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A Year After the Credit Crunch – Selected U.S. Merger Statistics

A year has passed since the credit crunch first struck last summer, and we thought it useful to review developments in U.S. M&A transactions. Here are some interesting comparisons between the 12-month period from August 2006 – July 2007 and the 12-month period from August 2007 – July 2008:

- The average size of the ten biggest deals announced during the later period decreased to \$15.1 billion from \$22.7 billion in the earlier period. No financial buyer deals were in the top ten, compared with eight such deals in the earlier period.
- Break fees and reverse break fees remain in line with historical levels and do not seem to have increased in spite of the recent wave of deals that have been terminated or renegotiated.
- Financing conditions appeared in app. 15.2% of deals involving financial buyers, an increase from approximately 9.8% during the earlier period.
- The percentage of deals with go-shops fell from approximately 10.6% in the earlier period to 7.1% in the later period, possibly reflecting uncertainty among dealmakers as to their efficacy or longer deal timelines where full, pre-signing sale processes are possible and go-shops unnecessary.
- The percentage of tender offers has increased over 170%, and in the later period, 100% of such deals had top-up options.

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More detailed statistics follow below. We note that the sample size of deals in the post-crunch period remains relatively low. As such, it is difficult to assess whether these statistics and observations are enduring trends or are merely reflective of current uncertainties and dislocations in the financial and M&A markets. Questions regarding the items discussed in this update should be directed to members of the Paul, Weiss M&A Practice Group. This memorandum is not intended to provide legal advice with respect to any particular situation and no legal or business decision should be based solely on its content.

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MERGER MARKET STATISTICS¹**Ten largest U.S. public mergers**

August 1, 2006 – July 31, 2007		August 1, 2007 – July 31, 2008	
Deal (Date Announced)	Equity Value (\$ bill.)	Deal (Date Announced)	Equity Value (\$ bill.)
TXU/TPG investment group (02-26-2007)	\$31.8	Anheuser-Busch/InBev (06-11-2008)	\$49.9
Phelps Dodge/Freeport-McMoRan Copper & Gold (11-19-2006)	\$25.8	Wm. Wrigley Jr./Mars (04-28-2008)	\$21.9
First Data/KKR (04-02-2007)	\$25.6	Rohm and Haas Company/Dow Chemical (07-10-2008)	\$15.1
ALLTEL/TPG, GSCP (05-20-2007)	\$24.7	EDS/Hewlett-Packard (05-13-2008)	\$12.6
SLM Corp/J.C. Flowers investment group (04-16-2007)	\$24.6	NYMEX Holdings/CME Group (01-28-2008)	\$9.3
Caremark Rx/CVS (11-01-2006)	\$22.4	Trane/Ingersoll-Rand (12-17-2007)	\$9.2
Equity Office Properties/ Blackstone (11-19-2006)	\$19.5	Alpha Natural Resources/ Cleveland-Cliffs (07-16-2008)	\$9.0
Hilton Hotels Corp/Blackstone (07-03-2007)	\$18.5	Commerce Bankcorp/Toronto-Dominion Bank (10-02-2007)	\$8.2
Clear Channel/Thomas H. Lee, Bain investment group (11-16-2006)	\$17.8	Millennium Pharmaceuticals/ Takeda Pharmaceutical (04-10-2008)	\$8.1
Harrah's Entertainment/TPG, Apollo investment group (10-02-2006)	\$16.7	BEA Systems/Oracle (01-16-2008)	\$7.9
Average value of top ten deals	\$22.7	Avg. value of top ten deals	\$15.1

Pre- and post-credit crunch market comparison

	Aug. 1, 2006 – July 31, 2007	Aug. 1, 2007 – July 31, 2008
U.S. M&A volume ²	\$1.85 trillion	\$1.30 trillion
U.S. private equity deal volume ²	\$545.79 billion	\$81.03 billion
Private equity deal volume as % of total deal volume ²	29.43%	6.21%
Average value of U.S. private equity deals ²	\$1.20 billion	\$304.61 million
Average value of private equity deals globally ²	\$672.20 million	\$245.24 million
Withdrawn deals as % of total U.S. mergers announced during the period indicated (including deals for which agreements and/or tender offers were never signed or launched) as of August 28, 2008	17.57%	13.50%

MERGER AGREEMENT STATISTICS**Break fees**

	Aug. 1, 2006 – July 31, 2007	Aug. 1, 2007 – July 31, 2008
Avg. break fee as % of equity value	3.53%	3.79%
Avg. reverse break fee as % of equity value	3.90%	3.87%

Percentage of financial buyer mergers with financing conditions

August 1, 2006 – July 31, 2007	9.76%
August 1, 2007 – July 31, 2008	15.15%

Go-shops

	Aug. 1, 2006 – July 31, 2007	Aug. 1, 2007 – July 31, 2008
% of mergers with go-shops	10.61%	7.06%
Avg. go-shop window	38.57 days	37.94 days

Go-shop termination fees

	% of go-shops w/ different go-shop break fee	Avg. go-shop break fee as % of break fee, if different from regular break fee
August 1, 2006 – July 31, 2007	79.59%	48.75%
August 1, 2007 – July 31, 2008	77.78%	54.51%

Tender offers

	Aug. 1, 2006 – July 31, 2007	Aug. 1, 2007 – July 31, 2008
Tender offers as % of total mergers	12.77%	22.57%
% of top-up options in tender offers	81.36%	100%

¹ All data are from FactSet Mergers unless otherwise indicated. Statistics are generally for mergers involving public, U.S. targets announced between the dates indicated and excluding announced transactions for which neither a merger agreement was signed nor a tender offer launched.

² Source: Dealogic.