



Blakes

Canadian
Private Equity
Deal Study

Fourth Edition

Blakes Private Equity Practice

Blakes has one of the strongest and most experienced private equity practices in Canada. As a national team, we drive innovative transactional structures and their strategic implementation, with a depth of industry knowledge and perspectives from across the country.

Our Private Equity team spans various specialty areas, including M&A, capital markets, competition, foreign investment review, tax, financial services, real estate, intellectual property, pensions, benefits and executive compensation.

We provide strategic advice and legal counsel at each stage of the investment lifecycle: fund formation, fund management and governance, financing, acquisitions and investments, management of portfolio companies and exit strategies.

For more information on our Private Equity practice, visit www.blakes.com.

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01

Overview

Foreword

Now in its fourth edition, our Canadian Private Equity Deal Study remains the most in-depth analysis of Canadian private equity buyout and investment transactions in the legal industry, allowing for the identification of recent trends and developments and an understanding of “what is market” in Canadian private equity.

This Edition captures the frenetic dealmaking pace of 2020 and 2021, as well as the deceleration of deal volumes to pre-pandemic levels since, in part due to increased leverage costs. What was a robust sellers’ market at the outset of the Study period shifted toward, at best, neutrality by the end. Other noticeable trends included the rise and fall of earnout popularity through the pandemic, an increased use of private plans of arrangement to acquire widely-held (principally healthcare and technology) targets, and R&W insurance premiums peaking at record highs (in some cases pricing the product out of certain transactions) before descending to historical values as dealmaking slowed.

Recognized as a market leader in the *Chambers Canada 2024* edition, with a total of 56 practice rankings, including 25 Band 1 practice rankings

Top ranked firm with 193 lawyers and 89 of our practice groups recognized in *The Canadian Legal Expert Directory 2023* edition

“Blakes can navigate our most complex and nuanced challenges. They excel at breaking down complex subject matter into manageable components and clearly articulate the critical issues for consideration.”

— client comment, Private Equity: Buyouts, *Chambers Canada: Canada’s Leading Lawyers for Business 2024*

Tier 1 in Corporate and M&A

— *The Legal 500 Canada 2023*

Tier 1 in M&A

— *IFLR1000: The Guide to the World’s Leading Financial and Corporate Law Firms 2023*

Focus

Private Equity Nucleus

Unlike private M&A deal studies that source their data from publicly available sources such as SEDAR+* and are, therefore, based on private transactions involving public companies, this Study focuses on transactions involving private equity funds, sponsors or portfolio companies as sellers, buyers, investors and/or targets. Among the many novel perspectives presented in this Study is a focus on differences in dynamics and terms based on the nature of the parties involved.

Canadian Nexus

This Study focuses solely on transactions involving Canadian private companies or their assets.

Blakes Involvement

This Study is a proprietary analysis of Canadian buyout and minority investment transactions in which Blakes was involved. Derived from our exclusive database containing hundreds of precedents, this Study examines over 100 transactions signed between 2019 and 2022. By reporting aggregated data, we ensured no confidential information is disclosed.

Data Presentation

Medians are used instead of means to eliminate distortion to averages resulting from outliers. Due to rounding, actual figures may be plus or minus 1%. In most cases, percentages have been rounded to the nearest whole percentage. Unless otherwise stated, monetary values are presented in Canadian dollars. Portfolio companies are included among private equity parties. Transactions include buyouts and minority investments.

Transaction Terms

Where transaction terms are not directly comparable, we used our judgment and discretion in summarizing, categorizing and reflecting them in this Study. From one edition of this Study to the next, the deal set from any particular year may be different. The results do not reflect the views of Blakes, and accordingly, whether or not a specific term is appropriate for any transaction depends on, and merits close consideration based on, the facts and circumstances of such transaction.

