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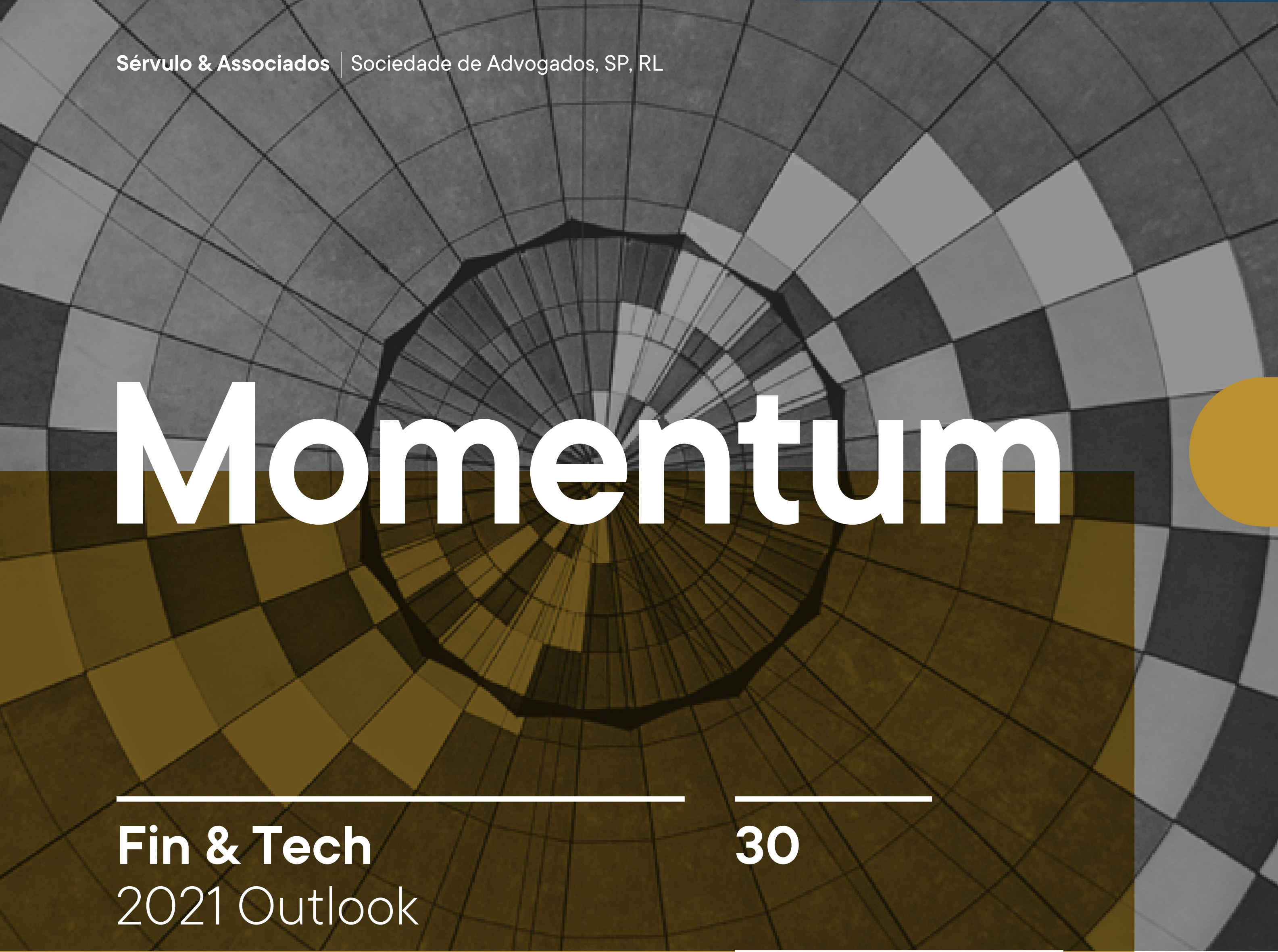

