

UNOFFICIAL TRANSLATION

Law No. 25/2008

of 5 June

Establishing the preventive and repressive measures for the combat against the laundering of benefits of illicit origin and terrorism financing, transposing into the domestic legal system Directive 2005/60/EC of the European Parliament and Council, of 26 October 2005, and Directive 2006/70/EC, of the Commission, of 01 August 2006, relating to the prevention of the use of the financial system and of the specially designated activities and professions for purposes of money laundering and terrorism financing, first amendment to Law No. 52/2003 of 22 August, and revoking Law No. 11/2004, of 27 March

The Assembly of the Republic decrees, pursuant to Article 161 c) of the Constitution, the following:

CHAPTER I

General provisions

SECTION I

Subject matter and definitions

Article 1

Subject matter

- 1- This Law establishes preventive and repressive measures to combat the laundering of unlawful proceeds and terrorism financing and transposes into Portuguese law Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 and Commission Directive 2006/70/EC of 1st August 2006 on the prevention of the use of the financial system and designated non-financial businesses and professions for the purpose of money laundering and terrorism financing.
- 2- Money laundering and terrorism financing are prohibited and punishable in accordance with the procedures established by the applicable criminal law.

Article 2

Definitions

For the purposes of this Law the following shall mean:

- 1) «Entities subject to this Law», the entities referred to in Articles 3 and 4 of this Law;
- 2) «Business relationship», professional or commercial relationship between institutions and entities subject to this Law and their customers which, at the time when the relationship is established, is expected to last;
- 3) «Occasional transaction», any transaction carried out by entities subject to this Law outside the scope of an already established business relationship;
- 4) «Legal arrangements», autonomous property, such as condominium based building, claimed but undistributed inheritances, and trusts governed by foreign law, where and under the terms recognised by Portuguese law;
- 5) «Beneficial owner», the natural person on whose behalf a transaction or activity is carried out, or who ultimately owns or controls the customer. The beneficial owner shall at least include:
 - a) where the customer is a corporate entity:
 - i) the natural person who ultimately owns or controls a legal entity, directly or indirectly, or control over at least a percentage equivalent to 25 % of the shares or voting rights in that legal entity, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards;
 - ii) the natural person who otherwise exercises control over the management of a legal entity;
 - b) where the customer is a non-corporate entity, such as foundations and legal arrangements which administer and distribute funds:
 - i) where the future beneficiaries have already been determined, the natural person(who is the beneficiary of 25 % or more of the property;
 - ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
 - iii) the natural person who exercises control over 25 % or more of the property of a legal arrangement or legal person;
- 6) "Politically exposed persons", natural persons who hold or who have held up to the previous

twelve months prominent public or political functions and immediate family members, or persons known to be close associates of such persons through a business or commercial relationship. For the purposes of this paragraph:

a) "Prominent public or political functions" is understood as:

- i) Heads of State, heads of government, ministers and deputy or assistant ministers;
- ii) Members of parliaments, or members of parliamentary chambers;
- iii) Members of supreme courts, constitutional courts or other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
- iv) Members of management or auditing boards of central banks;
- v) Ambassadors and heads of diplomatic missions and consulates;
- vi) High-ranking officers in the armed forces;
- vii) Members of the management and auditing boards of State-owned enterprises and corporations in which the State holds exclusively or the majority of the capital, public institutes, public foundations, public establishments, irrespective of their specific name, including the management boards of companies belonging to the regional and local corporate sectors;
- viii) Members of the executive bodies of the European Communities and the European Central Bank;
- ix) Members of executive bodies of international law organisations;

b) "Immediate family members" shall include:

- i) The spouse or partner;
- ii) The parents, the children and their spouses or partners;

c) "Persons known to have a close company or business relationship":

- i) Any natural person who is known to have joint beneficial ownership of legal persons or legal arrangements, or any other close business relations, with a person entrusted with prominent public or political functions;
- ii) Any natural person who has ownership of the capital stock or voting rights of a legal person or legal arrangement which is known to have as sole beneficial owner a person entrusted with prominent public or political functions;

7) "Shell bank" a credit institution, incorporated in a State or jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated

- with a regulated financial group;
- 8) «Equivalent third country» any country mentioned in an executive order of the member of government responsible for finance, having a regime equivalent to the national one in respect of money laundering and terrorism financing prevention and the supervision of such obligations; and in respect of the information requirements applicable to listed companies in a regulated market, the regime set out in a list approved by the Securities Market Commission;
 - 9) «Service providers to companies and other legal persons and legal arrangements», any person who by way of business provide any of the following services to third parties:
 - a) Incorporation of companies, other legal entities or legal arrangements as well as providing related services of representation, management and administration to such legal entities or legal arrangements;
 - b) Fulfilment of the functions of director, secretary or shareholder for a company, or other legal person, or acting in a similar position in relation to legal arrangements;
 - 10) «Financial Intelligence Unit (FIU)», the national central unit for receiving, analysing and disseminating suspected money laundering or terrorism financing information, set up by Decree-Law No 304/2002 of 13 December.

SECTION II

Scope of application

Article 3

Financial entities

- 1- The following entities, having their head office in the national territory, shall be subject to the provisions of this Law:
 - a) Credit institutions;
 - b) Investment companies and other financial companies;
 - c) Entities managing or marketing venture capital funds;
 - d) Collective investment undertakings marketing their units;
 - e) Insurance companies and insurance brokers carrying on the activities referred to in subparagraph c) of Article 5 of Decree-Law No 144/2006 of 31 July, with the exception of connected insurance brokers as mentioned in Article 8 of the aforementioned Decree-Law, when they carry on activities within the area of life insurance;
 - f) Pension-fund managing companies;
 - g) Credit securitisation companies;

- h) Venture capital companies and investors;
- i) Investment consulting companies;
- j) Companies pursuing activities dealing with contracts related to investment in tangible assets¹.

2- The branches established in the Portuguese territory of the entities referred to in the preceding paragraph having their head office abroad, as well as off-shore branches are also covered.

3- The current law also applies to the entities providing postal services and to Treasury and Government Debt Agency, where providing financial services to the public.

4- For the purposes of this Law, the entities referred to in the preceding paragraphs are hereinafter referred to as «financial entities».

Article 4

Non-financial entities

The following entities, carrying on activities in the national territory, shall be subject to the provisions of this law:

- a) Those acting under a concession granted in order to operate games in casinos;
- b) Operators awarding betting or lottery prizes;
- c) Real estate agents as well as agents buying and reselling real estate and construction entities selling directly real property;
- d) Persons trading in goods, only to the extent that payments are made in cash in an amount of EUR 15000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- e) Statutory auditors, chartered accountants, external auditors and tax advisors;
- f) Notaries, registrars, lawyers, *solicitadores* and other independent legal professionals, acting either individually or incorporated as a company, when they participate or assist, on behalf of a client or otherwise in the following operations:
 - i) Purchase and sale of real property, or businesses, as well as equity;
 - ii) Management of funds, securities or other assets belonging to clients;
 - iii) Opening and management of bank, savings or securities accounts;
 - iv) Creation, operation or management of a company or similar structures, as well as legal arrangements;
 - v) Acting on behalf of the client in any financial or real estate operation;

¹ Text in accordance with the Declaration of Rectification no. 41/2008, published in the Official Gazette of 4 th of August 2008.

