

# CODE OF PRIVATE EQUITY GOVERNANCE AND CODE OF CONDUCT



**Australian Investment Council Limited**

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## Introduction

The Australian Investment Council Limited is the national industry body which represents participants in the Australian private equity (**PE**) and venture capital (**VC**) industry and promotes the recognition of the industry as a professionally managed, ethical and responsible participant within the Australian investment community.

The PE and VC industry is a significant contributor to Australia's business sector and the broader economy. Over the past decade, PE and VC fund managers (**General Partners**) have invested significant capital into Australian businesses, right across the spectrum of start-ups through to established firms (**Portfolio Companies**). The industry is a critically important driver of new businesses, expansion, economic growth, innovation and job creation.

The Australian Investment Council's members (**Members**) comprise most of the professionally managed PE and VC firms in Australia, their investors (such as major superannuation funds and other institutional investors) (**Limited Partners**), as well as the organisations which provide independent expert advice to support the activities of the industry.

The Australian Investment Council is a company limited by guarantee, and its Members are governed by the Australian Investment Council Constitution (**Constitution** or **Australian Investment Council Constitution**). Under the Constitution, Australian Investment Council and its Board of Directors have the power to formulate and issue codes of conduct and other guidelines and standards which must be followed by Members.

An important role of the Australian Investment Council is to provide governance stewardship to the industry. All Australian Investment Council Members recognise that good corporate governance is a key driver of creating sustainable and successful business enterprises and Portfolio Companies. The Australian Investment Council Board (which is comprised of Member representatives) regularly reviews and consults on the appropriate corporate governance framework, standards and principles for the industry, having regard to global best practices and the approaches taken by PE and VC industry bodies in other developed market jurisdictions around the world.

General Partner Members are regulated under the Corporations Act with respect to their investments in Portfolio Companies in Australia, including rules relating to financial reporting within Portfolio Companies, as well as their obligations as a provider of financial services under the Australian financial services licensing regime. Australian Investment Council, as custodian of the industry's professional Standards, has adopted and issued this Governance Code and Code of Conduct for its General Partner Members. The Governance Code and Code of Conduct embed obligations relating to specific conduct rules and principles within the Australian PE and VC industry to promote the highest professional standards – those rules and principles are intended to supplement the existing regulatory framework that applies to General Partners.

The Governance Code and Code of Conduct are principally directed towards the Australian Investment Council's General Partner members and their relationships with Limited Partners and Portfolio Companies, but the guidance and principles should apply to relationships between all Members who are participants in the industry, such as advisors and other independent experts.

**The Governance Code** is a set of six Principles with a series of recommended corporate governance practices and guidelines – rather than prescriptive rules – similar to the *Australian Stock Exchange's Corporate Governance Principles and Recommendations*. The application of the recommended governance practices and guidelines may be tailored to the individual circumstances and needs of General Partners, their funds and their Portfolio Companies. If a General Partner considers that any of the specific recommended governance practices or guidelines set out in the Governance Code are inappropriate to its particular circumstances, it has some flexibility not to adopt that aspect of the Governance Code but it must demonstrate how it meets the particular Governance Principle in an alternative way.

The Australian Investment Council General Partner Members who elect not to adopt any aspect of the Governance Code must be in a position to explain why – in essence, they must be able to satisfy the “if not, why not” test (see pages 3 to 7 and pages 11 to 13).

Adherence with the Governance Code is embedded as the first standard within the Code of Conduct, and as such, it is important that all General Partners maintain ongoing compliance with the six Principles.

**The Code of Conduct** prescribes the standards of conduct that General Partner Members must abide by in the day-to-day management and conduct of their businesses and Portfolio Companies. General Partner Members are expected to confirm each year, at the same time as renewing their ongoing Australian Investment Council membership, their adherence to the Code of Conduct (see pages 11 to 13).

On behalf of the Australian Investment Council, and the Board of Directors, we would like to thank Ashurst for their work in advising on the preparation of the original Governance Code, as well as Squire Patton Boggs for their time and efforts in producing this updated 2017 version. It is anticipated that revisions to the Code of Conduct will usually be undertaken on a two-yearly basis, or sooner if the Board determines that it is appropriate to do so.

