

VĚRA JOUROVÁ
Member of the European Commission

Brussels,
Ares(2018)

Dear Ms Gomes,

Thank you for your letter of 22 February 2018 in which you are reporting about your contacts with the Bank of Portugal and the Portuguese Minister of Finance concerning the Portuguese regulation of "Sociedades Gestoras de Participações Sociais"(SGPS). You consider that the Portuguese law is ignoring the anti-money laundering rules that have been reinforced since 1988 and you are enquiring that Commission's services should assess whether specific recommendations could be addressed to Portugal in the context of the European Semester Recommendations to Member States.

In your correspondence with the Portuguese authorities, you enquired whether the decree-law of 30 December 1988 regulating holding companies such SGPS include the reporting of infringements to anti-money laundering and terrorist financing legislation and how the supervision of such entities is organised. The reply you received from Bank of Portugal mentions that the decree-law does not define holding companies as financial institutions, meaning that they are not placed under the competence of the Central Bank. The decree-law designates the Ministry of Finance as competent authority to monitor holding companies (Inspectorate-General of Finance).

Under Directive (EU) 2015/849, investment firms or funds are subject to anti-money laundering and terrorist financing requirements when their "regular occupation or business is the provision of one or more investment services to third parties and/or the performance of one or more investment activities on a professional basis"¹. When they fall under this definition, entities which provide investment services are considered as "financial institutions". Holding companies which provide such kind of services should be considered by Member States as financial entities. This implies the fulfilment of anti-money laundering and terrorist financing requirements and the designation of a competent authority to monitor the compliance with anti-money laundering and terrorist financing rules.

Ms Ana Gomes,
Member of the European Parliament

¹ Investment firms are defined in Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU - OJ L 173, 12.6.2014, p. 349

As you know, my services are undertaking a thorough horizontal assessment of all measures adopted and notified by the Member States in the context of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing. The elements you have provided with your letter constitute a useful source of information that my services will take into account when assessing the completeness and conformity of the Portuguese law to the Directive.

Yours sincerely,



Věra Jourová