

# FRANCE

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## 1. What are the main structures for mergers and acquisitions (M&A) transactions available under local law, and what are their key distinctions?

A large range of M&A transactions are practiced in France, each with distinct legal and operational implications. The principal structures are as follows:

- **Share deals.** This remains the predominant structure in French M&A. The buyer acquires shares of the target company, assuming ownership of the entire legal entity, including all assets, liabilities, contracts and employees.
- **Asset deals.** The buyer may acquire selected assets (only specifically identified assets transfer and liabilities do not automatically follow) or a going concern (*fonds de commerce*) or an autonomous branch of activity (*branche autonome d'activité*), in which case the related assets, certain liabilities and employees transfer by operation of law. Asset deals trigger additional formalities and potentially higher transfer taxes.
- **Mergers, demergers and partial contributions of assets.** These structures result in a universal transfer of assets and liabilities by operation of law. They require shareholder approval, creditor notification with opposition period, and specific documentation.
- **Public takeovers.** Listed companies may be acquired through tender, which may be voluntary or mandatory. Offers may be structured as cash offers, share exchange offers or mixed offers, and are regulated and supervised by the *Autorité des marchés financiers* (AMF). Following a successful offer, a squeeze-out may be implemented if the bidder holds at least 90% of the share capital and voting rights.

The choice of structure is driven by the parties' strategic objectives, tax efficiency considerations, regulatory constraints, financing arrangements, timing requirements, and procedural complexity.

## 2. How would you describe the current M&A market in France?

The French M&A market has demonstrated resilience despite challenging macroeconomic conditions. Following exceptional activity levels in 2021, transaction volumes moderated in 2022–2024 due to higher interest rates, tighter financing, domestic political uncertainty, and geopolitical tensions.

The mid-market segment (EUR 50 to EUR 500 million) remains most active. Large-cap transactions (above EUR 1 billion) have been more selective and strategic. Private equity continues to play a central role, with sponsors exercising greater discipline on pricing and leverage.

Key active sectors include:

- technology, software and digital infrastructure;
- energy transition and renewables;
- healthcare and life sciences;
- infrastructure and regulated assets; and
- consumer/luxury brands with strong pricing power.

IPO activity remains restrained since 2022, with Euronext Paris seeing limited new listings. Conversely, the market has witnessed several high-profile public-to-private transactions, and significant delistings driven by depressed public market valuations relative to intrinsic value assessments.

Foreign investors remain active participants in French M&A. However, transactions involving sensitive sectors (including defence, energy, healthcare, semiconductors and critical technologies) are subject to increasingly rigorous foreign investment scrutiny under the French foreign direct investment (FDI) screening regime.

Overall, the current market is characterised by extended execution timelines (often 6–12 months from signing to closing for complex transactions).

### 3. What major trends have you seen in the past 12–24 months?

The French M&A landscape over the past 12–24 months has been shaped by several interconnected trends, reflecting both global macroeconomic pressures and France-specific dynamics:

- **Valuation discipline.** Higher interest rates altered valuation dynamics. Buyers adopted conservative approaches, with gaps bridged through earn-outs, deferred consideration and vendor financing.
- **Private equity activity.** Financial sponsors remained active in the mid-market, focusing on platform acquisitions and buy-and-build strategies. Exit routes shifted towards secondary transactions and continuation funds.
- **Public-to-private transactions.** Several listed French companies were acquired by sponsors or strategic buyers, reflecting public market valuation discounts and advantages of private ownership.
- **Expansion of foreign investment controls.** The French FDI screening regime (*régime de contrôle des investissements étrangers*) has continued to expand in scope and intensity, with increasing attention from public authorities and policymakers. The list of sensitive sectors has been progressively broadened to include biotechnologies, cybersecurity, artificial intelligence, food security and media.
- **Extended timelines.** Regulatory approvals (merger control, FDI screening, the EU Foreign Subsidies Regulation (FSR)), financing conditionality and enhanced due diligence have extended transaction timelines. Parties have responded with greater emphasis on deal certainty mechanisms.
- **Strategic portfolio rationalisation.** Major corporates have continued to streamline their portfolios through disposals of non-core assets and carve-outs of business units, driven by strategic refocusing, balance sheet optimisation and activist shareholder pressure.

### 4. What are your predictions for the M&A market in the next 12–24 months?

We anticipate the following developments in the French M&A market:

- **Gradual recovery.** Assuming macroeconomic stabilisation, we expect increased deal flow driven by refinancing pressures, private equity exit imperatives, with significant dry powder and ageing portfolios requiring realisation, and continued industrial consolidation in sectors undergoing structural transformation.
- **Sector concentration.** Sustained activity is expected in energy transition and infrastructure, defence and aerospace (reflecting increased European defence

spending commitments), healthcare and life sciences (driven by demographic trends and innovation) and digital infrastructure (data centres, cybersecurity and AI-related businesses).