## The Governance Code

The Governance Code establishes a set of six Principles which provide guidance on corporate governance practices for the Australian Investment Council's General Partner Members.

Although the Governance Code is directed at General Partner Members, the Australian Investment Council believes that all Members should be guided by the Principles in the Governance Code in respect of how they conduct their business and engage within the PE and VC industry.

The Governance Code does not prescribe how each of the six Principles are to be implemented. Instead, for each Principle, the Australian Investment Council provides recommended governance practices and guidelines.

General Partners who are Australian Investment Council Members are required to adopt and implement the recommended governance practices and guidelines for the six Principles of the Governance Code on an "if not, why not" basis. The Australian Investment Council recognises the diverse nature of PE and VC firms and their investment activities and that some General Partners may adopt different governance practices, and therefore a 'one size fits all' approach may not always be appropriate in every circumstance.

### Principles of the Governance Code

1. Promote and safeguard the interests of fund investors
2. Embed ethical, responsible and rigorous decision-making
3. Promote effective leadership and management
4. Respect the interests of stakeholders
5. Ensure the integrity and utility of reporting
6. Promote the long-term interests of the industry

Each Principle of the Governance Code acts as a benchmark for General Partners to inform their governance regimes, as well as their decision-making and reporting structures. The Australian Investment Council has consulted with Limited Partners to ensure that the Governance Code has broad-based support as a key element of the relationship they have with General Partners, and where appropriate, for the Governance Code to be incorporated into fund constituent documents such as partnership or trust deeds. The Australian Investment Council encourages General Partners to make publicly available key information about the approach they have adopted in implementing the Governance Code through key communication channels such as websites.

The Governance Code has been prepared having regard to the substantial body of law, regulation and literature in the field of corporate governance, as it applies to both the PE and VC industry and the corporate sector more broadly. The Governance Code has been developed in consultation with a wide range of stakeholders, and with reference to other existing corporate governance guidelines such as the *ASX Corporate Governance Principles and Recommendations* (2014). The Australian Investment Council Governance Code is intended to build upon, and complement, the disclosure and reporting obligations that already exist under the Corporations Act (and other relevant ASIC Regulatory Guidance), as well as the general conduct obligations of an Australian financial services licence holder under section 912A of the Corporations Act.

The development of the Governance Code has also been informed by various international initiatives designed to promote corporate governance best practices within the global PE and VC industry over recent years. These include initiatives by other national PE and VC industry associations (such as the *Invest Europe*<sup>1</sup>

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<sup>1</sup> Formerly the European Private Equity and Venture Capital Association.

*Professional Standards Handbook, November 2015*), Limited Partner associations, responsible investment advocacy groups, and public markets stakeholder groups.<sup>2</sup>

## The Governance Code: Principles and guidance

### Principle 1 Promote and safeguard the interests of fund investors

#### Background and guidance

- A General Partner's primary responsibility is to act in the best interests of its Limited Partners and provide effective stewardship of Limited Partners' capital.
- In meeting this responsibility:
  - fund structures and contractual terms should align the interests of General Partners with those of the Limited Partners, in particular with respect to the alignment of remuneration and reward; and
  - General Partners should have transparent policies and procedures for disclosing and fairly managing conflicts of interest (and to ensure the General Partner does not act in conflict with their Limited Partners' interests).
- General Partners should have a clearly articulated investment strategy, provide transparency in reporting of their investment outcomes and have internal management and reporting systems and processes which are consistent with their primary responsibility to act in the best interests of their Limited Partners.
- This Principle also recognises the General Partner's role in respecting and managing the different interests of different investors through effective disclosure and transparency of decision-making.

### Principle 2 Embed ethical, responsible and rigorous decision-making

#### Background and guidance

- Private equity and venture capital investing requires General Partners to assume and manage a spectrum of risks.
- This Principle requires General Partners to:
  - develop responsible investment policies and practices and appropriate growth strategies to build sustainable value in Portfolio Companies;
  - govern decision-making within an appropriate risk management framework;
  - embed a culture of fair and honest dealings; and
  - have internal management and reporting systems to ensure responsible and rigorous business practices in accordance with these policies, strategies and culture as well as the risk management framework.
- General Partners are encouraged to adopt remuneration practices which promote responsible investment decision making and the sustainable creation of value for Portfolio Companies.
- This Principle also draws upon the Australian Investment Council's activities in encouraging greater implementation of environmental, social and governance policies and practices in PE and VC activities. Australian Investment Council encourages General Partners to consider becoming signatories to the United Nations backed Principles for Responsible Investment. General Partners are also encouraged to

<sup>2</sup> The Key References (see pages 15 & 16) lists the key guidelines and regulations that have been taken into account in developing the Governance Code.

disclose publicly (for example by publishing on their website) the investment and operational policies and practices which they have developed or adopted in the investment in, and ongoing management of, their Portfolio Companies.

