Reverse Break-Up Fees and Specific Performance: A Survey of Remedies

Thomson Reuters is offering a complimentary copy of the 2016 edition of Practical Law's study, **Reverse Break-Up Fees and Specific Performance**: A Survey of Remedies for Financing and Antitrust Failure.

This year's edition analyzed all 85 merger agreements entered into in 2015 for debt-financed acquisitions of U.S. reporting companies in deals valued at $100 million or more. The study provides a detailed guide to the negotiation of remedies for buyer breach by:

- Examining how deal characteristics such as the size of the transaction and the profile of the buyer affect the negotiation of enforcement and monetary remedies.
- Reviewing the sizes of reverse break-up fees in leveraged deals as percentages of deal value and as multiples of the target company's break-up fee, and compares reverse break-up fees that cap the damages payable by the buyer against those that do not.
- Analyzing other techniques for allocating risk in debt-financed transactions, including the buyer's financing covenants, the definition of the lenders' marketing period, and the agreement's "Xerox" provisions.

New this year, the study contains a supplement analyzing antitrust-triggered reverse break-up fees and other mechanisms for allocating the risk of antitrust failure. For this inquiry, the study surveyed all 49 agreements in the Practical Law What's Market M&A database for 2015 that contained a reverse break-up fee payable for antitrust failure. These included 27 agreements for the acquisition of a US reporting company in deals valued at $100 million or more and 22 publicly filed agreements for private M&A deals involving the acquisition of a US company or business valued at $25 million or more.

Download the study and receive free temporary access to Practical Law online resources.