Hogan Lovells

A road map to successful Life Sciences transactions in Europe

Global Life Sciences and Healthcare

U.S. based life sciences companies considering transactions in Europe may easily become overwhelmed with the complexity of Europe's various jurisdictions.

In this road map, members of our European Life Sciences Transactions Team provide country-specific perspective and guidance to help you navigate the jurisdictional challenges and differences that you may run into when acquiring a European life sciences company.

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France

Trust & Transparency – A new quiet buyer situation in France

France has strong respect for the rule of law. Whilst some other countries use a "common law" system which gives room for interpretation, French law is codified. That provides a measure of security for foreign investors investing in France. In this respect, the French Government enacted a new, quite buyer friendly, piece of legislation in 2016, which focuses on trust and transparency and dramatically increases the level of disclosures required by a seller which, accordingly, increases the level of confidence of buyers.

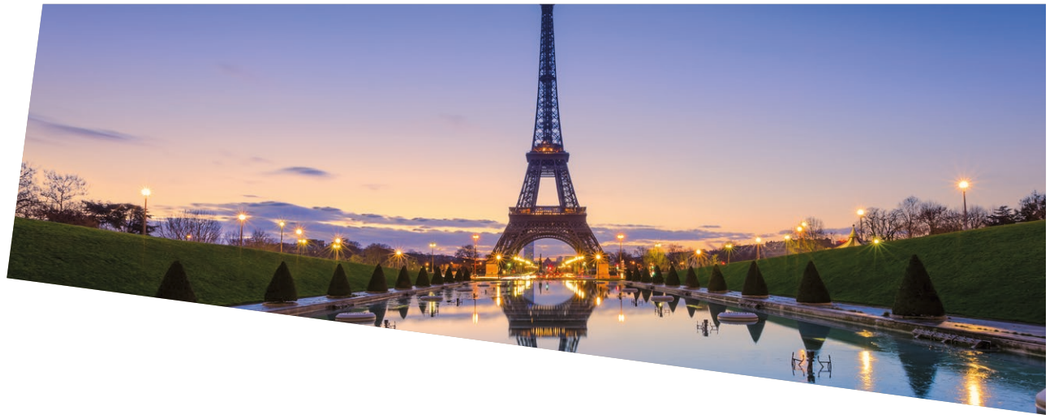
Until September 2005, foreign investments in France were neither regulated nor restricted. The threat of an alleged hostile take over of a French food leader caused the French Government to adopt new legislation; the spirit of which was deemed to replicate the CFIUS process in France (ie seeking the prior formal approval of the French Government before the completion of a transaction) and provides protection for the 11 sectors classified in 2005 as sensitive:

Gambling; private security services; research, development and production of certain pathogens or toxic substances; wiretapping and communications interception equipment; testing and certification of security for IT products and systems; goods and services related to the information security systems of companies managing critical infrastructure; dual-use (civil and military) items and technologies; encryption services; the activities of firms entrusted with national defense secrets; research, production or trade of weapons, ammunition, and explosive substances intended for military purposes; and any business supplying the Defense Ministry with any of the above goods or services.

The 2014 GE Alstom transaction caused the French Government to add six new sectors to this list:

- energy infrastructure
- transportation networks
- public water supplies
- electronic communication networks
- public health protection
- installations/works vital to national security.

Five of these six sectors had an obvious connection with the business run by Alstom and, even if a bit broad, their addition did not trigger any specific queries. However, the sixth one (public health protection) did not appear to have any link with the Alstom case and the extent of its scope caused players (investors and lawyers) to question what the exact nature of the investments which were to be subject to the prior approval of the French government was.



Regrettably, no further definition or guidance has been provided since, and when a foreign investor contemplates making an acquisition in the life sciences sector in France, the cumbersome process set out below has to be followed:

The foreign investor submits a formal application for prior authorization to the Minister of the Economy who must make a decision within two months of the date of receipt of a full and complete formal application for authorization. If the Minister of the Economy fails to make a decision, the authorization is deemed granted. The formal review process and communications with the foreign investor are carried out by various departments within the Ministry of Economy in collaboration with other governmental agencies, depending upon the sensitive sector(s) involved.

As a condition of authorization, the French Minister of the Economy may impose certain conditions on the foreign investor to mitigate risks that the contemplated transaction may adversely affect public order, public safety or national security. Foreign investors can contest the conditions imposed for authorization, or the refusal to authorize, before the administrative law courts.

However, it should be noted that when the Minister of the Economy receives the formal application by the Foreign Investor, he may decide that, given the nature of the French target business, the transaction is not subject to any prior approval and this can be freely completed. This notification is communicated by a simple letter.

