

## QUESTIONNAIRE ON BENEFICIAL OWNERSHIP INFORMATION

### 1. Definition of beneficial ownership & mechanisms for obtaining beneficial ownership information

**1.1. Please provide the definition of “beneficial ownership” in your country for: (a) legal persons; and (b) legal arrangements, including the relevant legislation (if applicable). Please describe criteria and thresholds that are applied to determine beneficial ownership, including any criteria for exercising control without legal ownership (e.g. voting rights, right to appoint or remove board of directors).**

The Law 83/2017 of 18 August 2017, laying down measures to combat money laundering and the financing of terrorism and transposing European Union law into national law (Directives adopted by the European Parliament and the European Council, Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 and Council Directive (EU) 2016/2258 of 6 December 2016 respectively), was approved. It was amended in the meantime by Laws 144/2019 of 23 September 2019, 58/2020 of 31 August, 9/2021 of 29 January, 56/2021 of 2021 and 99-A/2021 of 31 December 2020.

This Law, in article 2(1/h) (under the heading "*Definitions*"), defines "Beneficial Owner" as "*the natural person(s) who ultimately own the property or control the customer and the natural person(s) on whose behalf a transaction or activity is conducted, in accordance with the criteria set out in article 30.*".

The requirements, adstrictions, methods and criteria to know the beneficial owners, including the assessment of their quality, their identification, as well as the collaboration to be provided by them in order to carry out the task to be performed by the obliged entities and regulate their access to the central register of beneficial owners, are governed by articles 29 to 34 (division II of section III of chapter I, under the heading "Beneficial Owners").

The law requires the obliged entity to develop a set of competences in order to know the beneficial owners (article 29 ("*Knowledge of beneficial owners*")) by instilling the cognitive and pragmatic emergence of the principle called "*need to know the subject (operational)*".

The urgency of the need to know arises from two functional assumptions (i) the specific risk that the customer aims with his business or transaction to launder illegally obtained capital; and (ii) the actual risk that a customer might want to fund terrorist groups or actions.

The subjective scope of application of the principle allows it to cover (i) the legal persons or other legal arrangement - article 29(1); (ii) the natural persons who may not be acting on their own account.

In the development of the invested principle, and once triggered the necessary and active performance of the obliged entities (objective scope) the latter are bound to:

(a) ensure that adequate and competent knowledge is obtained on the persons who wish to establish business relationships, or carry out occasional transactions, even if performed in a single operation or in several operations which appear to be linked;

(b) use all means at their disposal to ensure that the information obtained and the result sought - the qualification of a certain person as a beneficial owner - is materially correct; and

(c) for the purposes of the preceding subparagraphs, to use and adopt such measures deemed reasonable to verify the identity of any customer as a beneficial owner.

The method and procedure (due diligence) to obtain an identification on the person who is about to enter into a business or an occasional transaction are governed by articles 23 ("*Duty of Identification and Due Diligence*") to 28 ("*Adequacy of the degree of risk*").

While maintaining the purpose set out for the identification and the respective due diligence referred to in the preceding division, the legislator calls for the **principles of maintaining the due diligence or the acts performed to obtain the status of beneficial owner** (article 29(4)) and the **principle of effective updating** (article 29(6)).

Paragraph 4 encompasses the entities required to keep a written record of all actions aimed at complying with the provisions of the article in question. The "means used to ascertain the status of beneficial owner" shall be included in said register, in accordance with the criteria set out in the following article, as well as the report of any difficulties encountered during the process of verifying the identity of beneficial owners. Whereas paragraph 5 requires obliged entities to make the organized register available to sectoral authorities, paragraph 6 requires obliged entities to update it, by monitoring the business that led to the establishment of the customer's functional relationship, and to develop, for the purposes laid down in law, the updating procedures referred to in article 40, so as to broaden their knowledge on the beneficial owner of the customer, requiring them to recap the procedures that have been used for the identification and qualification of the beneficial owner "*where they suspect any material change as to the beneficial owners of the customer or the ownership and control structure of the customer*".

#### **Criteria used in the qualification of "beneficial owner".**

Obtaining the qualification as beneficial owner is governed by criteria that could be grouped, following the method used to qualify the beneficial ownership, in **subjective criteria**, that is, the persons who must be covered by the qualification, and **material-objective criteria** that must be present in the act of assessing such qualification.

As regards the proposed subjective scope, the rule in question considers as beneficial owners of collective investment undertakings and corporate entities:

(a) the natural persons who ultimately: (i) own or control, directly or indirectly, a sufficient percentage of the shares or ownership interest in that collective investment undertaking; (ii) own or control, directly or indirectly, a sufficient percentage of the shares or voting rights or ownership interest in that entity;

(b) the natural person(s) who exercise control by other means over that collective investment undertaking or entity;

(c) the natural person(s) who hold the position of senior managing official(s) when, after exhausting all possible means and provided that there are no grounds for suspicion: (i) no person has been identified in accordance with the preceding subparagraphs; or (ii) there are doubts that the person(s) identified is a beneficial owner.

In order to assess the quality of the beneficial owner and where the customer is one of the companies referred to (a corporate entity or a collective investment undertaking) the law establishes "as an indication of direct or indirect ownership", respectively (i) the holding "by a natural person of shares representing more than 25% of the movement of capital or ownership interest"; and (ii) the same percentage by a "corporate entity under the control of one or more natural persons, or by more than one corporate entity under the control of the same natural person or persons" (article 30(2) of the applicable Law).

For the purposes of article 30, the law considers to be the beneficial owner of a trust the respective "settlor(s)", "the trustee(s)", "the protector(s), where applicable; the beneficiaries or, if they have not already been determined, the class of persons in whose main interest the trust has been set up or operates"; and "any other natural person exercising ultimate control over the trust by direct or indirect ownership or by other means" (paragraph 3).

The law makes the beneficial owner equivalent to a natural person or persons, who, without assuming the nature of a legal person of a non-corporate nature, are in an identical position to those considered for the trusts, in particular foundations or other legal arrangements (paragraph 4 of the aforementioned article 30).

Article 30(5) of the Law lays down the rules governing the qualification of the pension funds as beneficial owners, when they are intended to finance, "exclusively or not", "pension plans whose participants or beneficiaries are part of the management bodies of their associates, it being considered, in such cases, that their beneficial owners are those participants and beneficiaries".

As is the case for corporate entities or collective investment undertakings, the law restricts, by percentage allocation, the possibility of qualifying a beneficial owner when at least 2% "of the value of the pension fund is allocated to the financing of the past liabilities of the participants and beneficiaries referred to therein or to the value of their individual accounts." (article 30(6)).

Collective membership contracts of open pension funds and the participants and beneficiaries of individual memberships, in cases where, respectively, (i) "the value of membership allocated to the financing of their past liabilities, or the value of their individual accounts, represents more than 5%; and (ii) the same percentage (5%) "of the value of the fund's ownership interest " is held individually, shall also be considered as beneficial owners (Article 30(7) and (8)).

