

The Wine Investment Association

Code of Practice

The Association

The Wine Investment Association (“Association”) is a not-for-profit organisation registered in England and Wales, with Company Number 08225080.

The Aims of the Association

1. To seek to safeguard the general public against fraud, malpractice and misrepresentation.
2. To provide a framework of self regulation, safeguarded against restrictive or anti-competitive practices.
3. To promote unity and understanding amongst wine investment businesses.
4. To establish educational courses and recognised academic qualifications to precipitate higher levels of professional knowledge and conduct.
5. To encourage high ethical standards of competitive practice amongst wine investment businesses.
6. To do such things as are necessary or expedient to sustain or raise the status of wine investment and the Members of the Association.
7. To provide wine investment advice and guidance to assist the general public.

Notes for Guidance

Introduction

The Code of Practice forms an integral part of the conditions of membership of the Association. All applicants to become Members must agree to abide by them.

Definitions

The following definitions apply in relation to the Code

‘Applicant’	means a person operating a trading business buying and selling wine that applies for membership of the Association
‘Association’	means the Wine Investment Association, registered with company number 08225080
‘Bespoke arrangement’	means an arrangement pursuant to which a Customer grants a Member the right to source wine for that Customer, subject to the Customer’s specific requirement.
‘Code’	means the Association’s Code of Practice, as the same may be amended from time to time
‘Customer’	means a customer of Member who or which is not involved in the business of buying, selling or storing of wine
‘Compliance Audit’	means a review of certain operational processes and standards employed by an Applicant or a Member to the specification required by the Association
‘Compliance Auditor’	means the independent professional firm appointed by the Association to conduct Compliance Audits
‘Logo’	means the Association’s logo set out in Appendix B and more particularly described in the Logo Guidelines
‘Logo Guidelines’	means the Association’s binding guidelines for use of the Logo, a copy of which is supplied to each Member
‘Member’	means a member of the Association
‘Panel’	means the independent panel formed by the Association to adjudicate complaints against Members
‘person’	a reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)
‘Secondary Markets’	a market or exchange for wine where prices can fluctuate on a daily basis
‘Turnover’	means revenue from the sale and/or storage of wine, and/or the provision of wine services

Adoption of the Code

The Code was adopted at the inaugural meeting of the Association on 14th February 2013

Consultation

Any proposal to amend any part of the Code will be notified to all Members with sufficient time to allow all Members to comment.

Membership

Whilst the Association is aimed predominantly at businesses whose operations generally involve the promotion or sale of wine as an investment, any wine related business may apply to join. To become a Member a company must successfully complete the Association's Compliance Audit each year and must adhere to the Code in its business practice.

The Compliance Audit

The Association deems certain aspects of business practice to be critical to good commercial conduct and responsible stewardship of Customers' assets. Companies wishing to join the Association will be required to undergo a Compliance Audit in order to demonstrate the necessary levels of competence of their processes and controls. The Compliance Audit will be conducted by the nominated Auditor (the Compliance Auditor) on the instruction of the Association. Thereafter Members will be required to submit to annual Compliance Audits in order to ensure the ongoing integrity of systems and procedures.

The Compliance Audit will not include the financial affairs of the Member – which are covered variously under current UK legislation.

Members may be required to submit to additional Compliance Audits following a complaint against the Member being upheld by the Independent Adjudicating Panel.

No Contractual Obligation

The Code relate solely to the way in which the Association requires the Members to conduct themselves and in no way affects the legal relationship between the Association and its Members or between any other parties.

Associated businesses

The rights and benefits of Membership are applicable only to the person or entity that has successfully completed the application process and cannot be conferred on associated, affiliated, parent or subsidiary companies. Furthermore the Association's logo may not be displayed by any entity or person which is not a Member.

Sanctions for breach of Code

A breach of the Code by a Member will result in either a caution, with an obligation to remedy, or, in the case of repeat or more severe breaches, suspension or expulsion. Following an adjudication

decision by the Panel, notice of a Member's suspension or expulsion may be published on the Association's website.

