Contents

Preface xi

PART I: BACKGROUND

Chapter 1: Introduction	3
Recent M&A Trends	3
Terminology	11
Valuing a Transaction	13
Types of Mergers	13
Merger Consideration	14
Merger Professionals	15
Merger Arbitrage	18
Leveraged Buyouts and the Private Equity Market	19
Corporate Restructuring	20
Merger Negotiations	21
Deal Structure: Asset versus Entity Deals	24
Merger Agreement	28
Merger Approval Procedures	29
Deal Closing	31
Short-Form Merger	31
Freezeouts and the Treatment of Minority Shareholders	32
Appraisal Arbitrage	33
Reverse Mergers	34
Chapter 2: History of Mergers	41
Merger Waves	41
First Wave, 1897–1904	43
Second Wave, 1916–1929	48
The 1940s	49
Third Wave, 1965–1969	49
Trendsetting Mergers of the 1970s	54

Fourth Wave, 1984–1989	59
Fifth Wave, 1992–2001	64
Sixth Wave, 2004–2007	68
5/Att ***********************************	00
Chapter 3: Legal Framework	71
Laws Governing Mergers, Acquisitions, and Tender Offers	72
Other U.S. Takeover Rules	85
Takeovers and International Securities Laws	86
U.S. State Corporation Laws and Legal Principles	96
State Antitakeover Laws	99
Regulation of Insider Trading	108
Antitrust Laws	110
Measuring Concentration and Defining Market Share	117
Example of the HH Index	118
European Competition Policy	121
Research Note: Event Studies Methodology	124
M&A Research: Event Studies	124
Wide Research. Event Studies	124
Chapter 4: Merger Strategy	127
Growth	127
Synergy	136
Operating Synergy	138
Diversification	146
Focus Hypothesis	151
Possible Explanation for the Diversification Discount	152
Do Diversified or Focused Firms Do Better Acquisitions?	156
Other Economic Motives	157
Hubris Hypothesis of Takeovers	168
Do Managerial Agendas Drive M&A?	171
Other Motives	176
PART II: HOSTILE TAKEOVERS	
Chapter 5: Antitakeover Measures	183
Management Entrenchment Hypothesis versus Stockholder	
Interests Hypothesis	184
Rights of Targets' Boards to Resist: United States Compared to the Rest of the World	185

Contents	vii
Preventative Antitakeover Measures	186
Poison Pills	187
Corporate Charter Amendments	199
Changing the State of Incorporation	210
Active Antitakeover Defenses	211
Information Content of Takeover Resistance	234
Chapter 6: Takeover Tactics	237
Preliminary Takeover Steps	238
Tender Offers	245
Advantages of Tender Offers over Open Market Purchases	260
Proxy Fights	267
Chapter 7: Hedge Funds as Activist Investors	279
Macroeconomic Foundations of the Growth of Activist Funds	281
Leading Activist Hedge Funds and Institutional Investors	282
Hedge Funds as Acquirers	288
Hedge Fund Activism and Firm Performance	292
Buyout Premiums: Activist Hedge Funds versus Private Equity Firms	294
PART III: GOING-PRIVATE TRANSACTIONS AND LEVERAGED	
BUYOUTS	
Chapter 8: Leveraged Buyouts	305
Terminology	305
Historical Trends in LBOs	306
Management Buyouts	314
Conflicts of Interest in Management Buyouts	318
U.S. Courts' Position on Leveraged Buyout Conflicts	319
Financing for Leveraged Buyouts	328
Returns to Stockholders from LBOs	336
Returns to Stockholders from Divisional Buyouts	337
Empirical Research on Wealth Transfer Effects	342
Protection for Creditors	343
Intra-Industry Effects of Buyouts	344

