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Legal Regulation of The Activities of Foreign Investment Funds (A Comparative Study)

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Abbreviations:
- M – Market
- CM – Capital Market
- FM – Financial Market
- IF – Investment Fund
- UTI – Unit Trus Investment
- MF – Mutual Fund
- PFR – Private Fund Regulation
- FDI – Foreign Direct Investment
- G – Government
- Mongolia – Mongolia
- China – PRC (People's Republic of China)
- Korea – ROK (Republic of Korea)
- USA – United States of America
- Russia – Russian Federation
- INT – International

Investment funds remain a leading sector in capital markets today, and countries are continuously improving the legal regulations governing fund operations. Although this is a relatively new concept in Mongolia, investment funds have been an important financial institution internationally since 1774.

Regarding the origins and development of investment funds, some researchers trace their emergence back to the Netherlands in 1774 when trading companies merged. Specifically, Adrian van Ketwich, an Amsterdam merchant, believed that by pooling many small investors and consolidating management, profits could be increased, and risks reduced. He established a trust-based fund named **"Eendragt Maakt Magt"** (which translates to "Unity Makes Strength"), laying the foundation for investment funds. Other researchers argue that the first investment fund was established in the Netherlands in 1822 under King William I. [1] Based on these perspectives, investment funds can be considered to have originated in the 17th-18th centuries. Similar investment partnerships emerged in Switzerland in 1849 and Scotland in 1880, later spreading to the UK, France, and the USA by the 1890s. [2]

The next wave of investment funds began in the USA in 1924 with the establishment of the first open-ended mutual fund, the "Massachusetts Investors Trust". However, in recent decades, the global economy has faced multiple crises:
- The 2008-2009 global financial crisis,
- The 2010-2012 European sovereign debt crisis,
- The 2014-2016 decline in commodity prices.

Investment funds collect capital from the public and, through professional research and analysis, invest in high-yield financial instruments such as stocks and bonds traded on domestic and international markets. This allows unit holders to benefit from returns on investments.

The "International Investment Fund Association (IIFA)" is the leading global organization representing investment funds. It currently comprises associations from 38 countries and two regions, managing assets worth trillions of dollars.

[1] A brief history of mutual fund www.investopedia.com/articles/mutualfund/05/mfhistory.asp
[2] A brief history of mutual fund www.investopedia.com/articles/mutualfund/05/mfhistory.asp

The IIFA unites market participants and facilitates discussions on key industry issues. Its main objectives are to "enhance collaboration among members, exchange information on investment sectors, and share best practices". The global significance of investment funds continues to grow, with both the number of funds and their assets increasing annually. For instance, between 2011 and 2023, the number of open-ended funds worldwide grew by nearly 60%, solidifying the role of mutual funds in financial markets. Nearly half of mutual fund assets are concentrated in the USA. [3]

COMMONLY USED FUNDS WORLDWIDE: NATIONAL INVESTMENT FUNDS

National investment funds (NIFs) involve government participation and include financial assets, securities, bonds, property, precious metals, and other financial instruments. They act as institutions that stabilize national finances and allocate resources to various economic sectors. Instead of simply accumulating budget surpluses, a portion of these funds is invested to generate returns for current and future use.

The establishment of national investment funds varies by country. These funds are typically based on collective market economies, meaning they diverge from free-market principles and align with social-democratic ideologies.

There are three main types of national investment funds:

1. "Resource-Based Funds" (e.g., Russia, UAE)
2. "Foreign Exchange Reserve-Based Funds" (e.g., China, Singapore)
3. "Pension and Social Security Funds" (e.g., Norway, some European countries)

Investment funds come in various forms, such as:

- "Closed-end funds" (with a fixed number of shares)
- "Open-end funds" (with unlimited shares and potential capital growth)

CATEGORIES OF INVESTMENT FUNDS BY INVESTOR TYPE

Funds are classified based on the number and type of investors: [4]

a) **"Retail investment funds"**: Available to all individuals. Examples include:
  - UCITS (Undertakings for the Collective Investment in Transferable Securities)
  - Exchange-traded funds (ETFs)
  - Pension funds
  - Mutual funds

b) **"Private investment funds"**: Limited to specific investor categories, such as:
  - Accredited investors
  - High-net-worth individuals
  - Institutional investors
  - Hedge funds
  - Private equity funds
  - Venture capital funds
  - Family offices

c) **"Challenges faced by mutual funds":** Despite offering diversification and professional management, mutual funds encounter challenges such as high management fees, which may reduce profits over time. Fund costs significantly impact investor returns, making expense ratios a crucial factor in fund management.

In 2023, the expense ratio for actively managed funds was 0.65%, while for passively managed funds, it was 0.05%. Market fluctuations can lead to short-term losses, especially in passively managed funds, as mutual fund values are closely linked to the performance of underlying assets. Technological advancements, such as robo-advisors, have made investment more accessible. Additionally, regulatory changes in countries like the UK and the US have increased fee transparency.

Mutual funds provide access, diversification, and professional management to investors worldwide, maintaining their importance in global investment strategies despite market challenges.

THE ROLE OF INVESTMENT FUNDS IN GLOBAL MARKETS

Investment funds play a crucial role in economic stability by aggregating capital from numerous investors. Globally, investment funds operate as open-ended and closed-ended funds, investing in stocks, bonds, money markets, and mixed funds.

Currently, over 90% of mutual funds worldwide are open-ended.

Key factors influencing investment fund development:

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[3] Mutual fund worldwide- statistics and facts https://www.statista.com/topics/1441/mutual-funds/#topicOverview

[4] Defining and capturing information on beneficial ownership of investment funds https://www.openownership.org/en/publications/defining-and-capturing-information-on-the-beneficial-ownership-of-investment-funds/introduction-to-investment-funds/

- Capital market maturity
- Investor interest
- Diversified investment instruments
- Market liquidity
- Regulatory environment
- The development of investment funds varies between countries and regions, depending on the investment fund's fees.

REGULATORY FRAMEWORK FOR INVESTMENT FUNDS

Investment fund regulation varies by country, influenced by legal frameworks, market dynamics, financial laws, and capital market development.

