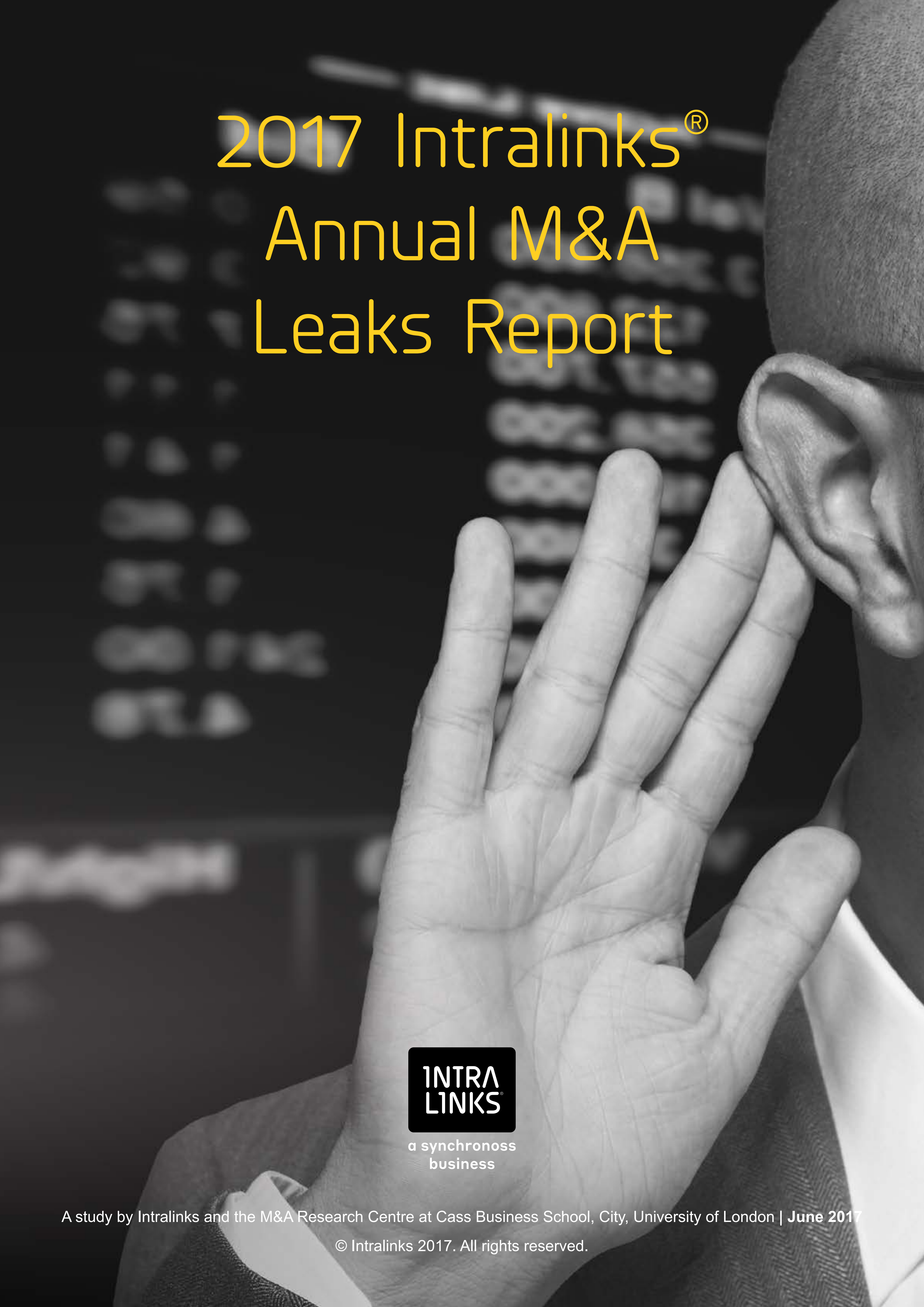
2017 Intralinks® Annual M&A Leaks Report



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A study by Intralinks and the M&A Research Centre at Cass Business School, City, University of London | **June 2017**

