CLIFFORD CHANCE

# LOOKING AHEAD: PRACTICAL TIPS FOR DEPLOYING PRIVATE EQUITY'S "DRY POWDER" INTO STRATEGIC MINORITY POSITIONS

2020

# STRATEGIC MINORITY INVESTMENTS

## INTRODUCTION

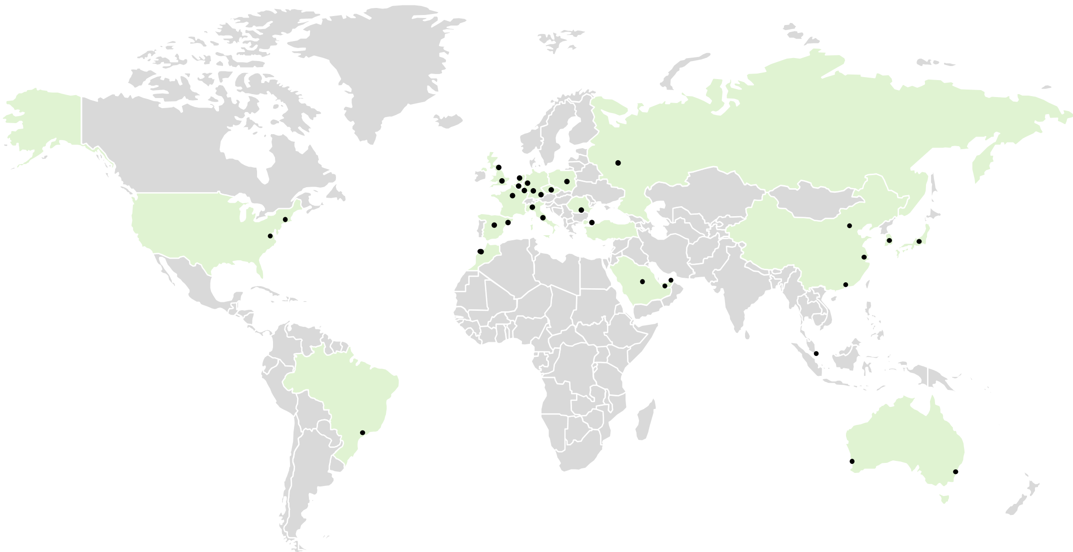
Bain & Company's Global Private Equity Report 2020 determined that by the end of December 2019, US$2.5 trillion of dry powder remained uncalled by private equity sponsors globally.

Sponsors are considering the most effective way to deploy it, particularly in light of recent market volatility.  The minority investment offers a potentially attractive option, outside of buyout auction processes.

This presentation offers background as to the growing popularity of, and aims to provide practical tips to consider when executing on, the minority investment.

### This Presentation Covers Tips On:

- Protection mechanisms: diligence, representations and warranties insurance, structural priority, side arrangements and anti-dilution.
- Control and influence: stockholder and board level controls.
- Information rights and underperformance: frequency and scope of reporting and step-in rights.
- Liquidity and exit: lock-up, ROFO/ROFR, tag-along, drag-along and exit via private sale or IPO.



To request a copy of the full presentation, please contact **Lily Phan** (lily.phan@cliffordchance.com / +1 212 878 4940).

# STRATEGIC MINORITY INVESTMENTS

## GROWING IN POPULARITY AMONG FINANCIAL SPONSORS

**Despite the obvious limitation that a minority investment does not provide the conventional "control" over the capital of a target business, the private equity industry has, for some time, recognized the need to diversify from the traditional leveraged buyout model.**

**Minority investments are popular with private equity sponsors, for the following reasons:**

**Minority investments can work well when value creation relates to expansion and new leadership/governance, for example professionalizing processes, refreshing management teams, aligning synergies, influencing governance and pursuing cross-border growth. However, if the investment is predicated on restructurings, refinancings, cost-cutting and other wholesale changes, these are typically better suited to majority/full control investments.**

- Competition can be less intense, given often minority sell-downs are bilateral rather than being run through a traditional auction process. During times of economic uncertainty, avoiding running an auction can mitigate the risk for a target business of a failed auction further depressing pricing or a need for a sudden equity injection, while offering a private equity sponsor a lower valuation on their investment.
- Sellers look for more than just capital and an opportunity to realize value if selling only a portion of their shareholding, and so buyers can differentiate themselves by factors other than just price. This can help a private equity sponsor avoid feeling the need to over-pay to secure the investment.
- A corporate often seeks minority capital not only for financial liquidity, value realization reasons or to reduce the amount of debt on its balance sheet. Often the target business has already built a roadmap for growth and access to new markets and is looking to bring on the expertise, financial resources and reputation of a financial sponsor to help execute on this strategy.
- Partnering with the right persons may involve a sponsor spending considerably more time with founders and/or senior executives than in the traditional buyout sphere, forging stronger and more personal relationships and potentially a better understanding of the potential investment, and the reliance on its founders, before it is finalized.
- The minority investment can be a means for a private equity sponsor to stake-build over a number of years, moving to a majority equity position and eventually controlling the target business once it, and the other stockholders, are ready for it to do so. This can be particularly attractive where a full buyout is not being offered from the outset.

C L I F F O R D

C H A N C E

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