

National Data Protection Commission

OPINION/2023/19

I. Request

1. Banco de Portugal (BdP) submitted to the National Data Protection Commission (CNPd), for an opinion, the Draft Notice which aims to regulate the periodic reporting of information for supervisory purposes to the Bank of Portugal on concentration risk and establish the specific rules and procedures applicable to the provision of information in a standardized format regarding credit concentration risk.

2. The CNPD issues an opinion within the scope of its attributions and powers as an independent administrative authority with authoritative powers to control the processing of personal data, conferred by paragraph c) of paragraph 1 of article 57, in conjunction with paragraph b) paragraph 3 of article 58, and with paragraph 4 of article 36, all of Regulation (EU) 2016/679, of April 27, 2016 - General Regulation on Data Protection (hereinafter GDPR), in conjunction with the provisions of Article 3, Article 4(2) and Article 6(1)(a), all of Law No. 58 /2019, of August 8, which implements the GDPR in the internal legal order.

II. Analysis

3. Pursuant to Articles 14^o and 115^o-P of the General Regime of Credit Institutions and Financial Companies, approved by Decree-Law No. 298/92, of December 31, last amended by Law No. 23-A/2022, of December 9 December (RGICSF), institutions must have solid policies and procedures in place to treat and control the risk arising from exposures to each individual counterparty, including central counterparties, sets of linked counterparties and counterparties that operate in the same economic sector or in the same geographic region, or arising from the same activity or commodity, or from the application of credit risk mitigation techniques.

4. In turn, part IV of Regulation (EU) No. 575/2013, of the European Parliament and of the Council, of 26 June 2013 (CRR) provides for monitoring and reporting rules on major risks, whereby institutions must , in accordance with article 393, have internal control mechanisms that allow the identification, management, monitoring, reporting and recording of all major risks and changes to them, which necessarily implies control of all exposures at risk .

5. The framework for reporting information for supervisory purposes defined at European Union level (FINREP/COREP)

currently provides for half-yearly reporting requirements on major risks, arising from article 394 of the CRR, which are limited to a set reduced number of counterparties in accordance with the provisions of paragraphs 1 and 2 of that same article.

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6. In this context, it becomes necessary to review BP's regulatory framework regarding concentration risk, last revised in 2011 with the publication of Instruction No. 5/2011, as it does not consider the regulatory developments that have occurred since then.

7. Pursuant to the preamble, for the purposes of this review, changes resulting from the transposition of Directive 2013/36/EU, the aforementioned requirements of the CRR, the associated rules and guidelines published by the European Banking Authority, the general requirements relating to identification, risk management and control required by Notice No. 3/2020 and the Core principles for effective banking supervision of the Basel Committee.

8. Thus, this Notice aims to regulate the periodic reporting of information for supervisory purposes to the Bank of Portugal on concentration risk and to establish the specific rules and procedures applicable to the provision of information in a standardized format regarding credit concentration risk, revoking Bank of Portugal Instruction No. 5/2011 of March 15, 2011, which defines the concentration of risks and establishes the ways in which institutions can monitor them.

9. From the point of view of the right to the protection of personal data, it should be noted that the obligation to report to BP for the purposes of supervising concentration risk does not, for the most part, include personal data. And in cases where the communication of personal data is envisaged, they are not particularly sensitive, their processing being based on lawfulness in subparagraph c) as well as subparagraph e) of paragraph 1 of article 6 of the RGPD , since they result from legal obligations provided for in the RRC and the RGICSF, with their

regulation of the Bank of Portugal¹.

10. In fact, among the reporting requirements, article 3 provides that entities must send BP detailed information on the 100 largest debtors resulting from activities not included in the trading book (excluding exposures to the Central Administration and Central Banks and securitized assets).

11. Such information, to be provided in accordance with the reporting model contained in Annex I (CcnR03.00 - Detailed information for the 100 largest debtors of activities not included in the trading book) must be carried out through the BPnet system and in XBRL format .

¹ Cf. Article 116(1)(f) of the RGICSF.

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12. The information contains the code, name and LEI² code of the debtor, or another ID in case of unavailability of the LEI.

When identifying another identifier code, preference should be given to the use of the Corporate Person Identification Number and Tax Identification Number.

13. The personal data collected, which materialize the customer's identification referred to in paragraph 1 of article 394 of the RCC, are adequate, relevant and necessary for the purpose of the treatment in question, in compliance with the principle of necessity and minimization of data enshrined in Article 5(1)(c) of the RGPD.

III. Conclusion

14. Based on the reasons set out above, it is the understanding of the CNPD that the Draft Notice under analysis does not raise reservations or observations regarding its compliance with the legal data protection regime.

Approved at the meeting on February 22, 2022

Filipa Calvao (President)

² 20-digit alphanumeric code that makes it possible to uniquely identify legal persons and other market players.

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RECTIFICATION

1. In Opinion/2023/19 of the National Data Protection Commission (CNPd), approved at the meeting on February 22, 2023, within the scope of process PAR/2023/12, a manifest material error was detected in the indication of the date of your approval

2. For this reason, and pursuant to article 174 of the Code of Administrative Procedure, Opinion/2023/19 is rectified, in the following terms: on page 2, in fine, where it reads "Approved at the meeting of February 22, 2022" should read "Approved at the meeting of February 22, 2023".

3. This rectification is published on the institutional website of the CNPD.

Lisbon, March 20, 2023

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