

- (2) La divulgación del Fondo deberá contener:
- (A) Explicaciones en torno a los riesgos y oportunidades en el Fondo así como eventos materiales incluyendo y no limitado a: fraude, incumplimiento material de deber fiduciario, incumplimiento material de acuerdo, mala fe y negligencia crasa.
 - (B) Certificado de cumplimiento del Fondo debidamente juramentado por el principal oficial ejecutivo con las disposiciones de esta Ley.
- (3) Convocar anualmente a una Reunión Anual General de Socios en la que el Socio General comparta información con respecto a la operación con sus Inversionistas y/o Socios Limitados.
- (4) OCIF estará facultada para realizar exámenes e inspecciones a los Fondos para cerciorarse que sus operaciones y los resultados financieros de las mismas han sido íntegramente informadas, cumplen con la obligación de lealtad a sus inversionistas y cumplen con los requisitos de esta Ley. El Fondo pagará el costo que determine la OCIF mediante reglamento para realizar dichos exámenes e inspecciones. La OCIF podrá en circunstancias de incumplimiento tomar las medidas que entienda necesaria incluyendo la liquidación del Fondo y la paralización de ofertas adicionales de sus valores.

Artículo 7.- Término de los Fondos

Todo Fondo será creado con un término de existencia que será determinado por los Socios Gestores del mismo. Esta Ley concede la capacidad del Socio Gestor a extender el término de existencia del Fondo por un periodo máximo de un (1) año automáticamente. Términos adicionales de existencia deberán ser aprobados conforme a estatutos del Fondo pero con el consentimiento mayoritario por votación de los Socios Limitados.

Sección 2.- En el caso de conflicto entre la versión en inglés y la versión en español de esta Ley, la versión en español prevalecerá en la interpretación de la misma. La versión en inglés será la siguiente:

Article 1.- Title

This act shall be known as the "Private Equity Funds Act".

Article 2.- Definitions

(a) "RIA" or "Registered Investment Advisor" means:

- (1) a business that, under a contract with another business (which could be a Fund), is engaged in the investment advisory business and regularly provides consulting services regarding the convenience of investing in, buying or selling securities or any other property, or is authorized to determine which securities or other assets will be purchased by said business,
- (2) any other person that in accordance with a contract with the person described in paragraph (1) regularly performs practically all the tasks described in such paragraph.

- (3) The person shall be registered (or be exempt from registration) under The Investment Advisers Act of 1940 of U.S.A., as amended (15 U.S.C. § 80b-1 et seq.), Act 60 of 1963, as amended, also known as the "Uniform Securities Act of Puerto Rico" or any other similar Act that supersedes said Acts.
- (4) The person shall be register with the SEC or CFIPR, if applicable.
- (b) "GDB" means the Government Development Bank for Puerto Rico created under the provisions of Act Num. 252 of May 13, 1942, as amended.
- (c) "EDB" means the Economic Development Bank for Puerto Rico created under the provisions of Act Num. 22 of July 24, 1985, as amended.
- (d) "Carried Interest" means the share of any profits that the general partners of a Fund receive as compensation for the gains realized from the Fund's operations.
- (e) "Code" means Act 1-2011, as amended, known as the Puerto Rico Internal Revenue Code of 2011 or any other similar Act that supersedes the same.
- (f) "PRCUSIC" means the Puerto Rico Credit Unions Supervision and Insurance Corporation created under the provisions of Act 114-2011, as amended or any other similar act that supersedes the same.
- (g) "IBE" means an International Banking Entity in accordance with the provisions of the International Banking Center Regulatory Act.
- (h) "IFE" means an International Financing Entity in accordance with the provisions of the International Financing Center Regulatory Act.
- (i) "PE-Firm" means a Private Equity Firm, which invests in private equity through a variety of investment strategies configured in Funds, such as: growth capital, leveraged buyout, mezzanine, distressed and venture capital. Typically this firm acts as a general or limited partner.
- (j) "PEF" means a Private Equity Fund in accordance with the provisions of Article 3 of this Act, created to invest in debt and capital securities.
- (k) "PR-PEF" means a Puerto Rico Private Equity Fund in accordance with the provisions of Article 3 of this Act, created to invest in debt and capital securities.
- (l) "FDIC" means the Federal Deposit Insurance Corporation.
- (m) "Fund" means a PEF and/or a PR-PEF as defined in this Article.
- (n) "Accredited Investors" means:
- (1) a bank, insurance company, registered investment company, business development entity, small business investment company, GDB, EDB, IBE or IFE. Irrespective of the provisions of the International Banking Center Regulatory Act and the International Financing Center Regulatory Act, it shall be understood that an IBE or an IFE, respectively may be considered Accredited Investors for the purposes of this Act;
 - (2) a Commonwealth of Puerto Rico employee benefits plan or any other employee benefits plan or trust as defined in the Employee Retirement Income Security Act of 1974 ("ERISA"), only if a bank, insurance company, or RIA make the investment decisions, or if the plan's total assets are greater than five million dollars (\$5,000,000);
 - (3) a nonprofit organization, corporation, association whose total assets are greater than five million dollars (\$5,000,000);
 - (4) a director, executive officer or general partner of the issuer of a offering securities;

