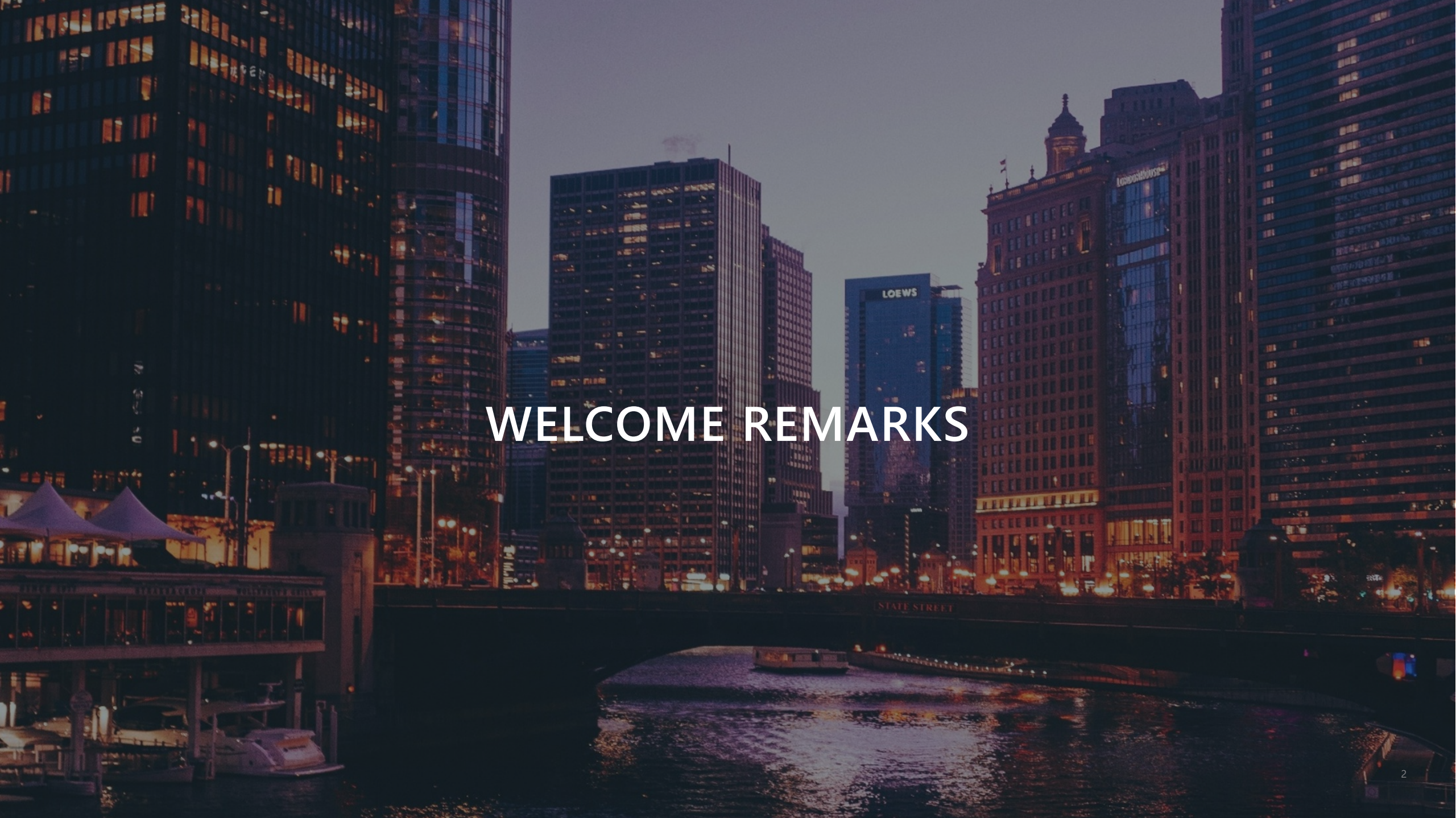


The image is a composite background. The left half shows a night view of the Chicago skyline, with the Chicago River in the foreground and several skyscrapers illuminated. The right half is a dark, semi-transparent overlay featuring a grid pattern and several colorful line graphs and candlestick charts, representing financial data.

MAYER BROWN

FINANCIAL SERVICES M&A SUMMIT 2026

A nighttime photograph of the Chicago skyline. The Chicago River flows through the foreground, with the State Street Bridge crossing it. Several skyscrapers are visible, including the Willis Tower on the left and the Loews building in the center. The sky is dark, and the city lights are reflected in the water.

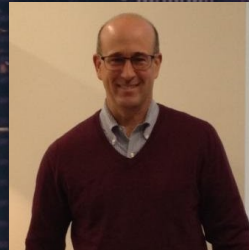
WELCOME REMARKS

THE NEXT WAVE OF FINANCIAL SERVICES M&A

2:35 – 3:35 P.M.



JAMES ANDERSON
*Global Co-Head of
Financial Services*
Houlihan Lokey



ANDY ROSENBURGH
Co-Head of FIG
Wells Fargo



JJ SCHMIDT
Director
Piper Sandler



LAUREN PRYOR
Partner
Mayer Brown



DANIEL SEROTA
Partner
Mayer Brown



INTRODUCTION / MARKET OVERVIEW

- Banks and specialty finance are seeing a return to normal after the rate-driven slowdown of 2022–24, not a true reopening of the market.
- Banks are still dealing with underwater bond portfolios, the problem behind "March Madness" in 2023, the largest year of bank failures on record.
- Purchase-accounting pressure is easing as lower-yielding assets roll off bank balance sheets.
- Mortgage and specialty finance-built momentum into 2026 on expected rate cuts, which the conflict with Iran knocked off course.
- Valuations have come in below expectations, but deals are still getting done in mortgage and consumer finance.
- Segments in focus are banks, insurers, asset managers and nonbank lenders (fintechs and specialty finance).

THEME 1: VALUATIONS AND DEAL DYNAMICS

- Bank deal valuations track bank stock valuations, and both have improved steadily since the 2023 lows.
- Bank deal multiples (price to tangible book value) have been flat in 2026 after rising year over year in 2024 and 2025.
- The recent Fed rate hike and its guidance have put pressure on bank stocks.
- Specialty finance valuation expectations are likely to stay low until rates fall.
- The market still pays for earnings and tangible book value rather than growth.
- The biggest disconnect is that sellers want a "healthy" multiple of earnings, while buyers underwrite a base return (earnings divided by purchase price).
 - Specialty finance platforms ask for 6–8x or more.
 - Buyers underwriting a 20%+ return end up around 4–5x.
- Buyers see themselves as bringing cheaper, more plentiful capital to fund loan originations.
- Creative structures:
 - The Kiavi and Toorak deals in business-purpose lending split the origination platforms from the asset portfolios.
 - In those deals, buyers got the assets they wanted and found partners for the platforms.
 - Figure bought earnings at a reasonable price, and Velocity set up a capital-light arrangement to improve its return on equity.
- To position for a sale, sellers should do succession planning and build management depth, so a founder looking to cash out isn't the face of the sale.



THEME 2: STRATEGIC DRIVERS, SECTOR-SPECIFIC PLAYS AND REGIONAL BANKS

- Banks are pursuing scale and deposits.
- Specialty finance buyers want access to assets and unique abilities to originate them, which helps them stand out when raising money from investors.
- In mortgage, one view is that a tough market is the time to get in, before rates fall and housing activity returns to normal.
- PSC expects a larger wave of strategic bank M&A in 2027 as balance-sheet pressure eases and the friendlier regulatory climate continues.
- Scale data:
 - More than 20 of the 50 largest banks at the end of 2015 have since been acquired or merged.
 - 34 banks now have over \$50B in assets, versus 23 in 2015.
 - Today's 50th-largest bank is more than 50% larger than the 50th-largest was in 2015.
- Regional banks with \$50B+ in assets are small next to the four money-center banks with \$2T+, so combining helps spread technology spending over a bigger base.
- Cost savings from closing branches and cutting vendor costs remain central.
- Tech cost savings matter more and more: two \$50B banks each spending \$5M, versus one \$100B bank spending less than \$10M.
- Open questions for regional banks:
 - Is consolidation inevitable?
 - Which strategy creates the most value heading into 2027?

THEME 3: REGULATION AND THE POLICY ENVIRONMENT

- Banks are expected to do more deals while the current regulatory regime lasts.
- Regulation always drives bank deals; the only question is whether it helps or hurts.
- Regulation is becoming more relevant for insurance–asset manager deals, as it has always been for bank–nonbank deals.
- Buyers weigh the time and uncertainty of regulatory approval when evaluating deals.
- Regulation may also change which targets look attractive or can be financed.



THEME 4: PRIVATE EQUITY AND PRIVATE CREDIT

- Sixth Street bought GLS, the largest consumer finance deal in recent years, and took the Kiavi portfolio.
- PIMCO took the \$3B+ Toorak portfolio.
- JC Flowers acquired Republic.
- Traditional PE is now focused on capital-light, service businesses such as insurance brokerage and wealth management.
- Discussion points:
 - Are sponsors getting more creative with financing and deal structures?
 - How are PE-owned companies approaching exits?

CLOSING / OUTLOOK

- Lower rates would speed up deal activity; sustained higher rates, which now look likely after the recent Fed hike, would stall it.
- Discussion prompts:
 - What deals is the market underestimating?
 - What are boards getting wrong about M&A right now?
- The next hotspot bet is mortgage:
 - Each year's volume of new mortgage assets is larger than the total stock of nearly any other asset class.
 - Investors make money over any 5–10 year horizon, but no one can predict which years will be the good ones.
 - That makes a tough market, like today's, in theory the right time to get in.

AI IN M&A: TRANSFORMING THE FINANCIAL SERVICES DEAL LANDSCAPE

3:35 – 4:05 P.M.



OLIVIER RIGAUD
*Senior Director of
Payments Strategy*
Capital One



JOSEPH CASTELLUCCIO
Partner
Mayer Brown

DEAL OR NO DEAL: INSIDE HIGH-STAKES M&A DISPUTES

4:05 – 4:35 P.M.



KEN MATHIEU
Managing Director
Berkeley Research Group



FRANK FAVIA
Partner
Mayer Brown



MICHAEL SERAFINI
Partner
Mayer Brown

AGENDA

1. Executive Summary
2. Financial Services Dispute Landscape
3. Key Drivers of Disputes
4. Industry Trends & Outlook
5. Notable Recent Cases
6. Resolution and Avoidance Strategies
7. Looking Ahead
8. Q&A

The background of the slide is a dark, blurred image of a financial chart. It features a grid of dashed white lines. Overlaid on this grid are several colorful lines (blue, red, yellow, green) and a series of red candlesticks, suggesting a stock market or financial analysis theme. A vertical white line runs down the center of the image, passing through the text.

