WINDSOR DRAKE

WINDSOR DRAKE RESEARCH · 2026

Regulation as the Deal Clock

Windsor Drake is a sell-side M&A advisory firm focused on software, financial technology, artificial intelligence, cybersecurity, and other technology-enabled businesses in the lower middle market. The firm publishes research on transaction activity, deal structure, and valuation for founders, boards, and investors.

About this report

This report treats regulation as a clock and a gate: the force that sets how long a deal takes and, increasingly, who is allowed to buy. It maps the regimes that matter, antitrust, foreign-investment, and sector review, traces the 2025 to 2026 shift in posture, examines the new frontier of AI and data scrutiny, and introduces the Windsor Drake Regulatory Clock for assessing a deal's exposure. Its central argument is that regulation no longer only delays deals; it shapes the buyer list itself.

CONTENTS

Contents

OVERVIEW

Regulation decides who can buy, and when

Founders tend to think of regulation, if they think of it at all, as a delay near the end of a deal: a filing, a waiting period, a box to tick. In reality regulation is two forces at once, a clock that sets how long a deal takes and a gate that decides who is allowed to buy, and the second matters more than founders expect.

The clock is familiar. Above a size threshold, deals must be notified to the antitrust agencies and observe a waiting period, and complex or contested deals can face extended review that stretches the timeline by months.[1,2] The gate is less understood and more consequential. Because regulators scrutinize some buyers far more than others, the dominant platforms most intensely, foreign and especially Chinese buyers through national-security review, the regulatory exposure of a deal depends on who the buyer is. The same company can be sold cleanly to a sponsor or a mid-tier strategic and face a year of review if sold to a hyperscaler. Regulation, in other words, does not just slow the deal; it shapes the list of buyers a founder can realistically pursue.[3,4]

This report treats regulation as both clock and gate. It maps the regimes that matter, antitrust, foreign-investment, and sector review, shows how each sets timing, examines how scrutiny varies by buyer to filter the buyer list, traces the marked shift in posture between 2024 and 2026, and looks at the new frontier of AI and data scrutiny. It introduces the Windsor Drake Regulatory Clock for assessing a deal's exposure, and argues that a founder should factor regulation into the buyer strategy from the start, not discover it at the filing.

> *Regulation is not only a delay at the end of a deal. It is a gate at the start of one, deciding which buyers a founder can realistically pursue.*

The stakes are heightened by how fast the posture moves. The regulatory climate swung sharply between administrations, from an aggressive enforcement stance to a markedly more permissive one, and a deal's feasibility and timeline can depend on when in that cycle it is run.[3] A founder timing a sale is, whether they realize it or not, also timing the regulatory environment, and understanding that environment is part of choosing both when to sell and to whom.

THE MARKET IN BRIEF

The regulatory landscape in numbers

37% Share of 2025 U.S. enforcement actions ending in litigation or abandonment, down from 82% in 2024.[3]	**~$120M** Approximate U.S. HSR threshold above which deals must be notified and observe a waiting period.[1]	**2026** A court ruling vacated the burdensome new HSR rules introduced in early 2025, easing filings.[1]
Fast-track A CFIUS pilot now speeds review for trusted-ally investors while tightening scrutiny of others.[4]	**Rising** Global deal timelines, with regulatory review a major contributor for the largest deals.[2]	**Beyond share** Scrutiny of AI and data deals now extends past market share to innovation and ecosystem control.[5]

Windsor Drake view: the swing from 82% to 37% in contested outcomes is the headline, and the warning. Regulatory posture is not a fixed backdrop; it moves sharply with administrations, and a deal's feasibility can turn on when, and to whom, it is run.

The regulatory map

A technology deal can touch several regulatory regimes at once, each with its own trigger, timeline, and concerns. A founder should know which regimes a given deal implicates, because each adds time and some can block a buyer entirely.

EXHIBIT 1

The regimes that govern a technology deal

REGIME	WHAT IT REVIEWS	TRIGGER
U.S. antitrust (HSR)	Competition; market concentration	Deal size above the threshold
CFIUS	National security in foreign investment	Foreign buyer, sensitive sector or data
EU merger control	Competition across the single market	Turnover-based thresholds
UK (CMA)	Competition; material influence	Share-of-supply or turnover test
Sector regulators	Financial, telecom, defense, health	Regulated activity or licenses

Source: Windsor Drake, from antitrust and foreign-investment frameworks.[1,4] General; specific applicability is fact-dependent.

Antitrust and the size threshold

The foundation is antitrust review. In the United States, deals above the Hart-Scott-Rodino threshold, around a hundred and twenty million dollars, must be notified to the agencies and observe a waiting period before closing, and deals that raise competitive concerns can face an extended second-request review that adds many months.[1] The European Union and United Kingdom run their own merger control, the EU on turnover thresholds and the UK on a flexible share-of-supply test that can capture deals without a turnover trigger.[4] For a lower-middle-market company, many deals fall below these thresholds and avoid mandatory review, but a sale to a large acquirer, or one that combines significant market positions, can pull even a modest target into scrutiny.

