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# Public M&A Year in Review: Trends and Highlights from 2015

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**Presenter:**

Daniel Rubin, *Practical Law Corporate and M&A*

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# Global M&A Activity

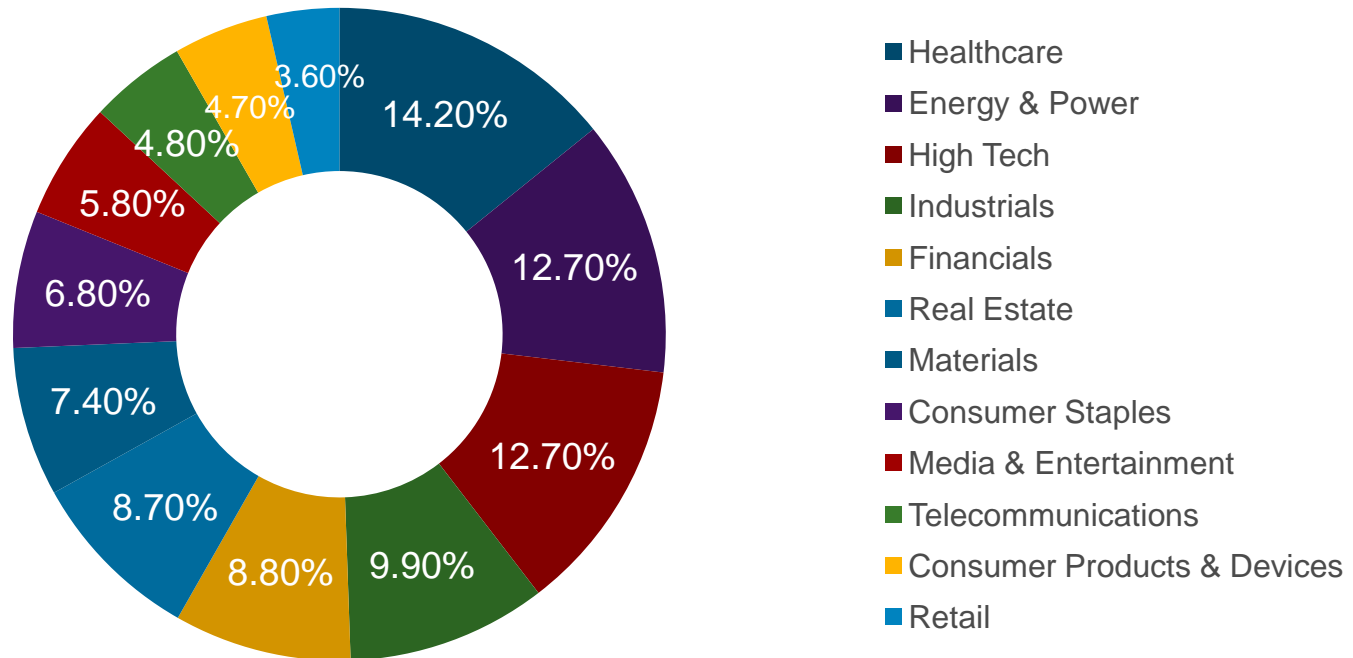
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- Strongest year for deal-making on record
- Worldwide M&A totaled \$4.7 trillion during 2015—42% rise in dollar value from 2014
- 71 announced deals valued over \$10 billion, which accounted for 41% of announced M&A value
- Three consecutive quarters surpassed \$1 trillion dollars in M&A
- 4Q'15 M&A totaled \$1.6 trillion—50% increase over 3Q'15
- Top three all-time months for global M&A activity:
  - November 2015 (\$611.2 billion)
  - October 2015 (\$548.5 billion)
  - June 2015 (\$530.1 billion)

# Global M&A — Industry Comparison

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## Worldwide Announced M&A Target Industry, by Value



# Global M&A — Largest Announced Deals

Acquiror/Target (Announcement Date)	Macro/Mid-Level Industry	Deal Value	Consideration
Allergan/ <b>Pfizer</b> (November 22, 2015)	Healthcare/Pharmaceuticals & Biotechnology	\$191.5 billion	Cash/stock election
Anheuser-Busch InBev/ <b>SABMiller</b> (October 7, 2015)	Consumer Staples/Food & Beverage	\$120.8 billion	Cash/stock/mix election
Royal Dutch Shell/ <b>BG Group</b> (April 8, 2015)	Energy & Power/Oil & Gas	\$81.0 billion	Cash and stock
Charter Communications/ <b>Time Warner Cable</b> (May 23, 2015)	Media & Entertainment/Cable	\$78.4 billion	Cash and stock
The Dow Chemical Company/ <b>DuPont</b> (December 11, 2015)	Materials/Chemicals	\$68.4 billion	All stock
Dell/ <b>EMC</b> (October 12, 2015)	High Technology/Computer & Peripherals	\$67 billion	Cash and stock
Energy Transfer Equity/ <b>The Williams Companies</b> (September 28, 2015)	Energy & Power/Oil & Gas	\$55.9 billion	Cash/stock/mix election
Heinz/ <b>Kraft Foods Group</b> (March 24, 2015)	Consumer Staples/Food & Beverage	\$54.7 billion	Cash and stock
Anthem/ <b>Cigna</b> (June 20, 2015)	Healthcare/Healthcare Providers & Services	\$49.4 billion	Cash and stock
eBay shareholders/Paypal (July 17, 2015 — spin-off completion)	High Technology/Internet Software & Services	\$46.8 billion	Spinco stock

