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Introduction

The evolution of capital markets in Portugal in recent decades has been greatly influenced by the political scene. The revolution of 1974, which reinstated a democratic regime in Portugal after a 48-year-long dictatorship, was a stepping stone in the development of capital markets, with a clear impact on the upsurge in initial public offerings ("**IPOs**").

In fact, in the first few years after the re-opening of the stock market, after a shutdown between 1974 and 1977 following the revolution, capitalisation was very low, as most of the larger companies listed before 1974 had been nationalised. However, the stock market grew strongly in the early and mid-1980s, supported by greater incentives for companies to list. Indeed, there were 88 IPOs, followed by listing, in 1986 and 1987, which was a period of unparalleled issuing activity in Portugal.

A significant number of the earlier IPOs in Portugal derive from a privatisation programme started in the late 1980s and early 1990s. There has been great disparity between the IPOs of state-owned and privately owned companies, with offerings in the former cluster averaging a size nearly 10 times greater than a typical privately owned company IPO.[1] This is due to the fact that the largest Portuguese companies were nationalised in 1975, including banks and insurance companies, as well as companies operating in other strategic sectors such as telecommunications, electricity, and oil and gas. These nationalised companies have been progressively privatised since the 1980s, mostly through IPOs. Conversely, the bulk of privately owned companies in Portugal is composed of small and medium-sized enterprises ("**SMEs**"), resulting from several decades of detachment from international competition, and from being mostly oriented to a small and emerging domestic market.

In recent years, the number of IPOs has been decreasing, especially since the financial crisis of 2008.

A recent change in the Portuguese legislation, in which the main legal instrument applicable to securities was heavily revised (Portuguese Securities Code (*Código dos Valores Mobiliários*)[2]), introduced several changes, including to the rules governing public offers, a novelty that was also driven by the purpose of unburdening the process of carrying out public offers and facilitating the entry into (and the exit from) the Portuguese market.

The EU Recovery Prospectus, a temporary fast-track method of boosting listed companies' COVID-19 recovery, was a tool that was successfully used by a few of the already existing Portuguese issuers to raise capital; however, the COVID-19 pandemic has kept the market shy, with a low number of IPOs being carried out over the last three years (one in the regulated market and five in multilateral trading facilities).

However, despite the decreasing volume of IPOs in recent times, a shifting trend can be observed: as the majority of previously state-owned companies have already been privatised, most of the more recent IPOs have been executed by privately held firms and SMEs, and not by state-owned companies. Additionally, private companies seem to be starting to consider alternative listing venues, in particular multi-trading facilities such as Euronext Access and Euronext Growth (both of which are managed by the Euronext group).[3]

The IPO process: Steps, timing and parties and market practice

Under Portuguese law, IPOs are very often implemented through public distribution offers ("*ofertas públicas de distribuição*") of shares, most commonly through an offer for subscription ("*oferta pública de subscrição*"), where the issuing company offers its shares for subscription to undetermined investors. In association with a distribution offer, the IPO process will often entail the admission of the company's shares to trading on a regulated market.

This analysis puts the focus on the procedure and listing requirements in the regulated market operated by Euronext Lisbon, which is currently the only regulated market for the trading of shares in Portugal, although sponsors and companies may elect to have their securities admitted to trading in other venues.

Due diligence

Most often, once a company decides to go public, its IPO process will begin with a due diligence procedure with the purpose of analysing several aspects and the status of the company (e.g., financial, commercial, legal, accounting, tax, and others).

This due diligence procedure may be conducted by the company seeking to go public with the assistance of legal counsel and financial intermediaries (e.g., investment banks), which may intervene in the IPO process as underwriters or, more generally, in the placement and distribution of the company's securities in the market. One of the novelties of the newly revised Portuguese Securities Code was the deletion of the requirement to have a mandatory financial intermediary in the context of public offers in which a prospectus is required.

The results of the due diligence exercise will also assist in the structuring and potential strengthening of the company's corporate governance practices and mechanisms.

Preparation of a prospectus

The carrying out of any public offer relating to securities should, in general, be preceded by the approval and disclosure of a prospectus containing complete, true, updated, clear, objective and lawful information necessary to enable the addressees to make an informed assessment of: (i) the offer, the securities concerned thereby and the rights attached thereto, its specific characteristics and its assets and liabilities; (ii) the economic and financial position of the issuer and the guarantor, if any; and (iii) the prospects for the business and earnings of the issuer and the guarantor, if any. Considering that admission to trading of securities generally requires the publication of a prospectus, the offer prospectus is usually prepared as an offering and listing prospectus.

