

2005 EDITION



Le capital
investissement

ETHICS

OF PRIVATE EQUITY
AND VENTURE CAPITAL

Association Française des

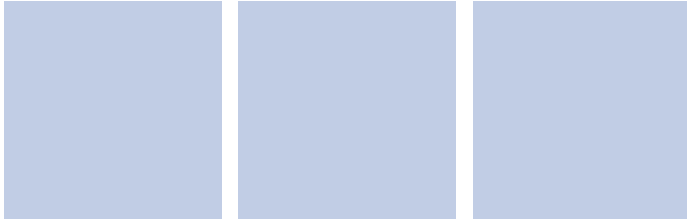
**INVESTISSEURS
EN CAPITAL**



2005 EDITION

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EDITORIAL

Dominique OGER - Chairman of AFIC

The existence of a common Code of Ethics that is universally applied is the very foundation of membership in a professional community.

More than any other business, the private equity business demonstrates this necessity on two levels. As company shareholders, private equity investors operate in a complex environment that involves a wide range of participants whose interests are not always the same. As asset managers, private equity investors make a commitment, notably to institutional investors, to uphold a relationship based on trust and transparency.

AFIC's Compliance Committee, an independent body whose members are elected directly by the profession, thus plays an essential role by consulting with industry participants, developing and continuously improving a common Code of Ethics based on actual professional practices.

FOREWORD

Jean DAUMET - Chairman of Ethics Committee

In 1998, AFIC published its first Code of Ethics, which included:

- The main principles of the AFIC Code of Ethics;
- The Code of Ethics of authorized private equity investment companies, which was jointly produced by the French Asset Management Association (AFG) and AFIC.

This most recent publication adds a third document to the previous two: **the Best Practices Guide for Private Equity Investment Management Companies.**

A few notes regarding this latest publication.

The main principles of the AFIC Code of Ethics were amended slightly following the resolutions approved by AFIC's Shareholder Meeting of June 21, 2004. The first modification involves article 12, which requires AFIC members to establish a Code of Ethics that is separate from the by-laws governed by the Labor Code.

The second change involves a detailed description of the Compliance Committee's functions (article 14). As in the past, the Committee is responsible for drafting the key principles, Codes of Ethics and recommendations for their implementation ... and to ensure compliance with the rules set forth in these various documents. Where applicable, it may determine penalties through an established procedure. Finally, in some portions of the Code, minor modifications have been made.

The Code of Ethics for authorized private equity investment management companies remains unchanged.

Finally, the **Best Practices Guide** will assist the compliance officers of each investment management company to establish a suitable organization. This Guide is supplemented by practical recommendations relative to the fight against money-laundering.

This compendium is a permanent reference for private equity professionals for all their business activities. It also helps partner companies and investors to know and understand the operating rules governing our profession.

A QUICK OVERVIEW OF AFIC

● Presentation

Created in 1984, the Association Française des Investisseurs en Capital (AFIC – The French Private Equity Investors Association) is an independent, non-profit organization governed by the French law of 1901.

With more than 200 active members, AFIC brings together almost all of the private equity institutions in France: venture capital companies, venture capital funds, mutual funds for innovative companies, investment companies, funds of funds, French consulting firms of international funds.

In addition, AFIC has more than 100 associate members from all related businesses — lawyers, accountants and auditors, consultants, bankers, etc. — who support and advise investors and entrepreneurs in the structuring and management of their partnerships.

● Its missions

- Maintaining permanent contact with the public authorities and the Parliament on regulatory, legal, and tax issues, particularly through lobbying;
- Promoting private equity among entrepreneurs and institutional investors;
- Supporting initiatives that are designed to promote the entrepreneurial spirit in France;
- Encouraging the development of organized markets for growth stocks;
- Producing benchmark statistics on business activity and performance;
- Establishing high standards of ethics and corporate governance, while favoring the self-regulation of the private equity business;
- Stimulating research and innovation through the establishment of relations with universities, research organizations, related associations, etc.

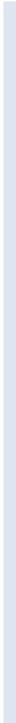
AFIC'S CODE OF ETHICS

- **Preamble**
- **Guiding principles**



PREAMBLE

TO THE CODE OF ETHICS

- 
- Given Council Directive 93/22/CEE of May 10, 1993 regarding investment services in the securities field, and more specifically its article 11;
 - Given the provisions of Book Two, Title 1, Chapter 4, Section 1 of the Monetary and Financial Code relative to mutual funds, and more specifically subsections 1, and 3 through 9-1 comprising articles L. 214-2 to L. 214-41-1;
 - Given the provisions of the French monetary and financial code relative to third-party portfolio management, and more specifically articles L. 321-1, L. 532-9 et seq., and L. 533-4 et seq.;
 - Given the provisions of article L.465-1 of the French monetary and financial Code relative to "threats to market transparency";
 - Given the provisions of Book Five Title VI of the French monetary and financial Code relative to obligations in the fight against money-laundering;
 - Given the provisions of the sole chapter in Book Six Title II of the French Monetary and Financial Code creating the French Financial Market Authority (AMF);
 - Given the provisions of the September 6, 1989 Act No. 89-623, and more specifically its articles 10 et seq.;

*“Enhance the fair and honest practices
of its members in their transactions”*

The Association Française des Investisseurs en Capital (French Private Equity Investors Association; hereafter AFIC) notes that the private equity business involves specialized teams analyzing and then making medium- or long-term equity investments in companies that are generally unlisted, and monitoring these investments until an exit is achieved.