Foreign investment and sector review

Two further regimes can matter as much as antitrust. National-security review of foreign investment, through CFIUS in the United States and equivalents elsewhere, examines deals involving foreign buyers, particularly in sensitive sectors or where the target holds significant data, and can block a transaction or force divestitures.[4] Sector regulators, in financial services, telecommunications, defense, and health, can require their own approvals where the target operates under a license or in a regulated activity. A founder whose company touches any of these, foreign buyers, sensitive data, a regulated sector, faces a more complex regulatory map than antitrust alone, and should map it early.

The practical point of the map is that a deal's regulatory exposure is the sum of the regimes it touches, and that sum depends on the company, the buyer, and the geography together. A domestic sponsor buying a sub-threshold software company faces almost no regulatory friction; a foreign buyer acquiring a data-rich company in a sensitive sector faces several regimes at once. Knowing which regimes a deal implicates, before choosing a buyer, is the first step in managing regulation as both clock and gate.

02 · THE TIMING

The clock: regulation as timing

Where regulation applies, it sets the timeline. The waiting periods and reviews are mandatory and largely outside the parties' control, and for the deals they touch, the regulatory clock often becomes the binding constraint on when a deal can close.

The mechanics are straightforward but consequential. A notified antitrust deal must observe a waiting period before closing, typically a month for the initial review, extended by many months if the agencies issue a second request for information.[1] Foreign-investment review adds its own timeline, and a deal subject to CFIUS can face an extended assessment, particularly where the buyer or sector draws concern.[4] Cross-border deals can require clearances in several jurisdictions at once, each on its own clock, and the slowest governs. For the deals that trigger these regimes, the sign-to-close period stretches to accommodate them, and the largest and most scrutinized deals take the longest.[2]

The largest deals wait longest

Regulatory delay is concentrated at the top. Small, sub-threshold, domestic deals close on the parties' own timeline; large, notified, or cross-border deals wait on the agencies, and the very largest can take a year or more to clear. Deal timelines have been rising globally, and regulatory review is a major contributor for the deals that face it.[2] A founder selling a large company, or selling to a large acquirer, should build the regulatory clock into the timeline from the outset, because it can dwarf the diligence and negotiation phases that founders tend to focus on.

> *For the deals it touches, the regulatory clock is the binding constraint. The largest and most scrutinized deals wait longest, and the slowest jurisdiction governs.*

The cost of the wait

A long regulatory clock is not a neutral delay. As the firm's report on the sale timeline argues, time is risk: a deal held open for a year of review is exposed to changes in the market, the business, and the buyer's circumstances, and the gap between signing and closing introduces the possibility that something breaks before completion. Regulatory delay also requires the parties to live with uncertainty, and to negotiate the allocation of regulatory risk, who bears the cost if approval is delayed or denied, which becomes a substantive part of the deal. The clock is not just a wait; it is a source of risk that must be managed and priced.

For most lower-middle-market deals, the regulatory clock is short or absent, and timing is governed by the process rather than the agencies. But for the deals that trigger review, regulation is the dominant timing factor, and a founder facing one should plan for it explicitly, anticipate the reviews, prepare filings early, and structure the deal to manage the risk of delay, rather than treating regulation as an afterthought to be handled at the end.

03 · THE FILTER

The gate: regulation as buyer filter

The most under-appreciated effect of regulation is that it does not apply equally to all buyers. Because scrutiny depends on who is buying, regulation filters the buyer list, and the buyers most able to pay a premium are often the most regulated.

This is the report's central, out-of-the-box argument. A founder choosing buyers is implicitly choosing regulatory exposure, because the same company faces wildly different review depending on the acquirer. A sale to a domestic private equity sponsor or a mid-sized strategic may face little or no review. A sale to a dominant platform, a hyperscaler, in a market where it already holds a strong position invites intense antitrust scrutiny. A sale to a foreign buyer, especially in a sensitive sector or with significant data, invites national-security review that can block the deal outright.[3,4] The buyer determines the regulatory exposure, and therefore the feasibility and timeline, as much as the company does.

EXHIBIT 2

Regulatory exposure by buyer type

BUYER	TYPICAL EXPOSURE	IMPLICATION FOR THE SELLER
Domestic sponsor / holder	Low; often sub-threshold	Fast, clean process
Mid-tier strategic	Low to moderate	Usually manageable review
Dominant platform / hyperscaler	High antitrust scrutiny	Premium, but delay and risk
Foreign buyer	National-security review	Possible block or conditions

Source: Windsor Drake, from antitrust and foreign-investment practice.[3,4] Exposure is fact-specific.