The disclosure of information in the prospectus shall comply with Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017, as amended, on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market[4] (the "**Prospectus Regulation**") and its delegated acts,[5] which includes, among others, the preparation of a summary that provides key information to investors, concisely and in non-technical language, and information on the issuer, its activity and the offer.

If the offer is made exclusively in Portugal, the prospectus shall be drafted in Portuguese, in English (except if the Portuguese Securities Market Commission (*Comissão do Mercado de Valores Mobiliários* or "**CMVM**") opposes on the grounds that it is contrary to the regular functioning of the market or the interests of investors), or in another language accepted by the CMVM. If the prospectus is in English or in another language accepted by the CMVM, the authority may demand that the summary is also disclosed in Portuguese.

Testing the waters: Market sounding

A possible step in the IPO process that may occur prior to the announcement of the offer is the collection of investment intentions through a pre-offering market sounding procedure, following the regime set out in the Market Abuse Regulation.[6]

Approval and publication of the prospectus

In order to obtain approval from the CMVM of the prospectus for the public offer and admission to trading, the issuer shall present an approval request to the CMVM, together with a set of documentation that includes the company's corporate documentation (for instance, among others, a copy of the relevant resolutions and the necessary management decisions, a copy of the issuer's by-laws, an up-to-date certificate of the issuer's company registration, financial statements, etc.), as well as other documentation pertaining specifically to the offer (such as copies of contracts entered into with the financial intermediary assisting in the operation, placement contracts, and stabilisation contracts, if applicable).

The issuer must be notified of the approval of the prospectus within a maximum period of 20 days from the receipt of any complementary information required. The absence of notification from the CMVM within the abovementioned period must not be considered approval of the prospectus. In practice, the process of submission and review of the draft prospectus is coordinated with the CMVM so as to ensure that all parties have appropriate time to review and that the envisaged transaction calendar is not affected.

Once approved by the CMVM, the prospectus must then be disclosed under the terms of Article 21 of the Prospectus Regulation, through one of the following means:

(i) the website of the issuer, the offeror or the person asking for admission to trading on a regulated market;
(ii) the website of the financial intermediaries placing or selling the securities, including paying agents; or
(iii) the website of the regulated market where the admission to trading is sought, or, where no admission to trading on a regulated market is sought, the website of the operator of the multilateral trading facility.

Listing application

A request for the listing of shares must be submitted to Euronext Lisbon in order for the company's shares to be admitted to trading on a regulated market in Portugal.

With the listing application, a set of documents and information must be provided to Euronext Lisbon pursuant to the Portuguese Securities Code, Euronext's Harmonised Rules (Rule Book I, Notice no. 1-01), as amended,[7] and other applicable legislation (such as Euronext Lisbon Rule Book II[8] and applicable Notices). The above includes some of the same documentation required by the CMVM for its approval of the prospectus and also, among others, the documents specified in the Euronext application form, including, but not limited to, documentation evidencing that: (a) the legal position and organisation of the issuer are in accordance with applicable laws and regulations; (b) the communication of corporate events is ensured; (c) adequate procedures are available for the clearing and

settlement of transactions in respect of the relevant securities; (d) the Legal Entity Identifier ("**LEI**") code pertaining to the issuer has been provided; (e) all required press releases have been published in the context of the admission to trading; (f) a paying agent and a representative for relations with the market have been identified; and (g) a social security certificate and a tax office certificate have been issued, indicating whether there are any amounts owed respectively to the social security system and to the national treasury.

All documentation required for submission must be produced in English, or in a language accepted by Euronext Lisbon, and translated by a certified translator if necessary.

With the submission of the listing application, the applicant and Euronext Lisbon should agree on a schedule for completion of the process of admitting the company's shares to trading. The issuer shall then appoint a Listing Agent (*Agente de Admissão*) who will assist and guide the issuer during the entire process of admission to listing.

Euronext Lisbon will decide on the application for admission to listing within a 30-day period, unless otherwise agreed with the issuer (and in no case later than 90 days after the application). This period only begins when Euronext Lisbon is in possession of all relevant documentation and required information. Typically, timing for this decision does not result in a delay of the overall process.

