Trends in Mergers and Acquisitions:
A special report on the state of the M&A market
<table>
<thead>
<tr>
<th>Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Snapshot of the M&amp;A Marketplace</strong></td>
<td>3</td>
</tr>
<tr>
<td>Global M&amp;A Activity Summary</td>
<td>3</td>
</tr>
<tr>
<td>Global Cross Border M&amp;A Activity</td>
<td>4</td>
</tr>
<tr>
<td>Top 50 Deals in 2009 by Industry</td>
<td>5</td>
</tr>
<tr>
<td>North American Offer Considerations</td>
<td>6</td>
</tr>
<tr>
<td>Where Are the Best Opportunities?</td>
<td>7</td>
</tr>
<tr>
<td>Global M&amp;A Transaction Size</td>
<td>7</td>
</tr>
<tr>
<td><strong>Best Practices: Smart Tactics for a Tough Market</strong></td>
<td>8</td>
</tr>
<tr>
<td>Most Important Skills for Effective M&amp;A</td>
<td>9</td>
</tr>
<tr>
<td><strong>The “New” Role of Due Diligence</strong></td>
<td>10</td>
</tr>
<tr>
<td><strong>Taming Deal Costs: New Techniques and Tactics</strong></td>
<td>10</td>
</tr>
</tbody>
</table>
A panel of distinguished M&A professionals who participated at the live, interactive webcast on *Trends in Mergers and Acquisitions*, presented by *Global Finance* magazine and sponsored by Merrill DataSite®, was asked to discuss what they’re seeing in the deal space today and to focus on what they see as the opportunities and challenges in today’s M&A market. Panelists discussed best practices and emerging trends, and also talked about ways to manage transaction costs in this new, tighter marketplace.

As moderated by Joseph D. Giarraputo, publisher and editorial director of *Global Finance* magazine, the panel featured speakers Daniel D. Barclay, head of Canadian M&A for BMO Capital Markets; Chris Ruggeri, principal at Deloitte Financial Advisory Services LLP, and J. Allen Miller, head of the corporate department for Chadbourne & Parke.

Panelists said they see the cross-border market reviving after its sharp contraction, credit availability strengthening, and debt-financing becoming more available, which may further support and improve cross-border activity. While these trends are encouraging, caution remains the watchword. Companies and financial buyers are approaching potential deals warily, with a laser focus on risk management designed to ensure “no surprises” as deals progress.

Such reserve among engaged parties also means that extensive pre-deal analysis and buttoned-down due diligence have become the norm. As a result, M&A players are placing even greater emphasis on every penny they spend, and looking to further cut transaction costs, perhaps even at the expense of outside advisors.

As the economic recovery continues, companies in many industries are expected to rely increasingly on mergers and acquisitions (M&A) to help drive revenue growth and bottom-line performance.

**Snapshot of the M&A Marketplace**

*Global M&A Activity Summary*

<table>
<thead>
<tr>
<th>Year (Ann.)</th>
<th>North American Acquirers</th>
<th>European Acquirers</th>
<th>RoW Acquirers</th>
<th>Number of Deals</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>$2,860</td>
<td>$704</td>
<td>$3,440</td>
<td>3,008</td>
</tr>
<tr>
<td>2007</td>
<td>$3,440</td>
<td>$832</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>$3,008</td>
<td>$591</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>$2,567</td>
<td>$451</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>$2,368</td>
<td>$448</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: SDC
Most M&A executives expect mergers and acquisitions to add more than 5 percent to revenue growth on a compound annual basis over the next two to five years. This is significant when compared to average annual revenue growth of the S&P 500 of approximately 4 percent over the past 10 years.*

According to Daniel D. Barclay, head of Canadian M&A for BMO Capital Markets, the deal marketplace has become much stronger overall, especially when compared to the bottom of the recession. He sees positive upward trends in the Asian economies, the United States, and more recently, in Europe. Further, Barclay said that the volume of deals, while not really robust in terms of domestic economies, is starting to grow, especially in Asia. He credits three main drivers for the uptick in activity: overall global growth, improving liquidity in the financial markets, and a growing appetite for taking risk by companies.

“We’ve watched that increasing appetite for risk, especially with some of the Asian entrepreneurs. We’ve also seen it with the sovereign wealth funds, especially with some of the larger sovereign-owned state enterprises. They’re beginning to take a look at acquiring commodities, telecom, and now they’re starting to move into things like health care,” said Barclay. He also believes that despite concerns about Europe’s financial situation at the moment, the demand is increasing and he anticipates a lot more M&A to come in upcoming months.