So as you may notice by now engaging in life sciences transactions in France does not appear to present many challenges for non-French players.

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Germany

W&I-Insurance – door opener for the German life sciences market

The Life Sciences market in Europe continues to flourish. The medical devices market alone generates revenues of approximately US$90bn per year and growth forecasts are promising. An almost 7% CAGR is predicted in the European medical devices market. Naturally, the German Life Sciences market plays a major role in this growth. It is – to name only one example – attractive and popular for its ease of certification procedures which ensures a quick market entry providing a suitable environment for proof-of-marketability-tests for, among other products, medical devices.

Whilst the economic environment is showing promise, obstacles for investment in the German market are being removed due to the rising importance of warranty & indemnity insurance (W&I-Insurance). The underwriting of warranties and indemnities in connection with corporate transactions is quite standard in the U.S. However, the German Private Equity and M&A market has only relatively recently begun to use this tool in acquisition transactions, however, the number of M&A transactions using W&I-Insurance is growing. According to recent studies, W&I-Insurance is currently used in approximately 20% of German M&A transactions.

W&I-Insurance has not often been used in life sciences M&A transactions in Germany, but this picture is changing and W&I-Insurance is increasingly being used. W&I-Insurance is a tool which bridges the gap between the interests of the seller and the interests of the buyer in the course of strategic acquisitions and can significantly accelerate the timeframe of a transaction. By providing a buy-side W&I-Insurance, the buyer obtains a solvent partner in cases of W&I claims. Furthermore, a W&I policy can extend the duration or the cap of the warranties, ensure a quick claims settlement or be an alternative to an escrow account. Furthermore, W&I-Insurance also facilitates investments in unfamiliar jurisdictions.

With regard to compliance and regulatory claims, the importance of W&I-Insurance is increasing not only in the U.S. and Europe, but also globally. Approximately 15% of all claims concern the breach of warranties regarding compliance with applicable (regulatory) laws. Intellectual property – another crucial area for life sciences companies – constitutes the source of a considerable amount of claims addressed by W&I-Insurance.

The provision of W&I-Insurance not only bridges the gap between opposite interests in reaching final agreement, but also makes a buyer's offer more attractive in an auction when compared to other potential buyers' offers. W&I-Insurance is becoming so increasingly common; they are becoming a mandatory element of an offer during an auction process.

Insurers are developing the W&I-Insurance market and gaining experience in W&I claims. Policies are evolving from day to day and are providing a window for customised policies which include favorable conditions (e.g. in terms of retention or limitation of liability). Premiums are currently quite low due to the still emerging nature of the W&I-Insurance market and there is an oversupply of insurance policies.

Now is the perfect timing to acquire a German Life Sciences company while covering and facilitating the acquisition with W&I-Insurance cover. However, according to recent studies, the market for W&I-Insurance in Germany is soon to enter a more mature market phase. This is only one good reason for considering an acquisition of a German life sciences company sooner rather than later.

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Italy

The Italian life science sector: Lots of opportunities and a few legal pitfalls

M&A in the Italian life science sector is lively with a wide range of transactions spanning from large pharmaceutical companies that buy mature product portfolios to venture capitalists that invest into early stage biotech projects. International players have a substantial share of this market and they do not face particular legal obstacles.

There is however a number of peculiarities in doing M&A in Italy in the life science sector that a foreign investor is to be aware of.

On the one side, a foreign investor entering the Italian market may find that, while generally well aligned with international standards, Italian practice is sometimes not yet fully receptive of certain M&A trends:

- this is the case in particular of insurance policies to secure seller's indemnification obligations. While increasingly used in the US and English markets, they have not penetrated Italian market yet, unless to a certain extent for PE deals. So, bank guarantees and escrows continue to be more commonly adopted;
- VC transactions offer another good example. In the US model legal documents such as those made available by NVCA set the standard and their use substantially reduces negotiation time and effort. In Italy, each transaction is a whole other story and negotiation may prove longer than expected.

On the other side, there are Italian law provisions that may make an M&A life science transaction somehow different from what a foreign investor could expect.

This is the case in particular of those transactions that are structured as a sale of going concern. These are certain aspects to highlight for an international player looking at an investment into an Italian healthcare business:

- **Corporate**. The purchaser is liable for debts pertaining to the going concern remaining with the seller and arisen before the transfer, provided that these debts are recorded in the seller's mandatory accounting books. The purchaser may therefore obtain full protection for undisclosed liabilities pertaining to the going concern, under the relevant transfer agreement, but not for debts recorded in the accounting books of the seller.
- **Labour**. All the contracts with employees pertaining to the going concern will be automatically transferred to the purchaser by operation of law (no employees' consent is needed) on the same terms and conditions and transferred employees will maintain all accrued contractual rights.