In case of a favourable decision to list, such decision shall remain valid for a maximum period of 60 trading days (which can be extended by up to an additional 60 trading days).

Simultaneously, the issuer should deal with the proceedings regarding the registration of the shares with the Portuguese Centralised System of Registration of Securities (*Central de Valores Mobiliários*) managed by Interbolsa – *Sociedade Gestora de Sistemas de Liquidação de Sistemas Centralizados de Valores Mobiliários, S.A.*

Regulatory architecture: Overview of the regulators and key regulations

As mentioned above, under Portuguese securities law, the IPO process entails a public offer for distribution of shares ("*oferta pública de distribuição*"), as well as the admission of the company's shares to trading on a regulated market. This procedure poses a set of material and procedural requirements.

The role of the Portuguese securities regulating authority

The process of offering and admission to trading in an IPO is overseen by the CMVM, which supervises the licensing process and trading operations and, more generally, the activity of securities markets in Portugal. In the context of IPOs, the CMVM must, within its supervisory role, approve a prospectus for the admission of securities to trading. In accordance with Article 31(1) of the Prospectus Regulation and pursuant to the Portuguese Securities Code, the CMVM was designated as the competent authority to approve the prospectus for issuers with a registered office in Portugal, in relation to, among other cases, issues of shares. The CMVM is also competent to approve prospectuses concerning securities issued by non-EU issuers, when exclusively or firstly trading in a regulated market in Portugal.

The inclusion of any changes to the information and data disclosed in the prospectus must be subsequently approved by the CMVM by means of an approved supplement.

In addition, as mentioned previously, if a company intends to have its shares listed on a regulated market in Portugal, it must submit a formal request to Euronext Lisbon. In the process of admitting securities to trading, Euronext Lisbon may impose additional listing requirements, when reasonable, and demand any additional documentation from the applicant. Euronext Lisbon may also conduct inquiries and investigations in connection with the listing application.

Key rules and regulations

Offer and listing requirements are set out in three main legislative frameworks:
(i) the Portuguese Securities Code;
(ii) the regulations and instructions approved by the CMVM at any time; and
(iii) the Euronext Rule Book and Notices, including Book I (the harmonised market rules, in force for all Euronext entities) and Book II (the non-harmonised market rules, specifically applicable to the securities markets, the non-regulated markets, and the derivatives markets operated by Euronext Lisbon),

as well as in EU legislation concerning capital markets, including the legislation mentioned in the previous sections, especially the Prospectus Regulation and market abuse regulations.

In this respect, it should be noted that the current Portuguese general framework results from the implementation or general cross-references to EU legislation, notably the MiFID framework,[9] the Prospectus Regulation and its delegated acts, the Market Abuse Regulation and the Transparency Directive.[10] As such, the Portuguese legal regime is very similar (and, in some topics, identical) to the regimes of other EU Member States.

Key listing requirements

In order to have its shares admitted to trading on a regulated market, the issuer must meet the following set of general eligibility criteria, as set out in Articles 227 and 228 of the Portuguese Securities Code:
(i) the issuer must be incorporated in, and act in accordance with, the respective applicable law;
(ii) the company must be able to prove that its economic and financial situation is compatible with the nature of the securities, as well as with the market requirements on which listing is required;
(iii) the company must have carried out its business activity for at least three years; and
(iv) the company must have disclosed its annual accounting and financial reports for the three years preceding that of the requested listing (the so-called "track record" requirement).

In any case, the latter requirement may be waived by the CMVM when the interests of the issuer and of the investors advise in such a way, and provided that sufficient information is disclosed in order to allow the investors to make an informed judgment on the issuer and the securities. This flexible solution may be particularly relevant in the case of carve-outs, or recent or start-up companies.

The CMVM has also issued an understanding[11] expressing the possibility of listing on the Portuguese market shares of Special Purpose Acquisition Companies ("**SPACs**"), a trend that has emerged in other markets, notably in Europe. The CMVM identifies in such understanding the conditions that a SPAC must meet prior to its listing, notably for the purposes of allowing the CMVM to waive legal requirements that imply the existence of a three-year track record of the issuer's activity, all bearing in mind the potential of SPACs for promoting and streamlining access to the market by new companies, by opening their capital, and considering the features that SPACs have been assuming in the practice of other jurisdictions.

