Legal Commentary

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Analysis and Comparison of Key Terms in China NewCo and License-in/out Deals in 2025[1]

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License-in/out, Spin-off-NewCo model (commonly referred to as "**SON**" or "**NewCo**" model) , and other transaction models serve as critical strategic tools for pharmaceutical and medical device companies to generate revenue, advance pipeline research and development ("**R&D**"), and expand into global markets, maintaining strong momentum in 2025. According to relevant statistics, the total value of outbound business development ("**BD**") deals for China's innovative drugs reached USD 135.655 billion in 2025, with upfront payments amounting to approximately USD 7 billion. A total of 157[3] transactions were recorded, nearly doubling both the value and volume compared to 2024, setting new historical records across all metrics. The Chinese innovative pharmaceutical industry continues its high-quality growth trajectory, with Chinese innovator companies emerging as significant drivers in the global life sciences and healthcare market. Against this backdrop, in addition to the ongoing active License-out deals, the NewCo model has emerged in recent years as an increasingly popular pathway for global expansion, enabling several Chinese biopharma companies to gain a first-mover advantage in global competition. (For practical insights and an in-depth analysis of the NewCo model and the SON strategy, please refer to our previously published articles *Six Key Insights into China Biotech's NewCo Model* and *Insights into China Biotech's New Approach: Spin-off-NewCo Model*). Furthermore, in July 2025, Sino Biopharm completed the landmark full acquisition of LaNova Medicines, marking the first instance in China where a major domestic pharmaceutical company acquired a Biotech firm—an unprecedented transaction model with milestone significance. In this transaction, our team had the privilege of serving as legal counsel for Sino Biopharm, providing comprehensive legal services throughout the process.

Our team has been 100% dedicated to corporate, regulatory compliance, and transactional services for life sciences, biopharmaceutical, medical and healthcare industries, and has supported more than 100 transaction projects to date. In 2025, we also represented numerous renowned multinational pharmaceutical companies, leading Chinese innovative drug and biotechnology companies, and top

[1] For the Chinese version, please click *JPM 热点 | 2025 年中国 NewCo 与药械 License-in/out 项目核心条款数据分析与对比*.

[2] Jingjing Xu and Yixi Zhao have contributions to this article.

[3] Please refer to: https://finance.sina.com.cn/stock/relnews/hk/2026-01-04/doc-inhfctqp2857071.shtml.

domestic and international investment institutions in dozens of highly significant License-in/out and NewCo projects with substantial industry impact. Meanwhile, we have also observed that an increasing number of overseas Biotechs and investors are proactively turning their attention to China, conducting Investigator-Initiated Trials ("**IITs**") in the country to obtain earlier and more valuable human data. This trend highlights, to some extent, China's comprehensive strengths in clinical trial efficiency, subject resources, and execution capabilities, and reflects a growing global strategic emphasis on leveraging China for early-stage validation of project feasibility and mitigation of early R&D risks. (For the latest developments on IIT regulation, please refer to our previously published article *Key Takeaways on China's Regulations on the Clinical Study and Clinical Translation and Application of New Biomedical Technologies - A New Era for IITs and Commercialization in Cell and Gene Therapy*).

In 2025, we continued to focus on the life sciences and healthcare sector, including a systematic analysis of the new draft regulation on drug regulatory data protection and the potential new opportunities it may bring to innovative drug transactions (please refer to: *Analysis of China's New Draft of Drug Regulatory Data Protection Rule: A New Perspective on Innovative Drug Transactions*), as well as an in-depth examination—combining extensive industry experience and cutting-edge insights—with the dispute resolution team of two critical contentious issues in License-in/out agreements (please refer to: *汉坤 • 观点 | 生命科学行业 License-in/out 合同争议要点分析（四）：首付款是否可能退回？* and *汉坤 • 观点 | 生命科学行业 License-in/out 合同争议要点分析(三)：不竞争条款*). These efforts have provided life sciences readers with additional strategic considerations when designing licensing transaction terms.

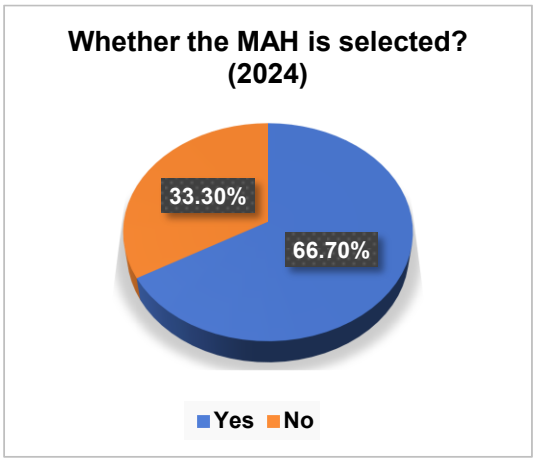
At the beginning of 2026, to help readers better understand the characteristics and changes in key terms of licensing transactions over the past year and gain insights into the evolving trends of China's life sciences market in the year ahead, we have reviewed the key licensing and NewCo projects handled in 2025, with reference to two previously published annual transaction data reports (please refer to: *2024 Data Analytics: China Life Sciences NewCo & Licensing Terms* and *2022 – 23 Data Analysis on China Life Sciences Licensing Key Terms*). In this article, we will present a comparative analysis across seven key dimensions, including marketing authorization rights, license grant, financial terms, intellectual property, diligence obligation, exclusivity, and termination rights, to summarize key trends and practical highlights from the past year, providing reference for future industry collaboration strategies and global expansion plans[4].

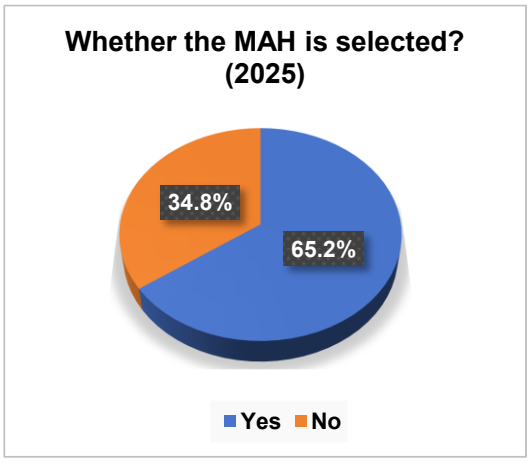
Marketing authorization rights

Under the pharmaceutical and medical device regulatory framework, the system of Marketing Authorization Holders, including drug marketing authorization holders and medical device registrants or filers (collectively referred to as "**MAH**"), plays a critical role as the primary entities responsible for ensuring the safety, efficacy, and quality control of pharmaceutical and medical device products throughout their entire lifecycle.

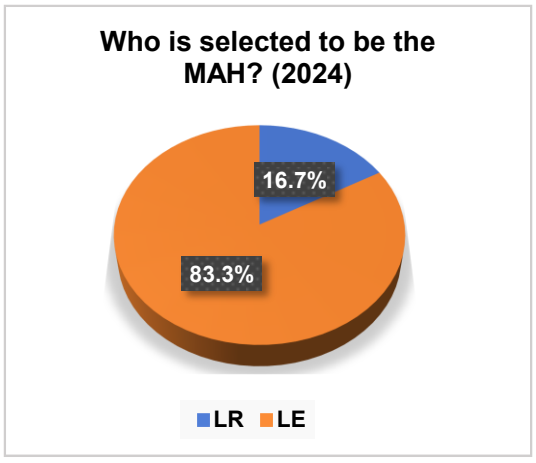
[4] This article is an important work product and copyright of Han Kun and should be treated as confidential information of the firm. The data presented in this article are all derived from licensing-related transactions and NewCo projects in which the author has been involved in recent years. This article should not be relied on as legal advice or regarded as a substitute for detailed advice in individual cases. If you have any further questions or need professional legal services or support, please feel free to contact us.

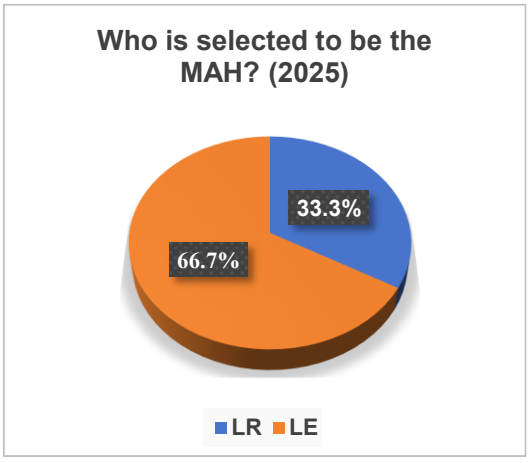
According to statistics, in over half (approximately 65.2%) of licensing transactions in 2025, the parties explicitly agreed in the license agreement that one party (or its designated party) would serve as the MAH for the licensed products within the territory of use, while the remaining approximately 34.8% of projects did not specify such an arrangement. This data continues the trend observed in 2024, where most projects proactively define the MAH role during the agreement phase, while the rest arrange it separately during execution. Similar to 2024, projects that do not pre-determine the MAH typically involve two scenarios: (i) the product is still in an early stage such as pre-IND, making it premature to designate an MAH; or (ii) the partners agree to select the MAH at a later stage depending on project progress. Furthermore, among the NewCo projects included in this analysis, most did not clearly specify the entity responsible for serving as MAH, likely due to the early development stage of these projects and uncertainties regarding future transaction structures.





