

ESG IN THE INVESTMENT CYCLE – INVESTMENT AGREEMENT

OBJECTIVES

- Ensure that the company's and fund manager's interests and expectations on ESG matters are explicitly aligned.
- Ensure sufficient influence and oversight.
- Secure and formalise commitments from the company to meet applicable ESG requirements including ESG Action Plans.
- Protect the fund from reputational, financial and/or legal damage by providing legal remedies in the event of default risks or other problems arising.
- Enable exit if necessary (only in extreme cases).
- Prevent inappropriate transactions (from an ESG perspective).

ACTIVITIES

NEGOTIATE ESG CLAUSES

- By the time the investment agreement is being negotiated, a company should already have a good understanding of what the fund requires from an ESG perspective.
- Before signing the investment agreement, ensure that the company understands and has planned for the necessary financial and human resource to comply with the terms of the legal agreement.
- Before signing the investment agreement, ensure sufficient post-investment influence on, and oversight of, the company. The inclusion of adequate ESG terms in the legal agreement is important in order to achieve this.

INCORPORATE ESG CLAUSES IN THE LEGAL AGREEMENTS

- Incorporate ESG clauses in the legal agreements. ESG clauses would typically include/cover: (i) representations and warranties; (ii) compliance with ESG applicable requirements/standards; (iii) investment monitoring; and (iv) mechanisms to address non-compliance situations.

OUTPUTS

- Shareholder's agreement or equivalent that includes appropriate ESG clauses and clearly outlines how ESG matters will be handled during the life of the investment in order to meet the fund's requirements and expectations.

CDC ESG TOOLKIT RESOURCES

- [ESG in the Investment Cycle: Investment Agreement](#)
- [CDC ESG Legal Drafting Guide for Equity Investments](#)
- [Governance and Business Integrity](#)
- [CDC Guidance: ESG Action Plans](#)
- [CDC Guidance: Working with Management](#)
- [Downloads/Reference Materials](#)