

Private Equity Group Of The Year: Debevoise & Plimpton

By Benjamin Horney

Law360 (February 1, 2019, 11:51 AM EST) -- Debevoise & Plimpton LLP spent the last year helping major private equity firms complete billions of dollars worth of deals, including a \$4.1 billion agreement involving the acquisition and subsequent splitting up of Kindred Healthcare, landing the firm on Law360's list of 2018 Private Equity Groups of the Year.

The firm counts its private equity practice as one of the most important reasons for its overall success; in total, Debevoise employs roughly 700 lawyers across nine offices on three continents, and somewhere around 30 percent of those attorneys devote a "substantial" amount of time to private equity, according to Kevin Schmidt, a corporate partner in Debevoise's mergers and acquisitions group and co-head of the firm's private equity group.

The past year, which saw Debevoise advising clients like TPG Capital, Welsh Carson Anderson & Stowe and Carlyle Group, was quite possibly the busiest year ever for the firm when it comes to PE-related work, Schmidt told Law360.

"In 2017, we hit an all-time high for private equity activity," Schmidt said. "But guess what? 2018 was over that. Everybody keeps dancing, and the busyness has continued. We like that."

One of the most significant and challenging transactions Debevoise had a hand in during the course of the last 12 months was a \$4.1 billion deal that saw Humana Inc. team up with private equity firms TPG Capital and Welsh Carson Anderson & Stowe to buy and then split up Kindred Healthcare Inc.

Under the terms of the arrangement, which was announced in late December 2017 and required continued work up through its closing this past summer, Kindred stockholders received \$9 in cash per share, equivalent to a cash consideration of roughly \$800 million. Including the assumption of debt and other costs and expense, the deal was worth a total of around \$4.1 billion.

The agreement also saw Kindred being split up, with TPG and Welsh Carson ultimately holding a 60 percent interest in the company's so-called Kindred At Home business, which includes home health, hospice and community care assets. Humana owns the remaining 40 percent, and a provision in the deal agreement gives Humana the ability to buy the PE firms' interests in Kindred at Home over time.



The deal included many challenges. Debevoise had to ensure the agreement was compliant with a wide spectrum of health care laws and regulations in order to minimize tax leakage while simultaneously navigating complex leases and contracts.

“That was a complicated deal,” Schmidt said. “It was effectively two transactions that were conditioned on one another being successfully completed.”

Another major transaction for the firm this past year saw Debevoise advising Nationstar Mortgage Inc. on its merger with reinsurer WMIH Corp., a deal that was announced in February with an enterprise value of \$3.8 billion. Both companies involved in the deal were backed by private equity firms, with Nationstar backed by investment funds managed by a Fortress Investment Group LLC affiliate and WMIH backed by KKR & Co. LP.

Under the terms of the transaction, Nationstar shareholders received \$1.2 billion in cash and \$702 million of WMIH shares. The transaction also called for the refinancing of \$1.9 billion of Nationstar’s existing senior unsecured notes upon closing. At the time the deal was announced, the companies said WMIH had already secured \$2.75 billion of financing commitments for the merger.

Once again, the deal was not the standard leveraged buyout that private equity firms are known for, meaning the Debevoise attorneys were charged with handling complicated tax issues. There were also challenges related to the financing of the deal. WMIH was relying on financing for the deal, so the Debevoise team had to determine when each necessary regulatory approval needed to be in hand for the financing aspect to go smoothly.

The Nationstar deal, like the Kindred deal, necessitated lawyers from multiple practices at Debevoise working together to solve problems and come up with a deal that worked for all parties.

“One thing that’s unusual about our practice is how we work cohesively across practice groups, for example with our M&A and regulatory counsel,” said Rebecca Silberstein, a partner at Debevoise and co-head of the firm’s private equity group. “This allows us to look beyond any particular fund or deal and implement a protective risk management function for our clients.”

Fast forward a few months to the summer, and Debevoise found itself working on yet another complex deal, this time for Carlyle. The deal saw Carlyle paying \$381 million in cash for a minority stake in AIG’s Bermuda-based composite reinsurer DSA Re as part of a strategic partnership with AIG.

The agreement involved building DSA, which had been set up in February as a composite reinsurer of AIG’s legacy insurance portfolio, into a standalone provider of reinsurance, claims handling and other related services. Under the terms of the deal, Carlyle took a nearly 20 percent stake in DSA, and in turn, the insurers agreed to plug roughly \$6 billion into Carlyle through private equity and real estate investments.

The DSA deal was involved, and part of what made the related legal work unique was that it was not a complete buyout. Thus, there were a host of stipulations that had to be negotiated and put into the deal, including what the company’s governance structure would look like and who would have which control rights upon the completion of the transaction.

“In this situation, we had to navigate arrangements that folks are going to live by,” Schmidt said. “Those are issues that require philosophical alignment and discussions about how events might eventually play out.”

The previously mentioned deal involving Kindred Healthcare was one of multiple health care-related deals the firm worked on over the course of the last 12 months. Another example is a deal in which Debevoise advised Clayton Dubilier & Rice. The agreement, announced in June, saw CD&R buying a majority stake in naviHealth, a manager of post-acute benefits for health plans that serves more than 2 million insured members.

The deal saw funds managed by CD&R picking up a 55 percent interest in naviHealth, with Cardinal Health Inc. retaining a roughly 45 percent stake in the business. Under the terms of the transaction, Cardinal Health has a call right to reacquire naviHealth, which manages care transitions for about 800 acute hospitals and 11,000 post-acute care facilities across the U.S.

“We’re very pleased with the expansion of our work in the health care sector, which requires specialized knowledge.” Schmidt said. “We saw that PE clients were increasingly looking in the sector, so we’ve been investing resources, and now we have these completed deals.”

This is all just a smattering of the deals that Debevoise helped steer during the course of 2018, with another major example being its work as legal adviser for Carlyle on a strategic minority investment in DiscoverOrg, the developer of an online sales and marketing intelligence tool that is currently used by over 4,000 companies. Debevoise also advised Providence Strategic Growth, an affiliate of Providence Equity Partners LLC, in the formation of Providence Strategic Growth III, a North American growth fund that raised \$1.3 billion from limited partners before closing in June.

If it seems like the PE attorneys at Debevoise are faced with nonstop action, it’s because they really do advise a long list of clients that seem to constantly be doing deals or raising funds. There are multiple reasons the firm is able to handle such a laundry list of items, but one in particular stands out, according to Robert Kaplan, a partner at Debevoise who’s résumé includes a stint as co-chief of the asset management division of the U.S. Securities and Exchange Commission.

He said that because Debevoise uses a lockstep compensation system, which bases employees' salaries on their seniority within the law firm, there are never any battles over who’s going to do the work and get the credit.

“Ultimately, Debevoise is one of only a handful of firms that has retained an economic model that promotes true collaboration and that has real cultural ramifications,” Kaplan said “It really engenders an esprit de corps that is reminiscent of what it’s like to practice in the government and promotes great client service.”

--Additional reporting by Danielle Nichole Smith and Adam Rhodes. Editing by Alyssa Miller.