### Principle 3 Promote effective leadership and management

#### Background and guidance

- This principle requires General Partners to demonstrate leadership responsibility and accountability for effective and robust corporate governance regimes within their fund vehicles and Portfolio Companies.
- General Partners should embed and promote good corporate governance policies and procedures, compliance systems and reporting structures within their funds and Portfolio Companies. These policies and procedures should include initiatives to recruit, retain and promote women in leadership and management roles of the General Partner and Portfolio Companies, and build respectful and inclusive workplaces.
- General Partners should ensure their management teams are comprised of appropriately qualified and competent executives, with the necessary diversification of gender, ethnicity, skills, talents & experience.
- Portfolio Company boards should be composed of appropriately qualified and competent directors (having regard to diversity of gender, ethnicity, skills, talents & experience), who:
  - understand their statutory and common law duties to act in the best interest of the company;
  - have the resources to provide strategic guidance to the company; and
  - can effectively supervise and review the performance of management, including oversight of risk management.
- General Partners should ensure appropriate review systems and practices are in place within their fund vehicles and Portfolio Companies for effective and rigorous review, decision making and performance management.
- General Partners should ensure that the management teams of Portfolio Companies communicate in a timely and effective manner with their employees, in particular at the time of a strategic initiative, review or transaction involving the Portfolio Company, as soon as confidentiality constraints permit.
- General Partners should be able to demonstrate a shared understanding and awareness of the General Partner's approach to corporate governance principles and responsibilities amongst their management teams, personnel and the management teams of their Portfolio Companies.

### Principle 4 Respect the interests of stakeholders

#### Background and guidance

- The primary business of General Partners is to invest in Portfolio Companies and provide support to develop and grow those businesses. Ultimately, the financial and strategic investment of expertise by the General Partner is intended to enhance the value of those businesses and, in doing so, provide returns to Limited Partner investors.
- It is the responsibility of General Partners to identify and, to the extent they are able to, effectively manage the diverse interests of all stakeholders at both the fund and Portfolio Company levels (eg, investors, other shareholders in Portfolio Companies, Portfolio Company employees, financiers, suppliers, customers etc) to achieve appropriate results in the development and growth of Portfolio Companies.
- This Principle requires General Partners to:

- identify the way those stakeholders' legitimate interests may be affected by the business operations of the Portfolio Company and the investment decisions of the General Partner and its representatives; and
  - respect the legitimate interests of those stakeholders during the period of the relationship and to be pro-active in developing strategies and communication protocols for managing competing interests.
- General Partners should at all times take steps to promote trust and confidence in business relationships for the creation of sustainable value in Portfolio Companies.

#### Principle 5 Ensure the integrity and utility of reporting

##### Background and guidance

- This Principle requires General Partners to embed a culture of responsibility and accountability in their reporting obligations.
- General Partners:
  - are required to comply with the International Private Equity and Venture Capital (IPEV) Valuation Guidelines (relating to the valuation of investments) and Australian Investment Council's reporting guidelines; and
  - should have regard to reporting obligations and best practices which are developed in other jurisdictions around the world.
- General Partners should pro-actively engage with Limited Partners and provide transparency in their reporting processes and practices to Limited Partners.
- General Partners are encouraged to:
  - be pro-active in developing systems and processes (and training) for high quality reporting, as required to meet their contractual reporting obligations to Limited Partners and comply with IPEV Valuation Guidelines and regulatory reporting requirements under the Corporations Act applicable to Portfolio Companies; and
  - ensure robust and effective communication protocols and procedures are in place within fund vehicles and Portfolio Companies for timely and accurate reporting to management and boards.
- General Partners should publish and regularly update their websites to communicate the following information, subject to confidentiality and commercial sensitivity:
  - a description of the General Partner's history and investment approach, including investment holding periods, and where possible, illustrated with case studies;
  - information and biographies of the senior executives of the General Partner firm; and
  - a description of Portfolio Companies in the General Partner's portfolio.

