

REGULATORY INTELLIGENCE

COUNTRY UPDATE-Portugal: AML

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**Member of the Financial Action Task Force?**Yes.**Member of Egmont?**#Yes.**The main offences**

Money laundering is a criminal offence provided for on 368.^o-A of the Portuguese Criminal Code, committed by anyone who converts, transfers, aids or facilitates any operation of conversion or transfer of advantages, obtained by him or a third party, with the aim of either:

- Disguising the illegal origin of the advantage.
- Avoiding the criminal punishment of the principal or accomplice.

Concealing or disguising the nature, origin, location, disposition, movement or ownership of the advantages or rights related to the advantages is also a criminal offence.

Money laundering is punishable with imprisonment up to a maximum of 12 years.

Terrorism is a criminal offence provided for on Article 5 -A of the Counter-Terrorism Law (Law No. 52/2003, of August 22), committed by anyone who supplies, collects or holds, directly or indirectly and by any means, funds or assets, as well as goods and rights that can be converted into funds, with the intention of using them or having the awareness that they could be used, in full or in part, in the planning, preparation or constitution of any terrorist group, organisation or association. Terrorism is punishable with imprisonment up to a maximum of 15 years.

Law No. 83/2017, of August 18, which established new prevention and control measures to combat money laundering and terrorism financing, establishes three types of crimes:

- unlawful disclosure of information, punishable with imprisonment up to a maximum of 3 years;
- revealing and facilitation of the discovery of the identity of those who report suspicious operations, punishable with imprisonment up to a maximum of 3 years; and
- disobedience, punishable with imprisonment up to a maximum of 2 years.

Legal persons are also punishable with fines for the practice of these crimes.

Law No. 83/2017 is applicable to financial entities, such as:

- credit institutions;
- payment institutions;



- electronic money institutions;
- investment companies and other financial companies;
- self-managed collective investment companies and management companies of collective investment schemes;
- venture capital companies, venture capital investors, social entrepreneurship companies, venture capital fund management companies, self-managed venture capital investment companies and self-managed specialised in alternative investment companies;
- credit securitisation companies and securitisation fund management companies;
- companies that trade contracts related to investment in tangible assets to the public;
- securities investment advisers;
- pension fund management companies;
- insurance companies and intermediaries performing activity in life insurance;
- securities investment companies for the promotion of the economy;
- managers of qualified venture capital funds;
- managers of qualified social entrepreneurship funds;
- self-managed European long-term investment funds (ELTIF);
- real estate investments and management companies in Portugal.

Law No. 83/2017, of August 18 is also applicable to non-financial entities such as:

- holders of concessions to operate gambling in casinos and holders of concessions to operate bingo halls;
- entities that pay betting and lottery prizes;
- entities covered by the Legal Framework of Online Gambling and Betting;
- entities carrying out real estate activities;
- auditors, external accountants, tax advisors and whoever professionally provides tax assistance or advise;
- lawyers, solicitors, notaries and other independent legal professionals;
- company service providers;
- professionals who intervene in transactions concerning the acquisition of selling of rights over professional sports players;
- economic operators engaged in auction or lending activities;
- persons storing, trading or acting as intermediaries in the trade of works of art, even when this is carried out by free ports, where the value of the transaction or a series of linked transactions amounts is made in cash, if the value is of 3,000 euros or more, or through another means of payment, if the value is of 10,000 euros or more;
- economic operators importing or exporting rough diamonds;
- entities authorised to transport, store, treat and distribute of funds and valuables;
- traders who trade in goods of high unit value, notably gold and other precious metals, precious stones, antiques, aircraft, boats and motor vehicles, where the value of the transaction or a series of linked transactions amounts are made in cash, if the value is of 3,000 euros or more, or through another means of payment, if the value is of 10,000 euros or more;
- other traders in goods or service providers, where the value of the transaction or a series of linked transactions amounts are made in cash, if the value is of 3,000 euros or more;
- entities carrying out any activity with virtual assets.

