

Flaute oder Rückenwind – Wie entwickelt sich der M&A-Markt 2023?

Dr. Oliver C. Wolfgramm
Partner
CMS



Finance M&A Roundtable

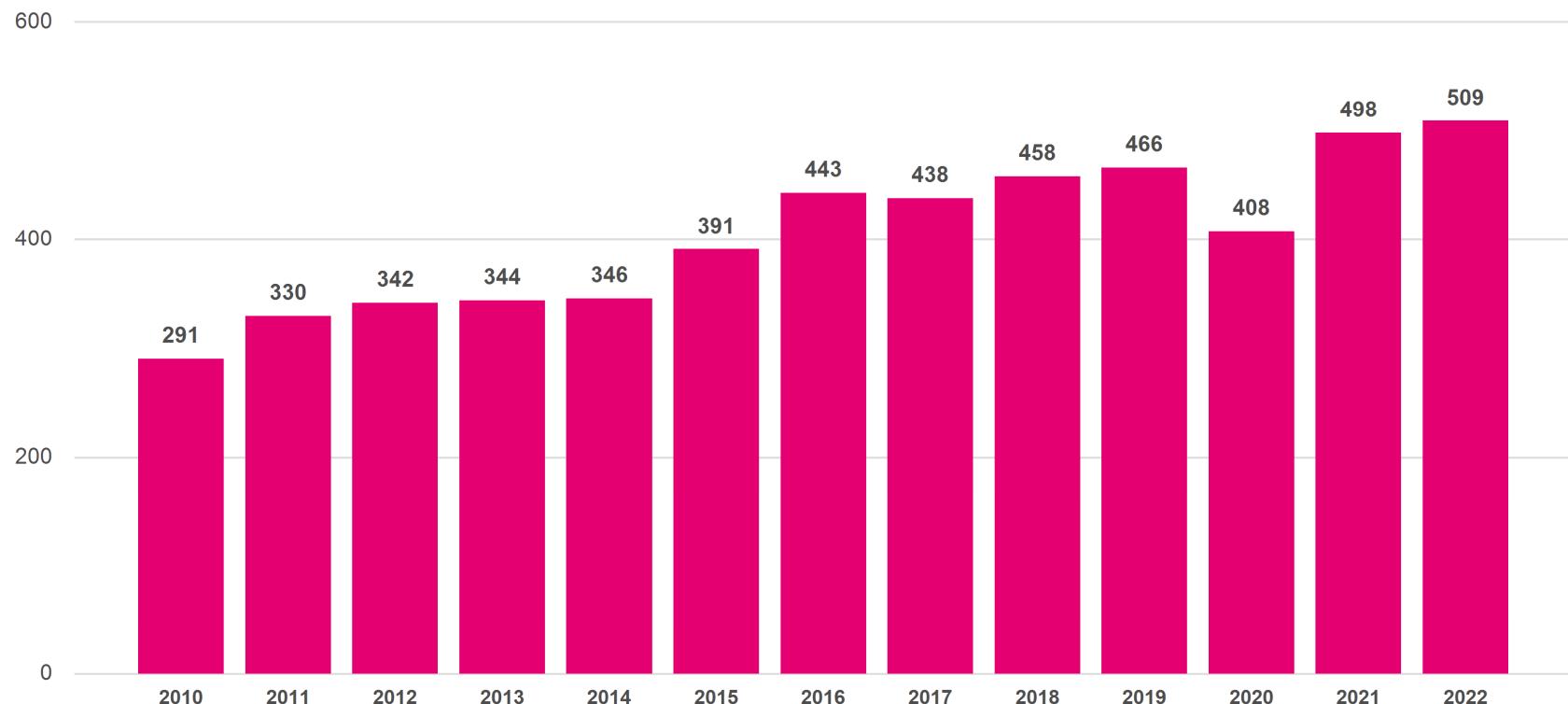
CMS European M&A Study 2023

Dr Oliver Wolfgramm

26 April 2023

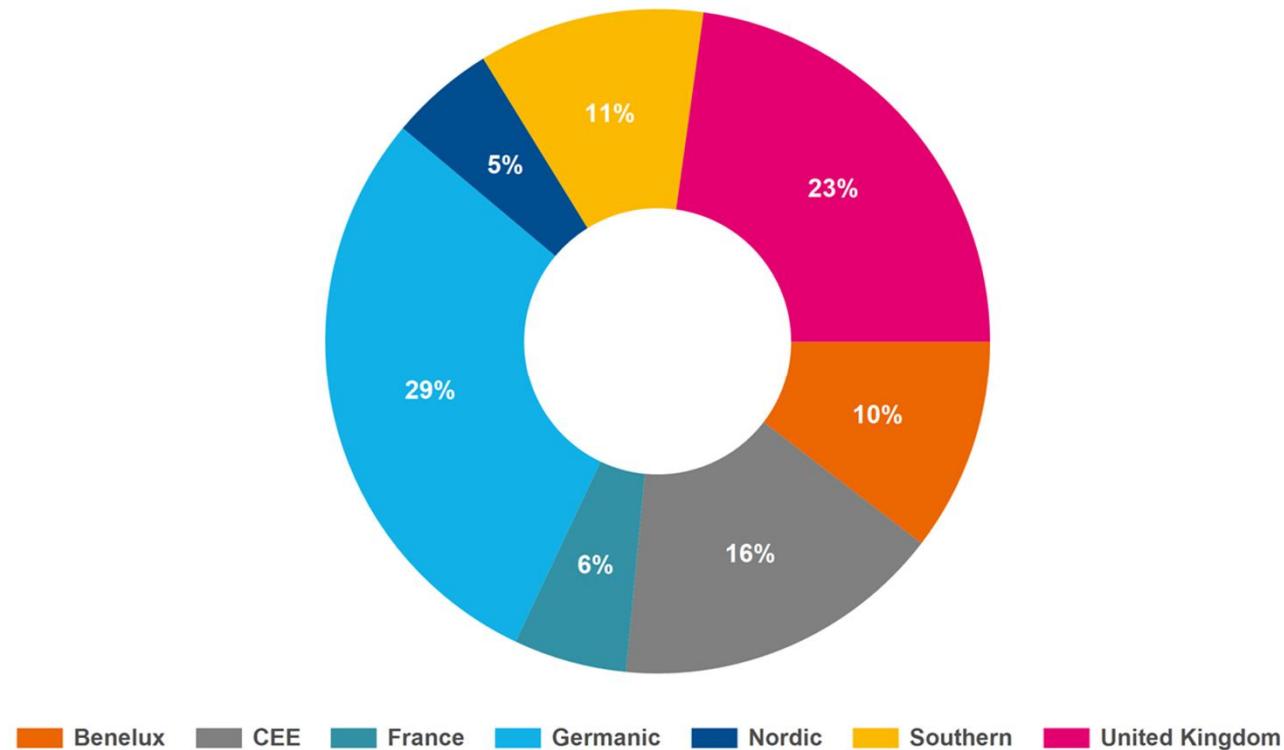
Introduction

Number of transactions 2010 - 2022



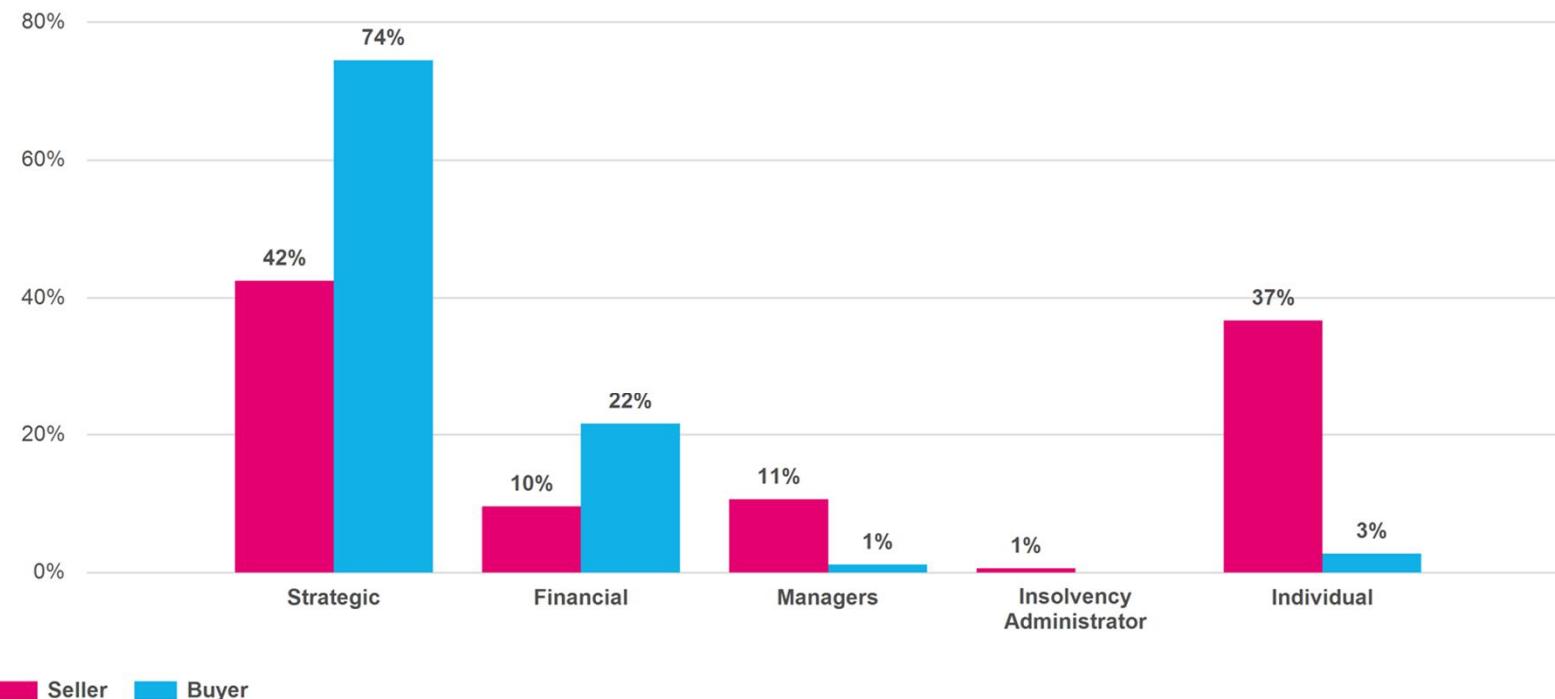
Introduction

Number of transactions 2022 in all countries and regions



Introduction

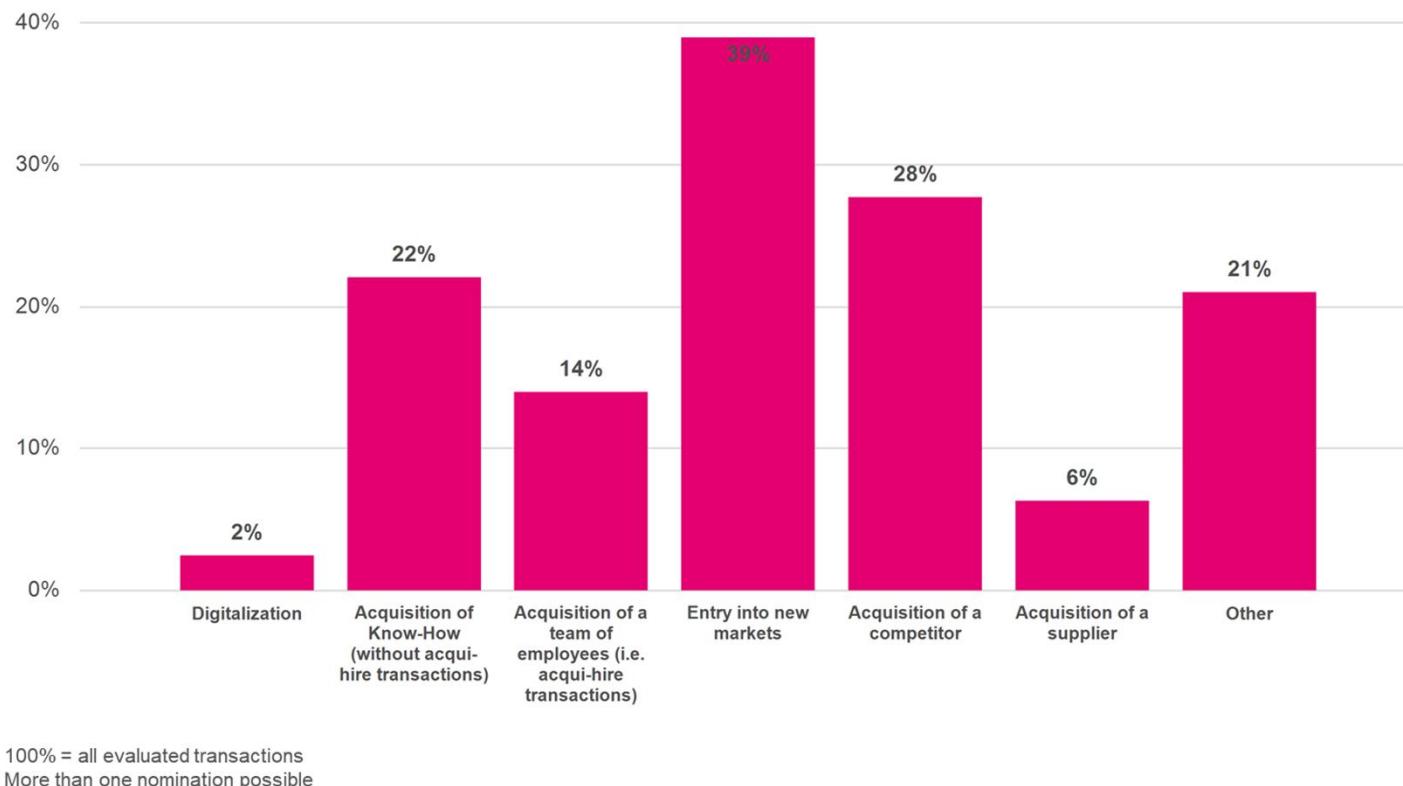
Seller's and Buyer's Background 2022



100% = all evaluated transactions, multiple nominations possible
In several transactions parties from more than one particular group of seller's or buyer's were involved.

