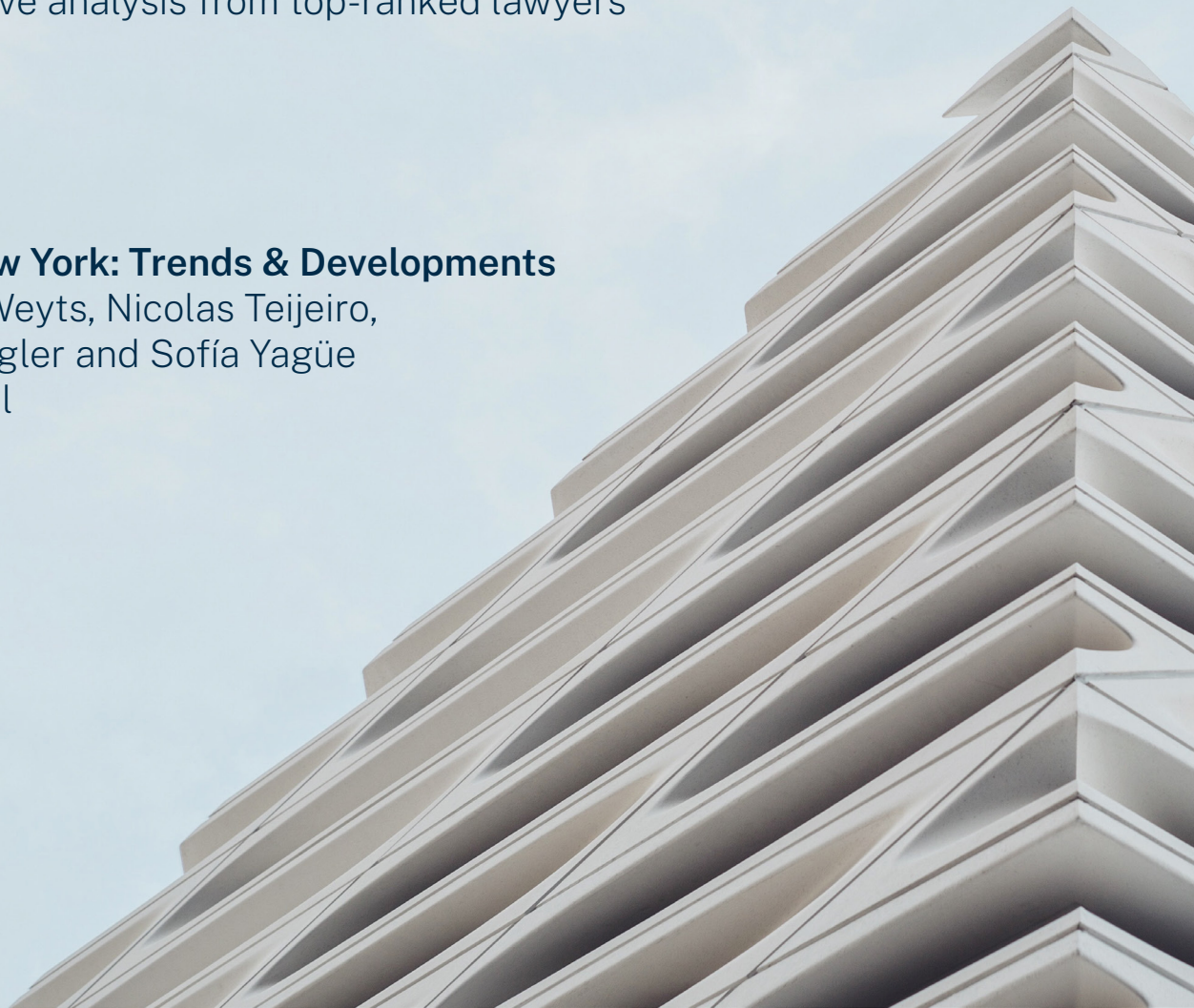

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Technology M&A 2026

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USA – New York: Trends & Developments

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Next Legal



USA – NEW YORK



Trends and Developments

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Next Legal is a boutique law firm with an international outlook, advising clients at the intersection of the United States, Latin America and Europe. Its lawyers are trained and licensed across multiple jurisdictions, and combine civil and common law traditions with deep cross-border expertise. The team brings decades of experience from leading global firms and international institutions, providing clients with the rigour and discipline of big law while delivering the agility and personal attention of a boutique practice.