In the situation referred to in the preceding paragraph, "it is incumbent on the management entity of the pension fund to comply with the duties to provide information to the obliged entities in respect of the beneficial owner, and it is the responsibility of the member, in the cases set out in paragraphs 5 to 7, to provide the management entity of the fund with the necessary elements for this purpose, taking as a reference the elements of the last approved financial year" (article 30(9)).

The law excludes, or rules out, from the consideration of beneficial owner in article 30(1) the "companies with shares admitted to trading on a regulated market subject to disclosure requirements

*consistent with European Union law or subject to equivalent international standards that ensure sufficient transparency of ownership information".*

### **Control “without legal ownership”**

The regime established by Law 83/2017 of 18 August does not provide a sanction for conducts and behaviours aimed at the effects referred to in item 1. of the questionnaire, in particular restrictions on the voting rights of beneficial owners who do not act on their own behalf, such as the directors and other persons.

Rather, the regime sets forth a sanctioning system for conducts, when committed in breach of the duty, by those obliged to comply with the obligations imposed, as set out in the applicable legislation, such as administrative offences - especially articles 169 and 169-A - as well as offences of a disciplinary nature – cfr. article 183.

The sanctioning regime provided for in the law that governs the measures to combat money laundering and financing of terrorism, imposes as accessory sanctions to those obliged to comply with the duties and injunctions in the illicit assumptions (contraventions) set out in the aforementioned articles 169 and 169-A, accessory sanctions that are set for offenders as follows: "(c) *prohibition, for a period of up to three years, to exercise the profession or activity to which the administrative offence relates*"; and in "(d) *disqualification, for a period of up to three years, from the exercise of administrative, management, leadership, ownership of corporate bodies, representation, mandate and supervision in the entities subject to the supervision or oversight of the sectoral competent authority and in the entities with which they are in a control or group relationship.*" - cf. paragraphs c) and d) of article 172 of Law 83/2017, of 18 August.

In addition to the sanctions related to the prohibition to exercise the functions or a profession or activity related to the committed contravention and the disqualification from the exercise of administrative, management, leadership, ownership of corporate bodies, representation, mandate and supervision in the entities subject to the supervision or oversight, article 172(a/b), imposes that the following accessory sanctions be applied, together with the fines provided for in article 170.

- "*a) confiscation of the object of the offence and the economic proceeds obtained by the agent through its commission*"; and,

- "*b) closure of the establishment, for a period of up to two years, where the agent pursues the profession or activity to which the administrative offence relates*".

## **2. Access to basic information on legal persons**

### **Information on the establishment and management of the register of beneficial owners**

Law 89/2017, of 21 August, transposed the chapter III of European Directive (UE) 2015/849, of the European Parliament and of the Council, of 20 May 2015, into the Portuguese legal system and established the Legal Regime of the Central Registry of Beneficial Owners (RCBE).

On this regard, the Ministerial Order 233/2018, of 21 August, regulated the Legal Regime of the Central Registry of Beneficial Owners, approved by Law 89/2017. The Ministerial Order 200/2019, of 28 June, set a deadline for the submission of the first beneficial owner declaration with the central registry of beneficial owners.

The Central Registry of Beneficial Owners (RCBE) is under the responsibility of the IRN (Institute of Registry and Notary). The entities subject to commercial registration, incorporated before 1 October 2018, had to register in the central registry of beneficial owners up to 30 October 2019. The entities not subject to commercial registration had to register up to 30 November 2019.

For entities constituted since 1 October 2018, the registration in the central registry of beneficial owners has to be completed within 30 days as from: (i) constitution registration date of the entity subject to commercial registration; (ii) registration date in the Central File of Legal Persons of an entity not subject to commercial registration; and (iii) date of attribution of a tax identification number by the Portuguese Tax and Customs Authority, for any entity that should not be registered in the Central File of Legal Persons.

Entities subject to the RCBE Legal Regime that did not make the declaration by the end of the stipulated period were allowed to present it later, under penalty of applying the provisions of article 37 of the aforementioned legal regime, being prohibited, for example, the distribution of profits and the conclusion of public contracts.

According to the RCBE legal regime corporate entities and other legal persons constituted in Portugal are required to keep sufficient, accurate and current information on their beneficial owners, including data on the economic interest held.

RCBE consists of a database, with sufficient, accurate and current information about the individual or individuals who, even though indirectly or through a third party, hold ownership or effective control of the entities subject to it.

#### **[Access to information \(Access to RCBE information\)](#)**

#### **3. Access to beneficial ownership information of legal persons; and,**

#### **4. Access to basic information and beneficial ownership information of (express) trusts and other similar legal arrangements**

Access to information began on February 1st, 2020, pursuant to Ministerial Order 200/2019, of 28 June. Access to information on the beneficial owner is direct, through digital authentication on the platform, at <https://rcbe.justica.gov.pt/>.

Authentication in the RCBE is carried out through secure authentication services that allow natural persons to confirm their identity in the RCBE service available on the Justice area's website, including foreign citizens that must have a Portuguese Digital Mobil Key (available in <https://www.autenticacao.gov.pt/web/guest/a-chave-movel-digital> ).

The Digital Mobile Key (CMD) is a mean of authentication and digital signature certified by the Portuguese State. Allows the user to access various public or private portals - including RCBE - and sign digital documents, with a single login. It associates a mobile phone number with the civil identification number for a Portuguese citizen, and the passport number or title/residence card for a foreign citizen.

The RCBE legal regime previews that access to information is made in three different levels. In each level the scope of available information increases, that is to say, there is a public level of access (limited information about the entity and its beneficial owners, including the interest held), a level of access for obliged entities (allowing them to access all the current information about the entity, beneficial owners and the declarant name and quality in which operates) and finally a level of access for competent authorities (all information including the non-current information, exemptions and non-compliance communications).

The complete list of competent authorities can be found in article 21 of Law 89/2017 of 21 August and article 2 (1), e) and f), of Law 83/2017, of 18 August, being:

- a) the judicial authorities;
- b) the Financial Investigation Unit (FIU);
- c) the Tax and Customs Authority (AT) and
- d) the competent sectoral authorities:
  - a. Insurance and Pension Funds Supervisory Authority
  - b. Bank of Portugal
  - c. Securities Market Commission (CMVM);
  - d. General Inspection of Finance
  - e. General Inspection of the Ministry of Labour, Solidarity and Social Security
  - f. Tourism of Portugal Gaming Regulation and Inspection Service, I.P
  - g. Institute of Public Markets, Real Estate and Construction, I. P. (IMPIC, I. P.), and
  - h. Food and Economic Security Authority (ASAE);

Competent authorities have direct and immediate access to all the information in RCBE, including audit data, within the scope of their respective legal attributions for preventing and combating money laundering and the financing of terrorism.

Summarizing, RJRCBE provides for three different levels of access to information: public access, obliged entities' access and competent authorities' access - articles 19 to 21 of Law 89/2017.