Momentum

Fin & Tech
2021 Outlook

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Momentum

Fin & Tech

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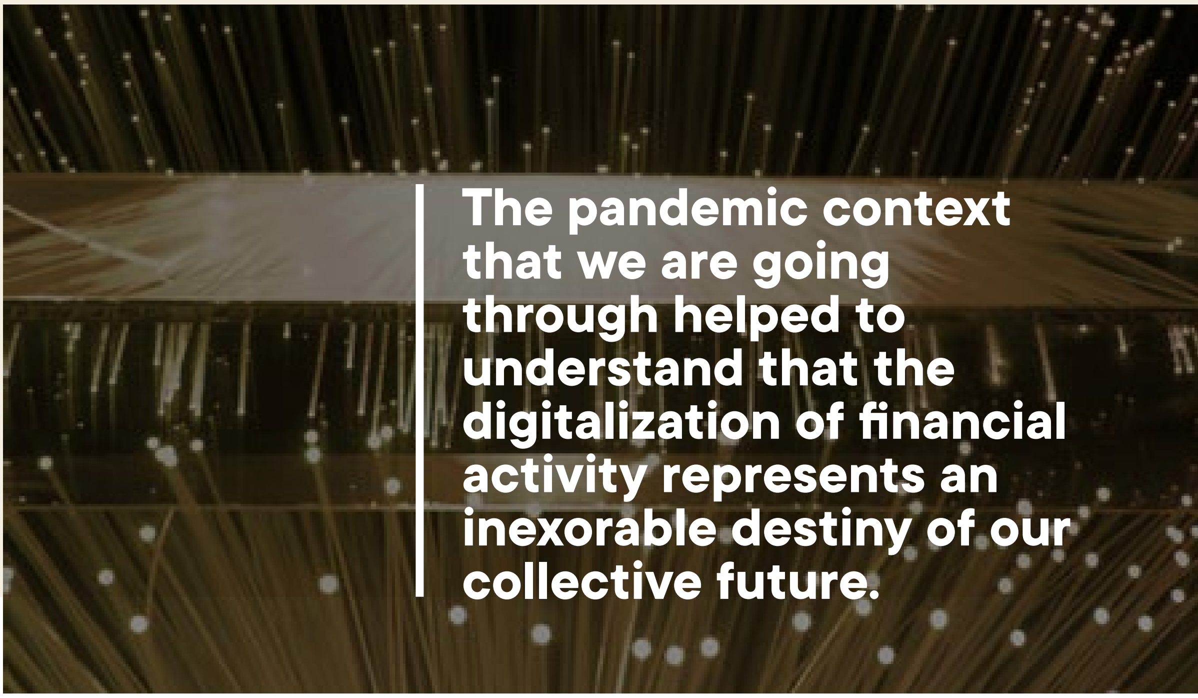
2021 will be a turning point in European regulation of the FinTech ecosystem.

Prior to the Digital Finance package, the European approach had invariably translated into non-legislative acts - such as the Financial Technology Action Plan (2018) and the Expert Group's recommendations on Regulatory Barriers to Financial Innovation (2019) - which conveyed generic guidelines from the European authorities, while they sought to gain time to acquire an integrated and finished understanding of the various issues involved and the risks posed by them.

2021: a turning year



The Digital Finance package, presented in September 2020 and to be discussed and approved in 2021, radically changes the scenario and serves as a legislative bazooka with transversal implications for the FinTech ecosystem. It consists, on the one hand, of a strategic Communication (entitled Strategy on Digital Financing for the EU), which identifies four priorities for action: combating the fragmentation of the digital single market for financial services, in order to provide European consumers access to cross-border services and help European financial companies to increase their digital operations; ensuring that the EU regulatory framework facilitates digital innovation in the interests of consumers and market efficiency; create a European financial data space to promote data-based innovation, based on the European data strategy, including better access to data and greater data sharing in the financial sector; and face the new challenges and risks associated with digital transformation.

On the other hand, and most importantly, the Package includes three proposals for European Regulations: the Proposed Regulation on the crypto markets ("Proposed MICA Regulation"); the Proposed Regulation on digital operational resilience; and the Proposal for a Regulation on a pilot scheme for market infrastructures based on distributed registration technology.

Along with the completion of these important legislative projects, a new interpretative Communication on cryptography is also announced for 2021, a European supervisory information strategy, the start of the new revision of the Payment Services Directive and a new legislative proposal in respect to client onboarding.

The pandemic context that we are going through helped to understand that the digitalization of financial activity represents an inexorable destiny of our collective future. The success criteria of the Digital Finance package are simple to enunciate and are found in the balance of legislative options to be taken and in the adequacy of measures to simultaneously safeguard innovation and the regularity of the financial system. These are, after all, the relevant coordinates for understanding whether this legislative evolution to be consummated in 2021 will make the European FinTech market more advanced and competitive or whether, instead, the opportunity is woefully wasted in favor of a complex and atavistic plot of bureaucratic requirements disconnected from the underlying economic and technological reality. Let us trust that, in the end, reason and common sense will prevail.

Paulo Câmara
pc@servulo.com

Blockchain and capital markets: the importance of regulator intervention

The development of distributed ledger technologies ("DLTs") – of which the blockchain is the best-known example – brought with it the promise of disruption of the capital markets, where these technologies are expected to strongly impact the way securities are issued and the rights and obligations arising from them are managed.

In general terms, it is possible to identify the following factors as the main catalysts for the changes that DLTs can cause in these markets: (i) the possibility of maintaining consistent records of transactions, without the need to involve a central controller, and (ii) the use of smart-contracts that enable the automation of some functions necessary for securities issues (such as the paying agent function), which reduces the number of players in the issues and, consequently, saves on costs arising from them and potentially simplifies certain stages of the issuing process (such as settlement). Ultimately, the implementation of DLTs in the capital market may cause its expansion by allowing entities that are normally outside its scope due to the fact that the costs and complexity of the issuing process outweigh the amount of financing they seek to consider it as a financing alternative.

