



22 of November 2012

## CMVM Regulation no. 2/2012 setting informational duties regarding complex financial products and the trade of operations and insurances linked to investment funds

CMVM Regulation no. 2/2012 (the “**New Regulation**”) became available on the 20th November 2012, establishing a set of duties regarding information to be provided within the trade of complex financial products (“**PFC**”) and its advertising, as well as the trade of insurances and operations linked to investment funds.

This New Regulation revokes CMVM Regulation no. 1/2009 and CMVM Regulation no. 8/2007 in what concerns to insurances and operations linked to investment funds, which remains in force merely on matters regarding individual subscription agreements to public pension funds.

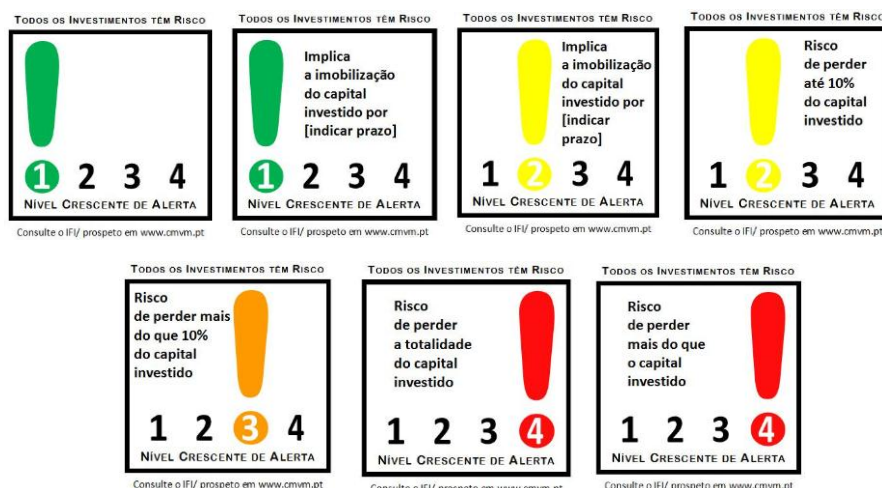
This diploma arises in the context of the democratisation of investment in PFC and the degree of complexity of these instruments, and takes advantage of the experience acquired by the Portuguese Securities Commission (the “**CMVM**”) while CMVM Regulation no. 1/2009 was still in force. We highlight the standardisation, in a single diploma, of the regimes applicable to PFC and to insurances and operations linked to investment funds (unit linked).

The New Regulation clarifies the contents of the documentation to be provided within the marketing of CFP and requires the preparation and provision, by the distributor to investors, of a Document incorporating the Key Information to Investors (**KIID**). The KIID, which replaces the informative document required under the previous regulation, shall be written in uniform and clear language, intelligible to investors, and identify the relevant risk factors to the underlying PFC.

Serving this purpose of clearance of the pre-contractual information transmitted to investors, the New Regulation brings new formal and content requirements applicable to the marketing of these products, establishing a new set of relevant definitions used along the New Regulation, in order to ensure the uniformity of the concepts used in the KIID to be placed in the market.

It must be further mentioned the requirement of inclusion, under the New Regulation, both in the marketing of PFC, within the pre-contractual information provided to investor, and in the advertising of such products, of standardised warning signals (according to the risk of the relevant PFC), warning the relevant investor regarding to capital and interest payment risks involved during the life of the relevant PFC until its maturity.

Warnings to be provided to investors are now being enlarged and typified, as well as the presentation of the possible scenarios, now according to the probability of their occurrence, is required.



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However, the New Regulation shall not apply to private offers of PFC which unit value is €100,000 or exceeds such amount, in which case CMVM must be previously notified of the offer's launch date and of the relevant final results thereafter.

This New Regulation awaits publication in the Portuguese Official Gazette (*Diário da República*), and will be in force as of 1 January 2013. However, the informative documents made available under CMVM Regulation no. 1/2009 and the simplified prospectuses made available under CMVM Regulation no. 8/2007 can be utilised and remain valid until the 30th April 2013.

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