press release

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subject **Exclusive CMS M&A Research: Europe Stabilizes post-Lehman**

The CMS European M&A Study 2010 shows that post-Lehman, balance is returning as the market recovers

Following the release of *The CMS European M&A Study 2010,* which provides in-depth analysis of hundreds of M&A deals in Europe, leading European legal and tax provider CMS believes there is evidence that stability is returning to the M&A market in 2010. In the first European study to look at the mergers and acquisitions market before and after the collapse of Lehman Brothers, CMS draws on exclusive data from more than 750 M&A transactions stretching the length and breadth of Europe.

“Only CMS, with our unique, unmatched footprint across Europe and leading market position, could pull together such robust data,” says Thomas Meyding, Head of CMS Corporate Practice: “It clearly reflects the transition to a buyer’s market in 2007 and 2008. However, as more time passes following the Lehman Brothers insolvency there are now clear signs of recovery, including a shift back to a more balanced market for buyers and sellers.”

“Fewer purchase price adjustments, along with fewer non-competes, shorter limitation periods and exemptions from MAC clauses paint an overall picture of greater simplicity in M&A transactions,” explains Meyding. “In the big picture, it shows a market that was heavily weighted toward sellers up to 2007 then shifted dramatically to buyers as the credit crisis ensued, and has now, post-Lehman, started to become more balanced between the two."

At the same time, the research shows several "hot issues" in M&A deals are more heavily negotiated post-Lehman. For example, negotiations over closing conditions have increased significantly, showing both sides are opting for more rigorous, explicit deal points before signing on the bottom line: more deals had bespoke conditions rather than just the usual conditions such as merger clearance or regulatory approval.

The period post-Lehman shows a notable decrease, from 61% in 2008 to 48% in 2009, in price adjustment clauses. This decrease may be surprising at first. It is most likely explained by the element of distress in many transactions leading to a lower, but fixed, purchase price acceptable to both parties. However, this comes against the backdrop of greater sophistication of purchase price mechanisms when they were used.

"It certainly appears that buyers are more prepared to price the risk, relying on their own due diligence, which suggests to us that 2010 will see even more stability returning to the market, favouring trade buyers with strong balance sheets and access to funds," observes Meyding.

The numbers and trends can vary substantially by region, suggesting such stability may take longer in some areas than others. The Study breaks down its analysis into four European regions: **Benelux** (The Netherlands and Belgium), **Central and Eastern Europe (CEE)** (Bulgaria, Croatia, Czech Republic, Hungary, Poland, Romania, Russia, Slovakia and Ukraine), **German-speaking countries** (Austria, Germany and Switzerland), and **Southern Europe** (Italy and Spain). **France** and the **United Kingdom** are presented as individual categories. There are also comparisons with the US.

The CMS European M&A Study 2010 is based on in-depth analysis of 763 transactions relating to both non-listed public and private companies in Europe for the three-year period 2007–2009. More than 250 transactions relate to 2009. The data used in the Study is not publicly available and is based on privately negotiated transactions in which CMS acted as an advisor to either the buyer or the seller. [Comparative data from the US was derived from the 2009 Private Target Mergers & Acquisitions Deal Points Study reporting on transactions completed in 2008 and produced by the Mergers & Acquisitions Market Trends Subcommittee of the Mergers & Acquisitions Committee of the American Bar Association's Section of Business Law.]

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