- **Continued foreign investor interest with regulatory complexity.** Inbound investment appetite is expected to remain robust. However, FDI screening, the FSR, and sector-specific restrictions will remain central to deal planning for non-EU investors and state-linked entities.

## 5. What are the key laws and regulations governing M&A?

French M&A transactions are governed by a multi-layered legal and regulatory framework, comprising domestic legislation, EU regulations and sector-specific rules:

- **Listed companies and public M&A.** The French Monetary and Financial Code and the AMF General Regulation establish the framework for public offers, disclosure obligations and market conduct. These are supplemented by directly applicable EU rules, including the Market Abuse Regulation.
- **Merger control.** French merger control rules are set out in the French Commercial Code and enforced by the *Autorité de la concurrence*. Transactions meeting EU-level thresholds fall under the exclusive jurisdiction of the European Commission pursuant to the EU Merger Regulation.
- **Foreign investment control.** The French Monetary and Financial Code establishes the French FDI screening regime, administered by the *Direction générale du Trésor* within the Ministry of Economy. This regime operates alongside the EU FDI Screening Regulation, which establishes a cooperation mechanism between Member States and the Commission.
- **EU regulatory overlays.** Several EU instruments may impact transaction planning, including the FSR; the Digital Markets Act and Digital Services Act for transactions in the digital sector; and sector-specific frameworks in financial services, energy and telecommunications.

Key regulators commonly involved are:

- AMF and Euronext for listed targets;
- *Autorité de la concurrence*/European Commission for merger control;
- Ministry of Economy for FDI screening; and
- Sectorial regulators including ACPR/ECB (banking/insurance), ARCEP (telecoms), ARCOM (media), and other licensing authorities in energy/transport/defence.

## 6. What forms of consideration are commonly used? Are there restrictions on non-cash consideration?

French M&A transactions use a range of consideration structures, with the choice driven by tax efficiency, financing arrangements, risk allocation preferences and regulatory considerations:

- Cash consideration is the predominant form in private M&A. Pricing may be structured on a locked-box basis or completion-accounts basis. Locked-box structures have become increasingly prevalent in auction processes, providing price certainty to sellers.

- Share consideration is common in mergers, reorganisations, group internal transactions and sponsor rollover arrangements. Share consideration may also be used in public exchange offers or mixed offers.
- Deferred consideration and earn-outs are increasingly utilised to bridge valuation gaps, particularly in sectors with uncertain growth trajectories or where historical performance may not be indicative of future results.
- Seller financing is more common in leveraged transactions, management buyouts and special situations where third-party financing is constrained.

The key restrictions and considerations for non-cash consideration are:

- Share issuances as consideration require appropriate corporate authorisations (typically shareholder approval of a capital increase) and, for contributions in kind, an independent auditor's report on the valuation of contributed assets, unless an exemption applies.
- For listed companies, offering securities as consideration may trigger prospectus requirements under the EU Prospectus Regulation, subject to available exemptions. AMF review and approval timelines must be factored into transaction planning.
- In public offers, consideration is subject to AMF rules on pricing, including minimum price requirements in mandatory offers and, in certain circumstances, the requirement for an independent expert's fairness opinion.

## 7. What is the typical scope and focus of due diligence?

Due diligence in French M&A typically encompasses the following workstreams:

- **Corporate and title.** Verification of share capital structure, corporate governance, board and shareholder resolutions and any restrictions on transfer (change of control, pre-emption, consent, tag/drag-along).
- **Financial and tax.** Analysis of historical financial performance, tax compliance and structuring advice.
- **Employment.** Review of collective agreements, employee representatives, key employee arrangements and pension obligations.
- **Regulatory.** Assessment of required licences, permits and authorisations, sector-specific regulatory compliance, antitrust risk analysis, FDI screening requirements and foreign financial contribution analysis.
- **Compliance.** Review of anti-corruption policies and procedures, AML controls, international sanctions exposure, export control compliance and any ongoing investigations or enforcement actions.
- **IP, IT and data protection.** Assessment of IP ownership, technology licensing, GDPR compliance and cybersecurity.
- **Real estate and environmental.** Review of property titles, leases, environmental permits and contamination history.

The restrictions and practical constraints on access to information are:

- Confidentiality is managed through a non-disclosure agreement (NDA), controlled virtual data rooms with access tracking, and, for competitively sensitive or personal information, clean team arrangements with restricted access protocols.
- For listed targets, the Market Abuse Regulation imposes strict constraints on the disclosure of inside information. Wall-crossing procedures, insider lists

and confidentiality undertakings must be carefully managed. Information sharing is typically staged, with more sensitive information disclosed only after binding commitments are in place.

