

## Research Articles

January 23, 2024

### PRIVATE EQUITY AND M&A IN INDIA: WHAT TO EXPECT IN 2024?

#### INTRODUCTION

2023 was a year of unexpected headwinds, such as the hiking of interest rates by governments across the world, the banking sector instability in the US and Europe, the Russia-Ukraine and Israel-Hamas conflict, to name a few. Yet, despite the geopolitical and economic uncertainty that plagued 2023, the Indian business landscape witnessed a record-breaking mergers and acquisitions (“M&A”) spree, with a 72% (seventy-two percent) increase in deal volume compared to 2022<sup>1</sup> and the total value exceeding a massive USD 150,000,000,000 (United States Dollars One Hundred Fifty Billion).<sup>2</sup> A report by Goldman Sachs stated that even the global economy “outperformed their optimistic expectations in 2023”, and their forecast for 2024 predicts an increase in growth figures from the previous year.<sup>3</sup>

Factors such as stabilisation of interest rates, growing convergence between buyer and seller pricing expectations and availability of dry powder particularly held by sovereign wealth funds (“SWF”), private equity (“PE”) and venture capital investors will propel deal making activity in 2024. These factors, compounded with India’s increasing importance in the global economy, predict a bright future for inbound M&A and PE activity in India, particularly in areas such as digital transformation and technology, decarbonisation and renewables, pharmaceuticals and healthcare, financial services and real estate and infrastructure.

Against this backdrop, we analyze trends which will potentially impact deal-making in India in 2024, taking cues from important commercial and legal developments which we expect will play a significant role in shaping cross-border deal negotiation, structuring and documentation.

#### RESORT TO REVERSE FLIPS

A “reverse flip” refers to the process of transfer of ownership of an entity incorporated abroad into an entity incorporated in India.<sup>4</sup> While flipping outside India was the norm until the recent past, the last few years have witnessed multiple companies considering or having already implemented their reverse flips – with notable examples being Udaan, RazorPay, Meesho,<sup>5</sup> Groww,<sup>6</sup> PhonePe and PepperFry.<sup>7</sup>

Given the growing Indian markets and consumer base, reverse flips are beneficial for mature structures seeking to list in the coming years. Additionally, such companies may derive higher valuation within India as their consumer base, back end processing units, and human capital are already located within India. Further, they will also have access to domestic retail capital.

While reverse flips may take place by way of inbound mergers (that may be tax exempt to the extent such mergers follow the conditions set out in the Income Tax Act, 1961), reverse flips that take place through share swaps (i.e., shares held by foreign investors in the overseas parent entity are exchanged for shares of an Indian entity, where the value is intended to be shifted) should result in the overseas shareholders becoming subject to tax in India (on the difference between the value of shares of the Indian entity at the time of such reverse flip, and the cost of acquisition of the shares of the foreign entity). In this context, the applicability of the ‘indirect transfer tax’ (i.e., tax on gains made by an overseas entity exiting from Indian investments held through another overseas intermediary entity) also becomes relevant from the perspective of such internal restructurings, as well as while planning exits. For investors swapping their shares in the overseas holding company (and receiving Indian shares in exchange), it must be noted that any benefits under tax treaties between the overseas holding company’s jurisdiction and the investor’s jurisdiction, may not be available under India’s tax treaty with the investor’s jurisdiction. While gains made from the transfer of Indian shares held by a Singapore or Mauritius residents (that made such investments prior to April 01, 2017) are grandfathered from the applicability of capital gains tax in India, no such benefits would be available to foreign shareholders receiving Indian shares as of today (as a consequence of the internalization).

In order to encourage reverse flipping into India, an expert committee was set up in early 2023 to prepare a report on the manner in which Indian startups domiciled abroad may be flipped back into India (and specifically, into the GIFT City).<sup>8</sup> While the numerous corporate and tax law amendments proposed within the report are pending to be implemented or discussed by the legislature, this development denotes the positive shift towards welcoming such companies back into the Indian economy.

Accordingly, we anticipate that reverse flipping will become a popular structure option for companies looking to ensure an eventual listing at a fair valuation within public markets in India. However, given that the process of in-bound mergers is governed by Indian courts, the inability to predict timelines related thereto may lead to uncertainty amongst companies and prove to be a deterrent to the implementation of a reverse flip (by way of inbound mergers) in a timely manner.

