

Q2 2024

# UK Private Company Director

Welcome to the July 2024 issue of UK Private Company Director, the quarterly newsletter for directors of owner-managed, family, and private equity-backed businesses.

We cover financial, legal, tax, wealth management, and similar issues crucial to both building and realising the value of your business. Corbett Keeling's report on activity in buying and selling UK companies provides clear insights into investor appetite for acquiring businesses.

As always, we address topics of importance to directors of privately owned businesses:

- Activity in the private M&A market appears to be gathering momentum and the optimistic tone of our latest survey of market participants suggests a further increase in the second half of the year (pages 2 to 3).
- With buyers' due diligence requirements constantly tightening, business owners looking to sell must prepare carefully to withstand scrutiny and facilitate the transaction (page 4).
- It's easy to see your business as your pension, but proper pension planning can not only secure your financial well-being but also help support your business. We look at some practical steps (page 5).

All the best,



Megan Peel, Editor

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# Gathering Momentum

Last quarter, we observed that the vibrant mood among participants in the market for private M&A deals had yet to be reflected in the actual data. However, the figures are now turning more positive, and Jim Keeling of corporate finance advisor Corbett Keeling argues that there are grounds for optimism for the rest of the year.

We've reached the halfway point of the year. This is a good time to look back at what has happened over the past six months and, more importantly, to cast our gaze forward to what lies ahead.

First, I would note that our experience at Corbett Keeling matches the generally more positive deal data coming through. We will examine this in more detail shortly, but the gist of it is that the market is gathering momentum. The larger deals sector, generally a lead indicator of investor sentiment, has risen to the highest level in two years, and we see continued robust volume in deals under £150 million – reflecting steady interest in smaller companies, which is underpinning the market.

From our firm's perspective, it's certainly been a busy six months, with some excellent deals completed, more expected to close in the next half of the year, and some promising conversations with owners seeking advice on their exit strategies. For quality businesses looking to sell, achieving a sensible valuation should not be a problem in the current market.

And I'm glad to say we are not alone in sensing opportunity. The tone of our latest quarterly survey reveals that market participants are feeling decidedly upbeat. That sentiment will

be given a further boost if the Bank of England – and central banks elsewhere in the world – soon feel able to lower interest rates, stimulating further deal activity and prompting buyers to capitalise on new prospects.

Of course, there were always going to be concerns about political change, in what is the largest global election year in history. Here in the UK, we have a new government with a strong majority. While it has been careful to establish its credentials with businesses, it has also promised change. The government is in its honeymoon period, and only time will tell how business-friendly it will be in practice – and which sectors may benefit from its spending decisions.

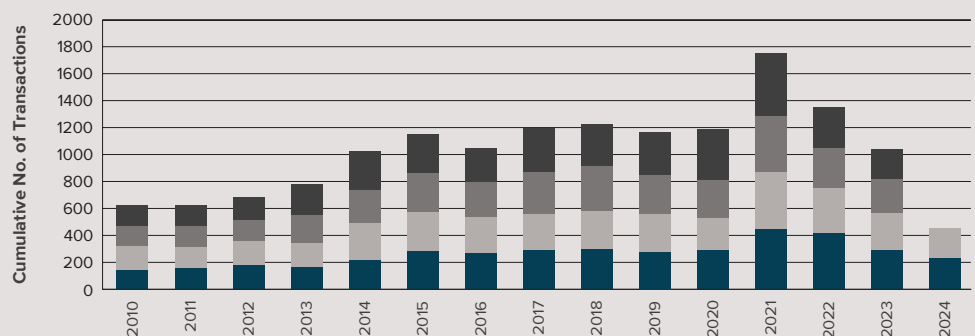
But, for any business owners planning for an exit who are concerned about the broader business environment or specifically about possible rises in Capital Gains Tax, don't hesitate to seek advice now.

Whatever happens, after 30 years working in this market through different political and economic regimes, I know all participants – owners and advisers alike – will continue to adapt to changing circumstances, roll their sleeves up and get business done.

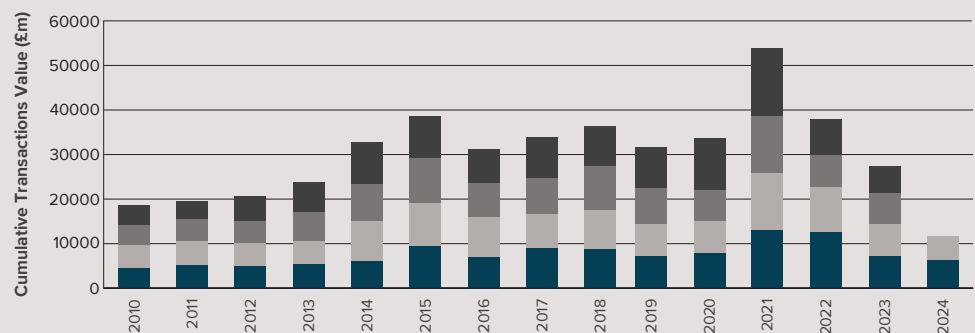
## Assessing the deal data

The number of transactions in the **smaller deals** sector (with enterprise value of less than £150 million) increased marginally to 228 deals, compared with 225 in the first quarter of the year. The aggregate value of transactions declined however from £6.3 billion to £5.6 billion.