#### Principle 6 Promote the long-term interests of the industry

##### Background and guidance

- This Principle draws upon the object of the Australian Investment Council stated in clause 3(b) of the Australian Investment Council Constitution "to promote the recognition of the industry as a professionally managed and ethical sector of the Australian investment community".
- Members should at all times be good corporate citizens and promote the benefits of corporate social responsibility.
- General Partners should embed the highest corporate governance practices in accordance with the Principles of the Governance Code and the Code of Conduct for the industry's wider benefit.

- General Partners should promote the importance of continuing education, training and professional development for participants in the industry.
  - General Partners are encouraged to engage and collaborate with the Australian Investment Council and their peers on industry issues and events and to support the development of the industry and the policies and regulations which underpin the industry.
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# Australian Investment Council membership and corporate governance

## Objects of Australian Investment Council

The objects of Australian Investment Council (as stated in clause 3(b) of the Australian Investment Council Constitution) include:

*“to promote the recognition of the industry as a professionally managed and ethical sector of the Australian Investment community, which is worthy of support by current investors and new participants.”*

## Australian Investment Council’s Governance Role

A key aspect of the Australian Investment Council’s role is to provide governance stewardship to the Australian PE and VC capital industry.

Under the Australian Investment Council Constitution:

1. Australian Investment Council has the power to formulate and issue by-laws, rules and regulations governing the Australian Investment Council and its Members and codes of conduct and valuation guidelines to be followed by the Australian Investment Council Members;
2. Members must conduct themselves in accordance with all by-laws, codes of conduct and other pronouncements of sound practice that are adopted by the Australian Investment Council Board; and
3. The Australian Investment Council Board has the power at any time to investigate the conduct or alleged misconduct of any Member and to censure, suspend or expel a Member or Member representative for misconduct or conduct which is prejudicial to the interests or objects of Australian Investment Council and its Members or the good name of Australian Investment Council and its reputation for promoting and retaining high standards of business conduct and professional competence.

## Governance of Australian Investment Council Members

Australian Investment Council Members are expected to comply with the following governance rules, standards, principles and valuation and reporting guidelines:

<b>Australian Investment Council constitution</b>	<p>The Constitution sets out the objects and powers of Australian Investment Council, the rules governing Australian Investment Council Membership and the relationship between the Australian Investment Council and its Members. It can be read here (at <a href="http://www.aic.co">www.aic.co</a>).</p>
<b>Australian Investment Council Code of Conduct</b>	<p>The Code of Conduct prescribes the standards of conduct that Members must adhere to in their day-to-day management and conduct of their businesses and Portfolio Companies. Members are expected to confirm each year on renewing their Australian Investment Council membership their adherence to the Code of Conduct.</p>
<b>Australian Investment Council Governance Code</b>	<p>The Governance Code provides a series of guidelines, rather than prescriptive rules, similar to the <i>ASX Corporate Governance Principles and Recommendations</i>. The application of the guidelines may be tailored to the individual circumstances and needs of General Partners, their funds and their Portfolio Companies. If a General Partner considers that any aspect of the Governance Code is inappropriate to its particular circumstances, it has the flexibility not to adopt it.</p>

	<p>However, Australian Investment Council Members who elect not to adopt any aspect of the Governance Code must be in a position to explain why – the “if not, why not” approach.</p>
<p><b>Australian Investment Council / IPEV valuation guidelines</b></p>	<p>These Valuation Guidelines are based on the concept of fair market value, as opposed to historical cost. A revised version of the Australian Investment Council/ IPEV Guidelines was released in December 2015. The Australian Investment Council requires each of its Investor Members to apply these Guidelines when reporting valuations to Investors. The Australian Investment Council/ IPEV Valuation Guidelines can be read here (at <a href="http://www.aic.co">www.aic.co</a>).</p>
<p><b>Australian Investment Council reporting guidelines</b></p>	<p>These Reporting Guidelines were adopted by the Australian Investment Council Board in June 2004. All Members must use these Guidelines, effective 1 January 2005. In October 2012, the IPEV Investor Reporting Guidelines were also released. The Australian Investment Council Reporting Guidelines and the IPEV Reporting Guidelines can be read here (at <a href="http://www.aic.co">www.aic.co</a>). In 2016, ILPA released a globally consistent best practice reporting template for use by General Partners in adopting a uniform approach to disclosure of costs, fees and carried interest to Limited Partners. The reporting template can be read here (at <a href="http://www.ilpa.org">www.ilpa.org</a>)</p>