The premium-scrutiny trade-off

The uncomfortable pattern is that the buyers most able to pay the highest price, the dominant platforms, are often the most scrutinized. A hyperscaler may value a category-leading company more than any other buyer, and may also face the most intense antitrust review in acquiring it, introducing delay, conditions, or the risk of a block. A founder weighing such a buyer must price not just the premium but the regulatory risk that comes with it: a higher offer that may take a year to clear, or may not clear at all, against a lower offer from a less-scrutinized buyer that closes cleanly. Regulation turns the choice of buyer into a trade-off between price and certainty that founders rarely anticipate.

> *The buyers most able to pay the premium are often the most regulated. Regulation turns the choice of buyer into a trade-off between price and certainty.*

The lesson is that regulation belongs in the buyer strategy from the start, not at the filing. A founder building a buyer list should assess each candidate's regulatory exposure alongside its likely price, and should weigh a clean, certain close against a scrutinized premium deliberately. For some companies the regulatory gate effectively removes the largest buyers from realistic contention, reshaping the process toward sponsors and mid-tier strategics; for others a premium buyer is worth the regulatory risk. Either way, the gate is a feature of the buyer choice, and ignoring it until the end is how founders find a deal stalled or blocked after the leverage to choose differently is gone.

The 2025–2026 shift

The regulatory posture toward dealmaking swung sharply between 2024 and 2026, from an aggressive enforcement stance to a markedly more permissive one. The swing is good news for current dealmakers and a warning about how fast the environment can change.

The numbers capture the change. In 2024, under an aggressive enforcement regime, the great majority of announced enforcement actions, around eighty-two percent, ended in litigation challenging the deal or in the parties abandoning it.[3] In 2025, under a more pragmatic administration, that figure fell to under forty percent, with settlements becoming the most common outcome, a return to a posture that resolves concerns through remedies rather than blocking deals.[3] Procedural burdens eased too: a court vacated the costly new HSR filing rules introduced in early 2025, and the early-termination option for clearing uncontroversial deals quickly, suspended for years, returned.[1]

82% → 37%

Share of U.S. enforcement actions ending in litigation or abandonment, 2024 to 2025.

What the shift enables

A more permissive posture widens the field of feasible deals. Transactions that would have drawn a challenge under the prior regime, including some that combine significant positions, become more achievable when the agencies prefer settlements to blocks, and the clearance of large deals signals that even substantial transactions can proceed.[3] For founders, this means the buyer gate has opened somewhat: buyers that regulatory risk might have excluded, including larger strategics, are more viable counterparties than they were, and the premium-versus-scrutiny trade-off has tilted toward feasibility. The current environment is, on balance, friendly to getting deals done.

The warning in the swing

But the speed of the swing is itself the warning. A posture that moved this far in a single administration can move back, and a deal's feasibility and timeline depend on the regime in force when it is run.[3] A founder relying on a permissive environment is relying on a condition that is not permanent, and one that can change with an election or a shift in priorities. The lesson is not to assume the current openness will last, but to recognize that regulatory posture is a variable to be timed, like a market, and that a window of permissiveness is an opportunity to act while it is open.

A posture that swung from 82% to 37% in a single administration can swing back. Regulatory openness is a window, not a permanent condition.

The shift also does not apply evenly. Even in a permissive overall climate, specific areas, foreign investment from certain countries, and as the next section describes, AI and data, remain under sharp and in some respects intensifying scrutiny.[4,5] A founder should read the environment in detail rather than as a single setting, recognizing that the gate has opened for many buyers while staying firmly closed for others. The general posture is friendlier; the specific exposures still depend on the buyer, the sector, and the data.

CASE STUDIES

Regulation in action

The abstract becomes concrete in deals that cleared and deals that died. A short set of recent transactions shows the clock, the gate, and the posture swing operating on real companies.

Cleared: Google and Wiz

Google's roughly thirty-two-billion-dollar acquisition of the cloud-security company Wiz, the largest cybersecurity deal on record, was agreed and cleared in the more permissive climate, after an earlier, lower approach had not proceeded.[3] Its clearance signaled that even very large technology deals, by a dominant platform, can proceed under the current posture, an outcome that would have been far less certain under the prior, aggressive regime. For founders, the deal is a marker of how much the gate had opened for large strategic buyers, and of how the same transaction's feasibility depends on the climate in which it is run.

Died: the deals the prior posture blocked

The contrast is the wave of large technology deals abandoned under the prior, aggressive enforcement climate, in which a substantial design-software combination and a major consumer-robotics acquisition, among others, were called off in the face of antitrust opposition, particularly from European and United Kingdom regulators.[3,4] These deals did not fail on their economics; they failed at the gate, blocked or abandoned because the regulatory posture of the moment would not allow them. They are the clearest demonstration that regulation can override a deal's commercial logic entirely, and that the same transaction can be feasible in one climate and impossible in another.

