PUBLIC M&A | INDIA SNAPSHOT

2021-22

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INTRODUCTION

01 It's been an exciting year for Public M&A – we have witnessed a substantial bull run; attractive valuations coupled with robust initiatives by SEBI towards stronger and clearer regulations have been key drivers in increasing deal activity in the listed space.

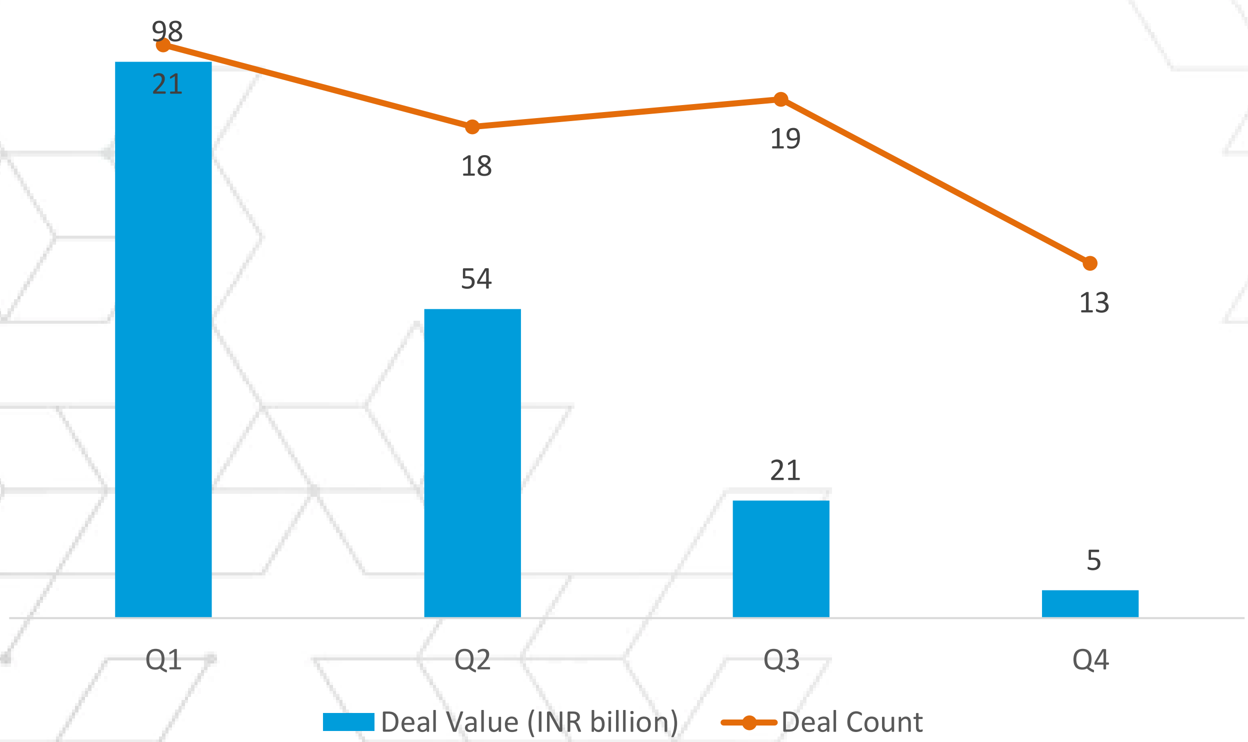
02 The period between 1 April 2021 to 28 February 2022 was marked with 71 tender offers for acquisitions of substantial stake in, or control over Indian listed companies. The aggregate value of such tender offers was c. INR 177 billion, which is higher than the COVID-19 hit financial year 2020-21.

03 Financial sponsors and strategic investors have shown increased interest in taking a controlling position in listed businesses.

04 In takeovers by financial sponsors, a combination of transitional arrangements (with outgoing promoters) and new professional management was preferred.

05 In this snapshot, amongst other things, we have provided a broad overview of certain deal trends and our key learnings from recent listed deals.

