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EVERYTHING IS IN PLACE TO WELCOME THE FIRST SIGIS IN PORTUGAL

In Portugal, the final version of the statute that governs Portuguese REITs was finally approved by parliamentary majority and promulgated by the President of the Republic. With the green light given by the highest authorities, everything is in place in the country to receive the first SIGIs...

On 10 January, the Portuguese Council of Ministers approved the decree-law that created «*the legal regime for real estate investment and management companies (SIGI-sociedades de investment e gestão imobiliária), established as a vehicle to attract investment and drive the property market, particularly the rental segment*». Representing an important step forward for the liquidity and market capitalization of Portuguese real estate, an official government statement referred that «*this accompanies a trend that is already established in other leading European markets, benefitting from the experience of some Member States that have been regulating this type of companies for some years, usually called Real Estate Investment Trusts*».

Meanwhile, the Government published the Decree-Law N.º 19/2019, of 28 January, which regulates these companies, entering into force on 1 February. This regime defines that the SIGIs must have as their main corporate purpose the acquisition of property for leasing purposes, indicating a preference for residential rental, but not necessarily, also including urban regeneration and offices as preferred segments. These firms may also purchase shares in other SIGIs or real estate investment funds with a similar income distribution policy.

Aside from a minimum share capital of € 5 million, these companies must be admitted to trading and at least 20% of the share capital must be held by investors that hold shareholdings of no more than 2% of the share capital of the SIGI in question. In case of incompliance, the companies lose their SIGI status and may not regain it for the next three years.

The regime also foresees mandatory distribution of 75% of the distributable profits and 90% of profits from subsidiaries, if such exist, as well as the obligation to maintain 80% of the share capital invested and, of this, 75% should be leased or placed under another form of economic use. There is also a debt limit, which may not exceed 60% of the SIGI's total assets.

Both joint stock companies that are already established and Real Estate Investment Undertakings of a corporate nature, set up under the Undertakings for Collective Investment Law, may be converted to SIGIs.

75% of the assets must be for rental

Following the discussion regarding the statute and presentation of various proposals, the final version was approved in Parliament on 19 July, incorporating two amendments that define, among other aspects, that SIGIs must allocate at least 75% of their assets to the rental market.

The members of parliament approved an amendment to the objective of SIGIs, now foreseeing as their main corporate purpose *«the acquisition of property ownership rights, surface rights or other equivalent ownership rights concerning properties for leasing purposes, including atypical contractual forms that include rendered services necessary for the use of the property»*.

It is also clarified that, although SIGIs have the same tax regime as investment funds, they only benefit from the same tax exemptions, as capital gains, *«when the properties have been held for leasing purposes or atypical contractual forms that include rendered services necessary for the use of the property, for at least three years»*.

> In general terms, the Portuguese SIGI regime is in many ways similar to its Spanish counterpart SOCIMIs

Two other proposals were achieved by the PSD, a right-wing party and leader of the opposition, which include the obligation of SIGIs to have their assets evaluated every seven years by an independent auditor, and the obligation of at least 25% of the capital to be dispersed after five years of admission to trading.

«An important step» to *«reinforce the competitiveness»* of the Portuguese market

According to Paulo Núncio, a partner of ML Advogados and former Secretary of State for Tax Affairs in the previous administration, *«the approval of SIGIs in Parliament, by such an overwhelming majority, represents a substantial reinforcement of the real estate sector's competitiveness. And it is the definitive conclusion of a project that took its first steps in 2015 and places Portugal in line with the international best practices to attract foreign savings and investment»*.

The Portuguese Association of Real Estate Investors & Developers (APPII-Associação Portuguesa de Promotores e Investidores Imobiliários) considers *«an important step has been taken, in our country and particularly in our Parliament, to attract more and better investment»*. In a statement sent to Iberian Property, APPII says that *«today Portugal passed an important message to the international market that it is ready and willing to welcome new investors, who until now would not come to Portugal, in order to place more (and badly needed) supply in every market segment. The lack of assets and rise in real estate prices can only be resolved on the supply side»*.

