MAY. 25

INFORMATIVE NOTE

BANKING AND FINANCE

Asset management: reporting obligations and prudential supervision

New CMVM Regulation 3/2025

CMVM Regulation 3/2025 (the "**Regulation**") was published on 17 April 2025 and came into force on 18 April.

The main objectives of the Regulation are:

- To adapt the terminology and reporting obligation to the changes introduced to the Asset Management Regime (Regime da Gestão de Ativos - "**RGA**") by Decree-Law 89/2024 of 18 November
- To clarify, adapt and simplify a wide range of other regulations relating to matters subject to CMVM supervision.

Amendments to:

- 8/2018: Duties of information and marketing of PRIIPS
- 1/2020: Submission of information to the CMVM for the purposes of prudential supervision.
- 7/2020: Submission of information to the CMVM on complaints made by non-professional investors
- 8/2020: Submission of information to the CMVM on price lists for non-professional investors, marketing and charges of collective investment undertakings
- 9/2020: Self-assessment report on governance and internal control systems
- 6/2023: CMVM Electronic One-Stop Shop (Balcão Único Eletrónico - ("**BUE**")
- 7/2023: Regulation of the Asset Management Regime ("**RRGA**")
- 1/2016: Relating to equity-based or lending-based crowdfunding - **Repealed**

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Main changes in Regulation 3/2025:

Packaged Retail and Insurance-based Investment Products ("PRIIPs") - CMVM Regulation 8/2018:

Since the introduction of European regulation on this matter, the obligations imposed by the CMVM in relation to PRIIPs have applied to collective investment undertakings ("**CIUs**"), and the Regulation simplifies several existing rules CMVM Regulation 8/2018, notably the following:

- The exemption from the duties set out in the PRIIPs Regulation applicable to CIUs and their management companies, has been eliminated. This exemption was only in force until 31 December 2022.

- The rule has been reorganised to clarify that, in relation to CIUs classified as PRIIPs, the obligations set out in CMVM Regulation 8/2018 concerning prior notification and disclosure of the Key Information Document ("**KID**") do not apply. The rules on the information and safekeeping of subscription documents, and advertising requirements, are also excluded

The Regulation introduces changes to the rules on the subscription or acquisition of PRIIPs It also introduces provisions allowing greater flexibility in electronic subscription processes. Non-professional investors can now explicitly consent to the relevant statements relating to this process[1]. Additionally, the acceptance of these statements is only required in the case of generic KIDs at the time of the first subscription or acquisition associated with the PRIIPs.

Finally, the Regulation amends the specifications for submitting the KID report required by CMVM Regulation 8/2018: the file must now be sent as a searchable PDF and cannot be sent as an image.

Reporting information to the CMVM for the purposes of prudential supervision - CMVM Regulation 1/2020:

The Regulation introduces amendments to CMVM Regulation 1/2020, which plays a key role in defining and coordinating prudential information reports to be sent to the CMVM. The following changes are particularly noteworthy:

- Crowdfunding service providers subject to prudential supervision by the CMVM are included among entities required to submit information on prudential requirements. Information on the economic and financial data of crowdfunding service providers must be submitted either quarterly or half-yearly. This should include the balance sheet, the income statement and statement of other comprehensive income, and the annual report and accounts.

1 These statements are: (i) "I have received a copy of the Key Information Document for this product prior to subscribing or purchasing it"; (ii) "I have read and understood the characteristics and risks associated with my investment decision"; (iii) "I am aware that, in addition to being exposed to the credit risk of the entities referred to in the Key Information Document, I may also lose [up to ...% of the total amount invested]"; and if applicable, "I may have to make additional payments in addition to the amount initially invested".

- The accounting rules applicable to crowdfunding service providers have been harmonised. From 1 January 2026, their financial statements must be prepared in accordance with the International Accounting Standards and International Financial Reporting Standards ("**IAS**" / "**IFRS**")[2].

- The applicable annexes and the required quarterly reporting information on compliance with prudential requirements - applicable both to CIU Management Companies and to self-managed Collective Investment Companies (Sociedades de Investimento Coletivo - "**SICs**") - have been clarified and the terminology has been adjusted.

- New information is now required as part of the annual financial reporting. In addition to the annual accounts documents, this must now also include the minutes of the general meeting of the supervised entity at which those accounts were approved.