This means that RJRCBE grants full and timely access, to the:

- a) General public (minimum information available) – whatever the purpose (article 19);
- b) Obligated entities (current information about the entity, its beneficial owners and the declarant name and quality in which operates) and Obligated entities can check RCBE, for the purpose of preventing money laundering and the financing of terrorism (article 20);
- c) UIF and / or competent authorities, to the full scope of information contained in RCBE – for the purpose of preventing money laundering and the financing of terrorism (article 21).

#### [How is the information contained in RCBE uploaded/verified?](#)

The entities referred to in article 3 of the RCBE legal regime (approved by the aforementioned Law 89/2017, of 21 August), namely associations, cooperatives, foundations, civil or non-trading partnerships and commercial partnerships, as well as any other legal arrangements subject to Portuguese or foreign law, who carry out an activity or practice a legal act or business in national territory that determines the obtaining of a tax identification number (NIF) in Portugal.

Also subject to the RCBE are representations of international legal persons or persons governed by foreign law that exercise activity in Portugal; As well as other entities that, pursuing their own objectives and activities different from those of their associates, are not endowed with legal personality.

The same for the fiduciary management instruments registered in the Madeira Free Trade Zone (trusts), among others, including trust funds and other legal arrangements with a similar structure or functions.

RCBE allows the entry of information in its database by filling in forms in the RCBE application available at <https://justica.gov.pt/servicos/Registo-de-Beneficiario-Efetivo>

The registration is carried out online by the representatives of the entities and arrangements as well as by services providers (lawyers, notaries, “solicitors”, etc.) by using a secure digital authentication method, i.e., according to RCBE legal regime, the declaration must be submitted by the entity legal representative (pursuant to its article 6 (1) and (2) and article 7) either in the case of a national legal entity or in the case of a foreign one (their data is filed in the form, including all the elements referred in article 8 of the same legal regime).

Entities subject to RJRCBE are bound to declare sufficient, accurate and current information on their beneficial owners, as well as any circumstance evidencing such quality, including data on the economic interests held, at the following moments:

- a) First declaration;
- b) Declaration update / information changes;
- c) Yearly confirmation, if no other declaration isn't submitted during the year.

Pursuant to articles 12, 13, 14, and 15 of the RCBE legal regime:

- a) For entities constituted since October 1, 2018, the registration in the central registry of beneficial owners has to be completed within 30 days as from:
  - (i) incorporation date of the entity subject to commercial registration;
  - (ii) registration date in the Central File of Legal Persons of an entity not subject to commercial registration; and
  - (iii) date of attribution of a tax identification number by the Portuguese Tax and Customs Authority, for any entity that should not be registered in the Central File of Legal Persons.
- (b) All entities must make updates to the information previously declared, pursuant to article 14 of the RCBE legal regime;
- (c) Confirm annually if their information is still up to date, if in that year there were no other declarations submitted, pursuant to article 15 of the RCBE legal regime.

Requests for restriction of access to information in RCBE may be asked, for the reasons stated in article 22 of RJRCBE.

Communications of inaccuracies and non-conformities may also be submitted, pursuant to article 26 of RJRCBE, and for this purpose, the inaccuracy, omission or non-conformity, as well as documentation that proves it, must be pointed out. Also, the information on the tax representative of the persons mentioned therein, where applicable, must be collected. Whenever an omission, inaccuracy, non-conformity, or outdated piece of information is communicated, other than by the entity subject to the RCBE, IRN notifies it to correct it within 10 days, or to provide a justification for not correcting it.

Each obliged entity or competent authority that accesses RCBE must carry out a verification and must report any discrepancies that may have encountered.

Each Beneficial Owner receives a communication every time their data is declared and, if data is not correct, they must report it to IRN, pursuant to the same article 26 of RCBE legal Regime.

IRN checks the non-conformities in the RCBE when a non-conformity is reported under Article 26 of RJRCBE, which provides as follows:

«1 - The omission, inaccuracy, non-conformity or outdated information contained in RCBE must be reported to the managing entity of the RCBE by any of the following interested parties:

- a) The entity itself subject to RCBE, in cases where it finds that the declaration was made by a person that, at the time, had no legitimacy or powers of representation;
- b) The persons indicated as beneficial owners;
- c) Authorities pursuing criminal investigation purposes, supervisory and inspection authorities, the Financial Information Unit and the AT (Tax and Customs Authority);
- d) Obligated entities, as defined by AML/CFT Law, whenever they detect such omissions, inaccuracies, non-conformities or outdated pieces of information in the exercise of the preventive duties to which they are subject.

2 - Whenever an omission, inaccuracy, non-conformity, or outdated piece of information is communicated, other than by the entity subject to RCBE, the managing entity of the RCBE notifies it to correct it within 10 days, or to provide a justification for not correcting it.

3 - The communication, declaration of correction and justification referred to in the preceding paragraph must be recorded in the RCBE.

4 - Communications, notifications and declarations of correction provided for in the preceding paragraphs shall be made under the terms to be defined by order of the Government members responsible for the areas of finance and justice.».

IRN, may rectify the information and even cancel a declaration when a non-conformity is detected in the RCBE under article 25 of the RCBE Legal regime.

As long as compliance with the declarative and rectification obligations provided for in this regime doesn't occur, non-compliance entities are prohibited from:

- a) Distributing yearly profits or making advances on profits during the year;
- b) being part in supply contracts, public work contracts or the purchase of services and goods with the State, autonomous regions, public institutes, local authorities and private social solidarity institutions mostly financed by the State Budget, as well as renewing the term of contracts already existing;
- c) Tender for the concession of public services;

- d) their financial instruments representing their share capital or convertible into it, being admitted to negotiation on a regulated financial instruments' market;
- e) Launching public offers for the distribution of any financial instruments issued by them; f) Benefiting from support from European Structural, Investment and Public Funds;
- g) Intervene as a party in any business whose object is the transfer of ownership, for consideration or free of charge, or the constitution, acquisition or disposal of any other real rights of enjoyment or guarantee over any immovable property.

Failure to comply with declarative obligations or failure to present a justification that waives them after the deadline stipulated for that purpose, under the terms of paragraph 2 of article 26, implies the publication in the RCBE of the situation of non-compliance by the subject entity on the website at <https://irn.justica.gov.pt/Sobre-o-IRN/Brangueamento-de-capitais-e-Financiamento-do-terrorismo/Registo-Central-do-Beneficiario-Efetivo-RCBE>

Whoever makes false statements for the purpose of registering the beneficial owner, in addition to the criminal liability he/she incurs in, under the terms of article 348-A of the Criminal Code, is civilly liable for the damages he/she causes. (Article 38 of RCBE legal Regime).

In summary, non-compliance with the obligations set out in the RCBE legal Regime basically inhibits legal persons from carrying out core activities (article 37 of RCBE Legal Regime, Annex to Law 89/2017) until compliance is achieved. In addition, false declarations to the RCBE entail criminal and civil liability. Furthermore, in terms of administrative sanctions, legal persons and legal arrangements, as well as people acting on their behalf (directors, managers, etc.) are subject to administrative fines, in case of administrative offences. Article 169-A of the AML/CFT Law lists the very serious administrative offences. One of the very serious administrative offences listed in article 169-A, (q) is the "failure to comply with the obligations on knowledge, qualification assessment and identification of beneficial owners, on understanding of the ownership control structure, and on checking the RCBE." The applicable administrative fine for such a violation may reach, depending on the type of legal entity concerned, EUR 5M.