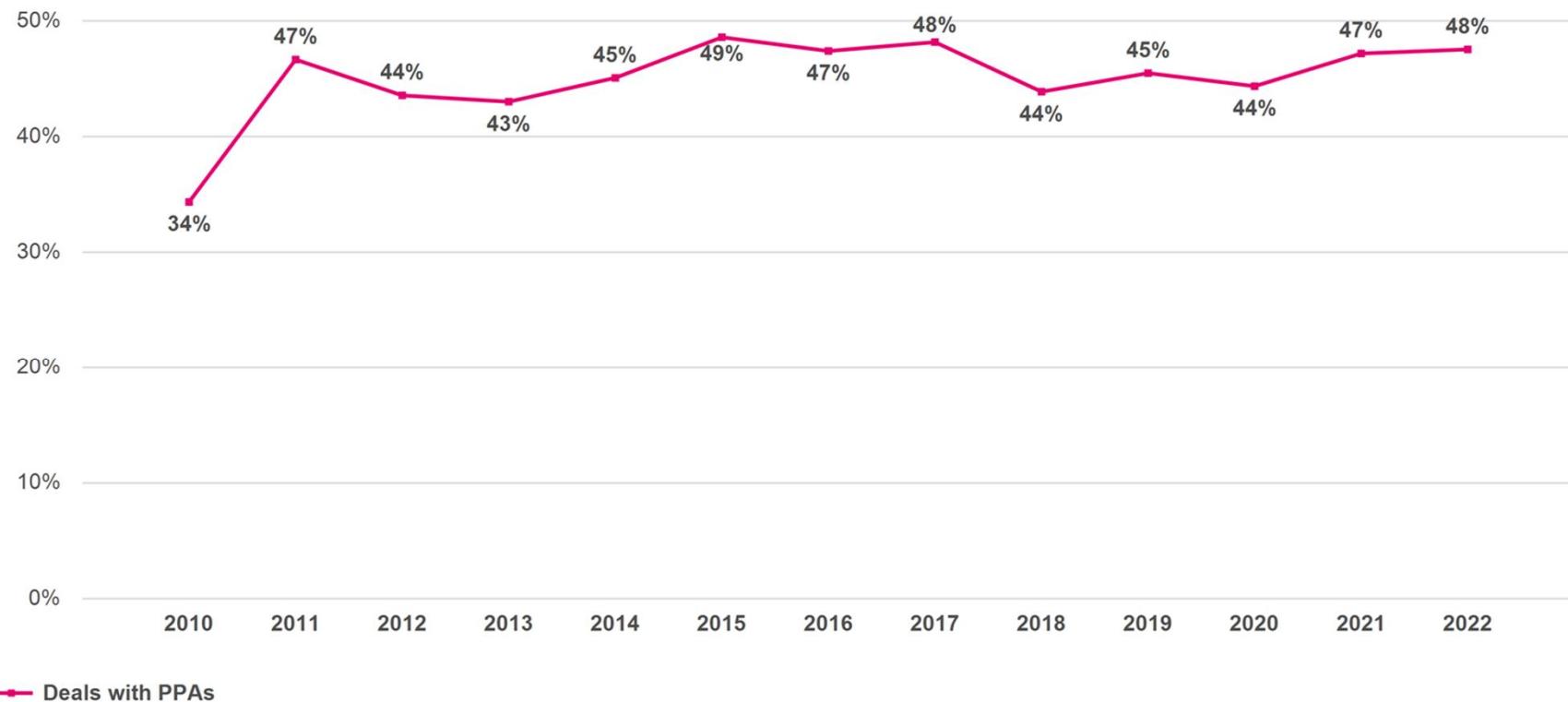
Introduction

Main deal driver 2022



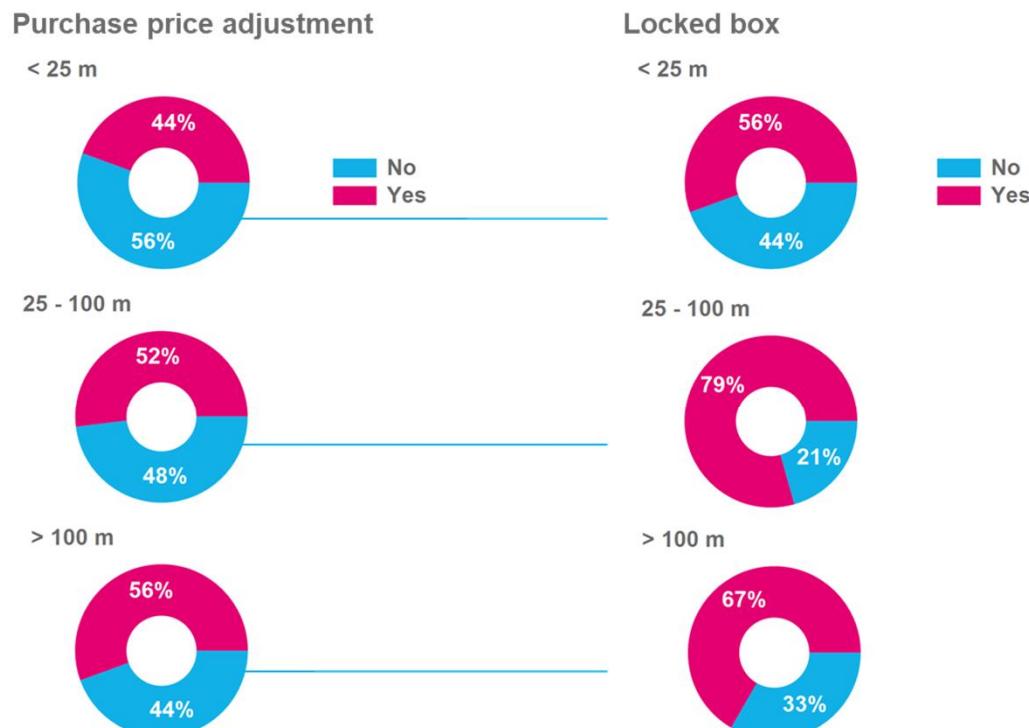
Purchase price adjustment

Trend Index 2010 - 2022



Purchase price adjustment / Locked box

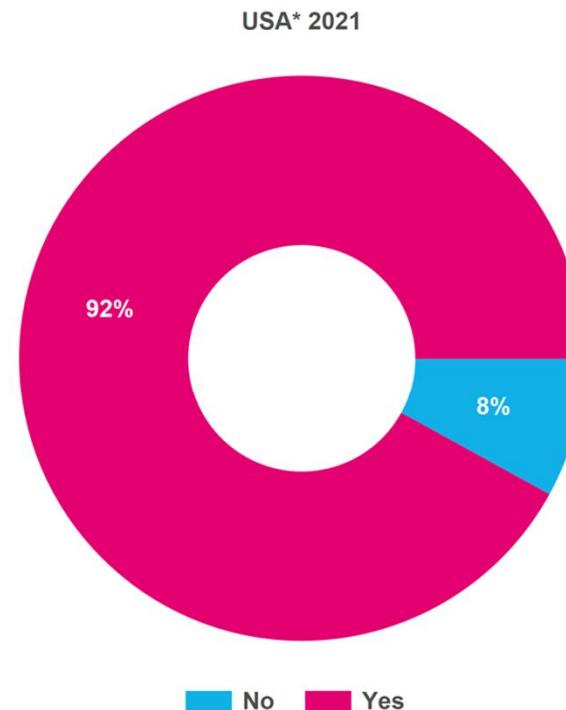
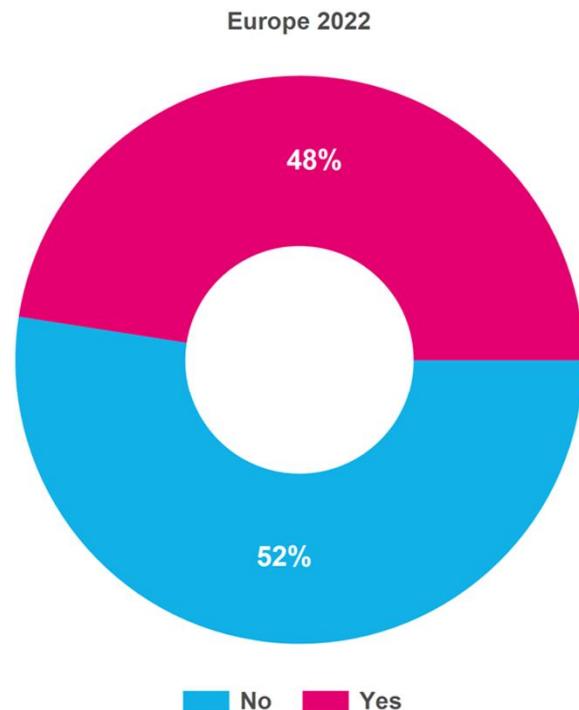
By purchase price 2022



100% = transactions with no purchase price adjustment mechanism
(deals containing purchase price adjustment and locked box at the same time are not included)

Purchase price adjustment / Locked box

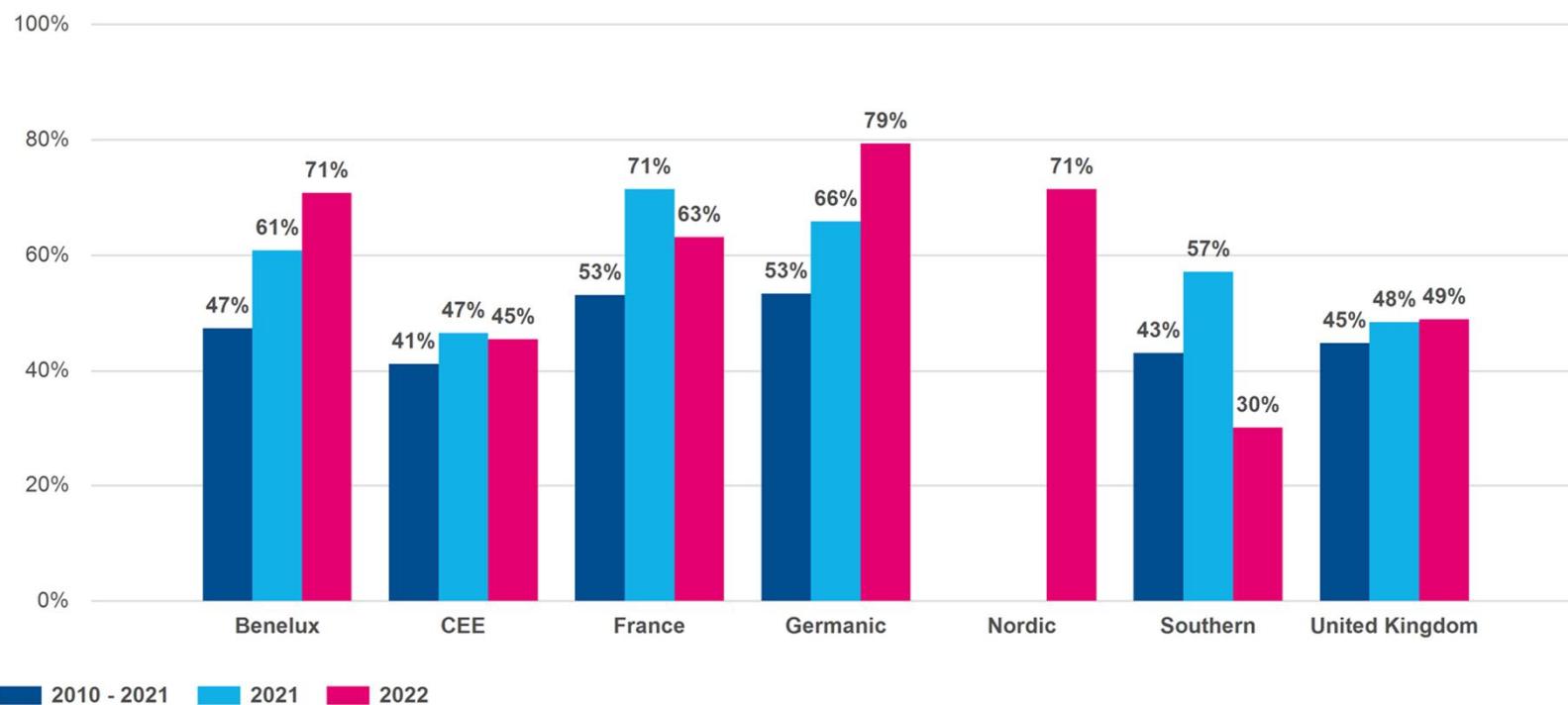
Purchase price adjustment Europe / USA



*The US data was derived from "SRS Acquiom 2022 M&A Deal Terms Study" produced by SRS Acquiom Inc.

