CLIFFORD CHANCE

MARKET PRACTICE IN PRIVATE M&A

2016 TRANSACTIONS

MARKET PRACTICE IN M&A 2016

The following slides summarise the outcome of our survey of 2016 private M&A transactions

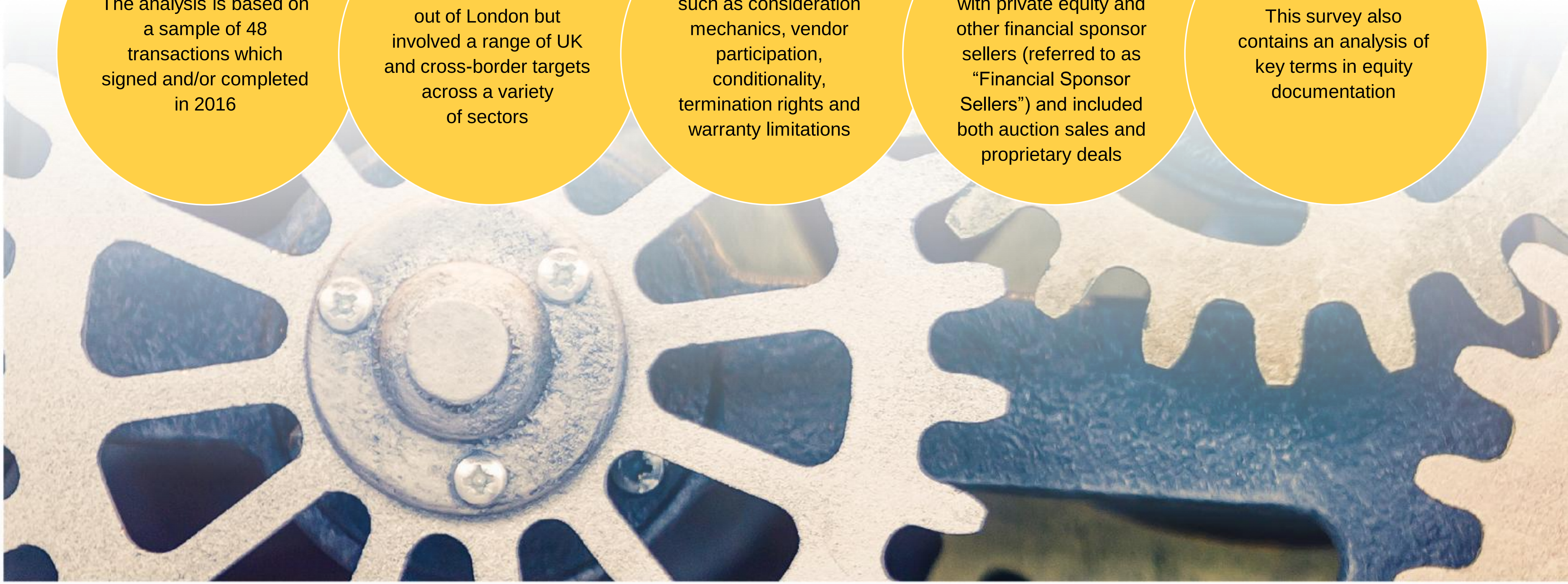
The analysis is based on a sample of 48 transactions which signed and/or completed in 2016

All transactions were led out of London but involved a range of UK and cross-border targets across a variety of sectors

We analysed key issues such as consideration mechanics, vendor participation, conditionality, termination rights and warranty limitations

The sample comprised transactions with private equity and other financial sponsor sellers (referred to as "Financial Sponsor Sellers") and included both auction sales and proprietary deals

This survey also contains an analysis of key terms in equity documentation



2016 SPONSOR DEAL HIGHLIGHTS

Q1

Baupost LLC on its investment in **Bakkavor Group Limited,** a provider of fresh prepared foods

Equistone on its acquisition of 100% of the shares in **Gaucho Holdings Limited** from Intermediate Capital Group

Patron Capital on their recommended offer for **Punch Taverns PLC**, one of the UK's largest pub companies

Electra and **Parkdean** on the sale of Parkdean to Onex

Infracapital and AMP Capital on its acquisition of **Adven Group Oy** from EQT

Cinven on its sale of **EnServe**, a provider of outsourced infrastructure support services in the fields of utility and energy, to Rubicon Partners

Q2

Westbury Street Holdings Limited on its acquisition of **Restaurants Etc Limited** and associated companies which operate a number of restaurants and bars in London and elsewhere under the lead of chef Mark Hix

Cinven on its acquisition of **Tinsa** from Advent International

Electra Partners on its disposal of **Elian Fiduciary Holdings Limited** to Intertrust plc for £435 million

Global Infrastructure Partners on the sale of its 44.9% interest in **FluxSwiss**

Kinedexe Limited.

Amdipharm Mercury Company on its acquisition of a portfolio of launched and pipeline generic pharmaceutical products from **Kinedexe Limited**

3i Infrastructure plc on its acquisition of a 36% economic interest in **Wireless Infrastructure Group** from existing majority shareholder Wood Creek Capital Management and the management team as shareholders

Q3

Clayton, Dubilier & Rice on its acquisition of **BUT**, together with WM Holding, investment vehicle related to the Austrian furniture group XXXLutz

Cellnex Telecom on its acquisition of **Shere Group** from Arcus Infrastructure Partners

3i Infrastructure on its acquisition of **Infinis LFG** business from Terra Firma

Banco Santander, S.A. on the disposal of its indirect stake in global renewable energy and water infrastructure company, **Cubico Sustainable Investments Limited**, to The Public Sector Pension Investment Board and Ontario Teachers' Pension Plan in equal proportions

Q4

Cinven, Permira and Mid Europa on their US$3bn acquisition of **Allegro Group**, the largest online marketplace and non-food shopping destination in Poland, from South African-based global internet and entertainment group Naspers

EQT Infrastructure on its acquisition of **GB Railfreight** from Eurotunnel

Universities Superannuation Scheme and Ontario Teachers Pension Plan on its acquisition of **Westerleigh**, the UK's leading independent crematoria provider, from Antin

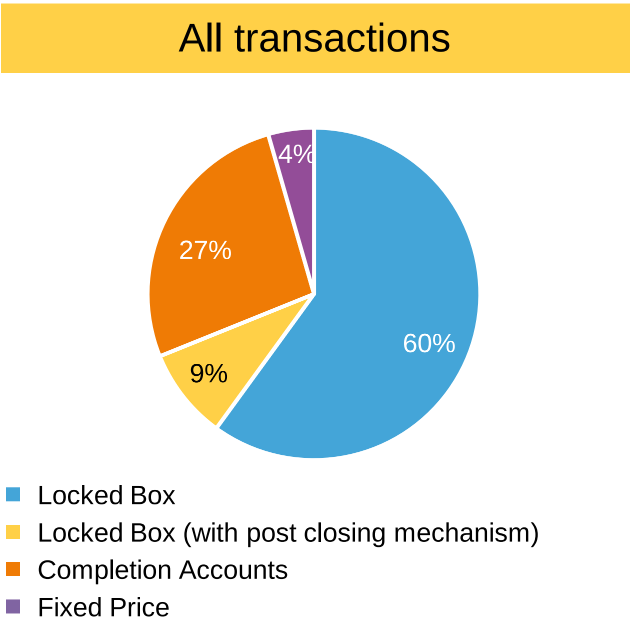
alterDomus on its sale of a c. 35% stake to Permira

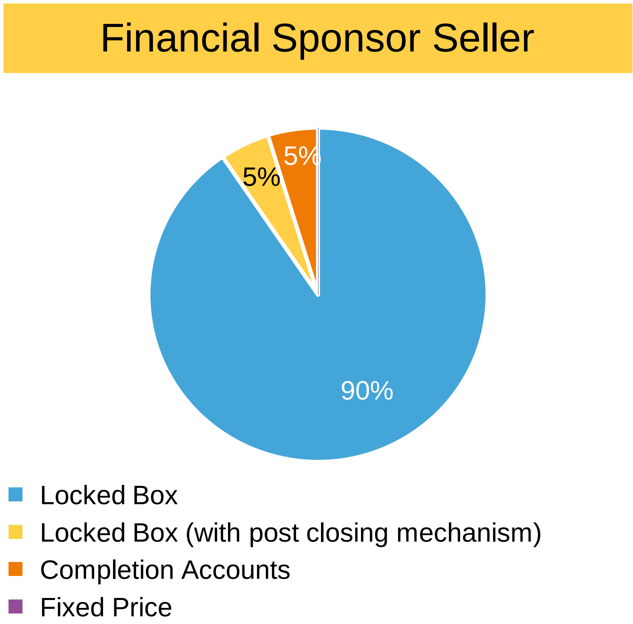
Cinven and CVC on its acquisition and high yield financing of **NewDay Holdings** S.a r.l

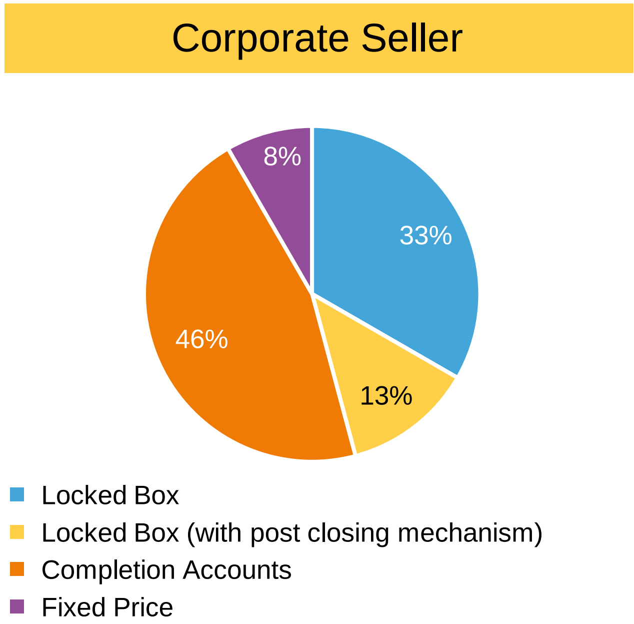
ANALYSIS OF 2016 TRANSACTIONS

A comparison of the results from this and previous surveys show that the terms of sale and purchase agreements from 2016 remain seller friendly for financial sponsor sellers. However deals led by corporate sellers in 2016 contained a greater number of buyer protections, with for example, the increased use of MACs and tax covenants

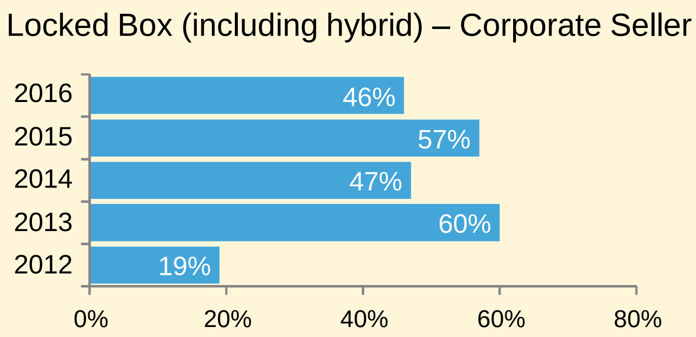
CONSIDERATION MECHANISM





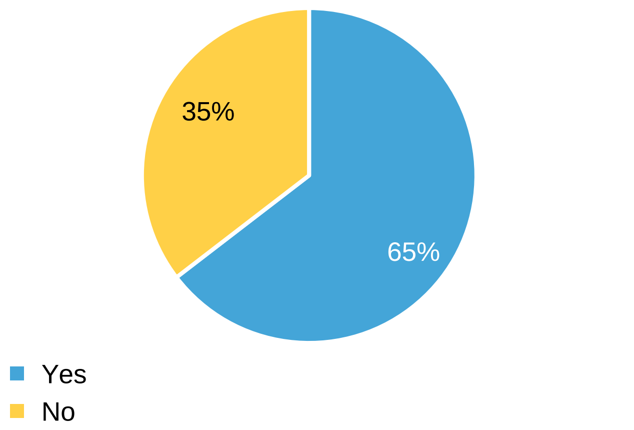


- Locked box is the dominant choice of consideration mechanism for financial sponsor sellers, used in 95% of transactions in 2016 mirroring the result from last year's survey
- Pure locked box consideration mechanics were used in 33% of deals with corporate sellers, a decrease in popularity seen with 48% use in our 2015 market survey
- Where fixed price was used, these were asset sales

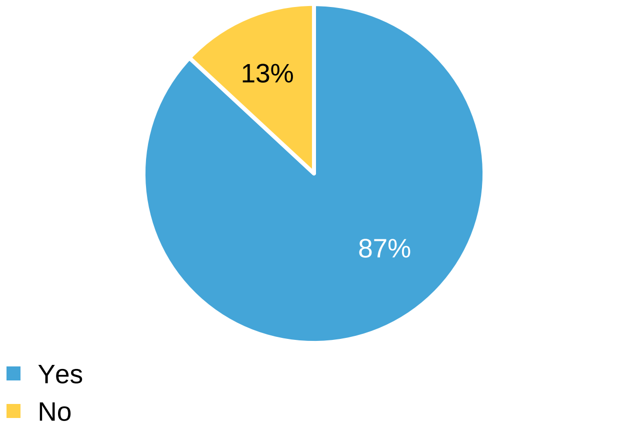


LOCKED BOX: DID INTEREST ACCRUE BETWEEN LOCKED BOX DATE AND COMPLETION?

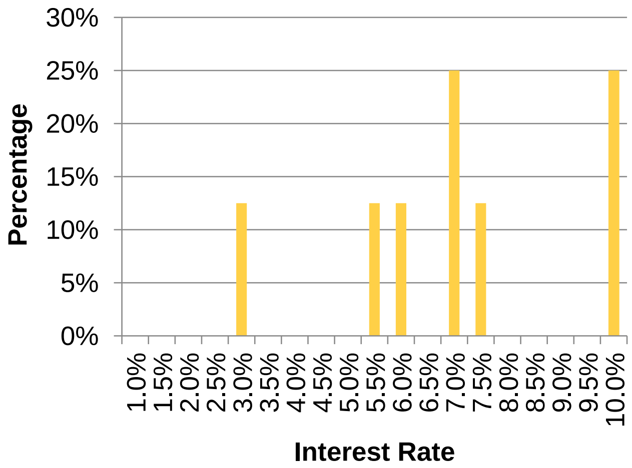
All transactions



Financial Sponsor Seller

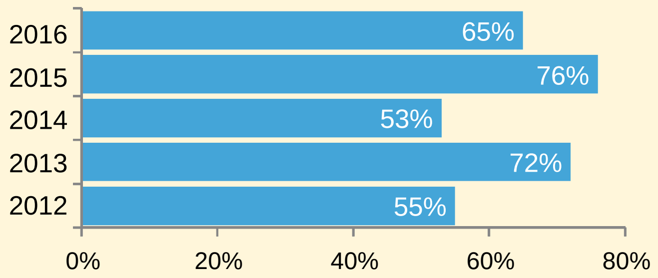


Interest rate



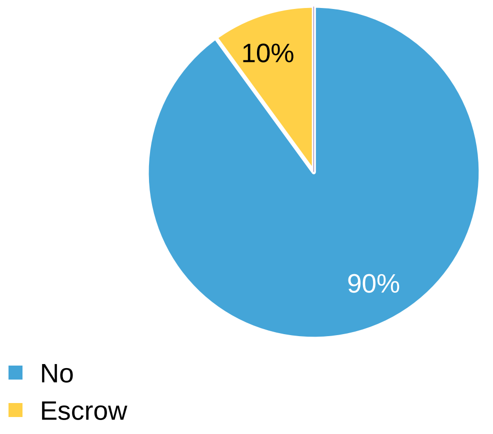
- Where a locked box mechanism was used, interest accrued between the locked box date and completion in 65% of transactions. This result is slightly lower than the result last year
- It was more common for interest to accrue in deals led by financial sponsor sellers
- The interest rate has increased with the majority range in 2016 falling between 7% to 10%. This is higher than 2015 when the majority range fell between 1% and 5%

