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### France’s Department of Labor Issues Guidance on New Corporate Social Responsibility Obligations

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Following the introduction of new corporate social responsibility obligations for collaborative platforms towards independent workers, the French Department of Labor published guidance to clarify the scope of this responsibility. The requirements established by French law<sup>1</sup> can be divided into two groups of rights for the independent workers: collective rights (right to strike, freedom of association) and individual rights (covering the workers’ contributions for the occupational accident insurance and for vocational training).

#### To Whom Do These Social Responsibility Rights Apply?

In France, “collaborative platform” is the term used for online platforms playing an intermediary role in the sharing economy. Their activity focuses on establishing contacts by electronic means between people in various locations for the sale, supply, exchange, or sharing of goods and services.

The guidance outlines the workers who will benefit from the social responsibility rights. The rights apply to independent workers who work for one or more collaborative platforms. In France, workers are considered “independent” when they do not have a “legal permanent subordination relationship” with the other contracting party. Thus, workers are considered independent when they do not carry out work under the authority or direction of the contracting entity—*i.e.*, the contracting entity does not have the power to give an independent worker orders and instructions, control work performance, or impose discipline.

Self-employed workers in France can benefit from a favorable tax and social security contributions system if their sales revenue does not exceed certain thresholds. The annual thresholds are set at €82,800 (before taxes) for trading/intermediary and housing supply activities, and €33,200 (before taxes) for other types of activities.

<sup>1</sup> French law n°2016-1088 of the 8th of August 2016 and decree n°2017-774 of the 4th of May 2017.

Draft legislation has been introduced to raise those respective, pre-tax thresholds to €170,000 and €70,000. This change is intended to promote self-entrepreneurship in France.

The guidance also clarifies which collaborative platforms are covered by the corporate social responsibility obligations. These obligations apply only to platforms that meet the following criteria:

- The platform sets the technical/material means of the service provided or the characteristics/technical specifications of the asset sold; and
- The platform sets the price of the service provided or asset sold (using—directly or indirectly—a price scale, salary scheme, or another calculation basis).

## What Social Rights Apply to Independent Workers Using Collaborative Platforms?

The guidance provides more detail about the following rights accorded to independent workers who use collaborative platforms:

### **Collective Rights**

Independent workers have the right to organize or participate in a strike. Doing so cannot be grounds for severing the contractual relationship with the independent worker or constitute sufficient grounds for contractual liability on the part of the worker. Independent workers also have the right to create, join, and participate in a union.

These collective rights have been in effect since August 10, 2016. The following individual rights, however, are slated to take effect on January 1, 2018:

### **Individual Rights<sup>2</sup>**

The collaborative platform must bear the costs of the independent worker's occupational accident insurance coverage.<sup>3</sup> Collaborative platforms have two options:

1. The platform can cover the collective insurance policy premiums. The platform can obtain a collective insurance policy to cover the risk of occupational accidents, but the guarantees offered by this insurance must be equivalent to the legal voluntary insurance scheme.
2. Alternatively, the platform can make the independent worker's voluntary occupational accident insurance contributions or make the contributions from another insurance scheme covering the risk of occupational accidents.

The platform can also pay the independent worker's occupational accident insurance contributions (either from the voluntary legal scheme or from another insurance scheme). The platform must also cover the costs of continuing vocational training contributions.<sup>4</sup> This cost is equal to .1% of the worker's annual sales revenue for commercial activity, .2% for services activity, and .3% for artisanal activity.

Finally, the platform must cover the "validation of academic credit due to work experience" support costs.<sup>5</sup> The "validation of academic credit due to work experience" is a mechanism that allows any person with prior experience to obtain a professional certification if they pass a test before the examination board.

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2 Where several platforms must assume these obligations, they must bear the costs in proportion to the sales revenue achieved through them.

3 Provided that the worker generates at least €5,099.64 of sales revenue with the concerned platform.

4 Same condition as above.

5 Same condition as above.