

SUBJECT RESOURCE GUIDE

Research and Resources for Private Equity Lawyers

Abstract: In this article **John Franssen**, Head of Research at Travers Smith LLP, gives an overview of what private equity is (including a brief glossary of some key terms), how private equity invests, the type of work lawyers in private practice are involved in and some of the key resources that they need and that are available. This article will also highlight the growing importance of environmental, social, and governance (ESG) and sustainability investment for private equity managers.

Keywords: private equity; information resources; online databases

INTRODUCTION

As of writing, the UK private equity sector currently stands as the biggest in Europe and sits only behind the United States in terms of investments and management with an estimated revenue of £3.2bn.¹ Private equity invests in many small, medium, and large companies across the world, but despite holding investments in some well-known brands it perhaps remains largely unknown as a sector amongst the public at large. It therefore may be useful to gain a brief understanding of what private equity actually is. There isn't a universally accepted definition, but my esteemed colleague Simon Witney has provided an excellent summary: "... a private equity-backed company is a company (or, more likely, a group of companies) whose shares are not traded on a public market and which has one or more significant professional investors who, from the moment of investing, have a declared intention to sell their investment at some defined point – usually between three and seven years after initial acquisition. That declared intention to sell is an important differentiator for private equity."²

Private equity companies (or as they are perhaps more usually known, private equity houses) can invest in a wide range of different sectors and can either choose to invest in businesses and hold a portfolio of companies in a particular sector or hold a portfolio of companies that cover a wide range of different sectors. By one measure³, KKR can be seen as the world's biggest private equity house and its portfolio investments range across a wide spectrum of companies specialising in contact lenses, Chinese liquor and renewables to name but a few. As noted above in Simon Witney's definition, ultimately private equity houses look to sell on their portfolio companies after a set period of time. This of course leads to private equity lawyers constantly working for clients who are looking to acquire new companies and also realise their assets on a regular basis.

Private equity clients are very sophisticated, sometimes working at the cutting edge of corporate and financial law,

and the nature of private equity deals can mean extremely long hours and extremely tight deadlines for all advisors involved in a transaction. It is therefore important that our lawyers have ready access to the resources they need either online in the office and at home, on the move or in hard copy. Our research team is available to help our private equity lawyers and marketing support during a deal or with preparation to win a pitch.

Our Private Equity team at Travers Smith, recently renamed 'Private Equity & Financial Sponsors' (or PEFS for short), works closely with all our other practice areas such as Tax, Pensions, Dispute Resolution and Competition to provide a service to meet the needs of our clients. Our PEFS team was carved out of our general corporate team nearly 30 years ago to focus on the growing private equity market, so along with a need for specialist private equity content our PEFS lawyers still also need access to the types of corporate law resources that any general corporate team needs.

TEXTBOOKS

As with general corporate law, our private equity lawyers need to know the key underpinning company legislation such as the Companies Act 2006, Financial Services and Markets Act 2000 and the Insolvency Act 1986, and so a lot of the textbooks (either in hard copy or online) our lawyers have access to commentate on and interpret the key legislation. Titles such as the *Butterworths Company Law Handbook*, *Tolley's Company Law* and *Gore-Browne on Companies* remain standard texts for any corporate library.

Key texts that have a particular emphasis on private equity include *Corporate Governance and Responsible Investment in Private Equity*; *A Practitioner's Guide to Private Equity* (although a new edition of this is long overdue); *Private Equity: A Transactional Analysis* (edited by Travers Smith Chair Emeritus and pioneering founder of our

MINI GLOSSARY

There is a lot of jargon related to the private equity sector. A few terms have been highlighted below but more definitions can be found from a variety of sources.⁴

Buyout/leveraged buyout:

A private equity transaction in which a firm acquires all — or a significant amount of — equity in a company. A leveraged buyout is when firms use a mix of cash and debt to acquire equity, which is very common.

Management buyout (MBO):

A buyout a company's management team leads or participates in.

Operating partner:

An executive dedicated to working with portfolio companies to increase their value. They often have an expertise in a certain area (like a specific industry).

Portfolio company:

A company that has received an investment from a venture capital or private equity firm.

Public-to-private transaction:

When a private equity firm acquires all the shares of a public company, changing the company's status from public to private.

Secondary buyout:

This refers to an investment in an existing private equity backed company, which can enable the incumbent investor to realise the value of their investment.

Secondary market:

When one limited partner sells its alternative investments to another limited partner. Limited partners do this for a variety of reasons, including to adjust their asset allocation.

Venture capital:

A type of private equity investing that focuses on start-ups and early-stage companies with long-term, high-growth potential.

PEFS group, Chris Hale) and *Private Equity: Law and Practice*.