## 5. Sanctions

### 5.1 Please describe the types of sanctions, sanctionable conduct, and targets of sanctions for noncompliance with beneficial ownership disclosure regulations (whether on the registry(ies) or through an alternative mechanism).

Law 83/2017, of 18 August, legitimises the sanctioning of conducts that, being committed in national territory, and for which the entities referred to in articles 3, 4 and 6 are liable, acting through branches, agents or distributors or under the regime of provision of services, as well as the persons who, in relation to such entities, are in some of the situations provided for in article 163(1) of the Portuguese Criminal Code, and also for the acts committed on board Portuguese ships or aircrafts, except if there is a treaty or convention to the contrary, are criminal offences and offences of an administrative and disciplinary nature - see articles 157 to 159-A (sanctionable criminal offences); 160 to 169-A (administrative offences, i.e. of a mere social order nature); and 183 (disciplinary offences).

## **Criminal offences (Brief Description)**

### **Article 157 (Illegal disclosure of information)**

Active parties: - Natural persons, legal persons or equivalent entities.

Object of the sanctionable action: - *"the illegal disclosure, to customers or third parties, of information, communications, analyses or any other elements provided for in article 54(1)(a) to (d) of this law and article 14 of Regulation (EU) 2015/847"*.

Sanction:

- a) for natural persons, with a prison sentence of up to three (3) years or with a fine, in general terms;
- b) for legal persons or equivalent entities, with a fine with a minimum limit of not less than 50 (fifty) days.

(Negligence shall be punished by a reduction of the penalty provided for in subparagraph (a) to one third, within its maximum limit).

### **Article 158 (Disclosure of and assistance in the discovery of identity)**

Active parties: - Persons of the criminally alleged action (the same ones listed in the preceding incrimination rule).

Assumed object in the incriminating rule: - "the disclosure of or assistance in the discovery of the identity of the person who provided information, documents or elements under articles 43 to 45, 47 and 53 of this law or of Regulation (EU) 215/847.

Applicable sanctions: - The rule echoes in this precept the same sanctions referred to in the preceding rule.

(Negligence shall be punished by a reduction of the penalty provided for in subparagraph a) to one third, within its maximum limit).

### **Article 159 (Disobedience)**

Active parties: - Any person (natural or legal person) who refuses to give material dispatch to the content of the injunctions that are part of the incriminating nucleus comprised in the foreseen rule.

Illicit content object of incrimination under criminal law: - The refusal to comply with "legitimate orders or warrants from the competent authorities issued in the course of their duties" (paragraph 1); or the creation of "any obstacles to their enforcement"; or failure to comply, hinder or defraud the enforcement of ancillary sanctions or precautionary measures applied in proceedings initiated for breach of the provisions of this law or of its regulatory legislation (paragraph 2).

Applicable sanctions: - Those provided for in the general legal system for offences of the same nature (qualified disobedience - article 348(2) of the Criminal Code, a penalty of up to two (2) years or a fine of up to 240 days).

It should be referred that under article 159-A, the legal persons and equivalent entities shall be liable, in general terms, for the crimes provided for in this section, without prejudice to the specific limits provided for in articles 157 and 158.

### **Administrative Offences.**

Typicality (articles 169 to 169-A: - in particular, offences).

#### **Article 169 (Administrative Offences)**

*"The following typical illicit acts shall constitute an administrative offence*

*a) Failure to draw up a written document or record showing money laundering and terrorist financing risk management practices as well as risk analysis of new products, practices or technologies, in breach of articles 14(3)(c) and 15(3);*

*b) Failure to establish specific, independent and anonymous channels that adequately ensure the reception, processing and archiving of reports of irregularities, as well as the absence of internal reporting of irregularities or failure to report to the sectoral authorities, in breach of article 20(1) to (4) and (7);*

*c) Failure to notify the DCIAP and the Financial Intelligence Unit on a systematic basis of any typologies of operations, in breach of article 45(1);*

*d) Non-compliance with the rules on the reporting of real estate activities laid down in article 46 and in the corresponding regulatory provisions;*

*e) Failure to draw up the documents or records provided for in articles 47(6) and 52(4);*

*f) The processing of personal data for purposes other than the prevention of money laundering or terrorist financing, in breach of article 57(2);*

*g) Failure to take the necessary security measures to ensure the effective protection of the information and personal data processed, the failure to provide new customers with information on the processing of personal data and the failure to remove the personal data processed, in breach of article 59;*

*h) Failure to comply with the obligation to provide feedback to the Financial Intelligence Unit under article 114(2);*

*i) Failure of payment service providers to retain information on payers and payees that accompanies a transfer of funds, in breach of article 10 of Regulation (EU) 2015/847;*

*j) Failure by payment service providers to comply with the personal data protection obligations laid down in article 15 of Regulation (EU) 2015/847, with the specifications set out in article 152 of this Law;*

*k) Failure by payment service providers to put in place appropriate internal procedures enabling their employees, or persons in an equivalent position, to report breaches committed internally, in breach of article 21(2) of Regulation (EU) 2015/847, with the specifications set out in article 156 of this Law;*

*l) Breaches of the mandatory provisions of this Law and of specific legislation, including the European Union, governing preventive and repressive measures to combat money laundering and terrorist financing, not provided for in the preceding subparagraphs and in the following article, and in the regulations issued pursuant to or for the implementation of those provisions;*

*(Subparagraphs m) to rrr) have been repealed by the amendment introduced by Law 58/2020 of 31 August 2020.*

## **Article 169.º-A**

### **Particularly serious administrative offences**

*The following typical illicit acts constitute a particularly serious administrative offence:*

*a) Entering into or participating in any transactions resulting in non-compliance with the limits on the use of cash, in breach of the provisions of article 10 and of the corresponding regulatory provisions;*

*b) The practice of acts that may result in the involvement of obliged entities in any operation of money laundering or financing of terrorism, as well as the failure to adopt all appropriate measures to prevent such involvement, in breach of the provisions of article 11(3) and of the corresponding regulatory provisions;*

*c) The breach of the rules of the internal control system provided for in article 12 and in the corresponding regulatory provisions;*

*d) Failure to comply with the duties of the management body set out in article 13(2) and (3) and in the corresponding regulatory provisions;*

*e) Breach of the rules on risk management laid down in article 14(1), (2), (a) and (b) and in the relevant regulatory provisions;*

*f) Failure to comply with the obligations related to the launch of new products, practices or technologies referred to in article 15(2) and in the corresponding regulatory provisions;*

*g) Failure to appoint a person responsible for regulatory compliance, under the terms of article 16(1) and (7) and in the corresponding regulatory provisions;*