Australian Investment Council Members are expected to follow and be guided by the following principles and guidelines regarding responsible investment:

<p><b>United Nations Principles for Responsible Investing</b></p>	<p>Since August 2009, Australian Investment Council has encouraged General Partners to sign the UN-backed Principles for Responsible Investment (PRI). This was done after consultation with industry through a Responsible Investing working group of the Australian Investment Council Board. The PRI was developed by an international group of investors to put responsible investing principles into practice. Subsequently, the ESG framework was developed to help General Partners understand and prepare for their Limited Partners’ reporting and disclosure requirements (see below). Information about the PRI and the ESG framework can be found here (at <a href="http://www.unpri.org">www.unpri.org</a>).</p>
<p><b>Environmental, Social and Corporate Governance (ESG) disclosure Framework for Private Equity</b></p>	<p>The ESG Disclosure Framework, launched in March 2013, aims to help General Partners better understand why Limited Partners want ESG related information, and to help rationalise the types of issues that LPs expect GPs to report on in respect of ESG. This framework was developed by 40 Limited Partners (including Australian based funds) and 20 private equity industry associations (including the Australian Investment Council) and several General Partners. This framework can be read here (at <a href="http://www.bvca.co.uk">www.bvca.co.uk</a>).</p>

### **Australian Investment Council’s Investigative Procedures**

The Australian Investment Council Board has the power at any time to investigate the alleged conduct of any Member. If a complaint is made to the Australian Investment Council about the conduct of a Member, or the Australian Investment Council Board believes that the conduct of a Member should be investigated, then the Australian Investment Council Board will appoint a Committee to investigate the matter (Committee). This Committee will have the same powers as the Australian Investment Council Board with respect to the Board’s investigative powers under clause 20 of the Constitution.

The Committee will be made up of five Members, of whom one will be the chair. For a person to be eligible for appointment to the Committee, the Australian Investment Council Board must first be satisfied that the prospective appointee has no unfair bias toward the Member whose conduct is the subject matter of investigation.

The Committee shall be entitled to require any Member to explain, or provide any information, or access to information (including access to witnesses as provided in clause 20.1 of the Constitution), required by the Committee in relation to any conduct or alleged conduct of such Member which the Committee considers is or may be:

- a. prejudicial to the interests or objects of the Australian Investment Council;
- b. prejudicial to the good name of the Australian Investment Council and its reputation for promoting and retaining high standards of business conduct and professional competence; or
- c. is in breach of the Code of Conduct.

If the Committee finds, in its absolute discretion, that any Member is guilty of conduct which is in breach of the Code of Conduct, is otherwise unbecoming a Member or is prejudicial to the objects of the Australian Investment Council, the Committee will have the power to censure, suspend or expel the Member in accordance with the Constitution.

The Committee may decide, in its absolute discretion, whether to publish the findings of any investigation.

## Governance Code

In issuing the Governance Code, Australian Investment Council aims to promote greater understanding of the PE and VC industry, promote industry transparency, inculcate appropriate industry best practice and provide guidance to its Members on corporate governance matters.

The importance of effective corporate governance in the efficient operation of companies is well understood. *"Effective corporate governance structures encourage companies to create value through entrepreneurialism, innovation, development and exploration, and provide accountability and control systems commensurate with the risks involved."*<sup>3</sup>

Building strong businesses with robust and embedded governance structures and processes creates value for Limited Partners and helps to develop the reputation of the Australian PE and VC industry as a sponsor of high quality businesses with long-term sustainability. The Governance Code draws and elaborates on the underlying values which shape the way in which General Partners carry on their businesses:

- *Responsibility* for taking into consideration the interests of key stakeholders.
- *Accountability* of General Partners and the board and management of Portfolio Companies.
- *Transparency* of the PE or VC fund's activities and those of their Portfolio Companies.
- *Integrity* in General Partners' dealings with Limited Partners and Portfolio Companies.
- *Stewardship* of the funds they manage and of the Portfolio Companies in which they invest.

