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# Banking, Finance and Capital Markets

Legal Flash | Portugal

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## I. Decree-law nr. 56/2018 of 9 July (DL nr. 56/2018)

The recently published DL nr. 56/2018 has introduced several amendments to various legal texts concerning investment vehicles.

DL nr. 56/2018 does not complete the missing parts of UCITS V Directive transposition in Portugal. The changes hereby introduced are actually one-off and transversal, amending the framework applicable to Undertakings for Collective Investment (UCI), to investments in venture capital and social entrepreneurship and to investment companies for development of the economy. The following laws have therefore been amended:

- ✓ General Framework on Undertakings for Collective Investment;
- ✓ Legal Framework on Private Equity, Social Entrepreneurship and Specialised Investments; and
- ✓ Legal Framework on investment companies for development of the economy.

Some of the most important amendments introduced by DL nr. 56/2018 are briefly mentioned below.

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## II. General Framework on Undertakings for Collective Investment (*RGOIC*)

The *RGOIC* - which will now concentrate the legal framework applicable to management companies of UCI – has been amended to foresee that management companies may choose to register the units of any UCI they manage by means of a centralised system to be managed by the depositary credit institution, thereby avoiding multiple individual units' registry accounts.

Another important amendment pertains to the elimination of unit dispersion requirements during the first six months of UCI's activity, no longer requiring a minimum of 30 investors and suppressing the prohibition of units concentration higher than 75% in a single investor.

In order to align the national rules with the European framework, the *RGOIC* will now allow management companies of Alternative Investment Undertakings (AIU) to manage third-country AIU not marketed in the European Union, and will not require them to be specifically directed or provided to professional investors. The European passport as implemented and recognised in Portugal will therefore have a wider scope of application in such situations.



In respect of open-ended AIUs in transferrable securities, it will be possible to establish subscription and redemption intervals up to six months. As for open-ended real estate investment vehicles, it is now foreseen that the instruments of incorporation may foresee that redemptions by non-professional investors, and related requests, may be made within a shorter deadline than would otherwise be generally the case.

Another important aspect introduced in the *RGOIC* is the shortening of statutory deadlines for CMVM to authorise the incorporation of any UCI in Portugal, as well as the enhancement of predictability regarding the authorisation process.

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### **III. Legal Framework on Private Equity, Social Entrepreneurship and Specialised Investments** **(RJCREISIE)**

Concerning private equity and alternative specialised investments, the most important amendment pertains to the elimination of a mandatory time limitation. In the case of the former, the current maximum investment period of 10 years will now be abolished, which will ease portfolio management constraints under certain market conditions.

The new rules clarify that business angels and members of corporate bodies and holders of qualifying shareholdings in private equity companies shall comply with the requirements of good reputation, knowledge, professional experience and availability and that its assessment shall be subject to the framework applicable to credit institutions.

In respect of social entrepreneurship investments, its scope will now be broadened to any entity, such as associations and foundations, no longer being limited to partnerships and companies.

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### **IV. Entry into force**

DL nr. 56/2018 will enter into force on the day the Law transposing MiFID II enters into force, which is expected to be soon as the according Draft Law has already been approved by the Parliament and submitted for presidential enactment on 26 June.

However, it should be noted that the shortening of statutory deadlines for authorisations by CMVM will only be applicable to any requests submitted as from 1 January 2019. Likewise, the elimination of dispersion requirements regarding UCI units will also only come into force as from next year.



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