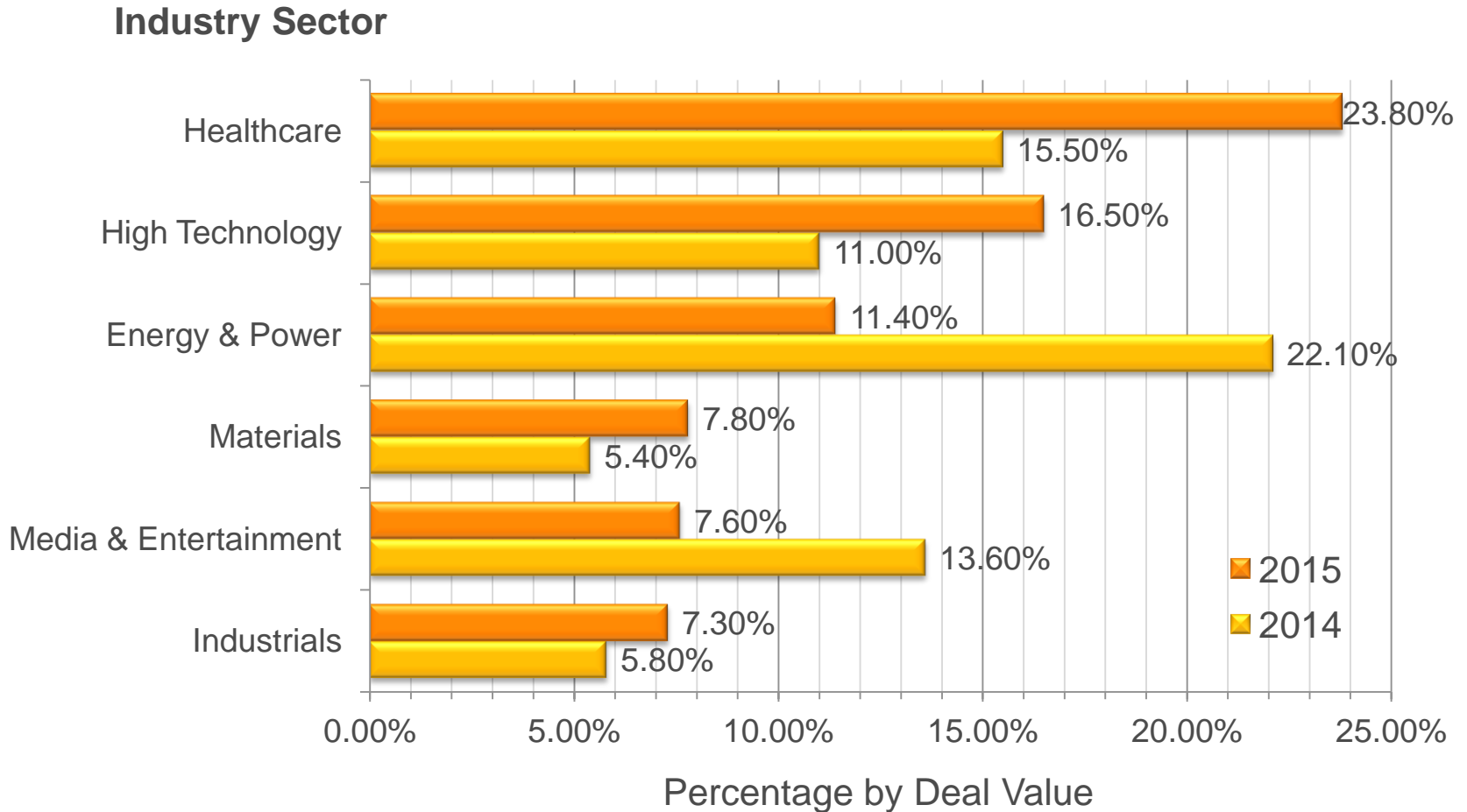
## US M&A Activity

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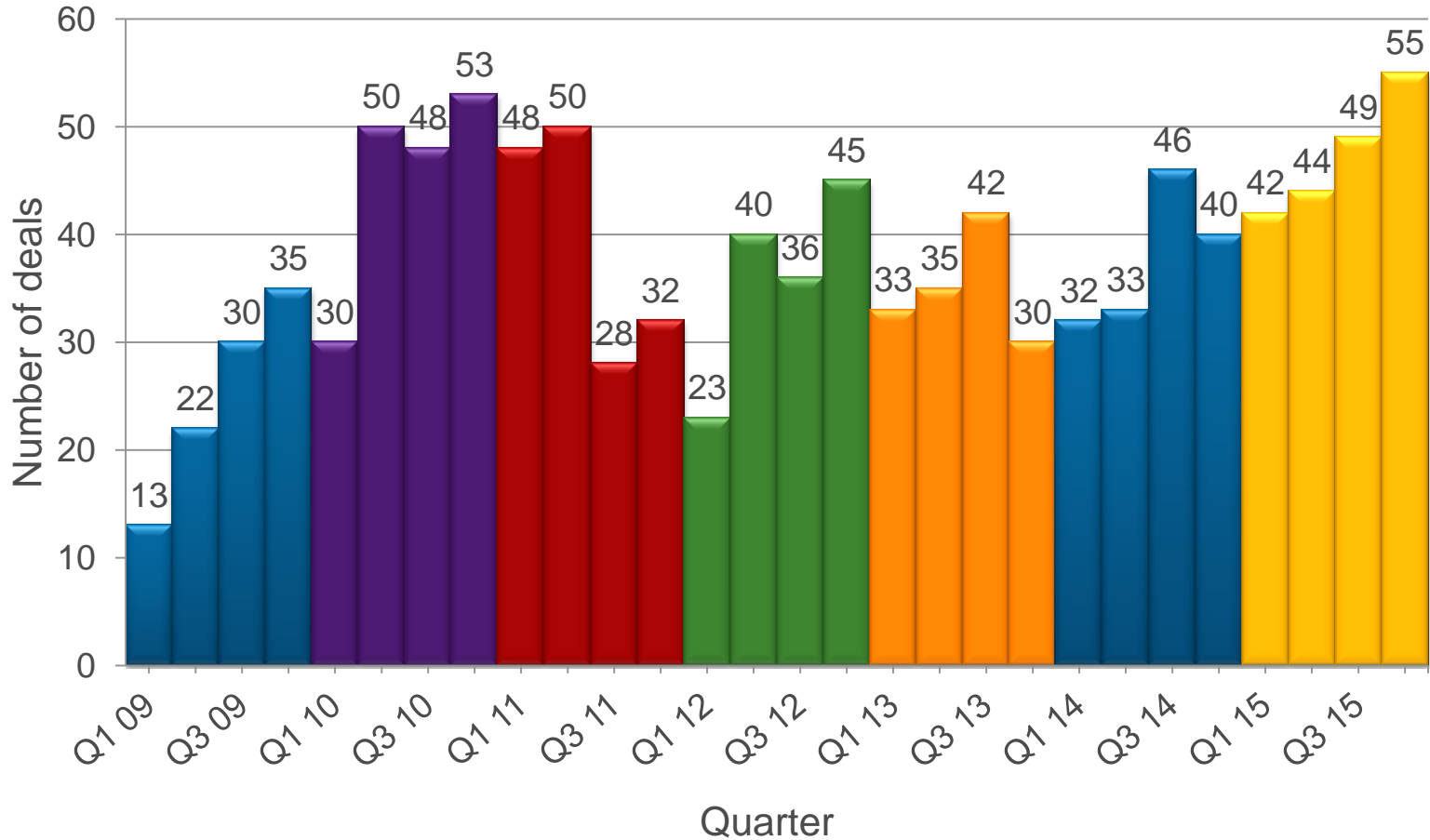
- Announced M&A deals for US-based target companies: \$2.34 trillion in deal value in 2015, a 64.3% increase over 2014
- By deal volume, the total number of announced deals fell from 10,129 in 2014 to 9,962 in 2015
- US activity accounted for 49% of the \$4.7 trillion of worldwide M&A
  - 2014: \$1.4 trillion in dollar value, 42.7% of the year's \$3.3 trillion of worldwide M&A
- 47 signed deals for the acquisition of US reporting companies valued at \$5 billion or more
  - 34 deals in 2014
  - Largest number of \$5 billion domestic public deals in any year since What's Market began tracking deals in 2008