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## PRIVATE DEBT AS A POTENTIAL STRUCTURING OPTION

Private debt refers to the practice of financing companies through debt that is provided by a fund or entity that is: (i) not a bank, and (ii) is not ordinarily in the business of providing loans. The debt provided is a debenture that is often secured through a pledge of shares or assets of the company and/ or its promoters, and the redemption premium available to the lender may be linked to performance indicators or targets such as the achievement of financial targets of the company.

Private debt has the following benefits for parties involved: (i) it provides lenders with the downside protection of debt (by way of a pledge or security) and the upside protection of equity (i.e. a conversion and appreciation characteristic built in the instrument); and (ii) companies are able to receive immediate monetary assistance without added dilution at times when retention of control may be essential, particularly in circumstances and industries where the funding abilities of commercial banks are limited.

In recent times, private debt is increasingly being resorted to as a viable structuring option by parties and being explored by seasoned equity investors as well. For instance, as of December 2022, India-focused assets under management in private debt were around USD 15,500,000,000 (United States Dollars Fifteen Billion Five Hundred Million).<sup>9</sup> It is safe to assume that private debt arrangements shall grow in popularity in India, with key focus on the security package, redemption events and interest rate available to the lender.

## INFRASTRUCTURE INVESTMENT TRUSTS ("INVITS") AND REAL ESTATE INVESTMENT TRUSTS ("REITS")

There has been tremendous growth in InvITs and REITs as investment vehicles in the past few years. While we have about 22 (twenty two) InvITs and 4 (four) REITs registered in India with a total asset under management of around INR 3,500,000,000,000 (Indian Rupees Three Trillion Five Hundred Billion),<sup>10</sup> in view of the expected decline in interest rates, introduction of tax incentives and relaxed investment regime, the road ahead in terms of fund mobilisation by the InvITs and REITs looks promising.

India is also witnessing diversification of the portfolio of these vehicles to non-traditional asset classes. With the increase in e-commerce, digitalisation and data localisation, it is expected that a number of warehouse and data centre InvITs may also be constituted, especially considering the recent classification of data centres as infrastructure. The trend of diversification also unlocks the potential for green and sustainable urban expansion for the country, and we expect to see an increase in InvITs in this sub sector as well. That being said, the preference for sponsors and investments in the infrastructure and airport sectors remains strong and is likely to dominate large-ticket deals in 2024.

## CORPORATE GOVERNANCE

In today's dynamic business environment, the role of corporate governance is crucial in guaranteeing the success of any organization. The importance of this is being highlighted especially due to the events of 2023, which witnessed corporate frauds in start-ups (Byju's<sup>11</sup>, GoMechanic<sup>12</sup>, Mojocare<sup>13</sup>) as well as established companies (4B Networks<sup>14</sup> and ICICI Bank- Videocon Group<sup>15</sup>). The allegations of stock manipulation and accounting fraud against the Adani Group by Hindenburg also came as a shock to many shareholders. This evidences the need for a stronger corporate framework across Indian companies, a fact which many start-ups are recognising as a competitive advantage if they implement a robust governance system from the get-go. Hopefully, start-ups will set the stage for other established companies to draw from their corporate governance framework and implement the same in their models. Further, keeping in mind such instances of management fraud and governance issues, it is expected that these concerns will play a significant role in discussions between acquirers and potential targets. Consequently, minority investors are likely to demand representation on the board and committees, seek greater information rights for operational transparency as well as include specific veto rights to protect the value of their investment in the company. Covenants to safeguard against anti-money laundering, anti-corruption as well as corresponding indemnities will also be sought by investors in the transaction documents.

Moreover, in contrast to the traditional focus on overall shareholder returns in shareholder activism, a new wave of activists is emerging that prioritizes issues relating to climate change, environment, human capital, social and governance issues. This shift requires the target companies to adjust their response strategies and incorporate favorable covenants into transaction documents to address these concerns.