Locked Box interest accruing - All

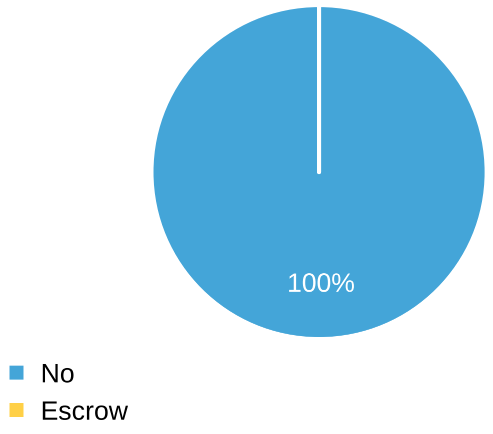


LOCKED BOX COVENANT: BACKED BY ESCROW

All transactions

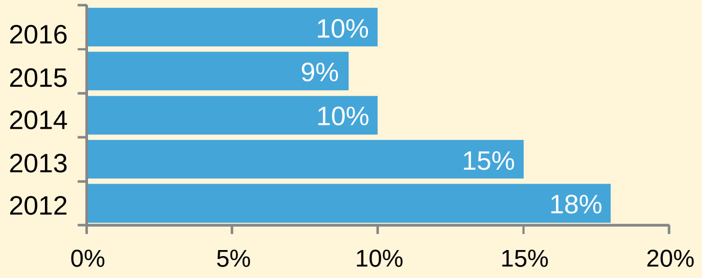


Financial Sponsor Seller



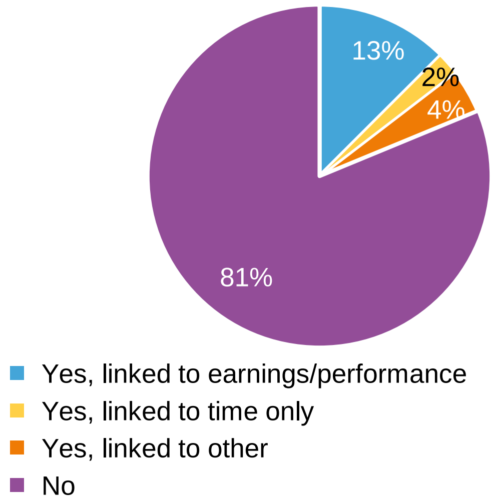
- It is not common for the locked box covenant to be backed by an escrow. The result follows the trend in our previous market surveys
- This year's survey showed that there was no escrow for any financial sponsor seller led deals. Our previous surveys had shown no notable difference in the outcome between deals led by corporate sellers and deals led by financial sponsor sellers
- The 2012-2016 trend suggests that the market terms have settled at this level

Covenant backed by escrow - All

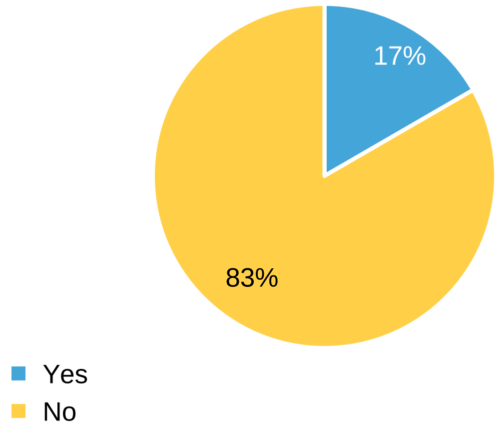


DEFERRED CONSIDERATION

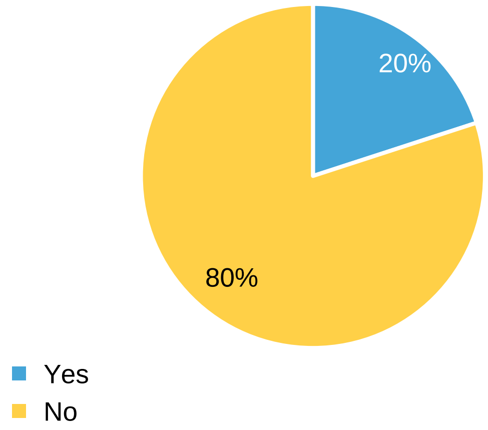
All transactions



Financial Sponsor Seller

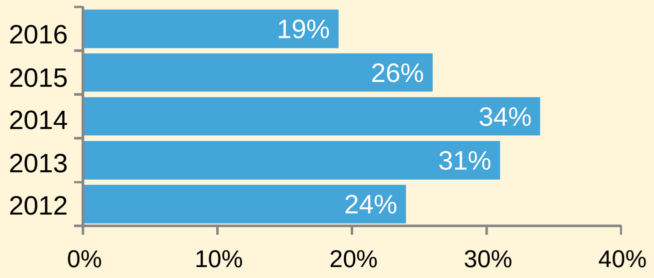


Corporate Seller



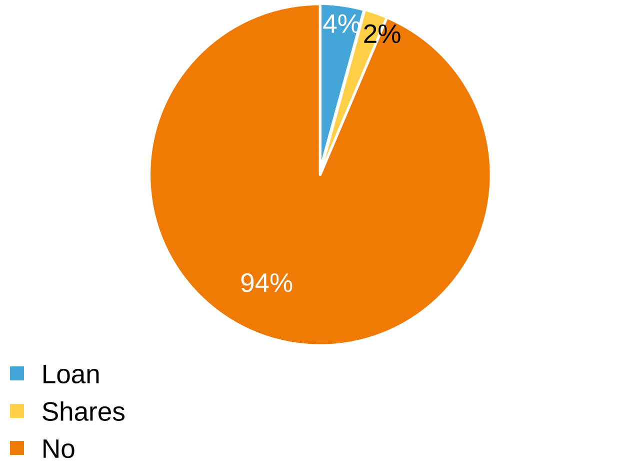
- Deferred consideration was only used in 19% of transactions in 2016, showing a decrease in its usage from previous years. Earn-outs have remained steady at 13% in both 2016 and 2015
- The use of deferred consideration has decreased for both financial sponsor sellers and corporate sellers
- Deferred consideration "linked to other", includes deals where deferred consideration is contingent upon the outcome of certain post completion events such as future asset sales

Deferred consideration - All

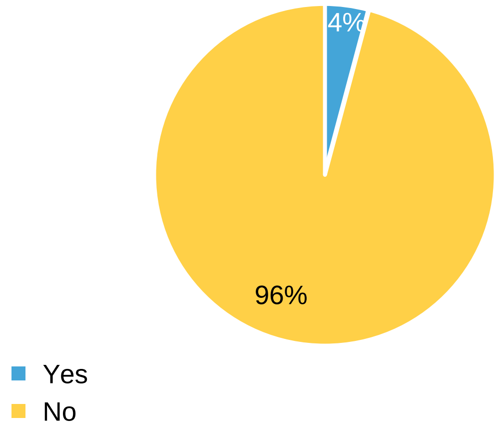


VENDOR PARTICIPATION

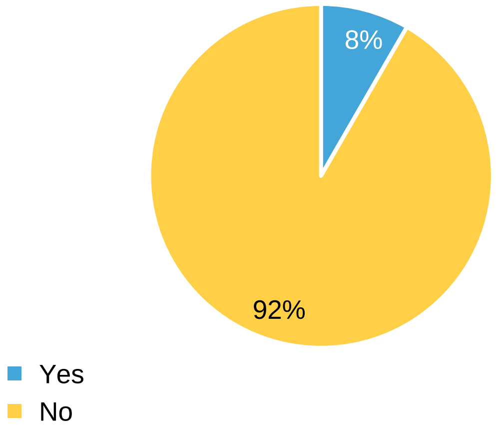
All transactions



Financial Sponsor Seller

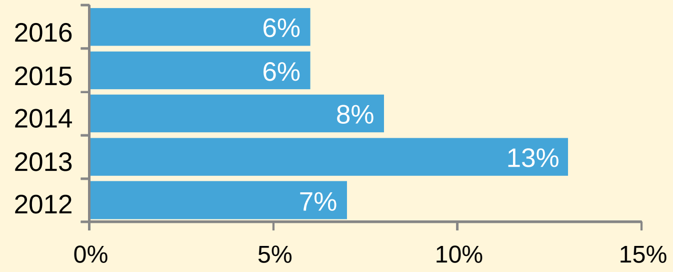


Corporate Seller



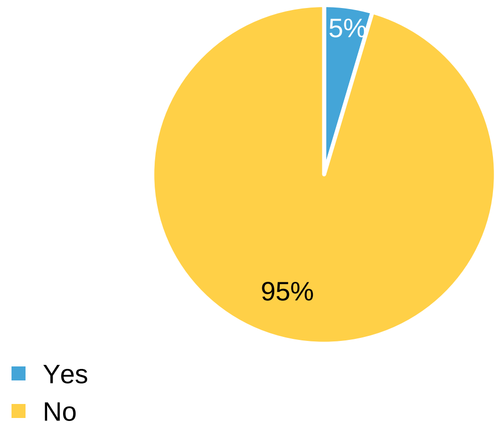
- Vendor participation continues to be rare following the trend seen in previous market surveys. It is slightly more common in deals led by corporate sellers

Vendor participation - All



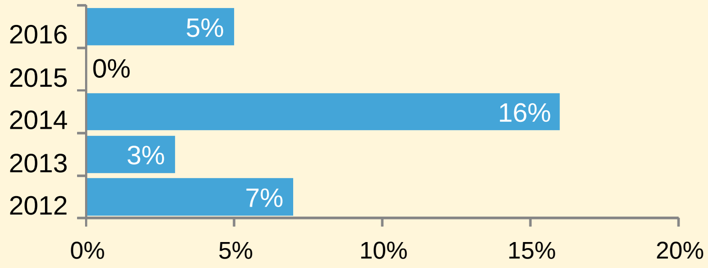
FINANCING CONDITION

Financing condition - All transactions



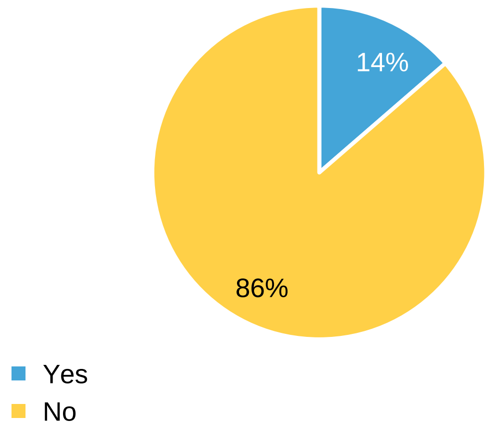
- Financing conditions continue to be rare, occurring in 5% of deals in 2016. The results in 2014 can be attributed to deal specific anomalies such as the bargaining position between the parties

Financing condition - All



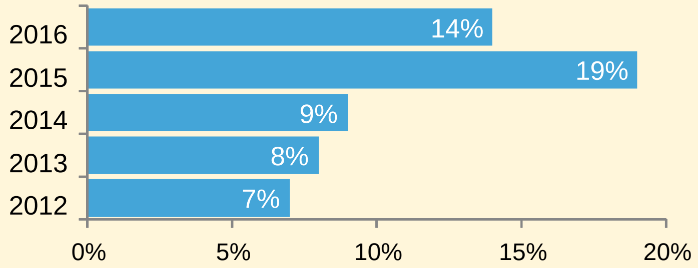
BREAK FEE

Break fee - All transactions

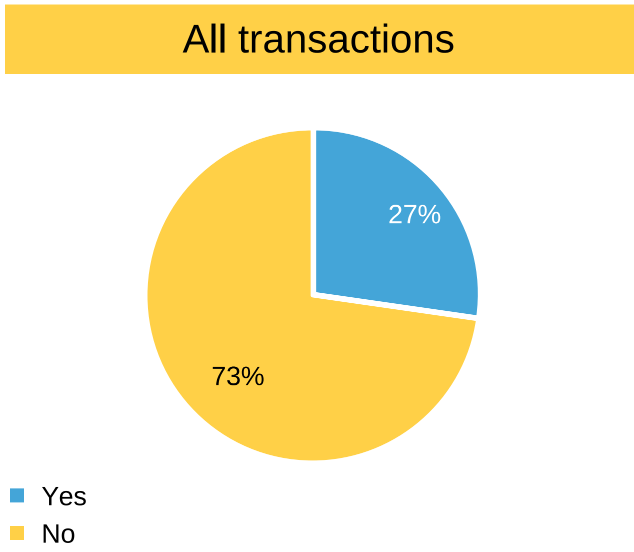


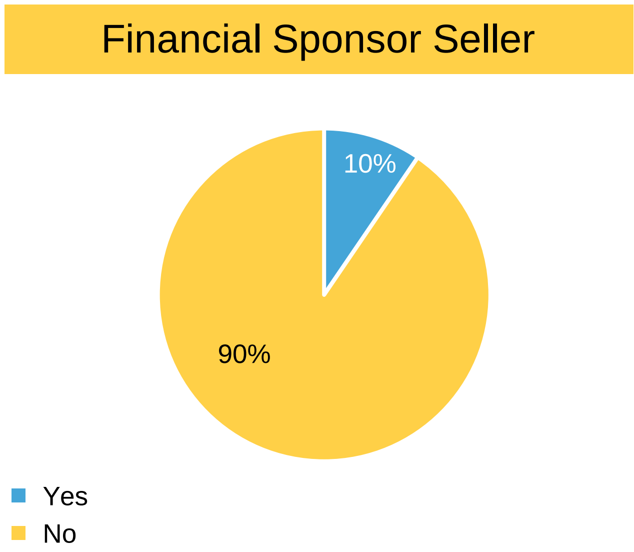
- Break fees were used in 14% of transactions, a slight decrease in popularity compared to the result we saw in 2015 but still ahead of the position seen in 2012 to 2014
- Break fee triggers included the failure to obtain the required competition/regulatory approvals
- The value of the break fees given ranged between 2% to 14% of the equity value

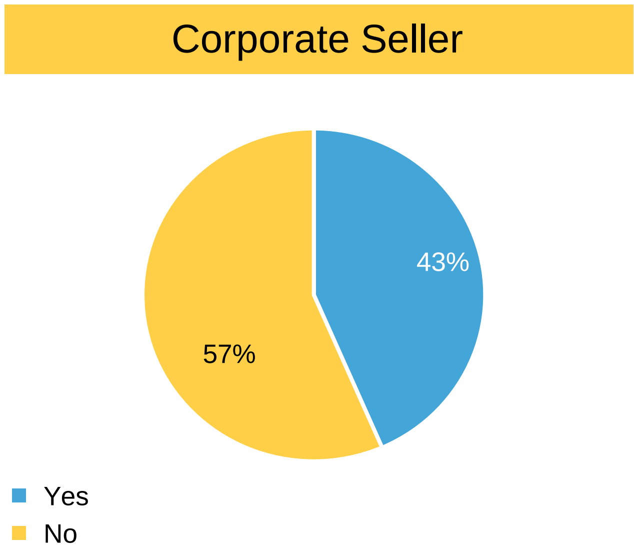
Break fee - All



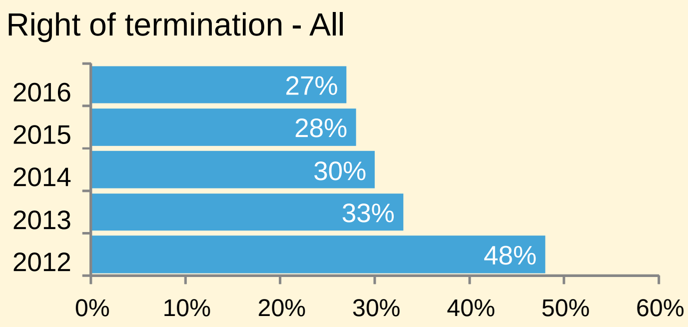
RIGHT OF TERMINATION ARISING FROM A MATERIAL BREACH OF SPA





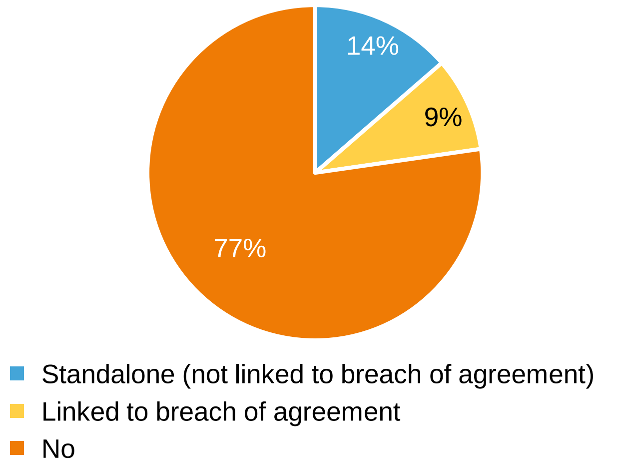


- A termination right or a condition to completion relating to a breach of the agreement was contained in 27% of all transactions. This result mirrors last year and shows a decreasing trend since 2012
- This year's survey also shows such provisions were more successfully negotiated against corporate sellers with such a right or provision being contained in 43% of deals, an increase from 38% in 2015
- A termination right or a condition to completion only occurred in 10% of transactions led by financial sponsor sellers, a decrease from 18% seen in 2015

