggressive steps to recover value, such as revisiting due diligence conducted during the pandemic era, when standards were looser, or more closely scrutinising representations and warranties clauses that could provide a basis for legal action. Meanwhile, debt financing is increasingly hard to come by—a particularly salient factor for [private-equity \(PE\)-backed deals](#)—and the cost to service that debt is climbing.

Against that backdrop, our research reveals that:

- *Dealmakers are tamping down their M&A expectations for 2024* after a year marked by surging interest rates, limited financing availability and stalled transactions.
- *However, respondents expect M&A-related disputes to increase moderately* in the coming year—slightly higher than was predicted in our [mid-year report](#)—as deals come under increased scrutiny in a more challenging fiscal and geopolitical climate. This diverges from the historical correlation between upticks in deals and disputes that we observed in prior reports.
- *Key issues impacting disputes* include tumult in cryptocurrency, the energy transition, heightened regulatory action, increased scrutiny on national security and environmental, social and governance (ESG) factors.
- *Dealmakers are using artificial intelligence (AI)* for valuations and risk mitigation, with PE professionals leading in some respects. AI tools may speed transactions but also present new risks.

This and other key takeaways come from our latest exploration of the dynamics around deal-related disputes and what dealmakers can expect in 2024. This year's report draws on extensive qualitative interviews conducted in September and October 2023 with disputes and corporate lawyers in Asia-Pacific (APAC); Europe, the Middle East and Africa (EMEA); and North America. It also broadens the global focus of our previous research to include perspectives from Latin America, as well as from the above regions, via a November 2023 online survey of 225 lawyers, PE professionals and corporate finance advisors.

"In the fifth year of our research into M&A disputes, we see the heightened impact of ongoing geopolitical and financial volatility in an increasingly unpredictable world", said BRG Principal Executive Officer and President Tri MacDonald. "At the same time, emerging concerns around digital assets like cryptocurrency and the evolving role of ESG that we noted in previous reports have turned out to be prescient. Those areas are featuring more prominently in disputes across the globe, demonstrating the importance of our report's multifaceted insights for dealmakers navigating unprecedented macroeconomic terrain".

Digital assets and energy ranked top dispute areas for 2024

Respondents predict that digital assets & services, followed by energy & climate, will be the two leading areas for M&A disputes, consistent with our [mid-year forecast](#). Digital assets & services—which include cryptocurrency, fintech and AI—also loomed large in 2023, a turbulent year that saw major crypto figures plead guilty to criminal charges while Bitcoin’s price [rose 160%](#) in anticipation of [increased trading volumes](#) as major institutions launch spot Bitcoin exchange-traded funds (ETFs).

In the crypto-asset space, “There are a large number of small players in a market flush with cash, subject to changing regulation and going through an existential crisis because some of the biggest players are falling away for various reasons”, said James Rogers, a London-based international arbitration partner with Jenner & Block. “As recent history has shown us, fraud and dishonest conduct are not unheard of within the industry”.

Energy will also be in the hot seat “for the foreseeable future”, Rogers said, as the shift to renewables prompts market activity as oil and gas producers reorganise their holdings, with increased transactions opening the door for M&A disputes around a host of factors—including ESG. BRG Managing Director Phillip Solomon noted that liquefied natural gas trading disputes stemming from market disruption in 2022 and 2023 are reaching arbitration this year. Investments in renewable projects such as offshore wind and competition around emerging technologies like green hydrogen and battery storage are also contributing to an increase in dispute activity as the sectors mature.

EMEA remains leading region for disputes

As forecast in BRG’s 2022 report, EMEA was the leading region where respondents saw increased M&A dispute volumes in 2023—and the region is also expected to lead in dispute volume in 2024. Survey respondents who singled out EMEA cite legal structures across the region as a major cause, after the expected correlation between increased deal activity bringing on additional disputes.

Recent European Union (EU) efforts to regulate AI hint at more deal-related disputes in the coming months. So do competition probes like the United Kingdom (UK) [Competition and Markets Authority’s investigation](#) into the planned merger between Vodafone and CK Hutchison’s Three UK mobile network. That comes as the UK deemed a stake in Vodafone held by the state-controlled Emirates Telecommunications a national security risk, and as the UK government is [scrutinising](#) the role of an Abu Dhabi-backed investment group in a proposed takeover of the Telegraph newspaper group.

“EU and UK regulators are flexing their muscles, particularly when it comes to technology and competition issues”, said Daniel Ryan, a BRG managing director and head of the firm’s London office. “At the same time, heightened scrutiny around foreign investment and transactions involving industries deemed critical to national security, like telecommunications, is extending the timeline for some deals and increasing the likelihood of disputes”.

ESG takes center stage

ESG-related M&A disputes are on the rise amidst a diverse range of environmental, social and governance challenges, from ESG claims around sale terms and greenwashing to data privacy and employment-related issues like fair pay and equal employment opportunities. Respondents expect regulatory scrutiny and political and investor pressure around ESG to increase in the coming year as emphasis on the energy transition, activist investor pressure and the lack of established ESG metrics and requirements deepen dispute exposure.

Edward Taylor, a Hong Kong-based international arbitration partner with Shearman & Sterling, noted that his M&A colleagues “are now regularly advising clients on ESG-focused due diligence—this reflects the increasing risk of ESG disputes and the need to properly assess and then manage that risk in transactional documents”.

In the US, heightened visibility and various political and stakeholder pressures on ESG have prompted some companies to carefully evaluate how they communicate about those efforts, said BRG Director Dr. Dubravka Tosic. A number of lawsuits have been filed in US courts involving allegations that ESG-related disclosures are inaccurate and/or untrue, she said, underscoring the importance of evaluating those statements “to confirm that what is disclosed is correct and accurate and can be documented”.



KEY FINDINGS

M&A DISPUTES REPORT 2024

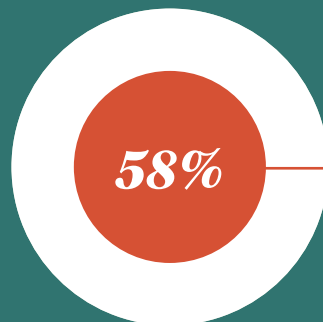
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Key Findings

M&A Disputes Continue to Increase



58%

respondents across all regions saw more disputes in 2023 than in 2022, with lower deal-value ranges experiencing the biggest upticks

74%
reported a year-over-year (YOY) increase in dispute activity



35%

35%

say activity stayed the same

Top Disputes Drivers

41% disputes/litigation lawyers cite inflation concerns as the top dispute catalyst experienced over the course of 2023

40% M&A/corporate finance lawyers and advisors say incorrect or misaligned valuations is the most common risk factor for a future deal-related dispute

37% PE professionals cite it as a reason for deal avoidance

83% agree that PE involvement in deals increases the likelihood of disputes

Key Findings (cont.)

REGION TO WATCH FOR 2024 M&A DISPUTE VOLUME

57% of those who expect an increase in disputes predict EMEA will drive that volume, up from 45% in our mid-year survey.

ESG TRENDS

71% of all survey respondents expect regulatory scrutiny of ESG metrics and commitments to increase in 2024.

68% say the same of political or stakeholder pushback around sustainability, social or other ESG-motivated decisions.

18% of disputes/litigation lawyers cite lack of shared company values on ESG actions as a common dispute catalyst, up from 6% in 2022.

TOP INDUSTRIES FOR DISPUTE ACTIVITY

51% say M&A disputes around digital assets & services increased in 2023, with 47% forecasting an increase in 2024.

AI DEAL TOOLS

52% of M&A/corporate finance lawyers are using AI for risk analysis/mitigation; 38% are considering using.

64% of PE professionals are using AI for valuations in M&A deals.





FULL FINDINGS

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M&A Market and Dispute Overview

The mergers and acquisitions (M&A) market hit a decade-low slump in 2023, with global deal values down roughly a quarter to \$2.7 trillion. Investment bankers and business leaders attribute the malaise to financial and geopolitical uncertainty, citing higher interest rates and the conflicts in Ukraine and Palestine as dampers on deal activity that could extend into 2024.

Yet despite the decline in deal volume, nearly 6 in 10 respondents across all regions saw more M&A disputes in 2023 than in 2022, with 47% reporting a slight increase and 11% a significant increase. Only 5% of respondents noted a decrease in M&A disputes during that period—and those who did largely attribute it to an overall slowdown in transaction activity.

This more challenging economic environment is driving an increase in disputes and M&A litigation, said Adam Brown, a London-based partner at Simmons & Simmons who advises on complex, high-value disputes. “Deals done in better economic times where the economy was awash with cheap money—we had lower

interest rates, buoyant markets and stretched valuations—are now getting tested”, he said.

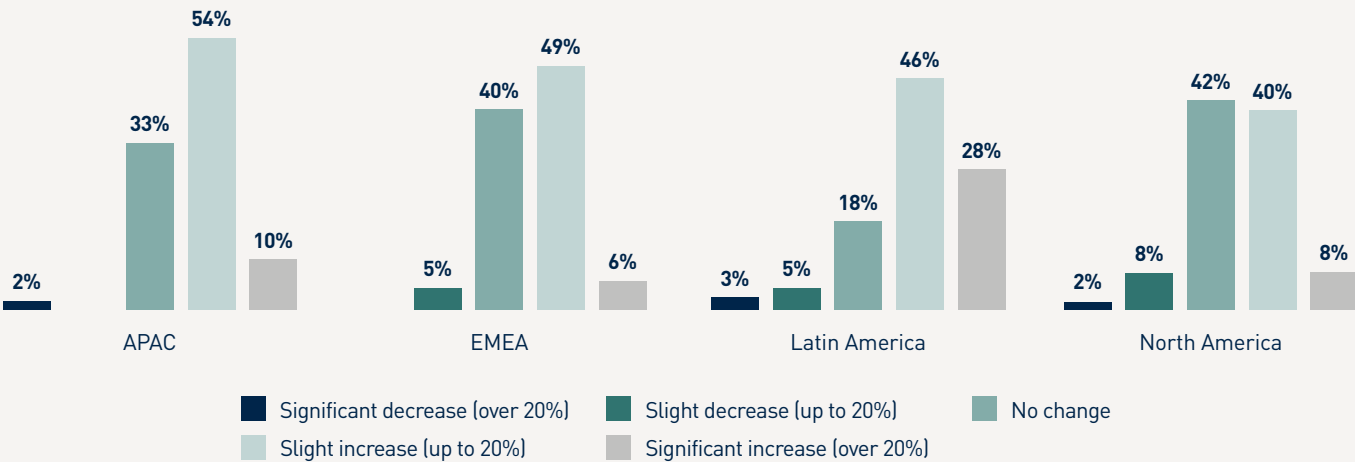
These trends extended across regions, with respondents in Latin America reporting the highest share of increased dispute involvement (74%), followed by 64% of those in Asia-Pacific (APAC), 55% in Europe, the Middle East and Africa (EMEA) and 48% in North America.