- vi) Acquisition and sale of rights over professional sportspersons;

- g) Service providers to companies and other legal entities or legal arrangements that are not covered by the provisions of subparagraphs e) and f).

Article 5

Financial activity on an occasional and limited basis

This law shall not apply to companies operating in the tourism and travel sector, authorised to carry out, on an occasional and limited basis, foreign currency exchange transactions, pursuant to the provisions of Decree-Law No 295/2003 of 21 November.

CHAPTER II

Duties of the entities subject to this Law

SECTION I

General duties

Article 6

Duties

The entities subject to this law, in the exercise of their professional activities, are obliged to comply with the following general legal duties:

- a) Duty of identification;
- b) Duty of due diligence;
- c) Duty to refuse to carry out operations;
- d) Duty to keep documents and records;
- e) Duty of scrutiny;
- f) Duty to report;
- g) Duty to refrain from carrying out transactions;
- h) Duty to cooperate;
- i) Duty of confidentiality;
- j) Duty to control;
- l) Duty of training.

Article 7

Duty of Identification

- 1- The entities subject to this law shall identify and verify the identity of their customers and the respective representatives:
 - a) When establishing a business relationship;
 - b) When carrying out occasional transactions amounting to EUR 15000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
 - c) When there is a suspicion of money laundering or terrorism financing operations, regardless of their amount, and any exemption or threshold, taking into account, in particular the nature, complexity, atypical or unusual pattern of the transaction regarding the customer's profile or activity, amounts involved, frequency, source and destination of funds, economic and financial situation of intervening parties or means of payment used;
 - d) When there are doubts about the veracity or adequacy of previously obtained customer identification data.

- 2- In the case of casino operators and operators awarding betting or lottery prizes, the identification obligation shall apply for amounts higher than those set out respectively in subparagraph a) of paragraph 1 of Article 32 and in Article 33.

- 3- Verification of the identity shall be made:
 - a) In the case of a natural person, through the presentation of a valid original document with photo, containing the full name, date of birth and nationality;
 - b) In the case of a legal person, through the presentation of the legal person identification card, commercial registration certificate or, in the case of non-residents in the national territory of an equivalent document.

- 4- Where the customer is a legal person or legal arrangement or, in any event, whenever it is known or there is grounded suspicion that a customer is not acting for his/her own account, the entities covered by this Law shall obtain from the customer information on the identity of the beneficial owner; this information shall be adequately verified, according to the risk of money laundering or terrorism financing.

Article 8

Identity checking moment

- 1- Checking the identity of a customer, its representatives and, where applicable, of the beneficial owner shall take place at the moment when the business relationship is

established or before the carrying out of any occasional transaction.

- 2- Without prejudice to the provisions of the previous paragraph, where there is limited risk of money laundering or terrorism financing and except as otherwise provided for in a legal rule or regulation applicable to the activity carried on by the subject entity, the verification of the identity of the customer mentioned in the previous paragraph can be completed after the establishment of a business relationship, if this is indispensable for the completion of the transaction, in which case these identification procedures shall be completed as soon as possible.
- 3- When opening a bank account, credit institutions shall not allow any credit or debit movements to the account after the initial deposit, make available any payment instruments on the said account or make any change to the ownership, until full compliance with the customer's identification procedure, in accordance with the legal or regulatory provisions applicable.
- 4- In the case of life insurance contracts, verification of the identity of the beneficiary under the policy may take place after the business relationship has been established, but always at or before the time of payout or at or before the time the beneficiary intends to exercise rights vested under the policy.

Article 9

Due diligence

- 1- In addition to the identification of customers, representatives and beneficial owners, the entities subject to this law shall:
 - a) Take appropriate measures to understand the ownership and control structure of the customer, as regards legal persons or legal arrangements;
 - b) Obtain information on the purpose and intended nature of the business relationship;
 - c) Obtain information, where required by the risk profile of the customer or the characteristics of the operation, on the source and destination of funds within the scope of a business relationship or of an occasional transaction;
 - d) Conduct ongoing monitoring of the business relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, as well as of its business and risk profile;
 - e) Ensure that the information elements gathered in the course of the business relationship are kept up-to-date.
- 2- Customer due diligence procedures shall apply not only to new customers but also to existing customers, on a regular basis and according to the existing risk level.

Article 10

Adaptation to the risk level

- 1- In compliance with the identification and due diligence duties set out in Articles 7 and 9, the entities subject to this law may adapt the nature and extent of the checking procedures and the due diligence measures depending on the risk associated with the type of customer, the business relationship, the product, the transaction and the source and destination of the funds.
- 2- The entities subject to this law shall be able to demonstrate to the competent supervisory or monitoring authorities, that the extent of the measures adopted pursuant to the previous paragraph is appropriate.

Article 11

Simplified due diligence

- 1- Except where there are suspicions of money laundering or terrorism financing operations, the entities subject to this law shall be exempt from compliance with the duties referred to in Articles 7 and 9 in the following situations:
 - a) Where the customer is a financial entity set up in a European Union Member State or in a third country which imposes equivalent requirements in respect of money laundering and terrorism financing prevention;
 - b) Where the customer is a listed company whose securities have been admitted to trading in a regulated market, within the meaning of Article 199 of the Portuguese Securities Code, as amended by Decree-Law no. 357-A/2007 of 31st October, in any European Union Member State, as well as listed companies in third country markets, which are subject to reporting obligations equivalent to those required by Community legislation, as publicized by the competent supervisory authority;
 - c) Where the customer is the State, autonomous regions, local authorities or a legal person governed by public law, of any nature, integrated in the central, regional or local governments;
 - d) Where the customer is a public authority or body with transparent accounting practices and subject to monitoring, including those institutions referred to in the Treaty establishing the European Community and any others to be disclosed through an executive order of the member of government responsible for finance;
 - e) Where the customer is the entity providing postal services or is the Treasury and Government Debt Agency.
- 2- The provisions of the previous paragraph shall also apply to beneficial owners of customer accounts with credit institutions, opened by lawyers or *solicitadores* established in Portugal, provided that it is ensured, through a declaration made to the credit institution where the

account is opened and at the time of opening, that the information on the identity of the beneficial owner is promptly available, on request, of the credit institution.

- 3- In the cases referred to in the previous paragraphs, the entities subject to this law shall in any case gather sufficient information to establish if the customer falls into any of the categories or professions mentioned above, and monitor the business relationship in order to detect particularly complex or unusually high amounts transactions, which have no apparent economic or visible lawful purpose.

