



Private Equity and Venture Capital Funds - Regulatory Recommendations for Market Development

Introduction

This concept note presents recommendations for the **Securities and Exchange Commission (SEC)** and the **National Pensions Regulatory Authority (NPRA)** to foster the growth of the private equity (PE) and venture capital (VC) asset class in Ghana. These recommendations, from industry practitioners and specialists, aim to build on the progress already made by the regulators in their market development mandates. Adopting a **proactive and adaptive regulatory approach, competitively** aligned with best practices in established regional PE / VC jurisdictions, will accelerate the creation of a mature and vibrant PE and VC ecosystem in Ghana, balancing investor protection with the productive deployment of capital into the real economy.

Key Recommendations

1. Distinct Categorization and Regulation

Challenge: The PE/VC asset class is often grouped with other "alternative" investments, leading to inadequate minimum capital regulation and misaligned reporting requirements. This lack of specific categorization prevents a nuanced regulatory approach tailored to the unique, technical characteristics of PE/VC funds.

Recommendation: In line with best practices from mature private equity jurisdictions in Africa, regulators should create a **distinct category for the PE/VC asset class** to ensure appropriate and specific regulatory frameworks. The GVCA believes that the Venture Capital Trust Fund Act, 2004 (Act 680) provides a good framework for this distinct categorization. This will help clarify the asset class' unique nature and technical requirements for both regulators and investors.



2. Balanced Capital Requirements

Challenge: High minimum capital requirements can hinder the entry and growth of PE/VC markets, PE/VC fund managers and fund investors (ie. limited partners (LPs)). While necessary for stability, overly stringent requirements can stifle the development of the market and limit the growth of assets under management (AUM), as well as cap capital deployment to portfolio SMEs impacting development outcomes like job creation, tax generation and private sector development.

Recommendation: In line with best practices in well established private equity jurisdictions, regulators should **balance minimum capital requirements** to support well established as well as emerging private equity firms, without compromising investor protection. A tiered approach or a gradual increase in requirements could encourage new entrants while ensuring a sufficient safety net.

We recommend that further to the SEC's reclassification of licenses PE/VC funds and fund managers be so categorized and any increase in minimum capital requirements for existing licenced funds and fund managers be implemented over a minimum phased period of three years. Capitalization for new PE/VC fund managers may be tiered based on fund size to reach the minimum by three years after the First Close of its first fund.

3. Mandated Regular Reporting by LPs and GPs

LP Reporting Recommendations: Regulators should **mandate regular reporting** from institutional investors on their allocations to alternative assets generally, as well as specifically to the PE/VC asset class.

GP Reporting Recommendations: The PE fund managers would be required to report the following metrics on a quarterly basis for each fund managed and in aggregate (where applicable):

Name of fund, First Close Date, Final Close Date, Status (Raising/Closed), AUM in GHS, Invested Capital in GHS, no. of portfolio companies, no of fund investors, no of non-Ghanaian investors in the fund, location of portfolio companies, taxes paid by fund



PE Fund Managers may continue to submit the Cash Flow Report and Statement of Liquid Funds as currently pertains for Investment Advisors.

4. Tax Breaks Specifically Targeted at the PE/VC Asset Class

One of the ultimate and unintended consequences of designing funds to overcome the restrictiveness of limited company structures during wind-down is a higher tax burden on investment returns. This directly results from the relatively small tranche of equity in the fund structure creating the impression of very high capital gains (on the equity tranche) for a given return on total assets (comprising equity and shareholder loans). For instance for an Equity:Shareholder Loan ratio of 1:5, a 10% return on assets would translate to an implied 50% “capital gain” on which the fund would be required to pay taxes first upon distribution from the investee, and again upon distribution on fund investors as dividends or capital.

This tax multiplier effect makes it less interesting for potential LPs to invest in PE/VC funds. GVCA, in the interest growing a vibrant sector, requests a **zero rating** the following taxes for funds managed by locally-licensed PE Fund Managers and with a majority stake held by local LPs:

- VAT on management fees
- Withholding Taxes on Dividends, Capital Gains and Interest received from the investees of PE/VC Funds
- Corporate taxes on funds
- Tax deductibility by corporate and institutional fund investors -this will address the tax burden indicated above

5. Domiciliation of PE / VC Funds - Accelerating Limited Partnership Act

Ghana is well positioned and has a unique opportunity to establish itself as a hub of regional PE / VC however this national opportunity is hindered by the lack of a specific Limited Partnership framework making the country uncompetitive and unattractive as a jurisdiction for a thriving PE / VC market as compared to established regional markets like Mauritius, Egypt, South Africa, Nigeria and Kenya.

Work is underway, with the Ministry of Finance supporting the development of a Limited Partnership Act and GVCA, in close partnership with the Venture Capital Trust Fund



continues to advocate for this Act to be championed and expedited to support the growth of enterprise investments and taxes raised in the real economy.