  Should the seller employ more than 15 employees (in a whole, not only with respect to the going concern to be transferred), a preliminary consultation procedure with works councils/Trade Unions shall be commenced at least twenty-five days before any binding agreement between the seller and the purchaser is reached. However, works councils/Trade Unions have no veto power and therefore they cannot prevent the transfer of the going concern to the purchaser.

  Finally, employees transferred can challenge their transfer to the purchaser within 60 days from the date on which the transfer of going concern was executed if they deem that their working activity is not relevant to the going concern transferred.

- **Regulatory**. Transfer of the marketing authorizations needs to be approved by the Italian Medicines Agency (AIFA). The relevant process may last in the region of a couple of months. At the end, AIFA's approval is published on the Italian Official Journal and the transfer becomes effective. This is generally construed as a post-closing action. Accordingly, there are two ways developed under Italian practice to deal with inventory in the period between closing and transfer of marketing authorizations:
  - Either inventory is transferred at closing. In this case, during the transitional period, the purchaser may be appointed as distributor of the seller (so-called "concessionario di vendita") so as to be in the position to sell the products at stock under the marketing authorisation of the seller. The appointment of a concessionario di vendita needs to be communicated to AIFA;
  - Or inventory is transferred only at a later stage upon transfer of the marketing authorizations. In this case, distribution on the market is continued by the seller until completion of the marketing authorisations' transfer. Profits however are returned to the purchaser which enjoys the full economic benefits as from closing as if the products were sold by it as the marketing authorisation holder, less a fee for the service rendered by the seller.
- **Tax**. The seller and purchaser are jointly and severally liable towards the tax authority for the following tax liabilities, whether known or unknown, pertaining to the going concern: (i) taxes and penalties due for tax infringements committed by the seller in the tax year in which the transfer occurs and in the two preceding tax years; and (ii) taxes and penalties assessed during those same periods, even if the tax violations were committed in an earlier tax year. However, in terms of purchaser's liability in respect of tax liabilities referred to the above: (i) the Italian tax authorities must first seek payment of the amounts due from the seller; (ii) it is limited to the value of the business transferred; (iii) it is limited to the tax liabilities on the tax authorities' files on the completion date.

In order to limit its liability, the purchaser can request the seller to obtain from the Italian tax authorities a certificate on existing tax liabilities, if any. The purchaser will be jointly liable with the transferor only for the amount of the tax liabilities (if any) as set out in the tax certificate. If the tax certificate does not report the existence of tax liabilities (or if it is not released within 40 days of its request), the purchaser will not be jointly liable with the seller for any tax liabilities. It is therefore material to regulate such aspect in the going concern transfer agreement.

Francesco Stella is a partner in our Milan office. He has accompanied an impressive number of large international corporate and financial institutions in their M&A moves into the Italian market, and top Italian clients in their growth abroad through acquisitions and joint ventures. A passion for complex deals brought him to focus on regulated assets ranging from financial institutions to life science companies and energy businesses.

Poland

Transactions in Poland – Comprehensive protection for purchasers

Polish law is flexible and life sciences transactions are able to be governed by foreign law, since 'Polish law as the governing law' is not a legal requirement. Most major life sciences transactions are governed by UK law which provides more comprehensive protection for purchasers than that afforded by Polish law. The choice of law will nevertheless depend on the negotiations with the seller.

What is most important for a potential U.S. investor is that a life sciences transaction involving either Polish shares or assets can be governed by U.S. law. There are only a few formal issues regarding acquisitions/transactions which need to be complied under Polish law.

Generally, there are no legal restrictions for U.S. investors regarding life sciences transactions. Life sciences entities are not considered of "strategic" importance in Poland and as such do not require the consent of any governmental authorities.

However, life sciences transactions may require Polish or EU competition clearance in certain cases, such as if the life sciences transaction involves the transfer of non-industrial real estate which requires the consent of governmental authorities. In such cases, Polish law grants the governmental authorities a pre-emptive right to acquire the life sciences company or business involved. This particular restriction is related to the protection of agricultural land in Poland.

A U.S. investor has a choice of executing life sciences transactions either by way of a share deal or an asset deal. Each of these has certain positives and certain negatives, which should be considered on a case-by-case basis.