These considerations explain the proliferation of initiatives concerning the introduction of DLTs in the capital markets, where the interest of market agents in these technologies is becoming increasingly evident. This trend can be demonstrated, for example, by the 7 DLT-based bond issues that, according to the International Capital Markets Association[1], were completed between 2017 and the present date by companies (including credit institutions, such as Banco Santander and Société Generale) in several jurisdictions.

Without prejudice to the potential benefits arising from the introduction of DLT in the capital markets, the inherent risks have not gone unnoticed by regulatory entities and other national and supranational bodies that monitor the financial system. In the European Union, on September 24, 2020, the European Commission published the Digital finance package, which includes legislative proposals aimed at facilitating the adoption of DLTs in the capital markets and, at the same time, guaranteeing the protection of investors and the financial stability of the European financial market.

At the local level, it is important to pay attention to the interventional approach that several financial regulatory entities of have adopted. The European Supervisory Authorities (which include **ESMA**, EBA and EIOPA) have, at least since 2019, promoted the adoption, by national regulatory authorities, innovation facilitators through the establishment of best practices and the conduction of comparative analysis of the solutions adopted in the different Member States[2].

These innovation facilitators are typically of two types: regulatory sandboxes and innovation hubs. The former allow the testing of initiatives in the Fintech area, under a program designed jointly by the interested parties and the financial regulator, to be developed in an controlled environment, monitored by the regulator. The latter can be defined as a point of contact between regulatory authorities and any interested parties, whereby these request regulators to provide clarifications and non-binding guidelines on the initiatives they intend to develop in the Fintech area.

The topic has received the attention of the European Parliament, which, in September 2020, published a study on the impact of regulatory sandboxes and innovation hubs on innovation, financial stability and supervisory convergence[3]. According to this study, following the implementation of regulatory sandboxes in the United Kingdom by the Financial Conduct Authority ("FCA") since 2016, of the 27 EU Member States, 6 have adopted a similar strategy[4] and another 6 are in the process of doing so[5]. Outside the EU, financial regulators in several countries - such as Singapore, Hong Kong and Australia, among others - offer similar schemes to entities operating in the FinTech area.

These data seem to demonstrate that financial regulators are increasingly interventive, a trend that seems to have been reinforced by the emergence of COVID-19, which undoubtedly confirmed the importance of digital solutions for the financial area. According to a recent study of the World Bank and the Cambridge Center for Alternative Finance[6], the pandemic acted as a catalyst for regulatory sandboxes, causing the acceleration of planned sandbox programmes and the initiation of new sandboxes.
The practical importance of these schemes and the impetus they may represent in introducing DLTs in the capital markets is demonstrated by the finding that at least two of the aforementioned bond issues were carried out within the scope of regulatory sandboxes promoted by the FCA.

> **These experiments carried out within the scope of regulatory sandboxes evidence that it is possible to issue financial instruments without resorting to a traditional financial infrastructure.**

We refer to the first issue of bonds denominated in cryptocurrency (Ether), fully automated, registered, cleared and settled on a public blockchain network (Ethereum), using smart contracts and based on a platform called Legal Markup Language developed by the British fintech Nivaura which allowed the management of the bonds issued until their maturity. The issuer was LuxDeco Limited, an online platform that sells luxury furniture and accessories, and the transaction was completed in November 2017. This issue was of utmost importance for the market since it was a pioneer in the usage of DLT for the purpose of registration of the bonds' ownership and it demonstrated the potential of using smart contracts to settle the obligations and to make payments, and the possibility of using a platform that automates the formation, performance and enforcement of the contracts necessary to issue bonds. Additionally, the fact that this experience was conducted within the scope of a regulatory sandbox permitted, on one hand, the creation of confidence in investors in what concerns the enforceability of the rights arising from the bonds they subscribed to and, on the other hand, it highlighted the regulatory issues arising from these issues and evidenced the position of the FCA in relation to the regulatory standards that must be complied with, namely in what concerns the custody of crypto assets, registration of the bonds' ownership and compliance with KYC / AML obligations.

We also refer to the first bonds issued entirely in a blockchain network (Ethereum) - existing exclusively in this network - by the Spanish bank Banco Santander, S.A. in September 2019, denominated in pounds. This issue reinforced the possibilities highlighted in the LuxDeco transaction, with the added interest of having been completed by a credit institution.

These experiments carried out within the scope of regulatory sandboxes evidence that it is possible to issue financial instruments without resorting to a traditional financial infrastructure. It was also demonstrated that the success of these experiences is entirely related to the regulator's active and interventional approach, which contributed to reducing the legal uncertainty normally associated with pioneering initiatives (namely in the fintech area), while simultaneously ensured the protection of investors, mitigated any risks of default or unenforceability of the obligations arising from the instruments issued and ensured the integrity of the financial system.