The Code

1. Fulfilment of orders

Note: as wines held in bond are not generally physically delivered to the purchaser, wine investors face the danger of their order not being fulfilled either by way of deliberate fraud or mismanagement of company affairs. In the event of a business failure or liquidation investors may find that their wine does not exist. The Association seeks to ensure fulfilment of orders as follows:

- 1.1 the Member may only accept orders against stock over which it currently holds title (owns), or against that for which it can produce a valid contract for future purchase, including but not limited to *en primeur* sales
- 1.2 an Applicant's application for membership, and the Member's continuing membership, of the Association is, amongst other things, conditional upon the satisfactory completion of a Compliance Audit by the Compliance Auditor. The Compliance Audit will include a review of the Applicant's or Member's sales ledger, warehouse stock account and any other relevant company records, so as to verify that its customers' orders are being fulfilled appropriately and in a timely fashion

2. Title

Note: Customers' wines are frequently stored by companies in the trade for reasons of efficiency and cost reduction. Where acting as custodians, Members will recognise the need to take the utmost care in managing and protecting Customers' interests. Furthermore, in the event of a company failure or liquidation, Customers may face challenges in proving ownership of their wine(s) where it is stored on their behalf by a company. The Association requires Members to adopt good practice with regard to stock keeping, including establishing and demonstrating title for Customers, as follows:

- 2.1 where the Member stores wines on a Customer's behalf such stock shall be stored under a designated "Customer Storage Account" so as to ensure separation from the Member's own stock; or, where this is not the case, the Member must state clearly in its terms and conditions the alternative measures taken to distinguish a Customer's wine from its own stock
- 2.2 furthermore the Member shall implement processes which ensure that title to any Customer's wine(s) in its custody passes to that Customer as soon as practicable. This transfer of title will normally involve internal and/or external processes which clearly link the Customer's unique ID with each owned case or relevant warehouse rotation number

- 2.3 at the time of any Compliance Audit the Compliance Auditor shall determine whether the systems implemented by the Applicant or Member are sufficiently robust to ensure that in the event of a Member's business financial difficulty, insolvency or liquidation the Customer will without difficulty be able to prove title to its wine(s)
- 2.4 in relation to the movement or transfer of wine(s) stored and/or managed on behalf of its Customers the Member will accept responsibility for the implementation and maintenance of effective systems and controls. At the time of any Compliance Audit, the Member must be able to demonstrate the efficacy of such systems and controls and that the individual originator of any movement/transfer can be identified
- 2.5 wine(s) sold by the Member whilst in transit from the supplier shall be landed/warehoused by the Member without undue delay

3. Investment advice:

Note: Under current UK legislation, wine investment generally falls outside the scope of the Financial Services Authority (FSA), and wine investors have no rights to recourse under the Financial Services Compensation Scheme (FSCS). It is a legal requirement that non-FSA regulated businesses that promote wine as an investment do not give investment advice on regulated or controlled products. In addition the Association requires the following of its Members:

- 3.1 the Member will clearly display the Association's standard disclaimer (set out in Appendix A to these Code), together with an investment risk warning, on its website and on all promotional material, whether in electronic or hard copy form
- 3.2 the Member will not advise, suggest or otherwise encourage a Customer or potential Customer to dispose of any regulated product in order to purchase wine as an investment
- 3.3 the Member will not publish any statement or advice concerning the tax status of wine collections and/or wine disposals, except where the statement or advice has already been published by a relevant regulatory or statutory body, such as HM Revenue & Customs

4. Market performance and valuations

Note: Members will normally report past performance and future performance expectations on an offer-to-offer basis. The Association will generally make investors aware that actual investment performance will be affected by any commissions (paid either at the time of purchase or when selling) and on storage and delivery costs by way of a disclosure on its website

- 4.1 where historic prices or future projections of value are published by the Member, it will clearly disclose the source of any data and the market basis (e.g. trade or retail). All such statements must feature the Association's standard disclaimer set out in Appendix A and an appropriate risk warning
- 4.2 where current valuations are given by the Member, it will clearly disclose the source of data and the methodology used to provide values, and will declare the basis of calculation. (E.g. gross or net of commissions and costs)

5. Pricing and Fees

Note: prices for the same wine offered by competing businesses may vary widely for a variety of reasons, as may commissions and / or fees. The Association seeks to promote clear and simple pricing and fees, and requires the following of its Members:

- 5.1 the name of the wine(s) together with the quantity, case format and the price for *each* individual case or component must be clearly documented on the invoice issued to the Customer
- 5.2 the Member must provide a potential Customer with a clear, written explanation of all fees and commissions before it accepts an order from that Customer
- 5.3 all fees and commissions charged must be clearly documented on the relevant invoice
- 5.5 the Member must promptly notify the Customer of any matter relating to the condition of wine stock which it is aware may affect the value of that stock; such as US labels or packaging damage