Key aspects of international investment fund oversight:

1. **“Regulatory Supervision”:**
   - Governments establish rules covering registration, disclosure, investment restrictions, risk management, and reporting.
   - Regulatory oversight ensures fund compliance and investor protection.
2. **“Legal Jurisdiction”:**
   - Each country has specific regulations governing fund structure, investment strategy, marketing, and investor protection.
   - International laws impact cross-border fund operations and regulatory cooperation.
3. **“Cross-Border Investment Regulations”:**
   - These regulations control foreign ownership, capital repatriation, and currency exchange.
   - Restrictions may affect a fund’s ability to attract foreign investors and invest internationally.
4. **“Ongoing Compliance Monitoring”:**
   - Regulatory authorities conduct audits, inspections, and reporting reviews to ensure compliance.
5. **“Market Infrastructure”:**
   - Well-developed capital market infrastructure (stock exchanges, clearing houses, and payment systems) supports investment fund operations and enhances market efficiency.
6. **“Industry best practices and standards”:** Industry associations and self-regulatory organizations often set international best practices and standards for mutual funds. These guidelines, developed by the International Organization of Securities Commissions (IOSCO), can influence mutual fund oversight by promoting consistent and effective risk management, valuation practices, and transparency standards.
7. **“Risk management”:** The oversight framework typically emphasizes the implementation of sound risk management practices by mutual funds. This includes assessing and managing a variety of risks, including market risk, liquidity risk, operational risk, and compliance risk. Regulators provide guidance and oversight on risk management systems and processes.
8. **“U.S. Mutual Fund Regulation”:** The first U.S. open-end investment fund, **“The Massachusetts Investors Trust”**, was established in 1924. A key reason for the success of the U.S. equity market is that mutual funds have become “customer-friendly, easy-to-use, and investable, while providing high returns.” That is why, as of 2021, 102.6 million individuals in the United States own mutual fund units.[5] Today, the number of regulated funds on the stock market worldwide is increasing every year, and their net assets have grown by 12 percent per year, which continues to attract investors.

The idea of pooling resources and spreading risk using closed-end investments was introduced in the United States in the 1890s. For example, the “Boston Private Equity Trust”, established in 1893, was the first closed-end fund in America, and according to Collins Advisors, its investments were mainly real estate, which today can be described as a “hedge fund” rather than a mutual fund.[6]

Its modern version, the exchange-traded fund, has taken the markets by storm since the Great Recession of 2007-2009[7], and although the number of registered mutual funds in the United States has fallen from a little over 7,500 over the past two decades, more than half of American households now own a mutual fund.[8] In the United States, the level of household wealth held in regulated funds is almost twice as high as in bank deposits, a stark contrast to Europe and Japan, where households hold their wealth in savings or currencies.

The future trend in the development of mutual funds is the growth of socially responsible and environmental, social and governance funds. At the same time, mutual fund investment has generally increased as countries such

[5] Investment fund https://unread.today/c/investment-fund

[6] A brief history of mutual fund https://www.investopedia.com/articles/mutualfund/05/mfhistory.asp

[7] Мөн тэнд

[8] Mutual fund worldwide-statistics and facts https://www.statista.com/topics/1441/mutual-funds/#topicOverview

as India and China have grown in population and are looking to increase their savings.[9] 103.9 million Americans invest in mutual funds, aiming to be financially independent in retirement. By some estimates, mutual funds, hedge funds, private equity funds, venture capital funds, exchange-traded funds, and closed-end funds in the United States collectively hold $18 trillion, indicating that mutual funds control a vast amount of wealth.

Independent fund advisers account for 79% of investment firms in the U.S. financial market and manage 67% of investment firm assets. This includes other professional participants in the financial market, such as non-U.S. fund advisers, insurance companies, banks, thrifts, and brokerage firms. However, the board of directors, which protects the interests of the fund's investors, oversees the fund's operations. Third-party providers of services to the fund include formal advisors, registrars, administrators, and supervisors. Of these, the most important service provider to the fund is the Investment Adviser, who regularly conducts research on how to manage the fund's assets and what securities to buy and sell, and is responsible for managing the fund's assets efficiently and safely.

Fund administration accounts for 10% of the total employment in the industry and is led by the Fund's Investment Advisor, who is responsible for ensuring that the fund is compliant with financial accounting regulations. Fund administration activities include the back office (back office) accounting services, data processing, accounting, internal audit, compliance and risk management activities required to operate the fund. Management staff are responsible for overseeing compliance with regulatory requirements, such as preparing reports on plans and financial statements for shareholders, issuing regulatory reports, supervising fund service providers, and preparing tax returns. Compliance and internal controls are supported and approved by the fund's board of directors and senior management. Brokers and fund managers make up 26% of the workforce and are responsible for marketing the fund, product development, and investor relations.

In the United States, mutual funds are classified as long-term (including stocks, bonds, and balanced funds) and short-term (money market funds). Money market funds are short-term funds because they purchase securities with short maturities and are readily convertible, such as treasury bills, commercial papers, and certificates of deposit. Investors often use these funds instead of bank deposits. The fund provides investors with the advantage of professional management, diversification, and the ability to invest in liquid securities.

However, some researchers are critical of some of the indicators of mutual funds. For example,

1. Expenses: Critics such as John Bogle and David Swenson are critical of mutual fund expenses. The Investment Company Institute (ICI) reported in 2014 that the average expense ratio for stock funds was 1.33% (weighted average 0.70%) and for bond funds was 0.98% (weighted average 0.57%). Mutual fund assets increased 1,600-fold between 1950 and 2004, while expenses increased 2,400-fold. These expenses are reducing investor returns.

2. Turnover: John Bogle showed that from 1945 to 1965, stock mutual funds generated an average turnover of 17% (averaged over 6 years). Since 1965, turnover has increased to 100% (averaged over 1 year). This increase in turnover has increased the fund's transfer costs and has also increased tax benefits.

3. Organizational Structure: When a mutual fund is structured as an external management company, there is a conflict of interest. The profits of the external management company must flow from the fund's shareholders to the shareholders of the management company.

Expenses incurred in operating the fund:

- Investment advisory fees or management fees (fees paid to the fund manager)
- Administrative expenses (registration, billing, customer service, postage, etc.)
- (marketing expenses, distribution expenses, and a maximum annual fee of 1% set by the SEC)

The expense ratio of the mutual fund's issuers is expressed as the total expense ratio divided by the average total expenses of the fund's net assets. In some cases, the mutual fund may waive its expense ratio. Some waivers are due to late fees, while others are due to location. If the total expense ratio is not equal to the net expense ratio, the total expense ratio reflects the fund's associated expenses and fees. Therefore, it is in some ways an indicator of the payment agreement.

One important indicator of funds is **cash flow**. The cash flow of an investment fund is an important indicator of the value of the fund and the stability and low probability of losses for investors.

Supervision of U.S. investment funds: In the United States, the supervision of investment funds is primarily carried out by two main regulatory agencies: the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC).

Securities and Exchange Commission (SEC): The SEC is the primary regulatory agency for investment companies such as mutual funds, exchange-traded funds (ETFs), and closed-end funds. The SEC reviews the registration statements, disclosure documents, and periodic reports filed by investment companies to ensure that the fund's activities comply with applicable regulations. This is intended to prevent fraud, misrepresentation, and violations of securities laws. The SEC also oversees investment advisers that provide services to IFs and enforces regulations under the Investment Advisers Act of 1940.

