



SELL-SIDE CARVE-OUTS

ICAEW CORPORATE FINANCE FACULTY
BEST-PRACTICE GUIDELINE 75

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FOREWORD AND ACKNOWLEDGEMENTS



The sale of part of an organisation, typically known in the corporate finance world as a carve-out, continues to represent a significant and evolving component of UK and global mergers and acquisitions

(M&A) activity. Driven by a resurgence in global mega-deals, boards are increasingly pursuing large, transformational acquisitions that typically necessitate portfolio rationalisation for either strategic or regulatory reasons.

At the same time, carve-outs present a distinct set of challenges and complexities. Unlike whole company disposals, they require the careful disentanglement of operational, financial, legal and technological interdependencies between the target business and the seller, with potentially material tax implications. These complexities can introduce execution risk, lengthen timelines and increase costs but, when managed effectively, they also create opportunities to optimise the business being divested and enhance value for both the seller and acquirer.

This faculty guideline has been developed to support advisers, boards and management teams in navigating these challenges with clarity and confidence. It sets out a structured, best-practice framework for approaching sell-side carve-outs, covering the full transaction lifecycle from initial strategic assessment through preparation, due diligence and negotiation, to completion and separation. In doing so, it reflects the increasingly sophisticated expectations of bidders, particularly private equity investors, and the importance of thorough preparation to achieve successful outcomes.

A central theme throughout this publication is the importance of early planning. Successful sellers invest time up front to define the transaction perimeter, assess key risks, and develop robust financial, operational, legal and tax strategies. Clear articulation of the standalone business model, supported by well-prepared carve-out financials and a credible separation plan, is essential to maintaining buyer confidence and maximising transaction value.

The Corporate Finance Faculty remains committed to supporting the development of practical, high-quality guidance for our members. This work builds on our wider engagement across capital markets, dealmaking and regulatory developments, and reflects ongoing collaboration with professional advisers and industry stakeholders.

We are grateful to the teams at Grant Thornton and Eversheds Sutherland for their expertise in preparing this publication, drawing on deep experience across complex carve-out transactions. Their contribution ensures that this guideline is both technically robust and grounded in real-world practice.

I hope this guideline provides a valuable resource for practitioners and helps inform and support successful carve-out transactions in an increasingly complex M&A landscape.

David Petrie

Corporate Finance and Advisory Director
ICAEW

INTRODUCTION

Carve-out transactions that result in the divestment of a 'non-core' business are a significant type of transaction in the UK and internationally.

The purpose of this guideline is to raise awareness of the key considerations that a seller needs to take into account when undertaking a carve-out. These considerations aim to maximise the chances of transaction success by identifying upside potential and managing critical risks effectively. The guideline explores the roles and responsibilities of various parties across four distinct phases of a typical sell-side carve-out process, as outlined below, covering the key carve-out areas: financial, operational, legal and tax.

INTENDED AUDIENCE OF THIS GUIDELINE

This guideline is primarily aimed at carve-out advisers, as well as sellers and the management team of a business preparing for a carve-out transaction (sell-side). While the guideline is written from a sell-side perspective, various elements will be relevant for a wide stakeholder audience. The guideline aims to provide insights into the key principles, best practices and emerging trends that can help to maximise transaction value and increase the probability of successfully completing a carve-out transaction.



Carve-out advisers and other transaction advisers



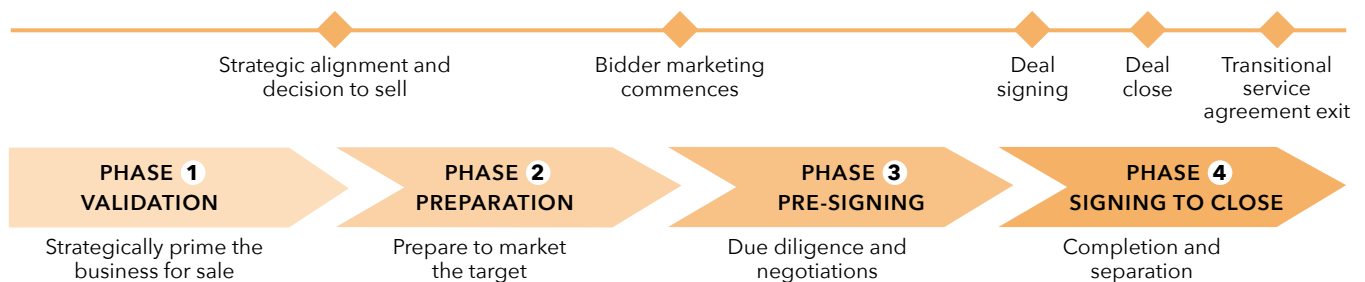
A potential seller



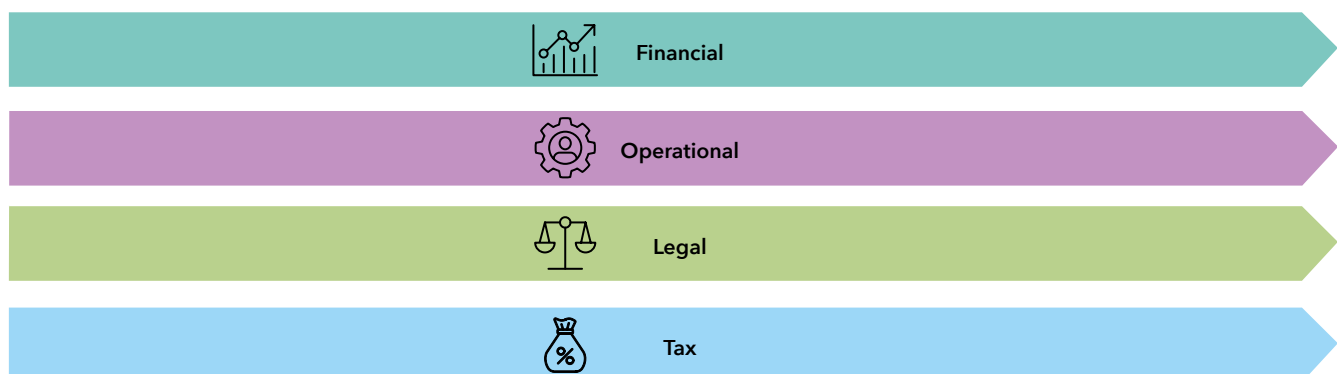
Target management teams

Figure 1 Carve-out deal milestones and areas of focus

EXAMPLE DEAL MILESTONES AND PHASES



KEY CARVE-OUT AREAS



Definition of a carve-out and key attributes

A carve-out typically refers to the separation and disposal of a non-core element (the 'target') of a larger business (the 'seller'), such as a division, business unit, or a specifically defined perimeter of assets from the seller organisation. In some circumstances the target may be a 'core' element, but the seller is forced to divest, for example for financial or regulatory reasons. The seller's remaining business post-divestment is referred to as 'RetainCo' in this guideline.

The perimeter may include one or multiple brands, may cover a single or multiple geographies, and may (or may not) include specific legal entities. The inclusion of legal entities versus trade and assets in a perimeter impacts the complexity of a carve-out process, which we explore later in the guideline.

The structure of a carve-out can vary significantly. The guideline will explore the implications of the following three potential mechanisms:

1. **A trade and asset sale** – target perimeter assets are transferred directly to the acquirer.
2. **The sale of an existing legal entity or entities holding the target perimeter assets** – pre-sale reorganisation will likely be required, including the 'hive-up' of assets and, potentially, people that the seller will retain.
3. **The sale of a new legal entity or entities holding the target perimeter assets** – a pre-sale reorganisation will be required to 'hive-down' target assets to a newly established legal entity or entities.

Executing a carve-out transaction involves disentangling the non-core perimeter operations from those of the seller. Any part of the operating model may be shared between different elements of the seller's business. The key areas of interdependency between the target and the seller are detailed later in phases 2 and 3.

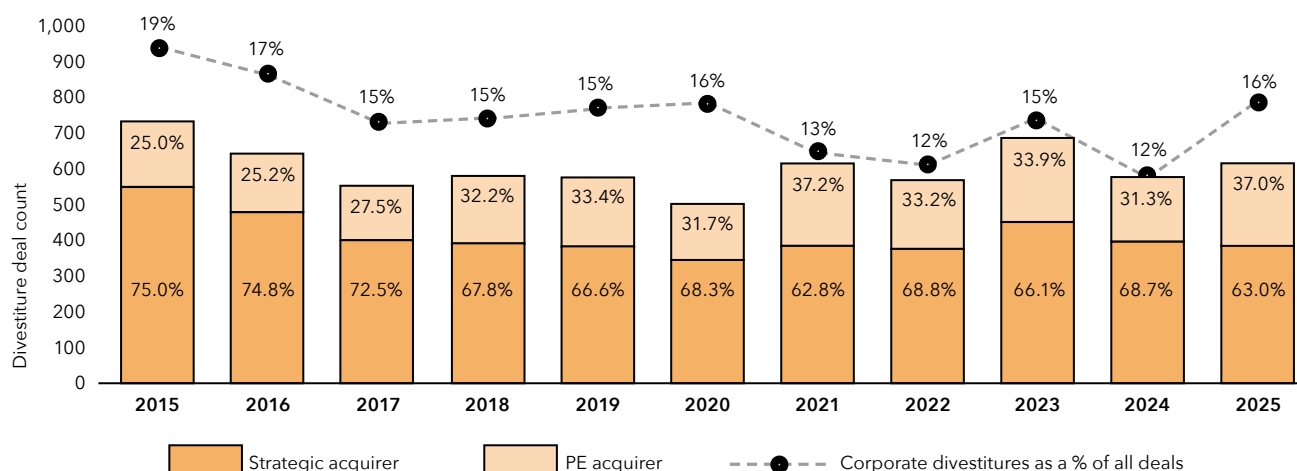
COMPLEXITIES WITH CARVE-OUT TRANSACTIONS

Carve-outs are more complex than whole company disposals because the target is often deeply integrated with the seller operationally, legally and in its reporting structure. This lack of clear perimeter information, combined with differing seller-acquirer interests, increases cost, effort, timelines and execution risk but also creates opportunities for well-prepared parties. A carve-out transaction also introduces negotiation challenges between the seller and acquirer.

Carve-outs are attractive opportunities for both strategic and financial acquirers because when executed correctly they can provide superior returns compared to standalone acquisitions. Carved-out assets are often neglected in the seller portfolio in terms of management focus and investment, so may have value creation potential under new ownership. More so than any other type of transaction, a carve-out creates the opportunity to shape a new optimised business that is 'right-sized' and set up for success to run independently. Executing a carve-out transaction efficiently is key for a successful outcome.

THE SIGNIFICANCE OF CARVE-OUT TRANSACTIONS (UK MARKET DATA)

The chart on the next page illustrates the historical volume of carve-outs (UK-only assets), split between private equity (PE) and strategic acquirers. The overall volume of these transactions has remained largely flat over the 10-year period, with the share as a percentage of all deals gradually declining from 19% in 2015 to 16% in 2025. Although strategic acquirers remain dominant (63% in 2025), their share of total carve-outs is declining as PE acquirers have become increasingly active (37% in 2025). Heightened PE appetite for carve-outs is driven by their potential to deliver strong returns. The overall volume of carve-out transactions was notably high between 2021-2023, a period characterised by high deal volumes more generally.

Figure 2 Volume of carve-outs (UK-only assets) by type of acquirer

Source: PitchBook, a Morningstar company. The cited data has not been reviewed by PitchBook analysts and may be inconsistent with PitchBook methodology.

Bidder focus areas and the importance of early planning by sellers

Bidders will want to understand the key implications of a carve-out impacting deal value, timeline and deliverability across four carve-out areas: financial, operational, legal and tax. Key bidder questions will include the following:

- What are the principal operational and legal interdependencies between the target and the seller and how capable is the target of operating independently?
- What key changes are required both pre and post-deal completion to disentangle and run independently, and what risks and opportunities do these changes present?
- How will the post-deal standalone financials (profit and loss, cash flow and balance sheet) differ from the current/historical performance, reflecting for example changes to the future cost base and one-off investment to execute the separation?
- How will the seller support a smooth transition to the acquirer, minimising risk and disruption?
- What tax costs will arise from the carve-out and which party will bear them?
- What exposure to historical legal liabilities may an acquirer adopt and how are such historical liabilities apportioned or otherwise proposed to be dealt with in the carve-out?
- What are the primary legal barriers to a smooth acquisition of the target business, including employee consultation obligations, merger control and foreign direct investment requirements, among others?

Successful sellers prepare early, well before due diligence commences. Investing time up front to identify and mitigate the key risks and issues, and preparing robust plans to address likely bidder concerns, will help to protect and maximise deal value. Critically, sellers should invest time early to shape the optimum carve-out design to position the target in the best possible light that is credible, achievable and will attract the highest valuation. These themes are expanded on later across the four phases of a carve-out.