The Governance Code provides a series of guidelines, rather than prescriptive rules, similar to the ASX Corporate Governance Principles and Recommendations (see pages 3 to 7 for further information as to how Members should be guided by the six Principles of the Governance Code for their corporate governance regimes and how they are expected to adopt and implement these Principles).

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<sup>3</sup> The ASX Corporate Governance Council, Corporate Governance Principles and Recommendations, with 2010 amendments, 2nd Edition, 2011, 3.

# Code of Conduct

## Code of Conduct

The Code of Conduct (see pages 11 to 13) sets out the standards of conduct that Members must meet or exceed as a requirement of the Australian Investment Council membership. Members shall abide by this Code of Conduct and any other standards issued by the Australian Investment Council Board or a committee appointed by the Australian Investment Council Board. Members shall require their directors, employees, representatives and nominees to abide by this Code of Conduct.

Each year when a Member renews its Australian Investment Council membership, it is expected to confirm its ongoing adherence to the Code of Conduct.

### 1. Integrity

- 1.1 We adhere to the Principles of the Governance Code and we conduct our business and manage our people and investments and implement business systems, processes and practices, in a manner that is guided by these Principles.<sup>4</sup>
- 1.2 We deal fairly and honestly with others in our conduct at all times
- 1.3 We do not malign, defame or criticise any other Member in any dealings with proposed client companies or otherwise.
- 1.4 We respect confidential information provided to us.
- 1.5 We conduct business in a professional way and we do not engage in practices that may be damaging to the professional reputation and image of the industry.

### 2. Compliance

- 2.1 We comply with all laws and regulations<sup>5</sup> relevant to the conduct of our business, including, without limitation, the general conduct obligations applicable to us as an Australian Financial Services License (AFSL) holder and the conditions of our AFSL, and where applicable, record keeping, financial reporting and disclosure of interests by directors under the Corporations Act.
- 2.2 We only accept subscribed capital from verified sources into any of our funds in accordance with applicable anti-money laundering and counter-terrorism laws and regulations.
- 2.3 We maintain sufficient financial resources and insurances to meet the anticipated risks of operating our business.
- 2.4 We have internal policies and procedures to monitor our compliance with relevant laws and regulations, and the conditions of our AFSL.
- 2.5 We deal with regulators in a co-operative manner.

### 3. Australian Investment Council

<sup>4</sup> If we elect not to adopt a recommended corporate governance practice or guideline for a Principle of the Governance Code, we must be in a position to explain why – the “if not, why not” approach.

<sup>5</sup> Relevant laws and regulations includes the Corporations Act 2001, Venture Capital Act 2002, Superannuation Industry Supervision Act 1993, Income Tax Assessment Act 1997, Income Tax Assessment Act 1936, Tax Administration Act 1953, Fringe Benefits Tax Assessment Act 1986, Pooled Development Funds Act 1992, Australian Consumer Law 2011, Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and relevant regulations related to such laws and includes any amendment, re-enactment or substitution of such laws and regulations and any subordinate legislation made under these laws

- 3.1 We deal with the Australian Investment Council in an open and co-operative manner and where requested, subject to confidentiality, keep the Australian Investment Council informed of relevant matters concerning our activities.
- 3.2 We abide by all directives issued by the Australian Investment Council and notified to Members<sup>6</sup>, including its Board, committees and councils.
- 3.3 We acknowledge the importance of the objective measurement of the industry. We will co-operate with the Australian Investment Council in the collation of industry data and analytics and in the provision of performance data requested by the Australian Investment Council.

#### 4. Relationships with investors and investees

- 4.1 We understand the requirements of our investors. We enter into an appropriate management agreement with investors (which may be the investment vehicle's constituent document).<sup>7</sup>
- 4.2 We acknowledge our primary business is investing in companies (whether established firms or start-ups) to develop innovation, develop management teams, improve business models and to build the strength and financial performance of our portfolio companies.
- 4.3 We actively monitor and manage potential and actual conflicts of interest and we pro-actively disclose and declare conflicts where necessary in accordance with the Corporations Act and our conflicts of interest policy.