“It is inevitable that some deals agreed under easier financing conditions and more optimistic macroeconomic expectations will now look overpriced”, said BRG Director Kevin Hagon, who specialises in M&A disputes. “BRG is seeing examples where disappointed buyers are seizing on opportunities to claw back value based on inadequate disclosure of changing market conditions”.

Survey results show the biggest upticks in disputes came from smaller deals—43% of those whose firms experienced more M&A disputes in 2023 say they involved transactions of \$5 million to \$50 million.

“It’s looking like a scrappier market, which is in line with what we’ve been seeing in M&A disputes”, said BRG Managing Director Mustafa Hadi. “While the large disputes continue to arise, we’re seeing a rise in the number of smaller disputes, with big players fighting unexpectedly hard over more modest amounts”.

Number of M&A Disputes Firm Worked on in 2023 versus 2022



Financing is an obstacle—and earnouts deepen risk

Dealmakers noted that some transactions have stalled or been called off as rising interest rates make capital more expensive. So-called “busted deals” are leading to M&A disputes, said Brown of Simmons & Simmons, as parties that enter into transactions expecting to put a debt package into play stumble when that financing falls through.

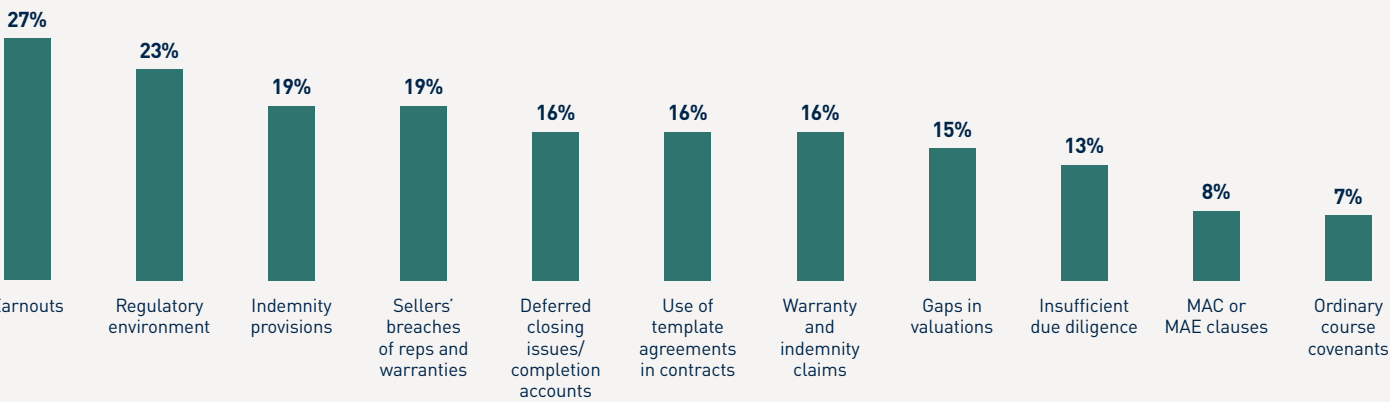
Private equity (PE) sponsors are among those finding it more difficult to put together financing packages, said Tim Gardner, a corporate partner at Weil, Gotshal & Manges and managing director of the firm’s Hong Kong office. He noted that rising interest rates have prompted many sponsors to pivot towards private debt and the private credit asset class. His colleague Eoghan Keenan, a New York-based partner in Weil’s M&A practice, added that while PE sponsors may find it harder to line up debt financing in this uncertain market, “They have a lot of dry powder”. Pressure to invest and deploy these funds is also likely to be building.

Financing challenges also factor into the deal element that respondents cite as most prevalent in 2023 disputes: earnout provisions (27%), which can help resolve differing expectations between buyers and sellers about the value of a business. Other contributing dispute factors include the regulatory environment (23%) and indemnity provisions and sellers’ breaches of representations and warranties, which tied at 19% apiece.

Contingent consideration and risk-sharing on price are becoming more common as up-front financing gets harder to obtain and valuation gaps add to deal challenges. This deepens exposure to disputes, including around relevant performance measures such as earnings before interest, taxes, depreciation and amortisation—particularly if the timeframe for measurement lengthens and contingent components increase, said BRG’s Hagon. Tomas Furlong, a Singapore-based partner at Herbert Smith Freehills, expects that earnouts will increasingly cover longer performance periods since buyers want to backload payments.

Defraying valuation risk through earnouts has complexities, said Tim Browning, a London-based litigation and disputes partner with Eversheds Sutherland. He has also seen growing numbers of completion account disputes, which he called the most common form of price adjustment. Together with earnout disputes, they “appear to be driven by economic conditions and valuation mismatches and are increasingly being hotly contested”.

Most Prevalent Deal Terms, Contractual or Process-Related Factors in Disputes over Past Year (top two selected)



Regulatory scrutiny adds to deal challenges

When it comes to the regulatory environment, big international deals are encountering more issues around antitrust and competition, making those transactions more difficult to complete, said Jacob M. Croke, a New York-based litigation partner with Sullivan & Cromwell LLP. For example, Adobe abandoned its \$20 billion planned acquisition of Figma [amidst opposition](#) from regulators in Brussels and the UK, while US prosecutors are asking a federal judge to dismantle Google [ad-tech acquisitions](#) that they say limit market competitiveness. Proposed changes to various aspects of the Federal Trade Commission's (FTC) merger review process would also increase antitrust scrutiny.

“Decisions by authorities on deals can change the expected risk calculus so that one party may wish to walk away”, said BRG Managing Director Konstantin Ebinger. “The ever-increasing appetite by authorities to intervene in the tech landscape can similarly create winners and losers, resulting in disputes. It is therefore all the more important to evaluate—and potentially reevaluate—the regulatory environment in the deal-making process in changing times such as we are currently witnessing”.

There's a heightened geopolitical element as well. Richard Radnay, a Chicago-based corporate partner with Paul Hastings, noted the increasing regularity of investment review through a national security lens in the US and elsewhere, especially for deals involving countries regarded as strategic competitors. Foreign direct investment review frameworks in the EU and UK, for example, are adding regulatory complexity—“similar to the role of CFIUS [Committee on Foreign Investment in the United States]”—while transactions in China are also seeing delays from regulators.

Broadcom's \$69 billion acquisition of cloud-computing firm VMware, for instance, [had to pass muster](#) with officials in the EU, UK and China, dragging out its timeline to close. Nippon Steel's \$14.1 billion proposed acquisition of US Steel is also [drawing opposition](#) in the US, despite Japan's traditional role as a close US ally in Asia, BRG Director Calvin Qiu said—illustrating the increased scrutiny of deals on national security grounds, even for investors from friendly countries.

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KONSTANTIN EBINGER
Managing Director, BRG



Views on dispute catalysts vary by role

The economy is top of mind when it comes to what drives disputes. Disputes and litigation lawyers cite inflation concerns (41%) as the top 2023 dispute catalyst, followed by recession fears and rising interest rates (tied at 31%) and incorrect or misaligned valuations (29%). Two UK-based interviewees noted that the impact inflation has on valuations is at the heart of those concerns. “Those inflationary woes are further exacerbated by rising interest rates, which of course complicate financing needed to make up the gap”, said BRG’s Ryan.

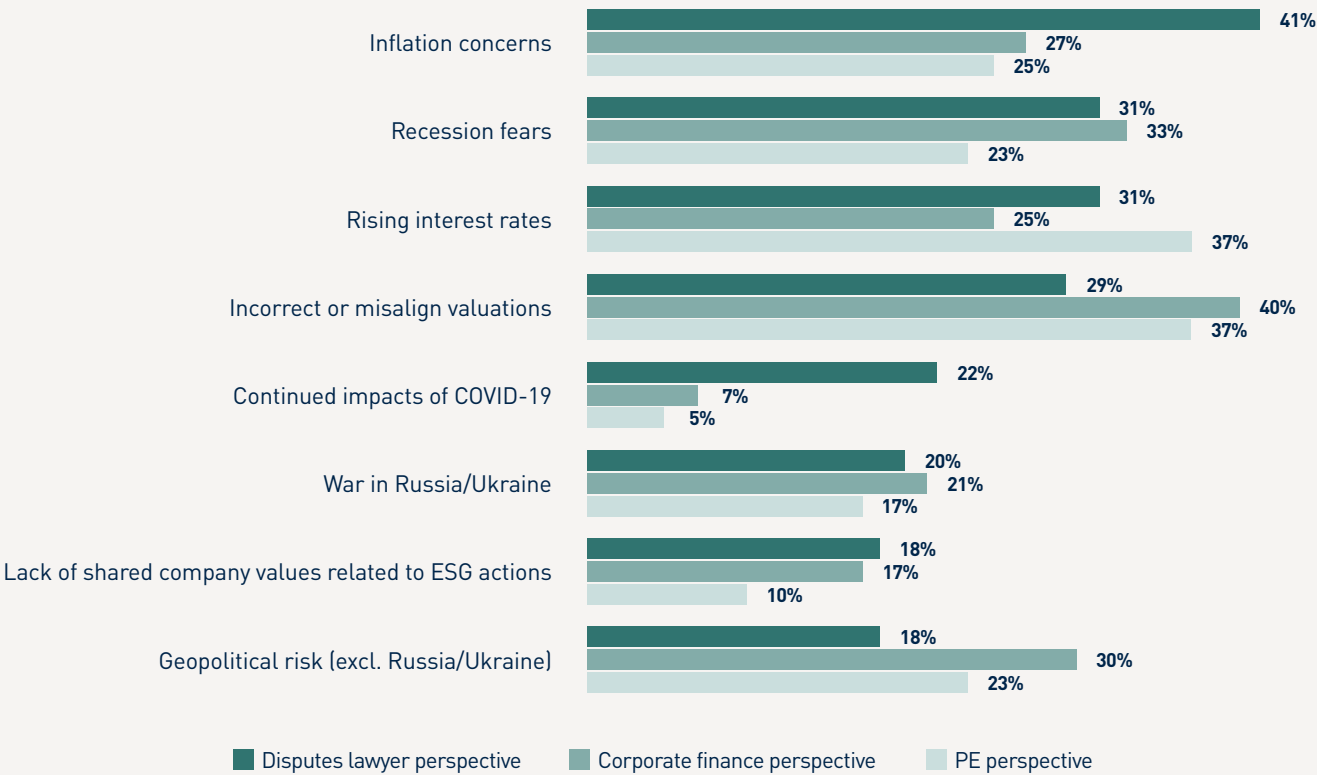
Relatedly, 40% of M&A and corporate finance lawyers and advisors say the most common risk factor for a future deal-related dispute is incorrect or misaligned valuations, followed by recession fears (33%) and geopolitical risk

outside of the Russia/Ukraine dispute (30%). More than 80% of this group also agree that PE involvement in deals increases the likelihood of disputes.