Article 12

Enhanced due diligence

- 1- Without prejudice to the provisions of Articles 7 and 9, the entities subject to this law shall apply enhanced due diligence measures, in respect of customers and transactions which by their nature or characteristics can present a higher risk of money laundering or terrorism financing.
- 2- Enhanced due diligence measures shall always apply in non-face-to-face transactions and in particular to those operations that may favour anonymity, to the operations carried out with politically exposed persons residing outside the national territory, correspondent banking operations with credit institutions established in third countries and any others designated by the competent supervisory or monitoring authorities, provided that they are legally empowered thereto.
- 3- Without prejudice to the regulations issued by the competent authorities, where the operation takes place without the customer or his/her representative being physically present (non face-to-face operations), verification of identity can be supplemented by one of the following means:
 - a) Additional documents or information considered adequate to check or certify the data provided by the customer, namely those supplied through a financial entity;
 - b) Carry out the first payment related to the operation through an account opened in the customer's name with a credit institution.
- 4 - In respect of business relationships or occasional transactions with politically exposed persons residing outside the national territory, the entities subject to this law shall:
 - a) Have appropriate risk-based procedures to determine whether the customer is a politically exposed person;
 - b) Have senior management approval for establishing business relationships with such customers;
 - c) Take adequate measures to establish the source of wealth and the source of funds that are involved in the business relationship or occasional transaction;

d) Conduct enhanced ongoing monitoring of the business relationship.

5 - The regime set out in the previous paragraph shall continue to apply to all persons, who no longer being a politically exposed person, continue to present a higher risk of money laundering or terrorism financing, due to their profile or to the nature of operations carried out.

Article 13

Duty to refuse to carry out transactions

1- The entities subject to this law shall refuse to carry out a transaction through a bank account, establish a business relationship or carry out any occasional transaction, when:

- a) The information referred to in Article 7 for the identification of the customer, his/her representative or of the beneficial owner, where applicable, has not been provided;
- b) The information referred to in Article 9 on the ownership and control structure of the customer, the purpose and intended nature of the business relationship, and the source and destination of funds, has not been provided.

2- Whenever the refusal provided for in the previous paragraph occurs, the entities subject to this law shall analyse the circumstances that determined it and where the situation may be related to the commission of a money laundering or terrorism financing offence, they shall report it as provided for in Article 16 and shall consider putting an end to the business relationship.

Article 14

Duty to keep documents and records

1- A copy or the references to the documents demonstrating compliance with the duty of identification and due diligence, shall be kept for a period of seven years after the customer identification moment or, in the case of a business relationship, after the business relationship with the customer has ended.

2- Original documents, copies, references or any other durable support systems, equally admissible in court proceedings as evidence, of the demonstrative documents and of the records of the transactions, shall always be kept to enable the reconstruction of the transaction, for a period of seven years after its execution, even if the transaction is part of a business relationship that has already ended.

Article 15

Duty of scrutiny

- 1- Without prejudice to enhanced customer due diligence, the entities subject to this law shall examine with particular care and pay special attention, based on their professional experience, to any conduct, activity or transaction which they regard as particularly likely, by its nature, to be related to money laundering or terrorism financing.
- 2- For the purposes of the previous paragraph, the following features are particularly important:
 - a) The nature, purpose, frequency, complexity, unusual type and pattern of the conduct, activity or transaction;
 - b) The apparent inexistence of an economic or visible lawful purpose associated with the conduct, activity or transaction;
 - c) The amount, source and destination of the flow of funds;
 - d) The means of payment used;
 - e) The nature, activity, operative pattern and profile of the parties intervening in the transaction;
 - f) The type of transaction or product that may particularly favour anonymity.
- 3- The results of the examination referred to in paragraph 1 above, shall be written down and kept for a period of at least five years, being available for auditors, where applicable, and for the supervisory and monitoring authorities.
- 4- The evaluation of the degree of suspicion indicated by any conduct, activity or transaction does not necessarily imply the existence of any type of document confirming such suspicion, rather, it may be based on the evaluation of a concrete situation, in the light of the due diligence criteria required from a professional in the analysis of the situation.

Article 16

Duty to report

- 1- The entities subject to this law shall promptly inform, on their own initiative, the Attorney General of the Republic and the FIU, where they know, suspect or have reasonable grounds to suspect that an operation is likely to incorporate a money laundering or terrorism financing offence is being or has been committed or attempted.
- 2- The information provided pursuant to the previous paragraph shall only be used in criminal proceedings, and the identity of the person who provided the information shall in no case be disclosed.

Article 17

Duty to refrain from carrying out transactions

- 1- The entities subject to this law shall refrain from carrying out transactions which they know or suspect to be related to the commission of money laundering or terrorism financing offences.
- 2- The entities subject to this law shall promptly inform the Attorney-General of the Republic and the FIU that they have refrained from executing the operation, and the Attorney-General of the Republic may determine the suspension of the suspicious operation, notifying for the purpose, the entity subject to this law.
- 3- The frozen transaction may however be carried out, where the freezing order is not confirmed by the criminal investigation judge within two working days, as of the report made by the subject entity, in accordance with the previous paragraph.
- 4- Where the entity subject to this law consider that the obligation to refrain referred to in paragraph 1 cannot be complied with, or when after consulting the Attorney-General of the Republic and the FIU, they consider that compliance therewith is likely to frustrate the prevention or the future investigation of money laundering or terrorism financing, the operation may be executed, as long as the entity covered by this Law promptly forwards to the Attorney-General of the Republic and the FIU the information regarding the transaction.

Article 18

Duty to cooperate

The entities subject to this law shall promptly provide assistance as requested by the Attorney-General of the Republic, by the FIU for the performance of its tasks, by the judicial authority responsible for leading the inquiry, or by the competent authorities to supervise or monitoring² compliance with the obligations provided for in this law, according to their respective legal competences, namely by granting direct access to information and presenting the documents or records required.

Article 19

Duty of confidentiality

- 1- The entities subject to this law, as well as the members of their management, auditing or other corporate bodies, those holding office as director, manager or head of department or similar, their employees, representatives and other persons providing services on a permanent, temporary or occasional basis, shall not disclose to the client nor to third persons that they have reported the information legally due or that a money laundering or

² Text in accordance with the Declaration of Rectification n°. 41/2008 published in the Official Gazette of 4th August 2008.

terrorism financing investigation is being carried out.

