

19th Annual Mergers and Acquisitions Institute

Carveouts: The Right Slice of the Pie

Moderator:
Deirdre Harding, TPG Capital

Panelists:
Elisse Etheridge, Aon
Brittany A. Sakowitz, Kirkland & Ellis LLP
Brandon Satterwhite, AT&T

October 5, 2023
Dallas, Texas

1

Agenda

- > **Introduction to Carveouts**
- > **Market Trends**
- > **Defining the Deal**
- > **Deal Structures**
- > **Create Your Roadmap**
- > **Due Diligence**
- > **Transaction Documents**
- > **R&W Insurance**
- > **HR Matters**
- > **Successor Liability**
- > **Restrictive Covenants**
- > **IP Matters**
- > **Transition Services**
- > **Considerations for Multi-Jurisdictional Carveouts**

2

2

Introduction to Carveouts

- A transaction in which the seller transfers a portion of the business or assets of the business to a purchaser through a complex process of allocating and separating assets and liabilities, facilities, technology and intellectual property, contractual relationships, employees and other resources between buyer and seller, implicating tax, regulatory and third-party consent issues
- Examples include:
 - Sale to strategic buyer or private equity portfolio company – company acquires a business unit or assets carved out by seller
 - Sale to private equity – a private equity fund buys the business unit or assets and creates a new private company
 - Joint venture / sell stake - A partial divestiture of equity to a third party

3

3

Market Trends: Divisional Carve-Out





- Energy transition fuels carve-outs
- Continued trend of PE sponsor-backed large carve-outs from strategic sellers with substantial seller rollover
- Strategic divestitures of non-core or underperforming businesses

4

4

Market Trends: Divisional Carve-Outs in Detail

- As corporates seek to focus on their core businesses and consider transactions to streamline or otherwise monetize their operations, PE sponsors are proving to be attractive partners, offering flexible solutions to unlock upfront value, while offering continued upside

Parties	Type	Details
	Carveout to PE + Large Rollover +	<ul style="list-style-type: none"> On July 6, 2023, FIS announced that it will sell a 55% stake in its Merchant Solutions business (Worldpay) to affiliates of private equity firm GTCR in a transaction valuing the business at \$18.5B
	Carveout to PE + Large Rollover + Seller Note	<ul style="list-style-type: none"> On May 31, 2023, Blackstone completed its acquisition of a majority stake in Emerson Electric's Climate Technologies business in a transaction valuing the business at \$14B
	Carveout to PE + Large Rollover + Earn-out	<ul style="list-style-type: none"> On November 22, 2022, Roper Technologies completed the sale of a 51% stake in its industrial businesses to CD&R for ~\$2.6B in total upfront cash proceeds, while retaining 49% of the business
	Carveout to PE + Large Rollover	<ul style="list-style-type: none"> On August 2, 2021, AT&T and TPG completed the transaction whereby AT&T's US video business unit, including DirecTV, would be carved out into a new entity with an implied EV of \$16.25B owned 70% by AT&T and 30% by TPG

5

5

Market Trends: The Carve-Out Process

- Carve-out processes are less likely to be pre-empted than non-carveouts and typically require longer diligence periods pre-signing and longer periods between signing and closing than non-carveouts



Source: Kirkland proprietary data; select carve-out over past 3 years

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Carveouts: The Right Slice of the Pie

First appeared as part of the conference materials for the
19th Annual Mergers and Acquisitions Institute session
"Carveouts: The Right Slice of the Pie"