



NOTICE OF BANK OF PORTUGAL NO. 2/2018

On 26 September 2018, Bank of Portugal published Notice no. 2/2018 (“Notice”) which shall enter into force on 25 November, that is, 60 days following its publication.

This Notice contains the regulations on (i) the fulfilment by the financial institutions supervised by Bank of Portugal of the duties of prevention of money laundering and terrorist financing under the legal framework on the fight against money laundering and terrorist financing laid down in Law no. 83/2017, of 18 August¹, (ii) the fulfilment of the duties laid down in Law 97/2017 (regulating the implementation and enforcement of the restrictive measures adopted by the United Nations and the European Commission and laying down rules on the sanctions for breaches thereof) and, also, (iii) the measures to be adopted by payment service providers to detect transfers of funds where information on the payer or payee is missing or incomplete.

Additional information provided by *Abreu Advogados* with respect to Law no. 83/2017, of 18 August can be found [here](#) and on the legal regime of the beneficial ownership central register [here](#) and [here](#).

Furthermore, this Notice repeals:

- (i) Notice of Bank of Portugal 5/2013, of 18 December;
- (ii) Notice of Bank of Portugal 9/2012, of 29 May;
- (iii) Instruction no. 46/2012, of 17 December;
- (iv) Instruction no. 9/2017, of 3 July.

With regard to the preventive and repressive measures to combat money laundering and terrorist financing (“MLTF”) established in Law no. 83/2017, of 18 August, this Notice contains regulations mainly on the duties to prevent and combat MLTF. Therefore, it devotes Title II entirely to regulating duties, starting with the monitoring duties (articles 3 to 17), followed by the identification and due diligence duties (articles 18 to 38) and other duties (articles 39 to 43), in particular, (i) refusal, (ii) record-retention, (iii) scrutiny, (iv) non-disclosure and (v) training.

It also has an entire chapter devoted exclusively to the operations carried out by financial institutions.

Articles 45 to 62 of Title III regulate Section II of Law 83/2017 on the Mutual Agricultural Credit Integrated System (“SICAM”).

(1) Sets out measures to combat money laundering and terrorist financing, partly transposing Directives 2015/849/EU, of the European Parliament and of the Council, of 20 May 2015, and 2016/2258/EU, of the Council, of 6 December 2016, amends the Penal Code and the Industrial Property Code and repeals Law 25/2008, of June and Decree-Law 125/2008, of 21 July.

Law 83/2017 also raises a concern about the operation in Portugal of financial institutions headquartered abroad, and so this Notice contains regulations on its Section IV - articles 63 to 65. Apart from the designation of a central contact point in national territory, where appropriate in accordance with the regulatory technical standards approved by Delegated Regulation of the European Commission, it is important to note the designation of a member of the board as the person responsible for complying with the regulatory framework on combating MLTF and the designation of a person who will become responsible for regulatory compliance in Portugal.

Without overlooking Regulation (EU) 2015/847, the Notice devotes Title V - articles 65 to 71- to payment service providers, setting out the measures they must have in place to detect transfers of funds where information on the payer or the payee is missing or incomplete, as well as the procedures to manage transfers of funds not accompanied by the information required by such Regulation.

Finally, Title VI deals with the supervisory power of Bank of Portugal and the information to be included in the annual reporting to be made by the financial institutions regarding their internal control system and other data, notably the MLTF Prevention Report (which merges and replaces the two previous reports required to be made under Notice of Bank of Portugal no. 9/2012 (MLTF prevention report) and Instruction 46/2012 (self-assessment questionnaire).

It should also be noted that Annex I to this Notice regulates the requirements for admission of video conference and identification of trusted and qualified service providers, which reinforce the possibility to open bank accounts, and to have other business relationships, through digital channels, without the customers needing to physically go to the branches.

Annex II of this Notice sets out the aspects that the financial institutions supervised by Bank of Portugal must take into account when assessing the low-risk situations provided for in Law 83/2017, of 18 August.

Abreu Advogados has a qualified team prepared to provide cross-cutting advice on all these changes and to assist financial institutions and other market players in planning and implementing all actions needed to fulfil these new measures to combat money laundering and terrorist financing.

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