



2011 Strategic Buyer/Public Target Mergers & Acquisitions Deal Points Study

(For Transactions Announced in 2010)

**A Project of the Mergers & Acquisitions Market Trends Subcommittee,
Mergers & Acquisitions Committee of the American Bar Association Business Law Section**



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DISCLAIMERS

The findings presented in this Study do not necessarily reflect the personal views of the Working Group members or the views of their respective firms. In addition, the acquisition agreement provisions that form the basis of this Study are drafted in many different ways and do not always fit precisely into particular “data point” categories. Therefore, Working Group members have had to make various judgment calls regarding, for example, how to categorize the nature or effect of particular provisions. As a result, the conclusions presented in this Study may be subject to important qualifications that are not expressly articulated in this Study.

2011 Strategic Buyer/ Public Target Study Sample Overview

- ◆ This Study analyzes publicly-available acquisition agreements for acquisitions of U.S. publicly-traded targets by publicly-traded and other strategic acquirers for transactions announced in 2010. Acquisition agreements for acquisitions by private equity buyers have not been included among the agreements analyzed for purposes of this Study.
- ◆ The Study sample was obtained from <https://www.mergermetrics.com>.
- ◆ Comparative references in this Study to data from “deals in 2009” and “deals in 2008” refer to data in the *2010 Strategic Buyer/Public Target Mergers and Acquisitions Deal Points Study (for transactions announced in 2009)*, and data in the *2009 Strategic Buyer/Public Target Mergers and Acquisitions Deal Points Study (for transactions announced in 2008)*, respectively.

(<http://apps.americanbar.org/dch/committee.cfm?com=CL560003>)

Transaction Value* Range	# of Deals	Consideration		
		<i>All Cash</i>	<i>All Stock</i>	<i>Mixed</i>
\$100M and over	126**	63%	14%	23%

* Includes target debt at time of signing, if applicable.

** Includes 39 deals structured as negotiated tender offers.

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Target's Representations and Warranties

“Fair Presentation” Representation

“Fairly Presents” is GAAP Qualified

The Target Financial Statements fairly present the financial position of Target as of the respective dates thereof and the results of operations and cash flows of Target for the periods covered thereby, **all in accordance with GAAP.**

“Fairly Presents” is not GAAP Qualified

The Target Financial Statements fairly present the financial position of Target as of the respective dates thereof and the results of operations and cash flows of Target for the periods covered thereby. The Target Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered.

Also available as part of the eCourse

[M&A 2012 Developments: Distressed M&A; Private Equity M&A; plus Public Company M&A](#)

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