Pursuant to Article 227(4) of the Portuguese Securities Code, the application for admission to trading shall outline the means by which the company will disclose information to the public and, whenever possible, identify a settlement system, accepted by the managing entity of the regulated market, through which equity payments and payments of other amounts associated with the securities can be assured.

Conversely, in order to decide on listing applications filed by issuers seeking to go public, Euronext Lisbon should also verify whether the requirements established in the Euronext Rule Book have been fulfilled. These requirements are set forth in: (i) section 6.2 of Rule Book I, which establishes general requirements applicable to all kinds of securities' listings; and (ii) paragraph 6302 of Rule Book I, establishing specific requirements regarding share listings only.

The general requirements concern mostly corporate matters, for example: whether the issuer has the necessary legal form and structure in accordance with Portuguese law; whether it is in compliance with all requirements imposed by the CMVM; whether the necessary procedures for clearing and settlement of transactions are in order; whether the issuer has taken all necessary measures to have an ISIN code for the securities as well as an active LEI; and whether all members of the issuer's board of directors have satisfactory expertise in respect of the Euronext Rule Book and applicable laws and regulations. Regarding the securities to be issued, it must be ensured that the shares of the same class have identical rights (as a principle, the issuer shall apply for admission to trade all its shares of the same class issued at the time of the application or proposed to be issued) and that such shares are capable of being traded in a fair, orderly and efficient manner, transferable and freely negotiable in accordance with Portuguese law. It must also be ensured that the shares are compliant with the applicable laws and regulations, the issuer's articles of association and other constitutional documents.

The specific requirements generally match those on the listing of shares specified in Article 229 of the Portuguese Securities Code and include, in particular, requirements on the company's minimum market capitalisation and public float.

According to the Portuguese Securities Code, the market capitalisation of the company's shares must be at least €1m. In case it is not possible to determine the market capitalisation of the shares, the company's own funds, including the results of the preceding financial year, must be at least €1m.

Euronext Lisbon may set more demanding capitalisation requirements in case there are other regulated markets with higher capitalisation thresholds. However, as of today, Euronext Lisbon is the only regulated market for the admission and trading of shares in Portugal and, for that reason, the applicable thresholds for minimum capitalisation are those set in the Portuguese Securities Code as described above.

On the other hand, the Portuguese Securities Code requires adequate dispersion of shares in the public hands. There is a legal presumption that the level of dispersion is adequate if the shares to be admitted to trading are dispersed to the public in a proportion of at least 25% of the share capital of the company represented by that class of shares. However, if the market is expected to trade in a regular manner below that threshold, a lower proportion may be acceptable.

There are no additional requirements regarding shareholdings, and the law sets no general restrictions on substantial or qualified shareholdings (except in the case of regulated companies, such as financial institutions). Conversely, there are generally no post-IPO share lock-up obligations established in the law (although they are not uncommon in practice).

Public company responsibilities

Under Portuguese law, when a company undergoes an IPO process and its shares are consequently admitted to trading, it will be subject to various duties, mostly related to greater transparency, reporting, and corporate governance requirements.

These additional obligations are intended to provide the market with greater information and to provide protection to undetermined and dispersed shareholders.

Periodic reporting and disclosure requirements

With regard to the disclosure of information, listed companies are required to publicly disclose inside information, i.e., any circumstances that exist or may reasonably be expected to come into existence, or any event that has occurred or may reasonably be expected to do so, regardless of its degree of materialisation, which a reasonable investor would be likely to use entirely or partially as a basis for their investment decisions, since it would be likely to have a significant effect on the price of securities or financial instruments.

Issuers that have securities admitted to trading on a regulated market, or have requested their admission to such a market, must promptly disclose inside information as established in the Market Abuse Regulation, and respective regulations and delegated acts. However, under these provisions, issuers may delay the public disclosure of this information in certain circumstances.

The Portuguese Securities Code further requires companies listed in Portugal to disclose additional information, including, among other items: (i) notices convening general meetings of the holders of listed securities; (ii) the issue of shares, with an indication of beneficial privileges and guarantees, including information on any procedures for their allotment, subscription, cancellation, conversion, exchange or repayment; (iii) amendments to the details that have been required for the admission to trading of securities; and (iv) the acquisition or disposal of own shares when, as a result thereof, the proportion of the same exceeds or falls below the thresholds of 5% and 10% of the voting rights.