The lesson of the contrast

Read together, the cleared and abandoned deals make the report's argument vivid. The economics of these transactions were sound; what differed was the regulatory environment and the buyer's exposure. A founder who had pinned an exit to a heavily scrutinized buyer in the aggressive climate could have watched the deal die at the gate after a year of effort, while the same buyer in the permissive climate would clear. The deals that cleared and the deals that died were separated not by their merits but by the clock, the gate, and the posture, the three forces this report exists to make a founder plan around.

> *These deals did not fail on their economics. They failed at the gate. The same transaction can be feasible in one climate and impossible in another.*

The case studies also underscore why founders should not over-fit to the moment. The permissive climate that cleared the largest deals is a window, and the aggressive climate that blocked the earlier ones is a recent memory, not ancient history. A founder planning an exit to a scrutinized buyer should treat the current openness as an opportunity to act, not a permanent condition to rely on, and should build the buyer strategy with the knowledge that the gate can close again.

05 · THE FRONTIER

AI and data: the new frontier

Even as the general posture eased, scrutiny of artificial intelligence and data-rich deals intensified and broadened. Regulators are asking new questions that go beyond traditional market share, and founders in these areas face a regulatory frontier still being drawn.

The defining change is the dimension of concern. Traditional merger review asks whether a deal raises market share or prices in a defined market. Review of AI and data deals increasingly asks broader questions: whether a deal concentrates control of innovation, whether it entrenches an ecosystem, whether access to scarce inputs, computing, data, talent, is being foreclosed, and whether a dominant position in one layer will shape future markets.[5] These are harder to measure than market share and give regulators more latitude to scrutinize deals that would pass a conventional test, which makes AI and data acquisitions less predictable even in a permissive era.

The structures under examination

Regulators have also turned attention to the structures the AI sector uses to grow, including the large partnerships between cloud providers and AI developers and the talent-and-licensing deals that the firm's AI

Acquihire Report examines, in which a buyer takes a startup's team and a license without acquiring the company.[5] Agencies have studied these arrangements and signaled they may look through their form to their substance, asking whether a coordinated license and hire is in effect an acquisition that evaded review. For founders building in AI, this means even non-acquisition exits carry regulatory attention they once would not have, and the structures designed to avoid review are themselves under the microscope.

> *Review of AI and data deals has moved beyond market share to innovation, ecosystems, and access to scarce inputs, harder to measure, and harder to predict.*

The cross-border dimension

Data and AI also sharpen national-security review. A data-rich company, or one with AI capabilities seen as strategically significant, draws heightened foreign-investment scrutiny, and review of cross-border AI and data deals is tightening even as allies are fast-tracked.[4] A founder whose company holds significant data or strategic AI capability should expect a foreign buyer to face real review, and should weigh that exposure when considering cross-border interest. The combination of broadened antitrust concern and sharpened security review makes AI and data the most regulated frontier in technology M&A, regardless of the general posture.

For founders in AI and data-rich businesses, the lesson is that the regulatory environment is least settled exactly where the deal activity is hottest. The rules are being drawn in real time, the questions are broader and less predictable than elsewhere, and even non-acquisition structures attract attention. These founders should engage regulatory counsel early and specifically, build regulatory exposure into both the buyer strategy and the deal structure, and expect more scrutiny than the permissive headline suggests. The frontier is open for business, but it is watched more closely than any other part of the market.

06 · THE FRAMEWORK

The Regulatory Clock framework

To make regulatory exposure usable, a founder needs a way to assess it before choosing a buyer. The Regulatory Clock scores a deal across the factors that drive review, turning a complex legal question into a planning input.

EXHIBIT 3

The Regulatory Clock: factors that drive exposure

FACTOR	LOW EXPOSURE	HIGH EXPOSURE
Deal size	Below notification thresholds	Large; notified; possible second request
Buyer type	Domestic sponsor or mid-tier strategic	Dominant platform or foreign buyer
Market position	No overlap or concentration	Combines significant market positions
Sector	Unregulated software	Financial, defense, telecom, health
Data and AI	Limited sensitive data	Data-rich or strategic AI capability
Geography	Single jurisdiction	Cross-border; multiple clearances

Source: Windsor Drake Regulatory Clock. A planning tool; a true assessment requires regulatory counsel.

The Clock works by reading a deal across the six factors together. A deal that scores low on all of them, a sub-threshold sale of an unregulated software company to a domestic sponsor with no market overlap, faces almost no regulatory friction and can be planned as if regulation does not apply. A deal that scores high on several, a large, cross-border sale of a data-rich company to a dominant platform in a concentrated market, faces multiple regimes, a long clock, and real risk at the gate, and must be planned around regulation from the start. Most deals sit between, and the Clock helps a founder locate theirs and plan accordingly.