[9] Мөн тэнд

Commodity Futures Trading Commission (CFTC): The CFTC regulates commodity funds that trade in commodity futures, options, and swaps markets. It oversees commodity fund operators and commodity trading advisors who manage commodity funds and provide advice on commodity trading. The CFTC enforces the regulations of the Commodity Exchange Act (CEA) and works to ensure fair and transparent trading in the commodity markets.

There are regulatory agencies that play a role in the supervision of investment funds, such as the **Financial Industry Regulatory Authority (FINRA)**. FINRA oversees broker-dealers who sell and distribute investment funds and ensures that they comply with applicable rules and industry standards.

US Exchange Traded Funds: As of 2024, **Exchange Traded Funds (ETFs)** are the world's largest fund by assets. In recent years, there have been some changes in the structure and investment strategies of these funds. The total assets of open-end investment funds traded on exchanges are estimated to be approximately **$5.5 trillion**. **60%** of these funds are concentrated in the US market, and the remaining **40%** are allocated to international markets.

US Closed-end funds: Total assets of closed-end funds in the US are expected to reach approximately **$300 billion** by 2024, up from 558 closed-end funds with $261 billion in assets under management at the end of 2017. The number of closed-end funds is expected to reach approximately **550** by 2024, a decrease of **58** funds from 2017, possibly due to mergers, reorganizations, or market changes. Closed-end funds are managed by professional managers in accordance with the fund's investment objectives and policies, investing in stocks, bonds, and other securities, and using leverage to implement investment strategies under strict regulations and within the permitted limits.

The leverage used by "closed-end funds" is divided into:

1. Structural leverage
2. Portfolio leverage.

Structural leverage: Structural leverage in US mutual funds refers to the strategy of increasing the return on assets by borrowing a certain percentage of the fund's total assets and making additional investments. The use of leverage increases the potential for higher returns, but also carries risks. As of 2024, the level of structural leverage among US mutual funds varied. For example, for closed-end funds, the leverage level ranged from 20% to 30%, while some funds used higher levels of leverage.

Unit trust investment (UTI): A unit trust that manages the pooling of investors' assets, typically investing in stocks, bonds, real estate, and other assets. Investors become participants in the fund through shares. Among the US investment trusts, for example, **Vanguard Group**[10] - Well-organized investment trust management and one of the major leaders in stock and index funds. As of 2024, it manages $ 9.3 trillion in assets, including employee pension savings funds. **BlackRock**[11] - The world's leading organization in terms of the size of mutual funds and manages international investments. **Fidelity Investments**[12] - Manages a wide range of investment funds.

"Mutual fund" in the US: In the classical sense, it has developed and constitutes 48% of the world's total assets and plays a major role in the economy. It is a classic type of financial intermediary, or mutual fund. For example, in the US, approximately **8,000** mutual funds operate, and the total assets under management are estimated to have reached **$ 23 trillion** by the end of 2024.

The main sources of legal regulation of investment funds in the United States are:[13]

- Rules that govern the operation of mutual funds;
- The Securities and Exchange Commission (SEC) was established by the Securities Act of 1934, which gives the SEC the authority to regulate the securities industry.
- The Investment Company Act of 1940 regulates investment funds, like other companies. It focuses on the investment objectives, structure, and operations of investment companies;
- The Securities and Exchange Commission Act of 1994 requires investors to obtain certain material information about securities offered for sale in the public market and prohibits the making of false statements that would mislead the public about the sale of securities;

Types of investment funds in the United States: A investment fund is a fund that pools the assets of a large number of investors who are interested in purchasing securities and then uses the management skills of a professional investor to generate income. There are several main types of investment funds, each with its own unique structure, investment policies, and instruments.

Most investment funds in the United States are of this type. Investment funds allow small or individual investors to create professionally managed portfolios of stocks, bonds, and other securities. Therefore, each shareholder

[10] Vanguardgroup, https://www.ituc-csi.org/the-vanguard-group-en
[11] blackRock, https://www.blackrock.com/fund-regulatory
[12] Fidelity Investments, https://www.wikipedia.com/
[13] Statutues and Regulation https://www.sec.gov/rules-regulations/statutes-regulations

participates in the fund's profits and losses proportionally. Mutual funds invest in a large number of securities, and their performance is usually determined by the total market value of the fund.

Exchange-traded funds: These are a type of investment fund for business owners who want more flexibility with their investment funds. Like closed-end funds, exchange-traded funds are traded on an exchange and can be traded throughout the business day.

Money market funds: These are short-term debt investments. The main feature is that the money market is a safe or low-risk, highly liquid, and has a relatively low rate of return.

Hedge Funds: Compared to other funds, they are less regulated by the Securities and Exchange Commission, so they are generally only accessible to accredited investors. Hedge funds use a variety of strategies to generate high returns, or alpha, for their investors, either in absolute terms or against market benchmarks, and are actively traded on domestic and international markets.

Investment funds are also classified as open-end and closed-end funds based on their strategies. The majority of investment funds are **open-end investment funds**. As investors add money to the fund, new shares are continuously issued, and they are usually priced at a single price at the end of the trading day.

Closed-end funds trade more like stocks than open-end funds. They raise money by offering a certain number of shares to the public and trade on an exchange like a company's stock. They calculate the fund's net asset value and trade based on the supply and demand of investors. They are purchased through a brokerage account and have many of the same advantages as stocks.

The main representative of **private equity** is the **"hedge fund"**, which can be understood **as a large fund for wealthy investors**, without a precise definition in law or generally accepted, and generally unregulated.

The US Securities and Exchange Commission's website defines a "hedge fund" as "a private investment fund that pays a certain amount of fees and commissions to investment advisors, borrows in excess of its own capital, and engages in leveraged trading with the right to borrow in excess of its own capital." Hedge funds invest in a wide range of financial instruments, such as derivatives and futures traded on over-the-counter markets, that seek to outperform the benchmark returns of a particular security index. The legal regulation of funds varies from country to country, but in major countries such as the United States, where hedge funds are concentrated, the requirements for private equity funds are relatively lax and flexible. Under U.S. law, a hedge fund is an active investment firm that has the right to lend a certain percentage of its unrealized gains to one or more investment advisors, or to create positions worth up to twice its net assets, and that engages in active investment practices, such as buying and selling securities and other instruments on credit.

Investment Advisers Act of 1940: Hedge funds that manage a certain amount of assets (over $110 million) are required to register as investment advisors with the SEC under this law. The law requires advisors to disclose their activities, payments, and conflicts of interest.

Dodd-Frank Act (2010): Introduced additional disclosure requirements for hedge funds, particularly those related to SEC registration. Hedge funds with more than $150 million in assets under management must file regular reports on their activities under the Dodd-Frank Act.