A U.S. investor's investment in the life sciences sector in Poland is governed/protected by international agreements in place between the U.S. and Poland.

In most cases, it is advisable for the U.S. investor to transact a life sciences transaction through an EU subsidiary.

Nevertheless, whether investing directly or indirectly, Polish law will treat the U.S. investor, equally since discrimination is not acceptable under Polish law.

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The Netherlands

Life sciences transactions in the Netherlands – Employee consultation matter

The acquisition of a life sciences business in the Netherlands quite often requires consultation with employee representative bodies. This article sets out some of the consultation requirements which have to be complied with and provides practical guidelines for dealing with consultation formalities.

Works Council Consultations

Every enterprise in the Netherlands employing more than 50 employees on a more or less regular basis has an obligation to establish a Works Council in terms of the Works Council Act. Where an enterprise has a Works Council, management is obliged to seek the prior advice of that Works Council on a number of important business decisions which affect the employees of the enterprise. To name a few, these issues include: the transfer or acquisition of control over an enterprise; the entering into of a long-term joint venture; and the entering into of material loan agreements and guarantees of the obligations of third parties.

The advice should be sought at a stage when the advice can have an impact on the outcome of the contemplated decision so that the Works Council can have an influence on the decision. If the advice is sought regarding a change of control, it must be requested before the acquisition agreement is concluded. Further, the Works Council must be given access to all relevant information such as the reasons for entering into the transaction as well as information about how the transaction will affect employees and what measures are being taken to protect the employees. These issues need to be addressed cautiously and any additional information that the Works Council may request regarding these issues should be made available.

The Works Council's advice comprises its opinion on the proposed transaction. It can be a positive opinion (if the Works Council supports the decision), a negative opinion (if it opposes the decision) or a positive opinion subject to certain requirements and conditions – considered as a positive opinion if the conditions are fulfilled. Following receipt of the advice, management must inform the Works Council of its decision. To the extent the decision does not follow the Works Council's advice; the reasons therefor must be explained. In such a case, the implementation of the decision (i.e. finalisation of the agreement and the completion of the transaction) must be suspended for a period of one month during which period the Works Council can lodge an appeal against the decision with the Enterprise Chamber ("Ondernemingskamer") of the Court of Appeal in Amsterdam. The Enterprise Chamber has the power to: revoke the management's decision either wholly or partially; reverse certain consequences of the decision; or stop the transaction. The Enterprise Chamber specifically addresses whether all the required formalities have been considered (including, among other matters, requesting the advice and notifying the Works Council in a timely manner). It is, therefore, essential that the formal procedures are followed diligently and that the Works Council advice is sought timeously.

Trade Unions Consultations

The SER Merger Code of the Dutch Social Economic Council provides for consultation with trade unions in the event of a change of control in an enterprise (or a merger). Subject to certain exceptions (mainly concerning mergers falling outside of Dutch jurisdiction), the SER Merger Code must be complied with if 50 or more employees involved in the merger are employed in the Netherlands or if application of the Merger Code has been provided for in a collective labour agreement.

Before agreement on the merger has been reached and before the relevant Works Council has rendered its advice, the relevant trade unions must be notified about the contemplated merger and must be given an opportunity to express their views with regard to the contemplated merger from the perspective of the interests of the employees involved. Compliance with the notification requirements of the SER Merger Code is the responsibility of all of the parties to the merger.

Practical Matters

Where a Dutch life sciences company with a Works Council is being sold by means of a controlled auction in which multiple bidders are involved in the bidding process, the requirement of obtaining advice from the Works Council and consulting with the trade unions can be dealt with in the following manner:

The Works Council (or its chairman) is informed on a confidential basis of the plans to possibly sell the company and is given the assurance that the Works Council will be given the opportunity to render its advice in accordance with applicable legislation.

The seller invites a number of interested parties and, as is usual in a controlled auction process will most likely end up with one preferred bidder with whom it will negotiate the terms of an acquisition agreement.

Once the acquisition agreement is in a mutually agreed form between the seller and the preferred bidder, the bidder and the seller enter into an acquisition protocol in which the bidder and the seller agree to complete the employee consultation requirements in accordance with applicable requirements. This will include an undertaking by both parties to consult with the Works Council in such a manner that any points raised by the Works Council are taken into consideration. The protocol can also include provisions on how to deal with the situation where the Works Council renders a negative opinion or an advice with conditions which are not reasonably acceptable.

Once the Works Council's advice process and, to the extent applicable, the consultations with the trade unions have been completed and have resulted in a positive opinion from the Works Council, the seller and the preferred bidder can go ahead and finalise and complete the acquisition agreement.

