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Update

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A new regulation model for Undertakings for Collective Investment: the Asset Management Regime

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1. General Context

On October 25, 2022, the Portuguese Parliament received the **Legislative Proposal 40/XV/1** which authorizes the Government to revise the legal framework for Undertakings for Collective Investment, initiating the legislative process to approve the “Asset Management Regime” (“**AMR**”) (“*Regime da Gestão de Ativos*”).

The Draft of the Authorized Decree-Law undertakes a comprehensive and cross-cutting revision of the regulation of the asset management sector, revoking the General Framework on Undertakings for Collective Investment (“**GFUCI**”) and the Legal Framework for Venture Capital, Social Entrepreneurship and Specialized Investment (“**LFVCSESI**”).

It is recalled that the Proposal presented herein follows the approval of the **CMVM** (the Portuguese securities market supervisory authority) Draft AMR submitted to Public Consultation Procedure No. 2/2021 and **approved** by the Council of Ministers on October 20, 2022.

2. The Asset Management Regime. An overview.

The regulation of the management activity of undertakings for collective investment currently coexists with a remarkable legislative dispersion, marked, on a national level, by the coexistence of two

fundamental and complementary legal acts which, in turn, largely transpose the rules of European Union Law.

In addition, it is important to avoid or minimise domestic regulatory additions to European regulation (gold plating), which is now intended to be remedied by the AMR.

The changes promoted by the AMR are transversal. Of particular note is the greater development of the adapted statute for small management companies, the simplification of the catalogue of types of Alternative Investment Undertakings ("AIU"), as well as the simplification of the catalogue of types of management companies of undertakings for collective investment, putting an end to the multiplicity of management companies provided for in the existing legislation.

Also of note are rules that aim to harmonize the organization and operation of the Undertakings for Collective Investment and their Management Companies, such as, for example, rules on the provision of accounts and financing, incorporation and authorization, cessation of activity and liquidation.

3. Conclusions

The AMR comes forth as a diploma with a systematizing scope, promoting the creation of a single legal framework, coherent and harmonized with European Union law of the regulation on the management activity of undertakings for collective investment.

All things considered, it is estimated that the measures now foreseen, aiming for regulatory simplification and standardization, the progressive elimination of gold plating, safeguarding in any case the protection of investors, emerge as a very positive sign in the promotion of competitiveness and development of the national asset management market, and are decisive in a context of post-pandemic recovery and contemporary with the implementation of the reforms contained in the **Recovery and Resilience Plan ("RRP")**.

The Proposal now follows the legislative process, which will be followed closely by market agents, awaiting approval and entry into force.