# Most Active Industries (US Target, Announced M&A)

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# US Public M&A Activity by Quarter



What's Market tracks acquisitions of US reporting companies valued over \$100 million.

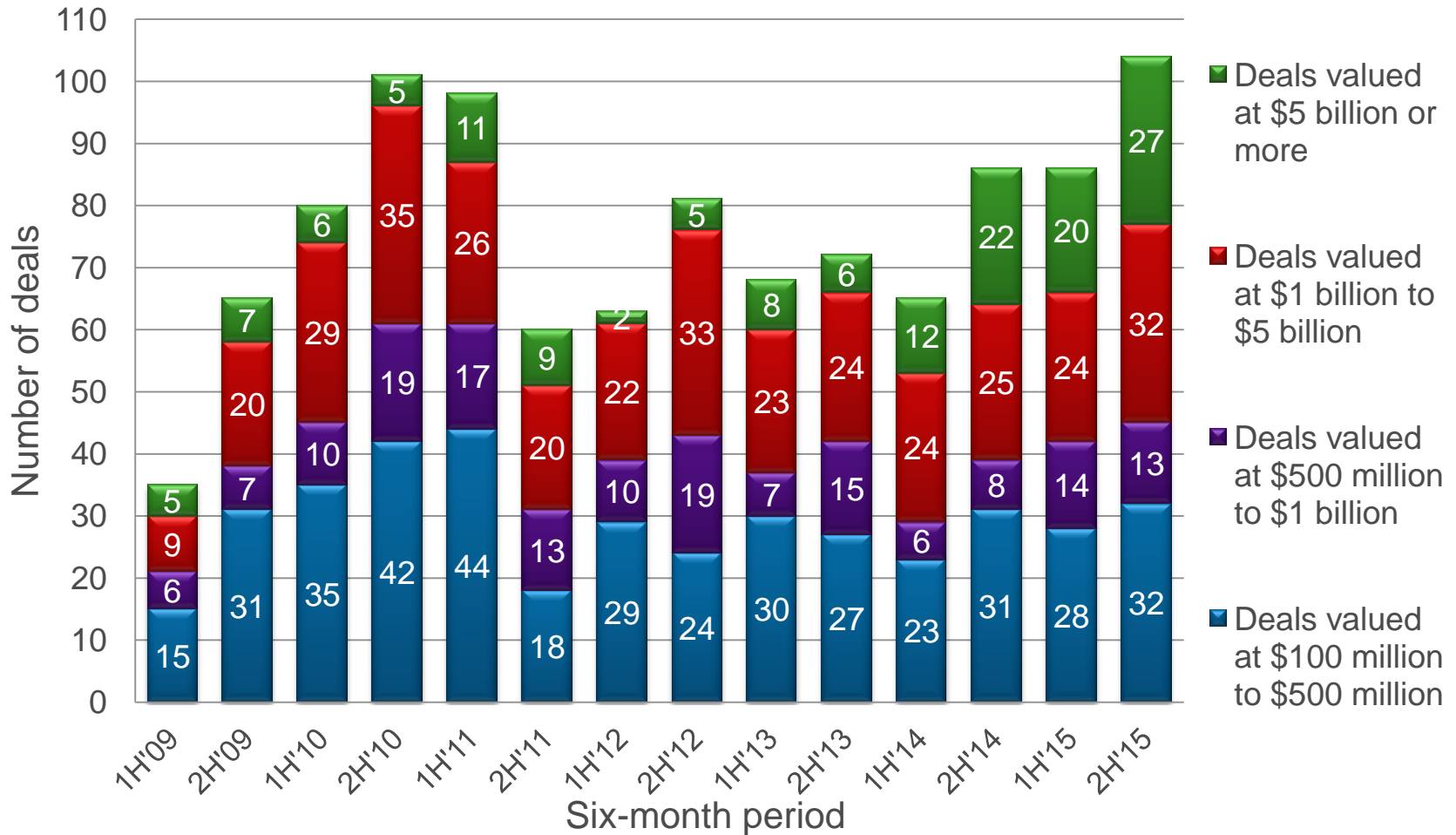


# Surge in Mega-Sized Deals

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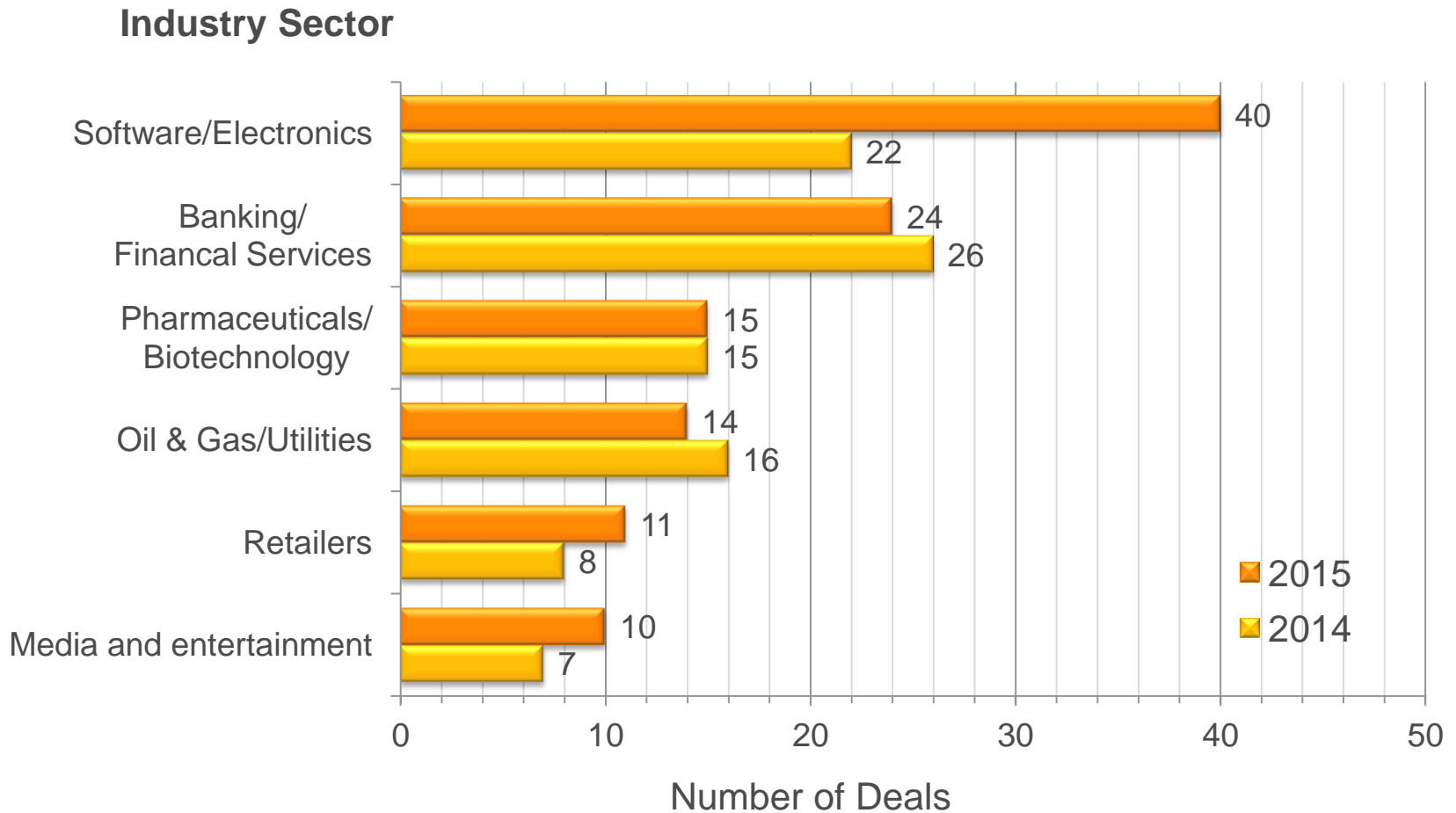
- Deals valued at \$5 billion and higher reached record levels in 2015, boosted by the predominance of strategic buyers and their highly valued stock
- 47 US public M&A deals valued at \$5 billion or more signed in 2015
  - 34 such deals signed in 2014
- >\$5B deals made up 24.7% of overall deal activity in 2015
  - 22.5% seen in 2014 and a significant increase from the 10% and 4.9% seen in 2013 and 2012
- Worldwide: 141 deals valued over \$5 billion accounted for 51% of overall M&A value, the highest percentage and number of >\$5B deals on record