Among projects where a MAH has been selected, 66.7% of license agreements designate the licensee ("**Licensee**" or "**LE**") as the MAH for the licensed products in the territory of use, while the remaining 33.3% assign this role to the licensor ("**Licensor**" or "**LR**"). In practice, some agreements also provide one party with the right to designate an affiliate or third party to serve as MAH.





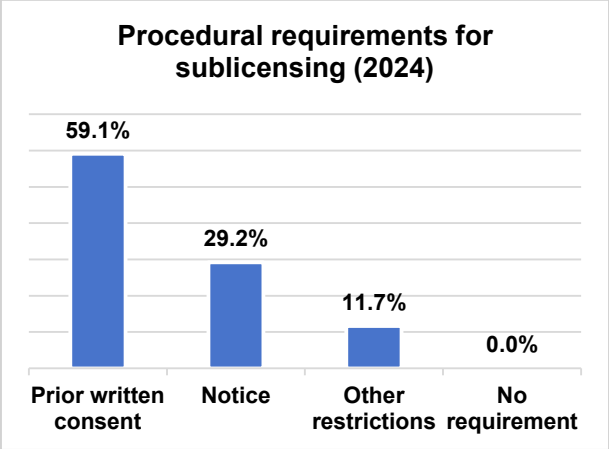
Compared to 2024, in 2025 the proportion of projects where the Licensor and Licensee serve as the MAH is closer, reflecting a more flexible and diverse approach to MAH arrangements based on commercial needs. Decision-making is increasingly driven by practical requirements rather than fixed models.

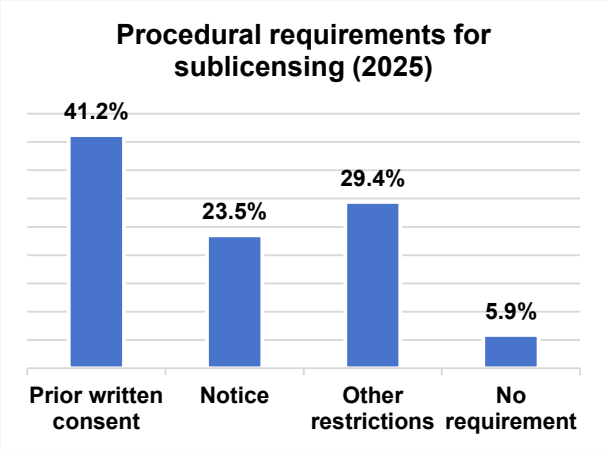
Taking China as an example, with the continuous refinement of the MAH and local responsible entity systems in the pharmaceutical and medical device sectors, relevant enterprises have gained a deeper understanding of regulatory requirements. As a result, it is operationally feasible for either the Licensor or Licensee to act as the MAH, providing both parties with relatively ample freedom of choice.

License grant

I. Sublicensing

In the licensing transactions of 2025, the vast majority (approximately 89.5%) allow the Licensee to grant sublicenses, consistent with previous trends. Among these, only 5.9% of projects impose no procedural restrictions on sublicensing; about 23.5% require the Licensee to notify the Licensor prior to granting a sublicense; and the largest share, approximately 41.2%, require prior written consent from the Licensor. Additionally, around 29.4% of projects impose further substantive restrictions on sublicensing, including customized conditions such as limitations on sublicensees ("**Sublicensees**"), allocation of responsibilities post-sublicensing, revenue sharing, and information disclosure. For instance, requiring the Licensee to assume responsibility for the actions of Sublicensees, disclosing redacted sublicense terms to the Licensor, restricting sublicenses solely to manufacturers, or making sublicensing contingent on specific revenue terms.





In the NewCo projects covered by this analysis, most require the Licensee to obtain the Licensor's prior written consent before granting any sublicenses. This arrangement is closely tied to the unique transaction structure and collaboration mechanism of the NewCo model. Under this model, the Licensor, as an equity holder of NewCo, shares downstream R&D risks and financial pressures with its partners, resulting in a high degree of alignment between returns and risks. Therefore, establishing a prior approval mechanism for sublicensing not only helps control the parties to whom technology is licensed and how it is used but also provides flexibility to support resource synergy and efficient project advancement while safeguarding core interests.

In 2024, only about 11.7% of projects included special provisions such as restrictions on Sublicensees in their sublicensing terms; this proportion increased to 29.4% in 2025. The share of such customized arrangements continues to grow, with increasingly diverse content. This trend clearly indicates that Licensors are placing greater emphasis on potential Sublicensees and their intended uses, showing a

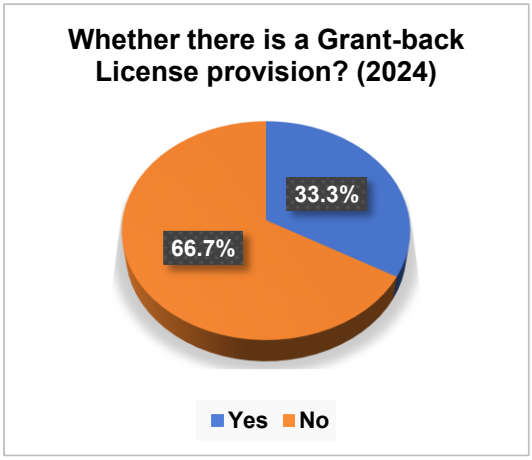
clear preference for more refined, market-adaptive collaboration structures and clause designs, along with enhanced management and protection of pipeline assets.

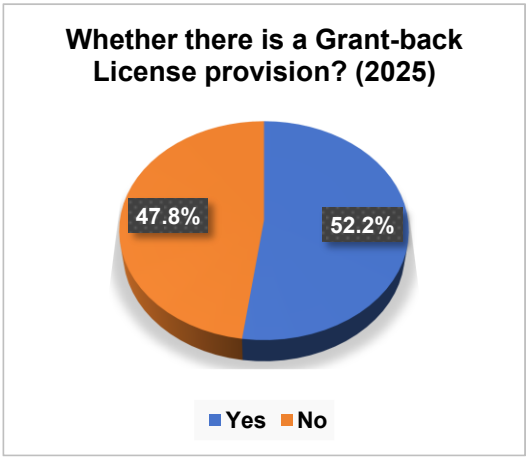
As outbound transactions by Chinese innovative pharmaceutical companies become increasingly frequent and complex, the parties can engage in deeper and more forward-looking negotiations with the support of cross-border transaction experts. By customizing key mechanisms such as sublicensing, they can not only effectively manage risks but also flexibly align with their respective global strategies and development goals, ultimately achieving mutual benefits.

II. Grant-Back License

In licensing transactions, the Licensee, especially a pharmaceutical company with strong clinical and product development capabilities, is not only the payer but also a significant contributor to R&D. Its contributions to expanding indications and improving processes for the transferred products and technologies are highly valuable. To maximize the utilization of technological value, in addition to granting the Licensee the license to use ("**Forward License**"), the Licensor sometimes also requires the Licensee to grant back new developments derived from the licensed technology (including improved technology or new intellectual property rights) to the Licensor ("**Grant-Back License**"). This Grant-Back License arrangement enables the Licensor to gain further technological advantages beyond the original scope of the license.

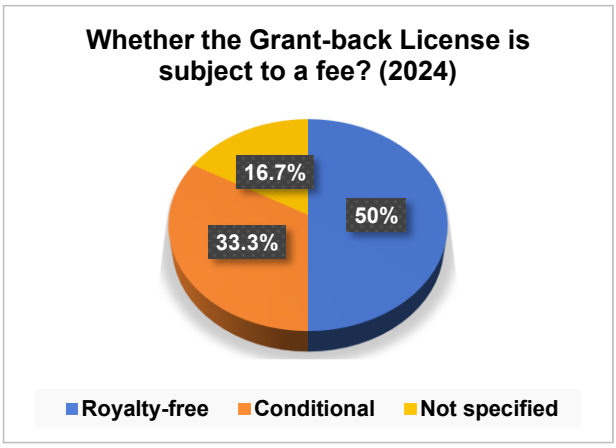
Transaction data from 2025 reveals a significant shift in this clause: approximately 52.2% of projects now explicitly include Grant-Back License terms, exceeding half for the first time. Compared to the previous years (about 40.7% in 2022 – 2023 and about 33.3% in 2024), this upward trend indicates that Grant-Back Licensing is transitioning from a special arrangement to a standard configuration, reflecting enhanced bargaining power and improved negotiation standing of the Licensor. Specific demands and clause designs regarding Grant-Back License are typically closely tied to the fundamental purpose of the collaboration, target products, business strategies of the parties, and market demands. For example, whether the Licensor plans continuous development within the same technology field or intends to commercialize the same product in markets outside the licensed territory will directly determine the scope, nature of rights, and consideration structure of the Grant-Back License.