Accredited Investor Rule: Hedge funds typically limit their investors to accredited investors as defined by the SEC. This is an investor who meets certain financial criteria (for example, earning $200,000 per year or having a net worth of $1 million excluding their principal place of residence).

Regulation D (Rule 506): Hedge funds generally rely on Rule 506 of D to exempt certain private offerings from full SEC registration and to raise capital from a limited number of investors.

Venture Capital Fund: A venture capital fund is an unregulated fund that invests in start-up and early-stage businesses and is structured similar to a hedge fund. It is also similar to a private equity fund in that it attracts long-term investments and raises additional capital from investors during the life of the fund. It participates in the operations of the invested company through the board of directors and executive management and withdraws its capital if the value of the company increases from the investment.

Legal entity fund: In the United States, domestic private equity funds are established in the form of a limited partnership to create investors subject to US tax laws. The fund is established by a General Partner and an Investment Advisor and does not have a Board of Directors or a supervisory body. The fund contracts with professional organizations such as broker-dealers, custodians, lawyers, accountants, and registrars to provide services. The criteria for establishing a private equity fund are loose and flexible.

Mutual funds: Regulator: US Securities and Exchange Commission (SEC). Regulatory Framework: **Investment Company Act of 1940:** This act establishes the structure and standards for the operation of mutual funds and other investment companies, and is designed to act in the best interests of their shareholders.

Securities Act of 1933: Mutual funds are required by the U.S. Securities and Exchange Commission to file a registration statement containing detailed information about the fund's purpose, risks, fees, and past performance.

Securities Exchange Act of 1934: Regulates the trading and reporting requirements of mutual funds, particularly regarding transparency in financial statements and investor disclosures.

Dodd-Frank Wall Street Reform and Consumer Protection Act: Although it applies more broadly to financial institutions, parts of this act regulate mutual funds and other asset managers by increasing transparency and controlling systemic risk.

The Securities Act of 1933: The U.S. stock market crash of 1929 is explained by a variety of factors, but most agree that "the crisis was caused by the inadequacy of the legal framework that was in place to develop the stock market." The Securities Act is explained by the need to revive the collapsed stock market and bring the economy out of the crisis.

The main regulation of the Securities Act is to create a transparent and fair capital market, or to provide investors with the mandatory disclosure of financial and other important information related to securities sold in the open market, and to create regulations that prohibit fraudulent acts in securities trading.[14] This act requires investors to obtain certain important information about securities offered for sale in the public market. It also prohibits the sale of securities by falsifying or making false statements.

Securities Trading Act. /1934/[15] - the law regulating relations related to trading in the secondary securities market has become a rather unique document, defining the legal status, powers and responsibilities of the Stock Exchange.

The adoption of these laws created a real opportunity for the development of the securities market and, moreover, created the prerequisites for the emergence of investment funds. The substantive law of the US securities market was formed with the adoption of the Securities and Exchange Act of 1933, while the procedural law was formed with the adoption of the Securities Exchange Act of 1934.

Investment Company Act /1940/[16]: The US Securities and Exchange Commission developed the Investment Company Act of 1940 in order to restore investor confidence in investment funds after the market crash and to protect investors from future abuse.[17] The law regulates relations related to investment funds and regulates the structure, operation, and functions of investment vehicles, investment, reinvestment, securities trading, companies that offer their securities to the investing public, and the organization of mutual funds.

The main purpose of the law is to make information about the fund and its investment objectives, the structure and activities of the investment company available to the public, and more than 60 regulations approved in accordance with the law are in force.[18]

Specific regulations for US investment funds: State authorities involved in the regulation of investment funds:

The Securities and Exchange Commission is the main body and has the right to supervise the activities of entities engaged in securities trading.

Obtaining a special license for investment funds or entering the market: The Investment Company Act establishes equal regulatory rights for all investment funds, regardless of whether they are managed by a manager registered in the United States. There are no high criteria for establishing a investment fund, such as a place of business or having a large amount of initial capital. For example, if you have $ 100,000 in equity, you can establish one, and the founder does not have to be a US citizen or permanent resident.

Trust Indecture Act /1939/[19]. Regulates the sale of bonds, debentures, and other securities to the public. For example, securities may be registered under the Securities Act, but they cannot be sold to the public unless the agreement between the issuer and the bondholder, known as the "Trust Indecture," meets the standards of this Act.

The Investment Company Act /1940/[20] regulates the organization of companies, including mutual funds, that are primarily engaged in the business of investing, reinvesting, and trading in securities and that offer their securities to the investing public. The law requires these companies to initially sell their shares and then to regularly report their financial condition and investment policies to investors. **The main purpose of the law** is to make information about the fund and its investment objectives, and the structure and operations of the investment company available to the investing public. It is important to remember that the law does not allow the SEC to directly monitor the investment decisions and activities of these companies, nor to judge the performance of their investments. **For example,** the United States has the largest mutual fund industry in the world, with $32 trillion

[14] Securities act of 1933 https://www.sec.gov/rules-regulations/statutes-regulations#secact1933
[15] Securities exchange act of 1934 https://www.govinfo.gov/content/pkg/COMPS-1885/pdf/COMPS-1885.pdf
[16] Investment company act of 1940 https://www.govinfo.gov/content/pkg/COMPS-1879/pdf/COMPS-1879.pdf
[17] Comparative Analysis of U.S. and Saudi Arabia Investment Funds Regulations
[18] www.sec.gov/answers/about-lawsshtml.html#invoact1940
[19] Trust indenture act of 1939 https://www.govinfo.gov/content/pkg/COMPS-1888/pdf/COMPS-1888.pdf
[20] Investment company act of 1940 https://www.govinfo.gov/content/pkg/COMPS-1879/pdf/COMPS-1879.pdf

in assets under management in 2022. The EU has approximately $19 trillion under management in mutual funds as of 2021.[21]

The Act[22] is a major piece of legislation that imposes significant requirements on the organization and operation of investment funds, and the U.S. Securities and Exchange Commission (SEC) issues rules to effectively regulate and manage retail and private investment funds.

These rules are intended to protect investors by increasing the transparency, fairness, competition, and efficiency of investment and securities markets. They include requiring private fund advisors to provide investors with certain quarterly information about their financial fees, expenses, and performance, and requiring that each private fund advised be audited annually and distributed to investors.[23]

Sarbanes-Oxley Act[24] (2002): This law was signed into law by U.S. President George W. Bush on July 30, 2002, and was described as "the most comprehensive reform of American business practices since the time of Franklin Delano Roosevelt." The Act mandated reforms to improve corporate accountability, increase financial transparency, combat corporate and accounting fraud, and established the Public Company Accounting Oversight Board to oversee the auditing profession.