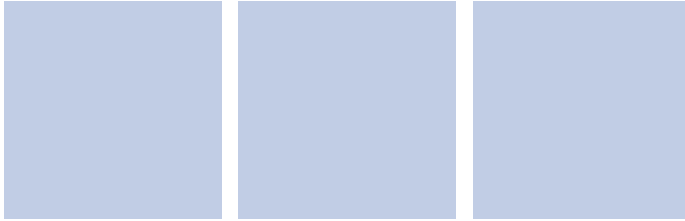
AFIC also notes that under the association’s by-laws (statuts), members should offer both their partners and their clients transparency, equal treatment and optimum disclosure, thus guaranteeing the quality of the services that they offer.

Through the fair and honest practices of its members in their transactions, AFIC seeks to enhance the standing of the private equity business and thereby make a positive contribution to the French corporate world.

Although its members do not all have the same legal status and are not all subject to the same regulations, AFIC seeks to harmonize the business practices of its members in order to achieve an image of quality that is both uniform and consistent with its objectives.

AFIC decided to draw up this Code of Ethics, which will apply to all AFIC members according to the terms of article 6 of its by-laws, and which replaces the previous version of that article.

In order to facilitate the proper application of the provisions in this code by its members, AFIC has produced and will continue to produce guides and recommendations on the implementation of the code’s principles. AFIC makes its list of guides and recommendations available to the public using all available means.



GUIDING PRINCIPLES

OF THE CODE OF ETHICS

Article 1 ● Compliance with regulations

Members must at all times comply with regulations and generally accepted practices in their respective industries and in the private equity business.

Article 2 ● Fairness, Respect for the image of the business

The members must at all times act competently, diligently and fairly, whether dealing with shareholders (hereinafter investors), partner companies, co-investors or other private equity professionals, and in particular when several members are competing over a new project.

Members shall not seek to profit from their membership in AFIC nor use information addressed to AFIC for personal reasons.

Members must act in a professional manner and constantly strive to avoid acting in a way that might compromise the image of the profession.

Article 3 ● Confidentiality

Unless the relevant parties have given their approval, members may not disclose confidential information obtained during the preliminary review of projects, the monitoring of investments or, more generally, in the performance of their profession.

Article 4 ● **Independence**

Members must be able to carry out their business activities autonomously and with complete independence, respecting the principle of separation of duties.

As a result, a member that performs several activities shall implement rules and procedures that make it possible to identify incompatible tasks and formally organize communications, or prevent communication (Chinese walls), among its various businesses.

In order to maintain their independence, members must emphasize pluralism in their dealings with intermediaries and select them on the basis of objective criteria.

In addition, member company employees must refrain from soliciting or accepting any perquisites that might compromise their impartiality or independent decision-making.

In any event, members must ensure the transparency of their company organizational and ownership structures and their decision-making process, notably with regard to entities on whose behalf they are investing funds.

Article 5 ● **Conflicts of interest**

Members must do everything possible to avoid conflicts of interest with other members, partner companies and investors, and must also seek to prevent conflicts of interest that might arise between investors and the companies.

Each member must manage its business in the interest of the investors while seeking to act fairly with regard to partner companies and co-investors.

Members that have more than one business activity must implement rules and procedures that enable them to anticipate, detect and manage conflicts of interest.

A member may have direct and significant financial interests in competing companies simultaneously, provided that the member has informed the companies involved beforehand.

Article 6 ● **Adequacy of resources and control procedures**

Members must always have the necessary resources in terms of personnel, company organization and equipment to be able to implement appropriate procedures, in particular accounting procedures, to enable them to carry out their activities efficiently and independently.

The parties must also implement procedures and adequate means to enable them to perform internal and external controls, in particular that specified in article 12 below.

These controls must in particular apply to the compatibility of the transactions with contractual commitments to comply with the rules of the profession as well as the rules set forth in this Code of Ethics and other codes of practice that may apply.

Article 7 ● **Relations with partner companies**

Members must treat the companies in which they invest fairly, in a manner consistent with the rules of the profession. Together with the management of these companies, Members shall establish the level of their active contributions.

Each member must be able to fulfill its duties as a shareholder completely.

Article 8 ● **Relations with investors**

Members must ensure that at the time of subscription, investors have been made aware of the general management characteristics and the investment policies of the funds.

Members must respect the principle of transparency with regard to investors at all times and, in accordance with the duty of disclosure, must provide information whenever necessary regarding business performance, fees received directly or indirectly by directly and indirectly related companies, risks encountered and means of dealing with potential conflicts of interest.

“Each member must seek to prevent all conflicts of interest among his employees and investors and the companies.”

Article 9 ● Measures to fight against money-laundering

The members must follow the vigilance and reporting provisions listed in Book Five, Title VI of the French Monetary and Financial Code on the fight against money-laundering.

Article 10 ● Indemnification scheme

Members must inform future investors whether they have an indemnification fund that covers negligent management or professional misconduct, as well as the scope and amount of the coverage offered and the name of the indemnification fund.

Article 11 ● Employees

Each member must seek to prevent all conflicts of interest among his employees and investors and the companies.

He must ensure that his employees:

- do not use confidential information for personal ends;
- do not participate in practices or transactions likely to impair his judgment and independent decision-making;
- use prudence in transactions in his own name, and act in total transparency with his employer, without deliberately placing himself in conflict of interest situations with investors.

Article 12 ● **Code of Ethics**

Each member must draft a Code of Ethics, with the relevant provisions to be applied and adhered to by the member, its management, staff and persons acting on its behalf, in particular the provisions contained in AFIC's Code of Ethics.

This Code of Ethics shall specify the conditions for communicating with investors and partner companies.

Members whose existing by-laws are pursuant to the Labor Code must make them consistent with the Code of Ethics.