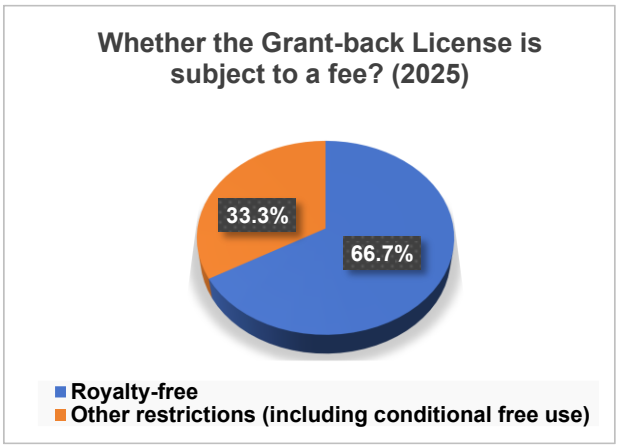




In the NewCo projects included in this analysis, the proportions of projects that permit and prohibit Grant-Back Licenses by NewCo are roughly equal. This suggests to some extent that under the NewCo model, there is no consistent industry practice regarding the inclusion of Grant-Back License provisions. Instead, such arrangements may be more influenced by the commercial needs of the project and the negotiating positions of the parties, reflecting essentially a dynamic balance between control and revenue distribution by the transacting parties.

Among projects that have agreed on a Grant-Back License, the majority (approximately 66.7%) provide for royalty-free authorization. The remaining agreements (about 33.3%) do not specify monetary compensation but instead establish diverse non-monetary consideration terms, such as limiting the scope of authorization to specific regions or technology fields, or imposing restrictions on the rights under Grant-Back License, including prohibitions on assignment or further sublicensing.





We believe that transaction trends in 2025 further indicate that licensing transactions are no longer simple asset transfers but represent opportunities for the parties to complement each other's strengths in technology resources, R&D, and commercialization capabilities for collaborative development. When the Licensor and Licensee are respectively responsible for product development in different regions, cooperation through Grant-Back Licensing enables the Licensor not only to gain economic returns from the development of licensed products but also to enhance its own product development capabilities within specific regions, thereby more fully realizing the strategic value of pharmaceutical licensing transactions.

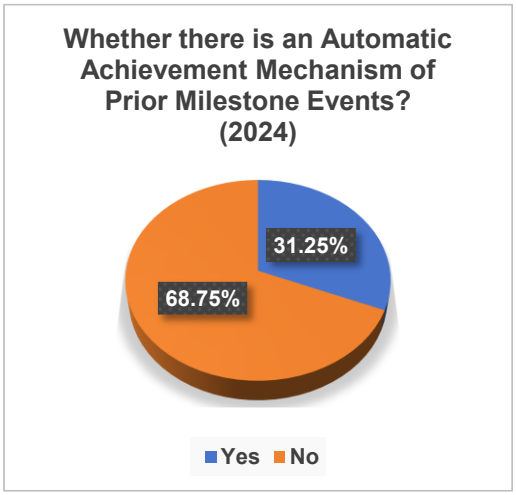
Financial terms

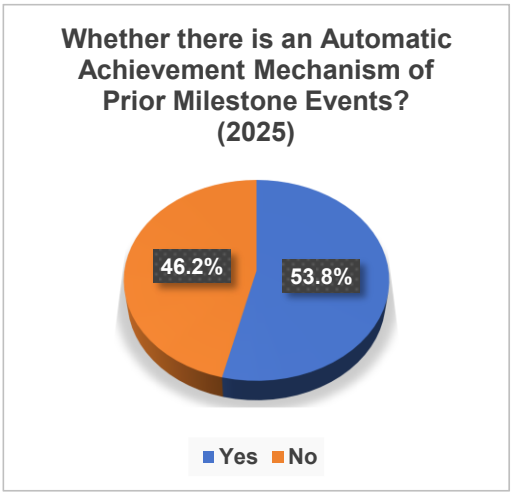
I. Milestone payment

In the licensing transactions analyzed in this article, the vast majority include milestone payment provisions. We conducted an in-depth analysis of the specific design of these provisions.

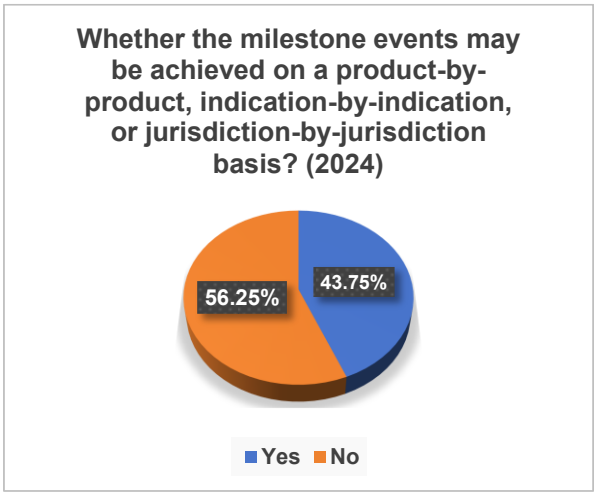
Under some licensing agreements, when a later milestone event is triggered, all prior milestone events are considered to be achieved automatically. As a result, the Licensee is required to pay the amount corresponding to the triggered milestone event as well as all prior milestone events ("**Automatic Achievement Mechanism of Prior Milestone Events**"). Based on historical data, among all

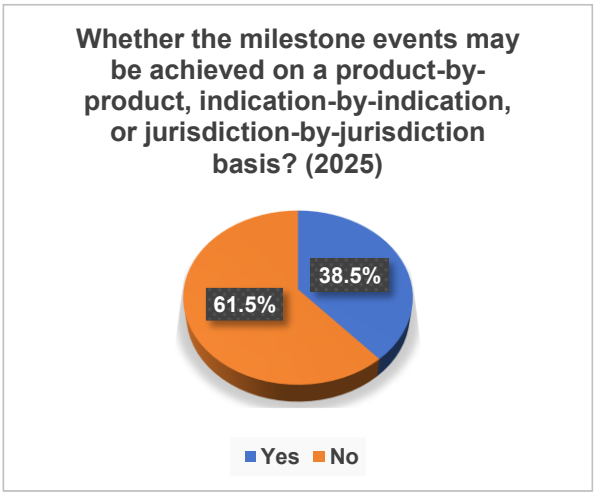
projects with milestone payments, the proportion of those agreeing to Automatic Achievement Mechanism of Prior Milestone Events has steadily increased from 17.6% in 2022 – 2023 and 31.25% in 2024 to approximately 53.8% in 2025, surpassing half for the first time. The steadily rising adoption rate of the Automatic Achievement Mechanism of Prior Milestone Events reflects its evolution into a key tool for safeguarding the financial interests of the Licensor in a rapidly growing and increasingly complex licensing market. The Automatic Achievement Mechanism of Prior Milestone Events prevents benefit deadlocks caused by simultaneously or prematurely achieving specific milestones, thereby enhancing the predictability of payment triggers and project returns, and avoiding disputes over milestone achievement and corresponding payment obligations.





From the perspective of milestone events, approximately 38.5% of the agreements allow milestone events to be triggered multiple times or configured differently on a product-by-product, indication-by-indication, or jurisdiction-by-jurisdiction basis. The remaining approximately 61.5% of agreements adopt a one-time trigger structure for milestones without differentiation by product, indication, or jurisdiction. The proportion of agreements differentiating by product, indication, and jurisdiction has slightly declined compared to the 2024 statistical result (43.75%). The milestone payment arrangements reflect varying commercial considerations across different scenarios. This underscores companies' deepening expertise in global markets, specific indications, and their respective products. This enhanced understanding is manifested in increasingly complex and diverse contractual provisions.