Deal Statistics for FY 2021-22



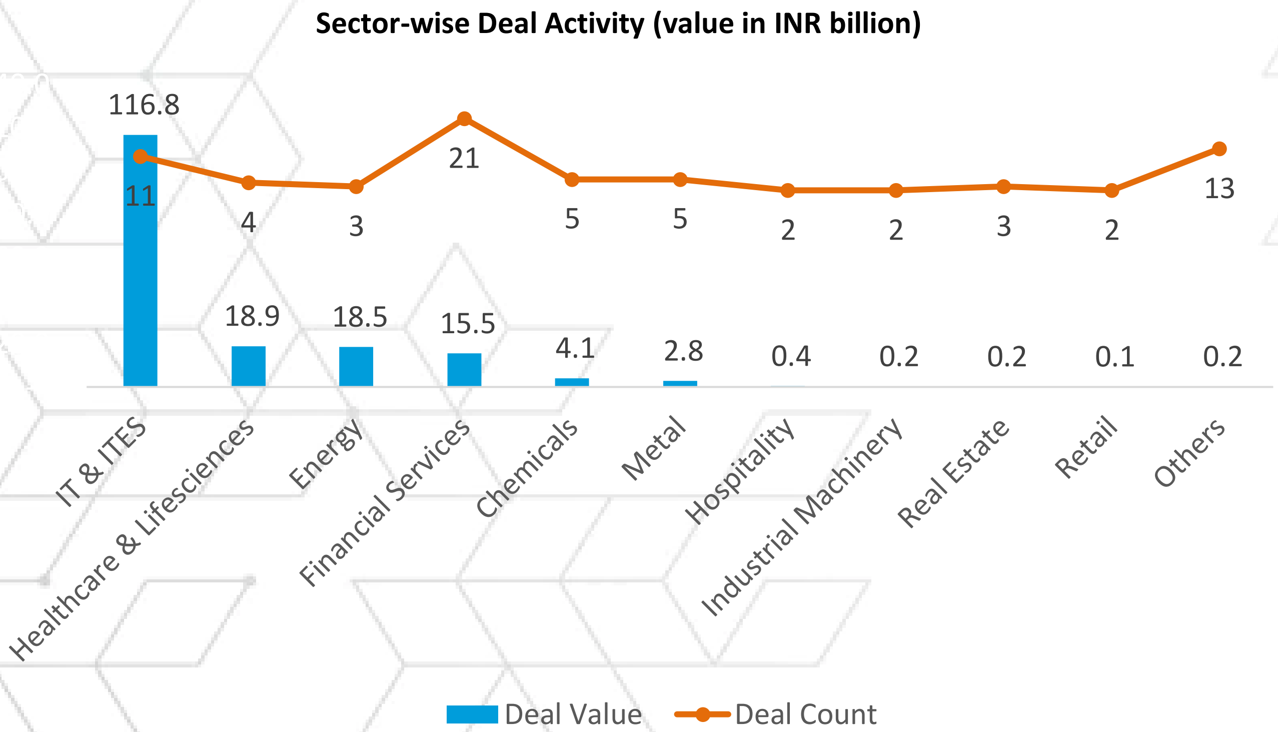
SECTION ANALYSIS

01 In volume, the financial services sector saw most activity recording 21 deals valued at INR 15.48 billion, followed by IT/ITES sector (11 deals), and chemical and metal sectors (5 deals each).

02 In deal value, the technology sector led the fray recording aggregate deal value of INR 116.76 billion, followed by healthcare and life sciences sector (INR 18.91 billion) and energy sector (INR 18.53 billion).

03 The deal momentum in the technology and financial services sectors was fueled primarily by the need to achieve rapid growth.

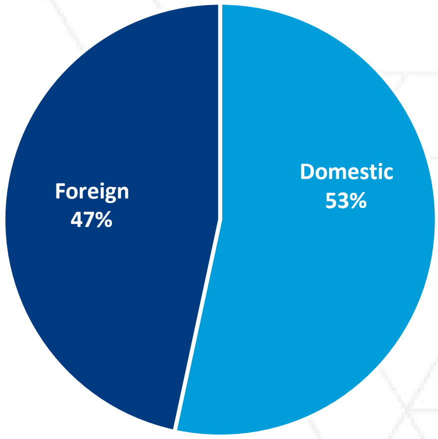
04 Majority were mid-sized deals, aimed at entering new verticals, geographies or capabilities.



TRENDS

Foreign investment aggregating to c. INR 82 billion contributed to c. 47% of the total deal value, with the major contributor being the tender offer made for the shares of Mphasis Limited.

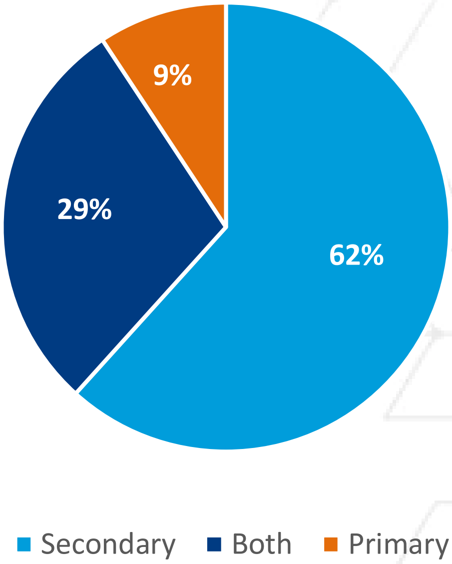
Domestic transactions contributed to c. 53% of the deal value, with the major contributor being the tender offer made to the shareholders of Justdial (INR 22 billion).



c. 62% of the tender offers were triggered on account of secondary acquisitions.

c. 9% of the tender offers were triggered on account of primary acquisitions.

c. 29% of the tender offers were triggered on account of combination of both secondary and primary acquisitions.



