

New measures to tackle money laundering and terrorist-financing driving demand for legal advice

Portugal has introduced a Central Register of Beneficial Owners, an official database of information detailing individuals who exercise ownership or control over legal entities

New measures introduced in Portugal to tackle money laundering and the financing of terrorism – coupled with a government drive to tackle bribery – means clients are increasingly seeking compliance advice, says Paulo de Sá e Cunha, partner at Cuatrecasas, Gonçalves Pereira & Associados.

In the second half of 2017, there were extensive legislative amendments related to anti-money laundering and combating the financing of terrorism, says Sá e Cunha. They included broadening the scope of the existing legal framework to a number of non-financial entities and enhancing identification and due diligence duties in instances where an increased risk of money laundering or financing of terrorism is identified.

Meanwhile, 2017 also saw Portugal introduce a Central Register of Beneficial Owners, an official database of information detailing individuals who exercise ownership or control over legal entities. These developments have meant an increase in demand for compliance

advice, says Sá e Cunha. “Our firm has been working closely with clients, conducting a thorough diagnosis of their internal compliance procedures and in-house training programmes, in order to ascertain their robustness and identify any potential contingencies,” he explains.

As well as the aforementioned legislative changes, there have been several amendments to the criminal code, specifically with respect to bribery and government conduct, Sá e Cunha explains. “The Portuguese parliament is discussing measures to strengthen the transparency of public functions, which has already led to the launch of several measures including a code of conduct for members of parliament,” he says. Law firms have a key role to play in helping companies adapt to these changes, Sá e Cunha adds. “Our advice is instrumental in preventing potential bribery practices, and clients increasingly demand assistance with the implementation or updating of codes of conduct, whistleblowing and reporting mechanisms.”



Paulo de Sá e Cunha

Many companies ‘unconvinced’ of need for compliance programmes

Many Portuguese companies remain unconvinced of the need for compliance programmes due to the fact it is not mandatory under Portuguese law, says Henrique Salinas, partner at CCA Ontier in Lisbon.

“We have many clients which work in Spain and decide to come to Portugal,” Salinas says. “One of the first things they do is ask us for a compliance programme.” This is partly because, in legislation adopted in 2015, Spain passed legislation that meant businesses that have implemented procedures aimed at preventing criminal behaviour within the organisation will be exempt from criminal liability if any cases are brought.

However, it is more difficult to convince “exclusively Portuguese companies” of the need for a compliance programme without it being a mandatory requirement under Portuguese law, says Salinas. He

adds that a legislative change would be “very important as it could change their [Portuguese companies’] minds”. That said, a large number of Portuguese companies have limited financial resources to invest in compliance. “We are just moving out of a large crisis in Portugal and many companies do not have a lot of money to spend on compliance programmes,” Salinas says.

Yet international companies operating in Portugal are driving an increase in demand for compliance-related legal advice and this has led to law firms recruiting more lawyers to cope with the extra workload. “We needed more people just doing compliance programmes, a specific team,” Salinas says. Many Portuguese law firms are bolstering their compliance teams, Salinas adds. “This is an activity that allows a very close relationship with the client – it allows you to really understand your client’s business.”



Henrique Sali