

CAPÍTULO X

UM GOVERNO PARA OS FUNDOS DE INVESTIMENTO

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ABSTRACT: *This text disusses the significant role of collective investment schemes as alternative investment channels and its exponential development in the last decades. This growth has been followed by a strong intervention at legal and regulatory levels aimed at ensuring the protection of investors' interests. The segregation between ownership and management and the power and influence of the management company over pools of assets construed with funds received from the public demands the enhancement of rules strengthening the implementation of investment policies, risk management, asset diversification and avoidance of conflicts of interest. Nonetheless, auditing duties are required and for such purpose the fund structure provides the depositary with both the tasks of keeping the assets and supervising the activities of the management company. The purpose: maintain the investors 'interests' safe from harm. The incentive: the joint and several liability that ties the management company and the depositary. The distributors are the third edge of the triangle requiring adequate governance to the benefit of investors in collective investment schemes. The success of investment funds depends upon investors' confidence and thus the need to ensure the prevalence of a tailor made governance framework.*

SUMÁRIO: 1. O papel dos investidores institucionais. A relevância dos fundos de investimento. 2. A estrutura do “veículo de investimento” – os fundos de investimento. 3. A necessidade de um governo para os fundos de investimento. 4. A frequente exposição a conflitos de interesse. 4.1. A administração – Seleção, aquisição e alienação de activos (valores mobiliários).

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NOTA – Sempre que um artigo for indicado sem referência ao diploma ao qual pertence, entende-se que faz parte do RJOIC, salvo se o contexto claramente apontar em sentido contrário.