- 2- It shall not constitute a breach of the duty mentioned in the previous paragraph the disclosure of information, legally imposed, to the supervisory or monitoring authorities of the duties provided for in this Law, including the professional self-regulatory bodies of the businesses or professions subject to this law.
- 3- The provisions of paragraph 1 shall not prevent the disclosure of information, for the purposes of money laundering and terrorism financing prevention:
 - a) Between institutions belonging to the same company group, within the meaning of Articles 2 and 3 of Decree-Law No 145/2006 of 31st July, established in a European Union Member State or in a third country, which imposes equivalent requirements in respect of money laundering and terrorism financing prevention;
 - b) Between the persons referred to in subparagraphs e) and f) of Article 4 established in a European Union Member State or in a third country, which imposes equivalent requirements in respect of money laundering and terrorism financing prevention, that provide services or are employees within the same legal person or in a group of companies to which it belongs, with common ownership or management.
- 4- The prohibition laid down in paragraph 1 shall not prevent disclosure of information between the financial and non-financial entities referred to in subparagraphs e) and f) of Article 4 on a common business relationship, regarding the same customer, provided that the information exchanged shall be exclusively used for the purposes of money laundering and terrorism financing prevention and all entities are subject to equivalent obligations as regards professional secrecy and personal data protection and are established in European Union Member States or in a third country which imposes equivalent requirements in respect of money laundering and terrorism financing prevention.

Article 20

Protection in the disclosure of information

- 1- The disclosure of information in good faith by the entities subject to this law, in compliance with the duties laid down in Articles 16, 17 and 18, shall not constitute a breach of any duty of confidentiality, imposed by any legislative, regulatory or contractual provision, and shall not hold liable in any way the persons who disclose the information.
- 2 - Whoever, even due to mere negligence, discloses or favours the disclosure of the identity of the person that provided the information, in accordance with the Articles referred to in the previous paragraph, shall be punished with a maximum penalty of three years' imprisonment or shall be liable to a fine.

Article 21

Duty of to control

The entities subject to this law shall establish adequate internal policies and procedures for compliance with the duties laid down in this law, namely as far as internal control, evaluation and risk assessment and management and internal audit are concerned, in order to effectively combat money laundering and terrorism financing.

Article 22

Duty of training

- 1- The entities subject to this law shall take the measures necessary for their directors and employees, whose functions are relevant for money laundering and terrorism financing prevention, to have adequate knowledge of the duties imposed by the legislation and regulations in force concerning this matter.
- 2- The measures set out in the previous paragraph shall include participation in specific and regular training programmes, suitable for each sector of activity, enabling their employees to identify operations which may be related to the commission of money laundering or terrorism financing offences and to instruct them to act in accordance with the provisions of this law and respective regulatory rules.

SECTION II

Specific duties of financial entities

Article 23

Duties of financial entities

- 1- Financial entities shall be subject to the duties referred to in Article 6, as well as to the specific provisions laid down in the following Articles and in the related regulatory rules issued by the competent supervisory authorities, under the terms of this law and of the legal ordinances regulating their activity.
- 2- Under no circumstance can anonymous bank accounts or anonymous passbooks exist.

Article 24

Performance by third parties

- 1- Financial entities, with the exception of bureaux de changes, are authorised to rely on a third party for customer identification and due diligence, pursuant to Article 7 and subparagraphs

a) to c) of paragraph 1 of Article 9, in accordance of regulations to be established by the competent supervisory authorities, provided that the financial entity is:

- a) A financial entity referred to in paragraph 1 of Article 3, established in the national territory, other than a bureau de change;
- b) A financial entity whose nature is similar to that of the entities authorised under this paragraph, having its head office in the European Union or in a third country which imposes equivalent requirements against money laundering and terrorism financing prevention.

2- The financial entities that rely on third parties to ensure compliance with the duties mentioned in the previous paragraph shall retain responsibility for full compliance with such duties, as if they were their direct performers and shall have immediate access to the information relating to the carrying out of that operation.

Article 25

Specific duty of simplified due diligence

1- Except when there are suspicions of money laundering or terrorism financing, the financial entities are exempt from complying with the duties set out in Articles 7 and 9, in the following situations:

- a) Issuance of electronic money, whose monetary value is stored on an electronic device and represents a claim on the issuer, issued on receipt of funds of an amount of not less than the monetary value issued and accepted as a means of payment by undertakings other than the issuer; if the electronic device cannot be recharged since the maximum amount stored in the device is no more than €150, or even if it can, a threshold of EUR 2500 is imposed on the total amount transacted in a calendar year, except when an amount of EUR 1000 or more is redeemed in that same calendar year by the bearer, as referred to in Article 3 of Directive 2000/46/EC of the European Parliament and of the Council of 18th September 2000;⁽³⁾
- b) Life insurance policies, pension fund contracts or similar savings schemes, where the annual premium or contribution is no more than EUR 1000, or the single premium is no more than EUR 2500;
- c) Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral;
- d) Pension, superannuation or similar schemes that provide retirement benefits to employees, where contributions are made by way of deduction from wages and the

³ Text in accordance with the Declaration of Rectification no 41/2008, published in the Official Gazette of 4th of August 2008.

scheme rules do not permit the assignment of a member's interest under the scheme.

- 2- The financial entities shall also be exempt from the duties set out in Article 7 in insurance policies, life insurance policies and pension schemes, where the premium or the contribution is paid through a debit of, or cheque drawn on an account opened in the name of the insured with a credit institution subject to the obligations laid down in Article 6.

Article 26

Enhanced specific customer due diligence

- 1- Financial entities that are credit institutions shall also apply enhanced customer due diligence in respect of cross-border correspondent banking relationships with institutions established in third countries.
- 2- For the purposes of the previous paragraph, credit institutions shall gather sufficient information about a respondent institution to understand fully the nature of the respondent's business, to assess the respondent institution's anti-money laundering and anti-terrorism financing controls and to determine from publicly available information the reputation of the institution and the characteristics of its supervision.
- 3- Approval shall be obtained from senior management before a credit institution establishes a new correspondent banking relationship and the respective responsibilities shall be written down.
- 4- If the correspondent relationship involves payable-through accounts, the credit institution shall be satisfied that the respondent credit institution has verified the identity of the customer and performed due diligence on the customer having direct access to the accounts, ensuring that all these elements of information can be provided , upon request.

Article 27

Specific reporting duty

In the case of transactions which present a special risk of money laundering or terrorism financing, namely when they are related to a specific country or jurisdiction subject to additional counter-measures decided by the Council of the European Union, the competent supervisory authorities may determine their obligation of immediately reporting to the Attorney-General of the Republic and the FIU of such transactions, when they amount to EUR 5 000 or more.

Article 28

Specific duty to cooperate

The financial entities shall have systems and instruments in place that enable them to respond fully and appropriately to enquiries from the Attorney-General of the Republic, the FIU, or from

other competent judicial authorities, as to whether they maintain or have maintained during the previous five years a business relationship with specified natural or legal persons and respective the nature of that relationship.

Article 29

Branches and subsidiaries in third countries

- 1- Financial entities, in respect of their branches and majority-owned subsidiaries located in third countries, shall:
 - a) Apply measures equivalent to those laid down in this law, with regard to the duties of identification, due diligence, document and record keeping and training;
 - b) Communicate the policies and internal procedures defined in compliance with the provisions of Article 21, where applicable within the scope of the activity carried out by the branches and subsidiaries.

- 2- Where the legislation of the third country does not allow the application of the measures laid down in subparagraph a) of the previous paragraph, the financial entities concerned shall inform its competent supervisory authorities of that fact and take additional measures to prevent the risk of money laundering and terrorism financing.