Also, following recently approved changes, the Portuguese Securities Code now stipulates that companies with shares admitted to trading in a regulated market shall (i) approve and comply with a remuneration policy drafted in accordance with specific requirements set out in the law, and (ii) approve an internal procedure for verification of related party transactions.

Regarding a company's own shares, it should be noted that under Article 5(1) of the Market Abuse Regulation, if certain conditions are met, the prohibitions of insider dealing and of market manipulation established in Articles 14 and 15 of the same Regulation do not apply to trading in own shares in buy-back programmes. One of the conditions is that the full details of the programme are disclosed prior to the start of trading, notably in accordance with Article 2 of Commission Delegated Regulation (EU) 2016/1052.[12] Transactions in connection with such buy-back programmes must also be notified to the competent authority of the trading venue and subsequently disclosed to the public, in accordance with Article 5(3) of the Market Abuse Regulation, and adequate limits with regard to price and volume must be complied with. Furthermore, only the purposes set out in Article 5(2) of the Market Abuse Regulation qualify for this "safe harbour".

It should also be noted that, according to Articles 16 and 17 of the Portuguese Securities Code, public companies should disclose qualified shareholdings, as defined therein, as well as certain cases where a shareholder (directly or indirectly) reaches or exceeds certain thresholds of the voting rights corresponding to the capital or reduces its holding to an amount lower than any of such thresholds (starting at 5%).

Furthermore, issuers are required to periodically disclose financial information and reports. Indeed, issuers must disclose the following information within four months of the end of the financial year and make publicly available for a period of 10 years:

(i) the management report, the annual accounts, the audit report and other accounting documents required by law or regulation, even if such documents have not yet been submitted for the approval of the general meeting of the company;
(ii) the auditor's report;
(iii) statements from each of the responsible persons of the issuer, whose names and functions shall be clearly indicated, stating that, to the best of their knowledge, the financial information was drawn up in accordance with the applicable accounting standards, reflecting a true and fair view of the assets and liabilities, financial position and results of the issuer and the companies included in the consolidation as a whole, when applicable, and that the management report faithfully states the trend of the business, the performance and position of the issuer and companies included in the consolidation as a whole, and contains a description of the principal risks and uncertainties faced; and
(iv) the non-financial statement, when applicable.

Issuers required to draw up consolidated accounts shall disclose individual accounts, drawn up in accordance with national legislation, and consolidated accounts, drawn up in accordance with Regulation (EC) 1606/2002, as amended.[13] Conversely, issuers that are not required to draw up consolidated accounts shall disclose the financial information individually, drawn up in accordance with national law.

In the event that the annual report does not provide an exact picture of the net assets, financial situation and results of the company, the CMVM may order the publication of supplementary information.

The documents that comprise the annual report and accounts shall be submitted to the CMVM as soon as the same are available to the shareholders.

Additionally, within three months of the end of the first half of the financial year, most of the issuers shall disclose the following information with regard to the activity for said period, and keep available to the public for at least 10 years:
(i) the condensed set of financial statements;
(ii) an interim management report, which shall include, at least, an indication of important events that have occurred during said period, and the impact on the respective financial statements, together with a description of the principal risks and uncertainties for the remaining six months; and
(iii) statements by the persons responsible within the issuer, whose names and functions shall be clearly indicated, wherein it is stated that, to the best of their knowledge, the condensed set of financial statements has been prepared in accordance with the accounting standards applicable and gives a true and fair view of the assets and liabilities, financial position and results of the issuer and the companies included in the consolidation as a whole, when applicable, and that the interim management report includes a fair review of the required information.

The CMVM may waive some of the abovementioned disclosure duties whenever such disclosure would be contrary to public interest or seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to the facts and circumstances essential for assessing the securities.

Corporate governance standards

Public companies must also comply with additional corporate governance disclosure requirements.