Global Cross-Border M&A Activity

Chris Ruggeri, a principal with Deloitte Financial Advisory Services LLP, offered webcast attendees her perspective as a consultant. She agreed with Barclay that the market has picked up over the last few months and added that she feels that the level of optimism has increased palpably.

In preparation for what she anticipates will be a comeback in the M&A marketplace, Ruggeri said her team is currently counseling their clients to prepare in advance so they are ready when opportunities present themselves.

*Source: S&P 500 data provided by Standard & Poor’s Financial Services LLC.
“We’re focusing with our clients on making sure they – the acquirers – are prepared for and positioned to take part in what we hope will be the next M&A up-cycle. We’re finding there’s a lot of interest from our strategic clients in making sure that they have all the pieces in place to effectively pursue transactions.”

Top 50 Deals in 2009 by Industry

Strategic players – companies that seek to buy assets which match their core strengths in order to improve their position in existing markets or to gain access to new ones – may need to act quickly if they want to be ready for the return of consumer spending.

Statistics show that deals announced by non-U.S. acquirers of assets outside the U.S. have dropped in volume from a year ago, but show a jump in the total value of transactions. That would seem to suggest greater willingness among non-U.S. acquirers to pay more for assets, or at least a sunnier outlook for economic growth outside the U.S.

Strategic players – companies that seek to buy assets which match their core strengths in order to improve their position in existing markets or to gain access to new ones – may need to act quickly if they want to be ready for the return of consumer spending.

J. Allen Miller, the head of the corporate department for Chadbourne & Parke, brought a legal perspective to the discussion. Like the other panelists, Miller noted that he’s seen an upswing recently in M&A, especially compared to this time last year, when the economy was basically in cardiac arrest. “What we’re finding anecdotally is that cross-border activity is very strong, but it is following different trade paths than in the past.”

Miller said he’s seeing European investors in the U.S. exiting non-strategic assets, while U.S. and other global players are adjusting their portfolios and focusing on the growth and emerging markets.
Cross-border M&A is expected to increase in future months, particularly in resource-rich Canada and Latin America. As part of its preparation to host the 2014 World Soccer Cup and the 2016 Olympic Games, Brazil has been seeking external investors to assist with several ambitious infrastructure projects.

Cross-border M&A is expected to increase in future months, particularly in resource-rich Canada and Latin America. As part of its preparation to host the 2014 World Soccer Cup and the 2016 Olympic Games, Brazil has been seeking external investors to assist with several ambitious infrastructure projects. China has also been on the move for commodities, with tendencies toward both Canada and Latin America.

Moderator Giarraputo posed this question to the webcast panelists:

**Has the U.S. regulatory environment affected recent M&A activity?**

Miller believes it has.

“I have experience with non-U.S. investors being wary of the U.S. regulatory environment in two respects,” he said. “One is just the S.E.C. overlay on the U.S. securities market, and the other is concern about the litigious environment in the U.S.”

Miller said he believes education is the key to soothing those fears and getting non-U.S. based entities to come into the U.S. market. He also noted that the other trend he’s seen, post-Sarbanes Oxley, is that a lot of foreign investors that were already in the U.S. and that were subject to SEC regulation have delisted and deregistered. “They’ve tried to simplify their regulatory environment but that doesn’t mean they aren’t interested in the U.S. markets or in having private ownership in the U.S. Instead, they are wary of public ownership, subject to SEC regulation and other regulatory regimes – of becoming subject to U.S. regulation because of the costs of compliance.”

Ruggeri offered another perspective on the regulatory landscape. She said that for U.S. investors looking abroad, there clearly has been increased enforcement of the Foreign Corrupt Practices Act, anti-money laundering rules, the Office of Foreign Assets Control (OFAC) and other U.S. laws and regulations. “We’re seeing that corporate development folks increasingly need to be aware of the implications of these rules. As they go through diligence,
they need to make sure that they’re not unknowingly acquiring problems. We’ve been doing quite a bit of work with clients helping them assess the risk profile of a target, and then working with them and their counsel on ways to mitigate those problems.”

Where Are the Best Opportunities?

