



Portuguese REITs – Amendments Law 97/2019

On September 4, the Law No. 97/2019, approved the first amendment, by parliamentary appraisal, of the Portuguese real estate investment trusts - sociedades de investimento e gestão imobiliária (“SIGI”) approved by Decree-Law No. 19/2019, of 28 of January. This amendment approved the tax regime applicable to SIGI and introduced, among others, changes in (i) corporate purpose; (ii) assets composition; and (iii) free float requirements.

Tax Regime - From a tax perspective, the referred amendment to the Decree Law no. 19/2019 clarified the tax regime applicable to SIGI: when the SIGI’s legal regime was approved, the only reference to the tax regime was in the law’s preamble. This amendment adds a specific rule (article 11.º-A) to the above-mentioned Decree Law stating that, as a rule, SIGI’s are subject to the tax regime foreseen in the Tax Benefits Statue for Collective Investment Vehicles (“OIC”). Notwithstanding, capital gains derived from the disposal of properties by a SIGI will only be excluded from the SIGI’s taxable income if the properties were hold for leasing purposes for at least three years.

In addition, some specific provisions were provided to clarify the tax treatment due to both investors and the vehicle itself in case that the SIGI legal regime is no longer applicable.

Corporate purpose - Regarding corporate purpose, the amendments clarified that the purpose of these companies is only leasing, even if understood broadly. Accordingly, the new version stated that SIGI’s main purpose is the acquisition of properties rights for leasing including in the definition of leasing “atypical contractual arrangements that covers services required for the use of the property”. With this amendment the reference in the previous version to other forms of economic use of the property was eliminated.

It should be mentioned that this regime is applicable to certain types of “rural property”, and that the acquisition of property rights for leasing covers: (i) construction and rehabilitation projects; and (ii) the allocation of the assets to the use of shops or spaces in shopping centers/office buildings.

Also, within the scope of the corporate purpose, is now expressly admitted the possibility for the SIGI to hold interests in non-SIGI companies with headquarters in Portugal, if these companies fulfill some requirements applicable to SIGI.

Asset composition - the assets composition rules were updated in line with the broad notion of lease now established, defining that the value of the properties rights for lease (including atypical contractual arrangements that covers services required for the use of the property) must represent at least 75% of the total value of SIGI’s assets.

A control rule was also introduced whereby SIGI's management should, at least every seven years, request an asset valuation (on its assets) to be performed by an external and independent CMVM registered auditor.

Free Float requirements - *The free float requirements of 20% (for the admission to official listing/trading platform) is only required from the end of the 3rd year after admission, and from the 5th year onwards the percentage required rises to 25%. We should refer that, under the applicable regime, SIGI must apply for admission to listing/trading platform within 1 year of the company's registration.*

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