Current corporate governance standards derive from different legal sources, including the Portuguese Companies Code,[14] the Portuguese Securities Code, CMVM Regulation no. 4/2013 and the recommendations contained in the Corporate Governance Code of the Portuguese Institute of Corporate Governance (*Instituto Português de Corporate Governance*, "**IPCG**").[15]

According to Article 29-H of the Portuguese Securities Code, issuers of shares admitted to trading on a regulated market situated or functioning in Portugal shall disclose, in their annual management report, a detailed report on the corporate governance structure and practices of the company. This report shall contain at least the following information:

(i) the capital structure, including information on shares that are not admitted to trading, with an indication of the different classes of shares and, for each class of shares, the rights and obligations attached to it and the percentage of share capital it represents;
(ii) any restrictions on the transfer of shares, such as clauses on consent for disposal, or restrictions on the ownership of shares;
(iii) qualified holdings in the company's share capital;
(iv) identification of any shareholders that hold special rights, and a description of such rights;
(v) the system of control of any employee share scheme where the voting rights are not exercised directly by the employees;
(vi) any restrictions on voting rights, such as limitations on the voting rights of holders of a given percentage or number of votes, deadlines for exercising voting rights, or systems whereby the financial rights attached to securities are separated from the holding of securities;
(vii) shareholders' agreements that are known to the company and may result in restrictions on the transfer of securities or voting rights;
(viii) the rules governing the appointment and replacement of board members and amendment of the articles of association;
(ix) the powers of the board, notably in respect of resolutions to increase equity;
(x) any significant agreements to which the company is party and which take effect, alter or terminate upon a change of control of the company following a takeover bid, as well as the effects thereof, except where their nature is such that their disclosure would be seriously damaging to the company; this exception shall not apply where the company is specifically obliged to disclose such information on the basis of other legal requirements;
(xi) any agreements between the company and members of the management body or employees providing for compensation if they resign or are made redundant without valid reason, or if their employment ceases because of a takeover bid;
(xii) core information on the internal control and risk management systems implemented in the company regarding disclosure of financial information;
(xiii) compliance with the corporate governance statement to which the issuer is subject by virtue of legal or regulatory provisions. The issuer shall also specify those parts of said code that deviate and the reasons therefor;
(xiv) compliance with the corporate governance statement by which the issuer voluntarily abides. The issuer shall also specify those parts of said code that deviate and the reasons therefor;
(xv) the location where the public may find the Corporate Governance Code to which the issuer is subject in accordance with the previous subparagraphs;
(xvi) content and description of the way the issuer's corporate bodies function, as well as the committees created thereby; and

(xvii) a description of the diversity policy applied by the company in relation to its management and supervisory bodies, namely in terms of age, sex, qualifications, and professional background, the objectives of such diversity policy, the way it was applied, and results in the period of reference. In case a company does not apply a diversity policy, it must explain in its report why it does not apply such policy. However, this requirement does not apply to SMEs.

Issuers of shares admitted to trading on a regulated market subject to Portuguese law as their personal law shall disclose information on their corporate governance structure and practices in the terms laid down in a regulation of the CMVM, which shall include the abovementioned information.

Disclosure requirements for the annual governance report are further regulated by CMVM Regulation no. 4/2013, which includes a model corporate governance report.

The Portuguese Securities Code now also allows companies with shares admitted to trading in a regulated market to issue shares with a special right to multiple votes, with a limit of five votes per share.

The Corporate Governance Code includes a set of recommendations concerning the organisational structure and corporate bodies of public companies, as well as more specific issues such as appraisals, remunerations and appointments, internal control, auditing, risk management, conflicts of interest and related party transactions.

Potential risks, liabilities and pitfalls

The process of going public through an IPO may present relevant risks and potential liabilities to the offeree company and other parties involved.

On the one hand, the IPO process and the admission to trading on a regulated market imply additional costs associated with the listing application and annual listing fees. Issuers with listed securities are required to pay any fee charged by Euronext Lisbon pursuant to the conditions set forth by Euronext. These fees are determined on the same terms as in other Euronext Markets abroad and may vary in accordance with the type of securities admitted to listing, the nature of the issuer or the amount of market capitalisation.

On the other hand, IPOs entail further liabilities related to the offering of shares to the public, beginning with those that necessarily arise with the publication of a prospectus. Under Portuguese securities law, the issuer and the members of its management bodies that are in functions at the date of the approval of the prospectus are liable for damages caused by non-compliance with the content of the prospectus, except in the case that they prove they have acted without fault (assessed according to high standards of professional diligence). Equally liable are members of the supervisory body and the auditor in functions at the date of the approval of the prospectus, as well as the offeror or the guarantor (if applicable) and any other entities that accept being appointed in the prospectus as responsible for any information, forecast or study included therein. In certain cases where others are responsible (such as management or the supervisory body), the issuer may even face a strict liability rule ("*responsabilidade objetiva*").