Purchase price adjustment / Locked box

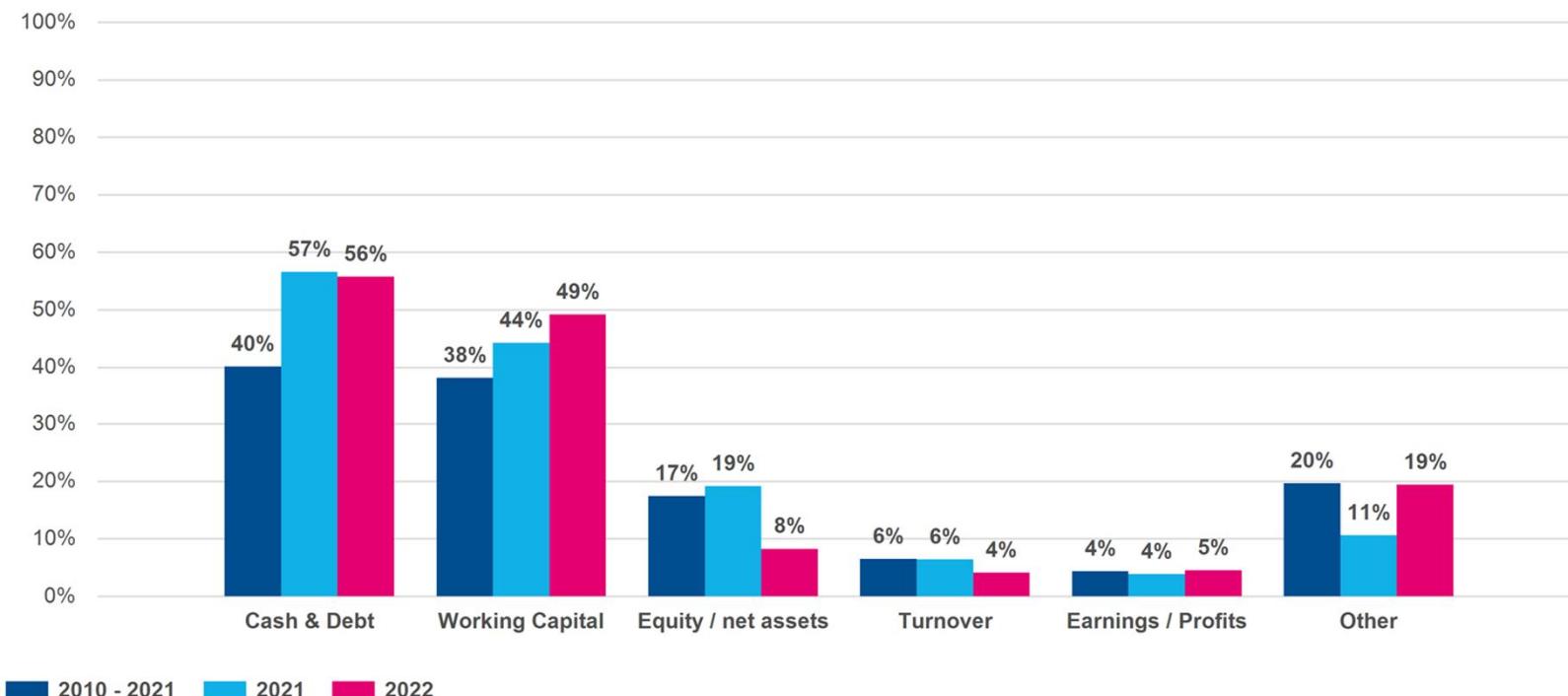
Locked Box 2010 - 2022



100% = transactions with no purchase price adjustment mechanism (Deals with purchase price adjustment and locked box are not included)
No data for region Nordic before 2022 available

Purchase price adjustment

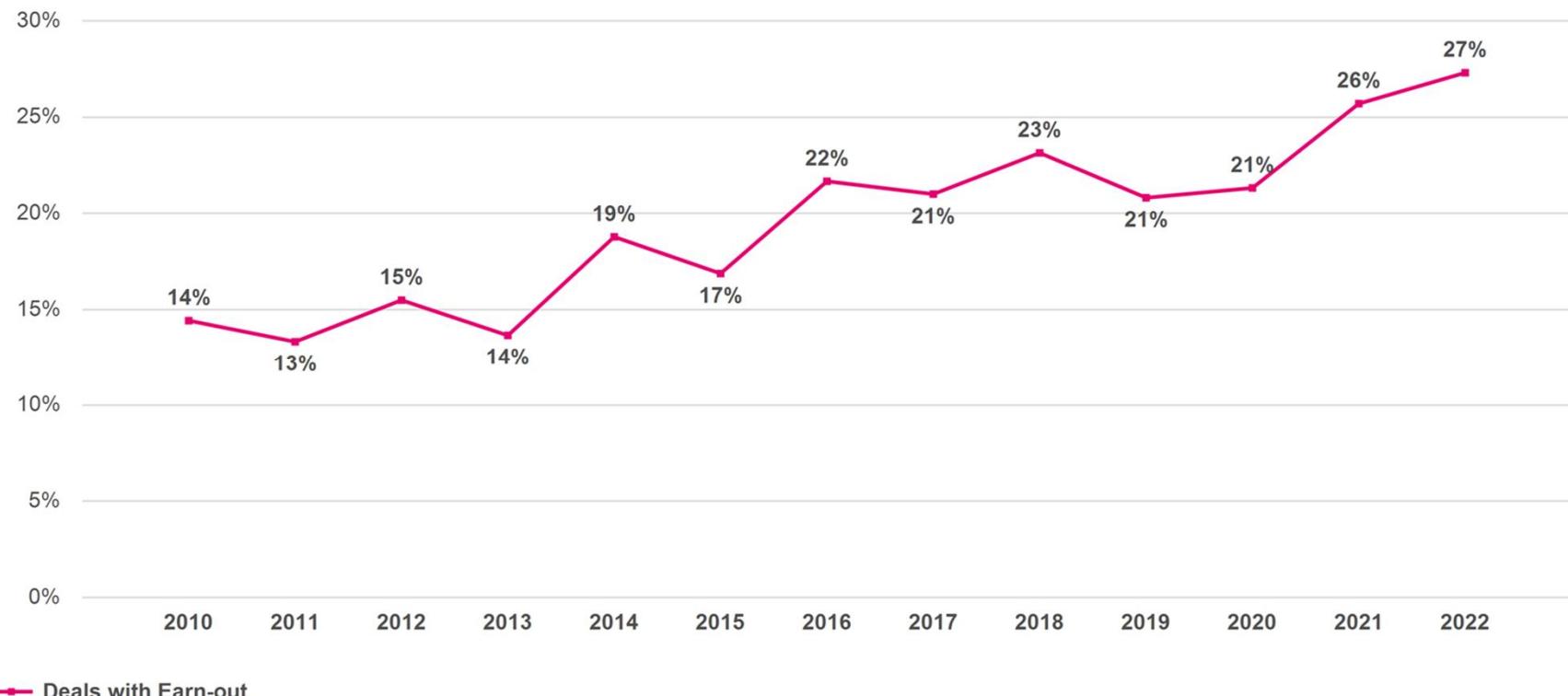
Time trend 2010 - 2022



100% = all transactions including a purchase price adjustment // Cash & Debt does not include "cash only" and "debt only"
Multiple nominations possible

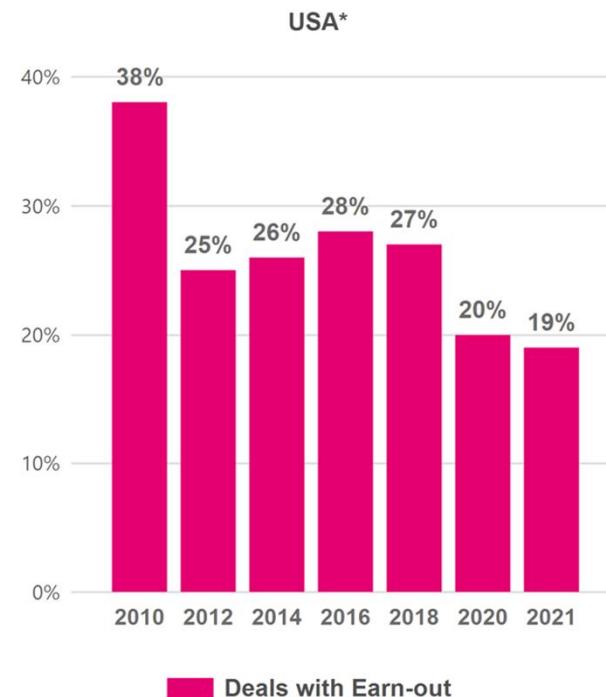
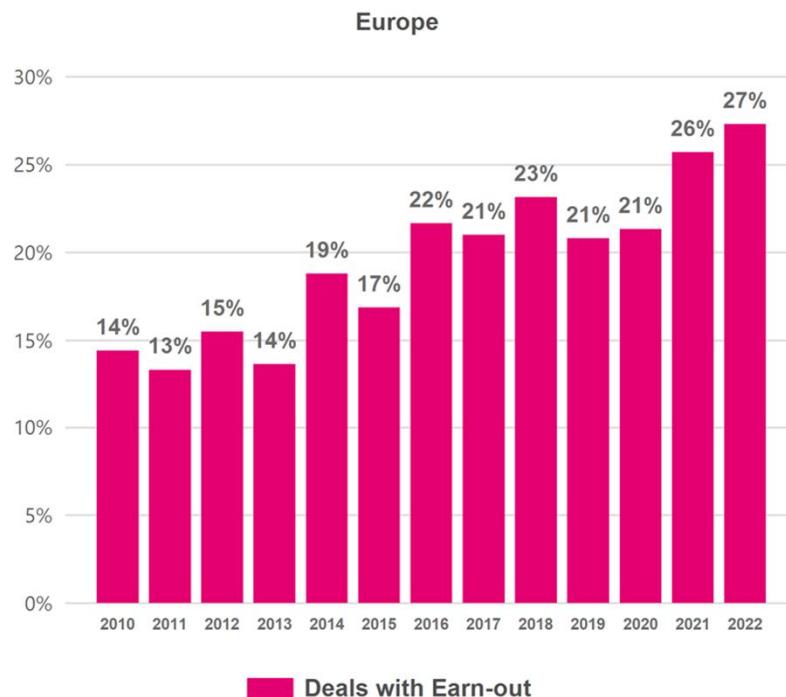
Earn-out

Trend Index 2010 - 2022



Earn-out Europe / USA

Frequency of Earn-out provisions Europe / USA

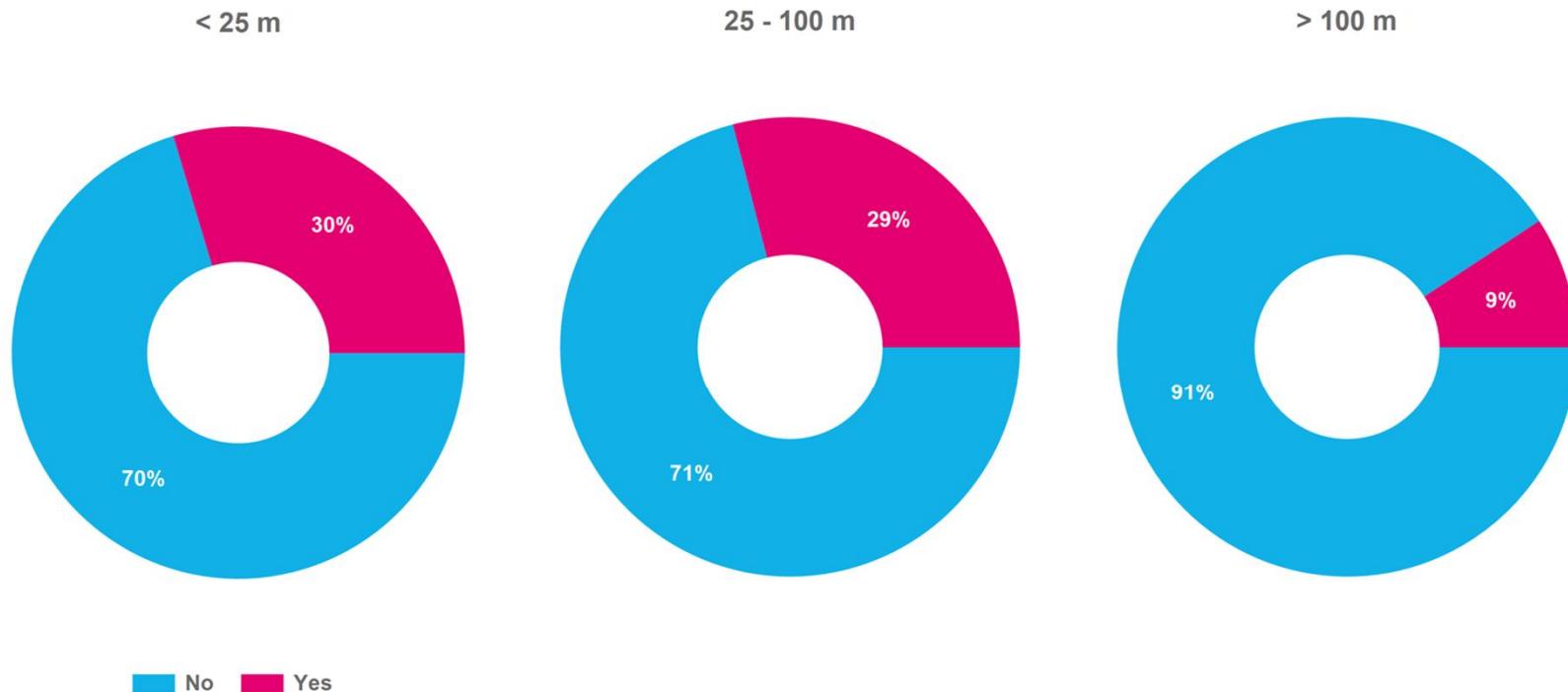


100% = all evaluated transactions

*The US data was derived from "SRS Acquiom 2022 M&A Deal Terms Study" produced by SRS Acquiom Inc.

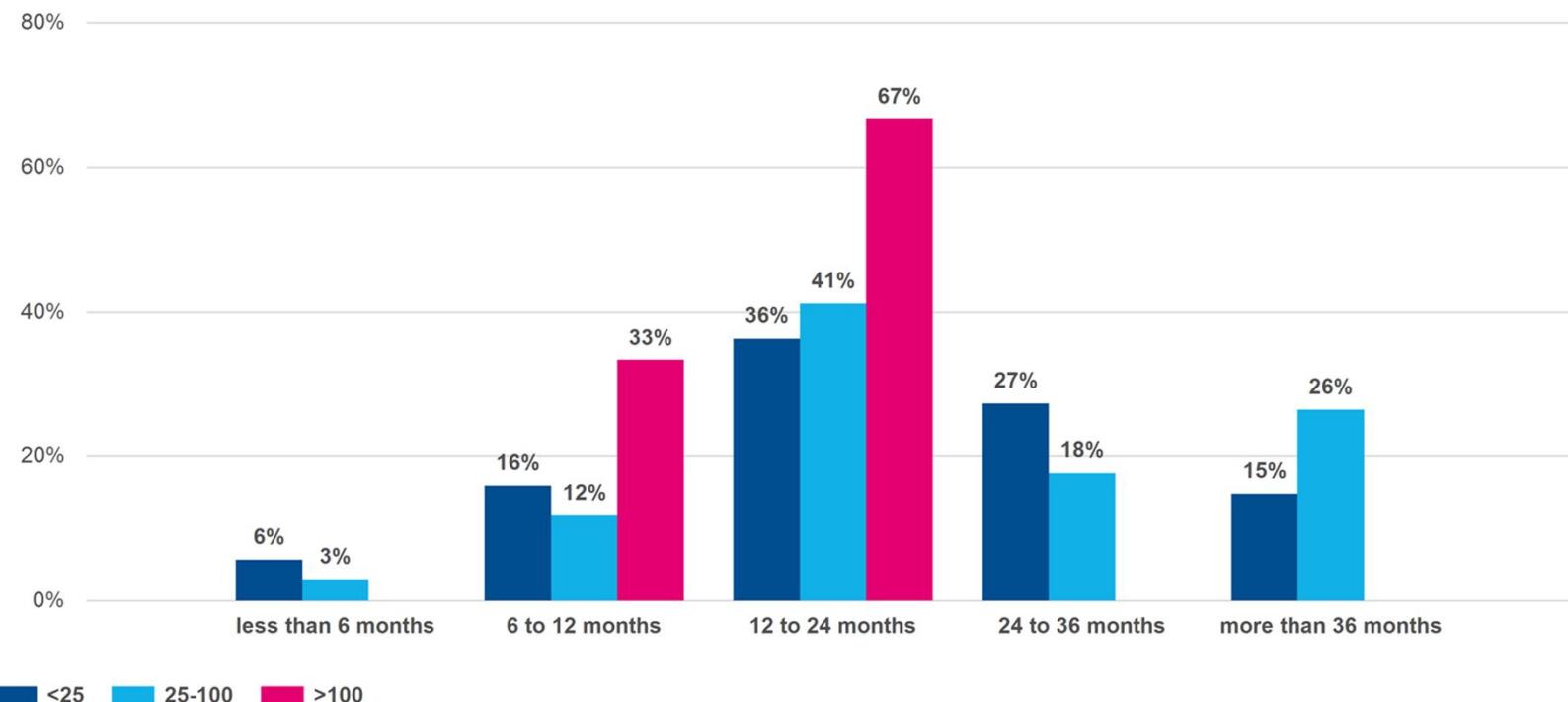
Earn-out

By purchase price 2022



Earn-out

Duration of time periods relevant for the assessment of the Earn-out (2022)