Legend



Upward Trend



Downward Trend



Insight



Explanatory



COVID-19

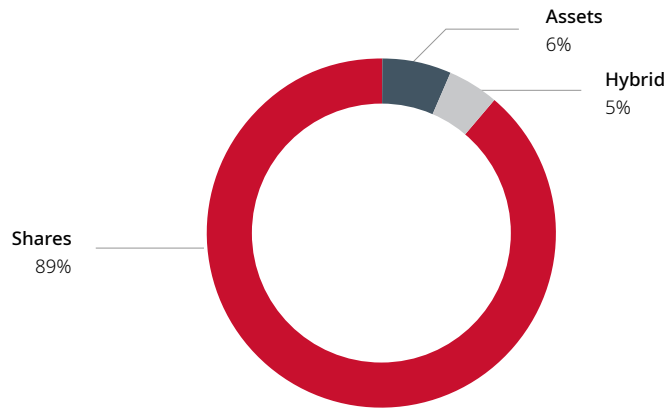


Subset

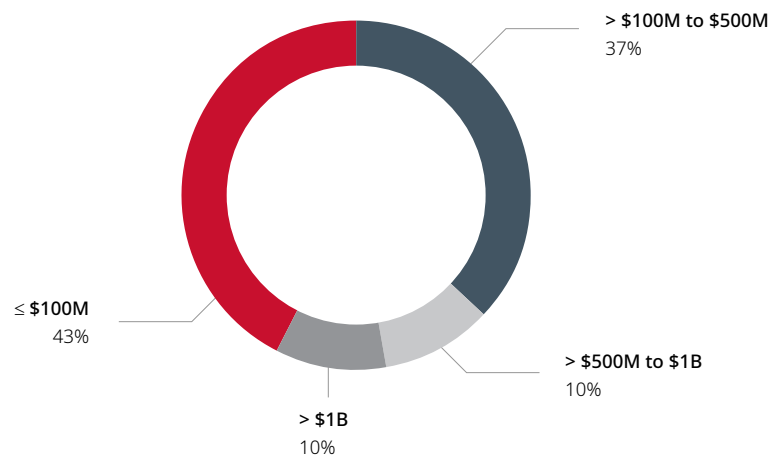
* SEDAR+ is the System for Electronic Document Analysis and Retrieval maintained on behalf of the Canadian securities regulatory authorities for use by reporting issuers.