Recalling that the Real Estate Investment Trust model *«is a proven success story»* in other countries, representing *«a standardized and internationally accepted form of investment»*, developers believe that *«Portugal would lose competitiveness to attract investment if it didn't quickly establish a legal regime for the recently approved SIGIs»*.

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SOCIMI| Sociedades Anónimas Cotizadas de Inversión en el Mercado Inmobiliário – Spanish REITs

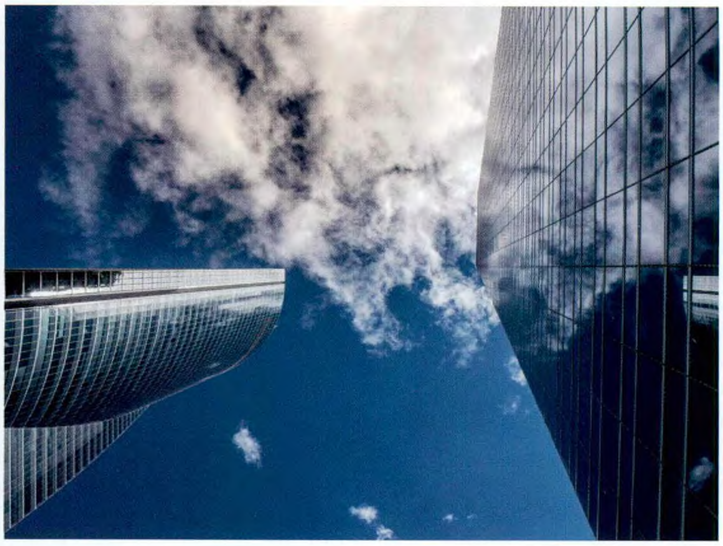
The journey to create a REITs market in Spain began in 2009, with the law 11/2009 of 26 October, which gave the green light to regulate SOCIMIs - Sociedades Anónimas Cotizadas de Inversión en el Mercado Inmobiliário. However, this regime's initial structure presented some limitations and, as such, ended up not generating much activity among investors.

Four years later, in 2013 the government introduced some legislative amendments in order to address claims from investors and which led to considerable improvements in the regime, in a short time consolidating these vehicles as one of the most important sources to attract investment to Spanish capital markets.

Generally speaking, SOCIMIs are joint stock companies whose corporate purpose is the ownership of (i) urban assets for rental (through acquisition or development) or of (ii) shares or investment units of other SOCIMIs, equivalent foreign entities or entities with a similar activity (REITs).

Among this regime's principal characteristics, we highlight:

- Minimum share capital of € 5 million, in the form of a monetary or non-monetary contribution;
- Mandatory trading on regulated markets or, alternatively, on multi-lateral trading systems, such as MAB, whose regulation is much more flexible;
- Zero taxation on capital gains, whenever shareholders own 10% or more of the share capital. Otherwise, the SOCIMI will be subject to a special levy of 19%;
- Mandatory distribution of the year's profits, by means of a distribution of dividends representing at least 80% of the earnings obtained from leases;
- SOCIMIs may own a single real estate asset;
- No debt limit;
- Possibility of carrying out property development in SOCIMI subsidiaries and reduction of the term for retaining the asset in the event of development (three years).



More than 70 SOCIMIs in six years

Since then, and in little more than six years, the SOCIMI model has been a true success, and the numbers prove it, with more than 70 listed companies at the beginning of 2019, with a total real estate investment volume close to € 50 billion and a capitalization value above € 22.3 billion, according to data for the 1st quarter.

During that period, Spanish SOCIMIs distributed € 1.39 billion in profits among shareholders, expanding capital on 48 occasions, achieving € 8.39 billion, and with securities traded on Spanish stock markets for a total value of € 34.66 billion.