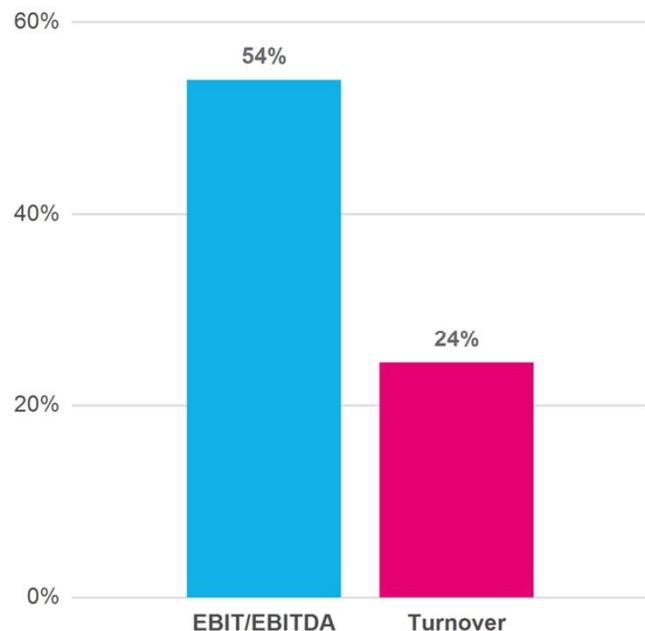


100% = all transactions including an Earn-out clause

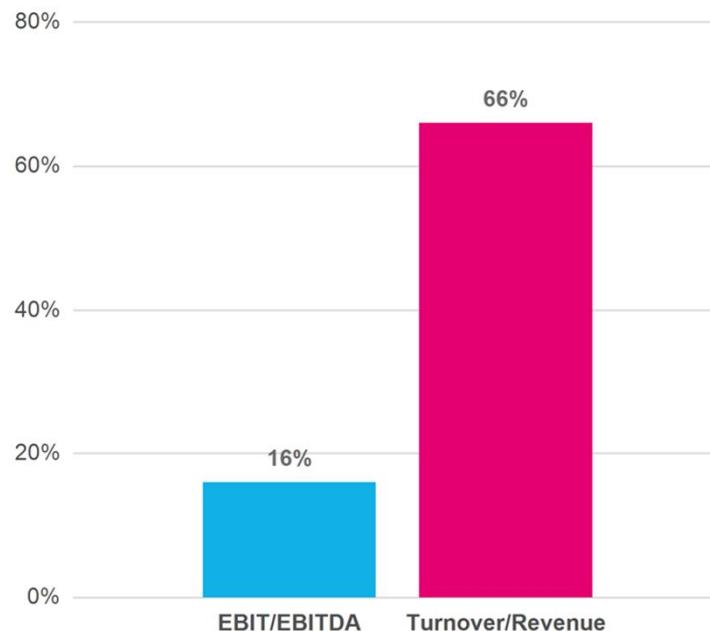
Earn-out

Earn-out criteria Europe / USA

Europe 2022



USA* 2021

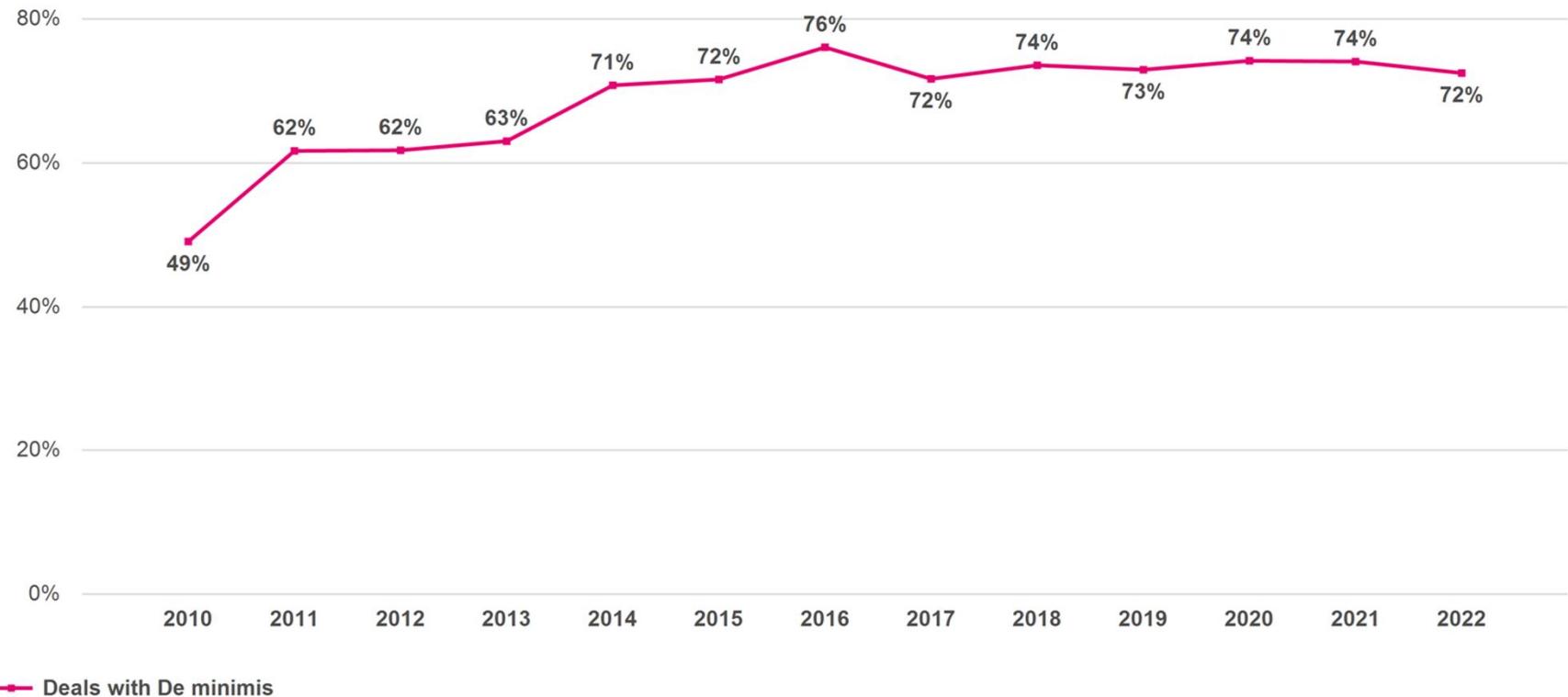


100% = all evaluated transactions with an earn-out mechanism

*The US data was derived from "SRS Acquiom 2022 M&A Deal Terms Study" produced by SRS Acquiom Inc.

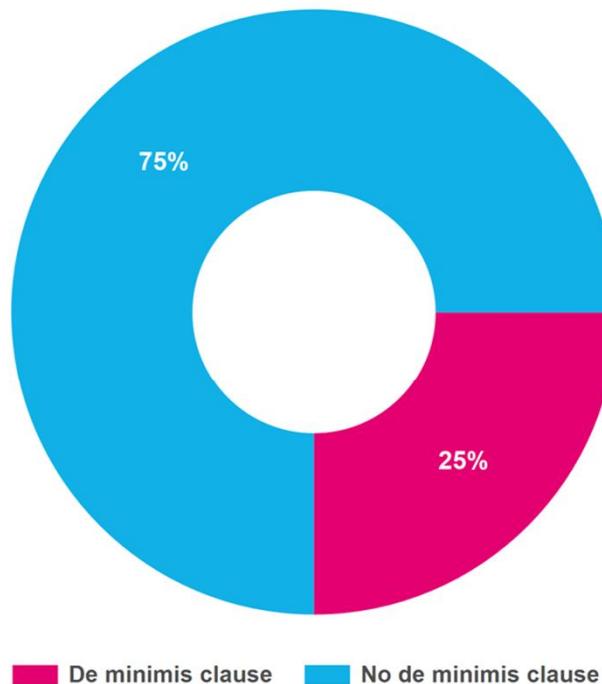
De minimis

Trend Index 2010 - 2022



De minimis

De minimis clause USA* 2021

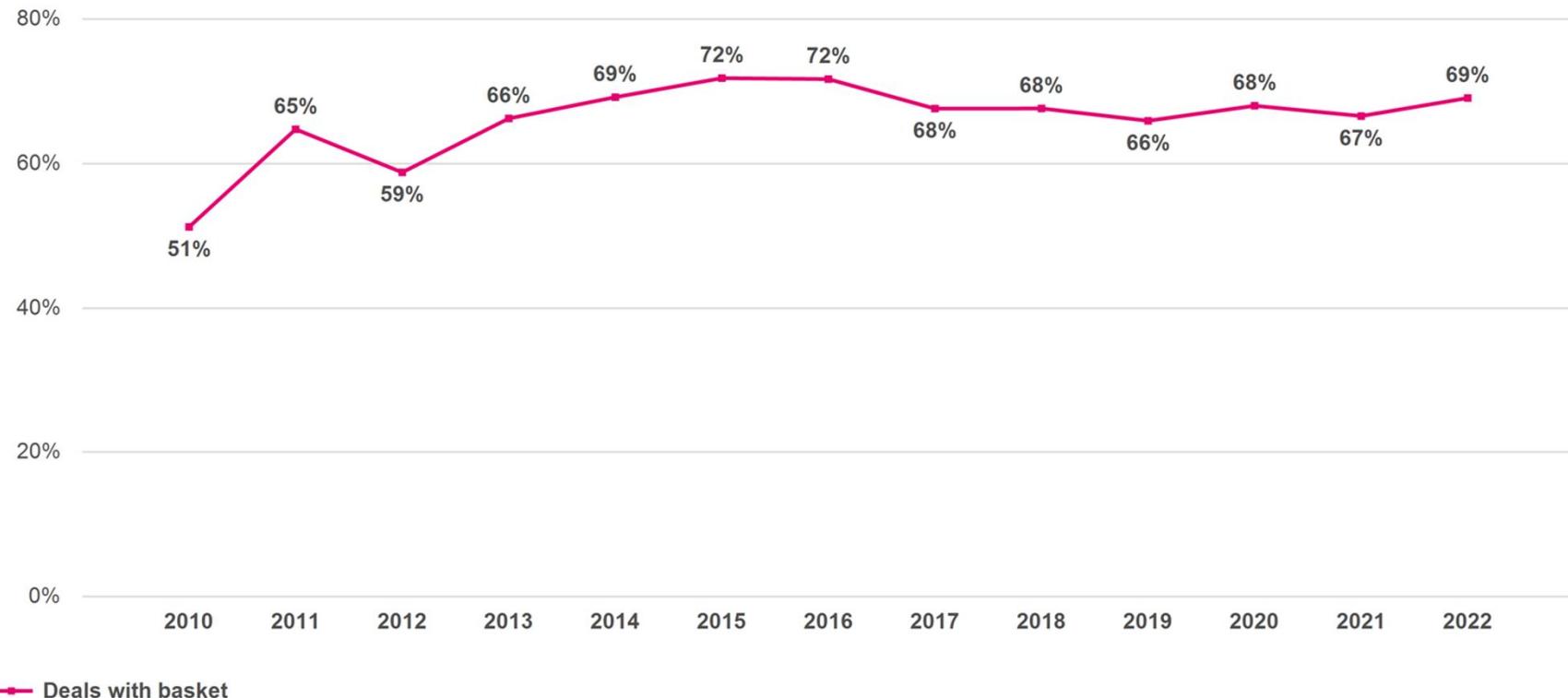


100% = all evaluated transactions

*The US data was derived from "SRS Acquiom 2022 M&A Deal Terms Study" produced by SRS Acquiom Inc.