TOP DEALS BY VALUE

- During 1 April 2021 to 28 February 2022, the top ten tender offers by value were (in descending order of value):

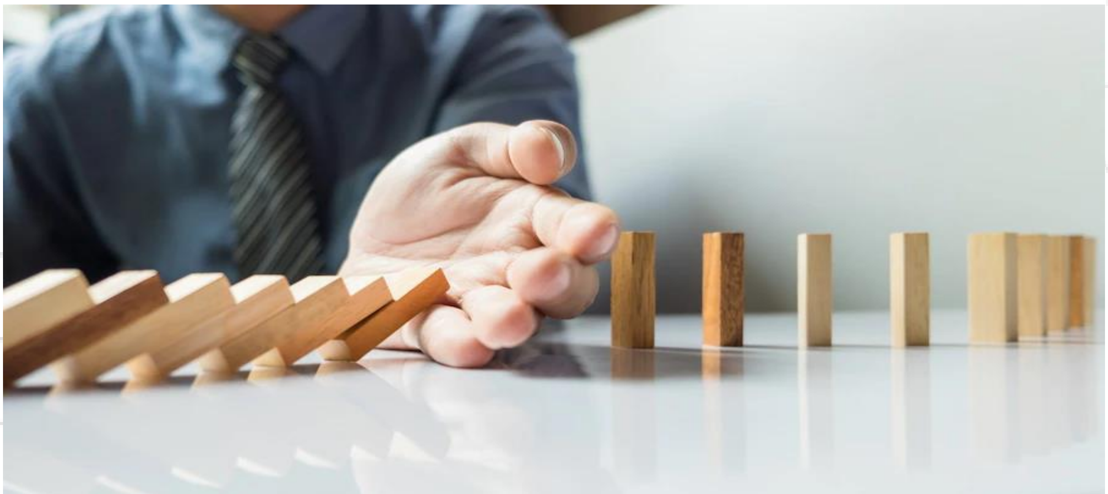
No	Target Company	Acquirer(s)	Value (in INR billion)
1	Mphasis	BCP TOPCO IX	82.6
2	Justdial	Reliance Retail Ventures	22.2
3	Sterling and Wilson Solar	Reliance New Energy Solar	18.4
4	Thyrocare Technologies	Docon Technologies Private, API Holdings	17.9
5	Magma Fincorp	Rising Sun Holdings	13.9
6	Tejas Networks	Tata Sons, Panatone Finvest , etc	10.4
7	Clariant Chemicals (India)	Luxembourg Investment Company 428 S.à r.l., etc.	3.0
8	Lloyds Metals and energy	Thriveni Earthmovers Private	2.3
9	Lyka Labs	Ipca Laboratories	1.0
10	Sunshield Chemicals	Indus Petrochem	0.7

- The aforesaid tender offers comprised 97% of the aggregate deal value of all tender offers during 1 April 2021 to 28 February 2022. The largest tender offer by value was for Mphasis Limited, being INR 82.62 billion and the smallest tender offer was for Mrugesh Trading Ltd., being INR 7 lakh.
- Khaitan & Co acted on 4 of the 10 largest tender offers, ie 1. Justdial Limited, 2. Sterling and Wilson Solar Limited, 3. Magma Fincorp Limited and 4. Tejas Networks Limited. These deals comprised 37% of the aggregate deal value of all the tender offers during 1 April 2021 to 28 February 2022.

KEY REGULATORY CHANGES

Combined Tender cum Take Private Offer

- The Takeover Regulations have been recently amended to provide flexibility in implementing a combined tender cum take private deal. In brief, a takeover deal triggering a tender offer can now be structured in a manner where the acquirer (not being a promoter) specifies upfront the tender offer price and an indicative take private price. The indicative take private price would need to include a suitable premium and cannot be less than the book value of the listed target company. If the response to the tender offer leads to satisfaction of the take private threshold (ie 90% of the total shares of the listed company), the shareholders will be paid the indicative take private price (ie take private succeeds) and if it does not, then the shareholders will be paid the tender offer price (ie take private fails). In the event, the take private threshold is not met, but the acquirer acquires more than 75%, a period of 12 months would be available to the acquirer to re-attempt (at its discretion) the take private deal. If the take private fails again, the acquirer would be required to bring down its shareholding to 75% within a further period of 12 months.
- Importantly, this new combined process: (i) does not entail a reverse book building process to be followed for the take private leg, (ii) allows the acquirer to offer a different price for the take private on one hand, and the tender offer on the other hand, and (iii) does away with any interest costs being levied on account of any gap between the tender offer and take private deal.



