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**PRIVATE INVESTMENT IN U.S. PUBLIC EQUITY:  
OVERVIEW OF CONSIDERATIONS, MECHANICS AND STRATEGIES**

2020

# PIPE TRANSACTIONS

## OVERVIEW

A private investment in public equity (PIPE) allows a public company to raise alternative financing via a private placement of securities to an accredited investor.

**This form of privately negotiated capital raise is often undertaken at a time when an issuer's shares are undervalued or it encounters short-term liquidity issues, including when conventional financing sources may not be readily available.**

This presentation provides an overview of the considerations, mechanics and strategies involved for a financial sponsor when executing a PIPE transaction in the United States.



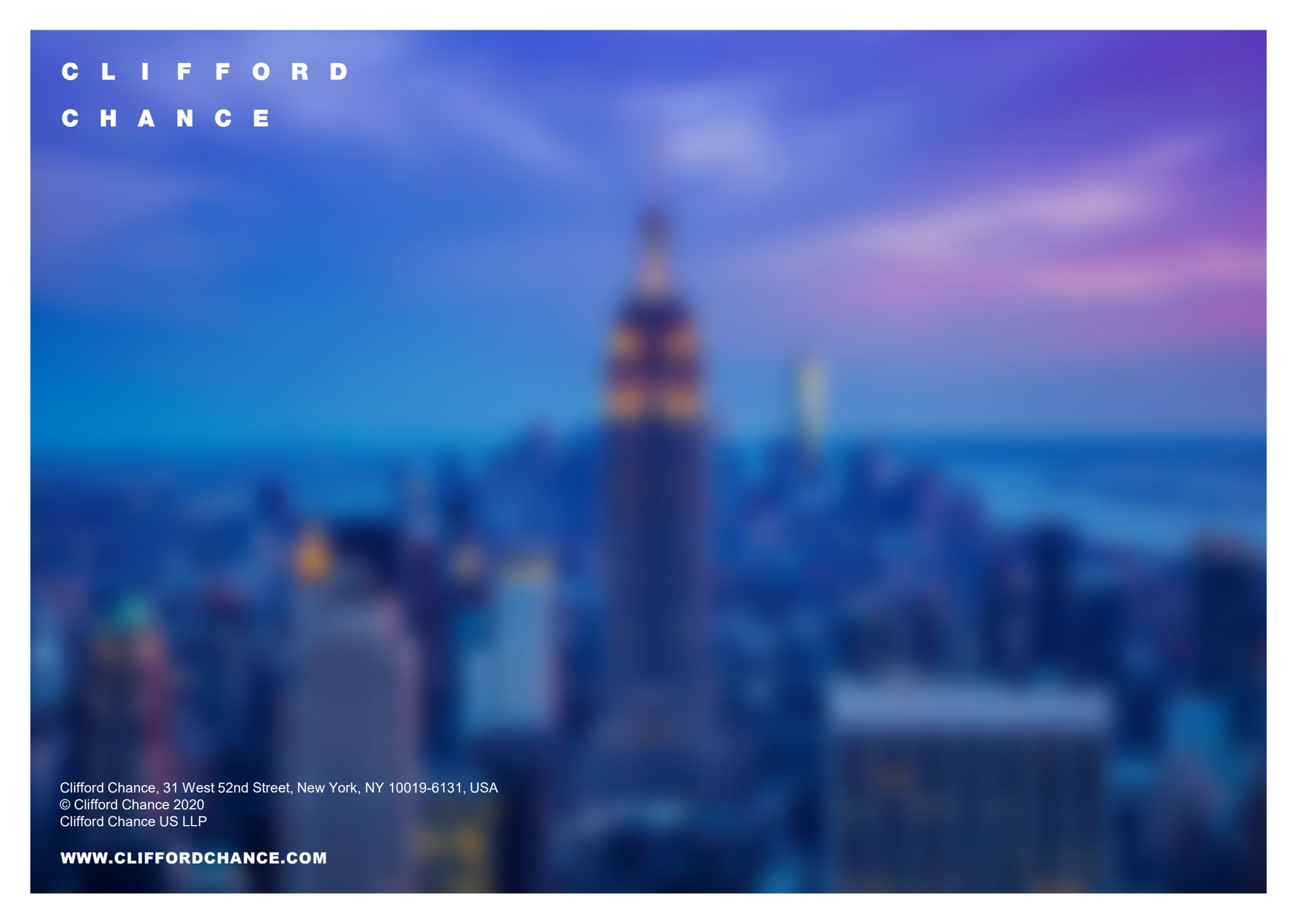
**A PIPE transaction is a privately negotiated sale of a public issuer's equity or equity-linked securities to an investor, under which an issuer typically files a resale registration statement with the SEC to enable the PIPE investor to resell the PIPE securities in the public markets, from time to time.**

To request a copy of the full presentation, please contact **Lily Phan** ([lily.phan@cliffordchance.com](mailto:lily.phan@cliffordchance.com) / +1 212 878 4940)

# PIPE TRANSACTIONS

## ATTRACTIVE IN PERIODS OF ECONOMIC VOLATILITY

Benefits to a Public Company:	Considerations for Financial Sponsors:
<ul style="list-style-type: none"> <li>• <b>Speed:</b> Permits issuers to <b>raise capital quickly</b> (including to fund operations or pending acquisitions), without the administrative burden, regulatory requirements and public nature of a public offering</li> <li>• <b>Privacy:</b> PIPEs only need to be announced once a definitive agreement has been executed (Rule 135c)</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Alternative Investing:</b> Provides a <b>quick, cost effective and relatively secure form of investing</b> limited partner funds, and allows for financial sponsors to continue investing during a period of market volatility where the availability of credit is scarce for effecting leveraged buyout transactions</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Market Testing:</b> Allows issuers to see whether a potential transaction is available, who the potential investors are, <b>and what price they're prepared to pay before there's any public knowledge</b> that the company is contemplating a transaction and before undertaking the costs associated with getting the transaction completed</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Mitigant to Downside Risk:</b> Provides an opportunity to invest in forms of securities that typically <b>limit downside risk and may also guarantee interest-linked returns</b>, while benefitting from investing in undervalued shares due to market uncertainty with potential future upside</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Pricing:</b> Typically, the <b>investor bears the price risk</b> from the time of pricing (when the agreement is executed) through the time of closing (when it is funded) and the issuer would have no obligation to deliver additional shares based on such price fluctuation</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Constraints:</b> Need to ensure the securities being offered are not subject to constraints under the <b>issuer's existing debt documents</b>, any other senior securities or a shareholders' rights plan</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Validation Capital:</b> Allows issuers to expand their institutional investor base while maintaining relatively <b>low cost, speed and certainty of execution</b>, while being able to signal to the market that it has received "validation capital" and is backed by sophisticated market participants</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Antitrust:</b> Need to understand if an <b>HSR filing</b> is triggered, given that will impact timing for closing and puts risk on investor as to trading price, given securities amount/value typically fixed at signing; if an investor files for "early termination" clearance, then the FTC is required to publish notice of approval on the Federal Register and on its website – making the transaction public</li> <li>• <b>Regulatory:</b> Consider CFIUS (<b>CFIUS may be more prevalent</b> in the healthcare and biotech sectors following Covid-19) or industry-specific approvals (e.g., insurance, banking or gaming)</li> </ul>

A blurred photograph of a city skyline at dusk or dawn. The sky is a mix of deep blue and purple. The Empire State Building is the most prominent structure in the center, its top illuminated. Other buildings are visible in the background, their lights blurred.

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