- General Data Protection Regulation (GDPR) and French data protection rules require data minimisation principles to be observed, such as anonymisation of personal data and limitation of access.
- Competition law considerations may restrict the exchange of competitively sensitive information (pricing, customer lists, strategic plans) prior to closing, to avoid gun-jumping risks. Clean team arrangements and information barriers are commonly employed.

## **8. How common are warranty and indemnity (W&I) insurance policies, and how do they affect negotiations of representations and warranties?**

W&I insurance has become a standard feature of French private M&A, particularly in competitive auction processes, private equity exits and transactions where sellers seek to limit post-closing exposure. The French W&I insurance market is mature, with coverage available from major international insurers and competitive premium rates.

Typical impacts on negotiations are:

- Sellers seek a “clean exit” structure, with reduced or eliminated post-closing liability for warranty breaches. Typical structures involve a *de minimis* seller liability, with the buyer relying primarily on the W&I policy for recovery.
- Negotiations focus on:
  - the scope of insured warranties and the alignment between SPA warranties and policy coverage;
  - the quality and completeness of disclosure; and
  - the treatment of specific indemnities for identified risks that insurers typically exclude from coverage (known issues, tax liabilities, pending litigation, environmental contamination, product liability and cyber incidents).
- Policy terms are heavily negotiated, including coverage limits, retention amounts, *de minimis* and aggregate thresholds, knowledge qualifiers and the scope of exclusions.

## **9. Distinct from antitrust and competition law requirements, are there restrictions or review mechanisms for foreign buyers acquiring domestic businesses or assets?**

The French legal framework is set by the Monetary and Financial Code, as amended by successive decrees (most recently in 2024) expanding the scope of sensitive sectors and refining procedural requirements, and the *Direction générale du Trésor* within the Ministry of Economy.

It applies to any foreign investor (foreign individuals, French individuals not tax resident in France, foreign entities, or French entities controlled by such persons or entities), and all persons and entities forming part of the investor’s control chain. It covers:

- The acquisition of control of a French entity.
- The acquisition of all or part of a French business line, and, for non-EU/EEA investors only.
- The crossing of the 25% voting-rights threshold in a French entity.
- The crossing of the 10% voting-rights threshold in a French listed company.

The sensitive sectors include (non-exhaustively): defence and security, dual-use technologies, cryptology, critical infrastructure (energy, water, transport, telecommunications, public health), media, food security, artificial intelligence, cybersecurity, biotechnologies, semiconductors, quantum technologies, energy storage and aerospace.

The filing requirement is suspensory, and the completion of an in-scope transaction without prior authorisation is prohibited and may result in significant sanctions (including nullity, injunctions, fines).

The review timelines are decomposed as follows:

- Phase 1 is 30 business days (extendable).
- Phase 2 in-depth review is required and an additional 45 business days applies.

Authorisations may be subject to conditions including governance requirements (appointment of independent directors, security committees), operational commitments (maintaining strategic activities, R&D or production in France), data security measures, supply continuity obligations and reporting requirements.

The EU FDI Screening Regulation establishes a cooperation mechanism whereby the Commission and other Member States may provide comments on notified transactions. While not binding, these comments are taken into account by the *Direction générale du Trésor*.

Certain sectors impose additional foreign ownership limitations (restrictions on non-EU ownership in certain media and audiovisual activities).

## 10. What are the major disclosure or announcement requirements for public M&A transactions?

Public M&A transactions in France are subject to comprehensive disclosure requirements designed to ensure market transparency and investor protection:

- **Inside information.** Under the Market Abuse Regulation, issuers must disclose inside information to the public as soon as possible, unless the conditions for delayed disclosure are met (legitimate interest, no misleading of the public and ability to ensure confidentiality). The decision to delay disclosure must be documented and notified to the AMF upon publication.
- **Offer announcements.** Once a decision to launch an offer is taken, the bidder must publish a press release setting out the principal terms. The target must respond with its own press release. Following AMF review and clearance, detailed offer documentation is published, containing comprehensive information on the offer terms, bidder's intentions, financing arrangements and conditions.
- **Threshold-crossing notifications.** Any crossing, upward or downward, of the statutory thresholds of 5%, 10%, 15%, 20%, 25%, 30%, 33.33%, 50%, 66.66%, 90% and 95% of share capital or voting rights must be

disclosed to both the issuer and the AMF. Crossing the 10%, 15%, 20% or 25% thresholds also triggers a mandatory disclosure of intentions for the following six months. Companies may impose an additional statutory disclosure threshold in their bylaws, which cannot be lower than 0.5% of share capital or voting rights.

