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Subject: Report on the activity carried out in Portuguese territory by financial entities with their head office in another Member State of the European Union, operating in Portugal under the freedom to provide services

In accordance with Article 3(2)(d) of Law No 83/2017 of 18 August 2017 (“Law No 83/2017”), the financial entities operating in Portugal under the freedom to provide services are subject to the obligations laid down in Article 73 of that Law.

Accordingly, Article 73(1)(b) of Law No 83/2017 states that, in order to understand the risks of money laundering and terrorist financing in their sector, the sectoral authorities may, where deemed appropriate, request that the financial entities operating in Portugal under the freedom to provide services submit information related to the carrying out of their activity in Portuguese territory. For this purpose, Article 64 of Notice of the Banco de Portugal No 2/2018 of 26 September 2018 (“Notice No 2/2018”) provides that the financial entities with their head office in another Member State of the European Union operating in Portugal under the freedom to provide services are required to submit annually to the Banco de Portugal a report on the activity they carry out under the freedom to provide services in Portuguese territory.

Moreover, under Article 95(4) of Law No 83/2017, the Banco de Portugal may request from any person the information and elements it deems important to the exercise of its functions. In accordance with Article 94(2)(c) of Law No 83/2017, by using its regulatory power, the Banco de Portugal may lay down the terms of compliance, among others, with the reporting obligations. To this extent, and specifically with regard to the financial entities operating in Portugal under the freedom to provide services, the Banco de Portugal may systematically request information other than that referred to in Article 73(1)(b) of Law No 83/2017 and Article 64 of Notice No 2/2018, which it deems important to the exercising of its functions in the prevention of money laundering and terrorist financing

Thus, this Instruction lays down the terms of the report on the activity carried out in Portuguese territory by financial entities with their head office in another Member State of the European Union, operating in Portugal under the freedom to provide services.

The Banco de Portugal made itself available to guide the design of this Instruction in accordance with the principles of proportionality, adequacy and risk-based supervision.

Under the terms and time limits set herein, the financial entities are required to comply with the periodic reporting obligation laid down in this Instruction, otherwise they will be considered non-compliant as provided for and punishable under Chapter XII of Law No 83/2017.

Where, in view of the information provided or the absence or clear inadequacy of the information provided, the Banco de Portugal detects significant risks of money laundering or terrorist financing, the Banco de Portugal may subject financial entities to the fulfilment of the obligations provided for in Article 64(5) of Notice No 2/2018 (cf. Article 73(2) of Law No 83/2017). To this end, the Banco de Portugal may take into account any other information it is aware of in addition to the information provided in the report (cf. Article 64(4) of Notice No 2/2018).

This Instruction was submitted to public consultation under Article 101 of the Code of Administrative Procedure.

Thus, in the exercise of the powers conferred upon it by Article 17 of its Statute, approved by Law No 5/98 of 31 January 1998, in its current wording, by Article 73(1)(b), Article 94(2)(c), Article 95(2)(b) and (4) of Law No 83/2017, and Article 64(2) of Notice No 2/2018, the Banco de Portugal hereby orders as follows:

Article 1

Subject matter and scope

1. This Instruction lays down the information requirements to be periodically reported to the Banco de Portugal by the financial entities operating in Portugal under the freedom to provide services.
2. The following financial entities are the addressees of the rules set out in this Instruction:
 - (a) the entities referred to in Article 86(h) of Law No 83/2017 of 18 August 2017;
 - (b) the credit institutions and other entities falling within the scope of Article 88 of that Law, or other entities of similar nature, where they operate in Portugal under the freedom to provide services.

Article 2

Reporting

The financial entities shall submit annually to the Banco de Portugal a report on the activity which they carry out under the freedom to provide services in Portuguese territory, which shall contain the information provided for in the Annex to this Instruction.

Article 3

Submission of the report

1. The report shall be submitted to the Banco de Portugal on or before February 28 of each year, referring to the period from 1 January to 31 December of the previous year.

2. For each reporting period and up to two months before the end of the submission period referred to in the previous paragraph, the information shall be reported by filling in an Excel file that is available on the Banco de Portugal's webpage on this Instruction.
3. Once completed, the Excel file mentioned in the foregoing paragraph shall be submitted to the Banco de Portugal by e-mail to reportelps.bcft@bportugal.pt.
4. Reports which do not comply with the terms referred to in the foregoing paragraphs shall be considered as not submitted to the Banco de Portugal.

Article 4

Information support

Any requests for information or clarification related to the application of this Instruction shall be addressed to the Anti-Money Laundering and Countering the Financing of Terrorism Division of the Legal Enforcement Department of the Banco de Portugal by e-mail to reportelps.bcft@bportugal.pt.

Article 6

Entry into force

This Instruction shall enter into force on the day following that of its publication.

Annex to the Instruction

Annex (referred to in Article 2)

1. Reference period

- (a) initial date;
- (b) end date.

2. Institutional information at the end date of the reference period

2.1. Information enabling the financial entity to be identified.

2.2. Information on the financial entity's contact point for matters relating to the prevention of money laundering and terrorist financing.

3. Activity in Portuguese territory during the reference period

Information on transactions carried out in Portugal, broken down by services provided in Portuguese territory in accordance with their passport notifications:

- (a) total number of transactions from Portugal;¹
- (b) aggregate amount in euro of transactions from Portugal;
- (c) total number of transactions to Portugal;²
- (d) aggregate amount in euro of transactions to Portugal;
- (e) list of the 10 destination jurisdictions of transactions from Portugal with the highest aggregate amount of transactions;
- (f) list of the 10 home jurisdictions of the transactions to Portugal with the highest aggregate amount of transactions;
- (g) distribution channels available;
- (h) total number of suspicious transaction reports in Portugal or abroad in respect of transactions from Portugal;
- (i) aggregate amount in euro of the transactions referred to in subparagraph (h);
- (j) total number of suspicious transaction reports in Portugal or abroad in respect of transactions to Portugal;
- (k) aggregate amount in euro of the transactions referred to in subparagraph (j);
- (l) list of the jurisdictions associated with a higher risk³ in terms of transactions from and to Portugal, except those already reported under subparagraphs (e) and (f), if the aggregate amount of transactions from and to those jurisdictions is equal to or greater than €1,000,000 in the reference period.

4. Criminal and administrative offences

¹ For the provision of payment services, 'transactions from Portugal' are transactions in which the payment order is made from an account domiciled in Portuguese territory or, when there is no account, where the payer is located in Portugal.

² For the provision of payment services, 'transactions to Portugal' are transactions in which the funds are received in a payment account domiciled in Portuguese territory or, where there is no account, made available to a payee located in Portugal.

³ To this end, the "high-risk third countries" must be included as defined under Article 2(1)(bb) of Law 83/2017 and other jurisdictions which are identified as being of higher risk by the financial entity based on the assessment of ML/FT risk factors.

For the reference period, information on the existence **[yes/no]** of criminal and administrative offences related to money laundering or terrorist financing, or failure to comply with procedures for preventing them.⁴

5. Additional information

5.1. Additional information deemed relevant by the financial entity and related to the reference period.

5.2. Other information to be reported as ordered by the Banco de Portugal.

⁴ For these purposes, any criminal or administrative offence proceedings must be included, whether finalised or pending and regardless of the jurisdictions where the offences were committed, and which have been initiated against: (i) the financial entity or other legal persons forming part of the same group; (ii) members of the management and supervisory bodies; (iii) members of the senior management; (iv) any staff of the compliance function or the function of monitoring compliance with the regulatory framework for the prevention of ML/FT.