

National Development Council Directions for Guiding and Managing the Promotion of Industrial Investment by Private Equity Funds

General Description

The National Development Council has formulated the Directions for Guiding and Managing the Promotion of Industrial Investment by Private Equity Funds for the purpose of expanding the investment of insurance industry and other funds in important and strategic industries through the medium of domestic private equity funds, with the object of boosting industrial and economic development. The Directions consist of 12 points, containing as follows:

1. The purpose of prescribing the Directions. (Point 1)
2. The definition of private equity fund as referred to in the Directions. (Point 2)
3. The scope of important and strategic industries. (Point 3)
4. Qualifying requirements for application. (Point 4)
5. Documentary requirements for application and the validity period of the letter of qualification. (Point 5)
6. Procedure for confirming qualification. (Point 6)
7. Filing requirements after raising of fund. (Point 7)
8. Restriction on investment in listed stocks. (Point 8)
9. Financial information disclosure and right of inspection. (Point 9)
10. Requirement to comply with regulations of investor's competent authority. (Points 10 and 11)
11. Handling of non-compliance. (Point 12)

National Development Council Directions for Guiding and Managing the Promotion of Industrial Investment by Private Equity Funds

Provisions	Description
<p>1. These Directions are specially established by the National Development Council (hereinafter referred to as “the NDC”) for the purpose of expanding the investment of insurance industry and other funds in important and strategic industries through the medium of domestic private equity funds, with the object of promoting industrial and economic development.</p>	<p>The purpose of prescribing the Directions.</p>
<p>2. The term “private equity fund” as used in these Directions refers to a company limited by shares or a limited partnership that is established within the territory of the State in a non-public form to raise funds from specific persons, and that matches the forms of operation set out below, and the total capital of the company or the total agreed capital contribution of the limited partnership is at least one billion New Taiwan dollars (NT\$1,000,000,000):</p>	<ol style="list-style-type: none"> 1. The definition of private equity fund as referred to in these Directions. 2. Taking reference from Article 3 of the Regulations on Guidance and Assistance for Venture Capital Enterprises, which sets the qualifying capital threshold for venture capital enterprises at NT\$200 million, and considering the differences between the practical operation of private equity funds and venture capital enterprises, and to accentuate their differentiation, this provision sets a figure of NT\$1 billion as the

- (1) The professional team for managing and operating the fund shall consist of at least three persons, and shall possess expertise in equity fund management and industrial investment, and be capable of conducting evaluations and making investment decisions in respect of potential investment targets.
- (2) Methods of investment in invested enterprises include: investing capital and obtaining equity or equity-type security in the invested enterprise; using funds to purchase the equity of the invested enterprise's original shareholders; investing capital in a limited partnership to become a limited partner; or using funds to purchase the capital contributions of the invested enterprise's original limited partners.
- (3) Conducting post-investment management of invested enterprises, including providing all kinds of value-added services and assistance, making company inspection visits, and attending board meetings or shareholder meetings of invested enterprises.

qualifying threshold for the total capital of a corporate private equity fund and the total agreed capital contribution of a limited partnership private equity fund, and also stipulates the expertise that the fund's management team must possess and the methods of investment in invested enterprises.

3. A company as referred to in these Directions means a company established in accordance with the Company Act; a limited partnership means a juridical person organized and registered in accordance with the Limited Partnership Act.

<p>3. The scope of important and strategic industries as referred to in these Directions is as follows:</p> <p>(1) Information & digital, cyber security, precision health, national defense & strategy, green and renewable energy, strategic stockpile , Asian Silicon Valley Development Plan, biopharmaceutical, smart machinery, circular economy, and new agriculture industries.</p> <p>(2) The Forward-looking Infrastructure Development Program.</p> <p>(3) Infrastructure projects as specified in Article 3 Paragraph 1 of the Act for Promotion of Private Participation in Infrastructure Projects.</p> <p>(4) Industries in need of upgrading or transformation.</p> <p>(5) Other industries recognized by their central competent authorities as matching policy directions.</p>	<p>Defines the scope of important and strategic industries for the purposes of these Directions, in accordance with the current aims of national policy for promoting industrial development.</p>
<p>4. A private equity fund that meets the following conditions may apply to the NDC for a letter of qualification:</p> <p>(1) The total amount of investment committed by shareholders or limited partners in letters of</p>	<p>1. Specifies the conditions that a fund must meet in order to apply to the NDC for a letter of qualification under these Directions.</p> <p>2. Relevant management experience includes experience in carrying out</p>

intent, or a company's paid-in capital or limited partnership's paid-up contributions, should reach at least 20% of the total capital or total agreed capital contributions.