For members that are third-party portfolio investment companies, the Code of Ethics shall include the measures covered by article L533-6 of the French Monetary and Financial Code, or, if these measures are already covered by existing by-laws pursuant to the Labor Code, a reference to the relevant by-laws.

In accordance with applicable laws, each member must designate a Compliance Officer responsible for the Code of Ethics within the company.

This person, whose function shall be described in the Code of Ethics, must ensure compliance with the Code of Ethics by the member company, its management, staff and persons acting on its behalf, and must advise them in order to prevent any failure to comply by all necessary means.

Article 13 ● **Acceptance of the Code of Ethics**

By joining AFIC, members automatically accept the Code of Ethics, which they must sign.

Members shall disclose the Code of Ethics to their employees, who will be required to comply with its provisions.

Article 14 ● Compliance Committee

The provisions of article XIII of AFIC's by-laws regarding the duties of the Compliance Committee appear below:

1. Mission

The Compliance Committee is responsible for developing the compliance principles, drafting the Code of Ethics applicable to members, updating and interpreting it and formulating recommendations for its implementation. The Committee submits the Code of Ethics to the Board of Directors, which, if it approves it, presents it to the Shareholders' Meeting for approval.

The Compliance Committee is responsible for ensuring compliance with (i) the compliance principles identified in the Code of Ethics applicable to members, and (ii) recommendations for their implementation.

In the event that the applicable compliance principles or recommendations for their implementation should be breached, the Committee is authorized to issue the following potential penalties:

1. Warning,
2. Reprimand,
3. Temporary suspension,
4. Disqualification.

2. Composition

The Committee comprises eight members.

Five are individuals chosen from among the representatives of the Association's active members or associates, elected by secret ballot by the Ordinary Shareholders' Meeting. The Committee members have a two-year term of office, and may not be members of the Board of Directors.

The methods for becoming a candidate, being elected and renewing the term on the Committee are identical to those used for directors.

The three other members are, automatically, the three most recent Chairmen of the Board who are no longer members of the Board of Directors.

In the event of a vacancy, the Committee may make the necessary interim replacements. These appointments must be presented for approval at the next Ordinary Shareholders' Meeting for the remainder of the term of the Committee members.

The Chairman of the Committee is selected in accordance with the rules of a quorum and majority identified in paragraph 3 below.

3. Committee Decisions

The Committee's deliberations are binding only if at least half the members are present.

Committee members may only be represented by proxy by other Committee members, to the exclusion of all other persons.

The decisions are taken by a majority of those present or represented.

In the event of a tie vote, the Chairman shall cast the deciding vote.

With the exception of decisions taken with regard to disciplinary matters and the choice of its Chairman, members who participate in the Committee meeting by videoconference are considered present for the purpose of a quorum and a majority.

4. Applicable procedure before the Committee ruling on a disciplinary matter

Disciplinary matters are brought before the Compliance Committee by AFIC's Board of Directors or by one or more members of the Association or by one or more third parties. The Committee may also take up matters on its own, when it has knowledge of them.

The procedure is adversarial. The member is informed of the existence and nature of the complaint. This complaint is investigated by two Committee member reporters within a time period of no more than three months. The member may receive assistance from the person of his choice. The Committee's decisions are justified and taken by a majority of the Committee members after the member has stated his case. Appeals may be made through ordinary legal jurisdictions.

CODE OF ETHICS

OF MANAGEMENT COMPANIES AUTHORIZED TO INVEST PRIVATE EQUITY OF THEIR OFFICERS AND EMPLOYEES

- **Scope of application**
- **Fundamental principles**
- **General provisions applicable to all parties**
- **Specific provisions applicable to authorized investment funds and funds qualified for a simplified authorization procedure**

SCOPE

OF APPLICATION

This Code of Ethics sets forth the principles that authorized private equity companies undertake to uphold. These rules apply to all AFG and AFIC members authorized by the French Financial Markets Authority (AMF).

The relevant provisions must be adapted to the type of fund concerned. Indeed, the law distinguishes between two main types of investment funds according to the investors which are targeted by the fund:

- mutual investment funds that require AMF approval and are open to all subscribers including the general public. For these funds, it is necessary to apply special provisions which offer fund shareholders additional protection;
- mutual investment funds subject to a simplified authorization procedure and open only to qualified investors⁽¹⁾, i.e. sophisticated investors with the knowledge and means to assess the risks inherent in the investment activities.

The parties covered by these rules include:

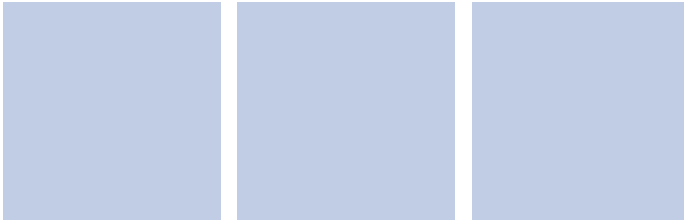
- The management company, irrespective of whether it carries out exclusively private equity activities;
- Individuals, officers or directors, regardless of whether they are corporate officers of the management company, the investment manager, employees and people acting on behalf of the management company carrying out their duties through a power of attorney or employment contract.

The following rules more narrowly define or complement current legislative and regulatory provisions and generally accepted practices in the French private equity business.

Compliance with these rules is mandatory for all parties involved, whether they belong to the AFG or AFIC.

(1) As defined by article L 214-37 of the Monetary and Financial Code and by article 19-I of COB regulation 98-05, which is integrated in the AMF's general regulations.

The implementation of this Code of Ethics requires that each management company adopt a compliance code that defines internal procedures. Such code will establish application methods by which to adapt the procedures to the organization, the type of fund managed and the investors targeted. The officers have a duty to inform the individual parties involved. These two documents must be given to them.