Based on the current statistical results, NewCo projects generally define milestone events on an indication-by-indication basis and adopt a multi-tiered milestone structure encompassing development, regulatory, and sales stages. Since the licensed technology will become NewCo's sole or core asset upon establishment, the valuation of NewCo by its collaborator will substantially depend on an accurate assessment of the technology's market potential and prospects across different indications. Given the significant differences in R&D investment, regulatory uncertainty, and market potential among indications, setting milestones by indication facilitates a more precise alignment of risks and returns. Meanwhile, establishing staged payment points based on progress in development, registration, and commercialization also helps strengthen positive incentives for project advancement and provides process controls to promote NewCo's growth.

It should be noted that differentiated milestone payment arrangements do not necessarily enable the Licensor to receive payments faster. If milestone payments are divided by jurisdiction, product, or indication, net sales for each jurisdiction, product, or indication must be calculated separately, which may extend the time required to trigger an individual milestone payment. We recommend customizing financial terms to match the specific needs of the parties according to commercial objectives and actual circumstances.

In addition, different agreements may include various types of milestone clauses, such as development milestones, sales milestones, patent filing milestones, diligence milestones, regulatory milestones, and milestones for inclusion in the National Reimbursement Drug List. These milestone clauses can be established individually or in combination to meet the specific requirements of the transaction parties.

II. Royalty

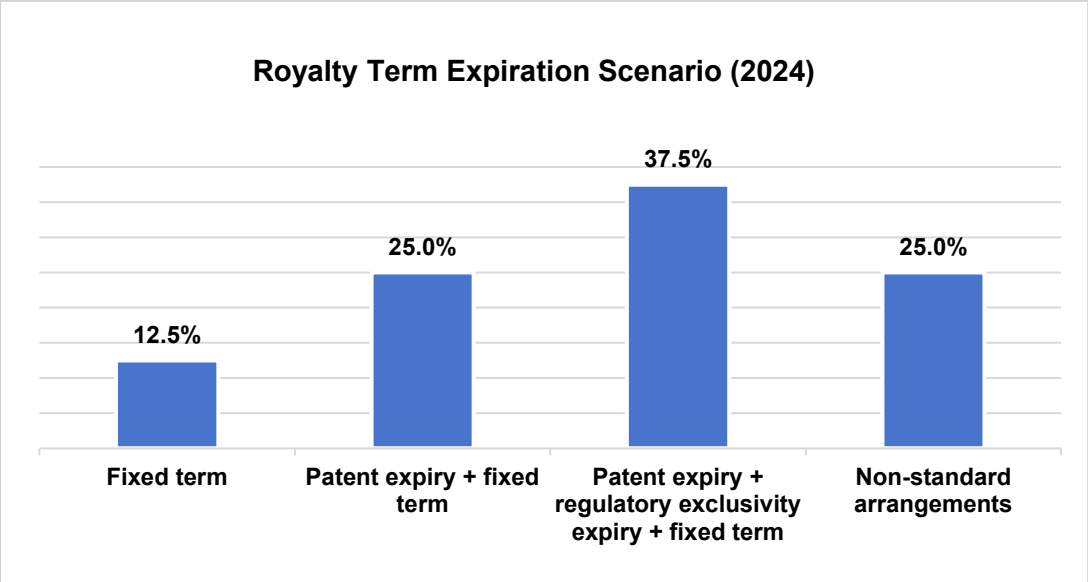
In the licensing transactions included in this statistical analysis, approximately 70.0% of the agreements specified royalty payments, while about 30.0% either did not include or explicitly excluded royalties. Overall, royalties remain a core component of the commercial return structure in licensing transactions, although a significant proportion of deals achieve returns through upfront payments, milestone payments, or equity arrangements, resulting in diversified structures.

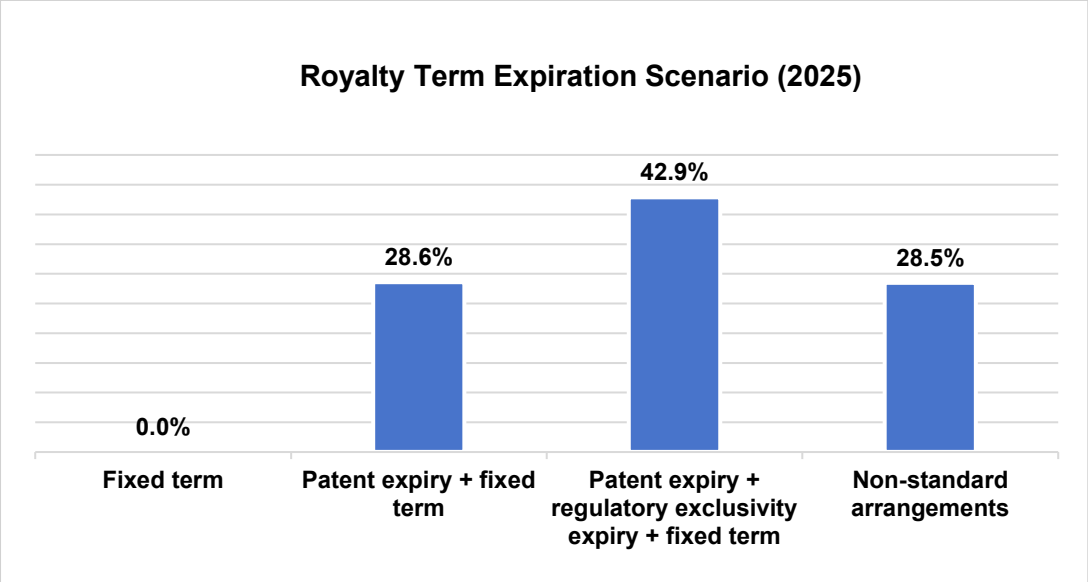
For projects involving royalty payments, we further analyzed key elements such as the royalty term

and calculation base.

Regarding the royalty term, the start date is typically the first commercial sale of the licensed product, while the end date varies and is often closely tied to the product lifecycle. Common termination conditions include patent expiry or the expiration of regulatory exclusivity. In practice, a fixed term measured from either the first commercial sale or the agreement signing date is also frequently specified as the royalty term. In this analysis, all cases include "patent expiry" as one of the termination triggers. Among them, approximately 42.9% of the projects define the termination date as the latest of "patent expiry, regulatory exclusivity expiry, and a fixed term"; about 28.6% adopt the later of "patent expiry and a fixed term" as the endpoint. Additionally, roughly 28.5% of cases incorporate non-standard triggers on top of conventional termination conditions, such as achieving a specific sales threshold. Compared to 2024, the distribution of different royalty termination structures remains largely unchanged, indicating that current royalty term designs in licensing transactions have become mature and stable. As patents fundamentally determine a product's commercial lifecycle, using patent expiry as the anchor point for royalty termination has become an industry consensus. Furthermore, supplementary mechanisms like sales thresholds and cumulative caps serve a consistent role as complementary tools beyond standard terms, resulting in their relatively stable prevalence across the sample.

Consistent with 2024, regarding the royalty base, the vast majority of projects use net sales as the calculation basis, with only a small number using gross sales or the total invoice amount for the Licensee's sales of licensed products to third parties. Net sales serves as a well-established benchmark across industries and regions, offering a mature definition that easily aligns with the Licensee's financial system. In current transactional practice, using net sales as the royalty base remains the most common and mainstream approach.

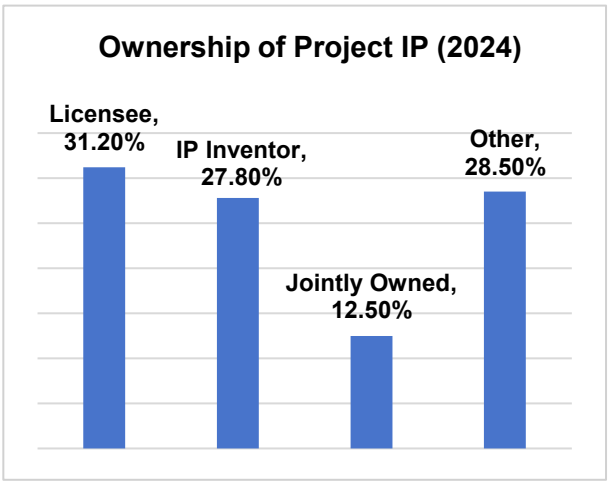


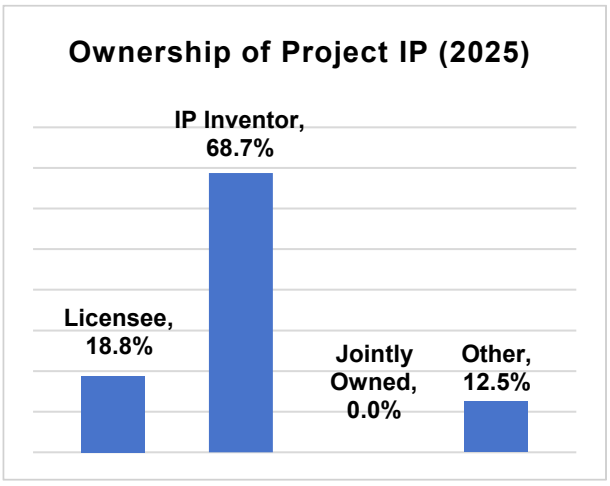


Intellectual property

I. Ownership of Project IP

Compared to previous years' statistics, the current data show that the percentage of projects adopting the principle of "ownership by the inventor" has reached 68.7%, significantly higher than in 2024 (27.8%) and 2022-2023 (29.6%). The proportion of projects explicitly specifying that exclusive ownership of the project intellectual property ("**Project IP**") belongs to the Licensee has decreased from 31.2% in 2024 to 18.8%.





