



LEGAL ALERT

05 July 2023

Regulation Project of the Asset Management Regime under Public Consultation

Decree-Law no. 27/2023, of April 28, approved the new Asset Management Regime (hereinafter "RGA"), consequently revoking the General Regime of Collective Investment Undertakings (hereinafter "RGOIC") and the Legal Regime of Venture Capital, Social Entrepreneurship and Specialized Investment (hereinafter "RJCRESE").

In this context, and similarly to what happened with the preparation of the preliminary project of the RGA, the Portuguese Securities Market Commission (hereinafter "CMVM") subjects to public consultation the Regulation Project which expands the new regime.

The Regulation Project complements the RGA in regard to the following aspects:

- ✓ Conditions of access to the activity by management companies and collective investment undertakings ("CIUs").
- ✓ Requirements applicable to the activity of CIUs.
- ✓ Requirements for the organization and operation of management companies.
- ✓ Commercialization; and
- ✓ Disclosure and reporting of information to CMVM.

For the adaptation of the current regime to the new legal framework, CMVM highlights the following amendments foreseen in the Regulation Project:

- Simplification of procedures, namely through:
 - ✓ Significant reduction of the instructive elements of the procedures for access to the activity.
 - ✓ Requalification of substantial and non-substantial amendments.
 - ✓ Replacement of some authorization procedures by prior communication to CMVM.
 - ✓ Flexibilization of the minimum or maximum investment limits and portfolio composition applicable to CIUs to better adapt their management to market conditions.
- Flexibilization of the sub-types of CIU that have as a characterizing element the respective dominant asset, discarding the existing limited list and giving market operators new possibilities.
- Simplification of the constitutive documents, through the creation of a single model prospectus and management regulations, as well as the reduction of the universe of CIUs for which a standardized document is required.
- Rationalization of the organizational requirements of management companies.
- Simplification of the requirements applicable to the marketing of CIUs.

- Simplification of the regime for transformation of CIUs.
- Materialization of the costs and charges applicable to CIUs.
- Concretization of the regime applicable to liquidity mechanisms.
- Rationalisation of the organizational requirements of management companies.
- Harmonisation of the accounting regime applicable to all management companies.
- Reorganisation of the duties of reporting information to CMVM, as well as the creation of an additional reporting duty on cybersecurity matters.

CMVM also emphasizes that some of the changes proposed in the Regulation Project may imply a minimal or non-substantial increase in costs and charges for management companies and CIUs, particularly in relation to compliance with reporting duties and adaptation to the new regime. Notwithstanding, with the amendments proposed by the Regulation Project, CMVM intends to promote incremental savings and greater simplification and flexibility in the functioning and market of CIUs.

Further, in accordance with the new regulatory options, the addition of a rule to CMVM Regulation no. 7/2003 is foreseen with a view to adapting the applicable fees regime to the RGA.

Once approved, the Project Regulation will revoke CMVM Regulation no. 2/2015 (RGOIC Regulation) and CMVM Regulation no. 3/2015 (Venture Capital, Social Entrepreneurship and Specialized Investment).

CMVM submits the Regulation Project to public consultation so that the entities subject to it may express their opinion thereon, addressing, either by email or by registered mail, comments, suggestions, and contributions in relation to the solutions presented, which will subsequently, for transparency reasons, be published.

The deadline for submitting comments and suggestions is 30 days under the terms of Article 87 of the Portuguese Administrative Procedure Code, running from June 22 to August 2, 2023.

Interested parties should send their comments and suggestions in writing to the addresses provided by the CMVM for this purpose.

To consult the explanatory note of the public consultation click [here](#).

To access the full version of the Regulation Project which expands the new RGA, please click [here](#).

For more information on this subject, please contact:



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