Portuguese financial market regulators – in particular, the Securities and Exchange Commission ("CMVM") – can draw clear conclusions from the examples mentioned above. In 2018, CMVM recognised that the development of the financial instruments market is boosted by technological-based financial innovation and assumed as strategic objectives the promotion of investor protection, the guarantee of market integrity and the contribution to the development of these innovations. CMVM decided, however, to assume the position of active observer, in an approach similar to the establishment of innovation hubs, having formed teams to monitor the fintech phenomenon, identified opportunities and risks and prioritized international coordination. This approach resulted in the development of an informative section that facilitates the dialogue between the promoters of projects in the fintech area and CMVM, responsible for providing clarifications on the regulatory issues emerging from these projects[7].

It should be noted that the Portuguese Government recently approved an Action Plan for the Digital Transition[8] that, among other measures, promotes the establishment of Technological Free Zones ("TFZs"). TFZ can be defined as physical spaces that allow the experimentation of new technologies, subject to specific regulatory regimes. Thus, digital financial innovations can be tested in a TFZ, although

these are sectorally transversal - i.e. they potentially cover any project and they are not limited to the financial area.
Another factor that seems to promote the adoption, by CMVM, of a more active stance in facilitating the use of DLTs in the Portuguese capital market is the proposal for a Regulation of the European Parliament and of the Council on a pilot regime for market infrastructures based on the distributed ledger technologies[9] that is part of the European Commission's Digital finance package. Among other measures, this proposal for a Regulation allows regulatory entities of Member States to grant special authorisations to entities authorised to act as central securities depositories or to operate a regulated market to operate securities settlement systems or multilateral trading facilities based on DLTs. Indeed, this regulation - which is directly applicable in the Member States - clearly places on regulatory entities of the financial system the responsibility of promoting, guiding and monitoring technological innovation in this area, without neglecting their mission of guarantors of the stability of the financial system.

CMVM has, therefore, all the conditions to learn from the experiments of the FCA (and other regulatory entities) and to fulfil the role of facilitator that the European Commission seems to confer to the regulators of the financial system, namely through the establishment of regulatory sandboxes aimed at developing projects concerning the use of DLTs in the capital market. It seems evident that a market such as the Portuguese, in which financial transactions do not typically involve exponential amounts, would benefit largely from any reduction in the costs and complexity in capital procurement. DLTs have therefore a real potential to grow the market, by enabling an increase in the number of companies able to regard the capital market as a viable alternative funding source. Such a scenario will perhaps benefit all agents of the Portuguese financial system (from issuers to investors), as well as the Portuguese economy.

Catarina Saramago
css@servulo.com

[1] A non-exhaustive list of Fintech initiatives in bond markets, prepared by the International Capital Markets Association is available in the following **link**

[2] See the *Report FinTech: Regulatory sandboxes and innovation hubs*, published by pela ESMA, EBA e EIOPA in January de 2019, accessible through the following **link**

[3] Accessible through the following **link**

[4] These Member States are Denmark, Hungary, Lithuania, Latvia, the Netherlands and Malta.

[5] These Member States are Austria, Estonia, Greece, Spain, Italy and Poland.

[6] Accessible through the following **link**

[7] **link**

[8] Resolution of the Council of Ministers no. 30/2020, accessible through the following link (in Portuguese): **link**

[9] Accessible through the following **link**

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Services in the field of crypto-assets

One area regulated by the Proposal for a Regulation of the European Parliament and of the Council on the markets in crypto-assets ("MiCA Proposal") is that of the crypto-assets services[1].

Title V of the MiCA Proposal establishes a set of harmonized rules directed to crypto-assets services providers, i.e. any person whose occupation or business is the provision of one or more crypto-asset services to third parties on a professional basis[2].

To be able to exercise their activity, the interested parties in providing crypto-assets services must be legal persons, they need to have a registered office in a Member State of the Union and they also need to obtain an authorisation as crypto-assets services provider[3]. The authorisation is granted by the competent authority and is valid for the entire Union. Benefiting from the European passport, crypto-asset service providers will be able to provide through the Union the services for which they have been authorised, either through the right of establishment, including through a branch, or through the freedom to provide services.

The European Securities and Markets Authority ("ESMA") will maintain a register of crypto-assets services providers which will be publicly available and will be updated on a regular basis.