Article 30

Shell banks

- 1- Credit institutions shall not establish correspondent banking relationships with shell banks.
- 2- Credit institutions shall take appropriate measures to ensure that they do not enter into correspondent banking relationships with other credit institutions that are known to allow their accounts to be used by shell banks.
- 3- As soon as the institutions learn they keep a correspondent banking relationship with the entities referred to in the previous paragraphs, they shall terminate that relationship.

SECTION III

Specific duties of non-financial entities

Article 31

Duties of non-financial entities

Non-financial entities shall be subject to the duties set out in Article 6, with the specifications laid down in the following Articles and in the regulatory rules issued by the member of government responsible for the respective sector of activity or by the legally competent monitoring authorities, for that purpose.

Article 32

Entities acting under a concession to operate games in casinos

- 1- The entities acting under a concession granted in order to operate games in casinos are subject to the following duties:
 - a) Identifying all casino customers and verifying their identity immediately on entry in the gambling room or when they purchase or exchange gambling chips or other gambling-related items with a total value of EUR 2 000 or more;
 - b) Issuing cheques in their own name in gambling rooms in exchange for gambling chips or other gambling-related items only to the order of identified casino customers that have purchased them through a bankcard or valid cheque and up to a maximum amount equal to the cumulative amount of all those purchases;
 - c) Issuing cheques in their own name in gambling and slot machine rooms to pay prizes only to the order of previously identified casino players' winners and resulting from combination of machine payout schemes or accumulated prize schemes.
- 2- Casino customers' identity shall always be registered.
- 3- The cheques referred to in subparagraphs *b)* and *c)* of paragraph 1 shall bear the name of the payee and must be crossed with a clause prohibiting any endorsement.
- 4- The reports to be submitted under the terms of this law shall be made by the administration of the company acting under concession.

Article 33

Operators awarding betting or lottery prizes

Entities awarding betting and lottery prizes in an amount of EUR 5000 or more shall identify and verify the identity of payment beneficiaries.

Article 34

Real estate agents

- 1- Natural or legal persons dealing in real estate mediation, as well as natural or legal persons engaged in the purchase, sale, purchase for resale or exchange of real property and who, with their own or any third party resources, directly or indirectly decide, promote, program, manage and finance the construction of buildings, intended for their subsequent transmission or sale, on whatever grounds, shall forward the following documents to the Institute for Construction and Real Estate:

- a) Communication, in accordance with the terms laid down in the law, of the start-date for the real estate mediation activity, purchase, sale, purchase for resale or exchange of real property and of any person(s) who, with their own or any third party resources, directly or indirectly decide, promote, program, manage and finance the construction of buildings, intended for their subsequent transmission or sale, on whatever grounds, together with the access code to the permanent commercial registration certificate, within a maximum period of 60 days as of the date of verification of any such situations;
- b) Report on a half-yearly basis and in the appropriate form, containing the following particulars on each transaction carried out:
 - i) Clear identification of the intervening parties;
 - ii) Overall amount of the legal transaction;
 - iii) Reference to the title deeds thereof;
 - iv) Means of payment used;
 - v) Identification of the real estate.

- 2- Natural or legal persons, that have already started the activities referred to in the previous paragraph, shall forward the communication mentioned in subparagraph a) above within a maximum period of 90 days after the entry into force of this Law.
- 3- The communication referred to in subparagraph a) of paragraph 1 shall be accompanied by a commercial registration certificate, where the entity does not have the permanent certificate mentioned in the said subparagraph.

Article 35

Lawyers and *solicitadores*

- 1- In compliance with the reporting duty provided for in Article 16, lawyers and *solicitadores* shall report suspicious transactions respectively to the President of the Bar Association and to the Chairman of the Chamber of *Solicitadores*, which shall forward promptly and unfiltered this information to the Attorney-General of the Republic and the FIU, notwithstanding the provisions of the following paragraph.
- 2- In the case of lawyers or *solicitadores* and in respect of the transactions referred to in subparagraph f) of Article 4, the reporting obligation shall not cover information obtained in the course of ascertaining the legal position of a client, when providing legal advice, or when performing their task of defending or representing that client in, or concerning judicial proceedings, including when advising that client in relation to instituting or avoiding judicial proceedings, as well as whether such information is obtained before, during or after the judicial proceedings.
- 3- The provisions of the previous paragraphs shall equally apply to compliance by lawyers and

solicitadores with the duties to refrain and to cooperate laid down in Articles 17 and 18, and it shall be their responsibility within the scope of the cooperation duty, and as soon as the judicial authority requires their assistance, to communicate to the President of the Bar Association or to the Chairman of the Chamber of *Solicitadores*, providing them the information required under paragraph 1.

Article 36

Dissuasion from engagement in illicit activities

Where the persons referred to in subparagraphs *e)* and *f)* of Article 4 seek to dissuade a client from engaging in illegal activity or action, this shall not constitute a disclosure within the meaning of paragraph 1 of Article 19.

Article 37

Specific training duty

Where the non-financial entity subject to this law is a natural person performing his professional activities as an employee of a legal person, the obligations set forth in Article 22 shall apply to that legal person.

CHAPTER III

Supervision and monitoring

Article 38

Authorities

Monitoring of compliance with the duties set forth in this law shall fall under the responsibility of:

- a) In the case of financial entities:
 - i) The Central Bank, the Securities and Market Commission and the Portuguese Insurance Institute, within the framework of the respective functions;
 - ii) The Minister responsible for finance, with regard to the Treasury and Government Debt Agency.

- b) In the case of non-financial entities:
 - i) The Service for Gambling Inspectorate, with regard to the entities referred to in subparagraphs *a)* and *b)* of Article 4;
 - ii) The Institute for Construction and Real Estate, with regard to the entities

referred to in subparagraph c) of Article 4;

iii) The Economy and Food Safety Authority, with regard to the entities referred to in subparagraph d) of Article 4, as well as to external auditors, legal advisors, company and legal arrangements service providers, and other independent professionals referred to in subparagraph f) of Article 4, where they are not subject to monitoring by another competent authority referred to in this provision.

- c) The Order of Statutory Auditors, with regard to statutory auditors;
- d) The Chamber of Chartered Accountants, with regard to chartered accountants;
- e) The Institute for Registrars and Notaries, with regard to notaries and registrars;
- f) The Bar Association, with regard to lawyers;
- g) The Chamber of Solicitadores, with regard to *solicitadores*.

Article 39

Competences

1- Within the scope of the respective tasks, the supervisory and monitoring authorities referred to in the previous Article shall retain responsibility for:

- a) Regulating the conditions of exercise, the reporting and clarification duties, as well as the implementation instruments, mechanisms and formalities required for the full compliance with the duties set out in Chapter II, always in accordance with the principles of legality, necessity, adequacy and proportionality;
- b) Monitoring compliance with the rules laid down in this law and corresponding regulatory ordinances applicable to the sector;
- c) Instituting and investigating the respective breach of regulations proceedings and, where applicable, applying or proposing sanctions.