Barclay also offered that it’s not solely SEC regulation that is affecting the marketplace, but the simple risk of investing in other countries. “If you think of some of the areas in Latin America or Africa, assessing risk means considering the stability of the government, the stability of the fiscal regime, the stability of the approval processes. All of those risk issues have gone up in terms of heightened awareness for investors and acquirers. There is high focus on what could change and why it would change in the future.”

Global M&A Transaction Size

For U.S. investors looking abroad, there clearly has been increased enforcement of the Foreign Corrupt Practices Act, anti-money laundering rules, the Office of Foreign Assets Control (OFAC) and other U.S. laws and regulations.
Best Practices: Smart Tactics for a Tough Market

While following commonly acknowledged best practices is always a lauded business goal, it becomes critical in an uncertain market. Companies are now incorporating M&A best practices into their workflow, and are examining potential targets more carefully before making a purchase. Due diligence is taking longer as every detail of each deal is now being more carefully scrutinized. Trends show companies are also relying more heavily on virtual data room providers to facilitate due diligence.

The panel was asked to share best practices they’ve observed, and also to comment on any “new” best practices that they feel are emerging given today’s M&A marketplace.

Ruggeri pointed to the results of a recent survey her company completed, in which approximately 170 corporate development executives were questioned about corporate development effectiveness and best practices.

“Some of the leading practices we’re seeing are that companies are really focusing on deal process,” she said. “Our research suggests that there’s a lot of value that erodes through inefficient deal process, so we’re seeing a lot of companies bringing Six Sigma-type discipline to corporate development. We’re seeing the increased use of tools and technology such as M&A playbooks to make sure that the deal teams are all focused and moving toward the same goal.”

Ruggeri also pointed out that increased knowledge management – making sure that the organization has an efficient mechanism for finding the right experts and bringing the right insights into a decision – is another best practice that’s gaining momentum. Enhanced analytics are taking place in every deal, and best practices are taking center stage in many deals. Ruggeri added that the importance of M&A deal making to a company’s financial future has been highlighted coming out of this recent financial recession.

“What we found in our survey, almost without exception, is that companies are expecting M&A to increasingly contribute to top-line growth. And contribute to growth in a meaningful way – not just adding incrementally to it, but being a centerpiece of growth. We’re also finding that companies are looking to M&A as the pace of business continues to accelerate. It’s being used as a way to capitalize on competitive opportunities, as well as a way to modify a corporate strategy quickly and effectively.”

Miller said a key best practice he has seen centers around pre-deal education. “Something that isn’t intuitively obvious but which I’ve seen some clients do very effectively is to educate themselves using the RFP process. While they make those initial decisions about who to hire as advisors, they’re also soliciting information that will enable them to make reasonable judgments about timing, regulatory environment, country risk and sector risk. They may have strong intuition or anecdotal evidence about those things, but they’re backing it up by systematically pulling that information from advisors. This can also be an effective way to understand the relative strengths and weaknesses of advisors.”

Miller stressed that robust, back-and-forth communication – between all the different parties within a deal universe – is a best practice that can save time, money and frustration. He also said that it’s critical to accurately and honestly identify potential risks in a deal upfront so that the deal team can operate as a cohesive unit.
Dealmakers need to really be aware of and understand the reputation and the integrity of the counterparty. If a company is making an acquisition, particularly in emerging markets, understanding exactly who it is dealing with can be extraordinarily important.

“I’ve had experiences where the client knew that the counterparty was not trustworthy, and had a reputation for being difficult,” Miller said. “Even so, they really wanted the business. That puts tremendous pressure upon the entire deal team. In cases like that, you’re in a ‘trust but verify’ mode. Everything has to be checked, and that increases the deal costs.”

Barclay feels that M&A deal parties and their respective teams, along with free and open communication, have to impose discipline on both themselves and their activities. “I think when we look at best practices, the No. 1 word that comes to mind is discipline, and I mean discipline in any type of activity around the M&A process.”

That discipline can mean deciding why a certain business is a good target and making sure that the rationale is there. Discipline can also be supported by how you set up your teams. “We all know what good teams look like, and it’s typically an experienced guy on the inside who knows how to do deals, knows how to set up teams, knows how to find the pitfalls and still move forward,” Barclay said.

He also feels that best practices include having the right people intimately involved during the due diligence process and that this contributes significantly to the success of the deal.

“We watch intensely to make sure that you’ve got senior management involved. In very large, company-transforming deals, the CEO always wants to know what’s going on, and he’s involved. But when we get down to non-core asset divestitures, or get into tuck-in acquisitions, that upper level engagement often falls way down off the radar screen. And without that appropriate level of attention, knowledge and socialization, that’s where we see the biggest hiccups in the transactions we chase.”