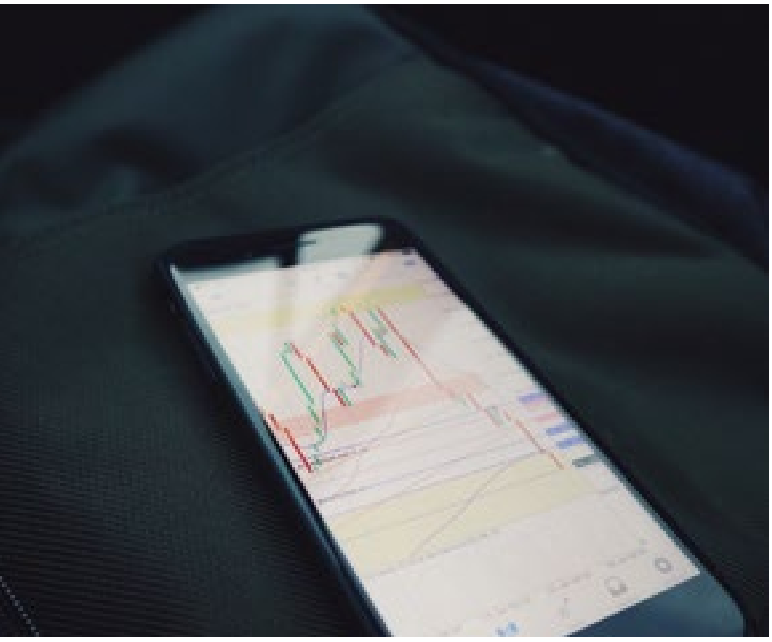
Regarding the obligations to which they are subject to, there are several requirements that, in general, crypto-assets services providers must comply with, e.g. the obligation to act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients; the obligation to have in place prudential safeguards, as having a certain amount of permanent minimum capital that can go from € 50.000 to € 150.000 depending on the nature of the services provided; requirements regarding organization and governance, e.g. they shall employ resilient and secure information and communications technologies systems; they should comply with requirements regarding safekeeping of clients' crypto-assets and funds, etc[4].

However, investment firms authorised under Market in Financial Instruments Directive ("**MiFD II**")[5] that provide one or several crypto-asset services equivalents to the investment services and activities for which they are authorised under MiFD II, will only have to comply with some of those requirements[6].

Depending on the specific services that will be provided, the crypto-assets providers will have to comply with additional requirements[7]. For example, regarding the service of operation of a trading platform for crypto-assets, the providers of this service, among other obligations, will have: the obligation to lay down operating rules for the trading platform and those rules of the trading platform for crypto-assets shall prevent the admission to trading of crypto-assets which have inbuilt anonymisation function; the obligation of not deal on own account on the trading platform for crypto-assets they operate; the obligation to complete the final settlement of a crypto-asset transaction on the Distributed Ledger Technology ("**DLT**") on the same date as the transactions has been executed on the trading platform and the obligation to ensure that their fee structures are transparent, fair and non-discriminatory.

There is no doubt that the legal framework established with the MiCA Proposal will mean serious challenges for the entities that provide or intend to provide services in crypto-assets; however, the benefits are clear: this new regime will provide legal certainty for markets in crypto-assets.

Andreea Babicean
aba@servulo.com



[1] According to the article 3, paragraph 1, subparagraph (9), 'crypto-asset service' means any of the services and activities listed below
relating to any crypto-asset: (a) the custody and administration of crypto-assets on behalf of third parties; (b) the operation of a trading platform for crypto-assets; (c) the exchange of crypto-assets for fiat currency that is legal tender; (d) the exchange of crypto-assets for other crypto-assets; (e) the execution of orders for crypto-assets on behalf of third parties; (f) placing of crypto-assets; (g) the reception and transmission of orders for crypto-assets on behalf of third parties (h) providing advice on crypto-assets. Each one of these activities are defined under the subparagraphs (10), (11), (12), (13), (14), (15), (16) e (17). Interestingly the MiCA Proposal doesn't refer the portfolio management service.

[2] It should be noted that the scope of the MiCA Proposal excludes crypto-assets that qualify as financial instruments deposits and structured deposits under the EU financial services legislation.

[3] The application for an authorisation shall contain the elements referred in article 54 and the assessment of the application for authorisation and grant or refusal of authorisation will be carried out in accordance with article 55 of the MiCA Proposal.

[4] See articles 60 to 66 of the MiCA Proposal.

[5] 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.

[6] See article 2, paragraph 6 and articles 57, 58, 60 and 61 of the MiCA Proposal..

[7] See articles 67 to 73 of the MiCA Proposal.

Crypto-assets
and money laundering prevention

According to the new regime established by Law no. 58/2020, the Bank of Portugal became the national authority responsible for the registration and prudential assessment of the entities intending to carry out virtual assets activities.

1. The 5th AML Directive and the new Law no. 58/2020, from the 31st of August

Money laundering represents one of the main threats to the integrity of the financial system and it is also one of the most relevant ways of financing terrorism. Therefore, at the European level, a holistic approach to preventing money laundering has long been adopted, being formally recognised the association with the phenomenon of financing of criminal activities (Money laundering and terrorism financing – "MLTF"). This task has been carried out through successive European Directives, which largely incorporate the recommendations of the Financial Action Task Force (FATF/GAFI).

On 31 August 2020, Law no. 58/2020 transposed the most recent Directive on this topic, better known as the 5th AML Directive, introducing relevant changes to Law no. 83/2017, which establishes the national regime on money laundering and terrorism financing prevention (Law on prevention of money laundering and terrorism financing – "LMLTF").