## AMENDMENTS TO KEY INDIAN LEGISLATIONS

2023 has been crucial in terms of amendments to key legislations having a direct impact on the manner of deal-making in India going forward. Certain key areas of such amendments include:

### *Competition law*

The Indian competition law landscape underwent numerous significant changes during 2023. For instance, the Indian Competition (Amendment) Act ("**Amendment Act**") proposing substantial changes to the extant law, received presidential assent on April 11, 2023,<sup>16</sup> which was soon followed by the appointment of the Competition Commission of India's ("**CCI**") new president Ms. Ravleen Kaur.<sup>17</sup> Notably, 2023 saw the release of the following key draft regulations for public comments: (i) CCI (Combinations) Regulations, 2023 on September 5, 2023 ("**Draft Combination Regulations**"), intended to replace the existing CCI (Procedure in Regard to the Transaction of Business Relating to Combinations) Regulations, 2011;<sup>18</sup> and (ii) CCI (Settlement) Regulations, on August 24, 2023.<sup>19</sup>

While these regulations have not yet been enacted, they provide an important insight into the legislative intent with respect to regulation of combination and enforcement activity in India going forward. While there is no visibility on the date of enactment, there are bright chances it may get enacted in this year before the nation goes for its general elections and accordingly parties need to factor the potential impact of such enactments while structuring their deals. Particularly, the enactment of the Draft Combination Regulations is likely to impact the timelines and fees payable by parties when undertaking a "combination". Further, the absence of "Schedule 1" within the Draft Combination Regulations may create certain challenges for parties evaluating deals that may have otherwise been consummated without the approval of CCI as they were *exempt* under Schedule 1. These shall have to be read with the proposed "deal value threshold" sought to be prescribed via the Amendment Act, according to which the prior approval of the CCI shall have to be sought in case the deal value of a proposed combination (that may otherwise not be notifiable under other

## What India's Transition to New Data Protection Law Means for Global Businesses

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provisions of the law) exceeds INR 20,000,000,000 (Indian Rupees Twenty Billion i.e. Indian Rupees Two Thousand Crore). However, corresponding provisions relating to this threshold (present within the Amendment Act) are yet to be notified.

In view of the first gun-jumping penalty levied by CCI under the “Green Channel” route,<sup>20</sup> all disclosures/ structures provided to the CCI must be appropriately assessed and/ or documented, to ensure that the potential risk of gun-jumping during an investigation by the CCI is reduced (to the extent possible).

### *Data protection*

Amidst increased stakeholder consultations brewing over the last few years with respect to the proposed enactment of the Digital India Act (“**DIA**”) and the Digital Personal Data Protection Act, 2023 (“**DPDPA**”) (which seeks to amend the existing data protection regime in India), the latter received Presidential assent as on August 11, 2023 and is currently pending enactment, along with rules and regulations pertaining to certain procedural aspects envisaged under the law.<sup>21</sup>

The scope of the law has expanded from “sensitive personal data” (as protected under the erstwhile Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011) to “personal data”. Accordingly, any data that is related to or provides an insight about the personal identification of a person shall be protected under the auspices of the DPDPA. The DPDPA also prescribes penalties that are significantly higher than the extant regime (with certain penalties ranging up to INR 2,500,000,000 (Indian Rupees Two Billion Five Hundred Million) (approximately USD 30 million)). While this naturally contributes to an increase in compliances for companies handling such data, it is important for parties (particularly, acquirers) to ensure that the legal due diligence and the documentation accounts for compliance with the new legislation (once it is enacted).

Separately, the potential enactment of the Digital India Act (in replacement of the Information Technology Act, 2000) will create a streamlined framework for technology and digitalization regulations, addressing key concerns plaguing the current legal framework such as deep fakes, misinformation and cybersecurity. This is likely to dominate deal discussions within this sector in 2024, with due diligence specifically also evaluating compliance with these added legal requirements for targets operating in the sector.

## **INCREASED REGULATORY ACTIVITY INITIATED BY THE SECURITIES AND EXCHANGE BOARD OF INDIA (“SEBI”)**

The appointment of Ms. Madhabi Puri Buch as the first woman chairperson of the SEBI<sup>22</sup> has been followed by a subsequent flurry of regulatory activity targeted towards increased transparency, accountability and information symmetry across 2023.

Some key initiatives of SEBI within the listed space include amendments to the SEBI (Listing Obligations and Disclosure Requirements) Regulations 2015 towards enhanced disclosures to stock exchanges and investors alike,<sup>23</sup> introduction of mandatory listing of non-convertible debentures by listed issuers,<sup>24</sup> mandatory dematerialization of AIF units for all AIFs having a corpus of INR 5,000,000,000 (Indian Rupees Five Billion) or more by the end of January 2024,<sup>25</sup> introduction of the concept of “MSM REITs” and the introduction of the revised “offer for sale” framework.<sup>26</sup> Further, SEBI has released numerous consultation papers and proposals for multiple reforms (such as social stock exchanges, crowdfunding, etc.), indicating the intent of the regulator to invite public opinions on the practical concerns associated with its proposals.