01

EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

Financial Services M&A disputes are entering a new era—marked by rising complexity, higher stakes, and evolving risks. Precision and proactive strategies are essential for navigating the challenges ahead.

- Financial Services remains the largest source of M&A disputes globally.
- Dispute complexity is rising, driven by earnouts, valuation gaps, and post-COVID deal backlogs.
- 2026 outlook: Continued growth in deal flow and dispute activity, with increasing stakes

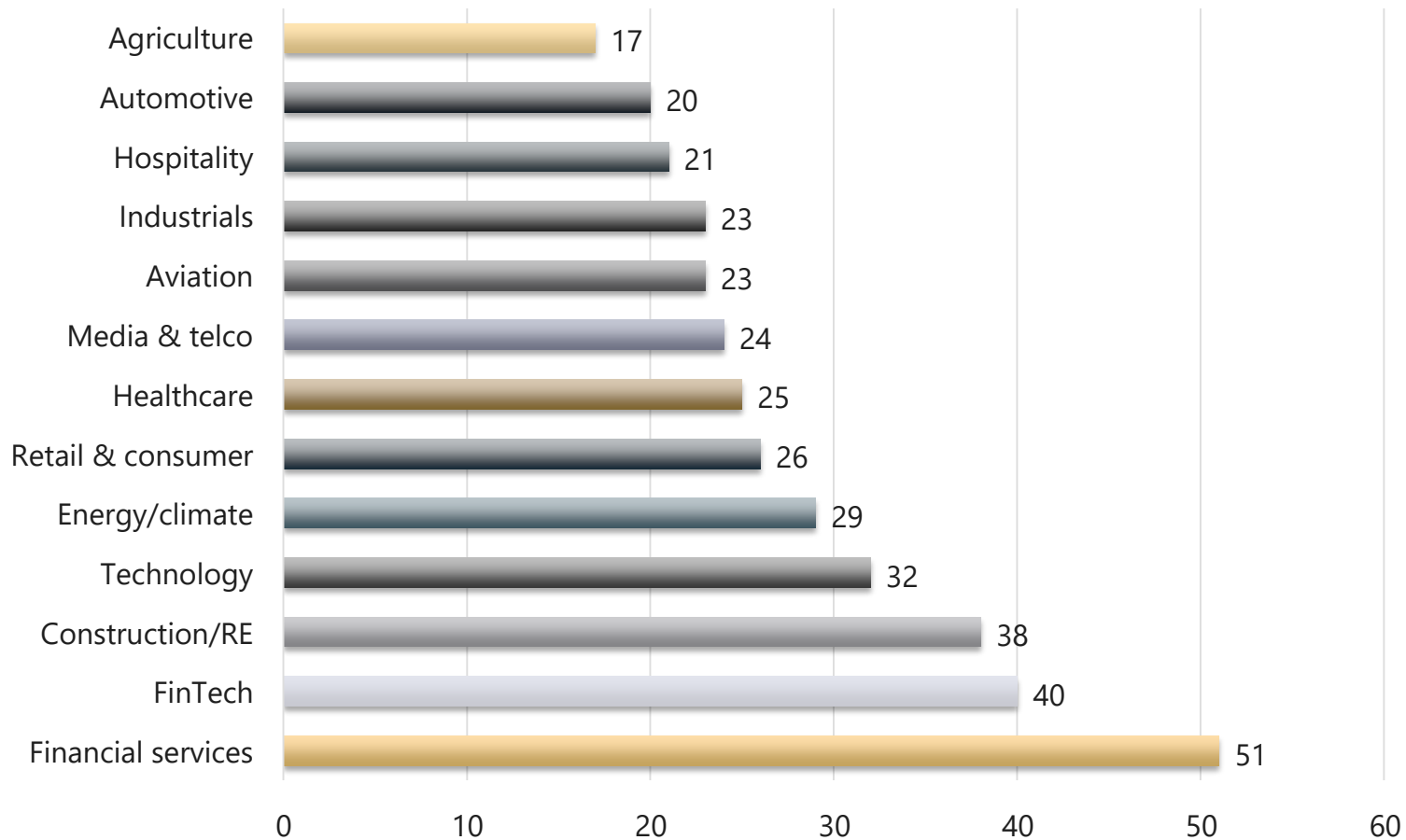
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02

FINANCIAL SERVICES DISPUTE LANDSCAPE

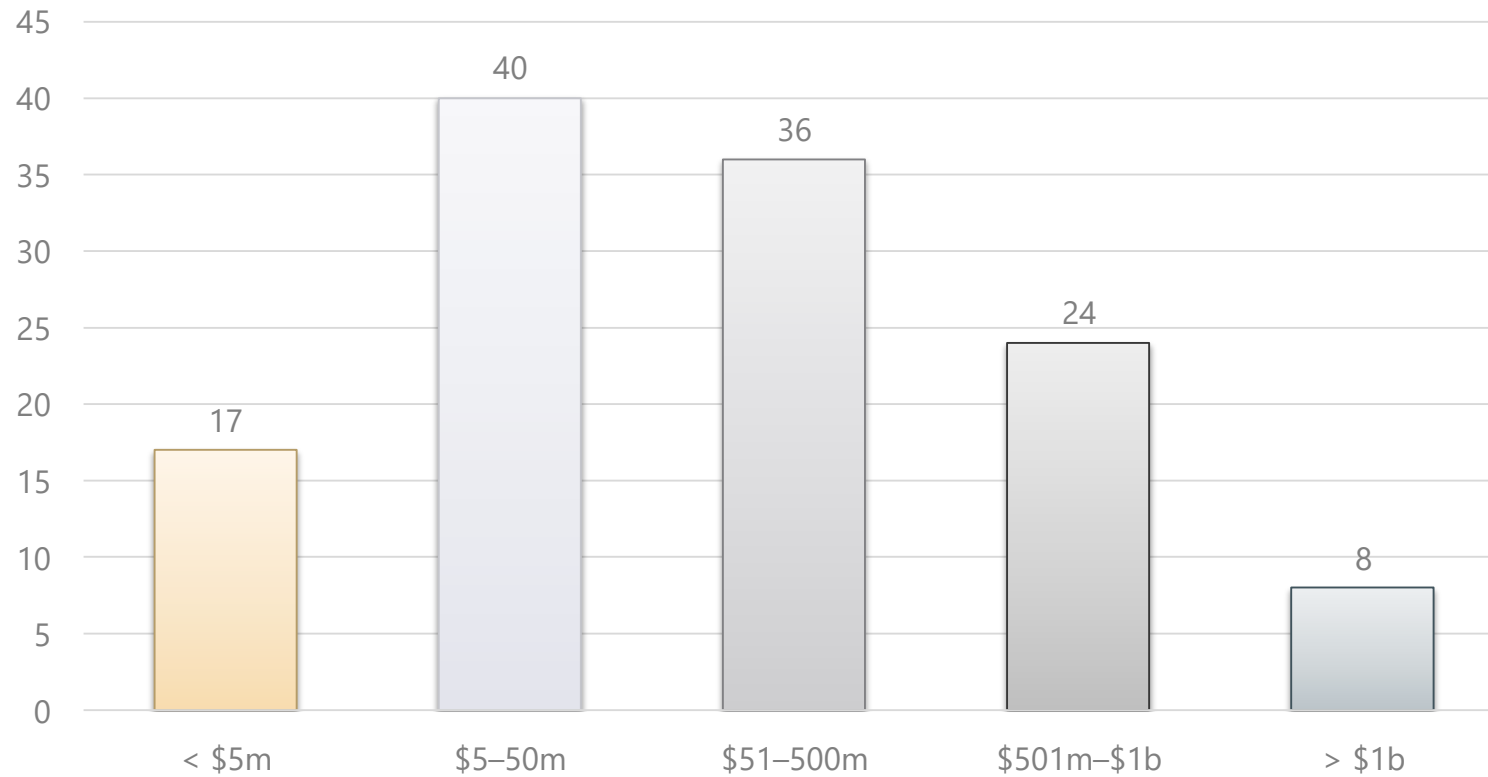
FINANCIAL SERVICES LED LAST YEAR'S DISPUTES

