



ASSET MANAGEMENT REGIME

I - APPROVAL AND SCOPE OF THE ASSET MANAGEMENT REGIME

Decree-Law 27/2023 of April 28, 2023, approved the Asset Management Regime. Asset Management Regime (AMR).

In addition, it is also amended the Securities Code and amended the Legal Regime of the Central Credit Register (Decree-Law no. 204/2008 of 14th of October, 2008).

II - ENTRY INTO FORCE

The AMR will come into force 30 days after the date of its publication, that is, on the 29th of May, 2023..

III - MAIN REASONS FOR THE APPROVAL OF THE AMR

Prior to the AMR, the activity of Collective Investment Undertakings (CIUs) was divided by (i) the General Regime of Collective Investment Undertakings (GRCIU); and by the (ii) Legal Regime of Venture Capital, Social Entrepreneurship and Specialized Investment (LRVCSESI).

The GRCIU provided, in particular, for Collective Investment in Transferable Undertakings (CITUs) and Alternative Investment Undertakings (AIU).

In turn, the LRVCSESI provided for the activity of venture capital, social entrepreneurship and specialized investment.

The joint experience of these two regimes (GRCIU and LRVCSESI) has shown that, between common references existing between the two of them, their unification would confer to the sector, not only a greater simplification and uniformity, as to its regulatory policies, as well as endowing the supervisory services with greater efficacy, in addition to contributing to greater competitiveness in the activity of the CIUs.

It is, therefore, in this context, that the present reform arises, reflected in the approval of the AMR, which now regulates CIUs in a unitary manner.

IV - REPEALING RULE

As a consequence of the adoption of the unitary regulatory framework referred to above, the AMR revokes (among other regulations) the GRCIU and the LRVCSESI.

V - OTHER HIGHLIGHTS

Types of CIU

The AMR includes two types of CIU: (i) the UCITS; and (ii) the AIU.

On the other hand, and in line with the concerns for simplification summarized above, the list of AIU is reduced to three main types, according to their primary investment: Real Estate AIUs; (ii) Venture Capital AIUs; and (iii) Credit AIUs.

Bond issuance

With the AMR, AIUs may now issue bonds, and the Portuguese Companies Code applies, with the necessary adaptations.

Bonds may be issued as from the date of incorporation of the AIU and are not subject to the limits provided for in the Portuguese Companies Code, but rather subject to the to the indebtedness limits set forth in the AMR.

Global net worth

The AMR has abandoned the minimum values currently established for the net asset value of each CIU to now provide that each CIU must always be positive.

Management Companies

Within its concerns for legislative simplification, the AMR has reduced the range of entities qualified to dedicate themselves to the collective management of assets:

(i) Management Companies for Investment Undertaking (which can perform the activities of CIU and AIU); and the (ii) Venture Capital Management Companies (which can only manage AIU).

AIU management companies are subdivided into large and small management companies, depending on their small, according to whether or not their assets under management exceed EUR 100,000.00 and € 500.000,00.

Smaller management companies are subject to a simplified authorization process by the CMVM, as opposed to the regime applicable management companies of large size.

The minimum initial capital requirement for a small management company is 75,000.00 euros and is required to constitute an additional amount of 0.02% of the amount where the overall net value of the portfolios under management exceeds EUR 250,000.00.

The appointment of a depositary is not required for AIU managed by small dimension when AIU are exclusively aimed at professional investors.

The minimum initial capital requirement of a large management company is of at least EUR 125,000.00 or, if they carry on the activity of registration and deposit of financial instruments, this capital is increased to €150,000.00.

Subject to CMVM's authorization, large management companies may be authorized to manage CIUs and/or AIUs.

Large-scale management companies may exercise their activity in other countries of the EU, under the right of establishment of a branch or the freedom to provide services.