Score the deal across size, buyer, market position, sector, data, and geography. The sum tells a founder whether regulation is a footnote or the central constraint.

Reading the score across buyers

The Clock is most useful run not once but once per candidate buyer, because the company's own factors, sector, data, size, are constant while the buyer factors, type, market position, geography, vary. Scoring each buyer separately reveals a spread that the company alone would hide: a domestic sponsor scoring green, a mid-tier strategic amber, a dominant platform or foreign buyer red. That spread is the buyer-gate made visible, and it lets a founder rank candidates not only by the price they might pay but by the regulatory path they would face. Two buyers offering similar prices can sit at opposite ends of the Clock, and the lower-exposure one is worth more in expected, risk-adjusted terms even at the same headline, because it is more likely to close and to close sooner. Running the Clock per buyer turns a vague sense of regulatory risk into a concrete input that ranks the buyer list.

The framework's value is that it puts regulation into the buyer decision rather than the closing checklist. By scoring each potential buyer's exposure alongside its likely price, a founder can see the full trade-off, this buyer pays more but scores high on the Clock and may take a year or stall; that buyer pays less but closes cleanly, and choose deliberately. The Clock does not replace legal advice, which remains essential for any real assessment, but it gives a founder the structure to ask the right questions early and to factor the answers into the strategy while there is still time to act on them.

IN PRACTICE

Structuring to ease review

Where a deal will face review, the structure and the preparation can materially affect how long it takes and how likely it is to clear. A founder cannot remove regulation, but can shape the deal to give it the best path through.

The first lever is the filing itself. Preparing a complete, well-organized notification, and anticipating the agencies' likely questions, speeds review and reduces the chance of a burdensome second request. Experienced antitrust counsel can frame the competitive narrative, defining the relevant market, evidencing the absence of harm, in a way that addresses concerns before they harden, and can advise on early, informal engagement with the agencies where that helps. Much of the delay in a notified deal comes from surprises and gaps in the filing, the regulatory equivalent of the diligence surprises that kill commercial deals, and a prepared filing avoids them.

The second lever is the deal's design. Where a combination raises a specific concern, structuring a remedy in advance, a divestiture, a carve-out, a behavioral commitment, can convert a deal the agencies would challenge into one they will settle, particularly in a climate that prefers remedies to blocks. Allocating regulatory risk clearly in the agreement, with obligations to pursue approval and to accept reasonable remedies, gives both parties confidence to proceed. And timing the filing and the broader deal to a favorable posture, where the parties have flexibility, can be the difference between a clearance and a fight. None of this removes the regulator's discretion, but it stacks the odds toward a clean, timely outcome.

> *A founder cannot remove regulation, but can shape the filing, the remedies, and the risk allocation to give the deal its best path through the gate.*

The broader point is that regulatory outcomes are not purely exogenous. A well-prepared, well-structured, well-timed deal, advised by counsel who anticipate the agencies' concerns, clears faster and more reliably than a poorly prepared one, just as a well-prepared company survives commercial diligence better than an unprepared one. The founder who invests in the regulatory preparation, alongside the commercial preparation, gives a scrutinized deal its best chance, and that investment is most valuable precisely where the regulatory exposure is highest.

07 · APPLICATION

What it means for founders

Regulation translates into a set of moves a founder should make early, when the buyer strategy is still being shaped and there is time to act on the exposure.

Assess regulatory exposure before building the buyer list

Use the Regulatory Clock to assess each potential buyer's exposure alongside its likely price, before the process begins. Regulation is a feature of the buyer choice, and assessing it early lets a founder build a buyer list that balances price against feasibility, rather than discovering at the filing that the preferred buyer faces a year of review.

Weigh the premium-scrutiny trade-off deliberately

The buyers able to pay the most are often the most scrutinized. A founder should weigh a scrutinized premium against a clean, certain close on purpose, deciding how much regulatory risk and delay a higher price is worth, rather than chasing the headline and absorbing the regulatory consequences by default.

Negotiate the allocation of regulatory risk

Where a deal will face review, who bears the cost and risk of delay or denial becomes a substantive term. A founder should negotiate the regulatory-risk allocation, the obligations to seek approval, the remedies a buyer will accept, the consequences if clearance fails, as carefully as price, because in a regulated deal these terms can determine whether the founder ends up with a closed deal or a stalled one.

Engage regulatory counsel early, especially in AI and data

Regulatory questions are complex and fact-specific, and the AI and data frontier is least settled. A founder should engage antitrust and, where relevant, foreign-investment counsel early, not at the filing, to assess exposure, plan filings, and structure the deal to manage risk. In AI and data-rich businesses this is essential, because even non-acquisition structures now draw attention.