Industries experiencing an uptick in disputes last year

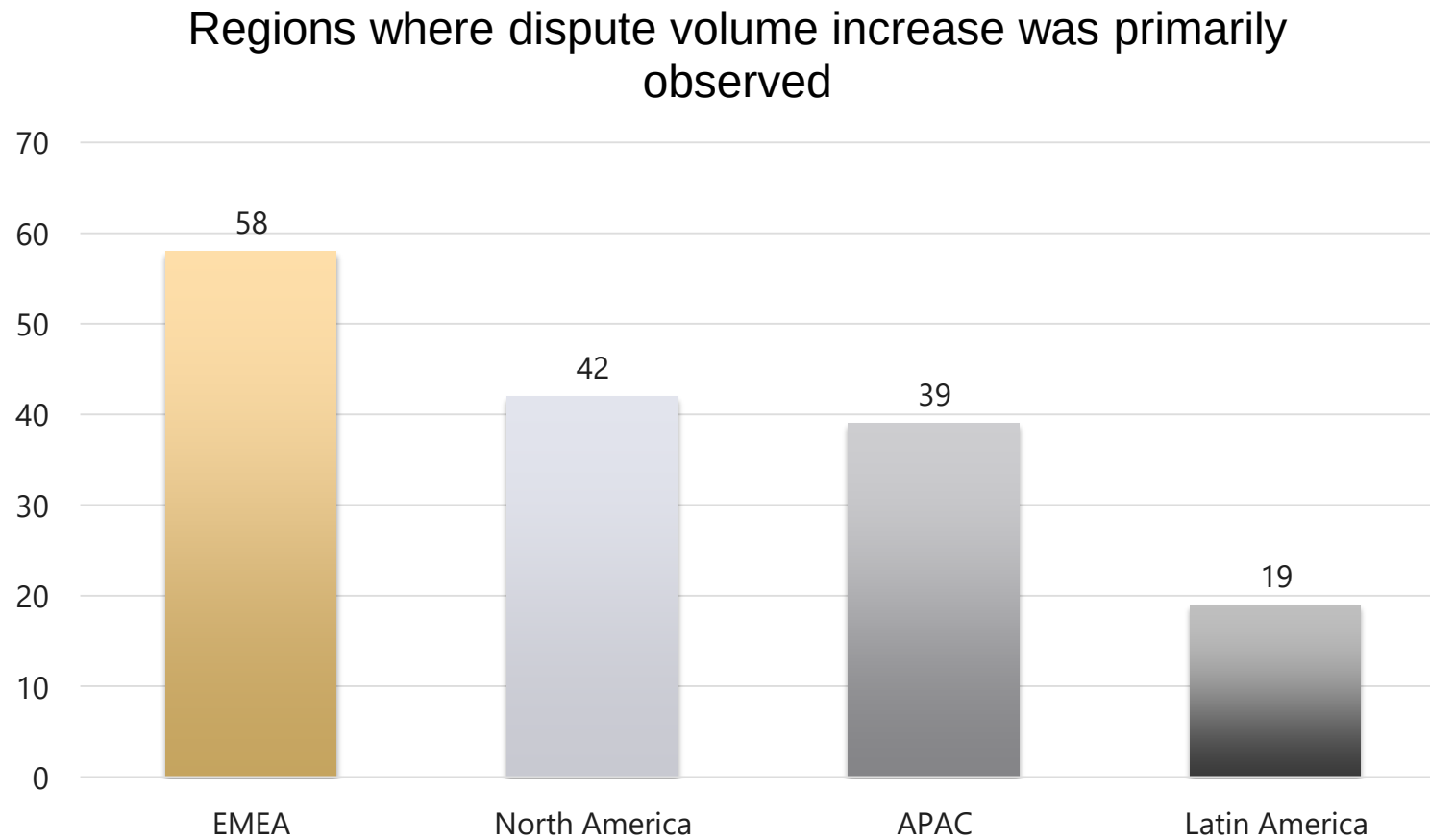


WHERE DISPUTES SURGED — SMALL & MIDDLE MARKET

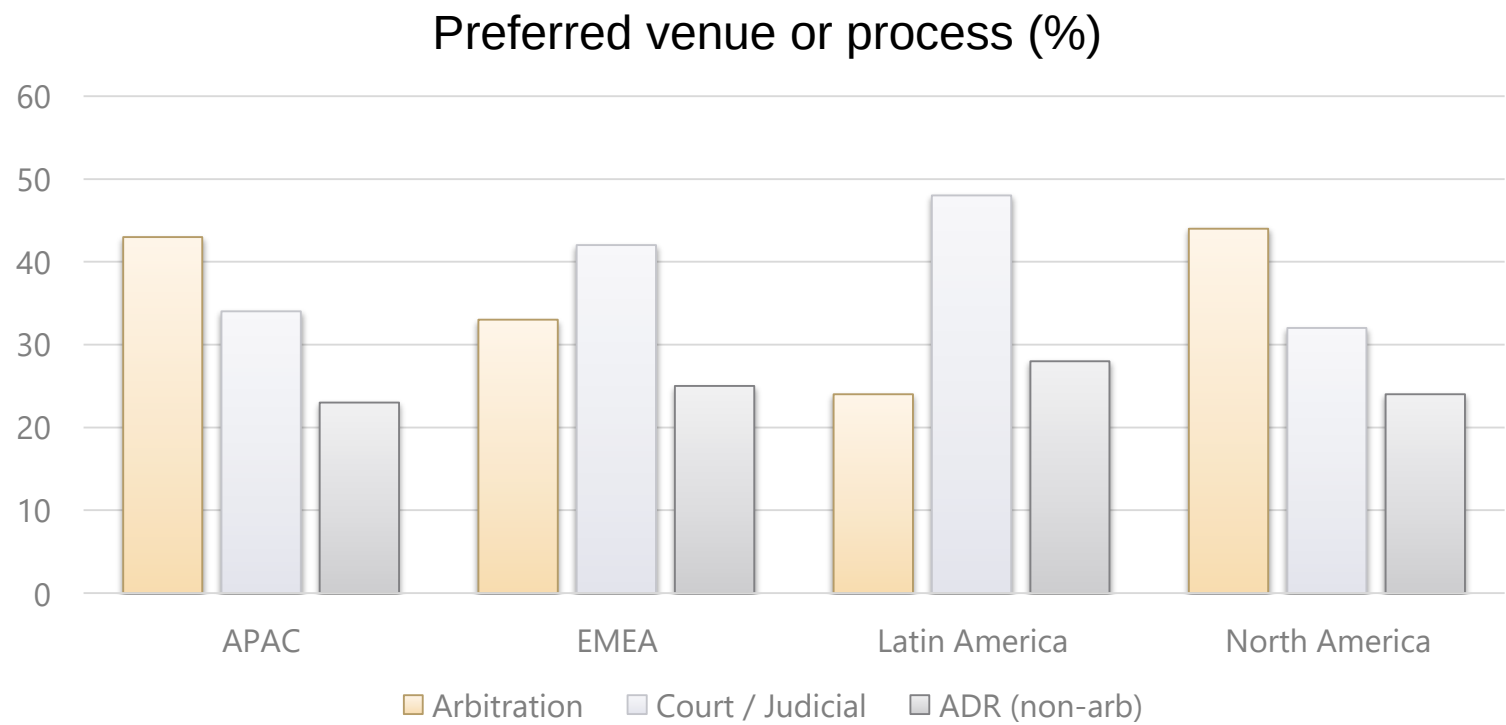
Deal size ranges experiencing increased disputes
(among those with increases)



WHERE THE INCREASE SHOWED UP



PREFERRED DISPUTE VENUES LAST YEAR — BY REGION



The background of the slide is a blurred financial chart. It features a dark grid with several colored lines (blue, red, yellow, green) and a series of red candlesticks, suggesting a stock market or cryptocurrency price chart. The overall aesthetic is professional and data-oriented.

03

KEY DRIVERS OF DISPUTES



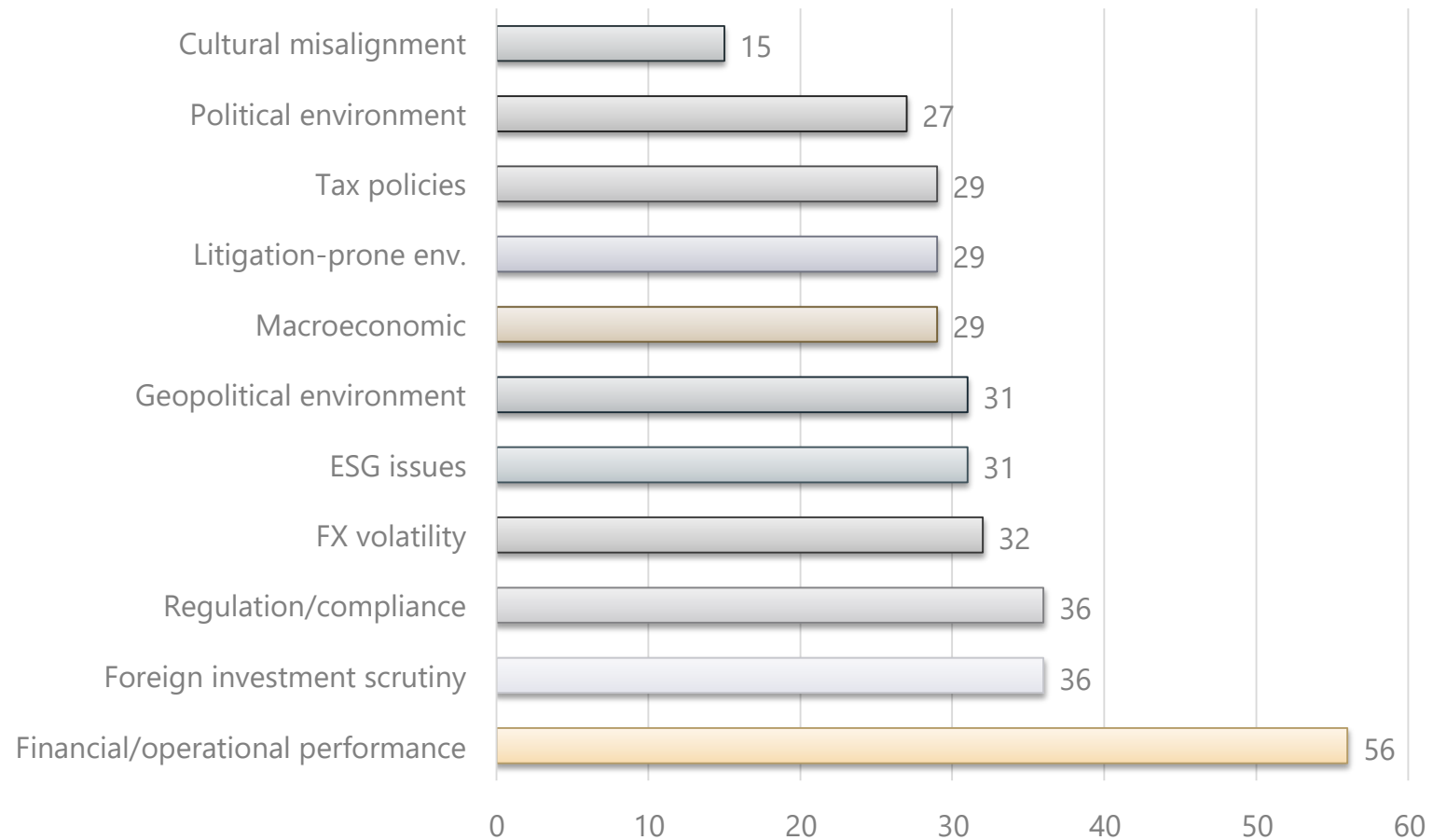
KEY DRIVERS OF DISPUTES

Shifting market forces, geopolitical instability, and complex deal terms are redefining the drivers of financial services M&A disputes.

- 2025: Financial/operational performance, macroeconomic pressures, due diligence challenges, earnouts/post-closing issues.
- 2026: Geopolitical instability, FX uncertainty, complex financial/accounting definitions, MAC/MAE clauses, indemnities.
- Precision in financial metric definitions is critical to dispute avoidance.

