

**SCHULTE ROTH & ZABEL M&A GROUP RELEASES
PRIVATE EQUITY BUYER/PUBLIC TARGET M&A DEAL STUDY**

New York, April 1, 2015 — **Schulte Roth & Zabel's** ("SRZ") leading M&A Group has released a new study, *Private Equity Buyer/Public Target M&A Deal Study: 2013-14 Review and Comparative Analysis*. The report surveys private equity buyer acquisitions of U.S. public companies from 2013 to 2014. Focusing on key terms in middle and large market acquisitions valued at over \$100 million, the study also compares findings with SRZ's previous analysis of transactions from 2010 to 2012. The *Deal Study* identifies key market practices and deal trends, and its appendices present additional data helpful to participants in today's M&A markets.

"We are pleased to present this study, which is the culmination of four years' analysis of private equity buyer acquisitions of U.S. public companies," commented **John M. Pollack**, SRZ M&A partner and principal author of the study, who practices in the areas of public and private mergers, acquisitions, divestitures and tender offers. "We are excited to share its results with our clients and colleagues in the private equity community."

SRZ M&A associates **Pavel A. Shaitanoff**, **Todd B. Kornreich**, **Colin S. McKeon** and **Nicholas Scott** co-authored the study.

"Our M&A Group has worked on some of the most complex deals done by private equity firms in recent years," commented **Stuart D. Freedman**, SRZ M&A partner and co-chair of the firm's Business Transactions Group. "This study is a prime example of our commitment to providing our private equity clients as well as other participants with the data they need to keep abreast of what is 'market' in private equity deal making."

"Our M&A Group is recognized for the depth of its practice, and in sharing that expertise, this new study will be a great resource for industry dealmakers," added **Alan S. Waldenberg**, chair of the firm's Executive Committee and chair of the Tax Group.

A key takeaway from the study:

- As noted below, we continue to observe a "market practice" regarding a number of key deal terms:

2013-14 "What's Market" Summary Guide		
Deal Term	Large Market	Middle Market
One-Step Merger Structure	✓	✓
"Window Shop" Provision	✓	✓
"Marketing Period" Provision	✓	✗
No Financing Condition	✓	✓
Target Only Has a "Limited Specific Performance" Right	✓	✗
No Appraisal Rights Closing Condition	✓	✓
Match/"Last Look" Match Rights	✓	✓
Mean Target Break-Up Fee	3.3%	3.5%
Use of a "Single-Tier" Buyer RTF Mechanism	✓	✓ ⁵
Mean Buyer RTF (Single-Tier Structure)	6.4%	6.7%
Damages for Buyer Breach Capped at RTF	✓	✓

Note: Check marks indicate consistency in 75% or more of the relevant deals.

Additional highlights from the study:

- The target's break-up fees have grown as percentage of the target's equity value (on a mean basis) — from 3.1% to 3.3% for the large market deals, and from 3.3% to 3.5% for the middle market deals.
- The buyer's reverse termination fees have remained consistent at approximately 6.5% of the target's equity value.
- Uncapped damages for buyer's "willful breach" are becoming exceedingly rare — only 5% of the 2013–14 large market deals and 17% of the 2013–14 middle market deals provided for such damages.
- While hedge funds are increasingly exercising appraisal rights, consistent with our prior studies, none of the 2013–14 transactions had a closing condition tied to appraisal rights.

Click [here](#) for a PDF of the study.

About SRZ's Mergers & Acquisitions Group

SRZ's Mergers & Acquisitions Group helps clients achieve their business objectives by structuring and executing complex deals across a range of industries. From public and private M&A transactions including leveraged buyouts, "going private" and cross-border transactions to tender offers, proxy contests and leveraged recapitalizations, the lawyers represent private investment funds, portfolio companies and publicly traded companies in award-winning deals.

The M&A Group was recognized in January 2015 by FactSet on its list of "Top U.S. Advisers — Legal Advisers," based on U.S. announced deals in 2014, citing 31 total deals with a transaction value of more than \$22 billion.

Recent high-profile M&A matters handled by the firm include its representation of: Albertsons LLC and an investor group led by Cerberus Capital Management LP ("Cerberus") in the \$9.2-billion merger of Safeway Inc.; Cerberus in its acquisition of the automotive interiors business of Visteon Corporation; Marlin Equity Partners LLC in its \$891 million acquisition of Tellabs; Aeroflex Holding Corp. in its sale to Cobham plc for \$1.46 billion; Vencore, Inc. (f/k/a The SI Organization, Inc.) and The Veritas Capital Fund IV in the acquisition of the U.S. Services division of QinetiQ Group plc; and Castle Harlan, Inc. and Pretium Packaging LLC ("Pretium") in the sale of Pretium to Genstar Capital.

About Schulte Roth & Zabel LLP

Schulte Roth & Zabel LLP (www.srz.com) is a full-service law firm with offices in New York, Washington, D.C. and London. As one of the leading law firms serving the financial services industry, the firm regularly advises clients on corporate and transactional matters, as well as providing counsel on regulatory, compliance, enforcement and investigative issues. The firm's practices include: bank regulatory; bankruptcy & creditors' rights litigation; business reorganization; complex commercial litigation; cybersecurity; distressed debt & claims trading; distressed investing; education law; employment & employee benefits; energy; environmental; finance; financial institutions; individual client services; insurance; intellectual property, sourcing & technology; investment management; litigation; mergers & acquisitions; PIPEs; private equity; real estate; real estate capital markets & REITs; real estate litigation; regulatory & compliance; securities & capital markets; securities enforcement; securities litigation; shareholder activism; structured products & derivatives; tax; and white collar defense & government investigations.

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