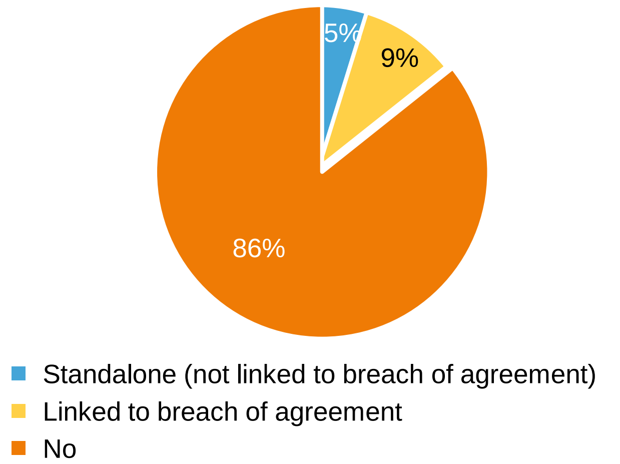


MATERIAL ADVERSE CHANGE

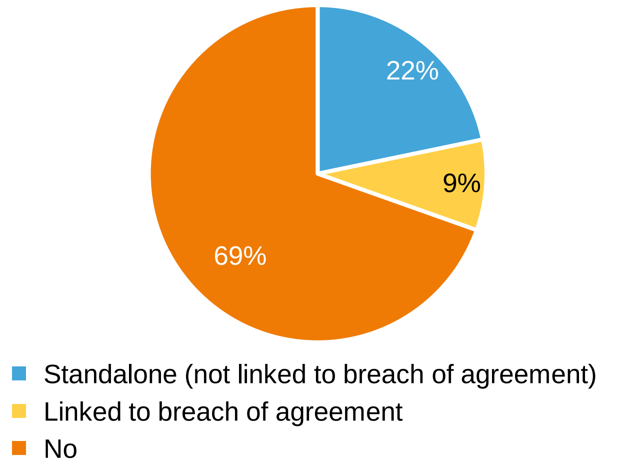
All transactions



Financial Sponsor Seller

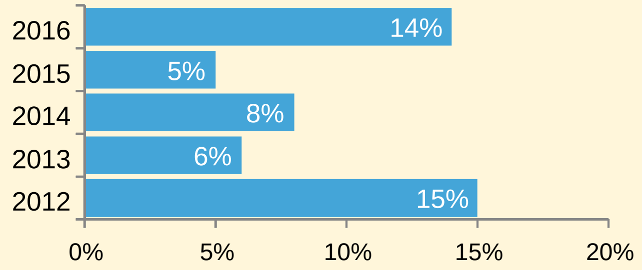


Corporate Seller



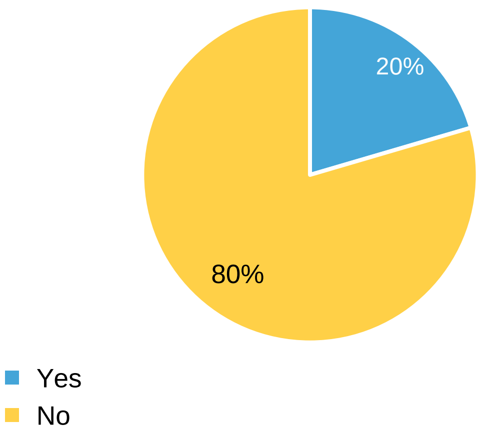
- MAC conditions were contained in 23% of all deals, an increase on the results shown in our market surveys in previous years
- There has been an increase in the acceptance by financial sponsor sellers of MAC conditions from 5% in 2015 to 14% in 2016 although the absolute percentage remains low. Where accepted they are more often linked to a breach of the agreement
- Whilst corporate sellers are more likely than financial sponsor sellers to accept MAC conditions there has also been an increase in the acceptance by corporate sellers of MAC conditions from 14% in 2015 to 31% in 2016. Where accepted they are more often standalone

MAC - Financial Sponsor Seller

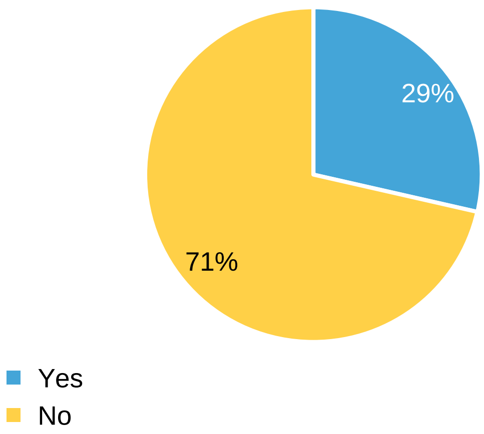


HELL OR HIGH WATER

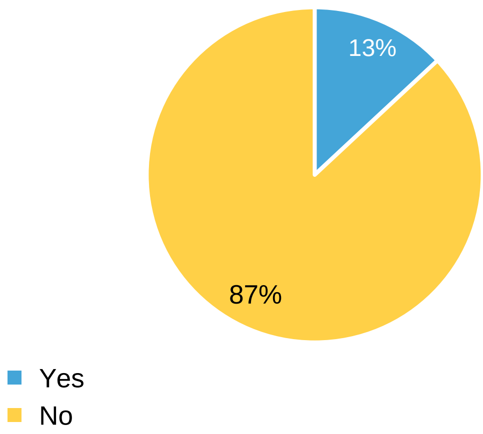
All transactions



Financial Sponsor Seller

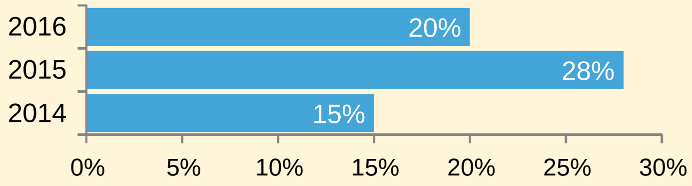


Corporate Seller



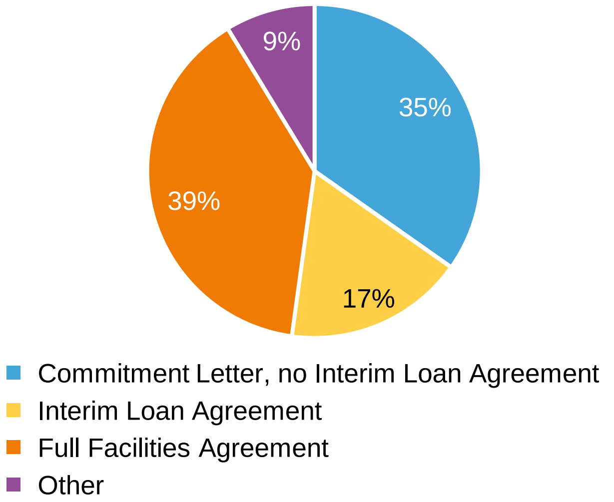
- A "hell or high water" undertaking commits the buyer to take any steps that a regulatory authority may require as a condition to granting approval for the transaction
- Hell or high water covenants were contained in 20% of transactions in 2016, a decrease from 28% seen in 2015. Additionally the incidence of break fees has decreased
- The results from 2016 show such provisions are more common in deals led by financial sponsor sellers compared to previous years where there was no notable difference between the outcome of deals led by financial sponsor sellers and deals led by corporate sellers

Hell or high water - All



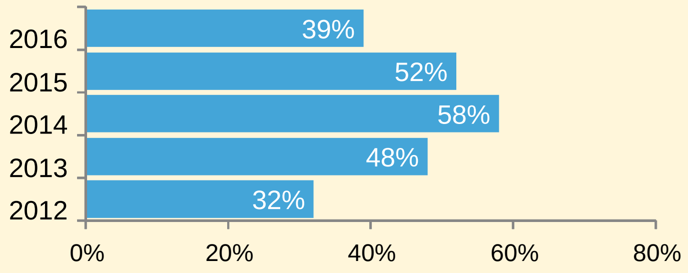
DEBT FINANCING

Financing commitment at signing



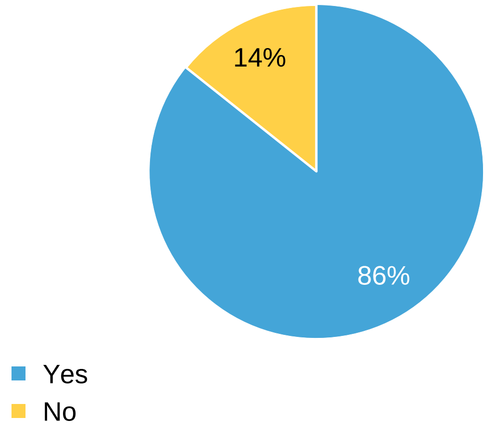
- A full facilities agreement remains the most popular form of financing at signing, although there has been a significant increase in the use of commitment letters at signing from 16% in 2015 to 35% in 2016. This can be attributed in part to the increasing focus by bidders on cost and streamlining the process pre-signing with a commitment letter followed by a full facilities agreement at completion
- "Other" included deals where existing facilities were used or where financing was not put in place at signing but a parent guarantee was acceptable due to deal specific circumstances
- Our survey showed third party debt funding as a percentage of total funding for the transaction mainly ranged between 23% and 70%, a similar range to our previous market surveys

Full Facilities Agreement - All



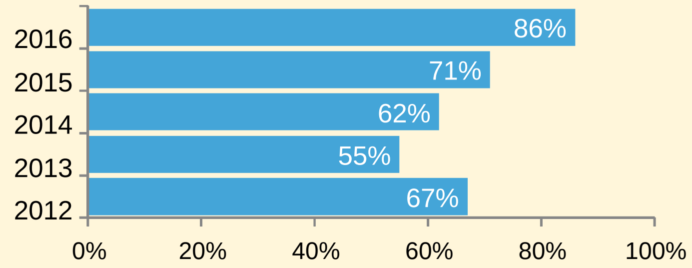
EQUITY COMMITMENT LETTERS

Equity commitment letters given - Fund Buyer



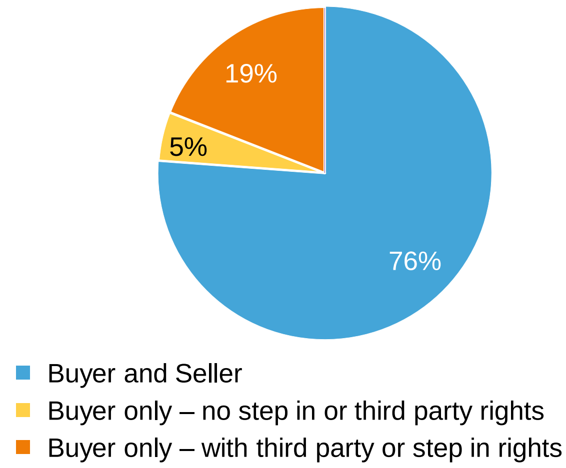
- Equity commitment letters are very common in transactions with fund buyers, given in 86% of deals. Where equity commitment letters are not given these are for reasons such as the deal being a cash only transaction or involving less sophisticated sellers

ECL given – Fund Buyer



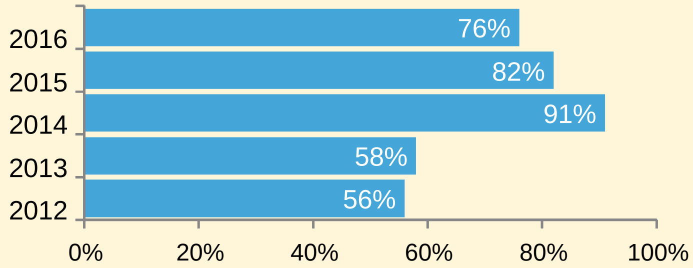
EQUITY COMMITMENT LETTERS: ADDRESSEE

ECL addressee

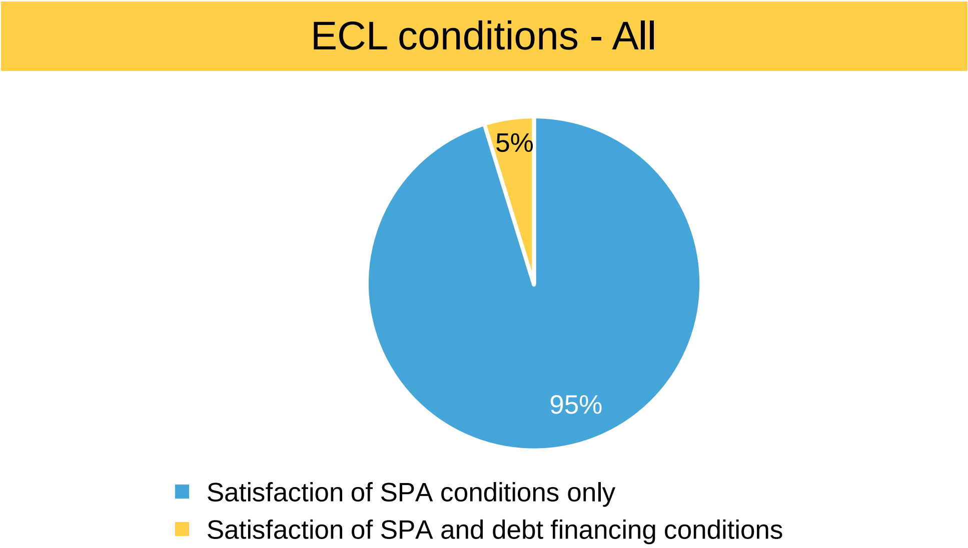


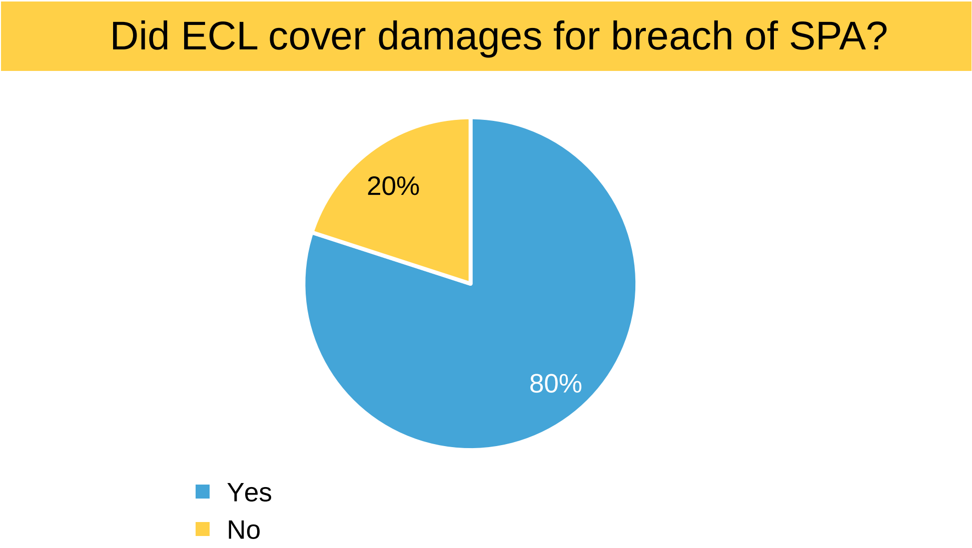
- The most common position is for the equity commitment letter to be addressed to both the buyer and seller, thus avoiding the need for any step in rights
- Where the equity commitment letter was not addressed to the seller in the majority of instances the buyer had step in or third party rights