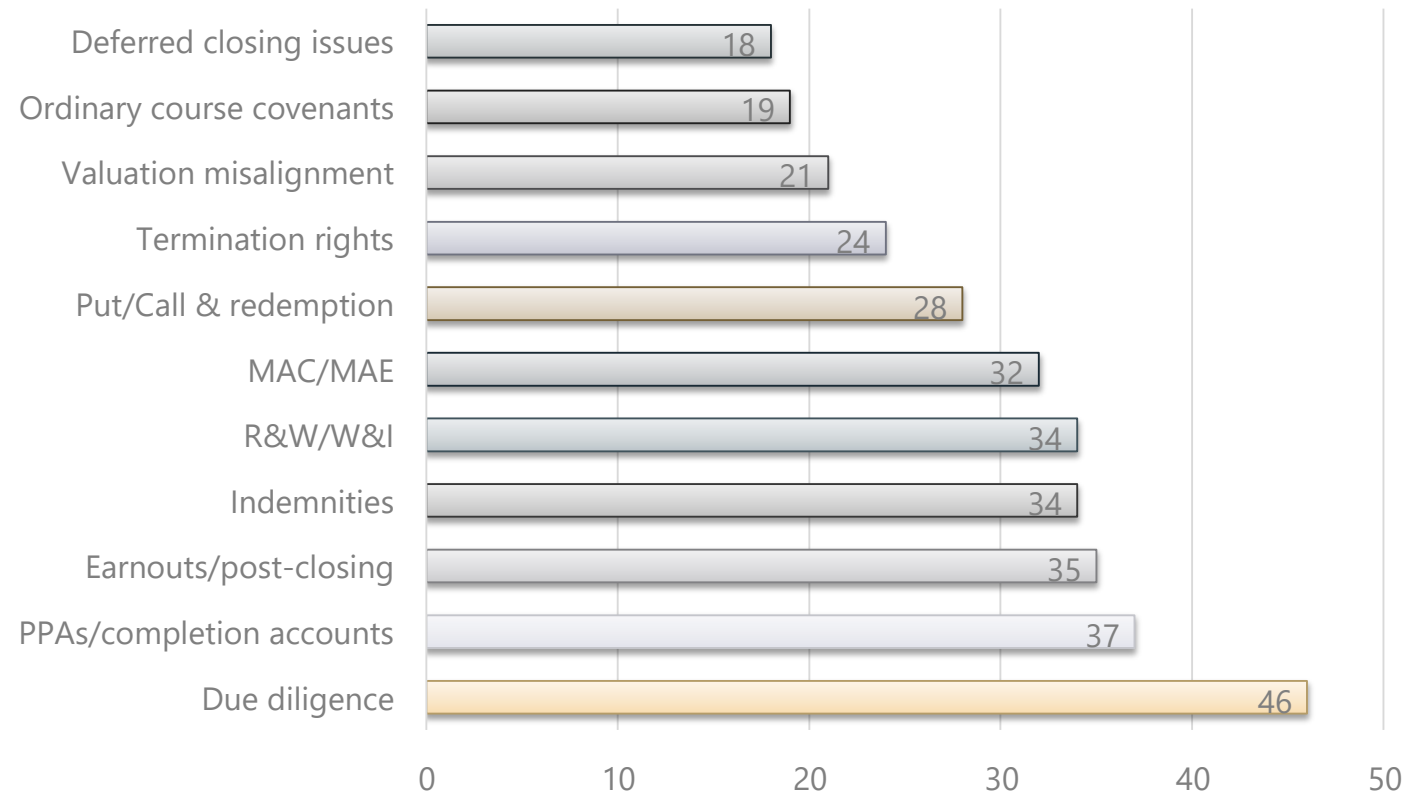
PERFORMANCE REMAINED THE #1 DISPUTE DRIVER

What most often led to disputes last year



DUE DILIGENCE AND EARNOUTS FEATURED PROMINENTLY

Deal terms/process factors most prevalent in disputes



FINANCIAL SERVICES - AREAS OF DISPUTE

Banks

- Loan loss reserve adequacy
- Credit quality misrepresentations
- Underwriting exceptions
- Problem loan portfolios
- Regulatory examination findings

Wealth Management / RIAs

- Asset retention
- Client attrition
- Fee revenue quality
- Advisor departure risk

Insurance Brokers

- Customer retention
- Producer retention
- Earnout calculations
- Contingent commission revenue

Specialty Finance

- Delinquency metrics
- Portfolio valuation
- Fair value marks
- Regulatory compliance





FINANCIAL SERVICES – CASE STUDIES

- **Banking – (Accounting)**

- Acquisition of a privately held bank
- Former CEO stayed on and maintained 20% ownership
- PSA had a buyout option with a defined value based on the GAAP balance sheet
- Dispute over GAAP regarding loan loss reserves

- **Insurance – (Regulatory Compliance)**

- Sale of a P&C subsidiary with operations in 48 states (\$1.5B)
- Diligence uncovered actions from two state regulators regarding market conduct related to the underwriting of policies
- Investigated if policies were being priced in accordance with filed rating plans
- Refunds were due to policyholders in those two states
- Buyer walked away from the transaction, and the company paid over \$100 million in refunds

- **Mortgage Originator and Servicer – (Related Party Transactions)**

- Bankruptcy sale of assets – assess the profitability of company
- Investigation of related party transactions, both asset sales and ordinary course
- Sales of major assets were at a fair price
- Tax loss benefits improperly transferred to related parties
- Derivatives, swaps, and hedge transactions improperly transferred profits to related parties
- Total value lost was over \$500 million.

The background of the slide is a blurred financial chart. It features a dark grid with several overlapping lines in blue, red, yellow, and green. In the lower right quadrant, there is a candlestick chart with red and orange bars. The overall aesthetic is professional and data-oriented.

04

INDUSTRY TRENDS & OUTLOOKS



INDUSTRY TRENDS & OUTLOOK

Financial services disputes continue to lead global M&A dispute activity, with regulatory shifts, market volatility, and evolving deal structures shaping the sector's future.

- Financial Services consistently leads global dispute volume.
- Sector remains dominant in both observed and expected dispute activity.
- Regulatory changes, market volatility, and evolving deal structures continue to shape the landscape.

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05

NOTABLE RECENT CASES

NORTHERN DATA AG V. RIOT PLATFORMS, INC.

2025 WL 1661855 (Del. Ch. Ct. June 2, 2025)

- Interplay between PPA and indemnification dispute resolution processes
- Interpretation of accounting principles that require application of GAAP consistent with historical practices





NORTHERN DATA AG V. RIOT PLATFORMS, INC.

- In 2021, Riot acquired from Northern Data all outstanding stock of a data center company.
- The purchase price included a combination of stock and \$80 million in cash, with the cash component subject to post-closing adjustments for net working capital, indebtedness, final closing cash, and transaction expenses.
- The Stock Purchase Agreement (SPA) provided that purchase price adjustment disputes would be resolved through an accounting expert determination process and that the buyer's exclusive remedy for breach of the seller's reps and warranties would be indemnification by seller.

NORTHERN DATA AG V. RIOT PLATFORMS, INC.

The PPA provisions had typical features:

- *Closing Statement*: The seller was required to provide an estimated closing statement to the buyer prior to closing. Shortly after closing, the buyer was required to deliver a proposed final closing statement. The seller could then review the proposed final closing statement and deliver a statement of objections. After a period to resolve any disputes through good-faith negotiations, either party could submit the unresolved matters to an accounting expert for resolution.
- *Accounting Principles*: The closing statement was to be prepared “in accordance with GAAP, in a manner in accordance and consistent with an illustrative closing statement attached to the SPA. The illustrative closing statement reflected the target company’s historical accounting practices.
- *Scope of the Accounting Expert’s Authority*: The accounting expert, acting as an expert and not as an arbitrator, was to limit its review to unresolved matters that were properly included in the seller’s statement of objections and to make any corresponding adjustments to the proposed final closing statement, in each case in accordance with the specified accounting principles. The accounting expert’s determination would be final and binding absent manifest error.



NORTHERN DATA AG V. RIOT PLATFORMS, INC.

The indemnification provisions were also fairly typical:

- *Exclusive Remedy*: Indemnification was the exclusive remedy for breaches of the seller's representations and warranties under the SPA. The exclusive remedy provision expressly carved out PPA adjustments, along with fraud and certain other specified matters.
- *Cap*: The damages recoverable through indemnification were capped at a specified amount.
- *PPA Adjustments*: To avoid double recoveries, any adjustments accounted for under the PPA process could not be subject to indemnification claims or counted against any indemnification threshold or limitation.



NORTHERN DATA AG V. RIOT PLATFORMS, INC.

- The parties submitted four disputed items to the accounting expert, who ruled in buyer's favor on all four items.
- The seller then initiated litigation in the Delaware Chancery Court, in which it sought to vacate the accounting expert's determination.
- The seller claimed that the accounting expert:
 - exceeded his authority by addressing indemnification issues in connection with two of the disputed items, and
 - misapplied the applicable accounting principles because he analyzed the two remaining disputed items only under GAAP without considering the target company's historical accounting practices.



NORTHERN DATA AG V. RIOT PLATFORMS, INC.

Interplay Between the PPA and Indemnification Dispute Resolution Processes:

- Two disputed items concerned (1) whether the target company's alleged double-billing of a customer prior to closing was properly included in accounts receivable, and (2) whether an invoice for electricity charges the company received prior to closing had been paid and should have been included in accounts payable.
- The Delaware court analyzed whether these two items presented indemnity claims or accounting disputes under the SPA. The Court found that both items directly implicated representations & warranties made by seller in the SPA.
- More specifically:
 - The Court found that the disputed item regarding double-billing directly implicated the seller's representations and warranties that all accounts receivable in the company's financial statements represented bona fide transactions and, to the company's knowledge, were current and collectible.
 - The Court further found that the disputed item regarding the electricity invoice directly implicated the seller's separate representations and warranties that it had provided a complete list of all indebtedness, including certain outstanding accounts payable, as of the date of the Agreement.
- The Court ruled that, under the SPA, the indemnification process—including the damages cap applicable to indemnity claims—was the "sole and exclusive" remedy for the alleged breach of these representations and warranties.
- Thus, the Court vacated the Accounting Expert's determinations on these two disputed items and ruled that these disputes must proceed under the contractual indemnification process.

NORTHERN DATA AG V. RIOT PLATFORMS, INC.

Interpretation of Accounting Principles:

- The two remaining disputed items concerned whether \$22 million in upfront payments to the target company from a customer should have been recognized as deferred revenue as of the closing because they concerned services to be provided after closing.
- The seller argued that the accounting expert misapplied the applicable accounting principles because he analyzed these two disputed items only under GAAP without considering the illustrative closing statement or the target company's historical accounting practices.
- In resolving this issue, the Delaware Court cited prior case law precedent involving similarly worded accounting principles.
 - In that prior case, the agreement provided that the accounting expert would resolve a PPA dispute "in accordance with GAAP and consistent with the past practices of the company and a specified historical balance sheet."
 - The Court in that opinion found that this language set GAAP compliance as the "floor" and explained that the requirement of consistency with the historical balance sheet "narrowed the expert's available choices under GAAP."
 - In other words, so long as the company's historical balance sheet complied with GAAP, the accounting expert was required to follow those practices in resolving the dispute. But if the historical practice was not compliant with GAAP, it could not be used in resolving the dispute.
- Applying this reasoning, the Court in *Northern Data* found that the accounting principles in the SPA established a hierarchy.
 - First and foremost, the accounting expert's determinations must comply with GAAP. If GAAP allows for multiple approaches, then the accounting expert must adopt the approach most consistent with the illustrative closing statement.
 - If, however, the illustrative closing statement and the company's historical practices did not comply with GAAP, then the SPA required the accounting expert to apply a method that was GAAP-compliant.



