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Market Opportunities for Cross-Border M&A in China Persist Despite Regulatory Changes and Trade Tensions

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Key Points

- Chinese cross-border M&A activity began to rebound in 2023.
- Some deal activity, both inbound and outbound, was driven by businesses restructuring or realigning their priorities.
- Government trade and investment restrictions imposed by both the U.S. and China could curb dealmaking, but actions from both sides have been measured.

After a multiyear low in 2022, China's cross-border M&A activity experienced a slow recovery in 2023. Although outbound M&A deal value and volume remained lackluster in the first half of 2023, the market overall rebounded in the second half.

Market sentiment generally remained cautious amid the complex economic backdrop and slowing economic growth in China, but parties were on the lookout for opportunities that fit their strategy and risk profile. Deal activity was concentrated in key sectors including industrials; advanced manufacturing and mobility; financial services; and technology, media and telecommunications.

Transactions such as Chinese internet company NetEase's acquisition of the Canadian game developer SkyBox Labs and Hong Kong-based investment firm BPEA EQT's acquisition of Florida-based IMG Academy underscored the resilience of the cross-border M&A market.

Significant inbound deals included:

- The $739 million strategic investment that electric carmaker NIO Inc. secured from an Abu Dhabi government-affiliated entity focused on advanced and smart mobility.
- Saudi Aramco's expansion of its position in China's energy sector with its acquisition of a 10% equity interest in Rongsheng Petrochemical for $3.4 billion.

In 2023, a significant portion of M&A activity was generated by multinational businesses reevaluating their long-term strategies and restructuring aspects of their business to meet market challenges.

- U.S.-based manufacturer Jabil Inc. agreed to sell its mobile electronics manufacturing business in China to BYD Electronics for $2.2 billion.
- Chinese automaker Geely and Renault Group formed a global joint venture, establishing manufacturing plants and research and development centers throughout Europe, Latin America and China.

These transactions reflect the role that the Chinese auto industry has come to play in cross-border M&A, especially as electric vehicles (EVs) gain market share, as well as in complementary sectors like renewable energy and battery technologies. Fueled by the U.S. Inflation Reduction Act's clean energy tax incentives, Chinese companies with advanced EV-related technology have been making long-term investments in the West. Examples include CATL's joint venture with Ford to build a battery plant in Michigan and Gotion's announced plan to build battery factories in Illinois and Michigan.

Geopolitical Tensions and US Restrictions Shape Dealmaking

Looking ahead, regulatory changes and uncertainty in the U.S., China and other jurisdictions will continue to shape China's cross-border M&A landscape in 2024.

In 2023, geopolitical competition between China and the U.S. continued to evolve, with both sides trading assertive yet calibrated measures and countermeasures. Following the Biden administration's 2022 executive order outlining additional national security factors that should be considered by the Committee on Foreign Investment in the United States (CFIUS) when reviewing inbound investments, the administration issued another executive order in 2023 establishing a new outbound foreign direct investment review program, known as "reverse CFIUS," that could affect M&A and private equity activity in China. (See "'Small Yard and High Fence': US National Security Restrictions Will Further Impact US-China Trade and Investment Activity in 2024.")

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On the trade front, the U.S. expanded on its 2022 export control rules on advanced chips and semiconductors destined for China. The new rules announced in 2023 further restrict exports to China of advanced chips used for artificial intelligence (AI) applications, raising the hurdle for chip manufacturers seeking to work with Chinese partners.

This continuum of tightening regulatory actions creates added layers of scrutiny and will force companies to reevaluate their M&A strategies with respect to China.

Regulatory Changes on the Chinese Side

China adopted a mixed approach in response to U.S. actions, countering the chips and semiconductor export restrictions with its own export controls on critical rare minerals for chipmaking and battery manufacturing.

At the same time, Chinese regulators are expected to stimulate private sector economic activity through further policy relaxation, including the progressive shortening of the Special Administrative Measures for Foreign Investment Access (the so-called "Negative List"), which is intended to facilitate the participation of foreign investors in high-tech sectors.

China also recently announced it will remove all restrictions on foreign investment in the manufacturing sector. While market players seeking M&A opportunities to and from China must take into consideration the vigorous economic and political contest between China and the U.S., both countries are working to maintain pathways for transactions and the flow of private capital.

On two other fronts, the Chinese government is expected to loosen regulations.

- The Chinese competition agency will likely revise its merger control filing thresholds, effectively removing the filing requirement for smaller acquisitions.
- China's cybersecurity regulators have proposed easing restrictions on personal data transfers from China, an initiative that would benefit foreign businesses operating within China's regulatory purview. (See our November 7, 2023, client alert "China Intends To Ease Controls Over Cross-Border Data Transfers.")

Areas of Potential Opportunity

Despite the growing regulatory and geopolitical headwinds, seasoned market participants are expected to adapt and seek new avenues for market engagement. Possible scenarios may include:

- Rising U.S.-China tensions may encourage joint ventures and acquisition transactions with companies that operate in less sensitive sectors or in friendlier jurisdictions.
- Private equity sponsors will continue to seek diverse fundraising sources and M&A opportunities to deploy capital while actively managing geopolitical risks. That could include splitting their Chinese and U.S. operations, as several prominent private equity firms have done.
- Realignment of business operations by Chinese multinationals in overseas jurisdictions will likely continue. Cash-rich Chinese companies may seek overseas acquisitions and other investment opportunities, while adverse regulatory changes in some jurisdictions may prompt business divestments.
- A significant portion of outbound M&A from China will continue to occur in Belt and Road Initiative destinations as a result of favorable government policies for private and public enterprises to participate in the global infrastructure investment initiative (also known as One Belt, One Road) and enhance their overseas operations. An example is a Chinese state-owned enterprise's acquisition of a Peruvian power distribution and energy service business for $2.9 billion in April 2023.