# US Public M&A by Deal Value



# Most Active Industries (US Public Target, Signed Deals, >\$100M)

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# Global M&A — Middle and Small Markets

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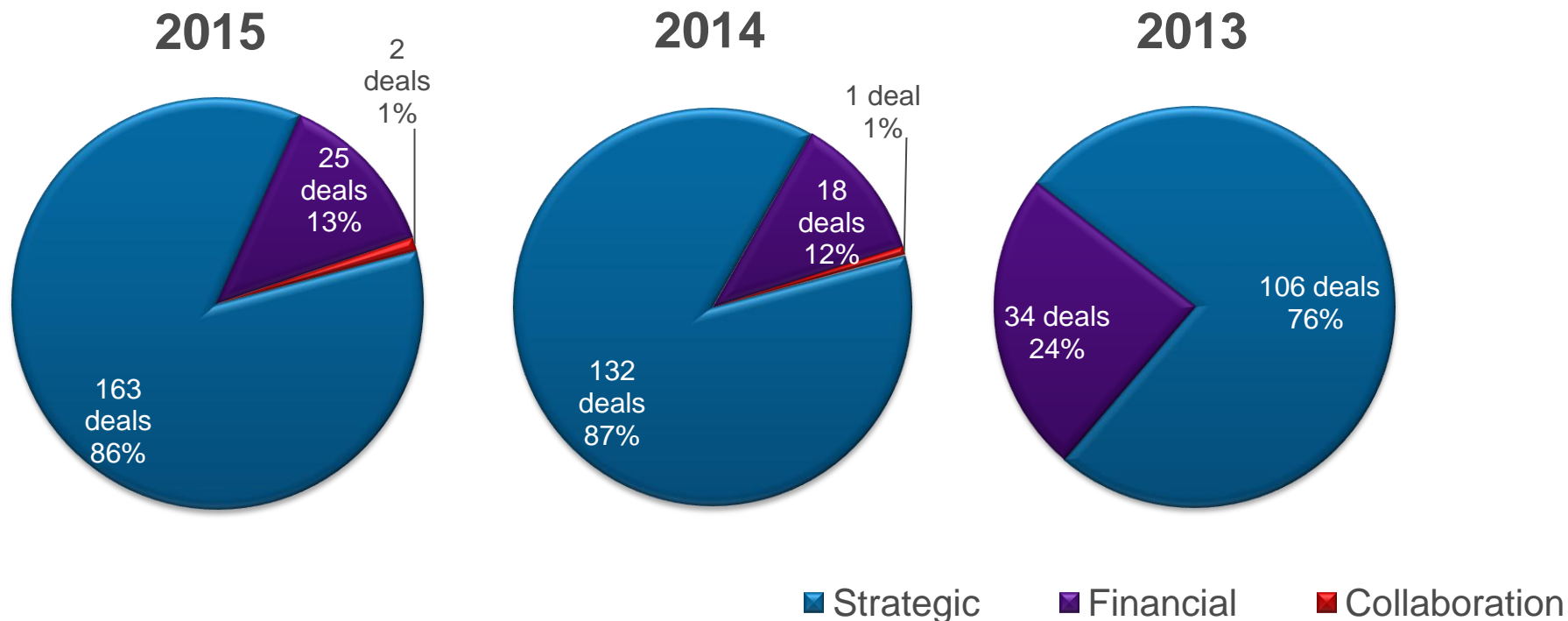
- Worldwide announced middle-market M&A (<\$500 million) totaled \$914.44 billion on 41,796 deals
  - 1.1% decrease in deal value from 2014 on a 1.6% increase in deal volume
  - Most active industries: Real Estate (15.9%), High Technology (13.4%), Industrials (11.9%), and Financials (11.1%)
- Worldwide announced small-cap M&A (<\$50 million) totaled \$141.56 billion on 37,148 deals
  - 1.5% decrease in deal value from 2014 on a 1.7% increase in deal volume
  - Most active industries: High Technology (16.3%), Industrials (13.5%), Real Estate (13.3%), and Financials (13.3%)