#### 5. Performance management and reporting

- 5.1 We adopt standards for measuring and reporting investment performance that conform to the International Private Equity and Venture Capital Valuation Guidelines adopted by the Australian Investment Council.

#### 6. Marketing material

- 6.1 We comply with all regulatory requirements and all professional and regulatory standards when issuing marketing material and/ or placing advertisements for our products and services, including use of appropriate disclaimers and assumptions regarding historical and future performance.
- 6.2 All marketing material and offer documents that acknowledge membership of the Australian Investment Council include the following disclaimer:  
*"The Australian Investment Council does not endorse this document. Investors should make independent enquiries prior to investing. Australian Investment Council does not take any responsibility for the contents of this document."*
- 6.3 We provide the Australian Investment Council with draft sections of offer documents and any other marketing materials (including our website) that mention Australian Investment Council for approval.

<sup>6</sup> Any directives will be included as an Appendix to this Code of Conduct.

<sup>7</sup> The management agreement should detail the basis on which the general partner or fund manager is appointed, including making provisions for accurate and complete record keeping, full, fair, timely and clear reporting to investors on the management of their assets, and any custodial arrangements. Where necessary, the management agreement should also detail agreed investment objectives, investment powers and benchmarks against which your performance is to be measured.

6.4 We only insert statements in our offer documents and/or other marketing material (including our website) mentioning the Australian Investment Council with approval from the Australian Investment Council.

## 7. Media and public comment

7.1 In our engagement with media and public comment regarding the Australian Investment Council and public policy matters relevant to the PE and VC industry, we support the industry and the Australian Investment Council's role in representing the industry in a fair and impartial manner at all times.

## Glossary

<b>Corporations Act</b>	Corporations Act 2001 (Cth).
<b>General Partner</b>	The manager of a PE or VC fund is typically described as a "general partner" in the fund because they manage the fund and are often liable for its debts and obligations (subject to contractual arrangements). The term should be read to include each fund manager of a PE or VC fund, whatever the legal structure of the fund or manager.
<b>Limited Partner</b>	The investors of the PE or VC fund are typically described as "limited partners" in the fund as their liability for debts and obligations of the fund is limited to the amount of their investment in the fund. The term should be read to include all investors into PE or VC funds, whatever the legal structure of the fund or limited partner.
<b>Portfolio Company</b>	An investee company of the PE or VC fund. The terms should be read to include all investment vehicles of PE or VC funds, whatever the legal structure of the investment vehicle.
<b>Private Equity (PE)</b>	PE typically refers to investment by fixed term funds in listed and unlisted businesses, with the aim of building and improving those businesses over a period of years and creating value. PE is segmented according to the stage of development of the company being invested in or the purpose of the capital invested, for example: seed investment, early stage investment, expansion stage investment, growth capital, buyout investment and special situations (i.e. distressed buyouts). PE investment where there is a substantial element of risk is usually categorised as VC investment (see below). With the significant growth in investment opportunities in emerging technologies and new innovations across start-ups and existing businesses, there is increasing overlap between PE and VC investments.
<b>Venture Capital (VC)</b>	VC typically refers to investment by fixed term funds in start-up, early stage and expansion stage unlisted businesses, usually where there is high growth

potential, an opportunity for developing a new technology, innovation, product or service and there is a substantial element of risk.

