



# GIDE IMPACT

# FOREWORD

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**Businesses have an essential role to play in addressing the immense social and environmental challenges, and urgency, our society faces. Debates on the societal role of companies during the review of France's recent Loi Pacte\* highlighted and strengthened both society's expectations and the willingness of many companies to fully assume this role.**

New laws support this move: the Loi Pacte endorses the concepts of *raison d'être*, or purpose, and *entreprise à mission*, or company with a mission (French equivalent to US benefit corporations), and requires that companies be managed according to their corporate interest by taking into consideration the social and environmental stakes of their activities. The law of 27 March 2017 subjects the largest companies to an obligation of vigilance over their activities, those of their subsidiaries and of their subcontractors.

Clients, employees and other stakeholders are increasingly demanding that companies be transparent and exemplary in ethical, social and environmental matters, and are becoming less tolerant of breaches. They support those companies that contribute to providing solutions to society's current challenges. Investors are beginning to do the same.

A new business model is emerging, based on the conviction that to be successful in the long term, businesses will have to meet these expectations and provide solutions to society's problems.

\*France's corporate reform law, dated 22 May 2019, or action plan for Business growth and transformation (in French: Plan d'Action pour la Croissance et la Transformation des Entreprises)

We are convinced that this change is both essential and irreversible. Beyond our CSR policy and pro bono activities, we have a strong will to contribute to it by working with our clients in identifying and implementing what transformations may derive from this change, and managing their risks and their search for solutions to these challenges, in particular:

- ◆ By helping them adapt their governance to the challenges wrought by this change;
- ◆ By designing relevant remuneration, value- and profit-sharing systems to help align executives, employees, founders, and investment fund managers with impact or extra-financial objectives;
- ◆ By supporting our clients when they look to reconcile profit with general interest, in particular by advising them on adopting the status of entreprise à mission or establishing shareholder foundations that are a long-term extension of their raison d'être and that finance missions of general interest;
- ◆ By helping them to comply with their ethical, social and environmental obligations and values;
- ◆ By placing our expertise in finance law in the service of responsible finance, in particular green finance;
- ◆ By supporting our clients in redrafting their strategy towards more sustainable activities and by ensuring we support players active in sectors that are creating solutions, such as clean techs, renewable energies, the circular economy, social housing, low-carbon construction, etc.

We pledge to draw on all our teams' energy, skills, and innovation capabilities, and place them in the service of creating a more genuine and responsible economy. Such is our commitment and our ambition to face the challenges of our time.

**Xavier de Kergommeaux**  
Senior Partner

**The Gide Impact team**

**Our objective:** to help our clients adapt to social and environmental challenges and their resulting expectations, and to contribute in a positive way to Society as a whole

**A cross-disciplinary team**

**An innovative dynamic** that is inherent to the firm's pioneering spirit

Working with **all companies**, because not one of them can avoid thinking about its broader societal role



**GIDE IMPACT**

**A committed firm** that fosters responsible finance, a sustainable economy, and contributive businesses

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- 7 fields of expertise**
- ◆ **Governance**
  - ◆ **Compliance and business ethics**
  - ◆ **Responsible finance**
  - ◆ **Sharing of profit and value**
  - ◆ **Shareholder foundations**
  - ◆ **Specific corporate structures**
  - ◆ **Real estate**

## A FULLY COMMITTED LAW FIRM

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Beyond offering legal support to our clients, we intend to play and assume a leading role in the legal industry to promote a more responsible economy and finance in three main areas:

- ◆ Contributing to ongoing discussions, both nationally and internationally
- ◆ Taking part in circles that actively promote responsible capitalism and contributive businesses
- ◆ Organising conferences on legal and non-legal topics alike, led by Gide partners, renowned experts, and opinion leaders.