FUNDAMENTAL PRINCIPLES

The parties must at all times respect the principles required by law and the regulations that govern their activity, in particular the following principles:

- Fairness, confidentiality, competence, care and diligence;
- Put the interests of the investors first and treat them fairly;
- Identify all potential conflicts of interest, prevent them whenever possible and act in the best interest of the investors;
- Perform management activities independently and transparently in accordance with the principle of separation of duties.

To this end, the parties must organize themselves in order to perform their business activity efficiently and independently.

For their other activities, the parties remain subject to all applicable ethical rules, in particular those set forth in the AFIC Code of Ethics and/or those of AFG.



I - GENERAL PROVISIONS

APPLICABLE TO ALL PARTIES

1. RELATIONS WITH INVESTORS:

The parties have a duty of transparency and fairness toward investors:

Transparency : The parties must ensure that at the time of subscription, the general investment characteristics and policies of the various funds have been disclosed to the investors.

In addition, the parties must provide all useful information related to their activities, in particular:

- the methods for allocating investments among the various investment funds managed by the same management company;
- the rules for allocating investments among several funds or portfolios managed by the party or related companies;
- the rules (terms and methods) for co-investments and additional investments among the various investment funds;
- the terms for co-investments between the management company, its employees, its officers and the funds;
- the means by which equity interests held by the fund are transferred (sale or purchase) to a fund by companies or funds with ties to the management company, with a distinction drawn between shares held for less than 12 months and those held for more than 12 months;
- the terms and impact on the management fee of services performed for the benefit of a fund managed by — or of a portfolio company owned by — the fund's management company or related companies;
- the position or office held by the parties in all portfolio companies, whether they are held in a personal capacity or as the representative of a legal entity;
- where applicable, all changes in the method of valuing equity interests and the reasons for these changes (to be published in the annual report).

Depending on their nature and in accordance with the applicable regulations, this information must appear in the fund rules and/or the prospectus and/or the annual report.

Fairness: The parties must respect the principle of equality among investors. Without prejudice to the rights attached to the various classes of shares created, the parties may not favor certain investors.

2. EXERCISE OF SHAREHOLDER RIGHTS

In accordance with the applicable laws and regulations, the parties must freely exercise the rights attached to the securities which they manage, while acting in the interest of the investors.

Members must treat the companies in which they invest fairly, in a manner consistent with the rules of the profession. Together with the management of these companies, members shall establish the level of their active contributions.

Each member must be able to fulfill completely its duties as a shareholder.

3. MEASURES APPLICABLE TO INDIVIDUALS

An officer or employee of the management company or other individual working on its behalf may only provide paid consulting services to companies whose shares are either held in the investment portfolios or earmarked for acquisition while acting in this capacity and on behalf of the management company, regardless of whether the payment for these services is owed by the management company or the managed portfolio.

Furthermore, the parties shall take all measures necessary to ensure that individuals at the management company are able to carry out their duties in total independence and without any conflict of interest.

The provisions to this effect shall be included in the fund rules specifying the internal procedures and, where necessary, the employment contract. In particular, the provisions concerning incentives, gifts or other like rewards from the companies in which the fund invests, brokers, consultants and investors must be spelled out. These provisions should also include the means by which management is informed.

When the party is part of a group, he must act in the interest of the management company to which he belongs and of the investors of the funds he manages, always respecting the management company's independence.

4. CONFLICTS OF INTEREST

Given that investment management is to be performed exclusively in the interest of the fund shareholders, the parties will take all useful measures to identify potential conflicts of interest and resolve such conflicts in a totally transparent manner.

In particular, these conflicts may arise when the management company manages several investment vehicles, including one or more funds, or belongs to a group that manages several funds and/or makes direct or indirect investments and/or makes loans and provides consulting services (financial engineering, industrial strategy, M&A, IPO, etc.) to companies in which the managed fund(s) has invested.

In these cases, the conflict of interest has the potential to negatively affect shareholders of the managed fund(s). This risk is particularly acute for the following transactions:

- Allocation of investments, co-investments, additional investments among the various investment funds managed by the management company;
- Investments made by the management company, its officers, members of the same group as the management company;
- Sale of equity interests;
- Mergers between companies whose shares are held by a FCPR (French venture capital fund) that would involve companies owned or managed by other portfolios of the same company;
- Services provided by the management company, its employees or officers on behalf of the funds or targeted companies;
- Loans or financial service transactions (escrow, financial engineering advisory services, industrial strategy, M&A, IPO, etc.) by companies in the same group as the management company and benefiting the companies in the portfolio managed by the management company.

Other potential conflicts of interest may also arise through relationships between employees of the management company and of the company whose shares are to be acquired or are held in the funds and managed portfolios, or between the companies themselves.

In all these cases, rules and procedures must be implemented that make it possible to manage and avoid conflicts of interest related to fund management.

Specific measures in this regard must be included in the rules specifying the internal procedures and/or the employment agreement.

5. LISTED SECURITIES

When the fund may invest in listed shares or hold shares that become listed, the fund rules containing the internal procedures and/or employment contract should include provisions stipulating the terms under which individuals (as defined on page 1 of this code) may themselves directly or indirectly perform transactions in regulated and unregulated markets, and, where applicable, how they should be disclosed to their employer.

