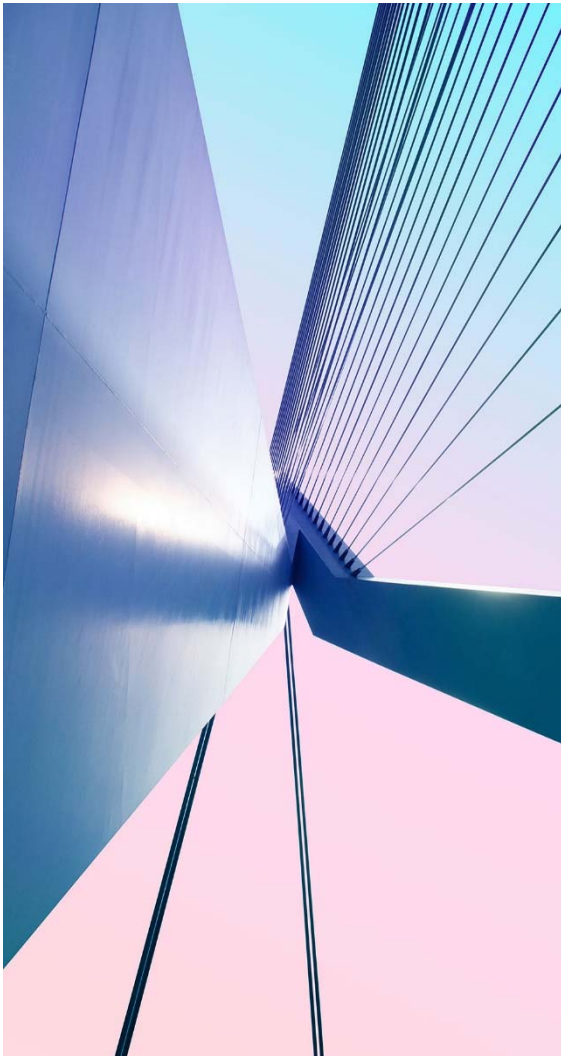

Preventing and combating money laundering and terrorist financing in the insurance sector

The Portuguese Insurance and Pension Funds Supervisory Authority has approved Regulatory Standard 10/2024-R to strengthen the mechanisms for preventing and combating money laundering and terrorist financing

Portugal - Legal Flash

December 12, 2024



Key aspects

- > **Identification and due diligence** measures are strengthened, requiring entities to implement appropriate controls to identify clients, with enhanced measures for high-risk transactions.
- > Developing **internal policies** and carrying out **periodic assessments** has become **mandatory**. Entities must now implement and update policies to prevent and combat money laundering and terrorist financing (“**MLTF**”), submitting **periodic reports to the Portuguese Insurance and Pension Funds Supervisory Authority** (the “**ASF**”).
- > As in the banking sector, a member of the management body must be appointed as the officer responsible for **supervising compliance with the rules**, ensuring preventive measures are implemented effectively.
- > To ensure compliance and transparency, entities must submit an **annual report to the ASF** and report any suspicious transactions.

Regulatory Standard 10/2024-R of November 5

Introduction

On November 5, 2024, the ASF approved Regulatory Standard 10/2024-R (the “**Standard**”), which was published in the Official Gazette of the Republic of Portugal on November 27, 2024.

The Standard is part of the ASF’s ongoing efforts to strengthen measures to prevent and combat MLTF.

In line with Law 83/2017 of August 18 (“**Law 83/2017**”), the Financial Action Task Force (FATF) guidelines, and international best practices, the Standard aims to enhance existing obligations under national and European Union (“**EU**”) law. Specifically, it seeks to adapt legal requirements to the specific characteristics of supervised entities, including insurance companies, pension fund management companies, and insurance intermediaries, thereby promoting the integrity of the financial system and the security of the economy.

The Portuguese insurance and pension funds sector has traditionally been considered low risk. However, the Standard introduces significant novelties and practical adjustments to ensure MLTF risks are managed effectively. Adhering to the principle of proportionality, the Standard includes provisions such as establishing risk control and assessment policies, appointing administrative officers and imposing mandatory training requirements.

Acknowledging the need for entities to adapt to the new requirements, the Standard provides a transitional period for certain provisions.