Snapshot

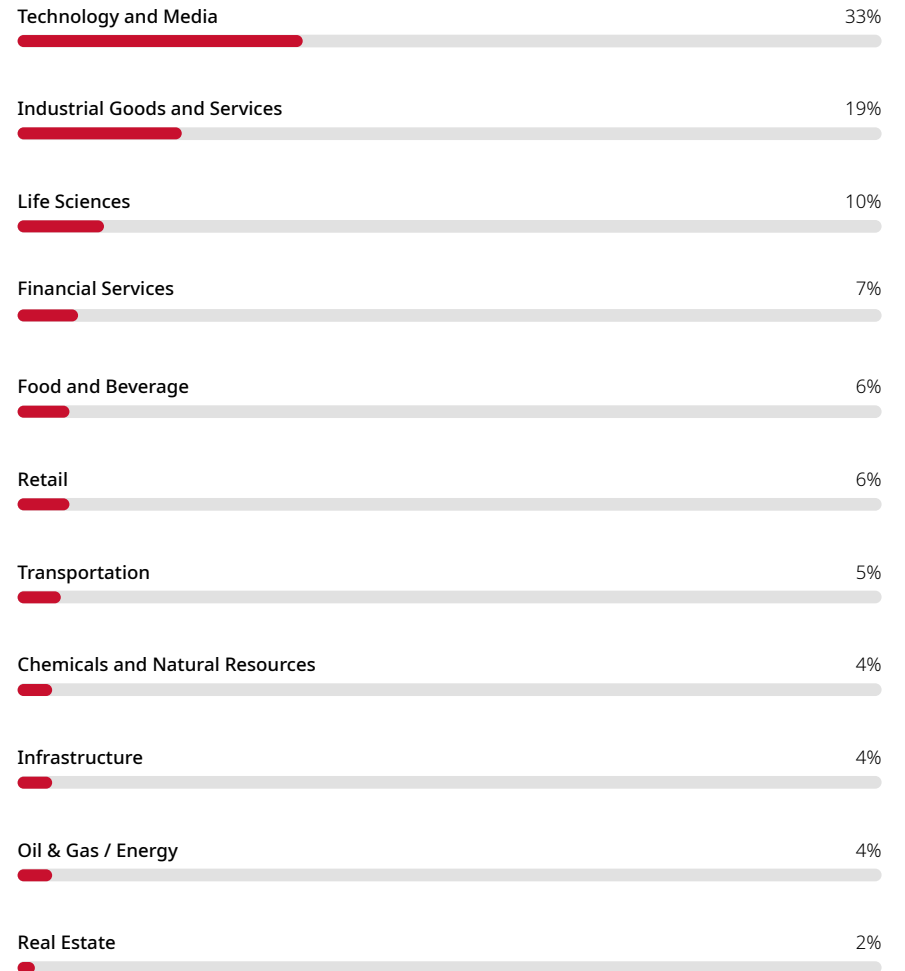
Structure



Size



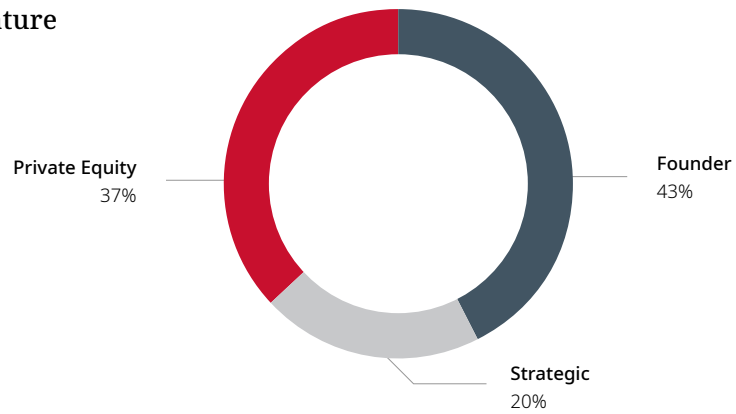
Industry



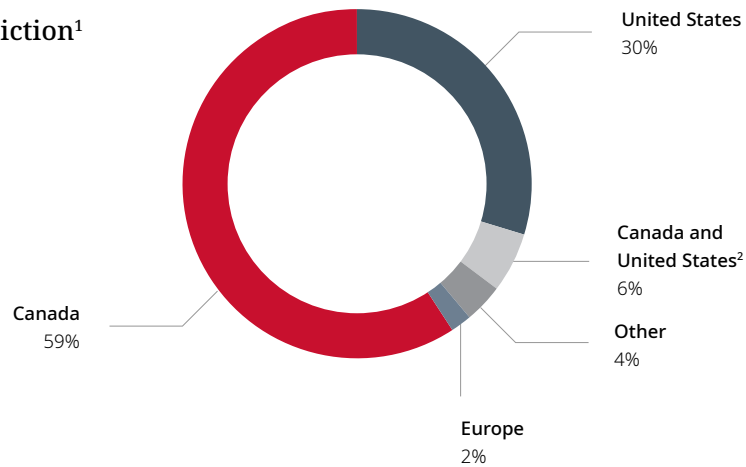
Players

Sellers

Nature



Jurisdiction¹

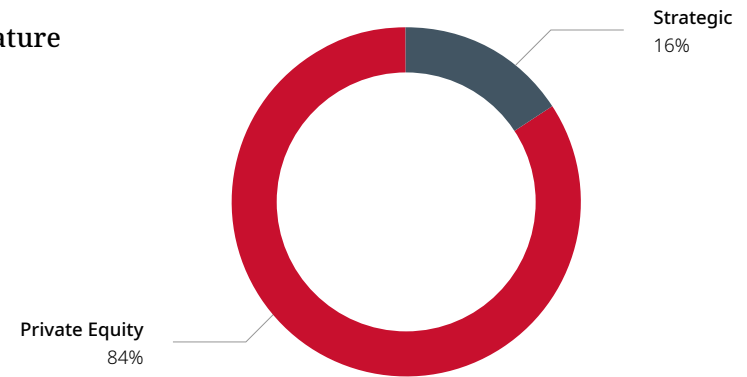


¹ Excludes management where management team members are also sellers.

