



CORPORATE VENTURE AND HIGH TECH INVESTMENT IN FRANCE

ACQUIRING AND MAKING PARTNERSHIP WITH FRENCH INNOVATIVE COMPANIES

Presentation to the Business France-Provence-Alpes-Côte d'Azur seminar

10 October 2019 – Tokyo

Bernard Tézé, Partner, DS Avocats

Mail: teze@dsavocats.com

Tel: 33.1.53.67.50.27 Mob: 33.6.08.12.07.03

www.dsavocats.com

Reiga Shimizu, Head of Japan Desk, DS Avocats

Mail: shimizu@dsavocats.com

A BOOMING ENVIRONMENT FOR INNOVATION IN FRANCE

- For eight consecutive years, France is **n°3 worldwide, after Japan and USA**, for innovation with 7 groups and research centers in the Top 100 most innovative groups (January 2019, source Clarivate Analytics, ex-Reuters Science Division)
- Number of groups and R&D centers in the top 100: **Japan: 39 ; USA: 33 ; France: 7 ; Germany: 4 ; China / Korea / Swiss: 3 each; Netherlands, Taiwan : 2 each**
- Name of the 7 French groups and research centers: Airbus, Alstom, Safran, Thalès, Saint-Gobain, CEA, Total
- Sectors reviewed by the study: Electronics, Aerospace, Software, Pharmaceuticals, Chemicals, Automobile

WHAT IS A STARTUP? AN ENTREPRENEURIAL BOOM IN FRANCE?

- No set definition of startups but three characteristics:
 1. a **high potential growth**
 2. a **new technology or innovative service**
 3. an **equity financing need**
- About 10.000 startups in 2018 in France, 13.000 expected in 2023
- 15,7% of the 18-64 years old French population intend to set up an enterprise in the next 3 years: 30% more than the European (11,9%) or US (11,7%) average

ACCELERATORS INCUBATORS ECOSYSTEM

- 2018: **270 Incubators and 56 Accelerators** (2017 + 12,5%) in France
- **335 Professionnal Venture Funds** (in addition to 5000 active « business angels »):
 - **40 Family offices** (special notes to Xavier Niel and Kima Ventures, Bernard Arnault, Mulliez, Peugeot,...)
 - **160 Venture Capital Funds** (Partech, Idinvest, Blackfin, Cathay, Alven,...)
 - **90 Investors clubs/networks** (local, alumni, etc.)
 - **45 Corporate Venture Capital funds** (very diverse, from LVMH to SNCF and Suez or Thales, special note to Orange Labs!)
- One of the **largest incubator** in the world opened in Halle-Freyssinet, Paris in 2017: Station F on **34000 m² with 3000 work stations!**
- WeLawYou Competition of startups by DS Avocats...

INVESTMENT IN INNOVATION – AN INTERNATIONAL VIEW

- France/Germany/UK investments in startups/innovation:

2018:	UK:	7.168 billion €
	Germany:	4.036 billion €
	France:	3.644 billion €

- CES 2019 Las Vegas:

376 French Startups, n° 2 behind USA and before China!

CORPORATE VENTURE - INVESTMENT IN FRANCE

- Investment of groups in innovative SME: in 2018, 45 French Corporate Venture Funds (CVF), were involved in 120 transactions (19% of transactions). About 60% of unicorns have a CVF in their capital and 40% of exits by CVF are acquisitions by the group
- Advantage for group (in addition to tax break): identify and monitor new trends and new actors/technologies/services, rejuvenate workforce and working methods, digitalisation and new challenges...
- Advantage for the startup: access to client base, laboratory equipment, data, management knowledge, process, become financial autonomous by developing a real market

CORPORATE VENTURE - TAX INCENTIVE

- A new tax regime of **exceptional depreciation over 5 years of subscription in the capital of « Innovative SMEs »** has been introduced in 2016
- The investment can not exceed **20% of the capital** of the target company, and not exceed an amount of **15 Million €**, and can not be more than **1%** of the total assets of the investor
- The « *Innovative SME* » must be **independant**, qualify as European **SME** (independent from group, less than 250 employees, turnover < 50 Million €, total balance sheet < 43 Million €) and have carried out **R&D expenses** (as defined for the R&D tax credit) **in excess of 10% of all expenses**, among other conditions

REASONS FOR THE BOOM?

FIRST: THE R&D TAX CREDIT

- How does it work ?
Tax credit = **30% of eligible expenses** up to 100 Million € and 5% above 100 Million...
- Can be used to pay the CIT, or refinanced, or repaid after 3 years... Or even **repaid immediately** under certain conditions, if the R&D tax credit is owned by New Innovative Entreprises (JEI) ie basically a company aged less than 8 years, with more than 15% of R&D expenses over total expenses, or to a European SME (independent from group, less than 250 employees, turnover < 50 Million €, total balance sheet < 43 Million €)
- Result: if Eligible Expenses amount to 100, they are deductible from CIT at about **28%** and R&D tax for profits up to 500.000 € or 33%, credit is 30%. The final cost is 100 - 28 or 33 - 30 = 42 or 37, **58% or 63% is saved!**
- **About 6 billion €** of R&D tax credit was used in France in 2018

- Eligible Expenses for the R&D tax credit

- R&D personnel expenses (researchers and technicians)
- Lump sum operational expenses representing 50% of R&D personal expenses (or a 40% flat rate for direct personal expenses, maybe slightly reduced in 2020), and 75% of depreciation allowances on R&D fixed assets created or purchased (new, not second hand)
- Depreciation on the R&D fixed assets defined above
- Certain subcontracted resersearch to approved R&D centers
- Filing, maintenance and defense costs of patents
- Subsidies received must be deducted from eligible expenses