Private equity investors are looking to alternative funding sources in a tougher economic environment, which can increase the likelihood of disputes. “Asset managers have bigger portfolios and sometimes are able to take more risks”, said Peter Harris, a Tokyo-based cross-border disputes partner with Clifford Chance. “Private equity investors also increasingly want more equity, and expanded PE involvement is likely to result in more disputes as deals become more complex”.

PE professionals ranked incorrect or misaligned valuations and rising interest rates (both 37%) as the top-two factors to avoid a deal altogether.

Matters or Risk Factors Commonly Leading to, Indicating or Inspiring Avoidance of Potential M&A Disputes (question language differed according to segment)



2024 Outlook for M&A and Disputes

The M&A market began showing signs of life in the back end of 2023, with major transactions including planned multibillion-dollar [oil-and-gas acquisitions](#) by Exxon Mobil and Chevron and AbbVie's deals for cancer biotech companies [ImmunoGen](#) and [Cerevel Therapeutics](#). Some investment banks are forecasting a busy 2024 due to [pent-up demand](#) as companies [adjust to pricing](#) in a higher-interest-rate environment. PE funds, for example, have committed capital that must be deployed within a certain timeframe, though the above-mentioned challenges around debt financing mean those funds may have to invest more equity into deals, which could impact valuations.

As Radnay of Paul Hastings put it: "There's a lot of money waiting to be spent, whether it's on company balance sheets or on the sponsor side... Committed capital has a fairly short timeframe in which it's supposed to be spent, so that is likely to create some pressure on deal flow".

Notable transactions announced so far this year include BlackRock's [\\$12.5 billion deal](#) to buy Global Infrastructure Partners, Chesapeake Energy's [\\$7.4 billion all-stock acquisition](#) of Southwestern Energy and semiconductor design and software firm Synopsos' [\\$35 billion plan](#) to buy Ansys, one of the largest technology tie-ups in recent years.

Still, survey respondents appear to be tempering their expectations after a tough stretch for global dealmaking. Roughly half predict that deal volume and value will decrease or remain flat in 2024. Dealmakers we interviewed noted a lot of money sitting on the sidelines and fewer deals being done.

"We believe dealmaking will come back in 2024 as the cost of capital and valuation expectations have been digested by investors", said BRG Managing Director Daniel Galante. "We also believe there is potential for increased disputes in 2024 based on the high valuations in 2021 and 2022 and an increase in earnouts, other deferred consideration and claims on reps and warranty items—especially if business performance has declined".

Regardless of whether deal flow picks up, the majority of respondents (65%) expect average dispute volume and value to increase in the coming year. That likely reflects a combination of buyer disappointment in deals, the likelihood that parties will attempt to recover overpayment due to tougher economic conditions and more costly financing, and increased exposure to disputes from newer catalysts around digital assets and environmental, social and governance (ESG) factors.

"Many experts are predicting an increase in divestitures and carve-outs, which brings an increased level of complexity to the deal. These added complexities could give rise to a variety of disputes in North America, including working capital disputes, earnout disputes and claims for breaches of representations and warranties".

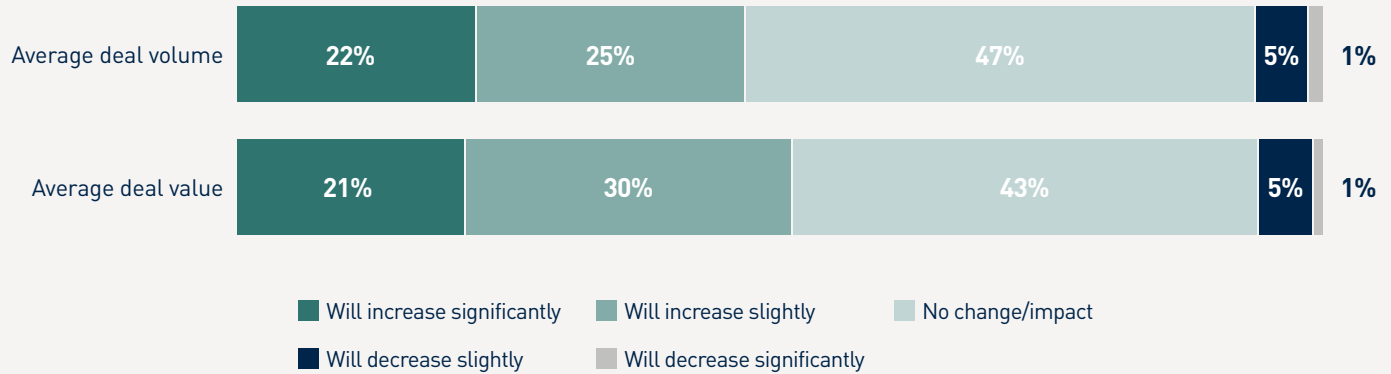
FRANK DERY

Managing Director, BRG

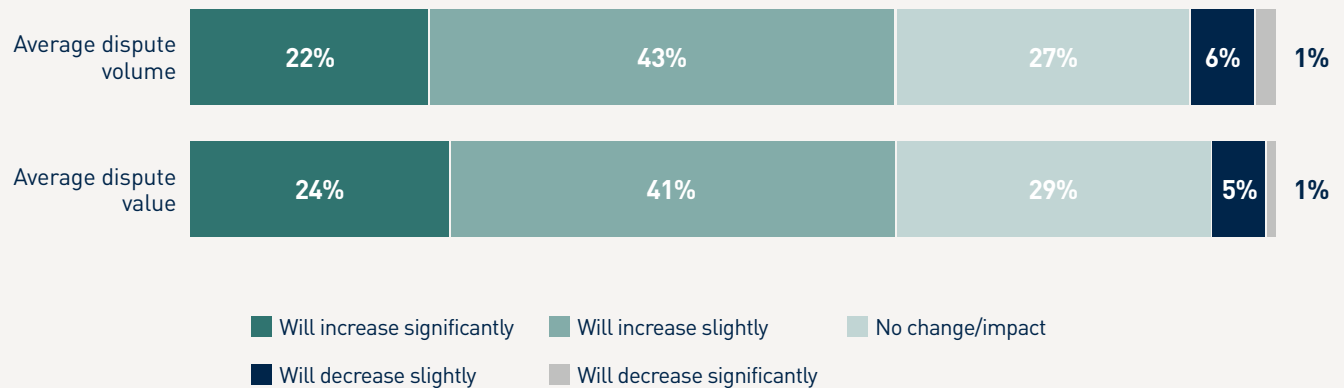
BRG Managing Director Frank Dery said 2024 will likely see a number of disputes related to ESG disclosures, with "growing pains" as companies adjust to including representations and warranties related to ESG in purchase agreements. More broadly, "Many experts are predicting an increase in divestitures and carve-outs, which brings an increased level of complexity to the deal", he said. "These added complexities could give rise to a variety of disputes in North America, including working capital disputes, earnout disputes and claims for breaches of representations and warranties".



Expectation of Change in M&A Deal Volume and Value for 2024 versus 2023



Expectation for Change in M&A Dispute Volume and Value in 2024 versus 2023



Geopolitical tensions and macroeconomic concerns expected to drive 2024 dispute volume

More than three-quarters of respondents agree that geopolitical tensions—including the Russia-Ukraine conflict, US-China issues, unrest in the Middle East and corresponding international sanctions—will increase the number of M&A disputes in the coming year. An identical share (76%) agreed that macroeconomic concerns will do the same, continuing the trend identified in our 2022 report.

Many M&A deals are heavily debt financed and sensitive to interest rates. Whether inflation can be kept in check is still far from certain, Qiu said, as it is subject to volatile global events, including in far-flung corners of the world. “One illustration of this is the attacks on ships traversing the Red Sea by Houthi rebels in December 2023 and January 2024, which has led to a rerouting of global shipping to a longer Cape of Good Hope route, disrupting trade and adding to the cost of global supply chains”.

The degree of agreement among respondents (76%) when it comes to geopolitical tensions reflects the cumulative impact of military and trade conflicts. We also identified this trend in our 2022 report, with 72% of respondents forecasting that geopolitical tensions would increase disputes.

As the US and China skirmish over technology and national security concerns, the process of getting deals involving semiconductors past regulators will take a long time, said Miranda Schiller, a former partner in Weil’s securities litigation and corporate governance practice in New York. She noted that five information technology company clients have been waiting approximately one year for regulatory approval, adding: “This type of slow process puts deals in jeopardy”.

BRG’s Qiu and Hagon note similar challenges ahead regarding electric vehicles (EVs) as the US erects trade barriers on Chinese EVs and batteries while the European Commission [probes](#) Chinese subsidies of lower-priced EVs imported into the EU market.

“Geopolitical tensions are particularly relevant in Asia-Pacific”, Qiu said, “and are impacting

risk assessments and investment decisions amidst ongoing geographical diversification of supply chains and investments”.

Dealmakers said investors are trying to [get money out of China](#) due to concerns over general stability and the regulatory environment. That outflow is directing capital to other jurisdictions in Asia, including India, Japan and Southeast Asia, a trend that could also drive disputes as investors try to find ways to extract themselves from their investments.

Our research also suggests that pandemic impacts still persist. The lingering effects of COVID-19 will contribute to the number of M&A disputes in the next 12 months, according to 62% of respondents—though not necessarily because of ongoing health consequences. Instead, that finding could speak to the hangover from looser scrutiny around deals struck during that period, particularly during the later-pandemic era, or to stalled deals that never got back on track.

“M&A disputes tend to depend on where the truth is found to lie in the spectrum between fraud and exaggeration. Lax due diligence in buoyant markets makes the former harder to establish”.

