

PRIVATE EQUITY

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Private Equity

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Private Equity

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Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in private equity.

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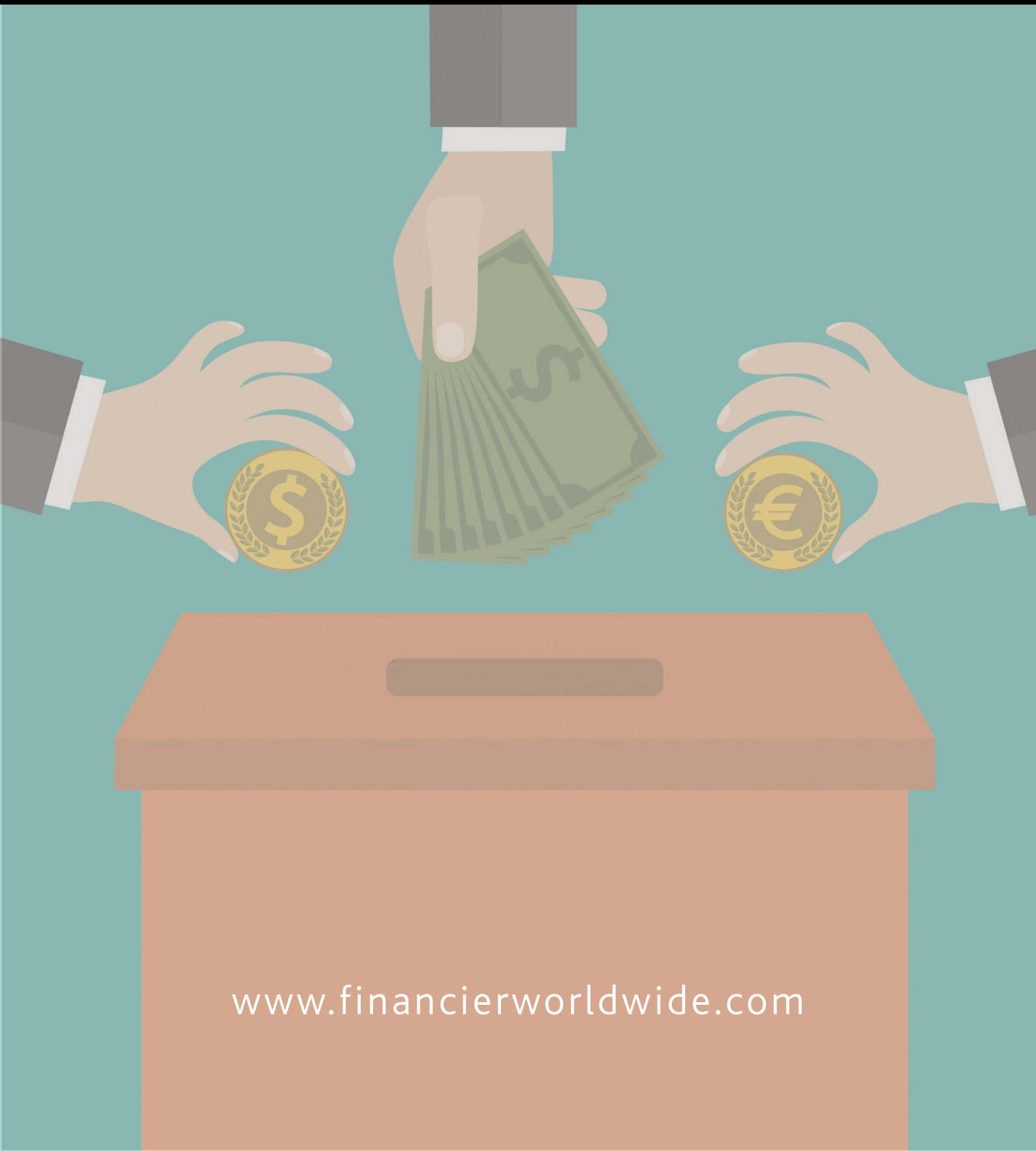
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INTRODUCTION

Over the past 12 months, the global private equity market has remained competitive. Regional dealmaking activity has been mixed, ranging from sluggish to stable to stellar. Where activity has been high, strong competition for the most attractive assets has put vendors in the driver's seat but made it harder for fund managers to deploy their capital. Some fund managers are making efforts to source off-market transactions to chase acquisitions at lower multiples or look for other methods to create value rather than relying on buy and hold strategies.

