

CADERNOS  
DO MERCADO  
DE VALORES  
MOBILIÁRIOS

# 20 ANOS DO CÓDIGO DOS VALORES MOBILIÁRIOS



# **Cadernos do Mercado de Valores Mobiliários sobre os 20 Anos do Código dos Valores Mobiliários**

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Coordenação:  
**CMVM**

**CADERNOS DO MERCADO DE VALORES  
MOBILIÁRIOS SOBRE OS 20 ANOS  
DO CÓDIGO DOS VALORES MOBILIÁRIOS**

COORDENAÇÃO

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# The Portuguese Securities Code at Twenty: Some Comments on the Expansion, Goals and Limits of EU Financial Market Law

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PAULO CÂMARA\*\*

*Sans remords dans le passé, confiant dans le présent  
et plein d'espérance dans l'avenir  
Alexandre Dumas, Vingt Ans Après*

## 1. Introduction<sup>1</sup>

This essay discusses the evolution of the Portuguese Securities Code in its first twenty years in connection with the parallel trajectory of EU financial markets law.

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<sup>1</sup> This article replicates the analysis focusing on the Italian Testo Unico della Finanza, undertaken by LUCA ENRIQUES, *Brevi note in tema di espansione, finalità e limiti del diritto euro-unitario dei mercati finanziari*, in *A 20 Anni del TUF (1998-2018): verso le discipline della Capital Markets Union?*, Quaderni giuridici n. 21 (sept.-2019), 109-116. For other examples of quantitative analysis of EU Law see CORINNA COUPETTE/ ANDREAS MARTIN FLECKNER, *Das Wertpapierhandelsgesetz (1994–2019) – Eine quantitative juristische Studie, Festschrift 25 Jahre WpHG – Entwicklung und Perspektiven des deutschen und europäischen Wertpapierhandelsrechts*, (2019), 53-85.

The Securities Code (*Código dos Valores Mobiliários*; hereinafter, the Code or the CVM) is a central component of the securities law framework in Portugal. It was approved by Decree-Law No. 486/99 of 13th November, and most of its rules entered into force on the 1<sup>st</sup> of March 2000<sup>2</sup>. It replaced the 1991 Securities Markets Code (*Código do Mercado de Valores Mobiliários*), the first securities laws code ever adopted in Portugal.

Originally the Code differed substantially from its predecessor. While the 1991 Securities Markets Code was an over-prescriptive piece of legislation, with more than 690 articles, usually very dense and long, the current Securities Code had 421 articles in its original version. Moreover, the Securities Code expressly aimed at being more concise in each of its provisions<sup>3</sup>: this feature, however, faded away as the transposition of several EU Directives subsequently progressed.

The Securities Code has not achieved a complete unification of securities laws. In fact, since its approval, the Code has been supplemented by other laws regulating namely the types of securities<sup>4</sup>, the categories of financial intermediaries<sup>5</sup> and market infrastructures<sup>6</sup>, investor compensation schemes<sup>7</sup> and the statutory regime of the Portuguese securities markets authority – the CMVM, the *Comissão do Mercado de Valores Mobiliários*<sup>8</sup>. At the secondary level, the CMVM has approved a number of important regulations.

In this context, as we celebrate the first two decades of the Code, it is important to take stock of the very significant evolution it has gone through during this period. In order to do so, we assess the number of rules in force at the beginning of three successive decades: the 2000s, the 2010s and the 2020s<sup>9</sup>.

<sup>2</sup> Article 2 of Decree-Law 486/99, of 26 July 1999. This explains why we treat below the original version as the 2000 version.

<sup>3</sup> CARLOS FERREIRA DE ALMEIDA, *O Código dos Valores Mobiliários e o sistema jurídico*, Cadernos do Mercado de Valores Mobiliários n. 7 (1999), 21, 45.

<sup>4</sup> See namely the Companies Act (which includes the regime of shares and bonds), Decree-Law n. 144/2019, of 23 September (collective investment schemes), Decree-Law n. 172/99, of 25 March (warrants), Decree-Law n. 59/2006, of 20 March (mortgage bonds) and Decree-Law n. 69/2004, of 25 March (commercial paper).

<sup>5</sup> See namely Decree-Law n. 163/94, of 4 June (asset managers), Decree-Law n. 262/2001, of 28 September (brokers and dealers) and Decree-Law n. 357-B/2007, of 31 October (investment advisors).

<sup>6</sup> See Decree-Law n. 357-C/2007, of 31 October.

<sup>7</sup> See Decree-Law n. 222/99, of 22 June.

<sup>8</sup> See Decree-Law n.5/2015, of 8 January.

<sup>9</sup> In this part we are thankful to the helpful support given by Gabriela Teixeira Duarte.