This is a laudable reform and we expect that this two-way discourse shall lead to the development of a stakeholder-friendly listed ecosystem in India that is focused on compliances leading to transparency. Even on the enforcement front, the active efforts of the regulator to penalize misguiding of retail investors (such as the recent penalty levied on the influencer “Baap of Chart”<sup>27</sup> for providing unregistered investment advice to followers on social media) only demonstrate the long term vision of the regulator towards enhanced investor protection.

## **WARRANTY AND INDEMNITY (“W&I”) INSURANCE**

Despite deal activity remaining generally staggered during 2023,<sup>28</sup> we note that the interest of parties to resort to W&I insurance to cover potential unknown risks remains constant. The trend is likely to continue owing to: (i) the growing enterprise value of deals across sectors; (ii) entry of multiple players in the underwriting space and the ability to provide W&I insurance across sectors; (iii) growing risk appetite of insurers during coverage and review of such deals; and (iv) a large number of sellers being limited life funds. Additionally, 2023 witnessed parties exploring W&I insurance at the term sheet stage itself (as opposed to finalization only closer to execution of transaction documents), in order to cement the potential coverage available while they close later.

## **TAX CONSIDERATIONS**

Tax remains one of the key considerations during the structuring and negotiation phases of all domestic and cross-border M&A. Some developments that are likely to impact deal making in 2024 include –

### *a) Angel Tax*

Given the historic inflow of foreign investment into India, the introduction of the revised “Angel Tax” by way of the Finance Budget 2023 has now become a key valuation consideration at the time of making investments into India. Specifically, investment by non-resident in unlisted Indian companies at a price more than fair market value has been brought under the ambit of Angel Tax provisions by the Finance Act, 2023. The difference is now taxable at the hands of the investee company in India as income from other sources. This is especially relevant for companies raising capital at above fair market valuations from foreign investors. The Central Board of Direct Taxation (“**CBDT**”) has subsequently prescribed certain classes of overseas investors to whom the tax does not apply (i.e., governments and government related investors; specified investors such as foreign portfolio investors, pension funds, endowment funds, etc., from certain notified jurisdictions; and banks or entities involved in insurance business). SEBI registered alternative investment funds (Categories 1 and 2), as well as start-ups (which fulfil certain conditions) incorporated in India are also exempt from the applicability of the Angel Tax. The CBDT has also introduced 5 (five) new valuation methodologies (beyond net asset

value and discounted cash flow) which may be selected by the investee company to arrive at the fair market value for the purposes of raising capital from non-resident investors (specifically - comparable company multiple method, probability weighted expected return method, option pricing method, milestone analysis method and replacement cost method, at the option of the Indian company receiving investment).

#### b) *Tax Residency Certificate- Is It Enough?*

Earlier in 2023, the Delhi Court upheld the sanctity of the Tax Residency Certificate ("**TRC**") as sufficient evidence to qualify as a 'resident' for the purposes of availing benefits under tax treaties. Specifically in the context of Article 13, the Court found that criteria of 'beneficial ownership' was not incorporated into the language of the text; and as such, could not be read into the law as an additional criterion for availing beneficial provisions of the India Singapore tax treaty. Specifically, this implied that the tax authorities could not artificially use the test of beneficial ownership or economic substance to deny treaty benefits under Article 13. However, the Supreme Court (as of January 03, 2024) has stayed the order of the Delhi High Court in *ACIT v. Blackstone Capital Partners (Singapore) VI FDI 3 Pte Ltd*,<sup>29</sup> while also putting a stay on the recovery of such taxes by the department; and is scheduled to hear the contentious issue through expedited hearings in March, 2024. Despite the Supreme Court / Delhi High Court having upheld the validity of Circular 789 of the Central Board of Direct Taxes (i.e., the TRC suffices as valid evidence for qualifying as residents, and therefore, for availing treaty benefits) in the case of *Azadi Bachao Andolan* (all of which continue to remain valid judicial precedents), the interim stay may nonetheless serve as grounds for the tax authorities to deny treaty benefits under Article 13, in the absence of 'beneficial ownership' over the asset being disposed; and may also result in the tax authorities proceeding with their assessment against Blackstone (given that the order of the High Court quashing such assessment has now been stayed). The possibility of other such appeals being raised by the department (and getting clubbed in the future) cannot be ruled out. This is particularly relevant from the perspective of planning exits from Indian investments, or internal restructuring of investment holding vehicles within fund ecosystems.