Sub £150m Transactions by Volume



Sub £150m Transactions by Value

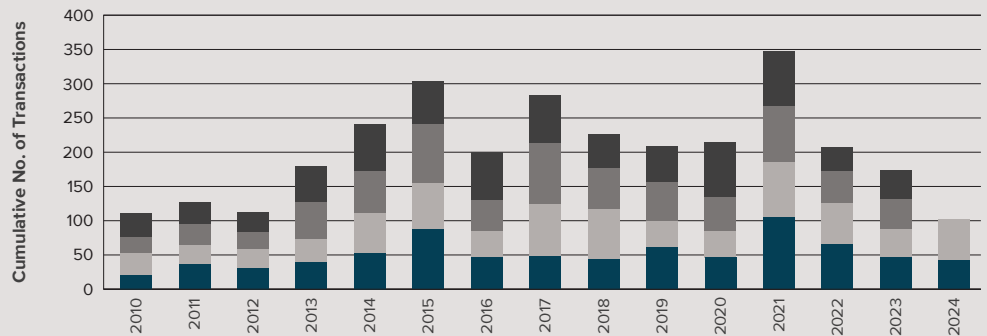


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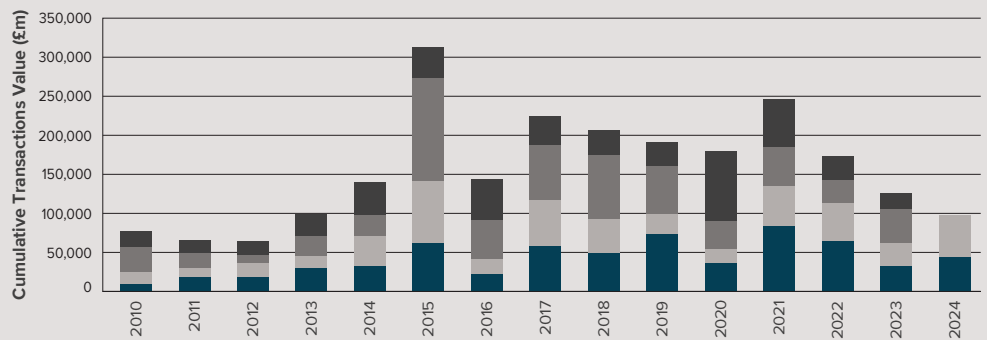
Data supplied by PitchBook.

The **larger deals** sector (enterprise value of £150 million or above) enjoyed a strong three months. The number of transactions increased from 42 to 61, and their total value was up from £43.7 billion to £53.5 billion, the highest quarterly figure for two years.

£150m+ Transactions by Volume



£150m+ Transactions by Value

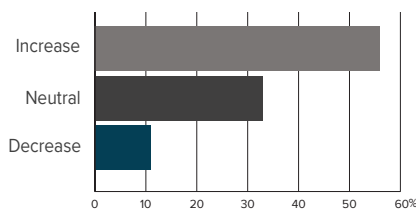


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## So what does our latest survey suggest?

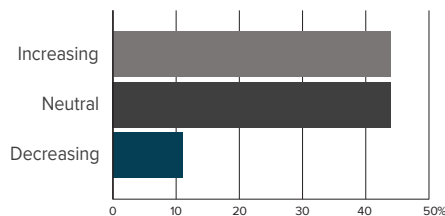
The marked increase in confidence we saw last quarter has continued, with respondents remaining in a decidedly optimistic mood.

**1** Do you expect deal volumes to increase or decrease?



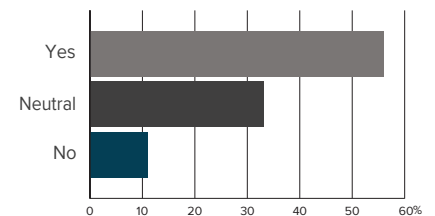
The percentage of respondents forecasting an increase in deal volumes over the coming months continued to rise, up from 43% to 56%, with only 11% predicting a decline. A third expected volumes to remain relatively unchanged.

**2** Is debt availability increasing, decreasing or neutral?



Last quarter's greater optimism on debt availability hasn't abated. Some 44% of respondents thought debt was becoming increasingly available, and a similar proportion thought it was unchanged.

**3** With inflation approaching the Bank of England's 2% target and interest rates expected to fall later this year, are you confident the overall M&A environment will improve in the second half of 2024?



This buoyant mood permeates the market's outlook on the overall backdrop for M&A. Only 11% expect a deterioration, while a clear majority are forecasting an improvement.

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# Selling owner-managed businesses

Abraham Lincoln's quote "Give me six hours to chop down a tree and I will spend the first four sharpening the axe" is particularly relevant in today's M&A market. Whilst hope builds for more benign M&A conditions, ensuring your business withstands the scrutiny of a buyer's due diligence remains key to a successful transaction. Preparation is everything writes James Goold, partner at global law firm Taylor Wessing.