## US M&A — Middle and Small Markets

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- US announced middle-market M&A deals (<\$500 million): \$208.61 billion on 9,612 deals
  - 13.9% decrease in deal value from 2014 on a 1.1% decrease in deal volume.
  - Most active industries: Real Estate (15.8%), High Technology (15.3%), Energy and Power (12.8%), and Healthcare (10.3%)
- US announced small-cap M&A deals (<\$50 million): \$25.16 billion on 8,603 deals
  - 2.65% decrease in deal value from 2014 on a 0.8% increase in deal volume.
  - Most active industries: Real Estate (20.5%), High Technology (14.5%), Healthcare (11.5%), and Financials (11.2%)

# US Public M&A — Strategic vs. Financial Buyer Activity



190 Total Deals

46 deals (24%) were structured as front-end tender offers.

151 Total Deals

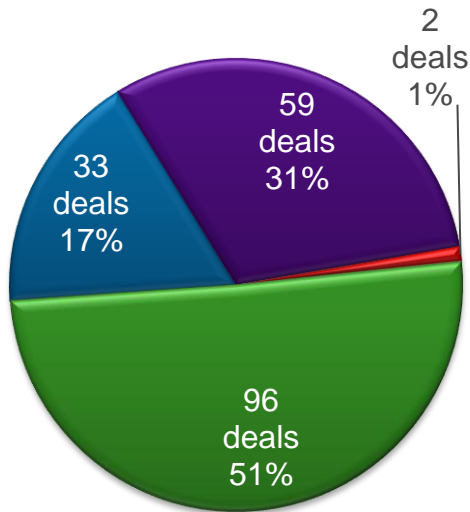
34 deals (23%) were structured as front-end tender offers.

140 Total Deals

36 deals (26%) were structured as front-end tender offers.

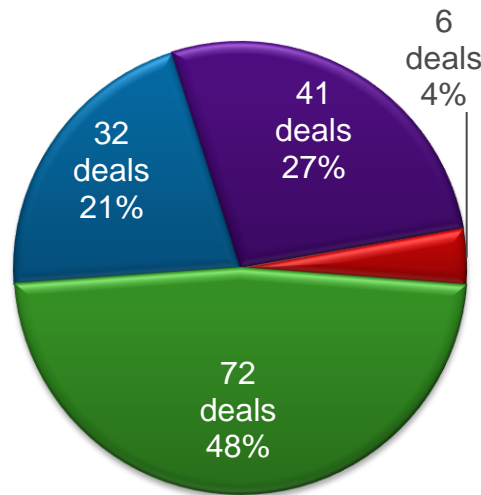
# US Public M&A — Type of Consideration

2015



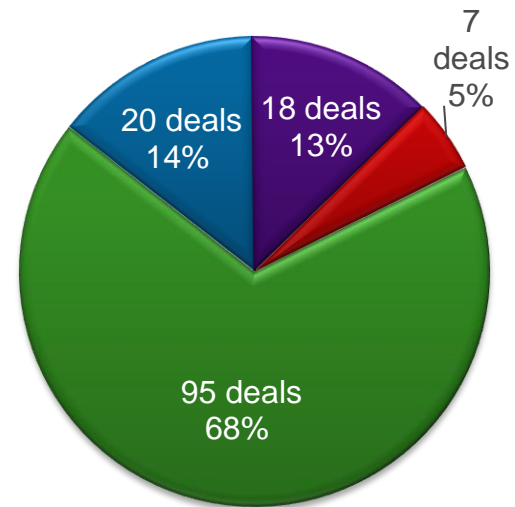
190 Total Deals

2014



151 Total Deals

2013



140 Total Deals

- All Stock
- Cash and/or Stock
- Cash and CVRs
- All Cash

# US Public M&A — Largest Strategic Deals

Acquiror/Target ( <i>Signing Date</i> )	Industry	Deal Value	Consideration
Allergan/ <b>Pfizer</b> ( <i>November 22, 2015</i> )	Pharmaceuticals and biotechnology	\$191.5 billion	Cash/stock election
Charter Communications/ <b>Time Warner Cable</b> ( <i>May 23, 2015</i> )	Media and entertainment	\$78.4 billion	Cash and stock
The Dow Chemical Company/ <b>DuPont</b> ( <i>December 11, 2015</i> )	Chemicals	\$68.4 billion	All stock
Energy Transfer Equity/ <b>The Williams Companies</b> ( <i>September 28, 2015</i> )	Oil and gas	\$55.9 billion	Cash/stock/mix election
Heinz/ <b>Kraft Foods Group</b> ( <i>March 24, 2015</i> )	Food and Beverage	\$54.7 billion	Cash and stock

Of the 47 deals valued at over \$5 billion in 2015, 42 (89%) were with strategic buyers (not including *Dell Inc./EMC Corporation*).