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Introduction

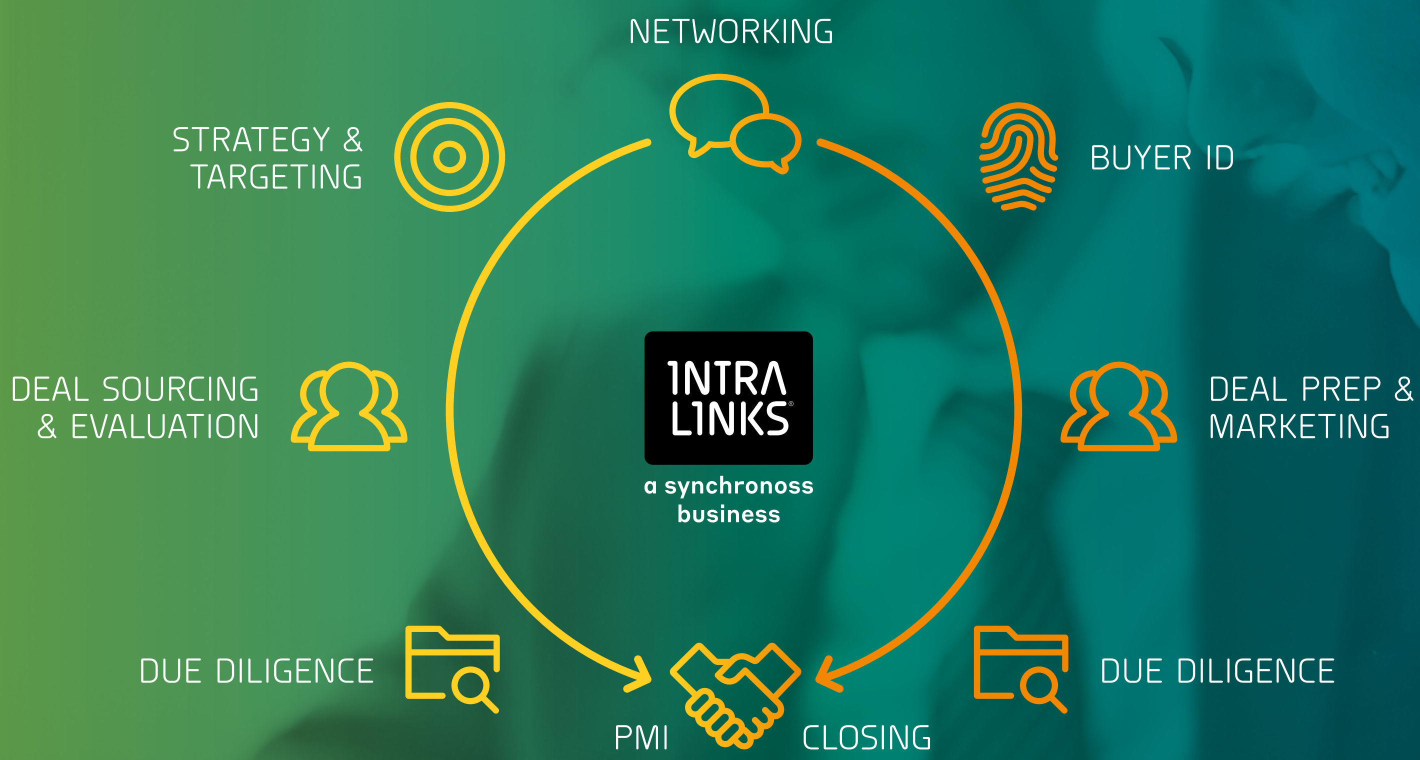
In the days leading up to a merger and acquisition (M&A) bid announcement, significant trading in the shares of the target company can indicate that information about the deal has leaked. While not providing absolute confirmation of a leak in an individual deal, significant pre-announcement trading across a large sample of deals can be used to examine patterns and trends in leaking across time periods and geographies.

The Intralinks Annual M&A Leaks Report analyzes and reports on deal leaks globally. This report looks at deal leaks for the period 2009-2016, while placing emphasis on the 2016 findings compared to previous years. The analysis of data for this report was conducted together with the M&A Research Centre at Cass Business School, City, University of London.