- (5) an individual person with a net worth exceeding one million dollars (\$1,000,000) at the time of the purchase, not including the value of the individual person's main residence, either individually or jointly with his or her spouse;
- (6) an individual person that earned more than two hundred thousand dollars (\$200,000) in each of the last two (2) years prior to the purchase, or that earned a joint income of three hundred thousand dollars (\$300,000) with his or her spouse and expects to reasonably maintain the same level of income throughout the year in course;
- (7) a trust with total assets of more than five million dollars (\$5,000,000) that was not organized or created to purchase publicly traded securities and where a sophisticated person makes the purchase; or
- (8) any business in which the owners of the capital are accredited investors;
- (o) "Puerto Rico Investment Companies Act of 2013" means the Act 93-2013, as amended, known as the Puerto Rico Investment Companies Act of 2013 or any other similar act that supersedes the same.
- (p) "Investment Companies Act of Puerto Rico" means the Act Num. 6 of October 19, 1954, as amended, known as Investment Companies Act of Puerto Rico, or any other similar act that supersedes the same.
- (q) "Municipal Property Tax Act" it means the Act 83-1991, as amended, known as the Municipal Property Tax Act of 1991 or any other similar act that supersedes the same.
- (r) "Municipal License Tax Act" means the Act Num. 113 of July 10, 1974, as amended, known as the Municipal License Tax Act or any other similar act that supersedes the same.
- (s) "Act to Promote Export Services" means the Act 20-2012, as amended, known as the Act to Promote Export Services.
- (t) "Act to Incentivize the Transfer of Investor Individuals to Puerto Rico" means the Act 22-2012, as amended, known as Act to Incentivize the Transfer of Investor Individuals to Puerto Rico.
- (u) "International Banking Center Regulatory Act" means Act Num. 52 of August 11, 1989, as amended, known as the International Banking Center Regulatory Act or any other similar act that supersedes the same.
- (v) "International Financing Center Regulatory Act" means the Act 273-2012, as amended, known as International Financing Center Regulatory Act or any other similar act that supersedes the same.
- (w) "CFIPR" means the Commissioner of Financial Institutions of Puerto Rico created under the provisions of Act 4 of October 11, 1985, as amended, known as Financial Institutions Commissioner's Office Act.
- (x) "SBA" means the Small Business Administration.
- (y) "Secretary of Treasury" means the Secretary of the Puerto Rico Treasury Department.
- (z) "SEC" means the U.S. Securities and Exchange Commission created under the provisions of the Securities Exchange Act of 1934.
- (aa) "SIPC" means the Securities Investor Protection Corporation.
- (bb) "General Partners" means the group that comprises the Fund, in charge of the day-to-day operations of the Fund and usually conducts the investment activity using

part of its capital. General Partners have a fiduciary obligation to the Fund's investors.

Article 3.- Eligibility

(a) Any partnership or limited liability company organized under the laws of the Commonwealth of Puerto Rico, the United States of America or under any other foreign jurisdiction law, that works with investments on promissory notes, bonds, notes (including secured and unsecured loans and including the collateral), shares or any other securities of similar nature issued by entities that, at the time of acquisition, are not offered at public stock exchange markets in the United States or in any foreign country, shall qualify as a Fund under the provisions of this Act during each year that it complies with the following requisites:

- (1) office located in Puerto Rico;
- (2) a minimum of eighty percent (80%) of the paid-in capital contributed to the Fund by its Accredited Investors (excluding the capital that the Fund maintains in bank accounts and other cash equivalent investments) invested in promissory notes, bonds, notes (including secured and unsecured loans and including the collateral), shares or any other securities of similar nature issued by entities that at the time of acquisition are not offered at public stock exchange markets in the United States or in any foreign country;
- (3) the paid in capital contributions that have not been invested in accordance with paragraph 2, subsection (a) of this Article shall not exceed twenty percent (20%) and shall be maintained in one of the following investments:
 - (A) securities and obligations of the Commonwealth of Puerto Rico and/or the United States governments or instrumentalities or political subdivisions thereof if principal and interest are due within a fifteen (15) month period from the investment date;
 - (B) reselling agreements with institutions insured by the FDIC, SIPC, PRCUSIC, IBE, IFE and/or GDB if due within ninety (90) days or less. The securities relating to the reselling agreements shall be secured with respect to principal and interest by the United States of America or the Commonwealth of Puerto Rico and shall be investment grade. These securities shall be maintained on an institution insured by the FDIC or SIPC;
 - (C) certificates of deposit with a maturity date of one year or less, issued by institutions insured by the FDIC or the PRCUSIC;
 - (D) a deposit account in an institution insured by the FDIC or the PRCUSIC;
 - (E) checking account in an institution insured by the FDIC or the PRCUSIC;
 - (F) an account with reasonable cash balance for miscellaneous expenses; and/or
 - (G) investment certificates issued by GDB, IBE or IFE;
- (4) No later than four (4) years after its organization date and at the end of each subsequent fiscal year, a PEF shall maintain:
 - (A) a minimum of fifteen percent (15%) of the paid-in capital contributed to the Fund by Accredited Investors (excluding the capital that the Fund maintains in bank accounts and other cash equivalent

investments) invested in promissory notes, bonds, shares, notes (including secured and unsecured loans and including the collateral), or any other securities of similar nature issued by entities that at the time of acquisition are not offered at public stock exchange markets in the United States or in any foreign country and have been issued by a corporation, limited liability company, partnership, foreign or domestic, which derives at least eighty percent (80%) of its gross income for the prior three (3) years period from sources within Puerto Rico or from income effectively connected or treated as effectively in accordance with the Code provisions;

- (5) No later than four (4) years from its organization date and at the end of each subsequent fiscal year, a PEF-PR shall maintain:
- (A) a minimum of sixty percent (60%) of the paid-in capital contributed to the Fund by its Accredited Investors (excluding the capital that the Fund maintains in bank accounts and other cash equivalent investments) invested in one of the following:
- (i) promissory notes, bonds, shares, notes (including secured and unsecured loans and including the collateral) or any other securities of similar nature issued entities that at the time of acquisition are not offered at public stock exchange markets in the United States or in any foreign country, and that have been issued by a corporation, limited liability company, partnership, foreign or domestic, which derives at least eighty percent (80%) of its gross income for the prior three (3) years period from sources within Puerto Rico or from income effectively connected or treated as effectively in accordance with the Code provisions;
- (ii) exempt investment trust under Section 1112.01 of the Code,
- (6) that its investors qualify as Accredited Investors;
- (7) shall use a RIA, which shall be a domestic or foreign person with a business office in Puerto Rico engaged in a trade or business in Puerto Rico in accordance with the provisions of the Code and duly registered with the relevant regulators including, but not limited to CFIPR, the SEC, the SBA, as applicable;
- (8) shall operate as a diversified investment Fund, therefore, no later than four (4) years from the date of its organization and at the end of each subsequent fiscal year, no more than a twenty percent (20%) of its capital shall be invested in the same business. To determine the twenty percent (20%) investment limit in the same business, a controlled group of corporations or a group of related entities, as provided in Code Sections 1010.04 and 1010.05, will be considered as a business. Therefore, the amounts invested in one or more entities within a controlled group of corporations or a group of related entities shall be aggregated to determine if the Fund has complied with the twenty percent (20%) investment limit in the same business; and
- (9) shall have a minimum capital of ten million dollars (\$10,000,000), including legal commitments of capital contributions duly documented even if not yet

received within twenty-four (24) months from the Fund's first issuance of proprietary interests and subsequently.

(10) shall appoint at least one of its investors or limited partners in one Advisory Board where matters of interest and concerns regarding the Fund might be discussed and evaluated.

(11) in case of a foreign partnership or foreign limited liability company it shall be engaged in a trade or business in Puerto Rico and derive at least eighty (80) percent of its gross income from sources within Puerto Rico or from income effectively connected or treated as effectively connected in accordance with Code provisions.

