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Market is ripe for more takeover tries such as recent attempt by A. Schulman

However, hostile bids rarely are successful

By **MICHELLE PARK**
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Hostile takeover attempts such as the one announced last week by A. Schulman Inc. toward Ferro Corp. are a rarer breed of merger and acquisition, but local dealmakers say the conditions are ripe for more to occur.

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Among the factors that fuel hostile takeovers are weak, undervalued targets; a bidder's easy access to cash; and a weak economy that has put margin and profit pressure on companies, said Marc Morgenstern, a veteran Cleveland dealmaker who handled hostile takeover preparation for several companies back when he practiced law.

"All of those are present now," he said.

Today's market certainly has its haves and have-nots, agreed Mark A. Filippell, a managing director with Cleveland investment bank Western Reserve Partners LLC.

"The haves are saying, "We've got to grow,'" Mr. Filippell said. "When things were terrible, when markets were down in the sewer, you didn't see anybody buying anybody. But now, a certain number of people are feeling good (and) bold."

A bid to acquire a company generally is deemed hostile when the would-be acquirer bypasses an unwilling board and takes a deal directly to the target company's shareholders. In last

week's example, A. Schulman, an Akron-based maker of resins and plastic compounds, took public its offer to buy Ferro, a specialty chemicals maker in Mayfield Heights, for $6.50 a share after Ferro's board rejected its February offer.

"I think we'll see all forms of this activity, whether it's hostile or not," predicted Lisa Rose, who leads the investor relations practice for Cleveland communications firm Dix & Eaton, which is representing A. Schulman in its attempted purchase of Ferro.

"Companies have been hanging onto cash since the recession," Ms. Rose said. "Prices to buy things have been too high. Things are starting to turn, and the opportunity to buy companies and to sell is starting to be more attractive for both sides."

If a company has set sail on a strategic plan to acquire companies but one or more of its targets are scooped up by another party, there's a probability the company will bid on other targets, even hostilely, observed Mike Keresman, CEO of CardinalCommerce Corp. of Mentor, a private company that provides infrastructure for virtual payments.

Plus, interest rates are "artificially low," said Mr. Keresman, who previously served as chief financial officer for Steris Corp. in Mentor.

"Those rates make acquisitions easier because money is cheaper," he said. "So in normal environments, Company A couldn't afford Company B, but with cheap money, it now can be done."

Value propositions

Also contributing to what some call a more predatory M&A environment is the inability of some companies to turn the corner following the recession. Those companies remain undervalued, which makes them attractive targets.

The hedge fund investors in Ferro that have been critical of the company for months — and call themselves The Shareholder Committee for the Future of Ferro — said in a news release last week that they do not believe A. Schulman's offer fully values Ferro.

But, the manner in which Ferro's board shut the door to further negotiations reveals that shareholders' best interests are not the board's priority, wrote the group led by FrontFour Capital Group LLC and Quinpario Partners LLC.

"The committee supports the company fully exploring the potential sale of Ferro at a price that fully and fairly values the company, whether to A. Schulman or any other potential acquirer," their open letter stated.

Ohio-chartered companies that find themselves the targets of hostile bids enjoy an Ohio law that is "extremely protective" and affords anti-takeover protections to boards that other states do not, said John J. Jenkins, an attorney with Calfee, Halter & Griswold LLP who advises clients on mergers and acquisitions.

If hostile takeover attempts increase, it likely will involve slow-growing and asset-rich

businesses, local executives speculated.

"Places where the assets go down the elevator every night are not good hostile takeover targets because the people don't have to stay, and in those instances, the people are what you're buying," said Mr. Morgenstern, founder and managing partner for Blue Mesa Partners, a private investment firm dual-headquartered in Cleveland and San Francisco.

Mr. Morgenstern cited retail as one likely sector to experience more consolidation — both friendly and otherwise — as it "generally is overstored," and many are "having a hard time adapting to the online universe."

Technology could see an increase in hostile bids, given that "the haves are sitting on literally mountains of cash," Mr. Morgenstern said, as might manufacturing, in which historically good companies have been less profitable in post-recessionary years.

It's easier to be friendly

Just because more hostile takeovers are attempted doesn't mean more takeovers will happen: Such attempts rarely work, observers say.

The number of mergers and acquisitions involving U.S. companies completed or pending since Dec. 31, 2006, is 45,175, according to FactSet, a financial data and analytics company out of Norwalk, Conn. Of those, 33 are characterized as hostile.

One reason cited for their rarity is friendly, or "white knight," bidders that move in and purchase the target instead. Plus, hostile bids are a lot more expensive, time-consuming and risky than friendly deals, Calfee's Mr. Jenkins said.

Nevertheless, Mr. Jenkins said, "There are very few strategic buyers who won't undertake a hostile takeover if the target or transaction rationale is compelling enough. There are also hedge funds, (which) take positions in companies with the objective of causing a transaction."

Those hostile bids that do result in deals can be positive if the acquirer puts assets that were underused or poorly managed into the hands of better management, veteran dealmaker Mr. Morgenstern said.

But, "If it's a company that has 500 jobs in the community and somebody buys the company and ships those jobs elsewhere, the local people don't really care about the macro consequences," he noted.

While deals done because money is cheap are inherently good for an acquirer, CardinalCommerce's Mr. Keresman argues it tends to be a net negative.

"Any acquisition due to artificially low interest rates is probably not good for all of us," he said. "You're taking out competition. You're not letting the free market work as it should. It creates a situation where the rich get richer. You have fewer people who own."