*h) Failure to comply with the provisions of paragraphs 2 to 6 and 8 of article 16 and of the corresponding regulatory provisions;*

*i) Failure to comply with the rules on the review of effectiveness laid down in article 17(1) to (3) and in the corresponding regulatory provisions;*

*j) Non-compliance with the rules on procedures and information systems in general laid down in article 18 and in the corresponding regulatory provisions;*

*k) Non-compliance with the rules on specific procedures and information systems set out in article 19 and in the corresponding regulatory provisions;*

*l) Acting in breach of the provisions of article 20(6) and of the corresponding regulatory provisions;*

*m) Failure to comply with the rules on the adoption of means and mechanisms necessary to ensure compliance with the restrictive measures provided for in article 21 and in the corresponding regulatory provisions;*

*n) Failure to comply with the rules on group relationships and establishments abroad laid down in article 22(1) to (6) and (8), article 62-A and in the corresponding regulatory provisions;*

*o) Failure to comply with the identification and due diligence procedures provided for in articles 23 to 27, 76 and 77 and in the corresponding regulatory provisions;*

*p) Non-compliance with the rules on risk adequacy set out in article 28 and in the corresponding regulatory provisions;*

*q) Failure to comply with the duties regarding the knowledge, the assessment of the quality and the identification of the beneficial owners, the understanding of their ownership and control structure, as well as the consultation of the central register of beneficial owners provided for in paragraphs 1 to 4 and 6 of article 29, in articles 31 and 32 and in paragraphs 2 and 3 of article 34 and in the corresponding regulatory provisions;*

*r) The adoption of simplified identification and due diligence measures, in breach of the provisions of article 35 and of the corresponding regulatory provisions;*

*s) Non-compliance with the rules on enhanced identification and due diligence measures set out in articles 36 to 39 and in the corresponding regulatory provisions;*

*t) Failure to comply with the updating procedures set out in article 40 and in the corresponding regulatory provisions;*

*u) Non-compliance with the rules on the identification and due diligence by third parties laid down in articles 41 and 42 and in the corresponding regulatory provisions;*

*v) Non-compliance with the rules on the reporting of suspicious transactions provided for in article 43(1) and (2), article 44 and in the corresponding regulatory provisions;*

*w) Failure to comply with the duty to refrain provided for in article 47(1) and in the corresponding regulatory provisions;*

*x) Failure to comply with the rules on the reporting of transactions set out in article 47(2) and (3) and in the corresponding regulatory provisions;*

*y) The execution of transactions in respect of which the duty to refrain has been exercised in breach of the provisions of article 47(5) and of the corresponding regulatory provisions;*

*z) The failure to temporarily suspend transactions determined or confirmed under the terms of articles 48 and 49 and of the corresponding regulatory provisions;*

*aa) Failure to comply with the duty to refuse laid down in article 50(1) to (3) and in the corresponding regulatory provisions;*

*bb) Failure to draw up a document or a written record in accordance with article 50(4) and the corresponding regulatory provisions;*

*cc) The return of funds or other assets entrusted to the obliged entities, outside the terms defined by the sectoral authorities, in breach of article 50(6) and of the corresponding regulatory provisions;*

*dd) Failure to comply with the duty of retention provided for in article 51, paragraphs 1 to 3 and 5, and in the corresponding regulatory provisions;*

*ee) Failure to comply with the duty to examine with special care and attention any conduct, activity or transaction whose characterising features are particularly likely to be related to funds or other assets derived from terrorist financing or other criminal activities, increasing the degree and nature of their monitoring, as provided for in article 52(1) and in the corresponding regulatory provisions;*

*ff) Breach of the duty to cooperate provided for in article 53 and in the corresponding regulatory provisions;*

*gg) Breach of the duty of non-disclosure provided for in article 54(1) and in the corresponding regulatory provisions;*

*hh) Acting without the necessary caution with regard to customers in connection with the execution of potentially suspicious transactions, or taking any steps likely to give rise to suspicion that investigation procedures in relation to money laundering or terrorist financing are ongoing, in breach of article 54(5) and of related regulatory provisions;*

*ii) Failure to comply with the duty to notify as provided for in article 54(6) and in the corresponding regulatory provisions;*

*jj) Failure to comply with the training requirement laid down in paragraphs 1 to 4 of article 55, Article 75 and in the corresponding regulatory provisions;*

*kk) Failure to comply with the duties to write, maintain and make available to the sectoral authorities the elements foreseen in article 12(4), article 14(4), article 17(4), article 20(5), article 29(5), article 43(3), article 45(2), article 47(7), article 50(5), article 52(5) and article 55(5) and in the corresponding regulatory provisions;*

*ll) Acting in breach of the provisions of article 56(3) and of the corresponding regulatory provisions;*

*mm) Breach of confidentiality, in breach of article 56(6) and of the corresponding regulatory provisions;*

*nn) Failure to comply with the duties to prevent money laundering and financing of terrorism in relation to the transactions and respective counterparties that financial entities carry out on their own account and on behalf of third parties who do not have the status of customer and, on their own account or otherwise, between the financial entity and any other entities belonging to the same group, outside the scope of a customer relationship, as provided for in article 63 and in the corresponding regulatory provisions;*

oo) *The opening, keeping or existence of anonymous passbooks, safes or accounts, of whatever nature, as well as the use of fictitious company names, or the issue, use or acceptance of payments in anonymous electronic money, including by means of anonymous prepaid instruments, in breach of article 64 and of the corresponding regulatory provisions;*

pp) *Allowing transactions to be carried out on an account, by or on behalf of the customer, making payment instruments available on that account or carrying out changes to its ownership, when the identity of the customer and of the beneficial owner has not been verified, in breach of article 65 and of the corresponding regulatory provisions;*

qq) *Establishing or maintaining correspondence relationships with shell banks or with financial entities known to allow their accounts to be used by shell banks, in breach of the provisions of article 66 (1) and (2) and of the corresponding regulatory provisions;*

rr) *The failure on the part of the financial entities to put an end to the correspondence relationship with shell banks or financial entities that are known to allow their accounts to be used by shell banks, as well as the failure to immediately notify the respective sectoral authority, in breach of article 66(3) and of the corresponding regulatory provisions;*

ss) *Failure to adopt normal measures of a supplementary nature within the scope of Life insurance contracts, in breach of the provisions of article 68 and of the corresponding regulatory provisions;*

tt) *The absence, inadequacy or incompleteness of the implementation of enhanced measures within the scope of Life insurance contracts, in breach of the provisions of article 69 and of the corresponding regulatory provisions;*

uu) *Failure to comply with the rules on enhanced measures when financial entities act as correspondents in cross-border correspondence relationships with third countries respondents, as provided for in article 70 and in the corresponding regulatory provisions;*

vv) *Failure to comply with the rules on enhanced measures when financial entities act as respondents in the framework of any cross-border correspondence relationship, as provided for in article 71 and in the corresponding regulatory provisions;*

ww) *Failure by payment institutions and electronic money institutions operating in Portugal through agents or distributors to comply with the duties laid down in article 72(2) and in the corresponding regulatory provisions;*

xx) *Non-compliance with the duty to provide information by financial entities authorised to operate in Portugal under the freedom to provide services laid down in article 73(1)(b) and in the corresponding regulatory provisions;*

yy) *The absence, inadequacy or incompleteness of the required mechanisms to verify the identity of the players, in breach of article 78 and of the corresponding regulatory provisions;*

zz) *Failure to cooperate by agents or distributors of payment institutions or electronic money institutions having their head office in another Member State provided for in article 107(3) and in the corresponding regulatory provisions;*

aaa) *Acting in breach of the provisions of article 108(4) and of the corresponding regulatory provisions;*