2- Financial sector supervisory authorities should make consultations on a reciprocity basis, directly or through the competent institutional bodies, before issuing regulations on the issues referred to in this law in order to avoid any overlapping, loophole or opposition between the respective regulatory rules.

Article 40

Reporting duty of authorities

1- Whenever, in the performance of their functions, the supervisory authorities of financial entities and the monitoring authorities of non-financial entities, have knowledge or grounds to suspect of facts likely to incorporate money laundering or terrorist financing, they shall

promptly report to the Attorney-General of the Republic and to the FIU, if the reporting has not yet been made.

- 2- The reporting obligation referred to in the previous paragraph is equally applicable to the authorities responsible for the supervision of securities management companies, settlement system and centralised securities management companies and foreign exchange market management companies.
- 3- The provisions of Article 20 shall apply to the information provided under paragraphs 1 and 2 above.

CHAPTER IV

Information and statistics

Article 41

Access to information

In order to properly fulfil their tasks of preventing money laundering and terrorism financing, the Attorney-General of the Republic and the FIU have access, on a timely basis, to the financial, administrative and law enforcement information, which shall be subject to the provisions set forth in paragraph 2 of Article 16.

Article 42

Dissemination of information

Financial sector supervisory authorities and monitoring authorities of non-financial entities, including professional self-regulatory organizations, as well as the FIU, within the scope of their tasks and legal competences, shall give warning and disseminate updated information on trends and practices known to them, in order to prevent money laundering and terrorist financing.

Article 43

Feedback

The FIU shall give timely feedback to the entities subject to this law and to the supervisory and monitoring authorities on the routing and follow-up of suspicious reports of money laundering and terrorism financing that they have sent.

Article 44

Collection, keeping and publication of statistical data

- 1- The FIU shall be responsible for preparing and keeping updated statistical data on the

number of suspicious transactions reported as well as on the routing and result of such communications.

- 2- Law enforcement authorities shall send, on an annual basis, to the General Directorate for Justice Policy statistical data on money laundering and terrorism financing, namely the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences and how much property has been frozen, seized or confiscated in favour of the State.
- 3- The General Directorate for Justice Policy shall publish the statistical data gathered on money laundering and terrorism financing prevention.

CHAPTER V

Administrative offences regime

SECTION I

General provisions

Article 45

Territorial application

Regardless of the nationality of the offender, the provisions of this Chapter shall apply to:

- a) Acts committed within the Portuguese territory;
- b) Acts committed outside the Portuguese territory, which fall under the responsibility of the entities referred to in Articles 3 and 4, operating through their branches or by providing services, as well as the persons who, in relation to such entities, fall into any of the situations referred to in subparagraph c) of paragraph 1 of the following Article;
- c) Acts committed on board of Portuguese vessels or aircrafts, except as otherwise provided for in any international treaty or convention.

Article 46

Liability

- 1- The following entities shall be liable for the breaches of regulations referred to in this Chapter:

- a) Financial entities;
- b) Non-financial entities, with the exception of lawyers and *solicitadores*;
- c) Natural persons who are members of the organs of the legal persons of entities referred to in the preceding subparagraphs or those holding office as director, manager or head of department or similar, as well as those acting legally or voluntarily on their behalf and, in case of breach of the duty mentioned in Article 19, their employees and other persons providing services on a permanent or occasional basis.

- 2- Legal persons are liable for the offences committed in the performance of their functions or in their name or on their behalf, by the members the organs of the legal persons, nominees, representatives, employees or any other persons providing services on a permanent or occasional basis.
- 3- The liability of legal persons shall not preclude the individual liability of the respective offenders.
- 4- When the legal definition of the offence requires the existence of certain personal requirements which are only present in the legal person, or requires that the agents commit the act in their own interest, while they have acted for the interest of a third party, these circumstances shall not preclude the responsibility of individual agents.
- 5- Where the deed justifying the relationship between the individual person and the legal is void or null, that shall not preclude the application of the provisions of the preceding paragraphs.

Article 47

Negligence

Negligence shall always be punishable. In this case, the maximum and the minimum thresholds of the fine shall be reduced by half.

Article 48

Fulfilment of an omitted duty

- 1- Whenever the breach of regulation is a result of failure to perform a duty, the application of the penalty and the payment of the fine do not exempt the offender from performing the said duty, if this is still possible.
- 2- The offender may be given an injunction to fulfil the obligation in question.

Article 49

Statute of limitations

- 1- The legal procedure for breaches of regulations laid down in this Chapter shall expire by statute of limitation within five years starting on the date when the breach was committed.
- 2- The fines and ancillary sanctions shall expire by statute of limitation within five years as of the day the administrative decision became final, or the day when the judicial decision becomes *res judicata*.

Article 50

Allocation of fines

Regardless of the phase in which the conviction becomes final or the judgement becomes *res judicata*, the proceeds of fines shall revert 60% to the State and 40% to:

- a) The Deposits Guarantee Fund, created by Article 154 of the Legal framework of credit institutions and financial companies, approved by Decree-Law No 298/92 of 31st December 1992, in the case of fines imposed on financial entities in proceedings in which Banco de Portugal is vested with decision-making powers;
- b) The Investors Compensation Scheme, created by Decree-Law No 222/99 of 22 June 1999, in the case of fines applied in proceedings in which the Securities Market Commission is vested with decision-making powers;
- c) The Portuguese Tourism of Portugal (Public Institute), in the case of fines applied in proceedings in which the Inspection Services of the Portuguese Tourism Institute is vested with decision-making powers;
- d) The entity responsible for the investigation of the proceedings, as far as the other cases are concerned.

Article 51

Responsibility for the payment of fines

- 1- Legal persons shall be jointly held responsible for the payment of fines and costs to which their directors, nominees, representatives or employees may be sentenced to pay for the commission of offences punishable under the terms of this law.
- 2- Members of the bodies of legal persons who, although having had the possibility to do so, did not prevent it, shall be individually and subsidiary liable for the payment of any fines and costs to which legal persons have been sentenced to pay, even if by the date of the decision being passed, those legal persons have been wound up or have gone into liquidation.

Article 52

Subsidiary law

The general regime governing the breaches of regulations shall be subsidiary applicable to the offences referred to in this Chapter.

