

This is your Release #18 (November 2019)

Mergers, Acquisitions and Tender Offers

Law and Strategies

• *Corporate* • *Securities* • *Taxation*
• *Antitrust* • *Cross Border*

By **Samuel C. Thompson, Jr.**

Mergers, Acquisitions and Tender Offers: Law and Strategies is a guide to the following aspects of domestic and cross-border mergers, acquisitions, and tender offers (M&A): corporate, securities, federal income tax, antitrust, pre-merger notification, accounting, and valuation. The book focuses on both private company and public company acquisitions and both negotiated and hostile transactions in which an acquiring corporation (acquirer) acquires by merger or otherwise the stock or assets of a target corporation (target). The book takes a practical approach to these topics, and many of the chapters have appendices containing deal documents illustrating the practical application of the particular topic.

Highlights of Release #18 include:

- **Revised section 1:7.38[D], Changes in the M&A Antitrust Enforcement Policies of the Antitrust Division of the Department of Justice and the Federal Trade Commission**, explores the Horizontal Merger Guidelines and how, if after applying the Guidelines, the reviewing agency determines that the M&A transaction would violate section 7 of the Clayton Act, the agencies can either (1) reach an agreement with the parties on a divestiture or other remedy, or (2) challenge the transaction in court.
- **New section 2:13.3[K], Private Equity Buyer Forgets to Extend Contract, Triggering a Reverse Termination Fee—Rent-A-Center**, examines the unexpectedly large settlement Rent-A-Center received when it terminated its merger agreement with Vintage Rodeo (after Vintage failed to exercise its right to extend

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- the merger agreement) and gives advice on how to avoid Vintage's problem in the future.
- **New section 3:3.2[O], Impact of *Wayfair* on Due Diligence Regarding State Taxes**, recommends that a business conduct complex and comprehensive analysis of the law in each tax jurisdiction because unless a company wants to engage in the costly endeavor of litigating with a state (which is impracticable in the M&A context), it is functionally bound by a state's asserted authority.
 - **New section 8:7.3[B][3], Ninth Circuit Holds that "Scienter" Is Not a Required Element in an Action Under Section 14(e)—*Emulex***, explains that in *Emulex*, the Ninth Circuit addressed the issue of whether scienter is a required element of a violation of section 14(e) of the tender offer provisions of the Securities Exchange Act of 1934. The court found that it is not a required element.
 - **New Appendix 9E, Checklist for Planning a Taxable Acquisition and Leveraged Buyout (LBO) and Appendix 9F, Checklist for Planning Reorganizations.**
 - **New summary updates to Volume 3**, discusses some of the changes that will be made in the next update to chapters 14 through 28, reflecting developments after May 31, 2019.

Thank you for purchasing *Mergers, Acquisitions and Tender Offers: Law and Strategies*. If you have questions about this product, or would like information on our other products, please contact customer service at info@pli.edu or at (800) 260-4PLI.

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