*bbb) Failure to comply with the rules on the registration of service providers to companies, to other legal persons or other legal arrangements provided for in article 112 and in the corresponding regulatory provisions;*

*ccc) Non-compliance with the rules regarding the registration of entities carrying out activities with virtual assets provided for in article 112-A and in the corresponding regulatory provisions;*

*ddd) Failure to comply with the duties of registration and record-retention provided for in article 144 and in the corresponding regulatory provisions;*

*eee) Failure to comply, by non-profit organisations, with the duties provided for in article 146(1) and in the corresponding regulatory provisions;*

*fff) The failure by payment service providers to comply with the duties set out in articles 4, 5 and 6 of Regulation (EU) 2015/847, with the specifications set out in article 147(1) of this law and in the corresponding regulatory provisions;*

*ggg) The failure by payment service providers to comply with the duties set out in article 7 of Regulation (EU) 2015/847, with the specifications set out in article 147(2) of this law and in the corresponding regulatory provisions;*

*hhh) The failure by payment service providers to apply risk-based procedures in breach of the provisions of the first part of article 8(1) of Regulation (EU) 2015/847, with the specifications contained in article 148 of this Law and in the corresponding regulatory provisions;*

*iii) The failure by payment service providers to reject transfers or to request information on the payer and the payee, in breach of the second part of Article 8(1) and 12(1) of Regulation (EU) 2015/847 and in the corresponding regulatory provisions;*

*jjj) The failure by payment service providers to take action, in cases of repeated failure to provide information on the payer or the payee, in breach of the first part of article 8(2) and article 12 of Regulation (EU) 2015/847 and of the corresponding regulatory provisions;*

*kkk) The failure by payment service providers to report to the competent authority the omissions of information and the measures taken, in breach of the provisions of the second part of paragraph 2 of articles 8 and 12 of Regulation (EU) 2015/847, with the specifications contained in article 149 of this law and in the corresponding regulatory provisions;*

*lll) The failure by payment service providers to consider the omission or incompleteness of information on payers or payees, in breach of articles 9 and 13 of Regulation (EU) 2015/847, with the specifications contained in article 150 (a) and (b) of this law and in the corresponding regulatory provisions;*

*mmm) The failure by payment service providers to report suspicious transactions in breach of the provisions of articles 9 and 13 of Regulation (EU) 2015/847, with the specifications set out in article 150(c) of this law, and in the corresponding regulatory provisions;*

*nnn) The failure by payment service providers to apply effective procedures to analyse information fields on payers and payees and to detect the omission of information on them, in breach of article 11 of Regulation (EU) 2015/847 and in the corresponding regulatory provisions;*

ooo) *The failure by payment service providers to apply risk-based procedures in breach of the first part of article 12(1) of Regulation (EU) 2015/847 and in the corresponding regulatory provisions;*

ppp) *The absence, inadequacy or incompleteness of the provision of cooperation, by payment service providers, to the DCIAP, the Financial Intelligence Unit, other judicial and police authorities or the sectoral authorities, in breach of the provisions of article 14 of Regulation (EU) 2015/847, with the specifications contained in article 151(1)(a) and (2) of this law and in the corresponding regulatory provisions;*

qqq) *Failure by payment service providers to comply with the obligations laid down in article 54 in conjunction with article 151(1)(b) and in the corresponding regulatory provisions;*

rrr) *Failure by payment service providers to comply with the obligations related to the retention of information, in breach of article 16 of Regulation (EU) 2015/847, with the specifications set out in article 153 of this law and in the corresponding regulatory provisions;*

sss) *The practice or omission of acts which may preclude or hinder the exercise of the inspection activity of the sectoral authorities;*

ttt) *Failure to provide information and to provide, in an incomplete way, other elements due to the sectoral authorities within the time limits set;*

uuu) *The provision to the sectoral authorities of false information or incomplete information likely to lead to erroneous conclusions having the same or similar effect to false information on the same subject;*

vvv) *Illegitimate disobedience to the determinations of the sectoral authorities, specifically laid down in law, for the individual case under consideration;*

www) *Non-compliance with the countermeasures taken by sectoral authorities;*

xxx) *Failure to comply with the decisions of the sectoral authorities ordering the closure of establishments in accordance with this Law."*

**5.2 Please describe the powers available to the designated authority(ies)/agency(ies) to enforce sanctions for non-compliance with the beneficial ownership disclosure requirements, including any statistics on enforcement of such sanctions.**

Competent entities (article 161(1):

*"a) The Insurance and Pension Funds Supervisory Authority, the Bank of Portugal or the CMVM, in the case of administrative offences committed by the financial entities referred to in article 3(1), (2) and (3)(a), within the specific scope of the supervisory powers conferred on those authorities by articles 85 to 88;*

*b) The Bank of Portugal, in the case of administrative offences committed by the entities referred to in subparagraph o) of paragraph 1 of article 4, in subparagraph a) of article 5 and in article 6;*

*c) The CMVM:*

- i) in the case of administrative offences committed by auditors, as referred to in article 4(1)(e);*
- ii) in the case of administrative offences committed by the entities referred to in article 5(b)(i);*
- d) The Inspectorate-General of Finance, in the case of administrative offences committed by the financial entity referred to in article 3(3)(b);*
- e) The Portuguese Tourism Department of Gaming Regulation and Inspection, I.P., as regards the powers of investigation, and the Portuguese Tourism Gaming Commission, I.P., as regards decision-making powers, in the case of administrative offences committed by the non-financial entities referred to in article 4(1)(a) and (c);*
- f) The General Inspectorate of the Ministry of Labour, Solidarity and Social Security as regards the powers of investigation, and the member of the Government responsible for Labour, Solidarity and Social Security as regards decision-making powers, in the case of administrative offences committed by the non-financial entities referred to in article 4(1)(b);*
- g) The IMPIC, I. P., in the case of administrative offences committed by the non-financial entities referred to in article 4(1)(d);*

*h) The ASAE:*

- i) In the case of administrative offences committed by the other non-financial entities referred to in article 4, with the exception of certified accountants, lawyers, solicitors and notaries;*
- ii) In the case of administrative offences committed by the entities referred to in article 5(b)(ii) and (iii);*

*2 - The powers of investigation and decision-making of the proceedings initiated due to the commission of the administrative offence referred to in article 169(d) shall always lie with the IMPIC, I.P., whatever the nature of the infringing entity.*

*3 - Where the administrative offences provided for in this section are committed by a legal person, equivalent entity or a natural person other than the entities referred to in articles 3 to 6, the powers of investigation and decision-making shall lie with the sectoral authority before which the adoption of the behaviour or cessation of the conduct are due." — cf. article 173 of Law 183/2017 of 8 August 2017.*

**(Note:** — The decisions of the administrative authorities which have, in a final decision, applied a penalty (fine) may be appealed (an appeal of a jurisdictional nature) to the Competition, Regulation and Supervision Court (TCRS) - article 112, of Law 62/2013, of 26 August. The decision of the TCRS may be appealed - in a final instance - to the Court of 2nd Instance, in this case the Court of Appeal of Lisbon, which is territorially competent.

