January 2007
IMF Country Report No. 07/35

Portugal: Financial Sector Assessment Program—Technical Note—Investor Protection, Disclosure, and Financial Literacy

This Technical Note on Investor Protection, Disclosure, and Financial Literacy for Portugal was prepared by a staff team of the International Monetary Fund as background documentation to the Financial Sector Assessment Program with the member country. It is based on the information available at the time it was completed in December 2006. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Portugal or the Executive Board of the IMF.

The policy of publication of staff reports and other documents by the IMF allows for the deletion of market-sensitive information.

To assist the IMF in evaluating the publication policy, reader comments are invited and may be sent by e-mail to publicationpolicy@imf.org.

Copies of this report are available to the public from

International Monetary Fund ● Publication Services
700 19th Street, N.W. ● Washington, D.C. 20431
Telephone: (202) 623 7430 ● Telefax: (202) 623 7201
E-mail: publications@imf.org ● Internet: http://www.imf.org

Price: $18.00 a copy

International Monetary Fund
Washington, D.C.

FINANCIAL SECTOR ASSESSMENT PROGRAM

PORTUGAL

TECHNICAL NOTE

INVESTOR PROTECTION, DISCLOSURE AND FINANCIAL LITERACY

DECEMBER 2006

INTERNATIONAL MONETARY FUND
MONEY AND CAPITAL MARKETS DEPARTMENT

Contents Page

I. INTRODUCTION

1. **This Note reviews selected issues on investor protection and corporate governance in Portugal.** While it draws on the Corporate Governance Principles of the OECD, the Note does not attempt to apply these Principles in any systematic manner. Rather it focuses on issues relating to disclosure and transparency and the corporate governance framework and how those requirements are implemented and enforced in practice.

2. **The regulatory and supervisory framework for the securities market took its present shape in 1991, with the creation of the CMVM.** Under the current arrangements, regulation and supervision of the Portuguese securities market is mainly a competence of the CMVM and the BP, under a "twin peak approach". CMVM is responsible for the regulation and supervision of CIS and securities markets as well as all market participants, except financial intermediaries, which it only regulates and supervises for purposes of market conduct. The authorization of financial institutions which may carry out activities of financial intermediation in securities, as well as their regulation and supervision for prudential purposes is a competence of BP. Thus, the CMVM is the regulator in charge on ensuring compliance with disclosure issues as well as the corporate governance framework.

3. **The framework for corporate governance is a combination of mandatory regulations and a comply and explain regime.** Both the Companies Law and the Securities Code contain several provisions that address issues of transparency, minority rights and investors protection. In addition, CMVM Regulation Nº 7/2001 adopted a comply or explain regimen, whereby either in the annual report or in separate document, listed companies have to explain their adherence to a set of corporate governance practices.

II. INFORMATION DISCLOSURE REQUIREMENTS

4. **The disclosure requirements are in line with international best practices.** As explained in the IOSCO Assessment any public offering is subject to disclosure requirements, mainly the submission of a prospectus, financial statements for the last 3 years and audited financial statements for the last year. IFRS are mandatory for consolidated accounts. In addition, issuers who are not required to consolidate would have to present their individual accounts according to IFRS beginning 2007. Listing is also subject to disclosure requirements which differ depending on the nature of the market. For the regulated markets those requirements include the submission of the prospectus, annual audited financial statements, half yearly financial statements and quarterly financial information. The system is complemented by a continuous disclosure regime, whereby issuers are required to communicate to the market any material event. In addition substantial shareholdings and insiders shareholdings are subject to disclosure requirements.

5. **There is in place a set of mechanisms designed to ensure issuers compliance with disclosure requirements.** Those mechanisms include the participation of external auditors in the review of financial information, a system of civil responsibility for issuers and certain market participants, a system of administrative and criminal offenses, and the review of information by the Commission.

6. **The legal framework provides the CMVM with broad powers to oversee external auditors.** Auditors have to be registered before the CMVM. Registration is conditioned on the demonstration that the auditor is equipped with the human, physical and financial resources necessary to guarantee their reputation, independence and technical competence. The CMVM has power to cancel the registration of an auditor as well as to require the replacement of the auditor in the listed company, whenever it considers that the auditor is not fulfilling the registration requirements. It also has sanctioning powers over auditors. Based on those powers the Department of Markets, Issuers and Information conducts inspections over auditors that include a horizontal review (professional activity, material resources, personnel, acquisitions and contracting of external services, ethics and independence, quality system) as well as vertical review (in-depth review of specific audits carried out by the firm). In addition, the CMVM has coordinated its efforts with OROC -the association of chartered accountants- so that within its annual inspection program OROC reviews the work of auditors that provide services to listed companies.

