

# Luxembourg Fund Services

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approach

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# A unique opportunity for private equity firms

Interview with Johan Terblanche & Michelle Barry

The private equity industry is currently navigating a number of challenges in addition to the Covid-19 pandemic, which the whole world is facing. As regulation and political will around environment, social and governance (ESG) factors grows, PE firms are coming under increased pressure to incorporate this approach into their investment strategies. These firms are also keeping a close eye on the progress of the Brexit negotiations to make sure to maintain their access to Europe.

“Covid-19 has presented much uncertainty and many challenges to the global private equity industry and market perspectives are mixed. However, this uncertainty has offered some private equity firms, who are fortunate enough to have plenty of dry powder, or who may have recently completed large closings, a unique opportunity to invest in assets at interesting price points.

“It also affords private equity firms the opportunity to be closer to their portfolio companies, invest in businesses suffering from the pandemic and demonstrate added value by putting the sizeable amounts of capital they have to work. It would not be surprising, once the economic impact of Covid-19 filters through, to see private equity taking a more active role in the debt markets and continuing a trend, which has been prevalent since the global financial crisis,” says Johan Terblanche, Managing Partner and head of the Luxembourg Funds & Investment Management team at the Maples Group.

So, while markets have been hit by downturns and recessions in the past, the rapidly changing situation is also presenting challenges for private equity firms and private equity fund vehicles globally. According to Michelle Barry, an associate in the Funds & Investment Management team at the Maples Group: “The nature of the pandemic, the

duration and the ongoing uncertainty means that a forecast on the outlook for the global economy is almost impossible and continued uncertainty around the long-term impact that it will have on the global markets will unfortunately continue for the foreseeable future.”

Beyond the Covid crisis however is the strong investor appetite for ESG investing which pre-dates this turmoil. Barry comments: “A growing number of private equity firms have signed up to the United Nation’s Principles of Responsible Investing. However, investor appetite is gradually demanding further action on the ESG front, in light of increasing recognition that performance and value can be enhanced by the inclusion of ESG metrics.”

This is an area in which the agility of Luxembourg’s financial services industry blossom. “The Grand Duchy of Luxembourg financial services centre is cognisant of the trends affecting not only the private equity sector but also the broader financial services industry.

“It has continued to react expeditiously in order to enhance product offerings, address unexpected challenges, promote sustainable finance and ESG to ensure Luxembourg continues to be regarded as a leading private equity hub that is attractive to EU and non-EU private equity firms and asset managers, most of whom have established their EU hubs in Luxembourg,” notes Terblanche.

In fact, with the increased focus on ESG issues, certain institutional investors are actively pursuing the agenda on sustainable and responsible investing, which is further supported by the introduction of a package of legal and regulatory ESG initiatives and measures. Barry advises: “In view of this, private equity firms, if they haven’t already done so, will have to make a concerted effort to factor ESG into their business and investment decisions.”

An additional dimension private equity firms need to keep in mind is the Brexit process. According to Terblanche: “As the transition period comes to a close at the end of this year, private equity firms are keeping a very close eye on the progress of the negotiations between the UK and the EU. Although the outcome of these negotiations remains unclear, many private equity firms are considering their options with respect to ensuring the European market remains accessible to them after 31 December 2020 with some having already taken action by relocating their activities.”

Private equity firms are juggling a number of objectives. They are examining how best to maintain and enhance their European presence and access to European markets in light of continuing developments with Brexit and third country passporting.

Terblanche remarks: “Many have committed to Luxembourg as a jurisdiction from which they operate and we will continue to support our clients in this regard. The continued growth and developments in the private equity sector lend themselves well to the attainment of our organisation’s objectives and we play an active role in the industry in Luxembourg.”

To ensure Luxembourg remains a competitive global jurisdiction, it will leverage upon its reputation as a pragmatic legal jurisdiction and its existing legal framework. Terblanche highlights: “The business-friendly and stable political and economic environment, coupled with the structuring options and workforce will also guarantee the jurisdiction can react expeditiously to changes in the market as and when needed and continue to serve clients from around the globe to the standards they have come to expect.”

Looking ahead, Barry says: “Growth in the private equity sector in Luxembourg may to a certain extent, be impeded by the current environment as private equity deals move at a slower pace in light of the inherent uncertainties. However, the nature of Covid-19 means that all areas of

the global economy have been affected and the private equity sector in Luxembourg and across the globe is no exception, however it is certainly more robust than most.”



The Maples Group has a long track record of providing top quality legal, fiduciary and fund services to private equity firms across various locations. Outlining the firm’s plans for its Luxembourg practice, Terblanche comments: “We remain committed to ensuring that our office here is a highly successful law practice offering first-class legal, regulatory and tax services. Furthermore, our fiduciary team has provided corporate governance solutions to clients in this space for well over a decade and our fund services team has extensive experience providing tailored fund administration solutions to Luxembourg vehicles.

“As such, the continued growth and developments in the private equity sector lend themselves well to the attainment of our organisation’s objectives and we play an active role in the industry in Luxembourg.” ■



**Johan Terblanche**  
Managing Partner, Maples Group



Johan is Managing Partner of Maples and Calder (Luxembourg) at the Maples Group, where he is head of the Luxembourg Funds & Investment Management team. Johan has been focusing on fund structuring / formation and regulated financial business for the majority of his career. He advises managers and investors of collective investment funds, with a particular focus on alternative funds (including private equity, debt, infrastructure, real estate and hedge funds) and their management entities.



**Michelle Barry**  
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Michelle is an associate in Maples and Calder (Luxembourg)’s Funds & Investment Management team at the Maples Group. Michelle advises on a wide variety of legal, regulatory and compliance matters, with a particular focus on the structuring, establishment, operation and regulation of all forms of Luxembourg domiciled investment funds. Michelle’s experience also includes acting for a wide range of fund service providers, including investment managers, administrators, depositaries, management companies and AIFMs. Michelle speaks English and German.