## **6. International Cooperation, asset recovery and challenges**

The rules we have been referring to in response to the questionnaire (Law 83/2017 of 18 August) focus on and regulate cooperation between institutions aimed at combating corruption, according to the material-institutional function and competences assigned to them by law. Thus, the law lays down

rules for cooperation between sectoral authorities<sup>1</sup> (articles 123 to 134); supervisory authorities in the financial sector (article 135); between Financial Intelligence Units (articles 135 to 140); between the European Central Bank and the European Banking Authority (articles 140 and 142) and, finally with the European Commission (article 143).

It is apparent from the rules that the legislation has sought to bring together cooperation between administrative and management authorities, financial management and supervision and at the operational-police level, thus enabling it to cover the spectrum of activities in which businesses and transactions likely to serve the purpose of laundering and financing of terrorism are carried out.

**6.1. Does your country make beneficial ownership information available to foreign competent authorities (directly or upon request)? Please provide details of the relevant legislative and regulatory framework in your country that allows for the international exchange of such information.**

#### **Information provided on beneficial ownership**

The current rules allow sectoral authorities and Financial Intelligence Units to provide information concerning beneficial ownership and other information relevant to investigations and pre-trial inquiries proceedings in countries with which Portugal has treaties or conventions:

- a) spontaneously, i.e. immediately and directly, if and when it is deemed appropriate to alert to operations or transactions of a transnational nature which they suspect may serve to launder the illicit acts committed or may finance actions and movements connected with terrorism - cf. the second part of article 129(3)(a); or,
- b) upon request/*at the request of the requesting authority, as appropriate*<sup>2</sup>.

In this regard, it should be referred the provisions of article 137(1), which stipulates that "*the Financial Intelligence Unit shall exchange, spontaneously or upon request from its counterparts, any information that may be relevant to the processing or analysis of information regarding: a) Practices related to criminal activities from which funds or other proceeds derive, money laundering or terrorist financing; b) Natural or legal persons or legal arrangements that may be involved in the practices referred to in the preceding subparagraph*".

**6.2. Please describe how foreign competent authorities may request or access beneficial ownership information on legal persons and legal arrangements formed in your country. Which**

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<sup>1</sup> Pursuant to article 2(f), the sectoral authorities are the "Supervisory Authority for Insurance and Pension Funds, Bank of Portugal, Securities Markets Commission (CMVM), Inspectorate-General of Finance, Inspectorate-General of the Ministry of Labour, Solidarity and Social Security, Tourism of Portugal Gaming Regulation and Inspection Service I.P., the Institute of Public Markets, Real Estate and Construction, I.P. (IMPIC,I.P.) and the Food and Economic Safety Authority (ASAE).

<sup>2</sup> The rule governs the cases of international cooperation between sectoral authorities.

**agency(ies)/authority(ies) is/are responsible for receiving and responding to foreign requests?  
Please provide contact information and instructions.**

As regards the prevention of money laundering and terrorist financing, these are governed by the treaties, conventions, international agreements and specific provisions on cooperation that bind the sectoral authorities and, in the absence of these, by the provisions provided for in article 128 and forth of Law 83/2017, of 18 August.

The Tax and Customs Authority is equivalent to a sectoral authority for the purposes of the provisions on international cooperation.

The principle of reciprocity is the guiding principle of international law and, therefore, the rule in matters of cooperation, and the necessary guarantees may be requested or provided, if the circumstances so require.

Nonetheless, the sectoral authorities may comply with requests for cooperation from an authority which does not ensure reciprocity as provided for in domestic law, if the requested authority deems it necessary for the prevention of money laundering or terrorist financing and the information conveyed is subject to the duty of confidentiality of the transmitting sectoral authority.

In order to assess the principle of reciprocity in the requests for international cooperation, sectoral authorities shall verify the quality of the information provided by foreign authorities in that context, in particular those related to the identification or location of (a) beneficial owners of legal persons or legal arrangements governed by foreign law; and (b) beneficial owners that reside abroad.

The sectoral authorities are subject to the general duty of cooperation - they must provide any information, assistance or other form of cooperation that is requested of them by a foreign authority, or which is necessary to meet the purposes pursued by said authority (including carrying out investigations, inspections, inquiries or other admissible due diligence on behalf of foreign authorities) - all information that they may obtain under the powers conferred on them by national law must be provided, with due regard for the safeguards provided for in article 134 (scope/purpose, use, disclosure).

The cooperation which may take two forms, spontaneously or at the request of the requesting authority, as appropriate, shall be provided as soon as possible and by the most expeditious and effective means, and irrespective of the status or nature of the foreign authority.

The sectoral authorities shall internally establish reliable, secure and effective channels and procedures that ensure the timely receipt, execution, transmission and prioritisation of requests for cooperation, subject to the safeguards referred to in article 134.

The sectoral authorities shall also, at the request of a foreign authority that cooperates with them and whenever possible, ensure a timely feedback to those authorities on the use and usefulness of the cooperation provided, in particular regarding the outcome of the analysis or other due diligence taken on the basis of the information provided.

The sectoral authorities shall conclude the protocols or memoranda of understanding, of a bilateral or multilateral nature, deemed necessary to overcome any constraints and restrictive conditions – the sectoral authorities should refrain from placing any excessively restrictive conditions on the full

satisfaction of a request for cooperation or the provision of information from a foreign authority, whatever its nature or status - that prevent the full compliance with the duty of collaboration on a reciprocal basis.

Also reflected in the law are the specific provisions for cooperation between the supervisory authorities in the financial sector (article 135), cooperation between Financial Intelligence Units (articles 136 to 140), cooperation with the European Central Bank and the European Banking Authority (articles 141 and 142) and cooperation between the Financial Intelligence Unit and the European Commission (article 143).

Regarding the relationship between the Asset Recovery Office (GRA) and the RCBE, what happens is that, being the GRA a structure under the remit of the Criminal Police, (article 2 of Law 45/2017 of 24 August), but with a tripartite composition (article 5), it includes elements of the Registries and Notary Institute and, according to article 8, " With a view to carrying out the financial and asset investigation (...) the GRA may access information held by national and international bodies (...) - paragraph 1.