Buyer and Seller addressee

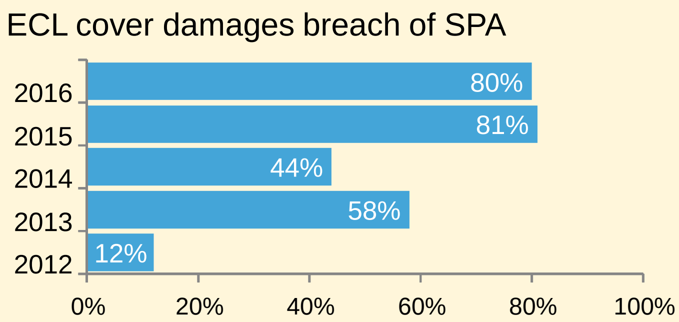


EQUITY COMMITMENT LETTERS: CONDITIONS



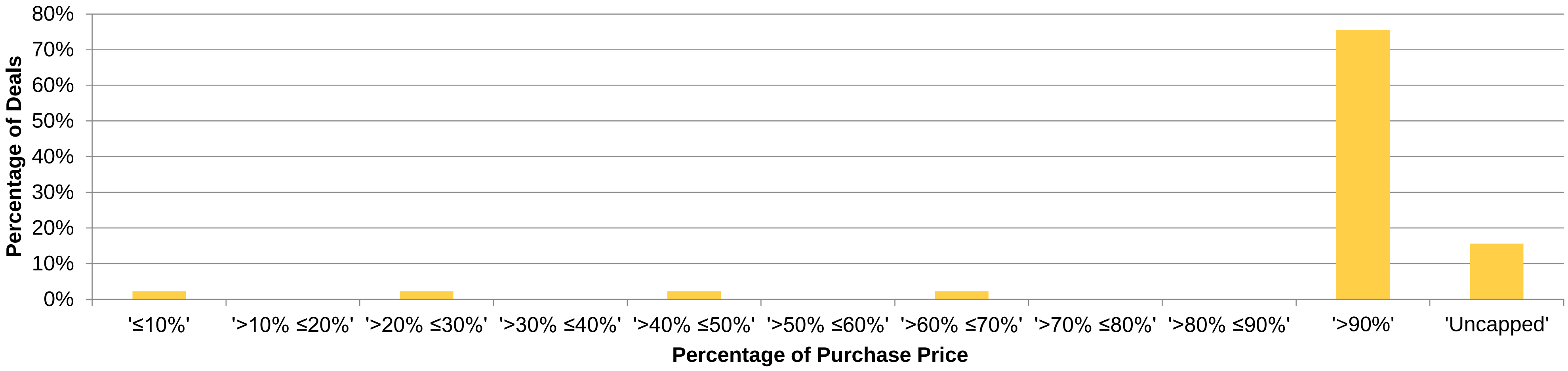


- The majority of equity commitment letters required the satisfaction of SPA conditions only
- 80% of equity commitment letters contained a provision for the payment of damages for a breach of the SPA. This result mirrors our 2015 survey and shows that this position is now established in the market compared to the result of 12% when our market survey started in 2012



LEGAL TITLE WARRANTIES

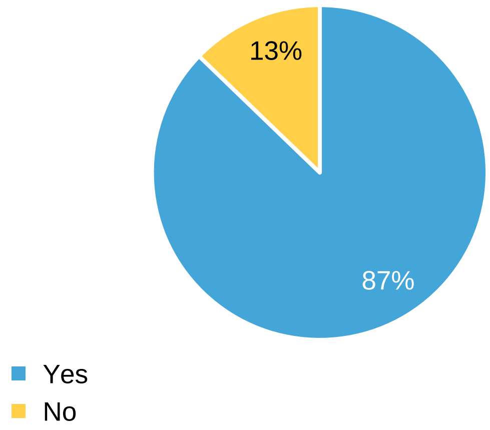
Legal title warranties' cap



- As expected, legal title warranties were given in all transactions
- In over 90% of transactions the cap was either greater than 90% of the purchase price (typically 100%) or uncapped. This is what we would expect. In some cases where the cap is lower this is because a warranty and indemnity insurance package was in place for all warranties

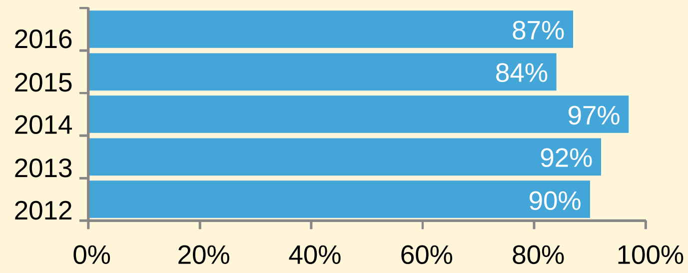
COMMERCIAL WARRANTIES

Commercial warranties - All transactions



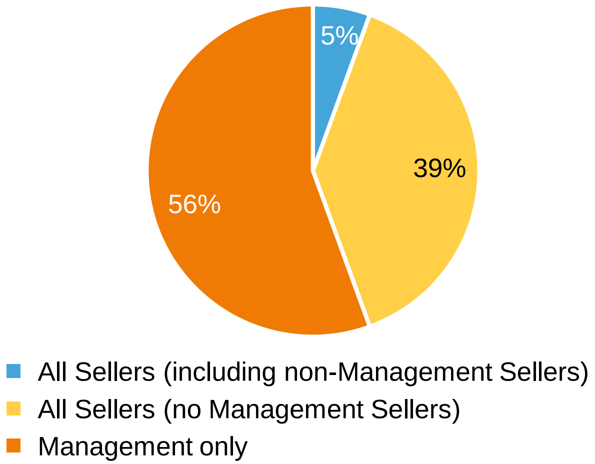
- As we would expect, commercial warranties are a feature of the majority of transactions. This includes financial sponsor seller transactions where commercial warranties were given by management
- Where commercial warranties are given in financial sponsor seller led transactions these are almost always given by management and will be referred to as management (FSS) warranties in the graphs in this section of the survey
- Transactions where commercial warranties were not given include consortium deals where certain sellers remained as shareholders or an existing shareholder was the buyer

Commercial warranties - All



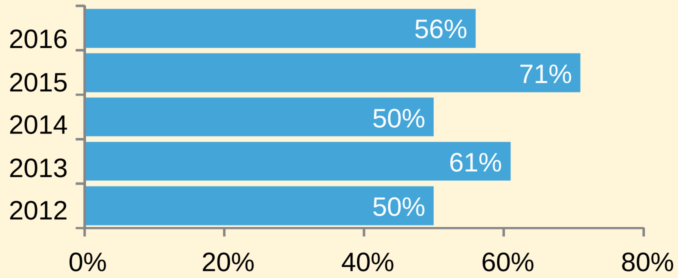
COMMERCIAL WARRANTIES

Commercial warranties given by - Financial Sponsor Seller

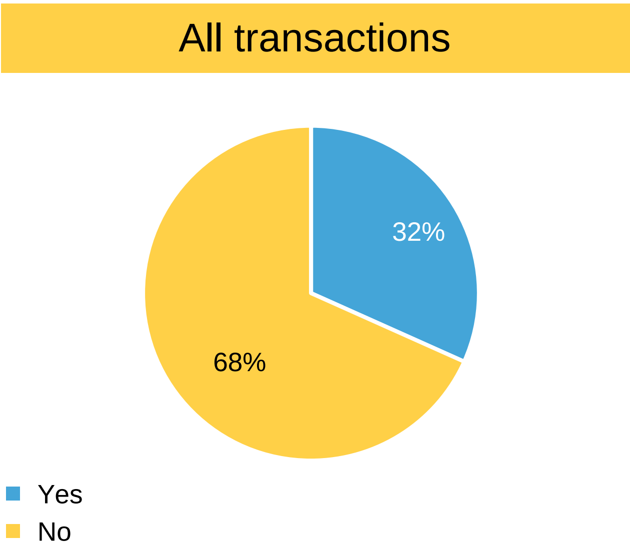


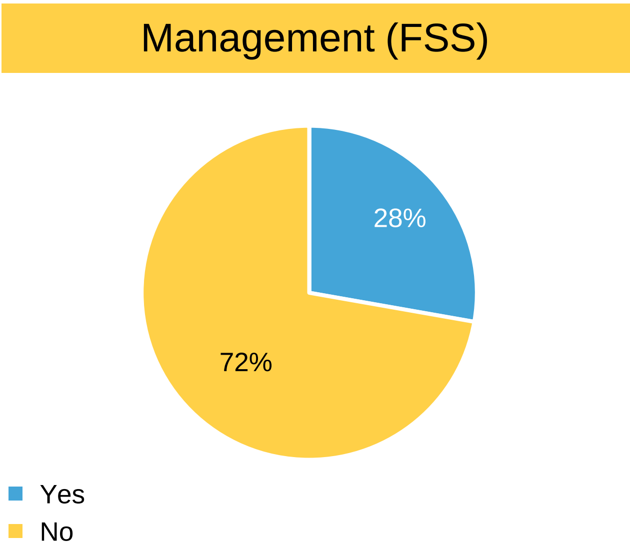
- As we would expect, in the majority of deals led by financial sponsor sellers, management were the only party to give commercial warranties . Where financial sponsor sellers did give commercial warranties these were covered entirely by warranty and indemnity insurance
- Where a financial sponsor seller is an infrastructure fund or other financial institution that is not a private equity fund they typically do not have management sellers

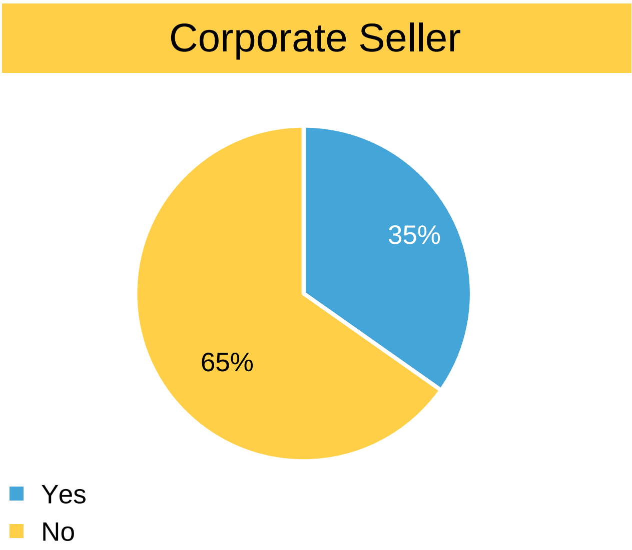
Commercial warranties – Management only



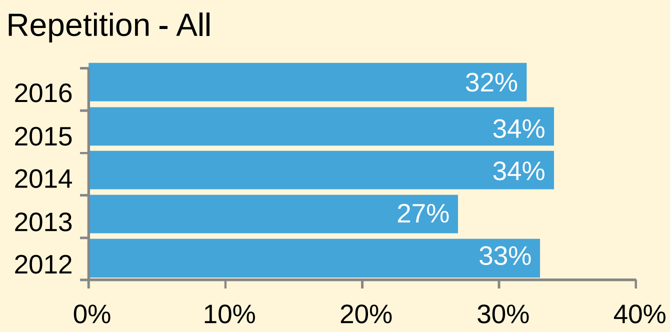
COMMERCIAL WARRANTIES: REPETITION





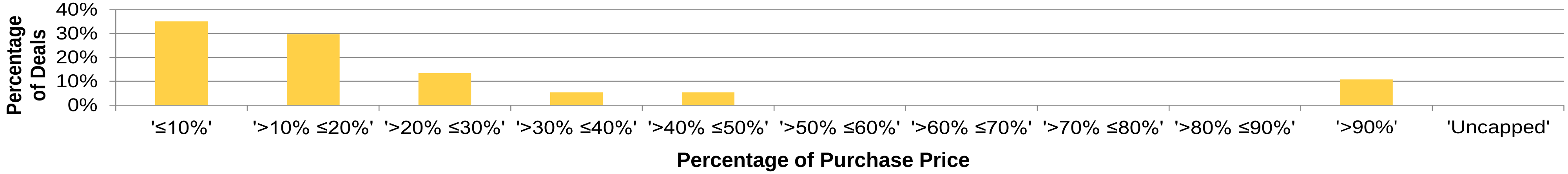


- In line with the results shown in our previous market surveys, commercial warranties were repeated at completion in 32% of all transactions
- The repetition of commercial warranties at completion is a more common feature in deals led by corporate sellers, a result also seen in previous market surveys

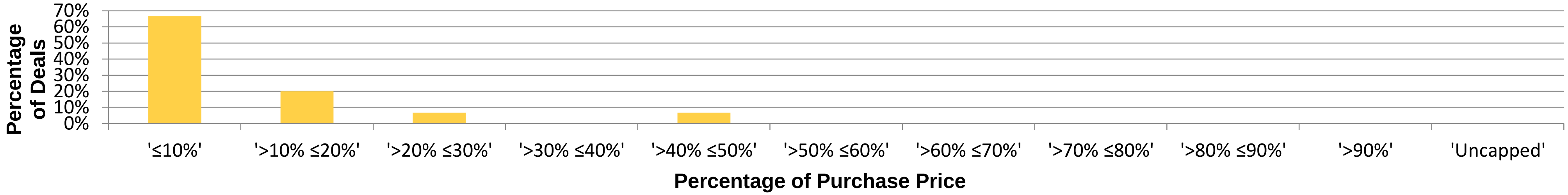


COMMERCIAL WARRANTY CAPS

Cap as a % of purchase price - All transactions



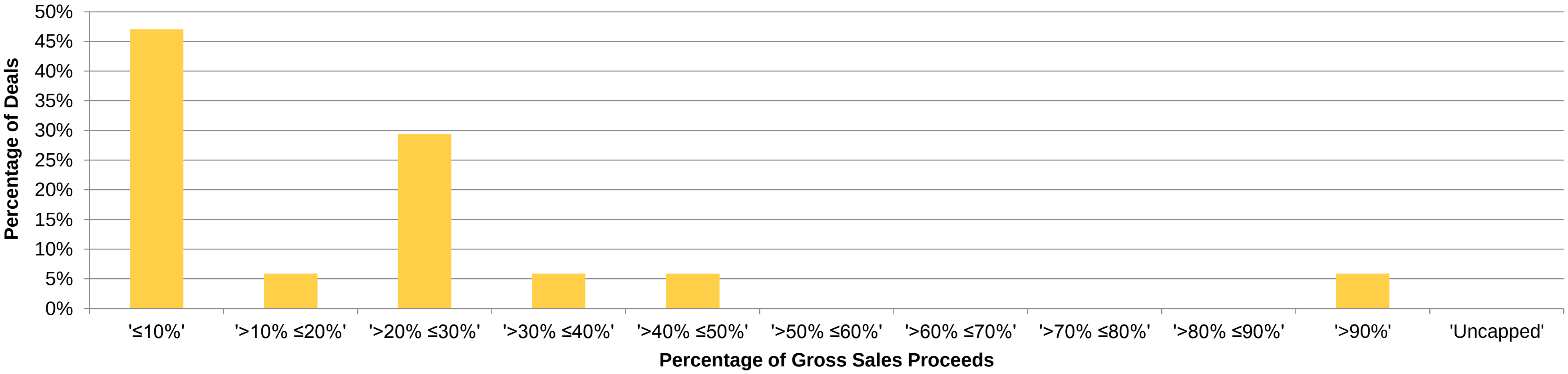
Cap as a % of purchase price - Management (FSS)



- The majority of deals have a cap of less than 20%, but caps of greater than 90% are not unheard of with corporate sellers
- This result is in line with previous surveys indicating a relatively settled market on this term

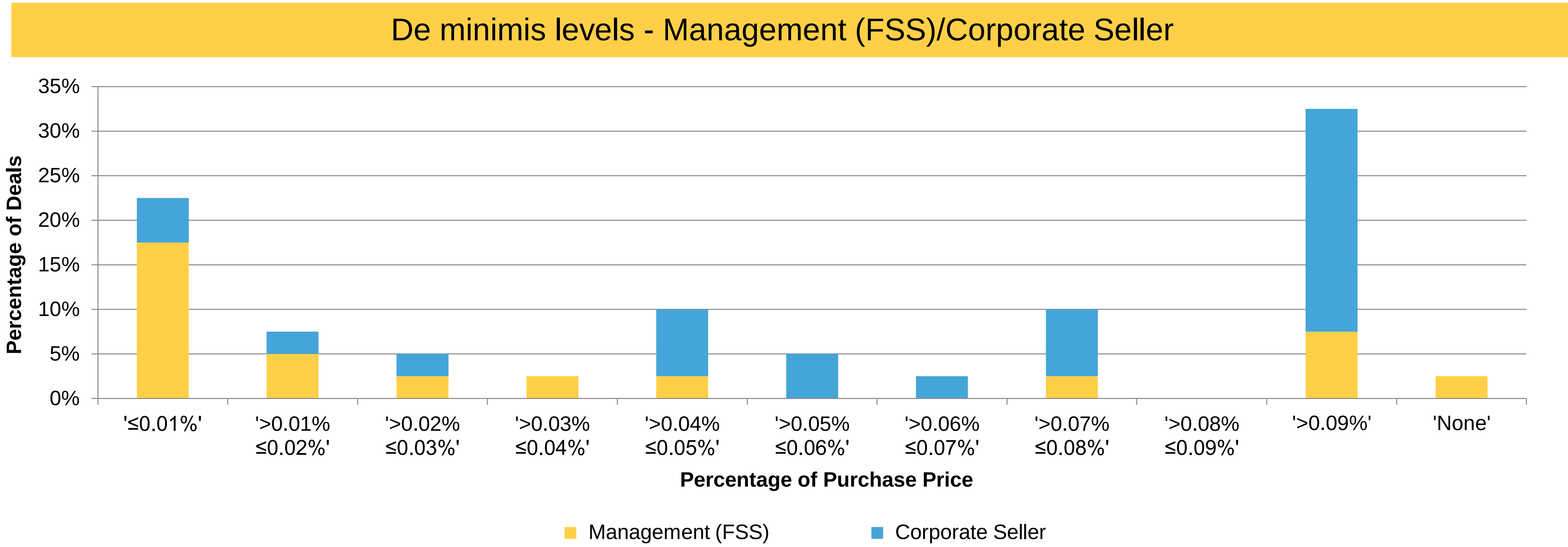
COMMERCIAL WARRANTY CAPS
(CONTINUED)