Other than the liabilities directly connected with the offer and the publication of the prospectus, companies that undergo IPOs are also faced with the general costs and potential liabilities associated with their public and listed company status, which include the ongoing costs of complying with the strict corporate governance, periodic reporting and aggravated disclosure requirements described above, as well as the potential liabilities arising out of the application of, for instance, the framework on market abuse.

Furthermore, both public companies and their shareholders must take into consideration the specificities of the legislation governing this type of company, including the provisions regarding mandatory takeovers, according to which anyone whose holding in a public company exceeds one-third or one-half of the voting rights attributable to the share capital has the obligation to launch a takeover for the totality of shares and other securities issued by the company that grant the subscription or acquisition of shares, unless they can demonstrate to the CMVM that they cannot exercise a dominant influence over the target company. Shareholders of the relevant company shall thus take due consideration of these rules and structure the transaction in a manner that minimises risks in this respect.

* * *

Endnotes

1. For an empirical analysis of the evolution of IPOs in Portugal, see Maria Rosa Borges, *Underpricing of Initial Public Offerings: The Case of Portugal*, Int Adv Econ Res (2007) 13:65–80 and João Duque, Miguel Almeida, *Ownership Structure and Initial Public Offerings in Small Economies: The Case of Portugal*, Paper for the ABN-AMBRO International Conference on Initial Public Offerings (2000).
2. Approved by Decree-Law no. 489/99 of 13 November, as amended (in particular by Law no. 99-A/2021 of 31 December).
3. According to Euronext Lisbon, in 2023, only ATRIUM BIRE SIGI S.A. (a real estate investment company) was admitted to trading on Euronext Access, with no new listings on the Euronext Lisbon regulated market.
4. Official Journal L. 168, 30/06/2017, p. 12.
5. Notably Commission Delegated Regulation (EU) 2019/979 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council with regard to regulatory technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal, and repealing Commission Delegated Regulation (EU) 382/2014 and Commission Delegated Regulation (EU) 2016/301, as amended, and Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) 809/2004, as amended.
6. Regulation (EU) 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse.
7. Available at https://www.euronext.com/en/regulation/harmonised-rules
8. Available at https://www.euronext.com/en/regulation/lisbon
9. The MiFID framework currently comprises MiFID II (Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as amended), MiFIR (Regulation (EU) 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) 648/2012, as amended) and their respective implementing legislation.
10. Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information

about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, as amended.
11. The CMVM's understanding on the admissibility of SPACs in Portugal is available at https://www.cmvm.pt/CKEditorReactive/FileDownload?GUID=d7c08877-59c9-45ea-a049-c8743b77169b
12. Commission Delegated Regulation (EU) 2016/1052 of 8 March 2016 supplementing the Market Abuse Regulation with regard to regulatory technical standards for the conditions applicable to buy-back programmes and stabilisation measures, as amended.
13. Regulation (EC) 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards, as amended.
14. Approved by Decree-Law no. 262/86 of 2 September, as amended.
15. Available at https://cgov.pt/images/ficheiros/2023/en_cgs_revisao-de-2023_ebook.pdf This Corporate Governance Code resulted from a protocol between the CMVM and the IPCG and includes the contribution of the AEM – *Associação de Empresas Emitentes de Valores Cotados*.

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Eduardo Paulino joined the firm in 2002 and became a partner in 2015. He is head of capital markets and of a corporate team.
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Eduardo was recently involved in the recapitalisation of the Portuguese banking sector and in complex, multi-jurisdictional, high-profile capital markets and M&A transactions in the financial services, TMT, distribution and industrial sectors, as well as in equity, hybrid and debt public and private offerings and takeovers involving companies in the banking, energy, construction, real estate and distribution sectors. He also acts in complex restructurings and has led teams in some of the most significant transactions involving NPL/NPE assets in recent years.

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She has also assisted clients with the structuring and regulatory aspects of collective investment undertakings in real estate assets.

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- The IPO process: Steps, timing and parties and market practice
- Regulatory architecture: Overview of the regulators and key regulations
- Public company responsibilities
- Potential risks, liabilities and pitfalls