Proportionate Acquisition

- An acquirer now has the option to proportionately reduce its acquisitions under: (i) the triggering acquisition agreement (SPA/SSA), and (ii) the shares tendered in the open offer, such that its ultimate shareholding in the listed target company does not exceed 75%. This provides an acquirer the flexibility to restrict its overall acquisition to 75% and not be subject to a subsequent sell down obligation to achieve minimum public float requirements (if the SPA/ SSA shares + shares tendered in the open offer breaches 75%).
- Such acquirer should not: (A) acquire joint control of the listed target, or (B) have been (in the last 2 years): (i) a promoter of the listed target, (ii) associated with promoters of listed target, (iii) holding >25% stake in listed target.

KEY REGULATORY CHANGES

Take Private/ Delisting

- SEBI has introduced new rules for take private deals and the key changes include: (a) defining the role of independent directors ("IDs") in the take private process by, amongst other things, requiring IDs to provide reasoned recommendations on the delisting proposal; (b) clarity on determination of book value which is pertinent for the take private counter offer process; and (c) streamlining timelines and reducing procedural inefficiencies in implementing such transactions. Such revisions are expected to provide a clearer roadmap to acquisition under the take private route.

Preferential Allotment

- SEBI has made certain changes to the framework governing preferential issue of securities; key changes include (a) reduction of look back period for determining minimum preferential issue price (under the erstwhile regime, the minimum price is linked to the average of the weekly high and low of the volume weighted average price (VWAP) during the preceding 26 weeks / 2 weeks, and now SEBI has reduced the lookback to preceding 90/ 10 trading days or any stricter provisions in the charter documents); (b) any allotment resulting in change of control or allotment of more than 5% shares will require a valuation report from a registered independent valuer and in case of change in control, a committee of IDs is required to provide reasoned recommendations and comments on pricing and other aspects of the preferential issue; (c) reduction of the tenure of applicable lock-in requirements; (d) guidelines for pledging promoter securities issued pursuant to preferential allotment; and (e) permitting 'non-cash' preferential issue through share swaps supported by a valuation report. Such revisions are largely aligned with the commercial requirements of present day deal making and are expected to provide a boost to fund raising in the listed space.

Promoter re-classification

- SEBI has made certain changes with respect to the promoter re-classification process. Key revisions include: (a) reduction in the overall reclassification timeline (by almost 2 months); and (c) automatic re-classification (based on adequate disclosures) as part of a tender offer process/ merger scheme. Re-classification of promoter shareholding has emerged as an important aspect of control transactions involving listed companies, and the revisions have played a key role in streamlining the entire process and increase deal efficiency.

RECENT LEARNINGS

- Permitted Early Acquisitions: Typically, secondary acquisitions in a control deal are completed only post a gap of approximately 30 days from execution of the share purchase agreement. However, recent amendments to the Takeover Regulations permits such acquisitions to be completed immediately post execution on the condition that: (a) the acquisition is undertaken through the stock exchange settlement process; and (b) the acquired shares are temporarily placed in escrow without access to voting rights. Such acquired shares can subsequently be moved out of the escrow and access to voting rights can be restored. This allows more flexibility in structuring and greater deal certainty.

  Recent examples of acquisitions under this route includes: Reliance Group's acquisition of Justdial; Tata Group's acquisition of Tejas Networks and Crompton Greaves' acquisition of Butterfly Gandhimathi.

- Exit Linked Management Incentives: Management incentive schemes have traditionally played a key role in adding overall value to the company and its shareholders. In addition to performance metrics, the incentive schemes may also be linked to the company's market capitalization. This could be helpful for financial sponsors with defined exit horizons.

LANDMARK DEALS

Vedanta

Consolidation of holdings through the voluntary open offer route

Cyrus Poonawalla Group

Poonawalla Group's acquisition of controlling stake in Magma, through primary acquisition of shares and tender offer

Reliance Industries Limited

Acquisition of controlling stake in Just Dial, via combination of primary/secondary acquisitions; along with the tender offer

TATA

Tata Group's acquisition of controlling stake in Tejas via acquisition of equity shares and warrants

IHH Healthcare Berhad

Acquisition of Fortis Healthcare

KPIT

Merger of Birlasoft into KPIT and demerger of engineering business

INOX Live the Movie / PVR

Merger of INOX with PVR Limited

Apax Partners

Acquisition of Patni Computers by Apax-backed iGATE Corp

Acquisition of stake in Cholamandalam

Invesco

Shareholder Right to requisition EGM for removal and appointment of directors

Reliance Retail

Acquisition of retail & wholesale, logistics & warehousing business of the Future Group under a court approved scheme

essel Extraordinary Packaging

Sale of its controlling stake (up to 51% stake) in Essel Propack Limited to Blackstone

Indo Count Complete Comfort

Transfer of the business undertaking of the Home Textiles Business of GHCL Limited by way of slump sale

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