THE ROLE OF ADVISERS

Carve-outs usually require a range of advisers to support sellers and bidders with preparation and execution. The level of support required is likely to be driven by the size and complexity of the transaction. Given the workstream interdependencies and complexity of carve-out transactions, it will be important for the various advisers and the seller to be aligned throughout, supported by clear and regular communication, potentially coordinated via a project management office. Sell-side advisers typically include the following:

- **Corporate finance adviser** – supports the seller with marketing, management preparation, bidder engagement, deal negotiation and, ultimately, the sale of the target. The acquirer may also use an adviser to support deal negotiations.
- **Financial adviser** – the role and responsibilities vary and can include supporting the seller to prepare carve-out financials under a financial vendor assist (FVA) engagement or preparing a financial vendor due diligence (FVDD) report for interested parties. An FVA offering can be provided to interested parties on a non-reliance basis to support with their own due diligence. An FVDD, being an independent due diligence report, is for the benefit of interested parties and can ultimately be provided on a reliance basis to the acquirer. The seller's financial advisers may also develop detailed KPI-driven financial models to support valuation and decision-making and, ultimately, contribute to elements in the sale and purchase agreement (SPA).
- **Tax adviser** – initially, the role may involve working with the seller and other key stakeholders to determine the options for the separation of the carve-out business (eg, trade and asset sale versus hive-down) and key tax consequences for both the seller and potential acquirer population. Once a preferred option has been determined, and as the carve-out progresses, the tax adviser can build upon the initial structuring advice to provide a detailed structuring paper, setting out the key steps required for the carve-out and the associated tax consequences. Depending on the extent to which tax history will transfer with the carved-out business, tax advisers may then prepare a tax fact book (TFB) or tax vendor due diligence (TVDD) report to support the sale process.

- **Legal adviser** – the scope is often split across multiple phases of the transaction, including initial structuring and transaction validation, legal vendor due diligence (LVDD) and employee communications planning, as well as formalising transitional service agreements (TSAs) and other long-term commercial agreements (LTAs) between the target and the seller. It will typically also include negotiating and producing key transaction documents such as the SPA, disclosure documents, finance and supply arrangements, tax covenants, warranty and indemnity insurance policies as well as negotiating merger control and other regulatory procedures. Legal, financial and tax advisers will also contribute to discussions around deal economics including choice of completion mechanisms (locked box or completion accounts), deferred consideration, earn-outs and other related legal matters.
- **Separation adviser** – this operationally focused role brings a combination of separation and functional expertise, such as IT, finance, human resources (HR), supply chain, manufacturing and data. The role may include preparing for bidder due diligence, such as developing a Separation Blueprint and supporting TSA and LTA scoping and costing alongside legal advisers. They may also support detailed separation planning and execution in readiness for Day 1 (transaction completion) and transition, in collaboration with the acquirer, running a separation management office (SMO) and supporting the seller with managing stranded costs through operational restructuring.

With the exception of a vendor due diligence (VDD) report, which is produced by an adviser in an independent capacity, the seller will own and be responsible for all other adviser deliverables prepared in a vendor assist support role (including carve-out financials and separation plans etc).

APPLYING ICAEW FUNDAMENTAL PRINCIPLES THROUGHOUT THE CARVE-OUT

When working on a carve-out, as with other engagements, a carve-out adviser must ensure they apply [ICAEW's Code of Ethics and its five fundamental principles](#), and members of other professional bodies will need to comply with that body's regulations. These principles help guide practitioners to deliver objective, high-quality professional work that upholds stakeholder confidence. The points below illustrate the relevance of certain fundamental principles to sell-side carve-outs:

- **Objectivity:** to manage the threat to objectivity where the same adviser firm is undertaking carve-out assistance and the FVDD on the carve-out financial information, it is necessary to ensure that the same team does not perform both roles and that other safeguards, including information barriers, are implemented. Similarly, in respect of the TVDD, any TVDD preparer will need to be objective and separate from the tax advisers supporting the tax structuring.
- **Conflict of interest:** the adviser firm and all members of the team must be objective in both fact and appearance and free from bias. Conflicts must be considered at the outset of an engagement. The engagement must also be monitored throughout to identify any conflicts that may arise. The carve-out adviser should not accept an engagement when conflicts of interest are not considered to be manageable. For manageable conflicts, certain safeguards will need to be put in place, such as separate teams and information barriers. Depending on the circumstances, it may also be necessary to gain consent from the parties involved in the engagement. In a carve-out context, with appropriate safeguards and informed consent, it is possible for separate teams from an adviser firm to work for both the seller and prospective purchasers. Safeguards might include different teams including an independent review partner.
- **Integrity:** the adviser firm and its assignment team members must be straightforward, honest and fair in all professional and business relationships. Members must not knowingly associate with reports, information or communications which they believe to be materially false or misleading, or which contain information provided recklessly. To this end, the carve-out adviser should be satisfied that the carve-out information has been

prepared on a basis that is, and using assumptions which are, appropriately supported. This basis of preparation and the key assumptions applied (including any related limitations) should be documented in a clear and understandable manner as part of the carve-out.

REGULATORY MATTERS FOR ADVISERS

For adviser firms that carry out audit and one or both of advisory and tax carve-out transaction engagements, it is vital that the provision of carve-out services does not compromise auditor independence. Therefore, at the outset of an engagement, audit firms must consider whether the applicable regulation prohibits the service. If not, they should comprehensively assess threats to auditor independence and objectivity to determine whether appropriate safeguards can reduce the threats to an acceptable level so that an objective, reasonably informed third party would consider it appropriate to accept the engagement.

Audits are subject to both the Financial Reporting Council's (FRC's) Ethical Standard and the International Ethics Standards Board for Accountants' (IESBA's) Code of Ethics (or may be subject to non-UK audit regulations and related ethical standards such as those of the US Public Company Accounting Oversight Board). These provide guidance on prohibited services and safeguards in different circumstances. As an example, undertaking financial carve-out preparation would likely compromise the audit firm's independence for any subsequent audit of the transaction perimeter financial statements (on the assumption that some of the carve-out work impacted the financial statements).

While not a regulatory matter, where a carve-out engagement covers forecast periods, the carve-out preparer may refer to [ICAEW's Guidance for Preparers of Prospective Financial Information](#), which provides guidance on the preparation of the financial forecasts.

PHASE 1

VALIDATION (STRATEGICALLY PRIME THE BUSINESS FOR SALE)

This initial phase of seller planning involves a critical assessment of all realistic strategic options for the non-core element of the seller's business, which may or may not result in a carve-out sale process. Other non-disposal options may include restructuring or winding down the non-core element, which are outside the scope of this guideline. All work undertaken by advisers during this phase must support the seller's leadership team to make the best-informed decision.

Steps to support a seller's decision-making process

- 1 Establish the evaluation criteria to ensure consistent and objective assessment of all strategic options under consideration. This may include, for example, alignment with the company's strategy/vision, timing, value, achievability and execution risks, cost to deliver, and external stakeholder impact.
- 2 Assess each option against the defined criteria, on its own and against each other. This will require a level of planning and analysis, potentially with adviser support. The effort required will depend on factors such as the range of options being considered, the scope of evaluation criteria and the level of supporting detail required for each option, as well as timeframe. In relation to a carve-out and disposal option, a carve-out red flags assessment is often carried out to understand the key carve-out considerations.
- 3 Shortlist or decide on a recommended option for leadership appraisal. While an adviser may provide information for this decision, the shortlisting will need to be a management decision.
- 4 Choose the preferred option. Company leadership will decide after considering the recommendation(s). Potentially, a further phase (or phases) of planning and assessment may be required before final approval. A dual track planning process may be required if more than one option is to be explored further.

Usually, a limited number of company stakeholders (generally senior management) will be involved in this exercise given the sensitivity of the options being considered. If a decision is made to divest and commence a carve-out planning exercise, the number of company stakeholders providing input will need to increase, including functional experts and representatives from both the seller and the target. For a publicly listed company, an 'insiders' process will need to be managed.

DEFINING THE CARVE-OUT PERIMETER AND HIGH-LEVEL CARVE-OUT ASSESSMENT

A critical first step to assessing the key carve-out considerations is defining the potential deal perimeter: what, in principle, will be included in (and excluded from) the transaction. More than one perimeter may be defined if multiple transactions are a realistic outcome. For this guideline, we assume a single perimeter and single transaction scenario, but one that may span multiple geographies and could be either a trade and asset sale or a share sale.

The proposed perimeter may evolve and be refined as the work in phase 1 is undertaken, and when discussions with interested parties commence (when initial bidder contact is made in phase 2; and from phase 3 when due diligence is undertaken). As the perimeter may change during the transaction process, it is essential that the carve-out planning considers the various strategic options that may be available and is able to evolve to accommodate potential changes.

Once an initial outline proposal of the perimeter is defined, this enables a red flags assessment of key carve-out considerations. The purpose of this assessment is for the seller to understand:

- the separation hotspots, for example, the current level of operational integration between the seller and the target;
- the preparedness of the business to commence a carve-out planning exercise, considering the

- availability of financial and other data, as well as existing knowledge of the non-core business;
- the high-level financials of the carve-out perimeter, especially profitability (recognising that detailed carve-out financials will need to be prepared in phase 2, which could significantly change this initial view), and a high-level view of one-off separation implementation costs;
 - any key separation issues that may impact deal value, attractiveness of the non-core business or deal timeline; and
 - the potential timeline for a transaction considering the above and the work required to prepare appropriately, including any legal formalities, consultations or filings that may affect the timeline.

The carve-out assessment, as part of the overall phase 1 planning work, is usually high level in nature and carried out over a few weeks. However, it can be longer depending on the complexity, urgency and scope of the assessment. Establishing a set of principles against which to assess the carve-out, including assessing areas that are not to be carved-out, are also important factors. Key considerations for defining the perimeter and assessing the carve-out are outlined in the table below.

Key considerations for defining the perimeter and assessing the carve-out

Perimeter category	Perimeter components/ considerations	Key carve-out considerations
Business perimeter	<ul style="list-style-type: none"> • Elements of the business that will be divested, for example: division/business unit, brand, product, service, geography 	<ul style="list-style-type: none"> • Commercial interdependencies between the target and seller operations, such as intercompany trading in either direction • Shared brands (not dedicated to the perimeter) and the importance of these brands in the market • If the business perimeter needs to be split and requires multiple transactions (eg, a specific brand in multiple geographies attracting different interested parties), then sub-separation issues covering all carve-out areas below should also be considered (such as dependencies between the target perimeters)
Legal entities	<ul style="list-style-type: none"> • A transaction may be via a share sale or an asset sale • In a share sale, the seller is transferring the entire ownership and control of an entity, including its liabilities and subsidiaries, to the acquirer • In a trade and asset sale, a separate legal entity is not required because the acquirer can selectively acquire specific assets and activities. Often, in this scenario, most pre-closing liabilities will remain with the seller (the original entity which held the assets historically) 	<ul style="list-style-type: none"> • Identify whether the target has its own legal entity. If so, is it wholly dedicated or shared with the seller? • Pre-sale re-organisation might be needed to move, for example, contracts, people or assets in or out of the perimeter legal entity • New legal entities might need to be created - timeframe required can vary significantly by jurisdiction • Tax implications (corporate tax including on gains and transfer of tax attributes, VAT, stamp duty and other transfer taxes) • Implications for licences, tax registrations and regulatory approvals
Employees	<ul style="list-style-type: none"> • Management team • Other permanent employees • Contractors 	<ul style="list-style-type: none"> • Key management gaps and capability of perimeter management team to operate independently • Critical shared resources (ie, specialist knowledge) • Dedicated versus shared roles and degree of support provided by the seller across all functions (or reverse services to the seller) • TSA (and reverse TSA) requirements covering shared support • Stranded people costs arising when the transitional services that the seller provided terminate • Perimeter and shared employee contracts may need to be moved in or out of the target perimeter legal entities pre-deal • Shared employee benefits, including defined benefit pension scheme complexities and risks • Replacing current shared incentive arrangements including long-term incentive plans (LTIP) • Potential works council, union or labour law considerations and timeline implications

