

information to be presented in financial statements, the same shall be prepared pursuant to the accounting criteria (Title Four), which are divided in criteria and in series, specifically defined as applicable criteria for investment companies, companies operating investment companies and distributing companies of shares in investment companies.

Likewise, these companies, in their consolidated basic financial statements, will have to make note in the margins of the legend stating the approval of the members of the board of directors and the directors of the company. There are many legends and they vary depending on whether they are dealing with: (i) the general balance sheet; (ii) the earnings statement; (iii) variations in capital; (iv) changes in the financial situation, concerning companies operating investment companies and distributing companies of shares in investment companies; and (v) an estimate of the investment portfolio statement, concerning investment companies and companies operating investment companies.

Regarding the administration of risk, variable income and debt instrument investment companies will have to comply with the provisions of Title Seven of provisions mentioned above. In particular, article 92 which classifies the risks, in a general manner, in the following types: (i) quantifiable risks: those which by means of statistics can be measured regarding potential losses; (ii) nondiscretionary risks: those that result from a business operation and have repercussions on the patrimony of company; and (iii) unquantifiable risks: those that arise from an unexpected event and for which there are no statistical basis to determine them.

## Poland

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## Accession laws

Polish law continues to change following accession to the EU. Spring 2007 brings in new changes, some of them listed below.

An amendment to the Banking law which enters into force on April 1 2007 implements EU Directives 2006/48/EC relating to the taking up and pursuit of the business of credit institutions and 2006/49/EC on the capital adequacy of investment firms and credit institutions. It is an important step in the process of adaptation of the Basel II rules on capital standards.

An amendment of the insurance law will be adopted soon. It aims to increase protection of the insured and to introduce relevant *acquis communautaire* to the Polish system.

An amendment to the Civil Proceedings Code enters into force on March 20 2007. In theory it aims to increase the efficiency of civil proceedings, in particular in economic cases. In fact it further formalizes the already very formalistic Polish civil procedure. Among others, new limitations of admission of new evidence, counterclaim and of set off are being introduced. However, there are also regulations aiming to improve enforcement of judicial decisions.

A new act on competition and consumer protection comes into force in April replacing the former Act. The change is related to EC Regulation 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws. It also introduces the possibility of imposing fines on entrepreneurs violating consumers' collective interests.

## Portugal

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## M&A overview

It's the economy, stupid! Or is it? As one would expect, opinions vary wildly as to where the Portuguese economy is heading. Brighter days are coming to stay if you talk to pundits closer to government, but darker times are looming if you are talking with experts from the opposition.

But that is just politics. In the real world – as seen from a law firm's window – things do look a lot better than they did just one year ago, as the Portuguese M&A market follows the global trend and grows by the day.

And although this is partly fed by two big deals – the tender offers on Portugal Telecom (which ultimately failed) and on BPI, a major independent local bank – the market is bustling with medium and small transactions, both national and cross-border.

The reasons are threefold: concentration continues to play an important role in many industries, particularly if you look at it from an Iberian perspective, as is often the case (in the last 10 years Spain invested almost twice as all other EU countries brought together); private equity cash abounds; and the marketplace is ever more transparent.

Noticeable recent changes in the legal environment help make the case for a more attractive shoppers' market:

- The Takeover Directive has been implemented (including a mild version of the breakthrough rule);
- The Companies Code has been overhauled to incorporate new governance requirements;
- Friendly tax rules continue to support certain benefits on amalgamation, joint ventures and restructuring transactions;
- The unusually stiff labour laws are being moved away by far more flexible

regulations; and

- Red tape has been drastically cut in all aspects of companies' lives, and real-time access to all relevant information has become a commodity.

From the real economy perspective, M&A activity does look good.

*By João Vieira de Almeida*

## Romania

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## Investment firms

Law 247/2004 on the capital market and Regulation 32/2006 issued by the Romanian National Securities Commission (NSC), regarding the financial investment services, which replaced the Regulation 15/2005, stipulate the principle of freedom to provide investment services and activities within the territory of Romania by the investment firms authorised in a member state of European Union.

Investment firms authorized and supervised by the competent authorities of another member state may freely perform in Romania, directly or through a branch, those investment services and activities covered by the authorization obtained in their home member state. Ancillary services may only be provided together with the principal investment services provided in the Annex one to the new regulation.

Before providing any services or activities, any investment firm which intends to perform services or activities in Romania for the first time must communicate the following information to the competent authorities of its home member state:

- (a) the fact that it intends to perform investment services and activities in Romania directly or through a branch;
- (b) a programme of operations stating in particular the investment services and/or activities as well as ancillary services which it intends to perform directly or through a branch and whether it intends to use tied agents in the territory of Romania;
- (c) identity of the tied agents, as the case may be; and
- (d) information regarding the investor compensation scheme of which the investment firm is a member.

In case the investment firm chooses to perform the services and activities in Romania through a branch, it should also provide the following information: the organizational structure of the branch and the address from the home member state from where documents may be requested and the identity of the persons appointed to ensure the management of the branch.

The competent authority of the home member state shall, within one month from receiving all information, send it to the NSC. The investment firm should be