Scope

This Standard applies to ASF-supervised entities, including the following:

I. **Pension fund management companies**

- All companies authorized in Portugal.

II. **Insurance companies**

These include the following:

- Companies headquartered in Portugal that operate in the life insurance sector
- Branches in Portugal of companies that are headquartered in other EU Member States or in third countries and are active in the life insurance sector

- Companies headquartered in other EU Member States that operate in the life insurance sector under the regime on the freedom to provide services in Portugal
- Branches of insurance companies from third countries that carry out life insurance activities in Portugal.

III. Insurance intermediaries

These include the following:

- Insurance intermediaries and ancillary insurance intermediaries residing or headquartered in Portugal and operating in the life insurance sector
- Branches of insurance intermediaries and ancillary insurance intermediaries that are registered in other EU Member States and that carry out life insurance activities in Portugal
- Insurance intermediaries and ancillary insurance intermediaries that are registered in other EU Member States and that operate in the life insurance sector under the regime on the freedom to provide services in Portugal.

IV. Other entities

- Any entity that, under Law 83/2017, is subject to ASF supervision for the purposes of preventing and combating MLTF.

Internal control policies and procedures

Under article 5 of the Standard, supervised entities must implement effective **policies, procedures and internal controls** to manage potential MLTF risks. These measures must comply with the obligations established in [Law 83/2017](#) and ensure their practical application. The main requirements are as follows:

I. Proportionality and formalization

- The policies and procedures must be proportional to the **nature, size and complexity** of the entities and their activities.
- They must be formalized in **writing** and made available in an **easily accessible internal repository**, and they must be disclosed to employees whose duties relate to MLTF prevention.

II. Approval and periodic review

- The policies must be approved and updated by the management body and reviewed at least every three years.
- The ASF may require extraordinary reviews if it identifies any inadequacies related to the entity's activities or risks.

III. Submitting internal policies and controls to ASF

- Entities must provide the ASF with updated copies of their policies and internal controls whenever requested to do so, reinforcing transparency and regulatory compliance.

Internal control system

Under article 6 of the Standard, supervised entities must adopt an **effective risk management model** based on **identifying specific factors associated with MLTF**. These factors must include the following:

I. Client profile risks

- These include new or potential clients, policyholders, insured persons, and contract beneficiaries.

II. Geographical risks

- These consider the connections of the activity or contracts with other jurisdictions, especially those classified as higher risk.

III. Risks associated with products and services

- The analysis must consider the specific characteristics of the products or services offered, evaluating their susceptibility to MLTF.

IV. Distribution channel risks

- These include the interaction methods with clients, such as digital or in-person channels, as well as the payment methods used.

Annexes I and II of the Standard provide **example lists of factors** that may **increase or decrease MLTF risks**, serving as practical guides for implementing these obligations.

Assessing effectiveness of policies, procedures and internal controls

Article 7 of the Standard establishes the need for a periodic assessment of **the effectiveness of implemented policies, procedures and internal controls**. This process must ensure the system remains up to date and continues to meet its intended objectives.

These obligations vary depending on the entity type and size.

I. General assessment obligation

All entities covered by the Standard must ensure that their internal control system:

- is **up to date** and **effective**, meeting the intended objectives; and
- is **documented**, with written records of the procedures carried out.

II. Triennial assessment for insurance intermediaries

This applies to insurance intermediaries headquartered in Portugal and branches of intermediaries registered in other EU Member States that carry out life insurance activities in Portugal, provided they meet **the following cumulative criteria** for the previous calendar year:

- Over **15 individuals directly involved in insurance distribution** (the so-called PDEADS, in the Portuguese acronym) for at least six months; and
- Life insurance contracts with premiums and total contributions exceeding **€5 million**.

These intermediaries must ensure that the effectiveness assessment is carried out:

- by the **internal audit** department, **external auditors**, or a **qualified third party**; and
- at maximum intervals of **three years**, counted from either the date (a) the policies were implemented, or (b) the previous assessment was completed.