- (2) The management team should have previous experience of investing in or managing equity funds, or have industrial expertise in the industries as specified in the articles of association or the limited partnership agreement.
- (3) The areas of industry proposed for investment in the fund-raising plan match the scope as specified in the preceding Point, and should be reasonable and feasible.
- (4) Has a complete investment decision-making mechanism, including investment decision-making procedures, and has set up an internal investment review system.
- (5) Has a complete post-investment risk management system, including regular scrutiny of invested enterprises' financial reports, updated fund investment account details, and tracking of investment performance.

corporate restructuring, mergers & acquisitions, business regeneration, securities underwriting, or privatization.

3. To strengthen risk management and internal control mechanisms, taking reference from the relevant provisions of the Financial Supervisory Commission's order of April 19, 2019 relaxing the rules on securities investment trust employees concurrently serving in an invested subsidiary holding the position of general partner of a private equity fund, and the Self-Regulatory Rules for Insurance Industry Investment in Limited Partnerships, Paragraphs 4 and 5 prescribe requirements for a private equity fund to have a complete investment decision-making mechanism and a complete post-investment risk management system.

<p>5. An applicant as referred to in the preceding Point shall submit the following documents:</p> <ul style="list-style-type: none">(1) An application letter.(2) A fund in the form of a corporation shall submit its articles of association, the names of its promoters, existing and intended shareholders, and directors and supervisors, and the basic information of its commissioned management company (including that company's articles of association and a photocopy of its registration certificate); a fund in the form of a limited partnership shall submit the intended representative and total capital contribution of the limited partnership, the names of the existing and intended partners, and the capital contributions of each partner.(3) The resumes of the main management team or general partner, including documentary proof of satisfying the requirements set forth in Point 2 Subparagraph 1.(4) The commissioned management contract or limited partnership agreement.	<p>Stipulates the documents that must be submitted to apply for a letter of qualification, and the validity period of the letter of qualification.</p>
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<p>(5) Documentary proof of satisfying the requirements set forth in Subparagraphs 4 and 5 of the preceding Point.</p> <p>(6) A fund-raising plan and letters of intent for investment.</p> <p>(7) Other documents stipulated by the competent authority.</p> <p>The letter of qualification referred to in the preceding paragraph shall be valid for a period of one year from the day following the date of issuance. An application for its extension may be made before its expiration, with the submission of an application letter and a photocopy of the letter of qualification. Extensions will be for six months at a time, limited to a maximum of two times.</p>	
<p>6. The NDC may issue a letter of qualification upon confirming that an application satisfies the conditions set forth in Point 4, to facilitate the acquisition of funds from insurance industry and other private funds.</p> <p>In order to determine whether, as referred to in the preceding paragraph, an application satisfies the requirements set forth in Points 2 and 3, the NDC may gather assistance</p>	<p>1. Paragraph 1 specifies that the NDC may issue a letter of qualification according to a private equity fund’s application, to aid its acquisition of investment funds.</p> <p>2. Paragraph 2 provides that the NDC may gather input from relevant government departments, and may seek evaluative assistance and opinions from relevant professional bodies, for reference in deliberating</p>

<p>from the Ministry of Economic Affairs, the central competent authorities of the industries targeted for investment by the private equity fund, and relevant scholars and experts; and may seek opinions from private equity fund related associations, federations, and juridical persons.</p> <p>Where, as referred to in the preceding paragraph, an association, federation or juridical person assists in an application by providing evaluative opinion, evaluators who are interested parties may not participate in evaluation, and shall recuse themselves therefrom.</p> <p>The spouse or a second-degree relative of an evaluator as referred to in the preceding paragraph, or a company having a controlling and subordinate relationship with said person are interested parties in the application that is being assisted, the evaluator shall be deemed interested party in such application.</p>	<p>on the issuance of a letter of qualification.</p> <p>3. To ensure that the fairness and impartiality of the evaluation of a private equity fund will not be impaired by any potential interested party relationships of those providing evaluative opinions for professional bodies, Paragraphs 3 and 4 stipulate the requirements for interested party recusal from such evaluation.</p>
<p>7. A private equity fund that has obtained a letter of qualification under these Directions shall, within one month after its fund-raising is completed, submit the following</p>	<p>1. To comply with anti-money laundering policy, this provision stipulates that, after a private equity fund’s shareholders have completed payment for their shares or its</p>

