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Katten Report Finds Dealmakers Differ on Private Equity Outlook; Find Opportunity Amid Uncertainty

2023 Middle-Market Private Equity Report reveals opportunities and expectations for dealmaking in midst of economic volatility and mounting regulatory pressures

(CHICAGO) Despite concerns about rising interest rates, sky-high inflation and a challenging regulatory environment, private equity investors remain cautiously optimistic about dealmaking this year. That's according to [Katten's 2023 Middle-Market Private Equity Report](#), which surveyed 100 middle-market private equity professionals in the United States to understand how funds can unlock value amid global economic headwinds and identify where growth opportunities lie in the year ahead.

While respondents were generally split on their outlook for the 2023 mergers and acquisitions (M&A) market — with 40 percent expecting deal activity to remain steady, 33 percent anticipating an increase and 26 percent predicting a slowdown — they identified several areas of opportunity. Financial services was selected by 54 percent of dealmakers as the industry of greatest opportunity this year, followed closely by technology (47 percent). Further, respondents were bullish on the prospects of all-equity deals, ranking it as the most important element in successful deal creation in the year ahead, and a majority anticipate an uptick in all-equity transactions moving forward.

“With a multitude of economic factors weighing on dealmakers this year, a prudent approach and tempered outlook is understandable — but it is telling that many investors still see pockets of opportunity in this market and that our clients are still fighting extremely hard on the buy-side to win deals,” said Christopher Atkinson, co-chair of Katten’s Mergers & Acquisitions/Private Equity practice. “Dealmakers are looking to gain an upper hand in today’s debt-constricted market through any means possible. In years past, buyers tried to differentiate their bids with rep and warranty insurance to reduce post-closing exposure for sellers. Now that nearly everyone is doing that, the focus seems to be more on providing certainty of a quick and uneventful closing — especially as the waters get choppier.”

Despite the mixed outlook for the private equity market, respondents shared a common set of obstacles. When asked to name the biggest hurdles to M&A, dealmakers cited the availability of capital, inflation and interest rate hikes as their top concerns — all of which are connected to macroeconomic trends and the policymaking implemented to combat them. In addition, investors said they were more likely to abandon a transaction today than they were a year ago due to regulatory compliance matters, working capital concerns and unforeseen due diligence.

“While these hurdles cast a long shadow over the M&A landscape, middle-market private equity firms have stayed remarkably resilient in years past,” said David Washburn, co-chair of Katten’s Mergers & Acquisitions/Private Equity practice. “In what could be an up-and-down year, there should still be plenty of opportunity for dealmakers with dry powder to find success and close deals — particularly those willing to take a chance on scooping up companies with lower valuations, entering transformational sectors or pivoting to alternate acquisition methods.”

Here are other key findings from the report:

- The majority of private equity firms report current investments in financial services (58 percent), followed by real estate (48 percent) and technology (43 percent). But as inflation drags on, dealmakers are considering a diversified array of investments across industries like manufacturing (50 percent), health care (46 percent), insurance (44 percent) and technology (43 percent).
- Respondents remain confident deals will progress as planned after signing a letter of intent (LOI): Two in three dealmakers say they are slightly more confident deals will close, and another 18 percent are significantly more confident compared to this time last year.
- Most investors anticipate similar depth and breadth of due diligence this year as compared to the last 12 months.
- When asked about key deal provisions — including restrictive and interim covenants, regulatory consents, material adverse change (MAC)/material adverse effect (MAE) clauses, closing conditions and more — a sizable majority of dealmakers reported that buyer and seller favorability has stayed the same over the past 12 months.
- Dealmakers encountered an increased incidence of buy-side Quality of Earnings (QofE) analyses and deeper environmental assessments compared to last year.

“The past 12 months have been anything but straightforward for middle-market private equity funds. And yet — even with all the economic, regulatory and geopolitical disruption — investors pushed forward,” said Kimberly Smith, global chair of Katten’s Corporate department. “Looking ahead, the most active middle-market dealmakers will be those willing to embrace alternative approaches to getting deals done — whether that’s considering new deal terms, methods of

deploying capital or the sectors in which they invest. Regardless of how sponsors choose to adapt to today's rapidly shifting M&A landscape, opportunities for dealmaking remain.”

Survey methodology

The survey was conducted using a leading online third-party panel provider platform in the fourth quarter of 2022. Respondents were US-based, engaged in a variety of sectors and represent companies with more than \$10 million worth of assets under management to upwards of \$10 billion. For more information, download the complete 2023 Middle-Market Private Equity Report [here](#).

About Katten

Katten is a full-service law firm with approximately 700 attorneys in locations across the United States and in London and Shanghai. Clients seeking sophisticated, high-value legal services turn to Katten for counsel locally, nationally and internationally. The firm's core areas of practice include corporate, financial markets and funds, insolvency and restructuring, intellectual property, litigation, real estate, structured finance and securitization, transactional tax planning, private credit and private wealth. Katten represents public and private companies in numerous industries, as well as a number of government and nonprofit organizations and individuals. For more information, visit katten.com.

About Katten's Corporate Department

Record-setting capital market activity requires legal counsel driven by market intelligence. Katten's Corporate department has guided hundreds of leveraged buyouts and financings, providing investors and strategic buyers with the competitive market knowledge needed to protect value and keep companies governed well.

About Katten's Mergers & Acquisitions Practice

Corporate acquisitions in the middle market are key drivers for the global economy. New participants are entering the buyout landscape as record liquidity and generational transition expand opportunities. Katten's Mergers & Acquisitions practice handles billions of dollars in middle-market business combinations each year and parlays granular market knowledge to keep clients competitive and close deals.

About Katten's Private Equity Practice

To get good deals done, private equity investors must contend with sky-high valuations, compressed time lines and unprecedented competition. When opportunities do appear, the stakes are high and investment parameters complex. Katten's Private Equity practice cuts through the

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legal issues that bottleneck deal flow and provides the immediacy, intelligence and integrity private equity investors demand.

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