Time the posture as well as the market

Regulatory posture swings, and a window of permissiveness is an opportunity. A founder with flexibility on timing should recognize that the regulatory environment is part of what they are timing, and that a friendly posture can make feasible a deal, or a buyer, that a hostile one would not. Timing a sale includes reading the regulatory climate, not just the market.

The unifying message is that regulation belongs in the strategy, not the closing binder. A founder who assesses exposure early, weighs the premium-scrutiny trade-off, negotiates the risk allocation, engages counsel, and reads the posture will run a process that accounts for regulation as both clock and gate, and will avoid the deals that stall or die because regulation was treated as an afterthought. Regulation shapes who can buy and when; the prepared founder shapes the process around it.

PITFALLS

Common mistakes about regulation

Founders make a recurring set of errors in treating regulation, most stemming from leaving it to the end. Each can cost a deal, and each is avoidable with earlier attention.

Treating regulation as a closing-checklist item

The root error is regarding regulation as a formality handled near closing rather than a strategic factor in the buyer choice. By the time a founder reaches the filing, the buyer is chosen, exclusivity is granted, and the regulatory exposure is fixed. The opportunity to manage regulation, by selecting buyers with lower exposure or structuring to ease review, is at the start, not the end, and a founder who waits has forfeited it.

Ignoring the buyer-dependence of exposure

Founders often assume regulatory risk is a property of their company alone, when it depends heavily on the buyer. The same company faces almost no review with one buyer and a year of it with another. A founder who builds a buyer list without weighing each candidate's exposure may steer toward the very buyer most likely to stall, when a comparable, cleaner buyer was available.

Assuming the current posture will last

A founder planning around today's permissive climate may be planning around a condition that changes before the deal closes or before the next deal begins. Posture swings with administrations, and a strategy that depends on a friendly regime is fragile. The prudent course is to use a favorable window while it is open and to avoid betting a deal's feasibility on the climate holding.

Underestimating AI and data scrutiny

Founders in AI and data-rich businesses sometimes assume the general permissive posture protects them, when scrutiny of their specific area is rising and broadening. Even non-acquisition structures draw attention. A founder who reads only the headline posture, and not the frontier-specific intensification, may underprepare for the review their deal will actually face.

Failing to negotiate regulatory-risk terms

In a deal that will face review, the terms governing regulatory risk, who must seek approval, what remedies a buyer will accept, what happens if clearance fails, are substantive and often overlooked. A founder who leaves these terms thin can find that a buyer walks when review gets hard, or that the seller bears the cost of a delay the buyer caused. These terms deserve real negotiation, not boilerplate.

> *The root error is treating regulation as a closing formality. By the filing, the buyer is chosen and the exposure is fixed. The leverage to manage it was at the start.*

The mistakes share a single correction: bring regulation forward, into the buyer strategy and the term sheet, rather than leaving it to the end. A founder who assesses exposure before choosing buyers, weighs the buyer-dependence of risk, treats the posture as a window, prepares for frontier scrutiny, and negotiates the regulatory terms will avoid the errors that strand deals at the gate. Regulation handled early is a manageable variable; regulation discovered late is a deal-killer.

08 · OUTLOOK

Outlook

The regulatory environment is friendlier than it was, but the friendliness is uneven and impermanent. A founder should plan for a permissive general posture, sharp exceptions, and the possibility of a swing.

A permissive but reversible climate

The general posture is likely to remain comparatively permissive in the near term, with settlements preferred to blocks and procedural burdens eased.[1,3] This is a favorable window for dealmaking, and founders with deals to do, or buyers that regulatory risk would once have excluded, have an opportunity while it lasts. But the swing that produced it can reverse, and a founder should treat the openness as a window to use rather than a permanent feature to rely on. Reading the posture, and acting while it is favorable, is part of timing a sale.

AI and data scrutiny rises regardless

The exception to the permissive trend is AI and data, where scrutiny is broadening even as the general posture eases.[5] Regulators across jurisdictions are developing the tools and the appetite to examine these deals on dimensions beyond market share, and the structures the sector uses are themselves under review. Founders in AI and data-rich businesses should expect this frontier to grow more regulated over time, not less, and should plan for scrutiny that runs counter to the general easing.

Cross-border tightens selectively

Foreign-investment review is bifurcating: faster for trusted allies, sharper for investors of concern, particularly from China and in sensitive sectors.[4] The trend is toward a more selective regime that speeds friendly capital and scrutinizes the rest, which means a founder's cross-border options depend increasingly on where the buyer is from. Allied buyers may face an easier path than before; others may face a harder one. The cross-border gate is not uniformly opening or closing; it is sorting.

The general posture eased, but AI and data scrutiny is rising and cross-border review is sorting buyers by origin. The environment is not one setting; it is many.