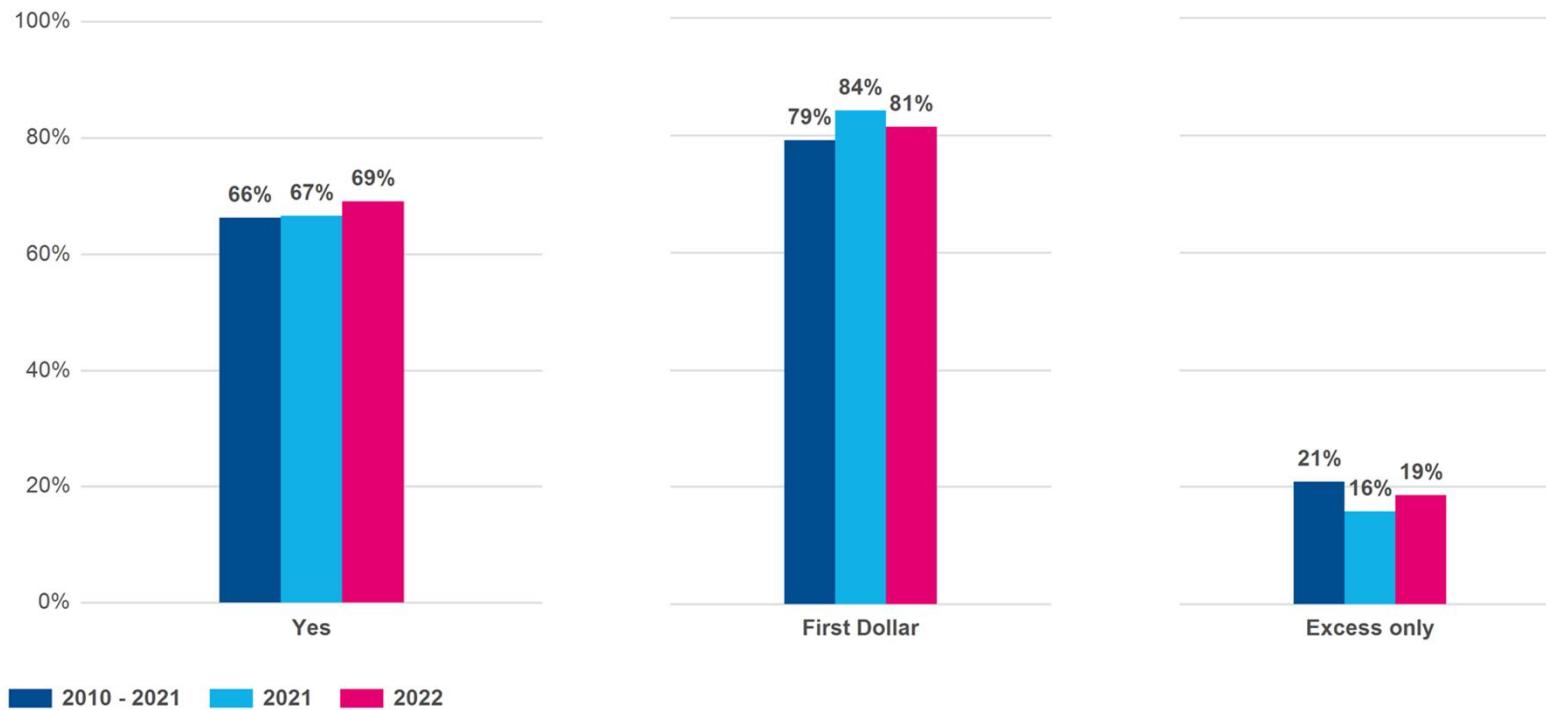
Basket

Trend Index 2010 - 2022



Basket

Time trend 2010 - 2022

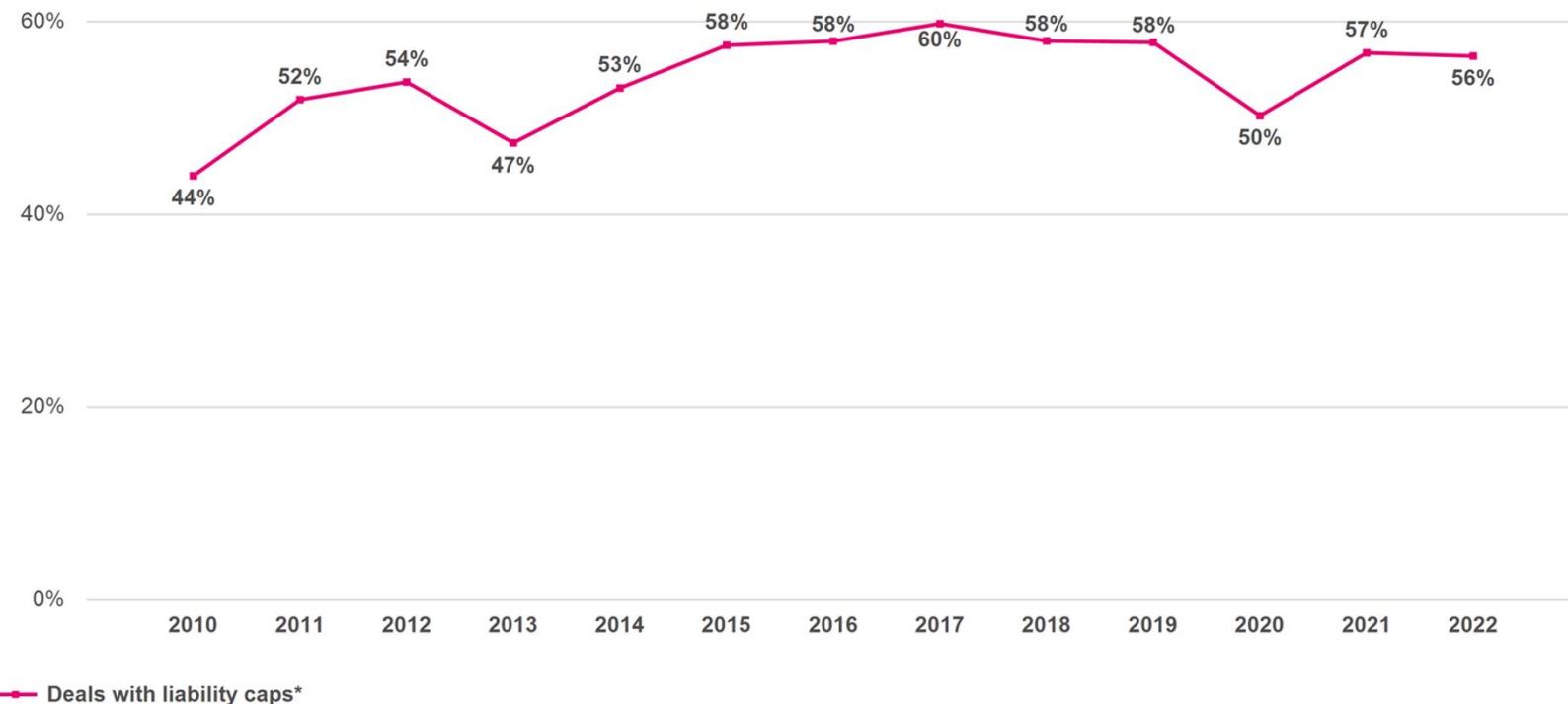


100% = all evaluated transactions

100% = all transactions with a basket clause

Liability caps

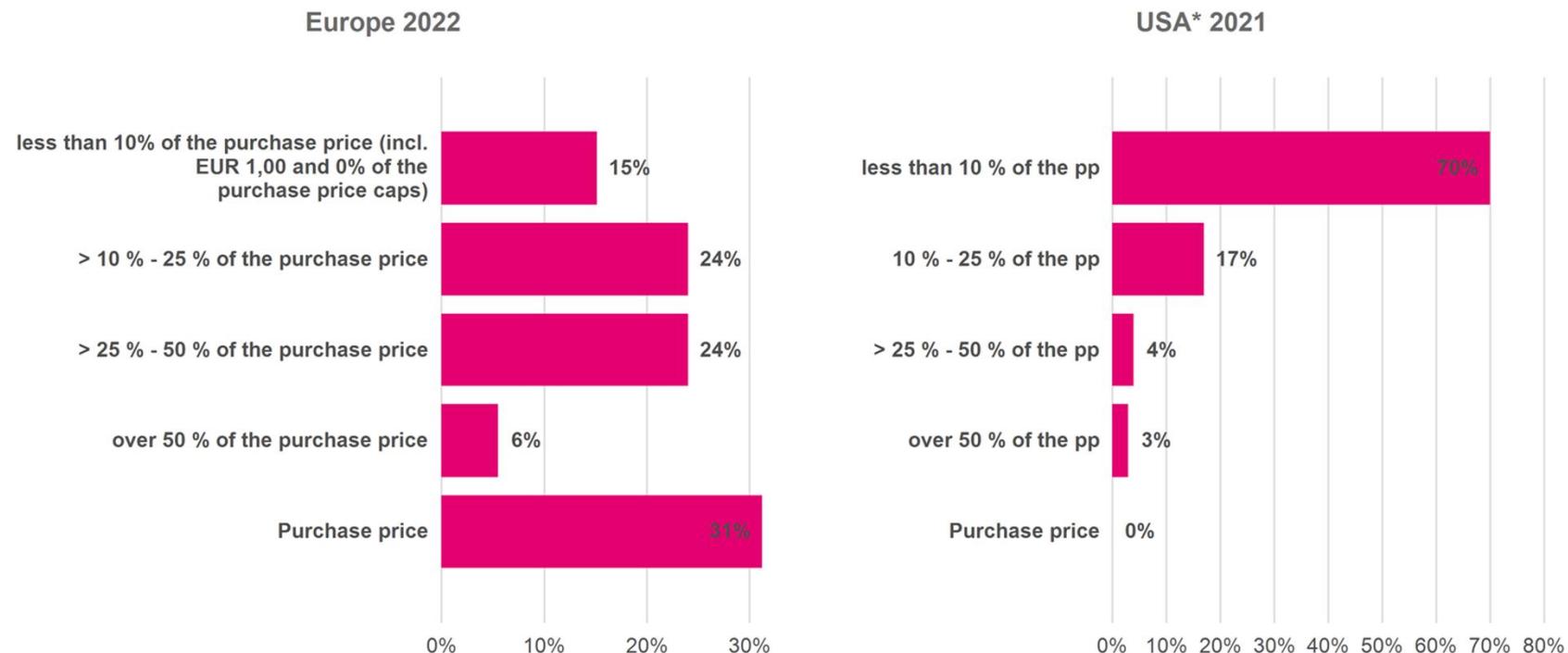
Trend Index 2010 - 2022



*Liability caps with less than 50% of purchase price

Liability caps

Europe / USA

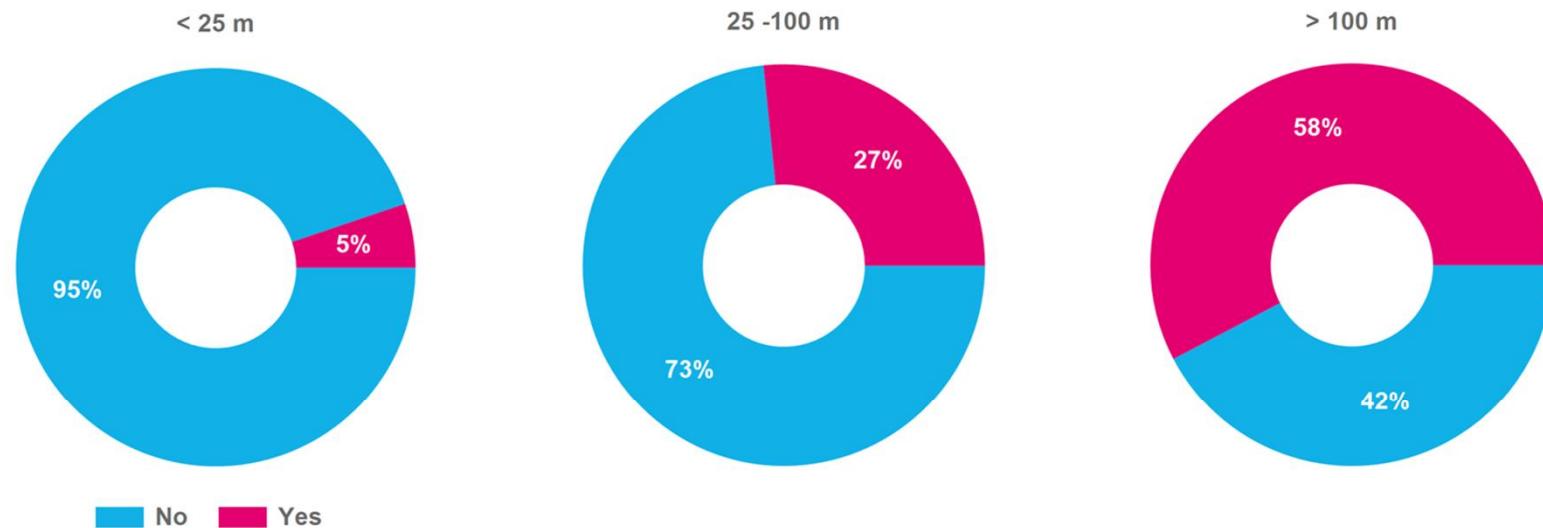


100% = all evaluated transactions with a general liability cap

*The US data was derived from "SRS Acquiom 2022 M&A Deal Terms Study" produced by SRS Acquiom Inc.