NORTHERN DATA AG V. RIOT PLATFORMS, INC.

Interpretation of Accounting Principles:

- Applying this contractual interpretation, the Court conducted a detailed review of GAAP and determined that the target company's historical practices were not GAAP compliant.
- The Court upheld the accounting expert's findings on these two disputed items because they followed a GAAP compliant approach.
- In other words, under the parties' agreed accounting principles, the accounting expert *could not* follow the target company's non-compliant historical practices.
 - Instead, the accounting expert was required to use a GAAP-compliant methodology.
- The Court granted summary judgment for the buyer on these two disputed items.

IN RE DURA MEDIC HOLDINGS, INC. CONSOLIDATED LITIGATION

333 A.3d 227 (Del. Ch. Ct. Feb. 20, 2025)

- Delaware's Pro-Sandbagging Default Position
- Use of a Transaction Multiple to Calculate Damages





IN RE DURA MEDIC HOLDINGS, INC.

- This case involved a private equity firm's acquisition of a medical equipment supplier through a reverse triangular merger.
- The buyer sought indemnification from the sellers for breaches of certain representations and warranties in the merger agreement.
- The sellers represented and warranted that the target company had been in compliance with applicable healthcare laws and, except as otherwise disclosed, had not received written notice of alleged noncompliance from any government authority in the three years prior to closing.
- The disclosure schedules described one such notice, but soon after closing, the buyer discovered others, one of which resulted in further government review and significant expense to the buyer.
- The buyer sued the sellers for breach of the representation & warranty.
- In response, the sellers contended that the buyer's claim failed because the sellers had informed the buyer about the relevant notices in a conference call during pre-closing due diligence.

IN RE DURA MEDIC HOLDINGS, INC.

Delaware's Pro-Sandbagging Default Position:

- In M&A transactions, the term “sandbagging” refers to circumstances in which a buyer asserts a claim after the closing based on a breach of a representation or warranty despite having had reason to suspect it was inaccurate as of the closing.
- Delaware courts will enforce provisions in M&A agreements that expressly allow sandbagging (“pro-sandbagging” provisions) or expressly prohibit it (“anti-sandbagging” provisions, which effectively require the buyer to prove that it did not have knowledge of the inaccuracy of a representation or warranty in order to bring a claim).
- In cases where the acquisition agreement is silent, a number of recent cases, including *In re Dura Medic Holdings*, have confirmed Delaware pro-sandbagging default position.



IN RE DURA MEDIC HOLDINGS, INC.

Delaware's Pro-Sandbagging Default Position:

- The Delaware Court noted that representations and warranties in an acquisition agreement serve to allocate risk between the parties and, unlike fraud claims, do not require a buyer to prove that it justifiably relied on the representations.
- It emphasized that, by making a representation and warranty, a seller agrees to assume the risk that the facts and circumstances as represented are or may become incorrect, regardless of the foreknowledge of either the buyer or the seller.
 - This approach not only holds the parties to the plain terms of their acquisition agreement, but also serves to reduce due diligence costs.
- The Court found that the buyer proved its claim for breaches of the seller's representations and warranties with regards to the notices, and that whether the sellers disclosed the notices in a diligence call had no bearing on the breach of contract analysis given the express representations and warranties in the agreement.

IN RE DURA MEDIC HOLDINGS, INC.

Use of a Transaction Multiple to Calculate Damages:

- The purchase price for the target company was calculated using a multiple of 6.7797 times EBITDA for the 12 months ending April 30, 2018.
- The merger agreement provided that the sellers would indemnify the buyer for “Losses” resulting from inaccurate representations, with “Losses” defined as “any and all damages,” including “damages based on a multiple of earnings, revenue or other metric.”
 - While the agreement allowed a transaction multiple to be used in calculating indemnifiable Losses, it was silent as to *when* such a multiple should or should not be used.
- The sellers represented and warranted in the agreement that no significant customer had notified the target company of an intent to terminate or reduce its business. This representation proved to be false with respect to two customers.
- At issue was whether the Losses over this twelve-month period should be multiplied by 6.7797 to mirror the purchase price calculation.
 - The sellers argued that no multiple should apply because the target company was not permanently impaired by the loss of the two customers and because the buyer had failed to mitigate the losses.



IN RE DURA MEDIC HOLDINGS, INC.

Use of a Transaction Multiple to Calculate Damages:

- The Court applied the 6.7797 multiple to calculate damages due to the breached representation & warranty regarding customer losses.
- It found that when an acquisition agreement is silent as to when a multiple should be applied, Delaware courts must look to common law, which allows a party to recover reasonable expectation damages based on a multiple where the price was established with a market approach using a multiple.
- With the respect to the merger at issue, the Court cited evidence—namely, the buyer’s pre-closing investment committee memorandum and expert testimony—that proved that the buyer had derived the purchase price using a 6.7797 multiple of EBITDA during the applicable twelve-month period.
- He also rejected an argument by the sellers that losses must permanently affect a business in order for a transaction multiple to apply to the calculation of damages.
 - Instead, the Court found that “[w]hether a misrepresentation diminishes the value of the business sufficiently to warrant applying a multiple turns on the extent to which the misrepresentation affects future earning periods.”
- Using that standard, the Court found that the undisclosed customer losses resulted in recurring declines in the target company’s revenue, which resulted in the buyer paying an inflated purchase price and caused damages that the buyer could not mitigate due to the sellers’ breach of its significant customer representation.

FOUR CENTS HOLDINGS, LLC V. M&E PRINTING, INC.

2025 WL 2366460 (Del. Super. Ct. Aug. 12,
2025)

- Recovery of attorneys' fees as indemnifiable losses in first-party claims





FOUR CENTS HOLDINGS, LLC V. M&E PRINTING, INC.

- The parties entered into an Asset Purchase Agreement (APA), through which Four Cents acquired substantially all of M&E assets.
- In the APA, the seller made certain representations & warranties regarding the accuracy of financial statements provided and its compliance with immigration laws.
- After closing, Four Cents discovered that those representations & warranties were allegedly untrue and brought a claim for breach of contract seeking indemnification.
- As part of its claim, Four Cents sought to include its attorneys' fees incurred in the indemnification litigation as indemnifiable "Losses" under the APA.
- The APA defined "Losses" to include "losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs or expenses of any kind, *including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder* and the cost of pursuing any insurance providers."

FOUR CENTS HOLDINGS, LLC V. M&E PRINTING, INC.

- First-Party Claim = A claim for recovery between the parties to an agreement.
 - A typical example of a first-party claim is an action by a buyer for indemnification from the seller under an M&A agreement.
- Third-Party Claim = A claim threatened or brought against a party to an agreement by a person not party to the agreement.
 - For example, if after closing an M&A transaction, the buyer and the newly acquired company are sued by a customer or supplier of the acquired company, the litigation would involve a third-party claim.
- M&A agreements frequently include express provisions governing the handling of Third-Party Claims, but are often silent as to whether attorneys' fees for first-party claims must be included as indemnifiable losses.



FOUR CENTS HOLDINGS, LLC V. M&E PRINTING, INC.

- Delaware follows the American Rule, under which litigants generally bear the responsibility of paying their own litigation costs.
- Delaware courts have consistently held that, under the American Rule, standard indemnity clauses and loss definitions are presumed *not* to apply to first-party claims.
 - This presumption may only be rebutted by a “clear and unequivocal articulation” that the parties intended to shift attorneys’ fees in first-party suits.
 - While there are not magic words that must always be used, the language embodying this intent must be explicit, meaning “expressed without ambiguity or vagueness.”
 - “Without precise language setting forth an intent to shift fees, counsel should not expect the Court to deviate from the American Rule if care has not been taken in drafting a contract’s language.”
- In *Four Cents*, the Court emphasized that (1) the definition of Losses in the APA did not explicitly reference first-party actions, and (2) neither the indemnification provisions nor any other provisions in the APA included a prevailing party fee-shifting provision.
- Thus, the Court granted M&E’s motion for judgment on the pleadings, finding that Four Cents was not entitled to recover its attorneys’ fees in the first-party action for indemnification.

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06

RESOLUTION AND AVOIDANCE STRATEGIES

RESOLUTION & AVOIDANCE STRATEGIES

Proactive planning, precise deal terms, and early subject matter expert involvement are key to resolving and preventing financial services M&A disputes.

- Most disputes settle, with confidentiality as a rising driver for arbitration.
- Arbitration is preferred in North America and APAC for financial services disputes.
- Avoidance principles: Tighten definitions, strengthen FX risk frameworks, enhance working capital calculations.
- Early involvement of M&A dispute lawyers and experts is recommended.