345 345

Chapter 9: The Private Equity Market

History of the Private Equity and LBO Business

Private Equity Market	346
Computing Private Equity Internal Rates of Return	360
Characteristics of Private Equity Returns	361
Replicating Private Equity Investing	365
Board Interlocks and Likelihood of Targets to Receive Private Equity	
Bids	366
Secondary Market for Private Equity Investments	366
Chapter 10: High-Yield Financing and the Leveraged Loan Market	369
	369
History of the Junk Bond Market	380
Leveraged Loan Market Stapled Financing	383
Stapled Financing	303
PART IV: CORPORATE RESTRUCTURING	
Chapter 11: Cornerate Bostonesturing	389
Chapter 11: Corporate Restructuring Divestitures	392
Divestitures Divestiture and Spinoff Process	403
Managerial Ownership and Sell-Off Gains	403
Activists and Sell-Offs	408
Shareholder Wealth Effects of Spinoffs: U.S. versus Europe	417
Equity Carve-Outs	424
Voluntary Liquidations or Bust-Ups	430
Tracking Stocks	431
Master Limited Partnerships and Sell-Offs	433
Chapter 12: Restructuring in Bankruptcy	437
Types of Business Failure	438
Causes of Business Failure	439
Bankruptcy Trends	444
U.S. Bankruptcy Laws	448
Reorganization versus Liquidation	449
Reorganization Process	450
Benefits of the Chapter 11 Process for the Debtor	457
Prepackaged Bankruptcy	461
Workouts	465
Corporate Control and Default	470
Liquidation	471

Investing in the Securities of Distressed Companies	472
Chapter 13: Corporate Governance	477
Structure of Corporations and Their Governance	477
CEO Severance Payments	494
Managerial Compensation, Mergers, and Takeovers	494
CEO Compensation and Power	495
Golden Parachutes	499
Compensation Characteristics of Boards That Are More Likely to Keep Agency Costs in Check	501
Role of the Board of Directors	502
Antitakeover Measures and Board Characteristics	512
Disciplinary Takeovers, Company Performance, CEOs, and Boards	515
Merger Strategy and Corporate Governance	516
CEO Compensation and M&A Programs	516
Do Boards Reward CEOs for Initiating Acquisitions and Mergers?	516
CEO Compensation and Diversification Strategies	517
Agency Costs and Diversification Strategies	518
Interests of Directors and M&As	519
Managerial Compensation and Firm Size	520
Corporate Control Decisions and Their Shareholder Wealth Effects	521
Does Better Corporate Governance Increase Firm Value?	522
Corporate Governance and Competition	523
Executive Compensation and Postacquisition Performance	524
Mergers of Equals and Corporate Governance	525
Chapter 14: Joint Ventures and Strategic Alliances	535
Contractual Agreements	535
Comparing Strategic Alliances and Joint Ventures with Mergers and Acquisitions	536
Joint Ventures	536
Strategic Alliances	542
Chapter 15: Valuation	551
Valuation Methods: Science or Art?	553
Managing Value as an Antitakeover Defense	553
Benchmarks of Value	554
How the Market Determines Discount Rates	566
Valuation of the Target's Equity	579

Contents

Marketability of the Stock	579
Takeovers and Control Premiums	583
Valuation of Stock-for-Stock Exchanges	588
Shareholder Wealth Effects and Methods of Payment	589
Exchange Ratio	595
Fixed Number of Shares versus Fixed Value	602
Merger Negotiations and Stock Offers: Halliburton versus Baker Hughes	603
International Takeovers and Stock-for-Stock Transactions	603
Desirable Financial Characteristics of Targets	604
Chapter 16: Tax Issues in M&A	613
Financial Accounting for M&As	614
Taxable versus Tax-Free Transactions	614
Tax Consequences of a Stock-for-Stock Exchange	617
Asset Basis Step-Up	618
Changes in the Tax Laws	619
Role of Taxes in the Merger Decision	620
Role of Taxes in the Choice of Sell-Off Method	622
Organizational Form and M&A Premiums	622
Capital Structure and Propensity to Engage in Acquisitions	623
Taxes as a Source of Value in Management Buyouts	624
Miscellaneous Tax Issues	625

Glossary 631

Index 643