Warranty & Indemnity insurance

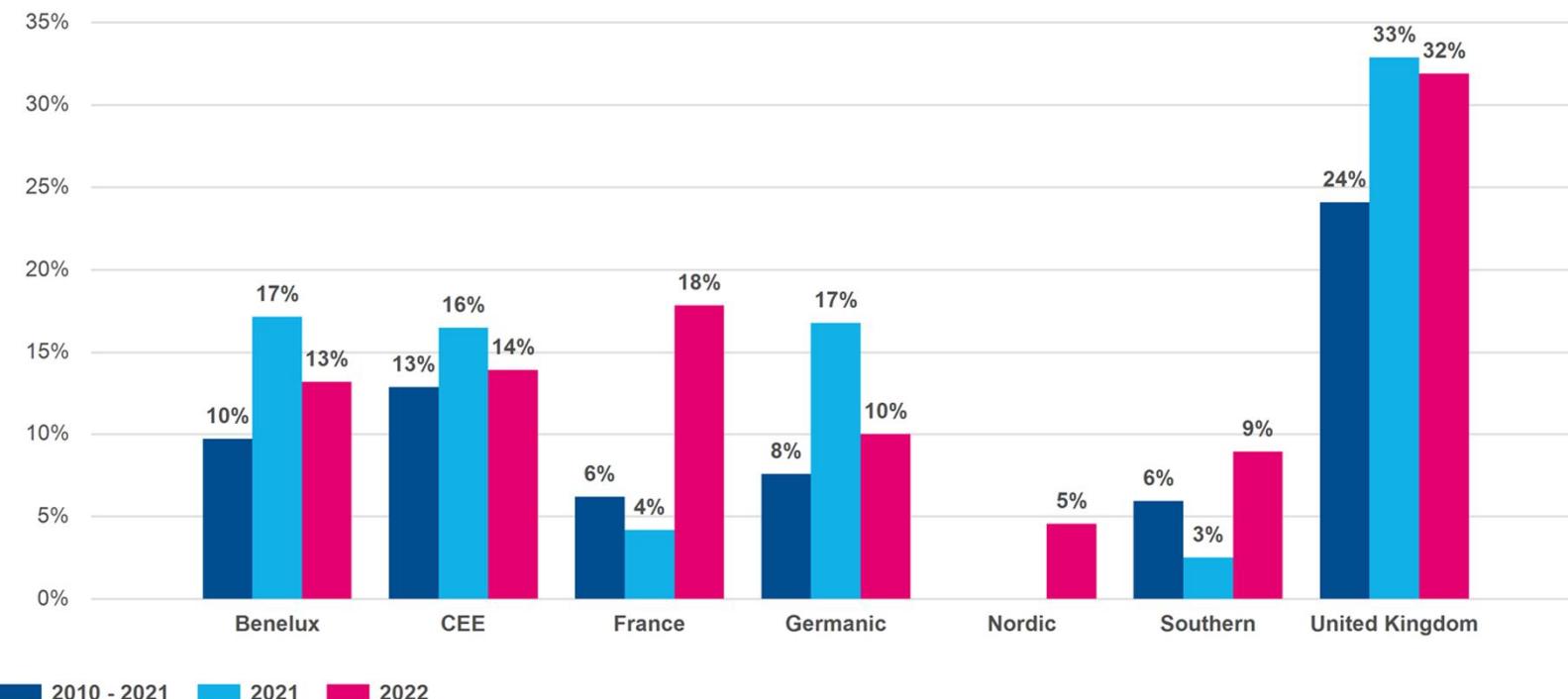
By purchase price 2022



100% = all evaluated transactions

Warranty & Indemnity insurance

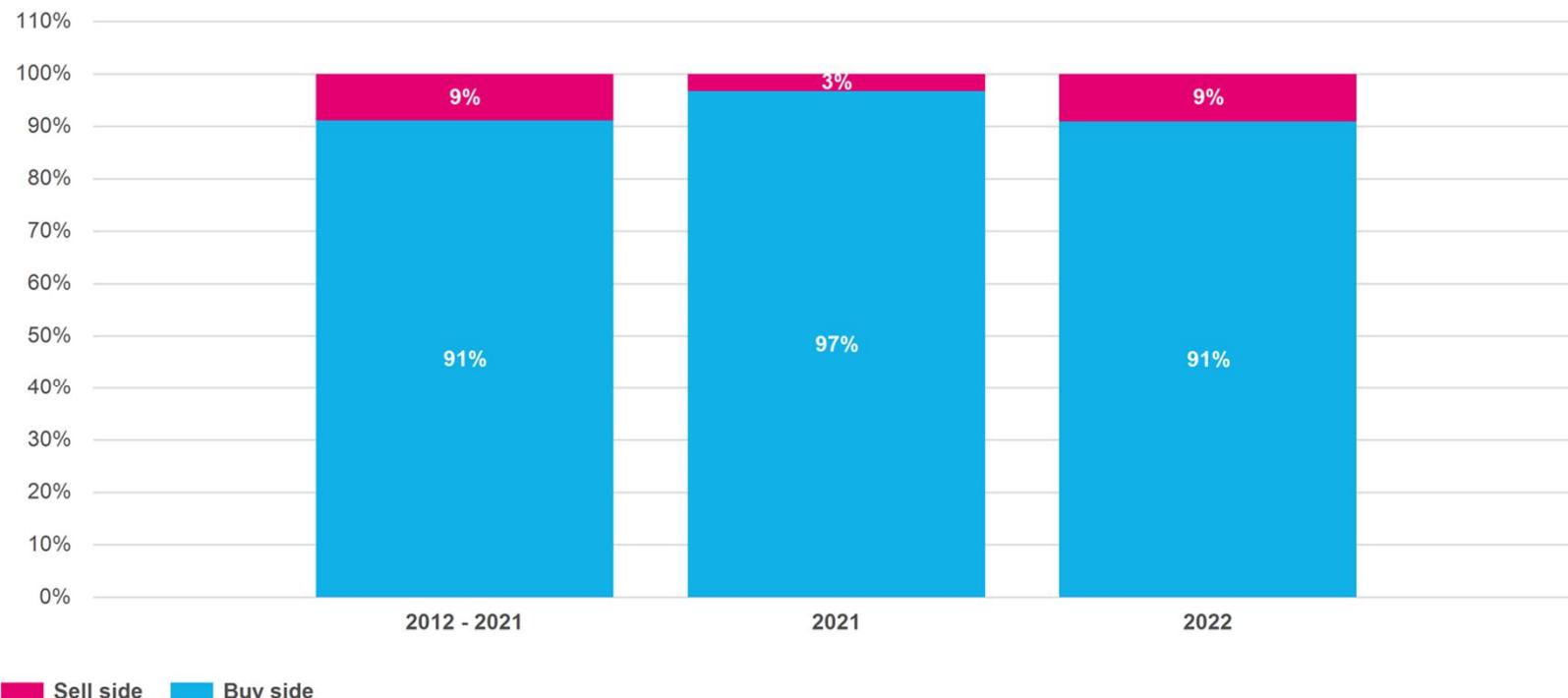
Frequency of Warranty & Indemnity insurance 2010 – 2022



100% = all evaluated transactions
No data for region Nordic before 2022 available