Legal Status of IFs: An Investment Fund is established as a corporate business with the option of a legal status such as LLC or LLP. Some states in the United States allow IFs to be formed in other forms. Rather than treating IFs separately, the Act regulates investment companies and does not set a maximum term for IFs. Regulations issued pursuant to the Investment Company Act of 1940 specifically regulate “mutual funds,” “exchange-traded funds,” “money market funds,” “index funds,” “private funds,” and “hedge funds.”

Investment Restrictions: A mutual fund may invest in a variety of investment instruments, but the Investment Company Act of 1940 allows a diversified fund to invest only in the investment instrument it is diversifying into. Under this law, a mutual fund is prohibited from investing 5 percent or more of its total investment in a single security, and from investing 10 percent or more of the securities issued by a single issuer.[25]

In addition, it is prohibited from investing in any investment instrument that is considered illiquid. It is stipulated that if a mutual fund invests in inventory or real estate, it must be included in the investment policy document in advance and registered with the competent authority, and any changes to the investment policy document of the fund must be approved by a meeting of unit holders.

The main reason why the US stock market is successful today is that the investment fund is an institution that meets the needs of users, is easy to use, and provides high returns on investment.

Legal regulation of the Investment Fund of the Republic of Korea: The policy of supporting FDI in the Republic of Korea began to be carried out intensively in the 1980s. For example:

- Reducing the threshold for foreign investment for FDI (in 1981, it was reduced from 500,000 won to 100,000 won);
- Simplifying and automating the process and procedures for granting permits;
- Allowing foreign investors to enter sectors that were previously closed to manufacturing and services;
- Reducing the number of requirements required of FDI to implement projects;
- Allowing FDI to purchase, own, and use land and real estate for business purposes;
- Increasing investment incentives and expanding their scope.

As a result of the policy to support FDI, the investment barrier index has improved and the impact of foreign direct investment on the economy (GDP) has increased. Since the Asian economic crisis of 1997-1998, the Republic of Korea has been supporting FDI through policies, with the aim of, first, introducing new technologies from abroad and improving business competitiveness (microeconomic impact), and second, reducing trade and current account deficits (macroeconomic impact).

At this time, the investment policy of the Republic of Korea is considered to have shifted from a “prohibition and control” approach to a “support and assistance” approach. Also, as a result of changes such as the adoption of the Foreign Investment Promotion Act (FIPA), the main regulation of FDI in 1998, the share of FI in GDP has increased dramatically since 1998, and the investment barrier index has become less than 1 unit.

Within the legal framework supporting foreign direct investment (FDI), the government has eliminated various restrictions and unnecessary regulations that hinder foreign investment, created an open market for FDI, and implemented various incentives and programs to attract foreign investors. As a result, since the global financial

[21] Defining and capturing information on beneficial ownership of investment funds https://www.openownership.org/en/publications/defining-and-capturing-information-on-the-beneficial-ownership-of-investment-funds/introduction-to-investment-funds/

[22] АНУ-ын 1940 оны “Хөрөнгө оруулалтын компанийн тухай хууль”

[23] Мөн тэнд

[24] Sarbanes-oxley act of 2002 https://www.govinfo.gov/content/pkg/COMPS-1883/pdf/COMPS-1883.pdf

[25] Investment company act of 1940 https://www.govinfo.gov/content/pkg/COMPS-1879/pdf/COMPS-1879.pdf

crisis of 2008–2009, FDI in the country has steadily increased. The volume of foreign investment, which reached USD 13.7 billion in 2011, continued to grow and reached a historical high of USD 26.9 billion in 2018.
According to UNCTAD's "World Investment Report", foreign direct investment in South Korea reached USD 284.1 billion by the end of 2024.[26]
Despite the growth of FDI, there is criticism that some of the country's laws, regulations, and conditions continue to hinder investment. For instance, some FDI-related rules and regulations are insufficient and non-transparent, and unexpected amendments to laws and procedures may contradict other existing laws. In addition, underdeveloped corporate governance, high labor costs, and an inflexible labor system are among the challenges often mentioned.
According to research by Santander, the positive and negative aspects of investing in South Korea are as follows:
Positive Aspects:
- Highly skilled labor force;
- Strong research and development (R&D) capacity;
- A leading producer of high-value electronic products;
- Well-developed infrastructure;
- A highly developed banking system;
- Strong financial capability (large foreign exchange reserves, low external debt);
- Consumers with purchasing power and a desire for high-quality, high-value goods and services;
- High household income;
- Well-developed sea and air transport networks.

Negative Aspects:
- Restrictive and opaque legal regulations;
- Dominance of large conglomerates in the business sector;
- High labor costs (high wage levels);
- Aging population;
- Frequent changes in contractual agreements;
- High prices for real estate (renting and owning);
- Unique industrial standards;
- Dependence on imported raw materials;
- High unemployment and debt levels among the younger generation;
- Tense relations with North Korea.

In the early stages, South Korea's FDI policy mainly focused on increasing the number and volume of investments, offering incentives and benefits in proportion to the investment amount. Over the years, the support for investors has grown annually, and the tax environment was stabilized relative to the investment threshold, which created favorable conditions for embedding investment in the local market.
Over time, South Korea's investment policy has shifted toward supporting qualitative growth. For example, the country now prioritizes sectors that create potential economic growth, improve international competitiveness, promote the production of value-added goods, and generate large numbers of jobs.

Current approaches to supporting FDI focus on the following key directions:
1. Establishing a comprehensive solution system;
2. Improving laws, regulations, and systems related to FDI;
3. Reforming regulations and procedures that hinder investment;
4. Supporting investment and enhancing industrial competitiveness.

Establishing a comprehensive solution system:
The South Korean government has developed a system to listen to and address challenges faced by FDI-related companies. It organizes meetings chaired by the Minister of Trade, Industry, and Energy. In addition, regular meetings are held between the directors of FDI companies and the Director of Trade and Investment, and the Deputy Minister regularly meets with members of foreign chambers of commerce and economic officers residing in the country to exchange views.
Moreover, the government organizes special group meetings and sector-specific meetings with companies operating in the same field to discuss difficulties faced by investors and explore solutions.
Improving Laws, Regulations, and Systems Related to Foreign Direct Investment (FDI):
The Government of the Republic of Korea (ROK) revises regulations that hinder FDI, simplifies regulations on new industrial sectors, and improves FDI regulations with the goal of promoting and localizing new sectors and

[26] South Korea: Foreign Investment https://santandertrade.com/en/portal/establish-overseas/south-korea/foreign-investment

new industries. It allows free market entry unless explicitly prohibited by law and prohibits regulatory restrictions through other means if not stipulated by law. The law governing non-profit FDIs has been revised, and a re-examination is being conducted on the 29 sectors where FDI was previously restricted or prohibited in the fields of technology, science, culture, arts, and research and development, with continuous research being undertaken to improve the legal environment and attract more FDI.