Commercial warranties given by management - cap as % of gross sale proceeds



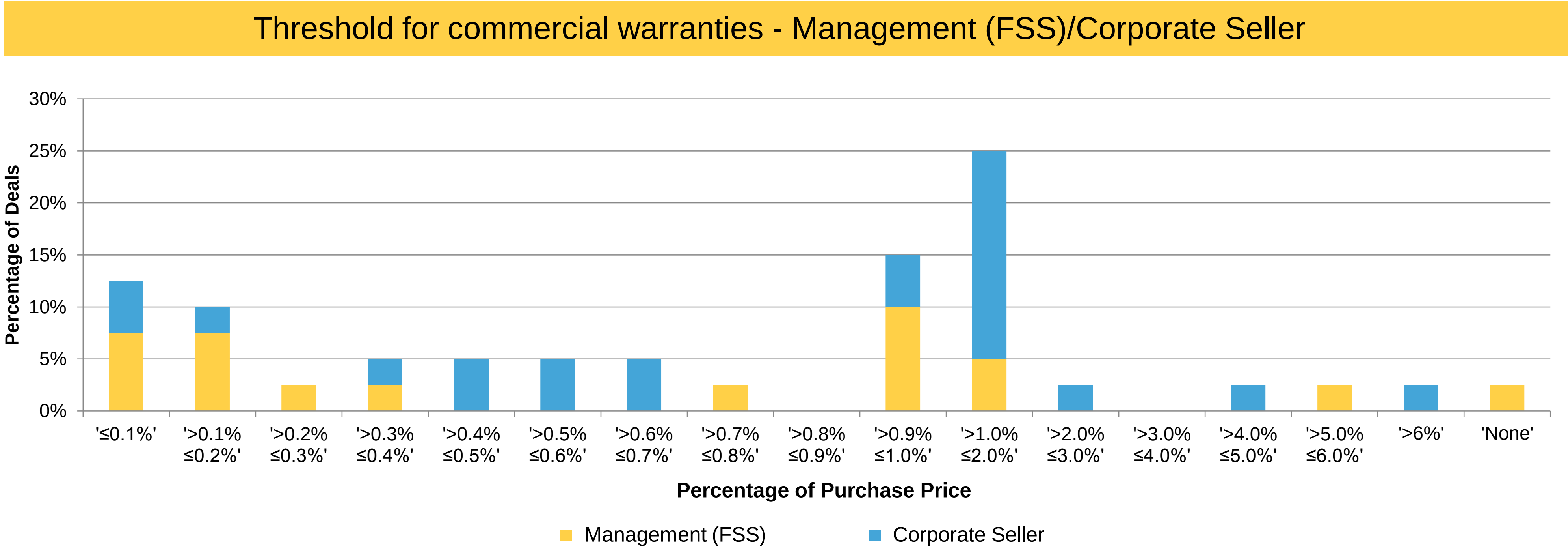
- The majority of transactions with management warranties capped the limitation on liability at 20% or less of gross sale proceeds. The results are similar to previous surveys

COMMERCIAL WARRANTIES: DE MINIMIS



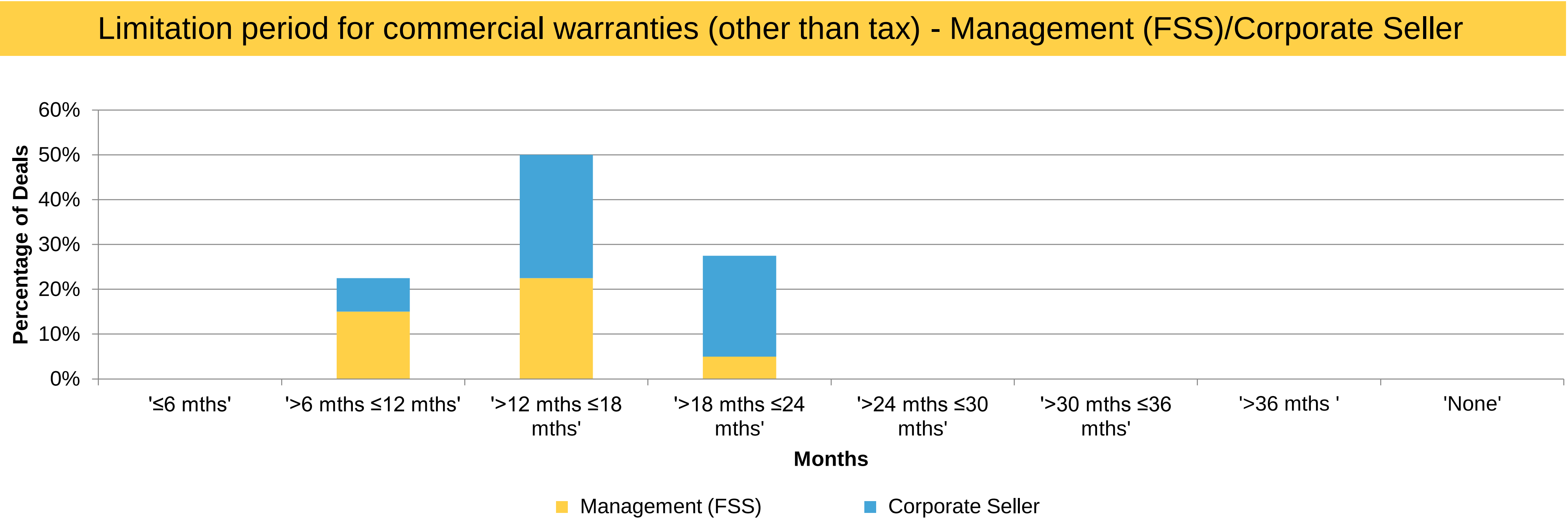
- The "market" view is that the de minimis level is 0.1% of the purchase price, but as this and our previous market surveys have shown, the level is often significantly lower than this

COMMERCIAL WARRANTIES: THRESHOLD



- The “market” view is that the threshold is 1% of the purchase price and the vast majority are at this level or below
- The majority of deals with a higher threshold are corporate seller led

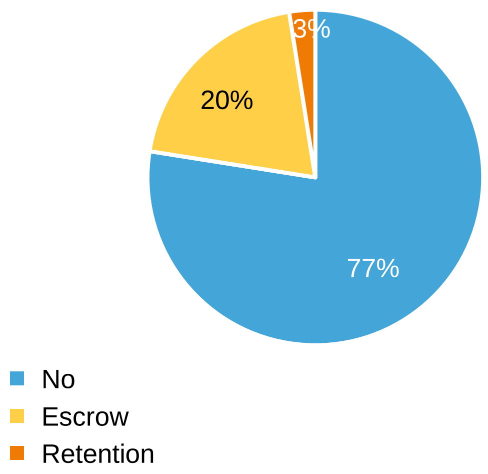
COMMERCIAL WARRANTIES: LIMITATION PERIOD



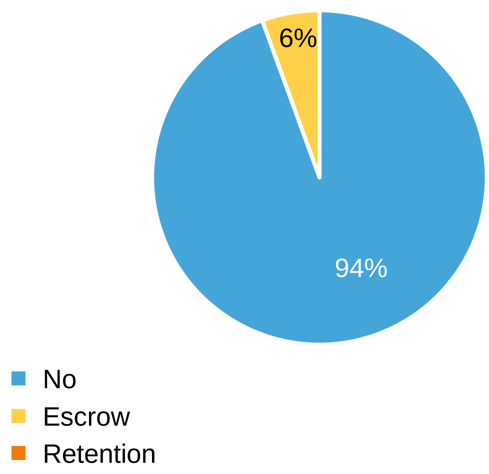
- As expected, our results show that most limitation periods are between 12 and 18 months from completion, normally allowing for one full audit cycle
- Notably, no limitation periods are longer than 24 months. In previous market surveys some corporate sellers have had limitation periods of greater than 36 months

COMMERCIAL WARRANTIES: ESCROW AND RETENTION

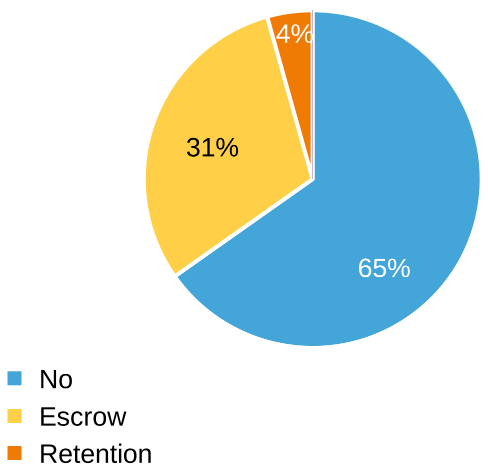
All transactions



Management (FSS)

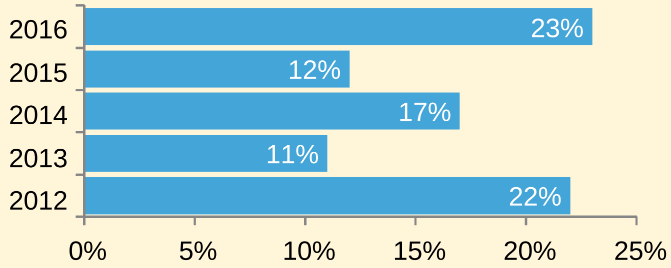


Corporate Seller



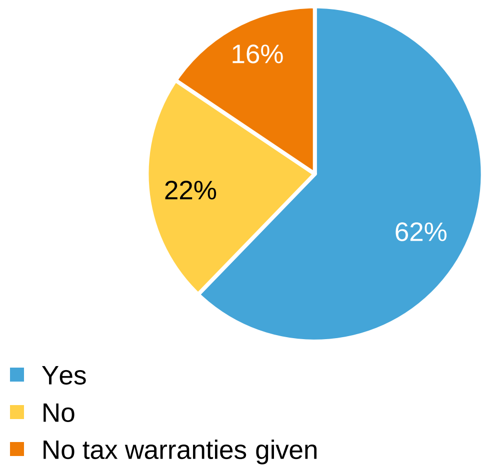
- Our survey showed a significant difference between the positions of financial sponsor seller led transactions (where management give the commercial warranties) and corporate seller led transactions in approaching this term
- Overall the results show an increase from 12% in 2015 to 23% in 2016, driven by a jump from 13% to 34% for corporate sellers
- The fact that fewer financial sponsor seller led transactions (where management give the commercial warranties) accepted the term reflects the acknowledgement by the buyer that the driver for the commercial warranties is disclosure not value

Commercial warranties escrow - All

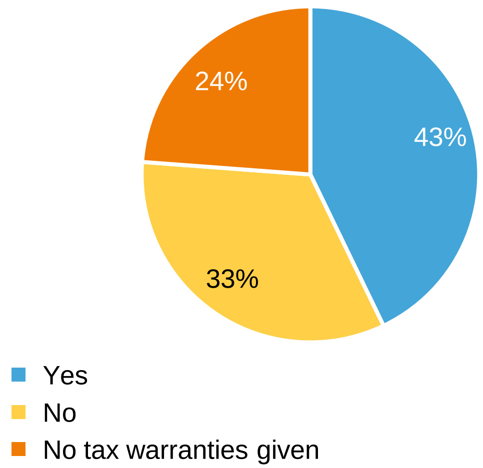


TAX WARRANTIES: DIFFERENT LIMITATION PERIODS TO ALL OTHER WARRANTIES

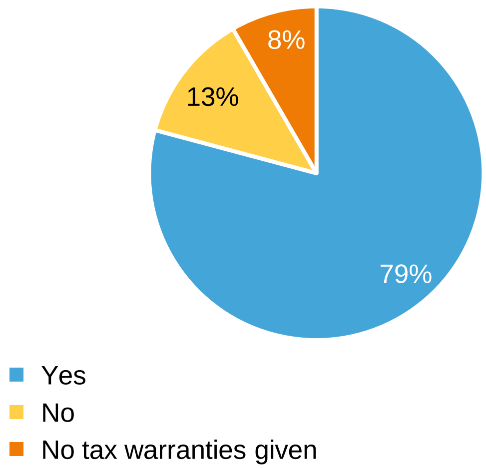
All transactions



Management (FSS)

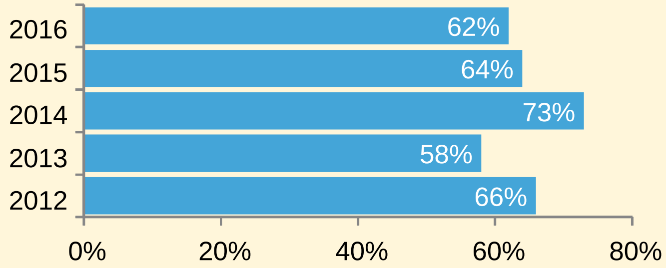


Corporate Seller

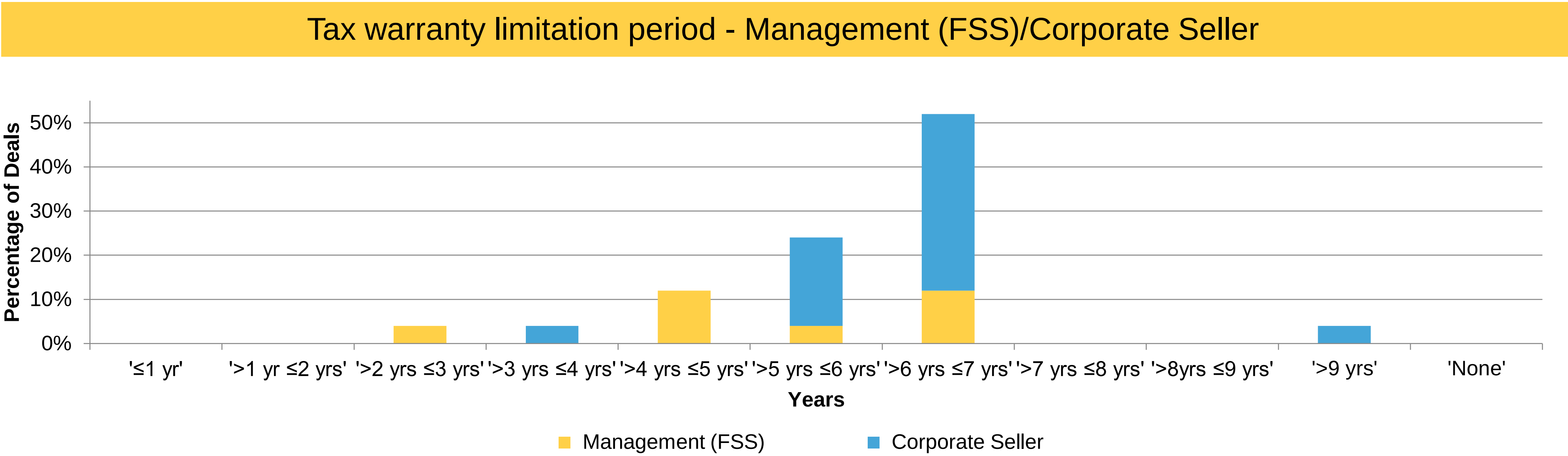


- Across all transactions, tax and other warranties had different limitation periods in the majority of deals. This follows the trend seen in our previous market surveys
- Deals which had no tax warranties include those transactions where no commercial warranties were given or where a tax indemnity was provided

