PRESS RELEASE

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CMS European Real Estate Deal Point Study 2019

Real estate investment market flatlining at a high level

- *Total investment remains at previous year's level.*
- *Investors forced to revise their investment preferences: office real estate still ahead, but growing interest in specialist properties.*
- *Market remains seller-friendly, but buyers also increasingly securing favourable contract terms.*

Frankfurt – Despite sustained strong demand, investment volumes are flatlining due to trade disputes, weaker economic growth and a lack of product supply. Total investment was roughly the same in 2018 as in the previous year, at around EUR 264 billion. Against this backdrop, sellers have retained their strong negotiating position, but buyers have also increasingly been able to secure contract provisions favourable to them. Those are the key findings of the CMS European Real Estate Deal Point Study 2019. For the fifth edition of this survey of the European real estate transaction market, international commercial law firm CMS systematically assessed and evaluated more than 1,500 real estate agreements on which it advised in 14 countries from the beginning of 2010 to the end of 2018.

"Total investment is flatlining at a high level," said Dr Volker Zerr, a partner in the Real Estate & Public division at CMS in Germany. "The market remains seller-friendly. What has changed, is that buyers have been increasingly able to obtain contract provisions favourable to them. Our detailed analysis of the purchase agreements shows more frequent negotiation of objective guarantees by buyers, suggesting that sellers may be willing to accept higher risks."

Specialist properties still on trend

Office properties remained the strongest asset class in 2018, with a share of 38%. Demand was particularly high for value-add properties with leases due to expire shortly or properties with vacant space in European cities and conurbations. The proportion of office property transactions has been relatively constant at around 40% for several years now. The positive trend in specialist properties continues unabated. This category includes hotels, serviced apartments, care homes, student accommodation and industrial properties. Alternative asset classes accounted for 19% of total investment in 2018 (2017: 14%, 2016: 11%). Excess demand and a lack of core properties in the office and retail asset classes are forcing investors to revise their investment preferences and switch to other asset classes. Specialist properties also benefit from higher yield expectations and a low perceived risk of vacancies. Retail lost its position as the second strongest asset class, with the downward trend seen since 2016 continuing last year. Following a previous decline from 25% to 18%, retail only accounted for 15% of investment in 2018.

Buyers more often able to get their way in a seller's market

Buyers made up ground in 2018 and succeeded in securing favourable contract terms more frequently than in previous years. Sellers continued to benefit from market buoyancy through purchase price adjustments and earn-out clauses. Provisions for subsequent purchase price adjustment have become increasingly common since 2016. This is in part due to the further rise in the number of transactions involving development projects (forward deals). The proportion of agreements with a variable purchase price was 27% in 2018.

The upward trend observed over many years in *de minimis* and basket clauses, which limit the buyer's warranty claims, came to a halt in 2018. At 54% (*de minimis* clauses) and 43% (basket clauses), the proportion of deals with these seller-friendly clauses was slightly below the prior-year level. Transactions with a cap, i.e. a maximum contractual liability on the part of the seller, followed the same trend and showed a decline to 60%. However, this remains a very high proportion. The seller-friendly market environment is also evident in the limitation periods. Short warranty limitation periods of less than 18 months were agreed in about a third of all deals.

In around half of transactions, no steps were taken to ensure the buyer meets their financial obligations. The figure has stood at approximately 50% for four years in a row, reflecting the high proportion of financially strong institutional investors on the buyer side. Buyers did well in terms of warranty arrangements: compared to the previous year, there was an increase in transactions with objective guarantees (i.e. liability regardless of whether the seller is aware of the circumstance), which were up 7 percentage points at 12%, while there was a drop in agreements with only subjective guarantees (disclosure of knowledge) by 4 percentage points to 16%.

International investors continue to be heavily represented

The majority of real estate investments continued to be made by foreign investors in 2018. Compared to the previous year, the proportion of foreign buyers rose slightly (2018: 52%, 2017: 51%); this was mainly due to increased activity by investors from Asia. At the beginning of the period under review in 2010, national investors dominated the market, with more international investors starting to appear in 2013. In 2014, for the first time more investments were made by international players than by national investors. The pendulum subsequently swung back again, while for the last two years the balance has been roughly equal.

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Notes to editors:
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