Warranty & Indemnity insurance

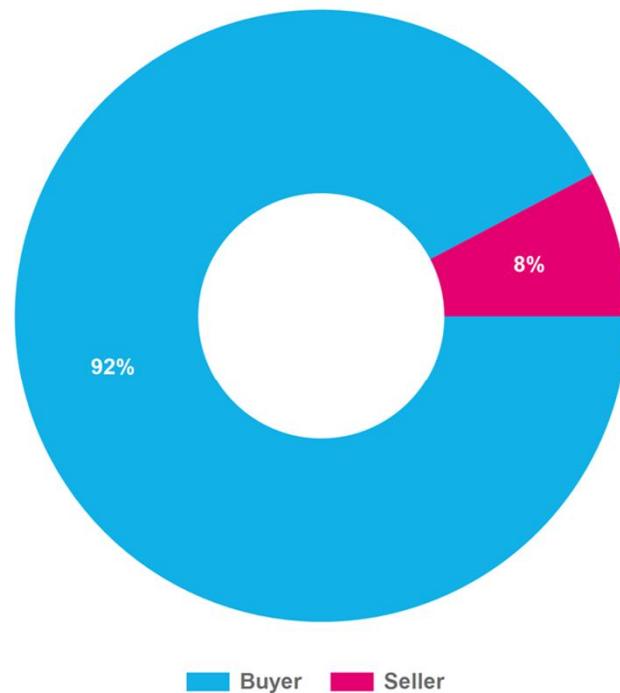
Time trend 2012 - 2022



100% = deals in which W&I insurance was actually used

Warranty & Indemnity insurance

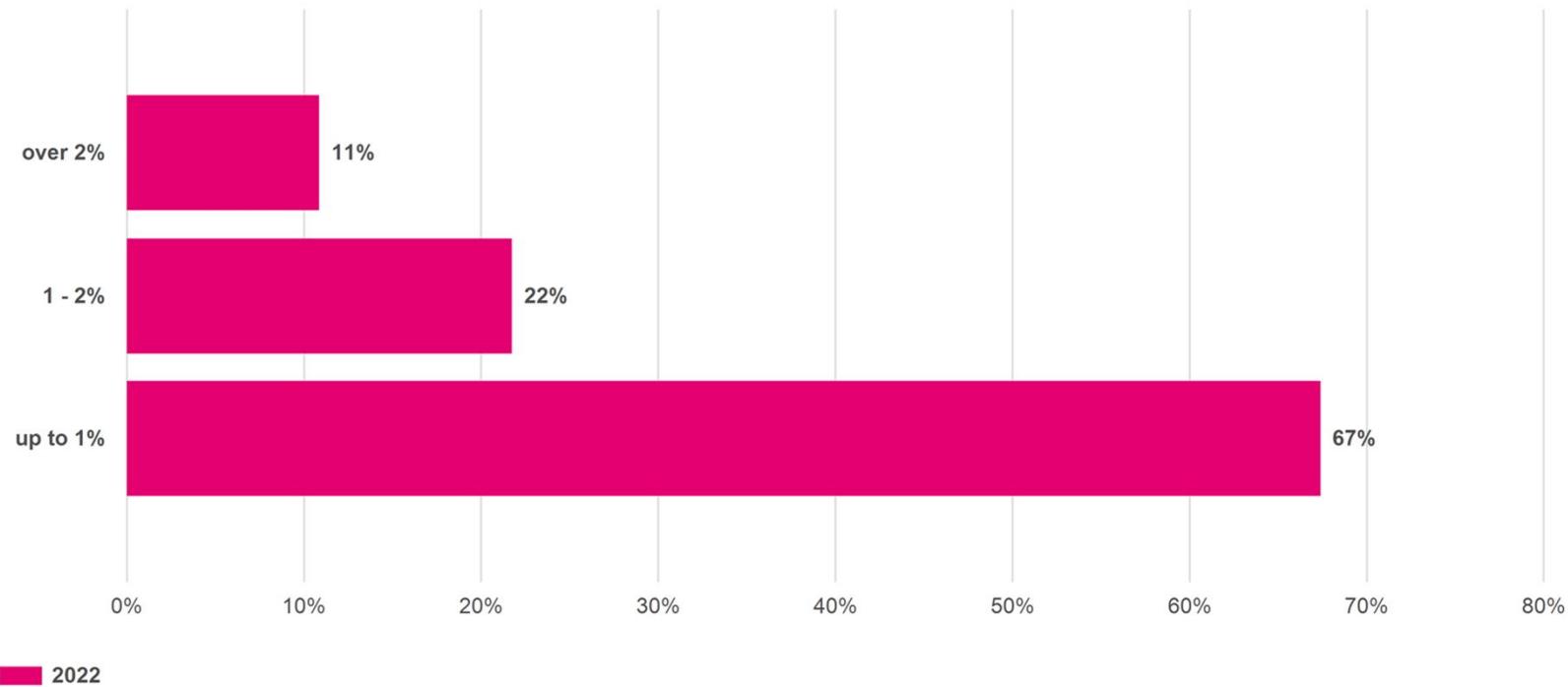
Premium Paid By



100% = all evaluated transactions

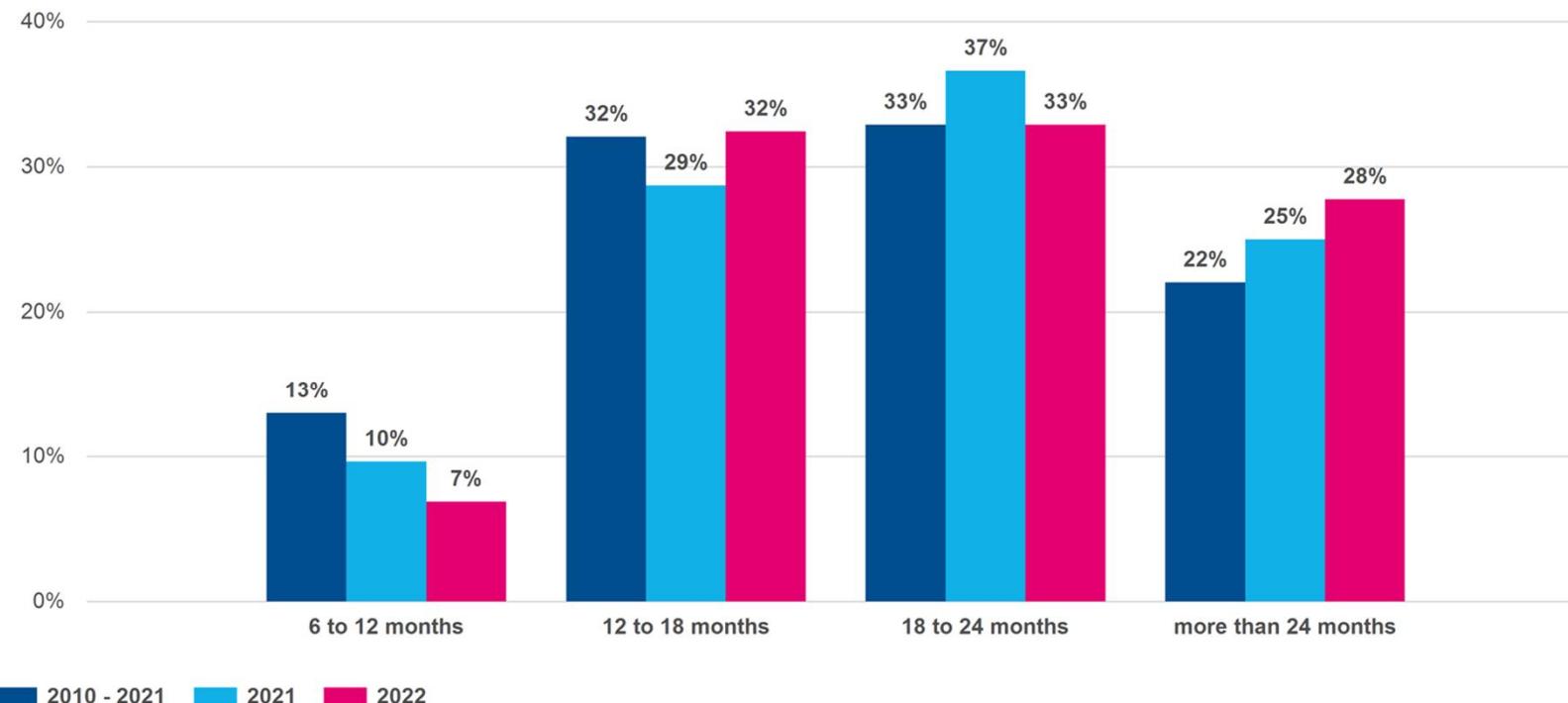
Warranty & Indemnity insurance

Level of premium: % of purchase price



Limitation periods for warranty claims

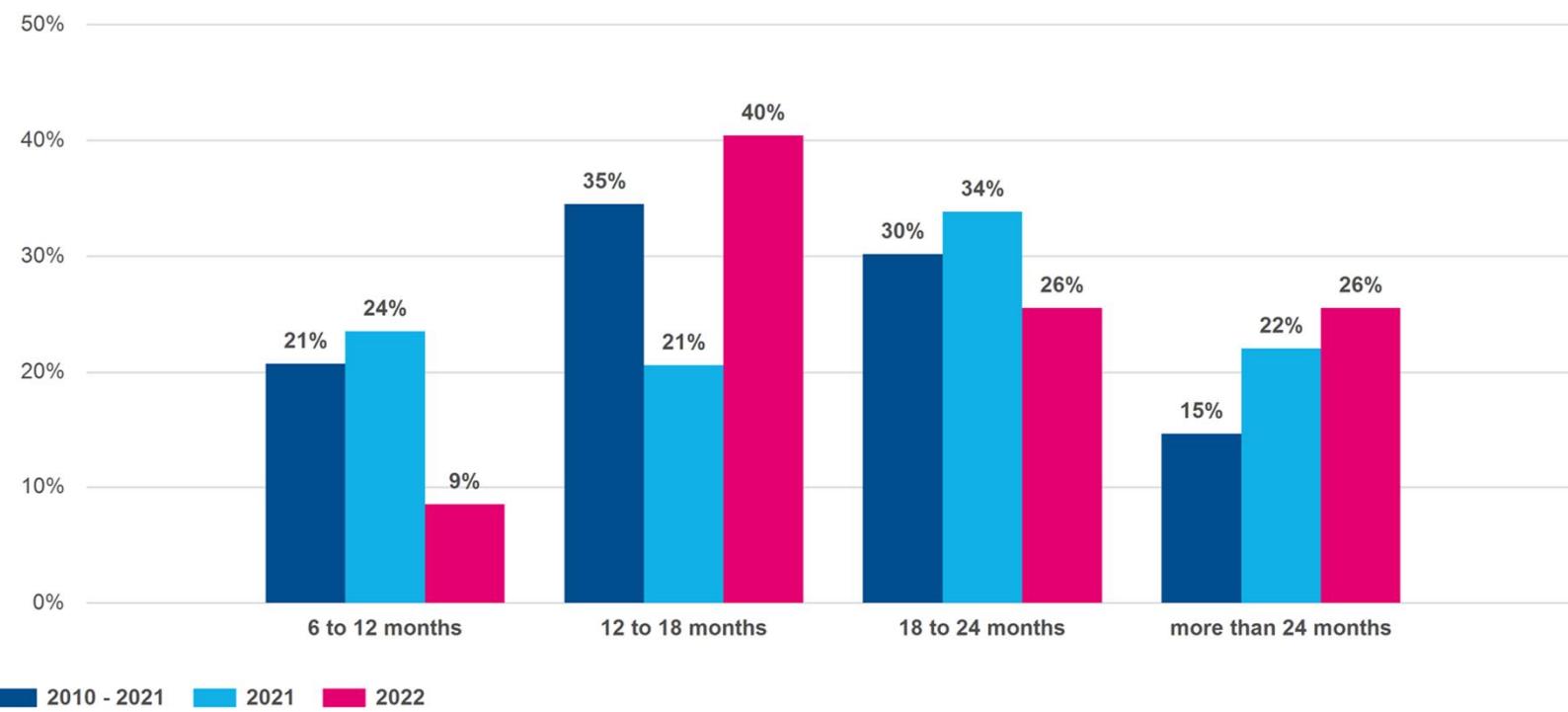
Limitation period for Warranty Claims 2010 - 2022



100% = all evaluated transactions

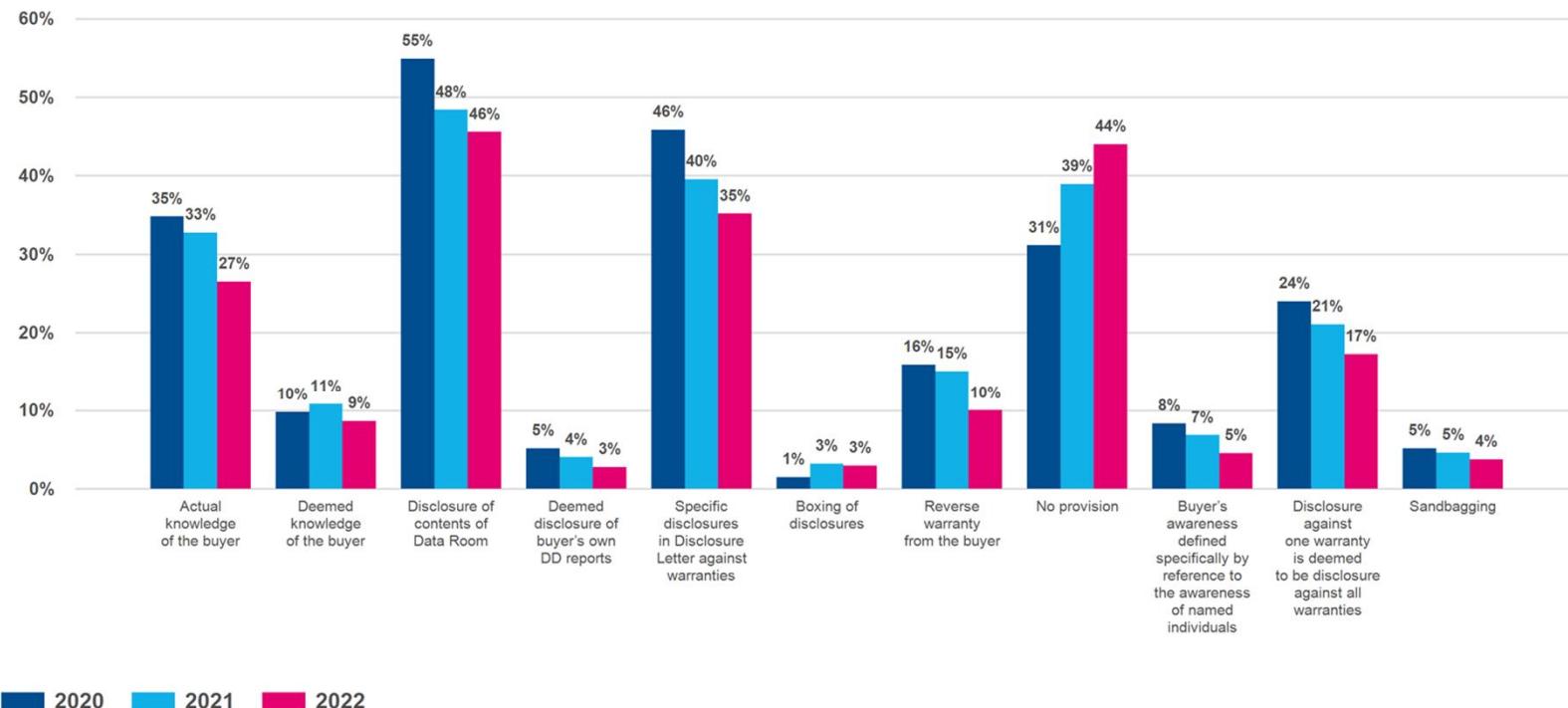
Limitation periods for warranty claims

By purchase price EUR > 100 mill. 2010 - 2022



Limitation of liability for warranty claims

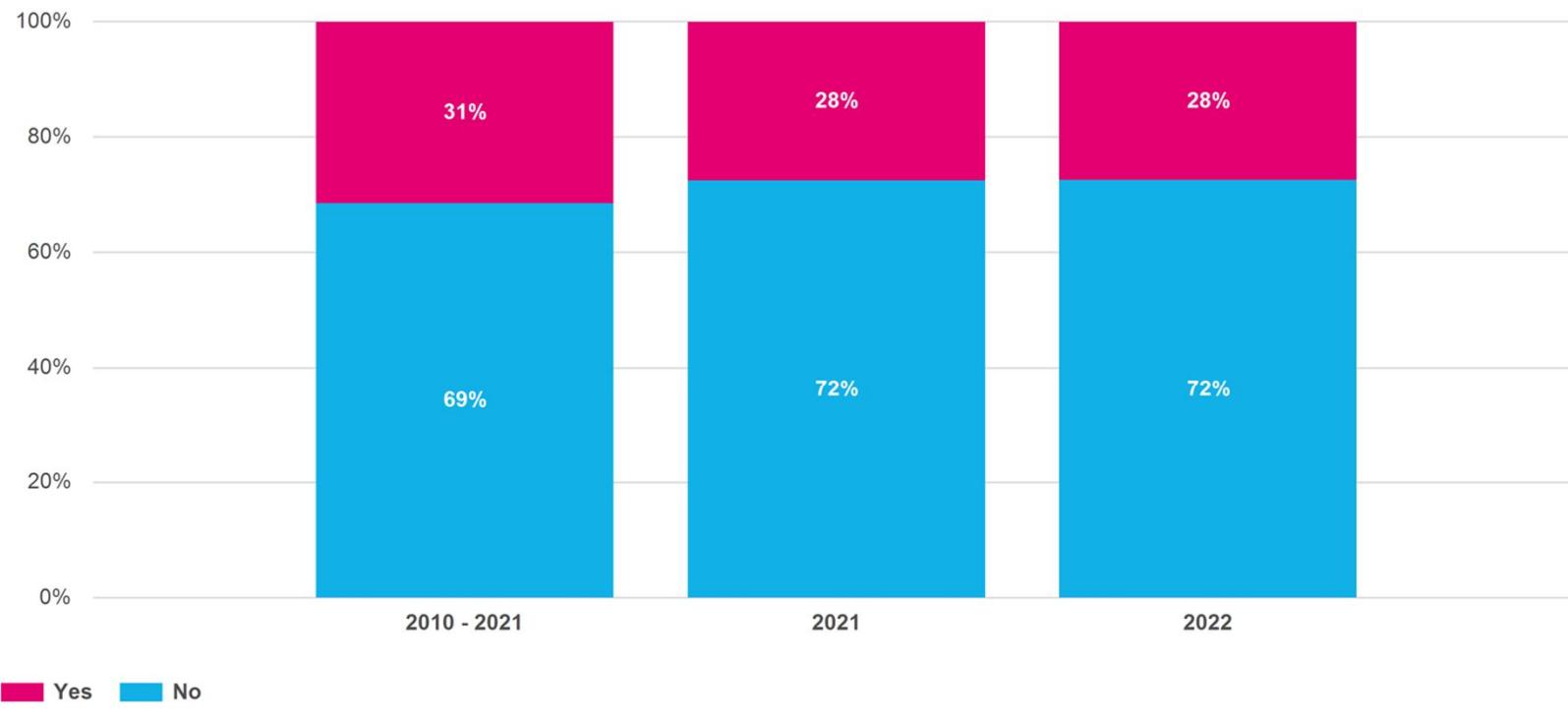
Exclusion of Warranty Claims 2020 - 2022