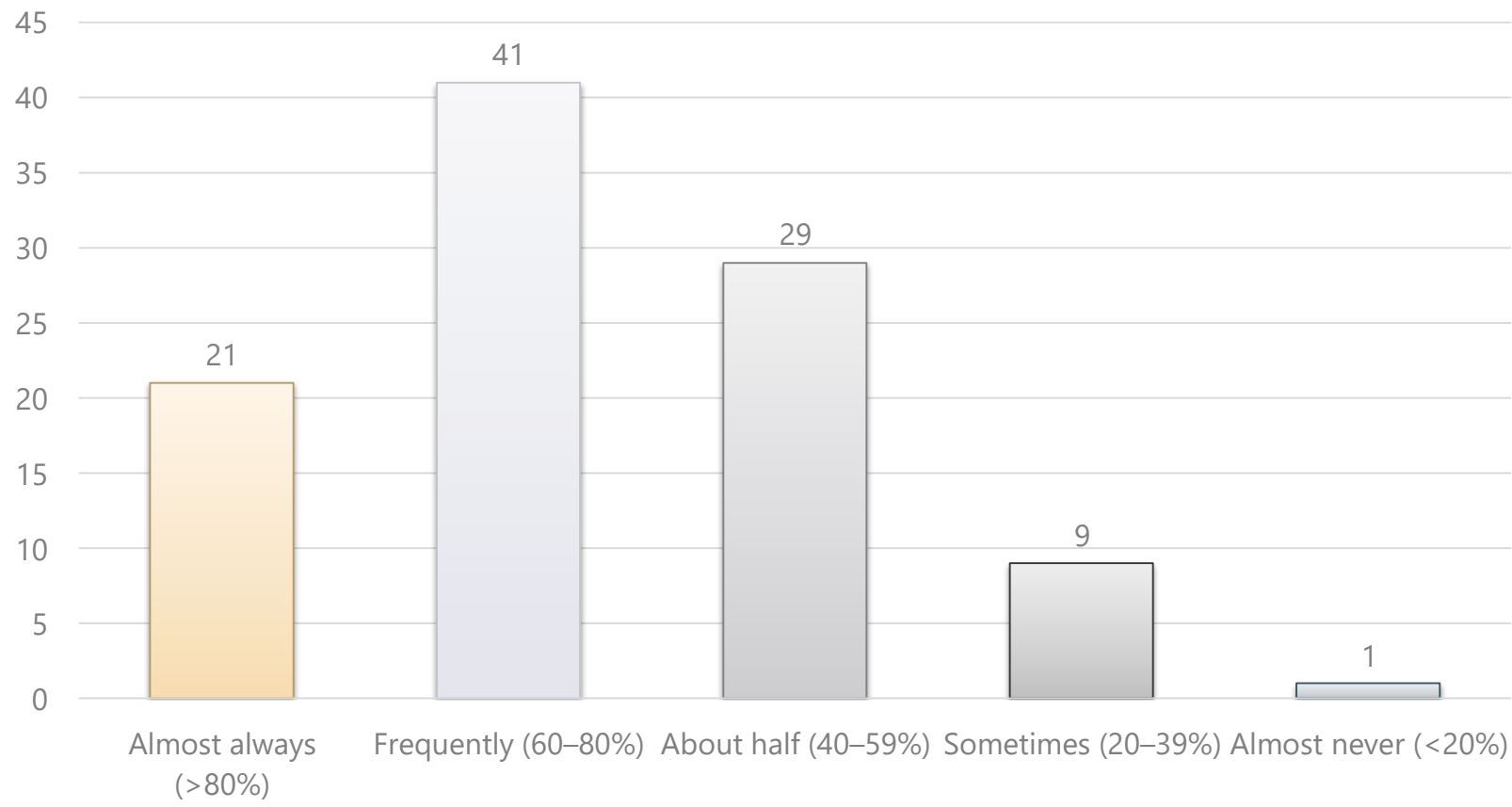


RESOLUTION & AVOIDANCE STRATEGIES – EXAMPLES

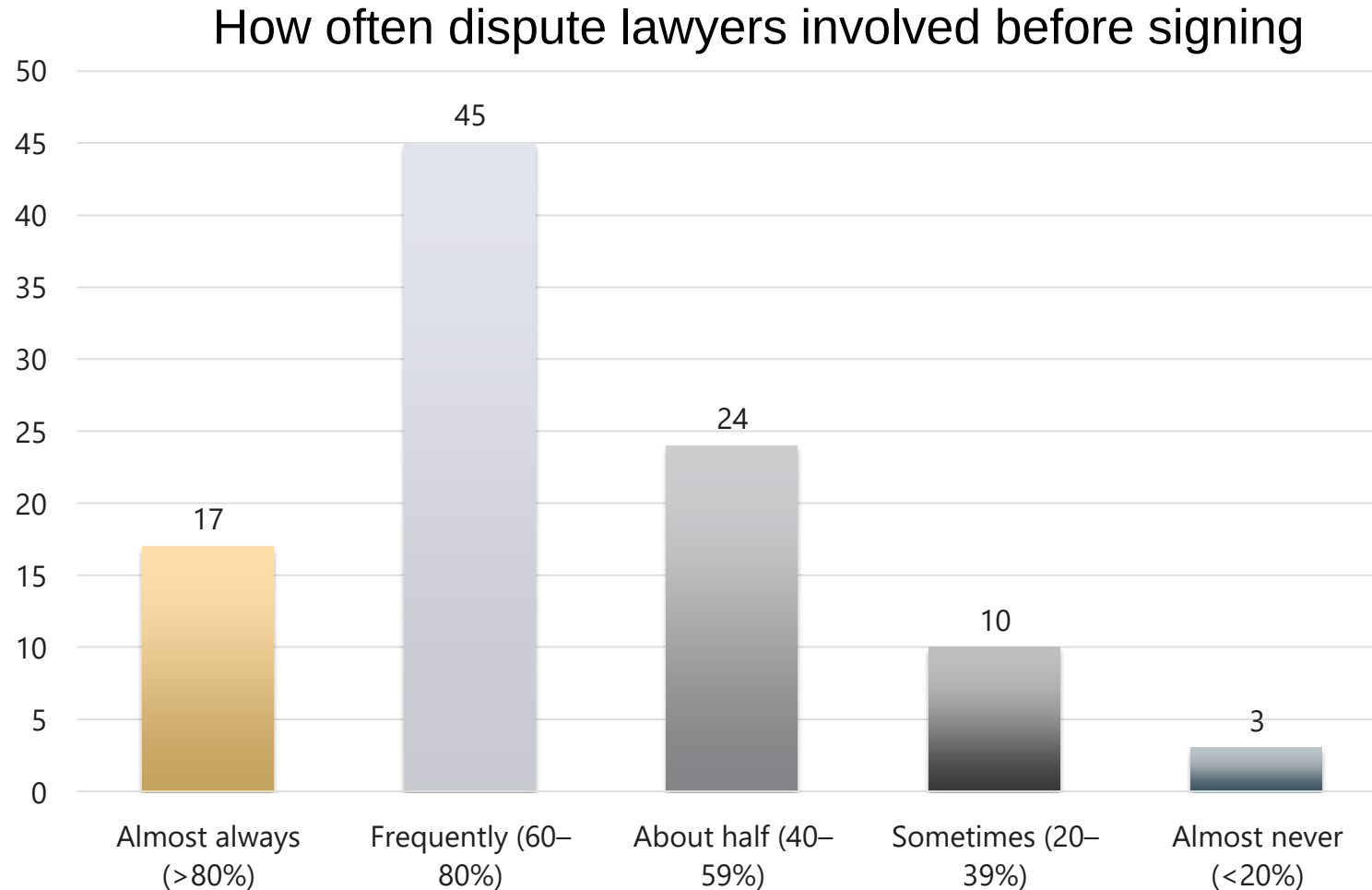
- In your agreement, clearly delineate, define and abide by the scope of post-closing dispute resolution mechanisms.
 - Mischaracterizing indemnification claims as PPA disputes can result in significant additional time and expense through litigation.
- For buyers, diligence whether the target company's historical practices comply with GAAP prior to agreeing to accounting principles that require a GAAP-compliant approach.
 - If those historical practices arguably do not comply with GAAP, a seller might consider expressly stating that, in any post-closing PPA adjustment dispute, the company's historical practices prevail.
- Understand the default laws in the jurisdiction that governs your agreement.
 - In Delaware, if you want anti-sandbagging protection, you should include an express anti-sandbagging provision in your agreement given Delaware's pro-sandbagging default position.
- For a buyer seeking to apply a transaction multiple in calculating recoverable losses, be prepared to support that claim with documentation and testimony demonstrating that the purchase price was calculated using a multiple and that a lower price would have been paid if the seller made accurate representations & warranties.
 - Conversely, if a seller wants to limit such a multiple-based recovery, it should consider drafting the agreement to expressly exclude multiple-based damages or otherwise limit the circumstances under which such damages may apply.
- If you want attorneys' fees for first-party claims to be included in indemnifiable losses, either expressly say so in the definition of Losses or include a prevailing party fee-shifting provision in your agreement that applies to first-party claims for indemnification.

MOST DISPUTES SETTLED LAST YEAR

How often disputes settled (past 12 months)



ONLY 17% “ALMOST ALWAYS” INVOLVE DISPUTE LAWYERS PRE-SIGNING—AN OPPORTUNITY FOR EARLIER ENGAGEMENT



SOURCES OF DISPUTES

- Disputes usually come from four places: valuation, loan-level liabilities, regulatory approvals and post-closing adjustments.
- The goal is to draft so these risks are allocated clearly before closing, not argued over afterward.
- R&W insurance helps, but it doesn't remove the need for specific drafting.



PURCHASE PRICE AND VALUATION

- Define Tangible Book Value precisely and attach a sample closing balance sheet.
- Fix the MSR valuation method, the valuation firm and the assumptions in advance.
- Make earnouts objective and address how the buyer must operate the business after closing.

LOAN-LEVEL AND REPURCHASE RISK

- Include full loan-level reps covering RESPA, fair lending and underwriting.
- Require disclosure of repurchase demands and EPD/EPO claims, supported by a demand log.
- Create a special indemnity for pre-closing origination defects, with survival matched to investor put-back windows.
- Define "Loss" for repurchases and set rules for loans that are partly pre-closing and partly post-closing.



REGULATORY APPROVALS AND INTERIM OPERATIONS

- Map every approval (state licenses through NMLS, the agencies, HUD, VA and warehouse lenders) as a closing-condition schedule.
- Plan for late state approvals through staged closings or state carve-outs, and tie the outside date to regulatory timing.
- Tailor interim covenants so that the target is required to maintain compliance with capital requirements, lending limits and licensing obligations between signing and closing

CLOSING CONDITIONS AND INDEMNITY STRUCTURE

- Prefer objective closing conditions, such as net worth levels, licenses and loan officer retention.
- Tier the indemnities and size escrows to the target's historical repurchase experience.



EFFECT OF R&W INSURANCE

- RWI shifts general rep risk to the insurer, which means smaller escrows and fewer buyer-seller disputes.
- Key exclusions in mortgage deals:
 - known issues found in diligence
 - loan-level and repurchase exposure
 - regulatory fines
 - wage-and-hour claims
- Drafting responses:
 - Build a seller-backed special indemnity and escrow for excluded risks.
 - Use the same definitions of Loss, materiality scrape and knowledge in the agreement and the policy.
 - Allocate the retention and set a clear order of recovery.
 - Weigh disclosure of an issue against a special indemnity or a price reduction.
 - Build a thorough, defensible diligence record.



KEY TAKEAWAYS

- Most disputes arise in special indemnities, gaps between the policy and the agreement, and price mechanics, so focus drafting effort there.
- **Buyers:** price uninsured mortgage risk into the deal and back it with escrows.
- **Sellers:** use RWI to get a cleaner exit, and negotiate caps and escrow release schedules on special indemnities.