Perimeter category	Perimeter components/ considerations	Key carve-out considerations
Contracts (customer and supplier)	<ul style="list-style-type: none"> Customer and supplier contracts Intra-company agreements 	<ul style="list-style-type: none"> Are the customer and supplier contracts dedicated to the target or shared with the seller, and are the contracts in the target legal entities? Contracts might need to be moved in or out of the target perimeter legal entities pre-deal, renegotiated or replaced Transferability of contracts and licences and consent requirements Parent company (seller) guarantees needing to be replaced by the acquirer Potential LTAs might be needed and/or adjustments to existing commercial agreements (eg, to reflect arm's-length pricing) Potential stranded supplier costs to be managed by the seller or the risk of dis-synergies from splitting the contracts for the target
Intellectual Property (IP) Rights	<ul style="list-style-type: none"> IP and patents Registered and unregistered trademarks Copyrights 	<ul style="list-style-type: none"> Are the IP and patents dedicated to the target, to products or otherwise shared with the seller? (There can be significant complexity if these are shared) Potential pre-sale assignment of the associated trademarks from the seller to the target may be required Trademark rights are jurisdiction-specific; ownership and enforcement depend on local laws. Transferring process is complex - potential impacts to timeline and standalone costs Potential tax implications A perpetual licence or cross-licence agreement may be required if both the target and the seller share the brand for their ongoing operations
Facilities and physical assets	<p>Facilities including:</p> <ul style="list-style-type: none"> Offices Warehouses and distribution centres Manufacturing facilities Repairs and maintenance facilities Research and development (R&D)/testing facilities <p>Physical assets including plant and machinery, equipment and vehicles</p>	<ul style="list-style-type: none"> Dedicated versus shared facilities/physical assets Ability to physically re-locate, segregate and continue sharing long term Availability of alternatives if required, and cost and timeline to replace Employee implications if re-located Stranded costs to be managed by the seller (eg, seller office exited by the target upon TSA termination) Potential TSA requirements Potential tax implications associated with asset transfers
Licences, approvals and consents, certifications	<ul style="list-style-type: none"> Licences Approvals Regulatory consents Certifications (eg, ISO) 	<ul style="list-style-type: none"> Where relevant, are they held under the target legal entities? Rights often cannot be simply transferred to the acquirer and a new application may be required impacting timeline and transitional arrangements
Technology	<ul style="list-style-type: none"> Enterprise applications (eg, HR, finance, manufacturing) Product and customer-facing platforms Hosting, cloud, network and infrastructure Identify, single sign-on (SSO) and security tooling Data, integrations, reporting software Licences, vendor contracts 	<ul style="list-style-type: none"> The extent to which applications, product platforms and infrastructure are dedicated to the perimeter or shared with the seller The feasibility of isolating and extracting target data, particularly where databases or master data are co-mingled Scope, feasibility and realistic duration of technology-related TSAs, and stranded cost exposure for the seller Degree of entanglement and separation effort required. Impact to overall separation timeline and costs to execute Application and data access segregation for TSA provision
Data (structured and unstructured)	<ul style="list-style-type: none"> Shared structured and unstructured data, master data and extraction feasibility Data ownership and retention obligations Migration approach Validation and reconciliation requirements 	<ul style="list-style-type: none"> Clarity on the data perimeter supported by clear boundary conditions (eg, legal entities, products, customers, employees) Transferring personal data to the acquirer and the need for a clearly defined legal basis Clarity about which data will be transferred on Day 1 versus data accessed via TSA Retention, deletion and archiving obligations that may constrain data handling across the separation
Carve-out financials	<ul style="list-style-type: none"> Historical and forecast carve-out financial statements 	<ul style="list-style-type: none"> The current financial reporting is unlikely to align to the carve-out business and, as such, specific carve-out financials will need to be prepared for the perimeter, including adjustments identified through the carve-out/separation planning Internal resource and skill set to prepare carve-out financials will need to be considered, including whether this process will be led by a shared finance function or the target's dedicated finance function Consideration should be given to the level of complexity to prepare the carve-out financials, including the extent to which detailed information is available to accurately present the proposed perimeter The likely type of acquirer ie, strategic, PE or both, should be considered. PE (or a strategic bidder with no operations in the target market/geography) will require a fully standalone costed operating model and one-off costs to separate, whereas a strategic bidder will typically benefit from operational synergies

PHASE 2

PREPARATION (PREPARE TO MARKET THE TARGET)

The purpose of this phase is to adequately prepare for interested party due diligence across all areas of the carve-out, building on the high-level carve-out assessment in phase 1. The planning work needs to have sufficient breadth and depth to present robust carve-out assumptions and plans to interested parties. These will address any likely perceived key risks as far as possible and avoid surprises during buy-side due diligence that could potentially undermine deal value, or, worst case, terminate a transaction.

The key outputs of this phase, supported by carve-out advisers, will vary depending on the transaction strategy, the level of complexity and the adviser role. Given significant interdependencies between the four key carve-out areas, it is critical that the work in each area aligns and advisers collaborate effectively, supported by a robust approach to project management. At this stage the seller will probably need to involve more internal stakeholders from both the seller organisation and target organisation to take accountability for and input into the planning activity, while also managing the sensitivity of a potential transaction. Such stakeholders should be tightly controlled and limited, such as functional experts in finance and IT, and their involvement should also comply with any regulatory requirements around insider lists.

The key preparation areas across financial, operational, legal and tax are explored further below.



FINANCIAL: KEY FOCUS AREAS

i. Planning and potentially refining the perimeter definition

Ultimately, the objective throughout this phase is to prepare diligence-ready outputs, sufficiently robust to withstand interested party scrutiny and support the efficient execution of the transaction. Collating and preparing the financial information will always be key prior to a sales process, but is particularly important in a carve-out scenario where there will naturally

be more subjectivity and uncertainty regarding the financials prepared for the target.

Depending on the complexity of the proposed carve-out, this financial preparation phase can require months rather than weeks, with early planning key to avoid value leakage.

The perimeter may be further refined throughout the preparation of the carve-out financials, for example once detailed consideration and data analysis commences regarding specific contracts, product lines and customers.

At the outset of this stage, it will be important to define responsibilities for preparing the carve-out financials, including key seller and target stakeholders and the division of responsibilities between the central/shared finance function, the business unit/target finance team and the carve-out financial adviser. Typically, different teams within the wider finance organisation will have crucial roles. Often central/shared finance functions will lead on aspects including shared costs and services, as well as intercompany trading, while the business unit/target finance team leads on core trading information.

Planning workshops are helpful to address anticipated complexities, data ownership and availability, judgement areas and timelines. In addition, a schedule of project team meetings should be agreed, with milestones defined and responsibilities agreed.

During this planning phase, the seller should consider and agree with their advisers how the carve-out financials will be prepared and documented and shared with interested parties, and if subsequent FVDD is also required.

ii. Principles for preparing carve-out financials

Carve-out transactions are typically considered higher risk due to additional uncertainty. For example, interested parties may have concerns around the completeness of the carve-out financial statements, particularly as the target will not be audited as a

standalone entity. In addition, certain listed acquirers may have specific legal requirements as to the scope and quality of the carve-out financials. As such, maximising the integrity, reliability and accuracy of the carve-out financials will be key to ensure the confidence of interested parties.

With the aim of minimising uncertainty and the associated 'risk premium', it is typically important to anchor the carve-out financial statements to the relevant statutory accounts, although this may not always be possible or appropriate if the transaction perimeter is significantly different to any existing statutory entity.

From the statutory accounts, clear reconciliations should be presented through to the relevant trial balances and management accounts and there should ultimately be a further reconciliation step to present the carve-out adjustments to derive the carve-out financials for the target. Each step should be clearly explained, including narrative for statutory adjustments and carve-out methodologies, assumptions and supporting analysis.

To maintain flexibility in the preparation of the carve-out financials and confidence in the basis of preparation, it will be important to prepare the statements at a granular level, adopting a 'bottom-up' approach. Taking this approach maximises the ease of flexing the carve-out perimeter if required.

When preparing the carve-out financials, it is always preferable to use specific and detailed allocation, minimising reliance on subjective estimates or assumptions. This is addressed later in the section when considering the profit and loss and balance sheet. Assumptions should only be used where a specific and detailed allocation method is not possible, or potentially where a decision is made that the cost and time required to determine or calculate a specific and detailed allocation methodology is not warranted.

Interested parties will typically want to assess financial performance and position for approximately the last two to three financial years, as well as the current year to date. Therefore, it is important to consider such a period when preparing the carve-out financials. Monthly data is also likely to be important, both from a trading performance perspective as well as for working capital.

When presenting the carve-out financials from the wider management accounts or trial balances, the business to be retained by the seller (RetainCo) will be

the balance derived. While presenting the RetainCo information will usually be important to evidence the completeness of the reconciliation process, consideration should be given to the sensitive or confidential nature of its business information. It would be typical to present this information at a high level.

iii. Profit and loss statement carve-out

During phase 1, a high-level assessment of the revenue and profitability of the carve-out perimeter will usually have been considered. This initial assessment will have helped to shape initial views of the potential enterprise value (EV) for a transaction (for more details on EV, refer to [ICAEW best-practice guideline 64, Completion mechanisms](#)). The initial assessment will be refined in phase 2.

The starting point for preparing a carve-out profit and loss statement is likely to be revenue, which could, for example, be determined by business unit, product type, stock-keeping unit (SKU) level data, customer type, contract or geography. Irrespective of the revenue carve-out approach, the revenue allocation methodology needs to be defined at an appropriate level of granularity (eg, SKU). The allocation is usually prepared using transaction-level data to derive an accurate bottom-up approach. The detail driving the allocation should be clearly documented, using both the underlying data and narrative to support, all of which should ultimately be included in the analysis provided to interested parties.

Revenue for the target may include intra-group trading. This should be considered as part of the preparation process, both to confirm whether the intra-group trading is expected to continue post-deal as well as any potential changes to terms, for example, pricing.

The cost of sales allocation should typically align with the revenue methodology to ensure consistency. For example, if SKU-level data is the driver of the allocation methodology, all direct costs relating to the applicable SKUs should be included within the carve-out financials. It may be that certain costs of sales cannot be specifically allocated to the carve-out revenue. Examples may include shared warehousing space or vehicle costs used to transport both target and RetainCo stock. In such situations, an appropriate assumption is likely to be required, for example, considering the percentage of warehouse space used by each party. Such assumptions should be clearly documented.

For most carve-outs, it is usually possible to allocate most revenue and cost of sales using specific methodologies. As such, using detailed data, the gross profit margin for the carve-out perimeter can typically be prepared with a high degree of accuracy.

It is likely to be possible to allocate certain overheads to the carve-out financials on a specific basis, such as customer service team members only supporting the target business. Equally, various overheads are likely to be more difficult to allocate on a specific basis, particularly where the cost relates to a shared service such as group finance, group HR or shared IT systems. For such costs, the cost allocation should be derived in conjunction with operational separation analysis, the purpose of which is to determine an appropriate estimation of the expected cost base for the target post-transaction. As detailed within the operational considerations, the level of support functions and, therefore, cost required will likely be influenced by whether the target is expected to be sold to a strategic or a financial acquirer. If the nature of the expected acquirer is uncertain, flexibility should be retained around different scenarios.

Ultimately, the carve-out profit and loss statement should clearly detail the revenue and profit for the envisaged perimeter, supported by granular data to underpin the allocation and any assumptions as well as the required standalone cost adjustments to present standalone cost-adjusted earnings before interest, taxes, depreciation and amortisation (EBITDA).

As with a sale of a fully standalone transaction (not a carve-out), interested parties will want to consider the underlying profitability of the target. As such, in addition to the carve-out adjustments and adjustments to present a view of the standalone cost base, it would be typical to present any quality of earnings adjustments such as one-off revenue or costs. This carved-out, standalone and adjusted EBITDA is likely to form the basis of EV considerations.

iv. Balance sheet carve-out

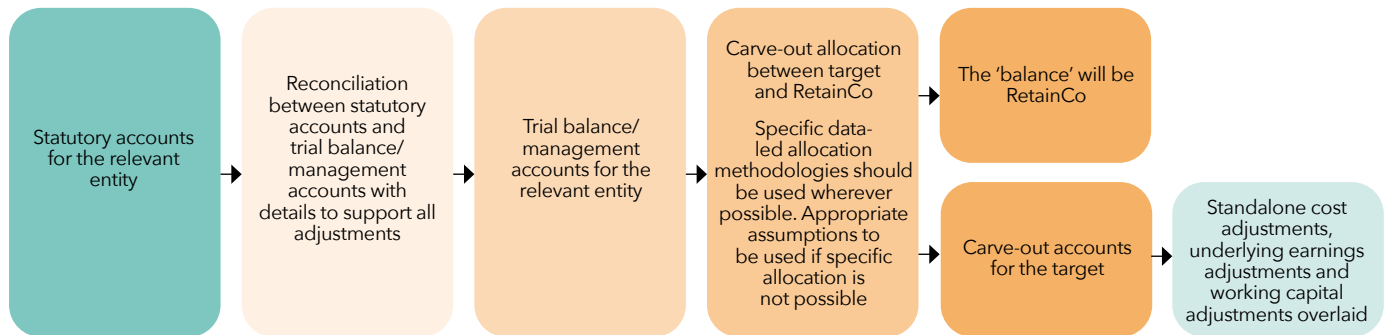
Typically, a financial carve-out exercise will be led by the profit and loss statement, but the seller and interested parties will need to understand the target's balance sheet to assess the net assets that will be acquired and to support the ultimate equity value adjustments.

During this phase, an initial carve-out balance sheet is likely to be prepared, but the assets and liabilities to

be sold will ultimately be determined by negotiations between the parties and whether the sale is via a divestment of shares or assets. As such, the initial carve-out balance sheet can be considered directional only and some of the allocation methodologies and assumptions used, noted below, will be subject to change as the deal progresses.

- Fixed assets/property, plant and equipment (PPE):** the ability to allocate fixed assets on a specific basis rather than assumptions will depend on the nature of the asset and the extent to which the carve-out business is integrated with RetainCo. For example, a tooling asset only used to manufacture stock to be sold by the target can be allocated as such. Alternatively, a website used to sell products for both the target and RetainCo would need to be allocated initially on an assumption basis, prior to any agreement of which specific assets are to be included in the ultimate transaction (considering the nature of any TSA).
- Trade debtors/trade receivables:** ideally, most carve-out trade debtors can be derived using a specific allocation methodology, aligned with the revenue methodology. For example, it may be possible to allocate customer debtor balances based on the business unit, product types or SKUs included within the carve-out perimeter. Alternatively, a customer debtor balance may include revenue that relates to both the target and RetainCo - in this scenario, to the extent feasible, invoice-level checks may be required to achieve accuracy.
- Trade creditors/trade payables:** depending on the perimeter, the target may have distinct suppliers, allowing a specific allocation methodology. To the extent suppliers are shared, it may be possible to split the creditor balance for such suppliers based on tagging, such as to a carve-out SKU. If this is not possible, an appropriate and documented assumption may need to be applied.
- Other working capital balances such as prepayments and accruals:** certain items may be specific to the carve-out perimeter, allowing allocation. Examples could include a supplier accrual relating to services provided only to the target. Other balances may be co-mingled, for example, a prepayment relating to a shared property. In such cases, an appropriate and documented assumption would be required, for example, based on the square foot used by the target.

