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OPINION/2020/40

## I. Request

The Banco de Portugal sponsor; to the [National Data Protection Commission (CNPD)] that to pronounce on the instruction project that aims to regulate the duties of report to the competent supervisory authority of the entities covered by the Act of the Banco de Portugal, regarding the conduct and culture organizational and governance and internal control systems.

The formulated request and the present opinion fall within the attributions and competences of CNPD, as a national authority to control the processing of personal data, in accordance with the provisions of subparagraph C of paragraph 1 of article 57 and paragraph 4 of article 36.º of Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016 (General Regulation on Data Protection - RGPD), in conjunction with c provided for in Article 3.º, paragraph 2 of Article 4.º and in subparagraph a) of paragraph 3.º of Article 6.º, all of Law n.º 58/2019, of August 1st (which aims to ensure the execution, in the order internal legal system, of the RGPD),

The appreciation of the CNPD is limited to norms that foresee or regulate treatments of personal data-

## II. appreciation

The Instruction Project aims to regulate the sending of self-assessment reports from the adequacy and effectiveness of the corporate culture and governance and control systems internal, and respective annexes" to the competent supervisory authority; the content and sending the report provided for in paragraph 7 article 116.º-A of the General Regime of Institutions of Credit and Financial Societies (RGICSF), approved by Decree-Law n.º 28192, of 33. January, last amended by Decree-Law n.º 3.44/2019, of September 23, to

competent supervisory authority; and employee identification reporting

that have a material impact on the institution's risk profile.

The Pro.ieto also sets out the risk categories for the purposes of identification, assessment monitoring and control of the risks to which they are or may be exposed and includes the file that should be used by the aforementioned entities to carry out the response of the deficiencies identified in the area of culture and organizational conduct and of governance and internal control systems.

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The content of the aforementioned reports, to be communicated to the supervisory authority competent- do not include, for the most part, personal data.

the communication of personal data, they do not take on any special

sensitivity, finding the treatment based on lawfulness in subparagraph d, as well as

in paragraph f,j" of paragraph L of article 6 of the GDPR.

On sale, article 2 concerning the annual self-assessment report only provides for the envlo

of personal identification data of those responsible for the internal control functions,

with the indication of the respective contact details {telephone and e-mail address},

and Article 4(4i) of the draft regarding the annual report[of

group self-assessment provides for the report to be sent to the supervisory authority

competent accompanied by the identification of those responsible for the control functions

The parent company intends to identify the respective telephone contacts

(telephone and email address).

For firm, regarding the presentation of the annual report! provided for in number 7"o of article

1"16""-AA of the RGICSF1 the subitem ii of subitem ol of article 8" of the Tnstrução Project

provides that the report contains the summary description of the reported facts and the related

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in the article 16 of the RGPD, where it is required that the processing be authorized by provisions of the law of the Union or of a Member State, which provide adequate guarantees for the rights and freedoms of data subjects"

Üra, article 16 of the RGXCSF imposes on credit institutions the duty to

, to provide specific, independent means and adequate reception methods,

treatment and archiving of claims of serious inequalities related to their

administration, accounting organization and internal inspection and serious evidence of

violations of duties provided for in the present Regime Çeral oil {to Rules 5}E} n.'

575/2013, of the European Parliament and Council, of June 6th.» It adds that these

measures guarantee the confidentiality of the participations received and the protection of the data

personal details of the complainant and the person suspected of committing the offence, under the terms of Law n°

67/98, of October 26, which was it revoked in the meantime by Law No. 58/2019, of 1

of August, should be read, in the terms of the RGPD

I «Credit institutions must submit to Banco de Portugal an annual report with the description of the

means referred to in paragraph I and contain the summary indication of the interests received and the respective process.»

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It is the extent to which the aforementioned data processing is based on article 11-6 of the RGPD, n° 1 and no

7, of the RGPD, and which safeguards, when it concerns data of greater sensitivity, the

confidentiality of the information, it seems to respect the regime of protection of

personal data.

### III. Conclusion

With the above grounds, it is the understanding of the CNPD that the Project under analysis

does not give rise to reservations or observations as to its compliance with the legal regime

of data protection"

Lisbon, March 30, 2020

Maria Cândida Guedes de Oliveira (Rapporteur)