Regarding virtual currencies´ regulation, the 5th Directive was from the outset born out of the increasing awareness of the growing popularity of these types of instruments and out of the perception that its anonymous character (or quasi-anonymous) substantially enhances the risk of its use for illicit purposes. Additionally, it was also found that blockchain service providers – namely exchange services between virtual currencies and fiduciary currencies (legal tender and electronic currencies accepted as means of payment in the respective countries of issue), as well as digital wallet custody services – were not, until then, obliged to identify and communicate activities suspected of MLTF.

Consequently, the 5th Directive broadens the scope of these obligations to entities that provide services related to virtual assets.

2. Obligated entities

According to the new regime established by Law no. 58/2020, the Bank of Portugal became the national authority responsible for the registration and prudential assessment of the entities intending to carry out virtual assets activities. For the purposes of the new law, these activities include the following:

- Exchange services between virtual assets and fiduciary currencies or between one or more virtual assets;
- Services through which a virtual asset is moved between addresses or virtual wallets - transfer of virtual assets;
- Services of guarding, or guarding and management, of virtual assets or instruments that allow control, hold, storage or transfer of these assets, including private cryptographic keys.

All these entities are now subject to the duties of prevention of MLTF arising from Law no. 83/2017, under the same terms as other non-financial entities, particularly to the duty to adopt adequate control policies and procedures for MLTF risk management.

The regime also contains some innovations in aspects specifically related to the transaction of virtual assets, such as the duty to observe identification and due diligence procedures in situations of occasional transactions, within the scope of activities with virtual assets worth more than €1.000,00.

3. Mandatory prior registration

The undertaking of activities with virtual assets now depends on mandatory registration with the Bank of Portugal, even in the cases where the entity already engages in other activities subjected to authorization. The registration must include a description of the activities with virtual assets that the provider intends to realize, as well as the identification of the jurisdictions in which they will be carried out.

In order to grant the registration, a regime of control of suitability and competence of those exercising management functions in the applicant activities, as well as of the respective beneficial owners, is envisaged.

The registration request shall be accompanied by a program of activities and by a business plan that includes, namely, the indication of the organisational structure and of the human, technical and material resources allocated to the carried-out activity, as well as a prediction of the total amount of the operations associated to each of the activities with virtual assets, for the first three years of activity. In parallel, the registration request must include a description of the internal control mechanisms set forth to comply with the legal or regulatory provisions aimed at preventing MLTF, including a risk assessment of the projected client base, products and services, distribution channels and predicted geographical areas of operation, as well as measures to mitigate those risks.

The new regime has been in effect, in Portugal, since the 1st of September of 2020, when the law came into force. The entities that were previously carrying out activities with virtual assets are also subject to the duty to register with the Bank of Portugal in order to be able to continue their activity legally.

4. Sanctions

The infringement of the provisions regarding the registration of activities with virtual assets is punishable, as a very serious misdemeanour, and may lead to the imposition of fines between €5.000,000 and €1.000.000,00 for legal persons or similar entities and €2.500,00 and €1.000.000,00 for natural persons.

Miguel Santos Almeida
msa@servulo.com

Insurtech — Pay-as-you-go

One often says that there are two certain things about life: death and taxes. Although that is correct, it'd be equally so to add a third thing on top of these two: an insurance.

In Portugal, it seems nearly everyone is bound to hire one or more insurances. If you are a homeowner, you will have to buy a mandatory fire insurance. If you have a car, an auto insurance will be required, at least to cover third-party liability under penalty of not being allowed to drive that vehicle. If you are an employer, work accidents' insurance cannot be waived regarding each and all your employees. If you are a hunter, you will have to get a hunting and fire gun insurance, otherwise you might not be able to use your hunting rifle for sports.

There are also a significant number of non-mandatory insurance products as well as optional coverage for any of those already mandatory insurance products – some of which should be hired on the grounds of caution. A homeowner might be interested in broadening its mandatory fire insurance to safeguard its home against other type of risks, such as flood or robbery. A driver might be interested in protecting its vehicle against own damages further to the mandatory third-party liability. An employer might want to offer fringe benefits to staff, such as a health insurance or a life insurance, to be perceived as being more competitive and to attract the best professionals to the team.

Despite of the type – and scope – of the insurance products being virtually endless, insurances seem to be built always based on the same assumption: product design and actuarial calculation must consider the to-be-protected-from risk as being a permanent risk. And, if the risk can be verified always and at any time, the respective insurance premium should reflect that possibility. But is it always so?