Meanwhile, there has been a focus on GPs returning cash to investors, which is driving exits. In many regions these exits have been achieved through a range of avenues, including trade sales, secondaries and public listings. Yet this activity has been tempered somewhat by continued macroeconomic uncertainty. Few countries have been immune to the impact of global economic and geopolitical concerns.

That said, a number of industries have experienced both revenue growth and consolidation among players. Healthcare in the US and infrastructure in the UK are just two examples. Also significant is the regulatory transformation that has pervaded the private equity asset class over the last few years. Once lightly regulated, fund managers are now intensely scrutinised by both regulators and LPs.

Currently undergoing a major upheaval in terms of competition, regulation and sophistication, for the moment private equity is an asset class which, although prone to cyclical trends, remains rich with opportunity.



PORTUGAL

RICARDO ANDRADE AMARO

MORAIS LEITÃO, GALVÃO TELES, SOARES DA SILVA & ASSOCIADOS

Q WHAT TRENDS HAVE YOU SEEN IN PRIVATE EQUITY DEAL-MAKING IN PORTUGAL OVER THE LAST 12-18 MONTHS? HOW WOULD YOU DESCRIBE ACTIVITY LEVELS?

AMARO: While no up to date public data is presently available, private equity (PE) activity levels in Portugal appear to be relatively high, with various buy-side and sell-side deals, from the fund manager's perspective, concluded in the past few months. The main trend in private equity deal-making at this stage is probably the occurrence of several high-profile exits. This is due to the fact that many of the largest Portuguese private equity funds are now reaching maturity and also because in 2015 Portugal has been experiencing increasing levels of private investment and economic growth, both of which have encouraged asset sales by PE funds.

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Q WHICH KEY SECTORS DO PE FIRMS SEEM TO BE TARGETING IN PORTUGAL, AND WHY?

AMARO: Transactions by PE firms appear to be targeting mainly the real estate and technology sectors. With respect to real estate, the latter has been one of the key targets of PE transactions in past years but opportunities still arise for distressed funds in the commercial real estate and tourism sub-sectors. The reason for this is due to the lowering of prices in the aftermath of the financial crisis of 2008 and the excessive leverage and dependency of bank financing of several tourism and construction groups. This resulted in the reorganisation of such groups, many of which have been concluded with the help of PE funds, which have, for instance, acquired senior credits in pre-insolvency and insolvency procedures. Concerning technology companies, the reasons appear to be largely idiosyncratic; PE funds, both national and international, have discovered early stage and growth stage opportunities in promising Portuguese technology companies. Other notable sectors recently targeted by PE funds are agro and food business, travel agencies and education.

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Q ARE BANKS
DEMONSTRATING AN
APPETITE TO PROVIDE
FINANCING FOR LEVERAGED
BUYOUTS? WHAT EQUITY
CONTRIBUTIONS ARE PE
FIRMS GENERALLY REQUIRED
TO MAKE TOWARDS
TRANSACTION VALUES?

AMARO: Leveraged buyouts in Portugal are few and far between as the median value of private equity transactions in Portugal is small. Consequently, deals involving private equity investors are made almost exclusively through the funds' equity, raised from its LPs. However, we have been involved in one important transaction this year with a foreign PE firm which had a substantial part of the investment financed by a Portuguese bank at target level in order to maximise efficiencies from a tax and capital structure perspective.