Paragraph 2 of the referred article 8, further provides that, for the purposes set out in its paragraph 1, the GRA may access the databases of the Registries and Notary Institute. It is in this legal context that GRA has access to the RCBE database (among other databases managed by the Registries and Notary Institute).

As for GRA's role in responding to foreign entities requesting information on beneficial ownership of structures registered in Portugal, article 3 of the above-mentioned Law 45/2011 lays down that "GRA's mission is to identify, locate and seize assets or crime-related proceeds, at national or international level, to ensure cooperation with asset recovery offices set up in other States and to exercise any other powers that are legally conferred upon it.

The GRA responds to requests from abroad, coming from other Asset Recovery Offices and, whenever necessary, searches information in the RCBE database along with other databases to which it has access.

Finally, it should be highlighted that, in addition to the requests which reach us via SIENA, an encrypted channel managed by EUROPOL, the CARIN network, or another regional network, this Police Department also receives requests through [gra@pj.pt](mailto:gra@pj.pt)

### **6.3. In your opinion, what are the main challenges faced by foreign competent authorities to access beneficial ownership information held in your country?**

No information was provided by the competent authorities identifying difficulties encountered by foreign authorities.

### **6.4. In your opinion, what are the main challenges faced by competent authorities of your country to access/receive beneficial ownership information held in a foreign country?**

Whenever it is necessary to obtain information from abroad, such is requested to the foreign entities in charge of Asset Recovery, through the SIENA channel, the CARIN Network or another source known/located through the contact points.

Difficulties arise when the information that is to be obtained has to be requested to States where there are no contact points, resulting in delays in the responses.

#### **6.5. Do you have any case studies or examples where the transparency of beneficial ownership has enabled or enhanced the effective recovery and return of proceeds of crime in (or for) your country?**

No examples or case studies were reported by the competent authorities.

### **7. Good Practices for Beneficial Ownership Transparency**

We now list the Good Practices which, in our opinion, contribute in a significant way to meet the objectives set internationally and that are able to continue the measures that have been taken in this area:

- 1 – A faster and more efficient exchange of information between competent law enforcement authorities (criminal police bodies and judicial authorities, in particular the Public Prosecution Service);
- 2 – A more effective and tighter control when obliged entities are set up (companies, foundations and funds) in order to avoid the formation of shell companies that may be used, occasionally, for the practice of business and transactions for the benefit of one person and for one time only;
- 3 – Simplification of procedures in public services, in order to prevent bureaucracy from concentrating the power to decide and conduct the procedure, and thus cause and "force" bribery practices to achieve acts dependent on the decision of public bodies;
- 4 – Compensation (reward) for whistleblowers and collaborators who have brought to the attention of the competent authorities the facts that should be qualified as sanctionable offences and that should give rise to criminal proceedings and which are likely to lead to conviction in trial;
- 5 – The establishment, at the level of the judicial system, in particular among the competent authorities for the processing of criminal procedures (criminal police bodies and the Public Prosecution Service) and among the judicial authorities (pre-trial inquiry and trial judges) of technical experts in accounting and financial practice, in order to speed up investigations and make them more consistent with a charge that may stand up in trial and which later may support a conviction that can be upheld on appeal;
- 6 – Training of both prosecutors and judicial magistrates on corruption, including training on financial practices and movement of capital;
- 7 – Raising awareness among officials on the phenomenon of corruption, in particular on the perverse and distorting effects of market rules and the functioning of competition between companies, in order to highlight the decompensating effect created by the introduction of factors that bias the correct practices and healthy competition between companies facing public tenders, etc.

**8. Follow-up to the special session of the General Assembly against corruption 8.1. Please describe any other measures, if any, that your country may have taken to implement paragraph 16 of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021.**

“Thirty-second special session Item 8 of the provisional agenda. Adoption of the political declaration Draft resolution submitted by the President of the General Assembly Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation The General Assembly, Adopts the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation” annexed to the present resolution.

(...)

*16. We commit to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate, reliable and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems and using as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering. To this end, we will develop and implement the measures necessary to collect and share such information on the beneficial ownership of companies, legal structures and other complex legal mechanisms, and we will enhance the ability of competent authorities in this regard.”.*

The measures adopted, at national level, with a view to pursuing the objectives proposed in paragraph 16 of the Political Declaration adopted by the United Nations General Assembly at the Special Session on Combating Corruption held in June 2021 have essentially resulted in the publication of the following legislation:

I - Resolution of the Council of Ministers 37/2021 of 6 April, which approved the National Anti-Corruption Strategy 2020-2024 (Annex I).

The XXII Constitutional Government included in its programme, among its priority objectives, the fight against corruption and fraud. In this context and aware that only a long-term vision, pooling efforts and generating dynamics at the level of the different powers of the State, the different areas of governance and the private and social sectors will be able to cope coherently and consistently with this phenomenon, determined the need to design a National Anti-Corruption Strategy.

Assuming the preventive dimension as crucial, the Strategy identifies priorities and provides for a set of actions, articulated and integrated, to enable the State to act upstream of the phenomenon — training citizens to be honest and aware of their rights, improving the response capacity of the Administration and the transparency mechanisms in public action, activating mechanisms for early identification of fraud and corruption risks, preventing the creation of contexts that generate corrupt practices — thus reducing the need for criminal reaction, understood as a last resort.

II – Law 94/2021, of 21 December, which entered in force on the 30th day after its publication, approved measures provided for in the National Anti-Corruption Strategy (Explanation of Motives of Law 94/2021, of 21 December - Annex II), amending the Criminal Code, the Code of Criminal Procedure and related laws, in particular:

- a) Seventh amendment to Law 34/87 of 16 July, which determines the liability crimes of political office holders, as amended by Laws 108/2001 of 28 November, Law 30/2008 of 10 July, Law 41/2010 of 3 September, Law 4/2011 of 16 February, Law 4/2013 of 14 January, and Law 30/2015 of 22 April;
- b) Fifth amendment to Law 36/94, of 29 September, establishing measures to combat corruption and economic and financial crime, as amended by Laws 90/99, of 10 July, Law 101/2001, of 25 August, Law 5/2002, of 11 January, and Law 32/2010, of 2 September;
- c) Third amendment to Law 50/2007, of 31 August, which establishes a new regime of criminal liability for behaviours likely to affect the truth, loyalty and correctness of competition and its outcome in the sports activity, amended by Laws 30/2015, of 22 April, and 13/2017, of 2 May;
- d) Third amendment to Law 20/2008, of 21 April, which establishes the new criminal regime on corruption in international trade and in the private sector, in compliance with the Council Framework Decision 2003/568/JHA, of 22 July, amended by Laws 30/2015, of 22 April, and 58/2020, of 31 August;
- e) Amendment to the Criminal Code, approved by Decree-Law 400/82, of 23 September;
- f) Amendment to the Commercial Companies Code, approved by Decree-Law 262/86, of 2 September;
- g) Amendment to the Code of Criminal Procedure, approved by Decree-Law 78/87, of 17 February.

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