# US Public M&A — Largest Financial Deals

Acquiror/Target ( <i>Signing Date</i> )	Industry	Deal Value	Consideration
Dell Inc./ <b>EMC Corporation</b> ( <i>October 12, 2015</i> )	Computer and electronic equipment	\$67 billion	Cash and stock
Berkshire Hathaway Inc./ <b>Precision Castparts Corp.</b> ( <i>August 8, 2015</i> )	Manufacturing and machinery	\$37.2 billion	All cash
JAB Holding Company/ <b>Keurig Green Mountain, Inc.</b> ( <i>December 6, 2015</i> )	Food and beverage	\$13.9 billion	All cash
Vista Equity Partners/ <b>Solera Holdings, Inc.</b> ( <i>September 13, 2015</i> )	Computer and electronic equipment	\$6.5 billion	All cash
Permira Funds and Canada Pension Plan Investment Board/ <b>Informatica Corporation</b> ( <i>April 6, 2015</i> )	Computer and electronic equipment	\$5.3 billion	All cash

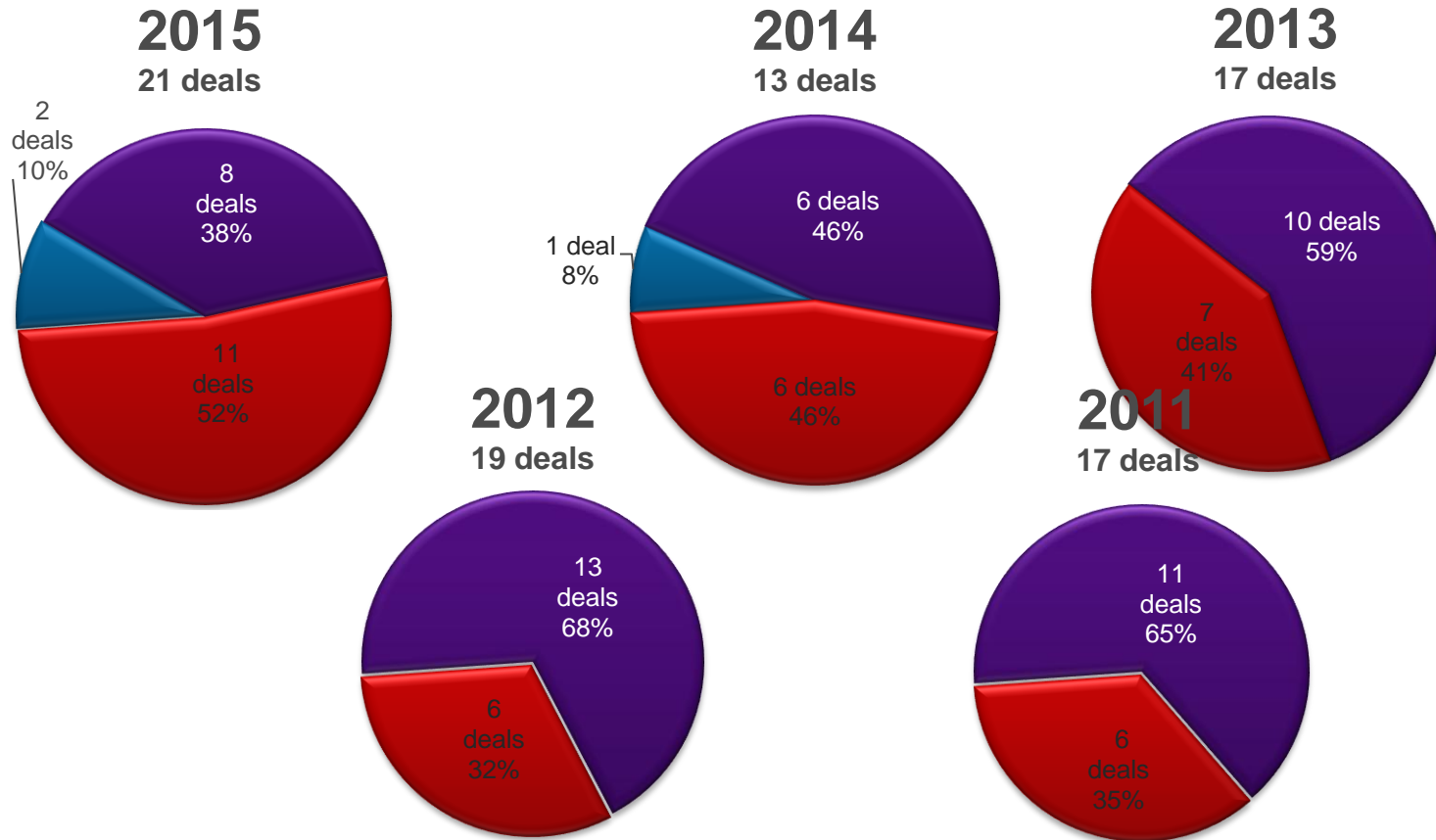
# M&A Deals and Antitrust Enforcement Trends

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- US antitrust regulators were aggressive in 2015
- Parties terminated three deals rather than litigate against the antitrust agencies:
  - Comcast/Time Warner Cable
  - Applied Materials/Tokyo Electron
  - Thai Union Group (owner of Chicken of the Sea International)/Bumble Bee Foods
- Two other deals were abandoned after litigation commenced:
  - Electrolux/General Electric
  - Sysco/US Foods
- Twenty-five of the 190 US public deals signed in 2015 charged the buyer a reverse break-up fee in the event a required regulatory approval was not obtained.
  - 14 of the 25 deals (56%) were valued at \$5 billion or more, with another six deals (24%) valued between \$1 billion and \$5 billion