Tax warranties different limitation periods - All



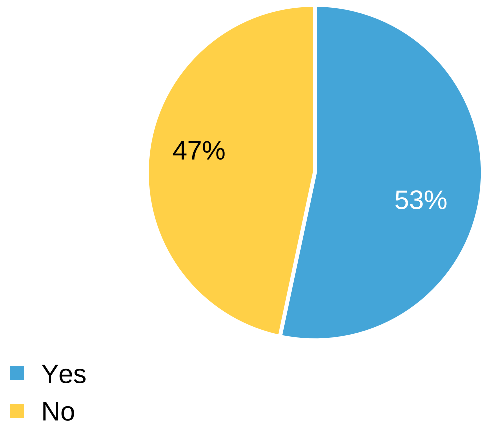
TAX WARRANTIES: LIMITATION PERIOD



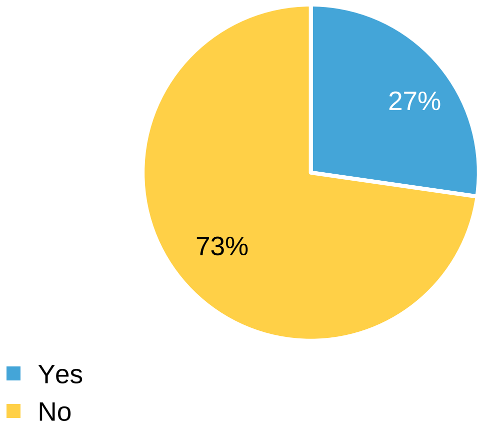
- The limitation period for tax warranties is between 4 to 7 years on most transactions
- As we would expect, longer limitation periods are a feature of deals led by corporate sellers

TAX INDEMNITY

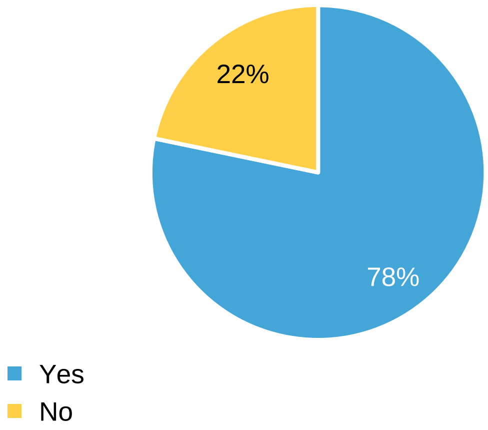
All transctions



Management (FSS)

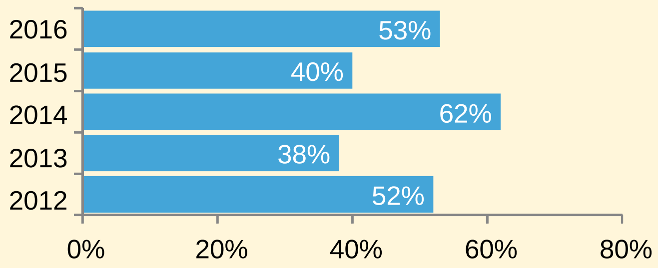


Corporate Seller



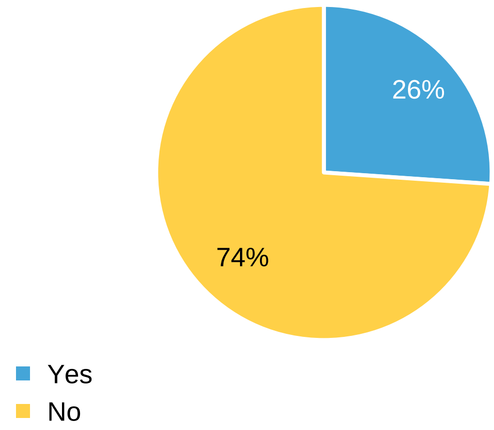
- Tax covenants featured in 53% of transactions. This is a higher figure than last year's survey where 40% of deals contained a tax covenant
- As expected, tax covenants are a more popular feature in deals led by corporate sellers

Tax indemnity - All

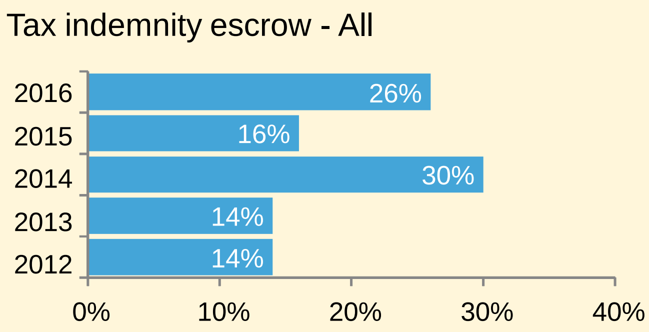


TAX INDEMNITY: ESCROW

All transactions

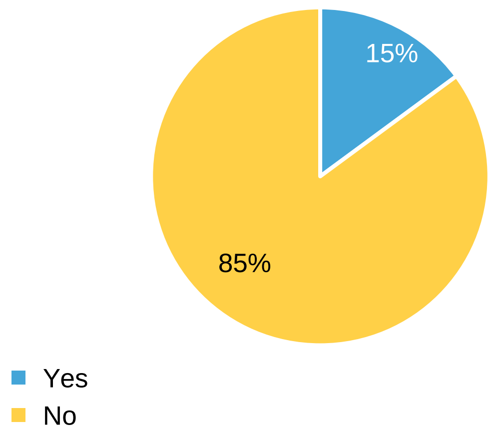


- Where a tax indemnity was used, it was backed by escrow in 26% of all transactions which is higher than the results we saw in our 2015, 2013 and 2012 market surveys



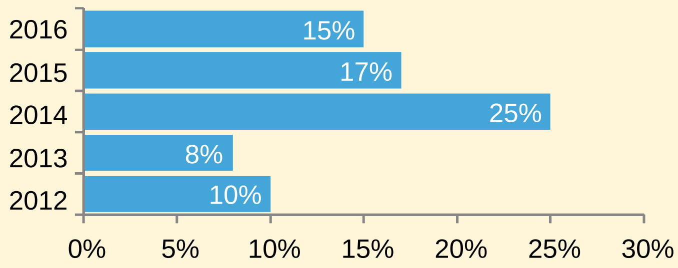
WARRANTY AND INDEMNITY INSURANCE

All transactions



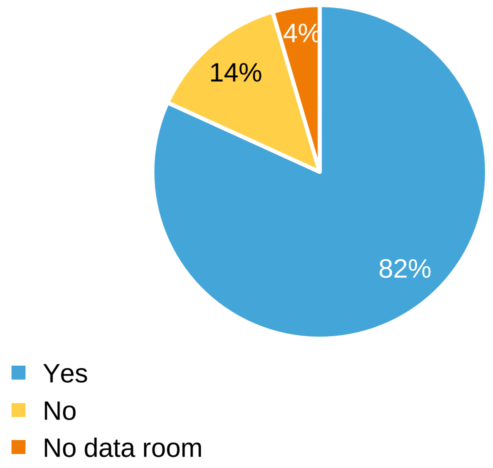
- Warranty and indemnity insurance was used in 15% of transactions, a slight decrease in the results seen in our 2015 and 2014 market surveys. Despite increased suggestions for usage, the level of warranty and indemnity insurance has remained fairly constant which in part may be due to timing restrictions on transactions
- Where used, it was more popular with financial sponsor seller led deals than those led by corporate sellers. The largest transaction warranty and indemnity insurance was used on had an enterprise value of just under £600m
- In all instances where insurance was used, the buyer was the insured party

Warranty and indemnity insurance - All



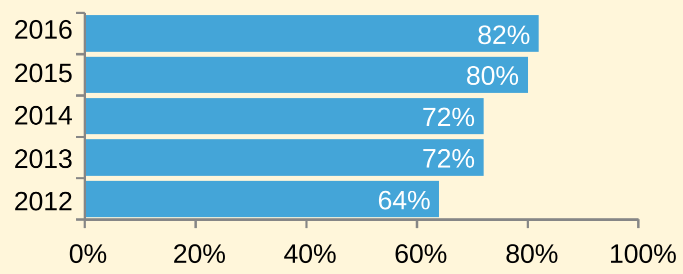
DATA ROOM DISCLOSURE

Disclosure of the entire data room against warranties



- In the vast majority of transactions the entire data room is disclosed against the warranties
- The trend shown by the results of this and our previous market surveys are of greater acceptance of entire data room disclosure

Disclosure of data room - All



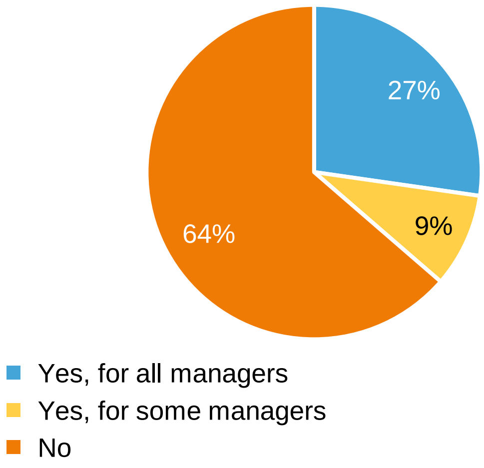
MANAGEMENT EQUITY

The following slides set out a number of trends of the key features of management equity terms including management structure, leaver provisions and drag along/tag along.

The analysis is based on transactions which signed and/or completed in 2016.

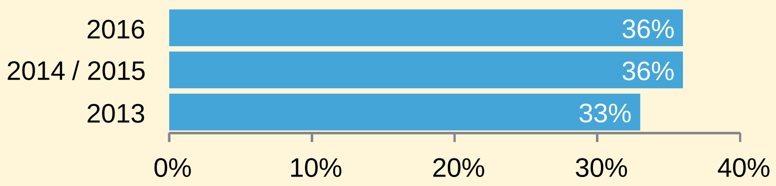
MANAGEMENT STRUCTURE

Use of pooling vehicle



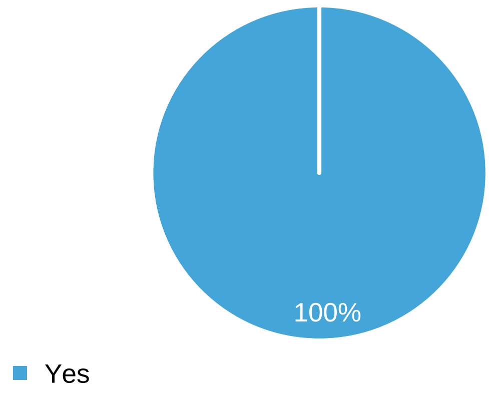
- The majority of transactions did not use a pooling vehicle, a similar result to our previous market surveys. This can be attributed to a number of factors including only having a small number of managers to incentivise
- The results reflect the fact that the initial stage of issuing equity is typically to senior managers. When the equity is rolled out to all managers you would expect to see an increased use of pooling vehicles

Use of pooling vehicle

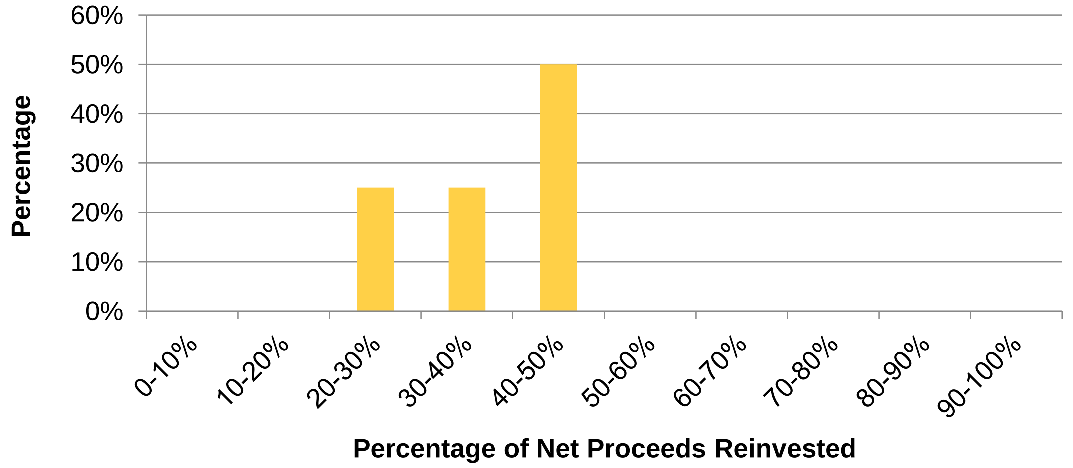


RE-INVESTMENT BY MANAGEMENT

Re-investment by management

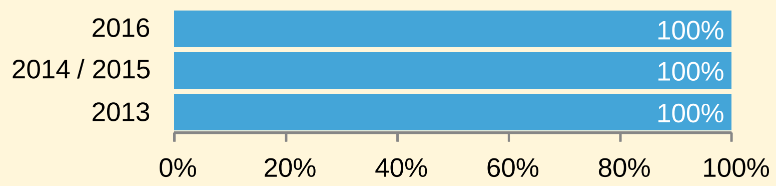


% of net proceeds re-invested



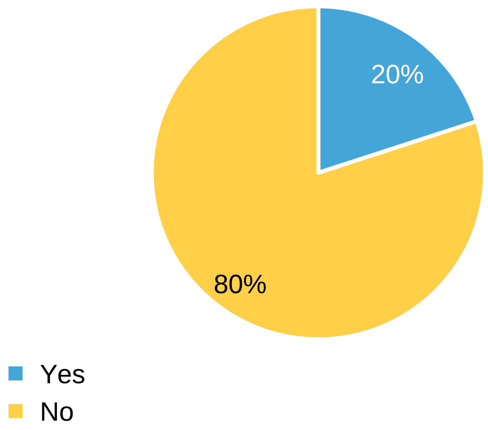
- Our survey showed that management re-invested on all secondary transactions mirroring the trend seen in previous years
- The typical range of re-investment was between 30% to 50% of the net proceeds reinvested

Re-investment by management

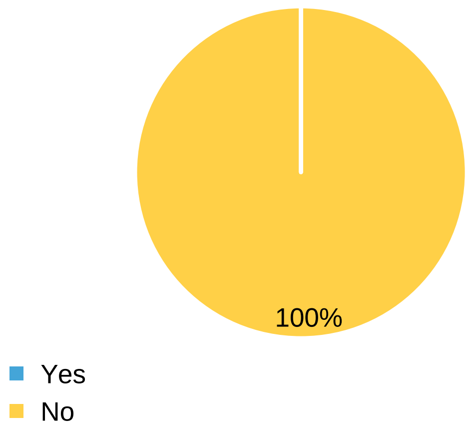


LOANS TO MANAGEMENT AND OPTIONS

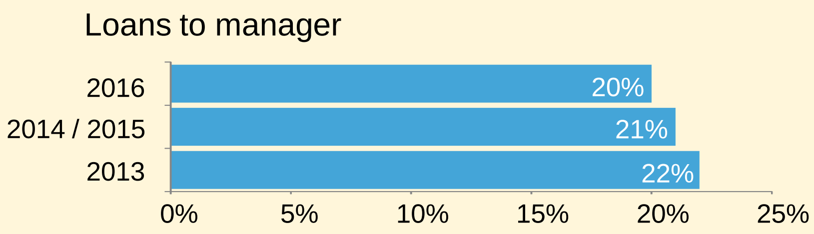
Loans to manager



Options granted to manager

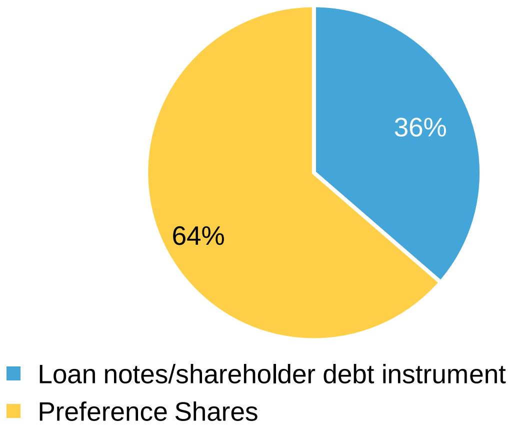


- In 20% of deals the investor or target company made a loan to management to assist with their investment. This follows the trend seen in our previous market surveys
- Options were not granted to managers in any transactions. This can be compared to the results we saw in our 2014/2015 equity terms market survey where they were granted to managers in 14% of deals

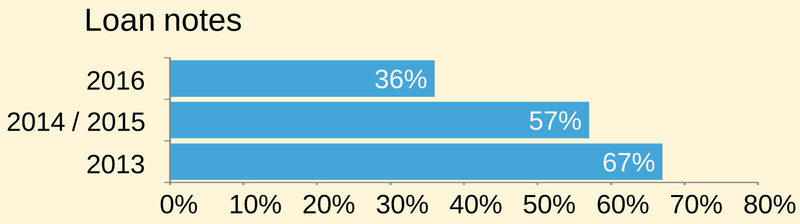


MANAGEMENT INSTRUMENTS

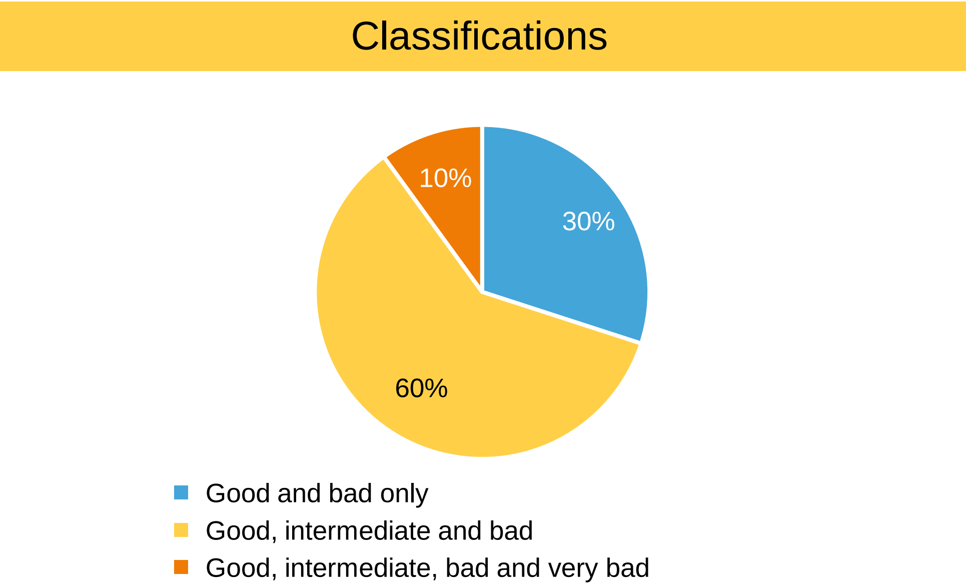
Loan note or preference shares used?