The conclusion mirrors the report. Regulation is clock and gate, it moves with the political cycle, and it applies unevenly across buyers, sectors, and geographies. A founder who reads it in detail, plans the buyer strategy around it, and acts while favorable windows are open will navigate it far better than one who treats it as a uniform, fixed backdrop. The environment today is friendlier for many deals and sharper for some, and knowing which is which, for a specific company and a specific buyer, is the regulatory work that protects a sale.

BY SECTOR

The regulatory hot zones

Regulatory exposure clusters in certain sectors, and a founder should know whether their company sits in a hot zone, because it raises the baseline scrutiny regardless of the buyer.

Artificial intelligence	Broadening scrutiny on innovation and ecosystem control; even non-acquisition structures watched.
Data-rich businesses	Heightened antitrust and national-security attention to data concentration and access.
Financial services / fintech	Sector regulators and licensing add approvals alongside antitrust.
Defense and critical infrastructure	Strong national-security review, especially with foreign buyers.
Telecom and media	Sector-specific approvals and ownership rules.
Healthcare	Sector regulation, data sensitivity, and consolidation concern.
Unregulated horizontal software	Generally the coolest zone; review driven mainly by size and buyer.

Source: Windsor Drake, from antitrust, foreign-investment, and sector-regulation practice. General; applicability is fact-specific.

A company in a hot zone carries a higher regulatory baseline that the buyer choice then raises or lowers from. An AI or data-rich company, or one in a regulated sector, should assume scrutiny is part of any meaningful deal and prepare accordingly, while a company in unregulated horizontal software can often treat regulation as a function of size and buyer alone. Knowing the zone tells a founder how much regulatory work a sale will require before they even pick a buyer, and a company that sits in a hot zone should build regulatory preparation into the sale process from the outset rather than treating it as an exception.

> *A company in a hot zone carries a higher baseline that the buyer choice adjusts from. Know the zone before picking the buyer.*

CONCLUSION

Plan the buyer list around the gate

Regulation is usually treated as the last hurdle in a deal. It is better understood as one of the first considerations, because it decides not only how long a deal takes but which buyers a founder can realistically pursue.

The clock is the familiar half: notified deals wait on the agencies, cross-border deals wait on the slowest jurisdiction, and the largest and most scrutinized deals wait longest. The gate is the half founders miss: scrutiny depends on the buyer, so the same company faces a clean, fast sale to a domestic sponsor and a year of review, or a block, in a sale to a dominant platform or a foreign acquirer. The buyers most able to pay the premium are often the most regulated, turning the choice of buyer into a trade-off between price and certainty that regulation, not the founder, imposes.

The response is to bring regulation into the strategy from the start. Assess each buyer's exposure with the Regulatory Clock, weigh the premium-scrutiny trade-off deliberately, negotiate the regulatory-risk allocation, engage counsel early, and read the posture, which swings with administrations and bites hardest in AI and data, as a variable to be timed. A founder who does this builds a buyer list that accounts for the gate and a timeline that accounts for the clock, and avoids the deals that stall or die because regulation was left to the end. Regulation decides who can buy and when. The prepared founder decides around it.

> *Regulation decides who can buy and when. The founder who plans the buyer list around the gate, not the closing binder, controls what regulation would otherwise control for them.*

REFERENCE

Regulatory terms, defined

The terms below recur throughout this report and across merger and foreign-investment regulation.

Hart-Scott-Rodino (HSR)	The U.S. premerger notification regime requiring filing and a waiting period for deals above a threshold.
Second request	An agency demand for extensive information that extends antitrust review by many months.
Early termination	Clearance of an uncontroversial deal before the waiting period ends.
CFIUS	The U.S. committee that reviews foreign investment for national-security risk.
EU merger control	The European competition review of deals meeting turnover thresholds.
Share-of-supply test	The UK basis for asserting jurisdiction without a turnover trigger.
Remedy / divestiture	A condition a buyer accepts to clear a deal, such as selling part of the business.
Regulatory-risk allocation	The deal terms governing who bears the cost and risk of obtaining approval.
Regulatory Clock	Windsor Drake's framework for scoring a deal's regulatory exposure.

Source: Windsor Drake. Definitions are for general orientation, not legal definitions.

THE EARLY READ

Into 2026: the clock gets more complex

If regulation is the clock that decides who can buy and when, 2026 added gears to it. A whiplash over federal premerger rules, a spread of state-level filing regimes, and sharpened scrutiny of foreign and AI-related deals made the regulatory leg of a transaction less predictable, not more, even under an administration widely expected to ease it.