SECTION II

Administrative offences

Article 53

Breach of laws and regulations

The following typical illicit acts shall constitute breach of regulations:

- a) Failure to comply with the obligations of identification and identity verification of customers, representatives and beneficial owners, breaching the provisions of Article 7, subparagraph a) of paragraph 1 and of paragraph 2 of Article 32 and of Article 33;
- b) Failure to comply in due time with the rules laid down in paragraphs 1, 2 and 4 of Article 8 regarding the identity verification of customers, representatives and beneficial owners;
- c) Allowing debit and credit movements in bank deposit accounts, making available any payment instruments on the said accounts or making changes to their ownership, until full compliance with the customer's identification procedure, breaching the provisions laid down in paragraph 3 of Article 8;
- d) Failure to comply with the customer due diligence measures and procedures set out in subparagraphs a) to e) of paragraph 1 of Article 9;
- e) Failure to adapt the nature and extent of customer identification and verification procedures and customer due diligence on a risk-sensitive basis, breaching the provisions laid down in paragraph 1 of Article 10, as well as failure to provide evidence to the competent authorities of that adaptation, breaching the provisions laid down in paragraph 2 of the same Article;
- f) Adoption of simplified customer identification and due diligence procedures, failing to comply with the terms and conditions set out in Articles 11 and 25;
- g) Total or partial omission of enhanced customer due diligence to customers and transactions liable of presenting a higher risk of money laundering or terrorism financing and cross-border correspondent banking relationships with institutions established in third countries, breaching the provisions laid down in Articles 12 and 26 respectively;
- h) Failure to comply with the duty to refuse to carry out transactions through a bank account, establishment of business relationships or carrying out of occasional transactions, where the identification or information elements referred to respectively in subparagraphs a) and b) of paragraph 1 of Article 13 are not provided;
- i) Failure to analyse the circumstances that give rise to refusal of a transaction, business relationship or occasional transaction and their prompt report to the Attorney-General of the Republic and the FIU, breaching the provisions laid down in

paragraph 2 of Article 13;

- j) Failure to keep original documents, copies, references or any other durable support systems admissible in court proceedings, supporting the identification and due diligence of customers and the execution of transactions, under the terms and within the periods set out respectively in paragraphs 1 and 2 of Article 14;
- l) Failure to comply with the duty to examine with particular care and pay special attention to any conduct, activity or transaction regarded as particularly likely to be related to money laundering or terrorism financing, breaching the provisions laid down in paragraph 1 of Article 15;
- m) Failure to comply with the obligations of registration, document and record keeping and provision of access to the results of the examination of suspicious conducts, activities or transactions, breaching the provisions laid down in paragraph 2 of Article 15;
- n) Failure to promptly report to the Attorney-General of the Republic and to the FIU of suspicious money laundering or terrorism financing-related transactions, breaching the provisions laid down in Article 16;
- o) Failure to comply with the duty to refrain from carrying out the suspicious transactions referred to in paragraph 1 of Article 17 as well as with the obligation to promptly report to the Attorney-General of the Republic and to the FIU, breaching the provisions laid down in paragraphs 2 and 4 of the same Article;
- p) Failure to comply with the suspension order of suspicious transactions under the terms of paragraph 2 of Article 17, as well as the carrying out of such transactions after the judicial confirmation of the suspension order mentioned in paragraph 3 of the same Article;
- q) Failure to promptly cooperate with the Attorney-General of the Republic, the FIU, the judicial authority responsible for the conducting of the inquiry, or the competent authorities monitoring compliance with the obligations laid down in this Law, breaching the provisions laid down in Article 18;
- r) Disclosure to customers or to third parties of the reporting of information to the Attorney-General of the Republic and the FIU or of a pending criminal investigation, breaching the provisions laid down in paragraph 1 of Article 19;
- s) The disclosure and the exchange of information between the entities referred to in paragraphs 3 and 4 of Article 19, failing to comply with the purposes, terms and conditions referred to therein;
- t) Failure to define and apply policies and internal control procedures, breaching the provisions laid down in Article 21;
- u) Failure to adopt disclosure and training programmes and measures on the prevention of money laundering and terrorism financing, breaching the provisions laid down in Articles 22 and 37;
- v) Opening anonymous accounts or the existence of anonymous passbooks, breaching

the provisions laid down in paragraph 2 of Article 23;

x) Execution of the duties of identification and customer due diligence by relying on a third party, breaching the terms and conditions set out in Article 24;

z) Failure to communicate to the Attorney-General of the Republic and the FIU transactions which present a special risk of money laundering or terrorism financing and whose reporting obligation has been determined by the competent supervisory authority, breaching the provisions laid down in Article 27;

aa) Failure to have systems and instruments in place that enable financial entities to respond fully and promptly to enquiries from the Attorney-General of the Republic, the FIU, or the judicial authorities, breaching the provisions laid down in Article 28;

ab) Failure to comply with the obligations to apply equivalent preventive measures, communication of policies and internal procedures, reporting of information to supervisory or monitoring authorities and adoption of additional preventive measures, within the scope of the activity of branches and subsidiaries established in a third country, breaching the provisions laid down in Article 29;

ac) Establishment or maintenance of business relationships with shell banks or credit institutions with which they have a business relationship, breaching the provisions laid down in Article 30;

ad) Issuance of cheques to the order of casino customers, breaching the terms and conditions set out in subparagraphs *b)* and *c)* of paragraph 1 and in paragraph 3 of Article 32;

ae) Failure to comply with the obligations of communication imposed on real estate agents, breaching the provisions laid down in Article 34;

af) Failure to comply with the injunction issued in accordance with the terms of paragraph 2 of Article 48;

ag) Failure to comply with the rules laid down in regulatory ordinances for the specific sectors, issued pursuant to this Law, in the performance of the competences laid down in subparagraph *a)* of paragraph 1 of Article 39.

Article 54

Fines

The breaches of regulations referred to in the previous Article shall be punishable as follows:

a) Where the offence is committed within the scope of activity of a financial entity:

i) By a fine from EUR 25000 to EUR 2500000, where the offender is a legal person;

ii) By a fine from EUR 12500 to EUR 1250000, where the offender is a natural person;

- b) Where the offence is committed within the scope of activity of a non-financial entity, with the exception of lawyers and *solicitadores*:
 - i) By a fine from EUR 5000 to EUR 500000, where the offender is a legal person;
 - ii) By a fine from EUR 2500 to EUR 250000, where the offender is a natural person.

Article 55

Additional penalties

In addition to the fines, the responsible for any of the breaches of regulations referred to in Article 53, may be punished with the following additional penalties, depending on the seriousness of the offence and guilt of the offender:

- a) Prohibition, for a maximum period of up to three years, from exercising the profession or activity to which the breach of regulations relates;
- b) Prohibition, for a maximum period of up to three years, from being member of management or auditing boards as well as from holding chief executive, senior management, or management and supervisory posts in legal persons subject to this law, where the offender is a member of the management or auditing boards, holds chief executive, senior management, or management posts or legally or voluntarily acts on behalf of the legal person;
- c) Publicity of the final decision, at the expense of the offender, in one of the most widely read newspapers of the area where the offender has its head office or permanent establishment or, if the offender is a natural person, of the area of his/her residence.

SECTION III

Procedural provisions

Article 56

Competence of the administrative authorities

- 1- With regard to the breaches of regulations committed by financial entities, the competence to investigate the offences, the procedural investigation and the application of fines and ancillary sanctions shall fall under the responsibility of the Central Bank, the Securities Market Commission or the Portuguese Insurance Institute, depending on the financial sector in which the regulatory offence has occurred, and the Ministry of Finance and Public Administration, as far as the Treasury and Government Debt Agency (Public Institute) is concerned.