Figure 3 Summary diagram presenting the typical financial carve-out methodology



- **Cash:** untangling the cash generated from the carve-out business and the RetainCo will likely not be possible. An assumption will be required when the initial carve-out balance sheet is prepared, subject to revision once the terms of the deal, including the specific assets included in the transaction, are agreed.

As part of the financial carve-out preparation phase, an illustrative cash flow statement may be prepared. This is likely to be limited to an operating cash flow level (or similar) capturing EBITDA, movements in derived working capital and potentially showing relevant capital expenditure. It would be unusual for the cash flow to extend beyond this level due to the subjective nature of financing and other cash movements.

OPERATIONAL: KEY FOCUS AREAS

In this phase, to prepare for buy-side due diligence, the seller will build on the high-level carve-out exercise and carry out a more detailed assessment of the operational impacts to present well-considered and practical assumptions and initial plans to interested parties. A typical output shared with interested parties is a Separation Blueprint, which presents the key operational interdependencies, how the target needs to change to operate independently from the seller, and the cost impact of separation. This document has become a market standard for more complex carve-outs because it is comprehensive and dovetails well with other carve-out areas, especially financial and legal planning. It also acts as a helpful foundation for more detailed separation planning as the transaction progresses.

The carve-out adviser will work closely with the seller and the target’s functional stakeholders covering all areas impacted by the carve-out. The key elements of

a Separation Blueprint (or an equivalent separation planning document) that should be prepared for bidder due diligence are outlined below.

i. Carve-out perimeter

The outline perimeter defined in phase 1 will almost certainly need to be detailed further. This will include, for example, specifying the number of in-perimeter employees, IT systems and infrastructure, branding, facilities and physical assets, IP, and supplier and customer contracts.

A full inventory of the perimeter items will need to be compiled and shared with interested parties.

ii. Separation principles

This outlines the basis of the overarching separation assumptions that cover the key perimeter areas and basis of preparation. For example, if the basis of preparation is a standalone business or a strategic acquirer, employees dedicated to the target or spending most of their time supporting the target (eg, over 80%) will be assumed to be in perimeter. Similarly, all target-dedicated IT systems will be in perimeter and the use of any shared systems will continue under a TSA.

These principles outline how any shared operating model areas will be treated and underpin the Separation Blueprint and more detailed plans that will follow.

iii. Current and future operating model

Bidders will need to understand how the target operates today, its current capability across all functional areas (the ‘as is’), and what needs to change on Day 1 and on TSA exit to operate on a standalone basis.

An approach commonly used to help ensure all key separation aspects are covered is to consider the following carve-out categories for every function, while

defining the 'as is' operating model and the 'Day 1' and 'standalone' assumptions:

- **Organisation and key activity/processes**

Target-dedicated employees and any central resource shared with the seller, including the scope of support provided to/from the target, should be identified across all functions.

Key activities/processes needed for the target to operate as a standalone are then defined. A like-for-like replacement is usually not appropriate for the target because of:

- scale (the target may be materially smaller than the seller);
- service levels (a 'gold-plated' in-house or third-party service may not be needed for the standalone); and
- requirements when part of the seller may fall away (such as the need to be subject to periodic internal audits or complying with group reporting).

A carve-out provides an opportunity to re-define how the target will operate most effectively and efficiently, 'unshackled' from the seller. Applying a right-sized and optimal lens when defining the future operating model and organisation is key. This may include considering opportunities to outsource certain services, or re-locating some functions to establish centres of excellence in alternative locations aligned to the target's future strategy.

If it is likely that a strategic acquirer will be capable of taking over the seller company support, then in addition to defining a fully standalone operating model, it may be appropriate to also define a synergy-based operating model with a lower cost base. For example, a strategic acquirer may be able to absorb HR, finance, IT and other seller support services within its existing organisation, avoiding the need to recruit any (or as much) additional resource. Benchmarking workload volumes and distinguishing between transaction processing roles and supervisory roles should be considered as part of this assessment.

Under either a fully standalone or synergy model, changes to the Day 1 and post-TSA organisation need to be defined in detail, including any new roles assumed, roles no longer required and any role changes.

The target's use of contractors should also be considered and a view formed on what is required on Day 1 and standalone considering the above.

A carve-out will have people-related implications for a bidder and these are explored in ICAEW best-practice guideline 73, HR due diligence.

- **Technology**

The target's current usage of technology should be detailed, including the extent to which product and enterprise technology is shared with the seller, and the Day 1 and standalone assumptions for those systems and services. Commercial, operational and practical considerations associated with separating or continuing shared technology post-transaction should be assessed, including any implications for transitional services.

A distinction between product technology and enterprise technology should be clearly articulated, as these areas often present different value, risk and separation considerations.

Product technology may represent a key value driver for the target and, in some cases, a heightened risk area in a carve-out, particularly where the target's commercial position is underpinned by proprietary platforms, data or software. Product technology considerations include ownership and control of underlying code and intellectual property, the use of shared repositories or development environments, and reliance on seller-hosted infrastructure.

Enterprise technology considerations should focus on systems supporting core business operations (such as finance, HR, payroll, sales and customer support) and the extent to which these are delivered through shared seller platforms. Key enterprise technology considerations include data extraction and migration, identity and access management, cyber security controls and monitoring, system integration, dependencies, and third-party licence transferability. These factors may influence the feasibility and sequencing of Day 1 and standalone solutions.

A like-for-like replacement of the seller's technology landscape is generally not appropriate. Consideration should be given to a right-sized technology design reflecting, for example, the target's service requirements, scale and risk profile. Particular consideration should be given in advance of Day 1 to cyber security, access controls and technology policy alignment to ensure that the withdrawal of seller systems, governance and oversight does not create control gaps.

Account should also be taken of the differing requirements of potential acquirer types. A fully standalone technology model is often required by PE acquirers and strategic acquirers without overlapping platforms. A synergy-based model may be pursued by strategic acquirers seeking to integrate the target into existing enterprise systems or platforms, which may reduce long-term operating costs. Understanding both approaches may support bidder optionality and value maximisation.

Due regard should be given to the technology function organisation and resourcing model, including reliance on target-dedicated employees, seller resources, secondees or contractors and how these arrangements may change on Day 1 and in the standalone state.

- **Data (structured and unstructured)**

A comprehensive data carve-out assessment should be undertaken, capturing the full data landscape across structured and unstructured sources. This should include lineage, dependencies, ownership models, risk scoring and estimated costs to separate.

A dedicated data workstream should be established, with a governance priority equal to other workstreams such as finance, legal, HR and IT. The approach to the workstream structure and resources should consider data architects, system owners, privacy officers, carve-out subject matter experts (SMEs) and project management.

Structured datasets (eg, enterprise resource planning (ERP), customer relationship management (CRM), human resources information system (HRIS), finance, and customer and supplier records) should be analysed to understand the extent of entanglement, extraction feasibility, data quality issues and remediation ahead of Day 1 and standalone separation.

Unstructured data, stored in repositories such as collaboration platforms, shared drives, cloud-based file stores, email archives, shared document stores and local/personal storage should be identified, classified and assessed for transferability. A mechanism should be established for data owners to flag business critical content, regulatory sensitive materials and operationally essential documents to ensure prioritisation, correct handling and appropriate inclusion in the separation scope.

The data perimeter should be clearly defined, covering in-scope entities, business lines, products, customer segments, assets and contractual datasets. Transaction-date boundaries for historical data inclusion should be agreed early.

Data quality profiling should be undertaken to identify incomplete, duplicated or inconsistent records, with remediation activities aligned to the workstreams dependent on those datasets.

The Separation Blueprint should define the agreed scope of target data to be included in the transaction and the approach for extracting, cleansing, validating, transforming and preparing data for transfer. The data section should ensure consistent data inclusion/exclusion decisions across workstreams and document seller responsibilities for preparing and delivering agreed datasets.

Requirements for retaining, archiving or destroying non-transferred data should be defined in accordance with the seller's legal, regulatory and contractual obligations. The seller must ensure that residual data is handled securely to minimise compliance and operational risk.

Day 1 and post-Day 1 data needs should be clearly mapped, distinguishing between data required pre-close, at close and post-close. Where full separation is not achievable pre-completion, data-related TSAs or interim access mechanisms should be defined, agreed with the buyer and tested ahead of cutover.

- **Facilities**

The target's current use of offices and other operating facilities should be detailed, as well as the Day 1 and standalone assumptions for shared facilities. Commercial considerations (for leased properties especially) and practical considerations for treating shared facilities post-transaction need to be assessed, as outlined in the phase 1 section.

Often shared facilities owned by the seller, or part of the perimeter and transferring to the acquirer, continue to be shared at least in the short term under a TSA to allow alternative arrangements to be made by either party. Long-term sharing may also be viable.

- **Legal and contracts**

The Separation Blueprint will typically outline at a high level any key legal considerations and separation approach relating, for example, to employees, supplier and customer contracts, IP and branding.

The detailed assessment and planning however forms part of the legal workstream (see legal focus areas for further detail).

iv. Current and standalone cost base and one-off separation costs

Building on the operating model work described in iii, the target's current and future cost base needs to be considered. A cost baseline is needed to consider any adjustments required to operate as a standalone, and this will typically be the last 12 months' actuals, the last financial year actuals or budget costs for the current financial year. Direct and indirect costs including overheads are taken into account and this assessment needs to align closely with the financial carve-out work, including the financial period used to present the cost data and broader profit and loss data.

Direct costs including cost of sales and direct labour are typically dedicated to the target, directly identifiable and do not require adjusting on a standalone basis. Exceptions may include goods or services the seller supplies to the target that are not on an arm's-length basis, or potentially dis-synergies where the target is benefiting materially from seller direct spend supplier contracts.

Indirect costs or overheads will typically include a combination of costs dedicated to the target, such as marketing and dedicated target support functions (finance, IT, HR), as well as centrally allocated overheads like group-wide support services, IT, insurance and professional fees. Target overheads should not need to be adjusted on a standalone basis if they are truly dedicated.

In terms of the allocated overheads, each significant cost line should be assessed to understand the driver for the cost, the basis of allocation and whether the cost is required when operating as a standalone. Typically, allocated costs are not a true reflection of the standalone cost for the target. Therefore, the allocated costs need to be replaced with standalone cost estimates built bottom-up, including people-related costs aligned to the standalone organisation structure, plus non-people costs.

One-off separation costs for the seller and acquirer to execute the carve-out are typically estimated as part of the Separation Blueprint, especially if a PE acquirer (with no existing operations to integrate the target into) is likely. Key cost areas include IT separation (such as

implementing a new standalone finance system), re-branding, facilities separation, recruitment, outsourcing set up and separation project management support. A distinction should also be clearly made between costs to be borne by the seller versus the acquirer. Each party will typically be responsible for funding any one-off costs associated with the activity they are responsible for. This could include the seller extracting data from group-wide systems and transferring data to the acquirer, and the acquirer funding the cost of establishing a new standalone finance system. However, some costs may form part of deal negotiations where liability is less clear-cut, such as the payment of one-off supplier consent costs.

v. Overview of transitional and long-term services

This section of the Separation Blueprint summarises the scope of services and duration. See phase 3 for detailed service scoping and costing as part of TSA drafting.

vi. High-level separation roadmap

This section of the Separation Blueprint presents an initial high-level view of the key separation activity pre and post-Day 1 at a key project level. From phase 3, this will be developed in more detail by the seller, and jointly with the preferred bidder.



LEGAL: KEY FOCUS AREAS

As mentioned above, in phase 2 the focus is on preparing a detailed implementation plan that addresses both the seller's priorities for the carve-out and robustly addresses the likely key risks from an acquirer's perspective. This is an important phase of the carve-out as it sets a framework for engagement in both phase 3 and phase 4. During phase 2, the seller should work with legal advisers to create a plan for the legal re-organisation steps, which implements the steps set out in the tax structure paper (a document detailed later under the tax focus areas). Key to doing so will be to define the seller's approach to separating areas of cross-perimeter entanglement, and the practicalities of implementing the carve-out.

The overarching approach is to understand the nature of the assets and business of the target, identifying points of entanglement or shared use with the seller, and understanding how best to implement a separation in a practical and legally effective way. We outline areas of legal entanglement and associated legal considerations in items i to xi that follow.

i. People

As part of any carve-out it is necessary to ensure that employees transferring with the target are employed within the carve-out perimeter, and any non-transferring employees are employed by the wider RetainCo group. Therefore, identifying perimeter employees and the employing legal entities within the seller early is key. Often employees are technically employed by one or more entities that are not the direct holding companies for the businesses those employees are engaged in day to day.

If employee transfers are required, the seller will need to consider the employee consultation obligations that may be triggered in the relevant jurisdictions (if any), ie, whether these are individual or collective consultation obligations, the level of formality required by applicable law, and the exact timing impact of those processes. Agreeing an employee communications timeline in advance, including whether town hall meetings or other elements are required, will be important for timely implementation of the carve-out and should be factored into the legal steps plan.

Another common area of entanglement is where employees have group-wide pension schemes and benefits, including any legacy defined benefit pension schemes, group share options or other long-term or share incentive arrangements. Where automatic transfers of such employees will take place by operation of law (usually in the UK pursuant to the Transfer of Undertakings (Protection of Employment) regulations, or TUPE), the replication of such benefits can present a challenge. This requires consideration during phase 2, although will ultimately require the acquirer's involvement in due course.

ii. Real estate

Whether properties fall within or outside the transaction perimeter will need to be considered on a case-by-case basis.