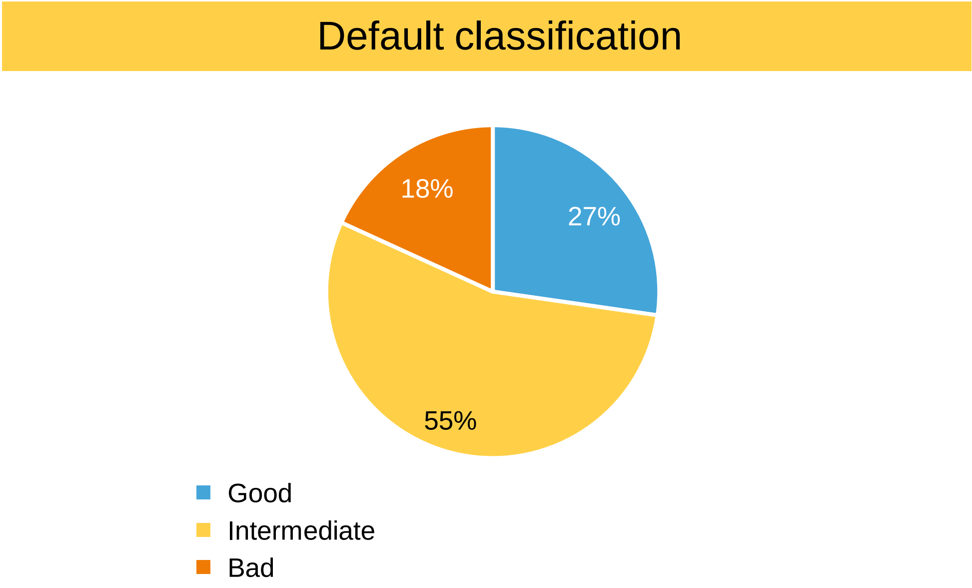


- Our results show preference shares being used in 64% of transactions compared to 36% of deals using loan notes. This shows a decrease in the use of loan notes from 57% in 2014/2015 and 67% in 2013
- The increased popularity of preference shares can in fact be attributed to them being preferred by rating agencies in transactions with a high yield bond or as a result of tax advice. Going forward we expect to see increased tension over the choice of instrument with AIFMD favouring the use of loan notes and gearing restrictions favouring preference shares
- Where a shareholder debt instrument or preference shares were used, the coupon ranged between 6%-15% per annum

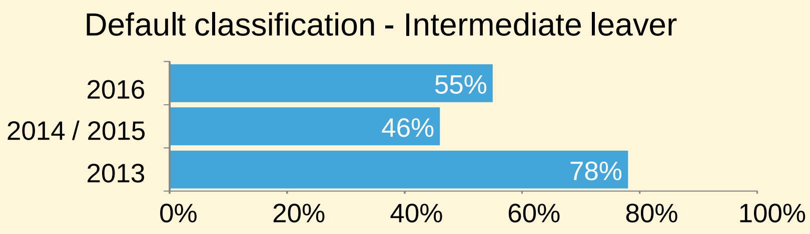


LEAVERS CLASSIFICATION



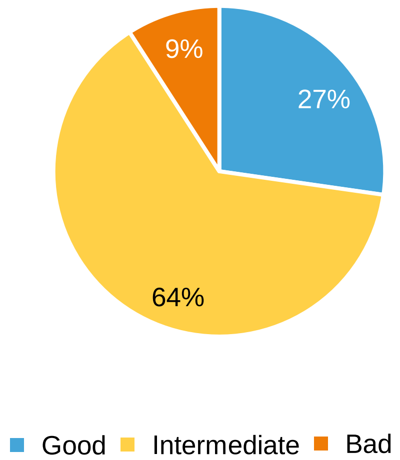


- There has been a trend away from the previous leaver classification of good and bad only which we also saw in our 2013 and 2014/2015 equity terms market survey. Now the majority of transactions have at least three categories being good, intermediate and bad leavers, and sometimes four categories including, for example, very bad
- Following this trend the default classification (which was previously normally always bad) is now most often intermediate leaver

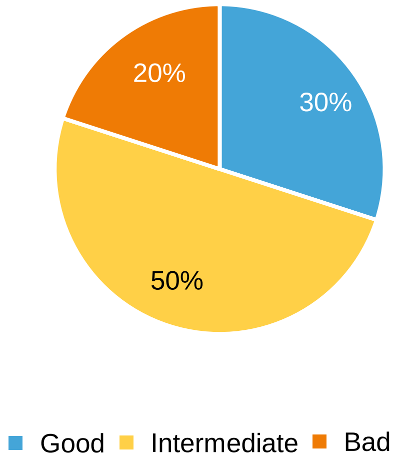


LEAVER: ANALYSIS

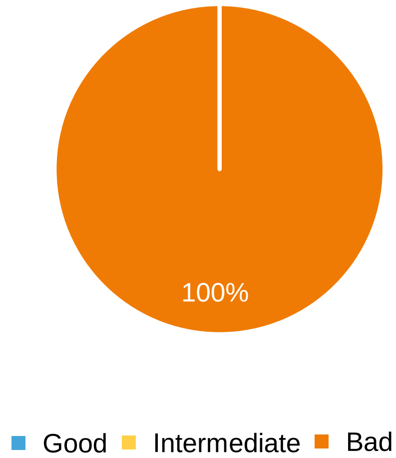
Dismissed without cause



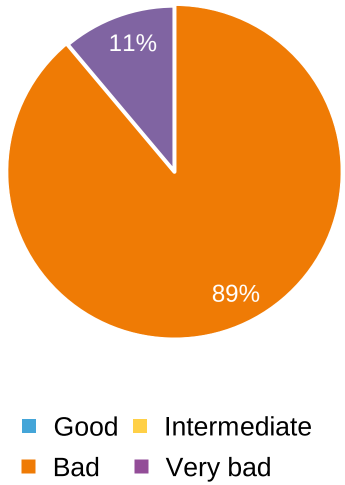
Unfair dismissal



Leaves voluntarily



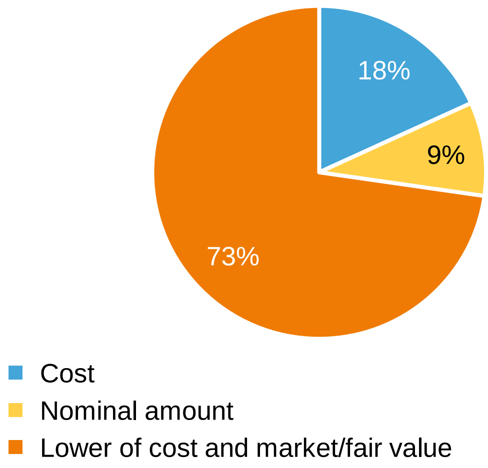
Joins competitor



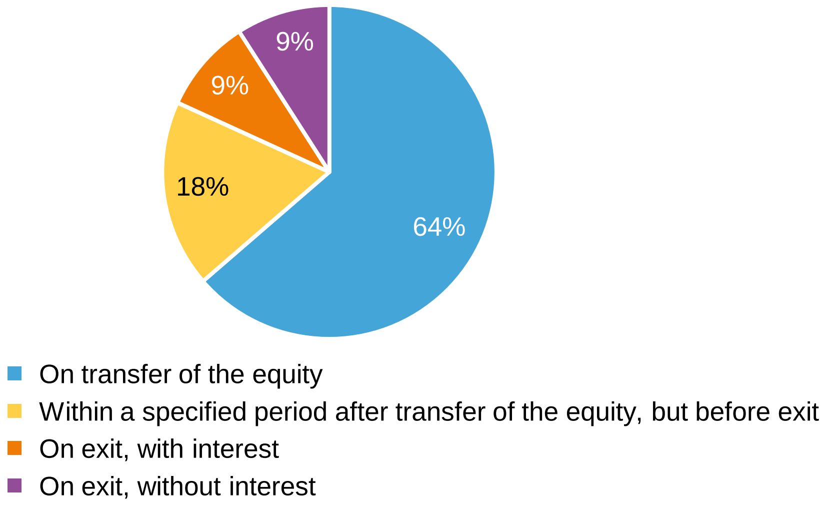
- An analysis of the leaver terms across the transactions shows that a leaver is rarely classified as bad if s/he is dismissed without cause or is unfairly dismissed. Where this does occur it can be because the definition of good leaver is extremely narrow
- In all cases, a leaver who leaves voluntarily is classified as bad and a leaver who joins a competitor is bad or very bad. This follows the trend we saw in our 2014/2015 equity terms market survey
- Unsurprisingly, all leavers who join a competitor are classified as bad or very bad, this mirrors the result we saw in 2014/2015

LEAVER: PRICE FOR WORST CATEGORY

Price for worst category of leaver

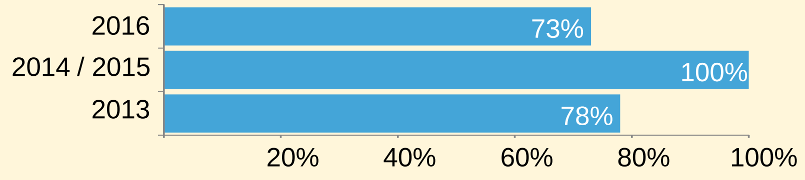


Timing of payment



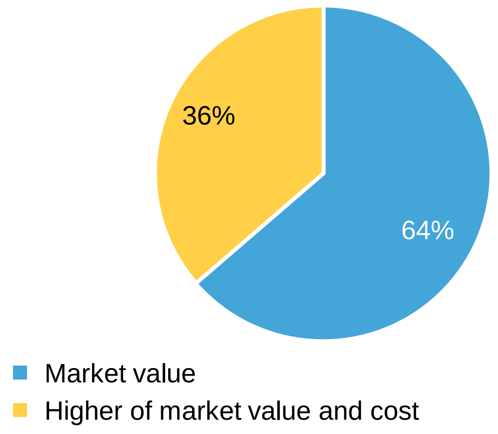
- In 73% of deals the price for the worst category of leaver was the lower of cost and market or fair value. This shows a decrease from 100% seen in our 2014/2015 results but is similar to the 78% result seen in 2013
- The timing of the payment for the compulsorily acquired equity for the worst category of leaver was on the transfer of the equity in 64% of deals, a similar result to our 2014/2015 equity terms survey. Whilst payments are made on transfer most of the time, sometimes they are not made until the exit

Price for worst category - lower of cost and market value

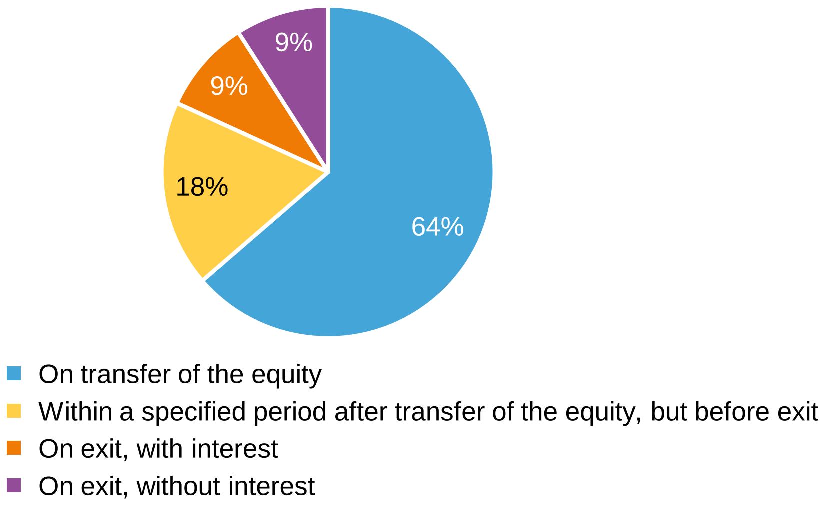


LEAVER: PRICE FOR BEST CATEGORY

Price for best category of leaver

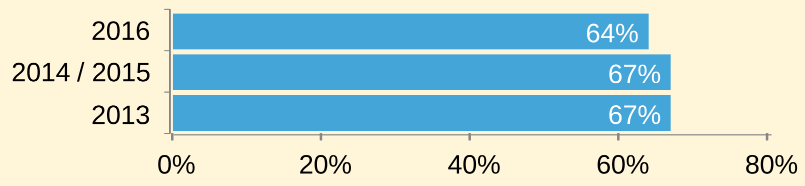


Timing of payment



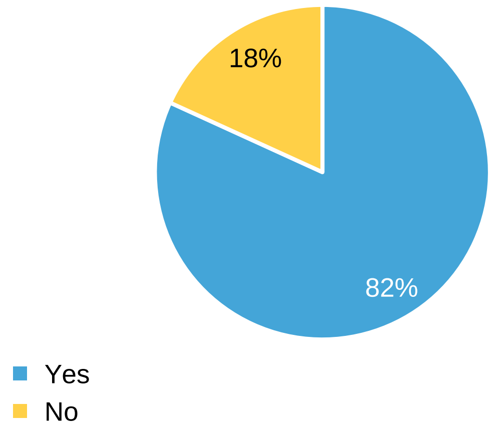
- In 64% of deals the price for the best category of leaver was market value. This result mirrors our previous market surveys
- As our survey shows for bad leavers, in 64% of the deals the timing of the payment for the compulsorily acquired equity for the best category of leaver was on the transfer of the equity. This shows there is no distinction between the timing of the payment depending on the type of leaver classification

Price for best category - market value

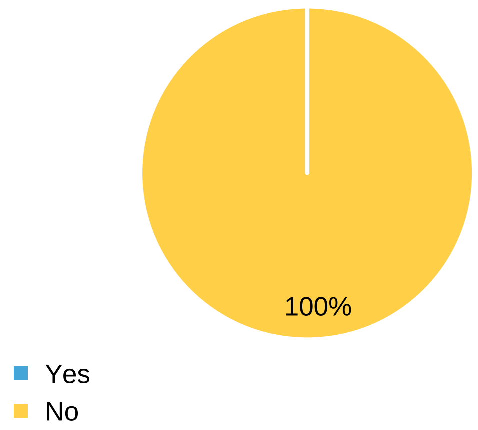


VESTING

Value vesting

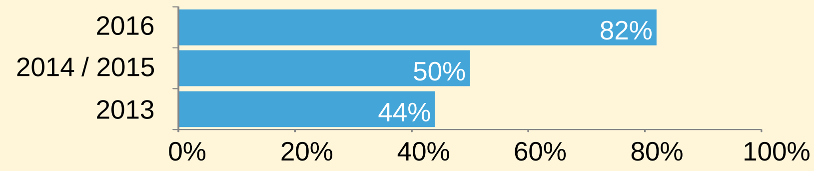


Title vesting



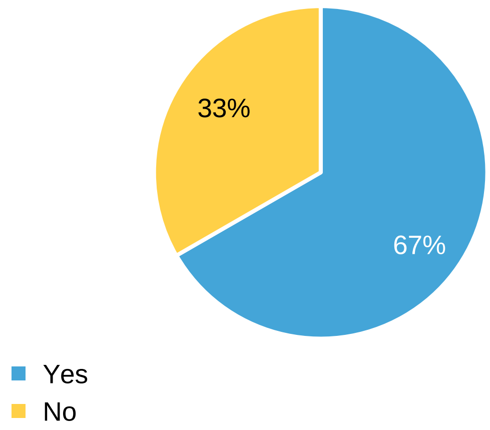
- Value vesting (where shares automatically vest after certain time) occurred in 82% of transactions in 2016, a marked increase from the results we saw in 2013 and 2014/2015 of 44% and 50% respectively
- In contrast, title vesting (where vesting results in a manager's right to keep his equity when he leaves the target group) did not occur in any transactions in 2016. It was not common in our previous equity terms surveys, occurring in 12% of deals in 2013 and 7% of deals in 2014/2015
- Typically value vesting takes place over a four or five year period