Article 4.- Private Equity Fund Election

(a) Any entity that meets the eligibility requirements mentioned in Article 3 of this Act may choose to be treated as a Fund only if it notifies said election to the Secretary of Treasury no later than the last day of the third month after the inception date of the Fund. The Secretary of Treasury shall issue through public administrative determinations, circular letters and other similar communication of a general character establishing the form and manner in which the entity should make the election to be treated as a Fund.

(b) Failure to comply with the eligibility requirements will prevent the entity to qualify as a Fund during the year of breach and, therefore, the entity will be subject to the applicable taxation under the provisions of the Code, the Municipal License Tax Act, and the Municipal Property Tax Act. If the entity is disqualified for a particular taxable year due to failure of compliance in accordance with the provisions of this Act it shall request the Secretary of Treasury, subject to the requirements that he or she issues in public administrative determinations, circular letters and other similar communication of a general character, to be treated again as a Fund for subsequent taxable years.

Article 5.- Election Effects.

(a) Income Tax- The applicable provisions to partners of a partnership, as provided by Chapter 7 of the Subtitle A of the Code, shall apply to investors of a Fund (including taxable investors who have not contributed money or property in exchange for proprietary interests of the Fund and who have an interest in Fund profit). The Fund shall comply with all Code provisions relating to information (except the tax filing requirement of the Fund in accordance with the provisions of this Act) and tax withholding requirements.

(1) Fund

(A) Income- Interest and dividends income derived from the Fund will be excluded from its gross income and will be exempt from any tax imposed by the Code, to the extent that such income its derived from the interests, dividends, participation in partnerships, and capital gains generated by the Fund. The Fund shall file its applicable income tax return. If the Fund generates losses, it shall complete a form informing each Accredited Investor of its distributive share in such losses.

(2) Accredited Investors- Accredited Investors, Residents of Puerto Rico, of a Fund shall be responsible of income taxes on their distributive share of Fund income, except for the EDB and the GDB which are exempt of taxation in

accordance with their respective organic acts. In the case that Accredited Investors are nonresidents of Puerto Rico, the Fund shall withhold at source its applicable tax and shall remit it to the Department of Treasury of Puerto Rico. In both instances, the tax shall be paid according to the following rules:

- (A) Income- Income derived by Accredited Investors of the Fund from interest and dividends will pay an income tax to be computed using a fixed rate of ten percent (10%), to the extent that such income is derived from interests, dividends, participation in partnership, and capital gains generated by the Fund.
- (B) Capital Gains- The capital gains realized by Accredited Investors of the Fund from Puerto Rico sources shall be completely exempt from income tax.
- (C) Sale of Ownership Interest- The capital gains made by investors of the Fund in the sale of their proprietary interest in the Fund will be subject to income tax at a fixed rate of five percent (5%) in the year in which the sale occurs or income is perceived. If within ninety (90) days of the sale the Accredited Investor reinvests the entire gross income in a PEF-PR, the capital gains will not be subject to income tax.
- (D) Net Capital Loss- Net capital losses, including reserves incurred by the Funds, may be taken as a deduction by Accredited Investors of a Fund who are Residents of Puerto Rico up to its distributive share in the Fund losses to the extent that such losses are derived from a corporation, limited liability company, partnership, foreign or domestic, which derives at least eighty percent (80%) of its gross income for the prior three (3) years period from sources within Puerto Rico or from income effectively connected or treated as effectively in accordance with the Code provisions. The losses can only be used in the following manner:
 - (i) against income from other Funds to the extent that such losses are considered as capital losses at Fund level;
 - (ii) to reduce any capital gain generated by the Accredited Investor from other sources in accordance with the provisions of the Code;
 - (iii) losses in excess might be carried over indefinitely.

(3) General Partners

- (A) Income- Income derived by the General Partners of the Fund from interest and dividends will be subject to income tax at a fixed rate of five percent (5%) instead of being subject to any other tax provided in the Code.
- (B) Capital Gain- Capital gains made by General Partners or Sponsors of the Fund will be subject to a fixed income tax of two point five percent (2.5%) in the taxable year in which that sale occurs instead of being subject to any other tax provided in the Code.

(4) RIA and PE-Firm

- (A) Income- Income derived by RIA and PE-Firm from interest and dividends derived from the Fund will be subject to income tax at a

fixed rate of five percent (5%) instead of being subject to any other tax provided in the Code.

(B) Capital Gain- Capital gains made by RIA and PE-Firm of the Fund will be subject to a fixed income tax of two point five percent (2.5%) in the taxable year in which that sale occurs instead of being subject to any other tax provided in the Code.