#### c) *Most Favoured Nations Clause ("MFN") in Triangular Cases*

The Supreme Court in the second half of 2023 also issued the highly debated decision with respect to the applicability of the MFN in India's treaties. The effect of an MFN is that one state obligates itself to its treaty partner with respect to offering it a 'more favourable' tax treatment (than what is set out in their own tax treaty), if such 'more favourable' tax treatment is offered by the first state in its tax treaty provisions with a different third state (on the condition that the second and the third states are Organisation for Economic Co-operation and Development ("**OECD**") members for the MFN to apply). This issue, however, gets controversial in the instance where the third state (i.e., the treaty with the lower rate), becomes an OECD member, after the treaty between the first two states is already in effect. The question then is whether the second state gets to invoke the MFN under its treaty with the first state, so as to avail the lower rate under the treaty between the first and third state (which only later becomes an OECD member). While the Delhi High Court in *Concentrix v. ITO*<sup>30</sup> and *Nestle SA v. Assessing Officer Circle*<sup>31</sup> had ruled in favour of the taxpayer in this regard, the Supreme Court has overturned the decision and ruled in favour of the tax authorities. Keeping aside the technical merits of the judgment, the ruling is likely to impact non-resident taxpayers that have availed of beneficial treaty rates by applying the MFN clause under their applicable treaties with India. This is likely to lead to the tax authorities re-opening such assessments and retrospectively imposing tax liabilities on such taxpayers. Further, this will be a key consideration for cross-border structures that are factored around taking benefits of the MFN clauses under India's treaties, to re-arrange their affairs.

## GENERATIVE ARTIFICIAL INTELLIGENCE ("GENAI")

The rise of GenAI has transformed the market landscape. There is a race for companies to add new groundbreaking technology as well as to implement GenAI into their internal processes which not only touch on the core competencies of the organisations but also enhances operational efficiency and creates additional value. M&A activity in terms of acquisition of technology start-ups may be on the rise as investors/ acquirers line up to be at the forefront of the GenAI revolution. This may also lead to increased infusion of private equity in the technology sector, as bullish sentiments around GenAI, cloud computing and cybersecurity prevail in 2024. Indian GenAI startups have received a cumulative investment of USD 700,000,000 (United States Dollars Seven Hundred Million) in the last three years, and India now has over 100 (one hundred) startups in this space.<sup>32</sup> The recent funding of new GenAI ventures such as Sarvam AI,<sup>33</sup> and Adobe's acquisition of Rephrase.ai<sup>34</sup> reflect the growing momentum of interest in this sector in India.

The flip side of this, however, are the associated dangers that come with GenAI.<sup>35</sup> Due to the rapid developments in this sector, regulators are finding it difficult to draft and implement regulations to safeguard against all potential misuse of this tool.<sup>36</sup> Therefore, these dangers may be sought to be regulated internally by the stakeholders of the company, leading to increased board oversight on GenAI, its use and its growth. Investors may demand a plan to be submitted by the company on the deployment of GenAI, processes to identify and mitigate risks as well as ethical guidelines on its use as a part of their information rights or operational oversight by virtue of their position on the board. It may also lead to renewed focus on technical due diligence, diligence on the ownership, licensing of the intellectual property and use of the data fed into the GenAI for its learning. Intellectual property clauses as well as representations and warranties may need to be tweaked keeping in mind the nature of the GenAI used.

We expect further developments in this field as well as increased M&A and PE activity in 2024, and companies will have to be flexible, innovative and adapt in order to stay relevant and mitigate potential fallouts of this tool.

