

Regulatory changes for new forms of financing – pbbr



The Portuguese Stock Exchange Commission has issued new regulations concerning equity investment and financing in relation to crowdfunding. These regulations are not in force yet as new regulations concerning its criminal regime are required for that purpose. These rules will contribute to the increased use of crowdfunding as a financial tool. Crowdfunding can be useful for the financing of new projects and ideas, which are still critical in the Portuguese market, especially for start-ups.

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The government has also approved a new programme called ‘Programa Capitalizar’ to support the restructuring, financing, capitalisation and development of Portuguese companies.

The programme aims to help companies *(i)* have more solid financial structures *(ii)* have access to alternative financing and to *(iii)* increase their capacity to make productive investments.

The above measures might be important to Portuguese entities considering the instability in the Portuguese banking sector – the tight rules/practices in relation to new financing are preventing access to the traditional sources of financing.

The Stock Exchange Commission is consulting the public on several instructions related to various matters such as *(i)* quality control on audit, *(ii)* resolution of conflicts and *(iii)* portfolios of private equity firms.

More important with respect to the financial markets is the fact that Regulation on Market Abuse (Regulation (UE) n° 596/2014) came into force on 1 July 2016. In dealing with market abuse and inside information, this regulation approves some changes in relation to the Portuguese Securities Code regime, namely concerning *(i)* the definition of privileged information, *(ii)* the possibility to postpone disclosure in some circumstances with the approval of the Stock Exchange Commission.

The Portuguese Institute of Corporate Governance is consulting the public on a new corporate governance code that aims to reflect lessons learned from the practice and experience of the old rules’ application.

The validity of swaps’ agreements, especially when they have a speculative purpose, are still being discussed in the Portuguese Courts with some contradictory rulings being issued. It will be important for future practices to see which position prevails.

The aforementioned changes in law and in regulations relate to the banking and financial sectors, which have experienced significant instability. Our view is that alternative solutions for banking and financing will become even more popular in the future and this will definitely impact on the existing legal and regulatory framework.

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