It is worth noting that, among the licensing transactions in 2025, relatively few projects explicitly stipulate that the ownership of Project IP is directly co-owned by both parties. More commonly, the relevant agreements do not establish a direct co-ownership arrangement for Project IP; instead, they adopt the principle of "ownership by the inventor", with further provisions specifying that any results generated through joint efforts of the parties shall be jointly owned. Such arrangements account for 37.5% of the projects. In addition, certain projects adopt more flexible approaches to the allocation of Project IP, taking into account factors such as the exercise of option rights and the timing of the

establishment of joint venture entities. These arrangements are more frequently observed in complex transaction scenarios such as collaborative R&D arrangements and pipeline spin-offs.

Overall, the key logic underlying the allocation of ownership of Project IP in 2025 has not substantially changed compared to previous years. The increasing proportion of projects adopting the principle of "ownership by the inventor" reflects a growing consensus between the parties on the distribution of collaborative outcomes, particularly in projects involving joint development and respective responsibilities for product development and commercialization within certain territories. It also demonstrates greater respect for each party's interests in project and product development outcomes within their respective regions and areas of responsibility. At the same time, such allocation of ownership of Project IP still allows room for adjustments based on each party's commercial interests, core technology protection needs, and negotiating positions.

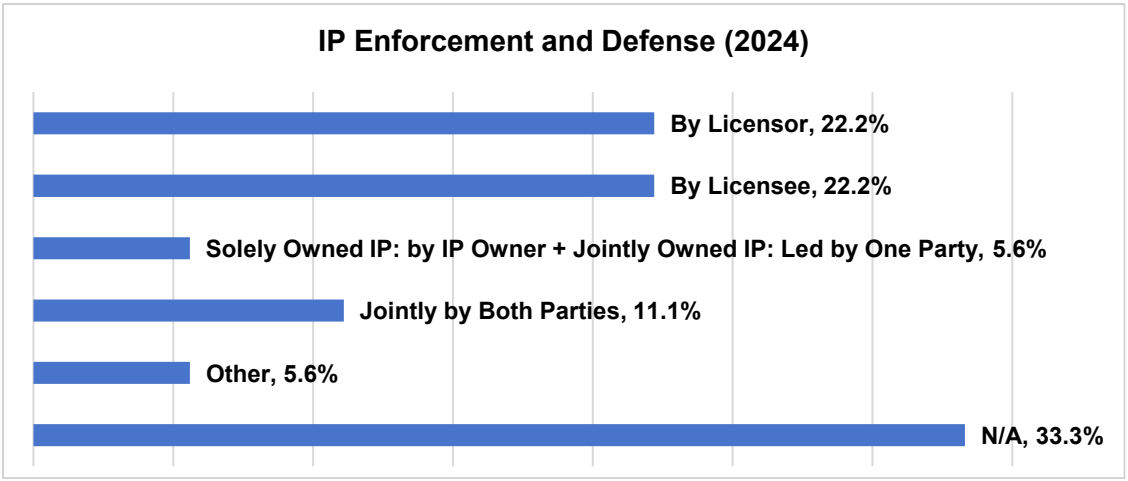
II. Responsible party for IP prosecution, maintenance, enforcement, and defense

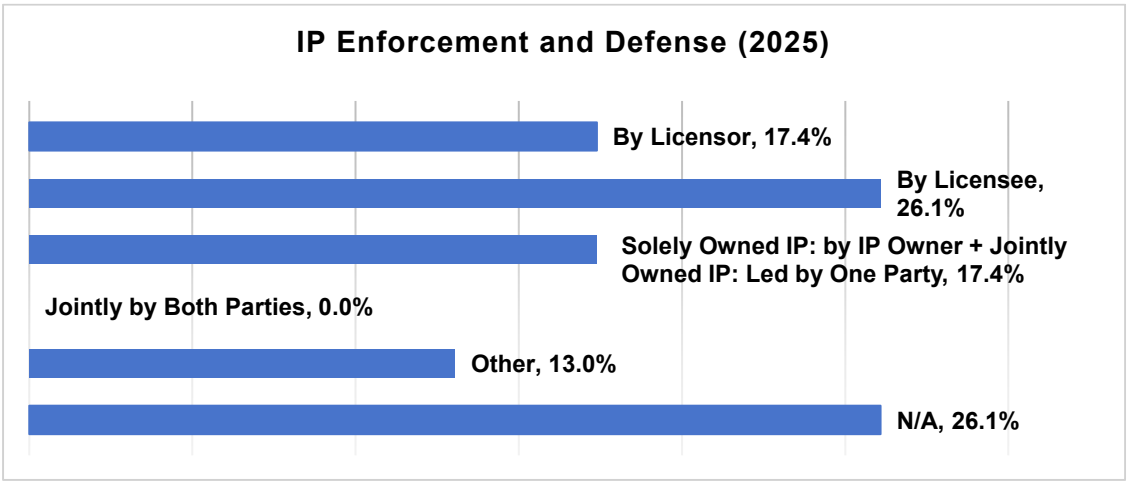
According to the statistics in 2025, the overall framework governing IP prosecution, maintenance, enforcement, and defense against third-party infringement remains stable, continuing the longstanding approach under which such responsibilities are predominantly allocated to a single party.

With respect to the prosecution and maintenance of IP, approximately 17.4% of the projects provide that such responsibilities are borne solely by the Licensor, largely consistent with the 2024 data. Approximately 21.7% of the projects allocate these responsibilities solely to the Licensee, representing a decrease from 31.8% in 2024. Projects that do not expressly allocate responsibility for IP prosecution and maintenance account for approximately 30.4%, remaining broadly in line with the 31.8% reported in 2024. By contrast, arrangements that allocate responsibilities based on ownership of the relevant IP have increased significantly, rising from 4.5% in 2024 to 21.7%. The overall proportion of other allocation approaches has correspondingly declined.

Regarding the IP enforcement and the defense against third-party infringement, arrangements expressly providing for joint responsibility of the parties remain relatively uncommon, reflecting the practical need among parties to licensing transactions for clearly defined allocations of responsibility. By contrast, arrangements under which one party takes primary responsibility are more prevalent, accounting for approximately 43.5% of the projects, although this represents a slight decline from 44.4% in 2024 and 48.1% in 2022 – 2023. More specifically, projects in which enforcement and defense responsibilities are borne entirely by the Licensor account for 17.4%, while those in which such responsibilities are borne entirely by the Licensee account for 26.1%. At the same time, the number of projects that distinguish between solely owned IP and jointly owned IP for purposes of allocating enforcement and defense responsibilities has increased significantly, with the proportion rising from 5.6% in 2024 to 17.4%. It should be noted, however, that within such arrangements, the proportion of projects that expressly designate a specific party to take responsibility for the enforcement and defense of jointly owned IP has declined. Other enforcement arrangements (such as allocation by territory or determination through mutual consultation) have not experienced any material change, while the proportion of projects that do not expressly specify the responsible enforcement party has decreased from 33.3% in 2024 to 26.1%.

In summary, the above changes in both the types and proportions of IP arrangements reflect the practical need of the parties to licensing transactions to further refine the allocation of responsibilities for IP prosecution, maintenance, enforcement, and defense. Nevertheless, overall market practice continues to follow the longstanding approach under which such responsibilities are predominantly borne by a single party.