ONLINE RESOURCES AND DATABASES

Again, our private equity lawyers are users of online databases that are used by our general corporate teams. Resources such as Practical Law (<http://uk.practicallaw.com/>) and FromCounsel (<https://www.fromcounsel.com>) are very heavily used and offer access to primary content, knowhow, precedents and market information. Lexis Library (<http://www.lexisnexis.com/uk/legal/>) is also an extremely important source, especially in these hybrid working days, in that it offers online access to resources such as *Buckley on the Companies Acts*, *Butterworths Company Law Handbook* and *Tolley's Company Law*. Likewise, Westlaw (<https://uk.westlaw.com/>) offers titles such as *Palmer's Company Law* either in the office or at home.

There are also other, more specialised databases, that offer content geared towards the private equity lawyer. For example, Mergermarket (<https://www.mergermarket.com>) offers news, intelligence and deal breakdowns for private equity transactions and market information on private equity houses. From the same stable comes Unquote Data (<https://www.unquotedata.com/>) that purports to deliver "... detailed information on 44,000 European private equity deals, funds and exits, making it the most comprehensive private equity database available on the market."

Other services such as Preqin (<https://www.preqin.com/>), PitchBook (<https://pitchbook.com/>) and the Centre for Private Equity and MBO Research (CMBOR) (<https://www.nottingham.ac.uk/business/who-we-are/centres-and-institutes/cmbor/index.aspx>) also offer key market information, statistics and data. All of this content is essential, not only to keep our lawyers up to date with what is happening in the market so they can speak the same language as our clients, but also to help identify opportunities and trends to win more instructions from new and existing clients.

No single provider can claim that they have access to all details of all private equity deals that are carried out. Some deal information remains private and confidential and is not publicly released. Each database provider also has its own criteria as to what is picked up, and in some cases rely upon parties involved in transactions to submit deal information. It may be that "smaller" deals (for example Mergermarket generally only picks up details of deals with a value of over US\$5m) are not picked up in any detail or at all.

Another useful source that should not be forgotten is the private equity house's own website which may well contain a wealth of useful information, including details of portfolio companies, and press releases breaking down the deals and revealing which advisors were involved in the transaction. A lot of law firms jealously guard and mine their own deal information data; this internal knowhow can prove invaluable in future pitches for work and transactions.

CURRENT AWARENESS AND MEMBERSHIP OF INDUSTRY BODIES

Our lawyers generally keep up to date with corporate and company law developments via services already mentioned above, such as Practical Law and FromCounsel, as well as the FT.com for insightful market information. Our PEFS Knowledge Lawyers (previously known as Professional Support Lawyers or PSLs for short) also provide a current awareness service touching on legislative and market developments whilst we in the Research team provide current awareness updates on clients, target clients, sectors, trends and specific topics of interest.

Private equity is a fast-moving sector, and it is extremely important for our lawyers and Business Development teams to be kept up to date with what is happening in the market and what our peers, clients and target clients are doing. There are numerous general private equity publications that can help keep a track of the sector. We find that although there is a lot of overlap between different publications there are also numerous instances where a deal / market information is not picked up across the board of publications. There is also the benefit of reading about something first and we can see significant time delays between different publications picking up breaking stories or deals. Resources such as The Drawdown (<https://the-drawdown.com/>), Private Equity International (<https://www.privateequityinternational.com/>), Private Equity News (<https://www.penews.com/>), Real Deals (<https://realdeals.eu.com/>) and Unquote (<https://www.unquote.com/>) offer general and / or tailored updates on the latest deals, intelligence and rumours. These resources are also a useful tool for helping to keep track of private equity practitioners being promoted or moving roles between different private equity houses.

Increasingly we are seeing new publications and content becoming much more focussed on particular sectors where private equity houses have taken a growing interest, such as infrastructure (where sources include Inframation – <https://www.inframationnews.com/> – and Infrastructure Investor – <https://www.infrastructureinvestor.com/>) and environmental, social and governance (ESG) / sustainability (where sources include New Private Markets – <https://www.new-privatemarkets.com/> – and Responsible Investor – <https://www.responsible-investor.com/>).

Private equity transactions and investments can be structured in a variety of different ways, sometimes depending on the maturity of the target. The different kinds of deal type also have resources where private equity practitioners can be kept up to date with what is going on in a particular market. Publications such as Buyouts (<https://www.buyoutsinsider.com/>), Private Debt Investor (<https://www.privatedebtinvestor.com/>) and Secondaries Investor (<https://www.secondariesinvestor.com/>) are all dedicated to providing insight into very specific markets and transactions.