Methodology

M&A transaction data for announced deals during the period 1st January 2009 to 31st December 2016, share price and index price information were sourced from Thomson Reuters. The criteria for inclusion in the sample were that the target must be an entity listed on a public stock exchange, that the transaction must involve the acquisition of majority control of the target and that the target's equity must have a sufficient trading history for its returns to be calculated. The final total sample of deals for the period 2009-2016 was 5,997. A transaction was identified as involving a leak of the deal prior to its public announcement using the event study methodology, which compares the cumulative daily returns of the target in the period from -40 to -1 days prior to the public announcement of the deal with its expected returns. The target's expected returns are calculated using a linear regression model of the target's returns during a "normal" trading period against the market return. A transaction was identified as involving a leak of the deal if the cumulative daily returns of the target in the period -40 to -1 days prior to the public announcement of the deal was statistically significantly different compared to its expected returns, at the 95 percent confidence interval for a normal distribution – meaning that there is only a five percent probability that the target's observed returns compared to its expected returns would occur in a random distribution of data, i.e., would be due to chance. Unless otherwise indicated, all references to the region or country location of the target refer to the target's primary listing location. The total number of leaked deals for the entire period was 462 out of the total number of deals of 5,997.

Intralinks for the deal lifecycle



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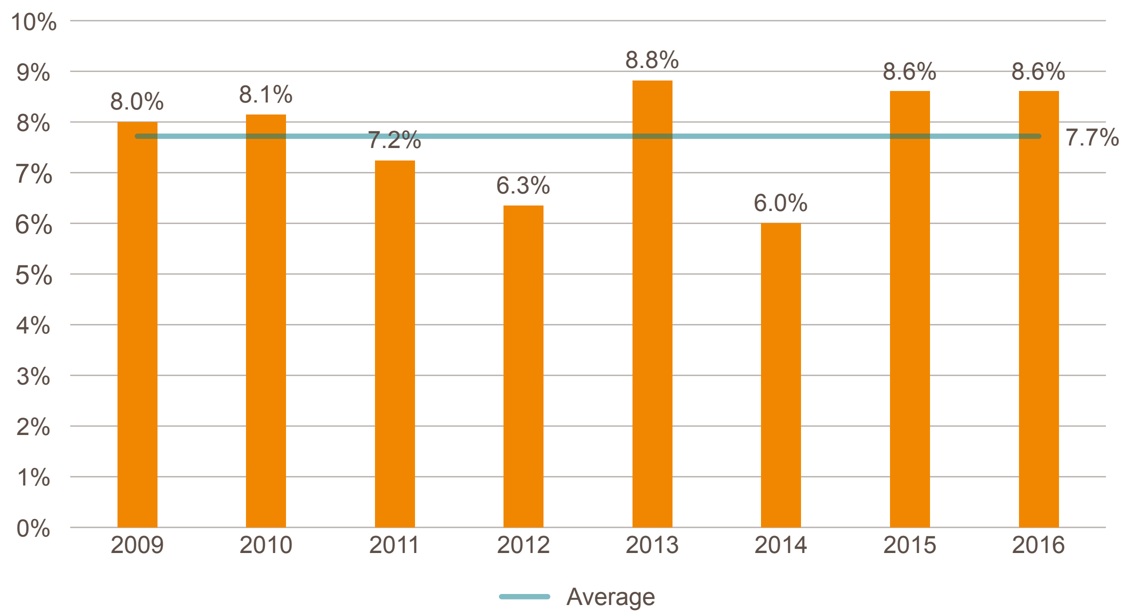
Key findings

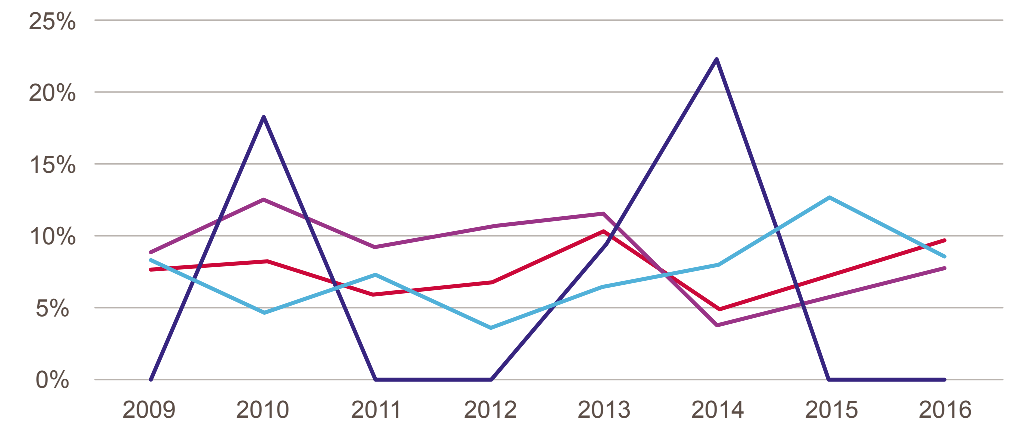
Worldwide, M&A deal leaks remained stable in 2016 compared to the prior year: 8.6 percent of all deals in both 2016 and 2015 involved a leak of the deal prior to its public announcement, which was above the average rate of deal leaks of 7.7 percent over the eight-year period 2009-2016.