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Russia

M&A in Life Sciences: Top five challenges in Russia

The Russian pharmaceutical market continues to grow and presents huge opportunities for business expansion. Whilst the political situation in Russia remains unstable and the industry heavily regulated, that is no reason to hold back on targeted deals. Those investors who took the time to explore the challenges of the current Russian legal environment should be well prepared and doubtless should succeed in the market.

Share deal vs. Asset deal: which to choose?

What is crucial in the life sciences business besides products, contracts and individuals? It is most certainly licenses (ie a state permit to conduct certain business activities such as the manufacture or sale of drugs) and other regulatory permits (eg marketing authorisations). Licenses are not transferrable in terms of Russian law.

Although it is possible to make an asset deal in Russia, it is not common to structure an M&A deal in this way. In practice, a Russian asset deal is structured via separate transfers of core elements of the business (fixed and intangible assets, contracts, employees). This means of transfer of a business is not suitable for licenses or for most other regulatory permits. They remain owned by the company. Consequently, if the target business relies on its regulatory permits, the transaction should be structured as a share transfer.

Beware strategic clearance

M&A transactions in life sciences sometimes require pre-transaction clearance by the applicable governmental commission (a "strategic clearance"). A strategic clearance is required for foreign investments in companies which are deemed to be strategic for reasons of state security. In particular, this includes companies that use agents of infection in their activities. Such activities are subject to state licensing (save for food production). Obtaining strategic clearance is a time-consuming process taking from 3 to 10 months in practice, which can significantly affect the overall timing of the transaction.

State regulation of prices

Every year the Russian Government adopts the so-called List of Essential Drugs, the prices for which are subject to state registration and mark-up regulation.

More than 76% of the drugs on this list are produced in Russia. The share of local manufacture is forecast to grow to 90% by 2020.

In the context of an M&A transaction, special attention should be paid to whether the drugs from the target's portfolio are, or would likely be, included in this list, since this could affect the profitability and volume of sales.

Localization: please establish a russian manufacturing company

The localization of life sciences manufacturing remains one of the key priorities in Russian state policy.

In particular, public procurement rules provide incentives for domestic manufacture, for example 15% price preference for drugs produced in the Eurasian Economic Union. There are also restrictions on imported drugs manufactured outside of Russia in public procurement tenders (eg the 'odd man out' rule) as well as the possibility of various subsidies, tax benefits, etc.

Non-compliant provinces – a threat to every empire

Subsequent to the overall development of anti-corruption legislation in Russia, certain anti-corruption provisions have been introduced into Russian life sciences legislation. In particular, manufacturers and sellers of drugs are not allowed to offer, and healthcare professionals are forbidden to accept, gifts, payments and entertainment of any kind or value.

Given the importance of anti-corruption compliance for any foreign investor, the target's relations with public officials and health care practitioners should be thoroughly investigated.

Obviously, the five topics above are only the 'tip of the iceberg' of the relevant legal issues important to life sciences M&A in Russia. Our life sciences experts are always available to guide you through these and other important issues.

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Spain

What if the value of the acquired business is embedded in its public sector contracts?

Spain is one of Europe's key markets for pharmaceutical and medical devices companies, and is experiencing significant M&A activity in the life sciences industry.

The deals are driven by both international and domestic players; are either purely local or part of a larger global deal; and involve strategic buyers, financial investors and private equity firms. A handful of Spanish companies such as Grifols, Almirall, ISDIN and Chemo are notably active in outbound M&A transactions, particularly in the U.S. and Asia.

Looking at the legal aspects of M&A transactions in this sector, most of the transactional issues which exist in other European countries also apply to Spanish life sciences transactions. However, one of the more complex issues usually faced in Spain is the regulatory component.

On the one hand, the market authorisations, manufacturing permits, and even storage and distribution requirements are particularly sector-specific and can influence how the deal should be structured. For instance, if the target company has market authorisations or other regulatory permits, a share deal (as opposed to an asset transfer) would usually be the preferred option since the transfer of permits in an asset deal is subject to authorisation by governmental bodies such as the Spanish agency AEMPS (similar observations were raised in this series' editions for Italy and Russia [please insert hyperlinks]). These regulatory requirements can be cumbersome and may affect the timing of the transaction.