7. **Joint liability for damages caused by non compliance with the content of the prospectus is imposed in the issuer as well as other participants in the offering process.** Liability is imposed in the offeror, its management body, the issuer, the members of the issuers management body, the promoter, the members of the auditing body, accounting firms and chartered accountants that have certified or verified the accounting documents, the financial intermediaries that assisted with the offer, an any other entity that accepted being included in the prospectus as responsible for any information, forecast, or study included in it, except if they proved that have acted with due diligence. However, a system of strict liability is imposed on the issuer and the leader of the placement consortium under certain circumstances.

8. **A system of administrative and criminal offenses is also in place.** The Securities Code has provided the CMVM with authority to investigate offenses to securities laws and regulations. For that purpose, the Code contains a system of administrative offenses for violations to the securities laws and regulations. Sanctions include warnings as well as fines that depend on the offenses: between 2,500 and 250,000 for the less serious, 12,500 to 1,250,000 for serious offenses and 25,000 to 2,500,000 for the very serious offenses. The framework for administrative infractions is complemented with criminal sanctions for insider trading and market abuse. In those cases the CMVM has the power to order the opening of a preliminary investigation and once that is done refer the matter to the competent judicial

authority. According to this framework, the communication or disclosure of information related to securities that is not complete, true, updated, clear, objective and legal is a very serious offence.

9. **The system is complemented by the review carried out by the CMVM.** The CMVM reviews the information provided by issuers for the purpose of registration, as well as the information provided on periodical basis. All prospectuses are reviewed by the Department of Markets, Issuers and Information. As for periodic information, the Department has developed a "scoring system" to decide the issuers that would be subject to this more in-depth review. The system has twelve different criteria (including among others, criteria related to auditors and auditors' fees, disclosure of relevant information, compliance with corporate governance recommendations, evolution in income and free floating, and infractions), that are given certain weigh. Issuers are measured against those criteria and based on the results are divided into three groups that are subject to different levels of scrutiny.

10. **The CMVM has in place an organizational structure and procedures to deal with the enforcement of securities regulations**. Initially all possible infringements to the securities framework were sent to the Legal Department; however in 2004 the CMVM decided to reinforce a special autonomous unit, the Enforcement Department, which has been given the task of investigating complex cases. Thus, simple cases go straight to the Legal Department, while complex cases are investigated by the Enforcement Department and once this Department has collected the evidence, they are sent to the Legal Department for the instruction of the administrative proceedings or to the Public Prosecutor, when they involve a securities crime. In the case of administrative infractions, until recently the CMVM relied heavily on notifications and admonitions as the main tools for enforcement. However since 2005 the CMVM has had a more vigorous approach towards enforcement, and has made more use of administrative fines. As for criminal cases, the CMVM has actively investigated possible crimes, and has dedicated resources to training the Judiciary. Six convictions took place during the period 2001/2005; however five are still pending appeal.

III. CORPORATE GOVERNANCE

11. **The Companies Law provides a basic framework of corporate governance applicable to all companies.** The framework has been strengthened as a result of amendments introduced by Decree Law of 2006 which completely updated the framework for corporations in Portugal.[1] The main changes include: the creation of three different

[1] This Decree Law also streamlines many administrative requirements related to the "life" of a company, for example, it eliminates the need for a public deed for the constitution of a company, the modification of its charter, capital increases and changes of legal residence.

governance models and the prohibition to adopt "atypical" models: the clarification of the liability regime applicable to board members, the independence requirement for the Chairman and other officers of the General Assembly of Shareholders and "competency" requirements for the members of the oversight bodies (orgaos de fiscalizacao) and in the case of companies admitted to listing, the imposition of a majority of independent members in the bodies in charge of financial oversight (Conselho Fiscal, Comissao de Auditoria ou Comissao de Materias Financeiras).

12. **In addition, the CMVM has developed a set of corporate governance practices, under a comply or explain regime.** In 1999 the Commission developed a set of "Recommendations on Corporate Governance" for listed companies. Based on the review of compliance with the Recommendations, by CMVM Regulation nº 7/2001 the Government transformed them into a comply or explain regimen. Since 2001 the CMVM has conducted additional biannual reviews on the level of compliance with the practices that have also resulted in amendments to the Decree, in 2003 and 2005. Altogether the different reviews carried out by the CMVM have resulted in a more comprehensive governance framework as well as in the transformation of certain disclosure recommendations into disclosure requirements. The regime covers practices in the following areas: disclosure of information, exercise of voting rights and representation rights by shareholders, corporate rules, board of directors, and institutional investors[2]. The latest amendments have provided stronger emphasis to the role and definition of independent board members, disclosure of board remuneration and internal controls.

