
Banking, Finance and Capital Markets

Legal Flash | Portugal

July 29, 2020



- > **Legal framework on setting up and operating pension funds and pension fund management entities - Law 27/2020**



I. Legal framework on setting up and operating pension funds and pension fund management entities - Law 27/2020

Law 27/2020 of July 23, 2020, transposing Directive (EU) 2016/2341 of the European Parliament and of the Council of December 14, 2016 on the activities and supervision of institutions for occupational retirement provision, has been enacted.

This law, which will become effective on August 1, 2020, approves the new legal framework applicable to the activities of pension funds and pension fund management entities and repeals Decree-Law 12/2006, of January 20, 2006. It also entails the fourth amendment to the legal framework approved by Law 147/2015 of September 9, 2015, by adding a new article 174-A, allowing the Insurance and Pension Funds Supervisory Authority (*Autoridade de Supervisão de Seguros e Fundos de Pensões*, “ASF”) to strengthen the legal scheme applicable to qualified holdings in insurance companies, and by repealing articles 128(5) and 147(4)(f), on accounting risks arising from collective pension fund management operations when calculating the minimum capital requirement, were repealed.

Law 27/2020 applies mainly to pension funds and management entities authorized in Portugal and establishes their requirements regarding their governance system and structure, information duties, prudential and behavioral supervision rules, and the sanctions applicable in case of non-compliance.

The main obligations imposed by Law 27/2020 are the following:

- Members must appoint the management entity in charge of the overall administrative and actuarial functions of each pension plan jointly financed by funds managed by different management entities until September 1, 2020;
- Management entities must divide the assets of closed pension funds into units and adapt the information requirements provided in the scheme, as necessary, until November 1, 2020;
- Management entities must make the necessary adjustments to comply with the provisions of the scheme approved by Law 7/2019 of January 16, 2019, on insurance and reinsurance distribution, which also applies to the distribution of pension funds by management entities authorized in Portugal and those registered or authorized in another Member State until February 1, 2021;
- Management entities must amend the constitutional, management and subscription contracts of the pension funds that they manage to comply with the new scheme until August 1, 2021;
- Insurance companies financing occupational pension funds must amend their policies so that life insurance contracts include, if applicable, the acquired rights of insured persons, specifying the right to keep coverage in case of termination of the relationship with the policyholder, until August 1, 2021.



The new scheme also provides the communications to be carried out electronically through the ASF portal.

The ASF will now issue delegated acts aimed at regulating the new legal framework.



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