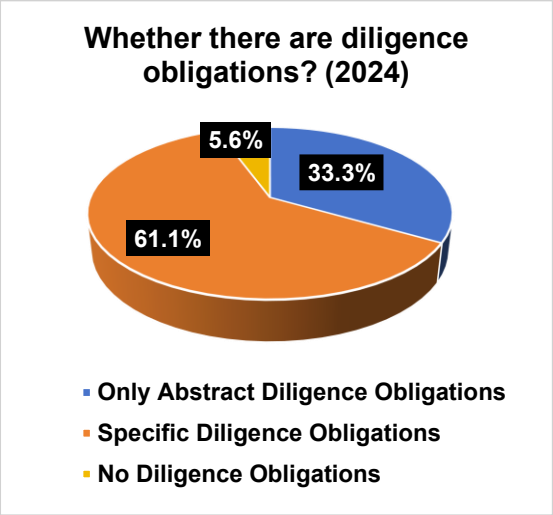
Diligence obligation

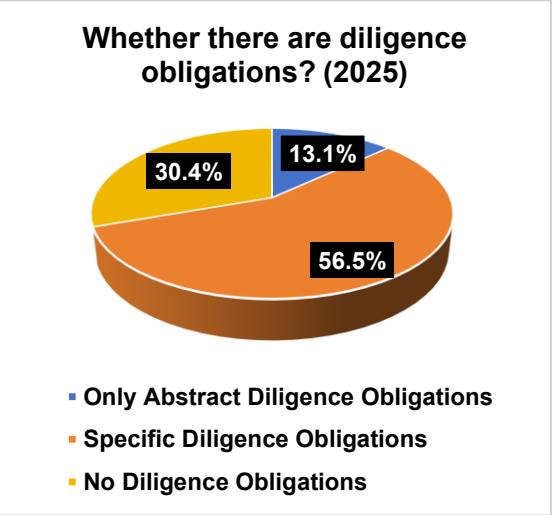
In order to ensure that the licensed product can be successfully and timely marketed to achieve commercial value, the agreements typically include a diligence obligation for the Licensee (or both parties in cross-licensing or co-development projects) regarding product R&D and commercialization.

Compared with statistics from prior years, approximately 69.6% of the agreements surveyed in 2025 contain express diligence obligations, remaining broadly consistent with the 66.7% reported in 2022 – 2023 but representing a decline from 94.4% in 2024. This, however, does not suggest that the performance of diligence obligations by either party has become uncommon in collaborative arrangements. Rather, the parties may have addressed diligence expectations through other contractual mechanisms, including linking certain financial terms to development and commercialization milestones, requiring the periodic submission, review, and discussion of development reports, and providing for matters subject to joint decision-making. As a result, the performance of diligence obligations has effectively become an inherent

element of the overall contractual framework.

Meanwhile, about 13.1% of the projects only specify relatively abstract standards for diligence obligations, such as “Commercially Reasonable Efforts” or “Best Efforts”. By contrast, approximately 56.5% of the agreements either directly establish, or build upon such standards to include, more specific diligence obligations, such as the incorporation of diligence milestones, with a view to incentivizing the Licensee to actively perform its obligations and advance the relevant product pipeline. This trend reflects a growing preference among Licensors for more detailed and operationally enforceable diligence obligation provisions.



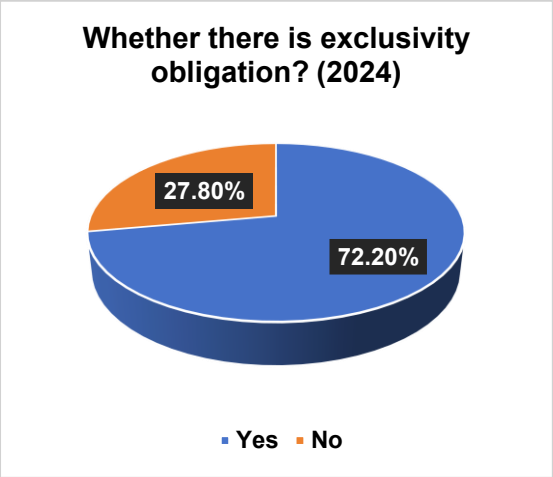


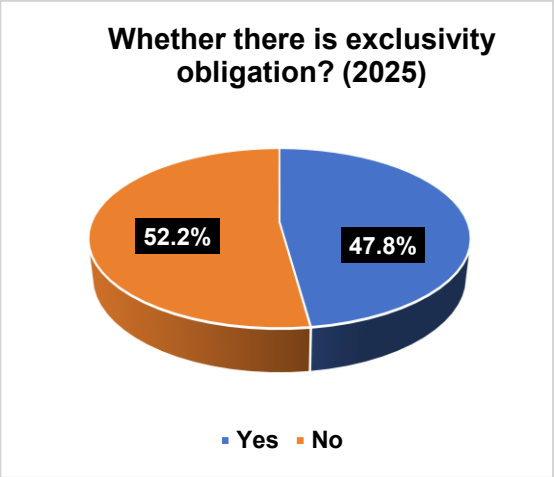
It is worth noting that the vast majority of NewCo projects also include clearly defined diligence milestone provisions. This primarily stems from the structural and objective-specific characteristics of the NewCo model. On one hand, NewCo typically serves as an incubator for specific pipelines or assets, and such technology represents the sole or core asset through which NewCo’s valuation appreciates. In this context, the abstract standard of Commercially Reasonable Efforts is insufficient to meet project timeline management needs, whereas quantifiable and verifiable diligence milestones help anchor the project pace and ensure execution remains on track. On the other hand, the governance structure of NewCo is often relatively independent from both parties, with the potential for third-party investors to participate, leading to higher demands for transparency in project progress. Compared to the standard of Commercially Reasonable Efforts, clearly defined diligence milestones are more conducive to enhancing the overall controllability and stability of the transaction structure.

In addition, in agreements that stipulate specific diligence obligations, approximately 30.8% explicitly link such duties to the right to terminate the agreement. For example, if a key milestone is not achieved, the Licensor may terminate the collaboration as stipulated, and then independently advance development or grant rights to a third party. This arrangement makes the diligence milestone a core restrictive provision during the project, strengthening the Licensor’s oversight and control over the research, development, and commercialization process. At the same time, for the Licensee, this increases project pressure and introduces a certain level of instability regarding the use of the licensed technology. Given the significant impact of such provisions on the parties, detailed discussions during negotiations are necessary regarding how diligence milestones are triggered, specific requirements, and any exceptions or exemptions.

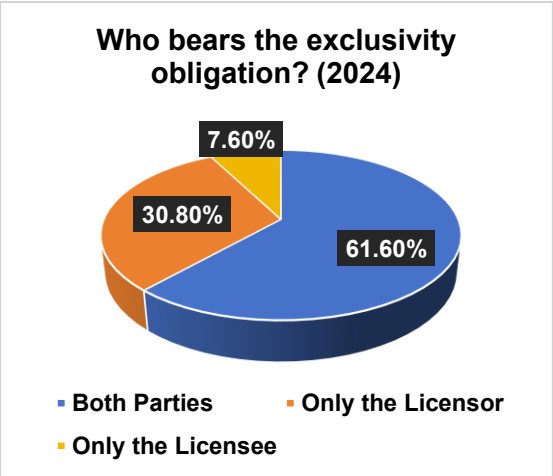
Exclusivity

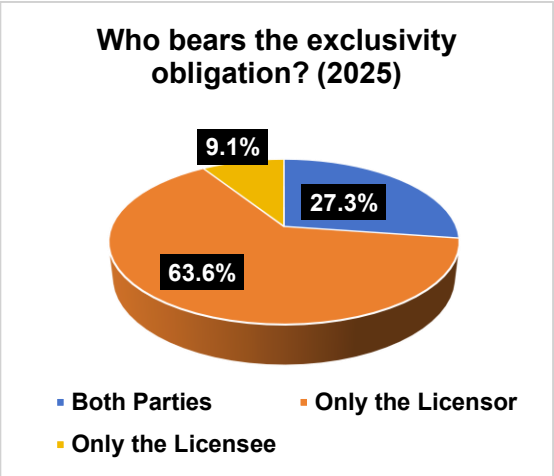
To ensure effective collaboration between the parties in the development and commercialization of the licensed product while maximizing overall returns, licensing agreements typically include explicit provisions on exclusivity obligations. These provisions are designed to prevent any actions that may adversely affect the rights and interests of the other party. According to statistics, 47.8% of agreements explicitly include exclusivity obligations, representing a decline from 72.2% in 2024 and 63% in 2022 – 2023.





Among the projects that include exclusivity obligations, arrangements under which both parties are subject to mutual exclusivity obligations account for approximately 27.3%, representing a significant decrease compared with 61.6% in 2024 and 64.7% in 2022 – 2023. By contrast, projects in which the Licensor alone is subject to exclusivity obligations account for approximately 63.6%, reflecting a marked increase from 30.8% in 2024 and 23.5% in 2022 – 2023. Projects in which the Licensee alone bears exclusivity obligations account for approximately 9.1%, showing only modest fluctuations compared with 7.6% in 2024 and 11.8% in 2022 – 2023.





