

## EQUITY &amp; LOAN CROWDFUNDING RULES: CMVM REGULATION NO. 1/2016

Following the publication of the Crowdfunding Act<sup>1</sup>, the Portuguese Securities Market Commission (“CMVM”) published Regulation CMVM no. 1/2016 (“Regulation”) on May 25<sup>th</sup>, 2016, thus approving the rules applicable to the two main types of investment crowdfunding: the equity crowdfunding and the loan crowdfunding.

According to the Regulation, CMVM will have up to 30 business days to grant or refuse the prior registration of management entities of equity and loan crowdfunding platforms, which will have to comply with at least one of the following capital requirements:

- (i) Minimum share capital, fully paid up, of € 50,000.00; or
- (ii) Civil liability insurance with a minimum cover of € 1,000,000.00 per claim and with a global cover of € 1,500,000.00 for all the claims occurred in one year; or
- (iii) A combination of (i) and (ii) which results in a level of protection equivalent to any of the above separately.

Amongst other aspects, CMVM will assess if the members of the management entities’ board have the necessary qualifications and are reputable, and it will also oversee the adoption, by the platforms, of internal rules and procedures that ensure (a) a sound and prudent management, (b) the prevention of fraud and money laundering, (c) the safety and consistency of the platforms’ data and functions, (d) compliance with the information duties to investors, and (e) the identification and reduction of conflicts of interests. CMVM will also maintain a public list of all entities authorized to manage platforms of equity and loan crowdfunding.

The Regulation also provides investment limits for natural persons, which cannot invest in crowdfunding more than:

- (i) € 3,000.00 per offer;
- (ii) € 10,000.00 as total aggregated amount invested in a period of 12 months.

However, legal entities, professional investors and natural persons with annual earnings higher than € 70,000.00 are not subject to the abovementioned investment limits. In addition, the Regulation also provides for investment limits per offer, given that each crowdfunding project, in a period of 12 months, cannot raise more than € 1,000,000.00, or more than € 5,000,000.00, if the offer is only targeted to investors not subject to the abovementioned investment limits.

Finally, the Regulation provides that a beneficiary, in relation to each of its crowdfunding offers, must prepare and provide the platform with “key crowdfunding investor information” (“KCII”) corresponding to an information document similar to that which is currently required for most investment funds in Europe, also known as “KIID”. As the name suggests, the aim of the KCII is to provide investors with vital information regarding each crowdfunding offer.

Although the Regulation has now been published, it will only come into force when the penalties regime for crowdfunding enters into force.

**Luís Roquette Gerales / João Lima da Silva**

<sup>1</sup> Approved by Law no. 102/2015, of August 24<sup>th</sup>.

For more information on the Crowdfunding Act please follow the link on text.

The information contained in this review is of a general nature and does not constitute legal advice.

[teamgenesis@mlgts.pt](mailto:teamgenesis@mlgts.pt)

[www.mlgts.pt/en/are\\_genesis.php](http://www.mlgts.pt/en/are_genesis.php)

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