CHLOE MORRIS

Managing Associate, Simmons & Simmons

“When the market was very hot, some deals were done a bit too quickly, and problems that got papered over then flowed into disputes that are now maturing, post-signing”, said Furlong of Herbert Smith Freehills.

Chloe Morris, a managing associate in Simmons & Simmons’s disputes and investigations team in London, recalled an M&A dispute stemming from due diligence performed during the pandemic, when conditions were more relaxed and money was easier to obtain. “Later, an issue with the assets was discovered that was arguably identifiable from the documents”, she said. “M&A disputes tend to depend on where the truth is found to lie in the spectrum between fraud and exaggeration. Lax due diligence in buoyant markets makes the former harder to establish”.



Technology, elections also expected to drive disputes

Stepping back, dealmakers also expect overarching 2024 dispute catalysts to include pivotal elections in the US and UK, as well as concerns around debt pricing. M&A in volatile or fast-growing areas, such as technology-focused startups, could also deepen the likelihood of deal-related disputes, said Lauren Hamilton, a partner in Addleshaw Goddard's London-based commercial disputes team.

"People are very active in looking for opportunities in the tech space", Hamilton said. The speed at which deals are done sometimes may lead to more limited due diligence, and the fact that these businesses are growing quickly or their management may not have as much expertise or experience in M&A dealmaking leaves them open to disputes, she said. For example, regulatory or tax issues can surface in warranty claims or disputes around poorer-than-expected product performance.

BRG Managing Director Richard Finkelman noted that data privacy and artificial intelligence (AI) use are increasingly material issues for M&A that can lead to post-merger disputes between buyers and sellers over problematic data practices or flawed AI. "I expect regulatory scrutiny from agencies like the FTC over data handling and AI systems to continue mounting in deals, forcing firms to invest more in auditability of data governance programs and AI tools pre-close to mitigate risks of disputes", he said. "Deals hinging on questionable data or AI practices face heightened uncertainty".

Level of Agreement Regarding Potential Dispute Catalysts over the Next 12 Months

Geopolitical tensions, including the Russia/Ukraine conflict, US-China issues, Middle East unrest and corresponding international sanctions, will increase the number of M&A disputes over the next 12 months



Macroeconomic concerns will increase the number of M&A disputes over the next 12 months



The lingering effects of COVID-19 will continue to contribute to the number of M&A disputes over the next 12 months



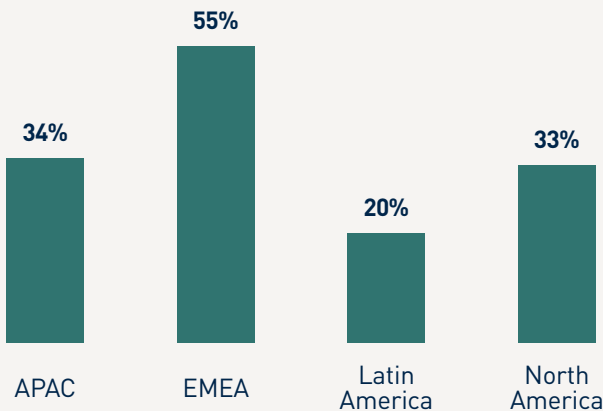
Strongly agree Agree Neither agree nor disagree Disagree Strongly disagree

Regional Outlook

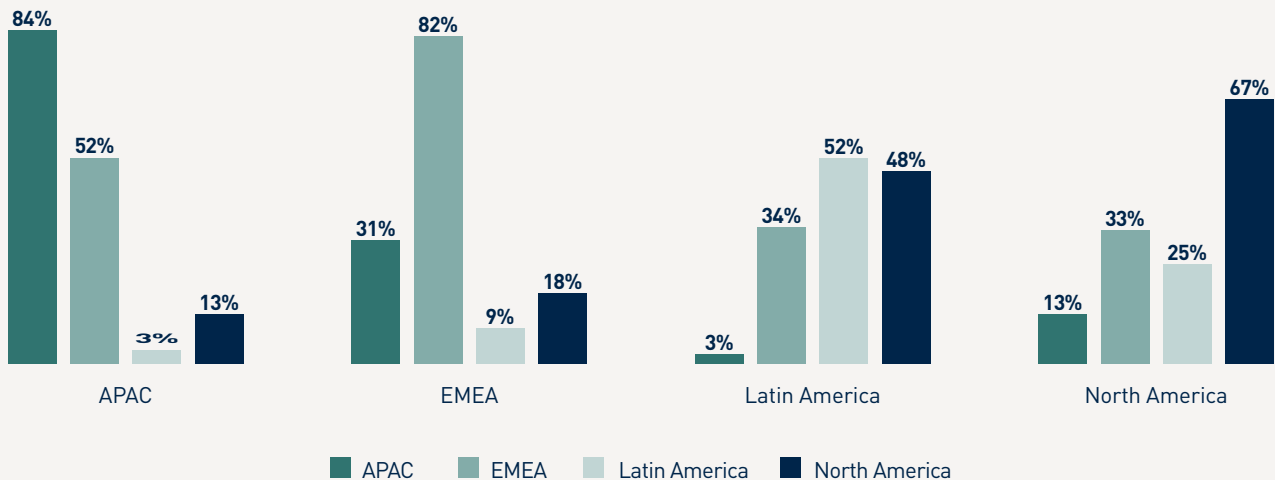
Europe, the Middle East and Africa (EMEA) dominated deal-related dispute activity in 2023 and is expected to drive dispute volume in 2024. This trend reinforces BRG’s findings from our 2022 report, when EMEA surpassed Asia-Pacific (APAC) as the region to watch as the war in Ukraine, sanctions and energy-market turmoil disrupted economic activity.

More than half (55%) of all respondents who say M&A dispute activity increased last year cite EMEA as a primary region driving those volumes—more than 20 percentage points ahead of APAC, North America and Latin America. While respondents tend to rank their own regions highest for this question, EMEA is also the second-ranked region among those from APAC and North America, potentially reflecting the global impacts of stricter regulatory regimes in the EU and UK, as well as ongoing conflict and financial volatility.

Regions in Which Increased M&A Dispute Volumes Were Primarily Observed



Selections by Region



After increased deal activity/investment, the top-ranked EMEA dispute catalysts in 2023 include legal elements or structures unique to the region, the regional macroeconomic environment and geopolitical pressures. (Note that since the early days of this research, we have understood there is a correlation between upticks in deals and disputes.)

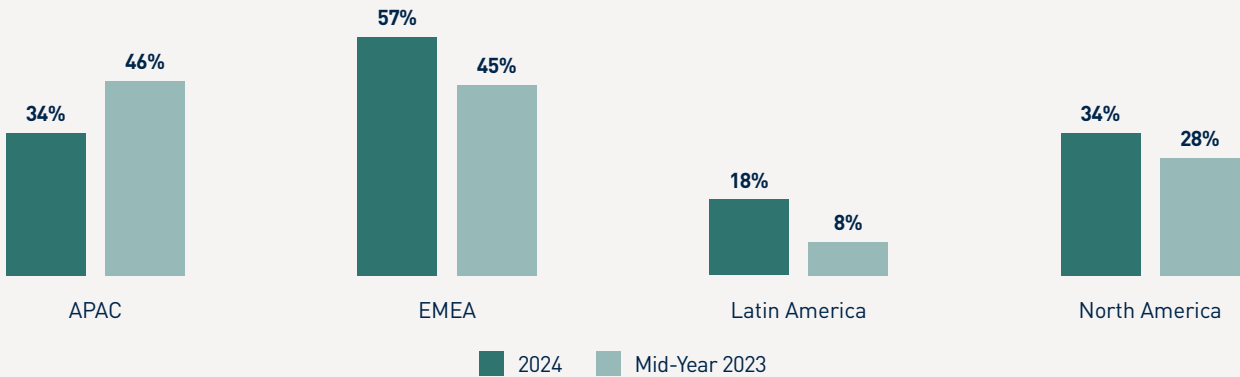
Hamilton of Addleshaw Goddard noted a range of conditions in the region that could fuel M&A disputes. Some parties froze mid-negotiation, she said, amidst speculation that the UK’s economy could go into recession as higher interest rates and inflation depressed consumer demand.

The coming year is expected to deliver more of the same. Of respondents who expect an increase in M&A disputes in 2024, 57% predict EMEA will drive that volume, up from 45% in our mid-year survey. APAC and North America ranked second (34%), followed by Latin America (18%).

Top-Ranked Disputes Catalysts in 2023 by Region

| Rank | APAC | EMEA | Latin America | North America |
|------|--|--|--|--|
| 1 | Increased deal activity or investment in the region | Increased deal activity or investment in the region | Increased deal activity or investment in the region | Increased deal activity or investment in the region |
| 2 | Legal elements or structures unique to the region | Legal elements or structures unique to the region | Macroeconomic environment in the region | Macroeconomic environment in the region |
| 3 | Political strife in the region/ geopolitical tension | Macroeconomic environment in the region | Political strife in the region/ geopolitical tension | Litigation-prone environment |
| 4 | Macroeconomic environment in the region | Political strife in the region/ geopolitical tension | Legal elements or structures unique to the region | Legal elements or structures unique to the region |
| 5 | Cryptocurrency turmoil | ESG-related issues Litigation-prone environment (tie) | Cryptocurrency turmoil | ESG-related issues Political strife in the region/ geopolitical tension (tie) |

Regions Expected to Drive Increases in Dispute Volume over Next Year



Regional dispute factors and industry concerns

After increased deal activity/investment, anticipated regional dispute drivers in 2024 include macroeconomics for EMEA and Latin America, ESG-related issues in North America and unique legal elements or structures in APAC.

“In North America, chemical and related manufacturing industries will also likely be subject to ESG disputes alongside the traditional fossil fuel and new technology spaces, as a result of new applications of product liability laws as well as a strengthened federal focus on environmental justice”, BRG Director Gina Waterfield said.

In Latin America, earnouts top the list of the most prevalent deal terms, contractual or process-related factors in M&A disputes, with 34% of respondents selecting—9 percentage points higher than in any other region. Earnouts also rank 13 percentage points higher than the three factors that tied for second place in Latin America: regulatory environment, use of template agreements in contracts and warranty and indemnity claims.