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Background

Deal-making is on the rise in New York and across the United States, fuelled by actual and expected Federal Reserve rate cuts and the benefits of deregulation. Technology remains at the forefront of the M&A scene, with artificial intelligence (AI), digital transformation and technology-driven transactions continuing to dominate the landscape. Against such a positive outlook, company valuations are expected to rise, borrowing costs to further decline and overall corporate and private equity (PE) M&A activity to accelerate even more in 2026. This uptick reinforces a strategic alignment between buyers seeking technology capabilities and sellers aiming for value realisation amidst improving market sentiment.

While valuations remain below the 2021 peaks, creative deal structuring has helped bridge pricing gaps and better align parties' incentives in recent years to keep deals flowing, including by crafting innovative performance earnouts, preferred equity features, seller roll-overs and contingent consideration mechanisms. Legal advisers are increasingly proposing hybrid structures such as minority investments with enhanced control or veto rights over key decisions, or staged acquisitions, in order to mitigate risk while preserving upside. Earnouts tied to specific technological milestones, regulatory approvals or user metrics have also become common, reflecting the need for flexible tools that capture future value creation in volatile environments, both in terms of valuations and access to financing.

Key M&A Trends in 2025

In 2025, domestic and cross-border deal activity has risen, with tech firms looking to acquire targets to strengthen their market positions and expand inter-

nationally. PE firms are also stepping up their game, deploying larger pools of capital into strategic M&A deals. Cross-border tech M&A transactions are also gaining traction, including with targets in Latin America – particularly Mexico, Brazil and Argentina. The cross-border aspect introduces added complexity due to the implication of local corporate, labour and tax laws, as well as additional regulatory approvals and other local issues, which typically arise in multi-jurisdictional transactions. In such cases, buyers must carefully parse through foreign investment regulations, currency controls and data protection rules in order to stay compliant with US laws and regulations.

With these dynamics at play, tech M&A appears poised for a strong rebound in 2026, even though investors continue to approach transactions with a measure of caution as geopolitical changes, supply chain disruptions and trade realignments are reshaping the world. In volatile markets, parties are advised to include contractual protections such as material adverse effect clauses, flexible closing conditions and earnout-based structures to mitigate greater levels of risk and uncertainty.

The renewed optimism in New York's technology M&A market is being driven not only by improved macroeconomic conditions but also by sector-specific appetite, including investments in the areas of healthcare, fintech, cybersecurity, robotics, and aerospace and defence. Larger players keep searching for targets that can help consolidate market position and scale, focusing on strategic fit, growth prospects and readiness to integrate. For example, active user bases are attractive to newcomers in the fintech sector, while cybersecurity buyers pursue smaller Software as a Service (SaaS) companies with advanced threat

detection capabilities or other competitive advantages, ensuring both strategic alignment and financial predictability. Similarly, in robotics, firms with proprietary automation technologies that complement existing product lines or enable expansion into adjacent markets are a common theme.

Many smaller start-ups that could be struggling with venture capital (VC) funding are increasingly viewing M&A as an attractive exit strategy. For early-stage companies, strategic buyers can provide needed capital as well as access to talent, distribution networks and regulatory compliance expertise, all of which can jump-start accelerated scaling. Examples include healthcare AI start-ups selling to major hospitals or health tech conglomerates, or SaaS analytics platforms merging with larger enterprise software providers to expand footprint and credibility. Cybersecurity and data analytics transactions are also on the rise, with corporate acquirers prioritising operational resilience and risk management capabilities in potential targets.

Buyers are also considering joint ventures and strategic alliances, particularly where regulatory, intellectual property (IP) or cross-border roadblocks make a full acquisition undesirable or too complex. US tech firm may enter a joint venture with a Latin American partner to gain market access while avoiding immediate foreign ownership restrictions, or may choose to license core IP rather than acquire it outright to reduce integration risk and compliance burdens.

Its growing tech ecosystem positions New York as a natural hub for tech M&A, where innovation meets complex financial structuring capabilities and opportunities. New York City's unique access to both capital and talent enables acquirers to integrate new technologies quickly, while maintaining proximity to financial institutions and other capital providers.