13. **The review conducted by the CMVM[3] in 2005 shows that the level of compliance with the recommended practices is low, although there is significant variance among practices.** None of the companies comply with all the recommendations. Only 40 percent of the companies comply with seven or more of the recommendations, while 42,2 percent comply with half or less of the practices. However for most of the practices the level of compliance has improved from the review carried out in 2003. In addition, it is important to note that the CMVM has amended and included additional practices to the corporate governance framework (a revision occurs every two years), which apart from requiring issuers to adapt their practices makes it difficult to compare the results from one year to the other.

---

[2] The CMVM's Recommendations on Corporate Governance are included as an Annex.

[3] See "Análise do Cumprimento das Recomendações da CMVM sobre Governo das Sociedades em 2004". The report is based on the analysis of the reports on corporate governance submitted by 45 companies listed in the Euronext Lisbon Regulated Market.

14. **Recommendations related to direct exercise of voting, the constitution of internal committees, and the remuneration of board members are complied by less than 50 percent of the companies** (Recommendations 2,7, 8, and 9). Blocking periods that exceed the recommended timeframe and the absence of mechanisms for postal voting have affected compliance with Recommendation 2. The absence of specific committees to support the board in the exercise of its responsibilities have affected compliance with Recommendation 7. The refusal to divulge the individual remuneration of board members have affected compliance with Recommendation 8. Finally, the existence of non independent members in the remuneration committees has affected compliance with Recommendation 9. The rest of the recommendations are complied by more than 70 percent of the companies. In particular, recommendations related to the disclosure of information (1, 5 and 10) have shown improvement since the 2003 review.

15. **Companies from the PSI 20 show higher levels of compliance, and so do companies from sectors subject to more stringent government regulation**. 72.7 percent of the companies that comply with 8 or more of the recommendations are part of the PSI 20. In addition companies from the financial services sector, non cyclical services and utilities shows level of implementation higher than the average (72, 76 and 70 percent respectively)

IV. INVESTOR EDUCATION

16. **The CMVM has taken an active role in investor education, though a comprehensive financial literacy program has not been developed**. The CMVM has set up an Investor Assistance and Mediation Office to receive complaints of investors as well as to guide them in matters related to the securities market. It has also developed and kept up-to-date brochures in a number of matters, including the CMVM, types of securities traded, trading markets, categories of intermediaries and their main duties investment funds, investor compensation schemes, and a securities investor guide. This information is kept in the website, as well as a list of FAQ, forms for requesting information and complaints and warnings regarding unauthorized financial intermediation. The CMVM also participates regularly in seminars and conferences. It has also participated in the creation of a specialized program in securities at the university level. More comprehensive programs addressed to the average household have not been developed.

V. COMPENSATION SCHEME

17. **Portugal has also implemented an investor compensation scheme, in operation since 2000.** The scheme covers securities and money in relation to client investment operations with a limit of EURO 25.000 per investor. Portugal chose a system of responsibility rather than a contributory fund. Thus each participant accepts to contribute towards the payment of any compensation payable to the scheme. To guarantee this obligation, each participant has to pledge securities in favor of the scheme, which amount is

mainly related to the value of the financial instruments held on behalf of clients and protected by the scheme. The scheme is operated by SII, which is a corporate entity ruled by public law, endowed with administrative and financial independence, under technical coordination of CMVM. Up until today there have not been cases of firm failures that have triggered the use of the scheme.

Appendix
CMVM's Recommendations on Corporate Governance

Introduction

18. The development of securities markets has led to intense debate on the structure and control of companies with capital open to public investment. By no means a new problem, it has generally been categorized as being an issue related to corporate governance, which, being linked to the universal question of perfecting mechanisms for protecting investors, has extended to all international markets.

19. The term "corporate governance" refers to the system of rules and codes of conduct relating to the management and control of companies issuing shares admitted to trading on a regulated market. This analysis of corporate governance is not designed to impose rigid and uniform models. It is rather aimed at contributing to the optimum development of companies and at protecting the interests of all those who are involved in these companies - namely investors, creditors and employees.