BRG Associate Director Alejandro Martinolich, who is based in Buenos Aires, said, “Commercial disputes in the region mainly revolved around breaches of representations and warranties, claims under indemnities, purchase price adjustments and post-completion mechanisms”, with the complex political environments in Brazil, Mexico, Argentina and Peru driving disputes.

Top-Ranked Disputes Drivers in 2023 by Region

| Rank | APAC | EMEA | Latin America | North America |
|------|---|---|--|---|
| 1 | Increased deal activity or investment in the region | Increased deal activity or investment in the region | Increased deal activity or investment in the region | Increased deal activity or investment in the region |
| 2 | Legal elements or structures unique to the region | Macroeconomic environment in the region | Macroeconomic environment in the region | ESG-related issues |
| 3 | ESG-related issues | Legal elements or structures unique to the region | ESG-related issues | Macroeconomic environment in the region |
| 4 | Macroeconomic environment in the region | ESG-related issues | Litigation-prone environment | Litigation-prone environment |
| 5 | Political strife in the region/geopolitical tension Cryptocurrency turmoil (tie) | Political strife in the region/geopolitical tension | Legal elements or structures unique to the region Warranty and indemnity claims (tie) | Political strife in the region/geopolitical tension |

APAC VIEW



Dealmaker interviewees in APAC note M&A disputes stemming from:

Fallout from COVID-19-era flurry of M&A deals

Disputes around pricing; funding problems, including in projects tied to China’s Belt and Road infrastructure initiatives, which come as Chinese government entities face an uphill road on multiple fronts, including heavy debt loads

Cross-border dispute activity tied to exits from Africa; and between Southeast Asian companies and European companies as Western tensions with China drive more investment flow away from China and towards Southeast Asia and India

Despite these tensions, Latin America appears poised for ongoing deal activity in the coming year. “The increase in M&A activity, current geopolitical scenario, high interest rates and varying levels of inflation will continue to influence disputes in the region and explain many of the trends for 2024”, Martinolich said. “We expect to see claims from parties seeking to modify or nullify terms pre-completion, as well as claims against those failing to fulfil their completion obligations”.

Looking ahead, digital assets & services dominates dispute concerns across regions, but most in APAC (60%), Latin America (54%) and EMEA (40%). This tracks, seeing as Hong Kong, Singapore and Korea have historically been friendly to digital assets and are where many crypto-related businesses were founded; the region also saw high-profile collapses during the “crypto winter” of 2022, such as [Terra/Luna](#) in Korea and [Three Arrows Capital](#) in Singapore.

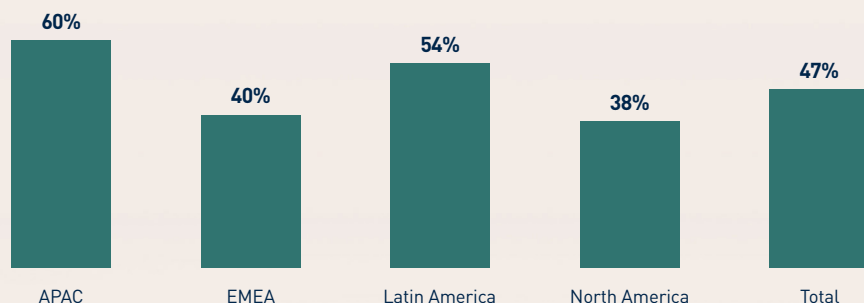
“Crypto went on a long downward spiral during the crypto winter”, said Taylor of Shearman & Sterling. “It’s finally starting to bounce back, partly due to excitement around Bitcoin ETFs, but we will still see complex disputes in 2024 and beyond as the regulatory landscape continues to shift. Crypto’s uncertain legal status in many jurisdictions creates challenges for traditional dispute resolution processes, including around valuing damages

and enforcing awards against crypto assets, but lawyers, arbitral tribunals and national courts are finding creative solutions”.

Interestingly, in North America digital assets & services was selected by a smaller share (38%) and tied with energy & climate as the leading industries expected to see an increase in dispute activity in 2024.

“Climate change is increasingly on the forefront of consumers’ minds in North America and globally, so companies are subject to more scrutiny on their performance in this area”, said BRG’s Waterfield. “And as actual climate regulation develops and becomes more stringent globally over the coming years, energy and climate-related disputes are further likely to increase”.

Expectation of Increase in Digital Assets and Services-Related M&A Disputes over the Next 12 Months by Region



AMERICAS VIEW



Interviewees in the Americas cite the following as potential M&A dispute drivers:

Uptick in activism-based litigation in the US, much of it tied to ESG

COVID-19 tax provisions

Merger appraisal litigation migrating from Delaware Court of Chancery to the Cayman Islands for tax and other reasons

Shareholder strike suit activity tied to merger announcements

Increased antitrust scrutiny and impact of increased interest rates and challenges that PE sponsors and others face in putting together financing packages

Political upheaval and macroeconomic uncertainty in major Latin American economies deepening risk from expected deal activity in the region in information technology, mining, oil and gas and agribusiness

Industry Overview

As discussed above, digital assets & services (including cryptocurrency) pulled far ahead of other leading industries for M&A disputes in 2023. More than half (51%) of respondents say that area saw increased M&A disputes—unsurprising given ongoing fallout from the “crypto winter”, the high-profile trial and conviction of FTX’s Sam Bankman-Fried and a guilty plea to money-laundering charges by Binance’s [Changpeng Zhao](#).

Energy & climate and traditional financial services tied for second place (33% each) amidst energy market volatility and the rollercoaster banking turmoil in early 2023, including [legal challenges](#) by Credit Suisse shareholders over UBS’s takeover of the failed Swiss bank.

Meanwhile, the energy transition is giving rise to a host of investment disputes as governments around the world level new environmental taxes, impose new regulatory reporting and other requirements, and implement or remove investment incentive programs.

Energy-related M&A disputes are materialising in EMEA, Hamilton of Addleshaw Goddard said, as oil and gas clients looked to pick up distressed opportunities,

especially in the North Sea. However, regulatory announcements and new taxes changed the economics of many deals that were done, leading to significant pre- and post-completion disputes with parties looking to renegotiate deal terms either leveraging the threat of pre-action or issued claims or finding themselves on the wrong end of such claims. “I’m also seeing a lot of activity coming out of our African network, again in oil and gas but also involving renewables”.

Political change is a factor, said BRG Managing Director Peter Bird. “As governments change, deals endorsed under one administration may be frustrated by their successors”, he said. “Macroeconomic stress can also harm energy project companies whose revenues depend upon prompt public-sector payment—this in turn leads to buyer remorse and disputes from the acquirers of such portfolios”.

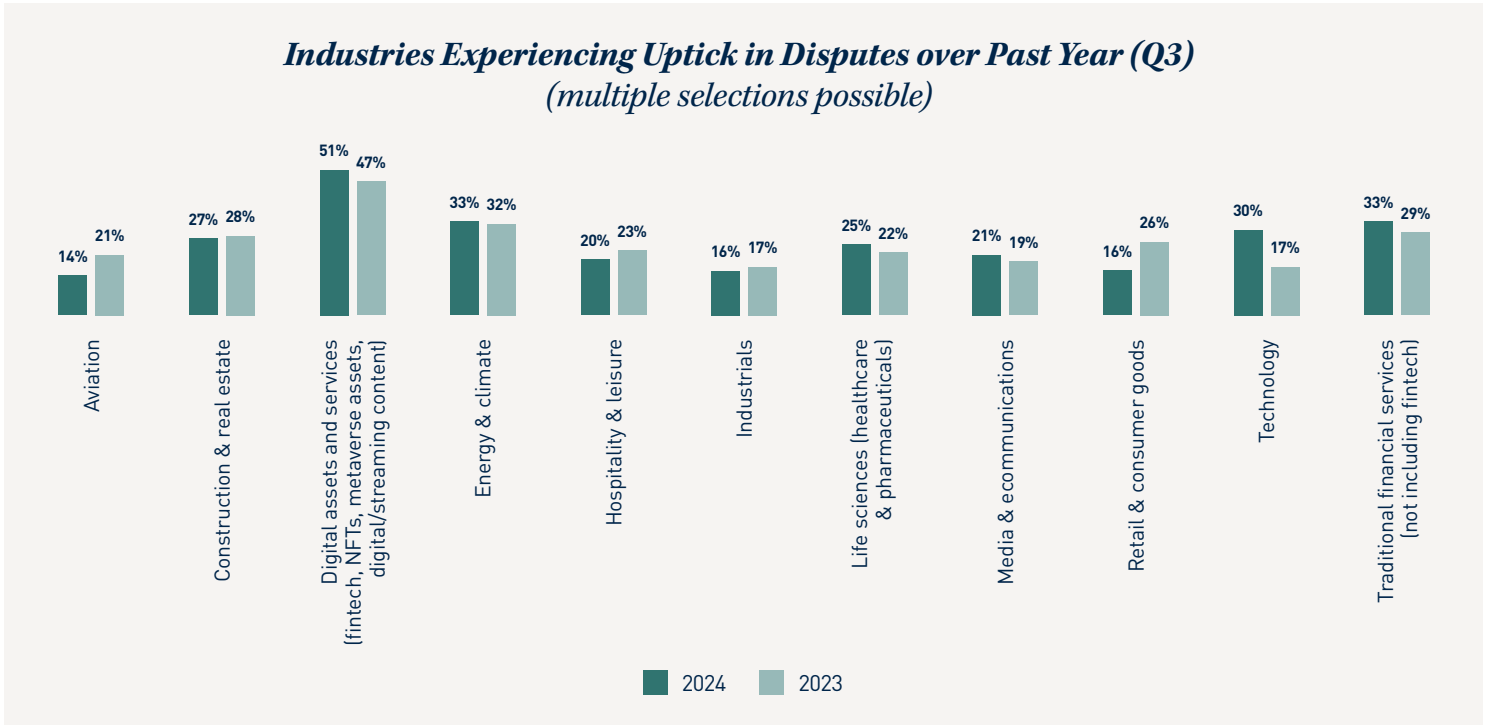
Digital assets (47%) and energy (33%) are also top of mind in 2024, with respondents selecting them as industries where M&A disputes are expected to increase in the coming year. In the US, political pushback has increased the cost and risk of renewable projects in some states, dealmakers said. Corporate finance advisors and lawyers index higher on digital

assets dispute forecasting (61%) versus the other groups surveyed; 47% of disputes lawyers predict energy disputes.

“I continue to expect significant dispute activity among digital assets”, said BRG Managing Director Albert Metz. “While there has been some recovery in value, many assets continue to struggle, and valuations are still well below historical highs. When people lose money, they often look to consolidate, and they often have disputes”.