# Go-Shops and Strategic Buyers

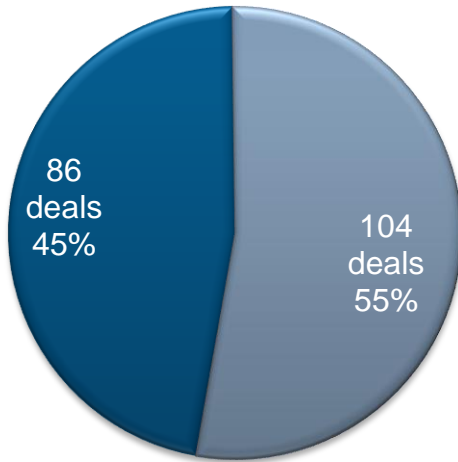
■ Collaboration ■ Financial ■ Strategic



# Leveraged vs. Unleveraged Transactions

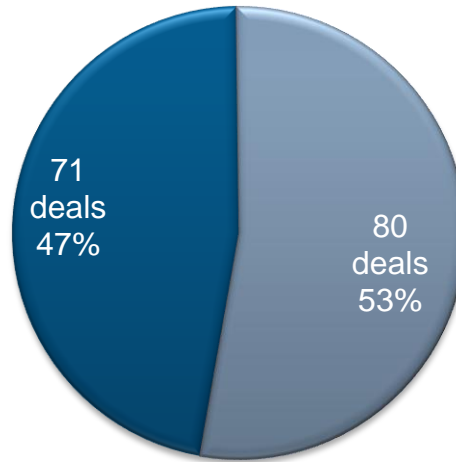
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2015