- **Deal protection and other arrangements.** Agreements between the bidder and target (including break fees, exclusivity arrangements, lock-up commitments and irrevocable undertakings from shareholders) must be disclosed in the offer documentation.

## 11. How are public takeovers regulated, and what are the main procedural requirements?

French public takeovers are governed by the French Monetary and Financial Code and the AMF General Regulation, implementing the EU Takeover Directive. The framework is designed to ensure equal treatment of shareholders, transparency and orderly market conduct.

Main procedural features:

- Voluntary offers may be launched at any time. Mandatory offers are triggered when an investor (acting alone or in concert) crosses 30% of share capital or voting rights, or acquires more than 1% within 12 months while holding between 30% and 50%. Exemptions from mandatory offer requirements are available in limited circumstances (e.g. certain restructurings, intragroup transfers) subject to AMF approval.
- The offer is filed with the AMF by a presenting bank. The AMF reviews the offer documentation and, if compliant, publishes a clearance decision (*décision de conformité*) and grants a visa to the offer document.
- The target's board of directors must issue a reasoned opinion (*avis motivé*) on the offer, including its assessment of the offer's interest for the company, shareholders and employees. The works council (*comité social et économique* or CSE) must be informed and consulted on the offer; its opinion is appended to the board's opinion. Failure to complete employee consultation can delay the offer timetable.
- An independent expert's fairness opinion (*attestation d'équité*) is required in specified circumstances, including offers by the controlling shareholder or involving conflicts of interest; squeeze-out procedures; and certain other situations defined by the AMF General Regulation. The expert's report is public and subject to AMF review.

With respect to competing bids and deal protections:

- Third parties may file competing offers during the offer period, subject to AMF procedural requirements. A competing offer must represent a meaningful improvement (at least 2% higher in value). Auction procedures may apply if multiple competing offers are filed.
- Break fees, exclusivity arrangements and no-shop clauses are permitted but must be proportionate and consistent with the target's corporate interest. Such arrangements must be disclosed and should not unduly deter or impede competing offers.

If, following an offer, the bidder holds at least 90% of the share capital and voting rights, it may implement a squeeze-out of remaining minority shareholders. The squeeze-out must be completed within three months of the offer closing. An independent expert's report is required.

Minority shareholders holding shares in a company where a single shareholder (or concert group) holds more than 90% may require that shareholder to purchase their shares at a fair price, subject to procedural requirements.

### **12. How are M&A disputes commonly resolved? Are there preferred dispute resolution forums or governing laws?**

Disputes arising from private M&A transactions are typically heard by the French commercial courts (*tribunaux de commerce*).

Arbitration is frequently chosen in cross-border transactions. ICC arbitration seated in Paris is the most common choice, reflecting Paris's status as a leading arbitration seat. French courts are supportive of arbitration and provide effective mechanisms for interim relief and enforcement.

Post-closing disputes frequently involve warranty and indemnity claims, price adjustment and earn-out disputes. Expert determination is commonly used for price adjustment disputes.

### **13. What role are emerging technologies playing in shaping upcoming M&A opportunities or challenges locally?**

Emerging technologies are reshaping the French M&A landscape, both as drivers of transaction activity and as factors influencing deal execution.

Legal and financial advisers increasingly deploy AI-assisted tools for contract review, data room analysis and due diligence, enhancing efficiency for large-scale document reviews.

Technology and data capabilities have become core elements of target valuation and the due diligence process.

The EU's expanding technology regulatory framework is increasingly reflected in transaction documentation through specific representations, compliance covenants, conditions precedent and post-closing integration roadmaps.

### **14. Are there any other significant corporate M&A considerations in France?**

Several additional France-specific considerations frequently impact M&A transaction planning and execution:

- The works council (CSE) must be informed and consulted on transactions affecting the company's organisation, management or operations. This is a formal procedural step that can affect timetable. For certain SME transactions, additional employee information requirements apply, requiring advance notice to employees of a contemplated sale, although this does not confer a right of first refusal.

- Transfer tax rates vary by transaction structure. Transfers of actions (shares in *Société Anonyme* (SA) or *Société par Actions Simplifiée* (SAS)) attract a 0.1% registration duty. Transfers of *parts sociales* (interests in SARL or SCI) attract a 3% duty (with an allowance). Asset and business transfers attract graduated duties up to 5% on certain asset categories.
- Transactions involving assets perceived as strategically important (critical infrastructure, defence suppliers, major employers, iconic brands) may attract scrutiny beyond formal legal requirements, including political attention, media coverage and stakeholder activism. Early engagement with relevant authorities and proactive stakeholder management is advisable.

## AUTHOR BIOGRAPHIES



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