20. Corporate governance has both *internal* and *external* aspects: internal in the sense that it implies the application of sets of organizational rules within each listed company, and external in that it relates to the evaluation of the general performance of companies based on the normal functioning of market mechanisms, something for which the participation of institutional investors is of the utmost importance.

21. The internationalization of companies has made the introduction of standard security and organizational parameters for market agents even more important. Thus, in view of the globalization of markets and the impact of the introduction of the Euro, this problem can no longer be ignored in Portugal.

22. In this respect, based on the conviction that the national legal system is already sufficiently equipped with solutions which, in spite of not having been specifically designed for the purpose in question, adequately address problems associated with corporate governance, the present document aims to deal with the issue of corporate governance in the national context.

23. Endeavoring to offer a critical reflection on the issue of corporate governance in Portugal, these recommendations are intended to represent not only the lowest common denominator for the matter in question, but also a range of recommendations adapted both to the Portuguese legal system and to Portugal's markets.

24. Although companies issuing shares admitted to trading on a regulated market and institutional investors are at the heart of this problem, these recommendations may, naturally,

also be adopted by companies whose shares are not admitted to trading on a regulated market.

25. As this document comprises a set of recommendations, it is essential that the market assess how it is received. After all, the market itself is in the best position to evaluate the effectiveness of options linked to management and control and adopted by listed companies and institutional investors.

26. These recommendations have evolved significantly, both in terms of their content and in terms of the corresponding regulatory developments. The original version, issued in 1999, was accompanied by a recommendation on the public disclosure of compliance with these recommendations. Two years later, CMVM Regulation 07/2001 obliged companies issuing shares which were admitted to trading on a regulated market to disclose annual information on various aspects linked with corporate governance. Of particular importance is information related to the level and means of compliance with the present recommendations, or to non-compliance and the reasons thereof. In 2003, although maintaining the fundamental aspects of Regulation 7/2001, in particular the *comply or explain* philosophy, a further update was published, so as to make the annual report on corporate governance more complete. In 2005, the dominant tone of the amendments introduced was related to the improvement of the internal control systems of companies. Just as these Recommendations have evolved, the level of compliance on the part of Portuguese companies has also been growing, which is to be applauded.

27. They are intended to be regarded as recommendations *by* and *for* the market. Therefore, suggestions and opinions on this document are always welcome, and, this being the case, it is thus subject to amendments and addenda.

I – Disclosure of Information

1. The company must ensure that it has permanent contact with the market, that the principle of equality among shareholders is upheld and that uneven access of investors to information is prevented. To these ends, companies should set up an investor support office.

The setting up of an office for investor support is already a common practice in our capital market, and is to be encouraged, insofar as it is one means of providing a central forum for all questions raised by investors and for any subsequent clarifications considered appropriate and granted through the disclosure of such information to the market.

II - The Exercise of Voting Rights and Representation Rights by Shareholders

2. The active exercising of voting rights, whether directly, by post or by proxy, should not be restricted. To this end, the following examples are considered to restrict the active exercise of voting rights: a) The imposition of a period of more then 5 working days between the deposit or blocking of shares and permission to participate in the general meeting; b) any statutory restriction on postal voting; c) the imposition of a requirement that postal votes be received more than 5 days in advance; d) the non-availability of voting slips for shareholders wishing to submit their vote by post.

The general rules set forth in the Commercial Company Act (Código das Sociedades Comerciais) on the exercising of voting rights allow companies the scope to adopt measures in their statutes aimed at combating the level of absenteeism among shareholders at General Meetings. In light of this philosophy, the Portuguese Securities Code (Código de Valores Mobiliários) confirms the principle that postal voting by shareholders in public companies at their General Meetings is admissible. The Code also develops a framework for representation by proxy of shareholders, by means of a request for representation by proxy. Further to these developments, CMVM drew up and published a set of Recommendations on Postal Voting in Public Companies, providing practical advice aimed at contributing to the equitable and efficient application of the right to submit postal ballots.

III – Corporate Rules

3. It is recommended that companies establish an internal control system, for the efficient detection of risks linked to their activity, as a means of safeguarding their assets and enhancing the transparency of their corporate governance practices.

Internal control procedures are aimed at helping the management to detect material risks (financial, environmental and legal risks, among others). The creation of a risk-rating system (e.g. through the existence of units within a company, with responsibility for internal audits and/or risk management) constitutes not only a means of reducing such risks, but also of increasing the quality of information disclosed to the market. It therefore provides a privileged means of guaranteeing transparency as regards corporate governance.