Law No. 83/2017 establishes several duties, mainly:

- duty of control;
- duty of identification and diligence;
- duty of communication;
- duty of avoidance;
- duty of refusal;
- duty of examination;
- duty of collaboration;
- duty of non-disclosure;
- duty of record keeping;
- duty of training.

and sets out a long list of specific measures regarding internal control policies and procedures and risk management practices, out of which we would highlight the following:

- designation of a compliance officer (may be required by law or by the dimension and nature of the activities of the entity at stake);
- implementation of systems and processes in place for the collection, processing and filing of information relating to analysis and decision making and the discharge of reporting and collaboration duties;
- putting in writing policies, procedures and controls, as well as any updates thereof, and to keep a written record of actions and training to employees relating with applicable anti-money laundering legislation;
- implementation of mechanisms that allow for regular monitoring, testing and periodical review of the quality, suitability and effectiveness of existing policies;



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- regarding employees whose functions are considered relevant, the obligation to: (i) have in place screening procedures to guarantee high standards in the hiring practice; (ii) make available accessible and updated information on internal rules to those employees; and (iii) implement mechanisms to control their performance;
- a specific independent and anonymous channel to communicate any breaches and risk situations;
- obligation to develop a personal data protection policy and procedure;
- the duty to consult periodically the information published in the Central Register of Beneficial Owners (CRBO) to identify "beneficial owners" and, where appropriate, to report to the competent authorities any irregularities identified during the identification procedure.

The AML measures and requirements established on Law No. 83/2017 may also be regulated and further developed by supervisory authorities according to the industry or activity sector concerned.

Any breach of the AML duties and obligations provided for in Law No. 83/2017 or in other sectoral regulation is also punishable as an administrative offence. There is a considerable extensive list of offences which are punishable with significant fines, up to a maximum of 5 million euros.

Top fine: If it is possible to determine that the benefit deriving from the infraction, multiplied by two, exceeds the maximum limit of the applicable fine, then the applicable fine will correspond to that amount.

In the specific case of legal entities that are notably: (i) credit institutions or financial institutions; (ii) holders of concessions to operate gambling in casinos and holders of concessions to operate bingo halls; (iii) entities that pay betting and lottery prizes; and (iv) entities covered by the Legal Framework of Online Gambling and Betting, the maximum limits may also correspond to 10% of the total annual turnover, if higher, according to the last available accounts.

Failure to report: For failure on the part of a credit institution or investment company, a regulatory fine ranging from 50,000 euros to 5,000,000 euros if the fault is from a legal person or 25,000 euros to 5,000,000 euros if the fault is from an individual person; for failure on the part of another financial entity, a regulatory fine ranging from 25,000 euros to 2,500,000 euros if the fault is of a legal person or 12,500 euros to 2,500,000 euros if the fault is of an individual person.

If the failure is from a non-financial entity, namely holders of concessions to operate gambling in casinos and bingo halls, betting and lottery prizes payers entities and entities covered by the Legal Framework of Gambling and Betting Online, the regulatory fine ranges from 50,000 euros to 1,000,000 euros if the fault is of a legal person, or 25,000 euros to 1,000,000 euros if the fault is from an individual person.

If the failure is from any other non-financial entity, except certified accountants, lawyers, solicitors and notaries, a regulatory fine ranging from 5,000 euros to 1,000,000 euros if the fault is of a legal person, or 2,500 euros to 1,000,000 euros if the fault is from an individual person.

The following additional ancillary penalties are also applicable:

- loss, in favour of the state, of the economic benefit obtained through the infraction;
- closing of the commercial establishment where the infractor works for a period of up to two years;
- prohibition of exercising the professional activity to which the offence relates, for a period of up to three years;
- prohibition of the functions of administration, direction, management, ownership of corporate bodies, representation, mandate and supervision in entities subject to supervision by the competent sectoral authority and entities in a group or control relationship, for a period of up to three years;
- publication of the decision.

Tippling off: Same as paragraph above.

Predicate offences: The laundering of proceeds of all serious offences (e.g., as terrorism, including terrorist financing, trafficking in human beings and migrant smuggling, illicit arms trafficking, environmental crime, fraud, corruption or tax crimes) are foreseen in the Portuguese Criminal Code and also include a range of predicate offences that are punishable with minimum imprisonment greater than six months or a maximum imprisonment greater than five years.

Is foreign tax evasion a predicate offence? Fiscal fraud is specifically included as a predicate offence even if committed abroad.

Know-your-customer requirements

Know-your-customer (KYC) requirements are included on the identification and diligence duty provided for in Law No. 83/2017 and must be performed when:

(i) establishing a business relationship.

(ii) carrying out an occasional transaction, whether that transaction is carried out in a single operation or in several operations which appear to be linked, whenever:

- the value amount is equal to 15,000 euros or more; or
- constitutes a transfer of funds or a transaction executed in the sphere of activity with virtual assets, whenever the amount exceeds 1,000 euros.



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(iii) there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold; there are doubts about the veracity or adequacy of previously obtained customer identification data.

(iv) there are doubts about the veracity or adequacy of previously obtained customer identification data.