Within APAC, deals are still happening in the technology and energy sectors, but the risk of disputes is also higher, and the disputes are increasingly complex, said Kevin Kim, a senior partner at Peter & Kim in Seoul. “Solar and wind projects in particular are seeing more disputes”, he noted. “The same goes for crypto—it’s a typical dispute, but multiple parties are involved”.

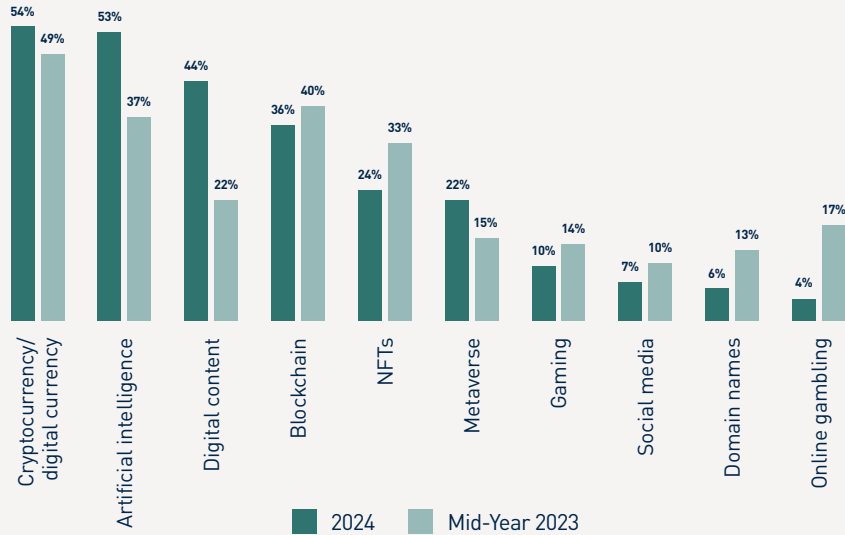
Industries Experiencing Uptick in Disputes over Past Year (Q3)
(multiple selections possible)



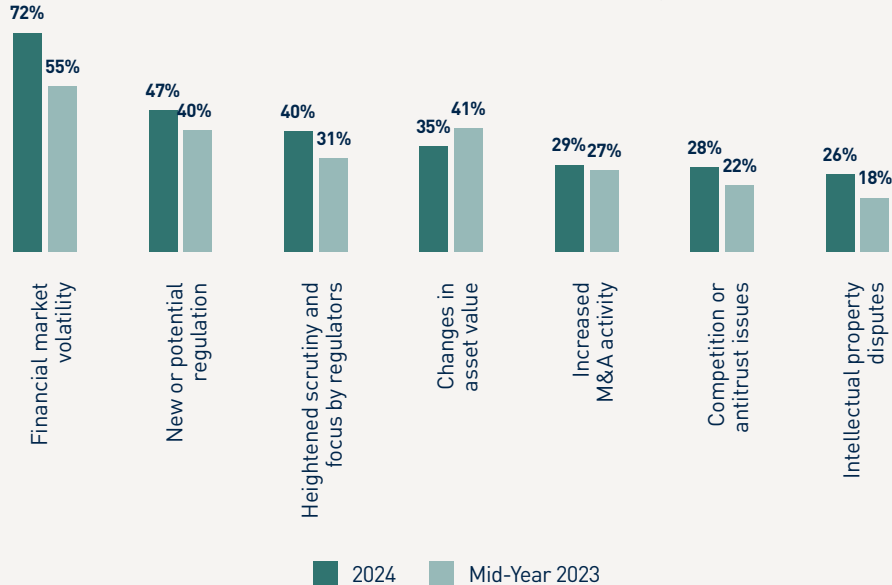
Trends expected to increase the likelihood of disputes around deals for digital assets—an already volatile asset class—include financial market volatility, which saw a significant jump since mid-2023, along with new or potential regulation, and heightened scrutiny and focus by regulators.

Greater regulatory clarity, at least in some markets, could provide needed stability in 2024—but could also lead to greater losses, Metz said. “Regulatory compliance—or the lack thereof—may become an active area of disputes going forward”.

Anticipated Digital Assets & Services M&A Dispute Areas over Next Year



Matters or Trends Contributing to Likelihood of Digital Assets & Services-Related M&A Disputes



DIGITAL ASSETS



Expectations around disagreements tied to digital asset deals have sharpened. The top three expected M&A dispute areas are:

- > cryptocurrency/digital currency
- > artificial intelligence
- > digital content

ESG Impacts and Expectations

Our previous research noted that dealmakers have been bracing for M&A disputes tied to ESG factors. Now, amidst new regulations and [anti-ESG pushback](#) (at least in North America), it's coming to fruition. Of respondents who said M&A dispute activity increased in 2023, 28% cite ESG-related issues as a primary driver—and a diverse range of ESG-related dispute catalysts are more pronounced over the forecast period for 2024, suggesting that the outlook is more—rather than less—complex.

ESG policies are moving quickly, said Harris of Clifford Chance, making it hard to keep up with what is “hard” law (i.e. law that can be enforced) and “soft” law (i.e. nonbinding rules or guidelines). More specifically around M&A, he said, “We’re also seeing a lot of issues with shareholder activists who are acquiring minority stakes in companies—and then telling the board they must divest certain assets or put in certain policies”.

As political priorities and consumer preferences around ESG issues shift, “Companies are subject to new sources of potential costs and market advantages”, BRG’s Waterfield said. “Valuation of these implications of a company’s ESG performance requires new applications of economic tools and methods to better understand liabilities and consumer demand”.

E, S and G factors driving disputes

More than half (51%) of respondents citing ESG issues as a factor in M&A dispute activity over the past year identified claims relating to sale terms (considered a general ESG issue) as a culprit. After that, ESG factors in M&A disputes tend to orient more towards environmental issues—though they also include governance and social ones. “A driving force for ESG-related disputes is the energy transition”, said Mevelyn Ong, a New York- and Australian-qualified lawyer.

Perceptions of greenwashing and surprise costs associated with later stages of green energy projects tied for the second-ranked factor (43% each). “Greenwashing elements in M&A disputes relate to disclosures, or representations and warranties about green practices, or standards/obligations being met that turn out to be false”, said BRG’s Qiu. Factors tied to cost overruns, on the other hand, may underscore macroeconomic and supply challenges now confronting capital-intensive, commercial-scale renewable projects involving wind or solar, he added.

Data privacy issues—representing the “G” or governance factor—ranked fourth among ESG M&A dispute catalysts. Selected by 39%, it was the most significant governance issue that respondents reported in 2023, outpacing factors like previous ESG reporting record, compliance and board diversity by a considerable margin.

Stricter data protection regulations globally are resulting in more intense due diligence around consumer data, leading to breakdowns in M&A negotiations, said BRG’s Finkelman. “Data breaches during the acquisition process are already derailing deals over concerns of additional liabilities, with disputes arising over assignment of liability for future data privacy violations that may have origins pre-close”, he said.

The “S” or social aspect of ESG examines how a company treats and values people—i.e. its workforce, consumers, clients, vendors and community. Among respondents citing ESG issues as a factor in M&A dispute activity over the past year, a host of social catalysts tied for fifth place at 37% apiece: employee benefits, equal employment opportunities and fair pay/living wages.

When it comes to M&A due diligence, BRG’s Tosic said, “A target which regularly performs internal pay equity analyses of its workforce, and proactively makes adjustments to pay when needed, can signal that the target has a robust risk management process in the social area of ESG. If a company has high

labour turnover in a particular location, department or organisational level, this could point to potential workforce dissatisfaction or management issues. Such key information may become critical in determining potential integration issues, and failure to address these issues may lead to future financial losses and legal liabilities”.

Ong expects to see “an emergence of the ‘S’ of ESG issues becoming more pronounced—especially with regulation aimed at implementing monitoring and reporting mechanisms for modern slavery (and other human rights abuses) in supply chains. How this will influence contractual drafting at the M&A stage will be interesting to watch”.

Some ESG dispute catalysts contain multiple E, S and G factors or reflect broader geopolitical tensions. For example, supply chains associated with the clean energy transition have drawn attention over allegations of [human rights abuses](#) such as those tied to copper and cobalt mining in the Democratic Republic of Congo. The rare earths sector also involves geopolitical risks due to the US’s rivalry with China, another potential avenue for disputes.

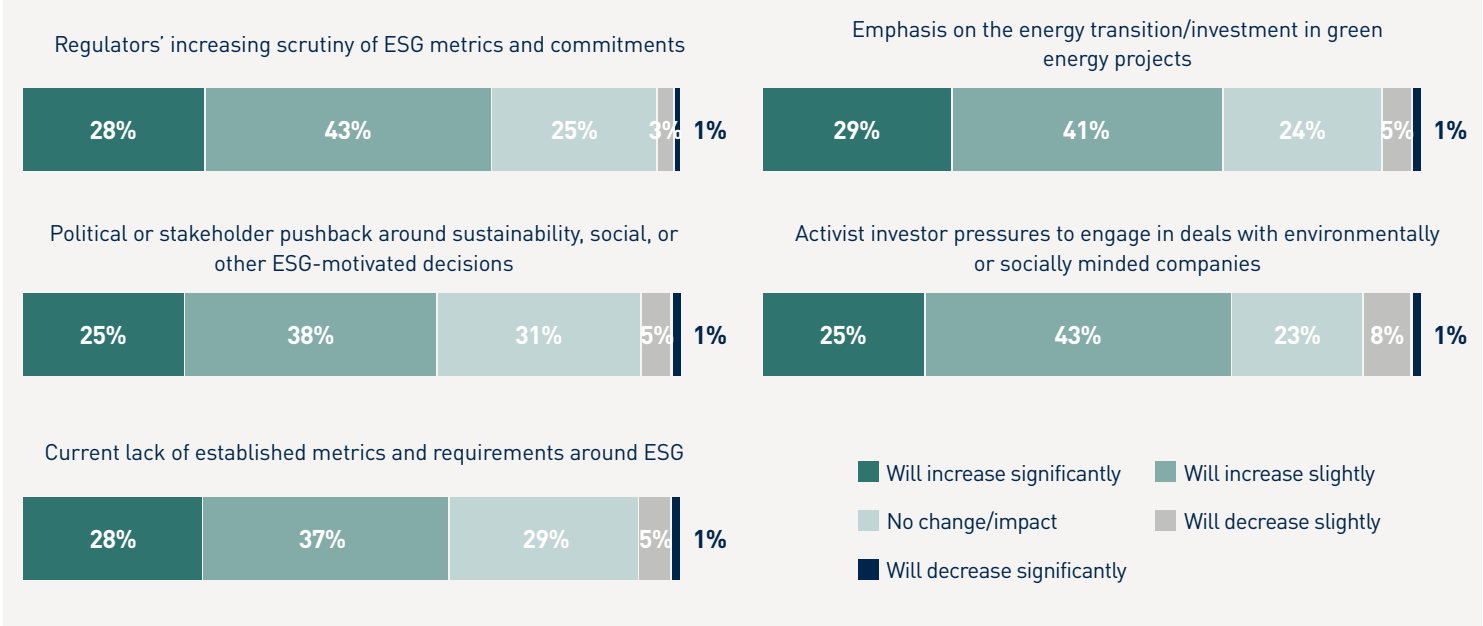
2024 ESG outlook

Looking ahead, nearly three-fourths (74%) of all respondents say mandatory ESG claims and breaches of representations and warranties claims will contribute to ESG disputes. The latter area, said Jenner & Block’s Rogers, is “where in an M&A deal you allocate the risk of meeting ESG obligations. This ESG risk is novel and evolving, and therein lies the potential for disputes”. ESG disputes could also manifest as securities or derivative litigation in federal or state courts throughout the United States, including the Delaware Court of Chancery, said Evert Christensen, a New York-based partner in Weil’s securities litigation practice group.