Figure 1. Percentage of worldwide M&A deal leaks



Over the period 2009-2013, Europe, the Middle East and Africa (EMEA) had the highest average rate of leaked deals at 10.4 percent, Asia Pacific (APAC) had the second highest average rate of leaked deals at 7.6 percent and North America (NA) had the third highest average rate of leaked deals at 6.0 percent. However, since 2014, this trend has reversed: in each of the last three years, the rate of deal leaks in NA and APAC has been higher than in EMEA. The rate of deal leaks in EMEA and APAC has increased in each of the last two years, whereas in NA, after rising each year from 2013 to 2015, it fell sharply in 2016. The APAC region had the highest rate of deal leaks in 2016, at 9.7 percent. The data for Latin America (LATAM) is very volatile due to the small sample size in that region.

Figure 2. Percentage of M&A deal leaks by region



	2009	2010	2011	2012	2013	2014	2015	2016
APAC	7.6%	8.3%	5.8%	6.7%	10.2%	5.2%	7.2%	9.7%
EMEA	8.7%	12.5%	9.2%	10.5%	11.6%	3.8%	5.9%	7.6%
LATAM	0.0%	18.2%	0.0%	0.0%	9.1%	22.2%	0.0%	0.0%
NA	8.2%	4.7%	7.3%	3.6%	6.3%	8.0%	12.6%	8.5%

APAC EMEA LATAM NA

For the ten countries with the most M&A activity, the top three countries for deal leaks in 2016 were India, South Korea and Japan. The bottom three countries for deal leaks in 2016 were Canada, France and the United Kingdom (UK).

Countries with an increased rate of deal leaks in 2016, compared to the prior year, included South Korea, Japan, Germany, Australia, the UK and France. Countries that reduced their rate of deal leaks in 2016 included India, Hong Kong, the United States (US) and Canada.

Japan increased its rank for the rate of deal leaks in 2016 to 3rd, compared to its 2015 rank of 7th and its long-term average rank of 9th. The UK decreased its rank for the rate of deal leaks in 2016 to 8th, compared to its 2015 rank of 5th and its long-term average rank of 3rd.

Figure 3. Percentage of M&A deal leaks by country

Target Listing Location	2016 (Rank)	2015 (Rank)	2009-2016 (Rank)
India	16.7% (1)	20.0% (1)	15.8% (1)
South Korea	16.1% (2)	5.3% (6)	10.2% (4)
Japan	12.0% (3)	3.1% (7)	5.1% (9)
Hong Kong	10.0% (4)	12.9% (2)	14.6% (2)
United States	9.8% (5)	12.6% (3)	7.6% (6)
Germany	9.1% (6)	0.0% (10)	9.3% (5)
Australia	7.5% (7)	3.0% (8)	4.0% (10)
United Kingdom	7.0% (8)	6.7% (5)	12.5% (3)
France	4.3% (9)	0.0% (9)	5.4% (8)
Canada	4.3% (10)	12.5% (4)	5.9% (7)

Worldwide, the top three sectors for deals leaks in 2016 were Consumer, Retail and Real Estate. The Real Estate sector, which has the highest long-term average rate of deal leaks, dropped to 3rd place in 2016 and was replaced by the Consumer sector, which increased its rate of deal leaks by an astonishing 7.8 percentage points to 15.5 percent. This is the highest worldwide rate of deal leaks of any sector in the past eight years.

Worldwide, the bottom three sectors for deal leaks in 2016 were Healthcare, Energy & Power and Industrials.

Figure 4. Percentage of worldwide M&A deal leaks by sector

Target Sector	2016 (Rank)	2015 (Rank)	2009-2016 (Rank)
Consumer	15.5% (1)	7.7% (7)	9.0% (2)
Retail	12.2% (2)	3.4% (9)	7.1% (7)
Real Estate	9.4% (3)	12.9% (1)	10.6% (1)
Materials	8.9% (4)	7.9% (6)	7.6% (4)
TMT	8.5% (5)	9.2% (4)	7.3% (5)
Financials	7.6% (6)	7.1% (8)	7.2% (6)
Industrials	7.2% (7)	8.0% (5)	8.4% (3)
Energy and Power	5.6% (8)	9.3% (3)	6.6% (9)
Healthcare	5.0% (9)	12.5% (2)	6.9% (8)

Leaked deals are associated with significantly higher target takeover premiums than non-leaked deals. This has been true in each of the eight years analyzed for this report. From 2009-2016, the median takeover premium for leaked deals was 47 percent vs. 27 percent for non-leaked deals, a difference of 20 percentage points.

