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# How does TPLF work?

A look at the process of third party litigation funding

1. Third parties, such as hedge funds and other financiers, invest in lawsuits
2. Litigation funders cooperate with law firms and qualified entities to identify claims with a potentially large payout and rate of return
3. Litigation funders pay legal and other related fees in return for a percentage of any eventual award
4. The claim is taken to court and, if successful, could result in a settlement or judgment award
5. Litigation funders take their percentage of the award first. The claimants are only paid after the funders, lawyers, and qualified entities

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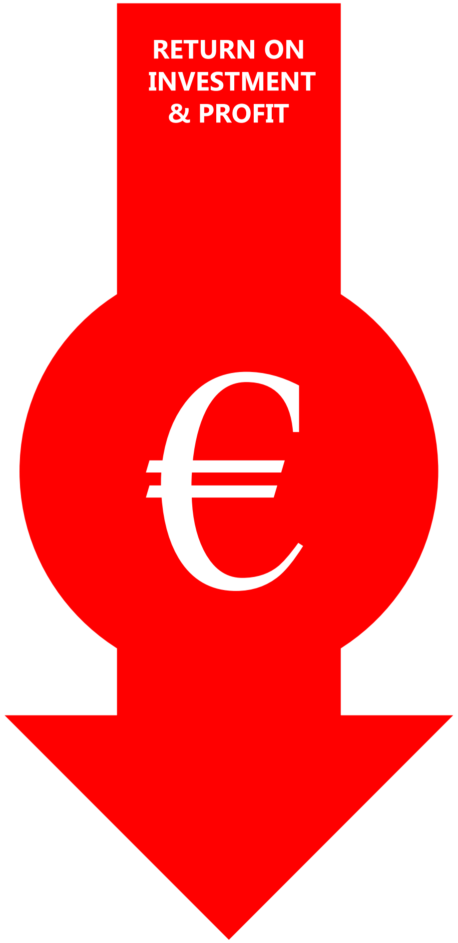
# Why should TPLF be regulated?

The EU needs transparency, oversight, and a better protection for claimants


Third-party funding is the commercial practice of a third party (i.e. not a party to the legal dispute nor a lawyer representing such a party) providing funding in litigation or arbitration in exchange for a share of any proceeds that results from the settlement or award.

While the third-party funding market is growing rapidly in the EU, judges, defendants and sometimes claimants are either unaware that funding is involved, or do not know the terms and conditions of the funding agreement. This is because third-party funding is unregulated and not subject to any public oversight.




Litigation funders invest in cases in which they can realise the highest possible return on investment. They typically negotiate a 30% to 50% share of the awards, with evidence that some funders get excessive or disproportionate payments. That makes this industry very profitable, with rates of return reaching 300% or more. Funders are also free to negotiate extremely favourable contract terms, which allow them to get paid first, and which in some cases grant them bonuses in situations where less money is distributed to claimants.

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# Responsible private funding of litigation

How to gain public confidence and optimize adequate compensation for claimants

**Harmonized safeguards for litigation funding in the EU Single Market**

**AUTHORIZATION**

Require that litigation funders are licensed by a Supervisory Authority, have a registered office in a Member State, and comply with the provisions in the Directive.

**GOVERNANCE**

Litigation funders must have proper procedures in place and conclude contracts that avoid conflicts between their economic interests and the litigants' own interests.

**FIDUCIARY DUTY**

Litigation funders must always act in the best interest of litigants, like lawyers to their clients.

**CAPITAL ADEQUACY**

Litigation funders must have adequate financial resources throughout the proceedings they have agreed to fund.

**ACCOUNTABILITY**

Litigation funders must not interrupt their funding while the proceedings are ongoing or refuse to pay adverse costs (i.e. litigation cost if the party they fund loses the case).

**STANDARDS**

Litigation funding agreements must be written in clear and easily understood terms. Excessive or disproportionate fees must be avoided. Litigation funders must not control the proceedings.

**DISCLOSURE**

Fully disclose third-party funding agreements to ensure understanding of the terms and allow courts and administrative authorities to assess compliance with the provisions of the Directive on the Responsible Private Funding of Litigation.