6. ADEQUACY OF RESOURCES

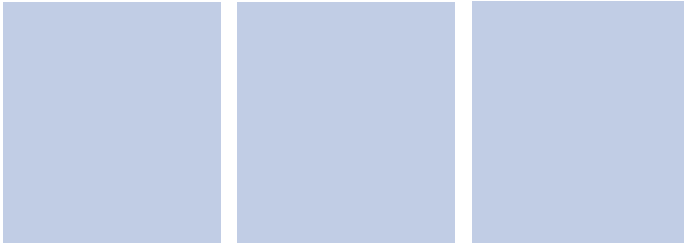
The parties must always have the necessary resources in terms of personnel, company organization and equipment to be able to implement appropriate procedures, in particular accounting procedures, to enable them to carry out their activities efficiently and independently.

The company organization and procedures must be established in such a way that the parties may maintain the confidentiality of all information and of their activities.

The parties must also implement procedures and adequate means to enable them to perform both occasional and continuous internal and external controls, to ensure compliance with legal, regulatory and ethical requirements, notably in the area of money-laundering.

These controls must in particular apply to the compatibility of the transactions with contractual commitments to comply with the rules of the profession as well as the rules set forth in this Code of Ethics and other codes of practice that may apply.

Each management company shall appoint a compliance officer, whose mission will be to ensure compliance with the above-mentioned principles.



II - SPECIFIC PROVISIONS

For the prevention and management of conflicts of interest, a distinction must be made between mutual investment funds authorized by the AMF and open to all subscribers, including the general public, and investment funds that qualify for the simplified authorization procedure and are restricted to qualified investors, i.e. those with the knowledge and means to assess the risks inherent in the private equity business.

Potential conflicts of interest arise in particular with the allocation of investments, co-investments and additional investments as well as with transfers of equity interests and performance of services.

Outside of these circumstances, other conflict of interest situations may arise, which the parties should identify and prevent through the procedures established in their rules containing the internal procedures.

1. SPECIFIC MEASURES APPLICABLE TO AUTHORIZED INVESTMENT FUNDS

1.1- INVESTMENT ALLOCATION

The rules governing the allocation of investments between the portfolios managed by the party or by related companies must be established beforehand and disclosed to investors in the fund rules.

These rules may take the respective situations of each of the various funds into account. *

1.2 - CO-INVESTMENTS

Between investment vehicles:

When a fund makes an initial co-investment in a target company alongside other investment vehicles managed by the same party or related companies, it is imperative that the co-investment be made according to equivalent terms and conditions, for both the initial investment and the sale (presumably a joint transaction) while taking the particular situations of the various funds into account. *

Other cases:

The management company, its employees and officers may only co-invest with the funds that they manage in all the target companies, based on the same relative shares for all investments and according to the same terms and conditions, both for the initial investment and sale (presumably a joint transaction) while taking the particular situations of the various funds into account. *

The party will specify in the annual report how the above-mentioned principles shall apply to co-investments.

These requirements no longer apply once the securities are listed on a regulated market.

* For example: situation with respect to regulatory ratios, net cash on hand, fund term period, fund strategy, possibility of joint exit, inability to sign a warranty of liabilities, etc.

1.3 - ADDITIONAL INVESTMENTS

When an additional equity investment is made in a target company in which other related investment funds already own shares, a new fund may only act if one or more outside investors make a sufficiently substantial investment.

Exceptionally, this additional investment may be made independent of a third-party investor, provided the investment is approved by two independent auditors, one of which may be the fund's statutory auditor.

The annual report must provide information on the respective transactions. Where applicable, it must describe the reasons why no third-party investor made an investment and must justify the additional investment opportunity as well as its amount.

The requirements of this provision no longer apply once the securities involved have been listed on a regulated market.

1.4 - METHODS FOR SELLING EQUITY INTERESTS

Pursuant to article 10 IV of the September 6, 1989 decree No. 89-623, transfers of equity interests held for less than 12 months between a FCPR (French venture capital fund) and a company related to the management company are authorized. In that case, the fund rules, subscription documents or, where applicable, the annual report for the year involved must specify the investments involved, their acquisition price and the method used to value these transfers, audited by an independent auditor, based on the report by the statutory auditor and/or the compensation for their carrying.

1.5 - SERVICES PROVIDED BY THE MANAGEMENT COMPANY OR RELATED COMPANIES:

These services include those pertaining to consulting, structuring, financial engineering, industrial strategy, M&A and IPOs, hereafter referred to as services.

In all these cases, management company officers and employees may not perform paid services in their own name for the benefit of a fund or of portfolio companies whose shares are either currently held by the fund or the object of a future acquisition.

“The following rules more narrowly define or complement current legislative and regulatory provisions and generally accepted practices in the French private equity business.”

If the party wishes to call upon an individual, legal entity, company or other undertaking related to the management company⁽²⁾ to provide significant services on behalf of a fund or a company in which he owns or plans to acquire shares, and where the decision is his responsibility, his choice must be made totally independently after having been open to competitive bidding.

If the services are provided by the management company for the benefit of the fund, the related fees billed to the fund must be included in the maximum amount of management fees. Net billing related to services provided by the management company on behalf of companies in which the fund owns shares must be deducted from the management fee paid by the investors in amounts pro-rated to their equity investments and near-equity held by the fund.

The management report must mention:

- for services billed to the funds: the nature of these services and their total amount, broken down according to the nature of services and, if a related company was involved, its identity and the total amount billed;
- for services billed by the management company to companies in which the fund owns shares, the nature of these services and the overall amount, broken down by type of services; in cases where the services are provided on behalf of a related company, and to the extent the information is available, the identity of the beneficiary and the total amount billed.

In addition, the party must use its best efforts to determine whether its bank is also a major banker for one of the portfolio companies and, where necessary, to make a reference thereto in the annual report.

(2) According to the definition of the September 6, 1989 decree 89-623, article 10-IV paragraph 4.