Value testing



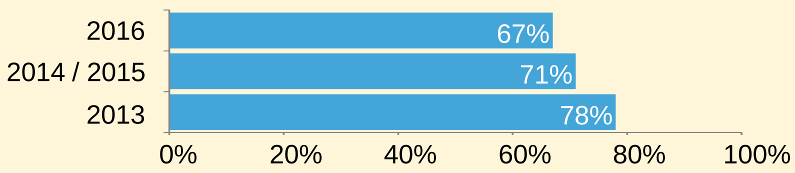
PERMITTED TRANSFEREES

Family members/Family trusts



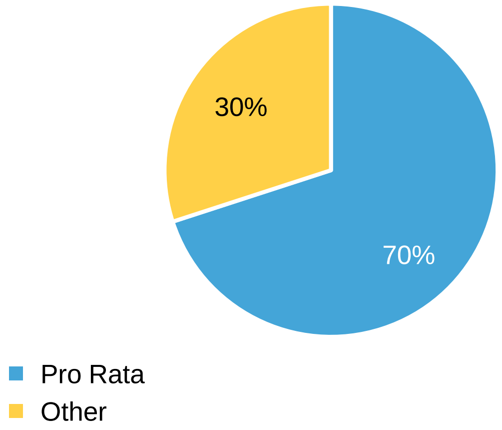
- In 67% of deals managers were permitted to transfer their equity to family members or family trusts or SPVs. This is a similar result to that seen in our previous equity terms surveys
- In the majority of cases there was no limitation on the percentage of a manager's shares which could be transferred

Family members/trusts permitted transfers

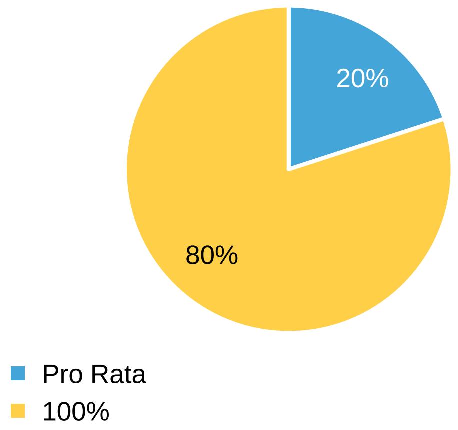


TAG ALONG AND DRAG ALONG RIGHTS

Tag Right Structure

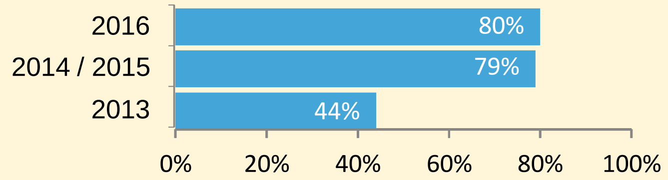


Drag Right Structure

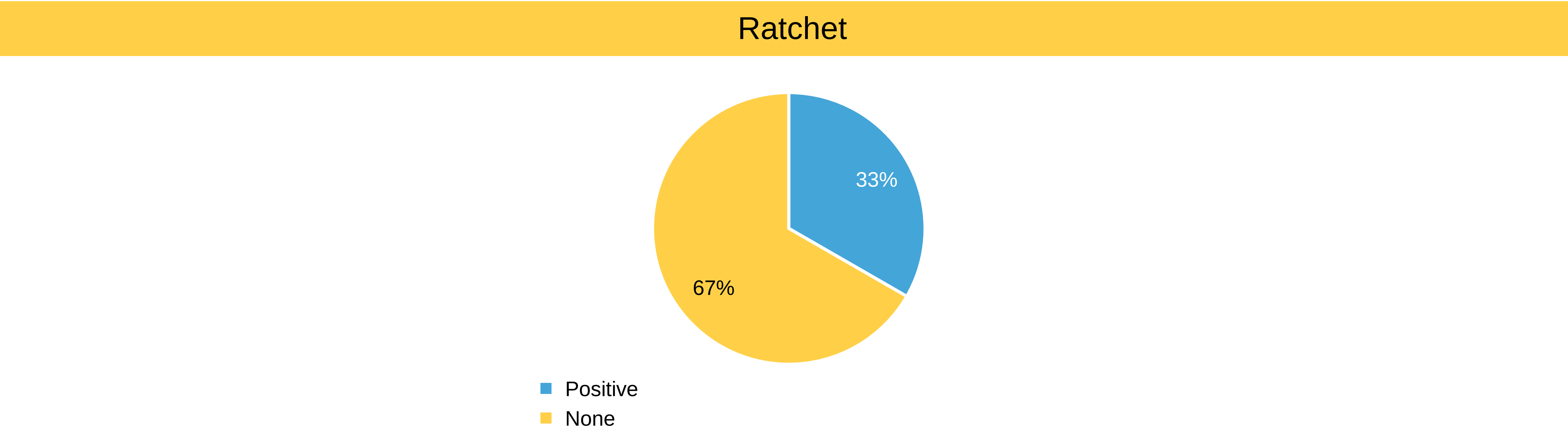


- Our results show that it was most common to use a pro rata structure for tag rights similar to the result we have seen in previous surveys
- The most common structure for drag rights in 2016 was a 100% structure, a similar result to 2014/2015 showing a move away from 2013 transactions when pro-rata structures were more popular
- The most commonly used trigger percentage for both tag along rights and drag along rights was 50% or 51%, a similar trend to our previous surveys

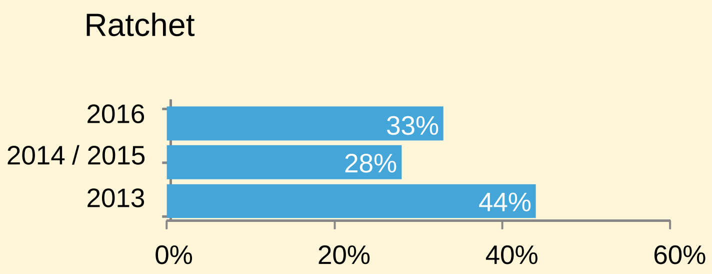
Drag right structure - 100%



RATCHET

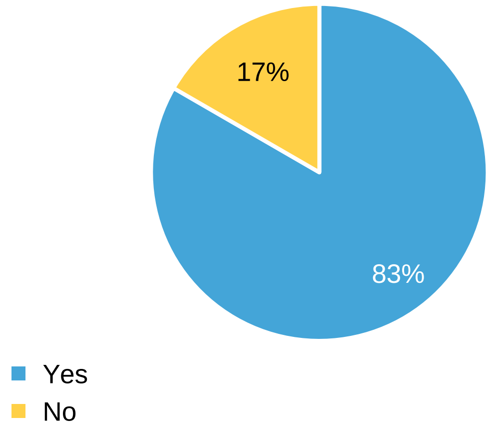


- 33% of deals contained a ratchet. All ratchets were structured as positive rather than negative
- This result is similar to the result in 2014/2015 where ratchets were used in 28% of transactions but they were more commonly used in 2013 in 44% of transactions



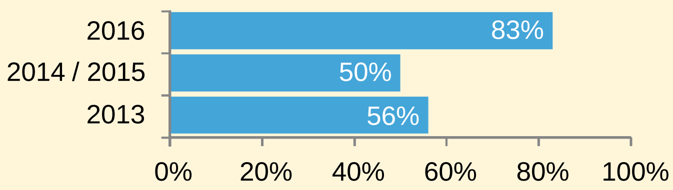
MANAGEMENT WARRANTIES

Management warranties given in investment agreement



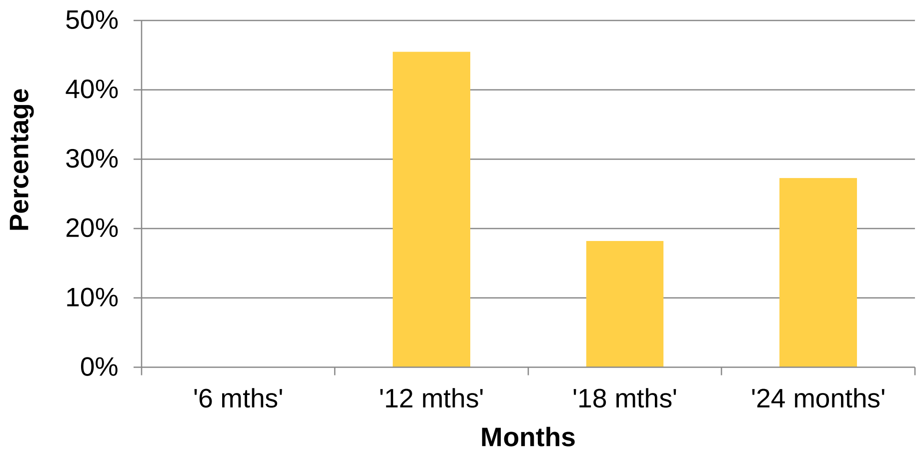
- In addition to any warranties given under the SPA, management gave warranties under the investment/shareholders' agreement in 83% of deals, an increase from the results in previous years
- Instances where management gave no warranties include those where there were founders and these types of warranties were included in the SPA or warranty deed
- Where management warranties were given, they were in respect of reports, the business plan and the management questionnaire
- Broadly speaking management warranties were capped at 1x/2x salary

Management warranties

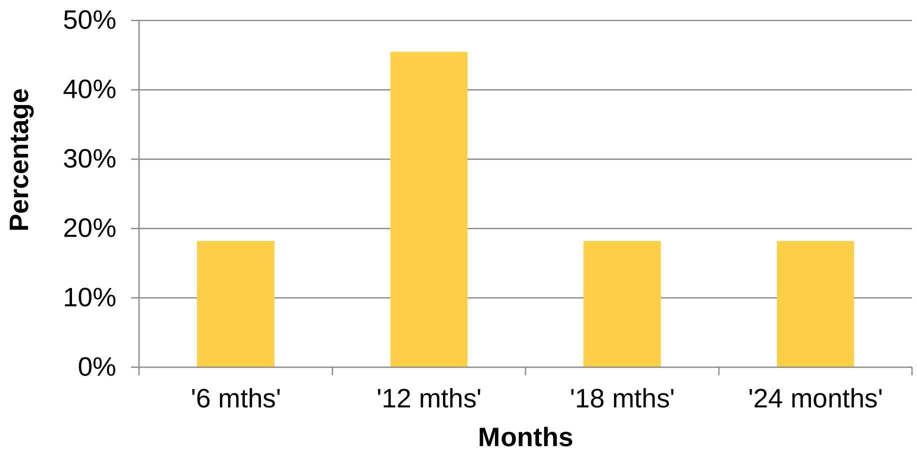


RESTRICTIVE COVENANTS/NON-COMPETE

Longest period for non-solicit

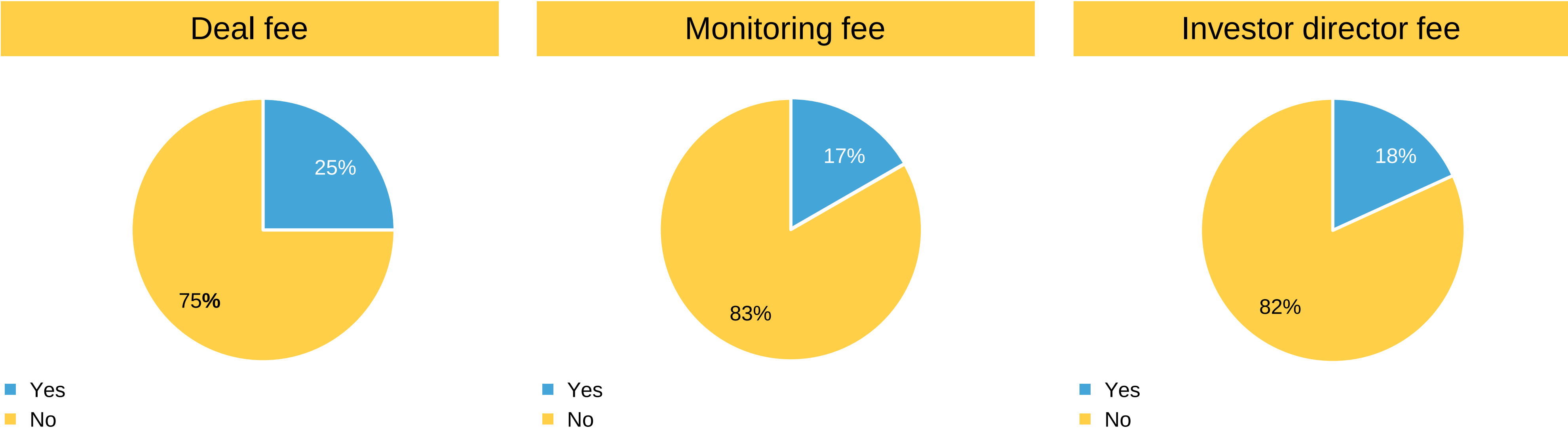


Longest period for non-compete

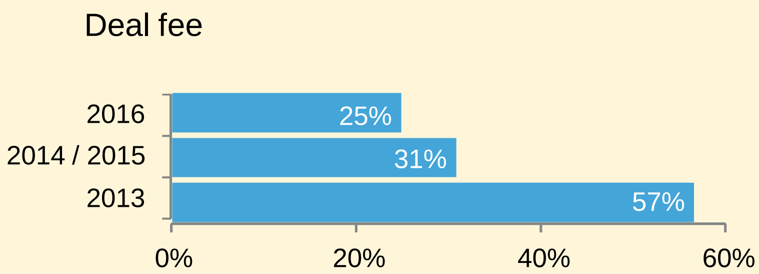


- 12 months is the default period for both non-solicit and non-compete provisions. A significant proportion of the results are at 24 months, however you must always be aware of enforceability risks the longer the period becomes. These results shows a similar trend to the results in our previous equity terms market surveys

FEES

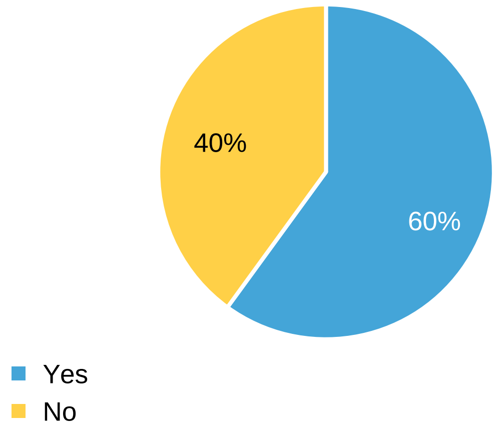


- Fees, a contentious area in private equity investments, appear to be less common overall in 2016, than in previous years
- Deal fees are payable to financial sponsors in only 25% of all deals compared to 57% and 31% in our 2013 and 2014/2015 equity terms market surveys respectively
- Monitoring fees were only paid in 17% of deals compared to 29% in 2014/2015 and 71% in our 2013 market survey
- However in 2016 investor director fees occurred in 18% of transactions, an increase from 7% seen last year



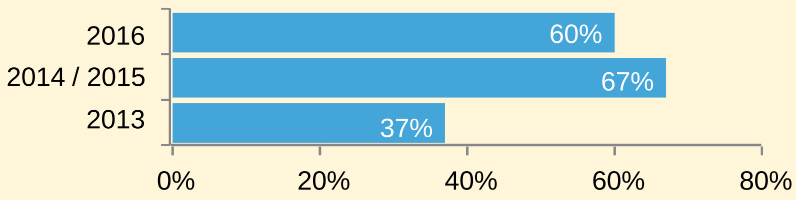
CROSS DEFAULT

Deals with cross default between employment agreement and investment agreement



- 60% of deals contained a cross default between the service agreement and investment agreement, similar to the result seen last year

Cross default



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