The Korean government mainly provides FDI incentives in the form of tax reductions, such as corporate tax, income tax, local taxes, real estate tax exemptions, and customs duty exemptions for goods and products. In certain cases, if requirements are met, both the central and local governments offer financial support for FDI. This includes subsidies for land acquisition costs, rental payments, training, and educational expenses for employees. If specific conditions are satisfied, the Korean government offers land to FDI companies at a discounted rate or even free of charge. Additionally, support is provided in the form of subsidies for wage differentials and other measures.

Investment Funds in Korea:

Investment funds in the Republic of Korea are primarily regulated by the Financial Services Commission (FSC) and the Financial Supervisory Service (FSS). Key legislation governing investment funds includes:

-Financial Investment Services and Capital Markets Act (FSCMA): This law regulates the establishment, registration, and operations of collective investment schemes such as mutual funds, ETFs, and hedge funds. It also governs financial market participants such as brokers and fund managers.

Types of Investment Funds in Korea:

- Mutual Funds
- Exchange-Traded Funds (ETFs)
- Private Equity Funds
- Hedge Funds
- Real Estate Investment Trusts (REITs)

Mutual Funds:

- Structure: Collective investment schemes where multiple investors pool their funds, managed by a professional fund manager.

- Liquidity: Mutual funds in Korea are traded at the Net Asset Value (NAV) at the end of the trading day, which makes them less liquid compared to ETFs.

- Management: Funds may be actively or passively managed. Actively managed funds aim to outperform the market, while passively managed funds track specific indices.

- Fees: Management fees vary depending on active or passive management, typically ranging between 0.5% and 2%.

- Risk and Return: Risk and return depend on the fund type. Actively managed funds tend to have higher returns and higher risks, while passively managed funds offer stable returns with lower risk.

- Minimum Investment: Mutual funds in Korea generally require a minimum investment of 100,000 KRW or more.

Hedge Funds:

- Structure: Korean hedge funds utilize various strategies such as long/short positions, leverage, and derivative trading to achieve high returns.

- Liquidity: Like private equity funds, hedge funds are usually illiquid, with lock-up periods ranging from 1 to 3 years.

- Management: Actively managed by fund managers who make ongoing decisions regarding asset allocation using complex financial strategies.

- Fees: Hedge funds generally charge management fees (1–2%) and performance fees (typically 20% of profits).

- Risk and Return: Hedge funds have high return potential but are also highly risky due to leverage and complex trading strategies.

- Minimum Investment: Minimum investment requirements for hedge funds tend to be high, often requiring large capital contributions (typically 1 billion KRW or more).

Legal Framework of the Republic of Korea's Foreign Direct Investment (FDI) Law[27]

The Foreign Investment Promotion Act (FIPA) of the Republic of Korea was first enacted in 1998. Between 1998 and 2002, it underwent a total of 15 amendments, and currently consists of 8 chapters and 37 articles.

Purpose of the Law:

[27] Foreign investment promotion act https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=55490&type=part&key=19

The main objective of the Act is to encourage and promote foreign investment in every possible way in order to contribute to the rapid economic development of the Republic of Korea.
Investment Declaration and Certification:
Foreign direct investments must be reported to the Ministry of Strategy and Finance, which subsequently issues a certificate confirming the foreign investment.
Forms of Investment:
Investments may be made in the form of cash, property, business ownership rights, real estate, stocks, and intellectual property rights, among others. A Foreign Investment Promotion Center operates under the Korea Trade-Investment Promotion Agency (KOTRA) to support FDI activities.

Chapter 1: General Provisions
This chapter defines the purpose of the law (Article 1), relevant terms and definitions, scope of application, and the overall legal framework concerning FDI. It also outlines the policy direction, permitted and restricted industries (Article 2), protection of foreign investment (Article 3), and the principles of liberalization (Article 4).
- The capital or proceeds from shares acquired by a foreign investor, proceeds from the sale of shares, interest and principal from loans, service fees, and advance payments related to technology transfer contracts must be verified and confirmed in accordance with the investment agreement, approval, or technology transfer procedures.
- Unless otherwise stipulated by this Act, foreign investors and foreign-invested companies shall be treated equally with domestic companies in terms of business activities.
- Tax incentives (Article 3) such as exemptions or reductions in corporate tax, income tax, property tax, and others shall also apply to foreign-invested companies, entities extending loans, or companies introducing technology.

National Security and Public Policy:
Foreign individuals and entities may engage in business activities unless those activities are:
- Harmful to national security,
- Threatening to public order, health, or morals,
- Not permitted under Korean law.

Industries where FDI is restricted may be designated by Presidential Decree.

Chapter 2: FDI Procedures
This chapter outlines the stages of foreign investment, including:
- Purchasing new or existing shares,
- Acquiring shares through mergers,
- Making investments via long-term loans.

It also regulates the reporting and notification duties of foreign investors to relevant authorities.

Chapter 3: Support for FDI
Tax Incentives (Article 9):
Foreign-invested companies are eligible for tax exemptions and reductions under the Special Tax Treatment Control Act, including:
- Corporate tax,
- Registration tax,
- Asset tax,
- Unified land tax.

Use and Lease of Public Property (Article 13):
The Minister of Strategy and Finance, public property management agencies, and local governments may grant foreign-invested companies the right to use, lease, or generate revenue from national or local public property, including land, factories, and facilities, under contractual agreements and in compliance with the Public Property and Local Finance Act.
Local Government Support (Article 14):
Local governments are authorized to:
- Request government funding for FDI zones,
- Provide loans for land acquisition,
- Offer “rent exemptions or reductions”,
- Cover “training and education costs”,
- Support “FDI promotional projects”.

Investment Promotion Center & Ombudsman (Article 15):
KOTRA shall establish a Foreign Investment Promotion Center to:
- Provide consulting and guidance,
- Conduct promotional activities,
- Assist with applications,

- Perform research for foreign investors and companies.

In addition, Ombudsmen, composed of experienced professionals in foreign investment, may be appointed to mediate and negotiate between parties and offer expert support.

FDI Centers in Cities and Districts (Article 16):

Metropolitan cities and districts may establish their own FDI centers.

Handling of Civil Complaints (Article 17):

This article stipulates procedures for addressing civil claims raised by foreign investors.

Chapter 4: FDI Zones

Designation of FDI Zones (Article 18):

Mayors and governors have the authority to designate, develop, or abolish specific foreign investment zones, and the procedure for doing so is governed by this article.

Infrastructure Support (Article 19):

To support investment zones, the government shall improve infrastructure such as:

- Ports, roads, water supply, railways, communication systems, electricity, etc., governed under the Industrial Location and Development Act.

Chapter 5: FDI Management

Registration of Foreign-Invested Companies (Article 21):

A foreign investor must register their company as a foreign-invested company if any of the following conditions are met:

1. Investment payment is completed;
2. Technology or IP rights are exchanged for equity;
3. Long-term loans are utilized as investment capital.