On the other hand, however, the fact that the value of the acquired business depends on public sector contracts must not be overlooked. For instance, a manufacturer of devices for renal failure treatments may be largely dependent on the sale of haemodialysis systems to public hospitals or, alternatively, a pharmaceutical company's vaccines may be administered predominantly in public health centres rather than private clinics. These transactions would normally be governed by public tender rules, requiring contracts with the health authorities of the Spanish region in which the public hospital or healthcare centre is located.

How does this affect your M&A transaction?

First, a due diligence on any relevant public sector contracts is essential. It is important to establish whether these public sector contracts, and any underlying tender terms, contain any restrictions that could affect the feasibility of transferring the contract and, as a result, have a consequent influence on the structuring of the transaction. Secondly, the information gathered as a result of the due diligence on these public sector contracts should enable you to determine the structure of the transaction with regard to:

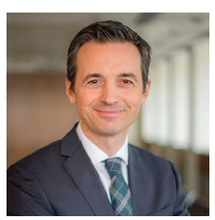
- the acquisition itself
- any required carve-out or unbundling/restructuring in the pre-closing stage
- the integration and reorganisation necessary in the post-closing stage.

Thirdly, the due diligence outcome may determine the timing of the transaction, particularly with regard to pre-closing consents and any potential notifications or filings. Fourthly, it will also provide insight into what third party notifications or formalities, if any, are required once the acquired business is integrated into the buyer's group structure (particularly if contracts need to be transferred in an asset deal, with a new entity acting as supplier to the public hospital or healthcare centre, as this can have a practical impact on invoicing, VAT, data, etc.). Finally, the information may also reveal a need for a purchase price adjustment mechanism, for instance, if it is expected that some of the public sector contracts may be at risk as a result of the proposed transaction.

More often than not, these elements point towards a share deal rather than an asset deal structure to specifically secure the continuance of the public sector contracts, since the share transfer removes much of the regulatory obstacles which would otherwise result from the transfer of assets and liabilities.

However, even in a share acquisition, buyers must be wary of any hidden obstacles in relation to public sector contracts. Not infrequently, public sector contracts are awarded on the basis of the specific attributes of the supplier or the corporate group to which it belongs – legally referred to as the "intuitu personae" or "personal" character of the contract. This may mean that – even in a share acquisition, and even if the public sector contract does not contain any change of control provisions – the change of the target company's ownership may adversely effect the contract, causing early termination or a request by the public health authorities for a change of its terms. For instance, if a target company was awarded a supplier contract because it belongs to a group with significant R&D or technical capacity at parent company level and this was a key factor in the public authority's evaluation of the company as a suitable bidder, then the fact that this company ceases to belong to that group as a result of an M&A transaction may cause the authority to have doubts about the capacity or suitability of the company which now becomes party to the public sector contract. This will necessitate engaging with the relevant authorities in order to convince them that the R&D or technical attributes are safeguarded (e.g. through post-closing transitional support or licensing agreements with the selling parent company), so that this supplier contract is kept intact following the acquisition.

In summary, buyers need to be particularly mindful of the regulatory issues in any life sciences sector transaction. However, you should not limit your "regulatory radar" to market authorisations or other obvious regulatory permits in Spain. We advise you, instead, to expand your analysis to include the target company's portfolio of contracts with the public sector in order to ensure that the value of the acquired business is properly secured.



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United Kingdom

In good health: Life Sciences M&A in the UK post-Brexit

The life sciences sector is one of the most valued and respected industries in the UK; a recent analysis suggests it generates more than £60bn a year for the UK economy and supports 220,000 jobs.

Although the UK's decision to leave the European Union creates some near-term uncertainties for the sector, a number of factors indicate that the UK biotech and pharmaceutical industry should remain robust and enjoy a great degree of M&A activity and continued economic growth over the next few years. This note indicates why:

Life sciences hubs in Oxford and Cambridge and the UK's status as a major contributor to world science. There are approximately 600 companies in the life sciences sector operating in Oxford and Cambridge with a combined market capitalisation of around £6bn. Oxford's life sciences cluster is one of the most mature in Europe, and has a long and impressive track record of working with commercial businesses to develop drugs that make it to market. Already in 2017, despite Brexit uncertainty, Novo Nordisk announced that it would, in collaboration with Oxford University invest £115m over the next decade into a new research centre. Other investors appear unfazed by Brexit; in June the Japanese diagnostic company Sysmex Corporation closed a deal to acquire Oxford University's spinout Oxford Gene Technology whilst Cambridge-based life sciences business Innova Biosciences was bought by German-headquartered SYGNIS AG and Merck KGaA announced a substantial collaboration with Cambridge-based F-star in Immuno-Oncology. Capital Cell is Europe's first equity crowd funding platform specialising in life sciences and has already successfully closed 14 funding campaigns. It recently moved to Cambridge from Barcelona in order to use the city's life sciences hub as a springboard for further ventures. The life sciences hubs in Oxford and Cambridge continue to act as a catalyst for innovation attracting investment from across the globe. A newly-internationalising UK post-Brexit may provide impetus to this trend.

