Shifting Trends in US Inbound M&A So Far in 2017 (Perspective)

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Though the volume and value of global mergers and acquisitions has declined for H1 2017 compared to the same period last year, the US remains one of the strongest markets for cross-border dealmaking. The US currently ranks first among countries in terms of M&A value, and eight of the top 20 deals involve US sellers, according to Bureau van Dijk, an analytics company owned by Moody’s. The largest deal of 2017 so far is UK-based British American Tobacco’s purchase of R.J. Reynolds Tobacco Company, with the transaction valued at $49.4 billion. The most frequently targeted sectors this year include energy, financial and consumer/retail.

However, the market has seen some notable shifts since the beginning of 2017. Cross-border flow between the US and Europe has increased substantially, to a 10-year high of $171.8 billion so far, according to CityAm. Meanwhile, we have seen China take a major step back from investing in US markets, due in part to currency outflow regulations and in part to rising tensions between the two nations. Given the seemingly conflicting nature of the Trump administration’s campaign promises, which adopted both populist and business-friendly stances, it is worth revisiting the administration to examine how its current policy will affect M&A trends for the rest of the year.

The Trump administration favors trade and foreign investment policy that trends toward populism, but has engaged in policy-making that is more lenient on free trade than its previous positions would suggest. The most notable example of this is the Trump administration’s previously released NAFTA renegotiation plans. As the *Washington Post* noted, though President Trump has repeatedly cited the alleged deleterious effects of the deal on US manufacturing jobs, the plan features numerous similarities to the Trans-Pacific Partnership, which Trump famously withdrew from in his first month in office. The renegotiations would see a tightening of restrictions on the trading of intangible goods, the creation of a mechanism that would preclude currency manipulation and a request to eliminate a provision that allows companies to challenge rulings on trade in domestic courts by requesting remedies in an “alternative panel”. As the *Post* has noted, these stipulations are a far cry from the administration’s repeated calls to abandon NAFTA altogether.

However, recent tensions with China over relations with North Korea may force the administration to enact more stringent trade regulations than currently exist. Though President Trump has condemned China’s trading and investing tactics in the past, particularly in regards to the aforementioned currency manipulation, the administration has done less to curb these behaviors than one would expect given Trump’s campaign promises. The administration has ramped up its actions against China over the past few months, including issuing sanctions against several Chinese firms and individuals that have ties to North Korea and announcing an investigation into Chinese theft of US intellectual property.

By and large, however, Chinese FDI into the US in 2017 has been dictated much more by the Communist Party line than by the actions of the Trump White House. As we noted in our previous article, China has been restricting the outflows of capital from the mainland and nudging investors towards investments in the Eurasian sphere as part of its “One Belt, One Road” initiative. As Bloomberg notes, this is potentially a strategic move to ensure that the Communist Party can tout a strong, stable economy in the wake of its impending 19th National Party Congress in the fall. This policy largely explains why Chinese outbound M&A plummeted by 45.8 percent for H1 2017, falling to $48.19 billion, according to the Chinese Ministry of Commerce.

Chinese FDI into the US may sharply decline if the US chooses to act aggressively in regards to Chinese relations with North Korea. In light of two ballistic missile tests in July, there has been bipartisan support in Congress for the Trump administration to enact costly economic sanctions against China to force the country to lessen its trade with North Korea. Senate Democratic leader Chuck Schumer called on Trump to use the Committee on Foreign Investment in the United States (CFIUS) as a mechanism to penalize China for its perceived enabling of North Korean aggression. We noted in our previous article that a crackdown on deals by CFIUS would be in line with the Trump administration’s stated mission to preclude unfair or insecure deals with the US. However, as Senator John Cornyn (R-TX) stated, Schumer’s desire would see an even broader expansion of CFIUS’s duties, given that the regulatory body is only supposed to nix deals that could compromise US security, not assist in sanctions by blocking most or all deals from certain countries.

Bloomberg has noted that there is already a trend of Chinese companies winding down their plans for dealmaking in the US this year, largely due to fears that CFIUS and its regulatory ilk will block deals altogether. Aleris, a US-based aluminum products manufacturer, already withdrew its CFIUS filing concerning a transaction with Zhongwang USA LLC, stating that there was “no assurance” from CFIUS that the deal would be approved. This transaction was further complicated by the Commerce Department’s investigation of Zhongwang for avoiding US import tariffs. The US Securities and Exchange Commission’s (SEC) delaying of the purchase of the Chicago Stock Exchange by a Chinese buyer, and the failed investment in Los Angeles-based Global Eagle Entertainment Inc. by HNA Group Co. (which was blocked by CFIUS), have created an unpropitious outlook for Chinese investors looking to engage in dealmaking here. Senator Schumer’s calls to expand the powers of CFIUS may be redundant in light of the chilling effect these regulatory bodies currently have on Chinese investors.

Despite the ostensibly precarious situations wrought by tensions regarding NAFTA and Sino-American relations, and despite the decline in M&A compared to last year, there are numerous reasons to maintain optimism in the American marketplace as a haven for foreign investors. For one, as we noted in our previous article, inbound M&A trends were bound to decline in volume and value in 2017 due to the fact that 2016 saw an unprecedented number of megadeals take place. The US is also still a considerably attractive market overall, what with its large, well-educated workforce, numerous innovation hubs in cities across the country and easy access to capital; the appeal of the market is only compounded by lower interest rates and a growing economy. The shift in foreign buyers from Chinese to European also suggests that, when one region’s interest in dealmaking in the US wanes, there is always another seeking access to the world’s largest market.

Catherine Dallas, a Corporate Analyst at Dentons US, contributed to this article.