OTHER TAX REASONS: THE FAVORABLE TAXATION OF PATENT INCOME

- Taxation at **the favorable rate of 10%** (the reduced rate used to be 15% and the normal rate corporation is 28%/33%) of income from **sale or licence of patents or patentable** inventions/technology and well as, from this year, **income from original software**
- If the French subsidiary develops a patent or patentable technology or original software (using the R&D tax credit!) and licences it to another company, the royalty income will be taxed at 10% in France, and will be tax deductible usually at a higher rate in the country of the payor of the royalties
- The **withholding tax rate on royalties** under the tax treaty between France and Japan is since 2007 equal to **zero percent!**

OTHER LEGAL MECHANISM

- Various **subsidies** and public funds (« *fonds d'amorçage* ») are available when private money is invested. Many European subsidies are however conditioned on the fact that the recipient is « *independant* », i.e. **not owned at 25% or more** by a group. This is an incentive to groups to remain **minority shareholders!**
- Special warrants called BSPCE and free shares called AGA can be allocated in certain conditions and provide tax advantages and reduction in social contributions
- **56 clusters** / « *Pôles de Compétitivité* » also stimulate innovation in France
Sectors: aerospace, agrofood, automobile, biotech, healthtech, data-IT, energy, IoT, AI, optronix, robotics, mobility/smart cities, new materials, cosmetics, etc.

A RECENT CVF JAPAN INVESTMENT CASE:

- A big Japanese electronics group took a minority shareholding in a French high tech company
- The high tech company was owned by the management (a former researcher at French university with his student/assistant), by an investor who had sold its group and reinvested and by three professional Venture Capital Funds
- Research agreement and development programs
- Due diligence
- Investment agreement
- Capital increase with preferred shares giving special rights to the various investors
- Options to takeover the company
- Shareholders' agreement (tag along, drag along, preemptive right, antidilution, important decisions, deadlocks, non compete, lock up, restrictive covenants...)
- Cooperation / Alliance agreement to expand on various markets



Bernard Tézé

Partner, Merger and Acquisition, Private Equity and Corporate Law

TEZE@DSAVOCATS.COM
+33 1 53 67 50 27

- Prior to joining DS Avocats, Bernard Tézé was a partner of White & Case from 2001 to 2008, and Counsel at Clifford Chance where he worked for more than 10 years, including 4 years in Japan.
- Bernard advised on more than 250 M&A transactions of all types since 1989 in France, and also outbound in Japan, China, Russia, Brazil and India.
- Bernard has a Masters Degree in public and private law, a PhD in International tax law and graduated from the HEC business school. He currently acts as the Honorary Chairman of the International section of the HEC Alumni Association.
- LinkedIn : <https://www.linkedin.com/in/bernard-t%C3%A9z%C3%A9-06b81/>



Reiga Shimizu

Head of Japan Desk

SHIMIZU@DSAVOCATS.COM
+33 1 53 67 51 05

- After having worked for Japanese companies during several years, Reiga joined DS Avocats in Paris in 2012.
- As Head of Japan Desk, Reiga assists in particular Japanese companies who wish to carry on business in France, in Europe or in Africa.
- Reiga has strong experiences in operations between Europe and Japan especially on M&A, corporate, international commercial law, labour law and international mobility.
- Reiga graduated from Chuo Law Faculty (Tokyo) in Japan and holder of a LLM degree from the University Paris I Sorbonne and a Post Graduate Diploma (Master 2) in Contract Law and Contractual Practice Law from the University Paris XII.
- LinkedIn : <https://fr.linkedin.com/in/reiga-shimizu-aa1b494b>

Paris

+33.1.53.67.50.00
courrier@dsavocats.com

Bordeaux

+33.5.57.99.74.65
bordeaux@dsavocats.com

Lille

+33.3.59.81.14.00
lille@dsavocats.com

Lyon

+33.4.78.98.03.33
lyon@dsavocats.com

Reunion

+262.262.50.99.10
reunion@dsavocats.com

Barcelona

+34.93.518.01.11
info@ds-ovslaw.com

Madrid

+34.91.088.50.38
info@ds-ovslaw.com

Brussels

+ 32 2286 80 33
bruxelles@dsavocats.com

Milan

+39.02.29.06.04.61
milan@dsavocats.com

Stuttgart

+49.711.16.26.000
info@ds-graner.com

Quebec

+1.418.780.4321
info@dsavocats.ca

Montreal

+1.514.360.4321
info@dsavocats.ca

Toronto

+1.647.477.7317
info@dsavocats.ca

Vancouver

+1.604.669.8858
info@dsavocats.ca

Buenos Aires

+54.11.4.314.09.22
buenosaires@dsavocats.com

Lima

+51 991 745 494
lima@dsabogados.pe

Santiago

+56 2 32 45 45 00
info@dsabogados.cl

Beijing

+86.10.65.88.59.93
beijing@dsavocats.com

Guangzhou

+86.20.81.21.86.69
guangzhou@dsavocats.com

Shanghai

+86.21.63.90.60.15
shanghai@dsavocats.com

Ho Chi Minh City

+84.8.39.10.09.17
dshochiminh@dsavocats.com

Singapore

+65.62.26.29.69
singapore@dsavocats.com

DS Consulting Afrique - Dakar

+ 221.77.255.68.18
dakar@dsconsultingafrique.com

Partenariat

DS Squaris Union Européenne

+ 32 2286 80 38
secretariat@squaris.com

Thank you

for your attention