In 2016, targets in leaked deals achieved a median takeover premium of 38 percent vs. 26 percent for non-leaked deals, a difference of 12 percentage points. This was a 60 percent reduction compared to 2015, when targets in leaked deals achieved a 30-percentage point higher takeover premium.

Figure 5. Median worldwide target takeover premium

	2016	2015	2009-2016
Leak	38%	54%	47%
No leak	26%	24%	27%

Leaked deals are also associated with a higher rate of rival bids for the target than non-leaked deals. From 2009-2016, 6.5 percent of leaked deals attracted one or more rival bids for the target compared to 5.8 percent of non-leaked deals. However, in 2016, for the first time since 2012, this was no longer the case. In 2016, the rate of rival bids for leaked deals and non-leaked deals was almost the same (in fact, non-leaked deals had a marginally higher rate of rival bids for the target than leaked deals). The historic tendency of leaked deals to attract a higher rate of rival bids for the target may partly explain the higher target takeover premiums for leaked deals, so it is interesting to note that the breakdown of this relationship in 2016 occurred at the same time as a significant reduction in the difference in the target takeover premium between leaked and non-leaked deals.

Figure 6. Percentage of worldwide M&A deals attracting rival bids for the target

	2016	2015	2014	2013	2012	2011	2010	2009	2009-2016
Leak	3.6%	6.4%	11.6%	9.8%	4.3%	5.3%	7.7%	5.8%	6.5%
No leak	3.8%	4.4%	5.6%	7.0%	5.9%	6.3%	6.2%	7.2%	5.8%

There is some evidence that leaked deals, on average, take longer to complete than non-leaked deals (although not in 2016). From 2009-2016, leaked deals took, on average, an extra four days from announcement to completion compared to non-leaked deals. Leaked deals took longer to complete, on average, than non-leaked deals in five of the eight years analyzed by this report, whereas in the other three years non-leaked deals took longer to complete than leaked deals. However, analyzing the five years when leaked deals took longer to complete shows that the median difference in those years was 12 days, whereas in the three years when non-leaked deals took longer to complete, the median difference was only seven days.

Figure 7. Median time from announcement to completion of worldwide M&A deals (days)

	2016	2015	2014	2013	2012	2011	2010	2009	2009-2016
Leak	72	90	108	77	62	92	84	81	82
No leak	82	82	89	80	74	75	82	63	78

One theory for the apparent tendency for leaked deals to have extended completion times could be that leaking a deal adds additional complexity. Leaked deals require both acquirers and sellers to manage stakeholders, issue statements and address key deal issues such as financing, approvals and any political questions prematurely. This is likely to result in deals that are more complex (and may also be costlier to execute).

There is also some evidence, for the period analyzed by this report, that leaked deals have a marginally higher completion success rate than non-leaked deals. During 2009-2016, leaked deals had a higher completion success rate than non-leaked deals in five of those years, whereas in the other three years non-leaked deals had a higher completion success rate. Overall, on average, for the period 2009-2016, the completion success rate for leaked deals was one percentage point higher than for non-leaked deals. In the last three years, however, the completion success rate for leaked deals has been almost five percentage points higher, on average, than for non-leaked deals.

These results could point to one other perceived benefit of leaking a deal – it potentially leads to a better match between acquirer and target. Leaking a deal may flush out the "optimal" acquirer, i.e., the one who has the greatest synergies with the target (and who can therefore pay the highest price, hence the higher target takeover premiums for leaked deals) and therefore also the acquirer who has the greatest incentive to complete the deal.

Figure 8. Median worldwide M&A deal completion success rate

	2016	2015	2014	2013	2012	2011	2010	2009	2009-2016
Leak	95%	90%	95%	84%	98%	82%	85%	90%	90%
No leak	90%	88%	88%	90%	88%	90%	89%	85%	89%

Conclusions

A “new normal” for deal leaks?

In 2014, worldwide M&A deal leaks had been on a declining trend and were at their lowest level for six years, but this trend reversed in 2015 and 2016. But is this a “new normal”, or will we again see a reversion to a declining trend of deal leaks in 2017?