## Focus on our contributions

**Committing to the Fondation Croissance Responsable, Communauté des Entreprises à Mission and French Impact**

Partnering the symposium organised at the Institut de France by Fondation Croissance Responsable on "L'entreprise responsable, vers un nouveau modèle de croissance [Responsible companies, towards a new growth model]"

Suggesting amendments to France's Loi Pacte regarding companies with a mission

**Actively contributing to a workgroup including the French and German finance ministries on drafting European rules as regards responsible finance**

Supporting the first survey on entreprises à mission (companies with a mission), conducted by ViaVoice, HEC and Prophil in March 2018

**Partnering the first Giverny symposium on CSR**

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<sup>1</sup> Etude réalisée par ViaVoice, HEC et le cabinet Prophil en mars 2018

# GOVERNANCE

Corporate governance must adapt to better take into consideration today's social and environmental challenges, meet increasing legal requirements and their shareholders' growing expectations. This is particularly true for companies showcasing a resolute and ambitious position in terms of missions or CSR. Controlling businesses' legal and reputational risks requires a more legal approach as to their governance.

## YOUR CHALLENGES

- To set up and operate management and administration bodies
- To create ad hoc bodies
- To control the liability of the company and its executives
- To manage risks CSR-related communication
- To adopt a raison d'être or become a société à mission

## HOW WE CAN HELP

- ◆ Recognised skills in corporate law and governance
- ◆ In-depth analysis of the new challenges of responsibility for companies and their executives
- ◆ Close working relationship with academics, professional institutions and circles that actively promote responsible capitalism and contributive companies

## OUR REFERENCES

- ◆ Working with a number of listed and non-listed companies on various governance topics
- ◆ Advising companies on adopting a raison d'être or becoming a société à mission
- ◆ Contributing to decoding France's Loi Pacte (conferences, brochure)

## YOUR POINTS OF CONTACT

**Didier G. Martin** and **Antoine Lelong**, or your usual Gide contact on matters of corporate law / mergers & acquisitions

# COMPLIANCE AND BUSINESS ETHICS

The increased mandatory provisions and higher business ethics expectations make compliance a key element in companies' management of their legal and reputational risks. They need the necessary tools to meet legal requirements, but beyond that, to ensure that they operate in a way that is consistent with the values that they embody and that they express in their CSR policy. A number of fields are concerned, such as anti-corruption, personal data protection, economic law, financial law, social relations and the environment.

## YOUR CHALLENGES

- To implement or improve compliance programmes
- To limit risks during acquisition transactions
- To check internal procedures put in place
- To protect the company from reputational risk
- To protect the company and its executives from civil and criminal risks

## HOW WE CAN HELP

- ◆ A multi-disciplinary approach (protection of personal data, combating money laundering and corruption, economic law, environment law, employment law, financial law etc.), with coordination of these various skills
- ◆ Proficiency in public and private international law and knowledge of cross-border issues
- ◆ Recognised expertise in the various aspects of compliance (programmes, mapping, whistleblowing, internal investigations, acquisition audits etc.)

## OUR REFERENCES

- ◆ Advising a number of French and foreign companies on implementing compliance programmes
- ◆ Carrying out compliance audits, including as part of mergers and acquisitions
- ◆ Advising companies in defining their internal and external commitments on social and environmental matters

## YOUR POINTS OF CONTACT

**Sophie Scemla** and **Jean-Philippe Pons-Henry** (compliance, combating corruption and money laundering, financial law), **Thierry Dor** (personal data and GDPR), **Jean-Nicolas Clément** (environment law), **Foulques de Rostolan** (employment law) and **Dimitri Dimitrov** (economic law), or your usual Gide contact on each of these topics

# RESPONSIBLE FINANCE

## IMPACT FUNDS

Impact funds meet management companies' and investors' wish to reconcile responsible investment with financial performance by selecting companies based on their positive impact on society. These funds are structured to facilitate the consideration and measurement of such impact criteria in order to support and improve the positive impact of those companies in which the funds are invested.