For real estate occupied by both RetainCo and the target, it may be possible to separate by deploying workers or activities to another site (however in certain European jurisdictions this will entail consultation and works council engagement). More often the focus will be on ensuring that both the target and RetainCo have appropriate rights of occupation in the property post-separation.

The exact approach will be dictated by the primary use of the property, the type of legal title held on the property and likely acquirer preference. For freehold properties, a title transfer and/or formal sub-lease may be required. For leasehold properties, this will usually involve negotiation with the landlord to obtain a licence, sub-lease or assignment of a lease (or part of a lease) for the relevant entity. Determination of the appropriate approach is a necessary part of creating the legal steps plan.

iii. Intellectual property

Identify whether the intellectual property rights, inter alia the company name, trading name or any associated trademarks, are held within the transaction perimeter. If not, an assignment or licence of the intellectual property from the seller to the target may be required.

Intellectual property that will continue to be shared between the seller and the target presents various challenges which should be considered in advance and factored into the legal steps plan. The target/seller may require exclusive, perpetual licences, or licences on other terms of shared intellectual property. There may also be tax considerations to factor in when structuring the sharing of intellectual property rights.

Consideration should be given to intellectual property that is particularly significant (such as an R&D-heavy business or life sciences business), as the proposed terms of future development, protection and/or enforcement of the rights should be determined ahead of engagement with third parties.

iv. Contracts

Almost all carve-outs will entail some degree of contractual entanglement across shared functions, for example in the supply chain (ie, group-wide agreements) or on the commercial side (eg, engagements covering multiple products). In most cases, separating these contractual arrangements will involve some degree of third-party consent or notification. Depending on the level of entanglement, a seller may need to prioritise obtaining such consent or complying with such notification requirements for at least the most significant of these arrangements.

In phase 2, the seller should determine its strategy for obtaining separation, assignment or implementing back-to-back arrangements, as this is crucial to the seller's ability to deliver the full value of the target to the acquirer.

v. Financing (intra-group and external)

An important element to consider in the early stages is the level of financial interdependency between the target and RetainCo. In some instances, the target may benefit from specific ring-fenced financing arrangements, but more often will be subject to group- or jurisdiction-level financing arrangements already in place, including security arrangements.

In such cases, it is likely that lender consent will be required for the carve-out itself, but amendments to the terms of the financing agreements will likely also be necessary alongside the release of relevant security. The timing of the approach to a lender should be considered and built into the legal steps plan and overall transaction timeline.

Where intra-group financing arrangements are in place, such as intercompany loans, receivables and/or cash pooling arrangements, these will typically need to be repaid, unwound and/or settled as part of the carve-out and this should be factored into the legal steps plan.

vi. Establishing NewCo

Sometimes, particularly where there is a hive-down, it will be necessary to incorporate a new company (a NewCo or several new companies) to hold certain in-perimeter assets or to be the target. Depending on the specific jurisdiction of incorporation, establishing a NewCo can either be straightforward or quite complicated. Timelines may also need to be extended to obtain tax registrations and/or operational bank accounts where required. As such, any requirement for NewCos should be identified and factored into the legal steps plan as it can have a significant impact on timing.

vii. Third-party consents and communications plan

As illustrated above, several potential third-party consents may be required (or desirable) as part of the carve-out including employee, customer, supplier, landlord or lender consent. As these may require the goodwill and cooperation of third parties, or to follow set contractual processes, it is important that any third-party consents are identified and factored into the legal steps plan and overall transaction timeline.

viii. Regulatory approvals

While not applicable to all businesses, those that operate in regulated sectors (eg, financial services

or healthcare) will likely have to consider regulatory requirements in respect of the carve-out, which may consist of advance notification to authorities, updating licences, prior approval, or more operational implications (such as product labelling changes). These can be extremely complex and have a significant impact on the timing of implementation and so should be identified up front and factored into the legal steps plan and overall transaction timeline.

Similarly, over the last decade, interaction with jurisdiction-specific foreign investment regimes has increased, whether on grounds of national security or otherwise (ie, the UK's National Security and Investment Act 2021). It is important to remember that a number of these regimes also capture purely intra-group reorganisations (including the UK regime) and so the carve-out may trigger certain reporting or approval requirements. Identifying these and incorporating them into the legal steps plan is important as the timelines for filings to be cleared can range from 30 days to six months, and in some cases beyond that.

If the acquirer is known at this stage, it may also be prudent to factor in some early consideration of potential competition law requirements (ie, merger control filings).

ix. Valuations and distributions

The movement of assets around a group necessary for the implementation of a carve-out can be undertaken based on a number of valuation methods but tend to be either at fair market value (however calculated) or at book value. In many jurisdictions, a transfer of assets or shares between companies within a corporate group at book value (or less than market value) is considered a deemed distribution. Rules vary between jurisdictions, but typically these place substantive and procedural legal requirements on the transferor to have a certain amount of profits available for distribution. Default in complying with these requirements can lead to the transfer being unlawful and subject to being unwound. If not identified early and built into the legal steps plan, these requirements can become bottlenecks. However, generally it is possible to create distributable profits via capital reductions or other actions, as long as they are factored into the timeline.

x. Documentation

As a result of having considered the tax structure paper and agreed an approach to the entanglements with the seller, the legal advisers will be able to determine the documentation and formalities that are required to implement the steps, including employee transfers, real estate transfers, IP assignments, transitional services agreements, supplier or customer assignments and/or novations and asset transfer agreements. These should be set out in a comprehensive document list, which will greatly assist and simplify the implementation of the transaction.

As part of phase 2, it may be helpful to produce first drafts or term sheets for the key transaction documents, particularly those that the acquirer will be party to, so that it is clear what the terms of the transaction will be.

xi. Execution

Once the extent of the documentation required to implement the carve-out has been identified, it will also be important for legal advisers to identify any documents and transactions that have local execution formalities. While execution of legal documents has tended to become simpler as more jurisdictions adopt and approve use of digital execution platforms, some jurisdictions (mainly in Europe) still have strict execution formalities in place. The practicalities for execution should be detailed in the legal steps plan.



TAX: KEY FOCUS AREAS

Over the course of phase 2, the seller should progress the development of the structure from a tax perspective. The tax adviser will need to work closely with all other workstreams to initially assess the intended end state, what is feasible from legal, commercial, regulatory (and other) perspectives, and then ascertain a tax efficient mechanism for achieving this. The tax matters that will need to be considered as part of this assessment are described below.

i. Tax structuring: overview

The mechanism chosen for effecting a carve-out may materially impact tax considerations for the acquirer and seller. While various other factors (as described in the other sections, in particular the legal section)

will impact the preferred mechanism, tax should be considered as early as possible to assess feasibility.

This guideline focuses on the following potential options:

- 1 a trade and asset sale;
- 2 the sale of a new legal entity (or entities) holding the target perimeter assets after a transfer/hive-down of assets to it; and
- 3 the sale of an existing legal entity (or entities) holding the target perimeter assets after a transfer/hive-down of assets to it.

Various aspects of both the seller and potential acquirer's tax profile may impact the preferred mechanism. This guideline focuses on a core scenario of a sale by a UK seller of assets taxed solely in the UK, to an acquirer acquiring through a UK company (potentially newly incorporated), even where the acquirer is based overseas. However, in an increasingly globalised business and M&A environment, the potential for tax complexity can increase materially (a high-level comment on key international considerations is included in item iii).

Often, a straw man or options paper will be prepared to inform structuring options, which will be converted into a more complete steps paper at a later point to describe the legal steps required to implement the carve-out.

The tax steps paper should outline all relevant facts, including funds flows and specific transactions with tax consequences (including tax treatment of interest and dividends, withholding taxes, transfer taxes, capital gains, reliefs, and impact of the transaction on tax attributes). It will also describe key actions to be taken (elections to be made, requirements for filing and payment of taxes) and by which party.

The considerations that follow are provided to illustrate some of the early-stage work required to frame the carve-out mechanics, before moving into a more detailed assessment of options.

ii. Current legal structure of the carve-out business

Identifying the legal entity or entities holding the carve-out business should be the starting point of the tax analysis. Do the trade and assets (and any liabilities or obligations to transfer) reside in standalone legal entities, or are they mixed with

RetainCo business? If they are in mixed entities, would it be more complex (eg, from a commercial or legal perspective) to move the carve-out or RetainCo business out?

Often, the UK tax rules include relieving provisions that can facilitate retaining one part of the business within the existing legal entity while carving out the other part, without giving rise to tax charges. However, for the reasons noted below, there may be various tax reasons for preferring one route over another.

At this stage, identifying the legal ownership of the business and any absolute requirements on what the final pre-sale legal structure must or must not look like will assist the determination of which options are available to optimise the carve-out from a tax perspective.

iii. International operations

A frequent tax due diligence finding is that a company has failed to adequately assess their international tax obligations. They may have people working and/or premises located outside of the UK but inadequately consider whether this could give rise to tax nexus in the international location(s) (eg, by way of permanent establishment) for corporate income tax purposes, as well as related payroll obligations.

An early assessment can inform whether existing tax obligations have arisen, but also what remedial action needs to be taken, such as formal notification of the presence to the local tax authorities and consideration of whether branch registration or incorporation of the local activity should take place.

Even where the business is fully compliant with its local obligations, an assessment of specific local tax rules will be required to determine how best to carve the local operations into a local perimeter. For example, where an overseas company undertakes activities that relate to both the carve-out and RetainCo, the relative scale and complexity of each may determine which should remain within the existing entity. While the UK tax regime provides significant flexibility for restructuring local operations, this is not true for all jurisdictions, so an assessment will be required of what (if any) tax costs may arise locally because of the carve-out steps that will need to be undertaken.

iv. Tax attributes

Tax losses, capital allowances and various other forms of tax attributes can provide material value to businesses. However, the separation of businesses (particularly where carve-out and retained businesses sit within the same legal entity) may in certain scenarios lead to absolute forfeiture of the tax attributes, and even where they are retained may be subject to significant restrictions on future use. Ensuring that the correct elections are made in time is key.

The often mechanical provisions for assessing the post-separation beneficiary of the tax attributes should be fully understood before any restructuring steps are undertaken. Upfront consideration of the transaction structure may assist in maximising the seller or acquirer's ability to utilise the attributes, and adequately evidencing their future use to the acquirer population may provide some upside in deal pricing. In scenarios where, for example, the retained business is unlikely to generate material profits going forward, consideration should be given to maximising the reliefs available to the acquirer.

In trade and asset deals, the disposal of assets will often be a taxable transfer for the selling entity. The availability of current year or brought forward tax losses to shelter any arising net income or gains should be well understood by the seller in these scenarios, particularly in light of the restrictions on ability to utilise carried forward amounts. Where any income or gains cannot be fully sheltered, a hive-down structure may prove more efficient.

v. Historical restructures

Where assets have historically been transferred intra-group, tax reliefs may have been claimed to ensure the tax neutrality of the transfers, for example, from a chargeable gains or stamp tax perspective. However, where the transferee of the assets leaves the group within a period following the transfer (six years for chargeable gains; three years for stamp duty land tax), the historical relief can be effectively withdrawn and a 'de-grouping' charge imposed.

Consideration will need to be given to whether any such charges could be imposed, whether any reliefs could prevent the charge from arising and, if not, quantification of the charge and assessment of which entity or entities the charge will be imposed upon.

vi. Intra-group balances

Operating and financing balances between group companies may be permitted to grow over time without significant focus on how they may subsequently be paid down. A loss-making subsidiary may, for example, have been generously funded by a parent or sister company, with no real prospect of any loans arising subsequently being settled.

Planning for a carve-out can bring the related tax, accounting and legal complexities into sharp relief. While the challenges can often be resolved, complex plans may need to be formed to ensure that any settlements, capitalisations or waivers are tax neutral from a corporation tax perspective and do not give rise to withholding tax obligations, while also feasible for company law/distributable reserves purposes and without giving rise to future dividend traps.

A matrix of intra-group balances should be prepared, and the seller's tax advisers will need to consider how best to disentangle them, with input from the seller's legal advisers and accounting teams.

vii. Assess tax impact of potential separation options

The items noted above provide a framework for assessing the key areas that need to be managed from a tax perspective, certain key interdependencies (and involvement required from non-tax advisers), and ultimately enables the seller to begin considering the preferred structure for the separation from a tax perspective.

Practically, the carve-out may involve a combination of the options in the table on the next page, depending on how the seller is structured and the matters identified in the initial phase 1 tax assessment. The points in the table focused on the key UK tax considerations, unless otherwise stated. This list may not cover all UK tax considerations that may be relevant to any particular transaction, and the analysis provided may differ depending on specific facts associated with the carve-out. Sellers should obtain advice from their tax adviser in relation to any carve-out transaction.

As can be seen in the table on the next page, key tax consequences of the carve-out can differ significantly depending on the mechanism used to implement it, and the availability of reliefs (eg, the potential application of the substantial shareholding exemption and/or availability of tax losses) can be material drivers of the preferred mechanism.

There is no 'one size fits all' approach. Acquirers may prefer the uplift in tax basis of assets acquired in a direct asset purchase as well as the lack of tax history transferring across, but this could come with an increased stamp duty land tax (SDLT) charge for companies with significant land interests and, in any event, the seller may balk at taxable income and gains arising to it on transfer. Conversely, the hive-up scenario may leave the acquirer with unacceptable historical tax (and other) risks within the sale company that cannot be adequately mitigated through SPA protections, for example, if the seller's financial position is uncertain. The hive-down scenario often provides a satisfactory middle ground, providing the acquirer with a clean company and enabling the seller to exit the carve-out business on a largely tax neutral basis, at least where the substantial shareholding exemption applies.