Compared with data from previous years, the proportion of projects in 2025 where the Licensee unilaterally assumes the exclusivity obligation remains generally stable. In contrast, arrangements involving mutual exclusivity obligations between the parties have decreased compared to previous years and no longer dominate. Instead, arrangements where the Licensor unilaterally assumes the exclusivity obligation have

become more prevalent, imposing greater restrictions on the Licensor. This shift may be attributable to the continuous enhancement of innovation capabilities and pipeline competitiveness among Chinese pharmaceutical companies in recent years. As large multinational pharmaceutical companies increasingly act as Licensees and given their diversified existing pipelines and the likelihood of developing products for similar indications in the future, such Licensees typically seek a higher degree of control over the licensed pipeline and endeavor to avoid restrictions on their existing or potential future businesses. As a result, they are often reluctant to accept exclusivity obligation arrangements. In addition, based on our observations, exclusivity obligation provisions constitute one of the more sensitive and heavily negotiated core terms in licensing transactions. The parties' positions in this regard tend to diverge significantly, leading to higher negotiation costs and making consensus more difficult to achieve.

For the reasons stated above, we understand that the establishment of exclusivity obligations is often closely related to the negotiating positions of the parties, as well as their pipeline assets and development strategies, and can have a profound impact on their future business planning and operations. Therefore, it is recommended that the parties carefully design such arrangements in light of their specific commercial needs during negotiations and drafting of the agreement.

Termination rights

I. Unilateral termination right

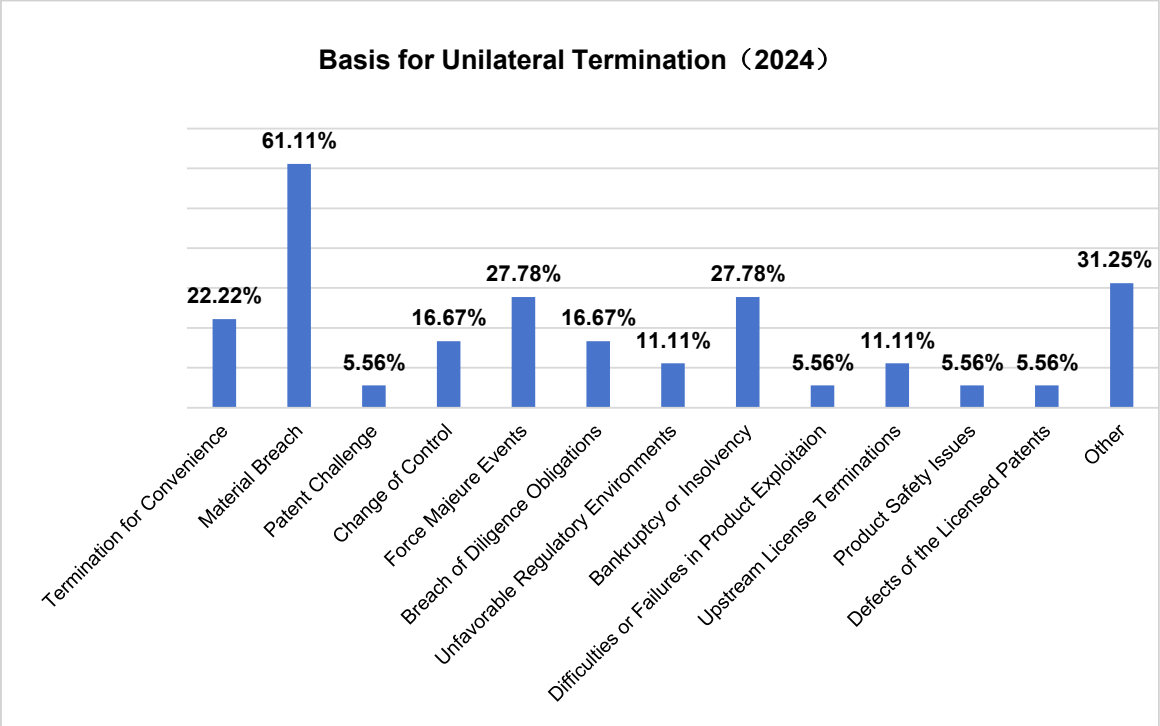
According to the statistics in 2025, the party entitled to exercise the unilateral termination right remains largely unchanged compared to previous years, although there have been some adjustments in the types and proportions of triggering events.

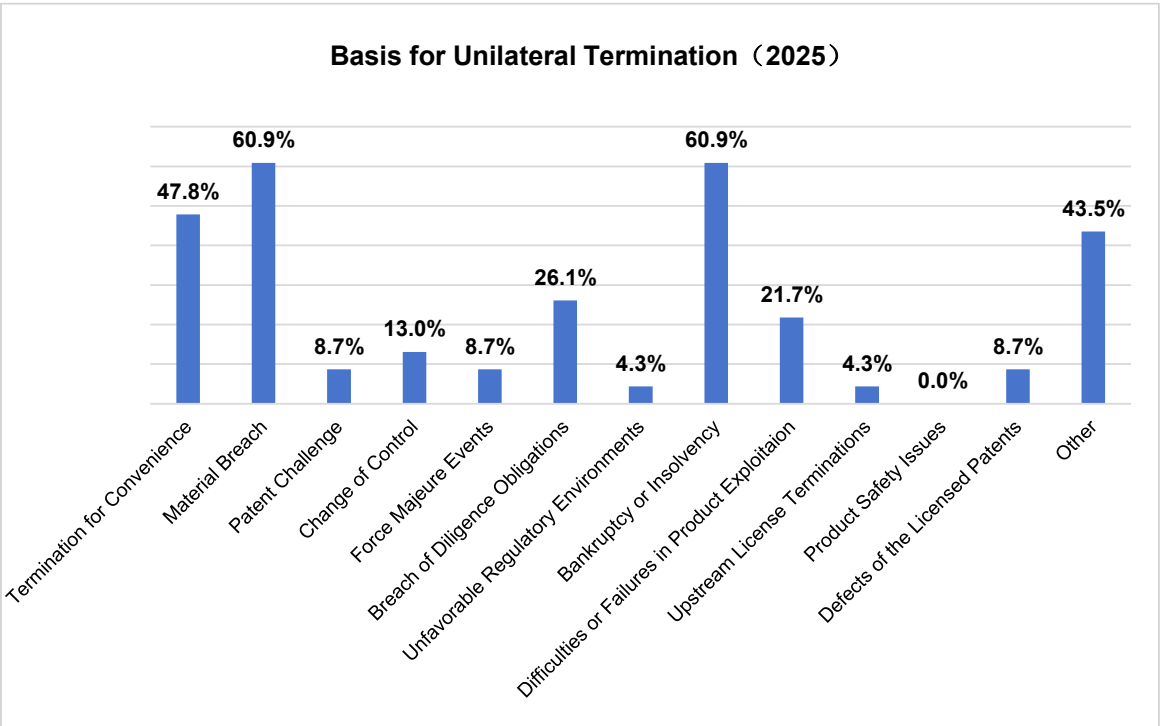
From the perspective of the party entitled to exercise unilateral termination rights, 72% of the projects provide that both parties to the agreement are entitled to unilateral termination rights (regardless of whether the applicable termination grounds or exercise conditions are symmetrical), a structure that is largely consistent with prior years' practice. However, in a small number of projects, unilateral termination rights are granted exclusively to either the Licensor or the Licensee. In addition, among the projects that provide for termination for convenience, approximately 72.7% grant such termination-for-convenience rights solely to the Licensee, representing the most prevalent arrangement, while only approximately 9.1% of the projects provide that both parties are entitled to terminate for convenience. Notably, in certain projects, the exercise of termination-for-convenience rights is subject to specific preconditions, such as the payment of an upfront fee or the satisfaction of other specified conditions before such rights may be triggered. Such arrangements are more commonly observed in projects where termination-for-convenience rights are granted exclusively to the Licensee.

With respect to the grounds for exercising unilateral termination rights, the types of such grounds have become more diverse. "Material Breach" and "Bankruptcy or Insolvency" remain the most commonly specified termination grounds, each appearing in approximately 60.9%[5] of the projects. In addition, approximately 47.8% of the agreements provide for termination for convenience, representing a

[5] In certain statistics presented in this article, the total percentages may exceed 100% due to the inclusion of multiple overlapping categories in certain agreements.

significant increase from 22.22% in 2024. A smaller number of projects further include more specific termination grounds, such as disruptions in the manufacturing or supply of drugs or investigational drugs, failure to perform technology transfer obligations, and breach of exclusivity obligations, reflecting a more detailed and diversified range of termination grounds.