The background of the image is a blurred financial chart. It features a grid of horizontal and vertical lines. Overlaid on this grid are several data series: a series of red candlesticks representing price movements, and several thick, smooth lines in blue, yellow, and red, which likely represent different types of moving averages. The overall color palette is dark, with the chart elements in shades of red, blue, and yellow.

07

LOOKING AHEAD

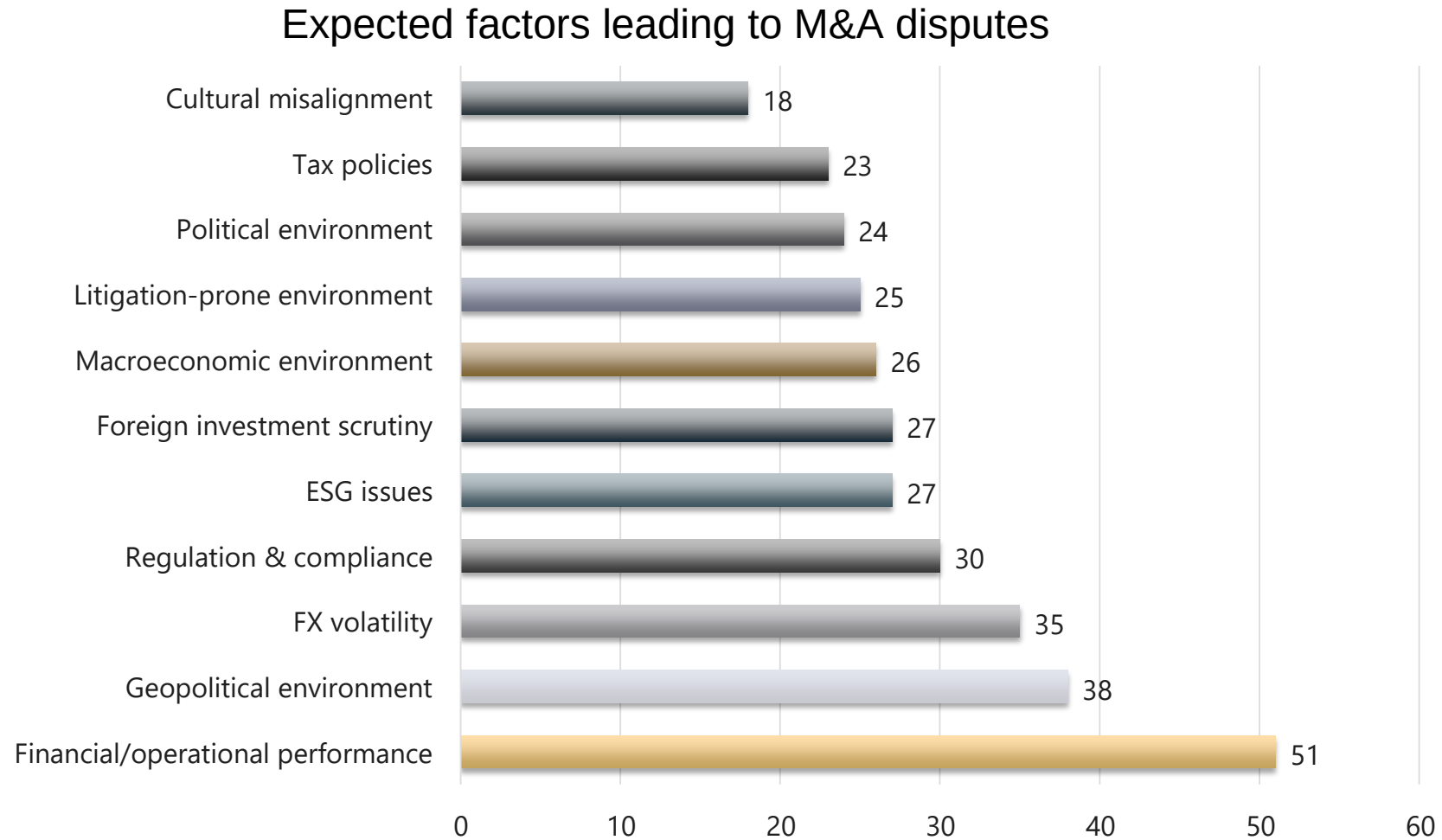


LOOKING AHEAD

Financial services M&A disputes will grow in complexity and value, driven by emerging risks like geopolitical volatility and FX exposure. Success will depend on stronger diligence, sharper forecasting, and tailored strategies for evolving deal dynamics.

- Expect higher dispute values and continued complexity in major financial services transactions.
- Emerging risks: Geopolitical volatility, FX exposure, contingent consideration structures.
- Recommendations: Strengthen diligence, enhance dispute forecasting, tailor strategies for PE-driven and cross-border deals.

FACTORS EXPECTED TO DRIVE DISPUTES OVER THE NEXT 12 MONTHS



DEAL TERMS IN DISPUTES: NEXT YEAR VS. PAST YEAR



The background of the slide is a blurred financial chart. It features a grid of horizontal and vertical lines. Overlaid on this grid are several data series: a set of red candlesticks representing price movements, and several thick, smooth lines in blue, yellow, and red that represent moving averages. The overall color palette is dark, with the chart elements providing contrast.

THANK YOU
QUESTIONS?

PRIVATE CAPITAL'S EXPANDING ROLE IN FINANCIAL SERVICES

4:35 – 5:05 P.M.



JP BERNARD
Partner
Mayer Brown



JONATHAN DHANAWADE
Partner
Mayer Brown



MATTHEW O'MEARA
Partner
Mayer Brown

DEFINING PRIVATE CAPITAL SOLUTIONS

The Evolving Landscape of Non-Traditional Capital



Private Equity

Control / significant minority stakes;
\$8T+ global AUM; leveraged buyouts
and platform strategies



Growth Equity

Minority investments in scaling businesses; less
leverage; focus on organic expansion and bolt-on
M&A



Private Credit

Direct lending, mezzanine,
unitranche; Grown to almost \$2T;
displacing traditional bank lending

Distressed

Integrated solution
for transactions or
investments under
stress. Involves
front-end structuring
through distress,
recovery, and exit.



Hybrid Capital

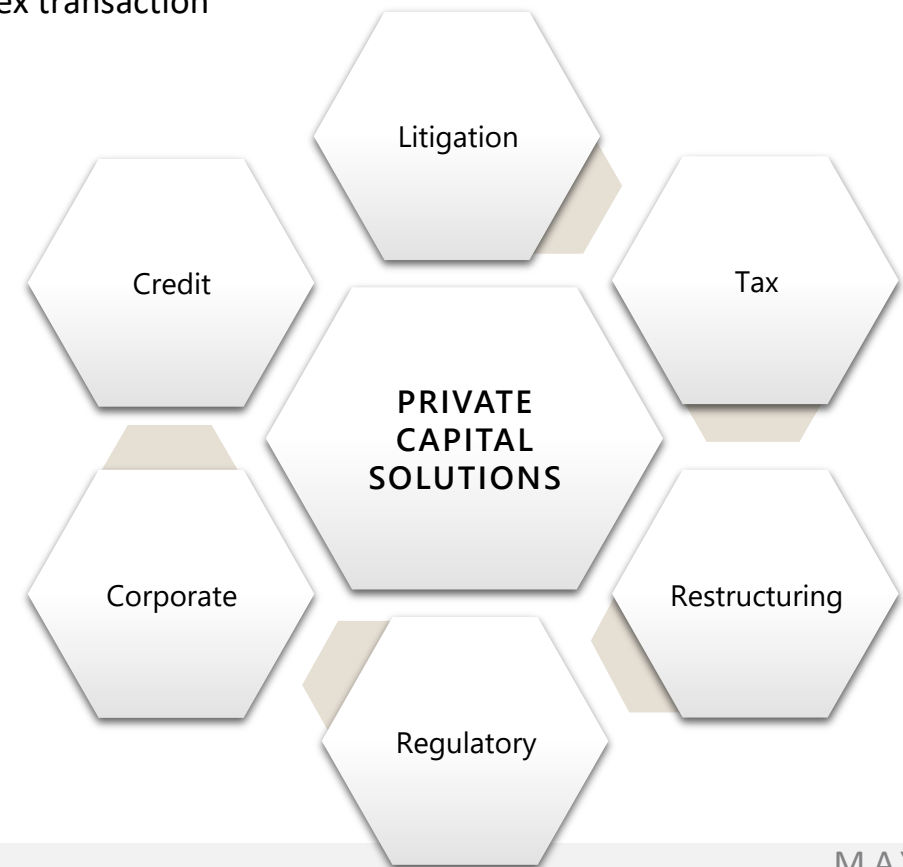
Preferred equity, convertible instruments,
structured notes; regulatory capital solutions for
banks

INNOVATIVE CAPITAL SOLUTIONS FOR TODAY'S MARKET

Private Capital investments involve sponsors, private credit funds, insurance companies, and other investors on the equity-side for often complex structuring of capital deployment — preferred equity, hybrid capital, joint ventures, co-investments, and distressed capital solutions. But these instruments rarely exist in isolation. Almost every one of them connects to a financing structure (whether warehouse facilities, asset-backed securitizations, NAV lines, repurchase agreements, and rated feeder vehicles), requiring sophisticated structuring across the Private Credit and Hybrid Capital Spectrum

- Private Capital is transforming how business access growth funding and how investors deploy capital.
- Enables lenders to move fast, structure defensively, and maximize risk-adjusted returns-in both sponsor-backed and non-sponsored deals.
- Often incorporates robust covenant protections, governance rights, redemption features, and equity upside mechanics-all tailored to each transaction's specific risk profile.

