

## M&A May Not Cure All For Emerging Public Biotechs

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While overall healthcare and biotech public M&A activity declined in 2016 relative to 2015, there were still a significant number of large transactions announced in 2016 such as Pfizer's \$14 billion acquisition of Medivation. Another trend that emerged in 2016 was the acquisition of publicly traded emerging biotech companies by larger pharma players. Grabbing the most headlines in 2016 were Allergan's acquisitions of Tobira and Vitae, both clinical stage, pre-commercial biotechs with no or minimal revenue. We've been hearing for a long time about the need of big pharma companies to expand their pipelines with innovative product candidates and that appeared to be a driving factor in both the Tobira and Vitae deals.

We wondered, however, if there was a larger trend of publicly traded emerging biotech companies being acquired, so we looked a little closer. Based on our research, thirteen publicly traded biotech, pharma and medtech companies (including Tobira and Vitae) with less than \$100 million in revenue were acquired in 2016. While the Vitae and Tobira transactions were generally considered to be positive outcomes for investors, the other eleven transactions presented mixed results. Two of these transactions were reverse merger transactions in which the publicly traded company's shareholders were subject to dilution as a result of shares issued to a private company counterpart. One transaction was a Section 363 asset sale of a publicly traded biotech company that had gone into bankruptcy. In four of the eleven transactions, the acquisition price per share was greater than the target's price per share in its IPO or most recent equity offering. In the remaining four of the eleven transactions, the acquisition price per share was substantially less than the target's price per share in its IPO or most recent equity offering.

We drew the following conclusions from looking at the data: 1) there was a small number of public M&A transactions relative to a large pool of pre-commercial biotechnology, pharma and medtech companies, 2) the companies that were acquired were in late stages of clinical development or had recently transitioned out of the development stage, and 3) an M&A exit is not always going to be a panacea for shareholders. Consistent with our experience, it appears that most emerging publicly traded biotechs will need to create shareholder value through means other than an M&A exit.

To learn more about Haynes Boone's experience representing emerging biotechnology and medical device companies please contact one of the lawyers listed below.