The majority of respondents also foresee greater regulatory and political focus on ESG in the next 12 months, heightening the risk of ESG-related disputes.

“In terms of the future, we might start to see disputes involving vendor representations about the target company’s state of readiness towards meeting low-carbon business models and targets”, said Brown of Simmons & Simmons. “These ESG related litigation claims are a likely evolution of what we are seeing in the M&A disputes space”.

Expectations for ESG Action over the Next 12 Months



AI Tools and Risk Mitigation

Artificial intelligence is making inroads into the dealmaking process, offering potential efficiencies but posing new risks. Our research found that 52% of M&A and corporate finance lawyers are using AI for risk analysis/mitigation, and 49% are using it for valuations. Meanwhile, 64% of PE professionals are using AI for valuations in M&A deals, 61% for success predictions and 59% for enhanced risk analysis.

Lawyers and PE professionals have traditionally relied on heavy manual review and sampling for due diligence, said BRG Managing Director and Associate General Counsel Amy Worley. “I expect that M&A teams will be relying increasingly on AI to speed up that process and push deals across the finish line faster. What we don’t know is how AI reviews and analyses will hold up when tested by litigation”, she said.

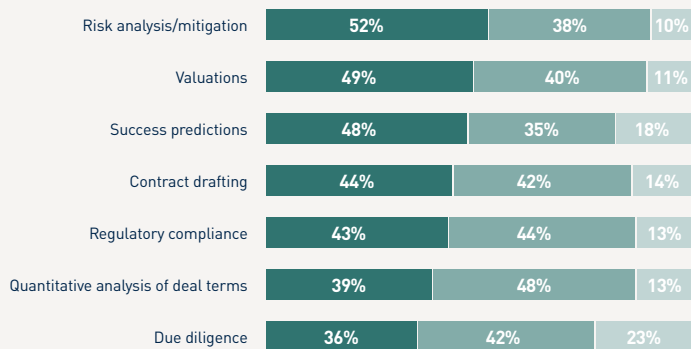
AI tools are being used in due diligence exercises in particular, said Addleshaw Goddard’s Hamilton. “Most likely every firm is investing a lot both in their own capabilities in the AI space, but also in assisting clients to procure and use these tools securely. Certainly, Addleshaw is investing heavily in its AI tools and also advising clients on the same”.

AI is also automating aspects of financial modeling, forecasting and comparables analysis, as well as contract and risk analysis, said BRG’s Finkelman, who noted that overreliance on AI models poses risks if models are flawed. PE professionals appear further ahead than corporate finance lawyers and advisors when it comes to use of AI in risk analysis, according to our research, though it’s unclear how that may have affected respondents’ dispute exposure.

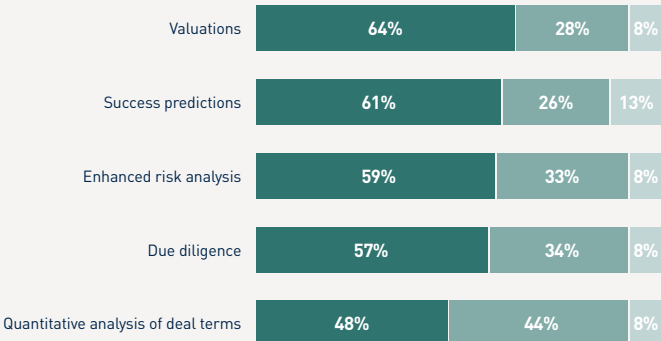
“As AI deal use increases, pushback is rising around issues like model biases, unfair outcomes, lack of transparency and legal risks”, Finkelman said. “Disputes stemming from flawed AI projections or missed red flags are expected to rise. As a result, verification of AI tools and focus on responsible AI practices are increasing”.

More broadly, dealmakers are deploying, and advising clients to follow, a range of approaches aimed at mitigating disputes.

Usage of AI in M&A Work by Corporate M&A Advisors & Lawyers



Usage of AI in M&A Work by Private Equity (PE)



■ Currently using ■ Considering using ■ Not considering at this time

Due diligence covers what is topical. When governments around the world are stepping up sanctions, parties should expect enhanced due diligence to assess sanctions-related risks of contractual counterparties. Some strategies, such as maintaining flexibility in clauses, could provide protection in the event a party wants to back out from a deal due to changes in the economy—but could also serve as a source for disputes.

Retaining the right to information is a top area of advice for both parties. Sellers can face significant obstacles in international arbitration when trying to prove a post-M&A dispute case. That's because, typically, the books and records of the seller transfer to the buyer post-closing, Ong said. "During the negotiation stage, the parties might wish to consider whether exceptions ought to be made to accessing certain books and records after closing occurs".

ACTIONS TAKEN TO MITIGATE DISPUTES

1. Adherence to Regulations

- > Follow government and regulatory guidelines meticulously.
- > Ensure watertight contracts by outlining all known regulations.
- > Thoroughly research potential legal difficulties, litigation and regulatory issues.

2. Risk Management & Due Diligence

- > Emphasise due diligence at every stage, from pre-signing to delivery.
- > Engage legal experts and solicitors for proactive risk reduction.
- > Mitigate risks through clear risk allocation and strategic planning.
- > Use AI for warnings and strategic awareness to avoid disputes.

3. Communication & Coordination

- > Maintain open lines of communication with legal team.
- > Coordinate with legal experts specialising in buying and selling.

5. Strategic Planning

- > Strategically plan actions to steer away from disputes.
- > Allocate extra time for reviews to ensure thorough due diligence.

4. Dispute Resolution

- > Include dispute resolution process details in purchase agreements.
- > Be prepared for litigation and have a mitigation strategy in place.





M E T H O D O L O G Y

M&A DISPUTES REPORT 2024
M&A DISPUTES REPORT 2024
M&A DISPUTES REPORT 2024
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Methodology

BRG's 2024 M&A Disputes research initiative was conducted in two major phases: (1) in-depth qualitative interviews and (2) a quantitative online survey.

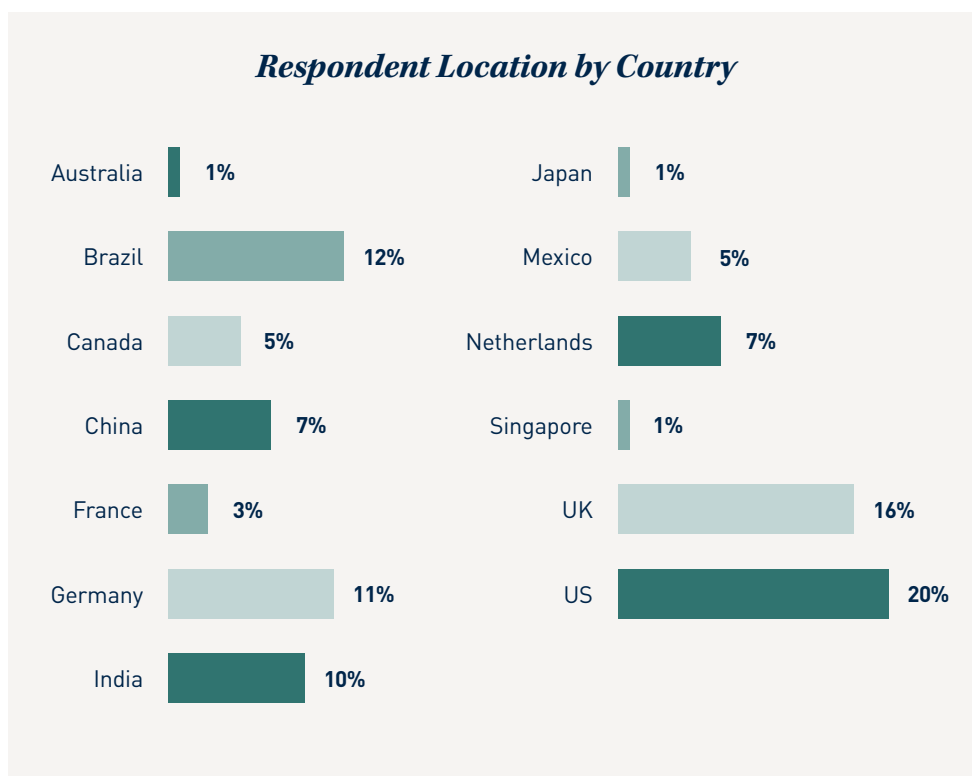
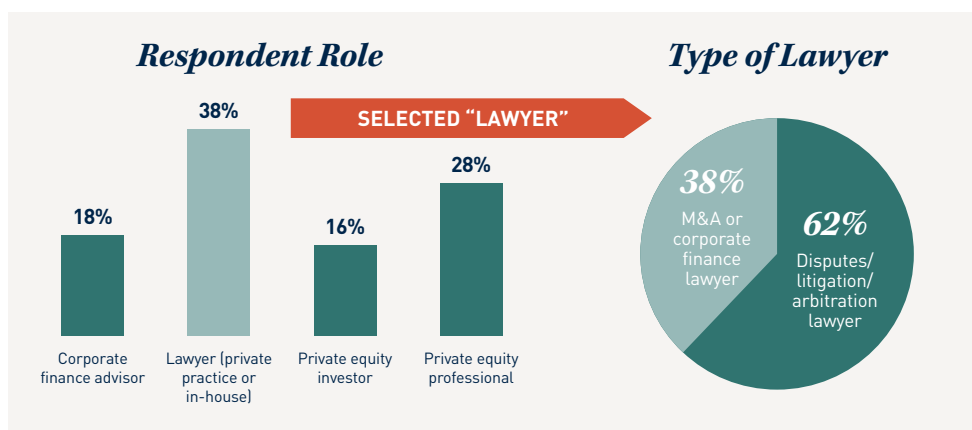
Interviews took place in September and October 2023 and resulted in strong verbatim input from 18 interviewees representing 13 law firms from across the globe.