The federal picture turned procedurally turbulent. A district court vacated the expanded HSR premerger reporting form in February 2026, an appeals court declined to stay that ruling in March, the old form returned to effect, and the agencies signaled a fresh rulemaking that could repackage and broaden the vacated requirements. Enforcement, far from laissez-faire, stayed serious in technology and healthcare, with the agencies in 2025 challenging twelve mergers and settling nine by consent order, while resuming early terminations for clearly unproblematic deals.

> *An administration expected to ease deals instead added gears to the clock: HSR whiplash, new state filings, and sharper foreign-investment scrutiny made 2026 less predictable, not more.*

New layers, new uncertainty

Beyond the federal whiplash, the regulatory map grew more crowded. States led by Washington and Colorado enacted their own pre-merger notification laws, requiring contemporaneous state filings for deals that trip both federal and state thresholds, and the agencies opened inquiries into disclosure around foreign investment and sovereign wealth. Add the prospect of mid-term elections reshaping the posture mid-year, and the clock a founder must run a deal against carries more moving parts and more uncertainty than it did in 2025.

What it means for founders

The lesson of this report is amplified: which buyers a founder can realistically pursue, and how long a deal will take, are set by a regulatory clock that grew more complex in 2026. The buyers most able to pay, the largest strategics, remain the most scrutinized, and the path to clearing a deal with them now runs through federal uncertainty, state filings, and foreign-investment review. Mapping that exposure before launching a process, and choosing a buyer set with it in mind, is more essential in 2026 than it has been in years.

Sources for this section: Norton Rose Fulbright and White & Case (HSR form vacatur, 2026 merger-control trends); Cooley (2026 HSR thresholds); Lexology and Rule Garza Howley (2026 antitrust outlook, state pre-merger laws, enforcement counts); Windsor Drake analysis.

Methodology and sources

This report draws on published legal analysis of antitrust, foreign-investment, and sector regulation, on M&A process research, and on Windsor Drake's reading of the public record, covering 2024 through mid-2026. The enforcement-outcome figures and the description of the posture shift come from year-in-review analyses by leading firms; the procedural developments, including the HSR rules and early termination, and the CFIUS pilot, come from contemporaneous legal commentary. These describe a fast-moving area as of mid-2026 and may not reflect the current state of the law; the descriptions are general and directional.

The Regulatory Clock and the buyer-exposure framework are Windsor Drake analytical tools intended to help founders factor regulation into strategy; they organize the drivers of review and are not a substitute for legal advice. Regulatory exposure for any specific deal must be assessed with qualified antitrust and, where relevant, foreign-investment counsel. Nothing in this report is legal, investment, tax, or accounting advice.

Endnotes and sources

1. HSR thresholds, the 2025 rules and their 2026 vacatur, and the return of early termination: Regulatory & Compliance, HSR/Antitrust coverage; Cleary Gottlieb, "M&A: 2025 in Review and a Look Ahead to 2026."

2. Rising deal timelines and regulatory contribution: Goodwin, "M&A Deal Timelines Rise Across the Globe" (2025).

3. Enforcement climate and the posture shift (37.5% of 2025 actions in litigation/abandonment versus 82% in 2024; settlements preferred): Cleary Gottlieb (above); Morrison & Foerster, "M&A in 2025 and Trends for 2026."

4. CFIUS fast-track pilot and cross-border review; EU and UK frameworks: Akin, "2026 Perspectives in Private Equity: Antitrust, Competition & Cross-Border Investment"; Clifford Chance antitrust and FDI insights; WilmerHale, "AI and EU Merger Control."

5. AI and data scrutiny beyond market share, and review of AI structures: Cleary Gottlieb and Baker McKenzie 2026 outlooks; FTC staff report on AI partnerships and investments. See also Windsor Drake, "The AI Acquihire Report."

ABOUT

About Windsor Drake Research

Windsor Drake is a sell-side M&A advisory firm for founders and boards of software, financial technology, artificial intelligence, and cybersecurity companies in the lower middle market.

The firm advises technology founders through the full arc of a sale, from positioning the company and building the buyer universe to managing the regulatory and process risks that decide whether a deal closes. Its research program exists to make the dynamics that decide outcomes legible to the people on the selling side, who face these transactions once or twice in a career against buyers who do them constantly.

This report is part of the Windsor Drake Research series, a set of independent studies on valuation, deal structure, process, and consolidation across the firm's sectors. Companion titles examine the structure of private deals, why deals die, the sale timeline, what founders actually keep at exit, the most active acquirers of software companies, the strategic-versus-sponsor choice, the talent-led acquisition of AI companies, the consolidation of the cybersecurity industry, and the roll-up of vertical software. The series is intended to be read by founders, boards, investors, and the journalists and analysts who cover these markets.

Contact

Windsor Drake maintains offices in Toronto and New York. Founders considering a transaction, and members of the press citing this research, can reach the firm through windsordrake.com.

Windsor Drake Research · Toronto · New York · windsordrake.com