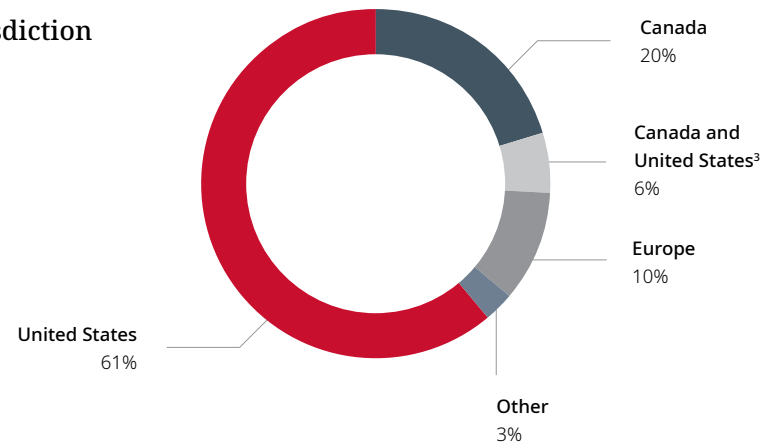
² Includes syndicates of non-controlling sellers.

Buyers

Nature



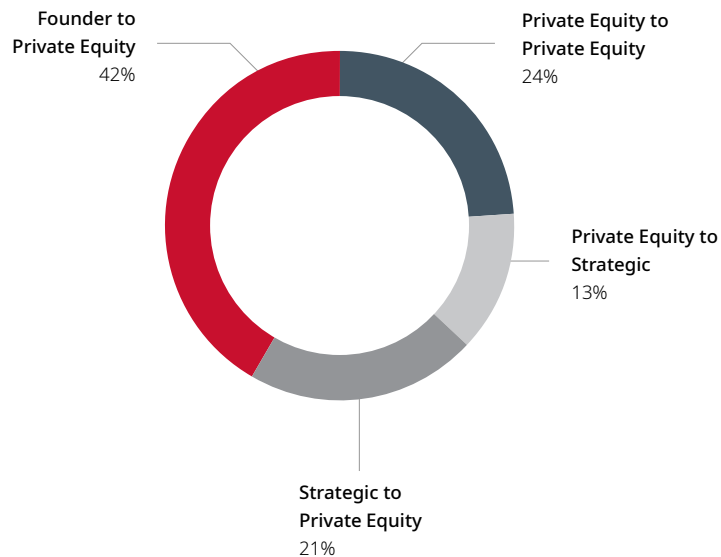
Jurisdiction



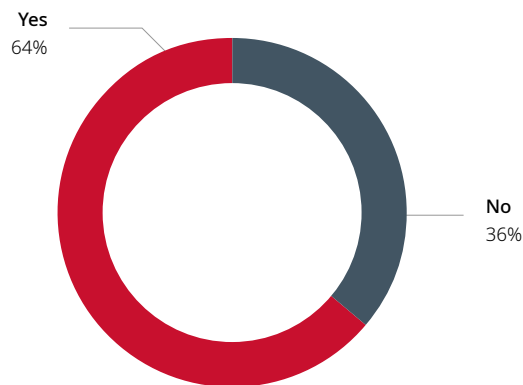
³ Includes syndicates of non-controlling buyers.

Transaction Characteristics

Dynamics



R&W Insurance



Trend Spotlight: Private Plans of Arrangement

Public M&A Elements

- **Board Negotiated.** The transaction agreement is negotiated opposite the target's board of directors as opposed to its selling shareholders.
- **Fairness Opinion.** The target's board commonly obtains a fairness valuation opinion from an independent financial advisor.
- **Superior Proposal vs. Right to Match and Break Fee.** The target's board often negotiates the right to accept an unsolicited superior proposal, subject to the buyer being afforded the right to match or obtain a break fee.
- **Disclosure, Court Approval and Shareholder Vote.** The arrangement process takes approximately 45 to 60 days, including two court appearances and a meeting of the target's shareholders, who are entitled to be provided with prospectus level disclosure about the transaction.

Private M&A Elements

- **Post-Closing Risk Allocation.** The transaction agreement usually contemplates representations and warranties and post-closing indemnities, providing the buyer with risk protection.
- **Escrows.** Escrows, whether for post-closing financial adjustments or indemnity protection, are commonplace.
- **R&W Insurance.** Representations and warranties insurance can be utilized as another risk-allocation tool.
- **Rollover Equity and Incentive Awards.** Selling shareholders, including founders, management and/or others that want to remain invested in the target, are able to receive a portion of the transaction consideration in the form of equity in the buyer.

Get the big picture.

To request the complete Study, email gary.nurse@blakes.com.