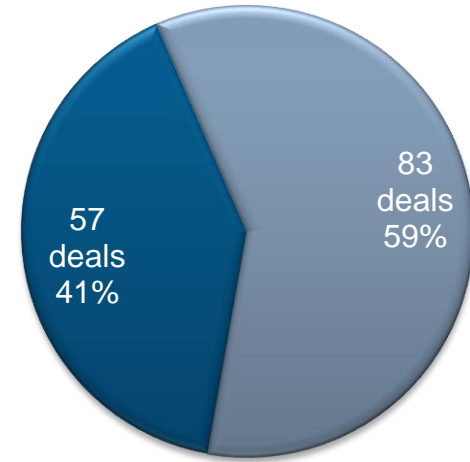
190 Total Deals

2014



151 Total Deals

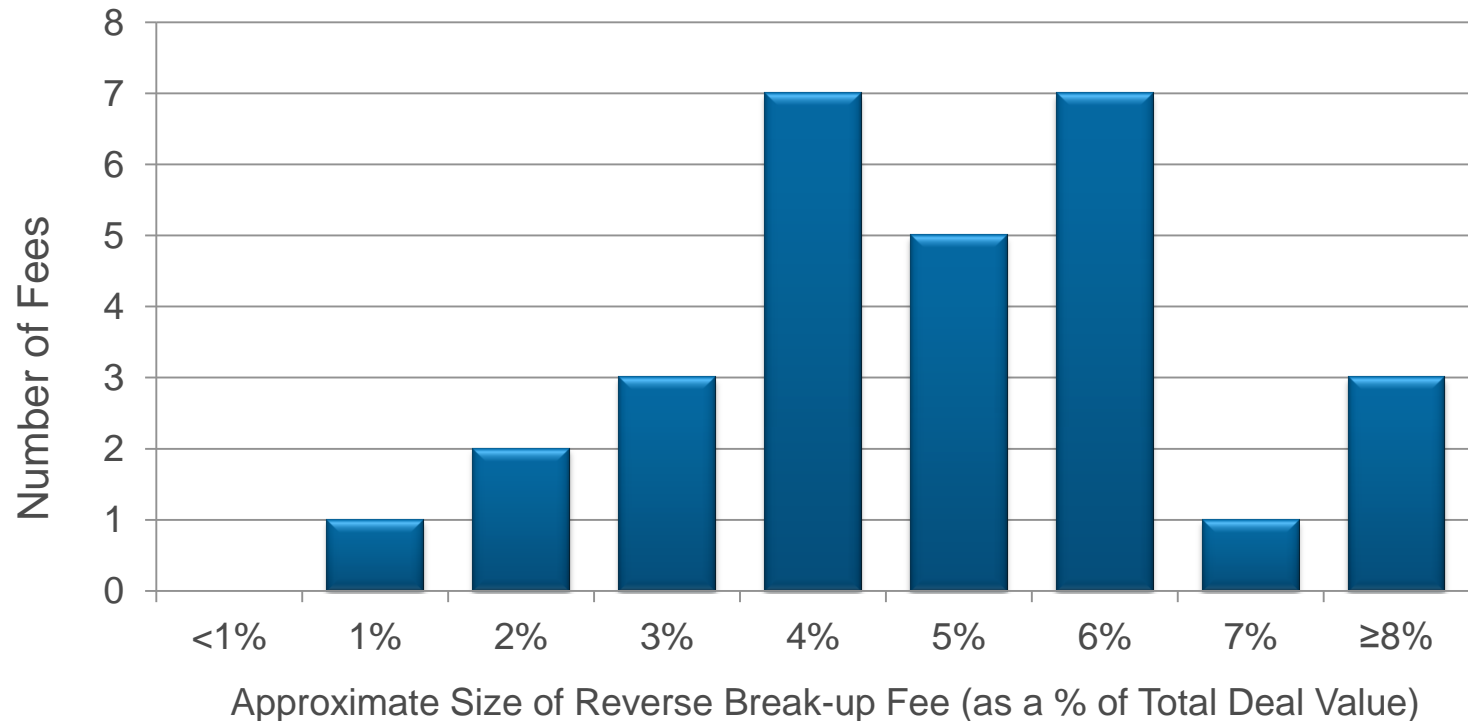
2013



140 Total Deals

■ Debt ■ Non-debt

# Reverse Break-Up Fees in Leveraged Deals

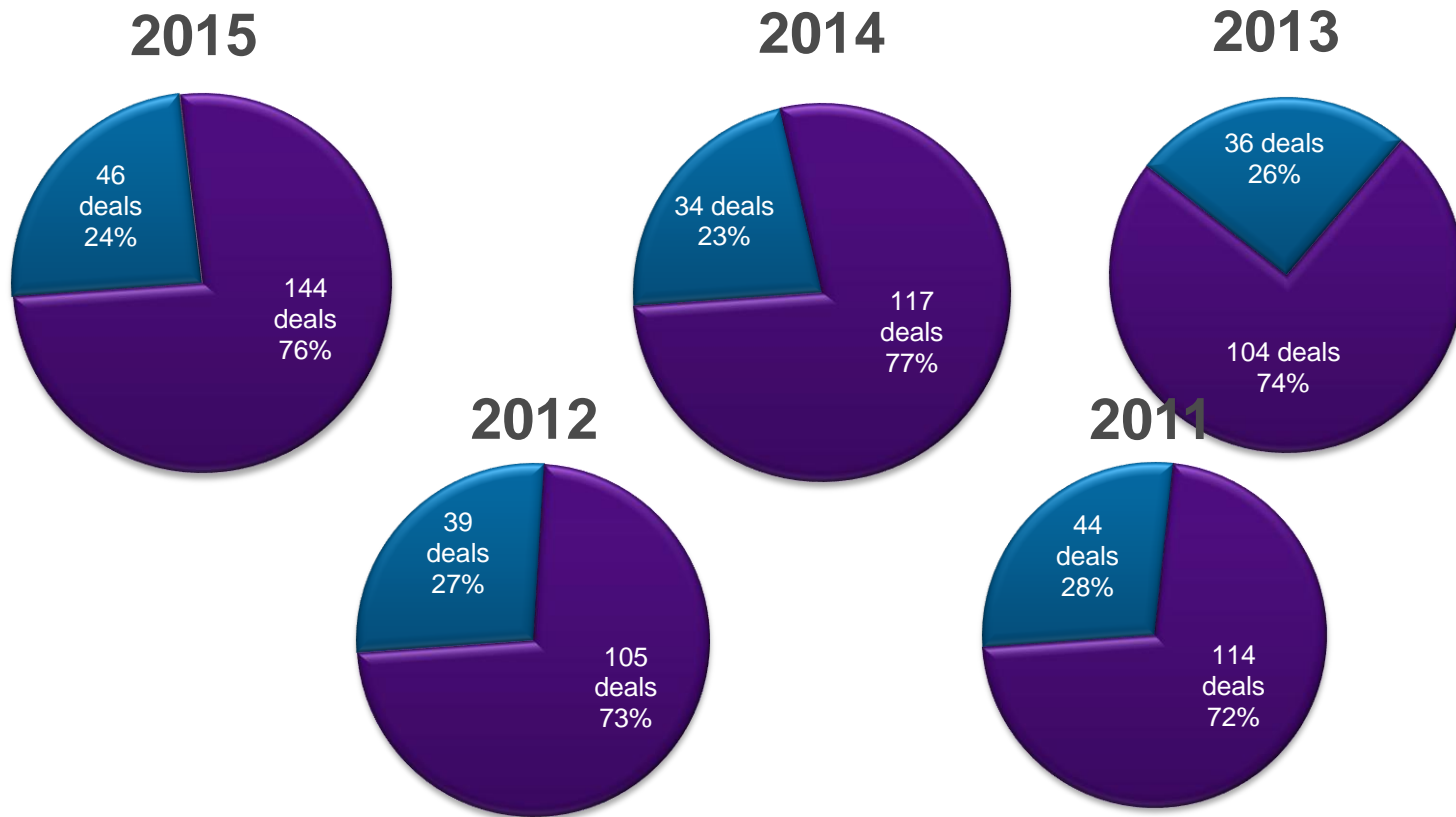


- 28 of the 86 leveraged deals in 2015 (33%) were structured to have a reverse break-up fee payable for a financing failure or other material breach by the buyer or failure to otherwise close the deal (not including for antitrust failure or fiduciary triggers). Compare 34% in 2014 and 65% in 2013.
- 11 of those 28 deals (39%) contained this type of reverse break-up fee priced at 6% or more of the total deal value.

# Deal Structure

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■ Tender Offer ■ Single-Step Merger



## Shareholder Activism and Hostile M&A

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- Notable activist campaigns in 2015 that spurred M&A deals included:
  - Dow Chemical Company/E. I. du Pont de Nemours and Company
  - Yahoo! Inc. spin-off
  - Dell Inc., Michael Dell, and Silver Lake/EMC Corporation
  - Energy Transfer Equity LP/The Williams Companies, Inc.
  - Ann Inc./Ascena Retail Group, Inc.
  - MeadWestvaco Corporation/Rock-Tenn Company

# Shareholder Activism and Hostile M&A

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- Notable topping-bid situations in 2015 included:
  - GameStop Corp./Hot Topic, Inc./Geeknet, Inc. (successful)
  - Cypress Semiconductor Corporation/SummitView Capital et al./Integrated Silicon Solution, Inc. (unsuccessful)
  - R.R. Donnelley & Sons Company/Quad/Graphics, Inc./Courier Corporation (successful)
  - Microsemi Corporation/Skyworks Solutions, Inc./PMC-Sierra, Inc. (successful)
  - Bridgestone Americas, Inc./Icahn Enterprises/The Pep Boys - Manny, Moe & Jack (successful)
  - Diodes Incorporated/Montage Technology Group Limited/Pericom Semiconductor (unsuccessful)



# Trends for 2016

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- Inversions not going away yet
- Activism still going strong (Xerox)
- Antitrust scrutiny
- Stock deals?
- Impact of Delaware legal developments on deal negotiations
  - Business judgment rule when shareholders approve the deal in an informed vote (*Corwin v. KKR Fin. Hldgs.*)
  - Power of Section 102(b)(7) exculpatory provisions (*Cornerstone*)
  - Increased vigilance on disclosure-only settlements (*Trulia*)
  - Forum-selection provisions statutorily approved and judicially encouraged (*Trulia*)

## Relevant Practical Law Resources Available with a *Free Trial* to Practical Law

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- M&A Integration Checklist
- What's Market: Spin-Offs
- Press Release: Public Merger

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# Questions

## About the Speaker

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**Daniel Rubin**, Senior Legal Editor, *Practical Law Corporate and M&A*

Daniel joined Practical Law from O'Melveny & Myers LLP, where he was counsel in the M&A group. Previously he was a corporate associate at Fried, Frank, Harris, Shriver & Jacobson LLP.