4. Measures adopted to prevent the success of takeover bids should respect the interests of the company and its shareholders. Measures considered contrary to these interests include defensive clauses intended to cause an automatic erosion of company assets in the event of the transfer of control, or of changes to the composition of the board which prove detrimental to the free transferability of shares and the free assessment by shareholders of the performance of members of the board .

The efficiency of the shareholder control market is essentially based on the right to transfer shares, on the irrevocable right of shareholders to assess the situation of the company and on

the responsibility of its directors for the financial results obtained. For this reason, the adoption of certain defensive measures is not to be advised whenever, in seeking at all costs to limit the success of takeover bids without the agreement of the board, they prove detrimental to the interests of the company and its partners.

IV – Board of Directors

5. The board should be composed of a number of members who provide effective guidance for the management of the company and the persons responsible for said management.

It is important that the board exercise effective control over the day-to-day management of the company, and that it reserves the sole right to make decisions on important matters. In order to pursue this objective, it should be duly informed at all times, ensure the efficient management of the company and convene with sufficient regularity.

5-A. The board of directors should include a sufficient number of non-executive directors, whose role it is to continuously monitor and assess the management of the company by the executive members of the board. Members of other corporate bodies may exercise ancillary roles or, at the very most, substitute board members, if the supervisory powers involved are equivalent and exercised in fact.

The distancing of non-executive members from the current management of a company guarantees an adequate capacity to analyze and assess strategies outlined and concrete decisions made. In this context, non-executive directors (i.e. the members of the board of directors who are not part of the executive board or to whom the current management of the company has not been delegated) are responsible for scrutinizing the management of the company, in a continuous and informed manner, monitoring the activity of executive members of the board of directors and making judgments with regard to the level of compliance with the company's strategy. The joint responsibility of all board members, furthermore, ensures reciprocal collaboration in a demanding atmosphere which promotes better management practices. The role of non-executive directors can be supplemented and, at the very most, substituted by members of other corporate bodies, provided that said members have equivalent powers and demonstrate that they actually exercise the role of supervising the performance of the executive members of the board of directors. These powers should include, at least, the appointment of the external auditor (even if this merely involves the intervention of an auditor in a consultative capacity) and the monitoring of their independence. The basis – legal and de facto – for the functional equivalence between non-executive members of the board of directors and the members of other corporate bodies must be closely monitored and described in detail in the corporate governance report.

6. The non-executive members of the board of directors must include a sufficient number of independent members. When there is only one non-executive director, he/she must also be independent. Independent members of other corporate bodies may exercise ancillary roles or, at the very most, substitute board members, if the supervisory powers involved are equivalent and exercised in fact.

The role of independent directors is to oversee and monitor the management of the company in an informed manner, ensuring that the activity of the company takes into account the interests of all persons involved, and that conflicts of interests in this area are adequately prevented and dealt with. The role of independent directors can be supplemented and, at the very most, substituted by independent members of other corporate bodies, provided that they fulfill the criteria for independence established for independent directors and that they have equivalent powers and demonstrate that they actually exercise the role of supervising the performance of the executive members of the board of directors. These powers should include, at least, the appointment of the external auditor (even if this merely involves the intervention of an auditor in a consultative capacity) and the monitoring of their independence. The basis – legal and de facto – for the functional equivalence between independent members of the board of directors and independent members of other corporate bodies must be closely monitored and described in detail in the corporate governance report.

7. The board of directors should create internal audit committees, with the power to assess the corporate structure and its governance.

The choices a company makes with regard to corporate governance are not set in stone, and reflections on these matters should not be limited to the annual disclosure of information on corporate governance to the market. These choices should rather be constantly re-evaluated, in light of each strategic option taken and the circumstances surrounding them. Thus, similar to what happens with regard to other internal control problems, the issues raised by corporate governance require a permanent structure, the creation of which should be the responsibility of the board of directors.

8. The remuneration of members of the board of directors should be structured in such a way as to permit the interests of board members to be in line with those of the company, and should be disclosed annually in individual terms .

In bridging the gap between the interests of members of the board of directors of a company and its shareholders, such a remuneration policy would maximize efforts to ensure the exercise of good management practices, which would naturally be of benefit to the company and its shareholders. Transparency with regard to remuneration is a corollary of the effort to keep the interests of directors in line with those of their company, and the disclosure of the internal distribution of remuneration highlights incentives aimed at rewarding the

performance of members of the board in their pursuit of common goals. This is normal procedure in Europe, and is recommended in the European Commission's Action Plan.

