PRESS RELEASE

Date	19 April 2021
Page	1 of 3
Subject	CMS European Real Estate Deal Point Study 2021

CMS European Real Estate Deal Point Study 2021

Pandemic leaves its mark on European real estate investment market

- *COVID-19 pandemic leads to change in investor interest in the individual asset classes – logistics and residential properties especially popular*
- *Increased desire for security on part of sellers: record proportion of transactions in which steps were taken to ensure the buyer met its financial obligations*
- *Buyers continue to catch up with regard to risk allocation in contracts*

Stuttgart – The COVID-19 pandemic has left its mark on the European investment market. Investment volumes were around 23% lower than in the previous year, 2019, with its record performance. Buyers focused primarily on properties with stable income and those only minimally affected by the pandemic. The number of transactions in which steps were taken to ensure the buyer met its financial obligations was at a record high. The trend towards more buyer-friendly arrangements continued. Those are the key findings of the CMS European Real Estate Deal Point Study 2021. For the latest edition of this survey of the European real estate transaction market, international commercial law firm CMS systematically assessed and evaluated more than 1,900 real estate agreements on which it advised in countries across Europe from the beginning of 2010 to the end of 2020.

“Investment volumes are at a high level, despite the decline recorded. This is due to the ongoing good credit terms and lack of alternative investment options. Nevertheless, the COVID-19 pandemic will continue to impact the market in 2021,” explained Dr Volker Zerr, a partner in the Real Estate & Public division at CMS Germany. “Although investors are gradually becoming accustomed to the changed circumstances, they remain reluctant to invest in the first quarter of 2021. The trend in real estate investment will largely depend on the course the pandemic takes. It will be interesting to see how things evolve," continued Zerr.

Investors focus on stable income

The COVID-19 pandemic led to a change in investor interest in the individual asset classes. Buyers focused primarily on properties with stable income and those that were only minimally affected by the pandemic. Logistics and residential properties were especially popular.

Office real estate remained the strongest asset class in Europe, but its share of the market fell to a record low of 30%. Demand for retail properties remained at a consistently low level (15%). Logistics real estate performed particularly well, posting a rise to 19% , a new record. The proportion of investment going into specialist properties such as hotels fell significantly (14%). Residential real estate proved popular with investors, with its share rising to 22%.

"The data clearly reflects the impact of coronavirus. An increase in working from home, retail shop closures and shuttered hotels make these asset classes unattractive to investors. On the other hand, investors are tempted by logistics properties, which are in high demand in any case due to growth in online shopping, and also by residential real estate with its stable income flows," explained CMS partner Zerr.

Sellers taking steps to ensure that buyers meet their financial obligations

During the pandemic, an increased need for security on the part of sellers was apparent. The proportion of transactions in which steps were taken to ensure the buyer met its financial obligations rose to a record high of 64%. In previous years, security was agreed in less than 50% of all transactions.

This high level is due to the increased desire for security on the part of sellers as a result of the pandemic; they were often uncertain about the buyer's solvency going forward. As a means of providing security, both bank guarantees (17%) and a notary's escrow account (10%) became less popular. In many cases, in contrast, the buyer made an advance payment (29%). In 9% of transactions, use was made of submission to immediate enforcement.

Risk allocation in contracts: buyers catching up in a seller-friendly market

Buyers were able to strengthen their position further in 2020 with regard to risk allocation in contracts. In a market environment that remained very seller-friendly, they succeeded in obtaining favourable contract terms more often than in previous years.

As part of the warranty, guarantees were again agreed more often in favour of buyers. The percentage of agreements with individual liability provisions increased to 75%. It was common practice to provide for both subjective and objective guarantees.

The proportion of deals with seller-friendly limits on liability, such as *de minimis* and basket clauses and caps, dropped slightly below the prior-year level in 2020. The upward trend seen over many years in agreements aimed at limiting liability has thus been curbed somewhat, while buyers were able to negotiate more favourable contract terms more often than before.

Buyers also made up ground with regard to the contractual provisions on limitation periods. An increasing number of limitation periods from 18 to 24 months were agreed in 2020, while there was a slight fall in the proportion of short limitation periods of up to 18 months.

National investors more prominent

International investors had a tough time in 2020. While international sellers have been responsible for the majority of deals since 2017, their percentage dropped back down to 43% in 2020, with national investors becoming more active. National investors accounted for 48% of deals in 2018, while in 2020, 57% of real estate investments were made by national investors.

In the past, there have been several significant shifts in the relative importance of national and international investors: dominance of national investors in 2010, 2012, 2015 and 2016; a clear majority of international investors in 2014 and 2018. CMS lawyer Zerr explained: “The current trend is consistent with the wave-like movement of recent years. Nevertheless, the decrease in investment by foreign buyers last year is probably due especially to pandemic-related reasons, such as the difficulty of viewing properties during lockdown.”