## Understanding buyers' needs

Diligence requirements have tightened in recent years as buyers, particularly those from the US, seek greater assurance on businesses' quality and sustainable growth potential. The shifting of risk under key sale terms from sellers to warranty and indemnity (W&I) insurers has also meant enhanced diligence requirements as buyers look to maximise coverage.

## Sharpening the axe

Key areas to focus on when preparing for a sale include:

**Commercial relationships** – whether with customers, suppliers, agents or licensees, formal documentation will give the buyer confidence in their investment and the underlying business plan. Review key contracts to assess the contractual basis of strategically important financial commitments and revenue-generating relationships. Identify termination rights on the sale and understand their commercial implications.

**Intellectual property and related rights** – defective IP ownership can scupper value, especially in IP-rich businesses. Verify key IP is owned and where relevant registered, and seek confirmatory assignments, if necessary. Having processes for monitoring possible IP infringements will reassure buyers, and resolving infringement disputes before the sale will remove uncertainty.

**Ongoing disputes** – actual and potential disputes and investigations should be monitored, assessed and managed to minimise their impact on the value of the business. In an increasingly regulated world, demonstrating regulatory compliance, from GDPR to industry-specific regulations and ESG, is essential.

**Employment and immigration** – keep employee records and policies well maintained and updated. Have employment contracts of an appropriate standard, particularly for senior managers. Misclassification of contractors' and self-employed workers' employment status can lead to significant tax liabilities, so identify the position before a sale. Verify employees' right to work status.

**Share issues and tax** – issuing shares to employees and directors at below market value, or not in compliance with tax-favoured option schemes, can pose significant tax liability risks. This is a hot topic for HMRC, and buyers will look to pass these risks to the sellers through indemnities. Investigating any possible risks upfront can avoid significant issues later in a transaction.

**Third party consents** – where a trade sale is likely, give thought to anti-trust requirements. This is principally a buy-side concern, and analysis will depend on the buyer's relevant market share, turnover etc., but target data should be prepared to assist the review. If the business undertakes activities covered by foreign direct investment or national security regulations, these should be understood and factored into the sale process. For specifically regulated undertakings (e.g. in financial services), factor in the required regulatory change of control consents.

## How to secure value on a sale

In conclusion, it is vital to ensure a business's key commercial arrangements are contractually secure, its rights adequately protected and its legal obligations met. Equally important is a well organised data room, so bidders can readily assess these factors – particularly if under the pressure of a highly competitive auction process, when understanding the business at speed is essential. Sourcing the right adviser can be key to navigating such complicated issues.

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# Don't neglect your pension

“My business is my pension” is a common refrain among business owners. But is relying on a sale to fund your retirement a sound strategy? Faye Church of Rathbones explores the importance of pensions for your personal financial well-being and for supporting your business, providing actionable steps for private company owners.

## Why business owners often neglect pension investments

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Many business owners invest in pensions sporadically, if at all. A staggering 83% of owners of family-run businesses rely on their business to fund retirement, with 25% expecting it to cover over half of their retirement expenses. Of course, early-stage businesses face conflicting financial priorities. But even owners of more mature, profitable businesses depend on future sale proceeds for their retirement.

That can be a risky plan. External factors such as economic fluctuations, regulatory changes and market conditions can significantly impact your business's value. So diversifying your retirement planning is crucial for financial security. Here are some key steps to consider.

### Maximising pension contributions

Take advantage of your limited company status to make employer pension contributions from pre-tax income. This allows up to £60,000 a year into your pension with tax relief.

If your spouse is involved in the business, ensure they also receive pension contributions to maximise your combined allowances.

### Tax efficiency

Employer pension contributions are allowable business expenses, saving up to 19% in Corporation Tax.

Pension contributions avoid National Insurance, so you save 13.8% compared with paying the equivalent in salary.

### Inheritance Tax planning

Use pensions as generational planning tools. Your pension is outside your estate for inheritance tax purposes. You can leave the pension pot to whoever you choose.

### Support your business with your pension

Consider a Self-Invested Personal Pension (SIPP) or a Small Self-Administered Scheme (SSAS) for direct investment in UK commercial property. This allows you to support your business by purchasing company property via the pension fund.

Potential benefits include rent paid to your pension plan, rent treated as a company expense, avoiding Income Tax on rent received and Capital Gains Tax on any increase in your property's value on sale, and protection from creditors if the business fails.

### Diversification and liquidity

Avoid holding a significant proportion of your pension in one asset. Ensuring a diverse range of assets can help to mitigate risks.

Remember that property can take time to sell, which may affect retirement cash flow. Diversify to ensure liquidity.

### Use SSAS borrowing flexibility

SSAS allows you to borrow up to 50% of the pension's net value, repayable within five years, at an annual percentage rate at least 1% above base rate. This can be an invaluable source of liquidity for your business.

## Conclusion

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While your business can be a valuable asset for retirement, it is essential to seek advice and diversify your retirement planning. Building your pension can help not only ensure your financial security but also complement your business strategy.

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