Government funding boost. The government recognises the life sciences sector as being of strategic importance to the UK. It has pledged to invest £2bn each year by 2020 in scientific research and development and suggested it will establish a new Industrial Strategy Challenge Fund to back priority technologies such as robotics and biotechnology. Little wonder considering that the sector's productivity is over double the national average and sources suggest that each life sciences job supports 2.5 jobs elsewhere in the UK economy. Further earlier this year Theresa May announced a £556m boost for the 'northern powerhouse' which will be used to invest in science research and innovation in cities like Manchester Liverpool and Leeds. Part of this allocation will help power innovative young life sciences companies in the area helping small- and medium-sized businesses develop new treatments therapies and medical products. These funding initiatives are anticipated to provide further impetus for growth in the sector.

Robust and leading regulatory framework. The European Medicines Agency (EMA) is responsible for the scientific evaluation marketing authorisation and supervision of medicines in the EU and is currently located in London. The most likely consequence of Brexit is that the EMA will relocate to Europe and the UK may no longer benefit from the EMA's single application process. However the UK's Medicines and Healthcare products Regulatory Agency (MHRA) is currently operating as part of the EU and is one of the world's most highly respected and authoritative regulators. The HMRA undertakes more cross-border authorisation work in Europe than any other country-based institution. At least in the short term this necessitates that the EMA continues to work closely with the MHRA and suggests that in the longer term it should be possible for the two bodies to coordinate and make obtaining market authorisations in the UK and EU a straightforward and efficient process.

English law and language sets a global standard for M&A deals. English law governs the bulk of international transactions outside of the US and the English court system is particularly well regarded. Reliable corporate law and regulations that have been historically responsive to evolving industry needs add to the UK's attractiveness for businesses looking to invest and despite Brexit this is not anticipated to change. And of course the UK's use of English remains attractive to international companies given the current dominance of English as the 'lingua franca' of international business.

The potential for favourable tax regimes. The UK government has suggested that it will reduce corporate taxation to 17 per cent by 2020 which would make it one of the lowest corporate tax rates in the EU. Additionally as a result of tax relief such as the patent box regime and the R&D credits many companies in the life sciences sector may end up paying an effective 11-13 per cent rate.This willhelp maintain the UK's highly competitive and efficient tax regime which combines low rates of tax with incentives for innovation incentives and makes the UK an attractive place for life sciences companies to invest.

So irrespective of the multiple potential outcomes of Brexit the life sciences sector in the UK appears set to remain robust and on a continued growth trajectory.

Robert Darwin is a partner in the London office, who regularly executes complex and strategic transactions for our clients. He focuses his broad international practice on M&A and private equity deals for corporates, funds and other private investors with a deep expertise with work relating to industrials and healthcare.

European Life Sciences Transactions Team

When the stakes are high, you want a partner who has the knowledge honed by decades of legal and industry experience on your side. A partner whose strategic advice is informed by a thorough examination of your business and your transaction. A partner who understands the challenges and opportunities you face and delivers solutions that achieve the best possible outcome. When faced with a difficult deal or a tough transaction, our European Life Sciences Transactions Team has you covered.

How we can help

We frequently advise on mergers, acquisitions, divestitures, joint ventures and other transactions of all sizes across every corner of the globe. Our team works closely with yours to understand your unique challenges to provide you with a strategy that protects your business and advances your interests through every step of the deal.

From multi-billion dollar M&A transactions to milestone-based acquisitions of venture-backed startups, we've counseled life sciences organizations through some of the industry's most complex deals. Our integrated approach and unmatched experience working for and in key regulatory agencies allows us to create and implement a comprehensive strategy to safeguard your interests and innovations.

We've been there before

We know how to stay ahead of your risks because we've been there before – whether it's regulatory due diligence and approvals, antitrust analysis and compliance, intellectual property issues, assessment and mitigation of product liability or another issue entirely.

Our wide-ranging work with public and private companies, private equity firms, investment banks, boards of directors, special committees and more gives us a distinctive vantage point in the industry. We use that insight and experience to anticipate potential issues and negotiate from a position of strength for you – helping you come out on top no matter the situation.