(b) Incentive Acts Coordination

The provisions of the Act shall not be interpreted or understood as a limitation to tax treatment that the Accredited Investors, General Partners, or a RIA and PE-Firm might obtain under the provisions of any current or future Incentive Act including the Act to Promote Export Services and the Act to Incentivize the Transfer of Investor Individuals to Puerto Rico, if and only if the applicable requirements and application process provided in the applicable acts is completed.

(c) Initial Investment Treatment for Residents of Puerto Rico

Provided that after a Fund is in compliance with the investment requirements stated in Article 3 of this Act, every resident of Puerto Rico who invests in:

(1) a PEF may deduct up to a maximum of thirty percent (30%) of his or her initial investment within a maximum period of ten (10) years. Provided that the maximum deduction will not exceed fifteen percent (15%) of his or her net income prior to said deduction.

(2) a PEF-PR may deduct up to a maximum of sixty percent (60%) of his or her initial investment within a maximum period of fifteen (15) years. Provided that the maximum deduction will not exceed thirty percent (30%) of his or her net income prior to said deduction.

(d) Municipal License Tax Act.

(1) The income received by the Fund and the distributions that those entities make to their investors, shall not be considered "gross income" nor shall they be included under the definition of "volume of business" for purposes of the "Municipal License Tax Act".

(2) Funds will be exempt from filling the corresponding volume of business declaration provided in the Municipal License Tax Act.

(e) Property Tax.

(1) Personal and real properties belonging to a Fund will be exempt from any property tax imposed by any municipality or by the Commonwealth of Puerto Rico.

(2) The Funds shall be exempt from filling the corresponding return provided in the Municipal Property Tax Act.

(f) Investment Company Act. The Funds shall be exempt from compliance with the provisions of the "Investment Company Act of Puerto Rico" and the "Puerto Rico Investment Companies Act of 2013".

Article 6.- Information Disclosure

(a) Any participation or investment offer in a Fund shall be properly registered or notified to CFIPR and comply with all provisions of the Federal Security Law of the United States and Puerto Rico, as applicable with respect to disclosure and registration.

(b) Every Fund shall:

- (1) Inform its investors of its operating results on a quarterly basis (unaudited) and annually audited by a certified public accountant duly licensed in Puerto Rico in order to verify that the Fund is operating in accordance to the policies, practices, and agreements presented during its organization. The annually audited report shall include: internal return of investment ("IRI"), breakdown of fees and expenses of the partnership, summary of Capital Calls, debt summary and a letter from the General Partners to the investors.
- (2) The disclosure of the Fund shall include:
 - (A) Risks and opportunities in the Fund as well as material events including but not limited to: fraud, material breach of the fiduciary duty, material breach of an agreement, bad faith, and gross negligence.
 - (B) Certification of Fund compliance with provisions of this Act duly sworn by the chief executive officer.
- (3) Hold up a annual meeting for its partners in which the General Partners shares information regarding the operation of the Fund with its Investors and/or Limited Partners.
- (4) CFIPR shall have the power to conduct tests and inspections of the Funds to ensure that its operations and financial results have been properly informed, meet the fiduciary duty with its investors and comply with the requirements of this Act. The Fund will pay the cost established by the CFIPR under regulation to perform such tests and inspections. CFIPR will take the necessary actions including the liquidation of the Fund and cessation if additional offerings of its securities in the event of a breach.

Article 7.- Term of the Funds

Every Fund will be created with a term of existence that will be determined by its General Partners. The General Partner has the ability to automatically extend the term of existence of the Fund for a maximum period of one (1) year. Additional terms of existence shall require approval in accordance to Fund statutes to the extent that the majority of the Fund's limited partners consent the extension.

Sección 3.- Cláusula de Separabilidad.

Si algún Artículo o disposición de esta Ley fuera declarado nulo o inconstitucional por algún Tribunal con competencia y jurisdicción, la sentencia dictada no afectará ni invalidará las demás disposiciones de esta Ley, y su efecto se limitará al párrafo, artículo, parte o disposición declarada nula o inconstitucional.

Sección 4.- Vigencia.

Esta Ley comenzará a regir inmediatamente después de su aprobación.

DEPARTAMENTO DE ESTADO
Certificaciones, Reglamentos, Registro
de Notarios y Venta de Leyes
 Certifico que es copia fiel y exacta del original
 Fecha: 13 de noviembre de 2014

Firma: 
 Francisco J. Rodríguez Bernier
 Secretario Auxiliar de Servicios