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Q COULD YOU OUTLINE
THE MOST SIGNIFICANT
LEGAL AND REGULATORY
DEVELOPMENTS FACING THE
PRIVATE EQUITY INDUSTRY?
IN YOUR OPINION, HOW
WILL THEY SHAPE THE ASSET
CLASS IN THE LONG TERM?

AMARO: 2015 witnessed an overhaul of the private equity legal and regulatory landscape with the enactment of Law no. 18/2015, of 4 March, which implemented into Portuguese legislation the Alternative Investment Funds Directive to PE funds and fund managers. The main innovation put in place by the enactment of Law 18/2015 is imposing a more demanding regulatory framework to management entities of collective undertakings which have assets under management with a value exceeding €100m for levered portfolios or €500m for unlevered portfolios. Our opinion is that these stricter regulatory requirements will incentivise many 'mid-tier' players to scale down or not increase the size of their funds so as not to exceed the aforementioned thresholds. On the other hand, the European harmonisation of rules on alternative investment funds may facilitate cross-border investment, fundraising and marketing of large PE funds within the EU.

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“Domestic and international economic headwinds may be expected in the near future, which will pose challenges for fund managers.”

Q WHAT METHODS HAVE YOU SEEN PE FIRMS USING TO BUILD VALUE ACROSS THEIR PORTFOLIOS, REDUCE RISKS AND IMPROVE RETURNS?

AMARO: Common methods used by PE firms in Portugal to maximise returns for their funds include placing fund manager board members or senior staff on portfolio companies' management bodies, optimising portfolio companies' capital structure, investing through quasi-equity or subordinated debt instruments, granting stock options or other incentives to incumbent management in portfolio companies based on the achievement of certain financial thresholds, and having a carried interest remuneration structure for the PE firm in order to align incentives of GPs and LPs alike.

Q HOW HAS THE RELATIONSHIP BETWEEN GENERAL PARTNERS (GPS) AND LIMITED PARTNERS (LPS) EVOLVED IN RECENT YEARS, AND WHAT EFFECT IS THIS HAVING ON THE FUNDRAISING PROCESS?

AMARO: There is a significant 'home bias' in PE investments in Portugal. GPs in Portuguese fund managers, which are themselves for the most part Portuguese financial market players, are growing increasingly sophisticated in this role and, as a result of recent legislative changes which transpose the AIFM Directive, demand more oversight and scrutiny of transactions which have the potential to cause conflicts of interest. While this does not appear to hamper the fundraising process, it does impact on fund structuring and governance, especially in creating or buttressing the powers of 'advisory' or 'strategic' councils made up of the most important GPs.



Q LOOKING AHEAD, WHAT ARE YOUR PREDICTIONS FOR THE KEY OPPORTUNITIES AND CHALLENGES THAT ARE LIKELY TO FACE PRIVATE EQUITY FIRMS OVER THE COMING MONTHS?

AMARO: PE firms in Portugal are facing a few challenges in the months ahead. Many funds are reaching maturity and there is pressure to pursue exits and demonstrate successful investments made by the funds. Given the existing volatility in markets, there is a risk that these exits are hastily executed or not timed correctly, which would end up ultimately hurting the fund's returns. An alternative to deal with this issue is to set up a 'successor' fund to the original PE fund, to which the assets which are not yet mature enough to be divested would be transferred. In addition, domestic and international economic headwinds may be expected in the near future, which will pose challenges for fund managers in each of the different stages of the PE fund lifecycle: fundraising for new funds, executing investment opportunities and finding willing buyers for portfolio companies.

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Ricardo Andrade Amaro is a partner in MLGTS and is part of the M&A and capital markets team and energy law team. He has experience in corporate and commercial law, securities law, as well as in energy law. Mr Andrade has, *inter alia*, acted as legal adviser in setting up the first private equity fund in Portugal exclusively dedicated to the recovery of companies (turnaround fund) which is currently the largest Portuguese private equity fund. In the area of corporate and commercial law, he has acted as legal adviser in several mergers, restructurings, acquisitions and sales of companies.



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