## INVESTMENTS IN CLIMATE/ RENEWABLES

The UN Climate Change Conference recently concluded with an unprecedented pledge by over 190 (one hundred ninety) nations to transition "away from fossil fuels in energy systems". Increasing importance given to sustainability has caused investors to pivot their focus to climate transition planning. From 2019 until the end of 2022, private-market equity investors launched more than 330 (three hundred thirty) new environmental, social, and governance ("**ESG**"), sustainability and impact funds.<sup>37</sup> Substantial capital has been allocated for climate-related opportunities within corporate capital budgets, public-equity investment vehicles and credit funds. The heightened competition for assets centred on climate initiatives from corporate capital has led to increased valuations and a growth in PE as well as in M&A as the largest investors in renewable energy, industrials, and infrastructure are all turning their attention to

investment opportunities in climate technologies and acquisition of growth assets in the climate solution sector.<sup>38</sup> India is a prime candidate for these investments, due to an abundance of natural resources to facilitate the clean energy transition, government initiatives to encourage this sector and climate action plans in place.

The inclusion of ESG representations and warranties, comprehensive commitments to sustainable practices (including specified timelines) in business plans, indemnification clauses for related breaches as well as establishment of internal protocols to guarantee compliance with ESG standards are anticipated to become standard components of transaction documents with the rise of interest and investments in this sector.

## INVESTMENTS IN THE INDIAN HEALTHCARE SECTOR

In 2023, the healthcare sector remained a focal point for PE deal activity, surpassing other PE deals worldwide. 2023 has also witnessed new trends such as buyout funds initiating secondary-dedicated funds, including continuation funds, and PE firms have started joining with other firms to tackle larger targets, in addition to seeking partnerships with and capital from SWFs.

Notably, India has topped the charts and accounted for around 30% (thirty percent) of the Asia-Pacific regions deal value in 2022-2023, as investors seeking to manage geopolitical risk began to broaden their horizons to other Asia-Pacific countries.<sup>39</sup> We expect factors such as resilient economic growth, a business-friendly government combined with greater expenditure on public healthcare, a maturing pharmaceutical manufacturing landscape, and a burgeoning middle class eager to pay for quality healthcare post the Covid pandemic to create many more investment opportunities in this sector. The market landscape of the healthcare sector in India is conducive to consolidation, hence we expect M&A activity to continue in 2024 as large hospital chains seek to acquire smaller centres to increase their footprint.

There has been increased accessibility to healthcare in India in the recent past based on which we have seen a shift towards de-centralising healthcare by setting up facilities in smaller cities, which would make the existing centres in these cities an attractive investment prospect in the future. We anticipate a sustained increase in biopharma-related engagements, such as generics and active pharmaceutical ingredient manufacturing, as seen by Temasek's acquisition of an additional 41% (forty-one percent) of Manipal Health Enterprises<sup>40</sup> and Blackstone acquiring a controlling stake in Care Hospitals.<sup>41</sup> We have also witnessed a surge in investment activity in IVF clinics, which has been fuelled in part by the regularisation of the fertility industry due to the implementation of the Assisted Reproductive Technology (Regulation) Act, 2021 and the Surrogacy (Regulation) Act, 2021 - hence we expect investment in this sub-sector to continue to flourish in 2024.

India being one of the fastest growing digital economies in the world, we expect digital health to see an increase in investment, especially now with the potential of integration of GenAI, blockchain, robotics and virtual reality with technology. These macroeconomic trends, combined with successful exits by early investors in India, such as TPG selling a controlling stake in Care Hospitals to Blackstone, will motivate PE sponsors to view India as a significant destination for deploying healthcare capital on a large scale in 2024.

## CONCLUSION

Although the overall outlook for PE and M&A activity in 2024 looks optimistic, this is dependent on geopolitical factors across the globe. With the 2024 elections looming both in India as well as the US, deal activity in the short term may slow down. However, M&A and PE activity in India is expected to remain robust in 2024 due to the factors mentioned above coupled with India's importance as a global player and its relative stability in the face of global headwinds. This is seen by the projected stability of the Indian Rupee in 2024, India's emergence as the new back office to the world among tighter global markets as well as favourable global trends such as offshoring, digitalisation and energy transition. That being said, the number of large deals may potentially decrease in the short term and may be replaced by relatively small and mid-size deals taking up the centre stage.

– Sach Chabria, Parina Muchhala, Arijit Ghosh, Harshita Srivastava and Nishchal Joshipura

You can direct your queries or comments to the authors.