Exception is made for providers of gambling services where the identification and diligence duty apply to transactions equal to or greater than 2,000 euros, whether that transaction is carried out in a single operation or in several operations which appear to be linked.

The general KYC requirements consist of requiring and confirming the identification of customers and their representatives, including the following data, which must be proven and confirmed by adequate documents:

(i) in case of natural persons:

- Photograph
- Full name
- Signature
- Date of birth
- Nationality(ies)
- Type, number, expiry date and issuer of identification document
- Taxpayer number
- Profession and employer
- Permanent residence and, if different, tax residence
- Place of birth

(ii) in case of legal persons:

- Name
- Corporate object/purpose
- Address of registered office
- Taxpayer number
- Identity of holders of shares in the capital and in the voting rights with a value of 5% or more
- Identity of the members of the board of directors/management body
- Country of incorporation
- CAE (Economic Activity Code)
- Entities are obliged to fully identify its customers and check and confirm the validity of the identification provided prior to the establishment of a business relationship or an occasional transaction.

When the customers are:

- natural persons, entities must require the presentation of valid identification documents;
- legal persons, entities must require the presentation of the legal person's identification card, the certificate of commercial registration or, in the case of an entity with its registered office outside Portugal, an equivalent document issued by an independent and credible source.

It is also required to identify: (i) the beneficial owners of the customers; and (ii) customers who are Politically Exposed Persons (PEPs), Close Family Members, and Persons Recognised as Closely Associated with Politically Exposed Persons and/or Holders of Other Public Office or Politicians.

The KYC requirements established on the Law No. 83/2017 may be regulated and further developed by supervisory authorities according to the industry or activity sector concerned, who may impose the collections of further identification data and its confirmation through specific documentation.

Reporting requirements

Whenever the obliged entity suspects or has reasonable grounds to suspect that certain funds or other assets, regardless of their value, stem from criminal activity or relate to terrorist financing, it must report such suspicions to the Central Bureau of Investigation and Prosecution of the Attorney General's Office ([DCIAP](#)) and the Financial Intelligence Unit ([UIF](#)) on proposed or attempted, ongoing or executed operations.

In the case of a suspicion regarding restrictive measures approved by the United Nations or the European Union, the entity must also immediately report it to the Directorate General for Foreign Policy of the Ministry of Foreign Affairs (pesc@mne.pt) and the Planning, Strategy, Evaluation and International Relations of the Ministry of Finance (gpeari@gpeari.gov.pt).

The reporting must include the following information:

- the identification of natural and legal persons directly or indirectly involved and known by entity, as well as known information about their activity;
- the investigation and analysis procedures followed by entity in the specific case;



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- the characterising and descriptive details of the operations;
- the factors of suspicion specifically identified by entity; and
- a copy of the supporting documentation of the investigation and analysis carried out by entity.

Entities must also report monthly to the UIF and the DCIAP certain types of operations, such as: (i) cash transactions or similar whenever the amount exceeds 50,000 euros; (ii) transfer of funds or financial instruments whenever the amount exceeds 50,000 euros and the operation is connected to high-risk countries or territories; (iii) early repayment of funds or surrender value of the insurance policy; or (iv) transactions made by providers of gambling services.

If required by the supervisory authorities, entities must from time-to-time submit "Irregularities Reports" containing the following information:

- a description of the specific, independent and anonymous channels which internally ensure the adequate receipt, handling and filing of reports of irregularities relating to possible violations of the Regulation and of the applicable legal and regulatory rules on anti-money laundering and terrorist financing, including the application and enforcement of restrictive measures approved by the United Nations or the European Union;
- a summary indication of the internal communications received and their processing.

Entities carrying out real estate activities must report quarterly to Institute of Public Markets, Real Estate and Construction all real estate transactions and lease contracts (provided that the monthly rent is 2,500 euros or more) executed.

Supervisory authorities may further regulate and develop reporting requirements.

For instance, the Notice No. 1/2022 of Banco de Portugal, governs enforcement conditions, procedures, instruments, mechanisms, enforcement measures, reporting obligations and other aspects necessary for ensuring compliance with obligations for the prevention of money laundering and terrorist financing, specifically establishes a mandatory annual report on prevention of money laundering and terrorist financing, that must be submitted to the Bank of Portugal before February 28 each year.

