

10 JULY 2020

AMENDMENTS TO THE SANCTIONING REGIME FOR INVESTMENT FUNDS, VENTURE CAPITAL AND CREDIT SECURITISATION

Last July 8th, Law no. 25/2020, of July 7th, entered into force, introducing amendments to the sanction regime applicable to investment fund management companies and securitization funds management companies, modifying the following laws: **(i)** General Regime of Collective Investment Schemes; **(ii)** Legal Regime of Venture Capital, Social Entrepreneurship and Specialized Investment; **(iii)** Legal Regime of Credit Securitisation; and **(iv)** Portuguese Securities Market Code.

This law revokes the substantive and procedural regime currently foreseen in the General Regime of Collective Investment Schemes, replacing it with the regime foreseen in the Portuguese Securities Market Code.

In addition, this law introduces new types of misdemeanours and revises the terminology of the sanctioning law chapters of the above-mentioned laws.

GENERAL AMENDMENTS

This law introduces new types of misdemeanours in the above-mentioned diplomas, which concern the failure to comply with the prudential duties that the Portuguese Securities Market Commission (“CMVM”) now supervises following the transfer of supervisory competences introduced by Decree-Law no. 144/2019, of 23 September.

Thus, non-compliance with the ratio of own funds of Collective Investment Undertaking Management Companies (“SGOIC”) or with the rules on authorisation conditions (such as omissions to report information on qualifying holdings, for example) become offences sanctioned by the CMVM.

In addition, this law revises the terminology of the sanctioning chapters of the above-mentioned laws, removing the references to the Bank of Portugal, updating the references of the articles and amending the terminology used (for instance, replacing the references to Management Companies for SGOIC).

NEW MISDEMEANOUR PROCEDURAL REGIME

With the entry into force of this law, the rules relating to the substantive and procedural regime contained in the General Regime of Collective Investment Schemes have been revoked, and the misdemeanours provided for therein will now be regulated by the procedural regime set out in the Portuguese Securities Market Code.

As a result of this amendment, the CMVM will have a single procedural regime for all misdemeanours relating to its supervisory duties, no longer having two different types of procedural regimes depending on whether the misdemeanour in question is foreseen in the General Regime of Collective Investment Schemes or not.

PARES | Advogados is available to provide more detailed information on this and other matters that will suit the specific needs of each client, being able to assist in any misdemeanour or criminal litigation relating to investment funds of any nature.

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