

15<sup>th</sup> of July 2021

## **PREVENTION AND COMBAT OF MONEY LAUNDERING AND TERRORISM FINANCING IN THE REAL ESTATE SECTOR**

On the past 2<sup>nd</sup> of July of 2021, was published in *Diário da República* (official gazette) Regulation no. 603/2021, by the *Instituto dos Mercados Públicos, do Imobiliário e da Construção, I. P.* (the "IMPIC") that approves the new Regulation of Prevention and Combat of Money Laundering and Terrorism Financing in the Real Estate Sector (the "Regulation").

This new Regulation revokes Regulation no. 276/2019, of 26<sup>th</sup> of March of 2019, also issued by the IMPIC, which created the duties hitherto existing at the Prevention and Combat of Money Laundering and Terrorism Financing (the "AML/TF") in the Real Estate sector.

The new Regulation ends up being largely the same as its predecessor version of 2019, maintaining the majority of the existing obligations and procedures for entities that carry out, in national territory, real estate activities, subject to the supervision of IMPIC, namely:

- a) Real estate mediation;
- b) Buying, selling, purchase for resale or exchange of real estate;
- c) Real estate development, consisting of the promotion, programming, direction and financing, directly or indirectly, with own or third party resources, constructions of buildings, for their subsequent transfer or assignment, by any means;
- d) Lease.

On what concerns to general identification and due diligence procedures, the Regulation maintains the previously existing obligations, on what concerns the collection of customers identification (natural or legal persons) as well as their representatives. This identification procedure must be carried out prior to establishing any business relationship.

The collection of customers identification should be performed when:

- a) The business relation is or will be established;
- b) It is carried out one occasional transactions in the amount of €15,000.00 or higher amount, regardless if it is carried out in a single operation or in several operations which appear to be interrelated;
- c) There is suspicion that the transactions, regardless of its value, any exception or limitation, may be related to money laundering or terrorism financing;
- d) There are doubts about the truth or adequacy of customer identification elements. Previously collected.

Points c) and d) above, are one of the few innovations introduced by this new Regulation when compared with Regulation No. 276/2019.

Entities subject to this Regulation must keep the information collected from their customers concerning any transaction for a period of 7 (seven) years, counting from the date of execution.

It is now compulsory to designate a member of the senior management or equivalent, to supervise compliance with the regulatory framework on AML/TF, for entities acting in the real estate sector with more than five members in the commercial or administrative areas.

The information concerning: (i) real estate transactions; and (ii) lease agreement with monthly rent equal or higher than €2,500.00 will have to be communicated to IMPIC, according to a pre-approved form, on the following dates:

- a) If carried out in the first quarter of each year, until the following 30<sup>th</sup> of June;
- b) If carried out in the second quarter of each year, until the following 30<sup>th</sup> of September;
- c) If carried out in the third quarter of each year, until the following 31<sup>st</sup> of December;
- d) If carried out in the fourth quarter of each year, until 31<sup>st</sup> of March of the following year.

Managers, workers and other employees, with relevant functions related to AML/TF, are subject to mandatory training, in order to have adequate knowledge of the legal and regulatory obligations. The Regulation establishes not only the mandatory programmatic contents, but also the frequency of such training, depending on the size of the entity.

Finally, it should be noted that the Regulation contains an Appendix with an illustrative list of indicators of suspicious activities in the real estate sector, which should serve as a reference for real estate market agents.

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**PARES | Advogados** is available to provide information on this and other issues in a more concrete and adequate manner to the reality of each client, being able to assist its clients in the preparation and implementation of their AML/TF policies and procedures, as well as in the analysis of suspicious transactions.

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