The report must include institutional information and relevant contacts of the financial entities, information on: (i) the politics and procedures for prevention of money laundering; (ii) risk management procedures; (iii) use of new technologies, products and services; (iv) control of legal compliance; (v) the "Irregularities Reports" referred above; (vi) internal and external audits; (vii) deficiencies detected in the internal compliance procedures; (viii) types of operations carried on by the entities; (ix) specific procedures to comply with Regulation (EU) 2015/847 and deficiencies detected in its execution; (x) corrective measures adopted to correct identified deficiencies; (xi) relevant quantitative information; (xii) self-evaluation questionnaire; and (xiii) also other relevant information.

Alongside with the above-mentioned information, the report must also include a global opinion of the board on the adequacy and effectiveness of the internal control procedures for anti-money laundering, information on the possible detection by the supervisory bodies of the financial entities of deficiencies of high risk level in the internal control procedures regarding anti-money laundering for the reference period, and opinion of the supervisory bodies on the quality of the internal control procedures for anti-money laundering.

Similarly, Regulation No. 2/2020 of the Securities Market Commission on preventive measures concerning money laundering and terrorism financing (as amended by Regulation No. 5/2022) also establishes an annual report on prevention of such infractions that must be submitted to the Securities Market Commission before February 28 each year.

Everyone who enters or leaves the country from or to a country outside the EU with more than 10,000 euros in cash or its equivalent must report it (Decree-law 61/2007, dated March 14). Failure to report is punishable with a fine ranging from 250 euros to 165,000 euros (art 108 of Law 15/2001, as amended).

Statutes/cases

The transposition into domestic legislation of Directive 2015/849 of the European Parliament and of the Council dated May 20, 2015 (IV AMLD), occurred mainly through: (i) Law No. 83/2017, of August 18, which established new prevention and control measures to combat money laundering and terrorism financing; and (ii) Law No. 89/2017, of August 21, which approved the Legal Framework on the Central Register of Beneficial Owners (CRBO).

The transposition into domestic legislation of Directive 2018/843 of the European Parliament and the European Council of May 30, 2018 (V AMLD) and of the Directive 2018/1673 of the European Parliament and the European Council of October 23, 2018 (VI AMLD), occurred mainly through Law No. 58/2020, of August 31, that amended several legal acts, including the Law No. 83/2017.

The most recent amendments to the Law No. 83/2017, were enacted by the Decree-Law No. 56/2021, of June 30, and by the Law No. 99-A/2021, of December 31, that also amended several legal acts.

Other national legislation contains measures to prevent money laundering and terrorism financing, such as: (i) Law No. 97/2017, of August 23, 2017, that regulates the implementation and enforcement of restrictive measures adopted by the United Nations or the European Union and establishes the penalties applicable to infringements of these measures; and (ii) Law No. 92/2017, of August 22, 2017, that requires the use of specific means of payment in transactions involving amounts equal to or greater than 3,000 euros.

Regulation



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The AML measures and requirements established on the Law No. 83/2017 may also be regulated and further developed by several supervisory authorities according to the industry or activity sector concerned, such as:

- Insurance and Pension Funds Supervisory Authority
- Bank of Portugal
- Securities Market Commission
- Inspectorate-General of Finance
- Inspectorate-General of the Ministry of Labour, Solidarity and Social Security
- Service of Regulation and Inspection of Gambling of Tourism of Portugal
- Institute of Public Markets, Real Estate and Construction
- Food and Economic Security Authority
- Bar Association
- Order of Chartered Accountants
- Notary Association
- Professional accountancy organisation for statutory auditors
- Solicitors and Enforcement Agents Association

The main AML regulations issued by the referred authorities, within the scope of the Law No. 83/2017, and currently in force are:

- Notice No. 1/2022 of Banco de Portugal, governs enforcement conditions, procedures, instruments, mechanisms, enforcement measures, reporting obligations and other aspects necessary for ensuring compliance with obligations set for the prevention of money laundering and terrorist financing;
- Regulation No. 2/2020 of the Securities Market Commission, on preventive measures to combat money laundering and terrorism financing (amended by the Regulation No. 5/2022);
- Regulation No. 1191/2022 of the Food and Economic Security Authority, on general and specific duties for preventing and combating money laundering and the financing of terrorism;
- Regulation No. 603/2021 of the Portuguese Institute for the Public Markets, Real Estate and Construction, regarding the prevention and combat of money laundering and the financing of terrorism in the real estate sector;
- Resolution No. 822/2020 of the Bar Association that approved the Regulation regarding the prevention and combat of money laundering and the financing of terrorism.
- The Insurance and Pension Funds Supervisory Authority's new regulation on preventing and combating money laundering and terrorist financing (Regulation No. 10/2024-R came into force on December 27, 2024).

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