---

**Most Important Skills for Effective M&A**

<table>
<thead>
<tr>
<th>Skill</th>
<th>Top 5 ranked, with 1 being most important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deal team experience and training</td>
<td>1</td>
</tr>
<tr>
<td>Ability to assess value and risk</td>
<td>1</td>
</tr>
<tr>
<td>Ability to effectively generate deal flow and targets</td>
<td>2</td>
</tr>
<tr>
<td>Coordinated and efficient process</td>
<td>2</td>
</tr>
<tr>
<td>Negotiation skills</td>
<td>2</td>
</tr>
<tr>
<td>Post-merger integration</td>
<td>3</td>
</tr>
<tr>
<td>Ability to identify synergies</td>
<td>4</td>
</tr>
<tr>
<td>Ability at courting targets</td>
<td>4</td>
</tr>
<tr>
<td>Ability to capture synergies</td>
<td>5</td>
</tr>
<tr>
<td>Speed in closing deals</td>
<td>5</td>
</tr>
</tbody>
</table>

Copyright © 2010 Deloitte Development LLC. All rights reserved.
The “New” Role of Due Diligence

Corporate executives are seeking more in-depth best practices in due diligence to position their company for success. M&A players should prepare for a due diligence effort that delves deeper into the financial, legal, structural, operational and cultural attributes of the target company. Putting effective practices in place becomes more important than ever; synchronizing the corporate development effort with other company functions becomes absolutely vital. Companies are seeking greater degrees of insight into value and how to manage it dynamically, and are becoming more value-focused and accountable for delivering the results of the deal, not just executing the deal.

Chris Ruggeri posed a provocative question to the panelists, asking them what they think about the prevalent myth that “most deals ultimately fail.” She noted that the halls of academia are littered with studies showing that most deals fail to achieve their desired objectives. “When you probe into the reasons why transactions fail, in many cases it’s not because the strategy was unsound but because the execution of the strategy was ineffective. We see more often than not that failure happens in integration. Companies don’t take what they learned during diligence and use it as a starting point for their integration.”

Ruggeri added that research her group has done shows that the role of corporate development is changing and is no longer solely limited to execution.

“Corporate development is moving both upstream into strategy and downstream into integration. We’re seeing companies make a link so that the dealmakers also have responsibility for integration. I think that’s a trend that will continue, because if you don’t integrate properly, you fail to realize the objectives of the transaction.”

Barclay offered another take on the subsequent failure of once-promising deals.

“From our standpoint, when we see a deal two years later that didn’t work out, it’s often that the transaction team got the deal in the door. The day after the deal closed, it got handed off to someone else to operate, and that someone may or may not even have known it was coming. In the best deals, you’ve got the exact opposite: The deal team leader is the guy who will run the business when it closes.”

That kind of business-centered due diligence is something that Ruggeri also feels is key.

“Another leading practice is really focusing during the diligence process on developing a value road map and the way you are going to run the business after you acquire it. You should be planning for the decisions coming down the road during your diligence.”

Taming Deal Costs: New Techniques and Tactics in the Market

Companies who are considering an M&A transaction need to take every possible precaution to ensure that they are poised for success. The best approach is to begin due diligence information gathering as far in advance as possible, consult with experts to develop a targeted M&A strategy, put it to the test before entering the market, and leverage technology to bring your deal to market as quickly and efficiently as possible.
Moderator Giarraputo noted that recent research conducted by *Global Finance* surrounding deal cost found that the most frequent cost-cutting maneuver was a trend to ‘do it yourself’ M&A. As far as printing costs go, the most popular approach remains to use electronic alternatives. He then posed the question to the panelists:

**What are the trends for keeping deal costs down?**

Miller acknowledged that there are some companies that are completely capable of doing the most complicated cross-border transactions in-house. However, he added that generally speaking, even when it comes to companies that are very sophisticated, U.S. public issuers, they don’t have in-house staff trained to cover all regions of the globe. He added that for that rifle-shot expertise in specific regions or areas, outside financial advisers, legal advisers and consultants can be extremely important. He noted that while paying for that outside expertise adds an incremental cost to the transaction, that cost has to be weighed against the desire to enter the new market.