III. Annual assessment for insurance companies and pension fund managers

The annual assessment applies to the following entities:

- **Pension fund management companies** authorized in Portugal
- **Insurance companies headquartered in Portugal** that operate in the life insurance sector

- **Branches in Portugal** of insurance companies that are headquartered in other EU Member States or third countries and that operate in the life insurance sector.

These entities must:

- carry out assessments **at least once a year**; and
- submit the assessment results to the ASF by **April 15 of each year**, including:
 - an identification of the main flaws or weaknesses;
 - the measures adopted and planned for improving the system; and
 - a certification and opinion from a statutory auditor (unless the assessment was carried out by external auditors).

IV. Extraordinary assessments

- The ASF may, at any time, order extraordinary effectiveness assessments based on identified risks or the need for a specific system assessment.

Administrative responsibilities and appointment of a compliance officer

Entities covered by the Standard must appoint a **member of the management body** responsible for overseeing and ensuring compliance with legal and regulatory obligations related to MLTF. This obligation applies to the following entities:

- **Pension fund management companies** authorized in Portugal
- **Insurance companies headquartered in Portugal** that operate in the life insurance sector
- **Branches in Portugal** of insurance companies that are headquartered in other EU Member States or in third countries and that operate in the life insurance sector.

Along with the responsibility assigned to the management body, the Standard requires entities to appoint a compliance officer specifically tasked with ensuring control and compliance with legal and regulatory provisions. This officer:

- must be a **member of senior management or equivalent**, or a **member of the management body**; and
- is considered to have a **key role**, subject to sector-specific provisions for prior registration with the ASF for carrying out regulated duties.

Obligated entities

The appointment of a compliance officer is mandatory for:

- **pension fund management companies;**
- **insurance companies headquartered in Portugal** that operate in the life insurance sector;
- **branches in Portugal** of insurance companies that are headquartered in other EU Member States or in third countries and that operate in the life insurance sector; and
- **insurance intermediaries and branches of insurance intermediaries** that meet the criteria defined for assessing effectiveness.

Compliance officer criteria and requirements

The compliance officer must:

- have the appropriate **professional qualifications** for the role;
- be subject to specific rules on the **number of roles he or she has**, ensuring that their performance is not compromised by other responsibilities; and
- be **formally communicated to the ASF**, both in relation to the appointment and any subsequent changes.

Standard novelties

I. Periodic reporting duty: article 29

For the first time, a **duty of periodic reporting to the ASF** has been introduced to:

- consolidate information on the policies, procedures and tools implemented by entities for MLTF prevention; and
- gather the qualitative and quantitative data and statistical information needed for more effective supervision.

This periodic reporting allows for **greater transparency and a more thorough and proactive supervision** by the ASF.

II. Strengthened training requirements: article 26

The Standard strengthens training requirements, stipulating that:

- entities must promote **regular training and awareness-raising programs** for all employees involved in activities at risk of MLTF; and
- the training content must include best practices, legislative and regulatory updates, and emerging risks.

This measure aims to create a robust organizational culture committed to compliance.

III. Products and payment method requirements: articles 12 and 13

New requirements have been introduced for product design and the use of payment methods:

- **Product design and marketing:** Entities must assess and mitigate the MLTF risks associated with the characteristics of each product or service before making it available.
- **Payment methods:** Specific rules have been established for payment methods, particularly for those classified as higher risk.

These provisions ensure that MLTF prevention is considered from the initial stage of product and service development.

IV. New identification and due diligence requirements: article 16

The Standard strengthens entities' **identification and due diligence obligations**, stipulating:

- enhanced **identification** measures in **higher-risk situations**, such as transactions involving politically exposed individuals or high-risk jurisdictions; and
- **rigorous verification of clients and beneficiaries**, ensuring transactions are legitimate and funds are traceable.

Entry into force

The Standard, published in the Official Gazette of the Republic of Portugal on November 27, 2024, will enter into force 30 days after its publication, on **December 27, 2024**.

Starting from the date the Standard enters into force, the **review of the policies, procedures and controls**, as provided in **article 5.3**, will be required. However, the **information required by article 28** cannot be provided using current reporting methods. Consequently, this requirement will be suspended until the ASF issues a circular on its portal coming into operation.

For this reason, supervised entities must be attentive to ASF communications and ensure that they meet and comply with all applicable deadlines and provisions.

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