### YOUR CHALLENGES

- To combine financial profitability and positive impact
- To align interests and values between fund managers and their investors
- To define impact criteria and how to measure them
- To guarantee the transparency of reporting as regards impact criteria
- To successfully complete funding rounds

### HOW WE CAN HELP

- ◆ Recognised skill in structuring funds, particularly complex structuring transactions  
Advising fund managers and investors
- ◆ Experts in drafting legal documentation that integrates impact investment approaches, and particularly structuring carried interest related to impact criteria

### OUR REFERENCES

- ◆ Structuring a global positive impact fund
- ◆ Structuring an impact private equity fund
- ◆ Structuring a fund dedicated to renewable energy
- ◆ Structuring a fund that aims to develop "sustainable real estate" by financing construction or refurbishment projects for public and private buildings with high environmental performance

### YOUR POINTS OF CONTACT

**Stéphane Puel** and **Rima Maîtrehenry**, or your usual Gide contact on matters of fund structuring



# RESPONSIBLE FINANCE

## SUSTAINABILITY, SOCIAL AND GREEN BONDS / LOANS

To meet savers' expectations, transparency requirements, and enable financial players and borrowers to assert their CSR policy, it is becoming increasingly important to be able to direct funds to environmental and/or social projects. It is also a growing priority for public authorities and international institutions, in particular as regards the financing of energy and ecological transitions. Funding that is dedicated to such projects is growing considerably, becoming more sophisticated and meeting increasing demands for transparency.

### YOUR CHALLENGES

- To diversify your sources of funding
- To showcase your CSR policy
- To improve funding conditions or access to funding
- To meet investors' expectations as regards innovative sources of funding

### HOW WE CAN HELP

- ◆ In-depth knowledge of all finance-related fields
- ◆ Recognised expertise in responsible finance since its outset, and contribution to designing and improving market practices
- ◆ Close working relationship with the authorities and organisations working in the field

### OUR REFERENCES

- ◆ Assisting lenders and borrowers/issuers on a variety of financial products, including green, social and sustainability bonds, positive impact bonds, social inclusion bonds and climate bonds, green loans
- ◆ Assisting a banking syndicate on the issue of green bonds, worth EUR 4.75 billion
- ◆ Advising a borrower on implementing a EUR 2-billion loan with social and environmental criteria
- ◆ Advising various borrowers on matters of real estate or infrastructure financing with one or more external ratings on social and environmental criteria

### YOUR POINTS OF CONTACT

**Laetitia Lemerrier** (banking) and **Hubert du Vignaux** (bonds), or your usual Gide contact on matters of banking and finance law

# SHARING OF PROFIT AND VALUE

One of the most powerful tools to help reach extra-financial objectives or impact criteria is to align the interests of executives, employees or company founders with the performance obtained in the pursuit of these objectives. This requires the implementation of relevant remuneration, profit-sharing and value-sharing systems.

## YOUR CHALLENGES

- To interest employees and executives in the extra-financial performance of the company
- To meet the expectations of investment funds, in particular impact funds as part of their investments
- To understand and measure appropriate impact or extra-financial performance criteria
- To foster the alignment of executives and employees with the company's *raison d'être* or mission

## HOW WE CAN HELP

- ◆ Expertise in implementing profit-sharing mechanisms for employees and executives
- ◆ Recognised skill in private equity, venture capital and capital markets
- ◆ Legal and tax structuring

## OUR REFERENCES

- ◆ Advising listed and non-listed companies on the remuneration and profit-sharing policies for their executives and employees
- ◆ Advising an impact fund on the issue, by a start-up for its founders, of performance-based warrants (BSPCE) with impact criteria
- ◆ Advising impact funds on structuring their investments

## YOUR POINTS OF CONTACT

**Jean-François Louit** and **Caroline Lan** (incentive plans and management packages), **Louis Oudot de Dainville** (start-ups, venture capital), **Foulques de Rostolan** (employment law), and **Christian Nouel** (tax), or your usual Gide contact on each of these topics

# SHAREHOLDER FOUNDATIONS

Drawing inspiration from a widespread practice in northern Europe, an increasing number of business founders are looking to place in a foundation all or part of their company's capital to ensure its *raison d'être* and independence are safe for the long term. Dividends paid out to the foundation are used to finance missions of general interest. Some companies are looking to reconcile their lucrative activity with missions of general interest by paying into a foundation a part of the capital of their subsidiaries. Choosing the appropriate structure is essential to successfully carry out these projects.