2 - SPECIFIC PROVISIONS INVOLVING FUNDS QUALIFIED FOR A SIMPLIFIED AUTHORIZATION PROCEDURE

2.1 - INVESTMENT ALLOCATION

The rules governing the allocation of investments between the portfolios managed by the party or by related companies must be established beforehand and communicated to investors, either in the fund rules or in another document.

These rules may take the particular situations of the various funds into account.*

2.2 - CO-INVESTMENTS

When a FCPR makes an initial co-investment in a target company alongside other investment vehicles managed by the same party or related companies, it is imperative that the co-investment be made according to equivalent terms and conditions, for both the initial investment and the sale (presumably a joint transaction) while taking the particular situations of the various funds into account.*

The party will specify in the annual report how the above-mentioned principles shall apply to co-investments.

In addition, a party may co-invest directly or indirectly along with the fund, provided that the procedure is specified in the fund rules.

* For example: situation with respect to regulatory ratios, net cash on hand, fund term period, fund strategy, possibility of joint exit, inability to sign a warranty of liabilities, etc.

2.3 - ADDITIONAL INVESTMENTS

When an additional equity investment is made in a target company in which other related investment funds already own shares, it is recommended that the new fund qualifying for the simplified authorization procedure only invest:

- if one or more outside investors also invest to a substantial degree, or,
- when the shareholders have been informed beforehand of the terms of the transaction or when the advisory committee (or investment committee) has been informed.

The annual report must describe the transactions involved.

The requirements of this provision no longer apply once the securities involved have been listed on a regulated market.

2.4 - METHODS FOR SELLING EQUITY INTERESTS

In the event of a transfer of an equity interest in a company held or managed for more than 12 months between a fund qualified for the simplified authorization procedure and a company related to the management company, it is recommended that the management company act only:

- on the recommendation of an independent auditor or the fund's statutory auditor who offers an opinion on the price, and,
- with the participation of a third-party investor for a substantial amount, or where the advisory committee (or investment committee) has been informed beforehand.

These conditions do not apply to investments held for less than 12 months and for shareholdings in funds. However, in these cases, the fund rules , or where applicable the subscription documents and the annual report for the year involved should specify the investments, their acquisition price and the method used to value these transfers, audited by an independent auditor, based on the report by the statutory auditor, and/or the compensation for their carrying.

2.5 - SERVICES PROVIDED BY THE MANAGEMENT COMPANY OR RELATED COMPANIES:

These services include those pertaining to consulting, structuring, financial engineering, industrial strategy, M&A and IPOs, hereafter referred to as services.

In all these cases, management company officers and employees may not perform paid services in their own name for the benefit of a fund or of portfolio companies whose shares are either currently held by the fund or the object of a future acquisition.

If the party wishes to call upon an individual, legal entity, company or other undertaking related to the management company⁽³⁾ to provide significant services on behalf of a fund or a company in which he owns or plans to acquire shares, and where the decision is his responsibility, his choice must be made totally independently after having been open to competitive bidding.

The fund rules must provide a detailed explanation of the terms under which the nature and the beneficiaries of advisory fees billed to the fund by the management company and related companies are brought to the attention of investors.

The management report must mention:

- for services billed to the funds: the nature of these services and their total amount, broken down according to the nature of services and, if a related company was involved, its identity and the total amount billed.
- for services billed by the management company to companies in which the fund owns equity interests, the nature of these services and the overall amount, broken down by type of services; in cases where the services are provided on behalf of a related company, and to the extent the information is available, the identity of the beneficiary and the total amount billed.

In addition, the party must use its best efforts to determine whether its bank is also a major banker for one of the portfolio companies and, where necessary, to make a reference thereto in the annual report.

(3) id. note 2.

BEST PRACTICES GUIDE

**FOR PRIVATE EQUITY INVESTMENT
MANAGEMENT COMPANIES**

- **Internal auditing and Ethical Compliance**
- **Fight against money-laundering**

INTERNAL AUDITING

AND ETHICAL COMPLIANCE FOR PRIVATE EQUITY INVESTMENT MANAGEMENT COMPANIES

Each management company working in the area of private equity investments (hereafter the "Company") must have a well-defined organization in order to ensure the transparent and secure financial management of its portfolios on behalf of investors and to comply with applicable regulations, in particular AMF regulations. This organization involves the implementation of:

- An internal policy⁽¹⁾ consistent with labor laws and regulatory provisions related to third-party portfolio management (the "Internal Policy");
- Procedures regarding internal auditing and ethical compliance (the "List of Procedures");
- Compliance Measures (the "Code of Ethics").

All of these documents are assembled in a binder or in another format and provided to the Company's current and future employees or made available to them, depending on their nature.

I. THE INTERNAL POLICY

The purpose of the Internal Policy⁽¹⁾ of the Company will be to identify and define the obligations of Company Employees⁽²⁾ and to explain the applicable sanctions in the event of non-compliance.

(1) Section 122-33 of the French Labor Code requires employers to implement an internal policy in companies or institutions that typically have at least 20 employees. Consequently, some management companies currently do not have an internal policy.

(2) This term is defined as: "all individuals, officers or directors, Company agents or non-Company agents, investment managers, employees and individuals working on behalf of the company, performing their duties in the context of a power of attorney, employment contract or internship contract."

In particular, the Internal Policy will cover the following points:

- health, safety and working conditions;
- disciplinary procedures and sanctions as well as measures regarding the right to legal counsel for Company Employees;
- confidentiality requirements and references to the Company's compliance regulations, in particular the regulations applicable to personal transactions of all Company Employees and so-called "sensitive" employees based on their role in the Company.

The Internal Policy must be posted in the Company's offices.

The Company must comply with the requirements of the above-mentioned provision through an Internal Policy or a Code of Ethics, regardless of whether it has established an internal policy pursuant to the labor Code.