“Legal costs tend to get out of control if there’s poor communication between client and advisors or among advisors or even from one side of the table to the other in a transaction,” Miller said. “For instance, the greater the communication, the more likely it is that you won’t need to restructure the transaction to take into account a tax issue that hadn’t been properly analyzed.”

Ruggeri said that in some respects, the idea of using internal resources as a “free” source of expertise is a myth. “There’s a little bit of a misperception that external advisors are a more-costly approach to doing deals than deploying internal resources. What happens is you’re deploying internal resources but you’re not capturing or measuring that cost. We asked our survey participants if they measured the costs of internal teams, and we found that most companies do not. We then asked them to estimate what they thought those costs were in terms of a percentage of the transaction value, and the number was meaningful: Most companies estimated it was about 3 percent.”

Ruggeri said another way for companies to manage costs is to increase their oversight and control of the deal process. “What companies can do to manage costs is manage their process and their teams efficiently. I’ve certainly worked with clients who deployed 100 people on a deal, or they’ll have lengthy due diligence checklists. They’ll go through the process and look at every piece of paper but then there’s no streamlined process to synthesize that information into meaningful deal advice.”

From the banker’s perspective, Barclay said that banks try to add value and cut costs through planning. “Often you’ll see deals getting away from clients, like them building 100-person teams when they’re not really competitive on a transaction.” He emphasized that companies need to find the issues up front, identify them, do an initial review, and then find out what kind of experts they need to actually chase down those problems.

He also added that especially on the buy side, he’s seeing clients use phasing to minimize spend and maximize potential value on a deal. Those clients execute their M&A and diligence with the understanding that “we’re only going to do a little bit of work, and we’re only going to spend a little bit of money until we find out if we’re closer to winning the deal. Particularly in auction situations, particularly with financial sponsors, they don’t spend a dime until they’re in the second round and have a very high probability of winning.”
Minimize Deal Cost with a Merrill DataSite® Virtual Data Room

Completing a successful M&A transaction requires providing controlled information access and flexible delivery of critical business information – at both pre- and post-transaction periods of the M&A process. Buyers need access to important business information on a real-time basis to uncover all areas of synergy savings. Sellers must ensure rapid information access while maintaining robust document security that prevents the release of sensitive company information that could create subsequent legal, financial, or marketing-related problems in the event of a failed agreement.

A Merrill DataSite® Virtual Data Room solution facilitates M&A transactions by allowing multiple bidding parties and sellers to concurrently participate in the due diligence process within a controlled information environment. This dramatically reduces the total time and expense that previously posed impediments to the successful and timely completion of M&A transactions. With Merrill DataSite, M&A participants can secure their essential business documents while ensuring that accurate and timely information is delivered to the most appropriate participants in the most beneficial fashion. As a result, buyers and sellers are able to achieve their business goals while increasing the odds of a successful outcome for the M&A transaction.

Find out how a Merrill DataSite Virtual Data Room solution can help you save money and speed up your transactions. Visit www.datasite.com today.
About Merrill DataSite®
Merrill DataSite Virtual Data Room (VDR) is an online deal room that optimizes the due diligence process by transforming the traditional paper data room into a secure online data room, accessible via the Internet. Merrill DataSite offers a secure and highly efficient method of sharing critical business information for electronic due diligence in M&A advisory, banking M&A, mid-market M&A review, transfer of small business ownership when selling a company, document warehousing, mergers and acquisitions due diligence, succession in family business or when buying a business, IPO and secondary offerings, asset purchases, venture capital due diligence, bio-tech licensing, commercial and corporate real estate ventures, bankruptcies, financial restructuring, liquidation analysis for bankruptcy, corporate debt restructuring, preparing for exit strategies, and many other transactions that require extensive document sharing.

Merrill Corporation has been a trusted provider of secure information services to Fortune 500 companies in the financial and legal industries for more than 40 years. Since 2002, Merrill DataSite has empowered nearly 2 million unique visitors to perform electronic due diligence on thousands of transactions totaling trillions of dollars in asset value.

About Merrill Corporation
Founded in 1968 and headquartered in St. Paul, Minn., Merrill Corporation (www.merrillcorp.com) is a leading provider of outsourced solutions for complex business communication and information management. Merrill’s services include document and data management, litigation support, language translation services, fulfillment, imaging and printing. Merrill serves the corporate, legal, financial services, insurance and real estate markets. With more than 5,000 people in over 70 domestic and 15 international locations, Merrill empowers the communications of the world’s leading organizations.