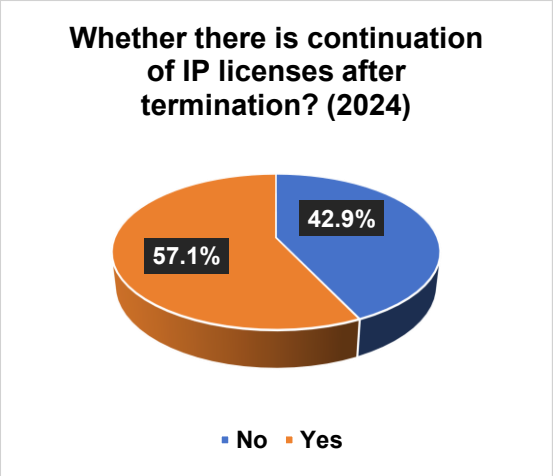


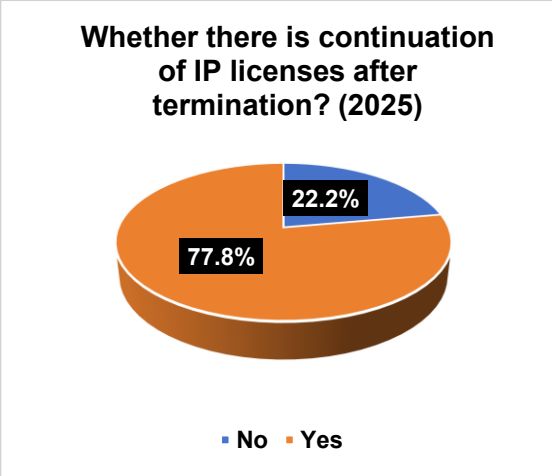
II. Termination consequences

Generally, upon termination of a license agreement, the licenses granted thereunder will automatically

terminate. However, in certain projects, depending on the nature of the project or the specific grounds for termination, the parties may agree that the license will survive and remain in effect following termination of the agreement.

For example, among the projects that include post-termination licensing arrangements, approximately 77.8% of the projects provide that part or all of the licenses will remain in effect following termination. This represents a significant increase compared with 57.1% in 2024 and 29.6% in 2022 – 2023. Within this category, provisions under which the Licensor's Forward License to the Licensee survives termination and provisions under which the Licensee's Grant-Back License to the Licensor survives termination appear in similar proportions. Typical arrangements include, without limitation, an exclusive license granted by the Licensor automatically converting into a non-exclusive license upon termination, or the Licensee automatically granting a Grant-Back License to the Licensor following termination.





In addition, among the projects in which part or all of the licenses are agreed to survive following termination, approximately 33.3% of the agreements adopt conditional post-termination licensing arrangements. Such arrangements primarily include mechanisms under which termination triggers a consultation or negotiation process between the parties to determine whether the Forward License granted by the Licensor to the Licensee should continue or to renegotiate and define the terms of any Grant-Back License, as well as mechanisms under which the continuation of the license to the Licensee is automatically triggered based on the specific grounds for termination. Overall, compared with prior years, post-termination effect provisions in 2025 reflect a broader range of drafting approaches.

It is worth noting that, among the licensing transactions in 2025, projects that provide for continuing license arrangements are predominantly cross-licensing or collaborative R&D projects. In such projects, the parties typically develop a relatively high degree of technical interdependence during the cooperation period. As a result, even where an agreement is terminated for specific reasons, one party may still need to rely on the other party's licensed technology in order to advance subsequent research, development, and commercialization activities. From the perspectives of risk allocation and value preservation, continuing license arrangements also help safeguard the R&D resources, capital,

and time investments made by the parties during the cooperation period, and can, to a certain extent, provide continuity and stability for existing R&D results and commercial expectations. In addition, in practice, continuing license provisions are often tailored based on factors such as the grounds for termination, the applicable field, territory, and duration, thereby ensuring continuity in the use of licensed technology while avoiding the imposition of unreasonable long-term constraints on the other party. Such a more flexible drafting approach also enhances the overall acceptability of continuing license provisions in negotiations.

Comparative summary of License-in/out and NewCo transactions in 2025 versus previous years

Based on the analysis of transaction data from 2025, Chinese companies acting as Licensors have demonstrated an unprecedentedly strong position in the term structuring and rights protection. This development underscores the increasing global recognition of the innovation capabilities of Chinese pharmaceutical companies and their enhanced negotiating leverage. Meanwhile, with greater transactional experience, market participants are engaging in more nuanced consideration of contractual details, resulting in licensing arrangements that are increasingly customized and adapted to specific deal contexts.

First, the enhanced position and strengthened bargaining power of Chinese companies as Licensors became a prominent feature of licensing transactions in 2025. In numerous licensing transactions we have participated in, it is evident that Chinese pharmaceutical companies are demonstrating stronger initiative and bargaining power during negotiations, successfully driving the formation of relatively favorable, long-term interest-oriented rights arrangements. **For example, they no longer routinely grant global rights to Licensees but instead choose to retain development, manufacturing, or commercialization rights in specific territories. In some cases, Licensee's exercise of termination-for-convenience rights is conditioned on prerequisites such as payment of upfront fees, thereby restricting the exercise of such rights. In practice, some Licensors have also implemented co-development revenue-sharing mechanisms that require Licensees to provide ongoing profit sharing. Moreover, some Licensors have pre-defined rights reversion mechanisms in the agreement and have indeed reclaimed project rights due to the Licensee's slow progress in clinical trials.** These arrangements not only generate significant cash flow for Chinese pharmaceutical companies but also reserve ample room for future development, further strengthening their foundation for participating in global innovation and commercial competition.

Second, with the accumulation of transaction experience, all parties have developed a deeper commercial understanding of individual projects and long-term development. This has led to clearer definitions of key interests during negotiations, thereby driving agreement terms toward greater refinement and scenario-specific customization. For example, some projects have implemented more comprehensive exit mechanisms, linking specific diligence obligations to termination rights, which preserve the parties' ability to limit losses and reclaim related technology. **Additionally, an increasing number of projects highlight Licensors' focus on long-term strategic planning. Rather than focusing solely on immediate transaction gains, these agreements include provisions for**

Grant-Back Licenses that allow Licensors to obtain newly developed IP (e.g., improvements) derived from the licensed technology by the Licensee, thus reserving space for subsequent technological iterations and sustainable development. Meanwhile, some projects have flexibly adopted non-monetary consideration approaches, controlling the impact of Grant-Back Licenses by limiting the licensed territory, technology fields, or scope of rights transfer, thereby better protecting the Licensee's core interests and overall business layout. Furthermore, as disputes related to licensing transactions have gradually emerged—such as conflicts arising from unclear definitions of exclusivity obligations or disagreements over whether standards of diligence obligations have been met—market participants have been able to identify potential risk clauses through these cases and make preemptive adjustments in subsequent transactions. (In an arbitration case where one of the key issues was whether commercially reasonable efforts had been fulfilled, the Han Kun team successfully represented the Licensee in its defense, preserving substantial commercial benefits for the client. For details, please refer to: *Benchmark Victory for Arbitration Case on New Drug Development License-in, Successfully Defending Client's Core Interests*).

In addition, due to the unique transaction structure of the NewCo model, transaction arrangements often require customized design. Being a transaction structure that merges licensing and equity investment, NewCo projects typically focus on a single pipeline with a high asset concentration. The development progress, financing arrangements, and potential exit pathways are characterized by significant uncertainty and flexibility. **Considering that different NewCos have varying establishment objectives, whether emphasizing capital infusion, integration of R&D capabilities, or acquisition of quality assets, the parties involved differ in their risk allocation, specific roles, and return expectations. Consequently, relevant terms such as rights of first negotiation often require targeted adjustments,** resulting in distinctly personalized term designs for NewCo projects.

In summary, transaction practices in 2025 demonstrate that Chinese pharmaceutical companies, leveraging continuously enhanced comprehensive competitiveness, are transitioning from mere "market participants" to influential "market shapers" in global collaborations. This shift is driving licensing transactions toward a more balanced and strategically mature stage that emphasizes long-term planning.

Conclusion

Based on 2025 transaction data and industry practices, this article systematically reviews and analyzes the current landscape, trends, and evolutionary logic of licensing transaction terms across seven key dimensions, including marketing authorization rights, license grant, financial terms, intellectual property, diligence obligation, exclusivity, and termination rights, and compares term design with the NewCo model. Overall, China's biopharmaceutical licensing market is demonstrating a mature trajectory of rapid growth, with innovative models such as NewCo further enriching transaction structures and negotiation dynamics. In future deal negotiations and agreement drafting, parties should, while referencing prevailing practices, place greater emphasis on flexibly and prudently customizing terms according to specific commercial strategies, risk appetites, and collaboration contexts to build more resilient and sustainable partnerships.

Important Announcement

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