Private capital M&A often involve an interdisciplinary team to execute complex transaction



WHAT'S DRIVING DEALMAKERS: INCENTIVES AND MOTIVATIONS

Private Capital / PE Firms

- Attractive risk-adjusted returns in regulated financial services
- Insurance float as low-cost permanent capital for PE asset management
- Recurring fee revenue: 50-100 bps AUM-based wealth management fees
- Fee generation on captive AUM through affiliated asset management (e.g., Apollo/\$450B+ Athene)
- Deploy large capital pools at scale: insurance blocks, lending platforms
- Regulatory moats creating barriers to entry that protect investments
- Portfolio diversification into countercyclical financial services

Financial Services Sellers / Partners

- Succession planning: avg. RIA principal age mid-to-late 50s; thousands of community bank CEOs retiring
- Access to growth capital without going public
- Technology and operational investment from PE sponsors
- Scale economics: \$50-100M+ technology investment to compete with large banks
- Balance sheet optimization: offloading capital-intensive businesses
- Regulatory capital relief through structured solutions
- De-risking DB pension obligations (\$3T+ addressable market for PRT)

Financial Institutions as Buyers

- Fee income diversification away from net interest income (NII)
- Scale and efficiency in higher-rate, higher-cost operating environment
- Acquiring technology capabilities vs. building (\$50-100M+ cost)
- Defensive consolidation: scale as a competitive moat
- Expanding product capabilities to retain clients
- Basel III endgame pushing banks to shed capital-intensive assets

INNOVATIVE FINANCING SOLUTIONS: PRIVATE CAPITAL MEETS FINANCIAL SERVICES

Insurance Sector Innovations

- Reinsurance sidecars: PE firms create reinsurance vehicles; affiliated asset managers invest the float (Apollo/Athene, KKR/Global Atlantic, Blackstone, Ares)
- Pension risk transfer: PE-backed insurers offer corporate DB pension buyout solutions (\$3T+ addressable market)
- Flow reinsurance: ongoing asset flow agreements between insurers and PE-affiliated reinsurers
- Surplus notes: subordinated debt counting as regulatory capital for insurers

Banking & Lending Innovations

- Significant minority investments below BHC Act thresholds with passivity commitments (up to 24.99% voting / 33.3% equity)
- Forward flow: banks originate and sell loans to private credit funds on pre-arranged basis
- Synthetic risk transfer : credit risk on loan portfolios transferred via credit-linked notes (~\$20B+ annually)
- Credit risk transfer structures modeled on GSE programs
- Bank / private credit platform JVs for co-origination

Wealth Management Innovations

- GP stakes investing: minority stakes in wealth management and alternative asset managers (\$50B+ deployed by Blue Owl, Dyal)
- Earnout and contingent consideration structures for RIA sellers to participate in future growth
- Permanent capital vehicles and evergreen fund structures for wealth distribution

Fintech & Infrastructure

- Embedded finance: PE-backed fintech platforms providing white-label banking/lending through bank partnerships
- Revenue-based financing and alternative credit structures
- Tokenization of financial assets enabling fractional ownership and new distribution models

PE AND INSURANCE CONVERGENCE

Private equity firms are rapidly building insurance platforms, transforming the retirement services and life/annuity sectors while raising novel regulatory and systemic risk questions.

- Apollo/Athene Model: Apollo manages \$450B+ in retirement services assets through its full merger with Athene (\$11B, completed Jan. 2022)
- KKR acquired Global Atlantic (\$4.7B, 2024 full acquisition); Blackstone manages \$200B+ in insurance AUM
- Ares Management building insurance capabilities through affiliated platforms
- PE-backed insurers now manage trillions in policyholder assets, primarily in fixed annuities and pension risk transfer

Regulatory Implications

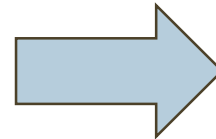
PE-insurance convergence raises concerns about: asset-liability mismatch risk, affiliated investment transactions, and policyholder protection. State insurance regulators and the NAIC are developing enhanced oversight frameworks for PE-backed insurers, including stricter reporting requirements and investment limitations.

GROWTH AREAS

Insurance, RIA Consolidation and Private Credit

PE-Backed Insurance Platforms

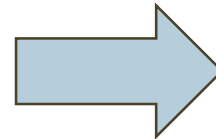
Life and annuity sector remains primary target; pension risk transfer growing as corporates de-risk defined benefit plans; expanding into P&C and specialty lines



\$2.5–3T Projected Private Credit by 2028

RIA Consolidation — Early Innings

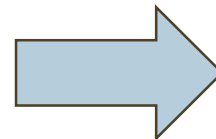
Only 10–15% of \$30T+ market consolidated; succession-driven deal flow expected to accelerate; technology integration key differentiator



85%+ of RIA market still unconsolidated

Private Credit Trajectory

Projected to reach \$2.5–3T by 2028; expanding into asset-based lending, infrastructure, and real estate credit; institutional adoption accelerating



\$450B+ Apollo retirement services AUM

AVENUES OF OPPORTUNITY FOR PRIVATE CAPITAL: JOINT VENTURES

Joint Ventures

- PE partnering with financial institutions or finance companies to originate or acquire assets
- Often requires connecting equity-side structuring at the front-end with finance execution to streamline the deal and JV startup process

Joint Ventures Require Careful Coordination, Planning & Strategy

Governance of Objective Alignment

Goal-setting, partner selection, and governance design aligned with investment objectives and risk profile

Formation & Negotiation

Structuring durable, flexible ventures with strong legal and regulatory foundations that support long-term goals while leaving room to evolve

Business Building

Navigating complexities that arise as businesses grow and markets shift; scaling operations with cross-border capabilities

Governance & Disputes

Managing governance complexities and dispute resolution to protect partnership interests

Exits & Monetizations

Planning strategic exits, maximizing value, and running disciplined processes

WHAT'S NEXT FOR PRIVATE CAPITAL IN FINANCIAL SERVICES

Convergence 2.0 — Blurring the Lines

- PE firms becoming full-spectrum financial services conglomerates (Apollo, Blackstone, KKR)
- Expect PE to seek banking charters, ILC licenses for deposit funding and payment rails
- Insurance platforms expanding beyond life/annuity into P&C, specialty, and reinsurance
- Private credit managers evolving into de facto banks — originating, servicing, and holding credit

Regulatory Evolution

- New federal frameworks for PE ownership of insurance companies (beyond state regulation)
- Federal Reserve may revisit BHC Act control thresholds and passivity frameworks
- FSOC increasingly focused on private credit systemic risk (Dodd-Frank § 113)
- International coordination (FSB, IAIS) likely to shape U.S. approaches

Structural Innovation — Next-Gen Deals

- Continuation vehicles and GP-led secondaries as standard exit/recapitalization tools
- NAV lending against PE portfolios — growing rapidly but raising leverage concerns
- Tokenized fund interests and blockchain-based capital structures for new LP access
- Hybrid public-private structures (partial IPOs while PE retains control)

Democratization of Private Capital

- Wealth platforms distributing PE, private credit, real assets to HNW and mass affluent
- Semi-liquid interval funds, tender offer funds creating permanent capital pools (\$80B+ AUM)
- Regulatory focus on investor protection as retail exposure to private capital grows
- Flywheel: PE firms acquire wealth platforms partly to distribute own fund products

EMERGING M&A THEMES: WHERE THE DEALS ARE HEADING

Near-Term Opportunities for Financial Services M&A

Mega-Deal Resurgence

More Capital One/Discover-scale transactions as regulatory environment potentially eases; large PE-backed insurance platforms may pursue transformative acquisitions; cross-industry convergence deals

Private Credit as Acquirer

Credit firms transitioning from lenders to principals; vertical integration: origination → servicing → securitization → distribution; platform-to-platform M&A as space consolidates

The AI Premium

Firms with proprietary AI/ML capabilities (underwriting, compliance, fraud detection) commanding acquisition premiums; PE aggressively acquiring AI-native fintech for portfolio platforms

Cross-Border Realignment

Middle East SWFs (ADIA, Mubadala, PIF) increasing U.S. financial services investment; Japanese institutions (MUFG, SoftBank) continuing acquisitions; nearshoring driving Latin American M&A

Community Bank Endgame

Accelerating consolidation of sub-\$10B banks; PE-backed de novo strategies acquiring charters and deposits; credit union acquisitions of banks — emerging and legally complex

Distressed & Opportunistic Wave

CRE exposure creating forced sellers; PE dry powder (\$2T+) positioning for distressed acquisitions; FDIC-assisted transactions as potential deal channel; legacy insurance run-offs

CERTAIN LEGAL ISSUES

STATE INSURANCE REGULATORY ISSUES

- State insurance department approval timelines (often 60–90+ days) and conditions imposed on acquirers
- Enhanced oversight for PE-backed insurers
- Form D filings for material affiliated transactions (investment management agreements, reinsurance arrangements)
- Policyholder protection and solvency concerns — regulators may impose conditions on investment strategies

REINSURANCE AND SIDECAR STRUCTURES

- Reinsurance trust and collateral requirements (particularly for offshore reinsurers)
- Credit for reinsurance regulations
- Covered agreement implications for EU/UK-domiciled reinsurance vehicles
- Risk transfer sufficiency — ensuring true risk transfer for statutory accounting purposes
- Related-party reinsurance scrutiny — affiliated asset manager conflicts of interest

RIA CONSOLIDATION

- IAA compliance: registration, ADV filings, custody rule
- Fiduciary duty (Advisers Act) State registration for RIAs with <\$100M AUM
- Client consent and assignment provisions — IAA on change of control
- Earnout disputes and post-closing purchase price adjustments in RIA acquisitions

PRIVATE CREDIT AND DIRECT LENDING

- True lender doctrine for bank partnership/forward flow models
- State lending license requirements — 50-state patchwork for non-bank lenders

BANKING CONSOLIDATION

- Bank Merger Act (12 U.S.C. § 1828(c)) approval requirements
- BHC Act control thresholds (25% voting / 33.3% equity) and passivity commitments for PE investors

FINTECH AND EMBEDDED FINANCE

- Bank partnership model compliance
- CFPB enforcement jurisdiction over non-bank financial companies

A nighttime photograph of the Chicago skyline, featuring several prominent skyscrapers with illuminated windows. The Chicago River flows in the foreground, with a bridge spanning it. The text "NETWORKING BREAK" and "5:05 – 5:20 P.M." is overlaid in white on the image.

NETWORKING BREAK

5:05 – 5:20 P.M.

FIRESIDE CHAT: PRIVATE EQUITY & WEALTH MANAGEMENT CONVERGENCE

5:20 – 5:40 P.M.



JACOB FOX
Executive Director
J.P. Morgan



AMEER AHMAD
Partner
Mayer Brown

FIRESIDE CHAT: MANAGING RISK, FINDING OPPORTUNITY, & EXECUTING IN AN UNCERTAIN MARKET

5:40 – 6:00 P.M.



DOUG JACKSON
Managing Director
Greenhill & Co.



WILLIAM KUCERA
Partner
Mayer Brown

A nighttime photograph of the Chicago skyline, featuring several prominent skyscrapers with illuminated windows. The Chicago River flows in the foreground, with a bridge spanning it. The text "NETWORK RECEPTION" and "6:00 – 7:00 P.M." is overlaid in white on the image.

NETWORK RECEPTION

6:00 – 7:00 P.M.

The background of the slide is a blurred financial chart. It features a grid of dashed white lines on a dark background. Overlaid on this grid are several data series: a prominent blue line that trends downwards from left to right, a red line that fluctuates, and a yellow line that also trends downwards. In the lower right quadrant, there is a candlestick chart with red bars, indicating price movements. The overall aesthetic is professional and financial.

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