## YOUR CHALLENGES

- To uphold the *raison d'être* of the company and taking the long term into account
- To tackle the issue of transmission / succession
- To implement a core shareholding structure
- To implement a hybrid model that combines a profit-making activity and a mission of general interest
- To establish a corporate philanthropy programme

## HOW WE CAN HELP

- ◆ Legal and tax structuring
- ◆ Contact assistance with the tax authorities
- ◆ Drafting legal documents

## OUR REFERENCES

- ◆ Transferring 100% of an independent media group's share capital to an endowment fund dedicated to defending the freedom of the press
- ◆ Transferring to an endowment fund part of the share capital of subsidiaries of a company active in the people service sector

## YOUR POINTS OF CONTACT

**Christian Nouel** (tax) and **Thomas Urlacher** (corporate law), or your usual Gide contact on each of these topics

# SPECIFIC CORPORATE STRUCTURES

Some legal structures are particularly suited to companies that place a social or societal mission at the heart of their activity. This is particularly the case of mutualist and cooperative structures. Emerging and long-standing players alike are bolstered by changes to the role of corporate structures, which highlight the relevance of their model that does not place economic performance in the service of creating value for shareholders.

## YOUR CHALLENGES

- To select structures and know accession conditions
- To respect the applicable operating rules
- To carry out merger transactions between companies subject to specific regimes
- To finance companies subject to specific regimes

## HOW WE CAN HELP

- ◆ In-depth knowledge of mutualist and cooperative corporate structures
- ◆ In-depth knowledge of merger transactions involving such companies

## OUR REFERENCES

- ◆ Advising on merger transactions between actors in the social protection sector
- ◆ Advising various actors in the cooperative sector on governance-related issues

## YOUR POINTS OF CONTACT

**Hugues Scalbert/Jean-Gabriel Flandrois** (mutualist and corporate structures) and **Jean-Gabriel Flandrois** (cooperative corporate structures), or your usual Gide contact on each of these topics

# REAL ESTATE: ENVIRONMENTAL AND SOCIAL IMPACTS

All companies integrate environmental considerations (energy consumption, waste, biodiversity) in the management of their property, often beyond what is required by law. Their objective is to obtain environmental certifications, control industrial processes, encourage a circular economy, and find commercial partners that are in line with their values. Actors in the real estate sector play a central role in society's balance, through the construction or refurbishment of housing that meets the expectations of citizens, and in particular the needs of the most underprivileged populations.

## YOUR CHALLENGES

- To build or refurbish buildings in a way that respects new environmental standards and obtains environmental certifications
- To sign green leases
- To implement agreements that foster a circular economy and the re-use of polluted lands
- To tackle issues of biodiversity and the moving of protected species
- To respect urban planning rules that encourage the construction of social housing
- To structure non-profit housing bodies (legal and tax)

## HOW WE CAN HELP

- ◆ Top skills in all real estate fields
- ◆ In-depth knowledge of environmental rules applicable to real estate, regardless of the type of asset (industrial, commercial, residential, hotel, logistics, leisure, medical/nursing, etc.)
- ◆ Ability to support innovation (assistance on France's first green leases, smart grids, substituted third party, and future land use)

## OUR REFERENCES

- ◆ Supporting a number of companies in signing green leases
- ◆ Structuring one of the first and most ambitious smart grids in France
- ◆ Advising a number of non-profit or social organisations on issues pertaining to property or lease

## YOUR POINTS OF CONTACT

**Jean-Nicolas Clément** (environment law) and **Bertrand Oldra** (real estate transactions and financing), or your usual Gide contact on each of these topics

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#### SHAREHOLDER FOUNDATIONS



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