And because we operate as if we're based in the same office, despite being located throughout Europe and beyond, we have the ability to assemble a strong, culturally-aware and locally-attuned team across multiple jurisdictions and consistently offer excellent counsel.

"They have a good global reach" and have "a leading healthcare practice in many European countries. They are very proactive and excellent at client management."

Chambers Global, 2017

Get in touch

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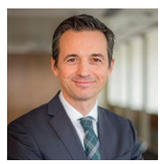

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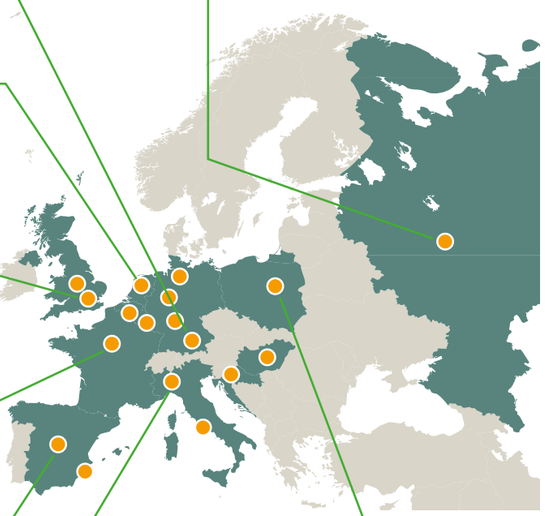

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Our global life sciences and healthcare capabilities

Navigating complexities in the life sciences and healthcare industries is no easy task. Successfully competing in the space requires increasingly creative strategies and integrated solutions that protect and support your business day in and day out.

Regardless of the sector of the healthcare industry in which you operate or the maturity of your products, we understand how to bridge the gap between the challenges you face and the outcome you want. From budding startups to multinational enterprises, we've been there before and know how to position you for success.

With more than 500 life sciences and healthcare lawyers across the globe, we work closely with you and each other to tackle tough issues and difficult to enter markets – no matter where you are today or want to be tomorrow. And because we know what makes your industry tick, we have a deep understanding of the issues you face – helping you stay ahead of the curve and on top of your opportunities.

Whatever your challenge, wherever the issue, Hogan Lovells has you covered. It's that easy.

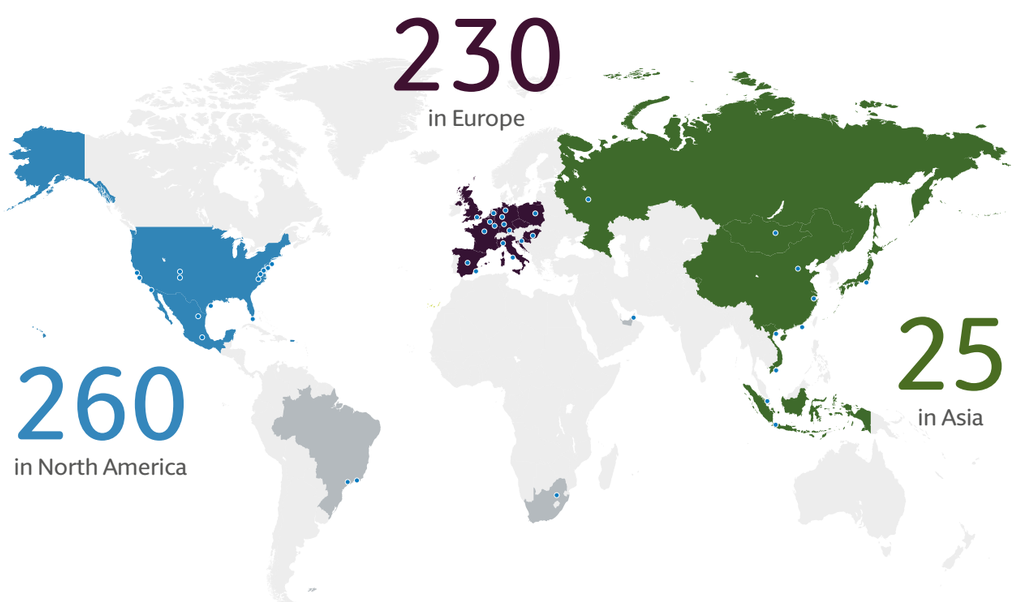
How we help

- Discovery, startup, and growth
- Research and development
- Regulatory
- Commercialization

Markets we serve

- Biotechnology and Pharmaceuticals
- Medical Devices
- Healthcare Services
- Hospitals and Healthcare Providers
- Digital Health

Over 500 life sciences and healthcare practitioners worldwide



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