6. Marketing, advertising and promotion

Note: Whilst the Association expects Members to avoid misrepresentation, bad presentation and poor taste in their promotional activities, it places no restriction on honest advertising and marketing, and permits Members to advertise or promote themselves as they judge appropriate. The Association recognises, however, that there is public concern relating to high-pressure selling tactics and therefore requires that those Members who employ cold-contacting adhere to the following rules:

The Association defines a cold-contact as a telephone call (or other communication) made to a private individual where there has been no previous communication with that individual, and where the individual has not provided his telephone number and/or given prior permission for the telephone call. Private individuals are able to opt out of receiving cold-calls by registering with the Telephone Preference Service (TPS). The Association will carry this advice on its own website, together with a link to the website of the TPS

- 6.1 where the Member's marketing strategy includes cold-contact practices, whether by telephone, written correspondence or otherwise, the Member must ensure that such practices comply with the Privacy and Electronic (EC Directive) Regulations 2003 and that the cold-contact incorporates the Association's standard disclaimer set out in Appendix A
- 6.2 the Member must carefully check all data against the TPS register prior to undertaking a cold-call
- 6.3 the Member must follow the guidelines and standards of both the Direct Marketing Association *and* the Direct Selling Association relating to cold-contact practices
- 6.4 the Member must, upon request by the individual, provide details as to where it obtained the individual's telephone number so that, should the individual is able to secure the removal of his name from the marketing list
- 6.5 the Member may only use cold-contacting for the purpose of introducing itself to a potential Customer, with a view to gaining permission for future contact. The Member may not use cold-contacting to attempt to secure an order from a potential Customer
- 6.6 the Member will take measures to avoid the occurrence of high-pressure selling, including (without limitation) recording all conversations with Customers and prospective Customers. Recorded calls information may be used for the purpose of providing evidence to the Association where necessary in case of dispute. Members will securely store records of telephone calls for no less than one year
- 6.7 the Member will ensure that any third party engaged directly or indirectly by it to generate leads or otherwise make cold-contact with potential Customers adheres to the Code set out above in this Section 6.

7. Transparency in dealings with customers

7.1 Members or their agents must identify themselves by name when making contact with current or potential customers

7.2 Members must display their principal business address on their websites (and if no website exists then in all written communication with customers) in addition to their registered address.

8. Use of Logo

8.1 wherever practicable the Member will display the Logo and the statement "Member of the Wine Investment Association" on relevant written materials, including (without limitation) on its website, email communications, marketing materials, letterhead, invoices and business cards

8.2 the Member's use of the Logo will be strictly in accordance with the Logo Guidelines

9. Cooling off period

Members may make purchasing recommendations in the light of a Customer's wine investment requirements. Nevertheless the Association believes it is essential that the Customer is given reasonable time to reflect on, and if necessary cancel, an investment purchase decision. The following requirement of Members is therefore in addition to Members' statutory obligations, and does not affect the Customer's statutory rights

9.1 Members will clearly state on their websites and in their written terms and conditions, or other customer contract, the point at which a cooling off period commences. In the case of ~~normal~~ purchases where wine is not expected to be delivered direct to the customer this will usually be the point at which a sale is agreed (normally the issuing of an invoice together with applicable terms and conditions) and prior to the contract being formed

9.2 Members will clearly explain, on line and in applicable terms and conditions, how to cancel including the address at which requests to cancel should be received

9.3 for such purchases the Member will offer the Customer a seven working day cooling off period, in which the Customer may decide without penalty to cancel the purchase and not to enter into, or to revoke, the contract. The Member will accept such cancellations with good grace

9.4 for Bespoke Arrangements where wine is specifically acquired at the request of the Customer the Member will provide the Customer with clear written notice of the point at which, following the provision of a written quotation, the contract is formed

9.5 where the Customer requests to buy wines where the price is established in the Secondary Markets, and can therefore fluctuate on a daily basis, the Member will clearly specify the Customer's right of cancellation in its terms and conditions

10. Best Practice

10.1 in the course of its commercial activity no Member shall act, omit to act, or permit any action omission to be carried out on its behalf, which, in any way:

- a) is dishonest or deceitful
- b) involves unprofessional practice that is unfair or prejudicial to the general public; or
- c) brings, or may bring, the Association into disrepute

Appendix A

Standardised Disclaimer:

[NAME] is a member of the Wine Investment Association - www.wineinvestmentassociation.org

The price of wine can go down as well as up and there is no guarantee that you will recoup the full amount invested. Past performance is not a guarantee of future growth.

Neither [NAME] nor the wine market in general is regulated by the Financial Services Authority (FSA).

We recommended that you seek independent professional advice before making any investment, whether in wine or not.