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# Banking, Finance and Capital Markets

Legal Flash | Portugal

January 16, 2019



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## Contents

**New Portuguese Legal Framework on  
Insurance Distribution**



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## I. New Portuguese Legal Framework on Insurance Distribution

Law no. 7/2019, of January 16, transposing into Portuguese Law Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution has been published today in the Portuguese Official Journal.

The European Parliament and the Council have approved Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (“IDD”) on 20 January 2016. Originally, it has been established that Member States should transpose the IDD by no later than 23 February 2018. Said deadline has been subsequently extended by Directive (EU) 2018/411 of the European Parliament and of the Council of 14 March 2018, which has established that Member States should adopt and publish the laws, regulations and administrative provisions necessary to comply with the IDD by 1 July 2018 and that said measures should apply from 1 October 2018 at the latest.

The transposition operated by Law no. 7/2019, of January 16, releases Portugal from the list of Member States that have not yet complied with the transposition obligations imposed by the IDD, currently reduced to Spain, Cyprus, Latvia and Slovenia.

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## II. Highlights

Aiming at strengthening the protection of policyholders, insureds and beneficiaries of insurance products through a qualitative increase of the information duties imposed and at adapting the legal framework to the new challenges imposed on the insurance, reinsurance and pension funds sectors, the main changes established by the new legal framework are the following:

- In order to guarantee that the same level of protection applies despite the differences between distribution channels, the new legal framework is applicable not only to insurance intermediaries but also to insurance and reinsurance companies and to other market participants who sell insurance products on an ancillary basis;
- Disappearance of the category of tied insurance intermediary (*mediador de seguros ligado*);
- Strengthen of the professional requirements imposed, especially those which regulate conduct of business rules, including but not limited to as far as information



duties, adequacy of the insurance product to the demands and needs of the clients and prevention of conflicts of interest are concerned, in order to prevent the inadequate sale of insurance products;

- > Introduction of rules on remuneration, by establishing, as a general rule, that remuneration policies of insurance distributors shall not impair their ability to act in accordance with the best interests of customers and that remuneration based on sales targets should not provide an incentive to recommend a particular product to the customer rather than making a suitable recommendation;
- > Strengthen of the information duties by imposing the delivery of an insurance product information document providing standardised information about non-life insurance products, substantially in the form established by the Commission Implementing Regulation (EU) 2017/1469 of 11 August 2017;
- > Imposition of new product oversight and governance requirements in order to assure that the insurance products meet the customer's insurance demands and needs at all times;
- > Introduction of a new chapter dealing with the distribution of insurance-based investment products, which in addition to the conduct of business standards defined for all insurance products are subject to specific standards aimed at addressing the investment element embedded in those products, including provision of appropriate information, requirements for advice to be suitable and restrictions on remuneration. The purpose of this chapter is to deliver consistent investor protection and avoid the risk of regulatory arbitrage between insurance-based investment products and other investment products.
- > Finally, Law no. 7/2019, of January 16, also introduces adjustments to the procedural framework applicable to the crimes and contraventions specially applicable to the insurance and pension funds sectors.

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### III. Entry into force

Law no. 7/2019, of January 16, which revokes the existing legal framework on insurance mediation, approved by Decree Law no. 144/20016, of 31 July 2016, shall enter into force with retroactive effects as of 1 October 2018 and the relevant market players shall comply with the relevant provisions on adequacy until 23 February 2019.



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