100% = all evaluated transactions - more than one nomination possible

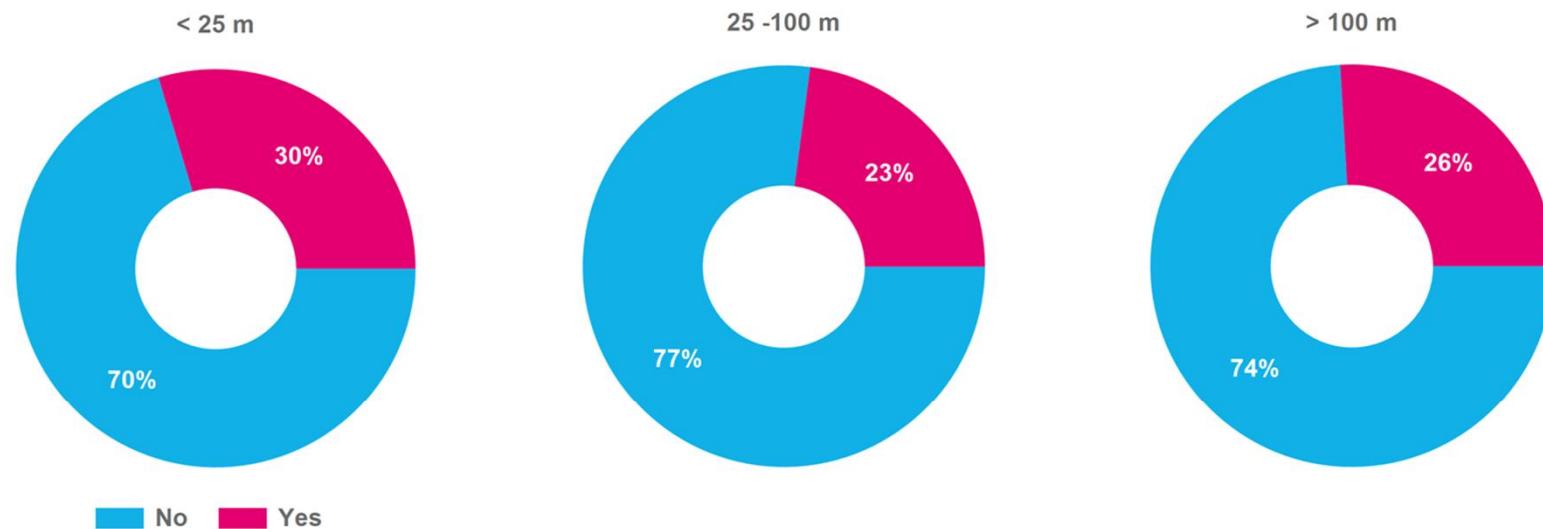
Security for warranty claims

Security for warranty claims 2010 - 2022



Security for warranty claims

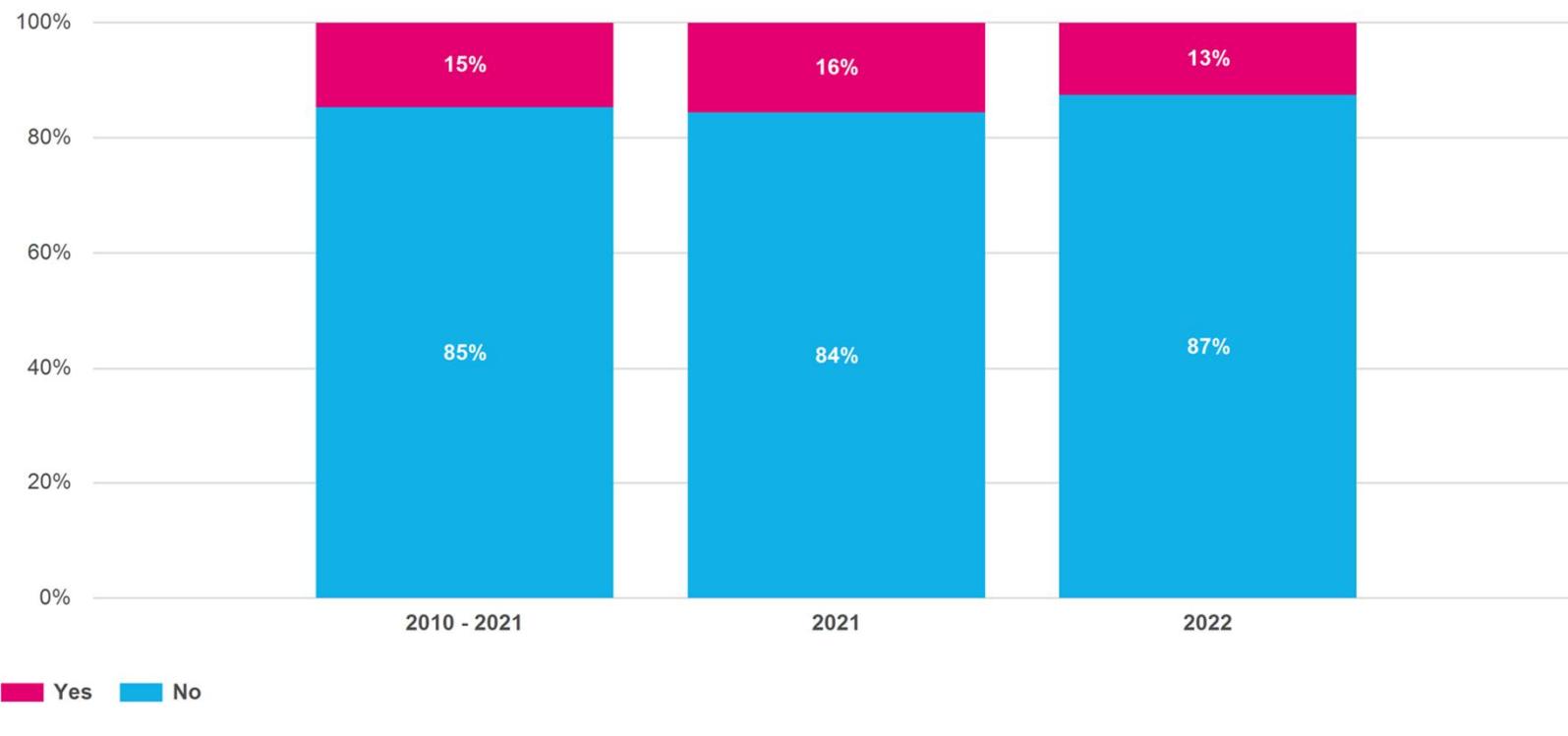
By purchase price 2022



100% = all evaluated transactions

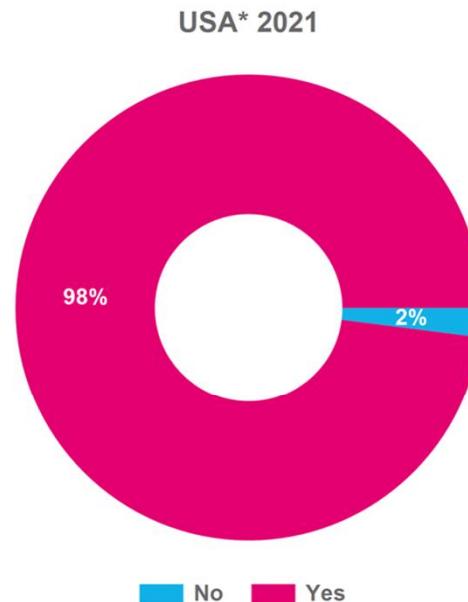
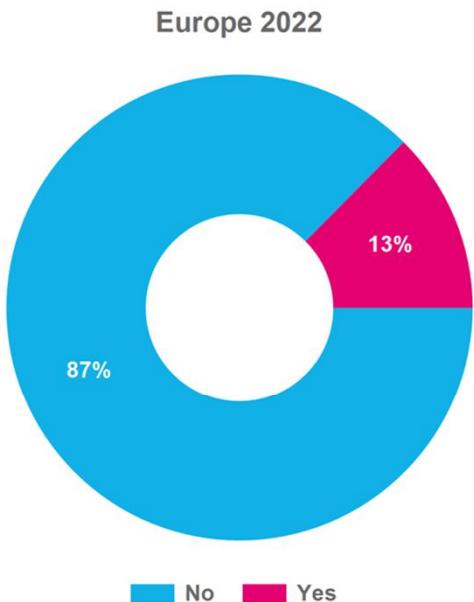
MAC clauses

Trend trend 2010 - 2022



MAC clauses

Europe / USA

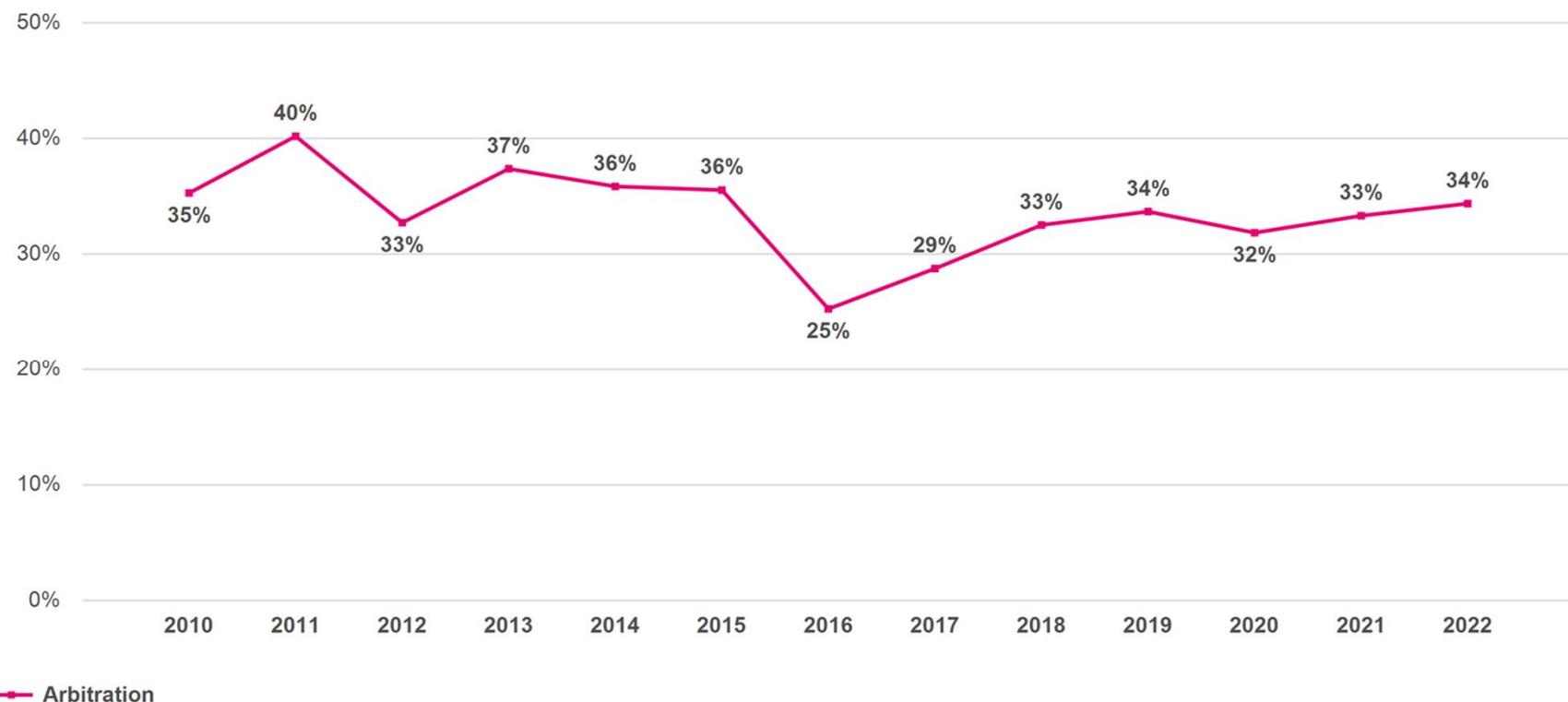


100% = all evaluated transactions

*The US data was derived from "SRS Acquiom 2022 M&A Deal Terms Study" produced by SRS Acquiom Inc.

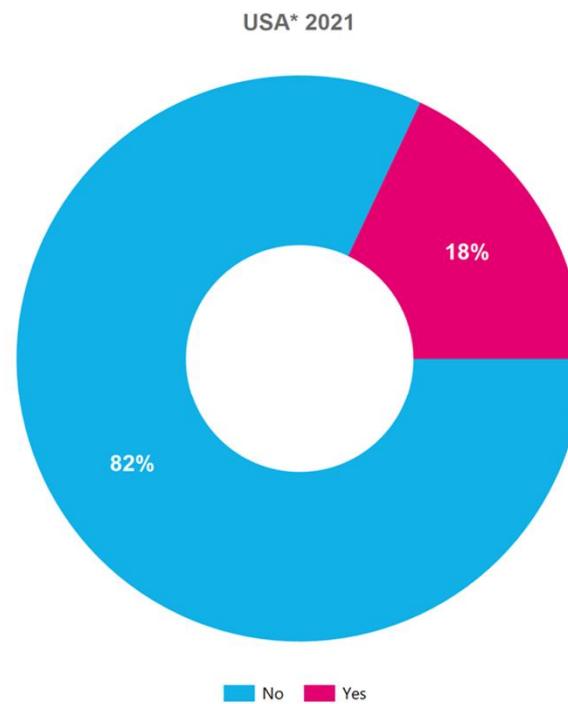
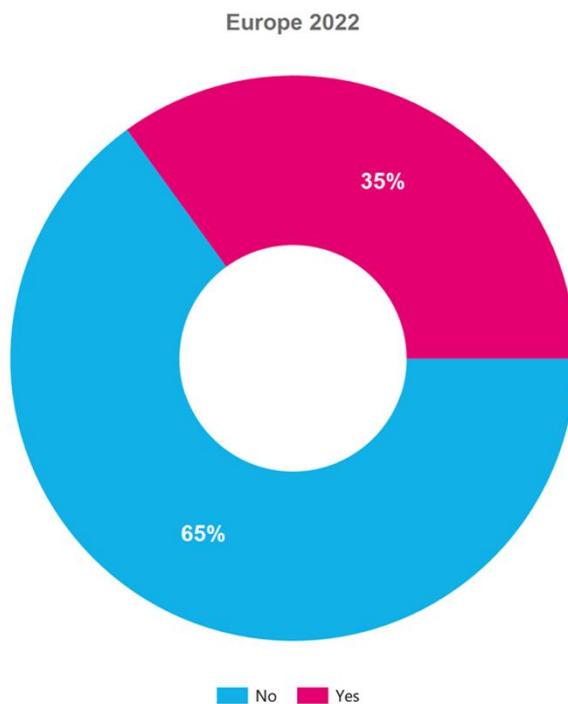
Arbitration

Trend Index 2010 - 2022



Arbitration

Arbitration Clauses Europe / USA

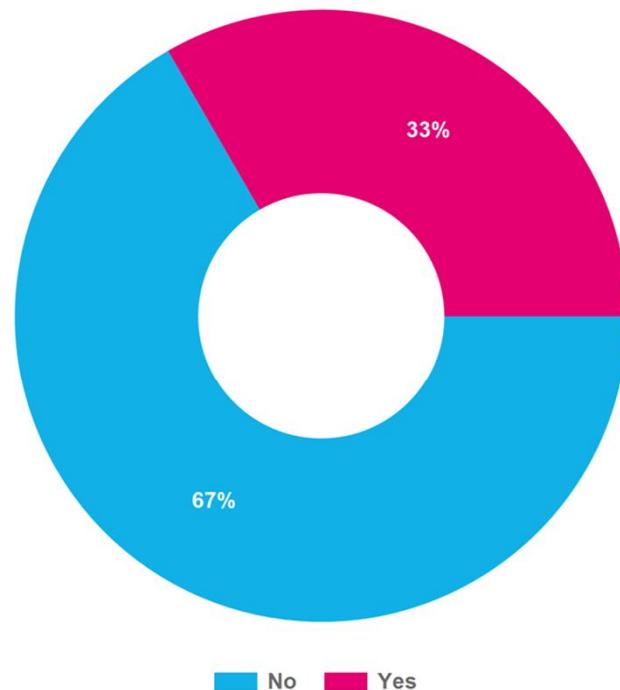


100% = all evaluated transactions

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Environment, Social, Governance (ESG)

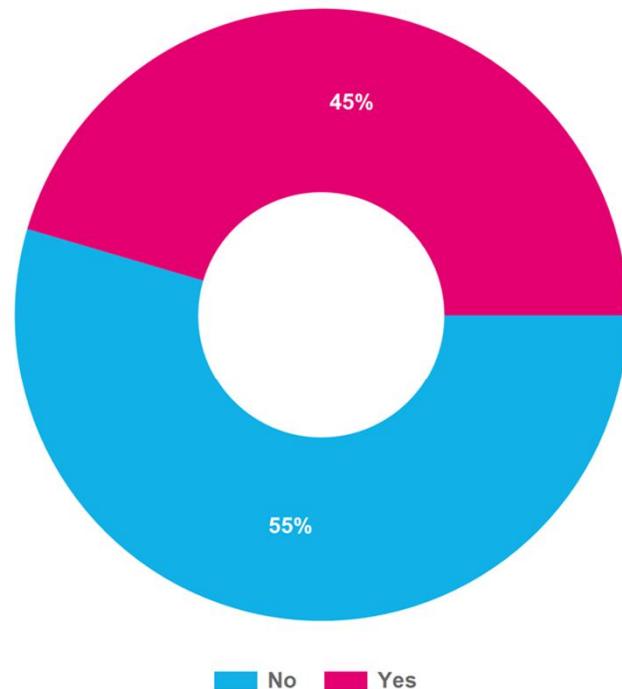
Specific ESG Due Diligence



100% = all evaluated transactions

Environment, Social, Governance (ESG)

Specific ESG Provisions in the SPA



100% = all evaluated transactions

Dr Oliver Wolfgramm



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The Legal 500 Germany, 2022

Expertise

Oliver Wolfgramm is a partner in the Corporate/M&A practice group in CMS' Frankfurt office. He has more than 20 years of experience in advising German and foreign companies on national and cross-border M&A and private equity transactions as well as Joint Ventures and corporate reorganisation.

Over the past few years, Oliver has also built up a special advisory practice for Chinese state-owned enterprises (SOEs) and private companies – both strategic and financial investors – that acquire or co-operate with businesses in Germany and Europe.

From 1998 to 2003 Oliver was an associate with law firm Hengeler Mueller in Frankfurt and Düsseldorf. From 2001 to 2002 he worked with the legal department of Merrill Lynch in London.

Oliver joined CMS in November 2003 and became a partner in 2005.



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JETZT VORMERKEN

51. FINANCE-Roundtable M&A
am 14. November 2023