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<sup>1</sup><https://www2.deloitte.com/in/en/pages/finance/articles/India-MnA-Trends-2023.html>

<sup>2</sup><https://www.bain.com/insights/india-m-and-a-report-2023/>

<sup>3</sup><https://www.goldmansachs.com/intelligence/pages/gs-research/macro-outlook-2024-the-hard-part-is-over/report.pdf>

<sup>4</sup>We have analysed the concept of "reverse flipping" in our article at: <https://www.nishithdesai.com/NewsDetails/9600>

<sup>5</sup><https://economictimes.indiatimes.com/tech/startups/more-startups-swades-bound-map-parent-flip/articleshow/106459277.cms?from=mdr>

<sup>6</sup><https://www.firstpost.com/explainers/razorpay-groww-reverse-flipping-why-startups-want-to-shift-base-to-india-13568132.html>

<sup>7</sup><https://treelife.in/news/phonepe-reverse-flip-to-india-unraveling-the-strategic-shift-and-its-impact/#:~:text=The%20Reverse%20Flip&text=In%20October%202022%2C%20PhonePe%20announced,that%20operates%20primarily%20in%20India.>

<sup>8</sup>This report is available at: <https://ifsc.gov.in/Viewer?Path=Document%2FReportandPublication%2Fonshore-the-indian-innovation-to-gift-ifsc-a4-1327082023112304.pdf&Title=Report%20of%20the%20Expert%20committee%20on%20the%27Onshoring%20the%20Indian%20Innovation%20to%20GIFT%20IFSC%E2%80%99&Date=25%2F08%2F2023>

<sup>9</sup>[https://www.business-standard.com/finance/news/private-debt-market-in-india-set-to-grow-more-says-standard-chartered-123081800300\\_1.html](https://www.business-standard.com/finance/news/private-debt-market-in-india-set-to-grow-more-says-standard-chartered-123081800300_1.html)

<sup>10</sup><https://energy.economictimes.indiatimes.com/news/renewable/emerging-trends-in-investments-amidst-favourable-regulations-in-india/96684840>

<sup>11</sup><https://www.livemint.com/companies/news/byjus-allegedly-hid-533-million-in-obscure-hedge-fund-claim-lenders-in-lawsuit-report-11694574815031.html>

<sup>12</sup><https://www.livemint.com/companies/news/gomechanic-admits-to-irregularities-investors-seek-audit-11674065924009.html>

<sup>13</sup><https://economictimes.indiatimes.com/tech/startups/financial-irregularities-found-at-healthcare-startup-mojocare-after-review-say-investors/articleshow/101085731.cms?from=mdr>