Amendments and Liquidation (Articles 22–24):

- Article 22: Investors must register any changes to the original registration.
- Article 23: Transfers or inheritance of shares by a foreign investor must be reported.
- Article 24: If a foreign-invested company is dissolved or liquidated, it must be reported and any repatriation of funds should follow due procedure.

Loan Extensions and Technology Transfers (Article 25):

If loan terms are extended or new technology is introduced after the initial investment, these changes must be reported or approved accordingly.

Regulations for the Implementation of the Investment Law. Since the “Regulations for the Implementation of the Law on the Promotion of Foreign Investment” was first approved by Presidential Decree in November 1998, it has been amended 49 times. This regulation further expands and defines the general terms, definitions, and regulations contained in the “Law on the Promotion of Foreign Investment” and has 7 chapters and 7 articles. The purpose is defined as “...to provide additional clarification and guidance on issues identified in the Foreign Investment Promotion Act.” Since amending the law is difficult, it may be easier to amend many of the regulatory limits, scope, and time limits through regulations. For example, the law states that “the International Economic Cooperation Organization shall be established by a presidential decree,” and the regulations define it as follows: In Article 1, Section 2, Section 1, the agency implementing the “Foreign Investment Promotion Act” is the International Economic Cooperation Organization of the Republic of Korea, which is responsible for “...developing economic cooperation on behalf of foreign governments; interacting with international banking and financial institutions (ADB, IDB, IFC); It is stated that the Foreign Investment Promotion Act shall be responsible for dealing with foreign investment issues on behalf of itself and other organizations...” The Foreign Investment Promotion Act also stipulates that “a foreign national purchases shares of a Korean corporation or a company operated by a Korean citizen in accordance with the conditions set by the President for the purpose of establishing further cooperation and participating in the management of the corporation or company.” The regulations, which are based on the conditions set by the President in this provision, define the definition of investment as follows and set a minimum monetary limit.

In this regard, the amount of foreign investment defined in the “Foreign Investment Promotion Act” shall be at least 100 million won, and even if the amount of foreign investment does not reach 100 million won due to the partial transfer of its own stocks, shares, or tangible assets after the business entity is registered as a foreign-invested company, it shall be considered a foreign investment if the following conditions are met: 1. A foreign national purchases at least 100 million won of shares of a Korean corporation or a company operated by a Korean citizen 10/100 or all of the voting shares or all of the financing of the shares; 2. A foreigner is defined as the CEO of a Korean corporation or a company operated by a Korean citizen. The regulations also specify how the investment amount is allocated to a single investor as follows:

Chapter 1, Article 2, Paragraph 3: The investment amount is the purchase price of the shares, and if two or more foreigners jointly invest, the amount paid separately (100 million won). If the share price falls due to depreciation but no refund is made to the foreign-invested company, the investment amount made at the time of purchase of the shares is considered unchanged. A wide range of mutual funds are offered to suit the individual characteristics of FDI. Exchange-traded funds and mutual funds are suitable for retail investors due to their liquidity, minimum investment, and moderate risk/reward.

Private equity funds and hedge funds are more suitable for high net worth individuals seeking high-risk, high-return opportunities.

Real estate investment trusts offer a stable income stream with moderate risk, which is attractive to investors seeking to own real estate without actual ownership.

People's Republic of China (PRC) Investment Fund Regulation: Compared with the US Mutual Fund Market, the PRC Mutual Fund Market has several unique characteristics. First, the PRC Mutual Fund Market has a later history than the US Mutual Fund Market. The first open-end fund in China was established in 2001, while the first open-end fund in the US was established in 1924.[28] Second, unlike the US mutual fund market, mutual fund investors have relatively little control over the mutual fund managers. The relationship between investors and managers in Chinese mutual funds is based on contracts. Mutual fund investors do not own the companies and do not have the right to vote to change the fund manager.

However, under the Investment Company Act of 1940, certain investors can vote on the election of directors or on changes to the investment objectives and policies of a fund in the U.S. mutual fund market. Mutual fund management fees in the PRC are similar to those in the U.S. mutual fund market. For example, for all types of equity investment funds in the PRC, investors are required to pay an average of 1.5% of the management fee for their investment, while in the U.S. market, management fees vary and range from 0.5% to 2% for each mutual fund.

According to the China Securities Mutual Fund Law (2004), mutual funds in the PRC are classified as "open-ended" and "closed-ended", and are divided into subcategories of "equity funds", "balanced funds", "debt funds" and "other funds". All types of funds are required to maintain a minimum percentage of the selected securities in their portfolio.

According to the China Securities Regulatory Commission (2004), equity funds must invest at least 60% of their assets in the stock market, while debt funds must invest 80% of their assets in government bonds, domestic treasury bonds, corporate bonds, time deposits, etc. Open-end equity funds in China are required to invest at least 60% of their assets in the stock market. The upper limit is 95% of the fund (60-95 criteria). Regardless of how market conditions change, open-end equity funds must hold stocks within the required investment proportion. Some funds established before 2004 are not included in equity funds and are excluded from the database unless they have changed their investment proportion. (The final dataset includes 149 open-end equity funds that meet the requirements or criteria of maintaining at least 60% of their investments in the stock market, as listed in the official China Stock Exchange Guide.)

Investment funds in China play an important role in the country's financial system, supporting capital accumulation and economic growth, and providing investment opportunities for domestic and international investors. The PRC's investment fund sector is growing rapidly, driven by the growing middle class and their incomes, as well as the growing interest in investing in financial markets.

There are two main categories of private equity funds in China. They are:

Public funds: Open-end funds are designed to pool the assets of individual investors to invest in a variety of asset classes, including stocks, bonds, and money markets. Private equity funds are highly regulated and require approval from the China Securities Regulatory Commission (CSRC).

Private funds: Serve institutional investors or high net worth individuals (HNWIs) and often have higher risk and more sophisticated investment strategies. These include private equity (PE), hedge funds, and venture capital funds, which are subject to less regulatory scrutiny than public funds.

The regulation of investment funds in China is governed by a number of laws, regulations and guidelines issued by the China Securities Regulatory Commission and other agencies. For example:

- **The Cooperation Law (2006):** The implementation of the Cooperation Law is particularly important as it provides a clear legal basis for the use of limited partnerships by private mutual funds.

