THE INDIANA LAWYER

Tariffs create uncertainty for M&A activity

April 17, 2025 | Daniel Carson

KEYWORDS **MERGERS & ACQUISITIONS** / **TAFT STETTINIUS & HOLLISTER**

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Since President Donald Trump's April 2 "Liberation Day," the federal government's use of tariffs has dramatically altered the country's foreign trade landscape and sent domestic and foreign financial markets on a wild ride.

The impact of the tariffs also has extended to merger and acquisition activity, with M&A attorneys trying to keep pace with Trump's starts, stops and pauses and how they might affect potential deals.

Robert Greising, a partner at Krieg DeVault LLP, said the new tariffs have created uncertainty in the transaction world.

"I've not seen a deal get pulled because of that, but certainly we hear that conversation going on," Greising said. And that has created a wait-and-see attitude.

Greising noted that if the administration took a single direction with its new tariffs, companies and M&A attorneys advising on potential deals could adjust their financial models.

But the uncertainty of Trump's tariffs has impacted valuation of target companies and quality of earnings reports, which are defined by Bridgepoint Consulting as "a step in M&A due diligence that provides a detailed analysis of financial and accounting findings to help buyers gain a clearer understanding of a vendor's business. "

Greising said the location of a company's suppliers and how they are subject to tariffs also could impact an M&A transaction.

Companies dependent, for example, on European trade may be breathing a sigh of relief, he emphasized.

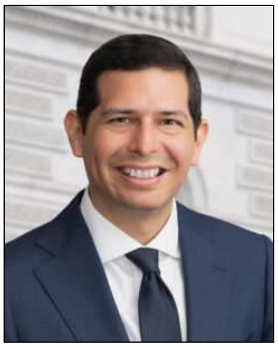
Trump initially imposed a 20% levy on goods from the European Union, but then paused them it to give the EU a chance to negotiate with the U.S.

However, companies that rely on consumer products imported from China aren't breathing so easily, with China facing 145% taxes on exports to the U.S. and responding with 125% tariffs on American exports.

Issues presented by tariffs

In March, USA Today reported that, even a little less than a month before Trump's "Liberation Day" tariffs announcement, the pace of U.S. mergers and acquisitions in the first two months of 2025 was the weakest since the 2008-2009 financial crisis with just 1,603 deals signed, making it the slowest open by volume since 2009, Dealogic data showed.

Total deals fell more than 19%, while the total value dropped 29% to $248.78 billion from the first two months last year.



Luis Arandia

Luis Arandia, a partner in Barnes & Thornburg's Washington D.C. office, said the way Trump is imposing tariffs now is different than during his first term, because the president is invoking a tariff authority that hasn't been previously used.

Clinton Yu, also a partner in Barnes & Thornburg's D.C. office, said what is surprising to him is the wide range and higher tariff rates, with reciprocal rates higher than people anticipated.

Arandia and Yu wrote a recent article for Bloomberg Law where they expounded on the issues that the tariffs present for new M&A activity, including private equity, and the higher risks created for deals.

The attorneys wrote that trade policies from Trump are forcing businesses and advisers in M&A transactions to proactively assess the effect of tariffs on valuation and identify potential tariff liability.

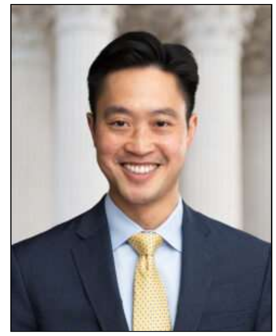
They said Trump's America First Trade Policy memorandum presents an expansive vision to use new or expanded tariffs.

Arandia and Yu pointed out, that in the president's first three months in office, under the International Emergency Economic Powers Act, the administration has taken tariff actions against all trading partners, including against the country's largest trading partners—Mexico, Canada, China, and the European Union.

"Though the IEEPA tariffs essentially apply to all products, the tariffs particularly affect major sectors with complex supply chains, such as automotive, aerospace, pharmaceuticals, machinery, food and beverage, energy, and electronics," the Barnes & Thornburg attorneys wrote.

Yu said that, in a M&A transaction, attorneys will advise clients to figure out issues like general import profiles, tariff classifications, total values of a company's imports and diversity of supply chains.

Arandia gave an example of a potential buyer finding out, through due diligence, that a target company in a M&A deal owes $1 million in custom duties.



Clinton Yu

He said the question becomes: does the acquirer make the target company pay the duties before the deal, or buy the company and deal with the duties after the purchase?

In spite of the unrest, Yu said he hasn't seen a specific M&A transaction that's been dropped because of the new tariffs.

"It sounds like there's a good amount of M&A activity," Yu said, adding "I know that deal partners are looking at ways to make a deal close without delaying due to tariffs."

Looking ahead

National law firm Dykema released its 20th Annual M&A Outlook Survey in October, surveying more than 200 senior executives and dealmaking advisers about the 2025 market.

According to the firm, 70% of respondents expect a stronger U.S. merger and acquisition landscape in the next 12 months, driven by improved financial markets, the availability of capital and a stabilizing economy.

With the almost-daily changes in the president's tariffs and negotiations still ongoing with most countries, it remains to be seen how M&A activity will be affected for the rest of 2025.

Ralph Caruso

Ralph Caruso, a Taft Stettinius & Hollister partner and chair of the firm's business group, said he's spent the last couple of weeks talking to clients about the tariffs.

Caruso said it's definitely a challenge to execute a business strategy in an uncertain economic environment.

"It creates an impediment to execute a buy-side agreement," Caruso said.

Like Greising, Caruso said he hasn't seen any deals abandoned because of the fear of tariffs and their economic impact, but more of a pausing effect and a "wait-and-see" attitude.

He contrasted that to the environment in 2008 and 2009 at the start of the Great Recession, when the prevailing attitude was more "abandon ship" for M&A transactions.

Right now, any industry sector that's involved with foreign trade, like distribution and manufacturing companies, are concerned about the uncertainty surrounding the tariffs, Caruso said.

The Taft attorney said industry sectors that involve professional services, like engineering firms, physician/dental practices and software engineering, aren't generally experiencing the same uncertainty because of the tariffs.

The speed and severity of Trump's tariffs is what produced the caution for industries most directly affected, Caruso said.

What he's hearing from clients is not about how much the.tariff rates are, but more like "how do I know that it's done?"

Caruso said the closest thing he can recall, in terms of economic uncertainty, to Trump's tariffs was the early days of the COVID epidemic.

"What makes this different, there's no bailout. There's no government program that fixes this issue," Caruso said.

Prior to this year, tariffs were not a significant talking point in the transaction world unless a company was a heavy importer or exporter, Greising said.

He said there have been other presidential administrations historically that used tariffs in trade policy in some capacity.

"But not the way this trade war has happened," Greising said.

Greising said people involved in the M&A transaction world are betting on the future, with sellers wondering if it's the right time to sell a business.

"I do think there's a potential for a long-term impact for the decision-making process," Greising said of the tariffs.•