It is recommended that all so-called "sensitive" employees be made aware directly of regulations that apply to them.

II. INTERNAL AUDIT AND PROCEDURES

II.A. PROCEDURES

The Company defines and implements operational procedures deemed necessary to ensure smooth operations as well as mandatory procedures designed to satisfy regulatory and professional requirements. These procedures must then be disseminated to the Company Employees or made available to them.

Included among these procedures, two primary themes have been identified as follows:

II.A.1. Company activities

a) Investment and divestment process:

- Decision-making process for anticipated investment or divestment;
- Compliance of investments with the by-laws of the funds managed;
- Notification of Company Employees regarding current confidentiality agreements entered into by the Company (with regard to third parties, agents, and financial markets);

b) Monitoring investments:

- Administrative, financial and operational monitoring;
- Methods used to solicit third-party service providers, where applicable;
- Monitoring of corporate mandates and the exercise of corporate mandates;

c) Monitoring of legal and regulatory ratios;

d) Monitoring the application of valuation principles of the portfolios managed by the Company (generally set forth in the fund by-laws);

e) Internal powers of attorney;

f) Monitoring of assets and liabilities of funds managed:

- Securities inventory;
- Commitments received and made;

g) Procedures which allow for the monitoring of activities of agents and custodians [COB Regulation No. 96-03 Article 11, integrated in the AMF's general regulations].

[II.A.2. Relations with investors and shareholders of portfolio companies](#)

a) Knowing the investors;

b) Knowing the shareholders of portfolio companies;

c) Complying with the duty of information with regard to investors (reporting periods, method of correspondence, etc.).

In addition, this provision should include the establishment of a procedure for the fight against money-laundering related to drug trafficking and organized crime.

II.B. ORGANIZATION OF INTERNAL AUDIT

The Company will appoint a person to perform the internal audit. The person chosen should have no conflicts of interest. This person should report directly to the executive board, and may be chosen from outside the Company. The same person may perform both the ethical compliance and internal audit functions.

The internal auditor shall estimate and devote the time and effort needed to fulfill his duties, paying close attention to the number of investments managed by the Company, and will retain complete freedom to organize his actions and audits in a manner consistent with applicable regulations in this area.

The internal auditor will formalize the completed audits and findings in order to ensure their traceability. Where appropriate, he will suggest any measures suitable to correct discrepancies and anomalies discovered. The Company's management will be informed of all findings in this regard.

III. ETHICAL COMPLIANCE

III.A. CODE OF ETHICS

An internal Code of Ethics must specify the obligations of the Company and Company Employees. It is based on Codes of Ethics for the profession and shall specify the following items in particular:

III.A.1. Obligations of Company:

- Preventing conflicts of interest and determining the method to be used to resolve clear conflicts of interest;
- Allocation of investments among the portfolios under management; rules governing co-investments, follow-on investments, method of transfer of investments and rules related to services provided by the asset manager or related companies.

III.A.2. Obligations of Company Employees

- Compliance with Company regulations regarding transactions made for own account by Company Employees performing portfolio management on behalf of a third party;
- Professional secrecy and confidentiality of information;
- Compliance with separation of duties principle.

III.B. ORGANIZATION OF ETHICAL COMPLIANCE FUNCTION

Ethical compliance ensures that the profession's Code of Ethics and internal compliance rules are properly followed. The organization of the ethical compliance function is defined using the same principles as those governing the organization of the internal audit.

The ethical compliance officer may be solicited by all Company Employees through any means, including verbally. He has access to all documents required to perform his duties, including documents regarding investment decisions.

Where applicable, it will be necessary to ensure the compatibility of this Code of Ethics with that of the company to which the Company may belong.

III.C. MANAGEMENT OF DISCREPANCIES AND ANOMALIES FOUND

If in the course of performing his duties the internal auditor or ethical compliance officer should find an anomaly or discrepancy, he shall immediately inform the Company management in writing, indicating the anomaly or discrepancy found. He shall suggest measures to correct the situation created by this anomaly or discrepancy.

The Company's management and the internal auditor and/or ethical compliance officer will ensure that the above-mentioned information is handled effectively and that steps have been taken to reach a favorable solution, or that a favorable solution is imminent.

FIGHT

AGAINST MONEY-LAUNDERING IN PRIVATE EQUITY INVESTMENT MANAGEMENT COMPANIES

I. LEGAL AND REGULATORY FRAMEWORK

- Article 18 of COB Regulation No. 96-03, which is incorporated in the AMF's general regulations.
- Act No. 90.614 of July 1, 1990 pertaining to the participation of financial institutions in the fight against money-laundering of funds whose source is drug trafficking, amended by Act No. 91-160 of February 13, 1991.
- Act No. 93.122 of January 29, 1993 related to the prevention of corruption and to business transparency.
- Act No. 96.392 of May 13, 1996 related to the fight against money-laundering and drug trafficking and international cooperation in the area of seizure and confiscation of proceeds from criminal activities.
- And the Monetary and Financial Code, which includes Chapter VI "Obligations related to the fight against money-laundering" (Book IV, Articles L.561-1 through L.574-2).

II. ROLE OF FINANCIAL INSTITUTIONS

French legislation governing the fight against money-laundering is consistent with the annual recommendations of the Financial Action Task Force (FATF) created in 1989 by the G7 (seven leading industrialized countries), at its meeting in Paris ("Summit of the Arch"). Since the end of 2001, it includes the fight against terrorist financing.