BRG's annual survey fielded in November 2023. Participation was anonymous. A total of 225 respondents completed the survey: 85 lawyers (private practice or in-house), 99 private equity professionals and 41 corporate finance advisors.

To accommodate for the disparity in responses by region and role, crosstabs were calculated and appear in the report analysis in cases where relevant.

Analysis also includes comparisons between this year's survey (referred to as "2024" in charts) and findings from BRG's 2023 *Mid-Year M&A Disputes* survey, which fielded in late March through early April 2023, as well as the previous full survey, conducted at the end of summer 2022, and referred to as "2023" in charts.

Due to rounding and questions asking for more than one response selection, data may not add up to 100%.



Respondent Location by Region

| Region | Proportion | Number |
|---------------|-------------|------------|
| APAC | 20% | 45 |
| EMEA | 38% | 86 |
| Latin America | 17% | 38 |
| North America | 25% | 56 |
| Total | 100% | 225 |

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 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.

Our Expertise - M&A Disputes

The complex nature of M&A disputes makes them uniquely fertile ground for our approach. In addition to the traditional accounting expert role, we bring a commercial understanding of the transaction and an appreciation of the perspectives of all parties involved. We unpick the commercial drivers and behaviours of parties in order to navigate the dispute and decipher the relationship between the complaint and underlying issues. Our industry practitioners bring an intuitive view which is combined with our team's analytical rigour and understanding of the dispute resolution process.

M&A: Key Players and Their Interests



Contributor Biographies

Contributors

Adam Brown

Partner, Simmons & Simmons, London

Adam Brown advises on complex, high-value disputes including commercial litigation, M&A disputes and civil fraud. He acts for clients across a range of sectors, notably for banking, asset management, commodities, natural resources and technology firms. Brown is recognised for his expertise in civil fraud matters and asset recovery. He also acts for listed companies defending class action shareholder disputes.

Tim Browning

Partner, Eversheds Sutherland, London

Tim Browning helps clients manage legal risks and resolve complex disputes, dealing with commercial contract and tort claims and working closely with colleagues in Eversheds Sutherland's transactional M&A team to help clients maximise value from their investments. He has particular experience acting on post-transactions disputes, including completion account and earnout disputes, restrictive covenant claims and warranty and indemnity claims.

Evert Christensen

Partner, Weil, Gotshal & Manges, New York

Evert J. Christensen, Jr. focuses on defending M&A, securities and stockholder class and derivative litigation in federal and state courts in the US. He also counsels public company boards of directors and senior management with respect to a broad range of corporate governance, business and regulatory matters. He has experience representing boards of directors in connection with responding to stockholder demands and conducting internal investigations.

Jacob M. Croke

Partner, Sullivan & Cromwell LLP, New York

Jacob M. Croke's practice focuses on advising major companies and boards of directors in complex litigations, regulatory proceedings and internal investigations. His experience includes securities and derivatives litigations, M&A-related disputes, bankruptcy proceedings, matters related to structured financial products and acquisitions of assets from failed financial institutions in federal and state courts and before arbitral tribunals.

Tomas Furlong

Partner, Herbert Smith Freehills, Singapore

Tomas Furlong specialises in cross-border disputes for corporates and financial sponsors. He has a broad commercial practice covering arbitration and international litigation, with a focus on the energy, technology and telecom sectors. He has recent experience of joint venture, contract, commercial fraud and investment treaty claims. Furlong acts as counsel (advocate) and arbitrator.

Yolanda Garcia

Partner, Sidley Austin, Dallas

Yolanda C. Garcia, co-leader of Sidley Austin's Securities and Shareholder Litigation practice group, represents corporations, corporate officers and directors in matters including national class actions, multijurisdictional cases, domestic and international arbitrations, securities cases and internal investigations.

Tim Gardner

Corporate Partner, Weil, Gotshal & Manges, Hong Kong

Tim Gardner is the managing partner of Weil's Hong Kong office and a partner in the firm's corporate department. He focuses exclusively on private equity and M&A and regularly advises global, pan-Asia and local PE sponsors and corporate clients on a wide array of complex and cross-border transactions in the APAC region.

Lauren Hamilton

Partner, Addleshaw Goddard, London

Lauren Hamilton has over 15 years' experience representing clients on a broad range of disputes, including sale and purchase agreement and completion disputes, breaches of warranties and indemnities, termination disputes, business protection claims (relating to the protection of confidential data and enforcement of covenants), shareholder disputes, unfair prejudice claims, disputes with subcontractors and suppliers, civil fraud claims and technology disputes for information technology customers and suppliers.

Peter Harris

Partner, Clifford Chance, Tokyo

Peter Harris helps clients navigate cross-border business disputes through litigation, arbitration, mediation and other forms of alternative dispute resolution. He regularly acts for clients in the energy, resources, construction and infrastructure sectors but also has recent experience of resolving disputes relating to tech, financial services, shipping and commodities. Harris is an experienced oral advocate who regularly appears before international tribunals. He also sits as an arbitrator.

Kevin Kim

Senior Partner, Peter & Kim, Seoul

Kevin Kim has acted as counsel, presiding arbitrator, co-arbitrator or sole arbitrator in more than 300 international arbitrations cases under various arbitration rules over the past 30 years. Kim is an Advisory Board member of the International Council for Commercial Arbitration and chairman of the KCAB (Korean Commercial Arbitration Board) International Arbitration Committee, among other positions that he holds.

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Chloe Morris is a disputes and investigations lawyer with particular expertise in civil fraud matters and class action shareholder disputes brought under Sections 90 and 90A of the UK Financial Services and Markets Act. Her broader practice includes advising on commercial disputes involving financial institutions, as well as data protection and cybersecurity matters.

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Mevelyn Ong is an international disputes lawyer, who has worked in New York, Australia and East Asia. She has advised clients from diverse industry sectors in the resolution of international commercial and treaty disputes, as well as with respect to multi-jurisdictional sanctions, anti-money laundering and anti-corruption investigations. She has particular experience and interest in matters concerning political risk, ESG/business and human rights considerations, transnational criminality and international law.

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Richard S. Radnay focuses his practice on M&A and PE transactions, including acquisitions and divestitures, joint ventures, private financings, executive compensation and equity incentive arrangements; and counseling boards of directors and senior management. He has led transactions in industries including healthcare, life sciences, computer software and hardware, technology, consumer products, financial and business services, and distribution and manufacturing.

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James Rogers is an international arbitration lawyer based in London but with a particularly international practice which covers corporate, M&A, licensing and joint-venture disputes, with particular sector expertise in energy, mining, infrastructure, technology and construction. In addition, he has significant experience in arbitration matters involving state and state-controlled entities. He also accepts arbitrator appointments.

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Edward Taylor represents companies, states and state-owned entities in commercial and investment treaty disputes. His practice includes international disputes related to M&A, private equity, energy, infrastructure, joint ventures, technology, media and telecommunications, digital assets and real estate. He also sits as arbitrator, including in Hong Kong International Arbitration Centre (HKIAC) proceedings. Taylor is qualified in England, Wales and Hong Kong and is a fellow of the Chartered Institute of Arbitrators (CIArb) and Hong Kong Institute of Arbitrators (HKI Arb).

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Alejandro Martinolich has wide experience performing business and assets valuation for M&A, litigations, divestitures, joint ventures, accounting registrations, taxes and other matters. He has a track record in damages valuation for disputes resolutions, financial and M&A advisory and debt restructuring agreements.

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Albert Metz is a financial economist and econometrician with over 20 years' experience spanning numerous industries, with a focus on cryptocurrencies, multisided platforms, commodity and energy markets and financial institutions.

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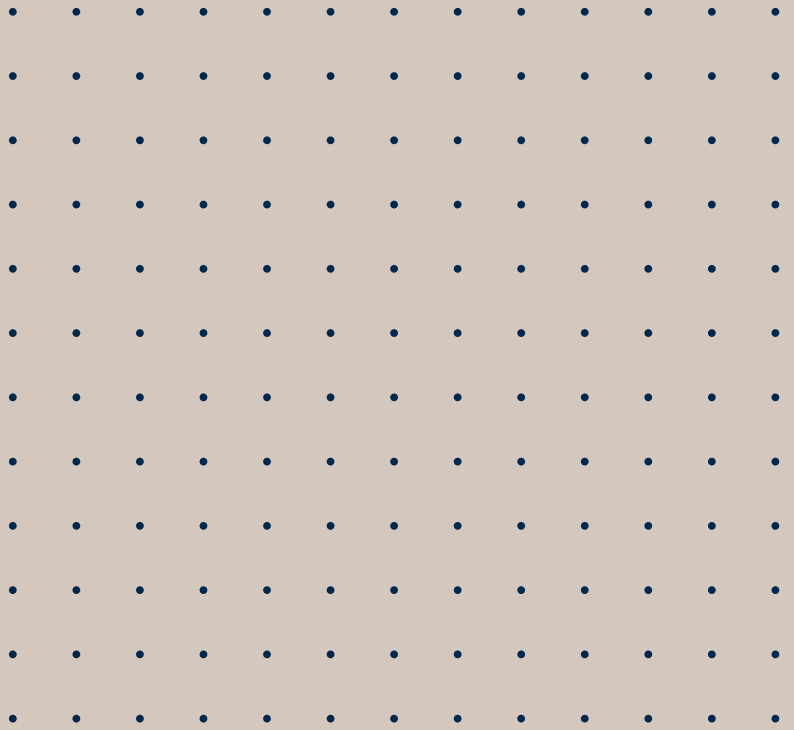
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