VI - TRANSITORY LAW

- The MCIUs and the CIUs covered by the now revoked GRCIU and LRVCSSESI have a period of 180 days, as of the date of entry into force of the AMR (29-05-2023), to adapt to its provisions.
- Applications for authorization or registration to commence activity and to set up CIUs pending on the date of entry into force of the AMR will be subject to the provisions converted into the corresponding procedures, when applicable, and the new decision deadlines begin to run.
- When the AMR foresees the communication of facts which were previously subject to authorization or registration, under the terms of the GRCIU or the LRVCSSESI, the procedures pending on the date of the entry into force of the AMR are extinguished, and counting the period:
 - a) Of opposition by the CMVM as of the date of entry into force of the AMR;
 - b) Of communication under the terms of the RGA, in the case of subsequent communications.
- Notifications to which the CMVM may oppose, under the terms of the GRCIU and LRVCSSESI:
 - The time limit will be counted: notifications to which opposition may be lodged by the CMVM under the terms of the GRCIU and LRVCSSESI, and the time limit for the deduction of opposition is still running on the date of entry into force of the AMR, the time periods foreseen in the previous regime will apply.
 - The pending procedures for extension of the time limit for settlement of CIUs or the reversal of liquidation of private subscription AIU continue to be carried out in accordance with the terms under the previous regime.
- Management Companies and self-managed AIUs which hold assets under management in an amount below the thresholds provided for in article 7 (1) of the AMR of 100,000,000 euros (including assets acquired through the use of leverage) and of € 500,000,000 (and do not include assets acquired through the use of leverage and for which there are no redemption rights which can be exercised for a period of five years from the date of the initial investment), and which are already authorized to exercise the activity under the GRCIU and LRVCSSESI schemes on the date the AMR comes into force, are qualified as management companies, if they do not communicate to the CMVM, within 90 days from the date of entry into force of the AMR, they will be qualified as small management companies if they do not inform the CMVM, within 90 days from the date of entry into force of the AMR, of their intention to be qualified as large management companies.
- With the communication referred to in the preceding paragraph, the entities referred to therein are automatically qualified as large management companies.
- When, for the purposes of adaptation to the AMR, the change of name is limited to replacement of the current designation by any of the expressions referred to in no. 2 and 3 of article 8 of the AMR, the said alteration is subject to notification to the CMVM within 90 days after the date of entry into force of the AMR.

- The acts relating to the admissibility of the firm and the commercial registry and the publications under the preceding paragraph are exempt from the payment of emoluments.
- The investment funds covered by Decree-Law nr. 316/93, of 21st of September [Real Estate Management Funds (FUNGEPI)] - revoked by AMR), adapt to the provisions of the AMR within one year after the date on which it enters into force.
- The funds set up under Decree Laws 361/97, of 20th of December (Securities investment funds for employees of companies in the process of reprivatization - revoked by the AMR), and 187/2002, of 21st of August [venture capital syndication funds (FSCR) - repealed by the AMR], discontinue their activity within one year from the entry into force of the AMR, without prejudice to the possibility of conversion into CIUs disciplined by the AMR within that same period.
- When the Retirement Savings Plans take the form of AIU and investors' protection may demand, the CMVM may regulate, until the end of 2024, the preparation and content of a specific pre-contractual document.
- CMVM regulations adopted under the GRCIU and RJCRESIE remain in force until they are expressly replaced, amended or revoked, to the extent that they are compatible with the provisions of the AMR.
- Article 160° of the RGA (Non-harmonized regime for the marketing of alternative investment undertakings not established in Portugal), will enter into force with the AMR but will cease to be in force on the date set in accordance with the delegated act to be adopted by the Commission, pursuant to Article 68(6) of Directive 2011/61/EU. From that moment, will enter into force the established in articles 157° and 158° of that AMR, which, consequently, do not come into force with the AMR, and which refers to the following matters:
 - marketing in Portugal, exclusively to professional investors, by national management companies, of third-country AIUs managed by them, as well as European Union AIUs.
 - marketing in Portugal to professional investors by third-country management companies authorized in Portugal of third-country AIUs managed by them; and
 - the marketing in Portugal exclusively to professional investors of third-country UIAs by management companies from the European Union or third-country management companies authorized in another member state.

As stated above, these matters will only come into force on the date set pursuant to the the delegated act to be adopted by the Commission pursuant to Article 68(6) of Directive 2011/61/EU.

Article written in association with

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