

## LEGAL ALERT

### NEW DIPLOMA IMPOSES ESG RULES ON UCITS

The [Directive \(EU\) 2019/1160, of June 20](#), and the [Delegated Directive 2021/1270, of April 21](#), were partially transposed to the Portuguese legal system, with new rules for the cross-border distribution of collective investment undertakings (CIU) and as to the risks and sustainability factors to be considered by the undertakings for collective investments in transferable securities (UCITS).

The implementation into local law was made by [Decree-Law no. 109-F/2021, of December 9](#), which introduced the tenth amendment to the [General Regime for Collective Investment Undertakings](#) (approved as an annex to [Law no. 16/2015, of February 24](#)).

The main changes occur because of the need identified almost with a feeling of urgency by the European institutions – to harmonize various matters relating to the cross-border activity of CIUs, in order to ensure a level playing field and uniform investor protection.

The diploma follows the European Union's legislative novelties regarding environmental, social and governance (ESG) objectives, namely regarding the disclosure of sustainability information in the financial services sector, promoting its application to UCITS.

Thus, risks and sustainability factors must now be integrated and considered by UCITS managing entities in their activity. As a result, these entities are now subject to new general rules of conduct and must have the necessary resources and technical capacity for the effective integration of sustainability criteria.

New rules were also approved on:

- the pre-marketing regime;
- the regime for marketing and cessation of marketing of UCITS and the definition of the applicable means of marketing;

- densification of the regime of infrastructure provision in Member States where marketing takes place;
- the regime for handling situations of non-compliance with prudential requirements by managing entities.

The Decree-Law no. 109-F/2021 came into force on December 10, 2021, with the exception of the rules concerning the integration of sustainability risks, which come into force on August 1, 2022.

Our team is at your disposal for any clarification regarding this Decree-Law and in particular the integration of sustainability policies in the activities of UCITS.

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