Another useful way for our private equity lawyers to keep up to date with what is happening, as well as allowing opportunities to lobby and shape their particular

sector, is by joining an industry body. The British Private Equity & Venture Capital Association (BVCA – <https://www.bvca.co.uk/>) is the industry body that acts on behalf of the sector in the UK. Not only does it act as a lobbyist, the BVCA website also contains a lot of helpful publications, research, and news alerts. Another industry body, with a broader European focus, is Invest Europe (<https://www.investeurope.eu/>). Like the BVCA, Invest Europe acts as a lobbyist to help develop legislation, inform regulators and act as a unified voice for the sector. Invest Europe also offers members access to research, know-how and news along with networking opportunities.

ESG, CORPORATE GOVERNANCE AND SUSTAINABLE INVESTING

ESG, sustainable or responsible investing and corporate governance are topics of great interest to much of the private equity sector. This has moved from being a niche area to becoming a core pillar in helping private equity managers invest (a recent survey notes 76% of private equity managers believe ESG is relevant to decision-making)⁵. Companies such as BlackRock have stressed the importance of “... integrating climate and sustainability considerations into investment processes ...” not just because it is the “right” thing to do, but there is a belief that it can “build more resilient portfolios and achieve better long-term, risk-adjusted returns”⁶. This approach hasn’t been universally popular, with some US states pulling money and business from companies seen to be hostile to the fossil fuel industry⁷ while even law firms are now being targeted by senators over ESG advice⁸. However, for the private equity lawyer, ESG and sustainable investing are areas that are not going to disappear, and they need to know about those initiatives and processes in order to retain and win clients.

Corporate lawyers in general are no strangers to the concept of corporate governance. The Cadbury Report published in 1992 codified the principles of best practice in the UK which have been modified many times over the years, so private equity lawyers are in an excellent position to advise clients and react to their needs when it comes to complying with corporate governance requirements. In order for private equity lawyers to advise clients on ESG matters they need a good understanding of UK and global resources and regulations such as the UN’s Sustainable Development Goals, Taskforce on Climate-related Financial Disclosures (TCFD), the Sustainable Finance Disclosure Regulation (SFDR) and the forthcoming Corporate Sustainability Reporting Directive (CSRD) to name but a few. Many of the resources (in particular New Private Markets and Responsible Investor) outlined above will help the private equity lawyer gain that better understanding of new regulations and reporting requirements to advise clients with confidence and demonstrate thought leadership.

CONCLUSION

Just as private equity houses invest in a wide variety of sectors, private equity itself is a big and varied topic to cover, with numerous resources available to buy and subscribe to. This article has tried to give an overview of some of what is currently available but does not purport to be an exhaustive catalogue. It is a fast-moving market; no doubt

new publications and resources are already in the process of being launched post publication of this article. An important part of our job in the Research team is to make sure our lawyers have access to the essential resources they need while constantly horizon scanning to see what new services are available, along with keeping them up to date on what is happening in the market.

Footnotes

¹ IbisWorld, 'Private Equity in the UK December 2021'.

² Simon Witney, *Corporate Governance and Responsible Investment in Private Equity* (Cambridge University Press 2021) 5.

³ Private Equity International, 'The world's largest private equity firms: PEI 300' <www.privateequityinternational.com/pei-300/> accessed 7 November 2022.

⁴ Definitions sourced from PitchBook <<https://pitchbook.com/blog/private-equity-and-venture-capital-glossary>>, Preqin <<https://docs.preqin.com/pro/Preqin-Glossary.pdf>> and LDC <<https://ldc.co.uk/glossary/>> accessed 10 November 2022.

⁵ 'Sustainability in private equity' <www.wtwco.com/en-GB/Insights/2022/11/sustainability-in-private-equity> accessed 14 November 2022 and 'ESG and the SDGs: insights from private equity managers 2020' <www.lgtcp.com/shared/content/publikationen/cp/esg_download/ESG-to-SDGs-Manager-survey_en.pdf> accessed 14 November 2022.

⁶ 'Sustainable investing at BlackRock' <www.blackrock.com/ch/individual/en/themes/sustainable-investing> accessed 8 November 2022.

⁷ Patrick Temple-West, 'U.S. Republicans pull \$1bn from BlackRock over ESG investing concerns' *Financial Times* (London, 9 October 2022) <www.ft.com/content/41de28af-a487-473e-bc17-5e8cb71f4ced>.

⁸ David Thomas, 'Senate Republicans warn U.S. law firms over ESG advice' *Reuters* (4 November 2022) <www.reuters.com/legal/government/senate-republicans-warn-us-law-firms-over-esg-advice-2022-11-04/>.

Biography

John Franssen has been the Head of Research at Travers Smith LLP, a multi award-winning international law firm, since 2014 – its PEFS team was crowned 'Private Equity Team of the Year' at the Legal Business Awards 2022. He leads a team of researchers based in the City of London. Any views expressed here are his own.