Let's take a closer look at the auto insurance model. Whether we consider the mandatory insurance type or some sort of additional coverage, one of the auto insurance assumptions seems to be the vehicle's ongoing use and its consequent risk of originating indemnifiable damages caused by a crash occurred during that ongoing use.
However, the ongoing use of the vehicle assumption might not be correct. Imagine that our driver/policy holder only

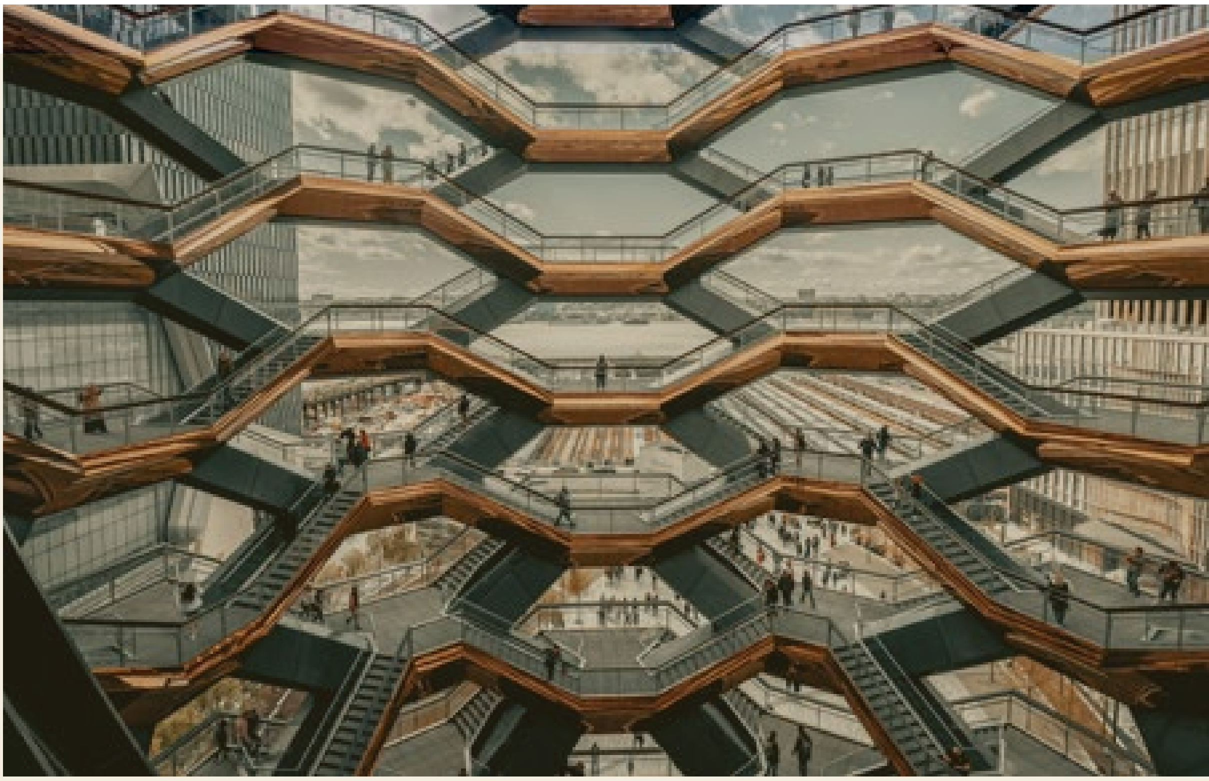
uses the car during the weekends because s/he prefers to use public transportation to go to and come back from work on weekdays. Or that our driver/policy holder works remotely – usually and not only due to the global pandemic – uses the car only now and then and exclusively for short trips (namely to go to that supermarket that is just around the corner). Or imagine that our driver/policy holder has more than one vehicle and only uses one for expediency reasons.

Does it make sense that a driver/policy holder with such a (very) low usage of the vehicle pays an insurance premium equal to a driver/policy holder that uses his/her car for all daily trips or for very long journeys? Should a vehicle used on occasion face the same odds of taking part of a car accident when compared to an automobile that goes on the road all the time?

This is one of the (many) angles that Insurtech operates so well. One does not have to be an insurance expert to figure out that a car staying in its garage for 6 days a week is less likely to be involved in a car accident than the car that is daily used, even if only on short routes. Likewise, a car used for longer journeys – hence spending more time on the road – will be more prone to accidents than the car used once a day for tours just under 10 km.

Insurtech allows us to use technology to monitor a vehicle's effective use, enabling insurance companies to build products designed for the specific needs of its clientele – something that was unheard of before the turn of the century.

The most significant challenge of the so-called usage-based insurance, also known as pay-as-you-go insurance, regards to how difficult can it be to control the effective



use of the vehicle, i.e. how often does a driver/policy holder would use the vehicle and for how long and what would be the distances navigated.

The traditional solution would advise asking that question to the policy holder, namely on its insurance subscription form, and/or to manually go through the data provided by the car based on a prior reference period. However, both options evidence unavoidable shortcomings: a policy holder with a minimum level of experience would feel tempted to answer that the intended use of the car would be scarce or that it would only occur in short routes to benefit from a lower insurance premium and a manual data analysis would result in a massive analysis project with such an irrational cost that no insurance company would ever consider this line of products.