Self-assessment report on governance and internal control systems: CMVM Regulation 9/2020:

There is an obligation on certain entities subject to CMVM supervision to prepare and submit an annual self-assessment report on their governance and internal control systems. It is worth highlighting that the Regulation introduces a reorganisation of the subjective scope of this obligation. The entities now required to comply are as follows:

Management companies authorised to manage UCITS, regardless of whether they are also authorised to manage AIFs

- Large Size management companies

- Self-managed Collective Investment Companies (SICs)

The main achievement of revising the scope of application of the Regulation is to definitively establish that the obligations in question no longer depend on the amount of assets under management by the entity concerned. Prior to the entry into force of the Asset Management Regime (RGA), certain management companies and self-managed collective investment companies (SICs) whose assets did not exceed the classification threshold for large entities could nonetheless be classified as such. Until now, it was unclear whether the obligation applied to them.

The main achievement of revising the scope of application of the Regulation is to definitively establish that the obligations in question no longer depend on the amount of assets under management by the entity concerned.

2 A progressive move towards harmonisation can be seen in this area, with the mandatory adoption of the International Accounting Standards and International Financial Reporting Standards already having been imposed by the RRGA on CIU Management Companies as from 1 January 2024.

Amendments to reporting obligations under the RRGA - CMVM Regulation 7/2023:

The introduction of the Regulation has led to a partial amendments to the reporting obligations imposed on management companies by the RRGA (Asset Management Regime regulations). Among the key changes introduced are:

- The reporting on management companies' own portfolio composition for the purpose of supervising compliance with the applicable requirements for investing amounts exceeding own funds has been adapted (see Point 6).

- The Regulation specifies the monthly reporting obligation concerning the explanatory note on the progress of the winding-up process, applicable to all types of alternative investment undertaking ("**AIFs**") undergoing out-of-court liquidation as regulated in the RGA (Asset Management Regime). This clarification is particularly important as it corrects an apparent oversight in the original version of the RRGA , which referred only to such reporting in respect of real estate AIFs.

- Several reporting instructions now incorporate the CMVM's Questions & Answers on the regulatory framework applicable to management companies and collective investment undertakings in the context of information reporting.

Investment in own portfolios by Large Size and UCITS Management Companies - CMVM Regulation 7/2023:

As mentioned previously, the primary objective of the Regulation is to align the terminology and prudential reporting obligations with the recent amendments to the RGA.

Decree-Law 89/2024 of 18 November amended the RGA to clarify that Large Size management companies and management companies of undertakings for collective investment in transferable securities (UCITS) may, on an ancillary basis, invest in their own portfolios beyond their own funds requirements. This is permitted provided that any potential conflicts of interest arising from such activity are appropriately addressed.

To implement this change, the Regulation outlines the conditions under which such investments can be made. According to the amendments now introduced to the RRGA, these amounts may be invested in the following categories of asset:

Large Size management companies and management companies of undertakings for collective investment in transferable securities may, on an ancillary basis, invest in their own portfolios beyond their own funds requirements.

i) Assets that can be acquired using mandatory own funds, i.e. assets that meet the requirements set out in Article 31(7) of the RGA. These include liquid assets or assets that can be readily converted into cash in the short term, such as transferable securities, money market instruments, units in collective investment undertakings and demand or term bank deposits. These assets must not involve speculative positions. Therefore, the management company cannot invest these funds in instruments held with a view to resale for profit.

ii) Equity interests in financial sector entities established in the European Union or in a third country. In the case of third countries, the entities in question must be subject to prudential standards equivalent to those set out in European Union legislation. For this type of investment, notification is mandatory with the CMVM at least 30 days before the intended investment date. This must be accompanied by information justifying the proposed acquisition and the amounts to be invested, as well as the identification of the entities in which the investment is to be made.

iii) Securities, specifically units in investment funds or shares in collective investment companies (SICs), of CIUs managed by the management company with the aim of sharing investment risk and aligning the management company's interests with those of the CIU and its investors. This amendment definitively clarifies that co-investment by the management company and investors is permitted not only in the context of venture capital but also more broadly. This includes 'skin in the game' investments (i.e. co-investment in the CIU or in an asset in its portfolio), and 'seed money' investments, i.e. temporary investments in the early stages of a CIU.

iv) Assets necessary for the development of the management company's business activities, which include non-current assets essential to the conduct of those activities. This category covers certain real estate assets and/or other tangible assets, such as IT equipment or office furniture, as clarified by the CMVM in the Public Consultation Report on the Regulation).

Finally, it is important to note that, in general, the Regulation provides that an investment in any of the above-mentioned asset types must not:

- Pose risks to compliance with prudential requirements, nor
- Undermine the sound and prudent management of the management company. This includes avoiding losses that exceed the amount invested. However, this does not imply an obligation for the management company to invest only in capital-guaranteed assets. ■