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White Collar Crime - Portugal

Tougher Penalties to Reinforce Financial Legislation

Contributed by [Sérvulo & Associados](#)

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White collar crime reform is on the legislative agenda. Parliament is discussing a government proposal and three further projects proposed by members of Parliament. All four initiatives have a common goal: to reinforce the penalties for breaching financial legislation.

The projects, all from the legislature's left wing, were approved in December 2008 and are being reviewed in detail by the Constitutional Affairs Committee.

The government proposes to increase fines for regulatory offences in the financial markets and in the field of insurance. In certain situations the maximum penalty will be a fine of €5 million or twice the financial benefit accruing from the illegal activity, plus the confiscation of the illegal proceeds. The measures also provide for a fast-track process for minor breaches of insurance regulations or some financial regulations (outside the Securities Code), inspired by the regime already in place in the code. The criminal penalties for market abuse and insider trading will rise from three to five years' imprisonment. In addition, transparency obligations in respect of remuneration policies will apply to certain financial entities and will be backed by a system of regulatory offences and penalties.

The other projects are broadly in line with the government bill, proposing transparency rules, a more robust criminal prosecution system and



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more dissuasive penalties. However, they also include a proposal for special court divisions dedicated to financial crimes.

On November 4 2008 the National Council of Financial Supervisors decided to create a taskforce to undertake preliminary work on a new regime to counteract financial wrongdoing in the banking, securities and insurance sectors.

The likely outcome of these initiatives remains uncertain, but their aim is clear: to impose higher standards of transparency on financial entities and to reinforce regulatory and criminal liability.

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