[28] An Empirical study on mutual funds performance and performance persistence in China, page 4 https://researcharchive.lincoln.ac.nz/server/api/core/bitstreams/d453bc0d-e46c-4a2b-b391-0aaf2e21dc00/content

- **The Law on Investment Funds (2015):**[29] Defines the basic legal framework for mutual funds in China. It focuses on the registration of fund management companies, investment restrictions, information requirements, investor protection and dispute resolution. The law applies to both public and private funds, but pays more attention to public funds.
- **The Law on Investment Funds (2015):** The Law on Mutual Funds mainly focuses on the regulation of mutual funds, but also includes a chapter on the regulation of private securities funds. Investors in private equity funds must be qualified investors, and the number of investors in a single fund must not exceed 200. The Law on Securities Funds stipulates that private equity funds cannot raise funds from unqualified investors or the public, especially through mass media such as newspapers, television, radio, and the Internet, or through public solicitation such as lectures, presentations, and seminars, and that private equity funds may invest in publicly traded stocks, bonds, fund interest, and other securities and derivatives with the approval of the Securities Regulatory Commission of the State Council.
- **Administrative Measures for Private Equity Funds (2014):** These regulations were issued by the China Asset Management Association to regulate private equity funds, such as venture capital and private equity. According to the regulations, private equity fund managers are required to register with the China Asset Management Association and disclose detailed information about their investments.
- **Measures on the Registration Administration of Private Fund Managers and Private Funds (2014):** The China Securities Regulatory Commission has implemented these regulations to streamline the registration process of private fund managers, enhance transparency, and protect investors.

Other regulations: Foreign institutional investors regulation: Regulations governing qualified foreign institutional investors (QFIIs) and yuan-denominated qualified foreign institutional investors (RQFIIs). These regulations allow foreign institutional investors to access China's capital markets.

The US State Department has stated that "…the development of China's investment regulation has not kept pace with the development of its market… The complicated process of reviewing FDIs reflects the legacy of China's planned economy…" However, China's GDP has grown by more than 1,000 percent since 1978, when it moved from a centrally planned system to a market-oriented system. FDI in China, which began as equity investments in the manufacturing sector, has now expanded to allow foreign investors to merge with or acquire all types of Chinese companies.

On July 9, 2023, China issued the "Regulations on the Supervision and Management of Private Equity Funds" to enhance investor protection and foster innovation within the national private equity fund.[30] The regulations, which came into effect on September 1 of the same year, are designed to govern an industry that is expected to be worth 21 trillion yuan ($2.9 trillion) by 2023, and are part of Premier Li Keqiang's efforts to tap the vast potential of previously unregulated private equity funds to boost growth and expand financing.

Before the introduction of the PFR – Private Fund Regulation, the China Securities Regulatory Commission issued the "Temporary Measures on Supervision and Management of Private Equity Funds" to regulate the private equity market. However, given the relatively low status of the PFR issued by the State Council and the rapid progress of the industry over the past decade, it has become clear that the temporary measures are no longer sufficient. The need for private equity regulation is to improve the legal structure of the PRC, improve the management of private equity funds, and promote high-quality development of the industry. The PFR imposes strict requirements on private equity fund managers, their shareholders, and supervisory authorities. The main purpose of the PFR is to strengthen financial stability by managing risk sources and rationalize the operation of private equity funds to support the real economy. Furthermore, the PFR sets clear regulatory boundaries and strengthens supervision, especially for venture capital funds. The "Private Fund Regulation" with seven chapters and 62 provisions covers a wide range of private fund types, including contracts, companies, and partnerships. These include the responsibilities of fund managers and custodians, fund raising, risk assessment, venture capital oversight, general supervision, management, and service agencies. Unlike the current regulations, the PFR provides more specific administrative measures to address violations by private fund managers. The PFR prioritizes protecting investor rights, maintaining market integrity, and promoting fairness. Private fund participants, such as managers, custodians, and service providers, must act voluntarily, fairly, and honestly (&3). This requires managers to comply with investment-level regulations. The PFR prohibits actions that harm investors or disrupt financial order, and strengthens requirements for employees (&6). In addition, fund managers must establish a system for managing related-interest transactions, disclosing information, and making sound

[29] Securities Investment Fund Law of the People's Republic of China http://www.csrc.gov.cn/csrc_en/c102033/c1371253/content.shtml

[30] China's New Rules for Private Funds: Implications for Chinese and Foreign Fund Managers https://www.china-briefing.com/news/chinas-new-rules-for-private-funds-implications-for-chinese-and-foreign-fund-managers/

decisions (&10). This is intended to comply with the related-interest transaction disclosure standards. The Fund's assets are guaranteed by the CIF to separate the assets offered by private funds from the assets of managers and custodians. Unless otherwise provided by law, the liabilities related to the assets of private funds offered shall be solely the responsibility of the fund's assets (&16). This provision protects investors from the financial situation of the manager and custodian and safeguards their investments. As of May 2023, approximately 22,000 private investment managers had registered with the Asset Management Association of China (AMAC), overseeing 153,000 funds with a total of RMB 21 trillion. The growth of the private equity industry is due to the expansion of the capital market reform, especially the expansion of the securities market, which has exceeded 10 trillion US dollars in the past 10 years. However, this year, the number of cases of revocation of special licenses of private equity funds in China is higher than in 2022.

The private fund regulation will effectively reduce the source of risk and optimize the operation of private equity funds to promote real economic growth, thereby enhancing China's financial stability. At the same time, the private equity fund may have a murky outlook for foreign investors.

Comparing China's private equity investment with US capital raising, it is clear that China lagged behind the US in the early 2000s, but in 2010, China's assets surpassed those of the US, marking a major turnaround. The number of these funds in China has consistently been higher than that of the US before 2019, making China a historically large private equity market.[31]

The world's leading countries in terms of total assets of investment funds are the US, Luxembourg, Ireland, Germany, and China. All of these countries are developed countries, with the US having the largest fund assets.

The importance of investment funds in the international financial market varies from country to country, with the role of investment funds in the financial systems of developed countries such as the US and South Korea being higher than in developing countries. A number of factors have had different effects on the growth of private equity funds in the long term. These factors include:

1. Strong legal frameworks and sound rules and regulations;
2. Professional management of investor demand;
3. Introduction of well-diversified products into the capital market;
4. The country's capital market is well developed;
5. Favorable turnover of capital market instruments;
6. Development of the country, demographics, and fiscal policy;
7. Whether it is possible to invest in mutual funds in the long-term plans defined by the country.

In the world, investment funds operate in open and closed types, and they operate exclusively or in combination with stock, bond, money market, and balanced funds. The most common type of open-end fund in the world, "Mutual Funds", alone, account for 90% of all open-end funds.

While open-end investment funds are quite common in developed countries, closed-end funds dominate in most countries with developing securities markets. The reason for this can be explained by the fact that the legal framework for ensuring the reliability of investors' assets in the markets of those countries is weak and risks are high, and this is also affected by the financial education of citizens.

[31] The development of china's equity funds хуудас 34 https://scholarshare.temple.edu/server/api/core/bitstreams/1c36084c-31f8-4ea8-8371-d79e85569aba/content