The French measures applicable to financial institutions and other brokers require them to:

- pay close attention to transactions with their business partners, identify those that need "to be reported" and those that should be "examined and recorded"; for that purpose they are in contact with TRACFIN, the Ministry of Finance's specialized anti-money-laundering agency created by the Act of May 9, 1990, to which they must designate a representative.
- adopt internal procedures to meet this obligation.
- provide training for and raise awareness among employees.

III. OBLIGATIONS OF PRIVATE EQUITY INVESTMENT MANAGEMENT COMPANIES

Private equity investment management companies have the following obligations:

1. [Under Article L. 562-2 of the Monetary and Financial Code the reporting obligation](#) to TRACFIN, the specialized agency, which covers in particular:

- proceeds that may be from drug trafficking or organized crime;
- transactions involving proceeds that may be from drug trafficking or organized crime;
- transactions for which the identity of the person or entity which has placed the order or the real beneficiary remains uncertain despite the due diligence performed in accordance with Section L. 563-1 of the Monetary and Financial Code;
- transactions for which the identity of the participants or real beneficiaries is obscured by front companies.

2. [Under Article L.563-3 of the Monetary and Financial Code, the obligation to identify, in advance](#), all contracting parties or beneficiaries, by submitting all relevant documents, and in particular in the case of occasional clients, when the transaction involves opening an account or carrying out transactions.

3. [Under Article L.563-1 of the Monetary and Financial Code, the duty to review and the duty of information](#) regarding all major transactions of an amount equal to or greater than 150,000 euros and which, while they may not rise to the level of having to be reported to TRACFIN, involve unusually complex terms and do not appear to have any economic justification or legal purpose (Article L.563-3 of the Monetary and Financial Code). In addition, there is a further obligation to provide a written report of the nature of the transaction, to store all supporting documents for a period of five years and to report to TRACFIN or the auditing authority upon request.

4. [Under Article 18 of COB Regulation No. 96-03 \(integrated in the AMF's general regulations\)](#), an obligation to set up an organization and procedures that satisfy the vigilance and reporting duties described in Act No. 90-614 of July 12, 1990, as amended, regarding the participation of financial institutions in the fight against money-laundering of proceeds from drug trafficking, and the texts used the implementing legislation.

5. [Finally](#), raise awareness and train employees with regard to the fight against money-laundering.

IV. IMPLEMENTATION IN A PRIVATE EQUITY INVESTMENT COMPANY

1. First, the company establishes its own procedure, which must cover at least three aspects:

- identification of its business partners and of their activity;
- audit of due diligence of distributors and deal finders;
- identification of sensitive transactions.

Knowing the customers

The main business partners covered under this provision are:

- investors
- buyers of transferred portfolio interests

The procedure shall define the identification factors that make it possible to know the customer or business partner. In the case of companies, for example, the following information must be assembled:

- the authority of the qualified employees
- for French-registered companies, the current Kbis summary from the commercial registry and, where applicable, the internal policy,
- for companies based abroad, for which it is not possible to obtain official information about the shareholders, a legal affidavit or all other legal documents,
- the description of the customer's business activity,
- the true identity of the beneficiaries of the transaction in cases where it appears that the person making the transaction may not be acting on his own behalf (unless it involves another financial institution),
- information regarding the origin of the relationship.

For individuals who play a significant role in the transactions, in addition to the documents authenticating their identity, the nature of their business and their net worth.

In the event legal, financial, accounting or other audits are undertaken prior to an investment, it does not appear necessary to implement any other special procedure. When no such audits are undertaken, however, a special procedure should be established that is based on the above-mentioned procedure.

Any new business relationship with citizens of countries on the FATF black list shall trigger a specific review involving the head of the anti-money-laundering department. If the transaction is approved, it is recorded as a transaction to be monitored.

Applicable provisions during an ongoing business relationship

The management company:

- regularly updates the information in its possession;
- maintains regular contact with its partners;
- organizes itself, irrespective of the legal structure, in such a way as to always know the economic beneficial owner of the funds which it manages

Relations with distributors and deal finders

The management company ensures that:

- they are reputable;
- the service providers in charge of distribution have implemented rules and procedures consistent with required regulations in the area of money-laundering.

The contract between the management company and the distributor sets forth the duty of the distributor to know his customer and to verify the source of funds. Specifically, this contract may require the possibility of an audit by the manager of the service provider's anti-money-laundering provisions.

Identification of sensitive transactions

The procedure shall define sensitive transactions in the context of the company's business activities as well as the proper conduct in the event of such transactions. In particular, it is the duty of the private equity investment company to request explanations with regard to the particular transaction, and if necessary to refuse to carry out such transaction.

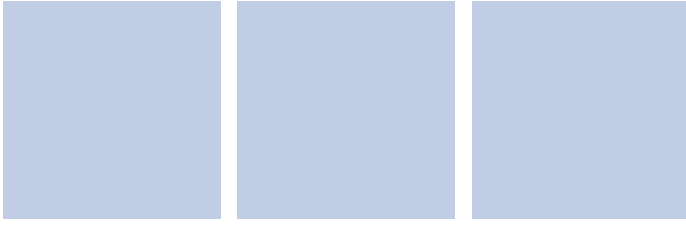
The private equity investment company will specify the information to be retained (for five years) as well as the reporting procedure to TRACFIN.

2. The private equity investment company designates a correspondent for the TRACFIN agency and notifies the AMF, which is generally responsible for compliance. The correspondent's role will be to:

- the application of the procedure,
- store information related to unusual transactions and TRACFIN reports,
- monitor legal developments involving current laws and regulations in the area of money-laundering,
- train employees,
- report on its activities to the executive management.

V. SANCTIONS

The procedure will set forth the criminal sanctions applicable in this context, in particular with regards to the disclosure of information or inquiries about suspected money-laundering transactions, to clients or any other unauthorized person.



NOTES



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