Consideration should be given to the additional resources required to manage the tax affairs going forward. New tax registrations (importantly, in relation to VAT and employment tax obligations) may be required and, depending on the carve-out mechanism, these could be matters for the seller.

As noted previously, businesses with an international element will require further consideration. Many jurisdictions have tax regimes that are far less helpful than that in the UK in facilitating the restructure of businesses before a carve-out takes place, with the lack of specific relieving provisions sometimes causing capital gains or transfer taxes to arise locally, even in relation to the intra-group transfers. Understanding when and where such charges could occur will be important in determining how implementation is to be phased. If material tax charges are likely to arise when a restructure is implemented, then it may be appropriate to only undertake the structuring steps once a contract for sale has been signed, rather than in anticipation of a deal that ultimately may not take place. Certain jurisdictions may also necessitate greater upfront communication with the local tax authorities (eg, through tax clearances needing to be obtained for restructuring activity), which can impact the timetable.

Tax considerations by carve-out mechanism

Item	Direct trade and asset sale	Hive-down carve-out assets into wholly owned NewCo	Hive-up retained assets into seller parent/sister company
Pre-sale reorganisation			
Transferring assets to NewCo/related party	<ul style="list-style-type: none"> Not applicable 	<ul style="list-style-type: none"> Succession of trade rules may permit tax losses relating to the carve-out business to be transferred to NewCo, and capital allowances to be transferred to NewCo at tax written down value Stamp duty, chargeable gains and intangible fixed asset grouping reliefs may also treat the transfers as tax neutral Need to ensure the transferor and NewCo fall within qualifying groups to fall within these reliefs Potential for subsequent de-grouping charges 	<ul style="list-style-type: none"> The same considerations as for hive-down in the adjacent column. However, on the understanding that the transferee company does not leave its group, de-grouping charges should not arise Capital allowances balance remaining in the company being sold reduced by the tax written down value of assets transferred out Losses attributable to carve-out business remain in the sale company
Tax on sale to a third-party acquirer			
Capital allowances	<ul style="list-style-type: none"> Seller can pool amounts paid for qualifying chattels For qualifying fixtures, joint elections should be entered into to fix the apportionment of the purchase price to the fixtures 	<ul style="list-style-type: none"> Position noted above not impacted 	<ul style="list-style-type: none"> Position noted above not impacted
Chargeable gains	<ul style="list-style-type: none"> Subject to corporation tax on chargeable gains or losses arising 	<ul style="list-style-type: none"> Sale of shares may be subject to corporation tax on chargeable gains; and de-grouping charges may arise in relation to the earlier intra-group transfer to NewCo. Both arise on the seller However, both charges may be exempted where the conditions of the substantial shareholding exemption are met 	<ul style="list-style-type: none"> Sale of shares may be subject to corporation tax on chargeable gains, but potentially exempted where the conditions of the substantial shareholding exemption are met
Intangible fixed assets (IFA)	<ul style="list-style-type: none"> 'New' (post-1 April 2002) intangibles are taxed under the IFA regime rather than corporation tax on chargeable gains (as described above) Typically taxed in line with the accounting treatment, ie, credits and debts arising on transfer are subject to corporation tax 	<ul style="list-style-type: none"> De-grouping charge may arise in NewCo in relation to the earlier intra-group transfer to NewCo, although this may be exempted where the substantial shareholding exemption applies 	<ul style="list-style-type: none"> IFAs not impacted

Item	Direct trade and asset sale	Hive-down carve-out assets into wholly owned NewCo	Hive-up retained assets into seller parent/sister company
Tax on sale to a third-party acquirer			
Stamp taxes	<ul style="list-style-type: none"> Acquirer subject to stamp duty land tax (SDLT; in England) on acquisition of land interests 	<ul style="list-style-type: none"> If SDLT group relief was claimed on the earlier transfer of land interests, this will be clawed back where the subsequent sale of NewCo is within three years of the initial transfer. The charge arises in NewCo Acquirer subject to stamp duty on the purchase of Newco shares 	<ul style="list-style-type: none"> Acquirer subject to stamp duty on the purchase of shares
Tax losses	<ul style="list-style-type: none"> No losses transfer with the assets 	<ul style="list-style-type: none"> Losses attributable to the carve-out business may continue in NewCo Potential forfeiture, for example, if there is a major change in the nature or conduct of the trade 	<ul style="list-style-type: none"> Losses attributable to the carve-out business may continue in the sale company Potential forfeiture, for example, if there is a major change in the nature or conduct of the trade
VAT	<ul style="list-style-type: none"> May be a transfer of a going concern 	<ul style="list-style-type: none"> May be a transfer of a going concern or a transfer within a VAT group (although acquirers may prefer NewCo not to be VAT grouped with the selling group) 	<ul style="list-style-type: none"> Hive-up may be a transfer of a going concern or a transfer within a VAT group
Other tax history	<ul style="list-style-type: none"> Clean - limited tax due diligence 	<ul style="list-style-type: none"> Clean - limited tax due diligence 	<ul style="list-style-type: none"> The sale company retains its tax history, including in relation to the retained business it no longer holds. Comprehensive tax due diligence required
Tax clearances		<ul style="list-style-type: none"> To the extent material uncertainty arises, consider seeking tax clearance from HMRC in relation to the substantial shareholding exemption Potential impact on timelines - drafting and subsequently receiving an HMRC response should be considered as early as is feasible 	<ul style="list-style-type: none"> Consideration should be given to seeking HMRC clearance on the substantial shareholding exemption

SELLER DELIVERABLES TO FACILITATE BUY-SIDE DUE DILIGENCE

Throughout phase 2, it will be important for the seller and their advisers to prepare a suite of deliverables to share with interested parties to facilitate efficient due diligence. The seller may choose to commission due diligence across some or all workstreams (VDD) or prepare materials that do not constitute due diligence (vendor assist (VA), factbooks, or a Separation Blueprint) to share with interested parties.

VDD documents are typically comprehensive exercises, covering a broad scope, and prepared as independent reports. VDD reports are initially shared on a non-reliance basis with interested parties and are typically ultimately provided on a reliance basis to the acquirer.

Unlike VDD, VA is a more flexible offering, with the scope and nature of the deliverable dependent on seller requirements. VA documents are shared with interested parties on a non-reliance basis to support their own due diligence.

In a carve-out scenario, a seller may require support from their advisers in a VA capacity to help prepare for the transaction (for example helping to prepare the carve-out financials), with a subsequent VDD exercise performed leveraging the VA materials. In this scenario, considering objectivity considerations, the VA adviser would not be involved with preparing the VDD.

The deliverable options across the four workstreams are considered further below.

• Financial

The scope for an FVA will be determined by the seller based on the extent and nature of support required to prepare their carve-out financials. An adviser may actively support the preparation of the carve-out financials; alternatively the seller/target may lead the preparation process, with the adviser engaged in a critique and challenge role (or not at all). In all cases, the accuracy and ownership of the carve-out financials is the responsibility of the seller. The format of the FVA carve-out deliverable is likely to include a financial databook and potentially a financial factbook.

An FVDD is a market standard product, providing an objective seller-commissioned due diligence of the target's financial performance and position.

• Operational

As previously noted, a market standard VA output (particularly for more complex carve-outs) is a Separation Blueprint. While a Separation Blueprint can be both seller and adviser branded, it is ultimately a seller-owned document, with significant input from seller and target management. Therefore, if it is presented by an adviser, it is on a no-reliance basis.

There may also be a separation VDD, which would be an independent assessment of the operational carve-out plans, including the cost to achieve, typically as part of a financial VDD report.

• Tax

A tax factbook provides a factual summary of a company's tax profile, whereas a TVDD is a comprehensive risk analysis of tax risks and exposures, tax controls, drivers of the effective tax rate, compliance history and other matters.

The extent to which any TFB or TVDD exercise would prove useful to potential purchasers will likely depend on the nature of the carve-out mechanism. For trade and asset deals, as well as those where the business is hived down into a NewCo, there will be limited tax history for the acquirer to understand. This may lead to the seller preparing limited (if any) tax data for acquirers, whereas the acquisition of a company with years of tax history may lend itself more to a full TVDD approach.

• Legal

When preparing for a carve-out by competitive auction, sellers often commission LVDD. LVDD reports serve three principal purposes:

- (i) steering legal aspects of the sellers' carve-out preparations, including by identifying facts to be considered by both parties in separation planning and driving efficient population of the virtual data room (VDR) by the sellers;
- (ii) presenting clearly to a bidder the state of the carve-out and the management of the various variables associated with the same; and
- (iii) ultimately providing a base from which the acquirer's legal advisers can begin to get to grips with the scope of the transaction and the perimeter of the target. Where warranty and indemnity insurance is to be utilised, the LVDD will also form an important base for informing the ultimate coverage position.

VDR PREPARATION AND DOCUMENTATION READINESS

As part of phase 2, the seller will collate all VA and VDD documents and other sell-side information for upload to a VDR. The VDR serves as a secure platform through which preferred bidders (discussed in phase 3) will assess the transaction.

PHASE 3

PRE-SIGNING (DUE DILIGENCE AND NEGOTIATIONS)

This phase focuses on engaging with bidders as they undertake due diligence on the target, in a manner that enhances deal value as far as possible. The work from phase 2 will be utilised and key deliverables developed during the previous phase will be shared with interested parties.

The seller and/or their advisers will manage a Q&A process, typically utilising a VDR, and bidder meetings will generally take place, including seller and target management and often supported by advisers, covering all aspects of the carve-out. Ultimately, the goal of this phase is for the seller to select a preferred bidder and agree the terms of granting exclusivity, such as by signing heads of terms.



FINANCIAL: KEY FOCUS AREAS

i. Stakeholder alignment

Prior to finalisation and release of the carve-out financials to interested parties, it will be important that all stakeholders are aligned, noting that in all cases the accuracy (and ownership) of the carve-out financials is the responsibility of the seller. The timing of sharing with interested parties is likely to be guided by the seller's corporate finance advisers.

Depending on timing, the seller may engage the advisers to help update the seller's financial carve-out information to present a more recent period to bridge the gap between the initial period and the release date, allowing interested parties to assess up-to-date trading performance and the net asset position.

ii. Interaction with interested parties

In addition to wider deal discussions between principals and/or corporate finance advisers, the seller or their corporate finance adviser may schedule expert sessions between the carve-out advisers and interested parties. Where an FVDD report has been prepared, it is market standard for such bidder meetings to be held. These meetings are less common in an FVA scenario and, if held, are likely

to focus primarily on the basis of preparation of the carve-out financials and factual representations, with the seller and/or target management responsible for other representations during the meetings.

The seller or their corporate finance advisers will also manage the wider financial due diligence process, which can be expected to involve a more comprehensive due diligence scope of work commissioned by an interested party if an FVA has been performed rather than an FVDD.

iii. Progressing to enterprise to equity value bridge

As the transaction progresses with a preferred bidder, and the legal form of the transaction is understood, a revised carve-out balance sheet can be prepared to align more closely to the specific assets and liabilities to be sold.

To the extent that the financial carve-out adviser is engaged under an FVA scope, with no-reliance passed to the ultimate acquirer, the financial carve-out adviser may assist the seller to prepare a sell-side view of enterprise to equity value bridge, leveraging the financial carve-out work on net debt and normalised working capital. An FVDD adviser would not be able to provide this support.

As the agreement of the deal progresses and the SPA drafting commences, it will be necessary to prepare an illustrative completion balance sheet to agree the principles for the completion mechanism adjustments for net debt and normalised working capital, including setting out what assets and liabilities are legally transferring. Further details on this, including use of an appropriate completion mechanism, such as completion accounts, are set out principally in phase 4.



OPERATIONAL: KEY FOCUS AREAS

The Separation Blueprint will be provided to interested parties, typically followed at a later stage of the transaction by a draft TSA once bidder requirements are better understood, as well as LTAs if applicable. Together, these documents typically form the foundation for the separation Q&A process.

The Q&A process and target management meetings are intended to help bidders gain greater clarity on the key interdependencies between the seller and the target, the complexity of the separation and the seller's ability to execute the separation effectively. They also support the bidder's assessments of separation risk and opportunities, the feasibility of the target business operating as a standalone entity (or integrated with the acquirer), the cost implications of running the target business following separation, and the cost to set up the separated business.

i. The importance of a TSA for a smooth transition

A TSA is the key legal document in the transaction to provide bidders with confidence in the continuity of critical services from Day 1, and to help them anticipate or mitigate any associated operational risks during the transition period. It gives bidders reassurance that the target can operate without disruption while standalone capabilities are established, or the integration is complete for strategic acquirers.

Drafting typically takes place alongside due diligence once bidder requirements are clearer, and there is increasing certainty that a transaction will take place. A draft TSA is often only shared with a preferred bidder (or shortlist of bidders). Generally, a PE acquirer or a strategic acquirer with no operations to integrate into will require a more extensive TSA scope for longer (versus a genuine strategic acquirer) as they lack the operational infrastructure to rapidly replace the seller company support.