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## Key references

The ASX Corporate Governance Council, Corporate Governance Principles and Recommendations with 2010 Amendments, second edition, 2010 The ASX Corporate Governance Council, Corporate Governance and Recommendations, third edition, 2014.	<a href="http://www.asx.com.au">www.asx.com.au</a>
Australian Council of Super Investors, ACSI Governance Guidelines, 2009	<a href="http://www.acsi.org.au">www.acsi.org.au</a>
British Venture Capital Association (BVCA), Responsible Investment: A Guide for PE and VC firms, 2010 British Venture Capital Association, BVCA Governance Handbook, 2013	<a href="http://www.bvca.co.uk">www.bvca.co.uk</a>
CFA Institute, The Corporate Governance of Listed Companies: A Manual for Investors, second edition, 2009	<a href="http://www.cfapubs.org">www.cfapubs.org</a>
Danish Venture Capital Association (DVCA), Guidelines For Responsible Ownership and Good Corporate Governance in Private Equity Funds in Denmark, 2008	<a href="http://www.dvca.dk/en/">www.dvca.dk/en/</a>
Global Reporting Initiative, Sustainability Reporting Guidelines version 3.1, 2011	<a href="http://www.globalreporting.org">www.globalreporting.org</a>
European Confederation of Directors' Associations (ecoDa), Corporate Governance Guidance and Principles for Unlisted Companies in Europe, 2010	<a href="http://www.ecoda.org">www.ecoda.org</a>
Invest Europe Corporate Governance Guidelines, 2005 (updated 2010)	<a href="http://www.investeurope.eu">www.investeurope.eu</a>
Invest Europe Reporting Guidelines, 2010	<a href="http://www.investeurope.eu">www.investeurope.eu</a>
Financial Reporting Council, The UK Stewardship Code, 2010	<a href="http://www.frc.org.uk">www.frc.org.uk</a>
Financial Services Council, Guidance Note No. 2 on Corporate Governance: A Guide for Fund Managers and Corporations, 2009	<a href="http://www.fsc.org.au">www.fsc.org.au</a>
Institutional Investors Group on Climate Change, A Guide on Climate Change for Private Equity Investors, 2010	<a href="http://www.iigcc.org">www.iigcc.org</a>
Finnish Venture Capital Association (FVCA), FVCA Recommendations on Openness and Transparency, 2009	<a href="http://www.fvca.fi/frontpage">www.fvca.fi/frontpage</a>
Hong Kong Venture Capital and Private Equity Association (HKVCA), Corporate Governance Guidelines	<a href="http://www.hkvca.com.hk/en/corporate-governance-guideline.aspx">www.hkvca.com.hk/en/corporate-governance-guideline.aspx</a>
Institutional Limited Partners Association (ILPA), Private Equity Principles Version 2.0, 2011	<a href="http://www.ilpa.org">www.ilpa.org</a>



Institutional Limited Partners Association (ILPA), Reporting Template, 2016	<a href="http://www.ilpa.org/best-practices/reporting-template/">www.ilpa.org/best-practices/reporting-template/</a>
International Organization of Securities Commissions (IOSCO), Private Equity Conflicts of Interest – Consultation Report, 2009	<a href="http://www.iosco.org">www.iosco.org</a>
International Organization of Securities Commissions (IOSCO), Private Equity – Final Report, 2008	<a href="http://www.iosco.org">www.iosco.org</a>
IPEV Board, International Private Equity and Venture Capital Valuation Guidelines, 2010	<a href="http://www.privateequityvaluation.com">www.privateequityvaluation.com</a>
Invest Europe (EVCA), Professional Standards Handbook, 2015	<a href="http://www.investeurope.eu/">www.investeurope.eu/</a>
Organisation for Economic Co-operation and Development, OECD Principles of Corporate Governance, 2004	<a href="http://www.oecd.org">www.oecd.org</a>
American Investment Council, Guidelines for Responsible Investment, 2009	<a href="http://www.investmentcouncil.org">www.investmentcouncil.org</a>
United Nations-backed Principles for Responsible Investment Initiative (PRI), Responsible Investment in Private Equity: A Guide for Limited Partners, second edition, 2011	<a href="http://www.unpri.org">www.unpri.org</a>
PRI, Responsible Investment in Private Equity: Case Studies, 2009	<a href="http://www.unpri.org">www.unpri.org</a>
Quoted Companies Alliance, Corporate Governance Code for Small and Mid-Size Quoted Companies, 2013	<a href="http://www.theqca.com/">www.theqca.com/</a>
Walker Working Group, Guidelines for Disclosure and Transparency in Private Equity, 2007	<a href="http://www.walker-gmg.co.uk">www.walker-gmg.co.uk</a>
World Economic Forum, Accelerating the Transition towards Sustainable Investing: Strategic Options for Investors, Corporations and other Key Stakeholders, 2011	<a href="http://www.weforum.org">www.weforum.org</a>