The influence of regulatory enforcement

In 2016, the US Securities and Exchange Commission (SEC) brought a record 548 standalone or independent enforcement actions, obtaining judgements and orders totaling more than US$4 billion in disgorgement and penalties. As far as insider trading is concerned, it charged 78 parties in 2016, slightly fewer than the 87 parties charged in 2015. According to the SEC, some of these cases involved complex insider trading rings – and the use of new data analytics platforms were a big support in spotting suspicious activity.[1, 2]

As our report shows, the rate of deal leaks in the US dropped from 12.6 percent in 2015 to 9.8 percent in 2016: potentially a result of the SEC’s enforcement strategy.

The picture is slightly different in the UK. Fines issued by the Financial Conduct Authority (FCA) were the lowest since the financial crisis, plummeting by 98 percent from £905 million in 2015 to £22m in 2016.[3] The winding down of investigations into market scandals such as LIBOR and PPI misselling could explain the drop in fine value. However, according to FCA data obtained by Bloomberg News via a Freedom of Information request, the FCA opened a record number of insider trading cases in 2016, more than double any other year in the last decade.[4] In May 2016, the biggest ever trial in the UK for insider trading saw two men being convicted for obtaining over £7m in profits from share market abuse.[5]

The FCA’s approach to detecting, investigating and prosecuting insider trading has hardened considerably since the appointment of a new head of enforcement in late 2015: Mark Steward, who previously held senior roles in enforcement at the Hong Kong Securities and Futures Commission (SFC) and the Australian Securities and Investments Commission where he pioneered insider-dealing prosecutions in the region.

Hong Kong, which for the period 2009-2016 was ranked on average as the second highest country for deal leaks, dropped to 4th place in 2016. The rate of deal leaks in Hong Kong in 2016, at 10 percent, was the lowest level since 2012. In its annual report for 2015-2016, the SFC documents that it laid out 107 criminal charges against 15 individuals and five corporations during the financial year. At the same time, the total number of investigations rose by 12 percent and the number of investigations for insider trading rose by 20 percent, from the previous year[6].

Perceived benefits of leaking deals

As our analysis shows, there appears to be one clear perceived benefit of leaking deals: higher target takeover premiums resulting in higher valuations, possibly as a result of increased competition among acquirers for targets in leaked deals. To quantify this, in 2016 the difference in the median target takeover premium for leaked deals compared to non-leaked deals was US$21 million, i.e., an average of an extra US$21 million accrued to the shareholders of the targets in deals that leaked.

However, in 2016 the difference in the target takeover premium percentage for leaked deals compared to non-leaked deals more than halved compared to 2015. The rate of rival bids for targets in leaked deals also dropped in 2016, to around the same level as for non-leaked deals. So, with the perceived benefits of leaking deals diminishing in 2016, and regulatory enforcement against market abuse increasing, could the appeal of deal leaks be waning?

Possibly. The rate of deal leaks in markets where leaking was rampant a decade ago, such as the UK, has reduced considerably – a reflection of new regulations against market abuse and much stricter regulatory enforcement. Countries such as India and Hong Kong, which have comparatively high levels of deal leaks, are also making more efforts to tackle market abuse and insider trading. Overall, against the perceived benefits, those leaking deals must also weigh the risks. Regulators are tackling both insider trading (a criminal offence in most jurisdictions) and leaking (not always a criminal offence in all jurisdictions, but increasingly a regulatory offence which could result in “naming and shaming”, fines or suspension of licenses to practice). Deal leaks are also a reflection of levels of M&A market activity. With the number of worldwide M&A deals at record levels in 2017, any further heating or cooling of the market in 2017 and 2018 could also affect the rate of deal leaks.

[1] https://www.sec.gov/news/pressrelease/2016-212.html
[2] https://www.sec.gov/news/pressrelease/2015-245.html
[3] http://www.cityam.com/256128/fca-fines-plummet-2016-epidemic-problems-wind-down-say
[4] https://www.bloomberg.com/news/articles/2017-04-20/insider-trading-cops-roar-as-u-k-fca-probes-reach-10-year-high
[5] http://www.telegraph.co.uk/business/2016/05/09/two-convicted-and-three-acquitted-in-biggest-ever-insider-tradin/
[6] http://www.sfc.hk/web/EN/files/ER/Annual%20Report/SFC_AR2015-16_Eng.pdf

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About Intralinks

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