<p>documentation to the NDC for reference filing; and the same requirement shall apply to any change in the content of this documentation while the private equity fund remains in existence:</p> <p>(1) A fund in the form of a corporation shall submit lists of its shareholders, directors, supervisors, and beneficial owners.</p> <p>(2) A fund in the form of a limited partnership shall submit lists of its partners and beneficial owners.</p> <p>When necessary, the NDC may assign personnel to verify the contents of the documentation referred to in the preceding paragraph, and the private equity fund shall render full cooperation.</p>	<p>partners have completed payment of their capital contributions, the fund must present the NDC with name lists and other relevant information of its shareholders, directors and supervisors or its limited partnership partners, and also its beneficial owners, for reference filing. The definition of beneficial owner and the means of identifying such have taken reference from the provisions of Article 2 Subparagraph 7 and Article 3 Subparagraph 7 of the Regulations Governing Anti-Money Laundering of Financial Institutions.</p> <p>2. Paragraph 2 specifies that, when necessary, the NDC may assign personnel to conduct verifying checks.</p>
<p>8. The NDC may assist a private equity fund that has obtained a letter of qualification under these Directions to apply for investment from the Executive Yuan's National Development Fund.</p> <p>Investment in listed company stocks by a private equity fund that has obtained a letter of qualification under these Directions shall be limited to strategic investment.</p>	<p>1. Since the purpose of these Directions is to promote private equity fund investment in the nation's important and strategic industries, in order to expand the sources of their funding, Paragraph 1 stipulates that the NDC may assist them to apply for investment from the Executive Yuan's National Development Fund.</p> <p>2. For the purpose of promoting private equity fund investment in the nation's important and strategic</p>

industries, these Directions encourage private equity funds to help targeted companies improve their operating performance with the funds' professional knowledge and management capabilities in conducting listed company restructuring, mergers and acquisitions, or other such business, and these Directions do not encourage short-term financial investment, hence Paragraph 2 stipulates that private equity fund investment in listed companies shall be limited to strategic investment. Taking reference from Point 2 Subparagraph 4 of the Financial Supervisory Commission's Directions for Public Companies Conducting Private Placements of Securities, strategic investment means investing for the purpose of increasing the investee's profit by utilizing investor's own experience, skills, knowledge, brands or marketing channels, through horizontal or vertical integration in the industry or joint effort in product or market development, so as to assist the investee to enhance its technology, improve quality, reduce costs, increase efficiency, expand markets, etc.

	<p>3. If the supervisory requirements of a private equity fund investor’s central competent authority give rise to the need for regulating the investor’s and its interested parties’ joint holding of listed stocks invested in by the private equity fund, such regulations will be separately prescribed by the relevant competent authority.</p>
<p>9. A private equity fund that has obtained a letter of qualification shall, within the five years starting from the business year in which it begins to invest, and within six months from the end of each business year, submit to the NDC a business report and an annual financial report verified by a certified public accountant.</p> <p>When necessary, the NDC may assign personnel to verify the contents of the business report and the annual financial report referred to in the preceding paragraph, and the private equity fund shall render full cooperation.</p>	<p>1. In order to ascertain the financial information of a private equity fund that has obtained a letter of qualification, and whether its invested enterprises conform to the scope of industries specified in these Directions, and also taking into account that private equity funds generally complete their investment within five years, followed by their market-exit stage, Paragraph 1 accordingly requires such funds to submit financial and business reports to the NDC within the five years after they start to invest. Furthermore, taking reference from the provisions in Point 1 Subparagraph 3 Item 2 and Point 5 Subparagraph 3 of the Financial Supervisory Commission’s order of April 19, 2019 relaxing the rules on securities investment trust employees concurrently serving in an</p>

	<p>invested subsidiary holding the position of general partner of a private equity fund, it also sets a six-month deadline for the filing of these reports.</p> <p>2. Paragraph 2 specifies that, when necessary, the NDC may assign personnel to conduct verifying checks.</p>
<p>10. To effectively control the investment risk of investing in private equity funds and protect the rights and interests of investors, private equity funds shall comply with the requirements for provision of financial information, as pertain to the frequency and items thereof, prescribed by the investor’s competent authority.</p>	<p>Stipulates that private equity funds must comply with the rules for disclosure of financial information as prescribed by the competent authorities for the industries of their investors.</p>
<p>11. Where other regulations prescribed by the competent authorities apply in respect of a private equity fund investor and its interested parties jointly owning said private equity fund or in other ways obtaining a relationship of control or subordination thereof, the private equity fund investor shall comply with said regulations.</p>	<p>Stipulates that private equity funds must comply with rules relating to the investment of their investors and related parties as prescribed by the competent authorities for the industries of those investors.</p>

<p>12. In the event that a private equity fund fails to comply with the provisions of these Directions, the NDC may demand improvement within a deadline; if the improvement is not forthcoming within the deadline, the NDC may revoke the letter of qualification, notify the shareholders or limited partners, and bar it from applying again within three years.</p>	<p>Specifies the handling of a private equity fund’s non-compliance with these Directions, and sets a 3-year bar on accepting re-applications from violators.</p>
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