

APRIL 30, 2020

LOAN FUNDS CMVM REGULATION 5/ 2020

On April 28, 2020, entered into force CMVM Regulation 5/2020, which established the legal requirements for Loan Funds (which are a type of Alternative Investment Fund) to be able to grant loans in their activity.

This regulation alters CMVM Regulation 3/2015, thus specifying the existing legal framework regarding this type of Alternative Investment Funds, which is currently regulated in the Venture and Risk Capital act - Law 18/2015, of March the 04th.

Among other issues, this regulation establishes **(i)** The type of assets that can comprise the loan funds portfolio; **(ii)** the risk analysis and stress test compliance requirements; **(iii)** the information obligations towards the borrowers; and **(iv)** Other requirements regarding the board of director's suitability and experience.

LOAN FUNDS PORTFOLIO

The regulation establishes that the loan funds portfolio should be essentially comprised by the loans granted by the funds, or by equity in acquired loans. However, and albeit in a limited form, the Loan Funds may also have in their portfolio the following assets: **(i)** liquidity; **(ii)** debt securities; e **(iii)** other assets that it may receive as payment from the loans.

RISK MANAGEMENT

The loan funds should have a risk management system in place that include risk analysis and monitorization policies and procedures. Among the mentioned policies and procedures, we point out the following:

- Credit selection and debtor eligibility criteria;
- Credit default policies and procedures, as well as credit approval and credit management policies and procedures;
- Credit monitoring procedures and quarterly credit assessment plans;
- Establishing quarterly stress tests.

INFORMATION OBLIGATIONS

The loan funds are also subject to information obligations towards their borrowers, namely, to provide all the necessary information regarding the services provided by the funds, as well as the information regarding the operations risk, and their cost.

OTHER REQUIREMENTS

The board of directors of fund management companies, who manage loan funds, are required to include, from now on, at least one member with proven experience in credit approval and credit risk management.

PARES | Advogados is available to provide information regarding these or other topics tailor made to the client's needs. Namely it is able to assist in any issue regarding the loan funds legal framework, their creation, or to provide support in its management.

Duarte Canotilho
dac@paresadvogados.com

This Newsletter is addressed to clients and lawyers and does not constitute advertising, being prohibited its copy, circulation or other form of reproduction without the express authorization of its authors. The information provided is generic and does not dispense the need of legal advice prior to any decision regarding the matter in question. For further information please contact **Duarte Canotilho** (dac@paresadvogados.com).