8-A. A declaration on the policy for remunerating members of a company's corporate bodies should be submitted to the attention of shareholders at the annual general meeting.

In light of the benefits, in terms of transparency and legitimacy, of fixing the remuneration of members of a company's corporate bodies, the remuneration committee should submit to the attention of the general meeting a document containing the guidelines to be observed by the remuneration committee the following year or in the period considered most appropriate, such as the period corresponding to the term of office of the corporate bodies. This document should also include a general description of the way in which the remuneration was applied in the preceding financial year, although this should not involve the disclosure of sensitive commercial information. Special attention should be paid to any significant alterations to the remuneration policy relative to the preceding financial year. Whether the decision has a consultative or binding nature depends on the resolution passed by shareholders to this effect at each general meeting or through the company bylaws. This recommendation does not apply when the remuneration policy is directly decided by the general meeting.

9. Members of the remuneration committee or equivalent should be independent as regards the members of the board of directors.

The Commercial Company Act states that the remuneration of directors must be fixed at the general meeting or by a committee of shareholders elected at the general meeting (Article 399.1). However, the legal desire to prevent conflicts of interests, which is central to the said Code, will only be achieved if the committee only includes people who are independent from the management and cannot be influenced by its members. The concept of independence used in this context is that which is established in paragraph 9 of Chapter I of the Annex to CMVM Regulation 7/2001.

10. A proposal should be submitted to the general meeting with regard to the approval of plans for the allotment of shares, and/or options to purchase shares or based on variations in share prices, to members of the board of directors and/or employees. Said proposal should contain all information necessary to ensure that the plan is correctly assessed. The proposal should be accompanied by the rules of procedure for the plan, or, if these have not yet been drafted, by the general conditions for the plan.

Over the last few years, it has become ever more popular for members of the board of a company and its employees to hold shares in the capital of the company. These stakes assume several different forms, including, by way of example, the allotment of shares at

discounted rates and the creation of long-term stock option plans designed to prevent options to purchase shares (stock option plans)

Considering that proposals relating to the disposal of own shares depend on the authorization of the general meeting (Article 320.1 of the Commercial Company Act) and given the influence of these allotments, regardless of the type, on the financial situation and remuneration policies of companies issuing securities, of particular relevance when allocated to members of the board of directors, it is recommended that the proposal submitted to the attention of the general meeting for the approval of the said plans be as close as possible to the final terms and conditions adopted. By way of example, notwithstanding other legal requirements in force, in the case of allotment of shares, and/or options, mention of the justifications for the adoption of such a plan, the category and number of people involved, the conditions governing the allotment, criteria for determining the price of the shares or stock options, the number and characteristics of the shares to be allotted, the period of time within which they can be traded, the incentives for purchasing the shares/stock options and the role of the board of directors in carrying out/modifying the plan, all contribute towards the presentation of a comprehensive and complete proposal

10-A. The company should adopt a policy whereby alleged irregularities occurring within the company are reported, containing the following information: The method through which the irregular practices are reported internally, including the persons permitted to receive such information, the manner in which such reports are to be dealt with, including confidential treatment of the information, if such is the wish of the person making the declaration. The general direction of this policy should be disclosed in the corporate governance report.

In Portugal, the internal reporting of irregularities cannot imply any prejudicial treatment on the part of an employer, as this is prohibited by the legal framework governing employment. Keeping the said legal framework in mind, internal reporting of irregular practices is to be encouraged, as a means of preventing or rectifying irregularities as promptly as possible, thus preventing increased damage caused by the persistence of irregular practices. Knowledge of the methods and procedures in force in the company, as described in the reporting policy, facilitates the adequate use of this faculty by employees. However, the reporting policy will only stimulate internal communication if it is coherently applied by the company. Vigilance of this practice should be the responsibility of a person or body other than the person/body in charge of receiving and dealing with reports of such practices.

V – Institutional Investors

11. Institutional investors should take into consideration their responsibility to contribute to the diligent, efficient and critical use of the rights conferred on them by the securities they hold or whose management has been entrusted to them, particularly with regard to information and voting rights.

The powers conferred upon institutional investors (i.e. investment fund management companies, pension fund management companies and asset management companies) are clearly growing. Various studies have revealed that the efficient management by institutional investors of the rights conferred by the securities entrusted to them, which is, of course, required by law, contributes in a highly positive way to the development of companies. It is therefore appropriate to stress the importance of the diligent, efficient and critical application by institutional investors of the aforementioned rights conferred upon them.