Common TSA services include IT, finance, HR, payroll, office space and, for example, access to supply chain or manufacturing sites. Depending on the deal, commercial (eg, marketing, design) and operational (eg, procurement, HSE, logistics) services may also be included. Any service currently provided between the seller and the target can be covered if both parties agree, including the temporary use of third-party contracts (subject to supplier consent).

ii. Key elements of a TSA

A TSA consists of the following key elements:

- **Legal principles/T&Cs** - this front-end section of the TSA outlines the legal framework governing the provision of the services. It usually includes payment terms, governance, performance obligations, third-party consents, cost liability, confidentiality provisions, termination rights, dispute resolution mechanisms, and other contractual terms relevant to a carve-out.
- **Operational term sheets** - the term sheets define the scope, delivery and commercial structure of the services to be provided and generally include the following (omitted services outside of the TSA scope may also be defined if applicable):
 - **Service scope** - a description of the service to be provided outlining the key activities that will continue on Day 1 and any changes to existing services. Specific excluded services may also be defined.
 - **Service levels** - typically the legal principles will define an overarching service level aligned to the service level provided by the seller immediately before TSA commencement. However, specific service levels do sometimes need to be defined, such as the seller's responsiveness to an acquirer request, or the timing for provision of key data.
 - **Service duration** - this varies depending on the complexity of the separation and degree of work required by the seller and acquirer, and the nature of the acquirer (ie, PE versus strategic). Simpler services such as payroll for example may be as short as a couple of months, but full technology separation (especially product platforms) may take at least 12-24 months. Acquirers often want the ability to extend a service duration as a contingency, which may come with a service charge premium (see below). Sellers should also consider how certain services are linked (ie, where one cannot stop before another).
 - **Service charges** - service charges consist of a portion of a seller-employed resource providing the service, and also potentially third-party supplier costs including software licences for shared systems for example. The calculation of charges may leverage existing intercompany recharges where applicable. However, these are

often arbitrary accounting allocations that need to be validated to quantify the true cost of service provision (both seller resources and third-party supply). It is also not unusual for some existing services not to be recharged at all. A mark-up may be applied to the charges to account for the seller's administration burden or for a term extension. This may also help incentivise early exit.

- **Service receiver obligations** – specific service obligations of the service receiver are sometimes defined, such as the provision of specified information (and timing of provision) required by the service provider to fulfil the transitional service.
- **Name of service provider and receiver**

iii. Long-term agreements

In addition to a TSA, LTAs are sometimes required to cover longer term services or supplies (beyond the TSA duration) between the seller and the acquirer. These may include, for example, the continued supply of raw materials or components, warehousing and logistics services, use of office space (potentially a sub-lease), or long-term technology support.

Typically, these will be individual agreements agreed by both parties (either in long form or at a key terms level) upon transaction signing, with tailored terms and conditions including pricing and duration.

iv. Detailed separation planning and readiness for transaction signing

Building on the Separation Blueprint work, the seller will typically commence more detailed separation planning at this stage, with the initial focus on the key seller activities required to prepare for Day 1, and an outline view of key transition activity post-Day 1. This will be seller-focused initially, including a more detailed assessment of potential stranded costs and how to mitigate these.

Once a preferred bidder is selected, initial joint planning between the seller and acquirer may start, often centred around agreeing the TSA scope/ requirements and duration for signing. Post-signing, the level of seller and acquirer joint planning will usually develop at pace. The earlier the functional teams from the seller and the acquirer begin working collaboratively, the more effectively the parties can stay aligned on key objectives, minimise

operational disruption, and jointly identify and address interdependencies. While there will be activities specific to each party, aligning on the shared activity and agreeing the seller and acquirer's key inputs are critical. To formalise the need for early joint planning in advance of Day 1, the TSA will often require the acquirer to share their separation plan with the seller within a reasonable timeframe post-Day 1 (typically within 30-60 days).

v. Stranded costs

A key part of the seller's planning at this stage is to further assess potential stranded costs and begin to formulate plans to mitigate them. Stranded costs can materially impact the seller's operating costs post-separation. The final agreed TSA will inform the stranded cost areas. They often arise in the following areas:

- **Shared functions and administrative services** – central services provided under a TSA by the seller resulting in surplus seller resource once the transitional services cease. The level of support and amount of seller resource (number of full-time employees, or full-time equivalents (FTEs)) that provides the transitional services will dictate how material the cost impact will be, and the degree of organisational restructure needed. The opportunity to transfer certain seller employees to the target at the end of the TSA (a delayed transfer) could also be considered.
- **IT systems and infrastructure** – shared IT systems and infrastructure, including legacy enterprise systems, data centres, networks, security platforms, software licences and associated support arrangements, can create stranded costs for the seller on TSA exit. The extent to which such assets and arrangements are (a) shared, subject to TSA provision (and able to be transferred or assigned, or terminated early) or (b) constrained by non-transferable, change-of-control, or assignment-restricted licensing models, may influence the level and duration of stranded costs post-separation.
- **Property and facilities** – seller-owned or leased office space used by the target during the transition that will no longer be fully utilised post-TSA (or potentially from Day 1 if no TSA). For leased office space the lease terms should be reviewed to understand any commercial constraints such as sub-letting space

and early exit penalties. The seller will have more flexibility to mitigate stranded costs for freehold property. Similarly, stranded cost issues may also arise with other seller leased and owned facilities such as shared manufacturing and warehousing sites. These issues will form part of seller/acquirer negotiations and can be material value items for each party.

- **Other third-party spend** – stranded costs can arise from other shared suppliers where seller contracts have minimum volume/servicing commitments, including supply to the target over an extended timeline (such as business process outsourcing agreements). Once transaction signing has occurred, commercial discussions should take place with key suppliers, and the seller should consider reassigning or duplicating shared contracts to the acquirer to ensure the acquirer takes over the contract's financial obligation.



LEGAL: KEY FOCUS AREAS

i. Clean teams

Sellers' competition legal advisers might carry out preliminary assessments of how relevant merger control authorities (eg, the Competition and Markets Authority (CMA)) would assess the carve-out. In doing so, uniquely to carve-outs, advisers should consider including sensitive information regarding RetainCo in the clean team room, for example, where competitive information must be shared with bidders to support their analysis of the carve-out perimeter or entanglements between the retained and carved-out businesses. This competitive sensitivity should equally be considered while negotiating TSA service schedules and pricing. Based on the competition law assessment of each bidder, including any overlaps identified between RetainCo and the bidders' respective businesses, advisers may choose to set up individual clean team data rooms for certain bidders to appropriately manage the differing merger control risks identified.

ii. Warranty and indemnity insurance

Parties often seek W&I insurance products in the context of carve-outs. Underwriters of a carve-out W&I policy will place greater emphasis on satisfactory due diligence of separation risks (which are outside the scope of this guideline).

For example, to obtain coverage of warranties from the seller that:

- the target group possesses all assets it needs to carry out the business;
- the transaction will not breach the terms of contracts to which the target's group is party (eg, due to assignment restrictions); and
- the target has appropriate insurance arrangements, insurers typically expect evidence that, from completion, the target group will own or have access to necessary assets and services (directly, under a TSA, or via acquirer-group arrangements). Weak or unscoped TSAs, uncertainty about continued access to key contracts, or thin insurance due diligence often translate into exclusions or narrowed cover.

The W&I underwriting process typically runs two to three weeks from non-binding indication (NBI) to binding, but carve-out processes can take longer if separation due diligence and TSA scopes are unsettled. Late or incomplete responses to underwriters' Q&A and unclear SPA-W&I policy alignment are common causes of delays. Planning the W&I workstream early, in tandem with LVDD and TSA planning for a carve-out, reduces execution risk and protects the transaction's timetable.



TAX: KEY FOCUS AREAS

The core tax element of this phase of work may include further development of the tax steps plan suitable for implementation, development of the tax covenant and specific tax aspects of the transaction documents (including any business transfer agreement to implement the carve-out) and the EV to equity bridge.

As the core tax structure should have largely been settled by this stage, an assessment should also be performed of key post-carve-out actions (eg, tax registrations to be made, other filings such as in respect of stamp duty or necessary capital allowances elections).

i. Finalising the structure

- While the preferred option for carving out the business may have been identified early in the process, various aspects may change as the sale progresses. The acquirer may have tax

characteristics that lend themselves to a different tax structure preference from the seller, the assets to be carved-out may change as the perimeter is negotiated, or legal constraints may determine that certain intended actions are not practically possible.

- What started as a high-level plan of how to implement the carve-out may therefore need to transform into a far more detailed steps plan as signing approaches. Additional analysis may be required over certain matters where assumptions were made early on in the deal (eg, as to whether the conditions of the substantial shareholding exemption will be met at completion). The required tax actions pre- and post-completion (eg, VAT registrations) will also need to be understood and be ready to be implemented.
- In this phase, the steps paper will therefore need to be developed and refined to provide

a blueprint for the carve-out. Key stakeholders (seller, acquirer, legal advisers and others) will need to align on the plan before it is implemented, so it will be important to keep tax structuring advisers involved in key developments as they arise.

ii. Other

Additional tax workstreams are likely to be relevant at this stage, for example negotiations about tax items that are to be recognised in the EV to equity bridge and development and finalisation of the tax covenant and other transaction documents.

To the extent W&I insurance is to be obtained, the brokers and underwriters may require to see any TVDD and acquirer tax due diligence products, and the underwriters may seek clarifications from due diligence providers in determining coverage.

PHASE 4

SIGNING TO CLOSE (COMPLETION AND SEPARATION)

It is during the negotiation and execution phase that the seller's and acquirer's respective legal advisers will seek to finalise long-form legal documentation through which a carve-out is ultimately implemented. The work of financial, tax and operational advisers also continues in support of signing and completion readiness, and separation execution during this time. While some aspects of the long-form legal documents will not be dissimilar to those found in a sale of whole or other transaction structures, a number of aspects will either be unique or carry greater significance in the context of a carve-out. Some of these aspects have been touched on already.

The timing of transaction signing and completion will vary and there are pros and cons for sellers and acquirers that are outside the scope of this guideline. Factors such as regulatory approvals, employee consultation, third-party consents and funding may necessitate delaying completion, as they do for any transaction. Carve-out transactions will often (but not always) have a split signing and completion because it allows the seller and acquirer to make any necessary changes to their businesses to prepare for Day 1 appropriately. This may include the seller preparing to provide TSA services and the acquirer needing to replace certain seller central services by Day 1. The duration between signing and completion will vary by transaction.

The purpose of this section of the guideline is to summarise the approaches to these unique carve-out dynamics, rather than to discuss in full the execution and completion process (many aspects of which are considered in other [ICAEW best-practice guidelines](#) such as Completion mechanisms, Earn-outs in deals and Acquiring a Business).



FINANCIAL: KEY FOCUS AREAS

The illustrative completion balance sheet prepared in phase 3 will be reviewed by both parties to confirm the assets and liabilities set out are aligned to what is legally within the scope of the transaction.

The parties will also finalise their negotiations to determine the allocation of the carve-out balance sheet between net debt, working capital and items that do not adjust the purchase price, as well as agreeing the working capital target. Upon finalisation of these matters, the specific accounting policies and associated financial definitions will be updated in the SPA to reflect the agreed position. The updated illustrative completion balance sheet that is aligned to the legal agreement (often termed an estimated completion balance sheet) will normally form the basis of the estimated purchase price the acquirer pays on completion.

Following completion, either the acquirer or the seller will prepare an initial draft of the completion accounts and submit this to the other party for review. The reviewer will either agree to the position provided or object, providing detail of the specific line items it disputes. Areas of the balance sheet that are commonly disputed in a carve-out transaction, even after alignment of an illustrative completion balance sheet pre-completion, are balances that straddle the completion date (eg, prepayments and deferred income), as judgement is required in determining what economic benefits belong to the acquirer versus the seller. Any disputed items that cannot be resolved between the parties will be referred to an independent expert for final determination. Upon finalisation of the completion accounts, the purchase price will be subject to an adjustment for the difference between the final agreed purchase price and the estimated purchase price paid at completion.



OPERATIONAL: KEY FOCUS AREAS

From signing, the seller and acquirer will typically begin to work together more closely to prepare for Day 1 and the TSA period, with joint working across all areas of the target impacted by separation. Typically, both parties will appoint a dedicated separation lead responsible for guiding and directing the workstream

leads, made up of functional SMEs, with Steering Committee oversight to make decisions and allocate resources. Joint planning should take place at each level between the seller and acquirer organisation.

Assuming a staggered signing and completion, the seller typically uses this period to complete required separation activities, including consultation with employees, IT separation, contract separation, facilities separation and preparation for transitional service provision and any other critical path Day 1 activity (and key activity immediately post-Day 1). Preparing for TSA provision may include, for example, the seller needing to logically separate system access between seller and target employees and obtaining third-party consents where supplier agreements form part of the TSA. Other seller activity may include extracting data from seller systems ready to transfer to the acquirer on Day 1, consulting and engaging with target employees (eg, to meet requirements under TUPE, if applicable) and separating shared facilities potentially.

The acquirer's priorities during this signing to completion period will vary widely and will depend on the circumstances of the separation and their integration strategy. Acquirer priorities may include preparing to replace any seller central services that will cease on Day 1 (such as recruitment activity and third-party service set up) and preparing to take operational, financial and legal control of the target. Importantly, a TSA is intended to minimise the disruption and change required on Day 1 for both parties and to enable a controlled transition. Anything that is not Day 1 critical is therefore usually deferred until this transition period.

Post-Day 1, the seller will focus on providing transitional services, alongside other obligations agreed in transaction documentation and the joint separation plan (such as data transfer to the target). TSA governance should be in place to manage transitional service provisions, charging and service exit, as well as change control. As noted earlier in the guideline, the TSA will often require the seller and acquirer to agree a joint separation plan within a set timeframe following completion, typically 30-60 days. This is important to provide clarity to the seller about the acquirer's TSA exit plans, including dependencies on the seller.