- <sup>14</sup><https://www.livemint.com/companies/news/mumbai-police-lodges-fir-against-4b-networks-rahul-yadav-and-sanjay-saini-economic-offences-wing-11692598504557.html>
- <sup>15</sup><https://www.businesstoday.in/latest/corporate/story/ici-bank-loan-fraud-case-chanda-kochhar-husband-bought-flat-worth-rs-53-crore-for-just-rs-11-lakh-cbi-tells-court-387183-2023-06-27>
- <sup>16</sup><https://www.thehindu.com/business/Industry/competition-law-amendment-bill-gets-presidents-assent/article66728972.ece#:~:text=Rajya%20Sabha%20approved%20the%20bill,in%20a%20tweet%20on%20Wednesday.>
- <sup>17</sup><https://www.thehindubusinessline.com/economy/centre-appoints-ravneet-kaur-as-cci-chairperson/article66856185.ece>
- <sup>18</sup>See generally, <https://www.cci.gov.in/images/whatsnew/en/background-note-draft-combination-regulations-20231693886977.pdf>
- <sup>19</sup>See generally, <https://www.cci.gov.in/images/whatsnew/en/background-note-settlement1692847181.pdf>
- <sup>20</sup><https://www.thehindubusinessline.com/economy/cci-imposes-penalty-of-55-lakh-on-adia-tpg-controlled-entities/article67224036.ece>
- <sup>21</sup>We have analysed the DPDPA in our hotline at: <https://www.nishithdesai.com/SectionCategory/33/Technology-Law-Analysis/12/60/TechnologyLawAnalysis/1070311.html>
- <sup>22</sup><https://www.thehindu.com/business/madhapi-puri-buch-appointed-first-woman-chairperson-of-sebi/article65094335.ece>
- <sup>23</sup>Available at: [https://www.sebi.gov.in/legal/regulations/jun-2023/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-second-amendment-regulations-2023\\_72609.html](https://www.sebi.gov.in/legal/regulations/jun-2023/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-second-amendment-regulations-2023_72609.html)
- <sup>24</sup>Available at: [https://www.sebi.gov.in/legal/regulations/jul-2023/securities-and-exchange-board-of-india-issue-and-listing-of-non-convertible-securities-second-amendment-regulations-2023\\_73592.html](https://www.sebi.gov.in/legal/regulations/jul-2023/securities-and-exchange-board-of-india-issue-and-listing-of-non-convertible-securities-second-amendment-regulations-2023_73592.html)
- <sup>25</sup>[https://www.sebi.gov.in/legal/circulars/jun-2023/issuance-of-units-of-aifs-in-dematerialised-form\\_72921.html](https://www.sebi.gov.in/legal/circulars/jun-2023/issuance-of-units-of-aifs-in-dematerialised-form_72921.html)
- <sup>26</sup>We have analysed this framework at: <https://www.nishithdesai.com/NewsDetails/8487>
- <sup>27</sup><https://www.cnbctv18.com/personal-finance/baap-of-chart-sebi-bans-finfluencer-securities-market-refund-penalty-18153091.htm>
- <sup>28</sup>See generally, <https://www.financialexpress.com/business/industry-mampa-activity-falls-to-14-58-bn-in-2023-lowest-in-12-years-3314574/>
- <sup>29</sup>WP(C) No. 2562/2022.
- <sup>30</sup>*Concentrix v. ITO*, W.P. (C) 9051/2020.
- <sup>31</sup>*Nestle SA v. Assessing Officer Circle*, W.P. (C) No. 3243/2021.
- <sup>32</sup><https://telecom.economictimes.indiatimes.com/news/industry/indian-genai-firms-raised-700-million-in-3-years-says-nasscom/106529419#:~:text=2022%20has%20been%20the%20largest,million%20in%202023%2C%20data%20showed.>
- <sup>33</sup><https://www.thehindubusinessline.com/info-tech/indian-generative-ai-start-up-sarvam-ai-raises-41-million-in-series-a/article67613779.ece>
- <sup>34</sup><https://www.businesstoday.in/technology/news/story/adobe-ventures-into-ai-video-space-with-rephraseai-acquisition-report-406702-2023-11-22>
- <sup>35</sup>We have evaluated the emerging legal and ethical changes associated with GenAI in our paper at: [https://www.nishithdesai.com/fileadmin/user\\_upload/Html/Hotline/ New\\_Publication-Generative-AI-and-Disruption-M.htm#:~:text=Nishith%20Desai%20Associates&text=Generative%20AI%20\(GAI\)%20continues%20 to,videos%20and%20even%203D%20objects.](https://www.nishithdesai.com/fileadmin/user_upload/Html/Hotline/ New_Publication-Generative-AI-and-Disruption-M.htm#:~:text=Nishith%20Desai%20Associates&text=Generative%20AI%20(GAI)%20continues%20 to,videos%20and%20even%203D%20objects.)
- <sup>36</sup>Read more on the issues that emerge for Indian regulators in regulating this tool in our hotline at: <https://www.nishithdesai.com/NewsDetails/10818>
- <sup>37</sup><https://www.mckinsey.com/capabilities/sustainability/our-insights/climate-investing-continuing-breakout-growth-through-uncertain-times>
- <sup>38</sup><https://www.mckinsey.com/capabilities/sustainability/our-insights/climate-investing-continuing-breakout-growth-through-uncertain-times>
- <sup>39</sup>We have provided an overview of the legal, regulatory and tax implications of investments in healthcare at [https://www.nishithdesai.com/Content/document/pdf/ResearchPapers/Investment\\_in\\_Healthcare.pdf](https://www.nishithdesai.com/Content/document/pdf/ResearchPapers/Investment_in_Healthcare.pdf)
- <sup>40</sup>[https://www.reuters.com/markets/deals/temasek-acquires-41-stake-indias-manipal-health-2023-04-10/#:~:text=MUMBAI%2C%20April%2010%20\(Reuters\),largest%20hospital%20chains%20to%2059%25.](https://www.reuters.com/markets/deals/temasek-acquires-41-stake-indias-manipal-health-2023-04-10/#:~:text=MUMBAI%2C%20April%2010%20(Reuters),largest%20hospital%20chains%20to%2059%25.)
- <sup>41</sup><https://economictimes.indiatimes.com/industry/healthcare/biotech/blackstone-to-acquire-majority-stake-in-care-hospitals-for-usd-700-million/articleshow/104830335.cms?from=mdr>

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