- 2- With regard to breaches of regulations committed by non-financial entities, without prejudice to the provisions of the following paragraph, the competence to investigate the breach of regulations , the procedural investigation and application of fines and ancillary sanctions responsibility for the inquiry into offences, fall under the responsibility of the monitoring authorities and professional self-regulatory organizations, referred to in subparagraphs a) to e) of Article 38, within the scope and in accordance with their functions.
- 3- In the cases where the investigations fall under the responsibility of the Economy and Food Safety Authority, the imposition of fines and additional penalties shall be the responsibility of the Economic and Advertising Penalties Application, pursuant to Decree-Law no. 208/2006 of 27 October.

Article 57

Judicial competence

- 1- The competent court to judge any appeal, to undertake a review or to execute decisions in proceedings on breaches of regulations taken by a supervisory authority of financial entities shall be the Lisbon's lower Criminal Court.
- 2- In the case of application of the decisions referred to in paragraph 1 in proceedings on breaches of regulations where the defendant is a non-financial entity, the competent court shall be the Lisbon's district Court or the district court of the area of the head office or residence of that entity, at its choice.

CHAPTER VI

Disciplinary violations

Article 58

Breaches committed by lawyers

- 1- Any breach committed by a lawyer of the duties to which he/she is bound pursuant to this Law, shall entail disciplinary proceedings taken by the Bar Association, according to the general terms of the Bar Association's Statutes.
- 2- The disciplinary sanctions applicable are the following:
 - a) Fine between EUR 2500 and EUR 250000;
 - b) Suspension from activity of up to 2 years;
 - c) Suspension from activity of over 2 and up to 10 years;
 - d) Expulsion.
- 3- While applying these sanctions and their respective measure and degree, seriousness regarding the violation of the duties to which lawyers are bound pursuant to this law shall be

taken into account based on the criteria set out in Article 126 of the Bar Association's Statutes.

Article 59

Breaches committed by *solicitadores*

- 1- Any offence committed by a *solicitador* of the duties to which he/she is bound pursuant to this law shall entail disciplinary proceedings by the Chamber of *Solicitadores* according to the general terms of the Statute of the Chamber of *Solicitadores*.
- 2- The disciplinary sanctions applicable are the following:
 - a) Fine between EUR 2500 and EUR 250000;
 - b) Suspension from activity of up to 2 years;
 - c) Suspension from activity of over 2 and up to 10 years;
 - d) Expulsion.
- 3- While applying these sanctions and their respective measure and degree, seriousness of the violation of the duties to which *solicitadores* are bound pursuant to this law shall be taken into account, based on the criteria set out in Article 145 of the Statute of the *Chamber of Solicitadores*.

CHAPTER VII

Final provisions

Article 60

Protection of rights of bona fide third parties

- 1- If the property which has been seized from defendants against whom criminal proceedings have been instituted for an offence related to the laundering of unlawful proceeds is recorded in a public register in the name of a third party, the persons whose property is entered in such registers are notified and given the opportunity to defend their rights and summarily submit evidence of their good faith. In such circumstances, the property may be immediately restored to them.
- 2- If there is no such register, third parties claiming that they purchased the seized property in good faith may defend their rights in the proceedings.
- 3- Third parties claiming to have acted in good faith may defend their rights by submitting a request to the judge until a confiscation order is made. The party concerned shall include all pieces of evidence in that request.

- 4- The request shall be attached to the proceedings and, after notifying the Public Prosecution Service that might want to oppose it, the court shall make a decision and, for that purpose, take all the steps it considers appropriate.
- 5- Where, by virtue of its complexity or the delay it would entail in the criminal proceedings, the case cannot be properly resolved by the judge, he may refer the case to the civil courts.

Article 61

Amendment to Law no. 52/2003 of 22 August

Articles 2, 4, and 8 of Law No 52/2003 of 22 August as amended by Law No 59/2007 of 4 September, shall be worded as follows:

“Article 2

[...]

- 1-
- 2- Whoever promotes or founds a terrorist group, organisation or association, or adheres to or supports them, including by supplying information or material resources, shall be punished with a penalty of 8 to 15 years' imprisonment.
- 3-
- 4-
- 5-

Article 4

[...]

- 1-
- 2- Whoever commits aggravated theft, extortion, on-line or communications fraud, computer forgery or forgery of administrative documents with the purpose to committing the acts set out in article 2, paragraph 1, shall be punished with the penalty that corresponds to the committed offence, with the respective minimum and maximum limits increased in one third.
- 3-

Article 8

[...]

- 1-:
 - a)
 - b) Where they constitute the crimes set out in Articles 3, 5 and 5-A,

provided that the agent is found in Portugal and cannot be extradited or surrendered under the European arrest warrant.

2-

Article 62

Amendment to Law no. 52/2003 of 22 August

A new Article 5-A shall be added to Law No 52/2003 of 22 August as amended by Law No 59/2007 of 4 September, to read as follows:

“Article 5-A

Terrorism financing

- 1- Whoever, by any means, directly or indirectly, provides, collects or holds funds or assets of any type, as well as products or rights liable of being transformed into funds, with the intention that they should be used or in the knowledge that they may to be used, in full or in part, in the planning, preparation or commission of the set out in paragraph 1 of Article 2, or whoever commits these facts with the intention referred to in paragraph 1 of Article 3 or in paragraph 1 of Article 4, shall be punishable with a penalty of 8 up to 15 years.
- 2- For an act to constitute the offence set forth in the preceding paragraph, it shall not be necessary that funds originate from a third party, or have been transferred to whom they were destined, or have actually been used to commit the facts therein mentioned.
- 3- The penalty shall be specially reduced or not take place where the offender voluntarily renounces his activity, prevents or mitigates the danger caused by him/her or actually helps in a concrete manner to collect conclusive evidence for the identification or arrest of other persons responsible.”

Article 63

Delegation of powers by the Attorney-General of the Republic

The Attorney-General of the Republic may delegate in another public prosecutor the powers entrusted upon him by this Law.

Article 64

Information to the European Commission and to the Member States

The Minister responsible for finance is the competent authority to transmit and receive the information, relating to third countries, set out in paragraph 4 of Article 11, paragraph 7 of Article

28 and paragraph 2 of Article 31 of Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005.

Article 65

Revocation

- 1- Law No 11/2004 of 27 March 2004 is hereby repealed.
- 2- References in other legal instruments to the rules that have been revoked shall hereinafter considered made to this Law.

Approved on 3 April 2008

The President of the Assembly of the Republic, *Jaime Gama*.

Promulgated on 21 May 2008.

Let it be published.

The President of the Republic, ANÍBAL CAVACO SILVA.

Countersigned on 23 May 2008.

The Prime-Minister, *José Sócrates Carvalho Pinto de Sousa*.