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Establishing a Business in France (Practical Law, 2013-2014 Edition)

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MULTI-JURISDICTIONAL GUIDE 2013/14
ESTABLISHING A BUSINESS IN...

ACC Association of
Corporate Counsel

Establishing a business in France

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LEGAL SYSTEM

1. What is the legal system in your jurisdiction based on (for example, civil law, common law or a mixture of both)?

The French legal system is based on civil law.

BUSINESS VEHICLES

2. What are the main forms of business vehicle used in your jurisdiction? What are the advantages and disadvantages of each vehicle?

The main forms of business vehicle used in France are:

- Classic joint-stock company (société anonyme à conseil d'administration) (SA).
- Simplified joint-stock company (société par actions simplifiée) (SAS).
- Limited liability company (société à responsabilité limitée) (SARL).

These vehicles are created for a commercial purpose and governed by the French Commercial Code and the French Civil Code.

The Societas Europaea is not commonly used in France.

SA

Advantages. An SA can make a public offering and be admitted to a regulated market. The SA is suitable for large corporations.

Disadvantages. The disadvantages are that it has significant organisational requirements.

Formalities. It is necessary to register the SA with the Trade Registry (Registre du Commerce et des Sociétés) (see Question 3). Separate accounts must be kept and annual reports filed each year with the Trade Registry (see Question 3).

There are certain formalities which only apply to a listed SA:

- An admission of securities to trading on a regulated market must be submitted to the Financial Markets Authority (Autorité des Marchés Financiers) (AMF) (see box, The regulatory authorities).
- When admission is obtained:
 - "regulated information" (mainly financial and accounting information) concerning the company must be periodically filed with the AMF;
 - specific operations concerning the company (for example, crossing of shareholding thresholds, and conclusion of shareholders' agreements) must be disclosed to the AMF.

Rights attaching to the shares. Shareholders have rights to receive dividends, vote in general meetings and to have access to corporate information.

Restrictions. SAs have a minimum of seven members, and a minimum share capital of EUR37,000. Public offerings are allowed. Shares can be issued for non-cash contributions, except for contributions of services or technical knowledge (apports en industrie). The management consists of a board of three to 18 members. It is mandatory to have statutory auditors. Transfers of shares are freely determined by the bye-laws.

Liabilities. The liability of shareholders for the company's debts is limited to the size of their contribution.

SAS

Advantages. The SAS has a flexible organisational structure, and is suitable for holding and foreign companies.

Disadvantages. A SAS cannot be admitted to a regulated market.

Formalities. It is necessary to register the SAS with the Trade Registry (see Question 3). Separate accounts must be kept and annual reports filed each year with the Trade Registry (see Question 3).

Rights attaching to the shares. Shareholders have rights to receive dividends, vote in general meetings and to have access to corporate information.

Restrictions. The number of members and share capital can be freely determined by the bye-laws. Public offerings are not allowed. Shares can be issued for non-cash contributions, including contributions of services or technical knowledge. The management consists of a president, who can be a natural person or legal entity, and possibly a specific board or committee.

It is mandatory to have statutory auditors when either:

- The SAS controls or is controlled by one or several companies.
- Two of the three following thresholds are reached:
 - turnover (not including VAT): EUR2 million;
 - total balance sheet: EUR1 million;
 - 20 employees.

Transfers of shares are freely determined by the bye-laws.

Liabilities. See above, SA: Liabilities.

SARL

Advantages. A SARL is easy to incorporate and operate.

Disadvantages. A SARL has a maximum of 100 members and is suitable only for small businesses.

Formalities. It is necessary to register the SARL with the Trade Registry (see Question 3). Separate accounts must be kept and annual reports filed each year with the Trade Registry (see Question 3).

Country Q&A

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Soulier Avocats has authored the ***Establishing a business in France*** Guide edited by the leading British legal publisher Practical Law.

This Guide, edited in the form of a Q&A guide, addresses all key issues facing foreign investors wishing to set up a business in France and constitutes a working reference material to the business environment in France.

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