

## I. Request

1. The Portuguese Securities Market Commission (CMVM) asked the National Data Protection Commission (CNPd) to issue an opinion on the draft Regulation on the reporting duties of real estate appraisers that amends the CMVM Regulation No. 1/2017, of February 17, as amended by CMVM Regulation No. 6/2020, of December 16.

2. An Impact Assessment on the Protection of Personal Data (AIPD) relating to this CMVM draft regulation and CMVM Public Consultation Document No. 2/2023 has been sent as an attachment.

3. The CNPD issues an opinion within the scope of its attributions and competences, 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, paragraph b) of paragraph 3 of article 58 and 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, paragraph 2 of article 4 and paragraph a) of paragraph 1 of article 6, all of Law no. 58/2019, of 8 of August, which implements the GDPR in the internal legal order.

## II. Analysis

4. Pursuant to article 62 of the Code of Administrative Procedure, approved by Decree-Law No. 4/2015, of January 7th, last amended by Decree-Law No. 11/2023, of February 10th , and Article 357-A of the Securities Code, the CMVM intends to implement the CMVM's electronic one-stop-shop (BUE), through which all interactions between the CMVM and its supervisees will be mandatorily processed.

5. The present Draft Regulation aims to adapt the forms of compliance with the duties of information by real estate appraisers to the BUE of the CMVM.

6. Under the terms of the preamble, the Project only intends to partially change the wording of the annex to CMVM Regulation No. 1/2017 in the wording given by CMVM Regulation No. 6/2020 ("Report of activity of expert appraiser of registered real

estate at the CMVM"). There is no change to the personal data being processed, nor to its purpose, in view of the current regime, only the means being changed, in the sense of using the CMVM electronic one-stop shop instead of the current CMVM extranet.

7. In view of the above, the projected regime does not raise reservations from the perspective of its compliance with the legal data protection regime, except for the data conservation periods, in relation to which the Project is silent. In fact, it is limited to mentioning in the preamble that they are kept in accordance with

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PAR/2023/28 1v.

with the principles of administrative interest and administrative usefulness, provided for in Decree-Law No. 16/93, of 23 January, i.e., at least until the date on which the purpose for which it was collected expires, plus the deadlines for statute of limitations, namely administrative, tax or civil. After the applicable limitation periods or others imposed by law, personal data may still be retained for the purposes of definitive or historical archiving, under the terms of the aforementioned Decree-Law.

8. Now, as already mentioned in Opinion/118/2022, approved on December 21, 2022, the CNPD does not discuss the public interest of the CMVM in the preservation of personal information - an interest that the aforementioned Decree-Law provides for -, but points out that, referring this legal diploma to administrative regulation (Regulatory Decree) the setting of conservation periods (cf. no. 2 of article 15 of Decree-Law no. 16/93), it cannot but be required here too, in the context of the processing of personal data carried out by the CMVM, the setting of deadlines for the conservation of the personal data subject to processing, depending on the need to conserve such data for the intended purposes, under the terms of paragraph e) of no. 1 of Article 5 of the GDPR. Article 6(3) of the GDPR also points in this direction.

9. Thus, the CNPD recommends the specification of the retention periods of personal data, not least because, under the terms of article 13 of the RGPD, the CMVM has the duty to provide information regarding the same to the data subjects (cf. Section a) Article 13(2) GDPR).

III. Conclusion

The Draft Regulation does not raise reservations from the perspective of its compliance with the legal regime of data protection, except regarding compliance with the principle of limitation of conservation. Thus, the CNPD recommends setting the retention periods for the personal data subject to processing in the Project's articles.

Approved at the meeting on April 11, 2023

Filipa Calvao (President)