Introduction

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Private equity exits are those corporate transactions that ultimately result in private equity funds being able to return cash to their investors. As such, they form a critical part of the private equity lifecycle; without exits, there are no returns to a fund's investors; without returns, there will be no money invested in the private equity house's next fund; and without money invested in the next private equity fund, there will be no transactions from which to exit. Exits are therefore the lifeblood of private equity: for private equity houses, the top of their list of priorities when making an investment is an understanding of when and how they will realise that in due course. There is no point making an investment unless it results in a (successful) exit.

This is why investors plan their exit strategy at the time they invest, and why private equity investors have developed sophisticated contractual mechanisms to give their investors the best chance of exiting an investment at a time and on terms of their choosing.

The methods of exiting private equity investments have developed over the years, and particularly in the more challenging economic environment of recent times. To the usual trade sales and initial public offerings have been added secondary, tertiary (and more) buy-outs, refinancings, partial sales and liquidations (or indeed a combination of these, known as dual or multi-track processes). In 2010 the aggregate amount of investments divested by private equity houses in the United Kingdom, according to British Venture Capital Association statistics, increased by over 150% on 2009, and this significant growth is reflected across Europe and globally. The trend had appeared to be continuing into 2011 as economies recovered, private equity houses looked to raise new funds to invest in the upturn and cash-rich trade buyers flexed their financial muscle; although given recent market turmoil, the opportunities for exits could start to decline quite quickly. Assuming that the economic environment continues to improve, exits ought to become easier to achieve; but in these uncertain times, private equity houses will continue to put a significant focus on what options might be available to them to realise their portfolio investments, being mindful of not just the economic risks, but also the legal, tax, regulatory and reputational issues at stake. Portfolio company management teams are key to this process and their economic, commercial and personal priorities cannot be underestimated in what is a very complex environment of often conflicting aspirations.

Indeed, it is these potentially conflicting perspectives that make private equity

exits so intricate and interesting. A private equity fund needs to return cash to its investors in as tax efficient a manner as possible and free from contingent liabilities. A private equity house acting as fund manager/adviser wants to create a strong track record to raise new funds and to reward its staff, while protecting itself and its portfolio company directors from legal, regulatory and reputational risk. Management teams have their own personal interests to contend with and will of course wish to minimise their own exposures while maximising their gains. Finally, the portfolio company itself will be looking to the future and the ongoing success of the business for shareholders, employees and other current and future stakeholders.

As Fraser Robson from Carlyle makes clear in his preface, private equity exits are key not just in returning funds to investors, but also in raising further funds. For practitioners, it is critical to understand these dynamics when considering potential exit routes and how they might be structured. Globe Law and Business's sister publication to this book – *Private Equity: A Transactional Analysis* – examines the issues around private equity investments; this book focuses on the key issues that need to be considered when exiting from these investments and how potential liabilities for the funds and their advisers can be minimised.

The chapters in this book focus on the different methods of effecting an exit and the key issues that need to be borne in mind by private equity professionals and their advisers in order to create an efficient process, minimise risk and maximise returns. All of the contributors are expert in their fields and can provide insight into the intricate complexities of the exit process.

The book focuses on UK issues, but contains a Luxembourg-specific chapter given the number of private equity investments that are owned by, and therefore exited at the level of, a Luxembourg holding company. In addition to the usual methods of exiting investments referred to above, a chapter has been included on exits of private equity houses themselves, usually from their bank owners, which have been popular in recent times – not least because of the increase in regulatory constraints for banks in owning these types of businesses.

David Walker is a partner at Clifford Chance and global head of private equity. For more than 18 years he has focused on private equity clients and their portfolio companies, assisting them with all types of corporate transactions. He is rated as a leader in his field in numerous legal directories.