Nonetheless Insurtech – with its mix of technology and insurance – offers the response to this dilemma while both avoiding asking questions to the policy holder or increasing the costs of the product's architecture in an insurmountable way.

Using an automatic access to the vehicle's GPS and telemetry together with powerful data analytics tools, the risk – and subsequent insurance premium – would be calculated based on the data sent by the car and/or the driver and processed, in real time, in an adjusted manner, thus allowing the insurance company to adapt the product to the client in an automatic, fair and up-to-date fashion, instead of putting forward a more general approach.

This evolution has firstly powered the creation of products based on distance travelled or effective use of the insured vehicle, and it paved way to the creation of more innovative auto insurance products that considered how one drives the car (i.e. if the driver is more audacious or more cautious) as a way to assess how one's way and type of driving impacts the collision risks of that vehicle (the pay-how-you-drive insurances).

Insurtech has already played such a relevant role in the auto insurance product design, but it will not stop here. As well as so many other insurance product architectures, Insurtech allows one to redesign the insurance market in a virtually endless way, opening a door to the use of the pay-as-you-go model or even of "occasional triggering" insurances to a wide range of other insurance product lines.

Through the exponential growth of relevant data, together with powerful data analysis tools, insurance companies can aim at offering insurances that match the effective needs to its customers at very competitive prices. idades dos seus clientes a um preço muito competitivo.

Inês Palma Ramalho
ipr@servulo.com

Payment services in the post-Brexit age

As the last day of the year approaches, which coincides with the end of the transition period for Brexit, market participants should be reminded of the main implications for UK-based payment service providers providing services in the European Union ("EU") under the PSD2 Directive[1].

Within the scope of the legislative package that we have come to know, in its freedom to provide services dimension, there are many entities in the Portuguese market that make use of UK-based third party providers of payment services. In this sector, we highlight the providers of *account information services* and *payment initiation services*, for the purpose of identification before EU-based *account servicing payment service providers*[2].

In order to carry out their activity, these entities are issued qualified certificates for electronic seals or qualified certificates for website authentication (eIDAS certificate[3]). Once these certificates are obtained, these service providers can operate in the Member States under a EU authorization number.

By virtue of Brexit, this EU authorisation number will no longer exist for these entities and consequently they will no longer be registered / authorised before the competent authorities in the respective Member States. This consequence implies that said entities will no longer be able to provide the abovementioned services in countries such as Portugal.

In order to prevent the unauthorised access by the aforementioned UK-based service providers[4] to payment accounts held with account servicing payment service providers, the European Banking Authority ("**EBA**") has called upon the trust service providers that have issued eIDAS certificates - for the purposes of identification referred to above - to revoke such certificates at the end of the transition period, which would block any access.

It should also be noted that after the transition period, transfers of funds to/from the UK are subject to the requirements of the EU Regulation on information accompanying transfers of funds (commonly known as the Wire Transfer Regulation Regulation)[5].

Under this legal framework, and without prejudice to the provisions of the SEPA Regulation[6], payment service providers will have an obligation to provide more demanding information (compared to intra-EU wire transfers) on the payer and the payee.

As a result, there are significant logistical and legal implications for market participants who have been resorting to these UK-based service providers and who will no longer be able to do so after December 31st of 2020. It is essential to make it a priority to ensure the provision of these services by duly authorised service providers in the EU who are therefore able to act in accordance with the "new" legal framework that will already come into force in 2021.

Michael Sean Boniface
msb@servulo.com

[1] **Directive (EU) 2015/2366** of the European Parliament and of the Council of November 25th of 2015 on payment services in the internal market.

[2] The account servicing payment service provider corresponds to a payment service provider that provides and maintains payment accounts for a payer (i.e. banks). See article 4 (17) of Directive DSP2.

[3] In accordance with Article 34 of **Commission Regulation (EU) 2018/389** of November 27th of 2017, payment service providers shall rely on qualified certificates for electronic seals as referred to in Article 3(30) of **Regulation (EU) No 910/2014** (eIDAS Regulation) or for website authentication as referred to in Article 3(39) of that Regulation.

[4] Under Regulation (EU) 910/2014 of the Parliament and Council of 23 July 2014, these entities provide an electronic service generally in return for remuneration which consists of: (i) the creation, verification and validation of electronic signatures, electronic seals or time seals, electronic registered mailing services and certificates related to these services; or (ii) the creation, verification and validation of certificates for website authentication; or (ii) the preservation of electronic signatures, seals or certificates related to these services;

[5] **Regulation (EU) 2015/847** of the European Parliament and of the Council of May 20th of 2015.

[6] **Regulation (EU) No 260/2012** of the European Parliament and of the Council of March 14th of 2012.

Sérvulo & Associados
Sociedade de Advogados, SP, RL

Rua Garrett, 64
1200–204 Lisboa – Portugal

T +351 210 933 000
F +351 210 933 001/2