Risk and Compliance

As momentum builds, buyers and sellers are well advised to double down on their due diligence efforts to effectively manage regulatory risk and compliance issues, with heightened focus on IP, cybersecurity, trade secret protection, data privacy and trade

compliance matters. Particular due diligence matters include reviewing:

- existing trade secret protections;
- internal access controls;
- employee confidentiality agreements; and
- compliance with cross-border data transfer laws.

Companies must also ensure alignment with industry-specific regulatory frameworks, such as Securities and Exchange Commission (SEC) regulations in fintech and crypto, as these can materially affect deal risk and valuation. Data privacy diligence has expanded to cover not only historical compliance but also anticipated requirements under evolving US and state-level frameworks, including international privacy obligations for cross-border users.

From a legal and contractual perspective, risk allocation and regulatory compliance have become central in deal negotiations and representations and warranties drafting, particularly in unsettled areas of law such as fair use in AI training. Valuations have also evolved to better appraise the value of intangible assets such as datasets and algorithms. All of this increases the importance of contract drafting in M&A. No strategic buyer or seller should approach a transaction unprepared, or worse, leave it to its AI chatbot of choice to draft sophisticated and fact-specific transaction documents.

While merger review by the Department of Justice (DOJ) and the Federal Trade Commission (FTC) has taken on a more traditional stance under the second Trump administration, big tech continues to be an enforcement priority in the United States, so parties should remain strategic in navigating the current regulatory landscape. Where appropriate, buyers and sellers ought to engage with the agencies to proactively address any concerns and mitigate the risk of delays, rather than holding out hope of surfing through. In New York, local regulatory bodies such as the Department of Financial Services (NYDFS) and the Attorney General's Office play a critical role in scrutinising technology and financial services transactions, particularly with respect to cybersecurity, consumer protection and antitrust considerations.

The FTC recently withdrew its nationwide ban on non-compete covenants, which purported to ban almost all employer-worker non-compete clauses, and is expected to pivot towards individual enforcement actions instead. In New York, however, a prohibition of almost all non-compete covenants is still under review by the legislature, even though highly compensated individuals and non-compete covenants related to a sale of business would be exempt under certain conditions. Parties are also prioritising data privacy diligence, particularly in light of the reintroduction of the New York Privacy Bill in 2025, which has not been enacted yet. If enacted, the New York Privacy Act will require comprehensive consumer data management, including expanded rights for data access, correction and deletion.

Arbitration and Dispute Resolution

New York continues to serve as a key forum for both tech sector deal-making and dispute resolution. Courts in the Southern District of New York and New York's Commercial Division remain very influential in interpreting earnout provisions, fraud carve-outs and non-compete enforceability. Recent decisions emphasise the importance of precise drafting in earnout mechanics and disclosure schedules. Courts have shown little sympathy for parties seeking to rewrite poorly drafted provisions after closing, reinforcing the need for clarity and careful definition of performance metrics.

At the same time, New York's strong support for arbitration and its well-developed institutional infrastructure, including leading arbitral venues such as

the American Arbitration Association (AAA)/International Centre for Dispute Resolution (ICDR), make it an increasingly attractive seat for resolving cross-border technology and M&A disputes. Arbitration has gained further traction as the preferred method for resolving complex cross-border tech disputes, offering confidentiality and flexibility in appointing technically sophisticated arbitrators. New York's legal infrastructure – its courts, arbitral institutions and legal community – continues to attract both domestic and foreign parties who value predictability and expertise. As global tech M&A continues to evolve, the city's role as a transactional and dispute resolution hub appears stronger than ever. Parties to New York-governed agreements are therefore encouraged to monitor emerging case law closely, as it will shape how post-closing M&A disputes are resolved in the years ahead.

Summary

New York's technology M&A market has entered a new phase of moderate optimism. Rate cuts, easing regulatory burdens, and renewed appetite for innovation-driven transactions are setting the stage for continued growth in 2026. For legal practitioners, the focus must remain on proactive risk management, meticulous diligence, and precise drafting aimed at mitigating risk and anticipating the next wave of regulatory and technological developments. Advisers who are able to integrate insights on cross-border risks, trade compliance, evolving privacy laws and sector-specific regulatory changes will be best positioned to help clients navigate the increasingly complex landscape of tech M&A.

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