The seller will also focus on stranded cost mitigation post-Day 1, building on planning carried out as noted in previous phases of the guideline. Stranded

costs are potentially a key area of value leakage for the seller in some transactions if not addressed effectively. The seller will typically focus on a number of stranded cost levers in the retained business such as right-sizing shared services provided under the TSA, decommissioning legacy technology, right-sizing or modifying facility arrangements provided under the TSA and resetting supplier terms to the new seller business scale.



LEGAL: KEY FOCUS AREAS

As mentioned in the overview of this section, certain unique legal aspects arise when only part of a business, rather than the full business, is being sold. The legal documentation involved in executing a carve-out is also informed by the transaction structure being adopted (ie, a sale of trade and assets versus a sale of shares). The legal process to sign and complete a carve-out will broadly consist of three elements:

- 1 the SPA or equivalent operative documentation;
- 2 the key supporting documentation (which may consist of any of the following: local transfer documentation, TSAs, LTAs, warranty and indemnity insurance policies, corporate approvals and authorisations and so on); and
- 3 legal process aspects, including employee consultation obligations, managing conditions to completion and the implementation of any pre-requisite internal corporate reorganisation.

These aspects in a carve-out transaction will be heavily influenced by the transaction structure and the work of the seller and various advisers over the previous three phases. For example, an SPA reflecting a direct carve-out of assets will have differing provisions from an SPA reflecting a carve-out via a sale of shares. Similarly, a multi-jurisdictional carve-out may necessitate specific provisions, supporting documents and processes catering for phased or multiple completions and local law formalities, whereas a single jurisdiction carve-out will not. However, thematically, certain key issues will remain consistent, regardless of transaction structure and these are summarised in the table on the next page.

Key legal topics and considerations

Topic	Summary	Key considerations for a seller
Allocation of liabilities	<ul style="list-style-type: none"> • Specific provisions relating to liability allocation are one of the key legal elements of a carve-out SPA. In a carve-out transaction, historical liabilities are typically addressed through a combination of allocation provisions, indemnities and limitations in the SPA, whereby the parties seek to clearly define which pre-completion liabilities remain with the seller and which, if any, transfer to the carved-out business perimeter or to the acquirer directly. • It is not uncommon for a true carve-out transaction to be undertaken on the basis that a clear 'line in the sand' will be drawn, with the starting position being that pre-completion liabilities remain with the seller and post-completion liabilities pass to the acquirer, supported by cross-indemnification provisions and associated limitations. There is often discussion throughout the process between the seller and bidders about any variations to this general rule and, from a seller perspective in particular, what historical liabilities an acquirer should assume by exception. • Similarly, an acquirer may seek to avoid exposure for certain post-completion liabilities if those liabilities relate to facts, matters or circumstances that existed pre-completion but have not yet crystallised (ie, actual or threatened litigation, product liability due to pre-existing defects, and so on). 	<ul style="list-style-type: none"> • Allocation of liabilities is a theme that pervades the entire carve-out process and comes to a head in the SPA. As detailed in earlier sections, the seller (via its preparatory work, structuring exercise and VDD) should have early visibility of the liability profile of the target perimeter before negotiations with a potential acquirer take place and should have formed a view before going to market as to how liability apportionment fits into the broader transaction economics and risk profile. • The seller's deal structuring will also impact the point at which elements of liability apportionment legally take place. For example, if the carve-out is to be implemented by a direct transfer of assets to an acquirer, the operative provisions relating to liability will sit in the SPA. However, if the seller is undertaking a pre-transaction reorganisation to carve the assets into legal entities, it may be that certain provisions related to liability will best sit within the reorganisation suite of documentation which the seller prepares, with the SPA then reflecting a more 'typical' sale of shares structure. • A seller may also seek to reduce or minimise post-completion liability exposure via a warranty and indemnity insurance policy (either obtained for itself or more commonly being obtained by the acquirer).
Conditions to completion and splitting signing and completion	<ul style="list-style-type: none"> • While splitting signing and completion is the default approach to many M&A transactions in certain jurisdictions (eg, the US), under UK law transactions a split signing and completion structure is often driven by necessity over preference. Common drivers of this are merger control or foreign direct investment (FDI) filings, a gap in which to complete a pre-carve-out reorganisation and/or requirements to undertake employee consultations. • Splitting signing and completion has SPA implications, including: who is 'at risk' for the gap period, who is responsible for obtaining satisfaction of any conditions to completion (and can the parties waive those conditions in any circumstances), what restrictions there are on the seller in the gap period in terms of its dealings with the in perimeter business or assets, and what - if any - rights does either party have to terminate and walk away from the transaction. 	<ul style="list-style-type: none"> • A seller should obtain early visibility of any legal requirements to split signing and completion through its preparatory work. • Typically, a priority for a seller is deal certainty, so termination rights will typically be heavily resisted. An acquirer may have their own expectations. For example, termination rights for 'material adverse changes' are more common in US M&A than UK M&A, so a US acquirer's risk profile may differ from that of a UK acquirer.
Third-party contracts and consents	<ul style="list-style-type: none"> • Carve-out contracts may need to be legally assigned or novated into a NewCo, or directly to the acquirer, rather than just passively moving with the target. • Carve-out SPAs therefore often have a greater degree of focus and detail on the parties' agreed processes when it comes to customer and supplier communications, the mechanics of seeking consents (where required), the limitations on the parties' obligations and what the consequences may be if a counterparty is not forthcoming with its consent. • A common occurrence with a carve-out is also the advent of shared contracts, where a customer is serviced by both a retained and divested business division. In these circumstances, the SPA will often seek to govern the process to obtain split or separate contracts or otherwise set out how the parties will cooperate to ensure continuity of supply or service between them post-completion. • Similar considerations arise for any leasehold interests in property, with detailed provisions governing the process to obtain landlord consent and how the property may be inhabited by the target business while that consent is awaited, as well as who bears the risk if consent is denied. 	<ul style="list-style-type: none"> • As part of the planning and structuring process, it is advisable for a seller to identify in advance any material third-party consent dynamics that may impact the potential carve-out. This is often during VDD. Doing so early in the process enables a seller to conduct a more substantive analysis as to whether they see any actual risk in the counterparty withholding consent, the strength of the relationship and therefore a better opportunity to present this dynamic appropriately to bidders and control the narrative. A failure to identify these dynamics in advance can result in a seller being blindsided by buy-side due diligence and on the back foot when it comes to dealing with these potential issues.

Topic	Summary	Key considerations for a seller
Multi-jurisdictional elements	<ul style="list-style-type: none"> A direct carve-out of either multiple entities or multiple assets that are spread across several jurisdictions raises procedural complexities for a seller. In particular, local transfer instruments may be required, notarial or other formalities may be necessary, and a seller may need to put in place local powers of attorney to facilitate signing and completion, often requiring notarising and apostille. 	<ul style="list-style-type: none"> Work during phases 1 and 2 (before bidder engagement) should identify any complexities on a multi-jurisdictional carve-out which may go to cost, timings or process. While these items can sometimes be dependent on the eventual acquirer's identity and location, they can often be determined in advance as they are simply a result of local law requirements. Before going to market, a seller should ensure that any local law procedures and any required timelines to put in place powers of attorney or other requirements are compatible with the transaction timeline being presented to bidders.
Employee provisions	<ul style="list-style-type: none"> Specific provisions in an SPA dealing with a variety of employment and labour law aspects are commonplace in carve-outs, necessitated by effectively removing employees from their existing umbrella of benefits and terms and conditions. These typically fall into two categories: consultations and liabilities. Legally required employee consultations can arise via operation of law or through employee unions or works councils. These elements become particularly impactful on a carve-out if there are proposed amendments to employment terms, potential redundancies or other changes. The impact of employee consultations is therefore fundamental on carve-out structures and timelines. In addition, by operation of law there is often an obligation on an acquirer to replicate a transferring employee's benefits and remuneration. While this is often relatively straightforward when it comes to things such as salary, there can be complexities if employees have benefits that the acquirer will struggle to replicate. An example of this would be where the seller is a listed entity and its transferring employees have share-based incentives in the ultimate listed parent company, but the acquirer is not listed and so cannot readily mirror such share incentives post-completion. A seller and acquirer would need to have detailed, and often complex, discussions around such matters, which may go to transaction timeline, execution risk and overall economics. 	<ul style="list-style-type: none"> While consultation obligations will be identifiable during initial structuring and VDD, a seller will not be able to form a definitive view on the transaction impact without the acquirer's confirmation about whether it intends to (or can) replicate the benefits of transferring employees. It is therefore prudent for a seller to seek confirmation from bidders during the bidding phase, or as part of bids, about their intention towards employees and ability to stand up or honour benefits. Sellers should also consider the timing of employee communications, in terms of both their legal obligations and their commercial intentions. It may be that communications can substantively take place after a conditional sale agreement has been signed, but that may not always be legally practicable.
Post-completion covenants	<ul style="list-style-type: none"> An acquirer will invariably seek covenants from a seller in the SPA that the seller will not, within a certain period post-completion, seek to compete with the divested business including by poaching employees, customers or suppliers or using similar or confusing branding or product names. This is rarely controversial in principle, as a seller tends to be exiting a market or particular product line via the carve-out with no short-term intention of re-engaging with the relevant market. However, complexities can arise where a seller is only carving out a part of a business segment in certain jurisdictions, where there is otherwise some legacy overlap between the divested and retained business or where customers or suppliers are shared between the in perimeter and retained businesses. 	<ul style="list-style-type: none"> It is incumbent on the seller to identify any particular overlaps or shared arrangements that may exist during the early phases of a carve-out, to ensure appropriate exclusions from post-completion covenants can be proposed and agreed in the long-form legal documentation. An acquirer will often seek to preserve a full range of remedies in connection with post-completion covenants, including the ability to seek injunctions, so the consequences of an insufficient exclusion can be severe.
Wrong pockets provisions	<ul style="list-style-type: none"> A common feature in a carve-out SPA, and usually uncontroversial and fairly market standard, are provisions called wrong pockets clauses. These operate essentially to ensure that the parties have a mechanism, post-completion, to sweep up any assets or contracts that may have been overlooked in the sale process and have been left in the wrong place (legally or economically, or both). 	<ul style="list-style-type: none"> It is prudent for a seller to ensure that it has the benefit of a wrong pockets provision, so that if an asset unintentionally transfers (ie, by operation of law), the seller is able to readily bring those assets back into its business.

Other than agreeing the transaction documents, the other material legal workstreams that take place between signing and completion often consist of:

- the execution of any specific re-organisation required;
- the filing of any necessary regulatory filings (ie, merger control filings);
- the undertaking of any third-party consent or notification procedures (ie, communications to customers, suppliers and landlords); and
- any associated employee consultation (albeit in some jurisdictions consultation can be a pre-signing requirement).

Ultimately, the legal processes between signing and completion of the carve-out are, effectively, where all the work in the previous three phases comes to fruition and the full impact of several months of complex work comes together. By ensuring effective validation, preparation and due diligence, a seller will be able to approach the eventual legal implementation and sale in a much more efficient, informed manner, with clarity over risk profile and execution, and ultimately on a stronger negotiation footing with an acquirer.



TAX: KEY FOCUS AREAS

Following signing, the seller should have sufficient certainty that the deal will complete to finalise implementation of any pre-sale restructure. Certain reliefs (particularly in relation to intra-group transfers) require the transferor and the transferee to be under the same beneficial ownership at the point of any asset transfers. Therefore, consideration may be given to making the pre-sale restructure a condition precedent to completion and/or using put and call options (rights to sell and buy at a pre-determined price, respectively) to put the beneficial ownership position beyond doubt.

Completion will likely not mark the end of the seller's responsibilities in relation to tax, as it will typically seek control over any matters that could impact its own tax position. The SPA and related transaction documents should provide clarity on acquirer and seller responsibilities in relation to tax, including any areas in which both parties are required to work together to achieve an intended outcome - for

example, making certain joint elections (such as in relation to capital allowances).

Depending on the nature of the carve-out mechanism, the documents may also need to clarify which party has responsibility for the preparation of tax returns, and the extent to which the other party has rights to review or to comment.

Depending on the complexity of the tax affairs of the carved-out business, the TSA may need to specifically provide that the seller assists in managing certain elements of the tax function of the carved-out business in periods post-completion.

CLOSING REMARKS

Carve-out transactions are a significant and important form of M&A. If managed effectively, a carve-out transaction can deliver significant benefits for both the seller and the acquirer.

However, a carve-out does introduce additional transaction complexity and risk. Sellers therefore need to prepare early and appropriately, and acquirers need to have their eyes wide open when undertaking due diligence to appreciate both the risks and the opportunities.

Complexity is driven by a range of operational and legal interdependencies between the seller and the target businesses, often combined with the need to prepare carve-out financials especially for the purpose of a transaction (not aligned to 'normal'

financial reporting). Even a lower-value transaction that appears relatively straightforward is often not, and it is essential that a seller invests time before engaging with prospective acquirers to understand the key carve-out considerations covering financial, operational, legal and tax (and the interplay between each area) detailed in this guideline.

PE bidders, in particular, are becoming increasingly sophisticated when assessing carve-out opportunities (with some funds focusing only on carve-outs), therefore the need for sellers to prepare thoroughly has never been more important. Transaction value may be left on the table or, worst case, a deal may be derailed entirely, if a seller is on the back foot and under prepared.

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